

AN ACT

relating to the functions and operation of the State Commission on
Judicial Conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (7), Subsection (a), Section 33.001,
Government Code, is amended to read as follows:

(7) "Formal proceedings" means the proceedings
ordered by the commission concerning the public sanction, public
censure, removal, or retirement of a judge.

SECTION 2. Section 33.002, Government Code, is amended by
adding Subsection (a-1) to read as follows:

(a-1) The commission is an agency of the judicial branch of
state government and administers judicial discipline. The
commission does not have the power or authority of a court in this
state.

SECTION 3. Section 33.003, Government Code, is amended to
read as follows:

Sec. 33.003. SUNSET PROVISION. The State Commission on
Judicial Conduct is subject to review under Chapter 325 (Texas
Sunset Act), but is not abolished under that chapter. The
commission shall be reviewed during the period in which state
agencies abolished in 2019 [~~2001~~] and every 12th year after 2019
[~~2001~~] are reviewed.

SECTION 4. Subsection (a), Section 33.005, Government Code,

1 is amended to read as follows:

2 (a) Not later than December 1 of each year, the commission
3 shall submit to the legislature a report for the preceding fiscal
4 year ending August 31. The report is required to be made in an
5 electronic format only.

6 SECTION 5. Subchapter A, Chapter 33, Government Code, is
7 amended by adding Section 33.0055 to read as follows:

8 Sec. 33.0055. PUBLIC MEETING. (a) The commission shall in
9 each even-numbered year hold a public hearing to consider comment
10 from the public regarding the commission's mission and operations.
11 Such comments shall be considered in a manner which does not
12 compromise the confidentiality of matters considered by the
13 commission.

14 (b) The commission shall provide notice of a public hearing
15 under this section to the secretary of state. The secretary of
16 state shall post the notice on the Internet for at least seven days
17 before the day of the hearing and provide members of the public
18 access to view the notice in the manner specified by Section 551.044
19 for notice of an open meeting.

20 SECTION 6. Subchapter B, Chapter 33, Government Code, is
21 amended by adding Section 33.0322 to read as follows:

22 Sec. 33.0322. CONFIDENTIAL INFORMATION PROVIDED TO SUNSET
23 ADVISORY COMMISSION. (a) Notwithstanding Section 33.032 or other
24 law, including Section 1-a(10), Article V, Texas Constitution, the
25 commission shall provide to the Sunset Advisory Commission staff
26 conducting a review under Chapter 325 (Texas Sunset Act) access to
27 the commission's confidential documents, records, meetings, and

1 proceedings, including proceedings in which testimony is given, as
2 the Sunset Advisory Commission staff determines necessary to
3 conduct a complete and thorough evaluation of the commission's
4 activities.

5 (b) The confidentiality provisions of this chapter and
6 other law do not authorize the commission to withhold from the
7 Sunset Advisory Commission staff access to any confidential
8 document, record, meeting, or proceeding to which the Sunset
9 Advisory Commission staff determines access is necessary for a
10 review under Chapter 325 (Texas Sunset Act).

11 (c) The Sunset Advisory Commission staff shall maintain the
12 confidentiality the commission is required to maintain under this
13 chapter and other law for each document, record, meeting, or
14 proceeding that the staff accesses or receives as part of a review
15 under Chapter 325 (Texas Sunset Act).

16 (d) The commission does not violate the attorney-client
17 privilege, or any other privilege or confidentiality requirement
18 protected or required by the Texas Constitution, common law,
19 statutory law, or rules of evidence, procedure, or professional
20 conduct, by providing to the Sunset Advisory Commission staff for
21 purposes of a review under Chapter 325 (Texas Sunset Act) a
22 confidential communication, including a document or record or any
23 testimony or other information presented in a closed meeting or
24 proceeding of the commission, that is made between the commission
25 and its attorneys or other employees assisting the commission in
26 its decision-making process.

27 SECTION 7. Subsection (e), Section 33.033, Government Code,

1 is amended to read as follows:

2 (e) If the complaint is dismissed by the commission, the
3 commission shall include in the notification under Subsection (a):

4 (1) an explanation of each reason for the dismissal,
5 including, as applicable, in plain, easily understandable
6 language, each reason the conduct alleged in the complaint did not
7 constitute judicial misconduct; and

8 (2) information relating to requesting
9 reconsideration of the dismissed complaint as provided by Sections
10 33.035(a) and (f).

11 SECTION 8. Subsections (a), (e), (f), and (g), Section
12 33.034, Government Code, are amended to read as follows:

13 (a) A judge who receives from the commission [~~any type of~~
14 ~~sanction, or~~] a sanction or censure issued by the commission under
15 Section 1-a(8), Article V, Texas Constitution, or any other type of
16 sanction is entitled to a review of the commission's decision as
17 provided by this section. This section does not apply to a decision
18 by the commission to institute formal proceedings.

19 (e) The review by the court under this section:

20 (1) of a sanction or censure issued in a formal
21 proceeding is a review of the record of the proceedings that
22 resulted in the sanction or censure and is based on the law and
23 facts that were presented in the proceedings and any additional
24 evidence that the court in its discretion may, for good cause shown,
25 permit; and

26 (2) of a sanction issued in an informal proceeding is
27 by trial de novo as that term is used in the appeal of cases from

1 justice to county court.

2 (f) Except as otherwise provided by this section, the
3 procedure for the review of a sanction issued in an informal
4 proceeding is governed to the extent practicable by the rules of
5 law, evidence, and procedure that apply to the trial of civil
6 actions generally.

7 (g) A judge is not entitled to a trial by jury in a review
8 under this section of a sanction issued in an informal proceeding
9 [~~under this section~~].

10 SECTION 9. Subchapter B, Chapter 33, Government Code, is
11 amended by adding Section 33.039 to read as follows:

12 Sec. 33.039. REVIEW OF COMMISSION OPERATIONS AND PROCEDURAL
13 RULES. The commission periodically as the commission determines
14 appropriate shall:

15 (1) assess the operations of the commission and
16 implement any improvements needed to increase efficiency; and

17 (2) review the commission's procedural rules adopted
18 by the supreme court to determine whether rule amendments are
19 necessary to reflect changes in law, including changes made through
20 court opinions and statutory and constitutional amendments, and
21 report to the supreme court the needed rule revisions and suggested
22 language for those revisions.

23 SECTION 10. As soon as possible after the effective date of
24 this Act, but not later than December 31, 2013, the State Commission
25 on Judicial Conduct shall:

26 (1) conduct an initial assessment of the operations of
27 the commission and an initial review of the procedural rules as

1 required by Section 33.039, Government Code, as added by this Act;
2 and

3 (2) report to the Texas Supreme Court any needed rule
4 revisions and suggested language for those revisions as required by
5 that section.

6 SECTION 11. (a) Except as provided by Subsection (b) of
7 this section, this Act takes effect September 1, 2013.

8 (b) Subdivision (7), Subsection (a), Section 33.001, and
9 Section 33.034, Government Code, as amended by this Act, take
10 effect on the date the constitutional amendment proposed by the
11 83rd Legislature, Regular Session, 2013, regarding the sanctions
12 that may be assessed against a judge or justice following a formal
13 proceeding instituted by the State Commission on Judicial Conduct
14 takes effect. If that amendment is not approved by the voters,
15 those sections have no effect.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 209 passed the Senate on April 23, 2013, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 21, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 209 passed the House, with amendment, on May 17, 2013, by the following vote: Yeas 137, Nays 2, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor