

By Mr. Mofenson of Newton, petition of the League of Women Voters of Mass., David J. Mofenson, David J. Lane and Barbara E. Gray for a legislative amendment to the Constitution relative to creating a commission on judicial conduct. The Judiciary.

The Commonwealth of Massachusetts

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

PROPOSAL FOR A LEGISLATIVE AMENDMENT TO THE CONSTITUTION
TO CREATE A COMMISSION ON JUDICIAL CONDUCT.

1 A majority of all the members elected to the Senate and House
2 of Representatives, in joint session, hereby declares it to be
3 expedient to alter the Constitution by the adoption of the
4 following Article of Amendment, to the end that it may become
5 a part of the Constitution [if similarly agreed to in a joint session
6 of the next General Court and approved by the people at the
7 state election next following] :

8 ARTICLE OF AMENDMENT.

9 Article I of chapter III of Part the Second of the Constitution,
10 as amended by Article LVIII of the Amendments to the
11 Constitution, as further amended by Article XCVIII of the
12 Amendments of the Constitution, is hereby amended by inserting
13 before the first paragraph the following:

14 There shall be a commission on judicial conduct consisting of
15 three judges appointed by the supreme judicial court, three
16 members of the bar appointed by the governing board of the
17 state bar association, three persons who are not members of the
18 bar appointed by the governor. Commission members shall serve
19 for a term of three years, with the terms of one judge, one
20 lawyer, and one layperson expiring each year. No member shall
21 serve more than two terms.

22 The commission on judicial conduct shall receive complaints
23 from any source and may investigate and review the performance

24 of any judge or justice and shall have the power to compel
25 testimony, subpoena witnesses, and any additional powers
26 necessary to obtain information and conduct hearings. The
27 commission shall make rules implementing this article and
28 providing for confidentiality of proceedings.

29 A judge or justice may be disqualified without loss of salary
30 from performing the duties of his office while there is pending a
31 recommendation to the supreme judicial court by the commis-
32 sion on judicial conduct for his removal or retirement.

33 On recommendation of the commission on judicial conduct,
34 the supreme judicial court may (a) retire any judge or justice for
35 disability that seriously interferes with the performance of his
36 duties and is, or is likely to become, permanent, or (b) censure,
37 suspend, remove or take other appropriate action against any
38 judge or justice for behavior that constitutes willful misconduct
39 in office, willful and persistent failure to perform his duties, or
40 conduct on or off the bench prejudicial to the administration of
41 justice that brings that judicial office into disrepute.

42 A judge or justice retired by the supreme judicial court shall be
43 eligible for pensions or allowances payable to such judges or
44 justices upon their voluntary retirement. A judge removed by the
45 supreme judicial court is ineligible for subsequent judicial office
46 in this commonwealth.