

House Bill 808 (AS PASSED HOUSE AND SENATE)

By: Representatives Willard of the 51<sup>st</sup>, Jones of the 47<sup>th</sup>, Burns of the 159<sup>th</sup>, Oliver of the 82<sup>nd</sup>, Meadows of the 5<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to  
2 general provisions relative to courts, so as to create a new Judicial Qualifications  
3 Commission; to provide for the powers, composition, and appointment of such commission;  
4 to provide for a commission member's term and removal; to provide for procedures and  
5 confidentiality; to provide for related matters; to provide a contingent effective date and  
6 automatic repeal; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 style="text-align:center">**SECTION 1.**

9 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general  
10 provisions relative to courts, is amended by adding a new Code section to read as follows:

11 "15-1-19.

12 (a) Pursuant to Paragraph VI of Section VII of Article VI of the Constitution, there is  
13 hereby created the Judicial Qualifications Commission, which shall have the power to  
14 discipline, remove, and cause involuntary retirement of judges in accordance with such  
15 Paragraph.

16 (b) The Judicial Qualifications Commission shall consist of seven members who shall be  
17 subject to confirmation by the Senate.

18 (c) From January 1, 2017, until June 30, 2017, the members of the commission shall be  
19 as follows:

20 (1) Two judges of any court of record, appointed by the Supreme Court;

21 (2) One member of the State Bar of Georgia who shall have been an active status  
22 member of the State Bar of Georgia for at least ten years and shall be a registered voter  
23 of this state, appointed by the President of the Senate from a list of at least ten nominees  
24 from the board of governors of the State Bar of Georgia; provided, however, that if a  
25 nominee is not selected from such list, the board of governors shall submit another slate  
26 of ten nominees;

27 (3) One member of the State Bar of Georgia who shall have been an active status  
28 member of the State Bar of Georgia for at least ten years and shall be a registered voter  
29 of this state, appointed by the Speaker of the House of Representatives from a list of at  
30 least ten nominees from the board of governors of the State Bar of Georgia; provided,  
31 however, that if a nominee is not selected from such list, the board of governors shall  
32 submit another slate of ten nominees;

33 (4) One citizen member, who shall be a registered voter of this state but shall not be a  
34 member of the State Bar of Georgia, appointed by the Speaker of the House of  
35 Representatives;

36 (5) One citizen member, who shall be a registered voter of this state but shall not be a  
37 member of the State Bar of Georgia, appointed by the President of the Senate; and

38 (6) One member of the State Bar of Georgia, who shall have been an active status  
39 member of the State Bar of Georgia for at least ten years and shall be a registered voter  
40 of this state, appointed by the Governor to serve as chairperson of the commission.

41 (d) From July 1, 2017, through December 31, 2020, the members of the commission shall  
42 be as follows:

43 (1) Two judges of any court of record, appointed by the Supreme Court;

44 (2) One member of the State Bar of Georgia who shall have been an active status  
45 member of the State Bar of Georgia for at least ten years and shall be a registered voter  
46 of this state, appointed by the President of the Senate from a list of at least ten nominees  
47 from the board of governors of the State Bar of Georgia; provided, however, that if a  
48 nominee is not selected from such list, the board of governors shall submit another slate  
49 of ten nominees;

50 (3) One member of the State Bar of Georgia who shall have been an active status  
51 member of the State Bar of Georgia for at least ten years and shall be a registered voter  
52 of this state, appointed by the Speaker of the House of Representatives from a list of at  
53 least ten nominees from the board of governors of the State Bar of Georgia; provided,  
54 however, that if a nominee is not selected from such list, the board of governors shall  
55 submit another slate of ten nominees;

56 (4) One citizen member, who shall be a registered voter of this state but shall not be a  
57 member of the State Bar of Georgia, appointed by the Speaker of the House of  
58 Representatives;

59 (5) One citizen member, who shall be a registered voter of this state but shall not be a  
60 member of the State Bar of Georgia, appointed by the President of the Senate; and

61 (6) One member of the State Bar of Georgia, who shall have been an active status  
62 member of the State Bar of Georgia for at least ten years and shall be a registered voter  
63 of this state, appointed by the Governor to serve as chairperson of the commission.

- 64 (e) On and after January 1, 2021, the members of the commission shall serve for a term  
65 of three years and until their successors are appointed and shall be as follows:
- 66 (1) Two judges of any court of record, appointed by the Supreme Court;  
67 (2) One member of the State Bar of Georgia who shall have been an active status  
68 member of the State Bar of Georgia for at least ten years and shall be a registered voter  
69 of this state, appointed by the President of the Senate from a list of at least ten nominees  
70 from the board of governors of the State Bar of Georgia; provided, however, that if a  
71 nominee is not selected from such list, the board of governors shall submit another slate  
72 of ten nominees;
- 73 (3) One member of the State Bar of Georgia who shall have been an active status  
74 member of the State Bar of Georgia for at least ten years and shall be a registered voter  
75 of this state, appointed by the Speaker of the House of Representatives from a list of at  
76 least ten nominees from the board of governors of the State Bar of Georgia; provided,  
77 however, that if a nominee is not selected from such list, the board of governors shall  
78 submit another slate of ten nominees;
- 79 (4) One citizen member, who shall be a registered voter of this state but shall not be a  
80 member of the State Bar of Georgia, appointed by the Speaker of the House of  
81 Representatives;
- 82 (5) One citizen member, who shall be a registered voter of this state but shall not be a  
83 member of the State Bar of Georgia, appointed by the President of the Senate; and
- 84 (6) One member of the State Bar of Georgia, who shall have been an active status  
85 member of the State Bar of Georgia for at least ten years and shall be a registered voter  
86 of this state, appointed by the Governor to serve as chairperson of the commission.
- 87 (f) Any list of nominees required by this Code section shall be submitted to the Senate no  
88 later than the third Monday in January. Any member appointed to the commission shall  
89 serve until the Senate confirms such nominee and if an individual's name is not submitted  
90 by such deadline, he or she shall not be eligible for appointment.
- 91 (g) The Judicial Qualifications Commission may adopt procedures for its own governance  
92 which are not otherwise provided by the Constitution or this Code section; provided,  
93 however, that such procedures shall not allow an individual member to initiate an  
94 investigation without presenting such proposal to the other members of the commission at  
95 a commission meeting.
- 96 (h) Members of the commission shall be subject to removal from the commission by an  
97 affirmative vote of six members of the commission, with the member who is subject to  
98 removal being disqualified from any such vote.

99 (i) No person shall serve more than two consecutive terms as a member of the  
100 commission; provided, however, that any person appointed pursuant to subsection (c) of  
101 this Code section may serve for three consecutive terms as a member of the commission.  
102 (j) Notwithstanding Chapter 14 of Title 50, unless otherwise waived by the judge involved,  
103 all papers filed with and proceedings before the commission, including any investigation  
104 that the commission may undertake, shall be confidential, and no person shall disclose  
105 information obtained from commission proceedings or papers filed with or by the  
106 commission, except as provided in this Code section. Such papers shall not be subject to  
107 disclosure under Article 4 of Chapter 18 of Title 50.  
108 (k) Information submitted to the commission or its staff, and testimony given in any  
109 proceeding before the commission, shall be absolutely privileged, and no civil action  
110 predicated upon such information or testimony shall be instituted against any complainant,  
111 witness, or his or her counsel.  
112 (l) If, after an investigation is completed, the commission concludes that a letter of caution  
113 is appropriate, it shall issue a letter of caution to the judge in lieu of any further proceeding  
114 in the matter. The issuance of a letter of caution shall be confidential in accordance with  
115 subsection (j) of this Code section.  
116 (m) If, after an investigation is completed, the commission concludes that disciplinary  
117 proceedings should be instituted, the notice and statement of charges filed by the  
118 commission, along with the answer and all other pleadings, shall remain confidential in  
119 accordance with subsection (j) of this Code section. Disciplinary hearings ordered by the  
120 commission shall be confidential, and recommendations of the commission to the Supreme  
121 Court, along with the record filed in support of such recommendations, shall be  
122 confidential in accordance with subsection (j) of this Code section. Testimony and other  
123 evidence presented to the commission shall be privileged in any action for defamation. At  
124 least four members of the commission shall concur in any recommendation to issue a  
125 public reprimand against or to censure, suspend, retire, or remove any judge. A respondent  
126 who is recommended for public reprimand, censure, suspension, retirement, or removal  
127 shall be entitled to a copy of the proposed record to be filed with the Supreme Court, and  
128 if the respondent has objections to it, to have the record settled by the commission's  
129 chairperson. The respondent shall also be entitled to present a brief and to argue the  
130 respondent's case, in person and through counsel, to the Supreme Court. A majority of the  
131 members of the Supreme Court voting shall concur in any order of public reprimand,  
132 censure, suspension, retirement, or removal. The Supreme Court may approve the  
133 recommendation, remand for further proceedings, or reject the recommendation. A  
134 member of the commission who is a judge shall be disqualified from acting in any case in  
135 which he or she is a respondent.

136 (n) Upon issuance of a public reprimand, censure, suspension, retirement, or removal by  
137 the Supreme Court, the notice and statement of charges filed by the commission along with  
138 the answer and all other pleadings, including the recommendation of the commission to the  
139 Supreme Court and the record filed in support of such recommendation, shall no longer be  
140 confidential.

141 (o) The findings and records of the commission during an open meeting shall not be  
142 exempt from disclosure under Article 4 of Chapter 18 of Title 50."

143 **SECTION 2.**

144 This Act shall become effective on January 1, 2017, only if an amendment to the  
145 Constitution abolishing the existing Judicial Qualifications Commission and requiring the  
146 General Assembly to create and provide by general law for the composition and manner of  
147 appointment of a new Judicial Qualifications Commission, with such commission having the  
148 power to discipline, remove, and cause involuntary retirement of judges, and providing for  
149 exceptions to certain disclosures is ratified by the voters at the November, 2016, state-wide  
150 general election. If such an amendment is not so ratified, then this Act shall not become  
151 effective and shall stand repealed on January 1, 2017.

152 **SECTION 3.**

153 All laws and parts of laws in conflict with this Act are repealed.