

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing amendments to article 6 of the constitution, in relation to the composition of judicial departments and the restructuring of the unified court system, and the repeal of sections 9, 10, 11, 13, 14, 15, 34, 35, 36, 36-a, 36-c and 37 of article 6 of the constitution relating thereto

Section 1. Resolved (if the _____ concur), That section 1 of article 6 of the constitution be amended to read as follows:

§1. a. There shall be a unified court system for the state. The state-wide courts shall consist of the court of appeals, the supreme court including the appellate divisions and appellate terms thereof, [the court of claims, the county court,] the surrogate's court and the [family court] district court, as hereinafter provided. [The legislature shall establish in and for the city of New York, as part of the unified court system for the state, a single, city-wide court of civil jurisdiction and a single, city-wide court of criminal jurisdiction, as hereinafter provided, and may upon the request of the mayor and the local legislative body of the city of New York, merge the two courts into one city-wide court of both civil and criminal jurisdiction.] The unified court system for the state shall also include the [district,] town[, city] and village courts [outside the city of New York], as hereinafter provided.

b. The court of appeals, the supreme court including the appellate divisions and the appellate terms thereof, [the court of claims, the county court,] the surrogate's court, the [family court, the courts or court of civil and criminal jurisdiction of the city of New York,] district court and such other courts as the legislature may determine shall be courts of record.

c. All processes, warrants and other mandates of the court of appeals, the supreme court including the appellate divisions and the appellate terms thereof, [the court of claims, the

county court,] and the surrogate's court [and the family court] may be served and executed in any part of the state. All processes, warrants and other mandates of the [courts or] district court [of civil and criminal jurisdiction of the city of New York] may, subject to such limitation as may be prescribed by the legislature, be served and executed in any part of the state. The legislature may provide that processes, warrants and other mandates of [the district court may be served and executed in any part of the state and that processes, warrants and other mandates of] town[,] and village [and city] courts [outside the city of New York] may be served and executed in any part of the county in which such courts are located or in any part of any adjoining county.

§2. Resolved (if the _____ concur), That subdivisions a and c of section 4 of article 6 of the constitution be amended to read as follows:

a. The state shall be divided into four judicial departments. The first department shall consist of the counties within the first and twelfth judicial [district] districts of the state. The second department shall consist of the counties within the second, ninth, tenth and eleventh judicial districts of the state. The third department shall consist of the counties within the third, fourth and sixth judicial districts of the state. The fourth department shall consist of the counties within the fifth, seventh and eighth judicial districts of the state. Each department shall be bounded by the lines of judicial districts. Once every ten years the legislature may alter the boundaries of the judicial departments, but without changing the number thereof; except that, on or after January first, two thousand four, the legislature shall divide the state into five judicial departments and, in the event it shall fail to do so by January first, two thousand five, the chief administrator of the courts, after consultation with the presiding justices of the several departments and not later than February twenty-eighth, two thousand five, shall submit to the

legislature a plan for the division of the state into five judicial departments, which plan shall become effective one year following submission unless the legislature shall sooner divide the state into five judicial departments.

c. The governor shall designate the presiding justice of each appellate division, who shall act as such during his or her term of office and shall be a resident of the department. The other justices of the appellate divisions shall be designated by the governor, from all the justices [elected to] of the supreme court, other than those appointed to fill a vacancy pursuant to subdivision a of section fifteen of this article, for terms of five years or the unexpired portions of their respective terms of office, if less than five years.

§3. Resolved (if the _____ concur), That section 6 of article 6 of the constitution be amended to read as follows:

a. The state shall be divided into [eleven] twelve judicial districts. The first judicial district shall consist of the [counties] county of [Bronx and] New York. The second judicial district shall consist of the counties of Kings and Richmond. The third judicial district shall consist of the counties of Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan, and Ulster. The fourth judicial district shall consist of the counties of Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, St. Lawrence, Saratoga, Schenectady, Warren, and Washington. The fifth judicial district shall consist of the counties of Herkimer, Jefferson, Lewis, Oneida, Onondaga, and Oswego. The sixth judicial district shall consist of the counties of Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga, and Tompkins. The seventh judicial district shall consist of the counties of Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne, and Yates. The eighth judicial district shall consist of the counties of Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, and

Wyoming. The ninth judicial district shall consist of the counties of Dutchess, Orange, Putnam, Rockland, and Westchester. The tenth judicial district shall consist of the counties of Nassau and Suffolk. The eleventh judicial district shall consist of the county of Queens. The twelfth judicial district shall consist of the county of Bronx.

b. Once every ten years the legislature may increase or decrease the number of judicial districts or alter the composition of judicial districts and thereupon re-apportion the justices to be thereafter [elected] selected in the judicial districts so altered. Each judicial district shall be bounded by county lines.

c. [The] Except as otherwise provided in this article, the justices of the supreme court shall be chosen by the electors of the judicial district in which they are to serve[. The] and shall serve for terms of [justices of the supreme court shall be] fourteen years from and including the first day of January next after [their] election.

d. The supreme court is continued. [It] Effective January first, two thousand four, it shall consist of the number of justices of the supreme court, including the justices designated to the appellate divisions and the appellate terms of the supreme court, judges of the court of claims, judges of the county court [of the counties of Bronx, Kings, Queens and Richmond], judges of the surrogate's court in offices abolished pursuant to section twenty-eight of this article and judges of the family court [of general sessions of the county of New York] authorized by law on [the] December thirty-first [day of August next after the approval and ratification of this amendment by the people], two thousand three, all of whom shall be justices of the supreme court for the remainder of their terms. The legislature may increase or decrease the number of justices of the supreme court in any judicial district, except that [the number in any district shall not be increased to exceed one justice for fifty thousand, or fraction over thirty

thousand, of the population thereof as shown by the last federal census or state enumeration. The legislature may decrease the number of justices of the supreme court in any judicial district, except that]: (1) the number in any judicial district shall not be less than the number of justices of the supreme court authorized by law in such judicial district on [the effective date of this article] December thirty-first, two thousand three, and (2) there shall be at least one justice of the supreme court in each county outside the city of New York chosen by the electors thereof.

e. The clerks of the several counties shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law.

§4. Resolved (if the _____ concur), That section 7 of article 6 of the constitution be amended to read as follows:

§7. a. The supreme court shall have general original jurisdiction in law and equity, including the jurisdiction of the courts abolished pursuant to paragraph one of subdivision a of section twenty-eight of this article (subject, however, to such power as the legislature had on the date of their abolition to withdraw jurisdiction from such courts), and the appellate jurisdiction herein provided. In the city of New York, it shall have exclusive jurisdiction over crimes prosecuted by indictment, provided, however, that, except as otherwise provided by this article, the legislature may grant to [the city-wide] a district court of [criminal jurisdiction of] the city of New York jurisdiction over misdemeanors prosecuted by indictment [and to the family court in the city of New York jurisdiction over crimes and offenses by or against minors or between spouses or between parent and child or between members of the same family or household].

b. The supreme court shall consist of such divisions as the chief administrator of the courts may establish from time to time, except that, in each county of the state, he or she shall

establish a single division in which the supreme court shall exercise jurisdiction over criminal actions and proceedings charging one or more offenses that, pursuant to law, constitute family offenses; over actions and proceedings for marital separation, divorce, annulment of marriage and dissolution of marriage; over such actions and proceedings as were within the jurisdiction of family court on December thirty-first, two thousand three; and over such other actions and proceedings as the chief administrator shall provide. Subject to the provisions of subdivision a of this section, the chief administrator shall prescribe the jurisdiction of such other divisions as he or she may establish pursuant to this subdivision.

To the extent practicable, justices assigned to divisions, terms and parts of supreme court shall be experienced in the business coming before them; and, within appropriations made available therefor by the legislature, shall receive such training as may be necessary to insure the fair administration of justice.

c. If the legislature shall create new classes of actions and proceedings, the supreme court shall have jurisdiction over such classes of actions and proceedings, but the legislature may provide that another court or other courts shall also have jurisdiction and that actions and proceedings of such classes may be originated in such other court or courts.

§5. Resolved (if the _____ concur), That subdivisions d and e of section 8 of article 6 of the constitution be amended to read as follows:

d. If so directed by the appellate division of the supreme court establishing an appellate term, an appellate term shall have jurisdiction to hear and determine appeals now or hereafter authorized by law to be taken to the supreme court or to the appellate division other than appeals from the supreme court[,] or a surrogate's court[, the family court] or appeals in criminal cases prosecuted by indictment or by information as provided in section six of article

one.

e. As may be provided by law, an appellate term shall have jurisdiction to hear and determine appeals from the district court outside the city of New York or a town[,] or village [or city] court [outside the city of New York].

§6. Resolved (if the _____ concur), That sections 9, 10, 11, 13, 14, 15, 34, 35, 36, 36-a, 36-c and 37 of article 6 of the constitution be REPEALED.

§7. Resolved (if the _____ concur), That sections 12, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33 of article 6 be renumbered sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27.

§8. Resolved (if the _____ concur), That subdivision a of section 9 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

a. The surrogate's court is continued in each county in the state. [There] In each county having a population of more than two hundred thousand persons, as shown by the last federal census or state enumeration prior to January first, two thousand four, there shall be at least one judge of the surrogate's court [in each county] and such number of additional judges of the surrogate's court as may be provided by law. In each other county, a justice of the supreme court chosen by the electors thereof shall also act as and discharge the duties of surrogate.

§9. Resolved (if the _____ concur), That section 10 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§10. a. The district court system of the state of New York is hereby established.

b. In the city of New York, the legislature shall by law establish a single district court of city-wide civil jurisdiction and a single district court of city-wide criminal jurisdiction for such city and the legislature may, upon the request of the mayor and the local legislative body of the

city of New York, merge the two courts into one district court of both city-wide civil and city-wide criminal jurisdiction.

_____ c. Outside the city of New York, there shall be district courts as follows:

_____ (1) The [district court of Nassau county may be continued under existing law and the] legislature may, at the request of the board of supervisors or other elective governing body of any county outside the city of New York, establish [the] a district court for the entire area of such county or for a portion of such county consisting of one or more cities, or one or more towns which are contiguous, or of a combination of such cities and such towns provided at least one of such cities is contiguous to one of such towns[.

b. No]; provided that: (i) no law establishing [the] a district court hereunder for an entire county shall become effective unless approved at a general election on the question of the approval of such law by a majority of the votes cast thereon by the electors within the area of any cities in the county considered as one unit and by a majority of the votes cast thereon by the electors within the area outside of cities in the county considered as one unit[.

c. No], and (ii) no law establishing [the] a district court hereunder for a portion of a county shall become effective unless approved at a general election on the question of the approval of such law by a majority of the votes cast thereon by the electors within the area of any cities included in such portion of the county considered as one unit and by a majority of the votes cast thereon by the electors within the area outside of cities included in such portion of the county considered as one unit.

_____ (2) Unless the legislature shall otherwise provide, a district court shall be established for the area of each city outside the city of New York.

d. (1) The district court of city-wide civil jurisdiction of the city of New York shall have

[such] jurisdiction [as may be provided] over the following classes of actions and proceedings which shall be originated in such court in the manner provided by law: actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property where the amount sought to be recovered or the value of the property does not exceed fifty thousand dollars exclusive of interest and costs, or such smaller amount as may be fixed by law; and over such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law. The court also shall have jurisdiction over the following, which it shall exercise in a housing division thereof: actions and proceedings in law and equity involving the enforcement of state and local laws for the establishment and maintenance of housing standards; summary proceedings to recover possession of real property and to remove tenants therefrom; and any other actions and proceedings otherwise within the jurisdiction of the court as may be provided by law. The district court of city-wide civil jurisdiction of the city of New York shall exercise such equity jurisdiction as may be provided by law and its jurisdiction to enter judgment upon a counterclaim for the recovery of money only shall be unlimited. Subject to the provisions of subdivision g of section thirteen of this article, the district court of city-wide criminal jurisdiction of the city of New York shall have jurisdiction over crimes and other violations of law, other than those prosecuted by indictment, provided, however, that the legislature may grant to such court jurisdiction over misdemeanors prosecuted by indictment; and over such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law.

(2) Each district court outside the city of New York shall have such jurisdiction as may be provided by law, but not in any respect greater than the combined jurisdiction of the district

court or courts [for] of the city of New York as provided in [section fifteen] paragraph one of this [article, provided, however, that in actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property, the amount sought to be recovered or the value of the property shall not exceed fifteen thousand dollars exclusive of interest and costs] subdivision.

e. The legislature may create districts of [the] a district court outside the city of New York established pursuant to paragraph one of subdivision c of this section which shall consist of an entire county or of an area less than a county; and may discontinue any district of such a district court.

f. [There] The district courts shall consist of such number of judges as may be authorized by law, provided there shall be at least one judge [of the district] for each district court and, for each such court outside the city of New York in which districts have been created hereunder, at least one judge for each [district] of such districts [and such number of additional judges in each district as may be provided by law].

g. The judges of [the district] each district court outside the city of New York shall be apportioned among [the] any districts within such court as may be provided by law, and to the extent practicable, in accordance with the population and the volume of judicial business.

h. The judges of the district court of city-wide civil jurisdiction of the city of New York shall be residents of such city and shall be chosen for terms of ten years by the electors of the counties included within the city of New York from districts within such counties established by law; except that the mayor of the city of New York, on the recommendation of a commission established by law, shall appoint from the residents of such city, for terms of ten years, such

number of judges of the housing division of such court as may be provided by law. The judges of the district court of city-wide criminal jurisdiction of the city of New York shall be residents of such city and shall be appointed for terms of ten years by the mayor of the city of New York. The judges of each district court outside the city of New York shall be residents of the [district] county or portion thereof for which such court has been established and shall be chosen by the electors of [the district. Their] such county or portion thereof for terms [shall be] of six years, except that judges of a district court established pursuant to paragraph two of subdivision c of this section shall be chosen in such manner and for such terms as shall be provided by law.

Where a term of office prescribed hereunder is elective, it shall be from and including the first day of January next after [their] election.

i. The legislature may regulate and discontinue [the] any district court [in any county or portion thereof] outside the city of New York.

§10. Resolved (if the _____ concur), That section 11 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§11. a. Courts for towns[,] and villages [and cities outside the city of New York] are continued and shall have the jurisdiction prescribed by the legislature but not in any respect greater than the jurisdiction of [the district] a district court outside New York city as provided in section [sixteen] ten of this article.

b. The legislature may regulate such courts[, establish uniform jurisdiction, practice and procedure for city courts outside the city of New York] and may discontinue any village [or city] court [outside the city of New York] existing on the effective date of this article. The legislature may discontinue any town court existing on the effective date of this article only with the approval of a majority of the total votes cast at a general election on the question of a

proposed discontinuance of the court in each such town affected thereby.

c. The legislature may abolish the legislative functions on town boards of justices of the peace and provide that members of the town [councilmen] council be elected in their stead.

d. The number of [the judges] justices of each of such town[,], and village [and city] courts and the classification and duties of [the judges] such justices shall be prescribed by the legislature. The terms, method of selection and method of filling vacancies for the [judges] justices of such courts shall be prescribed by the legislature, provided, however, that the justices of town courts shall be chosen by the electors of the town for terms of four years from and including the first day of January next after their election.

§11. Resolved (if the _____ concur), That section 13 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§13. a. The supreme court may transfer any action or proceeding, except one over which it shall have exclusive jurisdiction which does not depend upon the monetary amount sought, to any other court having jurisdiction of the subject matter within the judicial department provided that such other court has jurisdiction over the classes of persons named as parties. [As may be provided by law, the] The supreme court may transfer to itself any action or proceeding originated or pending in another court within the judicial department [other than the court of claims] upon a finding that such a transfer will promote the administration of justice.

b. The [county court shall transfer to the supreme court or surrogate's court or family court any action or proceeding which has not been transferred to it from the supreme court or surrogate's court or family court and over which the county court has no jurisdiction. The county court may transfer any action or proceeding, except a criminal action or proceeding

involving a felony prosecuted by indictment or an action or proceeding required by this article to be dealt with in the surrogate's court or family court, to any court, other than the supreme court, having jurisdiction of the subject matter within the county provided that such other court has jurisdiction over the classes of persons named as parties.

c. As may be provided by law, the supreme court or the county court may transfer to the county court any action or proceeding originated or pending in the district court or a town, village or city court outside the city of New York upon a finding that such a transfer will promote the administration of justice.

d. The] surrogate's court shall transfer to the supreme court or [the county court or the family] a district court [or the courts for] of the city of New York [established pursuant to section fifteen of this article] any action or proceeding which has not been transferred to it from any of [said] such courts and over which the surrogate's court has no jurisdiction.

[e. The family court shall transfer to the supreme court or the surrogate's court or the county court or the courts for the city of New York established pursuant to section fifteen of this article any action or proceeding which has not been transferred to it from any of said courts and over which the family court has no jurisdiction.

f. The courts for] c. A district court of the city of New York [established pursuant to section fifteen of this article] shall transfer to the supreme court or the surrogate's court [or the family court] any action or proceeding which has not been transferred to [them] it from any of [said] such courts and over which [the said courts for the city of New York have] such district court has no jurisdiction.

[g.] d. As may be provided by law, the supreme court shall transfer any action or proceeding to any other court having jurisdiction of the subject matter in any other judicial

district or county provided that such other court has jurisdiction over the classes of persons named as parties.

[h.] e. As may be provided by law, the [county court, the] surrogate's court[, the family court] and [the courts for] a district court of the city of New York [established pursuant to section fifteen of this article] may transfer any action or proceeding, other than one which has previously been transferred to it, to any other court, except the supreme court, having jurisdiction of the subject matter in any other judicial district or county provided that such other court has jurisdiction over the classes of persons named as parties.

[i.] f. As may be provided by law, [the] a district court outside the city of New York or a town[,] or village [or city] court [outside the city of New York] may transfer any action or proceeding, other than one which has previously been transferred to it, to any district court or to any town or village court[, other than the county court or the surrogate's court or the family court or the supreme court,] having jurisdiction of the subject matter in the same or an adjoining county provided that such other court has jurisdiction over the classes of persons named as parties.

[j.] g. Where a criminal action or proceeding charging one or more offenses that, pursuant to law, constitute family offenses is originated in a court other than the supreme court, such court, following arraignment in accordance with law, shall transfer such action or proceeding to the supreme court, unless: (1) the highest offense constituting a family offense that is charged in the action or proceeding is classified as a violation pursuant to law, or (2) the highest offense constituting a family offense that is charged in the action or proceeding is classified as a misdemeanor pursuant to law and the court in which the action or proceeding is originated is a district court outside the city of New York or a justice court and such court of

origination is not located in the same city, town or village in which proceedings of the supreme court in the county in which such court of origination is located are conducted. In either of such events, the court of origination shall transfer such action or proceeding to supreme court only where the prosecutor therein so requests; provided, however, upon such a transfer, the supreme court may decline to accept it, in which case transfer of the action or proceeding shall be deemed a nullity and all further proceedings therein shall be in the court of origination. Notwithstanding the foregoing, the court of origination, at any time following arraignment, shall transfer any criminal action or proceeding to which this subdivision applies to the supreme court immediately upon notification that there are one or more other civil or criminal actions or proceedings involving the defendant in the division of supreme court established pursuant to subdivision b of section seven of this article.

h. Each court shall exercise jurisdiction over any action or proceeding transferred to it pursuant to this section.

[k.] i. The legislature may provide that the verdict or judgment in actions and proceedings so transferred shall not be subject to the limitation of monetary jurisdiction of the court to which the actions and proceedings are transferred if that limitation be lower than that of the court in which the actions and proceedings were originated.

§12. Resolved (if the _____ concur), That section 14 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§14. a. No person[, other than one who holds such office at the effective date of this article,] may assume the office of judge of the court of appeals[, or justice of the supreme court[, or judge of the court of claims] unless he or she has been admitted to practice law in this state at least ten years. No person[, other than one who holds such office at the effective date of

this article,] may assume the office of judge of the [county court,] surrogate's court[, family court, a court for the city of New York established pursuant to section fifteen of this article, district] or judge of a district court [or city court outside the city of New York] unless he or she has been admitted to practice law in this state at least five years or such greater number of years as the legislature may determine.

b. A judge of the court of appeals, justice of the supreme court[, judge of the court of claims, judge of a county court], judge of the surrogate's court[, judge of the family court] or judge of a district court [for] of the city of New York [established pursuant to section fifteen of this article who is elected or appointed after the effective date of this article] may not:

(1) hold any other public office or trust except an office in relation to the administration of the courts, member of a constitutional convention or member of the armed forces of the United States or of the state of New York in which latter event the legislature may enact such legislation as it deems appropriate to provide for a temporary judge or justice to serve during the period of the absence of such judge or justice in the armed forces;

(2) be eligible to be a candidate for any public office other than judicial office or member of a constitutional convention, unless he or she resigns his or her judicial office; in the event a judge or justice does not so resign his or her judicial office within ten days after [his acceptance of] accepting the nomination of such other office, his or her judicial office shall become vacant and the vacancy shall be filled in the manner provided in this article;

(3) hold any office or assume the duties or exercise the powers of any office of any political organization or be a member of any governing or executive agency thereof;

(4) engage in the practice of law, act as an arbitrator, referee or compensated mediator in any action or proceeding or matter or engage in the conduct of any other profession or business

which interferes with the performance of his or her judicial duties.

Judges and justices of the courts specified in this subdivision shall also be subject to such rules of conduct as may be promulgated by the chief administrator of the courts with the approval of the court of appeals.

c. Qualifications for and restrictions upon [the] judges of the district[,] courts outside the city of New York and justices of town[,] and village [or city] courts [outside the city of New York], other than such qualifications and restrictions specifically set forth in subdivision a of this section, shall be prescribed by the legislature, provided, however, that the legislature shall require a course of training and education to be completed by justices of town and village courts [selected after the effective date of this article] who have not been admitted to practice law in this state. Judges and justices of such courts shall also be subject to such rules of conduct not inconsistent with law as may be promulgated by the chief administrator of the courts with the approval of the court of appeals.

§13. Resolved (if the _____ concur), That section 15 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§15. a. When a vacancy shall occur, otherwise than by expiration of term, in the office of an elected justice of the supreme court[, of judge of the county court,] or of judge of the surrogate's court [or judge of the family court outside the city of New York], it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the governor by and with the advice and consent of the senate, if the senate shall be in session, or, if the senate not be in session, the governor may fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

b. When a vacancy shall occur, otherwise than by expiration of term, in the office of an appointed justice of the supreme court or an appointed judge of [the] a district court of [claims] the city of New York, it shall be filled for the unexpired term in the same manner as an original appointment.

c. When a vacancy shall occur, otherwise than by expiration of term, in the office of a judge elected to the [city-wide] district court of city-wide civil jurisdiction of the city of New York, it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the mayor of the city of New York may fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled. [When a vacancy shall occur, otherwise than by expiration of term on the last day of December of any year, in the office of judge appointed to the family court within the city of New York or the city-wide court of criminal jurisdiction of the city of New York, the mayor of the city of New York shall fill such vacancy by an appointment for the unexpired term.]

d. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge of [the] a district court outside the city of New York established pursuant to paragraph one of subdivision c of section ten of this article, it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the board of supervisors or the supervisor or supervisors of the [affected district] area for which the court was established if such [district] area consists of a portion of a county or, in counties with an elected county executive officer, such county executive officer may, subject to confirmation by the board of supervisors or the supervisor or supervisors of such [district] area, fill such vacancy by an appointment which shall continue

until and including the last day of December next after the election at which the vacancy shall be filled.

e. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge of a district court outside the city of New York established pursuant to paragraph two of subdivision c of section ten of this article, it shall be filled in the manner provided by law.

§14. Resolved (if the _____ concur), That subdivision b of section 17 of article 6 of the constitution, such section as renumbered by section 7 of this resolution, be amended to read as follows:

b. Judges of the [court of claims, the county court, the] surrogate's court, the [family court, the] district court or courts [for] of the city of New York [established pursuant to section fifteen of this article], the district [court] courts outside the city of New York established pursuant to paragraph one of subdivision c of section ten of this article and such other courts as the legislature may determine may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein.

§15. Resolved (if the _____ concur), That section 19 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§19. a. The compensation of a judge of the court of appeals, a justice of the supreme court, a judge of the [court of claims, a judge of the county court, a judge of the] surrogate's court, a judge of [the family court, a judge of a court for the city of New York established pursuant to section fifteen of this article, a judge of [the] a district court [or of] and a retired judge or justice shall be established by law and shall not be diminished during the term of office for which he or she was elected or appointed. [Any judge or justice of a court abolished by section thirty-five of this article, who pursuant to that section becomes a judge or justice of a

court established or continued by this article, shall receive without interruption or diminution for the remainder of the term for which he was elected or appointed to the abolished court the compensation he had been receiving upon the effective date of this article together with any additional compensation that may be prescribed by law.]

b. Each judge of the court of appeals, justice of the supreme court, judge of the [court of claims, judge of the county court, judge of the] surrogate's court[, judge of the family court, judge of a court for the city of New York established pursuant to section fifteen of this article] and judge of [the] a district court shall retire on the last day of December in the year in which he or she reaches the age of seventy. Each such former judge of the court of appeals and justice of the supreme court may thereafter perform the duties of a justice of the supreme court, with power to hear and determine actions and proceedings, provided, however, that it shall be certificated in the manner provided by law that the services of such judge or justice are necessary to expedite the business of the court and that he or she is mentally and physically able and competent to perform the full duties of such office. Any such certification shall be valid for a term of two years and may be extended as provided by law for additional terms of two years. A retired judge or justice shall serve no longer than until the last day of December in the year in which he or she reaches the age of seventy-six. A retired judge or justice shall be subject to assignment by the appellate division of the supreme court of the judicial department of his or her residence. Any retired justice of the supreme court who had been designated to and served as a justice of any appellate division immediately preceding his or her reaching the age of seventy shall be eligible for designation by the governor as a temporary or additional justice of the appellate division. [A retired judge or justice shall not be counted in determining the number of justices in a judicial district for purposes of section six subdivision d of this

article.

c. The provisions of this section shall also be applicable to any judge or justice who has not reached the age of seventy-six and to whom it would otherwise have been applicable but for the fact that he reached the age of seventy and retired before the effective date of this article.]

§16. Resolved (if the _____ concur), That section 20 of article 6 of the constitution, such section as renumbered by section 7 of this resolution, be amended to read as follows:

§20. a. A justice of the supreme court may preside in any division of such court, may perform the duties of his or her office or hold court in any county and may be temporarily assigned to the supreme court in any judicial district [or to the court of claims], including any division thereof. A justice of the supreme court in the city of New York may be temporarily assigned to [the family court in the city of New York or to] the surrogate's court in any county within the city of New York when required to dispose of the business of such court. A justice of the supreme court outside the city of New York may be temporarily assigned to the surrogate's court in any county outside the city of New York.

b. [A judge of the court of claims may perform the duties of his office or hold court in any county and may be temporarily assigned to the supreme court in any judicial district.

c. A judge of the county court may perform the duties of his office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his residence or to the county court or the family court in any county or to the surrogate's court in any county outside the city of New York or to a court for the city of New York established pursuant to section fifteen of this article.

d.] A judge of the surrogate's court in any county within the city of New York may

perform the duties of his or her office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his or her residence, including any division thereof.

[e.] c. A judge of the surrogate's court in any county outside the city of New York may perform the duties of his or her office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his or her residence [or to the county court or the family court in any county], including any division thereof, or to a district court [for] of the city of New York [established pursuant to section fifteen of this article].

[f. A judge of the family court may perform the duties of his office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his residence or to the county court or the family court in any county or to the surrogate's court in any county outside of the city of New York or to a court for the city of New York established pursuant to section fifteen of this article.

g.] d. A judge of a district court [for the city of New York established pursuant to section fifteen of this article] may perform the duties of his or her office or hold court in any county, may preside in any division or district of his or her court or, if he or she is a judge of a district court of the city of New York, anywhere in such city, and may be temporarily assigned: (1) to the supreme court in the judicial department of his or her residence [or to the county court or the family court in any county or to the other court for the city of New York established pursuant to section fifteen of this article.

h. A judge of the district court in any county may perform the duties of his office or hold court in any county and may be temporarily assigned to the county court in the judicial department of his residence or to a court for the city of New York established pursuant to

section fifteen of this article or to the district], including any division thereof, if he or she is not permitted to practice law; and (2) to any district court in [any county] the judicial department of his or her residence.

[i.] e. Temporary assignments of all the foregoing judges or justices listed in this section[, and of judges of the city courts pursuant to paragraph two of subdivision j of this section,] shall be made by the chief administrator of the courts in accordance with standards and administrative policies established pursuant to section [twenty-eight] twenty-two of this article.

[j. (1)] f. The legislature may provide for temporary assignments_z within the county of residence or any adjoining county, of [judges] justices of town[,] and village [or city] courts outside the city of New York[.

(2) In addition to any temporary assignments to which a judge of a city court may be subject pursuant to paragraph one of this subdivision, such judge also may be temporarily assigned by the chief administrator of the courts to the county court, the family court or the district court within his or her county of residence or any adjoining county provided he or she is not permitted to practice law]. Such assignments may include temporary assignments to a district court outside the city of New York established pursuant to paragraph two of subdivision c of section ten of this article.

[k.] g. While temporarily assigned pursuant to the provisions of this section, any judge or justice shall have the powers, duties and jurisdiction of a judge or justice of the court to which assigned. After the expiration of any temporary assignment, as provided in this section, the judge or justice assigned shall have all the powers, duties and jurisdiction of a judge or justice of the court to which he or she was assigned with respect to matters pending before him

or her during the term of such temporary assignment.

§17. Resolved (if the _____ concur), That subdivision a of section 23 of article 6 of the constitution, such section as renumbered by section 7 of this resolution, be amended to read as follows:

a. The legislature shall provide for the allocation of the cost of operating and maintaining the court of appeals, the appellate division of the supreme court in each judicial department, the appellate terms of the supreme court, the supreme court, the [court of claims, the county court, the] surrogate's court[, the family court, the courts for the city of New York established pursuant to section fifteen of this article] and [the] a district court, among the state, the counties, the city of New York and other political subdivisions.

§18. Resolved (if the _____ concur), That article 6 of the constitution be amended by adding 2 new sections 28 and 29 to read as follows:

§28. a. (1) The court of claims, the county court and the family court shall be abolished January first, two thousand four. Upon the abolition of such courts, their seals, records, papers and documents shall, unless otherwise provided by law, be deposited in the offices of the clerks of supreme court of the several counties in which they now exist. Each of the judges of these courts in office on the date of their abolition shall, for the remainder of the term of office for which he or she was elected or appointed to the abolished court, be a justice of the supreme court in and for the judicial district in which he or she was elected to that term or, if appointed, in which he or she resided on that date. Thereafter, his or her office shall be an office of justice of the supreme court, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand three for the office he or she held on that date. Any other office of judge of a court abolished pursuant to this subdivision that is vacant on

January first, two thousand four also shall be an office of justice of the supreme court on and after that date, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand three for that office in the court of which it was a part on that date.

(2) The office of judge of the surrogate's court shall be abolished on January first, two thousand four except in those counties in which a judge of the surrogate's court is required pursuant to section nine of this article. Each judge in such an office, in office on such date, shall, for the remainder of the term of office for which he or she was elected or appointed, be a justice of the supreme court in and for the judicial district in which he or she was elected to that term or, if appointed, in which he or she resided on that date. Thereafter, his or her office shall be an office of justice of the supreme court, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand three for the office of judge of the surrogate's court outside the city of New York. Any office to which this paragraph applies that is vacant on January first, two thousand four also shall be an office of justice of the supreme court on and after that date, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand three for the office of judge of the surrogate's court outside the city of New York .

(3) Notwithstanding any other provision of this article, no judge who becomes a justice of the supreme court pursuant to this subdivision may be designated to sit in the appellate division or in an appellate term during the term of office in which he or she was serving on January first, two thousand four.

b. The justices of the supreme court in office on December thirty-first, two thousand three shall, for the remainder of the terms for which they were elected or appointed, be justices

of the supreme court in and for the judicial district in which they were elected or for which they were appointed; and, except upon individual agreement otherwise with the chief administrator of the courts, each of such justices shall be assigned only to exercise jurisdiction over such actions and proceedings as were within the jurisdiction exercised by supreme court on December thirty-first, two thousand three. Retired judges and justices who, prior to January first, two thousand four, were authorized to perform the duties of a justice of the supreme court pursuant to certification in accordance with the provisions of subdivision b of section twenty-five of this article then in effect, shall be certificated justices of the supreme court for the remainder of the terms for which they were certificated, and thereafter be eligible for further certification in accordance with subdivision b of section nineteen of this article.

c. (1) Effective January first, two thousand four:

(i) the city-wide court of civil jurisdiction for the city of New York, as authorized by former section fifteen of this article, shall be continued as the district court of city-wide civil jurisdiction of such city, and the judges of such city-wide court in office on December thirty-first, two thousand three, including the housing judges thereof, shall, for the remainder of the terms for which they were elected or appointed, be judges of the district court of city-wide civil jurisdiction; and

(ii) the city-wide court of criminal jurisdiction for the city of New York, as authorized by former section fifteen of this article, shall be continued as the district court of city-wide criminal jurisdiction of such city and the judges of such city-wide court in office on December thirty-first, two thousand three shall, for the remainder of the terms for which they were appointed, be judges of the district court of city-wide criminal jurisdiction.

(2) Effective January first, two thousand four:

_____ (i) the district courts, as authorized by former section sixteen of this article, shall be continued as district courts outside the city of New York established pursuant to paragraph one of subdivision c of section ten of this article and the judges of such courts in office on December thirty-first, two thousand three shall, for the remainder of the terms for which they were elected or appointed, be judges of such district courts;

_____ (ii) the city courts outside the city of New York, as authorized by former section seventeen of this article, shall be continued as district courts outside the city of New York established pursuant to paragraph two of subdivision c of section ten of this article and the judges of such courts in office on December thirty-first, two thousand three shall, for the remainder of the terms for which they were elected or appointed, be judges of such district courts.

_____ d. there shall be no decrease in salaries or reduction in status and rights of the nonjudicial personnel of the courts abolished by this section in office on the date of abolition, on account of such abolition;

_____ e. Each action and proceeding pending in the supreme court on December thirty-first, two thousand three shall be deemed pending in the supreme court as of January first, two thousand four. Each action and proceeding pending in the court of claims, the county court or the family court on the date of abolition of such courts shall be transferred to the supreme court in the county in which the action or proceeding was pending, or otherwise, as may be provided by law. Each action and proceeding pending in the city-wide court of civil or criminal jurisdiction for the city of New York, in a district court, or in a city court outside the city of New York on December thirty-first, two thousand three shall be transferred to the appropriate district court of the city of New York or to the appropriate district court outside such city.

f. In the event that a judgment or order was entered before the effective date of this section and a right of appeal existed and notice of appeal therefrom is filed after such effective date, such appeal shall be taken from the supreme court, a court abolished pursuant to subdivision a of this section, a city-wide court of civil and criminal jurisdiction for the city of New York, a city court outside the city of New York, or a district court to such court as it might have been taken before the effective date of this section. Further appeal from a decision of an appellate court in an action subject to this paragraph shall be as provided by law, consistent with this article.

g. In the event that an appeal was decided before the effective date of this section and a further appeal could be taken as of right and notice of appeal therefrom is filed after such effective date, such appeal may be taken from the appellate division of the supreme court to the court of appeals and from any other court to the appellate division of the supreme court. Further appeal from a decision of the appellate division of the supreme court shall be governed by the provisions of this article. If a further appeal could not be taken as of right, such appeal shall be governed by the provisions of this article.

h. Should the state be divided into five judicial departments as provided in subdivision a of section four of this article, the legislature may provide for the transfer between departments of the appellate division of appeals pending in the appellate division as of the date the state is divided into five judicial departments as the interests of justice require; provided no appeal may be transferred to a department other than the department in which such appeal could have been taken had the state been divided into five judicial departments on the date the appeal was taken.

§29. a. Except as provided in subdivision b of this section, this article and all

amendments thereto, as heretofore approved and ratified by the people, shall remain in full force and effect.

b. The amendments to sections one, four, six, seven and eight and to sections nine, ten, eleven, thirteen, fourteen, fifteen, seventeen, nineteen, twenty and twenty-three as renumbered by section seven of this resolution, and the addition of new sections twenty-eight and twenty-nine to this article, as first proposed by a concurrent resolution passed by the legislature in the year two thousand two, entitled "CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing amendments to article 6 of the constitution, in relation to the composition of judicial departments and the restructuring of the unified court system, and the repeal of sections 9, 10, 11, 13, 14, 15, 34, 35, 36, 36-a, 36-c and 37 of article 6 of the constitution relating thereto" shall become a part of the constitution on the first day of January next after the approval and ratification of the amendments proposed by such concurrent resolution by the people and the provisions thereof shall become effective on such date.

§19. Resolved (if the _____ concur), That the foregoing amendments be referred to the first regular legislative session convening after the next succeeding general election of members of the assembly, and, in conformity with section one of article nineteen of the constitution, be published for three months previous to the time of such election.