

The Commonwealth of Massachusetts

SENATE, May 20, 1975.

The committee on the Judiciary, to whom was referred the petition (accompanied by bill, Senate, No. 129) of John J. Conte and the Massachusetts Bar Association, by Charles J. Kickham, Jr., president, for legislation to establish a commission on judicial conduct; the petition (accompanied by bill, Senate, No. 913) of Robert E. McCarthy and members of the House of Representatives for legislation to establish a commission on judicial conduct; the petition (accompanied by Senate, No. 942) of Alan D. Sisitsky and Sean F. Cahillane for legislation to establish a commission on judicial conduct; the petition (accompanied by bill, House, No. 943) of Angelo M. Scaccia for legislation to establish a commission on judicial conduct; the petition (accompanied by bill, House, No. 1148) of William D. Delahunt for the establishment of a judicial review board for the purpose of investigating the complaints of judicial misconduct; the petition (accompanied by bill, House, No. 1516) of Thomas F. Brownell and Arthur H. Tobin relative to establishing a judicial grievance panel in each judicial district of the Commonwealth; the petition (accompanied by bill, House, No. 2811) of Thomas F. Brownell relative to establishing a commission on judicial conduct; the petition (accompanied by bill, House, No. 2812) of Eleanor M. Campobasso relative to establishing a judicial review board; and the petition (accompanied by bill, House, No. 2816) of James R. Lawton for legislation to establish a commission on judicial conduct reports the accompanying bill (Senate, No. 1916).

For the Committee,

JOHN J. CONTE

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT ESTABLISHING A 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 SECTION 1. There shall be a commission on judicial conduct
2 consisting of eleven members. Four shall be appointed by
3 justices of the supreme judicial court, none of whom shall be
4 justices of said court. Two shall be appointed by the president
5 of the senate, and two shall be appointed by the speaker of
6 the house, none of whom shall be members of the judicial
7 court. Two shall be appointed by the governor and one by the
8 board of delegates of the Massachusetts Bar Association. The
9 members of the commission shall serve without compensation,
10 but shall be reimbursed for all expenses reasonably incurred
11 by them in the performance of their duties. Commission
12 membership terminates if a member ceases to be qualified for
13 his appointment. A vacancy shall be filled by the appointing
14 power for the remainder of the term.

15 Members initially appointed hereunder by the justices of
16 the supreme judicial court shall serve respectively for one,
17 two, three and four years from the dates of their appoint-
18 ments. Members initially appointed hereunder by the president
19 of the senate shall serve respectively for two and four years
20 from the dates of their appointment. Members initially ap-
21 pointed hereunder by the speaker of the house shall serve
22 respectively for one and three years from the dates of their
23 appointments. Members initially appointed hereunder by the
24 governor shall serve respectively for one and four years from
25 their dates of appointment and the member initially appointed
26 hereunder by the board of delegates of the Massachusetts Bar
27 Association shall serve respectively three years from the date
28 of his appointment. Upon the expiration of the term of office
29 of a member, his successor shall be appointed in the manner
30 aforesaid for four years.

1 SECTION 2. Notwithstanding any other provisions of law,
2 the commission shall be the sole body to investigate, upon
3 complaint of any person other than from its own membership,
4 the action of any judge that may, by consequence of: willful
5 misconduct in office, willful or persistent failure to perform
6 his duties, habitual intemperance or other conduct prejudicial
7 to the administration of justices that brings the judicial office
8 into disrepute; constitute breach of the Canons of Judicial
9 Ethics as promulgated by the supreme judicial court. Upon
10 completion of any investigation, the commission shall recom-
11 mend an appropriate disposition of the matter under investi-
12 gation. If the commission recommendation requires action by
13 the supreme judicial court, the general court, or the governor,
14 the commission shall forthwith report its recommendations to
15 the appropriate body for consideration and further action, but
16 in any event, notwithstanding chapter 211 section 3 of the
17 General Laws, or any other provisions of law, the supreme
18 judicial court shall not initiate any action regarding the
19 disciplining of any judge until they have received a recom-
20 mendation from the commission.

21 Pursuant to an investigation under this chapter, unless and
22 until such a report is required, all commission proceedings
23 shall be confidential and such commission shall make rules
24 implementing this chapter and provide for the confidentiality
25 of its proceedings.

26 Subject to the rules of said commission, the commission
27 shall have the power to subpoena witnesses and documents, to
28 order depositions be taken, to administer oaths and affirma-
29 tions, to compel testimony and shall have such additional
30 powers as are necessary and proper to obtain information and
31 conduct hearings.

32 In those matters where the commission determines a hear-
33 ing is warranted, the complainant and the judge shall be
34 allowed to be heard and to present evidence.

1 SECTION 3. The commission shall appoint an executive secre-
2 tary who shall serve at the pleasure of the commission. The
3 executive secretary shall receive an annual salary of \$25,000
4 and such expenses as approved by the commission which are

5 incurred by him in the discharge of his duties. Such executive
6 secretary shall devote his entire time during ordinary business
7 hours to his duties and shall not directly or indirectly engage
8 in the practice of law.

9 The commission shall be provided with adequate offices and
10 may appoint such other assistants, investigators and clerical
11 assistance which are determined necessary to carry out the
12 provisions of this chapter. The commission shall be allowed for
13 such purposes annually such amount as shall be appropriated
14 by the General Court, to be paid by the commonwealth upon
15 the certification of the Chairman who shall be elected by the
16 members.

1 SECTION 4. The commission shall submit annually to the
2 general court and the supreme judicial court a report of its
3 activities together with recommendations. This report shall
4 be a matter of public record and shall be printed as a public
5 document.