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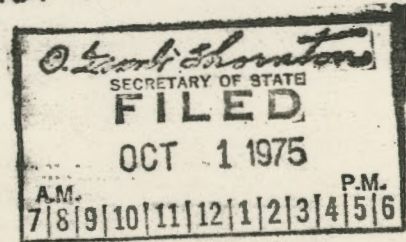
S. C. STATE DOCUMENTS
JUN 17 1976
STATE DOCUMENTS

Sept. 25
S.C. Judicial
Grievance and Discipline
Commission

STATE OF SOUTH CAROLINA

EXECUTIVE OFFICE

COLUMBIA



EXECUTIVE ORDER

75-12

Section 1. There is hereby created the South Carolina Judicial Grievance and Discipline Commission, hereinafter referred to as the "Commission". The Commission shall be composed of twenty-four (24) members to be appointed by the Governor. The Commission shall be composed as follows: one (1) Magistrate; one (1) County Judge; one (1) member of the South Carolina Bar from each Congressional District to serve with one lay person representative from each Congressional District.

Section 2. The terms of the members of the Commission shall be for six (6) years and until their successors are appointed and qualify, except that of those first appointed to the Commission, those representatives from the Sixth Congressional District shall serve a term of one (1) year, those representatives from the Fifth Congressional District shall serve a term of two (2) years, those representatives from the Fourth Congressional District shall serve a term of three (3) years, those representatives from the Third Congressional District shall serve a term of four (4) years, those representatives from the Second Congressional District shall serve a term of five (5) years, and those representatives from the First Congressional District shall serve a full term six (6) years. No member shall be eligible to succeed himself on the Commission. Vacancies on the Commission shall be filled for the remainder of the unexpired term in the same manner as provided for the original appointment within

thirty (30) days after such vacancy occurs. Any member of the Commission who, in the opinion of a majority of the Commission, has been absent from three (3) consecutive meetings, whether regular or special, without sufficient cause shall no longer be a member of the Commission and his seat shall be filled for the remainder of the unexpired term by appointment in the same manner as provided for the original appointments. Any judicial member of the Commission, whether Magistrate or County or Municipal judicial officer, who no longer occupies the judicial position occupied by such person upon his appointment and any member who is a licensed attorney who is elected to a judgeship shall no longer be a member of the Commission and his seat shall be filled for the remainder of the unexpired term by appointment in the same manner as provided for the original appointments within thirty (30) days after such vacancy occurs. Members of the Commission shall be paid the usual per diem, mileage and subsistence as provided by law for members of boards, commissions and committees to be paid from the General Fund of this State for each day they are engaged in official business of the Commission.

Section 3. The Chairman of the Commission shall be appointed by the Governor for a term of twelve (12) months. The Commission shall meet at least annually and at such other times as may be designated by the chairman. The Commission, at its first meeting, shall organize and shall adopt rules governing its internal proceedings. Eighteen (18) members of the Commission shall constitute a quorum at all meetings. The Commission may employ with the approval of the Governor such clerical and stenographic assistance as may be necessary to effectuate the provisions of this Order.

Section 4. In addition to all other provisions of law, the Commission shall be charged with the responsibility of monitoring the Magistrates, municipal and county judicial officers of the State judicial system with less than statewide jurisdiction and the Commission shall recommend to the Governor whether:

- 1) To privately censure such persons;
- 2) To publicly censure such persons;
- 3) To recommend suspension from office of such persons for a specified period of time;
- 4) To recommend removal from office of such persons.

The Governor, at his sole discretion, shall determine whether or not such persons warrant a private or public censure, or suspension, or removal from office. The following actions on the part of such persons shall indicate prima facie to the Commission that such recommendation to the Governor is necessary:

1) An indictment or information charging him in any court in the United States with a crime punishable as a felony under South Carolina or Federal law;

2) A plea of guilty or no contest to, or is found guilty of, a crime punishable as a felony under South Carolina or Federal law;

3) Wilful misconduct in office;

4) Wilful and persistent failure to perform his duties;

5) Habitual intemperance in the use of alcohol or drugs;

6) Conviction of a crime involving moral turpitude not constituting a felony, or

7) Conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

Where a finding of physical or mental disability is made, the Commission may recommend to the Governor either temporary suspension from office pending a full recovery or removal from office.

Section 5. Any citizen of the State may file a written complaint with the Commission concerning the conduct of any Magistrate, municipal or county judicial officer of the State judicial system with less than state-wide jurisdiction, and thereupon the Commission shall make such investigation upon direction of the Governor or may make an investigation upon its own motion. The Commission, by rule and regulation, shall establish, subject to the approval of the Governor, the policies and procedures necessary to accomplish the duties of the Commission. The Commission may establish panels from its membership consisting of not less than three (3) persons on each such panel which shall include one member of the Bar, one lay person, and one judicial representative or one magistrial representative to make such investigation and to establish such hearing or hearings as may be necessary.

No person subject to this Order shall be recommended to the Governor private or public censure, or suspension or removal from office unless he has been given a hearing before the Commission or a special panel as hereinafter provided. At such hearing, such persons or person under investigation shall be entitled to present a brief and to argue his case in person and through counsel. Any member of the Commission who is a Magistrate or Judge shall be disqualified from acting on the Commission in any case in which he is the subject of an inquiry by the Commission. The recommendations of the hearing panel will be made to the full Commission and to the person or persons under investigation. Within twenty (20) days after

service of notification of the recommendation of the hearing panel the person under investigation may appeal from that recommendation to the full Commission in such procedures as the Commission may adopt.

Section 6. Upon two-thirds of the members of the Commission voting in favor of a recommendation or private or public censure or suspension or removal from office, the said recommendation shall be immediately forwarded to the Governor with the reasons and justification for such action clearly set forth by the Commission. The Governor shall make any public pronouncements thereafter as the Governor deems advisable.

Section 7. All proceedings, decision, papers, documents and other such material of the Commission shall be private unless the Magistrate or municipal or judicial officer involved requests, in writing, to the Commission that they be made public or unless the Governor determines otherwise.

Every written complaint and every other communication, whether oral or written and testimony and other evidence presented to the Commission or any hearing panel or member thereof shall be privileged, and no action or proceeding, civil or criminal, shall lie against any person on whose behalf such communication shall have been made by reason thereof.

Section 9. This Order shall take effect immediately upon the appointment of the members of the Commission by the Governor.

Given under my hand and the
Great Seal of the State of
South Carolina at Columbia,
South Carolina, this 25
day of August, 1975.

James B. Edwards
James B. Edwards
Governor

ATTEST:

O. Frank Thornton
O. Frank Thornton
Secretary of State