

1998 SESSION

SENATE SUBSTITUTE

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HOUSE JOINT RESOLUTION NO. 151 FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Bolling
on March 5, 1998)

(Patron Prior to Substitute—Delegate Robinson)

Proposing an amendment to Section 10 of Article VI of the Constitution of Virginia, relating to disabled and unfit judges.

WHEREAS, a proposed amendment to the Constitution of Virginia, hereinafter set forth, was agreed to by a majority of the members elected to each of the two houses of the General Assembly at the regular session of 1997 and referred to this, the next regular session held after the 1997 general election of members of the House of Delegates, as required by the Constitution of Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 10 of Article VI of the Constitution of Virginia as follows:

ARTICLE VI JUDICIARY

Section 10. Disabled and unfit judges.

The General Assembly shall create a Judicial Inquiry and Review Commission consisting of members of the judiciary, the bar, and the public and vested with the power to investigate charges which would be the basis for retirement, censure, or removal of a judge. The Commission shall be authorized to conduct hearings and to subpoena witnesses and documents. Proceedings *and documents* before the Commission ~~shall~~ *may* be confidential *as provided by the General Assembly in general law*.

If the Commission finds the charges to be well-founded, it may file a formal complaint before the Supreme Court.

Upon the filing of a complaint, the Supreme Court shall conduct a hearing in open court and, upon a finding of disability which is or is likely to be permanent and which seriously interferes with the performance by the judge of his duties, shall retire the judge from office. A judge retired under this authority shall be considered for the purpose of retirement benefits to have retired voluntarily.

If the Supreme Court after the hearing on the complaint finds that the judge has engaged in misconduct while in office, or that he has persistently failed to perform the duties of his office, or that he has engaged in conduct prejudicial to the proper administration of justice, it shall censure him or shall remove him from office. A judge removed under this authority shall not be entitled to retirement benefits, but only to the return of contributions made by him, together with any income accrued thereon.

This section shall apply to justices of the Supreme Court, to judges of other courts of record, and to members of the State Corporation Commission. The General Assembly also may provide by general law for the retirement, censure, or removal of judges of any court not of record, or other personnel exercising judicial functions.

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