

**Constitution Revision Commission  
Judicial Committee  
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 35

Relating to: JUDICIARY, Eligibility; SCHEDULE, creates new section

Introducer(s): Commissioner Stemberger

Article/Section affected:

Date: November 22, 2017

	REFERENCE	ACTION
1.	JU	<b>Pre-meeting</b>
2.	EE	

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**I. SUMMARY:**

A proposal to amend Section 8 of Article V of the State Constitution to increase the mandatory judicial retirement age to seventy-five, in a manner that would allow some judges or justices to serve until nearly seventy-eight. Additionally, this proposal will add a new section to Article XII to specify that the mandatory retirement age will be raised on July 1, 2019.

**II. SUBSTANTIVE ANALYSIS:**

**A. PRESENT SITUATION:**

The Florida Constitution currently provides that “[n]o justice or judge shall serve after attaining the age of seventy years except upon temporary assignment or to complete a term, one half of which has been served.”<sup>1</sup> Therefore, if a judge has completed one day more than half of his or her term at the time that he or she turns seventy, then completion of the term will be allowed. This means that some judges and justices may serve until they are nearly seventy-three, since judicial terms are six years.<sup>2</sup>

During the 1997-98 CRC, a proposal that increased the age to seventy-two and eliminated the provision that allowed a justice or judge to complete the second half of a term made it out of the Judicial committee, but failed in the Style and Drafting Committee.<sup>3</sup>

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<sup>1</sup> Fla. Const. Art. V, § 8.

<sup>2</sup> Fla. Const. Art. V, § 10.

<sup>3</sup> Proposal V-8-2, “Calendar for the Constitution Revision Commission,” fall.fsulawrc.com, Web. Accessed 8 April 2017. Gary Blankenship, “Court-related proposals occupy Constitution Revision Commission,” 24 Fla. B. News 1, 8 (1 Dec 1997).

States vary from having no mandatory retirement age to provisions mandating retirement at ages.<sup>4</sup> Of the states that do have a mandatory retirement age, those ages range from seventy to seventy-five years,<sup>5</sup> with the exception of one outlier, Vermont, which allows judges to serve until ninety.<sup>6</sup> Of the states that have a mandatory retirement age of seventy-five, less than half allow for the completion of a term after turning seventy-five.<sup>7</sup>

**B. EFFECT OF PROPOSED CHANGES:**

The proposed amendment will increase the mandatory retirement age from “seventy” to “seventy-five.” However, the provision that allows a judge or justice to complete the second half of their term after turning the mandatory retirement age will not be repealed. This will allow some judges to serve until they are nearly seventy-eight years old.

The proposed amendment specifies that the change to the mandatory judicial retirement age will take effect on July 1, 2019.

**C. FISCAL IMPACT:**

Indeterminate.

**III. Additional Information:**

**A. Statement of Changes:**

(Summarizing differences between the current version and the prior version of the proposal.)

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.

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<sup>4</sup> 2012 Legis. Bill Hist. FL S.B. 408

<sup>5</sup> *Id.*

<sup>6</sup> Judicial Impact Statement from Office of the State Court Administrator on file with the CRC.

<sup>7</sup> *Id.*