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SENATE BILL NO. 336

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact §§ 17.1-913 and 17.1-918 of the Code of Virginia, relating to Judicial Inquiry and Review Commission; confidentiality.

 Patron—Stolle

 Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 17.1-913 and 17.1-918 of the Code of Virginia are amended and reenacted as follows:**

§ 17.1-913. Confidentiality of papers and proceedings.

All papers filed with and proceedings before the Commission, and under §§ 17.1-909 and 17.1-910, including the identification of the subject judge as well as all testimony and other evidence and any transcript thereof made by a reporter, shall be confidential and shall not be divulged, other than to the Commission, by any person who (i) ~~either files a complaint with the Commission, or~~ receives such complaint in an official capacity; (ii) investigates such complaint; ~~or~~ (iii) is interviewed concerning such complaint by a member, employee or agent of the Commission; or (iv) participates in any proceeding of the Commission or in the official recording or transcription thereof of any proceeding of the Commission, except that the record of any proceeding filed with the Supreme Court shall lose its confidential character. However, if the Commission finds cause to believe that any witness under oath has willfully and intentionally testified falsely, the Commission may direct the chairman or one of its members to report such finding and the details leading thereto including any transcript thereof to the attorney for the Commonwealth of the city or county where such act occurred for such disposition as to a charge of perjury as the Commonwealth may be advised. In any subsequent prosecution for perjury based thereon, the proceedings before the Commission relevant thereto shall lose their confidential character.

All records of proceedings before the Commission which are not filed with the Supreme Court in connection with a formal complaint filed with that tribunal, shall be kept in the confidential files of the Commission.

However, a judge who is under investigation by the Commission, or any person authorized by him, may divulge information pertaining to a complaint filed against such judge as may be necessary for the judge to investigate the allegations in the complaint in preparation for the proceedings before the Commission.

§ 17.1-918. Transmission of certain information to Virginia State Bar, House and Senate Committees for Courts of Justice, and other members of the General Assembly.

A. The Judicial Inquiry and Review Commission shall transmit to the appropriate District Committee of the Virginia State Bar any complaint or evidence that may come to its attention with reference to the alleged misconduct of a judge or substitute judge which relates to his private practice of law.

B. The Commission shall also transmit any evidence that it has in its possession with reference to the alleged misconduct of any judge whose election is to be considered at the next session of the General Assembly to (i) the House and Senate Committees for Courts of Justice and (ii) any member of the General Assembly, upon request. Such evidence shall include the nature of the complaint, the current status of the complaint, the duration of any suspension and the evidence supporting the probable cause finding therefor, a description of any remedial course of action, and a statement concluding whether any such remedial course was successfully undertaken. A copy of any evidence in whatever form so transmitted shall be sent to the judge in question. ~~Any member of the General Assembly who knowingly discloses such information shall be subject to any sanctions which may be imposed by the Committee on Standards of Conduct. Any such evidence transmitted to the House and Senate Committees for Courts of Justice or to any member of the General Assembly shall lose its confidential character.~~

INTRODUCED

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