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## SENATE BILL NO. 1005

Offered January 17, 1997

A BILL to amend and reenact §§ 2.1-37.13 and 2.1-37.17:1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 4.1 of Title 2.1 a section numbered 2.1-37.8:1, relating to confidentiality of proceedings of the Judicial Inquiry and Review Commission; annual report; transmission of information to General Assembly members.

Patrons—Stolle, Bolling, Earley, Martin, Newman, Norment, Potts, Quayle, Saslaw, Schrock and Williams

Referred to the Committee for Courts of Justice

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

1. That §§ 2.1-37.13 and 2.1-37.17:1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 4.1 of Title 2.1 a section numbered 2.1-37.8:1 as follows:

§ 2.1-37.8:1. Annual report.

On or before December 1 of each year, the Commission shall publish a report detailing the activities of the Commission for the prior year. The report shall include the number of complaints filed with the Commission; the number of complaints originating from attorneys, judges, court employees, or the general public; the number of complaints dismissed based on (i) failure to fall within the jurisdiction of the Commission, (ii) failure to state a violation of the Canons of Judicial Conduct, or (iii) failure of the Commission to reach a conclusion that the Canons were breached; the number of complaints for which the Commission concluded that the Canons of Judicial Conduct were breached; and the number of cases from which the staff or any member of the Commission recused himself due to an actual or possible conflict.

§ 2.1-37.13. Confidentiality of proceedings; exceptions.

All papers filed with and proceedings before the Commission, and depositions taken under § ~~2.1-37.11~~ and 2.1-37.12, 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 or under the provisions of § 2.1-37.17:1, by any person who either files a complaint with the Commission, or receives such or investigates a complaint in an official capacity, or investigates such complaint, is interviewed concerning such a complaint by a member, employee or agent of the Commission, or participates in any proceeding of the Commission, or the official recording or transcription thereof, 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. The Commission, however, shall issue a final report which shall state the conclusion of the Commission on each complaint and its reasons therefor, shall be forwarded to the person filing such complaint, and shall be available for public inspection.

However, a Any 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.

§ 2.1-37.17:1. Transmission of certain information to Virginia State Bar and House and Senate Committees for Courts of Justice.

The Judicial Inquiry and Review Commission is authorized shall transmit to:

1. The appropriate District Committee of the Virginia State Bar; any complaint or evidence with reference thereto that may come to its attention with reference to the alleged misconduct of a part-time judge or substitute judge of a court not of record which relates to his private practice of law;

2. The House Committee for Courts of Justice and the Senate Committee for Courts of Justice Any member of the General Assembly, upon the request of the chairman of either committee, any evidence

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**60** that it has in its possession with reference to the alleged misconduct of any judge whose election is to  
**61** be considered at the next session of the General Assembly.