

**ASSEMBLY CONCURRENT
RESOLUTION No. 116**

**STATE OF NEW JERSEY
215th LEGISLATURE**

INTRODUCED FEBRUARY 6, 2012

Sponsored by:
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)

SYNOPSIS

Proposes constitutional amendment authorizing statute transferring probation functions from Judiciary to State Parole Board.

CURRENT VERSION OF TEXT

As introduced.



1 A **CONCURRENT RESOLUTION** proposing to amend Article V,
2 Section IV of the Constitution of New Jersey by adding a new
3 paragraph.

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5 **BE IT RESOLVED** by the General Assembly of the State of New
6 Jersey (the Senate concurring):

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8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is agreed to:

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PROPOSED AMENDMENT

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13 Amend Article V, Section IV by adding a new paragraph 7 to
14 read as follows:

15 7. The Legislature is authorized to establish by law a Bureau of
16 Probation in the State Parole Board and to authorize by law the
17 transfer of all the functions, powers, duties, and responsibilities
18 concerning probation, and the probation officers and other
19 professional supervisors, case workers, and case-related employees
20 who perform probation functions, from the Judiciary to the Bureau
21 of Probation. No term or condition of any existing contract shall be
22 altered or abrogated by this transfer and the transfer shall not affect
23 the status of existing exclusive employee bargaining
24 representatives. The units and contracts and the contract
25 representatives shall, therefore, be continued in the Bureau of
26 Probation.

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28 2. When this proposed amendment to the Constitution is finally
29 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
30 shall be submitted to the people at the next general election
31 occurring more than three months after the final agreement and
32 shall be published at least once in at least one newspaper of each
33 county designated by the President of the Senate, the Speaker of the
34 General Assembly and the Attorney General, not less than three
35 months prior to the general election.

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37 3. This proposed amendment to the Constitution shall be
38 submitted to the people at that election in the following manner and
39 form:

40 There shall be printed on each official ballot to be used at the
41 general election, the following:

42 a. In every municipality in which voting machines are not used,
43 a legend which shall immediately precede the question as follows:

44 If you favor the proposition printed below make a cross (X), plus
45 (+), or check (✓) in the square opposite the word "Yes." If you are
46 opposed thereto make a cross (X), plus (+) or check (✓) in the
47 square opposite the word "No."

48 b. In every municipality the following question:

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	<p>YES</p>	<p>AMENDS CONSTITUTION TO AUTHORIZE CREATION OF BUREAU OF PROBATION IN STATE PAROLE BOARD AND TRANSFER CERTAIN PROBATION FUNCTIONS AND PROBATION OFFICERS TO THE BUREAU.</p> <p>Do you approve the proposed amendment to the New Jersey Constitution authorizing the Legislature to enact a law that would establish a Bureau of Probation in the State Parole Board? This law would transfer from the Judiciary to the Bureau of Probation all of the functions, powers, duties and responsibilities concerning probation. It also transfers the probation officers and other employees who perform probation-related functions.</p>
	<p>NO</p>	<p>INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment authorizes the Legislature to pass a law to create the Bureau of Probation in the State Parole Board. The law will transfer the functions, powers, duties and responsibilities concerning probation from the Judiciary to the Bureau of Probation. The law also will transfer probation officers and other employees who perform probation-related functions from the Judiciary to the Bureau of Probation. The terms and conditions of existing contracts will not be altered or abrogated by this transfer. The transfer also will not affect the status of existing exclusive employee bargaining representatives.</p>

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STATEMENT

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This Assembly Concurrent Resolution No. 55 proposes to amend the State Constitution to authorize the Legislature to enact a statute to establish a Bureau of Probation in the State Parole Board. The constitutional amendment transfers all of the functions, powers, duties and responsibilities concerning probation, and the probation officers and other professional supervisors, case workers, and case-related employees who perform probation functions from the Judiciary to this new Bureau of Probation.

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Under this proposed constitutional amendment, existing contractual terms and conditions would remain unchanged, as would the status of exclusive employee bargaining representatives.

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ACR116 JOHNSON

1 The units and contracts, as well as the contract representatives,
2 would be continued in the Bureau of Probation.

3 In 2001, the Legislature enacted a law (P.L.2001, c.362;
4 C.2B:10A-1 et al.) to establish a “Probation Officer Community
5 Safety Unit” consisting of at least 200 probation officers authorized
6 to carry a firearm in accordance with the provisions of paragraph
7 (17) of subsection c. of N.J.S.2C:39-6 and regulations adopted by
8 the Attorney General. The legislation also granted these probation
9 officers the authority to arrest probationers, enforce the criminal
10 laws of this State, and enforce warrants for the apprehension and
11 arrest of probationers who violate conditions of probation.

12 In April 2006, the New Jersey Supreme Court ruled that
13 P.L.2001, c.362 (C.2B:10A-1 et al.) was unconstitutional because it
14 violated the separation of powers doctrine. The court stated that it
15 is the responsibility of the Judiciary to define the duties of
16 probation officers. The court also reiterated its position that
17 probation officers are not law enforcement officers, but impartial
18 agents of the Judiciary.