

Offered: 3/28/84
Referred: Rules

Original sponsors: Ziegler and Ray
By request

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR SENATE BILL NO. 453 (Judiciary) am H
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the Commission on Judicial Con-
7 duct; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 22.30.010 is amended to read:

10 Sec. 22.30.010. COMMISSION ON JUDICIAL CONDUCT [QUALIFICATIONS].
11 The Commission on Judicial Conduct [QUALIFICATIONS] shall consist of
12 nine members as follows: three persons who are justices or judges of
13 state courts [ONE JUSTICE OF THE SUPREME COURT], elected by the jus-
14 tices and judges of the state courts [OF THE SUPREME COURT; THREE
15 JUDGES OF THE SUPERIOR COURT, ELECTED BY THE JUDGES OF THE SUPERIOR
16 COURT; ONE JUDGE OF THE DISTRICT COURT, ELECTED BY THE JUDGES OF THE
17 DISTRICT COURT]; three [TWO] members who have practiced law in this
18 state for 10 years, appointed by the governor from nominations made by
19 the governing body of the organized bar and subject to confirmation by
20 a majority of the members of the legislature in joint session; and
21 three [TWO] citizens who are not judges, retired judges, or members of
22 the state bar, appointed by the governor and subject to confirmation
23 by a majority of the members of the legislature in joint session.
24 Commission membership terminates if a member ceases to hold the posi-
25 tion that qualified that person for appointment. A [NO] person may
26 not serve on the commission and on the Judicial Council simultaneous-
27 ly. The Commission shall elect one of its members to serve as chair-
28 man for a term prescribed by the commission. A vacancy shall be
29 filled by the appointing power for the remainder of the term.

1 * Sec. 2. AS 22.30.011(a) is amended to read:

2 (a) The commission shall on its own motion or on receipt of a
3 written complaint inquire into an allegation that a judge

4 (1) has been convicted of a crime punishable as a felony
5 under state or federal law or convicted of a crime that involves moral
6 turpitude under state or federal law;

7 (2) suffers from a disability that seriously interferes
8 with the performance of judicial duties and that is or may become
9 permanent;

10 (3) within a period of not more than six years before the
11 start of the current term, committed an act or acts that constitute

12 (A) wilful misconduct in office,

13 (B) wilful and persistent failure to perform judicial
14 duties,

15 (C) conduct prejudicial to the administration of
16 justice, [OR]

17 (D) conduct that brings the judicial office into
18 disrepute; or

19 (E) conduct in violation of the code of judicial
20 conduct; or

21 (4) is habitually intemperate.

22 * Sec. 3. AS 22.30.011(b) is amended to read:

23 (b) The commission may hold a hearing on an allegation under (a)
24 of this section. A hearing under this section is a hearing under
25 AS 44.62.310(d) [AS 44.62.310(c)(2)] and is private unless a public
26 hearing is requested by the judge.

27 * Sec. 4. AS 22.30.011(d) is amended to read:

28 (d) The commission may, after a hearing held under (b) of this
29 section,

- 1 (1) exonerate the judge of the charges;
2 (2) informally and privately admonish the judge or recom-
3 mend counseling;
4 (3) [(2)] reprimand the judge publicly or privately;
5 (4) [(3)] refer the matter to the supreme court with a
6 recommendation that the judge be suspended, removed, or retired from
7 office or publicly or privately censured by the supreme court.

8 * Sec. 5. AS 22.30.040 is amended to read:

9 Sec. 22.30.040. PREPARATION OF BUDGET. The commission [ALASKA
10 COURT SYSTEM] shall be responsible for preparing and presenting to the
11 legislature its proposed annual budgets [FOR THE COMMISSION].

12 * Sec. 6. AS 22.30.050 is amended to read:

13 Sec. 22.30.050. VALIDITY OF ACTS OF THE COMMISSION. No act of
14 the commission is valid unless concurred in by a majority of the [ITS]
15 members serving on the commission at the time the act is taken.

16 * Sec. 7. AS 22.30.060 is amended by adding a new subsection to read:

17 (b) All proceedings, records, files, and reports of the commis-
18 sion are confidential and disclosure may not be made except

19 (1) upon waiver in writing by the judge at any stage of the
20 proceedings;

21 (2) if the subject matter or the fact of the filing of
22 charges has become public, in which case the commission may issue a
23 statement in order to confirm the pendency of the investigation, to
24 clarify the procedural aspects of the proceedings, to explain the
25 right of the judge to a fair hearing, or to state that the judge
26 denies the allegations; or

27 (3) upon filing of formal charges, in which case only the
28 charges shall become public.

29 * Sec. 8. AS 22.30.066 is amended by adding a new subsection to read:

1 (b) In the course of an inquiry under AS 22.30.011 into judicial
2 misconduct or the disability of a judge, the commission may request
3 the judge to submit to a physical or mental examination. If the judge
4 refuses to submit to the examination, the commission must determine
5 the issue for which the examination was required adversely to the
6 judge.

7 * Sec. 9. AS 22.30.080(1) is amended to read:

8 (1) "commission" means the Commission on Judicial Conduct
9 [QUALIFICATIONS] provided for in sec. 10, art. IV, Constitution of the
10 State of Alaska and this chapter;

11 * Sec. 10. Notwithstanding AS 22.30.015, to achieve staggered terms,
12 three of the members appointed or elected after July 1, 1984, shall serve
13 six year terms. Among these three members, one shall be a judge or jus-
14 tice, one shall be an attorney, and one shall be a citizen member.

15 * Sec. 11. This Act takes effect July 1, 1984.