

**House Bill 3452**  
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SECTION 1. Section 33.0211(a), Government Code, is amended to read as follows:

(a) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

- (1) the name of the person who filed the complaint;
- (2) a sworn statement from the person who filed the complaint attesting that the contents of the complaint are true to the best of the person's knowledge;
- (3) the date the complaint is received by the commission;
- (4) ~~[(3)]~~ the subject matter of the complaint;
- (5) ~~[(4)]~~ the name of each person contacted in relation to the complaint;
- (6) ~~[(5)]~~ a summary of the results of the review or investigation of the complaint; and
- (7) ~~[(6)]~~ an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

No equivalent provision.

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No equivalent provision.

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

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

- (1) wilful, persistent, and unjustifiable failure to timely execute the business of the court, considering the quantity and complexity of the business;
- (2) wilful violation of a provision of the Texas penal statutes or the Code of Judicial Conduct;
- (3) persistent or wilful violation of the rules promulgated by the supreme court;

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- (4) incompetence in the performance of the duties of the office;
- (5) failure to cooperate with the commission; [øø]
- (6) violation of any provision of a voluntary agreement to resign from judicial office in lieu of disciplinary action by the commission; or
- (7) persistent or wilful violation of Article 17.15, Code of Criminal Procedure.

No equivalent provision.

SECTION 2. 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 file with each member of the commission a report detailing:

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

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

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

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

(1) a public sanction;

(2) a private sanction;

(3) a suspension;

(4) an order of education;

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

(6) a dismissal; or

(7) an initiation of formal proceedings.

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

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

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

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commission meeting.

(c) If, because of extenuating circumstances, the commission ~~[staff]~~ is unable to finalize an investigation report and determine the action to be taken regarding a complaint under Subsection (b) ~~[provide an investigation report and recommendation to the commission]~~ before the 120th day following the date of the first ~~[the complaint was filed with the]~~ commission meeting at which a complaint is included in the report filed with the commission under Subsection (a-2), the commission may order an extension ~~[the staff shall notify the commission and propose the number of days required for the commission and commission staff to complete the investigation report and recommendations and finalize the complaint. The staff may request an extension]~~ of not more than 240 ~~[270]~~ days from the date of the first ~~[the complaint was filed with the]~~ commission meeting at which a complaint is included in the report filed with the commission under Subsection (a-2). ~~[The commission shall finalize the complaint not later than the 270th day following the date the complaint was filed with the commission.]~~

~~(d) [The executive director may request that the chairperson grant an additional 120 days to the time provided under Subsection (c) for the commission and commission staff to complete the investigation report and recommendations and finalize the complaint.]~~

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

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No equivalent provision.

SECTION 2. Sections 33.034(a), (e), and (i), Government Code, are amended to read as follows:

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

(e) The review by the court under this section [is] [(+) of a sanction or censure issued in a formal or informal proceeding is a review of the record of the proceedings that resulted in the sanction or censure and is based on the law and facts that were presented in the proceedings and any additional evidence that the court in its discretion may, for

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SECTION 3. Section 33.0213, Government Code, is amended to read as follows:

Sec. 33.0213. NOTIFICATION OF LAW ENFORCEMENT AGENCY INVESTIGATION. On notice by any law enforcement agency investigating an action for which a complaint has been filed with the commission, the commission:

(1) may place the commission's complaint file on hold and decline any further investigation that would jeopardize the law enforcement agency's investigation; or

(2) shall [—The commission may] continue an investigation that would not jeopardize a law enforcement investigation regarding the conduct subject to the complaint and may issue a censure or sanction based on the complaint.

SECTION 4. Section 33.034(a), Government Code, is amended to read as follows:

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

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good cause shown, permit[; and  
[~~(2) of a sanction issued in an informal proceeding is by trial de novo as that term is used in the appeal of cases from justice to county court~~].

(i) The court's decision under this section is only ~~not~~ appealable by the commission to the supreme court.

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

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

(b) If the commission has initiated formal proceedings against a judge, 10 days after the appointment of a special master, the commission shall suspend the judge from office without pay pending final disposition of the formal proceedings unless the special master recommends against suspension.

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SECTION 5. Section 33.037, Government Code, is amended to read as follows:

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

(b) If the commission initiates formal proceedings against a judge, the commission shall suspend the judge from office without pay not later than the 30th day after the date a special master is appointed and pending final disposition of the formal proceedings unless the special master determines the suspension is unwarranted.

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

(1) suspend the judge from office without pay for 60 days;  
and

(2) send notice of the reprimand and suspension to:

(A) the governor;

(B) the lieutenant governor;

(C) the speaker of the house of representatives;

(D) the presiding officers of each legislative standing

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committee with jurisdiction over the judiciary;  
(E) the comptroller;  
(F) the chief justice of the supreme court;  
(G) the Office of Court Administration of the Texas Judicial System; and  
(H) the presiding judge of the administrative judicial region for the court served by the suspended judge.

SECTION 4. Section 74.055(c), Government Code, is amended to read as follows:

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

- (1) have served as an active judge for at least 96 months in a district, statutory probate, statutory county, or appellate court;
- (2) have developed substantial experience in the judge's area of specialty;
- (3) not have been removed from office;
- (4) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that:

(A) the judge has never been publicly reprimanded or censured by the State Commission on Judicial Conduct; ~~and~~

(B) the judge has not received more than one public sanction, including a public admonition or warning, from the State Commission on Judicial Conduct that was determined to be warranted by a court of review under Section 33.034; and

(C) the judge:

- (i) did not resign or retire from office after the State Commission on Judicial Conduct notified the judge of the commencement of a full investigation into an allegation or

SECTION 6. Section 74.055(c), Government Code, is amended to read as follows:

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

- (1) have served as an active judge for at least 96 months in a district, statutory probate, statutory county, or appellate court;
- (2) have developed substantial experience in the judge's area of specialty;
- (3) not have been removed from office;
- (4) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that:

(A) the judge has never been either:

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

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

(B) the judge:

- (i) did not resign or retire from office after the State Commission on Judicial Conduct notified the judge of the commencement of a full investigation into an allegation or

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appearance of misconduct or disability of the judge as provided in Section 33.022 and before the final disposition of that investigation; or  
(ii) if the judge did resign from office under circumstances described by Subparagraph (i), was not publicly reprimanded or censured as a result of the investigation;  
(5) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for active district, statutory probate, and statutory county court judges; and  
(6) certify to the presiding judge a willingness not to appear and plead as an attorney in any court in this state for a period of two years.

No equivalent provision.

No equivalent provision.

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appearance of misconduct or disability of the judge as provided in Section 33.022 and before the final disposition of that investigation; or  
(ii) if the judge did resign from office under circumstances described by Subparagraph (i), was not publicly reprimanded or censured as a result of the investigation;  
(5) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for active district, statutory probate, and statutory county court judges; and  
(6) certify to the presiding judge a willingness not to appear and plead as an attorney in any court in this state for a period of two years.

SECTION 7. Section 665.052(b), Government Code, is amended to read as follows:

(b) In this section, "incompetency" means:

- (1) gross ignorance of official duties;
- (2) gross carelessness in the discharge of official duties; ~~or~~
- (3) inability or unfitness to discharge promptly and properly official duties because of a serious physical or mental defect that did not exist at the time of the officer's election; or
- (4) persistent or wilful violation of Article 17.15, Code of Criminal Procedure.

SECTION 8. As soon as practicable after the effective date of this Act, the State Commission on Judicial Conduct shall adopt rules to implement Section 33.001(b), Government Code, as amended by this Act.

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No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 5. This Act takes effect September 1, 2023.

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SECTION 9. Sections 33.001(b) and 665.052(b), Government Code, as amended by this Act, apply only to an allegation of judicial misconduct received by the State Commission on Judicial Conduct or the legislature on or after the effective date of this Act, regardless of whether the conduct or act that is the subject of the allegation occurred or was committed before, on, or after the effective date of this Act.

SECTION 10. Section 33.037, Government Code, as amended by this Act, applies only to a special master appointed to hear a formal proceeding on or after the effective date of this Act.

SECTION 11. A former or retired judge on a list maintained by a presiding judge under Section 74.055(a), Government Code, who is ineligible to be named on the list under Section 74.055(c), Government Code, as amended by this Act, shall be struck from the list on the effective date of this Act and may not be assigned to any court on or after the effective date of this Act.

SECTION 12. Same as House version.

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