

SENATE BILL NO. 425

BY SENATOR MORRIS

1 AN ACT

2 To amend and reenact R.S. 42:1411(A), (B), (C), and (G) and 1412(A) and to enact R.S.
3 42:1412(E), relative to removal of certain public officials; to provide for grounds for
4 removal; to provide for procedure to remove an official by suit; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 42:1411(A), (B), (C), and (G) and 1412(A) are hereby amended and
8 reenacted and R.S. 42:1412(E) is hereby enacted to read as follows:

9 §1411. Public officer; ground for removal; suspension; definitions

10 A. A public officer except for those officers exempt from removal by suit
11 as provided in Article X, Section 25 of the Constitution of Louisiana shall be
12 removed from office for conviction, during his term of office, of a felony or for
13 malfeasance or gross misconduct while in office as provided in R.S. 42:1412.

14 B. The conviction for a felony of a public officer or the commission of
15 malfeasance or gross misconduct of a public officer while in office shall
16 automatically suspend that individual from his public office without compensation.
17 The suspension from public office without compensation shall continue until the
18 conviction is final and all appellate review of the original trial court proceedings is
19 exhausted. During the period of suspension, the public official shall not perform any
20 official act, duty, or function nor shall he receive any compensation, pay, allowance,
21 emolument, or privilege of his office. If the conviction is reversed on appeal, the
22 public official shall be entitled to and shall receive full back pay with legal interest
23 thereon from the date of suspension, compensation, and all rights, duties, powers,
24 allowances, emoluments, and privileges of office to which he would have been

1 entitled had he not been suspended.

2 C. During this period of suspension, another person shall be appointed to
 3 perform the official acts, duties, and functions of that office during the period of
 4 suspension. Any person appointed to perform these official acts, duties, and
 5 functions shall serve in his appointed capacity until the **determination of**
 6 **malfeasance or gross misconduct or the** conviction of the public official is
 7 **overturned or** reversed on appeal or until expiration of the term of office of the
 8 suspended public official, whichever occurs first. Every person appointed under the
 9 provisions of this Section shall receive the same pay, compensation, allowances,
 10 emoluments, and privileges of the office to which he is appointed as the suspended
 11 public official received prior to his suspension.

12 * * *

13 G. For purposes of this Chapter, **the following terms shall apply:**

14 **(1) the term "felony" "Felony"** includes both a felony under the laws of this
 15 state and a felony under the laws of the United States.

16 **(2) For purposes of this Chapter, the term "public "Public** officer" means any
 17 person holding a public office, whether state, district, parochial, ward, or municipal,
 18 whether the person is elected or appointed except judges of the courts of record.

19 **(3) "Malfeasance" means any of the conduct described in R.S. 14:134(A).**

20 **(4) "Gross misconduct" means the willful, knowing, or recklessly**
 21 **indifferent act or omission by a public official, committed in office or under**
 22 **color of office, that: (a) constitutes a serious abuse or misuse of official power**
 23 **or authority; (b) materially violates the law, the oath of office, or established**
 24 **ethical duties; or (c) substantially undermines the integrity, functioning, or**
 25 **public trust of the office; and that is of such gravity that it renders the official**
 26 **unfit to continue in office.**

27 * * *

28 §1412. Method for removal

29 A.**(1)** For conviction of a felony any public officer shall be removed by
 30 judgment of the district court of the district in which he is domiciled. The district

1 attorney of that judicial district shall institute the suit within ten days after the
 2 conviction is final and all appellate review of the original trial court proceedings is
 3 exhausted. Suits against the attorney general shall be brought in the Nineteenth
 4 Judicial District by the district attorney of that district, and suits against a district
 5 attorney shall be brought by the attorney general.

6 **(2) For commission of malfeasance or gross misconduct while in office**
 7 **a public official shall be removed by judgment of the district court in the parish**
 8 **of the official's domicile or the parish where the conduct occurred. A suit to**
 9 **remove a public official pursuant to this Section may be brought by the attorney**
 10 **general or by either house of the legislature pursuant to the provisions of**
 11 **Subsection E of this Section.**

12 * * *

13 **E.(1) A public official shall be removed from office upon a final judicial**
 14 **determination proven by clear and convincing evidence that the public official**
 15 **has committed malfeasance or gross misconduct while in office. This proceeding**
 16 **shall be brought in the parish in which the official is domiciled or the parish**
 17 **where the conduct of malfeasance or gross misconduct occurred.**

18 **(2) Any action pursuant to this Subsection shall be civil in nature, subject**
 19 **to the provisions of Subsection C of this Section, with venue in the parish of the**
 20 **official's domicile or the parish where the conduct occurred.**

21 **(3) The attorney general may initiate an action under this Subsection**
 22 **only upon an affirmative vote of two-thirds of the elected members of either**
 23 **house of the legislature authorizing the attorney general to file the action**
 24 **against a public official, which vote may be procured by written ballot.**

25 **(4) Either house of the legislature may initiate an action under this**
 26 **Subsection only upon a two-thirds vote of the elected members of that house,**
 27 **which vote may be procured by written ballot. The action shall be brought in**
 28 **the name of the presiding officer of the house voting to initiate the action.**

29 **(5) The supreme court shall appoint an ad hoc judge approved by a**
 30 **majority of the court to preside over any action initiated under this Subsection.**

1 (6) Nothing in this Subsection shall be construed to limit the authority
2 of the attorney general to institute a suit to remove a public officer while in
3 office under the provisions of Subsection A of this Section.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____