

# Constitution of the State of Alabama.

1901.

## AMENDMENT ANALYSIS

our posterity, invoking the favor and guidance of Almighty God, do ordain and establish the following constitution and form of government for the State of Alabama:

### Article 1.

#### Declaration of Rights.

## PROPOSED STATEWIDE AMENDMENTS

NOVEMBER 2020 GENERAL ELECTION

*Analysis of Proposed Statewide Amendments for November 2020 General Election*

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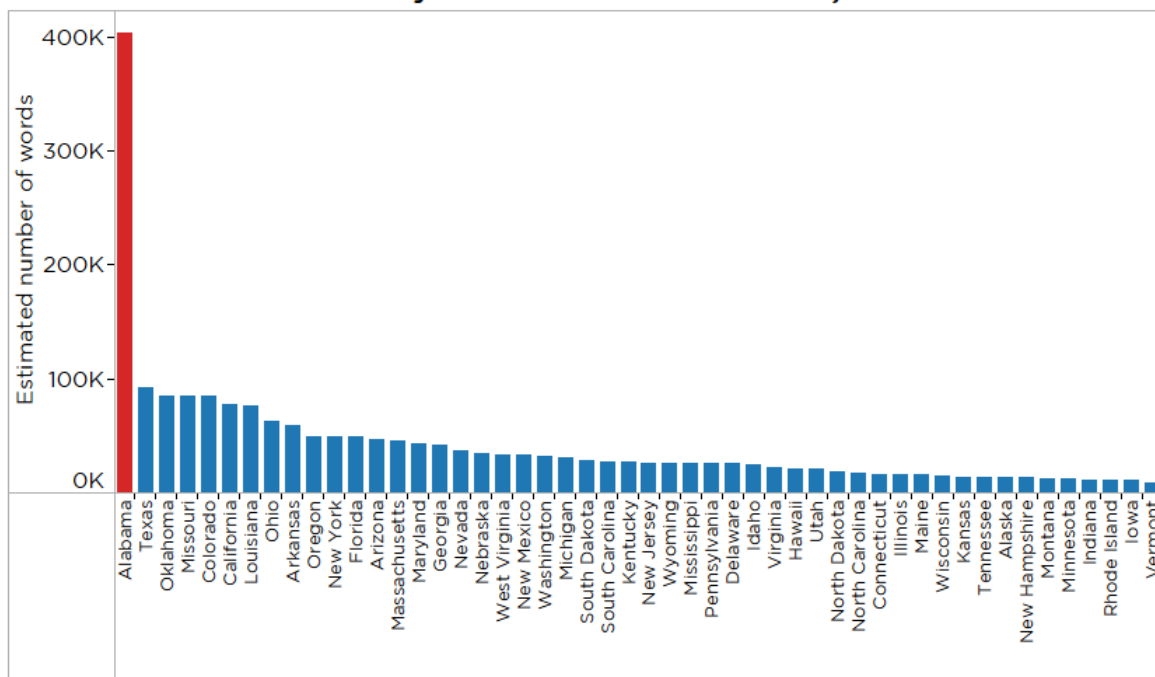
When voters go to the polls on November 3, they will not only be voting in the primary race for President, Vice-President, one U.S. Senate seat, seven U.S. House of Representatives, multiple state judicial positions, and various other state and county offices; voters statewide will also be asked to vote on six new amendments to the Alabama Constitution of 1901. An additional 36 amendments to the state constitution will appear on the ballots of individual counties across the state.

As always, PARCA provides a high-level analysis of each statewide amendment. We study not only the ballot wording, but also the authorizing legislation behind the language. We do not make recommendations or endorsements; rather, we seek to understand the impact of the proposed changes and the rationales for them.

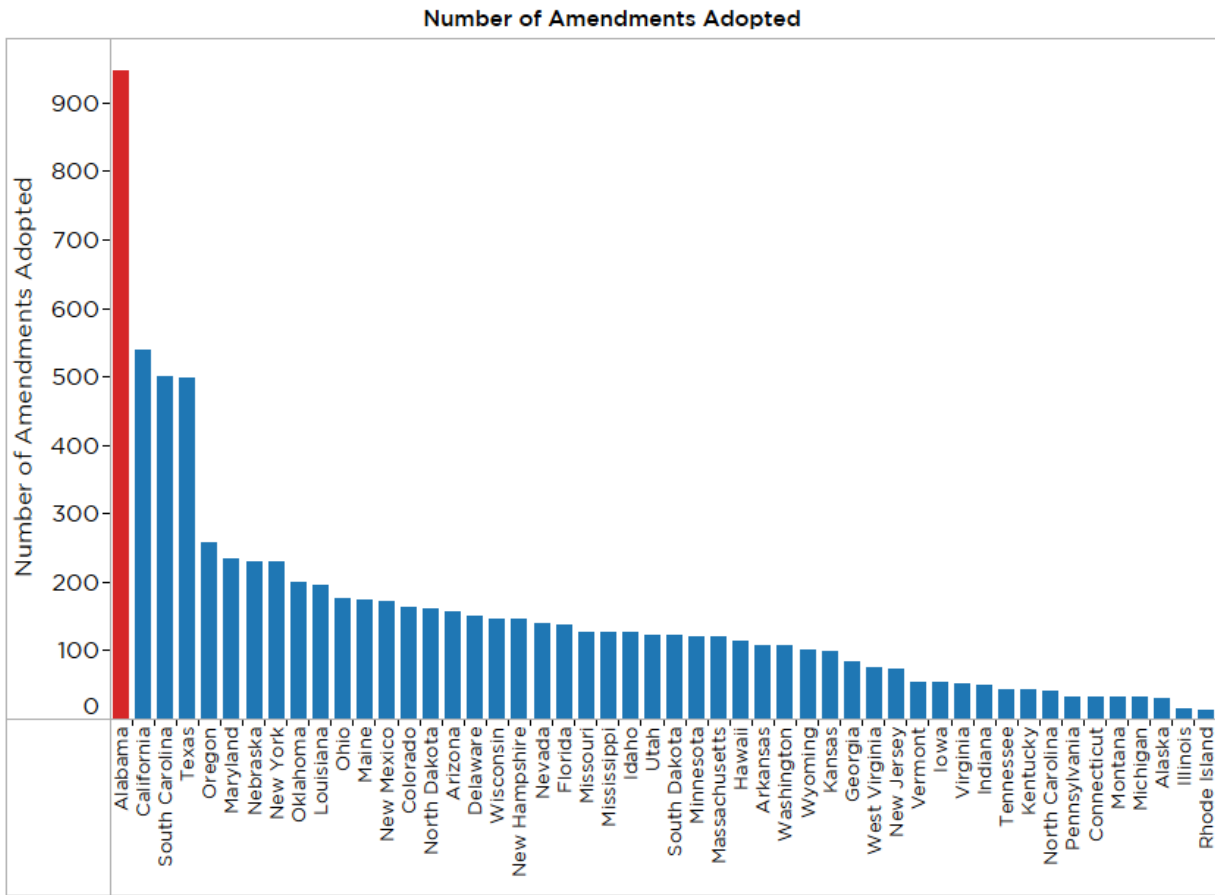
The Alabama Constitution is unusual. It is the longest and most amended constitution in the world. There are currently 948 amendments to the Alabama Constitution. Most state and national constitutions lay out broad principles, set the basic structure of the government, and impose limitations on governmental power. Such broad provisions are included in the Alabama Constitution. But Alabama's constitution also delves into the minute details of government, requiring constitutional amendments for basic changes that would be made by the Legislature or by local governments in most states. Instead of broad provisions applicable to the whole state, about three-quarters of the amendments to the Alabama Constitution pertain to particular local governments. Amendments establish pay rates of public officials and spell out local property tax rates. An amendment from a few years ago, Amendment 921, granted municipal governments in Baldwin County the power to regulate golf carts on public streets.

Two of the proposed amendments on this November's ballot, Amendments 2 and 4, aim to clean up the existing document. However, until serious reforms are made, the Alabama Constitution will continue to swell.

**State Constitutions Ranked by Estimated Number of Words, Jan. 2019**



Source: John Dinan and the Council of State Governments, with research assistance from Wake Forest students Bradley Harper and Alec Papovich. Published in CSG's *2019 Book of the States*. <http://knowlledgecenter.csg.org/kc/content/book-states-2019-chapter-1-state-constitutions>



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## Statewide Amendment 1

*Proposing an amendment to the Constitution of Alabama of 1901, to amend Article VIII of the Constitution of Alabama of 1901, now appearing as Section 177 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, to provide that only a citizen of the United States has the right to vote.*

Proposed by [Act No. 2019-330](#) (Senate Bill 313, 2019 Regular Legislative Session)  
Bill Sponsor: Senator Marsh

Amendment 1 concerns who has the right to vote in Alabama, making a wording change that has no legal effect. It does produce a change in tone from the current expansive “every” U.S. citizen having the right to vote to an emphasis on restricting the vote to “only” U.S. citizens.

The current language of the Alabama Constitution’s Article VIII reads, “Every citizen of the United States who has attained the age of eighteen years and has resided in this state and in a county thereof for the time provided by law, if registered as provided by law, shall have the right to vote in the county of his or her residence.”

This language and the original language of the Alabama Constitution of 1901 mention U.S. citizenship. That has traditionally been interpreted to mean that U.S. citizenship is required to vote. Federal law requires only U.S. citizens vote in federal elections.

Amendment 1 proposes to change the language of Article VIII to replace “Every Citizen of the United States” with “Only a Citizen of the United States.”

The current language was approved by voters in a [1996 Amendment](#) that finally replaced the unconstitutional and invalid language of Article VIII of the Alabama Constitution of 1901.

That original article was a key portion of the 1901 Constitution. The intention and effect of [Article VIII](#) was to disenfranchise Blacks and poor whites through the imposition of poll taxes, literacy tests, requirements for employment, and property ownership. Those convicted of a long list of crimes ranging from murders to misdemeanors were prohibited from registering or casting a ballot. The provisions applied only to males over 21, because at the time, women and individuals between the ages of 18 and 20 were not allowed to vote in Alabama.

Despite the fact that women gained the right to vote in 1920 through the 19<sup>th</sup> Amendment to the U.S. Constitution, Alabama’s constitution was not altered to reflect the change.

Despite the ratification of the [24th Amendment](#) in 1964, which eliminated poll taxes, and the [26th Amendment](#) in 1971, which lowered the voting age for all elections to 18, Alabama’s constitutional language on voting remained unchanged.

And despite the fact that U.S Supreme Court decisions and the federal Voting Rights Act of 1965 swept away other legal barriers Alabama had imposed to keep Blacks and poor whites from voting, it was not until 1996 that Alabama voters approved Amendment 579. Amendment 579 replaced most of the restrictive language and requirements with an affirmation of the right of “every” U.S. citizen living in the state to vote.

The current Alabama ballot measure is similar to ones that are to appear on the 2020 ballot in Florida and Colorado.

Both measures have been advocated for by [Citizen Voters, Inc.](#), a Florida-based 501(c)(4) nonprofit, whose principals are supporters of President Donald Trump. Unlike 501(c)(3) nonprofits, which include most charities, charitable foundations, service organizations, all religious organizations, and PARCA, 501(c)(4) nonprofits can engage in advocacy and lobbying. Donations to these organizations are not tax deductible, and donors are rarely disclosed. Super PACs are generally connected to these types of organizations. The Florida Political Action Committee associated with the cause has received \$8.3 million from the unidentified donors to Citizen Voters, Inc.

Citizen Voters is concerned that non-citizens are allowed to vote in a small number of local elections, and they are supporting a nationwide campaign to insert into state constitutions specific prohibitions against non-citizens voting, although it was already illegal.

Voter registration is delegated to the state governments, and most states have language in their constitutions similar to Alabama's current language stating that every U.S. citizen has a right to vote.

Traditionally, that has been interpreted to mean U.S. citizenship is a requirement for registering and voting. Federal law explicitly states that only U.S. citizens can vote in federal elections.

However, San Francisco and Chicago allow non-citizens to vote in school board elections. As of 2019, 11 cities in Maryland allowed non-citizens to vote in local elections.

Amendment 1 would more directly state that non-citizens are ineligible to vote in Alabama.

Oddly enough, the Alabama Constitution of 1901 was once more generous when it came to citizenship status. For a limited period of time, the Constitution of 1901 offered non-citizens the right to vote. It specified that "every male resident of foreign birth, who, before the ratification of this Constitution, shall have legally declared his intention to become a citizen of the United States" could register and vote.

## Statewide Amendment 2

*Proposing an amendment to the Constitution of Alabama of 1901, to increase the membership of the Judicial Inquiry Commission and further provide for the appointment of the additional members; further provide for the membership of the Court of the Judiciary and further provide for the appointment of the additional members; further provide for the process of disqualifying an active judge; repeal provisions providing for the impeachment of Supreme Court Justices and appellate judges and the removal for cause of the judges of the district and circuit courts, judges of the probate courts, and judges of certain other courts by the Supreme Court; delete the authority of the Chief Justice of the Supreme Court to appoint an Administrative Director Courts; provide the Supreme Court of Alabama with authority to appoint an Administrative Director of Courts; require the Legislature to establish procedures for the appointment of the Administrative Director of Courts; delete the requirement that a district court hold court in each incorporated municipality with a population of 1,000 or more where there is no municipal court; provide that the procedure for the filling of vacancies in the office of a judge may be changed by local constitutional amendment; delete certain language relating to the position of constable holding more than one state office; delete a provision providing for the temporary maintenance of the prior judicial system; repeal the office of circuit solicitor; and make certain nonsubstantive stylistic changes.*

Proposed by [Act No. 2019-187](#) (Senate Bill 216, 2019 Regular Legislative Session)

Bill Sponsor: Senator Orr

Cosponsor: Senator Ward

Amendment 2 seeks to make numerous changes to the Constitution regarding the judicial system. These changes are summarized on the ballot but are explained in detail in the authorizing legislation. The Amendment, the result of a joint task force between the members of the legislature and the judiciary, proposes six significant changes.

1. Eliminating the requirement that counties hold district court in cities with populations of 1,000 or more, but which do not have a municipal court.

Municipal courts are funded at the local level and hear cases regarding municipal offenses, such as traffic offenses. Municipalities are required to establish courts unless they choose to opt out. District courts have authority over municipal issues in these cities. Both the Constitution and statutory law require district courts to be held in those communities with populations greater than 1,000 but without a municipal court. This provision likely stems from a time when transportation was more difficult. Interestingly, while district courts are required to hold court in these communities, there is little evidence this happens. Amendment 2 would remove the requirement. This would not end the matter, however, as there is also statutory language that makes the same requirements. The legislature would have to repeal that language in a future session.

That said, as of this writing, PARCA has not been able to confirm either the number of municipal courts or the cities that would be affected by the Amendment.

2. Changing the process by which the Administrative Director of the Courts is appointed.

The Chief Justice of the Alabama State Supreme Court is the head of the state's court system. In practice, these administrative duties are delegated to the Administrative Director of the Court. The Director is tasked with assisting the Chief Justice in "...seeing that the business of the courts of the state is attended with proper dispatch and the Chief Justice's task that the dockets of court are not permitted to become congested and that trials and appeals of cases are not delayed unreasonably." (*Acts 1975, No. 1205, p. 2384, §11-101.*) State law further defines 14 specific responsibilities of the Administrator, including:

- requiring reports, statistics, and financial data on the courts;
- evaluating the practices and procedures of the courts recommending the number of judges and other personnel;
- establishing administrative and business methods, systems, forms and records to be used in the offices of the clerks and registers of courts;
- preparing budget recommendations and authorizing expenditures;
- suggest recommendations to improve court operations;
- promote and assist on continuing education of judges and court personnel;
- ensure collection of unpaid court costs, fines and forfeitures; and

- serve as a liaison with the executive and legislative branches of the state government. (*Acts 1975, No. 1205, p. 2384, §11-102.*)

The role of the administrator is not a small one. His or her responsibilities extend to the state's entire Unified Judicial System, not just the Supreme Court. In 2019, the court system was budgeted for \$127.1 million. The court system also employs approximately 1,992 people. While this number is far smaller than the 30,000 people employed by all executive branch agencies, it is larger than all but four of those individual agencies: Corrections, Human Resources, Public Health, and Transportation.

Under current law, the administrator is chosen by the Chief Justice. Alabama has had seven Chief Justices in the past twenty years compared to two in the twenty previous years. Each new Chief Justice can appoint a new administrator with different processes, procedures, and authorities. Shifting this authority to the entire Supreme Court is thought to bring stability to the court system.

The Amendment also gives the Legislature the power to establish the procedure by which the administrator is appointed.

### 3. Expand the Judicial Inquiry Commission from 9 to 11 members.

The Judicial Inquiry Commission receives and investigates complaints of misconduct by judges. If the Commission finds reasonable evidence that a judge violated the [\*Canons of Judicial Ethics\*](#), commits misconduct in office, fails to perform duties, or is physically or mentally unable to perform duties, the Commission may refer the judge to the Court of the Judiciary.

Expanding the Commission's composition from 9 to 11 allows for the inclusion of a probate judge and a municipal judge. Probate judges and municipal judges are under the authority of the Judicial Inquiry Commission but are not currently represented on the Commission. These judges are to be appointed by the Probate Judges Association and the Municipal Judges Association, respectively.

The Constitution specifies how the members of both the Judicial Inquiry Commission and the Court of the Judiciary are appointed. Amendment Two adds this language regarding appointments to both:

"The nominating authorities shall make every effort to coordinate their appointments to assure commission membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state without regard to political affiliation."

### 4. End the practice of automatically suspending a judge when a complaint is filed.

Currently, judges are suspended from service, with pay, when a complaint is filed with the Judicial Inquiry Commission. Alabama, alone, suspends judges based simply on a complaint. Amendment 2 removes this provision. If approved, a judge could only face suspension as part of the disciplinary action taken by the Court of the Judiciary, save two exceptions: Judges charged with a felony under state or federal law are subject to suspension. Also, if a judge is physically or mentally unable to perform his or her duties or poses a "substantial threat of serious harm to the public or the administration of justice," he or she can be suspended, but that requires a two-thirds vote of the Judicial Inquiry Commission and approval from the Chief Judge of the Court of the Judiciary.

### 5. Eliminates the ability to impeach a Supreme Court or appellate court judge.

Currently, the Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, members of the State Board of Education, Commissioner of Agriculture and Industries, Supreme Court justices, appellate judges, district attorneys, and sheriffs, may be impeached and, if found guilty, removed from office for

"...willful neglect of duty, corruption in office, incompetency, or intemperance in the use of intoxicating liquors or narcotics to such an extent, in view of the dignity of the office and importance of its duties, as unfits the officer for the discharge of such duties for any offense involving moral turpitude while in office, or committed under color thereof, or connected therewith. "

Amendment 2 removes Supreme Court judges and appellate judges from the list of officials subject to the impeachment clause. If Amendment 2 passes, the Court of the Judiciary would have the unique authority to remove or otherwise discipline judges for "...a violation of the *Canons of Judicial Ethics*, misconduct in office, or failure to perform his or her duties."

The Supreme Court selects an appellant judge to serve as the Chief Judge of the Court of Inquiry, sets the rules, and may hear appeals. This creates a scenario where a Supreme Court justice may appeal to his or her colleagues to overturn the ruling of the Court of the Judiciary. This indeed occurred in 2016, when the Alabama State Supreme Court upheld the suspension of Chief Justice Roy Moore for the remainder of his term. This was the second time the Court of the Judiciary suspended Moore.

Currently, Supreme Court justices and appellate judges are the only judges suspect to impeachment. This change would place them under the same disciplinary procedures as other judges.

### 6. Filling vacant judgeships

Judicial vacancies are created when a judge dies, resigns, retires, or is removed. Amendment 2 clarifies that judicial vacancies are filled by the Governor, except when current or future local amendments specify otherwise. At present, appointees for some vacancies in Jefferson County must be one of three candidates recommended by the Jefferson County Judicial Commission. Shelby, Madison, Wilcox, Monroe, Conecuh, Clarke, Washington, Henry, Etowah, Walker, Tallapoosa, Pickens, Green, Tuscaloosa, and St. Clair counties are authorized to maintain judicial commissions similar to Jefferson County, but none do so.

Amendment 2 clarifies that judicial vacancies are filled by the Governor, except when current or future local amendments specify otherwise. The Amendment specifies that future local amendments must be limited to one county but may affect a political subdivision within one or more counties. The Amendment would continue the current practice where the process of filling judicial vacancies varies from county to county and introduces the possibility that the process may vary within a given county. The Amendment deletes the list of counties that may, but in fact do not, use judicial appointment committees. These counties and their authorization to use such a committee are addressed elsewhere in the Constitution.

The apparent substantive changes in this section concerns a controversy surrounding the Judicial Appointment Committee in Jefferson County. Amendment 328 states "vacancies occurring in any judicial office in Jefferson County shall be filled as now provided by amendments 83 and 110 to the Constitution of Alabama of 1901...." Amendments 83 and 110 specifically refer to circuit judges, rather than "any" judge. This differing language leads to conflict. At present, attorneys in Birmingham are suing Governor Kay Ivey over her appointment of Jim Naftel as a Jefferson County probate judge rather than utilizing the Jefferson County Judicial Commission. The plaintiffs argue that Amendment 328 specifies "any judge." The Governor's Office argues that Amendments 83 and 110 restrict the Commission to the circuit judges.

Amendment 2 would strike the "vacancies occurring in any judicial office in Jefferson County" language but leave amendments 83 and 110 in place. Such a change would weaken the power of the Jefferson County Judicial Committee and strengthen the role of the Governor.

### 7. Eliminating the Office Circuit Solicitor

The Amendment summary, which will appear on the ballot, references repealing the office of circuit solicitor. This is an antiquated term for what we now refer to as a district attorney. Although included in the summary, this provision is not addressed in the text of the authorizing legislation. Consequently, even if Amendment 2 passes, the office of the circuit solicitor will not be repealed. Regardless, this will have no known impact.

## Statewide Amendment 3

*Proposing an amendment to the Constitution of Alabama of 1901, to provide that a judge, other than a judge of probate, appointed to fill a vacancy would serve an initial term until the first Monday after the second Tuesday in January following the next general election after the judge has completed two years in office.*

Proposed by [Act No. 2019-346](#) (House Bill 505, 2019 Regular Legislative Session)  
 Bill Sponsor: Representative Faulkner  
 Cosponsor: Representative Fridy

Amendment Three, proposed by Act No. 2019-346, also deals with the judiciary. The Amendment proposes changing how long judges appointed to fill vacancies may serve.

Judicial vacancies, which are created by the death, resignation, retirement, or removal from office of a sitting judge, are filled by gubernatorial appointment. Judicial terms are six years. Per the Constitution, probate judges appointed by the Governor serve out the balance of the unexpired term. Also, per the Constitution, all other appointed judges serve until the general election after serving one year in office.

The one-year requirement prevents a judge from being appointed in an election year and then being required to immediately run for office. Also, the requirement gives an appointee not interested in seeking election a reasonable term of service before replacement in the subsequent general election.

In practice, appointed judges routinely serve two, and sometimes almost three years, due to how the dates of general elections fall.

The proposed amendment extends the time of service for an appointed judge from the general election after one year of service to the general election after two years of service.

Again, because of how dates fall this change would make it routine for judges appointed in the first two years of six-year term to serve almost four years.

This change might make it more attractive for nominees to accept a judicial appointment. At the same time, this change gives the appointee longer to build up the advantage of incumbency before running for a full term. In some counties, most notably Jefferson, it is rare for an appointed judge to win a full term. The amendment might make that task easier.

As written, both current law and the proposed amendment suggest an appointed judge could serve beyond the end of the unexpired term of the judge the appointee is replacing. In *Hooper v. Siegelman* (1980), the Alabama State Supreme Court ruled that an appointment to fill a judicial vacancy may not extend beyond the original term of the vacant judgeship. Thus, while the current and proposed language of the Constitution suggests appointees could serve well beyond the time when the original judge's term would have expired, the Court's ruling says this is not the case.

However, in the event that Amendment 3 passes and the Hooper decision is overturned, appointed judges would serve two to four years, regardless of when an election should have been otherwise scheduled.

It is worth noting that in the first draft of the authorizing legislation, the language stated an appointed judge would serve through the end of the term or through the general election after serving two years, whichever is longer. While this language is not in the approved legislation, it does suggest there is a desire by some for appointed judges to serve as long as possible.

Such a scenario could create significant political conflict, given that Alabama judicial elections are partisan. An example of which can be seen in Georgia, which has a similar law to Alabama, but with a six-month window rather than our current one year or proposed two years.

In the Georgia case, a Supreme Court justice who was not running for re-election and whose term expired at the end of 2019, resigned effective November of 2019. The Governor appointed a judge to the vacancy, and because of the Georgia law, the Secretary of State cancelled the election scheduled for May of 2019. Both the Republican and Democratic candidates sued but lost ([Barrow v. Raffensperger](#)). The appointed judge will serve for two years.

## Statewide Amendment 4

*Proposing an amendment to the Constitution of Alabama of 1901, to authorize the Legislature to recompile the Alabama Constitution and submit it during the 2022 Regular Session, and provide a process for its ratification by the voters of this state.*

Proposed by [Act No. 2019-271](#) (House Bill 328, 2019 Regular Legislative Session)

Bill Sponsor: Representative Coleman

Cosponsors: Representatives McCutcheon, Hollis, Rafferty, Bracy, Alexander, Drummond, Moore (M), Rogers, McClammy, Clarke, Gray, Jackson, Warren, Hill and Wadsworth

Proposing an amendment to the Constitution of Alabama of 1901, to authorize the Legislature to recompile the Alabama Constitution and submit it during the 2022 Regular Session, and provide a process for its ratification by the voters of this state. Alabama's constitution can be changed only during a constitutional convention or when a majority of voters approve a constitutional amendment.

If a majority of voters vote "yes" on Amendment 4, the Alabama Legislature, when it meets in 2022, would be allowed to draft a rearranged version of the state constitution. This draft, as authorized by Amendment 4, could only:

- (1) remove racist language
- (2) remove language that is repeated or no longer applies
- (3) consolidate amendments related to economic development, and
- (4) reorganize the local amendments to the Constitution so that they are grouped by the county to which they apply.

No other changes could be made.

Even if passed by the Alabama Legislature, this rearranged version would not become law until it was approved by a majority of voters.

If a majority of voters vote "no" on Amendment 4, the Alabama Legislature could not draft a rearranged version of the state constitution.

According to the [Book of the States](#) (2019) Alabama's Constitution of 1901 is the sixth constitution in Alabama, which puts Alabama in a tie with Florida and Virginia for fourth place among states for the most constitutions. Louisiana is first, with 11, followed by Georgia, with 10, South Carolina with 8.

[Most states have had only one, with the oldest being Massachusetts from 1780.](#) This amendment does not completely rewrite the Constitution of 1901. ACCR quotes Professor Emeritus Wayne Flynt, "Unfortunately this amendment is not an opportunity to rewrite the Constitution, but it will make decisions and understanding easier. It will allow removal of duplication and words that are no longer legal."

Previous attempts to remove the racist language in the Constitution of 1901 failed in 2004 and 2012, with the latter generating unresolved confusion over its relationship to access to education. Many of the Constitution's provisions have been struck down and carry no legal weight but remain a stain on the state's reputation.

The proposed consolidation of economic development provisions and consolidation of amendments for the various counties would simplify an enormously confusing document. The roots of this problem require some explanation, as the document has grown to 948 amendments without a clear plan or outline, but growing organically through ad hoc actions by the local delegations of the various counties.

Unlike any other state in the Southeast, Alabama counties have no legislative power. Alabama counties do not have home rule, which means they cannot pass ordinances like municipalities can. Initially, at the Constitutional Convention of 1901, the Committee on Municipal Corporations proposed an amendment providing home rule for municipalities, but it was deleted by the convention. Later, in 1907, the Legislature provided for limited home rule for cities, but that has not occurred for counties.

Instead, counties operate under a system known as the Dillon Rule, where they are specifically authorized by the state to carry out specific functions. What the state does not authorize, counties may not do. This has resulted in the passage of [583 amendments](#) that provide authority to specific counties.

At least [85 amendments](#) pertain to Alabama municipalities, and that excludes local education-related amendments. [Over 100 amendments](#) deal with education or schools, most of them local in nature, modifying city or county ad valorem taxes for education or providing for the composition of school boards, and even disposal of land. At least [48 amendments](#) deal with economic development, mostly allowing counties, cities, and towns to form economic development organizations.

All those statewide constitutional provisions interacting with local amendments, some revised some repealed over time, result in a confusing patchwork of legal provisions that are often redundant with regard to the subject matter.

The Alabama Citizens for Constitutional Reform ([ACCR](#)) has endorsed Proposed Amendment 4 in an article titled, [Amendment 4 Provides an Opportunity to Clean Up the Alabama Constitution](#), noting that amendments have "...riddled the Constitution with redundancies, creating a maze of words known to befuddle even legal scholars."

[The Eagle Forum](#) has also voiced support of the amendment, stating, "The Legislative Services Agency will be responsible for these minor changes; they cannot make substantive changes. This is not a Constitutional Convention."

## Statewide Amendments 5 and 6

**Amendment 5:** *Relating to Franklin County, proposing an amendment to the Constitution of Alabama of 1901, to provide that a person is not liable for using deadly physical force in self-defense or in the defense of another person on the premises of a church under certain conditions.*

Proposed by [Act No. 2019-194](#) (House Bill 536, 2019 Regular Legislative Session)  
Bill Sponsor: Representative Kiel

**Amendment 6:** *Relating to Lauderdale County, proposing an amendment to the Constitution of Alabama of 1901, to provide that a person is not liable for using deadly physical force in self-defense or in the defense of another person on the premises of a church under certain conditions.*

Proposed by [Act No. 2019-193](#) (House Bill 461, 2019 Regular Legislative Session)  
Bill Sponsor: Representative Greer  
Cosponsors: Representatives Sorrell, Kiel and Pettus

Alabama's "Stand Your Ground" law allows a person to legally use physical and deadly force against another person in defending themselves against a threatening attack. The law does not require the person to retreat before using physical force, as required in some states.

If passed by the majority of voters in Alabama and by voters in Franklin and Lauderdale County, the state constitution would be amended to contain a special "Stand Your Ground" law that applies to churches in Franklin and Lauderdale Counties.

The amendments reinforce the existing stand your ground laws and the interpretation of the law by the Attorney General, who believes the law already applies to churches in all Alabama communities.

By using the term "church" as opposed to "churches, synagogues, and other houses of worship," the proposed amendments may only apply to Christian churches, depending on how "church" is defined. Still, the stand your ground law already applies to all lawful places of worship.

Alabama is among 27 states with stand your ground laws, which protect individuals from criminal prosecution if they use physical or deadly force in defending themselves or someone else from serious threat of harm. In contrast, eleven states require individuals to retreat from attack before responding with physical force.

In the aftermath of the attack on West Freeway Church of Christ in White Settlement, Texas, Attorney General Steve Marshall received inquiries from the media and general public about the stand your ground law in Alabama related to self-defense and the defense of others in churches. In response, on January 2, 2020, the Attorney General issued a formal statement on church security and Alabama's stand your ground law related to churches.

In addition to encouraging all places of worship to establish a safety plan, the statement makes it clear that Alabama does not "impose a duty to retreat from an attacker in any place in which one is lawfully present." Reference was made to the following section of the Alabama Code:

"Section 13A-3-23(a) of the Alabama Code states: A person is justified in using physical force upon another person in order to defend himself or herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by that person, and he or she may use a degree of force which he or she reasonably believes is necessary for the purpose. A person may use deadly physical force...if the person reasonably believes that another person is...using or about to use unlawful deadly physical force."

Alabama's law further provides that individuals have a right to defend themselves and use deadly physical force if they are in a place where they have a right to be.

The statement clarified that Alabama law already treats churches the same as other private property. Even without specific language related to churches or the proposed amendment, lawful participants

in a church have the right to defend themselves when under attack. But the stand your ground law and the proposed amendments would not prohibit churches from developing policies banning handguns and other weapons from church property.



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