

## **Rules of Procedure: Committee on the Judiciary**

1. Hearings and meetings of the Committee on the Judiciary shall be held in the Committee's assigned committee room (Room M-410, State Capitol) or at such other place within the State Capitol as the Chair of the Committee shall direct. The Clerk of the House of Delegates shall direct all necessary preparations for such meeting or hearing.
2. The date and time of all meetings and hearing shall be determined and fixed by the Chair.
3. The Chair, or a member of the Committee designated by the Chair, shall preside at all meetings and hearings of the Committee, and neither the Chair nor the presiding member shall be limited in any manner in examining witnesses or participating in debate solely because of his or her role as Chair\_or presiding member.
4. All hearings before the Committee shall be preserved, whether recorded electronically, recorded by a court reporter or stenographer, or by some other method as determined by the Chair.
5. The clerk of the Committee shall be responsible for all documents filed with the Committee, and said documents shall be kept in a secure room or on a secure server.
6. Any officer of the State who is a subject of the proceedings may appear in person or by a person designated as his or her counsel or representative at a hearing or meeting. No counsel or representative shall be recognized as such by the Committee unless a written authorization, signed by the subject officer, has been filed with the Committee, authorizing the person to act as counsel or representative. If the subject officer does not appear in person or by counsel or representative, this fact shall be recorded, and the proceedings shall be conducted as though the subject officer were present, but the members of the Committee shall make no presumption based on the nonappearance of the subject officer.
7. No motion to quash, motion to dismiss, demurrer or other dilatory plea in the form of a defense, objection or request for a determination of the general issue of impeachment offered by an officer of the State (or his or her counsel or representative) who is a subject of the proceedings, shall be considered by the Committee.
8. The order of business, the priority of calling witnesses, and the order of examining witness or receiving evidence is determined by the Chair. No motion to issue articles of impeachment shall be considered until counsel for the committee has informed the Chair that presentation of all evidence regarding the subject against whom the proposed articles are addressed has been completed.
9. The form of a subpoena or subpoena duces tecum issued shall be determined by the Chair and shall not be subject to attack as to its form.

10. Before any witness gives his or her testimony before the Committee, the Chairman, or in his absence, a member of the Committee, shall administer the following oath or affirmation to the witness:

“Do you solemnly swear or affirm that the testimony you shall give in the matter now before this Committee shall be the truth?”
11. Any witness appearing before the Committee may, after being sworn, make an opening oral statement, not to exceed five minutes in length, and may also file with the Committee in advance of his or her testimony, a written statement, made under oath or affirmation.
12. Because the sole remedy available in an impeachment proceeding is the removal from office of an officer of the State, the resignation, retirement or some other act which effectively results in the removal of an officer who is a subject of the proceeding from his/her office eliminates the need for further evidence specifically referring to that official. In order for the Committee’s time to be more effectively employed and to reduce the cost to the State, no such evidence will be admitted following receipt of notice of the resignation, retirement or action resulting in the removal of that official, and counsel for the Committee and the members of the Committee will be instructed accordingly by the Chair. However, evidence regarding a group of which that official is a member, if otherwise relevant for purposes of considering the allegations involving other members of that group or for the purpose of considering the need for legislative action, shall be permitted.
13. Any witness called by the Committee may be examined by the members of the Committee, counsel for the Committee and the counsel or representative of the subject officer. The subject officer may file with the Committee a request that the Chair call a witness or witnesses, and each such request shall be accompanied with a description of the proposed testimony, sufficient to enable the Chair to determine whether such witness, if called, might provide testimony which could be of probative value to the members of the Committee. If a member of the Committee, counsel for the Committee or the counsel or representative of the subject officer desires to reexamine a witness who has previously testified and has been excused, he or she may, without objection, be permitted to do so, but if objection is raised by a member of the committee, the request shall be submitted to the Committee for decision, and decided by a majority of the members present.
14. When a witness has been called and taken the required oath, counsel for the Committee shall proceed with the initial questioning. Thereafter, each member of the Committee will be entitled to ask questions of the witness, until such time as every member of the Committee has had the opportunity to participate in the examination. The subject officer’s counsel or representative shall then be recognized to ask questions of the witness; provided, that such questions by the subject officer’s counsel or representative shall not exceed the scope of examination by the Committee or counsel for the Committee. The Chair shall then again permit any member of the Committee or its counsel who desires to ask questions of the witness, until such time as the members and counsel for the Committee have exercised a second opportunity to question the witness, or have declined to do so. Any witness appearing with counsel shall have the right to consult with counsel during examination and before responding to any question asked. The Chairman shall

have sole discretion as to scope and length of questioning of each witness and may limit the time that a member of the Committee consumes in his/her questioning of the witness.

15. Prior to issuance of a summons or subpoena, the Chair may request the voluntary attendance of any witness or voluntary production of papers, documents, or other physical evidence, for inspection and copying. When the Committee sends for any person or any paper, document or other physical evidence, or orders the attendance of any witness, or the production of any paper, document or physical evidence, a summons shall be issued by the Chair, directed to the Sheriff or other proper person of any county, or to the Sergeant-at-Arms of the House of Delegates or any person deputed by him or her. A subpoena or subpoena duces tecum issued by the Chair of the Committee may be enforced by attachment, fine or imprisonment, at the discretion of the House of Delegates, or by invoking the aid of the courts of the State.
16. A complaint, communication, petition or resolution related to impeachment is to be treated as a bill of inquiry, and the rules of evidence governing proceedings in the courts of the State are not applicable to proceedings before the Committee. The Chair may admit evidence in a manner he or she deems necessary to secure fairness to the public interest and to the subject officer, to eliminate unjustifiable expense and delay, and to avoid needless presentation of cumulative evidence, to the end that the truth may be ascertained, and the proceedings justly determined. Each member of the Committee shall determine for him or herself the probative value of evidence adduced before the Committee.
17. The Chair may designate a person or persons to have charge in the matter of keeping order at all hearings or meetings of the Committee. Designated persons may be the Sergeant-at-Arms of the House of Delegates or members of his or her staff, or members of the Division of Protective Services assigned by the Director of the Division of Protective Services at the request of the Chair.