

By: Representative Fleming

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 6

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION
2 177A, MISSISSIPPI CONSTITUTION OF 1890, TO REVISE THE MEMBERSHIP
3 OF THE COMMISSION ON JUDICIAL PERFORMANCE.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF
5 MISSISSIPPI, That the following amendment to the Mississippi
6 Constitution of 1890 is proposed to the qualified electors of the
7 state:

8 Amend Section 177A, Mississippi Constitution of 1890, to read
9 as follows:

10 "Section 177A. There shall be a Commission on Judicial
11 Performance of the State of Mississippi, to be composed of five
12 (5) members; two (2) of whom shall be practicing attorneys
13 appointed by the governing board of The Mississippi Bar; two (2)
14 of whom shall be practicing attorneys appointed by the governing
15 board of the Magnolia Bar Association; and one (1) practicing
16 attorney who shall be appointed by the Attorney General.

17 Restrictions on the members of the commission may be imposed by
18 statute. Members of the Commission on Judicial Performance not
19 subject to impeachment shall be subject to removal from the
20 commission by two-thirds (2/3) vote of the Supreme Court sitting
21 en banc.

22 On recommendation of the Commission on Judicial Performance,
23 the Supreme Court may remove from office, suspend, fine or
24 publicly censure or reprimand any justice or judge of this state
25 for: (a) actual conviction of a felony in a court other than a
26 court of the State of Mississippi; (b) willful misconduct in
27 office; (c) willful and persistent failure to perform his duties;



28 (d) habitual intemperance in the use of alcohol or other drugs; or
29 (e) conduct prejudicial to the administration of justice which
30 brings the judicial office into disrepute; and may retire
31 involuntarily any justice or judge for physical or mental
32 disability seriously interfering with the performance of his
33 duties, which disability is or is likely to become of a permanent
34 character.

35 A recommendation of the Commission on Judicial Performance
36 for the censure, removal or retirement of a justice of the Supreme
37 Court shall be determined by a tribunal of seven (7) judges
38 selected by lot from a list consisting of all the circuit and
39 chancery judges at a public drawing of the Secretary of State.
40 The vote of the tribunal to censure, remove or retire a justice of
41 the Supreme Court shall be by secret ballot and only upon
42 two-thirds (2/3) vote of the tribunal.

43 All proceedings before the commission shall be confidential,
44 except upon unanimous vote of the commission. After a
45 recommendation of removal or public reprimand of any justice or
46 judge is filed with the Clerk of the Supreme Court, the charges
47 and recommendations of the commission shall be made public. The
48 commission may, with two-thirds (2/3) of the members concurring,
49 recommend to the Supreme Court the temporary suspension of any
50 justice or judge against whom formal charges are pending. All
51 proceedings before the Supreme Court under this section any final
52 decisions made by the Supreme Court shall be made public as in
53 other cases at law."

54 BE IT FURTHER RESOLVED, That this proposed amendment shall be
55 submitted by the Secretary of State to the qualified electors at
56 an election to be held on the first Tuesday after the first Monday
57 of November 2001, as provided by Section 273 of the Constitution
58 and by general law.

59 BE IT FURTHER RESOLVED, That the explanation of this proposed
60 amendment for the ballot shall read as follows: "This proposed



61 constitutional amendment will change the membership of the
62 Commission on Judicial Performance by reducing its membership from
63 seven to five. Two members will be appointed by The Mississippi
64 Bar, two members will be appointed by the Magnolia Bar and one
65 will be appointed by the Attorney General."

