

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1763
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State Commission on Judicial Conduct (SCJC) closely protects the confidentiality of complaints. This not only makes the extent of fairness and efficiency in the SCJC's disciplinary process difficult to determine by the public, but also causes frustration for the complainants participating in this process. What's more, currently the main instrument for the legislature to examine the extent of fairness and efficiency in the SCJC's disciplinary process is through the Sunset review process, which happens only periodically every decade.

S.B. 1763 would require the SCJC to include in its annual report to the legislature the number of complaints referred to law enforcement and the number of complaints in which SCJC has not issued a decision for more than a year since filing; require SCJC to publish online, after adjudication, that a particular judge received a public or private sanction (No details regarding the incident that led to the private sanction would be published: the facts, the particular judicial cannon violated, and the particular reprimand that the judge received would remain private); notify a complainant of a change in a complaint's status within the investigative process; publish the guidelines it uses to ensure that a sanction is proportional to the misconduct; and promulgate deadlines by which SCJC has to take action on a complaint with exceptions for extenuating circumstances. These changes would enhance the SCJC's transparency, efficiency, and consistency and increase not only the public's, but also the judiciary's, trust in SCJC's work and determinations.

C.S.S.B. 1763 amends current law relating to the procedures of the State Commission on Judicial Conduct.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 33.005(b), Government Code, as follows:

(b) Requires that the annual report include annual statistical information for the preceding fiscal year, including, among certain other statistical information, the number of complaints before the State Commission on Judicial Conduct (SCJC) that have been pending for a year or longer for which SCJC has not issued a tentative decision and the number of complaints that have been referred to law enforcement. Redesignates existing Paragraph (E) as Paragraph (G) and existing Paragraph (F) as Paragraph (H).

SECTION 2. Amends Section 33.008, Government Code, as follows:

(a) Creates this subsection from existing text and makes no further changes to this subsection.

(b) Requires SCJC to provide online access, without providing any confidential information, to information about each adjudicated complaint that resulted in a sanction

being issued. Requires that the information provided include the judge's name and whether the complaint resulted in a public sanction or private sanction.

(c) Requires SCJC to post on SCJC's Internet website a statement that a complainant is not required to maintain confidentiality of a complaint filed by the complainant.

SECTION 3. Amends Section 33.0211(b), Government Code, to require SCJC, until final disposition of the complaint, to notify the person filing the complaint of any change in the status of the investigation of the complaint unless the notice would jeopardize an undercover investigation, rather than to require SCJC, at least quarterly until final disposition of the complaint, to notify the person filing the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 4. Amends Subchapter B, Chapter 33, Government Code, by adding Sections 33.02115 and 33.02116, as follows:

Sec. 33.02115. SANCTION GUIDELINES. Requires SCJC to publish guidelines to provide for a sanction to be proportional to the misconduct.

Sec. 33.02116. TIME FRAME. Requires SCJC to establish a time frame outlining when SCJC should take action on a complaint and requires the time frame to allow the executive director of SCJC to approve an extension of a deadline due to extenuating circumstances, including a necessity for further investigation.

SECTION 5. Effective date: September 1, 2017.