

NORTH CAROLINA GENERAL ASSEMBLY  
1971 SESSION

CHAPTER 560  
HOUSE BILL 86

AN ACT TO AMEND ARTICLE IV OF THE CONSTITUTION OF NORTH CAROLINA,  
AS AMENDED EFFECTIVE JULY 1, 1971, TO AUTHORIZE THE GENERAL  
ASSEMBLY TO PRESCRIBE PROCEDURES FOR THE CENSURE AND REMOVAL  
OF JUSTICES AND JUDGES OF THE GENERAL COURT OF JUSTICE.

The General Assembly of North Carolina do enact:

**Section 1.** Article IV, Section 17 of the Constitution of North Carolina, as amended effective July 1, 1971, is rewritten to read as follows:

**"Sec. 17.** Removal of Judges, Magistrates and Clerks.

(1) Removal of Judges by the General Assembly. Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) Additional method of removal of Judges. The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) Removal of Magistrates. The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) Removal of Clerks. Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law."

**Sec. 2.** The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election to be held in November, 1972. That election shall be conducted under the laws then governing elections in this State. At that election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

- "☐ FOR constitutional amendment authorizing the General Assembly to prescribe procedures for the censure and removal of Justices and Judges of the General Court of Justice."
- "☐ AGAINST constitutional amendment authorizing the General Assembly to prescribe procedures for the censure and removal of Justices and Judges of the General Court of Justice."

Those qualified voters favoring the amendment set out in Section 1 of this act shall vote by marking an X or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to that amendment shall vote by marking an X or check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

**Sec. 3.** If a majority of the votes cast thereon are in favor of the amendment set out in Section 1 of this act, then the Governor shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective on January 1, 1973.

**Sec. 4.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1971.