

House Resolution 74

By: Representative Franklin of the 43rd

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Georgia so as to remove the
2 power of the Judicial Qualifications Commission to remove and discipline judges; to provide
3 that actions by the commission shall be advisory only; to provide that the power to remove
4 and discipline judges is vested exclusively in the elected General Assembly; to provide for
5 submission of this amendment for ratification or rejection; and for other purposes.

6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

8 Article VI, Section VII of the Constitution is amended by revising Paragraphs VI, VII, and
9 VIII as follows:

10 "Paragraph VI. *Judicial Qualifications Commission; power; composition.* The power
11 to discipline, remove, and cause involuntary retirement of judges shall be vested in the
12 General Assembly acting through its impeachment power. The Judicial Qualifications
13 Commission may recommend such actions to the General Assembly. ~~¶ The commission~~
14 shall consist of seven members, as follows:

15 (1) Two judges of any court of record, selected by the Supreme Court;

16 (2) Three members of the State Bar of Georgia who shall have been active status
17 members of the state bar for at least ten years and who shall be elected by the board of
18 governors of the state bar; and

19 (3) Two citizens, neither of whom shall be a member of the state bar, who shall be
20 appointed by the Governor.

21 Paragraph VII. *Discipline, removal, and involuntary retirement of judges.* (a) Any
22 judge may be removed, suspended, or otherwise disciplined by the General Assembly
23 through its power of impeachment for willful misconduct in office, or for willful and
24 persistent failure to perform the duties of office, or for habitual intemperance, or for
25 conviction of a crime involving moral turpitude, or for conduct prejudicial to the
26 administration of justice which brings the judicial office into disrepute. ~~Any~~ The General
27 Assembly may likewise under the same procedures retire any judge ~~may be retired~~ for

28 disability which constitutes a serious and likely permanent interference with the
29 performance of the duties of office. The Supreme Court shall adopt rules of
30 implementation for the Judicial Qualifications Commission to recommend such actions to
31 the General Assembly.

32 (b)(1) Upon indictment for a felony by a grand jury of this state or by a grand jury of the
33 United States of any judge, the Attorney General or district attorney shall transmit a
34 certified copy of the indictment to the Judicial Qualifications Commission. The
35 commission shall, subject to subparagraph (b)(2) of this Paragraph, review the
36 indictment, and, if it determines that the indictment relates to and adversely affects the
37 administration of the office of the indicted judge and that the rights and interests of the
38 public are adversely affected thereby, the commission shall recommend that the General
39 Assembly suspend the judge immediately and without further action pending the final
40 disposition of the case or until the expiration of the judge's term of office, whichever
41 occurs first. During the term of office to which such judge was elected and in which the
42 indictment occurred, if a nolle prosequi is entered, if the public official is acquitted, or
43 if after conviction the conviction is later overturned as a result of any direct appeal or
44 application for a writ of certiorari, the judge shall be immediately reinstated to the office
45 from which he or she was suspended. While a judge is suspended under this
46 subparagraph and until initial conviction by the trial court, the judge shall continue to
47 receive the compensation from his or her office. After initial conviction by the trial court,
48 the judge shall not be entitled to receive the compensation from his or her office. If the
49 judge is reinstated to office, he or she shall be entitled to receive any compensation
50 withheld under the provisions of this subparagraph. For the duration of any suspension
51 under this subparagraph, the Governor shall appoint a replacement judge. Upon a final
52 conviction with no appeal or review pending, the office shall be declared vacant and a
53 successor to that office shall be chosen as provided in this Constitution or the laws
54 enacted in pursuance thereof.

55 (2) The commission shall not review the indictment for a period of 14 days from the
56 day the indictment is received. This period of time may be extended by the commission.
57 During this period of time, the indicted judge may, in writing, authorize the commission
58 to suspend him or her from office. Any such voluntary suspension shall be subject to the
59 same conditions for review, reinstatement, or declaration of vacancy as are provided in
60 this subparagraph for a nonvoluntary suspension.

61 ~~(3) After any suspension is imposed under this subparagraph, the suspended judge may~~
62 ~~petition the commission for a review. If the commission determines that the judge should~~
63 ~~no longer be suspended, he shall immediately be reinstated to office.~~

99 " YES Shall the Constitution of Georgia be amended so as to provide that the
100 power to remove and discipline judges is vested exclusively in the elected
101 NO members of the General Assembly?"

102 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
103 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
104 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
105 become a part of the Constitution of this state.