



**STATE OF VERMONT**  
OFFICE OF LEGISLATIVE COUNSEL

**MEMORANDUM**

To: Senate President Pro Tempore Philip Baruth  
From: Tim Devlin, Legislative Counsel and Jennifer Carbee, Director and Chief Counsel  
Date: February 14, 2024  
Subject: Removal of Elected County Officers from Office

Constitutional officers<sup>1</sup>—including the elected county offices of sheriff, State’s attorney, high bailiff, and assistant and probate judge—may only be removed from office pursuant to constitutional procedure, and the only procedure for removal of these officers set out in the Vermont Constitution is removal by impeachment.

**Impeachment is the exclusive remedy for removing constitutional officers from office.** While Vermont courts have not addressed the issue directly, high courts in other states have indicated that where a state constitution provides the method of removing an officer from office, that is the only method available. See *In re Georges Township School Directors*, 286 Pa. 129, 133 (1926) (S. Ct. of PA) (“[t]he constitutional method of removal must be resorted to, where applicable, for it is ‘exclusive and prohibitory of any other mode which the Legislature may deem better or more convenient’”) (internal citations omitted); *State v. Gravolet*, 168 La. 648, 650 (1929) (S. Ct. of LA) (“[w]here the Constitution provides a method of debarring or removing an officer from his office, such method is exclusive”); see also *State ex rel. Williams v. Owens* 217 Ala. 668, 117 So. 298 (1928); *State ex rel. Shartel v. Brunk* 326 Mo. 1181, 34 S.W. 2d 94 (1930) (“Where the constitution provides a method of impeachment of officers, that method is exclusive and the power which the legislature might otherwise be regarded as possessing is taken away”) (quoting 46 Corpus Juris, 1002).

This is to say that all other methods to remove a constitutional officer by statute (e.g. by creating a removal procedure by recall or removal by a judge) would be impermissible—and therefore very likely invalidated by the courts upon challenge—**unless the Constitution were to be amended.** So too would any statutory efforts to indirectly remove a constitutional officer or that would have the effect of unduly frustrating the officer’s ability to maintain the office, what would be deemed a “constructive removal.” For example, a statute suspending a constitutional officer<sup>2</sup> or greatly reducing the officer’s compensation in certain circumstances would likely be invalidated by the courts if challenged.

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<sup>1</sup> “Constitutional officers” are those officers enumerated in the constitution: the Governor, the Lieutenant Governor, the Secretary of State, the Treasurer, the Auditor of Accounts, State’s attorneys, sheriffs, high bailiffs, probate judges, assistant judges, and judges of the Superior and Supreme Courts.

<sup>2</sup> The Judiciary, however, may suspend a judge under the explicit authority granted in VT. Const. Ch. II, § 36.