

SENATE BILL NO. 479

BY SENATOR MORRIS AND REPRESENTATIVES AMEDEE, BACALA, BERAULT, BOUDREAUX, BOYER, BROUSSARD, BUTLER, CARLSON, CARRIER, CARVER, CHENEVERT, COX, CREWS, DESHOTEL, DEWITT, DICKERSON, EDMONSTON, EGAN, FIRMENT, GALLE, HORTON, MIKE JOHNSON, JACOB LANDRY, MCCORMICK, MCMAKIN, OWEN, SAWYER, SCHAMERHORN, SPELL, WILDER, WILEY AND WYBLE

1 AN ACT

2 To enact Chapter 21-A of Title 42 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 42:1421 through 1424, relative to removal of public officials; to  
4 provide for removal of certain elected or temporarily appointed judges or a Louisiana  
5 Supreme Court justice by legislative impeachment; to provide relative to procedures;  
6 to provide for definitions; to provide for effectiveness; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 21-A of Title 42 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 42:1421 through 1424, is hereby enacted to read as follows:

11 **CHAPTER 21-A. REMOVAL OF PUBLIC OFFICIALS BY**

12 **LEGISLATIVE IMPEACHMENT**

13 **§1421. Definitions**

14 **For the purposes of this Chapter:**

15 **(1) "Gross misconduct" means the grossly improper or willful and**  
16 **persistent failure in the performance of an official's duty to follow and apply the**  
17 **laws of this state or the laws of the United States or to persistently engage in**  
18 **grossly improper or illegal conduct which brings disrepute to the judicial**  
19 **system of this state or for a judge to willfully and persistently violate the canons**  
20 **of the Code of Judicial Conduct.**

21 **(2) "Malfeasance while in office" means substantial wrongdoing or**  
22 **misconduct by a judge in an official capacity that seriously undermines public**

1 confidence in the judiciary, including but not limited to any intentional refusal  
2 or other failure to perform any duty required by law, intentionally performing  
3 official duties in an unlawful manner, intentional or willful commission of an  
4 unlawful or wrongful act including the persistent refusal to follow the laws of  
5 this state or the United States, or knowingly permitting any other public officer  
6 or public employee, under his or her authority, to commit malfeasance in office.

7 §1422. Impeachment; procedure

8 A.(1) By majority vote of its elected members, the House of  
9 Representatives is free to proceed with any impeachment under its own  
10 constitutional authority at any time notwithstanding these procedures. The  
11 House may adopt rules of impeachment and may act in accordance with those  
12 rules during a session on any resolution of impeachment filed in the House of  
13 Representatives in the same manner as for passing a bill through the House of  
14 Representatives, but notwithstanding any deadline for filing bills or substantive  
15 resolutions.

16 (2) This Section shall provide an additional method to orderly consider  
17 impeachment.

18 (3)(a) If the complaint is against a judge, the speaker of the House of  
19 Representatives or president of the Senate may elect to request a confidential  
20 report from the Judiciary Commission to ascertain whether the matter is  
21 already under active investigation or may elect to propose that the legislature  
22 issue a Special Legislative Address for Investigation pursuant to R.S. 42:1423.

23 (b) If the complaint is against an official for conduct subject to the  
24 jurisdiction of the Board of Ethics, the speaker of the House of Representatives  
25 or president of the Senate may elect to request a confidential report from the  
26 Board of Ethics to ascertain whether the matter is already under active  
27 investigation.

28 (c) The speaker of the House of Representatives or president of the  
29 Senate may direct that proceedings pursuant to this Section be paused pending  
30 the conclusion of disciplinary proceedings in another body. However, upon

1 written petition of three-fifths of both the House of Representatives and the  
2 Senate, the investigation shall proceed under this Section.

3 B. Upon request by three-fifths of both the House of Representatives and  
4 Senate, which may be by written ballot, the speaker of the House of  
5 Representatives shall appoint three members of the House of Representatives,  
6 the president of the Senate shall appoint three members of the Senate, and the  
7 speaker of the House of Representatives and president of the Senate shall jointly  
8 appoint one member of the legislature as chair of a joint legislative committee  
9 on an impeachment investigation. The joint committee shall have the power of  
10 subpoena as a committee of the legislature.

11 C.(1) An impeachment investigation request under this Section may be  
12 filed in writing by three-fifths of both the House of Representatives and the  
13 Senate and shall be based upon a sworn complaint filed by any citizen with the  
14 clerk of the House of Representatives alleging a violation warranting  
15 impeachment under Section 24 of Article X of the Constitution of Louisiana.

16 (2) The complaint shall contain the name and legal address of the person  
17 filing the complaint, be based on the complainant's personal knowledge, state  
18 detailed facts, specify the actions of the named respondent which form the basis  
19 for the complaint, and identify each specific rule or law alleged by the  
20 complainant to have been violated.

21 (3) Upon a determination by three-fifths of the appointed members of the  
22 joint committee that the complaint states facts supporting a finding of probable  
23 cause of a violation warranting impeachment, the committee shall proceed with  
24 an investigation. The joint committee may appoint a special master or special  
25 subcommittee to gather and report facts. Following any failure by the joint  
26 committee to determine under this Paragraph that the complaint states facts  
27 supporting a finding of probable cause of a violation warranting impeachment,  
28 the complaint shall be dismissed.

29 (4) Unless dismissed, the committee shall investigate, give reasonable  
30 notice to the respondent, and grant the respondent an opportunity to be heard.

1 Any special committee or special master's report and recommendation shall be  
2 presented to the chair of the joint committee as soon as practicable after the  
3 close of the investigation. If the report and recommendation conclude that the  
4 facts do not support a finding of a violation warranting impeachment, the  
5 complaint shall be dismissed unless three-fifths of the appointed members of the  
6 joint committee vote to proceed.

7 (5) If the report and recommendation of the special master or the select  
8 committee conclude that the facts support a finding of a violation warranting  
9 impeachment, the joint committee shall consider the report and  
10 recommendation, may make further inquiry, shall grant the respondent an  
11 opportunity to be heard before it, and shall respond to the report by taking any  
12 of the following actions: (a) dismiss the complaint; (b) issue a reprimand from  
13 the joint committee; or (c) develop its own recommendation to the speaker of  
14 the House of Representatives based on its investigation provided that any  
15 recommendation for impeachment shall be pursuant to Paragraph (6) of this  
16 Subsection.

17 (6) If the joint committee recommends impeachment by a three-fifths  
18 vote of its appointed members, the speaker of the House of Representatives shall  
19 present the committee's final recommendation along with any findings of the  
20 special master or special committee, to the House for final action.

21 (7) No member of the joint committee is recused from further  
22 consideration of the impeachment proceedings or a subsequent Senate trial.

23 D. Any material provided to the House of Representatives or joint  
24 committee in response to a complaint filed under rule that is confidential under  
25 applicable law shall remain confidential and shall not be disclosed to any person  
26 unless impeachment proceedings are recommended.

27 E. A complaint under this Section must be filed within two years after  
28 the alleged violation. A violation is committed when every element necessary to  
29 establish a violation of the rule has occurred, and time starts to run on the day  
30 after the violation occurred. A continuing violation does not prescribe. The

1 applicable period of limitation is tolled on the day a sworn complaint is filed  
 2 with the clerk of the House of Representatives.

3 F. When the House of Representatives is in recess or not in session, the  
 4 speaker of the House of Representatives may appoint a replacement for any  
 5 impeachment manager appointed by the House of Representatives if the  
 6 manager neglects or cannot perform the duties of a manager or if the manager  
 7 resigns. The speaker of the House of Representatives shall be the sole judge of  
 8 such matters.

9 G. The Senate shall determine the time for the trial of any impeachment  
 10 and may sit for the trial whether the legislature is in session or not. The  
 11 president of the Senate may fix special meetings of the Senate under Section 24  
 12 of Article X of the Constitution of Louisiana for this purpose. The president of  
 13 the Senate may appoint a special impeachment committee to develop the rules  
 14 and procedures for any particular impeachment.

15 §1423. Special legislative address concerning investigation of a judge

16 In lieu of bringing impeachment proceedings, the legislature by  
 17 concurrent resolution, adopted in accordance with all applicable rules for  
 18 passage of a bill, may refer to the Judiciary Commission for investigation any  
 19 matter concerning the conduct of a judge that it finds could constitute gross  
 20 misconduct or malfeasance.

21 §1424. Availability of other proceedings

22 Nothing in this Chapter shall be construed as precluding removal of any  
 23 official, including a judge, by impeachment at any time pursuant to Article X,  
 24 Section 24 of the Constitution of Louisiana, removal of a judge by the supreme  
 25 court pursuant to Article V, Section 25 of the Constitution of Louisiana, or  
 26 removal by suit of officials subject to the provisions of Article X, Section 25 of  
 27 the Constitution of Louisiana.

28 Section 2. This Act shall be known and may be cited as the "Jacob Carter Act".

29 Section 3. This Act shall become effective upon signature by the governor or, if not  
 30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
3 effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_