

Senate Bill 218

By: Senators Robertson of the 29th, Strickland of the 42nd, Gooch of the 51st, Walker III of the 20th, Bearden of the 30th and others

**AS PASSED**

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to  
2 provide that the Prosecuting Attorneys Qualifications Commission shall be assigned for  
3 administrative purposes only to the Administrative Office of the Courts and shall be funded  
4 by funds appropriated or otherwise available to the judicial branch of state government; to  
5 provide for appeals from the decisions of hearing panels of the Prosecuting Attorneys  
6 Qualifications Commission; to revise the date before which certain complaints of misconduct  
7 shall be barred; to provide for executive director designation; to provide generally for  
8 constitutionally or statutorily created organizations funded through the judicial branch of  
9 state government expressly authorized by law to conduct investigations to provide for special  
10 commission investigators; to provide for limited powers of arrest for such special  
11 commission investigators; to provide for subpoenas; to provide for construction; to provide  
12 for definitions; to provide for related matters; to repeal conflicting laws; and for other  
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

15  
16 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Article  
17 1 of Chapter 18, relating to general provisions relevant to prosecuting attorneys, by revising  
18 paragraph (4) of subsection (f), paragraph (1) of subsection (j), and subsections (k), (m), and  
19 (n), and by adding new subsections to Code Section 15-18-32, relating to the Prosecuting  
20 Attorneys Qualifications Commission, authority, membership, ex parte communications,  
21 governance, disciplinary actions, confidentiality, and privileged nature, to read as follows:

22       “(4)(A) Members of the commission shall serve without compensation but shall receive  
23 the same daily expense allowance as members of the General Assembly receive, as set  
24 forth in Code Section 28-1-8, for each day such member is in physical attendance at a  
25 panel meeting or hearing, plus either reimbursement for actual transportation costs  
26 while traveling by public transportation or the same mileage allowance for use of a  
27 personal motor vehicle in connection with such attendance as members of the General  
28 Assembly receive, subject to subparagraph (B) of this paragraph.

29 (B) Members of the commission who:

30       (i) Are not subject to the provisions of division (ii) of this subparagraph shall receive  
31 the daily expense allowance and travel reimbursement provided for in  
32 subparagraph (A) of this paragraph from funds appropriated or otherwise available  
33 to the judicial branch of state government; or

34 (ii) Pursuant to the terms and conditions of their official position, employment, or  
35 contract with the state, are eligible to receive a daily expense allowance and travel  
36 allowance for their service on the commission shall not receive daily expense  
37 allowance and travel reimbursement provided for in subparagraph (A) of this  
38 paragraph. Notwithstanding subparagraph (A) of this paragraph, no member shall  
39 receive such expense allowance or travel reimbursement if he or she is entitled to  
40 receive an expense allowance, travel reimbursement, or salary for performance of  
41 duties as a state employee.

42 (C) Expense allowances and travel reimbursements shall be paid from ~~moneys~~ funds  
43 appropriated or otherwise available to the ~~commission~~ judicial branch of state  
44 government."

45 "(j)(1) All information regarding a disciplinary or incapacity matter of a district attorney  
46 or solicitor-general shall be kept confidential by the investigative panel and commission  
47 staff before formal charges are filed; provided, however, that, if prior to filing formal  
48 charges ~~the judge~~ such district attorney or solicitor-general and investigative panel agree  
49 to a satisfactory disposition of a disciplinary matter other than by a private admonition  
50 or deferred discipline agreement, a report of such disposition shall be publicly filed in the  
51 Supreme Court."

52 "(k) Notwithstanding subsection (j) of this Code section, information regarding a  
53 disciplinary or incapacity matter of a district attorney or solicitor-general may be disclosed  
54 or the confidentiality of such information may be removed when:

55 (1) The privilege of confidentiality has been waived by the complainant or the individual  
56 who was the subject of the commission's investigation; ~~or~~

57 (2) The commission's rules provide for disclosure:

58 (A) In the interest of justice and to protect the public;

59 (B) If an emergency situation exists; or

60 (C) If a district attorney or solicitor-general is under consideration for another state or  
61 federal position;

62 (3) A complaint is dismissed at any stage; provided, however, that such disclosure shall  
63 be limited to disclosing the reason for such dismissal to the complainant; or

64 (4) A complaint is dismissed prior to an authorization of formal investigation; provided,  
65 however, that such disclosure shall be limited to disclosing the statutory basis for such  
66 complaint to the individual who was the subject of the complaint; and, provided, further,  
67 that such disclosure shall not include the complainant's identity or the specifics of the  
68 allegation."

69 ~~“(m) A respondent may appeal the decision of the hearing panel by submitting a petition~~  
70 ~~to the superior court of the county where such respondent served as a district attorney or~~  
71 ~~solicitor-general. The hearing panel's order in a disciplinary or incapacity matter may be~~  
72 ~~appealed to the superior court of the county where the respondent resides. Any decision~~  
73 ~~rendered by the superior court shall be subject to review by the Court of Appeals or~~  
74 ~~Supreme Court, as jurisdictionally appropriate.~~

75 (m.1) A respondent who is subjected to public reprimand, censure, limitation on the  
76 performance of prosecutorial duties, suspension, retirement, or removal shall be entitled  
77 to a copy of the proposed record to be filed with the Supreme Court and, if the respondent  
78 has objections to it, to have the record settled by the hearing panel's presiding officer. The  
79 hearing panel's order in a disciplinary or incapacity matter may be appealed to the Superior  
80 Court of Fulton County pursuant to Chapter 3 of Title 5.

81 ~~(n) The commission shall commence by July 1, 2023, and the rules and regulations~~  
82 ~~promulgated by such commission shall be established no later than October 1, 2023. No~~  
83 ~~complaint shall be filed before October 1, 2023. The commission shall not receive~~  
84 ~~complaint submissions regarding misconduct in office that occurred prior to May 5, 2023~~  
85 ~~April 1, 2024, unless such alleged misconduct is related to a continuous pattern of conduct~~  
86 ~~that continues beyond that date.”~~

87 ~~“(q) The commission shall be a budget unit as defined in Part 1 of Article 4 of Chapter 12~~  
88 ~~of Title 45, the 'Budget Act'; provided, however, that the commission shall be assigned for~~  
89 ~~administrative purposes only to the Administrative Office of the Courts.~~

90 ~~(r) The individual selected to serve as director of the commission may be designated with~~  
91 ~~the title of executive director by the commission.”~~

92 **SECTION 2.**

93 Said title is further amended by adding a new chapter to read as follows:

94

"CHAPTER 2695 15-26-1.96 As used in this chapter, the term:97 (1) 'Commission' means the Prosecuting Attorneys Qualifications Commission.

98 (2) 'Special commission investigator' means an individual employed by the commission  
99 to conduct investigations by the commission and who is currently certified by the Georgia  
100 Peace Officer Standards and Training Council as having met the qualifications and  
101 having completed the basic training requirements for a peace officer under Chapter 8 of  
102 Title 35.

103 15-26-2.

104 (a) The commission may employ investigators and special commission investigators to  
105 conduct investigations by the commission.

106 (b) A special commission investigator shall have the power of arrest in the performance  
107 of his or her duties for the commission for crimes that:

108 (1) Are committed within the special commission investigator's presence;

109 (2) Are committed within the building, parking area, or curtilage of a building where the  
110 commission's office is located; within any building, parking area, or curtilage of a  
111 building where an official meeting or hearing of the commission is being conducted; or  
112 while traveling to or from such area; and

113 (3) Involve the person, building, vehicle, or other personal property of any member or  
114 employee of the commission, or the person, vehicle, or other personal property of any  
115 individual attending a meeting or hearing of the commission or traveling to or from such  
116 area.

117 (c) Nothing in this Code section shall be construed to:

118 (1) Confer the power of arrest for crimes that may be under investigation by the  
119 commission but which are not provided for in subsection (b) of this Code section; or  
120 (2) Affect or limit the powers or authority of investigators employed by any district  
121 attorney's office, any solicitor-general's office, the Prosecuting Attorneys' Council of the  
122 State of Georgia, or any sheriff or sheriff's deputy.

123 15-26-3.

124 (a) A subpoena shall state that it is issued by the commission and the title of the  
125 proceeding and shall command each person to whom it is directed to attend and give  
126 testimony or produce evidence at a time and place specified by the subpoena.

127 (b) A clerk of court shall make subpoenas in blank available on demand by electronic or  
128 other means to parties, or their counsel, or to the commission.

129 (c) An attorney representing a party in a proceeding before the commission, including  
130 investigative proceedings and hearings, may issue and sign a subpoena obtained by  
131 electronic or other means from the clerk of court as an officer of a court for any deposition,  
132 hearing, or other matter to be conducted in conjunction with such proceeding.

133 (d) A duly appointed officer or director of the commission may compel by subpoena the  
134 attendance of individuals at a proceeding before the commission, including investigative  
135 proceedings and hearings, and the production of pertinent books, papers, and documents  
136 for any deposition, hearing, or other matter to be conducted in conjunction with such  
137 proceeding.

138 (e) A subpoena shall be completed prior to being served.

139 (f) Subpoenas are enforceable as provided in Code Section 24-13-26.

140 (g) Subpoena fees and costs shall be the same as those provided for in proceedings in  
141 superior court.

142 (h) An individual who misuses a subpoena shall be subject to punishment for contempt of  
143 court and a fine of not more than \$300.00 or not more than 20 days' imprisonment, or both,  
144 in the superior court in the county in which the attendance or production is required.  
145 (i) Any attack on the validity of a subpoena shall be heard and determined by the body  
146 before which the matter is then pending or by the court wherein enforcement of the  
147 subpoena is being sought. Any resulting order is not appealable prior to entry of a final  
148 order in the proceeding, except appeal of a court order pursuant to the interlocutory appeal  
149 procedures set forth in subsection (b) of Code Section 5-6-34."

150 **SECTION 3.**

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