

By Mr. Rotondi, a petition (accompanied by bill, Senate, No. 1925) of Samuel Rotondi, Allan G. Rodgers and Florence R. Rubin for legislation to revise the procedures for the Commission on Judicial Conduct. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-one.

AN ACT REVISING PROCEDURES FOR THE COMMISSION ON JUDICIAL CONDUCT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 211C of the General Laws, is hereby amended by
2 striking section 2 thereof and inserting in place thereof the
3 following: --

4 Section 2. Notwithstanding any other provision of law,
5 the commission shall inquire into, upon complaint by any
6 person, including from the commission as a whole or from
7 its own membership, the action of any judge which may
8 constitute conviction of a felony; wilful misconduct in office;
9 wilful misconduct which, although not related to judicial
10 duties, brings the judicial office into disrepute; conduct pre-
11 judicial to the administration of justice or conduct unbecom-
12 ing a judicial officer, whether conduct in office or outside of
13 judicial duties, that brings the judicial office into disrepute;
14 conduct which is a breach of the code of judicial conduct as
15 promulgated by the supreme judicial court; or a physical or
16 mental disability which materially impairs the effective dis-
17 charge of the judge's duties. Any complaint of whatever
18 nature shall be made to the commission or by the commission
19 in writing and the executive secretary of the commission
20 shall mail or deliver to the judge complained against a copy
21 of said complaint and copies of any other documents which
22 may relate to the complaint and shall inform said judge of
23 his rights under this chapter within twenty-one days from
24 the time said complaint has been received by the commission.

25 The failure to provide a copy as required under this section
26 shall constitute an automatic dismissal of the complaint and
27 the commission shall notify the judge complained against in
28 writing by mail or delivery with a statement concerning said
29 complaint and its dismissal by the commission as required
30 under this section. The commission may however dismiss
31 any such complaint within twenty-one days of its receipt
32 any shall notify said judge that such complaint has been
33 dismissed. Any attorney who assists any person in the
34 preparation of the written complaint shall advise the com-
35 mission of his involvement in the preparation of said com-
36 plaint and said notice shall contain a statement of his knowl-
37 edge of all of the contents of said complaints. Every com-
38 plaint except one initiated by the commission or from its
39 membership shall be signed by the complainant under the
40 pains and penalties of perjury. Every complainant shall be
41 required to state in the complaint whether or not the matter
42 complained about is the subject of appeal and whether an
43 appeal will be entered. In the event the answer to that ques-
44 tion by the complainant is in the affirmative, the commission
45 may delay considering the complaint until termination of
46 the appeal. A judge shall be notified by the commission that
47 the complaint will either be considered forthwith or delayed
48 until the termination of the appeal.

49 Except where the commission determines otherwise for
50 good cause, the commission shall not deal with complaints
51 arising out of acts or omissions occurring more than one
52 year prior to the date of the complaint, provided that, when
53 the past episode of an alleged pattern of recurring judicial
54 conduct arises within the one year period, the commission
55 may consider all prior acts or omissions related to such an
56 alleged pattern of conduct. The commission shall adopt rules
57 and shall submit said rules to the supreme judicial court for
58 its approval, and the provisions of chapter thirty A shall not
59 apply to said rules. Any amendment to said rules shall like-
60 wise be submitted to the supreme judicial court for approval,
61 and neither the rules originally adopted nor any amendment
62 thereto shall take effect until so approved.

63 Subject to the rules of said commission, the commission

64 shall have the power to subpoena witnesses and documents,
65 to order depositions be taken, to administer oaths and affir-
66 mations, to compel testimony and shall have such additional
67 powers as are necessary and proper to obtain information
68 and to conduct hearings. Commission proceedings shall be
69 confidential, and all employees shall be bound by such con-
70 fidentiality at all times, and the commission rules shall pro-
71 vide for the confidentiality of all of its proceedings, except
72 that the commission may, subject to the approval of the
73 supreme judicial court, make reasonable exceptions to such
74 confidentiality. Formal charges preparatory to a hearing
75 and all subsequent proceedings in any case shall be conducted
76 publically.

77 With respect to those complaints where the commission
78 finds sufficient cause exists and that a hearing is warranted,
79 the parties shall be heard and permitted to present evidence,
80 subpoena and cross-examine witnesses. Upon the completion
81 of any investigation, the commission shall recommend an
82 appropriate disposition of the matter under investigation,
83 with a statement of its reasons and shall forward its final
84 recommendation with a statement of its reasons to the com-
85 plainant and to the supreme judicial court in each case for
86 its consideration and further action, if any. The commission
87 may at any time informally adjust any matter.

