

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 649

*An Act to amend and reenact §§ 30-114 and 30-116 of the Code of Virginia, relating to the Ethics Advisory Panels.*

[H 2654]

Approved March 18, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 30-114 and 30-116 of the Code of Virginia are amended and reenacted as follows:**

§ 30-114. Filing of complaints; procedures; disposition.

A. In response to the signed and sworn complaint of any citizen of the Commonwealth submitted to the Panel, the Panel shall inquire into any alleged violation of Articles 2 through 5 (§ 30-102 et seq.) of this chapter by any member of the respective house of the General Assembly in his current term or his immediate prior term. Complaints shall be filed with the Director of the Division of Legislative Services, who shall promptly submit the complaint to the chairman of the appropriate Panel. *The Panel may use the Director of the Division of Legislative Services, and such additional staff as he may assign, to assist the Panel during its preliminary investigation.*

B. If after such preliminary investigation as it may make, the Panel determines to proceed with an inquiry into the conduct of any legislator, the Panel shall immediately notify in writing the individual as to the fact of the inquiry and the charges against him and shall schedule one or more hearings on the matter. The legislator shall have the right to present evidence, cross-examine witnesses, face and examine the accuser, and be represented by counsel at any hearings. In its discretion, the Panel may grant the legislator any other rights or privileges not specifically enumerated in this subsection, and, in addition, may hold hearings in closed session. However, the legislator whose conduct is under inquiry, by written request filed with the Panel, may require that all hearings before the Panel concerning the legislator be public.

§ 30-116. Disposition of cases.

Within 120 days of the chairman's receiving a signed and sworn complaint, the Panel, or a majority of its members acting in its name, shall dispose of the matter in one of the following ways:

1. If the Panel determines that the complaint is without merit, the Panel shall dismiss the complaint, *so advise the complainant*, and take no further action. In such case, the Panel shall retain its records and findings in confidence unless the legislator under inquiry requests in writing that the records and findings be made public.

2. If the Panel determines that there is a reasonable basis to conclude that the legislator has violated the provisions of this chapter but that the violation was not made knowingly, the Panel shall refer the matter by a written report setting forth its findings and the reasons therefor to the appropriate house of the General Assembly for appropriate action. All Panel reports, which are advisory only, shall be delivered to the Clerk of the appropriate house, who shall refer the report to the Committee on Privileges and Elections in accordance with the rules of the appropriate house. Said Committee shall in all cases report, after due hearings and consideration, its determination of the matter and its recommendations and reasons for its resolves to the appropriate house. If the Committee deems disciplinary action warranted, it shall report a resolution to express such action. The appropriate house as a whole shall then consider the resolution, and if it finds the legislator in violation of any provision of this chapter, it may by recorded vote take such disciplinary action as it deems warranted.

3. If the Panel determines that there is a reasonable basis to conclude that the legislator knowingly violated any provision of Article 2 (§ 30-102 et seq.), 3 (§ 30-104 et seq.), 4 (§ 30-107 et seq.) or 5 (§ 30-109 et seq.) of this chapter, except § 30-108 or subsection C of § 30-110, it shall refer the matter by a written report setting forth its findings and the reasons therefor to the Attorney General for such action he deems appropriate. The Panel shall also file its report with the Clerk of the appropriate house, who shall refer the report in accordance with the rules of his house. In the event the Attorney General determines not to prosecute the alleged violation, he shall notify the Clerk of the appropriate house of his determination and the Clerk shall send the report to the Committee on Privileges and Elections. The matter shall thereafter be handled in accordance with the provisions of subdivision 2.

4. If the Panel determines that there is a reasonable basis to conclude that the legislator has violated § 30-108 or subsection C of § 30-110, it shall refer the matter by a written report to the appropriate house pursuant to subdivision 2. As its first order of business other than organizational matters and committee work, the house in which the member sits shall immediately upon the convening of the next regular or special session take up and dispose of the matter by taking one or more of the following actions: (i) dismiss the complaint; (ii) sustain the complaint and reprimand the member; (iii) sustain the complaint, censure the member, and strip the member of his seniority; (iv) sustain the complaint and

expel the member by a two-thirds vote of the elected members; (v) in the event the house finds a knowing violation, it may refer the matter to the Attorney General pursuant to subdivision 3.

5. The Panel shall make public any report that it refers pursuant to the provisions of subdivision 2, 3 or 4 on the date it refers its report.