

THE GENERAL ASSEMBLY

Proposed Amendments to the Constitution of Pennsylvania

The following proposed amendments to the Constitution of Pennsylvania were first approved by the General Assembly during 1995-96, and were approved by the General Assembly for the second time during 1998. Pursuant to Article XI of the Constitution, the Secretary of the Commonwealth has caused the proposed amendments to be published.

Pursuant to Joint Resolutions 1998-1 and 1998-2 of the General Assembly, Article XI of the Constitution, and other laws, the Secretary will cause the proposed amendments to be presented to the electors of Pennsylvania in the form of ballot questions at the General Election to be held on November 3, 1998. If a ballot question is approved by a majority of the electors voting on it, the corresponding amendment becomes part of the Constitution.

The boldfaced words in the proposed amendments would be added to the Constitution.

Following each proposed amendment is the text of the question that will be placed on the ballot. Below each question is a Statement of the Attorney General indicating the purpose, limitations and effects of the ballot question on the people of the Commonwealth.

Anyone who needs help reading this advertisement or who needs the text of the advertisement in an alternative format may call or write the Pennsylvania Department of State, Bureau of Commissions, Elections and Legislation, Room 303 North Office Building, Harrisburg, PA 17120, (717) 787-5280.

YVETTE KANE,
Secretary of the Commonwealth

JOINT RESOLUTION 1998-1

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for bail.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That section 14 of Article I be amended to read:

§ 14. Prisoners to be bailable; habeas corpus.

All prisoners shall be bailable by sufficient sureties, unless for capital offenses, **or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community** when the proof is evident or presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

* * *

Ballot Question Regarding Joint Resolution 1998-1

Shall the Pennsylvania Constitution be amended to disallow bail when the proof is evident or presumption

great that the accused committed an offense for which the maximum penalty is life imprisonment or that no condition or combination of conditions other than imprisonment of the accused will reasonably assure the safety of any person and the community?

Statement of the Attorney General Regarding Joint Resolution 1998-1

Adding Categories of Criminal Cases
in which Bail is Disallowed

The purpose of the ballot question is to amend the Pennsylvania Constitution to add two additional categories of criminal cases in which a person accused of a crime must be denied bail. Presently, the Constitution allows any person accused of a crime to be released on bail unless the proof is evident or presumption great that the person committed a capital offense. A capital offense is an offense punishable by death. The Pennsylvania Supreme Court has ruled that a person accused of a crime that is not a capital offense may be denied bail only if no amount or condition of bail will assure the accused's presence at trial.

The ballot question would amend the Constitution to disallow bail also in cases in which the accused is charged with an offense punishable by life imprisonment or in which no condition or combination of conditions other than imprisonment of the accused will reasonably assure the safety of any person and the community. The ballot question would extend to these two new categories of cases in which bail must be denied the same limitation that the Constitution currently applies to capital cases. It would require that the proof be evident or presumption great that the accused committed the crime or that imprisonment of the accused is necessary to assure the safety of any person and the community.

The proposed amendment would have two effects. First, it would require a court to deny bail when the proof is evident or presumption great that the accused committed a crime punishable by death or life imprisonment. Second, it would require a court deciding whether or not to allow bail in a case in which the accused is charged with a crime not punishable by death or life imprisonment to consider not only the risk that the accused will fail to appear for trial, but also the danger that release of the accused would pose to any person and the community.

JOINT RESOLUTION 1998-2

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for trial by jury.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That section 6 of Article I be amended to read:

§ 6. Trial by jury.

Trial by jury shall be as heretofore, and the right thereof remain inviolate. The General Assembly may provide, however, by law, that a verdict may be rendered by not less than five-sixths of the jury in any civil case.

Furthermore, in criminal cases the Commonwealth shall have the same right to trial by jury as does the accused.

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**Ballot Question Regarding
Joint Resolution 1998-2**

Shall the Pennsylvania Constitution be amended to provide that the Commonwealth shall have the same right to trial by jury in criminal cases as does the accused?

**Statement of the Attorney General
Regarding Joint Resolution 1998-2**

Granting the Commonwealth the
Right to Trial by Jury in Criminal Cases

The purpose of the ballot question is to amend the Pennsylvania Constitution to give the Commonwealth, as representative of the people and the victim, the same right to a jury trial in criminal cases as is currently given to the accused.

Beginning in 1935, Pennsylvania law provided that the accused in a criminal case could waive his or her right to a jury trial as long as both the court and the Commonwealth consented. Because the accused could be tried without a jury only if the Commonwealth consented, the Commonwealth had the same right to a jury trial as did the accused.

With the constitutional amendments of 1968, the Pennsylvania Supreme Court was given the authority to issue rules of procedure. In 1968, the Supreme Court adopted a rule of criminal procedure that continued the statutory practice requiring the Commonwealth's consent when an accused waives the right to a jury trial. In 1973, however, the Supreme Court amended the rule to remove the need for the Commonwealth's consent, which took away from the Commonwealth the same right to a jury trial that is given to the accused.

In 1977, the Pennsylvania General Assembly enacted a law that returned to the Commonwealth the same right to a jury trial that is given to the accused, but the Pennsylvania Supreme Court declared the 1977 law unconstitutional because it conflicted with the 1973 amendment to the Court's procedural rule.

The effect of the ballot question would be to restore the law to what it was prior to the Supreme Court's 1973 rule; namely, that the Commonwealth would have the same right to a jury trial in a criminal case as does the accused, which is also consistent with federal law. The right of an accused to a jury trial would not be affected by the proposed amendment.

A limitation on the proposed amendment is that it would give the Commonwealth no greater a right to a jury trial than is given to the accused.

[Pa.B. Doc. No. 98-1301. Filed for public inspection August 14, 1998, 9:00 a.m.]

**Proposed Amendments to the Constitution of
Pennsylvania**

The following proposed amendments to the Constitution of Pennsylvania were first agreed to by the General Assembly during 1998. Pursuant to Article XI of the Constitution, the Secretary of the Commonwealth has caused the proposed amendments to be published.

Pursuant to Article XI, if the amendments are agreed to by the General Assembly to be chosen at the November 3, 1998 General Election, the proposed amendments would then be published again and presented to the electors of the Commonwealth for approval at such time and in such manner as the General Assembly shall direct. If approved by a majority of the electors voting on it, an amendment becomes part of the Constitution.

If an amendment is approved, the boldfaced words will be added to the Constitution and words within brackets will be deleted.

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YVETTE KANE,
Secretary of the Commonwealth

JOINT RESOLUTION 1998-3

Proposing amendments to the Constitution of the Commonwealth of Pennsylvania, further providing for the selection of the chairman of the Legislative Reapportionment Commission; providing for the effective date of newly reapportioned districts and for the election of Senators in certain circumstances; and further providing for retirement of justices, judges and justices of the peace.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendments to the Constitution of Pennsylvania are proposed in accordance with Article XI:

(1) That section 17(b), (c) and (e) of Article II be amended to read:

§ 17. Legislative Reapportionment Commission.

* * *

(b) The commission shall consist of five members: four of whom shall be the majority and minority leaders of both the Senate and the House of Representatives, or deputies appointed by each of them, and a chairman selected as hereinafter provided. No later than 60 days following the official reporting of the Federal decennial census as required by Federal law, the four members shall be certified by the President pro tempore of the Senate and the Speaker of the House of Representatives to the elections officer of the Commonwealth who under law shall have supervision over elections.

The four members within 45 days after their certification shall select, **by an affirmative vote of three members**, the fifth member, who shall serve as chairman of the commission, and shall immediately certify his name to such elections officer. The chairman shall be a citizen of the Commonwealth other than a local, State or Federal official holding an office to which compensation is attached.

If the four members fail to select the fifth member within the time prescribed, **the Supreme Court, by action of** a majority of the entire membership of the Supreme Court **plus one**, within 30 days thereafter shall appoint the chairman as aforesaid and certify his appointment to such elections officer.

Any vacancy in the commission shall be filled within 15 days in the same manner in which such position was originally filled.

(c) No later than 90 days after either the **[commission] chairman** has been duly certified or the population data for the Commonwealth as determined by the Federal decennial census are available, whichever is later in time, the commission shall file a preliminary reapportionment plan with such elections officer.

The commission shall have 30 days after filing the preliminary plan to make corrections in the plan.

Any person aggrieved by the preliminary plan shall have the same 30-day period to file exceptions with the commission in which case the commission shall have 30 days after the date the exceptions were filed to prepare and file with such elections officer a revised reapportionment plan. If no exceptions are filed within 30 days, or if filed and acted upon, the commission's plan shall be final and, **unless an appeal is filed under subsection (d)**, have the force of law **for use thereafter in elections to the General Assembly until the next reapportionment as required under this section 17.**

* * *

(e) When the Supreme Court has finally decided an appeal or when the last day for filing an appeal has passed with no appeal taken, the reapportionment plan shall have the force of law **[and the districts therein provided shall be used] for use** thereafter in elections to the General Assembly until the next reapportionment as required under this section 17.

(2) That section 17(f), (g) and (h) of Article II be amended and the section be amended by adding a subsection to read:

§ 17. Legislative Reapportionment Commission.

* * *

(f) Any district which does not include the residence from which a member of the Senate was elected whether or not scheduled for election at the next general election shall elect a Senator at such election. . . .

[(f)] (g) The General Assembly shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by the commission, and other necessary expenses. The members of the commission shall be entitled to such compensation for their services as the General Assembly from time to time shall determine, but no part thereof shall be paid until a preliminary plan is filed. If a preliminary plan is filed but the commission

fails to file a revised or final plan within the time prescribed, the commission members shall forfeit all right to compensation not paid.

[(g)] (h) If a preliminary, revised or final reapportionment plan is not filed by the commission within the time prescribed by this section, unless the time be extended by the Supreme Court for cause shown, the Supreme Court shall immediately proceed on its own motion to reapportion the Commonwealth.

[(h)] (i) Any reapportionment plan filed by the commission, or ordered or prepared by the Supreme Court upon the failure of the commission to act, shall be published by the elections officer once in at least one newspaper of general circulation in each senatorial and representative district. The publication shall contain a map of the Commonwealth showing the complete reapportionment of the General Assembly by districts, and a map showing the reapportionment districts in the area normally served by the newspaper in which the publication is made. The publication shall also state the population of the senatorial and representative districts having the smallest and largest population and the percentage variation of such districts from the average population for senatorial and representative districts.

(3) That section 16(b) of Article V be amended to read:

§ 16. Compensation and retirement of justices, judges and justices of the peace.

* * *

(b) Justices, judges and justices of the peace shall be retired **[upon attaining] on the last day of the calendar year in which they attain** the age of 70 years. Former and retired justices, judges and justices of the peace shall receive such compensation as shall be provided by law. Except as provided by law, no salary, retirement benefit or other compensation, present or deferred, shall be paid to any justice, judge or justice of the peace who, under section 18 or under Article VI, is suspended, removed or barred from holding judicial office for conviction of a felony or misconduct in office or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute.

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[Pa.B. Doc. No. 98-1302. Filed for public inspection August 14, 1998, 9:00 a.m.]