

2006 SESSION

INTRODUCED

063020160

SENATE BILL NO. 390

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 17.1-910 of the Code of Virginia, relating to Judicial Inquiry and Review Commission; discovery.

Patron—Stolle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-910 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-910. Discovery.

In any pending investigation or formal hearing Commission proceeding in which a judge has been charged formally with misconduct, the Commission may order the deposition of a person residing within or without the Commonwealth to be taken in such form and subject to such limitations as may be prescribed in the order. If the subject judge and counsel for the Commission do not stipulate as to the manner of taking the deposition, either the judge or counsel for the Commission may file in a trial court of record a petition entitled "In the Matter of Proceeding of Judicial Inquiry and Review Commission No. : : : : : (state number)" and stating generally, without identifying the judge, the nature of the pending matter, the name and residence of the person whose testimony is desired, and directions, if any, of the Commission, asking that an order be made requiring such person to appear and testify before a designated officer. Upon the filing of the petition, the court may make an order requiring such person to appear and testify. A subpoena for such deposition shall be issued by the clerk of the court and the deposition shall be taken and returned, in the manner prescribed by law for depositions in civil actions. Upon failure of the person named in the subpoena to appear and testify, he shall be dealt with by such court as for contempt of court. If the deposition is that of a person residing or present within this Commonwealth, the petition shall be filed in the court of record of the county or corporation in which such person resides or is present; otherwise in or the subject judge may obtain discovery pursuant to rules promulgated by the Supreme Court of Virginia. Any discovery disputes shall be resolved by the Circuit Court of the City of Richmond or, if a judge in the City of Richmond is the subject of the charge, by a circuit court judge not in the City of Richmond who is appointed by the Supreme Court or a justice thereof.

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