## 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.
б	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. It 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

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

(b)(1) Upon indictment for a felony by a grand jury of this state or by a grand jury of the 32 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 commission shall, subject to subparagraph (b)(2) of this Paragraph, review the 35 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 public are adversely affected thereby, the commission shall recommend that the General 38 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 if after conviction the conviction is later overturned as a result of any direct appeal or 43 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.

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

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(4) (3) The findings and records of the commission and the fact that the public official has or has not been suspended shall not be admissible in evidence in any court for any purpose. The findings and records of the commission shall not be open to the public.

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(5) The provisions of this subparagraph shall not apply to any indictment handed down prior to January 1, 1985.

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(6)(5) If a judge who is suspended from office under the provisions of this 70 subparagraph is not first tried at the next regular or special term following the indictment, 71 the suspension shall be terminated and the judge shall be reinstated to office. The judge 72 shall not be reinstated under this provision if he or she is not so tried based on a continuance granted upon a motion made only by the defendant. 73

- 74 (c) Upon initial conviction of any judge for any felony in a trial court of this state or the 75 United States, regardless of whether the judge has been suspended previously under 76 subparagraph (b) of this Paragraph, such judge shall be immediately and without further 77 action suspended from office. While a judge is suspended from office under this 78 subparagraph, he or she shall not be entitled to receive the compensation from his or her 79 office. If the conviction is later overturned as a result of any direct appeal or application 80 for a writ of certiorari, the judge shall be immediately reinstated to the office from which 81 he or she was suspended and shall be entitled to receive any compensation withheld under 82 the provisions of this subparagraph. For the duration of any suspension under this 83 subparagraph, the Governor shall appoint a replacement judge. Upon a final conviction 84 with no appeal or review pending, the office shall be declared vacant and a successor to 85 that office shall be chosen as provided in this Constitution or the laws enacted in pursuance 86 thereof. The provisions of this subparagraph shall not apply to any conviction rendered 87 prior to January 1, 1987.
- 88 Paragraph VIII. Due process; review by Supreme Court inherent power of the General 89 Assembly. (a) No action recommendation by the commission shall be taken made against 90 a judge except after hearing and in accordance with due process of law. No removal or involuntary retirement shall occur except upon order of the Supreme Court after review. 91 92 (b) Nothing in Paragraphs VI and VII of this section shall limit the inherent power of the 93 General Assembly to exercise the power of impeachment without recommendation by the Judicial Qualifications Commission." 94
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## **SECTION 2.**

The above proposed amendment to the Constitution shall be published and submitted as 96 97 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the 98 above proposed amendment shall have written or printed thereon the following:

- 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
- 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.