

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 412 Session of 2024

INTRODUCED BY BRADFORD, MAY 8, 2024

ORIGINATED IN COMMITTEE ON RULES MAY 8, 2024

A RESOLUTION

1 Amending the General Operating Rules of the House of
2 Representatives, providing for member incapacity inquiries.

3 RESOLVED, That General Operating Rules of the House of
4 Representatives be amended by adding a rule to read:

5 RULE 46 (a)

6 Committee on Rules Subcommittee

7 Incapacity Inquiries

8 The Committee on Rules Subcommittee shall consist of the
9 Speaker, Majority Leader, Majority Caucus Chair, Minority Leader
10 and Minority Caucus Chair. The Majority Leader shall serve as
11 the chair and the Minority Leader shall serve as the vice chair.

12 An incapacity inquiry may be initiated by the Floor Leader of
13 the party of the subject member by filing a confidential request
14 for an incapacity inquiry before the subcommittee. A
15 confidential request for an incapacity inquiry shall be filed
16 with the Floor Leader of the opposite party and shall include
17 the following information:

18 (1) The name of the House member for whom an incapacity

1 inquiry is sought.

2 (2) The reason for the request for an incapacity inquiry.

3 (3) Any additional information that the respective Floor
4 Leader believes would be helpful and appropriate to share
5 regarding the request.

6 Following the filing of a request for an incapacity inquiry,
7 the subcommittee shall conduct an incapacity inquiry to
8 determine whether a subject member suffers from a temporary or
9 permanent impairment, physical or mental, rendering the subject
10 member unable to discharge the duties of office, including
11 substance abuse or impairment of cognitive abilities that
12 renders the subject member unable to perform the duties or
13 functions of office.

14 The chair of the subcommittee, after consultation with the
15 vice chair, shall determine a date for an initial confidential
16 meeting of the subcommittee. The initial meeting shall be held
17 within 30 days following receipt of a request. The chair of the
18 subcommittee shall notify all members at least 24 hours in
19 advance of the date, time and place of all meetings regarding an
20 incapacity inquiry unless the chair and vice chair agree the
21 meeting should be held earlier under the circumstances. If the
22 subcommittee determines it will proceed with an incapacity
23 inquiry, the subcommittee shall promptly provide notice of the
24 inquiry to the subject member. The subject member may
25 participate in the inquiry and may be represented by counsel.

26 The subcommittee may take or direct whatever action it deems
27 necessary or proper to determine incapacity. The subject member
28 may furnish written consent to the release of information and
29 records relating to the incapacity if requested by the
30 subcommittee. The subcommittee may issue subpoenas for documents

1 or direct examination of witnesses as part of an incapacity
2 inquiry by a majority vote of the subcommittee. Notwithstanding
3 a provision of any other rule of the House, subpoenas issued
4 under this rule shall be in the name of the subcommittee, shall
5 be signed by the chair of the subcommittee and shall be attested
6 by another member of the subcommittee who voted in favor of
7 authorizing the subpoena. A subpoena issued by the subcommittee
8 may be served upon any person and shall have the force and
9 effect of a subpoena issued out of the courts of this
10 Commonwealth. Subpoenas shall be served by any person designated
11 by the subcommittee when directed to do so by the subcommittee.
12 Each subpoena shall be addressed to the witness and shall state
13 that such proceeding is before the Committee on Rules
14 Subcommittee for which the witness is required to attend at a
15 specified time and place, or to produce books, papers, records,
16 accounts, reports, documents and data and information produced
17 and stored by any electronic data processing system, or both, as
18 the subcommittee may also require. Mileage and witness fees
19 shall be paid by the House to such witness in an amount
20 prescribed by law. Unless addressed to and served on the subject
21 member of an incapacity inquiry, a copy of a subpoena issued by
22 the subcommittee shall be provided to the subject member and the
23 subject member's counsel, if applicable. A recipient of a
24 subpoena issued by the subcommittee may object to the subpoena
25 by serving notice of such objection on the signatory to the
26 subpoena and the subcommittee. The subcommittee may modify the
27 subpoena if it finds the subpoena to be overly broad or without
28 proper purpose. The chair and vice chair of the subcommittee
29 shall have the power to administer oaths and affirmations to
30 witnesses appearing before the subcommittee. The subcommittee

1 may seek enforcement of the subpoena in a court of competent
2 jurisdiction. A person who willfully neglects or refuses to
3 comply with a subpoena issued by the subcommittee shall be
4 subject to the penalties provided by the laws of this
5 Commonwealth with respect to such willful neglect or refusal.

6 All subpoenaed books, papers, records, accounts, reports,
7 documents, data and information shall be returned to the person
8 from whom such material was subpoenaed when the subcommittee has
9 completed its examination of such material, but in no event
10 later than the date of final disposition of the matter. All
11 meetings and materials related to the inquiry and the existence
12 of such inquiry shall not be open to the public and shall be
13 confidential. The subcommittee shall only have jurisdiction over
14 incapacity inquiries and shall not accept for review or action
15 any other matters.

16 If the subject member enters a treatment program during the
17 incapacity inquiry, the subcommittee may defer the incapacity
18 inquiry for a reasonable period of time to permit the completion
19 of the program, provided the subject member:

20 (1) actively participates in the treatment program;

21 (2) consents in writing to the release of information and
22 records relating to the subject member's participation in the
23 program; and

24 (3) if determined necessary by the subcommittee, agrees to a
25 voluntary suspension of some or all of the subject member's
26 duties or functions of office.

27 If the subject member completes the treatment program, the
28 subcommittee may:

29 (1) dismiss the incapacity inquiry; or

30 (2) continue the incapacity inquiry pending a reevaluation

1 after a period of time specified by the subcommittee.

2 If a majority of the members of the subcommittee determines
3 that the subject member is incapacitated and unable to perform
4 the duties or functions of office, the subcommittee may make one
5 or more of the following recommendations to the House, as
6 appropriate based on the circumstances, the nature of the
7 incapacity and the probable length of the period of incapacity:

8 (1) The denial or limitation of any right, power or
9 privilege of the subject member granted by Rules of the House
10 and not contrary to the Constitution of Pennsylvania.

11 (2) Suspension of the subject member with or without pay.

12 (3) Expulsion of the subject member from the House.

13 Nothing in this rule shall impact the ability of the House,
14 Speaker or Caucus leaders from placing limitations on the
15 subject member that are within their authority.

16 The subcommittee shall provide a written report of its
17 findings and recommendations, if any, to the subject member and
18 shall simultaneously submit a copy of the same to the House.
19 Only findings and recommendations agreed to by a majority of the
20 subcommittee shall be included in the report.

21 A subject member who has been determined to be incapacitated
22 by the House and subject to either:

23 (1) the denial or limitation of any right, power or
24 privilege granted by the Rules of the House; or

25 (2) suspension with or without pay
26 may petition the subcommittee for reconsideration based on the
27 subject member's completion of a treatment program related to
28 incapacity.

29 A member of the subcommittee who is the subject member of the
30 inquiry may not participate in the inquiry as a member of the

1 subcommittee and, for purposes of the subcommittee's inquiry
2 into the subject member, shall be replaced on the subcommittee
3 with another member of leadership from the same party as the
4 member removed who shall be selected by the Floor Leader of the
5 party of the member.

6 Members of the Committee on Rules Subcommittee shall receive
7 training on the ethical responsibilities regarding the
8 initiation and handling of an incapacity inquiry.