

1-1 By: Huffman S.B. No. 21  
 1-2 (In the Senate - Filed March 10, 2023; March 13, 2023, read  
 1-3 first time and referred to Committee on State Affairs;  
 1-4 March 30, 2023, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 2; March 30, 2023,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

|      | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8  | X   |     |        |     |
| 1-9  | X   |     |        |     |
| 1-10 | X   |     |        |     |
| 1-11 | X   |     |        |     |
| 1-12 | X   |     |        |     |
| 1-13 |     | X   |        |     |
| 1-14 |     | X   |        |     |
| 1-15 | X   |     |        |     |
| 1-16 | X   |     |        |     |
| 1-17 | X   |     |        |     |
| 1-18 | X   |     |        |     |
| 1-19 |     |     | X      |     |

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 21 By: Hughes

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to the discipline of judges by the State Commission on  
 1-24 Judicial Conduct and the legislature.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 33.001(b), Government Code, is amended  
 1-27 to read as follows:

1-28 (b) For purposes of Section 1-a, Article V, Texas  
 1-29 Constitution, "wilful or persistent conduct that is clearly  
 1-30 inconsistent with the proper performance of a judge's duties"  
 1-31 includes:

1-32 (1) wilful, persistent, and unjustifiable failure to  
 1-33 timely execute the business of the court, considering the quantity  
 1-34 and complexity of the business;

1-35 (2) wilful violation of a provision of the Texas penal  
 1-36 statutes or the Code of Judicial Conduct;

1-37 (3) persistent or wilful violation of the rules  
 1-38 promulgated by the supreme court;

1-39 (4) incompetence in the performance of the duties of  
 1-40 the office;

1-41 (5) failure to cooperate with the commission; ~~or~~

1-42 (6) violation of any provision of a voluntary  
 1-43 agreement to resign from judicial office in lieu of disciplinary  
 1-44 action by the commission; or

1-45 (7) persistent or wilful violation of Article 17.15,  
 1-46 Code of Criminal Procedure.

1-47 SECTION 2. Section 33.0212, Government Code, is amended to  
 1-48 read as follows:

1-49 Sec. 33.0212. REPORT AND RECOMMENDATIONS ON FILED  
 1-50 COMPLAINTS. (a) As soon as practicable after a complaint is filed  
 1-51 with the commission, commission staff shall conduct a preliminary  
 1-52 investigation of the filed complaint and draft recommendations for  
 1-53 commission action.

1-54 (a-1) On completion of the preliminary investigation and  
 1-55 submission of recommendations under Subsection (a), commission  
 1-56 staff shall provide to the judge who is the subject of the complaint  
 1-57 written notice of:

1-58 (1) the complaint, the results of the preliminary  
 1-59 investigation, and the commission staff's recommendations for  
 1-60 commission action regarding the complaint; and

2-1                   (2) the judge's right to attend each commission  
 2-2 meeting at which the complaint is included in the report filed with  
 2-3 the commission members under Subsection (a-2).

2-4                   (a-2) Not later than the 10th business day before a  
 2-5 scheduled commission meeting [120th day after the date a complaint  
 2-6 is filed with the commission], commission staff shall prepare and  
 2-7 file with each member of the commission a report detailing:

2-8                   (1) each complaint for which a preliminary  
 2-9 investigation has been conducted under Subsection (a) but for which  
 2-10 the investigation report has not been finalized under Subsection  
 2-11 (b);

2-12                   (2) the results of the preliminary investigation of  
 2-13 the complaint; and

2-14                   (3) the commission staff's recommendations for  
 2-15 commission action regarding the complaint.

2-16                   (b) Not later than the 120th [90th] day following the date  
 2-17 of the first commission meeting at which a complaint is included in  
 2-18 the report filed with the commission under Subsection (a-2) [staff  
 2-19 files with the commission the report required by Subsection (a)],  
 2-20 the commission shall finalize the investigation report and  
 2-21 determine any action to be taken regarding the complaint,  
 2-22 including:

2-23                   (1) a public sanction;

2-24                   (2) a private sanction;

2-25                   (3) a suspension;

2-26                   (4) an order of education;

2-27                   (5) an acceptance of resignation in lieu of  
 2-28 discipline;

2-29                   (6) a dismissal; or

2-30                   (7) an initiation of formal proceedings.

2-31                   (b-1) After the commission meeting at which an  
 2-32 investigation report is finalized and an action is determined under  
 2-33 Subsection (b), the commission shall provide to the judge who is the  
 2-34 subject of a complaint:

2-35                   (1) written notice of the action to be taken regarding  
 2-36 the complaint not more than five business days after the commission  
 2-37 meeting; and

2-38                   (2) as the commission determines appropriate, notice  
 2-39 of the action to be taken published on the commission's Internet  
 2-40 website not more than seven business days after the commission  
 2-41 meeting.

2-42                   (c) If, because of extenuating circumstances, the  
 2-43 commission [staff] is unable to finalize an investigation report  
 2-44 and determine the action to be taken regarding a complaint under  
 2-45 Subsection (b) [provide an investigation report and recommendation  
 2-46 to the commission] before the 120th day following the date of the  
 2-47 first [the complaint was filed with the] commission meeting at  
 2-48 which a complaint is included in the report filed with the  
 2-49 commission under Subsection (a-2), the commission may order an  
 2-50 extension [the staff shall notify the commission and propose the  
 2-51 number of days required for the commission and commission staff to  
 2-52 complete the investigation report and recommendations and finalize  
 2-53 the complaint. The staff may request an extension] of not more  
 2-54 than 240 [270] days from the date of the first [the complaint was  
 2-55 filed with the] commission meeting at which a complaint is included  
 2-56 in the report filed with the commission under Subsection  
 2-57 (a-2). [The commission shall finalize the complaint not later than  
 2-58 the 270th day following the date the complaint was filed with the  
 2-59 commission.]

2-60                   (d) [The executive director may request that the  
 2-61 chairperson grant an additional 120 days to the time provided under  
 2-62 Subsection (c) for the commission and commission staff to complete  
 2-63 the investigation report and recommendations and finalize the  
 2-64 complaint.

2-65                   [(e)] If the commission orders an extension of time under  
 2-66 Subsection (c) [chairperson grants additional time under  
 2-67 Subsection (d)], the commission must timely inform the legislature  
 2-68 of the extension. The commission may not disclose to the  
 2-69 legislature any confidential information regarding the complaint.

3-1 SECTION 3. Section 33.034(a), Government Code, is amended  
3-2 to read as follows:

3-3 (a) A judge who receives from the commission a public  
3-4 sanction or censure issued by the commission under Section 1-a(8),  
3-5 Article V, Texas Constitution, that makes the judge ineligible for  
3-6 assignment under Section 74.055 [~~or any other type of sanction~~] is  
3-7 entitled to a review of the commission's decision as provided by  
3-8 this section. This section does not apply to a decision by the  
3-9 commission to institute formal proceedings.

3-10 SECTION 4. Section 33.037, Government Code, is amended to  
3-11 read as follows:

3-12 Sec. 33.037. SUSPENSION FROM OFFICE [~~PENDING APPEAL~~]. (a)  
3-13 If a judge who is convicted of a felony or a misdemeanor involving  
3-14 official misconduct appeals the conviction, the commission shall  
3-15 suspend the judge from office without pay pending final disposition  
3-16 of the appeal.

3-17 (b) If the commission initiates formal proceedings against  
3-18 a judge, the commission shall suspend the judge from office without  
3-19 pay not later than the 15th day after the date a special master is  
3-20 appointed and pending final disposition of the formal proceedings  
3-21 unless the special master determines the suspension is unwarranted.

3-22 (c) If the commission issues a public reprimand of a judge  
3-23 based on the judge's persistent or wilful violation of Article  
3-24 17.15, Code of Criminal Procedure, the commission shall:

- 3-25 (1) suspend the judge from office without pay for 60  
3-26 days; and
- 3-27 (2) send notice of the reprimand and suspension to:
  - 3-28 (A) the governor;
  - 3-29 (B) the lieutenant governor;
  - 3-30 (C) the speaker of the house of representatives;
  - 3-31 (D) the presiding officers of each legislative  
3-32 standing committee with jurisdiction over the judiciary; and
  - 3-33 (E) the comptroller.

3-34 SECTION 5. Section 74.055(c), Government Code, is amended  
3-35 to read as follows:

3-36 (c) To be eligible to be named on the list, a retired or  
3-37 former judge must:

3-38 (1) have served as an active judge for at least 96  
3-39 months in a district, statutory probate, statutory county, or  
3-40 appellate court;

3-41 (2) have developed substantial experience in the  
3-42 judge's area of specialty;

3-43 (3) not have been removed from office;

3-44 (4) certify under oath to the presiding judge, on a  
3-45 form prescribed by the state board of regional judges, that:

3-46 (A) the judge has never been either:

3-47 (i) publicly reprimanded or censured by the  
3-48 State Commission on Judicial Conduct; or

3-49 (ii) publicly reprimanded, sanctioned, or  
3-50 censured, or any combination of those punishments, more than once,  
3-51 unless the reprimand, sanction, or censure has been reviewed and  
3-52 rescinded by a special court of review under Section 33.034; and

3-53 (B) the judge:

3-54 (i) did not resign or retire from office  
3-55 after the State Commission on Judicial Conduct notified the judge  
3-56 of the commencement of a full investigation into an allegation or  
3-57 appearance of misconduct or disability of the judge as provided in  
3-58 Section 33.022 and before the final disposition of that  
3-59 investigation; or

3-60 (ii) if the judge did resign from office  
3-61 under circumstances described by Subparagraph (i), was not publicly  
3-62 reprimanded or censured as a result of the investigation;

3-63 (5) annually demonstrate that the judge has completed  
3-64 in the past state fiscal year the educational requirements for  
3-65 active district, statutory probate, and statutory county court  
3-66 judges; and

3-67 (6) certify to the presiding judge a willingness not  
3-68 to appear and plead as an attorney in any court in this state for a  
3-69 period of two years.

4-1 SECTION 6. Section 665.052(b), Government Code, is amended  
4-2 to read as follows:

- 4-3 (b) In this section, "incompetency" means:
- 4-4 (1) gross ignorance of official duties;
- 4-5 (2) gross carelessness in the discharge of official  
4-6 duties; ~~or~~
- 4-7 (3) inability or unfitness to discharge promptly and  
4-8 properly official duties because of a serious physical or mental  
4-9 defect that did not exist at the time of the officer's election; or
- 4-10 (4) persistent or wilful violation of Article 17.15,  
4-11 Code of Criminal Procedure.

4-12 SECTION 7. As soon as practicable after the effective date  
4-13 of this Act, the State Commission on Judicial Conduct shall adopt  
4-14 rules to implement Section 33.001(b), Government Code, as amended  
4-15 by this Act.

4-16 SECTION 8. Sections 33.001(b) and 665.052(b), Government  
4-17 Code, as amended by this Act, apply only to an allegation of  
4-18 judicial misconduct received by the State Commission on Judicial  
4-19 Conduct or the legislature on or after the effective date of this  
4-20 Act, regardless of whether the conduct or act that is the subject of  
4-21 the allegation occurred or was committed before, on, or after the  
4-22 effective date of this Act.

4-23 SECTION 9. Section 33.037, Government Code, as amended by  
4-24 this Act, applies only to a special master appointed to hear a  
4-25 formal proceeding on or after the effective date of this Act.

4-26 SECTION 10. A former or retired judge on a list maintained  
4-27 by a presiding judge under Section 74.055(a), Government Code, who  
4-28 is ineligible to be named on the list under Section 74.055(c),  
4-29 Government Code, as amended by this Act, shall be struck from the  
4-30 list on the effective date of this Act and may not be assigned to any  
4-31 court on or after the effective date of this Act.

4-32 SECTION 11. This Act takes effect September 1, 2023.

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