

1 HB166
2 181843-1
3 By Representative Beckman (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 09-FEB-17

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8 SYNOPSIS: Under the Constitution of Alabama of 1901,
9 the Court of the Judiciary is created to hear
10 complaints filed by the Judicial Inquiry
11 Commission, and a judge aggrieved by a decision of
12 the Court of the Judiciary may appeal the decision
13 to the Supreme Court of Alabama.

14 This bill would propose an amendment to the
15 Constitution of Alabama of 1901, requiring any
16 complaint against a Justice of the Alabama Supreme
17 Court or a Judge of the Court of Criminal Appeals
18 or the Court of Civil Appeals for a violation of
19 any Canon of Judicial Ethics, misconduct in office,
20 failure to perform his or her duties, or charge
21 that the justice or judge is physically or mentally
22 unable to perform his or her duties, be filed with
23 the House Judiciary Committee for a determination
24 of whether a Justice of the Supreme Court or a
25 Judge of the Court of Criminal Appeals or the Court
26 of Civil Appeals would be impeached by the
27 Legislature or tried by the Court of Criminal

1 Appeals for the removal of a Justice of the Alabama
2 Supreme Court or Judge of the Court of Civil
3 Appeals or by the Court of Civil Appeals for a
4 Judge of the Court of Criminal Appeals.

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6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

10 To amend Section 6.17 of Amendment 328, as amended
11 by Amendment 581, now appearing as Section 156 of the Official
12 Recompilation of the Constitution of Alabama of 1901, as
13 amended, to require any complaint initiated by the Judicial
14 Inquiry Commission concerning a Justice of the Supreme Court
15 or a Judge of the Court of Criminal Appeals or the Court of
16 Civil Appeals to be filed with the House Judiciary Committee
17 for a determination of whether to proceed with impeachment
18 proceedings before the Legislature or the Court of Criminal
19 Appeals or the Court of Civil Appeals; to require the Supreme
20 Court to adopt rules governing the removal of a Justice of the
21 Alabama Supreme Court or a Judge of the Court of Criminal
22 Appeals or the Court of Civil Appeals by the Court of Criminal
23 Appeals or the Court of Civil Appeals; and to require the
24 Legislature to adopt rules governing the procedures of the
25 legislative impeachment process.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 chair. The terms of the members of the commission shall be
2 four years. A vacancy on the commission shall be filled for a
3 full term in the manner the original appointment was made.

4 "(b) (1) The commission shall be convened
5 permanently with authority to conduct investigations and
6 receive or initiate complaints concerning any judge of a court
7 of the judicial system of this state. The commission shall
8 file a complaint with the Court of the Judiciary for a judge
9 other than a Justice of the Supreme Court or a Judge of the
10 Court of Criminal Appeals or Court of Civil Appeals in the
11 event that a majority of the members of the commission decide
12 that a reasonable basis exists, (1) to charge ~~a~~ the judge with
13 violation of any Canon of Judicial Ethics, misconduct in
14 office, failure to perform his or her duties, or (2) to charge
15 that the judge is physically or mentally unable to perform his
16 or her duties. If a majority of the members of the commission
17 decide that a reasonable basis exists to charge a Justice of
18 the Supreme Court or a Judge of the Court of Criminal Appeals
19 or the Court of Civil Appeals with a violation of a Canon of
20 Judicial Ethics, misconduct in office, or failure to perform
21 his or her duties or to charge that the justice or judge is
22 physically or mentally unable to perform his or her duties,
23 the commission shall file a complaint with the House Judiciary
24 Committee.

25 "(2) Pursuant to subdivision (3), the Court of
26 Criminal Appeals may try a Justice of the Alabama Supreme
27 Court or a Judge of the Court of Civil Appeals and the Court

1 of Civil Appeals may try a Judge of the Court of Criminal
2 Appeals. The Court of Criminal Appeals shall have the
3 authority to remove from office, suspend without pay, or
4 censure a Justice of the Supreme Court or a Judge of the Court
5 of Civil Appeals and the Court of Civil Appeals shall have the
6 authority to remove from office, suspend without pay, or
7 censure a Judge of the Court of Criminal Appeals.

8 "(3) The House Judiciary Committee shall make a
9 determination of whether the complaint is to be subject to an
10 impeachment proceeding before the Legislature or heard by the
11 Court of Criminal Appeals or the Court of Civil Appeals. All
12 proceedings of the commission shall be confidential except
13 filing of a ~~for the~~ complaint filed with the Court of the
14 Judiciary or the House Judiciary Committee. The commission
15 shall prosecute ~~the complaints~~ a complaint before the Court of
16 Criminal Appeals or the Court of Civil Appeals.

17 "(c) The Supreme Court shall adopt rules governing
18 the procedures of the commission and the Court of Criminal
19 Appeals and the Court of Civil Appeals for determining whether
20 a Justice of the Alabama Supreme Court or a Judge of the Court
21 of Criminal Appeals or the Court of Civil Appeals should be
22 disciplined.

23 (d) The Legislature shall adopt rules governing the
24 procedures for the impeachment of any judge that is a Justice
25 of the Alabama Supreme Court or a judge of the Court of
26 Criminal Appeals or the Court of Civil Appeals.

1 "(d) The commission shall have subpoena power and
2 authority to appoint and direct its staff. Members of the
3 commission who are not judges shall receive per diem
4 compensation and necessary expenses; members who are judges
5 shall receive necessary expenses only. The Legislature shall
6 appropriate funds for the operation of the commission.

7 Section 2. Section 158 of Amendment 328, now
8 appearing as Section 158 of the Official Recompilation of the
9 Constitution of Alabama of 1901, as amended, is amended to
10 read as follows:

11 "Section 158. ~~In addition to the authority conferred~~
12 ~~on the Court of the Judiciary in Section 6.18, the~~ The
13 provisions for impeachment in Article VII, Section 173, shall
14 also apply to Justices of the Supreme Court and Judges of the
15 Courts of Appeals. No proceeding for impeachment under Article
16 VII, Section 173, may proceed or be initiated against a judge
17 while the same charge or subject matter is under consideration
18 by the Judicial Inquiry Commission ~~or the Court of the~~
19 ~~Judiciary~~. A finding of lack of probable cause or a
20 termination of proceeding without a finding of wrongdoing by
21 ~~either~~ the Judicial Inquiry Commission ~~or the Court of the~~
22 ~~Judiciary~~ shall constitute a complete defense to proceedings
23 of impeachment under Article VII, Section 173, and shall bar
24 all further proceedings of impeachment as to the same charge
25 or subject matter. ~~No justice or judge who has been tried~~
26 ~~before the Court of the Judiciary shall be subject to~~
27 ~~impeachment on the same charge or subject matter.~~ No conduct

1 that occurred prior to the effective date of this amendment
2 may be the basis of a proceeding of impeachment under this
3 section. No proceeding in impeachment under this section may
4 be initiated without the verification, under oath, of at least
5 12 members of the House of Representatives as to the factual
6 basis of the charge under which the article of impeachment is
7 preferred. No article of impeachment shall be passed upon less
8 than two-thirds majority of the House of Representatives and
9 no conviction of impeachment shall be had upon less than
10 two-thirds majority of the Senate under this section.
11 Dissatisfaction with the ruling of a judge or justice shall
12 not be a ground upon which impeachment under this section may
13 proceed."

14 Section 2. An election upon the proposed amendment
15 shall be held in accordance with Sections 284 and 285 of the
16 Constitution of Alabama of 1901, now appearing as Sections 284
17 and 285 of the Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, and the election laws of this
19 state.

20 Section 3. The appropriate election official shall
21 assign a ballot number for the proposed constitutional
22 amendment on the election ballot and shall set forth the
23 following description of the substance or subject matter of
24 the proposed constitutional amendment:

25 "Proposing an amendment to the Constitution of
26 Alabama of 1901, to provide for the impeachment by the
27 Legislature or trial by the Court of Criminal Appeals or the

1 Court of Civil Appeals for Justices of the Supreme Court or
2 Judges of the Court of Criminal Appeals or the Court of Civil
3 Appeals.

4 "Proposed by Act _____."

5 This description shall be followed by the following
6 language:

7 "Yes () No ()."