

AN ACT TO PROVIDE ACCOUNTABILITY OF JUDGES

1. Repeal of Confidentiality of judicial proceedings: Notwithstanding any contrary legislation, any and all complaints, pleadings and records of proceedings pertaining to complaints against members of the judiciary alleging specific instances of violation of the Rules of Professional Conduct or the Code of Judicial Conduct, are and shall hereby be considered public records. In the interests of encouraging an educated electorate, such public records shall be updated at least on a monthly basis and made available to the public without charge at a public office in each county of the state. Such records shall also be archived online and shall not be subject to destruction under any records retention statutes.

2. Repeal of Disciplinary Authority of the Office of Disciplinary Counsel, Certified Grievance Committees of Local Bar Associations, and of the Board of Commissioners on Grievances and Discipline. The authority exercised over determinations of judicial misconduct currently exercised by the Office of Disciplinary Counsel, Certified Grievance Committees of Local Bar Associations, and of the Board of Commissioners on Grievances and Discipline, is hereby repealed. Funding now allocated for such services shall be used instead for the funding of Initial Citizen Panels and Citizen Trial Panels as set forth hereinbelow. Such bodies shall select one of their attorney members to provide the testing instruments and scorings for qualifying citizen members of the Initial Citizen Panels and Citizen Trial Panels as set forth hereinbelow.

3. Judicial Recall: Constitutional Amendment: Recall of a judge of this State shall be initiated by delivery of a petition to the Secretary of State which states the grounds for recall. Grounds may include without limitation, a claimed violation of any of the Canons of Judicial Ethics. Sufficiency of reason is not reviewable. Proponents have 160 calendar days to file signed petitions on forms which shall substantially conform to statute. Within five (5) days of receipt, the Secretary of State shall review said petition solely for its substantial conformity to the statutory form and shall deliver copies of the proposed recall proposal to the Board of Elections of the applicable county or counties. Upon receipt, the applicable county Board or Boards of Elections shall place the recall matter on the next regularly scheduled ballot for approval or disapproval by voters.

A petition to recall a judge must be signed by currently registered voters in the county in which said judge serves the greater or greatest amount of his or her time on the bench. The required number of said signatures shall equal or exceed 5% of the number of electors who voted in the most recent election in the county in which said judge serves the greater or greatest amount of his or her time on the bench.

A petition to recall an appeal court justice must be signed by currently registered voters in each of the counties comprising the appellate district in which said justice serves. The required number of said signatures shall equal or exceed 5% of the sum of the number of electors who voted in the most recent elections in each of the counties comprising said appellate district . The number of such petition signatures coming from each county of said appellate district shall also equal or exceed 2% of the number of electors who voted in the most recent election in each said county of the appellate district.

A petition to recall a justice of the Ohio Supreme Court must be signed by currently registered voters in each of the counties of the State. The required number of said signatures shall equal or exceed 5% of the sum of the number of electors who voted in the most recent election in each county of the State. The number of such petition signatures coming from each county of the State shall also equal or exceed 2% of the number of electors who voted in the most recent election in each said county of the State.

An election to determine whether to recall an appellate or Supreme Court justice, and, if a candidate to succeed said justice has filed with the Board of Elections, an election to determine the successor, shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of the certification of sufficient signatures by the Secretary of State.

A recall election may be conducted within 180 days from the date of certification of sufficient signatures. The recall election may be consolidated with the next regularly scheduled election scheduled in the same jurisdiction in which the recall election is held.

If a judge is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer whose recall is sought may not be a candidate.

The circulation, filing, and certification of recall petitions, nomination of candidates, and the recall election shall be conducted as is currently required under statute for placing state initiatives on the ballot.

A state judge who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against the judge until six months after the election.

4. Repeal of absolute judicial immunity: Judges shall hereafter be civilly liable for criminal acts even while ostensibly acting as a judge or within his statutorily granted jurisdictional powers – or for malicious, reckless, or wanton and repeated acts of judicial misconduct that violate both the Code of Judicial Conduct and fundamental constitutional rights of a litigant who thereby suffers damage. The sovereign immunity enjoyed by judges shall no longer extend to protect them from judicial acts or omissions performed intentionally, with gross recklessness, or with

malice, and which cause foreseeable damage to a litigant before said judge. The Statute of Limitations for such actions against judges shall be two years from the date of discovery of the damage caused by said judicial act or omission. Punitive damages attributable to such acts shall not be payable from public funds.

5. Litigation of judicial complaints to be by citizen panels: Complaints of judicial misconduct shall be initiated in the Court of Common Pleas of the County in which any violation of the Code of Judicial Conduct is alleged to have been committed. The Complaint shall proceed as would any other civil action, except that only Rules 4, 5, 6, 7, 8, and 12 of the Ohio Rules of Civil Procedure shall apply, and except that only the Initial Citizen Panel shall rule on defense motions and objections, including the legal sufficiency of the Complaint. There shall be no participation in the screening or trial process by the trial court's judiciary. The following defense objections or defenses shall not be considered:

Judicial or other forms of statutory Immunity
Assumption of the Risk
Comparative or Contributory Negligence
Laches

All motions shall be resolved within one calendar year by the Initial Citizen Panel of six (6) citizens chosen at random in the same manner as are jurors. No attorneys shall be permitted to serve. Citizens serving on the Initial Citizen Panel shall be required to study the within legislation, the Code of Judicial Conduct, and Civil Rules 4, 5,6,7,8, and 12 and score at least 80% on a multiple choice test of the content of said legislation, Code and selected rules as applied to hypothetical fact situations dealing with claims of judicial misconduct before being allowed to serve. The initial Citizen Panel shall rule as to whether there is probable cause for the complaint to proceed to trial, or be dismissed. The decision of the Initial Citizen Panel is final.

Trial of judicial complaints not dismissed by the Initial Citizen Panel shall be conducted by a six person Citizen Trial Panel chosen in the same manner as the Initial Citizen Panel, except that the members of the Citizen Trial Panel shall also be required to study the Ohio Rules of Evidence and score at least 80% on a multiple choice test of the content of the Evidence Rules as applied to hypothetical fact situations. Following the presentation of evidence and testimony by the person filing the complaint and by the judge before the Citizen Trial Panel, the Citizen Trial Panel shall determine whether specific instances of mis-conduct complained of violated any of the Canons of the Code of Judicial Conduct, and if so, in what manner. Any finding of judicial misconduct by the Citizen Trial Panel shall be in writing and signed by $\frac{3}{4}$ of the members of the Citizen Trial Panel. Such findings may be reviewed only by the Ohio Supreme Court.

6. Loss of Pension Rights. Any judge found by a Citizen Trial Panel to have committed 2 or more separate, specific instances of judicial misconduct, and any

judge convicted of any felony offense, shall forfeit the government retirement and annuities for which he or she had qualified and earned from the date of the second citizen panel finding onward, or from the date of conviction, in the case of a felony conviction.

7. Presumption that all proceedings are public. Judges are hereby prohibited from sealing records or infringing in any manner, upon the public's right to access to trials, hearings, and other proceedings. Records, including audio files of all proceedings, are matters of public record. This provision shall not preclude a member of the judiciary from allowing a child victim of abuse to testify outside the public courtroom via closed circuit television, so long as the child's testimony can be publicly heard and viewed in the courtroom during said proceeding.

8. Non-retaliation against reporters of judicial misconduct Any person whose judicial complaint has not been dismissed by the Initial Citizen Panel and which has been sent for further review by the Citizen Trial Panel, shall be thereafter free to exercise his rights to litigate other matters before a judge who is not subject to said complaint and who is not subject to the supervisory or other control by the judge who was subject to said complaint. Said person shall remain free to exercise his rights to litigate without reprisal in any form.

9. Repeal of vexatious litigator statutes. Ohio Rev. Code Secs. 2323.51-2323.52, also known as the "vexatious litigator statutes", which have often been interpreted in ways that violate the First Amendment to the United States Constitution, are hereby repealed.