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By Mr. McCarthy, a petition (accompanied by bill, Senate, No. 696) of Robert E. McCarthy, Robert S. Teahan, Gary D. Jones, Thomas H. D. Mahoney and Peter Y. Flynn for legislation to establish the commission on judicial conduct. the Judiciary.

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## The Commonwealth of Massachusetts

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

### AN ACT ESTABLISHING 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 SECTION 1. Chapter 211 of the General Laws is hereby  
2 amended by adding the following three sections: —

3 *Section 24.* There shall be a commission on judicial conduct,  
4 hereinafter in this section and in sections twenty-five and  
5 twenty-six called the commission, consisting of eleven persons,  
6 five of whom shall be appointed by the justices of the supreme  
7 judicial court, none of whom shall be judge or justice of any  
8 court in the commonwealth, and six persons to be appointed  
9 by the governor, three of whom shall not be members of any  
10 bar association and three of whom shall be members of the  
11 Massachusetts Bar Association. The term of each member  
12 shall be five years. Each member of the commission shall serve  
13 without compensation, but he shall be reimbursed for all ex-  
14 penses reasonably incurred by him in the performance of his  
15 duties. In the event that a member ceases to be qualified to  
16 hold appointment on the commission, his membership shall  
17 terminate. Vacancies shall be filled by the appointing author-  
18 ity for the remainder of the unexpired term.

19 *Section 25.* The commission shall be the sole body to in-  
20 vestigate initially, upon complaint of any person other than  
21 from its own membership, the action of any judge that may,  
22 by consequence of willful misconduct in office, willful or per-  
23 sistent failure to perform his duties, habitual intemperance or

24 other conduct prejudicial to the administration of justice that  
25 brings the judicial office into disrepute, constitute breach of  
26 the Canons of Judicial Ethics as promulgated by the supreme  
27 judicial court. Upon completion of any investigation, the com-  
28 mission shall recommend an appropriate disposition of the  
29 matter under investigation, and in any event, the commission  
30 shall forward its final recommendation to the supreme judicial  
31 court in each case for consideration and further action, if any.  
32 If the commission recommendation requires action by the  
33 supreme judicial court, the general court, or the governor, the  
34 commission shall forthwith report its recommendation to the  
35 appropriate body for consideration and further action, but in  
36 any event, the supreme judicial court, governor or the general  
37 court shall not be restricted in any action regarding the dis-  
38 cipline or removal of any judge, and the recommendation from  
39 the commission shall not be binding or conclusive in any way.

40 Pursuant to an investigation under this section, unless and  
41 until such a report is required, all commission proceedings  
42 shall be confidential and such commission shall make rules im-  
43 plementing this section and provide for the confidentiality of  
44 its proceedings.

45 Subject to the rules of the commission, the commission shall  
46 have the power to subpoena witnesses and documents, to order  
47 depositions be taken, to administer oaths and affirmations, to  
48 compel testimony and shall have such additional powers as are  
49 necessary and proper to obtain information and conduct hear-  
50 ings.

51 In those matters where the commission determines a hear-  
52 ing is warranted, the complainant and the judge shall be al-  
53 lowed to be heard and to present evidence.

54 *Section 26.* The commission shall appoint an executive sec-  
55 retary who shall serve at the pleasure of the commission. The  
56 executive secretary shall receive an annual salary of twenty-  
57 five thousand dollars and such expenses as approved by the  
58 commission which are incurred by him in the discharge of  
59 his duties. Said executive secretary shall devote his entire  
60 time during ordinary business hours to his duties and shall not  
61 directly or indirectly engage in the practice of law.

62 The commission shall be provided with adequate offices and

63 may appoint such other assistants, investigators and clerical  
64 assistance which are determined necessary to carry out the  
65 provisions of this chapter. The commission shall be allowed  
66 for such purposes annually such amount as shall be appro-  
67 priated by the general court, to be paid by the commonwealth  
68 upon the certification of the chairman who shall be elected  
69 by the members.

70 The commission shall submit annually to the general court  
71 and the supreme judicial court a report of its activities to-  
72 gether with recommendations. This report shall be a mat-  
73 ter of public record and shall be printed as a public document.

1 SECTION 2. Persons initially appointed by the justices of the  
2 supreme judicial court to the commission on judicial conduct  
3 established by section one of this act shall serve for one, two,  
4 three, four and five years, respectively, from the dates of their  
5 appointment. Persons initially appointed to said commission  
6 by the governor shall serve for one, two, three, four years and  
7 two for five years, respectively, from the date of their appoint-  
8 ments. Upon the expiration of the term of office of a member  
9 of said commission, his successor shall be appointed in like  
10 manner for a period of five years.

