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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 111 Session of  
2019

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INTRODUCED BY SCHEMEL, McCLINTON, SIMS, ISAACSON, LAWRENCE,  
BURGOS, BULLOCK, TOBASH, BERNSTINE, JONES, HILL-EVANS, MOUL,  
MULLINS AND DeLISSIO, APRIL 15, 2019

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AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 30, 2019

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A JOINT RESOLUTION

1 Proposing integrated amendments to the Constitution of the  
2 Commonwealth of Pennsylvania, changing and adding provisions  
3 relating to selection of justices and judges.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby resolves as follows:

6 Section 1. The following integrated amendments to the  
7 Constitution of Pennsylvania are proposed in accordance with  
8 Article XI:

9 (1) That section 8(b) of Article IV be amended to read:

10 § 8. Appointing power.

11 \* \* \*

12 (b) [The] Except as provided in Article V, the Governor  
13 shall fill vacancies in offices to which he appoints by  
14 nominating to the Senate a proper person to fill the vacancy  
15 within 90 days of the first day of the vacancy and not  
16 thereafter. The Senate shall act on each executive nomination  
17 within 25 legislative days of its submission. If the Senate has

1 not voted upon a nomination within 15 legislative days following  
2 such submission, any five members of the Senate may, in writing,  
3 request the presiding officer of the Senate to place the  
4 nomination before the entire Senate body whereby the nomination  
5 must be voted upon prior to the expiration of five legislative  
6 days or 25 legislative days following submission by the  
7 Governor, whichever occurs first. If the nomination is made  
8 during a recess or after adjournment sine die, the Senate shall  
9 act upon it within 25 legislative days after its return or  
10 reconvening. If the Senate for any reason fails to act upon a  
11 nomination submitted to it within the required 25 legislative  
12 days, the nominee shall take office as if the appointment had  
13 been consented to by the Senate. [The] Except as provided in  
14 Article V, the Governor shall in a similar manner fill vacancies  
15 in the offices of Auditor General, State Treasurer, [justice,  
16 judge, justice of the peace] judge, magisterial district judge  
17 and in any other elective office he is authorized to fill. In  
18 the case of a vacancy in an elective office, a person shall be  
19 elected to the office on the next election day appropriate to  
20 the office unless the first day of the vacancy is within two  
21 calendar months immediately preceding the election day in which  
22 case the election shall be held on the second succeeding  
23 election day appropriate to the office.

24 \* \* \*

25 (2) That section 2 of Article V be amended to read:

26 § 2. Supreme Court.

27 The Supreme Court (a) shall be the highest court of the  
28 Commonwealth and in this court shall be reposed the supreme  
29 judicial power of the Commonwealth;

30 (b) shall consist of seven justices, to be selected as

1 provided in section ~~14~~ 13, one of whom shall be the Chief <--

2 Justice; and

3 (c) shall have such jurisdiction as shall be provided by  
4 law.

5 (3) That section 3 of Article V be amended to read:

6 § 3. Superior Court.

7 The Superior Court shall be a statewide court, and shall  
8 consist of [~~the number of judges, which shall be not less than~~  
9 ~~seven judges~~] 15 judges, to be selected as provided in section  
10 ~~14~~ 13, and have such jurisdiction as shall be provided by this <--  
11 Constitution or by the General Assembly. One of its judges shall  
12 be the president judge.

13 (4) That section 4 of Article V be amended to read:

14 § 4. Commonwealth Court.

15 The Commonwealth Court shall be a statewide court, and shall  
16 consist of [~~the number of judges~~] nine judges, to be selected as  
17 provided in section ~~14~~ 13, and have such jurisdiction as shall <--  
18 be provided by law. One of its judges shall be the president  
19 judge.

20 (5) That section 11 of Article V be amended to read:

21 § 11. Judicial districts; boundaries.

22 [~~The number and boundaries of judicial districts shall be~~  
23 ~~changed by the General Assembly only with the advice and consent~~  
24 ~~of the Supreme Court.~~]

25 ~~(a) The General Assembly shall, by law, establish:~~ <--

26 ~~(1) An Eastern, Middle and Western judicial district,~~  
27 ~~congruent with the Federal United States District Court for the~~  
28 ~~Eastern District of Pennsylvania, United States District Court~~  
29 ~~for the Middle District of Pennsylvania and United States~~  
30 ~~District Court for the Western District of Pennsylvania, except~~

1 ~~that Lancaster County, Berks County, Lehigh County and~~  
2 ~~Northampton County shall be part of the Middle judicial district~~  
3 ~~and Potter County, Tioga County, Cameron County, Clinton County,~~  
4 ~~Lycoming County, Centre County, Huntingdon County, Fulton County~~  
5 ~~and Franklin County shall be part of the Western judicial~~  
6 ~~district.~~

7 (A) THE NUMBER OF JUDGES AND JUSTICES OF THE SUPREME COURT, <--  
8 THE SUPERIOR COURT AND THE COMMONWEALTH COURT ELECTED FROM EACH  
9 JUDICIAL DISTRICT SHALL PROVIDE EVERY RESIDENT OF THIS  
10 COMMONWEALTH WITH APPROXIMATELY EQUAL REPRESENTATION ON A COURT.  
11 EACH JUDICIAL DISTRICT SHALL BE COMPOSED OF COMPACT AND  
12 CONTIGUOUS TERRITORY AS NEARLY EQUAL IN POPULATION AS  
13 PRACTICABLE. EACH JUDICIAL DISTRICT SHALL ELECT ONE JUDGE OR  
14 JUSTICE. UNLESS ABSOLUTELY NECESSARY, A COUNTY, CITY,  
15 INCORPORATED TOWN, BOROUGH, TOWNSHIP OR WARD MAY NOT BE DIVIDED  
16 IN FORMING A JUDICIAL DISTRICT.

17 (B) THE GENERAL ASSEMBLY SHALL BY LAW, ESTABLISH:

18 (1) AN EASTERN, MIDDLE AND WESTERN JUDICIAL DISTRICT.  
19 Justices and judges shall be selected from the three judicial  
20 districts as follows:

21 (i) Two justices of the Supreme Court shall be selected from  
22 within each judicial district and shall be residents of the  
23 judicial district. One justice shall be selected on a Statewide  
24 basis and may be a resident of any of the judicial districts.

25 (ii) Five judges of the Superior Court shall be selected  
26 from within each judicial district and shall be residents of the  
27 judicial district.

28 (iii) Three judges of the Commonwealth Court shall be  
29 selected from within each judicial district and shall be  
30 residents of the judicial district.

1 (2) A transition to an appellate court judiciary selected  
2 from judicial districts.

3 (3) The effect of set judicial districts upon eligibility to  
4 seek retention.

5 (4) The order in which justices of the Supreme Court and  
6 judges of the Superior Court and the Commonwealth Court are  
7 selected.

8 (5) Notwithstanding any of the provisions of subsection (a)  
9 (2), (3) or (4), that all current members of the appellate court  
10 shall serve out their current terms and be eligible to seek  
11 retention on the schedule provided by law at the time of their  
12 election to the appellate court prior to the adoption of this  
13 subsection.

14 ~~(b)~~ (C) Residency qualification for appointment to the <--  
15 Supreme Court, the Superior Court and the Commonwealth Court  
16 shall be established by the General Assembly.

17 ~~(e)~~ (D) Except as provided under subsection (b) and THIS <--  
18 SECTION OR section 7(b), the number and boundaries of all other  
19 judicial districts shall be established by the General Assembly  
20 by law, with the advice and consent of the Supreme Court.

21 (6) That section 13 of Article V be amended to read:  
22 § 13. [Election] Selection of justices, judges and [justices of  
23 the peace] magisterial district judges; vacancies.

24 (a) [Justices, judges and justices of the peace] Judges,  
25 other than judges of the Superior Court and Commonwealth Court,  
26 and magisterial district judges shall be elected at the  
27 municipal election next preceding the commencement of their  
28 respective terms of office by the electors of the [Commonwealth  
29 or the] respective districts in which they are to serve.

30 (b) A vacancy in the office of [justice, judge or justice of

1 the peace] judge, other than judge of the Superior Court and  
2 Commonwealth Court, or magisterial district judge shall be  
3 filled by appointment by the Governor. The appointment shall be  
4 with the advice and consent of two-thirds of the members elected  
5 to the Senate, except in the case of [justices of the peace]  
6 magisterial district judges which shall be by a majority. The  
7 person so appointed shall serve for a term ending on the first  
8 Monday of January following the next municipal election more  
9 than ten months after the vacancy occurs or for the remainder of  
10 the unexpired term whichever is less. [, except in the case of  
11 persons selected as additional judges to the Superior Court,  
12 where the General Assembly may stagger and fix the length of the  
13 initial terms of such additional judges by reference to any of  
14 the first, second and third municipal elections more than ten  
15 months after the additional judges are selected.] The manner by  
16 which any additional judges are selected shall be provided by  
17 this section for the filling of vacancies in judicial offices.

18 (b.1) (1) A vacancy in the office of justice of the Supreme  
19 Court, and judge of the Superior Court and Commonwealth Court,  
20 shall be filled by appointment by the Governor. The appointment  
21 shall be for the initial term of each justice or judge. The  
22 Governor shall nominate to the Senate individuals for  
23 appointment exclusively from the list of individuals recommended  
24 for appointment by the Appellate Court Nominating Commission  
25 described under section 14, and the appointment shall be with  
26 the advice and consent of two-thirds of the members elected to  
27 the Senate. Within 30 days after receiving a list of  
28 recommendations from the commission, the Governor shall nominate  
29 to the Senate one individual from the list to fill the vacancy  
30 for which the list was submitted. The Senate shall act on each

1 such nomination within 25 legislative days following the  
2 submission. If the nomination is made during a recess or after  
3 adjournment sine die, the Senate shall act upon it within 25  
4 legislative days after its return or reconvening. If the Senate  
5 has not voted upon a nomination within 15 legislative days  
6 following submission of the nomination by the Governor or within  
7 15 legislative days after its return or reconvening, any five  
8 members of the Senate may, in writing, request the presiding  
9 officer of the Senate to place the nomination before the entire  
10 Senate body whereby the nomination must be voted upon prior to  
11 the expiration of 25 legislative days following submission of  
12 the nomination by the Governor or five legislative days  
13 following the submission of the request by the members,  
14 whichever occurs first. If the Senate fails to act upon a  
15 nomination submitted under this paragraph, the nominee shall  
16 take office as if the appointment had been consented to by the  
17 Senate.

18 (2) If the Senate rejects the appointment of a nominee, the  
19 Governor shall make a substitute nomination from the  
20 commission's list within 30 days after the rejection from the  
21 Senate. The Senate shall act upon the nomination in the manner  
22 prescribed in paragraph (1). If the Senate rejects a total of  
23 three nominations made for a specific vacancy, the commission  
24 shall appoint any other individual on the list, the appointee  
25 shall take office upon notification of the appointment by the  
26 commission and neither the Governor nor the Senate shall  
27 participate further in the appointment process for that vacancy.

28 (c) The provisions of section 13(b) shall not apply either  
29 in the case of a vacancy to be filled by retention election as  
30 provided in section 15(b), or in the case of a vacancy created

1 by failure of a [justice or] judge to file a declaration for  
2 retention election as provided in section 15(b). In the case of  
3 a vacancy occurring at the expiration of an appointive term  
4 under section 13(b), the vacancy shall be filled by election as  
5 provided in section 13(a).

6 [(d) At the primary election in 1969, the electors of the  
7 Commonwealth may elect to have the justices and judges of the  
8 Supreme, Superior, Commonwealth and all other statewide courts  
9 appointed by the Governor from a list of persons qualified for  
10 the offices submitted to him by the Judicial Qualifications  
11 Commission. If a majority vote of those voting on the question  
12 is in favor of this method of appointment, then whenever any  
13 vacancy occurs thereafter for any reason in such court, the  
14 Governor shall fill the vacancy by appointment in the manner  
15 prescribed in this subsection. Such appointment shall not  
16 require the consent of the Senate.]

17 (e) Each justice or judge of the Superior Court or  
18 Commonwealth Court appointed by the Governor under section  
19 [13(d)] 13(b.1) shall hold office for an initial term ending the  
20 first Monday of January following the next municipal election  
21 more than [24] 48 months following the appointment.

22 (7) That section 14 of Article V be amended to read:

23 § 14. [Judicial Qualifications] Appellate Court Nominating  
24 Commission.

25 [(a) Should the method of judicial selection be adopted as  
26 provided in section 13 (d), there shall be a Judicial  
27 Qualifications Commission, composed of four non-lawyer electors  
28 appointed by the Governor and three non-judge members of the bar  
29 of the Supreme Court appointed by the Supreme Court. No more  
30 than four members shall be of the same political party. The

1 members of the commission shall serve for terms of seven years,  
2 with one member being selected each year. The commission shall  
3 consider all names submitted to it and recommend to the Governor  
4 not fewer than ten nor more than 20 of those qualified for each  
5 vacancy to be filled.

6 (b) During his term, no member shall hold a public office or  
7 public appointment for which he receives compensation, nor shall  
8 he hold office in a political party or political organization.

9 (c) A vacancy on the commission shall be filled by the  
10 appointing authority for the balance of the term.]

11 (d) There shall be an independent board within the Executive  
12 Department, known as the Appellate Court Nominating Commission,  
13 the composition of which shall be as follows:

14 (1) The commission shall be composed of 13 members as  
15 follows:

16 (i) Five individuals appointed by the Governor, four of whom  
17 shall be members of the bar of the Supreme Court in good  
18 standing and one of whom shall not be a member of the bar of the  
19 Supreme Court or of any other jurisdiction. The members  
20 appointed under this subparagraph shall reside in different  
21 counties and no more than three members may be registered in the  
22 same political party.

23 (ii) Two individuals appointed by the majority leader of the  
24 Senate, one of whom shall be a member of the bar of the Supreme  
25 Court in good standing and one of whom shall not be a member of  
26 the bar of the Supreme Court or of any other jurisdiction. The  
27 members appointed under this subparagraph shall reside in  
28 different counties.

29 (iii) Two individuals appointed by the minority leader of  
30 the Senate, one of whom shall be a member of the bar of the

1 Supreme Court in good standing and one of whom shall not be a  
2 member of the bar of the Supreme Court or of any other  
3 jurisdiction. The members appointed under this subparagraph  
4 shall reside in different counties.

5 (iv) Two individuals appointed by the majority leader of the  
6 House of Representatives, one of whom shall be a member of the  
7 bar of the Supreme Court in good standing and one of whom shall  
8 not be a member of the bar of the Supreme Court or of any other  
9 jurisdiction. The members appointed under this subparagraph  
10 shall reside in different counties.

11 (v) Two individuals appointed by the minority leader of the  
12 House of Representatives, one of whom shall be a member of the  
13 bar of the Supreme Court in good standing and one of whom shall  
14 not be a member of the bar of the Supreme Court or of any other  
15 jurisdiction. The members appointed under this subparagraph  
16 shall reside in different counties.

17 (2) Except for the initial appointees whose terms shall be  
18 staggered as provided by law, the members shall serve for terms  
19 of four years. Each member must be at least 18 years of age and  
20 a resident of this Commonwealth for at least one year  
21 immediately prior to the member's appointment and throughout the  
22 member's term on the commission.

23 (3) No member of the commission, during the member's term,  
24 may hold office in a political party or political organization,  
25 hold an appointed or elected public office, whether compensated  
26 or uncompensated, or be an employee of the Commonwealth. An  
27 individual who has held any of the foregoing positions within  
28 one year prior to the individual's appointment shall not be  
29 eligible to serve on the commission. The provisions of this  
30 paragraph shall not prohibit a member from serving as a part-

1 time solicitor to a political subdivision.

2 (4) Membership on the commission shall terminate if a member  
3 attains a position or characteristic that would have rendered  
4 the member ineligible for appointment at the time of the  
5 appointment. A vacancy shall be filled by the respective  
6 appointing authority for the remainder of the term to which the  
7 member was appointed. No member may serve for more than one full  
8 term but may be reappointed after a lapse of four years. An  
9 appointment of two years or less shall not be deemed a full  
10 term. When making appointments, appointing authorities may  
11 consider that the commission reflect the geographic, racial,  
12 ethnic, gender and other diversity of this Commonwealth. The  
13 General Assembly may provide for additional qualifications of  
14 members of the commission, not inconsistent with this section,  
15 as it deems appropriate in furthering the purposes of this  
16 article.

17 (5) Members shall not be compensated for their services but  
18 may be reimbursed for expenses necessarily incurred in the  
19 discharge of their official duties.

20 (e) The Governor shall convene the first meeting of the  
21 commission. At that meeting and annually thereafter, the members  
22 of the commission shall elect a chairperson from among the  
23 members. Except as provided in subsection (h), the commission  
24 shall act only with the concurrence of a majority of its  
25 members.

26 (f) The commission shall prescribe general rules governing  
27 the conduct of members. A member may be removed by the  
28 commission for a violation of the rules governing the conduct of  
29 members.

30 (g) The commission may appoint staff as it deems necessary,

1 prepare and administer its own budget as provided by law,  
2 exercise supervisory and administrative authority over staff and  
3 commission functions, establish and promulgate its own rules of  
4 procedure, prepare and disseminate an annual report and take  
5 other actions as are necessary to ensure its efficient  
6 operation. The General Assembly may authorize staff of other  
7 Commonwealth agencies to assist the commission in the  
8 commission's work. The budget request of the commission shall be  
9 submitted to the General Assembly by the Governor as a separate  
10 item in the budget of the Executive Department.

11 (h) Whenever a vacancy occurs in the office of justice of  
12 the Supreme Court or judge of the Superior Court or Commonwealth  
13 Court for a judicial district established under section 11, the  
14 commission shall publicly announce the vacancy and solicit  
15 applications for individuals who desire to be considered for the  
16 vacancy. The General Assembly shall prescribe the timing for  
17 solicitation of applications and the process for evaluation of  
18 candidates by the commission. From the applications received,  
19 the commission shall agree, by the affirmative votes of at least  
20 10 of the members, to a list of five of the most qualified  
21 individuals whose names will be submitted to the Governor for  
22 consideration for appointment. In comprising the list, the  
23 commission may consider that the appellate courts reflect the  
24 racial, ethnic, gender and other diversity of this Commonwealth.  
25 Only one list shall be compiled for each vacancy. Each  
26 individual whose name is submitted to the Governor shall:

27 (1) be a resident of this Commonwealth for at least one year  
28 immediately prior to submission of the individual's application;

29 (2) meet residency requirements under section ~~11(b)~~ 11(C), <--  
30 subject to any other requirement established by law regarding

1 judicial districts;

2 (3) be a licensed member of the bar of the Supreme Court in  
3 good standing; and

4 (4) for an aggregate of at least 10 years prior to the  
5 individual's selection, have either practiced law or been  
6 engaged in a law-related occupation.

7 (i) The General Assembly may provide for additional  
8 procedures of the commission relating to the nomination of  
9 candidates for judicial offices and for additional  
10 qualifications of candidates, in both cases not inconsistent  
11 with this section, as it deems appropriate in furthering the  
12 purposes of this article.

13 (j) Members of the commission and its staff shall be  
14 absolutely immune from suit for all conduct in the course of  
15 their official duties.

16 (8) That section 15 of Article V be amended to read:

17 § 15. Tenure of justices, judges and [justices of the peace]  
18 magisterial district judges.

19 (a) [The] Except as provided in section 13(e), the regular  
20 term of office of justices and judges shall be ten years and the  
21 regular term of office for judges of the municipal court and  
22 traffic court in the City of Philadelphia and of [justices of  
23 the peace] magisterial district judges shall be six years. The  
24 tenure of any justice or judge shall not be affected by changes  
25 in judicial districts or by reduction in the number of judges.

26 (b) A justice or judge elected or appointed under section  
27 [13(a), appointed under section 13(d)] 13 or retained under this  
28 section 15(b) may file a declaration of candidacy for retention  
29 election with the officer of the Commonwealth who under law  
30 shall have supervision over elections on or before the first

1 Monday of January of the year preceding the year in which [his]  
2 the term of office of the justice or judge expires. If no  
3 declaration is filed, a vacancy shall exist upon the expiration  
4 of the term of office of such justice or judge, to be filled by  
5 [election under section 13(a) or by appointment under section  
6 13(d) if applicable] appointment or election under section 13.  
7 If a justice or judge files a declaration, [his name] the name  
8 of the justice or judge shall be submitted to the electors  
9 without party designation, on a separate judicial ballot or in a  
10 separate column on voting machines, at the municipal election  
11 immediately preceding the expiration of the term of office of  
12 the justice or judge, to determine only the question whether  
13 [he] the justice or judge shall be retained in office. If a  
14 majority is against retention, a vacancy shall exist upon the  
15 expiration of [his] the term of office of that justice or judge,  
16 to be filled by appointment under section [13(b) or under  
17 section 13(d) if applicable] 13. If a majority favors retention,  
18 the justice or judge shall serve for the regular term of office  
19 provided herein, unless sooner removed or retired. At the  
20 expiration of each term a justice or judge shall be eligible for  
21 retention as provided herein, subject only to the retirement  
22 provisions of this article.

23 Section 2. These proposed constitutional amendments will  
24 become effective on January 1 next following approval by the  
25 qualified electors of this Commonwealth under section 1 of  
26 Article XI of the Constitution of Pennsylvania.

27 Section 3. (a) Upon the first passage by the General  
28 Assembly of these proposed constitutional amendments, the  
29 Secretary of the Commonwealth shall proceed immediately to  
30 comply with the advertising requirements of section 1 of Article

1 XI of the Constitution of Pennsylvania and shall transmit the  
2 required advertisements to two newspapers in every county in  
3 which such newspapers are published in sufficient time after  
4 passage of these proposed constitutional amendments.

5 (b) Upon the second passage by the General Assembly of these  
6 proposed constitutional amendments, the Secretary of the  
7 Commonwealth shall proceed immediately to comply with the  
8 advertising requirements of section 1 of Article XI of the  
9 Constitution of Pennsylvania and shall transmit the required  
10 advertisements to two newspapers in every county in which such  
11 newspapers are published in sufficient time after passage of  
12 these proposed constitutional amendments. The Secretary of the  
13 Commonwealth shall submit the proposed constitutional amendments  
14 under section 1 of this resolution to the qualified electors of  
15 this Commonwealth as a single ballot question at the first  
16 general election which meets the requirements of and is in  
17 conformance with section 1 of Article XI of the Constitution of  
18 Pennsylvania and which occurs at least three months after the  
19 proposed constitutional amendments are passed by the General  
20 Assembly.