

By Commissioner Hawkes

1                                   A proposal to revise  
2       ARTICLE V, ss. 1 and 4, Fla. Const.;  
3       establishing courts of criminal appeals;  
4       providing for a court of appeals to be located  
5       in each of three regional divisions; providing  
6       for justices of the courts of criminal appeals  
7       to be appointed by the Governor and be subject  
8       to confirmation by the Senate; providing for  
9       compensation of the justices; providing for  
10      terms of office; providing for the courts to  
11      have final appellate jurisdiction of criminal  
12      appeals, appeals of capital cases, and appeals  
13      based on habeas corpus or other postconviction  
14      claims; providing for the courts to convene an  
15      en banc panel to hear capital cases and to  
16      resolve conflicting rulings; authorizing the  
17      courts to issue specified writs; providing for  
18      the appointment of clerks for the courts;  
19      providing applicability of rules.

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21   It is proposed by the Florida Constitution Revision Commission  
22   that:

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24           Section 1. Sections 1 and 4 of Article V of the  
25   Florida Constitution are revised by amending those sections to  
26   read:

27                                   ARTICLE V  
28                                   JUDICIARY

29           SECTION 1. Courts.--The judicial power shall be vested  
30   in a supreme court, courts of criminal appeals, district  
31   courts of appeal, circuit courts, and county courts. No other

1 courts may be established by the state, any political  
2 subdivision, or any municipality. The legislature shall, by  
3 general law, divide the state into appellate court districts  
4 and judicial circuits following county lines. Commissions  
5 established by law, or administrative officers or bodies, may  
6 be granted quasi-judicial power in matters connected with the  
7 functions of their offices. The legislature may establish by  
8 general law a civil traffic hearing officer system for the  
9 purpose of hearing civil traffic infractions.

10 SECTION 4. District courts of appeal; courts of  
11 criminal appeals.--

12 (a) DISTRICT COURTS OF APPEAL.--

13 (1) Organization.--There shall be a district court of  
14 appeal serving each appellate district. Each district court  
15 of appeal shall consist of at least three judges. Three judges  
16 shall consider each case and the concurrence of two shall be  
17 necessary to a decision.

18 (2) ~~(b)~~ Jurisdiction.--

19 a. ~~(1)~~ District courts of appeal shall have  
20 jurisdiction to hear appeals, that may be taken as a matter of  
21 right, from final judgments or orders of trial courts,  
22 including those entered on review of administrative action,  
23 not directly appealable to the supreme court or a circuit  
24 court. They may review interlocutory orders in such cases to  
25 the extent provided by rules adopted by the supreme court.

26 b. ~~(2)~~ District courts of appeal shall have the power  
27 of direct review of administrative action, as prescribed by  
28 general law.

29 c. ~~(3)~~ A district court of appeal or any judge thereof  
30 may issue writs of habeas corpus returnable before the court  
31 or any judge thereof or before any circuit judge within the

1 territorial jurisdiction of the court. A district court of  
2 appeal may issue writs of mandamus, certiorari, prohibition,  
3 quo warranto, and other writs necessary to the complete  
4 exercise of its jurisdiction. To the extent necessary to  
5 dispose of all issues in a cause properly before it, a  
6 district court of appeal may exercise any of the appellate  
7 jurisdiction of the circuit courts.

8 (3)(c) Clerks and marshals.--Each district court of  
9 appeal shall appoint a clerk and a marshal who shall hold  
10 office during the pleasure of the court and perform such  
11 duties as the court directs. Their compensation shall be  
12 fixed by general law. The marshal shall have the power to  
13 execute the process of the court throughout the territorial  
14 jurisdiction of the court, and in any county may deputize the  
15 sheriff or a deputy sheriff for such purpose.

16 (b) COURTS OF CRIMINAL APPEALS.--

17 (1) Organization.--There shall be courts of criminal  
18 appeals. The courts of criminal appeals shall be  
19 headquartered, and shall sit in three regional divisions, as  
20 provided by general law.

21 (2) Justices.--The courts of criminal appeals shall  
22 consist of no fewer than twenty-seven justices, and the  
23 legislature may create more judicial offices for the courts as  
24 provided by general law. For each appellate district, four  
25 justices who reside in the district at the time of original  
26 appointment shall be appointed to the court of criminal  
27 appeals. The remaining justices shall be appointed statewide  
28 and may reside anywhere in the state at the time of original  
29 appointment. Each justice shall be nominated and appointed by  
30 the governor, with the nomination subject to confirmation by  
31 the Florida senate. The qualifications for office and amount

1 of compensation for each justice shall be the same as those  
2 for a justice of the supreme court. In cases of demonstrated  
3 unfitness to hold office or other judicial misconduct by a  
4 justice of a court of criminal appeals, the justice shall be  
5 subject to those disciplinary sanctions, including removal  
6 from office in appropriate cases, which would be applicable to  
7 a justice of the supreme court. The terms of the justices  
8 shall be for six years, except that nine of the twenty-seven  
9 justices initially appointed shall have terms which expire two  
10 years after the date of appointment, and nine others shall  
11 have terms which expire four years after the date of  
12 appointment. The remaining justices of those initially  
13 appointed shall have six-year terms. A justice may be  
14 renominated and reappointed for a subsequent term by the  
15 governor, subject to confirmation of the senate.

16 (3) Jurisdiction.--The courts of appeals shall have  
17 final appellate jurisdiction coextensive with the limits of  
18 the state, and its determinations shall be final, in all  
19 criminal cases of whatever grade, with such exceptions and  
20 under such provisions as may be provided in the state  
21 constitution or as prescribed by general law. The courts of  
22 criminal appeals shall have exclusive and final jurisdiction  
23 to review all criminal appeals in this state, including  
24 appeals of capital cases and those appeals or requests for  
25 relief which are based on habeas corpus or other  
26 postconviction claims, or which are based on constitutional  
27 issues involving matters of criminal law.

28 a. The justices shall select three justices from each  
29 regional division to sit for two years as an en banc panel of  
30 nine justices to hear those cases under the courts'  
31 jurisdiction which are capital cases and cases involving

1 conflicting decisions of law or inconsistent rulings from  
2 within the court requiring statewide resolution. When convened  
3 en banc, five justices shall constitute a quorum, and the  
4 concurrence of five justices shall be necessary for a  
5 decision. For the purpose of hearing other cases under the  
6 court's jurisdiction, each court of criminal appeals shall sit  
7 in a panel of three justices, the designation thereof to be  
8 pursuant to rules adopted by the court or as provided by  
9 general law. In a panel of three justices, two justices shall  
10 constitute a quorum, and the concurrence of two justices shall  
11 be necessary for a decision.

12 b. Each court of criminal appeals may issue writs of  
13 habeas corpus, mandamus, certiorari, prohibition, or quo  
14 warranto, and other writs necessary to the complete exercise  
15 of its jurisdiction.

16 (4) Clerk.--Each court of criminal appeals shall  
17 appoint a clerk, who shall hold office during the pleasure of  
18 the court and perform such ministerial duties as the court  
19 directs. The clerk's compensation shall be fixed by general  
20 law.

21 (5) Applicability of current rules of court.--The  
22 Florida Rules of Criminal Procedure, the Florida Rules of  
23 Juvenile Procedure, and other applicable court rules of this  
24 state shall remain in effect until they are superseded by the  
25 adoption of rules for practice and procedure in the courts of  
26 criminal appeals, as provided by general law.