

JUDICIAL CODE (42 PA.C.S.) - AMEND
Act of Jul. 2, 1993, P.L. 395, No. 56
Session of 1993

Cl. 42

No. 1993-56

AN ACT

HB 699

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, implementing the constitutional amendment on judicial discipline; and further providing for Commonwealth portion of fines, etc.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 725(2) of Title 42 of the Pennsylvania Consolidated Statutes is amended to read:

§ 725. Direct appeals from constitutional and judicial agencies.

The Supreme Court shall have exclusive jurisdiction of appeals from final orders of the following constitutional and judicial agencies:

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(2) [Judicial Inquiry and Review Board.] **Court of Judicial Discipline, except matters within the exclusive jurisdiction of a special tribunal as established under section 18(c) (1) of Article V of the Constitution of Pennsylvania.**

* * *

Section 2. Title 42 is amended by adding a section to read:

§ 727. **Special tribunal.**

(a) **General rule.**--A justice seeking review of a decision of the Court of Judicial Discipline pursuant to section 18 of Article V of the Constitution of Pennsylvania shall so notify the Court of Judicial Discipline.

(b) **Establishment.**--Upon receipt of notice under subsection (a), the Court of Judicial Discipline shall notify the Secretary of the Commonwealth who shall set a date within 20 days for the selection of the special tribunal as set forth in section 18 of Article V of the Constitution of Pennsylvania. At the time and place fixed, the Secretary of the Commonwealth, in a manner consistent with any applicable general rules, shall publicly select by lot seven names from the members of the Superior Court and the Commonwealth Court in regular active duty, except judges then serving on the Court of Judicial Discipline or the Judicial Conduct Board.

(c) **Vacancies.**--A vacancy on the special tribunal shall be filled for the unexpired term in the manner provided under subsection (b).

(d) **Powers and duties.**--The special tribunal shall review

the decision of the Court of Judicial Discipline as provided in section 18 of Article V of the Constitution of Pennsylvania. There shall be no right of appeal or other form of review from the special tribunal.

Section 3. Subpart A of Part II of Title 42 is amended by adding an article to read:

ARTICLE F
COURT OF JUDICIAL DISCIPLINE

Chapter

16. Court of Judicial Discipline of Pennsylvania

CHAPTER 16

COURT OF JUDICIAL DISCIPLINE OF PENNSYLVANIA

Sec.

1601. Court of Judicial Discipline.

1602. Composition of court.

1603. Organization and operation.

1604. Powers of Court of Judicial Discipline.

1605. Seat of court.

1606. Official immunity.

§ 1601. Court of Judicial Discipline.

In accordance with section 18 of Article V of the Constitution of Pennsylvania, the Court of Judicial Discipline shall consist of eight persons selected as provided in this chapter.

§ 1602. Composition of court.

(a) General rule.--The Court of Judicial Discipline shall consist of:

(1) Two judges of the Superior Court, the Commonwealth Court or the courts of common pleas in regular active service appointed by the Supreme Court.

(2) A district justice appointed by the Supreme Court.

(3) A nonlawyer elector appointed by the Supreme Court.

(4) A judge of the Superior Court, the Commonwealth Court or the courts of common pleas in regular active service appointed by the Governor.

(5) Two nonjudge members of the bar of this Commonwealth appointed by the Governor.

(6) One nonlawyer elector appointed by the Governor.

(b) Qualifications.--All members of the court must be residents of this Commonwealth. No more than two of the four members appointed by the Supreme Court may be registered in the same political party. No more than two of the four members appointed by the Governor may be registered in the same political party. Membership of a judge or district justice shall terminate if the member ceases to hold the judicial position that qualified the member for the appointment. Membership shall terminate if a member attains a position that would have rendered the member ineligible for appointment at the time of the appointment. No member may serve more than four consecutive years but may be reappointed after a lapse of one year.

(c) Terms of office.--The members of the court shall serve for terms of four years, except that the member, rather than the successor of the member, shall continue to participate in any hearing in progress at the end of the term of the member.

(d) Vacancies.--A vacancy shall be filled by the respective

appointing authority for the remainder of the term to which the member was appointed in the same manner in which the original appointment occurred.

(e) Restrictions on activities of members.--No member, during the member's term of service, may hold office in a political party or political organization. Except for a judicial member, no member of the court, during the term of service of the member, may hold a compensated public office or public appointment. The court shall prescribe general rules governing the conduct of members. A member may be removed by the court for a violation of the rules of conduct prescribed by the court.

(f) Expenses.--All members shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.

§ 1603. Organization and operation.

The Court of Judicial Discipline shall appoint staff and prepare and administer its own budget as provided by law and undertake actions needed to ensure its efficient operation. All actions of the court, including disciplinary action, shall require approval by a majority vote of the members of the court. The budget request of the court shall be made as a separate item in the request by the Supreme Court on behalf of the Judicial Branch to the General Assembly.

§ 1604. Powers of Court of Judicial Discipline.

The Court of Judicial Discipline shall be a court of record with all the attendant duties and powers appropriate to its function as provided by section 18 of Article V of the Constitution of Pennsylvania. The court shall comply with the procedures set forth in section 18 of Article V.

§ 1605. Seat of court.

The regular sessions of the Court of Judicial Discipline shall be held at the seat of government and elsewhere as provided by rule of court.

§ 1606. Official immunity.

Members of the Court of Judicial Discipline and the staff of the court shall be absolutely immune from suit for all conduct in the course of their official duties, and no civil action or disciplinary complaint predicated on testimony before the court may be maintained against any witness or counsel.

Section 4. Section 1722(a) (3) of Title 42 is amended to read:

§ 1722. Adoption of administrative and procedural rules.

(a) General rule.--The governing authority shall have the power to prescribe and modify general rules governing:

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(3) Procedure under section 18 of Article V of the Constitution of Pennsylvania [and Subchapter C of Chapter 33 (relating to discipline and removal by Judicial Inquiry and Review Board)].

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Section 5. Subchapter A of Chapter 21 of Title 42 is repealed.

Section 6. Chapter 21 of Title 42 is amended by adding a subchapter to read:

SUBCHAPTER A
JUDICIAL CONDUCT BOARD

Sec.

2101. Judicial Conduct Board.

2102. Composition of board.

2103. Organization.

2104. Staff and operations.

2105. Powers and duties.

2106. Official immunity.

§ 2101. Judicial Conduct Board.

(a) General rule.--In accordance with section 18 of Article V of the Constitution of Pennsylvania, the Judicial Conduct Board shall be an independent board within the Judicial Branch and shall consist of 12 persons selected as provided in this subchapter.

(b) Seal.--The Judicial Conduct Board shall have a seal engraved with its name and such other inscription as may be specified by board rule. A facsimile or preprinted seal may be used for all purposes in lieu of the original seal.

§ 2102. Composition of board.

(a) General rule.--The Judicial Conduct Board shall consist of:

(1) A judge of the Superior Court or the Commonwealth Court in regular active service appointed by the Supreme Court.

(2) A district justice, who need not be a member of the bar of this Commonwealth, appointed by the Supreme Court.

(3) A nonjudge member of the bar of this Commonwealth appointed by the Supreme Court.

(4) Three nonlawyer electors appointed by the Supreme Court.

(5) A judge of the courts of common pleas in regular active service appointed by the Governor.

(6) Two nonjudge members of the bar of this Commonwealth appointed by the Governor.

(7) Three nonlawyer electors appointed by the Governor.

(b) Qualifications.--All members of the board must be residents of this Commonwealth. No more than three of the six members appointed by the Supreme Court may be registered in the same political party. No more than three of the six members appointed by the Governor may be registered in the same political party. Membership of a judge or district justice shall terminate if the member ceases to hold the judicial position that qualified the member for the appointment. Membership shall terminate if a member attains a position that would have rendered the member ineligible for appointment at the time of the appointment. No member may serve more than four consecutive years but may be reappointed after a lapse of one year.

(c) Terms of office.--The members of the board shall serve for terms of four years.

(d) Vacancies.--A vacancy shall be filled by the respective appointing authority for the remainder of the term to which the member was appointed.

(e) Restrictions on activities of members.--No member of the board, during the member's term, may hold office in a political party or political organization. Except for a judicial member, no member of the board, during the member's term, may hold a

compensated public office or public appointment. The board shall prescribe general rules governing the conduct of members. A member may be removed by the board for a violation of the rules governing the conduct of members.

(f) Expenses.--All members shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.

§ 2103. Organization.

Annually, the Judicial Conduct Board shall elect a chairperson. The board shall act only with the concurrence of a majority of its members.

§ 2104. Staff and operations.

The Judicial Conduct Board shall appoint a chief counsel and other staff, prepare and administer its own budget as provided by law, exercise supervisory and administrative authority over all board staff and board functions, establish and promulgate its own rules of procedure, prepare and disseminate an annual report and take other actions as are necessary to ensure its efficient operation. The budget request of the board shall be made by the board as a separate item in the request submitted by the Supreme Court on behalf of the Judicial Board to the General Assembly.

§ 2105. Powers and duties.

The Judicial Conduct Board shall exercise the powers and perform the duties vested in and imposed upon the board by section 18 of Article V of the Constitution of Pennsylvania and Chapter 33 (relating to discipline, removal and retirement of judicial officers) and any other powers and duties vested in and imposed upon the board by law.

§ 2106. Official immunity.

Members of the Judicial Conduct Board and its chief counsel and staff shall be absolutely immune from suit for all conduct in the course of their official duties. No civil action or disciplinary complaint predicated upon the filing of a complaint or other documents with the board or testimony before the board may be maintained against any complainant, witness or counsel.

Section 7. Section 3305 of Title 42 is amended to read:

§ 3305. Automatic removal upon conviction or disbarment.

A judge or district justice convicted of misbehavior in office by a court, disbarred as a member of the bar of this Commonwealth or removed under Subchapter C (relating to discipline and removal [by Judicial Inquiry and Review Board] **judges**) shall forfeit automatically his judicial office and thereafter be ineligible for judicial office. of

Section 8. The heading of Subchapter C of Chapter 33 of Title 42 is amended to read:

SUBCHAPTER C
DISCIPLINE AND REMOVAL [BY JUDICIAL
INQUIRY AND REVIEW BOARD] **OF JUDGES**

Section 9. Sections 3331(a), 3332, 3333, 3334, 3352(a), 3571(e) and 4581(a) of Title 42 are amended to read:

§ 3331. Power of discipline or removal.

(a) Judges.--[Under the procedure provided in this subchapter, any] **Any** judge may be suspended, removed from office or otherwise disciplined for violation of Subchapter A (relating to standards of conduct), misconduct in office, neglect of duty,

failure to perform his duties, or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute and may be retired for disability seriously interfering with the performance of his duties.

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§ 3332. Investigation and hearing.

[(a) Investigation.--The Judicial Inquiry and Review Board shall keep informed as to matters relating to grounds for suspension, removal, discipline, or compulsory retirement of judges. It shall receive complaints or reports, formal or informal, from any source pertaining to such matters, and shall make such preliminary investigations as it deems necessary.

(b) Hearing.--The board, after such investigation, may order a hearing concerning the suspension, removal, discipline or compulsory retirement of a judge. The orders of the board for attendance of or testimony by witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings.

(c) Privilege.--The filing of papers with and the giving of testimony before the board shall be privileged.]

Investigation and hearing shall be governed by section 18 of Article V of the Constitution of Pennsylvania.

[§ 3333. Recommendation to and action by Supreme Court.

(a) Recommendation by board.--If, after hearing, the Judicial Inquiry and Review Board finds good cause therefor, it shall recommend to the Supreme Court the suspension, removal, discipline or compulsory retirement of the judge.

(b) Action by Supreme Court.--The Supreme Court shall review the record of the proceedings of the board on the law and facts and may permit the introduction of additional evidence. It shall order suspension, removal, discipline or compulsory retirement, or wholly reject the recommendation, as it finds just and proper. Upon an order for compulsory retirement, the judge shall be retired with the same rights and privileges as if he were retired under Subchapter D (relating to retirement).

(c) Effect of order.--Upon an order for suspension or removal, the judge shall be suspended or removed from office, and his salary shall cease from the date of such order.]

§ 3334. Proceedings confidential.

[All papers filed with and proceedings before the Judicial Inquiry and Review Board shall be confidential but upon being filed by the board in the Supreme Court, the record shall lose its confidential character.] **Confidentiality shall be governed by section 18 of Article V of the Constitution of Pennsylvania.**

§ 3352. Pension rights.

(a) General rule.--Former and retired judges and district justices shall receive such compensation as shall be provided by or pursuant to statute. No **salary, retirement benefit or other** compensation shall be paid to any judge or district justice who is suspended or removed from office under [Subchapter C (relating to discipline and removal by Judicial Inquiry and Review Board)] **section 18 of Article V** or under Article VI of the Constitution of Pennsylvania.

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§ 3571. Commonwealth portion of fines, etc.

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(e) Other offenses.--Fines forfeited, recognizances and other forfeitures imposed, lost or forfeited under the following provisions of law shall be payable to the Commonwealth:

18 Pa.C.S. § 7361 (relating to worldly employment or business).

Act of December 1, 1965 (P.L.988, No.368), known as the Weights and Measures Act of 1965, when the proceeding is instituted by an agent or employee of the Department of Agriculture.

Act of November 26, 1978 (P.L.1375, No.325), known as the ["]Dam Safety and Encroachments Act.["]

§ 4581. Interfering with selection of jurors.

(a) Commission members and employees.--Any member of the jury selection commission or any employee, clerk, investigator or assistant in the employ of the commission, who shall violate any of the provisions of this chapter for the purpose of unlawfully procuring the selection or nonselection of any person for jury service commits a misdemeanor of the second degree and upon conviction thereof shall be forthwith removed from his office or employment and in addition thereto shall be ineligible to hold any public office or employment under the laws of this Commonwealth. In the case of the judicial member of the commission, such member shall be disqualified to hold his position on the commission and the matter shall be referred to the Judicial [Inquiry and Review] **Conduct** Board.

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Section 10. (a) The members of the Judicial Inquiry and Review Board shall vacate their offices on the effective date of this act, and all proceedings pending before the Judicial Inquiry and Review Board and all records shall be transferred to the Judicial Conduct Board for further proceedings.

(b) There are hereby transferred to the Judicial Conduct Board to be used, employed and expended in connection with the functions, powers and duties of the board, the personnel, contract obligations, if any, files, property and equipment of the Judicial Inquiry and Review Board and two-thirds of the unexpended balances of appropriations, allocations or other funds available or to be made available to the Judicial Inquiry and Review Board for the 1992-1993 and 1993-1994 fiscal years. There are hereby transferred to the Court of Judicial Discipline to be used, employed and expended in connection with the functions, powers and duties of the court, one-third of the unexpended balances of appropriations, allocations or other funds available or to be made available to the Judicial Inquiry and Review Board for the 1992-1993 and 1993-1994 fiscal years.

Section 11. Of the members initially appointed to the Judicial Conduct Board, the judge appointed by the Supreme Court shall serve a four-year term and the judge appointed by the Governor shall serve a three-year term. The district justice initially appointed shall serve a two-year term. Of the three nonjudge members of the bar of this Commonwealth initially appointed, the first appointed by the Governor shall serve a three-year term, the next appointed by the Governor shall serve a two-year term and the nonjudge member of the bar of this

Commonwealth appointed by the Supreme Court shall serve a one-year term. Of the six nonlawyer electors initially appointed, the first appointed by the Governor and the first appointed by the Supreme Court shall serve a four-year term, the next appointed by the Governor and the next appointed by the Supreme Court shall serve a three-year term and the next appointed by the Governor and the next appointed by the Supreme Court shall serve a two-year term. All such appointments shall compute from the effective date of this act. The Governor shall convene the board for its first meeting.

Section 12. Of the three judges initially appointed to the Court of Judicial Discipline, the first appointed by the Supreme Court shall serve a four-year term, the next appointed by the Supreme Court shall serve a three-year term and the judge appointed by the Governor shall serve a two-year term. The district justice initially appointed shall serve a one-year term. Of the nonjudge members of the bar of this Commonwealth initially appointed, the first appointed shall serve a four-year term and the next appointed shall serve a three-year term. Of the two nonlawyer electors initially appointed, the nonlawyer elector appointed by the Governor shall serve a three-year term and the nonlawyer elector appointed by the Supreme Court shall serve a two-year term. All such appointments shall compute from the effective date of this act.

Section 13. This act shall take effect as follows:

(1) The amendment of 42 Pa.C.S. § 3571(e) shall take effect in 60 days.

(2) The remainder of this act shall take effect August 16, 1993.

APPROVED--The 2nd day of July, A. D. 1993.

MARK L. SINGEL
ACTING GOVERNOR