

House Bill 691

By: Representatives Tanner of the 9<sup>th</sup>, Willard of the 51<sup>st</sup>, Welch of the 110<sup>th</sup>, Caldwell of the 131<sup>st</sup>, and Golick of the 40<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated,  
2 relating to municipal courts generally, so as to provide the removal of appointed municipal  
3 court judges under certain circumstances; to provide for procedure; to provide for related  
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to  
8 municipal courts generally, is amended by revising subsection (a) of Code Section 36-32-2,  
9 relating to appointment of judges, as follows:

10 "(a) Notwithstanding any other provision of this chapter or any general or local Act, the  
11 governing authority of each municipal corporation within this state having a municipal  
12 court, as provided by the Act incorporating the municipal corporation or any amendments  
13 thereto, is authorized to appoint a judge of such court. Any ~~person~~ individual appointed  
14 as a judge under this Code section shall possess such qualifications as set forth in Code  
15 Section 36-32-1.1 and shall receive such compensation as shall be fixed by the governing  
16 authority of the municipal corporation ~~and shall serve at the pleasure of the governing~~  
17 ~~authority.~~ Any individual appointed as a judge under this Code section shall serve for the  
18 term set forth in a written agreement between such individual and the governing authority  
19 of the municipal corporation, unless otherwise agreed by the parties or if the judge is  
20 removed from office as provided in Code Section 36-32-2.2."

21 style="text-align:center">**SECTION 2.**

22 Said article is further amended by adding a new Code Section to read as follows:

23 "36-32-2.2.

24 (a) As used in this Code section, the term 'judge' means an individual serving as an  
25 appointed municipal court judge.

26 (b)(1) A judge may be removed during his or her term of office by a two-thirds' vote of  
27 the entire membership of the governing authority of the municipal corporation for:  
28 (A) Willful misconduct in office;  
29 (B) Willful and persistent failure to perform duties;  
30 (C) Habitual intemperance;  
31 (D) Conduct prejudicial to the administration of justice which brings the judicial office  
32 into disrepute; or  
33 (E) Disability seriously interfering with the performance of duties, which is, or is likely  
34 to become, of a permanent character.  
35 (2) A municipality may define in its charter further conduct that may lead to a judge's  
36 removal.  
37 (c) Removal proceedings pursuant to subsection (b) of this Code section may be initiated  
38 only by written petition setting forth the grounds for removal of a judge signed by one or  
39 more members of the governing authority of the municipal corporation. Upon submission  
40 of the petition to remove the judge to such governing authority, the governing authority  
41 may consider the petition and determine if the petition relates to and adversely affects the  
42 administration of the office of the judge and the rights and interests of the public. If it is  
43 determined at a public meeting by a majority vote of the governing authority of the  
44 municipal corporation that there is an adverse impact, the judge may be suspended  
45 immediately and without further action for up to 60 days pending the final determination  
46 pursuant to subsection (e) of this Code section. A judge suspended pursuant to this  
47 subsection shall continue to receive the compensation from his or her office until the final  
48 determination on the petition or expiration of the suspension.  
49 (d) If by the expiration of the suspension period no formal resolution of the petition has  
50 been made, the judge shall be reinstated.  
51 (e) Removal proceedings shall consist of an open and public hearing held by the governing  
52 authority of the municipal corporation, provided that the judge against whom such charges  
53 have been brought shall be furnished a copy of the charges at least ten days prior to the  
54 hearing. At the conclusion of the hearing, the governing authority of the municipal  
55 corporation shall determine whether or not to remove the judge from office. The governing  
56 authority of the municipal corporation may adopt rules governing the procedures at such  
57 hearings, provided that such hearings comport with due process. The right of certiorari  
58 from the decision to remove a judge from office shall exist, and such certiorari shall be  
59 obtained under the sanction of a judge of the superior court of the circuit in which the  
60 governing authority of the municipal corporation is situated.  
61 (f) This Code section shall not affect the power and authority of the Judicial Qualifications  
62 Commission to discipline, remove, or cause the involuntary retirement of judges.

63 (g) Any vacancy in a judgeship created by the removal of a judge pursuant to this Code  
64 section may be temporarily filled by the governing authority of the municipal corporation  
65 for a period not longer than 90 days by any individual qualified by law to serve as a  
66 municipal court judge. If after the conclusion of the removal proceedings, including the  
67 appeal period, there is a vacancy for such judgeship, the governing authority of the  
68 municipal corporation may appoint a judge in the same manner as set forth in Code Section  
69 36-32-2.  
70 (h) The provisions of this Code section shall expressly supersede any conflicting local law  
71 of this state."

72 **SECTION 3.**

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