

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL DRS15158-ND-35A

Short Title: Restore NC Bar Appoint's/Judicial Discipline. (Public)

Sponsors: Senator Everitt (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REINSTATE STATE BAR COUNCIL APPOINTMENTS TO THE JUDICIAL  
3 STANDARDS COMMISSION AND TO REINSTATE FORMER PROVISIONS  
4 REGARDING DISCIPLINARY PROCEDURES FOR JUSTICES AND JUDGES.

5 The General Assembly of North Carolina enacts:

6  
7 **REINSTATE STATE BAR COUNCIL APPOINTMENTS TO THE JUDICIAL**  
8 **STANDARDS COMMISSION**

9 SECTION 1.(a) G.S. 7A-375(a) reads as rewritten:

10 "(a) Composition. – The Judicial Standards Commission shall consist of the following  
11 residents of North Carolina:

12 ...

13 (4) ~~Four judges members of the State Bar who have actively practiced in the~~  
14 ~~courts of the State for at least 10 years, appointed by the General Assembly in~~  
15 ~~accordance with G.S. 120-121, selected as follows:~~State Bar Council.

- 16 a. ~~One district court judge recommended by the President Pro Tempore~~  
17 ~~of the Senate.~~  
18 b. ~~One district court judge recommended by the Speaker of the House of~~  
19 ~~Representatives.~~  
20 c. ~~One superior court judge recommended by the President Pro Tempore~~  
21 ~~of the Senate.~~  
22 d. ~~One superior court judge recommended by the Speaker of the House~~  
23 ~~of Representatives.~~

24 ...."

25 SECTION 1.(b) This section is effective when it becomes law and shall result in the  
26 immediate conclusion of the terms of each of the four members of the Judicial Standards  
27 Commission previously appointed by the General Assembly pursuant to G.S. 7A-375(a)(4).  
28 These four seats on the Judicial Standards Commission shall then be filled for new terms by the  
29 State Bar Council pursuant to G.S. 7A-375(a)(4), as amended by subsection (a) of this section.

30  
31 **REINSTATE FORMER PROVISIONS REGARDING DISCIPLINARY PROCEDURES**  
32 **FOR JUSTICES AND JUDGES**

33 SECTION 2.(a) G.S. 7A-374.2 reads as rewritten:

34 "§ 7A-374.2. Definitions.

35 Unless the context clearly requires otherwise, the definitions in this section shall apply  
36 throughout this Article:



\* D R S 1 5 1 5 8 - N D - 3 5 A \*

1           ...  
 2           (7) "Public reprimand" means a written action of the Commission issued upon a  
 3           finding by the Supreme Court, based upon a written recommendation by the  
 4           Commission that a judge has violated the Code of Judicial Conduct and has  
 5           engaged in conduct prejudicial to the administration of justice, but that  
 6           misconduct is ~~minor~~ minor and does not warrant a recommendation by the  
 7           Commission that the judge be disciplined by the Supreme Court. A public  
 8           reprimand may require that the judge follow a corrective course of action.

9           ...."

10          **SECTION 2.(b)** G.S. 7A-376 reads as rewritten:

11          "**§ 7A-376. Grounds for discipline by Commission; ~~public reprimand, censure, suspension,~~**  
 12          **or removal by the Supreme Court.**

13          (a) The Commission, upon a determination that any judge has engaged in conduct that  
 14          violates the North Carolina Code of Judicial Conduct as adopted by the Supreme Court but that  
 15          is not of such a nature as would warrant a recommendation of ~~public reprimand, censure,~~  
 16          suspension, or removal, may issue to the judge a private letter of ~~caution~~ caution or may issue to  
 17          the judge a public reprimand.

18          (b) Upon recommendation of the Commission, the Supreme Court may ~~issue a public~~  
 19          ~~reprimand, censure,~~ suspend, or remove any judge for willful misconduct in office, willful and  
 20          persistent failure to perform the judge's duties, habitual intemperance, conviction of a crime  
 21          involving moral turpitude, or conduct prejudicial to the administration of justice that brings the  
 22          judicial office into disrepute. A judge who is suspended for any of the foregoing reasons shall  
 23          receive no compensation during the period of that suspension. A judge who is removed for any  
 24          of the foregoing reasons shall receive no retirement compensation and is disqualified from  
 25          holding further judicial office.

26          ...."

27          **SECTION 2.(c)** G.S. 7A-377(a4) is reenacted as it existed immediately before its  
 28          repeal.

29          **SECTION 2.(d)** G.S. 7A-377, as amended by subsection (c) of this section, reads as  
 30          rewritten:

31          "**§ 7A-377. Procedures.**

32          (a) Any citizen of the State may file a written complaint with the Commission concerning  
 33          the qualifications or conduct of any justice or judge of the General Court of Justice, and thereupon  
 34          the Commission shall make such investigation as it deems necessary. The Commission may also  
 35          make an investigation on its own motion. The Commission shall not make an investigation,  
 36          whether initiated upon its own motion or by written complaint of a citizen of this State, when the  
 37          motion or complaint is based substantially on a legal ruling by a district or superior court judge  
 38          and the legal ruling has not yet been reviewed and ruled on by either the North Carolina Court of  
 39          Appeals or the North Carolina Supreme Court. The Commission is limited to reviewing judicial  
 40          conduct, not matters of law. The Commission may issue process to compel the attendance of  
 41          witnesses and the production of evidence, to administer oaths, and to punish for contempt. No  
 42          justice or judge shall be recommended for ~~public reprimand, censure, suspension, or removal~~  
 43          unless he has been given a hearing affording due process of law.

44          ...

45          (a4) If, after an investigation is completed, the Commission concludes that a public  
 46          reprimand is appropriate, the judge shall be served with a copy of the proposed reprimand and  
 47          shall be allowed 20 days within which to accept the reprimand or to reject it and demand, in  
 48          writing, that disciplinary proceedings be instituted in accordance with subsection (a5) of this  
 49          section. A public reprimand, when issued by the Commission and accepted by the respondent  
 50          judge, is not confidential.

1 (a5) If, after an investigation is completed, the Commission concludes that disciplinary  
2 proceedings should be instituted, the notice and statement of charges filed by the Commission,  
3 along with the answer and all other pleadings, ~~remain are not confidential~~. Disciplinary hearings  
4 ordered by the Commission are not confidential, and recommendations of the Commission to the  
5 Supreme Court, along with the record filed in support of such recommendations are not  
6 confidential. Testimony and other evidence presented to the Commission is privileged in any  
7 action for defamation. At least five members of the Commission must concur in any  
8 recommendation to ~~issue a public reprimand~~, censure, suspend, or remove any judge. A  
9 respondent who is recommended for ~~public reprimand~~, censure, suspension, or removal is  
10 entitled to a copy of the proposed record to be filed with the Supreme Court, and if the respondent  
11 has objections to it, to have the record settled by the Commission's chair. The respondent is also  
12 entitled to present a brief and to argue the respondent's case, in person and through counsel, to  
13 the Supreme Court. A majority of the members of the Supreme Court voting must concur in any  
14 order of ~~public reprimand~~, censure, suspension, or removal. The Supreme Court may approve the  
15 recommendation, remand for further proceedings, or reject the recommendation. A justice of the  
16 Supreme Court or a member of the Commission who is a judge is disqualified from acting in any  
17 case in which he is a respondent.

18 (a6) ~~Upon issuance of a public reprimand, censure, suspension, or removal by the Supreme~~  
19 ~~Court, the notice and statement of charges filed by the Commission along with the answer and~~  
20 ~~all other pleadings, and recommendations of the Commission to the Supreme Court along with~~  
21 ~~the record filed in support of such recommendations, are no longer confidential.~~

22 ...."

23 **SECTION 2.(e)** Article 30 of Chapter 7A of the General Statutes is amended by  
24 adding a new section to read:

25 "**§ 7A-378.1. Censure, suspension, or removal of justice of Supreme Court.**

26 (a) The recommendation of the Judicial Standards Commission for censure, suspension,  
27 or removal of any justice of the Supreme Court for any grounds provided by G.S. 7A-376 shall  
28 be made to, and the record filed with, the Court of Appeals, which shall have and shall proceed  
29 under the same authority for censure, suspension, or removal of any justice as is granted to the  
30 Supreme Court under G.S. 7A-376 and G.S. 7A-377(a) for censure, suspension, or removal of  
31 any judge.

32 (b) The proceeding shall be heard by a panel of the Court of Appeals consisting of the  
33 Chief Judge, who shall be the presiding judge of the panel, and six other judges, the senior in  
34 service, excluding the judge who is chair of the Commission. For good cause, a judge may be  
35 excused by a majority of the panel. If the Chief Judge is excused, the presiding judge shall be  
36 designated by a majority of the panel. The vacancy created by an excused judge shall be filled  
37 by the judge of the court who is next senior in service."

38 **SECTION 2.(f)** This section is effective when it becomes law and applies to  
39 disciplinary actions taken against justices or judges on or after that date, including disciplinary  
40 actions taken in proceedings which began prior to that date.

41 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes  
42 law.