

House Bill 691 (COMMITTEE SUBSTITUTE)

By: Representatives Tanner of the 9th, Willard of the 51st, Welch of the 110th, Caldwell of the 131st, and Golick of the 40th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated,
2 relating to municipal courts generally, so as to provide for the removal of appointed
3 municipal court judges under certain circumstances; to provide for procedure; to provide for
4 related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to
8 municipal courts generally, is amended by revising subsection (a) of Code Section 36-32-2,
9 relating to appointment of judges, as follows:

10 "(a) Notwithstanding any other provision of this chapter or any general or local Act, the
11 governing authority of each municipal corporation within this state having a municipal
12 court, as provided by the Act incorporating the municipal corporation or any amendments
13 thereto, is authorized to appoint a judge of such court. Any ~~person~~ individual appointed
14 as a judge under this Code section shall possess such qualifications as set forth in Code
15 Section 36-32-1.1 and shall receive such compensation as shall be fixed by the governing
16 authority of the municipal corporation ~~and shall serve at the pleasure of the governing~~
17 ~~authority.~~ Any individual appointed as a judge under this Code section shall serve for a
18 minimum term of one year and until a successor is appointed or if the judge is removed
19 from office as provided in Code Section 36-32-2.2. Such term shall be memorialized in
20 a written agreement between such individual and the governing authority of the municipal
21 corporation or in an ordinance or a charter."

22 **SECTION 2.**

23 Said article is further amended by adding a new Code section to read as follows:

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24 "36-32-2.2.

25 (a) As used in this Code section, the term 'judge' means an individual serving as an
 26 appointed municipal court judge.

27 (b)(1) A judge may be removed during his or her term of office by a two-thirds' vote of
 28 the entire membership of the governing authority of the municipal corporation for:

29 (A) Willful misconduct in office;

30 (B) Willful and persistent failure to perform duties;

31 (C) Habitual intemperance;

32 (D) Conduct prejudicial to the administration of justice which brings the judicial office
 33 into disrepute; or

34 (E) Disability seriously interfering with the performance of duties, which is, or is likely
 35 to become, of a permanent character.

36 (2) A municipality may define in its charter further conduct that may lead to a judge's
 37 removal.

38 (c) Removal proceedings pursuant to subsection (b) of this Code section may be initiated
 39 only by written petition setting forth the grounds for removal of a judge signed by one or
 40 more members of the governing authority of the municipal corporation. Upon submission
 41 of the petition to remove the judge to such governing authority, the governing authority
 42 may consider the petition and determine if the petition relates to and adversely affects the
 43 administration of the office of the judge and the rights and interests of the public. If it is
 44 determined at a public meeting by a majority vote of the governing authority of the
 45 municipal corporation that there is an adverse impact, the judge may be suspended
 46 immediately and without further action for up to 60 days pending the final determination
 47 pursuant to subsection (e) of this Code section. A judge suspended pursuant to this
 48 subsection shall continue to receive the compensation from his or her office until the final
 49 determination on the petition or expiration of the suspension.

50 (d) If by the expiration of the suspension period no formal resolution of the petition has
 51 been made, the judge shall be reinstated.

52 (e) Removal proceedings shall consist of an open and public hearing held by the governing
 53 authority of the municipal corporation, provided that the judge against whom such charges
 54 have been brought shall be furnished a copy of the charges at least ten days prior to the
 55 hearing. At the conclusion of the hearing, the governing authority of the municipal
 56 corporation shall determine whether or not to remove the judge from office. The governing
 57 authority of the municipal corporation may adopt rules governing the procedures at such
 58 hearings, provided that such hearings comport with due process. The right of certiorari
 59 from the decision to remove a judge from office shall exist, and such certiorari shall be

60 obtained under the sanction of a judge of the superior court of the circuit in which the
61 governing authority of the municipal corporation is situated.

62 (f) This Code section shall not affect the power and authority of the Judicial Qualifications
63 Commission to discipline, remove, or cause the involuntary retirement of judges.

64 (g) Any vacancy in a judgeship created by the removal of a judge pursuant to this Code
65 section may be temporarily filled by the governing authority of the municipal corporation
66 for a period not longer than 90 days by any individual qualified by law to serve as a
67 municipal court judge. If after the conclusion of the removal proceedings, including the
68 appeal period, there is a vacancy for such judgeship, the governing authority of the
69 municipal corporation may appoint a judge in the same manner as set forth in Code Section
70 36-32-2.

71 (h) The provisions of this Code section shall expressly supersede any conflicting local law
72 of this state."

73 **SECTION 3.**

74 All laws and parts of laws in conflict with this Act are repealed.