

The House Committee on Judiciary Non-Civil offers the following substitute to HB 881:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-18-32 of the Official Code of Georgia Annotated, relating to
2 Prosecuting Attorneys Qualifications Commission, authority, membership, ex parte
3 communications, governance, disciplinary actions, confidentiality, and privileged nature; to
4 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 15-18-32 of the Official Code of Georgia Annotated, relating to Prosecuting
9 Attorneys Qualifications Commission, authority, membership, ex parte communications,
10 governance, disciplinary actions, confidentiality, and privileged nature, is amended by
11 revising subsections (g), (h) and (m) as follows:

12 "(g) The commission, with the assistance of the Prosecuting Attorneys' Council of the State
13 of Georgia, shall promulgate standards of conduct and rules for the commission's
14 governance which will comport with due process and enforce the provisions of subsections
15 (h) and (i) of this Code section; ~~provided, however, that such standards and rules shall be~~
16 ~~effective only upon review and adoption by the Supreme Court.~~ Such standards and rules

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17 shall allow for a full investigation of a district attorney or solicitor-general only upon
18 majority vote of the investigative panel. When a commission member receives information
19 relating to the conduct of a district attorney or solicitor-general, such member shall provide
20 such information to the commission's director for appropriate action.

21 (h) The following shall be grounds for discipline of a district attorney or solicitor-general
22 or for his or her removal or involuntary retirement from office:

23 (1) Mental or physical incapacity ~~interfering with~~ that adversely affects the performance
24 of his or her duties which is, or is likely to become, permanent. A medical leave of
25 absence of less than ten months or medical leaves of absence in the aggregate of less than
26 ten months in a 12 month period shall not constitute a mental or physical incapacity under
27 this paragraph;

28 (2) Willful misconduct in office;

29 (3) With respect to district attorneys, willful and persistent failure to carry out duties
30 pursuant to Code Section 15-18-6;

31 (4) With respect to solicitors-general, willful and persistent failure to carry out duties
32 pursuant to Code Section 15-18-66;

33 (5) Conviction of a crime involving moral turpitude;

34 (6) Conduct prejudicial to the administration of justice which brings the office into
35 disrepute; or

36 (7) Knowingly authorizing or permitting an assistant district attorney or assistant
37 solicitor-general to commit any act constituting grounds for removal under paragraphs
38 (1) through (6) of this subsection."

39 "(m) A respondent may appeal the decision of the hearing panel by submitting a petition
40 to the superior court of the county where such respondent served as a district attorney or
41 solicitor-general with a right of appeal to such superior court, such appeal to be determined
42 by the court using an arbitrary, capricious, or abuse of discretion standard of review
43 without the intervention of a jury. The decision of such superior court shall be directly

44 appealable to the Georgia Supreme Court. A respondent who is subjected to public
45 reprimand, censure, limitation on the performance of prosecutorial duties, suspension,
46 retirement, or removal shall be entitled to a copy of the proposed record to be filed with the
47 Supreme Court and, if the respondent has objections to it, to have the record settled by the
48 hearing panel's presiding officer. The hearing panel's order in a disciplinary or incapacity
49 matter may be appealed to the ~~Superior Court of Fulton County~~ superior court of the county
50 or counties, where such respondent served as district attorney or solicitor-general pursuant
51 to Chapter 3 of Title 5 Code Section 5-6-35."

52 **SECTION 2.**

53 This Act shall become effective upon its approval by the Governor or upon its becoming law
54 without such approval.

55 **SECTION 3.**

56 All laws and parts of laws in conflict with this Act are repealed.