

# AMENDMENT NO. 4

## AMENDMENT OF ARTICLE 4: JUDICIAL BRANCH

DESCRIPTION OF CHANGES  
PROPOSED BY THE

AMENDED CONSTITUTION AS PROPOSED  
BY THE CONSTITUTIONAL CONVENTION

### ARTICLE IV: JUDICIAL BRANCH

Section 1: Update the reference to the courts in which judicial power is vested to specify the Supreme Court and the Superior Court.

Section 2: Provide for the justices and jurisdiction of the Supreme Court. (This is former Section 3.)

Section 3: Provide for the judges and jurisdiction of the Superior Court. (This is former Section 2.)

Section 4: Allow the voters to decide whether a justice or judge should be retained for an additional term after the initial appointment by the Governor (12 years for the Supreme Court and 6 years for the Superior Court).

Section 5: Add the qualifications of United States citizenship, 5 years' residency at some time prior to appointment, and membership in the CNMI bar. (This is former Section 4.)

Section 6: Editorial change to combine two sentences. No substantive change. (This is former Section 5.)

Section 7: Add provision allowing the Chief Justice to appoint members of the advisory commission on the judiciary if the legislature does not act. (This is former Section 6.)

#### **Section 1: Judicial Power.**

The judicial power of the Commonwealth shall be vested in a supreme court and a superior court.

#### **Section 2: Supreme Court.**

The supreme court shall consist of a chief justice and at least two associate justices appointed by the governor with the advice and consent of the senate. The supreme court shall have appellate jurisdiction over final judgments and orders of the superior court and original jurisdiction to issue all writs and orders appropriate to the full exercise of its powers.

#### **Section 3: Superior Court.**

The superior court shall consist of a presiding judge and at least three associate judges appointed by the governor with the advice and consent of the senate. The superior court shall have original jurisdiction over all criminal and civil actions in law and in equity and original jurisdiction to issue all writs and orders appropriate to the full exercise of its powers.

#### **Section 4: Term of Office.**

The supreme court justices shall have an initial term of twelve years. The superior court judges shall have an initial term of six years. At the general election immediately before the end of the initial term, the question whether to retain a justice or judge shall be placed on the ballot. The justice or judge shall be retained if a majority of the votes cast are in the affirmative. The terms following the initial term shall be twelve years.

#### **Section 5: Qualifications.**

A justice or judge shall be at least thirty-five years of age, be a citizen of the United States, have resided in the Commonwealth for at least five years before appointment, and be a member of the Commonwealth bar.

#### **Section 6: Compensation.**

The compensation of justices and judges shall be as provided by law and may not be decreased during a term of office.

#### **Section 7: Sanctions.**

A justice or judge is subject to impeachment as provided in article II, section 7, of this Constitution for treason, commission of a felony, corruption or neglect of duty. The legislature shall establish an advisory commission on the judiciary whose members include lawyers and representatives of the public. In the event that vacancies on the commission remain for more than ninety days, the

chief justice may make temporary appointments to continue until the legislature acts. Upon recommendation of the advisory commission, the governor may remove, suspend or otherwise sanction a justice or judge for illegal or improper conduct.

Section 8: Add requirement that justices or judges who become candidates for political office resign their court positions at least 6 months prior to the election. (This is former Section 6.)

#### **Section 8: Limitations on Activities.**

A justice or judge may not hold another compensated government position, engage in the practice of law, make a direct or indirect financial contribution to a political organization or candidate, hold an executive office in a political organization, or participate in a political campaign. A justice or judge who becomes a candidate for elected public office must declare candidacy at least six months before the election and must resign judicial office upon such declaration.

#### **Section 9: Administration.**

The chief justice shall be the administrative head of the judicial branch.

Section 9(a): Add annual report to the people from the Chief Justice. This is new.

a) The chief justice shall make an annual report to the people in person through a joint session of the legislature.

Section 9(b): Add annual budget submitted by the judicial branch to the legislature. This is new.

b) The chief justice shall submit an annual budget for the judicial branch to the legislature with a copy to the governor for information.

Section 9(c): Give the Supreme Court rule-making authority; and delete former provision for approval by the legislature. Give the courts the authority to establish new branches or divisions. (This is former Section 8.)

c) The supreme court has administrative and policy authority with respect to the judiciary, and shall promulgate rules of the courts with respect to appellate procedure, civil and criminal procedure, assignment of judges to Rota and Tinian for effective judicial service for the people of those islands, attorney admission and discipline, governance of the bar, court fees, judicial and professional ethics, duties and responsibilities of the presiding judge and court officials, arbitration of smaller matters, establishment of special sections or divisions for particular subject matters, and all other matters pertaining to administration of the judicial branch.

Section 9(d): Allow the Commonwealth courts to use active or retired full-time judges from other U.S. jurisdictions to sit on specific cases when the need arises.

d) The chief justice may designate, as the need arises, an active or retired full-time justice or judge from the Commonwealth or an active or retired full-time justice or judge from any United States federal, state, commonwealth, freely associated state, or territorial court to hear particular cases in either the supreme court or superior court.

Section 10: Vacancies in the Chief Justice or Presiding Judge positions are filled temporarily by the next most senior justice or judge, and if the legislature does not act on a nomination by the Governor within 90 days, the acting justice or judge position becomes permanent. This is new.

#### **Section 10: Succession.**

When a vacancy occurs in the office of chief justice, the associate justice most senior in commission shall become acting chief justice. When a vacancy occurs in the office of presiding judge, the associate judge most senior in commission shall become acting presiding judge. If a successor is not appointed by the governor with the advice and consent of the senate within ninety days of the vacancy, the acting chief justice or the acting presiding judge shall succeed to the office.

Section 11: The Supreme Court issues advisory opinions promptly when there are disputes between government officials or between branches of government and these opinions resolve the dispute so that there are no lengthy court cases.

#### **Section 11: Advisory Opinions.**

An official in the Commonwealth who is elected or appointed by the governor and who has a dispute with another elected or appointed official about the exercise of powers or responsibilities under this Constitution or any statute shall apply to the supreme court for an advisory opinion before seeking any other remedy at law or in equity. The supreme court shall issue an advisory opinion in response to an authorized application that shall resolve the dispute submitted in part or whole. An advisory opinion issued under this section is a final and binding decision.