

Judicial Conduct and Disability Act Controversy

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In 1980, the Judicial Conduct and Disability Act was passed by the Congress; within the Act, judiciary discipline measures were outlined (Hall & Feldmeier, 2012). Ever since it was passed, the Act has become a point of controversy, which is the primary product of the concerns about the constitutionality of it and whether the Act can be deployed as a means of elimination of unwanted judges. The following paper addresses the Act from the perspective of its constitutionality, the measures applicable to judges caught in misconduct and the terms of judges' removal, as well as the terms of appointment.

To fully understand the nature of the controversy over the 1980 Act, it is worth determining whether the Act is constitutional or not. There are several factors that indicate the non-constitutionality of it. Firstly, under the 1980 Act, a complaint against a judge can be put forward by any individual. In addition, the Act does not have any *sine qua non* conditions except that the judge should be an effective court administrator. The description of prejudicial conduct also appears evasive, as well as the standards for behavior that might be deemed ethical or unethical. Also, the Act does not fall under the category of case or controversy as per Article III. In the *Bergen v. Edenfield* case, it was ruled that the procedures of case reassignment, sanctions, and impeachment are for the council to decide on, not the court (*Joseph B. Bergen, n.d.*). Thus, the constitutional nature of this Act can be cast doubt upon. Rather, the Act consists of internal administrative procedures that facilitate more efficient regulation of the judges' conduct.

An Article II judge is the one involved in unethical behavior. Such behavior implies treason, bribery, and, possibly, crimes of political nature as well as crimes committed repeatedly, as established in *Hastings v. Judicial Conference of the United States* (*Hastings v. Judicial Conference of United States, n.d.*). In the same case, Judge Hastings argued for the unconstitutionality of repeated reassignment of cases from judges such as him. Although his objections were denied Hastings' point was that the only constitutionally justified disciplinary measure would be impeachment. In reality, the Act does not determine any prerequisites to remove judges from their positions, instead allowing the cases to be reassigned, thus depriving judges of their primary authority. Whether such deprivation meets the Constitution's intentions is arguable. The Framers

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Selected Literature on Judicial Conduct and Disability Jane Van Schaick, Kathleen Sampson, 1983

Implementation of the Judicial Conduct and Disability Act of 1980 United States. Supreme Court. Judicial Conduct and Disability Act Study Committee, 2007 Report evaluates how the federal judicial system has implemented the Judicial Conduct and Disability Act of 1980 Committee members include Justice Stephen Breyer committee chair U S District Judge Sarah Evans Barker U S Circuit Judge Pasco M Bowman U S District Judge D Brock Hornby U S Circuit Judge J Harvie Wilkinson III and Sally M Rider Administrative Assistant to the Chief Justice Handbook of Court Administration and Management Steven W. Hays, Cole Blease Graham Jnr., 2017-10-19 Blending both the theoretical and applied aspects of contemporary issues in court management this reference text offers in depth coverage of all major topics and developments in judicial systems administration It is suitable for use in the classroom or for self study Providing the background material to clarify even the most technical management application this book presents the history and theory of the court management movement examines the separation of powers doctrine and its relationship to judicial independence discusses the latest developments in court reform the American Bar Association standards alternative dispute resolution techniques and caseload considerations analyzes unified court budgeting and revenue generation by judicial systems describes personnel administration training and jury management and elucidates court performance evaluation planning approaches the use of cameras in the courtroom and audio visual applications Maryland Judicial Ethics Handbook, 1989 **Catalog of Publications**, Report of the Governor's Judicial Reform Commission Pennsylvania. Governor's Judicial Reform Commission, 1988 **Monthly Catalog of United States Government Publications**, 2002-07 **Regulation of Lawyers** Stephen Gillers, Norman Dorsen, 1989 Encyclopedia of Criminal Justice Ethics Bruce A. Arrigo, 2014-07-17 Federal state county and municipal police forces all have their own codes of conduct yet the ethics of being a police officer remain perplexing and are often difficult to apply in dynamic situations The police misconduct statistics are staggering and indicate that excessive use of force comprises almost a quarter of misconduct cases with sexual harassment fraud theft and false arrest being the next most prevalent factors The ethical issues and dilemmas in criminal justice also reach deep into the legal professions the structure and administration of justice in society and the personal characteristics of those in the criminal justice professions The Encyclopedia of Criminal Justice Ethics includes A to Z entries by experts in the field that explore the scope of ethical decision making and behaviors within the spheres of criminal justice systems including policing corrections courts forensic science and policy analysis and research This two volume set is available in both print and electronic formats Features Entries are authored and signed by experts in the field and conclude with references and further readings as well as cross references to related entries that guide readers to the next steps in their research journeys A Reader's Guide groups related entries by broad topic areas and themes making it easy for readers to quickly identify related

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