

CA CR 11 - AS INTRODUCED

2021 SESSION

21-0688

06/08

CONSTITUTIONAL AMENDMENT

CONCURRENT RESOLUTION **11**

RELATING TO: powers of the general court..

PROVIDING THAT: the legislature have the power to submit a binding referendum on whether to overturn a decision of a state court that interprets a provision of the state constitution.

SPONSORS: Rep. Lewicke, Hills. 26

COMMITTEE: Legislative Administration

ANALYSIS

This constitutional amendment concurrent resolution gives the legislature the authority to present a ballot question to the people on whether a decision of a court that interprets the New Hampshire constitution should be overturned.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

CONCURRENT RESOLUTION PROPOSING CONSTITUTIONAL AMENDMENT

RELATING TO: powers of the general court.

PROVIDING THAT: the legislature have the power to submit a binding referendum on whether to overturn a decision of a state court that interprets a provision of the state constitution.

Be it Resolved by the House of Representatives, the Senate concurring, that the Constitution of New Hampshire be amended as follows:

1 I. That article 4 of the second part of the constitution be amended to read as follows:

2 [Art.] 4. [Power of General Court to Establish Courts.] The General Court (except as otherwise
3 provided by Article 72 a of Part 2) shall forever have full power and authority to erect and constitute
4 judicatories and courts of record, or other courts, to beholden, in the name of the State, for the
5 hearing, trying, and determining, all manner of crimes, offenses, pleas, processes, complaints, action,
6 causes, matters and things whatsoever arising or happening within this State, or between or
7 concerning persons inhabiting or residing, or brought, within the same, whether the same be
8 criminal or civil, or whether the crimes be capital, or not capital, and whether the said pleas be real,
9 personal or mixed, and for the awarding and issuing execution thereon. To which courts and
10 judicatories, are hereby given and granted, full power and authority, from time to time, to
11 administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or
12 depending before them. ***The General Court may by simple majority submit to the people a
13 ballot question of whether to overturn a decision of a state court that interprets a provision
14 of this constitution.***

15 II. That the above amendment proposed to the constitution be submitted to the qualified
16 voters of the state at the state general election to be held in November, 2022.

17 III. That the selectmen of all towns, cities, wards and places in the state are directed to
18 insert in their warrants for the said 2022 election an article to the following effect: To decide
19 whether the amendments of the constitution proposed by the 2021 session of the general court shall
20 be approved.

21 IV. That the wording of the question put to the qualified voters shall be:

22 "Are you in favor of amending article 4 of the second part of the constitution to read as follows:

23 [Art.] 4. [Power of General Court to Establish Courts.] The General Court (except as otherwise
24 provided by Article 72 a of Part 2) shall forever have full power and authority to erect and constitute
25 judicatories and courts of record, or other courts, to beholden, in the name of the State, for the
26 hearing, trying, and determining, all manner of crimes, offenses, pleas, processes, complaints, action,

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2 concerning persons inhabiting or residing, or brought, within the same, whether the same be
3 criminal or civil, or whether the crimes be capital, or not capital, and whether the said pleas be real,
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5 judicatories, are hereby given and granted, full power and authority, from time to time, to
6 administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or
7 depending before them. The General Court may by simple majority submit to the people a ballot
8 question of whether to overturn a decision of a state court that interprets a provision of this
9 constitution.

10 V. That the secretary of state shall print the question to be submitted on a separate ballot or
11 on the same ballot with other constitutional questions. The ballot containing the question shall
12 include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in
13 either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall
14 be the same as the regular official ballot except that the words "Questions Relating to Constitutional
15 Amendments proposed by the 2021 General Court" shall be printed in bold type at the top of the
16 ballot.

17 VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it
18 becomes effective when the governor proclaims its adoption.

19 VII. Voters' Guide.

20 AT THE PRESENT TIME, a decision of a state court that interprets a provision of
21 the New Hampshire constitution establishes a precedent that guides courts in making future
22 decisions.

23 IF THE AMENDMENT IS ADOPTED, the legislature would have the power to
24 submit a ballot question to the people asking whether a particular interpretation by a court should
25 be overruled so that a precedent would not be established.