

## QUESTION 3: CONSTITUTIONAL AMENDMENT

### **Elected Officials - Removal from Office - Crimes**

Chapter 147 of 2012 (House Bill 211)

#### Summary

This proposed constitutional amendment changes the point at which an elected official charged with certain crimes is suspended or removed from office.

Under the State Constitution, there is a two-step process for removing a State or local elected official who, while in office, is convicted of or pleads nolo contendere (a plea stating that the defendant will not contest the charge but does not admit guilt or claim innocence) to a crime that is (1) a felony; or (2) a misdemeanor that is related to the elected official's public duties and responsibilities and involves moral turpitude, and for which the penalty may be imprisonment ("disqualifying misdemeanor"). First, if the elected official is convicted or pleads nolo contendere, the elected official is suspended from office. During the suspension, the elected official may not receive pay or benefits and the office is filled temporarily. Second, if the conviction is not appealed or is affirmed on appeal, the elected official is removed from office. If the conviction is reversed or overturned, the elected official is reinstated automatically for the remainder of the term, if any, and all pay and benefits are restored.

Under current law, a "conviction" occurs upon sentencing. Thus, an elected official who is found guilty or enters a guilty plea may continue in office until the official is sentenced for the crime, which may be months later. This proposed constitutional amendment establishes that a State or local official who is found guilty is suspended immediately upon the finding of guilt. A State or local official who pleads guilty or nolo contendere would be removed from office immediately without the possibility of reinstatement.