STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE JOINT
RESOLUTION 1029 By: Reynolds

AS INTRODUCED

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 4 of Article VII-A of the Constitution of the State of Oklahoma and a proposed amendment to the Constitution of the State of Oklahoma by adding a new section to Article VII-A to be designated as Section 8; providing for removal from office or other discipline of judges pursuant to a request from a citizen; providing grounds for action; providing procedure; providing that procedure is alternative and cumulative to other methods of removing judges from office; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 50th OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 4 of Article VII-A of the Constitution of the State of Oklahoma to read as follows:

Section 4. (a) The jurisdiction of the Trial Division of the Court may be invoked by a petition, filed either by the Supreme Court or the Chief Justice thereof; by the Governor; by the Attorney General; or by the Executive Secretary of the Oklahoma Bar Association when directed so to do by a vote of a majority of all members of its Executive Council; or by Resolution of the House of Delegates or by Resolution of the House of Representatives of the State of Oklahoma; or by any citizen of the state, as provided in Section 8 of this Article. The petition shall state the name of the respondent; the grounds upon which ~~his~~ the removal from office or compulsory retirement from office is sought; and such other matters

as may be specified by the rules of the Trial Division. It shall be subject to amendment by order of either division of the Court.

(b) Immediately upon the filing of the petition, the Clerk shall notify the presiding officer of the Trial Division, and the respondent named therein, in accordance with the rules of the Trial Division. The presiding judge of the Trial Division shall secure from the Executive Council of the Oklahoma Bar Association a panel of five (5) active members of the Association from which the presiding judge shall designate the prosecutor, and any necessary assistant, to conduct the proceeding against the respondent.

(c) The Trial Division or the presiding judge shall set the matter for hearing, not less than sixty (60) days after notice of the filing of the petition shall have been given the respondent. In all procedural matters not covered by rule of the Trial Division, the provisions of the Code of Civil Procedure, or of the common law of Oklahoma, shall be followed, so far as they may be applicable.

(d) Pending the determination of the proceedings, the Trial Division in its discretion may suspend the respondent from the exercise of ~~his~~ judicial office. After full hearing, the Trial Division shall render such judgment as the facts may justify. No judgment, except as provided in Section 8 of this article, shall extend further than: (1) to removal of the respondent from office, with or without disqualification to hold any public office of honor, trust, or profit under this State, or (2) to compulsory retirement from office; but such a proceeding, regardless of result, shall not bar or prejudice any other proceeding, civil or criminal, authorized by law. A judicial officer who is a member of the retirement compensation system prescribed by this Article and is compulsory retired shall receive the retirement compensation to which ~~his~~ the judicial officer is entitled by virtue of term of service ~~entitled him~~. If ~~he~~ the judicial officer is not qualified for full retirement compensation, ~~he~~ the judicial officer may receive such

compensation as the Court may decree, in proportion to time served and in accordance with principles of justice and equity, alike as to amount, commencement of payment, terms of payment, or other relevant conditions or limitations.

SECTION 2. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to the Constitution of the State of Oklahoma by adding a new Section 8 to Article VII-A thereof, to read as follows:

Section 8. A. A judge of any court of this state exercising judicial power under the provisions of Article VII or any other provision of the Constitution of Oklahoma may be reprimanded, disciplined, censured, suspended without pay for a definite period of time, not to exceed six (6) months, or removed from office for willful misconduct in office, willful disregard of or failure to perform judicial duties, habitual intemperance, conviction of a crime involving moral turpitude, disbarment as a member of the legal profession licensed to practice law in this state, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. A judge also may be retired for physical or mental disability seriously interfering with the performance of judicial duties if such disability is determined to be permanent or reasonably likely to become permanent. Any citizen of this state may file a petition with the Trial Division of the Court on the Judiciary to consider the qualifications of any judge, and in such event the Trial Division shall make such investigation as deemed necessary and shall, upon a finding of probable cause, reprimand such judge or order a formal open hearing to be held before it concerning the reprimand, discipline, censure, suspension, removal, or retirement of the judge. In the alternative or in addition, the Trial Division may request the Supreme Court to appoint one or more special masters who shall be district court

judges to hold a formal open hearing to take evidence in any such matter, and to report to the Trial Division. If, after formal open hearing, or after considering the record and report of the masters, the Trial Division finds that the charges are established by clear and convincing evidence, it shall render judgment as to whether the judge involved be reprimanded, disciplined, censured, suspended without pay for a definite period of time not to exceed six (6) months, removed from office, or retired as the case may be.

B. The Appellate Division shall review the record of the proceedings of the Trial Division and in its discretion may permit the introduction of additional evidence. The Appellate Division may affirm, modify, or reverse the judgment of the Trial Division, or enter a new judgment, as justice may require. Upon an order for retirement, the judge shall thereby be retired with the same rights and privileges as if the judge had retired pursuant to statute. Upon an order for removal, the judge shall be removed from office, the salary of the judge shall cease from the date of such order, and the judge shall be ineligible for judicial office. Upon an order for suspension, the judge shall draw no salary and shall perform no judicial functions during the period of suspension. Suspension shall not create a vacancy in office.

C. Upon order of the Court on the Judiciary a judge shall be disqualified from acting as a judge, without loss of salary, while there is pending an indictment or information charging the judge in the United States with a crime punishable as a felony under state or federal law or a proceeding pursuant to Article VII of the Oklahoma Constitution.

D. All papers filed with and proceedings before the Court on the Judiciary or masters appointed by the Supreme Court pursuant to this section prior to a reprimand or formal open hearing shall be confidential. The filing of papers with and the testimony given the

Court on the Judiciary or masters shall be deemed a privileged communication.

E. If the Court on the Judiciary determines that disciplinary action is warranted, whether it be a reprimand or otherwise, the Court shall issue one or more short announcements confirming that a complaint has been filed; stating the subject and nature of the complaint, the disciplinary action that is recommended or reprimand issued, or the date of the hearing; clarifying the procedural aspects; and reciting the right of a judge to a fair hearing.

F. If the Court determines that disciplinary action is not warranted and the existence of any investigation or complaint has become publicly known, the judge against whom a complaint has been filed or an investigation commenced may waive the confidentiality of papers and proceedings under this subsection.

G. No judge shall participate in any proceedings against that judge involving reprimand, discipline, censure, suspension, removal, or retirement.

H. The provisions of this section are alternatives to and cumulative with the methods of removal of judges provided in Articles VII-A and VIII of this Constitution, and any other provisions of law relating to the methods and manner of the removal of judges of the courts of this state.

SECTION 3. The Ballot Title for the proposed Constitutional amendment as set forth in SECTIONS 1 and 2 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. ____ State Question No. ____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. It amends a part of the Constitution that deals with judges. It would let citizens file a petition to remove a judge from office. Citizens could also file petitions for other actions. The

petition could ask that a judge be disciplined in some way. The amendment would not change other ways of removing judges from office.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL — YES _____

AGAINST THE PROPOSAL — NO _____

SECTION 4. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 3 hereof, with the Secretary of State and one copy with the Attorney General.

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