

1 State of Arkansas *As Engrossed: H3/5/15 H3/9/15 H3/11/15*
2 90th General Assembly
3 Regular Session, 2015

HJR 1016

4
5 By: Representative *Dotson*
6

7 **HOUSE JOINT RESOLUTION**

8 *AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING*
9 *THE JUDICIAL BRANCH OF STATE GOVERNMENT; TO PROVIDE*
10 *THAT THE GENERAL ASSEMBLY MAY DETERMINE BY LAW*
11 *WHETHER COURT OF APPEALS JUDGES, CIRCUIT COURT*
12 *JUDGES, DISTRICT COURT JUDGES, AND PROSECUTING*
13 *ATTORNEYS ARE SELECTED ON A PARTISAN OR NONPARTISAN*
14 *BASIS; AND AMENDING THE PROCESS FOR SELECTING A*
15 *JUSTICE OF THE SUPREME COURT.*

16
17
18 **Subtitle**

19 AN AMENDMENT TO THE ARKANSAS CONSTITUTION
20 CONCERNING THE JUDICIAL BRANCH OF STATE
21 GOVERNMENT.
22
23

24 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL
25 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL
26 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:
27

28 That the following is proposed as an amendment to the Constitution of
29 the State of Arkansas, and upon being submitted to the electors of the state
30 for approval or rejection at the next general election for Representatives
31 and Senators, if a majority of the electors voting thereon at the election
32 adopt the amendment, the amendment shall become a part of the Constitution of
33 the State of Arkansas, to wit:
34

35 *SECTION 1. Section 10 of Article 5 of the Arkansas Constitution is*
36 *amended to read as follows:*



1 § 10. Members ineligible to civil office.

2 ~~No~~ Except as provided in this Constitution, no Senator or
3 Representative shall, during the term for which he shall have been elected,
4 be appointed or elected to any civil office under this State.

5
6 SECTION 2. Subsection (A) of Section 2 of Amendment 80 to the Arkansas
7 Constitution is amended to read as follows:

8 (A) The Supreme Court shall be composed of seven Justices,
9 one of whom shall serve as Chief Justice. The Justices of the Supreme Court
10 shall be selected ~~from the State at large~~ as provided in this amendment.

11
12 SECTION 3. Section 17 of Amendment 80 to the Arkansas Constitution is
13 amended to read as follows:

14 § 17. Election of circuit and district judges.

15 (A) Circuit Judges and District Judges shall be elected ~~on~~
16 ~~a nonpartisan basis~~ by a majority of qualified electors voting for such
17 office within the circuit or district which they serve.

18 (B) Vacancies in these offices shall be filled as provided
19 by this Constitution.

20
21 SECTION 4. Section 18 of Amendment 80 to the Arkansas Constitution is
22 amended to read as follows:

23 § 18. Election of ~~Supreme Court Justices and~~ Court of Appeals Judges.

24 (A) ~~Supreme Court Justices and~~ Court of Appeals Judges
25 shall be elected ~~on a nonpartisan basis~~ by a majority of qualified electors
26 voting for such office. ~~Provided, however~~ However, the General Assembly may
27 refer the issue of merit selection of members of the ~~Supreme Court and the~~
28 Court of Appeals to a vote of the people at any general election. If the
29 voters approve a merit selection system, the General Assembly shall enact
30 laws to create a judicial nominating commission for the purpose of nominating
31 candidates for merit selection to the ~~Supreme Court and~~ Court of Appeals.

32 (B) Vacancies ~~in these offices~~ on the Court of Appeals
33 shall be filled by appointment of the Governor, unless the voters provide
34 otherwise in a system of merit selection.

35
36 SECTION 5. Section 21 of Amendment 80 to the Arkansas Constitution is

1 amended to read as follows:

2 § 21. Effective date.

3 (a) This Except as provided in subsection (b) of this section, this
4 Amendment amendment shall become effective on July 1, 2001.

5 (b) Sections 23 through 27 of this amendment shall become effective on
6 January 1, 2017.

7
8 SECTION 6. Amendment 80 to the Arkansas Constitution is amended to add
9 additional sections to read as follows:

10 § 23. Retention in office of a Justice of the Supreme Court.

11 (a) At the general election next before his or her term expires, a
12 Justice of the Supreme Court may seek retention in office by filing with the
13 Secretary of State not less than one hundred twenty (120) days before the
14 date of the general election a declaration of candidacy to succeed himself or
15 herself as a Justice of the Supreme Court.

16 (b) If a Justice of the Supreme Court files a declaration of
17 candidacy, there shall be submitted to the qualified electors of the state at
18 the general election this question:

19
20 “Shall (Insert name of Justice of the Supreme Court) be retained in office?

21 ___ YES ___ NO”

22
23 (c) The question shall be decided by a majority of those voting in the
24 general election.

25 (d) If the decision is “yes”, the Justice of the Supreme Court shall
26 be retained in office for an eight-year term.

27 (e)(1) If the decision is “no” or if no declaration of candidacy is
28 filed, the office shall be vacant upon expiration of the term then being
29 served.

30 (2) The former Justice of the Supreme Court shall not be
31 eligible for appointment to succeed himself or herself.

32 (f) Retention in office may be sought for successive terms without
33 limit as to number, except for retirement as may be provided by the General
34 Assembly for a maximum retirement age.

35
36 § 24. Judicial Nominating Commission.

1 (a) There is established the Judicial Nominating Commission of fifteen
2 (15) members, to consist of:

3 (1)(A) Five (5) members appointed by the Governor, among whom
4 shall include at least one (1) member from each congressional district of the
5 state.

6 (B) A member appointed by the Governor shall not:

7 (i) Be admitted to practice law in the State of
8 Arkansas; or

9 (ii) Have an immediate family member who has been
10 admitted to the practice of law in the State of Arkansas or any other state;

11 (2) Six (6) members, including at least one (1) member from each
12 congressional district of the state, who are members of the Arkansas Bar
13 Association and have been elected by the other active members of the
14 association under procedures adopted by the Board of Governors of the
15 Arkansas Bar Association;

16 (3) The Chair of the House Committee on Judiciary;

17 (4) The Chair of the Senate Committee on Judiciary;

18 (5) The Speaker of the House of Representatives or a member of
19 the House of Representatives designated by the Speaker of the House of
20 Representatives; and

21 (6) The President Pro Tempore of the Senate or a member of the
22 Senate designated by the President Pro Tempore of the Senate.

23 (b) The commission shall elect one (1) of its members to serve as
24 chair for a term of one (1) year.

25 (c)(1)(A) The five (5) members of the commission appointed by the
26 Governor shall be appointed within ninety (90) days of the effective date of
27 this amendment.

28 (B)(i) One (1) member shall be appointed for a term of two
29 (2) years.

30 (ii) Two (2) members shall be appointed for a term
31 of four (4) years.

32 (iii) Two (2) members shall be appointed for a term
33 of six (6) years.

34 (2)(A) The Arkansas Bar Association shall hold its election and
35 certify to the Secretary of State the members elected to the commission
36 within ninety (90) days from the effective date of this amendment.

1 (B) The initial members of the commission elected by the
2 Arkansas Bar Association shall draw lots for terms as follows:

3 (i) Two (2) members shall serve a term of two (2)
4 years;

5 (ii) Two (2) members shall serve a term of four (4)
6 years; and

7 (iii) Two (2) members shall serve a term of six (6)
8 years.

9 (C) Subsequent members of the commission elected by the
10 members of the Arkansas Bar Association shall serve a term of six (6) years.

11 (d)(1) A vacancy in a position appointed by the Governor shall be
12 filled by appointment of the Governor for the remainder of the term.

13 (2) A vacancy in a position elected by the Arkansas Bar
14 Association shall be filled by the Board of Governors of the Arkansas Bar
15 Association for the remainder of the term.

16 (e) A majority of the members of the commission constitutes a quorum.

17 (f) The commission shall determine:

18 (1) That qualifications of nominees to hold judicial office have
19 been met; and

20 (2) The existence of vacancies on the commission.

21 (g)(1)(A) Except as provided in subdivision (g)(1)(B) of this section,
22 while a member of the commission, a commissioner shall not hold:

23 (i) A public office by election or appointment; or

24 (ii) An official position in a political party.

25 (B) Subdivision (g)(1)(A) of this section does not apply
26 to a member of the General Assembly serving on the commission.

27 (2) A member of the commission shall not be eligible for
28 nomination as a Justice of the Supreme Court while a member of the commission
29 and for five (5) years thereafter.

30 (h) A commissioner shall serve without compensation but may receive
31 reimbursement for necessary travel and lodging expenses while performing his
32 or her duties as commissioner.

33 (i) A commissioner appointed under subdivision (a)(1) or subdivision
34 (a)(2) of this section shall not succeed himself or herself on the
35 commission.

36 (j) As used in this section, "Arkansas Bar Association" includes any

1 successor of the Arkansas Bar Association and any future form of the
2 organized bar of this state.

3 (k) The Governor shall call the initial meeting of the commission
4 within one hundred twenty (120) days of the effective date of this amendment.

5
6 § 25. Vacancy in Supreme Court position.

7 (a) When a vacancy in the position of Justice of the Supreme Court
8 occurs or is certain to occur, the Judicial Nominating Commission shall
9 choose and submit to the Governor and the Chief Justice of the Supreme Court
10 three (3) nominees, each of whom has previously notified the commission in
11 writing that he or she will serve as a Justice of the Supreme Court if
12 appointed.

13 (b)(1) The Governor shall appoint one (1) of the nominees to fill the
14 vacancy.

15 (2) If the Governor fails to appoint a nominee within sixty (60)
16 days of receiving the nominees from the commission, the President Pro Tempore
17 of the Senate shall appoint one (1) of the nominees.

18 (3)(A) An appointment under this subsection shall be subject to the
19 confirmation of the Senate at the next regular or fiscal session of the
20 General Assembly.

21 (B) A member appointed to the commission under this subsection
22 may serve in the position until the appointment is confirmed or rejected by
23 the Senate at its next regular or fiscal session.

24 (c) The Secretary of State shall certify an appointment under this
25 section.

26
27 § 26. Transition provisions for Justice of the Supreme Court – Terms
28 due to vacancy.

29 (a)(1) A Justice of the Supreme Court elected before the adoption of
30 this amendment shall serve the term for which he or she was elected unless
31 removed for cause.

32 (2) A Justice of the Supreme Court serving at the date of the
33 adoption of this amendment may file a declaration of candidacy to succeed
34 himself or herself as provided in this amendment.

35 (3) If retained in office, the term of the Justice of the
36 Supreme Court shall be eight (8) years, beginning the second Monday in

1 January following the election.

2 (b) The term and election of each Justice of the Supreme Court
3 appointed to fill a vacancy after the adoption of this amendment shall be as
4 follows:

5 (1) If an appointed Justice of the Supreme Court has served or
6 will have served twelve (12) months on or before the next general election
7 following appointment, the Justice may file for election for an eight-year
8 term as provided under this amendment; or

9 (2) If an appointed Justice of the Supreme Court has not served
10 or will not have served twelve (12) months on or before the next general
11 election following appointment, the Justice shall continue in office until
12 the second general election following appointment and may file for election
13 for an eight-year term as provided under this amendment.

14
15 SECTION 7. (a) Except as provided in subsection (b) of this section,
16 the General Assembly may provide by law whether judges of the Court of
17 Appeals, circuit court judges, district court judges, and prosecuting
18 attorneys are selected on a partisan or nonpartisan basis.

19 (b) As of the effective date of this amendment, judges of the Court of
20 Appeals, circuit court judges, district court judges, and prosecuting
21 attorneys shall be selected on a partisan basis unless the General Assembly
22 provides by law that the offices shall be selected on a nonpartisan basis.

23
24 SECTION 8. Judges of the Court of Appeals, circuit court judges,
25 district court judges, and prosecuting attorneys in office at the time this
26 amendment takes effect shall continue in office until the end of the terms
27 for which they were elected or appointed.

28
29 SECTION 9. EFFECTIVE DATE. This amendment is effective on and after
30 January 1, 2017.

31
32 SECTION 10. BALLOT TITLE AND POPULAR NAME. When this proposed
33 amendment is submitted to the electors of this state on the general election
34 ballot:

35 (1) The title of this joint resolution shall be the ballot
36 title; and

