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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 880 Session of  
2015

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INTRODUCED BY BAKER, KOTIK, V. BROWN, MILLARD, WATSON, TOOHL,  
KORTZ, ZIMMERMAN, GILLEN AND MURT, APRIL 6, 2015

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REFERRED TO COMMITTEE ON JUDICIARY, APRIL 6, 2015

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A JOINT RESOLUTION

1 Proposing integrated amendments to the Constitution of the  
2 Commonwealth of Pennsylvania, providing for hearing and  
3 deciding cases involving dissolution of marriage, custody,  
4 child support, spousal support, alimony, equitable division  
5 of marital property and related family law matters.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby resolves as follows:

8 Section 1. The following integrated amendments to the  
9 Constitution of Pennsylvania are proposed in accordance with  
10 Article XI:

11 (1) That section 5 of Article V be amended to read:

12 § 5. Courts of common pleas.

13 There shall be one court of common pleas for each judicial  
14 district (a) having such divisions and consisting of such number  
15 of judges as shall be provided by law, one of whom shall be the  
16 president judge; and

17 (b) having unlimited original jurisdiction in all cases  
18 except as may otherwise be provided by law[.]; and

19 (c) having a procedure for the disposition of cases

1 involving dissolution of marriage, custody, child support,  
2 spousal support, alimony, alimony pendente lite, equitable  
3 division of marital property and related family law matters as  
4 provided by statute; and

5 (d) having a family resource center as provided by statute;  
6 and

7 (e) having educational requirements for judges and family  
8 law masters and mediators as provided by statute.

9 (2) That section 10(c) of Article V be amended to read:

10 § 10. Judicial administration.

11 \* \* \*

12 (c) The Supreme Court shall have the power to prescribe  
13 general rules governing practice, procedure and the conduct of  
14 all courts, justices of the peace and all officers serving  
15 process or enforcing orders, judgments or decrees of any court  
16 or justice of the peace, including the power to provide for  
17 assignment and reassignment of classes of actions or classes of  
18 appeals among the several courts as the needs of justice shall  
19 require, and for admission to the bar and to practice law, and  
20 the administration of all courts and supervision of all officers  
21 of the Judicial Branch, if such rules are consistent with this  
22 Constitution and neither abridge, enlarge nor modify the  
23 substantive rights of any litigant, nor affect the right of the  
24 General Assembly to determine the jurisdiction of any court or  
25 justice of the peace, nor suspend nor alter any statute of  
26 limitation or repose. [All] Except for statutes enacted pursuant  
27 to section 5 of this article, all laws shall be suspended to the  
28 extent that they are inconsistent with rules prescribed under  
29 these provisions. Notwithstanding the provisions of this  
30 section, the General Assembly may by statute provide for the

1 manner of testimony of child victims or child material witnesses  
2 in criminal proceedings, including the use of videotaped  
3 depositions or testimony by closed-circuit television.

4 \* \* \*

5 (3) That section 18(a)(7), (8) and (9), (b)(5), (c)(1), (3)  
6 and (4) and (d) introductory paragraph and (1), (2) and (3) of  
7 Article V be amended to read:

8 § 18. Suspension, removal, discipline and other sanctions.

9 (a) There shall be an independent board within the Judicial  
10 Branch, known as the Judicial Conduct Board, the composition,  
11 powers and duties of which shall be as follows:

12 \* \* \*

13 (7) The board shall receive and investigate complaints  
14 regarding judicial conduct filed by individuals or initiated by  
15 the board against a justice, judge, justice of the peace or  
16 family law master; issue subpoenas to compel testimony under  
17 oath of witnesses, including the subject of the investigation,  
18 and to compel the production of documents, books, accounts and  
19 other records relevant to the investigation; determine whether  
20 there is probable cause to file formal charges against a  
21 justice, judge [or], justice of the peace or family law master  
22 for conduct proscribed by this section; and present the case in  
23 support of the charges before the Court of Judicial Discipline.

24 (8) Complaints filed with the board or initiated by the  
25 board shall not be public information. Statements, testimony,  
26 documents, records or other information or evidence acquired by  
27 the board in the conduct of an investigation shall not be public  
28 information. A justice, judge [or], justice of the peace or  
29 family law master who is the subject of a complaint filed with  
30 the board or initiated by the board or of an investigation

1 conducted by the board shall be apprised of the nature and  
2 content of the complaint and afforded an opportunity to respond  
3 fully to the complaint prior to any probable cause determination  
4 by the board. All proceedings of the board shall be confidential  
5 except when the subject of the investigation waives  
6 confidentiality. If, independent of any action by the board, the  
7 fact that an investigation by the board is in progress becomes a  
8 matter of public record, the board may, at the direction of the  
9 subject of the investigation, issue a statement to confirm that  
10 the investigation is in progress, to clarify the procedural  
11 aspects of the proceedings, to explain the rights of the subject  
12 of the investigation to a fair hearing without prejudgment or to  
13 provide the response of the subject of the investigation to the  
14 complaint. In acting to dismiss a complaint for lack of probable  
15 cause to file formal charges, the board may, at its discretion,  
16 issue a statement or report to the complainant or to the subject  
17 of the complaint, which may contain the identity of the  
18 complainant, the identity of the subject of the complaint, the  
19 contents and nature of the complaint, the actions taken in the  
20 conduct of the investigation and the results and conclusions of  
21 the investigation. The board may include with a report a copy of  
22 information or evidence acquired in the course of the  
23 investigation.

24 (9) If the board finds probable cause to file formal charges  
25 concerning mental or physical disability against a justice,  
26 judge [or], justice of the peace or family law master, the board  
27 shall so notify the subject of the charges and provide the  
28 subject with an opportunity to resign from [judicial] his office  
29 or, when appropriate, to enter a rehabilitation program prior to  
30 the filing of the formal charges with the Court of Judicial

1 Discipline.

2 \* \* \*

3 (b) There shall be a Court of Judicial Discipline, the  
4 composition, powers and duties of which shall be as follows:

5 \* \* \*

6 (5) Upon the filing of formal charges with the court by the  
7 board, the court shall promptly schedule a hearing or hearings  
8 to determine whether a sanction should be imposed against a  
9 justice, judge [or], justice of the peace or family law master  
10 pursuant to the provisions of this section. The court shall be a  
11 court of record, with all the attendant duties and powers  
12 appropriate to its function. Formal charges filed with the court  
13 shall be a matter of public record. All hearings conducted by  
14 the court shall be public proceedings conducted pursuant to the  
15 rules adopted by the court and in accordance with the principles  
16 of due process and the law of evidence. Parties appearing before  
17 the court shall have a right to discovery pursuant to the rules  
18 adopted by the court and shall have the right to subpoena  
19 witnesses and to compel the production of documents, books,  
20 accounts and other records as relevant. The subject of the  
21 charges shall be presumed innocent in any proceeding before the  
22 court, and the board shall have the burden of proving the  
23 charges by clear and convincing evidence. All decisions of the  
24 court shall be in writing and shall contain findings of fact and  
25 conclusions of law. A decision of the court may order removal  
26 from office, suspension, censure or other discipline as  
27 authorized by this section and as warranted by the record.

28 \* \* \*

29 (c) Decisions of the court shall be subject to review as  
30 follows:

1 (1) A justice, judge [or], justice of the peace or family  
2 law master shall have the right to appeal a final adverse order  
3 of discipline of the court. A judge [or], justice of the peace  
4 or family law master shall have the right to appeal to the  
5 Supreme Court in a manner consistent with rules adopted by the  
6 Supreme Court; a justice shall have the right to appeal to a  
7 special tribunal composed of seven judges, other than senior  
8 judges, chosen by lot from the judges of the Superior Court and  
9 Commonwealth Court who do not sit on the Court of Judicial  
10 Discipline or the board, in a manner consistent with rules  
11 adopted by the Supreme Court. The special tribunal shall hear  
12 and decide the appeal in the same manner in which the Supreme  
13 Court would hear and decide an appeal from an order of the  
14 court.

15 \* \* \*

16 (3) An order of the court which dismisses a complaint  
17 against a judge [or], justice of the peace or family law master  
18 may be appealed by the board to the Supreme Court, but the  
19 appeal shall be limited to questions of law. An order of the  
20 court which dismisses a complaint against a justice of the  
21 Supreme Court may be appealed by the board to a special tribunal  
22 in accordance with paragraph (1), but the appeal shall be  
23 limited to questions of law.

24 (4) No justice, judge [or], justice of the peace or family  
25 law master may participate as a member of the board, the court,  
26 a special tribunal or the Supreme Court in any proceeding in  
27 which the justice, judge or justice of the peace is a  
28 complainant, the subject of a complaint, a party or a witness.

29 (d) A justice, judge [or], justice of the peace or family  
30 law master shall be subject to disciplinary action pursuant to

1 this section as follows:

2 (1) A justice, judge [or], justice of the peace or family  
3 law master may be suspended, removed from office or otherwise  
4 disciplined for conviction of a felony; [violation of section 17  
5 of this article;] misconduct in office; neglect or failure to  
6 perform the duties of office or conduct which prejudices the  
7 proper administration of justice or brings the judicial office  
8 into disrepute, whether or not the conduct occurred while acting  
9 in a judicial capacity or is prohibited by law; or conduct in  
10 violation of a canon or rule prescribed by the Supreme Court. A  
11 justice, judge or justice of the peace may be suspended, removed  
12 from office or otherwise disciplined for a violation of section  
13 17 of this article. A judge or family law master may be  
14 suspended or removed from office for failure to complete  
15 judicial education requirements as provided by statute. In the  
16 case of a mentally or physically disabled justice, judge [or],  
17 justice of the peace or family law master, the court may enter  
18 an order of removal from office, retirement, suspension or other  
19 limitations on the activities of the justice, judge [or],  
20 justice of the peace or family law master as warranted by the  
21 record. Upon a final order of the court for suspension without  
22 pay or removal, prior to any appeal, the justice, judge [or],  
23 justice of the peace or family law master shall be suspended or  
24 removed from office; and the salary of the justice, judge [or],  
25 justice of the peace or family law master shall cease from the  
26 date of the order.

27 (2) Prior to a hearing, the court may issue an interim order  
28 directing the suspension, with or without pay, of any justice,  
29 judge [or], justice of the peace or family law master against  
30 whom formal charges have been filed with the court by the board

1 or against whom has been filed an indictment or information  
2 charging a felony. An interim order under this paragraph shall  
3 not be considered a final order from which an appeal may be  
4 taken.

5 (3) A justice, judge [or], justice of the peace or family  
6 law master convicted of misbehavior in office by a court,  
7 disbarred as a member of the bar of the Supreme Court or removed  
8 under this section shall forfeit automatically his judicial  
9 office and thereafter be ineligible for judicial office.

10 \* \* \*

11 Section 2. (a) Upon the first passage by the General  
12 Assembly of these proposed constitutional amendments, the  
13 Secretary of the Commonwealth shall proceed immediately to  
14 comply with the advertising requirements of section 1 of Article  
15 XI of the Constitution of Pennsylvania and shall transmit the  
16 required advertisements to two newspapers in every county in  
17 which such newspapers are published in sufficient time after  
18 passage of these proposed constitutional amendments.

19 (b) Upon the second passage by the General Assembly of these  
20 proposed constitutional amendments, the Secretary of the  
21 Commonwealth shall proceed immediately to comply with the  
22 advertising requirements of section 1 of Article XI of the  
23 Constitution of Pennsylvania and shall transmit the required  
24 advertisements to two newspapers in every county in which such  
25 newspapers are published in sufficient time after passage of  
26 these proposed constitutional amendments. The Secretary of the  
27 Commonwealth shall submit the proposed constitutional amendments  
28 under section 1 to the qualified electors of this Commonwealth  
29 as a single ballot question at the first primary, general or  
30 municipal election which meets the requirements of and is in

1 conformance with section 1 of Article XI of the Constitution of  
2 Pennsylvania and which occurs at least three months after the  
3 proposed constitutional amendments are passed by the General  
4 Assembly.