
SENATE BILL NO. 73—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 20, 2014

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the suspension of judges from the exercise of office. (BDR 1-493)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the Commission on Judicial Discipline; revising provisions governing the suspension of judges from the exercise of office; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the Commission on Judicial Discipline is required to
2 suspend a judge with pay while there is pending against the judge an indictment or
3 information charging the judge with a crime punishable as a felony. (NRS 1.4675)
4 **Section 1** of this bill requires the suspension of such a judge to be without pay.
5 **Section 1** further provides that if the judge is not convicted of the charge for which
6 the suspension was imposed, the judge must be paid his or her salary for the period
7 of the suspension.
8 Under existing law, the Commission has the discretion to suspend a judge
9 without pay if the judge is convicted of a crime punishable as a felony. (NRS
10 1.4675) **Section 1** requires the Commission to suspend the judge without pay under
11 those circumstances.
12 Existing law provides that if the Commission enters into a deferred discipline
13 agreement with a judge or finds that a judge has engaged in misconduct, the
14 Commission may take certain actions against the judge, including, without
15 limitation, suspending the judge without pay or imposing any other reasonable
16 disciplinary action against the judge. (NRS 1.4677) **Section 2** of this bill
17 specifically authorizes the Commission to suspend a judge with pay under those
18 circumstances.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 1.4675 is hereby amended to read as follows:

2 1.4675 1. The Commission shall suspend a judge from the
3 exercise of office with salary ~~⚡~~:

4 ~~—(a) While there is pending an indictment or information~~
5 ~~charging the judge with a crime punishable as a felony pursuant to~~
6 ~~the laws of the State of Nevada or the United States; or~~

7 ~~—(b) When~~ *when* the judge has been adjudged mentally
8 incompetent or insane.

9 2. The Commission ~~may~~ *shall* suspend a judge from the
10 exercise of office without salary ~~⚡~~:

11 *(a) While there is pending an indictment or information*
12 *charging the judge with a crime punishable as a felony pursuant*
13 *to the laws of the State of Nevada or the United States. If the*
14 *indictment or information does not result in the conviction of the*
15 *judge for a crime punishable as a felony pursuant to the laws of*
16 *the State of Nevada or the United States, the judge must be paid*
17 *his or her salary for the period of the suspension.*

18 *(b) If the judge* ~~⚡~~

19 ~~—(a) Pleads~~ *pleads* guilty, guilty but mentally ill or no contest to
20 a charge of, ~~⚡~~ or

21 ~~[(b) Is]~~ *is* found guilty or guilty but mentally ill of,
22 ~~⚡~~ a crime punishable as a felony pursuant to the laws of the State
23 of Nevada or the United States. If the conviction is later reversed,
24 the judge must be paid his or her salary for the period of suspension.

25 3. In addition to the grounds set forth in subsection 2, the
26 Commission may suspend a judge from the exercise of office
27 without salary if the Commission determines that the judge:

28 (a) Has committed serious and repeated willful misconduct;

29 (b) Has willfully or persistently failed to perform the duties of
30 office; or

31 (c) Is habitually intemperate,

32 ➔ and the Commission determines that the circumstances
33 surrounding such conduct, including, without limitation, any
34 mitigating factors, merit disciplinary action more severe than
35 censure but less severe than removal.

36 4. During any stage of a disciplinary proceeding, the
37 Commission may suspend the judge from the exercise of office with
38 salary pending a final disposition of the complaint if the
39 Commission determines, by a preponderance of the evidence, that
40 the judge poses a substantial threat of serious harm to the public or
41 to the administration of justice.



1 5. The Commission shall give the judge 7 days' notice of its
2 intention to suspend the judge pursuant to this section and shall give
3 the judge an opportunity to respond. The Commission shall hold a
4 public hearing before ordering such a suspension, unless the judge
5 waives the right to the hearing. The decision of the Commission
6 must be made public.

7 6. A judge suspended pursuant to this section may appeal the
8 suspension to the appellate court of competent jurisdiction pursuant
9 to the rules fixed by the Supreme Court pursuant to Section 4 of
10 Article 6 of the Nevada Constitution. If a judge appeals such a
11 suspension:

12 (a) The standard of review for such an appeal is an abuse of
13 discretion standard; and

14 (b) The proceedings held at the appellate court of competent
15 jurisdiction pursuant to the rules fixed by the Supreme Court
16 concerning the suspension must be open to the public.

17 7. Within 60 days after a decision by the Commission to
18 suspend a judge pursuant to this section, the Commission shall:

19 (a) Have a formal statement of charges filed against the judge;

20 (b) Rescind the suspension; or

21 (c) Enter into a deferred discipline agreement with the judge
22 pursuant to NRS 1.468.

23 8. The Commission may suspend a judge pursuant to this
24 section only in accordance with its procedural rules.

25 **Sec. 2.** NRS 1.4677 is hereby amended to read as follows:

26 1.4677 1. Pursuant to a deferred discipline agreement with
27 the judge entered into pursuant to NRS 1.468 or based on a finding
28 of misconduct following a hearing on a formal statement of charges,
29 the Commission may take one or more of the following actions:

30 (a) Publicly admonish, publicly reprimand or publicly censure a
31 judge.

32 (b) Impose a fine upon the judge.

33 (c) Suspend the judge from office *with or* without pay.

34 (d) Require the judge to:

35 (1) Complete a probationary period pursuant to conditions
36 deemed appropriate by the Commission.

37 (2) Attend training or educational courses.

38 (3) Follow a remedial course of action.

39 (4) Issue a public apology.

40 (5) Comply with conditions or limitations on future conduct.

41 (6) Seek medical, psychiatric or psychological care or
42 counseling and direct the provider of health care or counselor to
43 report to the Commission regarding the condition or progress of the
44 judge.

45 (e) Bar the judge from serving in a judicial office in the future.



1 (f) Impose any other reasonable disciplinary action or
2 combination of disciplinary actions that the Commission determines
3 will curtail or remedy the misconduct of the judge.

4 2. The Commission may publicly admonish a judge pursuant to
5 subsection 1 if the Commission determines that the judge has
6 violated one or more of the provisions of the Nevada Code of
7 Judicial Conduct in a manner that is not knowing or deliberate and
8 for which there are no aggravating factors.

9 3. The Commission may publicly reprimand a judge pursuant
10 to subsection 1 if the Commission determines that the judge has
11 violated one or more of the provisions of the Nevada Code of
12 Judicial Conduct in a manner that is:

13 (a) Not knowing or deliberate but for which there are
14 aggravating factors; or

15 (b) Knowing or deliberate but for which there are mitigating
16 factors.

17 **Sec. 3.** The amendatory provisions of section 1 of this act
18 apply only to:

19 1. An indictment or information filed against a judge on or
20 after July 1, 2015.

21 2. A plea of guilty, guilty but mentally ill or no contest, or a
22 finding of guilty or guilty but mentally ill, which occurs on or after
23 July 1, 2015.

24 **Sec. 4.** This act becomes effective on July 1, 2015.

