
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1000 Session of
1991

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

AS AMENDED ON SECOND CONSIDERATION, MARCH 30, 1992

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: two active judges 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 five 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
18 conformance with the provisions of section 8 of Article IV of
19 this Constitution.

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

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

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

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

30 (e) The board shall keep informed as to matters relating to

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

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

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

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

30 (i) No justice or judge shall participate as a member of the

1 board or of the Supreme Court in any proceeding involving his
2 suspension, removal, discipline or compulsory retirement.

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

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

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

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

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

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

1 for conduct proscribed in sections 17 and 20(a) of this article,
2 a finding of which shall require approval by a majority vote of
3 the Judicial Conduct Board; and present the case in support of
4 the charges.

5 (e) The Judicial Conduct Board, by a majority vote, shall
6 appoint a chief counsel and other staff, prepare and administer
7 its own budget as provided by law, establish and promulgate its
8 own rules of procedure; and do what is needed to ensure its
9 efficient operation. The budget request of the Judicial Conduct
10 Board shall be made as an item in the request of the Governor on
11 behalf of the executive branch of government to the General
12 Assembly. The Judicial Conduct Board shall promulgate rules for
13 the provision of written advisory opinions to justices, judges
14 or justices of the peace which shall not be binding on the
15 Judicial Conduct Board, although the board may give weight as to
16 whether the subject of an investigation acted in accordance with
17 an advisory opinion.

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

22 (g) Until a determination of probable cause has been made
23 and formal charges have been filed, all proceedings shall be
24 confidential except when the justice, judge or justice of the
25 peace under investigation waives confidentiality, or in any case
26 in which, independent of any action by the Judicial Conduct
27 Board, the fact that an investigation is in process becomes
28 public, in which case the Judicial Conduct Board may, at the
29 direction of the justice, judge or justice of the peace under
30 investigation, issue a statement to confirm the pendency of the

1 investigation, to clarify the procedural aspects of the
2 proceedings, to explain the right of the justice, judge or
3 justice of the peace to a fair hearing without prejudgment or to
4 state that the justice, judge or justice of the peace denies the
5 allegations.

6 (h) If on a complaint of mental or physical disability the
7 Judicial Conduct Board finds probable cause to file formal
8 charges against a justice, judge or justice of the peace, the
9 board shall present its findings to the justice, judge or
10 justice of the peace and provide him with the opportunity to
11 resign or, when appropriate, to enter a rehabilitation program
12 before the filing of formal charges.

13 (i) Members of the Judicial Conduct Board and its chief
14 counsel and staff shall be absolutely immune from suit for all
15 conduct in the course of their official duties. A complaint
16 submitted to the Judicial Conduct Board or testimony related to
17 the complaint shall be privileged, and no civil action or
18 disciplinary complaint predicated on the complaint or testimony
19 shall be maintained against any complainant or witness or his or
20 her counsel.

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

23 (a) There shall be a Court of Judicial Discipline within the
24 judicial branch, which shall be composed of a total of seven
25 members as follows: two active judges of the court of common
26 pleas, one active judge of an appellate court, one active
27 justice of the peace, one non-judge member of the bar of the
28 Supreme Court and ~~three~~ TWO non-lawyer electors. One judge of ←
29 the court of common pleas and the district justice member shall
30 be appointed by the Supreme Court. The remaining members of the

1 Court of Judicial Discipline shall be appointed by the Governor.
2 All members of the court of Judicial Discipline shall be
3 appointed with the advice and consent of a majority of the
4 members elected to the Senate in conformance with the provisions
5 of section 8 of Article IV of this Constitution.

6 (b) Except for the initial appointees whose terms shall be
7 provided by the schedule to this amendment, the members shall
8 serve for terms of four years, provided that a member, rather
9 than his or her successor, shall continue to participate in any
10 hearing in progress at the end of this term. All members shall
11 be residents of this Commonwealth, and no more than four of the
12 seven members shall be registered in the same political party.
13 Court of Judicial Discipline membership by a judge shall
14 terminate if the judge ceases to hold the judicial position that
15 qualified that judge for Court of Judicial Discipline
16 appointment. Court of Judicial Discipline membership shall also
17 terminate if a member attains a position that would have
18 rendered him or her ineligible for appointment at the time of
19 the appointment. A vacancy on the Court of Judicial Discipline
20 shall be filled by the Governor for the balance of the term. The
21 Governor may remove any member only for cause. No member of the
22 Court of Judicial Discipline shall serve more than four
23 consecutive years but may be reappointed after a lapse of one
24 year.

25 (c) No member of the Court of Judicial Discipline, during
26 his or her term of service, shall hold office in any political
27 party or political organization. Except for a judicial member,
28 no member of the Court of Judicial Discipline, during his or her
29 term of service, shall hold a public office or public
30 appointment, compensated or uncompensated. All members shall be

1 reimbursed for expenses necessarily incurred in the discharge of
2 their official duties.

3 (d) The Court of Judicial Discipline shall be a court of
4 record with all the attendant duties and powers appropriate to
5 its function, and shall hold public proceedings, conducted
6 pursuant to rules adopted by the Court of Judicial Discipline
7 consistent with the Pennsylvania Rules of Civil Procedure, and
8 consistent with the principles of due process and the law of
9 evidence; enable parties appearing before it to subpoena
10 witnesses and to compel the production of documents, books,
11 accounts and other records as relevant; render its decision in
12 writing, each decision to include its findings of fact,
13 conclusions of law and discussion of reasons; have its
14 proceedings transcribed; order removal from office, suspension,
15 censure or other discipline as authorized by section 20 of this
16 article and as warranted by the record; appoint staff and
17 prepare and administer its own budget as provided by law. All
18 actions of the Court of Judicial Discipline, including
19 disciplinary action, shall require approval by a majority vote
20 of the Court. The budget request of the Court of Judicial
21 Discipline shall be made as a separate item in the request by
22 the Supreme Court on behalf of the judicial system to the
23 General Assembly.

24 (e) Upon the filing of formal charges by the Judicial
25 Conduct Board, the Court of Judicial Discipline shall schedule a
26 prompt hearing to determine whether a sanction pursuant to the
27 provisions of section 20 of this article should be imposed. The
28 Court of Judicial Discipline shall afford the justice, judge or
29 justice of the peace full discovery and a fair opportunity to
30 prepare for the hearing. The Judicial Conduct Board shall have

1 the burden of proving the conduct complained of by clear and
2 convincing evidence.

3 (f) Members of the Court of Judicial Discipline and the
4 Court's staff shall be absolutely immune from suit for all
5 conduct in the course of their official duties, and no civil
6 action or disciplinary complaint predicated on testimony before
7 the Court of Judicial Discipline shall be maintained against any
8 witness or his or her counsel.

9 § 20. Proscribed conduct and sanctions.

10 (a) Under the procedures prescribed in this section, any
11 justice, judge or justice of the peace may be suspended, removed
12 from office or otherwise disciplined for violation of section 17
13 of this article, misconduct in office, neglect or failure to
14 perform the duties of office, or conduct which prejudices the
15 proper administration of justice or brings the judicial office
16 into disrepute, whether or not such conduct occurred while
17 acting in a judicial capacity or is prohibited by law, and for
18 conduct in violation of a canon or rule prescribed by the
19 Supreme Court.

20 (b) The Court of Judicial Discipline may, until there is an
21 acquittal or conviction for the felony offense, order suspended
22 with or without pay any justice, judge or justice of the peace
23 against whom there has been filed an indictment or information
24 charging a felony. An interim order of suspension, with or
25 without pay, may be entered against a justice, judge or justice
26 of the peace against whom formal charges have been filed with
27 the Court of Judicial Discipline by the Judicial Conduct Board.
28 Such order shall not be immediately appealable.

29 (c) In the case of a mentally or physically disabled
30 justice, judge or justice of the peace, the Court of Judicial

1 Discipline may enter an order of removal from office,
2 retirement, suspension or other limitations on the activities of
3 the justice, judge or justice of the peace as warranted by the
4 record.

5 (d) The Court of Judicial Discipline may order suspended,
6 with or without pay, any justice, judge or justice of the peace
7 after a determination that the continued service of the justice,
8 judge or justice of the peace poses a substantial or imminent
9 threat to the fair and impartial administration of justice.

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

14 (f) A justice, judge or justice of the peace convicted of
15 misbehavior in office by a court, disbarred as a member of the
16 bar of the Supreme Court or removed under this section shall
17 forfeit automatically his or her judicial office and thereafter
18 be ineligible for judicial office.

19 (g) A justice, judge or justice of the peace who files for
20 nomination for or election to any public office other than a
21 judicial office shall forfeit automatically his or her judicial
22 office.

23 (h) This section is in addition to and not in substitution
24 for the provisions for impeachment for misbehavior in office
25 contained in Article VI. No justice, judge or justice of the
26 peace against whom impeachment proceedings are pending in the
27 Senate shall exercise any of the duties of the office until he
28 or she has been acquitted.

29 § 21. Review of Court of Judicial Discipline.

30 (a) A justice, judge or justice of the peace, other than a

1 justice of the Supreme Court, in a manner consistent with the
2 rules of the Supreme Court, may appeal to the Supreme Court a
3 final adverse order of the Court of Judicial Discipline.

4 (b) A justice of the Supreme Court, in a manner consistent
5 with the rules of the Supreme Court, may appeal a final adverse
6 order of the Court of Judicial Discipline to a special review
7 panel consisting of seven judges to be chosen by lot from the
8 judges of the Superior Court and the Commonwealth Court, other
9 than senior judges, and who do not themselves sit on the Court
10 of Judicial Discipline. The appeal shall in all other respects
11 conform with the requirements of this section.

12 (c) No justice, judge or justice of the peace shall
13 participate as a member of the Judicial Conduct Board, the Court
14 of Judicial Discipline, a special review panel or the Supreme
15 Court in any proceeding involving his or her suspension,
16 removal, discipline or compulsory retirement.

17 (d) On appeal, the reviewing court or special tribunal shall
18 review the record of the Court of Judicial Discipline
19 proceedings as follows: As to matters of law, the scope of
20 review shall be plenary. As to matters of fact, the scope of
21 review shall be whether the findings below were clearly
22 erroneous. As to the propriety of the sanctions imposed, the
23 scope of review shall be whether the sanctions imposed were
24 lawful. The Supreme Court or special tribunal may revise or
25 reject the order of the Court of Judicial Discipline upon a
26 determination the order did not sustain this standard of review;
27 otherwise the Supreme Court shall affirm the order of the Court
28 of Judicial Discipline.

29 (e) An order of the Court of Judicial Discipline dismissing
30 a complaint against a judge or justice of the peace may be

1 appealed by the Judicial Conduct Board to the Supreme Court but
2 the appeal shall be limited to questions of law. An order of the
3 Court of Judicial Discipline dismissing a complaint against a
4 justice of the Supreme Court may be appealed by the Judicial
5 Conduct Board to a special tribunal composed of seven judges,
6 not senior judges, chosen by lot from the judges of the Superior
7 Court and Commonwealth Court, but the appeal shall be limited to
8 questions of law.

9 Section 2. (a) The members of the Judicial Inquiry and
10 Review Board appointed heretofore shall vacate their office 90
11 days after the issuance of the proclamation certifying voter
12 approval of the amendments to section 18 of Article V contained
13 herein and all proceedings pending before the board and all
14 records shall be transferred to the Judicial Conduct Board.

15 (b) Of the members initially appointed to the Judicial
16 Conduct Board, the appellate court judge and the common pleas
17 court judge first appointed shall serve four-year terms. The
18 second common pleas court judge and the justice of the peace
19 first appointed shall serve three-year terms. The non-judge
20 member of the bar of the Supreme Court first appointed by the
21 Governor shall serve a four-year term, and the second non-judge
22 member shall serve a two-year term. Of the non-lawyer electors
23 appointed by the Governor, the first two appointed shall serve
24 four-year terms; the next one appointed shall serve a three-year
25 term; and the final two appointed shall serve two-year terms.

26 (c) Of the members initially appointed to the Court of
27 Judicial Discipline, the common pleas court judges and the
28 appellate court judge shall serve four-year terms. The non-
29 lawyer elector first appointed and the district justice member
30 shall serve three-year terms. The non-judge member of the bar of

1 the Supreme Court and the second non-lawyer elector shall serve
2 two-year terms.

3 Section 3. Upon passage by the General Assembly of this
4 proposed constitutional amendment, the Secretary of the
5 Commonwealth shall proceed immediately to comply with the
6 advertising requirements of section 1 of Article XI of the
7 Constitution of Pennsylvania and shall transmit the required
8 advertisements to two newspapers in every county in which such
9 newspapers shall be published in sufficient time after passage
10 of this proposed constitutional amendment. Upon the second
11 passage of this proposed constitutional amendment by the General
12 Assembly, the Secretary of the Commonwealth shall proceed
13 immediately to comply with the advertising requirements of
14 section 1 of Article XI of the Constitution of Pennsylvania and
15 shall transmit the required advertisements to two newspapers in
16 every county in which such newspapers shall be published in
17 sufficient time after passage of this proposed constitutional
18 amendment. The Secretary of the Commonwealth shall submit this
19 proposed constitutional amendment to the qualified electors of
20 this Commonwealth at the first primary, general or municipal
21 election after the proposed constitutional amendment is passed
22 by the General Assembly which meets the requirements of and is
23 in conformance with section 1 of Article XI of the Constitution
24 of Pennsylvania.