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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 1000** Session of  
1991

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INTRODUCED BY GREENLEAF, BELL, HART, BORTNER, MADIGAN, LEWIS,  
HOPPER, FISHER, SHUMAKER, CORMAN, SHAFFER, JONES, LAVALLE AND  
JUBELIRER, APRIL 23, 1991

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REFERRED TO JUDICIARY, APRIL 23, 1991

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A JOINT RESOLUTION

1 Proposing amendments to the Constitution of the Commonwealth of  
2 Pennsylvania, changing provisions relating to judicial  
3 discipline; and providing for financial disclosure, for  
4 budgeting and for the financial affairs of the judiciary.

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

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

9 (1) That section 17 of Article V be amended to read:

10 § 17. Prohibited activities and financial disclosure.

11 (a) Justices and judges shall devote full time to their  
12 judicial duties, and shall not engage in the practice of law,  
13 hold office in a political party or political organization, or  
14 hold an office or position of profit in the government of the  
15 United States, the Commonwealth or any municipal corporation or  
16 political subdivision thereof, except in the armed service of  
17 the United States or the Commonwealth.

18 (b) Justices and judges shall not engage in any activity

1 prohibited by law and shall not violate any canon of legal or  
2 judicial ethics prescribed by the Supreme Court. Justices of the  
3 peace shall be governed by rules or canons which shall be  
4 prescribed by the Supreme Court.

5 (c) No justice, judge or justice of the peace shall be paid  
6 or accept for the performance of any judicial duty or for any  
7 service connected with his office, any fee, emolument or  
8 perquisite other than the salary and expenses provided by law.

9 (d) No duties shall be imposed by law upon the Supreme Court  
10 or any of the justices thereof or the Superior Court or any of  
11 the judges thereof, except such as are judicial, nor shall any  
12 of them exercise any power of appointment except as provided in  
13 this Constitution.

14 (e) The Supreme Court shall promulgate financial disclosure  
15 requirements for all justices, judges, justices of the peace and  
16 other officers or employees of the unified judicial system which  
17 shall provide for no less financial disclosure than provided by  
18 law for members of the General Assembly. In addition, such  
19 disclosure shall include that information deemed necessary for  
20 the fair and impartial administration of justice. These  
21 requirements shall prohibit any justice, judge, justice of the  
22 peace or other officer or employee of the system from taking the  
23 oath of office or entering or continuing upon his or her duties  
24 or receiving compensation from public funds unless he or she has  
25 complied with such financial disclosure requirements.

26 (2) That section 18 of Article V be amended to read:

27 [§ 18. Suspension, removal, discipline and compulsory  
28 retirement.

29 (a) There shall be a Judicial Inquiry and Review Board  
30 having nine members as follows: three judges of the courts of

1 common pleas from different judicial districts and two judges of  
2 the Superior Court, all of whom shall be selected by the Supreme  
3 Court; and two non-judge members of the bar of the Supreme Court  
4 and two non-lawyer electors, all of whom shall be selected by  
5 the Governor.]

6 § 18. Judicial Conduct Board.

7 (a) There shall be a Judicial Conduct Board within the  
8 executive branch, which shall be composed of a total of 11  
9 members as follows: one active judge of the court of common  
10 pleas appointed by the Supreme Court, one active judge of an  
11 appellate court appointed by the Supreme Court, one active  
12 justice of the peace appointed by the Supreme Court, two non-  
13 judge members of the bar of the Supreme Court appointed by the  
14 Governor and six non-lawyer electors appointed by the Governor.  
15 All members of the Judicial Conduct Board shall be appointed by  
16 the respective appointing authority, with the advice and consent  
17 of a majority of the members elected to the Senate in the manner  
18 provided in section 8 of Article IV of this Constitution.

19 (b) [The] Except for the initial appointees whose terms  
20 shall be provided by the schedule to this amendment, the members  
21 shall serve for terms of four years, provided that a member,  
22 rather than his or her successor, shall continue to participate  
23 in any hearing in progress at the end of [his term.] this term.  
24 All members shall be residents of this Commonwealth, and no more  
25 than six of the 11 members shall be registered in the same  
26 political party. Judicial Conduct Board membership by a judge  
27 shall terminate if the member ceases to hold the judicial  
28 position that qualified him or her for the appointment.  
29 Membership shall also terminate if a member attains a position  
30 that would have rendered him or her ineligible for appointment

1 at the time of the appointment. A vacancy on the board shall be  
2 filled by the respective appointing authority for the balance of  
3 the term. The [respective appointing authority may remove a]  
4 Governor may remove any member only for cause. No member shall  
5 serve more than four consecutive years[; he] but may be  
6 reappointed after a lapse of one year. [Annually] The Governor  
7 shall convene the board for its first meeting, and, at that  
8 meeting and annually thereafter, the members of the board shall  
9 elect a chairman. The board shall act only with the concurrence  
10 of a majority of its members.

11 (c) [A member shall not] No member of the Judicial Conduct  
12 Board, during his or her term of service, shall hold office in a  
13 political party or political organization. [Members, other than  
14 judges, shall be compensated for their services as the Supreme  
15 Court shall prescribe.] Except for a judicial member, no member  
16 of the Judicial Conduct Board, during his or her term of  
17 service, shall hold a public office or public appointment,  
18 compensated or uncompensated. All members shall be reimbursed  
19 for expenses necessarily incurred in the discharge of their  
20 official duties.

21 [(d) Under the procedure prescribed herein, any justice or  
22 judge may be suspended, removed from office or otherwise  
23 disciplined for violation of section 17 of this article,  
24 misconduct in office, neglect of duty, failure to perform his  
25 duties, or conduct which prejudices the proper administration of  
26 justice or brings the judicial office into disrepute, and may be  
27 retired for disability seriously interfering with the  
28 performance of his duties.

29 (e) The board shall keep informed as to matters relating to  
30 grounds for suspension, removal, discipline, or compulsory

1 retirement of justices or judges. It shall receive complaints or  
2 reports, formal or informal, from any source pertaining to such  
3 matters, and shall make such preliminary investigations as it  
4 deems necessary.

5 (f) The board, after such investigation, may order a hearing  
6 concerning the suspension, removal, discipline or compulsory  
7 retirement of a justice or judge. The board's orders for  
8 attendance of or testimony by witnesses or for the production of  
9 documents at any hearing or investigation shall be enforceable  
10 by contempt proceedings.

11 (g) If, after hearing, the board finds good cause therefor,  
12 it shall recommend to the Supreme Court the suspension, removal,  
13 discipline or compulsory retirement of the justice or judge.

14 (h) The Supreme Court shall review the record of the board's  
15 proceedings on the law and facts and may permit the introduction  
16 of additional evidence. It shall order suspension, removal,  
17 discipline or compulsory retirement, or wholly reject the  
18 recommendation, as it finds just and proper. Upon an order for  
19 compulsory retirement, the justice or judge shall be retired  
20 with the same rights and privileges were he retired under  
21 section 16 of this article. Upon an order for suspension or  
22 removal, the justice or judge shall be suspended or removed from  
23 office, and his salary shall cease from the date of such order.  
24 All papers filed with and proceedings before the board shall be  
25 confidential but upon being filed by the board in the Supreme  
26 Court, the record shall lose its confidential character. The  
27 filing of papers with and the giving of testimony before the  
28 board shall be privileged.

29 (i) No justice or judge shall participate as a member of the  
30 board or of the Supreme Court in any proceeding involving his

1 suspension, removal, discipline or compulsory retirement.

2 (j) The Supreme Court shall prescribe rules of procedure  
3 under this section.

4 (k) The Supreme Court shall prescribe rules of procedure for  
5 the suspension, removal, discipline and compulsory retirement of  
6 justices of the peace.

7 (l) A justice, judge or justice of the peace convicted of  
8 misbehavior in office by a court, disbarred as a member of the  
9 bar of the Supreme Court or removed under this section 18 shall  
10 forfeit automatically his judicial office and thereafter be  
11 ineligible for judicial office.

12 (m) A justice or judge who shall file for nomination for or  
13 election to any public office other than a judicial office shall  
14 forfeit automatically his judicial office.

15 (n) This section is in addition to and not in substitution  
16 for the provisions for impeachment for misbehavior in office  
17 contained in Article VI. No justice, judge or justice of the  
18 peace against whom impeachment proceedings are pending in the  
19 Senate shall exercise any of the duties of his office until he  
20 has been acquitted.]

21 (d) The Judicial Conduct Board shall receive and investigate  
22 complaints regarding judicial conduct filed by individuals or  
23 initiated by the Judicial Conduct Board; promulgate rules for  
24 determining whether a complaint is reasonably based; issue  
25 subpoenas to compel testimony under oath of witnesses, including  
26 the subject of the investigation, and to compel the production  
27 of documents, books, accounts and other records relevant to the  
28 investigation; determine whether there is probable cause to file  
29 formal charges against a justice, judge or justice of the peace,  
30 for conduct proscribed in sections 17 and 20(a) of this article,

1 a finding of which shall require approval by a majority vote of  
2 the Judicial Conduct Board; and present the case in support of  
3 the charges.

4 (e) The Judicial Conduct Board, by a majority vote, shall  
5 appoint a chief counsel and other staff, prepare and administer  
6 its own budget as provided by law and establish and promulgate  
7 its own rules of procedure. The budget request of the Judicial  
8 Conduct Board shall be made separately to the General Assembly.

9 (f) The justice, judge or justice of the peace whose conduct  
10 is the subject of an investigation by the Judicial Conduct Board  
11 shall be given an opportunity to fully respond to the complaint  
12 and shall be afforded full discovery.

13 (g) Until a determination of probable cause has been made  
14 and formal charges have been filed, all proceedings shall be  
15 confidential except when the justice, judge or justice of the  
16 peace under investigation waives confidentiality, or in any case  
17 in which, independent of any action by the Judicial Conduct  
18 Board, the fact that an investigation is in process becomes  
19 public, in which case the Judicial Conduct Board may, at the  
20 direction of the justice, judge or justice of the peace under  
21 investigation, issue a statement to confirm the pendency of the  
22 investigation, to clarify the procedural aspects of the  
23 proceedings, to explain the right of the justice, judge or  
24 justice of the peace to a fair hearing without prejudgment or to  
25 state that the justice, judge or justice of the peace denies the  
26 allegations.

27 (h) If on a complaint of mental or physical disability the  
28 Judicial Conduct Board finds probable cause to file formal  
29 charges against a justice, judge or justice of the peace, the  
30 board shall present its findings to the justice, judge or

1 justice of the peace and provide him with the opportunity to  
2 resign or, when appropriate, to enter a rehabilitation program  
3 before the filing of formal charges.

4 (i) Members of the Judicial Conduct Board and its chief  
5 counsel and staff shall be absolutely immune from suit for all  
6 conduct in the course of their official duties. A complaint  
7 submitted to the Judicial Conduct Board or testimony related to  
8 the complaint shall be privileged, and no civil action or  
9 disciplinary complaint predicated on the complaint or testimony  
10 shall be maintained against any complainant or witness or his or  
11 her counsel.

12 (3) That Article V be amended by adding sections to read:  
13 § 19. Court of Judicial Discipline.

14 (a) There shall be a Court of Judicial Discipline within the  
15 judicial branch, which shall be composed of a total of seven  
16 members as follows: one active judge of the court of common  
17 pleas, one active judge of an appellate court, one active  
18 justice of the peace, one non-judge member of the bar of the  
19 Supreme Court and three non-lawyer electors. Members of the  
20 Court of Judicial Discipline shall be appointed by the Governor,  
21 with the advice and consent of a majority of the members elected  
22 to the Senate in the manner provided in section 8 of Article IV  
23 of this Constitution.

24 (b) Except for the initial appointees whose terms shall be  
25 provided by the schedule to this amendment, the members shall  
26 serve for terms of four years, provided that a member, rather  
27 than his or her successor, shall continue to participate in any  
28 hearing in progress at the end of this term. All members shall  
29 be residents of this Commonwealth, and no more than four of the  
30 seven members shall be registered in the same political party.



1 Court of Judicial Discipline membership by a judge shall  
2 terminate if the judge ceases to hold the judicial position that  
3 qualified that judge for Court of Judicial Discipline  
4 appointment. Court of Judicial Discipline membership shall also  
5 terminate if a member attains a position that would have  
6 rendered him or her ineligible for appointment at the time of  
7 the appointment. A vacancy on the Court of Judicial Discipline  
8 shall be filled by the Governor for the balance of the term. The  
9 Governor may remove any member only for cause. No member of the  
10 Court of Judicial Discipline shall serve more than four  
11 consecutive years but may be reappointed after a lapse of one  
12 year.

13 (c) No member of the Court of Judicial Discipline, during  
14 his or her term of service, shall hold office in any political  
15 party or political organization. Except for a judicial member,  
16 no member of the Court of Judicial Discipline, during his or her  
17 term of service, shall hold a public office or public  
18 appointment, compensated or uncompensated. All members shall be  
19 reimbursed for expenses necessarily incurred in the discharge of  
20 their official duties.

21 (d) The Court of Judicial Discipline shall be a court of  
22 record with all the attendant duties and powers appropriate to  
23 its function, and shall hold public proceedings, conducted  
24 consistent with the principles of due process and the law of  
25 evidence; enable parties appearing before it to subpoena  
26 witnesses and to compel the production of documents, books,  
27 accounts and other records as relevant; render its decision in  
28 writing, each decision to include its findings of fact,  
29 conclusions of law and discussion of reasons; have its  
30 proceedings transcribed; order removal from office, suspension,

1 censure or other discipline as authorized by section 20 of this  
2 article and as warranted by the record; appoint staff and  
3 prepare and administer its own budget as provided by law. All  
4 actions of the Court of Judicial Discipline, including  
5 disciplinary action, shall require approval by a majority vote  
6 of the Court. The budget request of the Court of Judicial  
7 Discipline shall be made separately to the General Assembly, and  
8 not as an item in the request by the Supreme Court on behalf of  
9 the judicial system.

10 (e) Upon the filing of formal charges by the Judicial  
11 Conduct Board, the Court of Judicial Discipline shall schedule a  
12 prompt hearing to determine whether a sanction pursuant to the  
13 provisions of section 20 of this article should be imposed. The  
14 Court of Judicial Discipline shall afford the justice, judge or  
15 justice of the peace full discovery and a fair opportunity to  
16 prepare for the hearing. The Judicial Conduct Board shall have  
17 the burden of proving the conduct complained of by clear and  
18 convincing evidence.

19 (f) Members of the Court of Judicial Discipline and the  
20 Court's staff shall be absolutely immune from suit for all  
21 conduct in the course of their official duties, and no civil  
22 action or disciplinary complaint predicated on testimony before  
23 the Court of Judicial Discipline shall be maintained against any  
24 witness or his or her counsel.

25 § 20. Proscribed conduct and sanctions.

26 (a) Under the procedures prescribed in this section, any  
27 justice, judge or justice of the peace may be suspended, removed  
28 from office or otherwise disciplined for violation of section 17  
29 of this article, misconduct in office, neglect or failure to  
30 perform the duties of office, or conduct which prejudices the

1 proper administration of justice or brings the judicial office  
2 into disrepute, whether or not such conduct occurred while  
3 acting in a judicial capacity or is prohibited by law, and for  
4 conduct in violation of a canon or rule prescribed by the  
5 Supreme Court.

6 (b) The Court of Judicial Discipline shall, until there is  
7 an acquittal or conviction for the felony offense, order  
8 suspended without pay any justice, judge or justice of the peace  
9 against whom there has been filed an indictment or information  
10 charging a felony. An interim order of suspension, with or  
11 without pay, may be entered against a justice, judge or justice  
12 of the peace against whom formal charges have been filed with  
13 the Court of Judicial Discipline by the Judicial Conduct Board.  
14 Such order shall not be immediately appealable.

15 (c) In the case of a mentally or physically disabled  
16 justice, judge or justice of the peace, the Court of Judicial  
17 Discipline may enter an order of removal from office,  
18 retirement, suspension or other limitations on the activities of  
19 the justice, judge or justice of the peace as warranted by the  
20 record.

21 (d) The Court of Judicial Discipline may order suspended,  
22 with or without pay, any justice, judge or justice of the peace  
23 after a determination that the continued service of the justice,  
24 judge or justice of the peace poses a substantial or imminent  
25 threat to the fair and impartial administration of justice.

26 (e) Upon an order of the Court of Judicial Discipline for  
27 suspension without pay or removal, the justice, judge or justice  
28 of the peace shall be suspended or removed from office, and his  
29 or her salary shall cease from the date of such order.

30 (f) A justice, judge or justice of the peace convicted of

1 misbehavior in office by a court, disbarred as a member of the  
2 bar of the Supreme Court or removed under this section shall  
3 forfeit automatically his or her judicial office and thereafter  
4 be ineligible for judicial office.

5 (g) A justice, judge or justice of the peace who files for  
6 nomination for or election to any public office other than a  
7 judicial office shall forfeit automatically his or her judicial  
8 office.

9 (h) This section is in addition to and not in substitution  
10 for the provisions for impeachment for misbehavior in office  
11 contained in Article VI. No justice, judge or justice of the  
12 peace against whom impeachment proceedings are pending in the  
13 Senate shall exercise any of the duties of the office until he  
14 or she has been acquitted.

15 § 21. Review of Court of Judicial Discipline.

16 (a) A justice, judge or justice of the peace, other than a  
17 justice of the Supreme Court, in a manner consistent with the  
18 rules of the Supreme Court, may appeal to the Supreme Court a  
19 final adverse order of the Court of Judicial Discipline. The  
20 Supreme Court shall not review the record de novo, but rather as  
21 it would review the record in a civil action in which the moving  
22 party in the lower court had the burden of proving its  
23 allegations by clear and convincing evidence. The Supreme Court  
24 may revise or reject the order of the Court of Judicial  
25 Discipline upon a determination the order did not sustain this  
26 standard of review; otherwise the Supreme Court shall affirm the  
27 order of the Court of Judicial Discipline.

28 (b) A justice of the Supreme Court, in a manner consistent  
29 with the rules of the Supreme Court, may appeal a final adverse  
30 order of the Court of Judicial Discipline to a special review

1 panel consisting of seven judges to be chosen by lot from the  
2 judges of the Superior Court and the Commonwealth Court, other  
3 than senior judges, and who do not themselves sit on the Court  
4 of Judicial Discipline. The appeal shall in all other respects  
5 conform with the requirements of this section.

6 (c) No justice, judge or justice of the peace shall  
7 participate as a member of the Judicial Conduct Board, the Court  
8 of Judicial Discipline, a special review panel or the Supreme  
9 Court in any proceeding involving his or her suspension,  
10 removal, discipline or compulsory retirement.

11 (4) That Article V be amended by adding a section to read:  
12 § 22. Financial affairs and budgets.

13 (a) As provided by law, the Supreme Court shall annually  
14 submit to the Governor and the General Assembly proposed  
15 operating budgets for the ensuing fiscal year for the Supreme  
16 Court, Superior Court, Commonwealth Court, Court Administrator  
17 of Pennsylvania and other statewide agencies and committees of  
18 the unified judicial system setting forth in detail proposed  
19 expenditures classified by court, agency, committee or unit for  
20 the year.

21 (b) The General Assembly shall include such operating budget  
22 appropriations for the Supreme Court, Superior Court,  
23 Commonwealth Court, Court Administrator of Pennsylvania and  
24 other statewide agencies and committees of the unified judicial  
25 system as the General Assembly shall determine to be necessary  
26 and reasonable in the general appropriation bill or such  
27 separate appropriation bill as it deems appropriate. No moneys  
28 shall be paid out of the State Treasury for the operation of the  
29 unified judicial system except pursuant to an appropriation  
30 approved by the General Assembly and upon warrant issued by the

1 proper officer.

2 (c) All fees, charges and other moneys received by the  
3 Supreme Court, Superior Court, Commonwealth Court or other  
4 statewide agency or committee of the unified judicial system,  
5 with the exception of payments mandated to a party by court  
6 order and fees assessed by the Supreme Court and paid to the  
7 Disciplinary Board of the Supreme Court or for a client security  
8 fund, shall be deposited in the State Treasury for appropriation  
9 by the General Assembly for the operations of the unified  
10 judicial system.

11 (d) The financial affairs of the Supreme Court, Superior  
12 Court, Commonwealth Court, courts of common pleas, municipal and  
13 traffic courts in the City of Philadelphia, such other courts as  
14 may be provided by law and justices of the peace and all  
15 agencies and committees thereof shall be subject to audits made  
16 in accordance with generally accepted auditing standards and  
17 shall be performed as prescribed by the General Assembly by law.

18 Section 2. (a) The members of the Judicial Inquiry and  
19 Review Board appointed heretofore shall vacate their office 60  
20 days after the issuance of the proclamation certifying voter  
21 approval of the amendments to section 18 of Article V and all  
22 proceedings pending before the board and all records shall be  
23 transferred to the Judicial Conduct Board.

24 (b) Of the members initially appointed to the Judicial  
25 Conduct Board, the appellate court judge and the common pleas  
26 court judge shall be appointed to serve four-year terms. The  
27 justice of the peace first appointed shall serve a three-year  
28 term. The non-judge member of the bar of the Supreme Court first  
29 appointed by the Governor shall serve a three-year term, and the  
30 second non-judge member shall serve a two-year term. Of the non-

1 lawyer electors appointed by the Governor, the first two  
2 appointed shall serve four-year terms; the next one appointed  
3 shall serve a three-year term; and the final three appointed  
4 shall serve two-year terms.

5 (c) Of the members initially appointed to the Court of  
6 Judicial Discipline, the Governor shall appoint three members  
7 for terms of four years, two members for terms of three years  
8 and two members for terms of two years.

9 Section 3. Paragraphs (1) and (4) of section 1 shall each be  
10 submitted as a separate question, and paragraphs (2) and (3) of  
11 section 1 shall be submitted as one question by the Secretary of  
12 the Commonwealth to the qualified electors of this Commonwealth  
13 at the primary, general or municipal election next held after  
14 the advertising requirements of section 1 of Article XI of the  
15 Constitution of Pennsylvania have been satisfied.