

By: Zaffirini

S.B. No. 1931

A BILL TO BE ENTITLED

AN ACT

relating to a complaint filed with and sanctions issued by the State Commission on Judicial Conduct.

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

SECTION 1. Section 33.0212, Government Code, is amended to read as follows:

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

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

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

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

(a-2) Not later than the 10th business day before a scheduled commission meeting [~~120th day after the date a complaint is filed with the commission~~], commission staff shall prepare and

1 file with each member of the commission a report detailing:

2 (1) each complaint for which a preliminary
3 investigation has been conducted under Subsection (a) but for which
4 the investigation report has not been finalized under Subsection
5 (b);

6 (2) the results of the preliminary investigation of
7 the complaint; and

8 (3) the commission staff's recommendations for
9 commission action regarding the complaint.

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

17 (1) a public sanction;

18 (2) a private sanction;

19 (3) a suspension;

20 (4) an order of education;

21 (5) an acceptance of resignation in lieu of
22 discipline;

23 (6) a dismissal; or

24 (7) an initiation of formal proceedings.

25 (b-1) After the commission meeting at which an
26 investigation report is finalized and an action is determined under
27 Subsection (b), the commission shall provide to the judge who is the

1 subject of a complaint:

2 (1) written notice of the action to be taken regarding
3 the complaint not more than 48 hours after the commission meeting;
4 and

5 (2) as the commission determines appropriate, notice
6 of the action to be taken published on the commission's Internet
7 website not more than 72 hours after the commission meeting.

8 (c) If, because of extenuating circumstances, the
9 commission [staff] is unable to finalize an investigation report
10 and determine the action to be taken regarding a complaint under
11 Subsection (b) [provide an investigation report and recommendation
12 to the commission] before the 120th day following the date of the
13 first [the complaint was filed with the] commission meeting at
14 which a complaint is included in the report filed with the
15 commission under Subsection (a-2), the commission may order an
16 extension [the staff shall notify the commission and propose the
17 number of days required for the commission and commission staff to
18 complete the investigation report and recommendations and finalize
19 the complaint. The staff may request an extension] of not more
20 than 240 [270] days from the date of the first [the complaint was
21 filed with the] commission meeting at which a complaint is included
22 in the report filed with the commission under Subsection
23 (a-2). [The commission shall finalize the complaint not later than
24 the 270th day following the date the complaint was filed with the
25 commission.]

26 (d) ~~[The executive director may request that the~~
27 ~~chairperson grant an additional 120 days to the time provided under~~

1 ~~Subsection (c) for the commission and commission staff to complete~~
2 ~~the investigation report and recommendations and finalize the~~
3 ~~complaint.~~

4 ~~[(e)]~~ If the commission orders an extension of time under
5 Subsection (c) ~~[chairperson grants additional time under~~
6 ~~Subsection (d)]~~, the commission must timely inform the legislature
7 of the extension. The commission may not disclose to the
8 legislature any confidential information regarding the complaint.

9 SECTION 2. Section 33.034(a), Government Code, is amended
10 to read as follows:

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

18 SECTION 3. Section 33.037, Government Code, is amended to
19 read as follows:

20 Sec. 33.037. SUSPENSION PENDING APPEAL OR FORMAL
21 PROCEEDINGS. (a) If a judge who is convicted of a felony or a
22 misdemeanor involving official misconduct appeals the conviction,
23 the commission shall suspend the judge from office without pay
24 pending final disposition of the appeal.

25 (b) If the commission has initiated formal proceedings
26 against a judge, 10 days after the appointment of a special master,
27 the commission shall suspend the judge from office without pay

1 pending final disposition of the formal proceedings unless the
2 special master determines the suspension is not warranted.

3 SECTION 4. Section 33.041, Government Code, is amended to
4 read as follows:

5 Sec. 33.041. LEGISLATIVE REPORT. (a) The commission
6 shall prepare a report for the 89th [~~88th~~] Legislature regarding
7 any statutory changes that would further improve the commission's
8 effectiveness, efficiency, and transparency in filing,
9 investigating, and processing any complaint filed with the
10 commission.

11 (b) This section expires September 1, 2025 [~~2023~~].

12 SECTION 5. Section 74.055(c), Government Code, is amended
13 to read as follows:

14 (c) To be eligible to be named on the list, a retired or
15 former judge must:

16 (1) have served as an active judge for at least 96
17 months in a district, statutory probate, statutory county, or
18 appellate court;

19 (2) have developed substantial experience in the
20 judge's area of specialty;

21 (3) not have been removed from office;

22 (4) certify under oath to the presiding judge, on a
23 form prescribed by the state board of regional judges, that:

24 (A) the judge has never been either:

25 (i) publicly reprimanded or censured by the
26 State Commission on Judicial Conduct; or

27 (ii) publicly reprimanded, sanctioned, or

1 censured, or any combination of those punishments, more than once,
2 unless the reprimand, sanction, or censure has been reviewed and
3 rescinded by a special court of review under Section 33.034; and

4 (B) the judge:

5 (i) did not resign or retire from office
6 after the State Commission on Judicial Conduct notified the judge
7 of the commencement of a full investigation into an allegation or
8 appearance of misconduct or disability of the judge as provided in
9 Section 33.022 and before the final disposition of that
10 investigation; or

11 (ii) if the judge did resign from office
12 under circumstances described by Subparagraph (i), was not publicly
13 reprimanded or censured as a result of the investigation;

14 (5) annually demonstrate that the judge has completed
15 in the past state fiscal year the educational requirements for
16 active district, statutory probate, and statutory county court
17 judges; and

18 (6) certify to the presiding judge a willingness not
19 to appear and plead as an attorney in any court in this state for a
20 period of two years.

21 SECTION 6. Section 33.0212, Government Code, as amended by
22 this Act, applies only to a complaint filed with the State
23 Commission on Judicial Conduct on or after the effective date of
24 this Act. A complaint filed before the effective date of this Act is
25 governed by the law in effect on the date the complaint was filed,
26 and the former law is continued in effect for that purpose.

27 SECTION 7. Section 33.037, Government Code, as amended by

1 this Act, applies only to a special master appointed to hear a
2 formal proceeding on or after the effective date of this Act.

3 SECTION 8. A former or retired judge on a list maintained by
4 a presiding judge under Section 74.055(a), Government Code, who is
5 ineligible to be named on the list under Section 74.055(c),
6 Government Code, as amended by this Act, shall be struck from the
7 list on the effective date of this Act and may not be assigned to any
8 court on or after the effective date of this Act.

9 SECTION 9. This Act takes effect September 1, 2023.