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By:  Leach H.B. No. 1761

A BILL TO BE ENTITLED

AN ACT

relating to the discipline of judges by the State Commission on Judicial Conduct, notice of certain reprimands, judicial compensation and related retirement benefits, and the reporting of certain judicial transparency information; authorizing an administrative penalty.

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

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, including failure to meet deadlines set by statute or binding court order;

(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;

(4)  incompetence in the performance of the duties of the office;

(5)  failure to cooperate with the commission; [~~or~~]

(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.

SECTION 2.  Section 33.0211, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) 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)  the date the complaint is received by the commission;

(3)  the subject matter of the complaint;

(4)  additional documentation supporting the complaint submitted under Subsection (a-1);

(5)  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.

(a-1)  Not later than the 45th day after the date a person files a complaint with the commission, the person may submit to the commission additional documentation to support the complaint.

SECTION 3.  Subchapter B, Chapter 33, Government Code, is amended by adding Section 33.02115 to read as follows:

Sec. 33.02115.  FALSE COMPLAINT; ADMINISTRATIVE PENALTY. (a) The commission may impose administrative sanctions, including an administrative penalty under Subsection (b), against a person who knowingly files a false complaint with the commission under this subchapter.

(b)  The commission may impose on a person described by Subsection (a) an administrative penalty in the amount of:

(1)  not more than $500 for the first false complaint;

(2)  not more than $2,500 for the second false complaint; and

(3)  not less than $5,000 but not more than $10,000 for each false complaint filed subsequent to the second.

(c)  An order imposing an administrative penalty or other sanction under this section is a public record. The commission shall publish notice of the penalty or other sanction on the commission's Internet website.

SECTION 4.  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)  If, after completing a preliminary investigation under Subsection (a), commission staff determines that given the content of a complaint a full investigation is necessary before the next commission meeting, commission staff may commence the investigation. Not less than seven business days after the date commission staff commences a full investigation under this subsection, the staff shall provide written notice of the full investigation to the judge who is the subject of the complaint. Notice provided under this subsection shall comply with the requirements of Section 33.022(c)(1)(B).

(a-2)  Not later than the 10th 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:

(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, including whether commission staff commenced a full investigation under Subsection (a-1); and

(3)  the commission staff's recommendations for commission action regarding the complaint, including any recommendation for further investigation or termination of the investigation and dismissal of 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:

(A)  five business days after the commission meeting if the commission determines no further action will be taken on the complaint; or

(B)  seven business days after the commission meeting if the commission determines to take any further action on the complaint, including by pursuing further investigation; and

(2)  as the commission determines appropriate, published notice of the action to be taken by posting the notice on the commission's Internet website not less than five business days after notice is provided under Subdivision (1).

(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 following [~~legislature~~] of the extension:

(1)  the governor;

(2)  the lieutenant governor;

(3)  the speaker of the house of representatives;

(4)  the presiding officer of each legislative standing committee with primary jurisdiction over the judiciary;

(5)  the chief justice of the supreme court;

(6)  the Office of Court Administration of the Texas Judicial System; and

(7)  the presiding judge of the administrative judicial region in which is located the court the judge who is the subject of the complaint serves.

(e)  The commission may not disclose to a person informed under Subsection (d) [~~the legislature~~] any confidential information regarding the complaint.

SECTION 5.  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 6.  Section 33.022, Government Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1) and (b-2) to read as follows:

(b)  If, after conducting a preliminary investigation under this section, [~~the~~] commission staff determine [~~determines~~] that an allegation or appearance of misconduct or disability is unfounded or frivolous, [~~the~~] commission staff shall recommend the commission [~~shall~~] terminate the investigation and dismiss the complaint.

(b-1)  If, after conducting a preliminary investigation under this section, commission staff determine administrative deficiencies in the complaint preclude further investigation, commission staff may terminate the investigation and dismiss the complaint without action by the commission.

(b-2)  If a complaint is dismissed under Subsection (b) or (b-1), the commission shall notify the judge in writing of the dismissal not more than five business days after the dismissal date.

(c)  If, after conducting a preliminary investigation under this section, the commission does not determine that an allegation or appearance of misconduct or disability is unfounded or frivolous, the commission:

(1)  shall:

(A)  conduct a full investigation of the circumstances surrounding the allegation or appearance of misconduct or disability; and

(B)  not more than seven business days after the commission staff commences a full investigation under this subsection, notify the judge in writing of:

(i)  the commencement of the investigation; [~~and~~]

(ii)  the nature of the allegation or appearance of misconduct or disability being investigated; and

(iii)  the judge's right to attend each commission meeting at which the complaint is included in the report filed with commission members under Section 33.0212(a-2); and

(2)  may:

(A)  order the judge to:

(i)  submit a written response to the allegation or appearance of misconduct or disability; or

(ii)  appear informally before the commission;

(B)  order the deposition of any person; or

(C)  request the complainant to appear informally before the commission.

SECTION 7.  Section 33.034, Government Code, is amended by amending Subsection (a) and adding Subsection (j) to read as follows:

(a)  A judge who receives from the commission a sanction or censure issued by the commission under Section 1-a(8), Article V, Texas Constitution, may request [~~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.

(j)  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 send notice of the reprimand to:

(1)  the governor;

(2)  the lieutenant governor;

(3)  the speaker of the house of representatives;

(4)  the presiding officer of each legislative standing committee with primary jurisdiction over the judiciary;

(5)  the chief justice of the supreme court;

(6)  the Office of Court Administration of the Texas Judicial System; and

(7)  the presiding judge of the administrative judicial region in which is located the court the reprimanded judge serves.

SECTION 8.  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)  Not later than the 21st day after the date the commission initiates formal proceedings against a judge based on the judge's persistent or wilful violation of Article 17.15, Code of Criminal Procedure, the commission shall recommend to the supreme court that the judge be suspended from office pursuant to Section 1-a, Article V, Texas Constitution.

SECTION 9.  Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.0396 to read as follows:

Sec. 72.0396.  JUDICIAL TRANSPARENCY INFORMATION. (a) Each district court judge shall submit to the presiding judge of the administrative judicial region in which the judge's court sits not later than the 20th day of each calendar quarter information for the preceding quarter in which the judge attests to:

(1)  the number of hours the judge presided over the judge's court at the courthouse or another court facility; and

(2)  the number of hours the judge performed judicial duties other than those described by Subdivision (1), including the number of hours the judge:

(A)  performed case-related duties;

(B)  performed administrative tasks; and

(C)  completed continuing education.

(b)  The presiding judge of each administrative judicial region shall submit the information submitted under Subsection (a) to the office in the manner prescribed by the supreme court.

(c)  The office shall provide administrative support for the submission and collection of information under Subsection (a), including providing a system for electronic submission of the information.

(d)  Not later than December 1 of each year, the office shall prepare and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each presiding officer of a legislative standing committee with primary jurisdiction over the judiciary a written report compiling the information submitted under Subsection (b).

(e)  The supreme court shall adopt rules establishing guidelines and providing instructions regarding the reporting of information under Subsection (a), including rules:

(1)  establishing a penalty for the submission of false information under Subsection (a); and

(2)  providing guidance on the form and manner of reporting under Subsection (a).

SECTION 10.  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, excluding any reprimand or censure reviewed and rescinded by a special court of review under Section 33.034;

(B)  the judge has not received more than one of any other type of public sanction, excluding any sanction reviewed and rescinded by a special court of review under Section 33.034; and

(C) [~~(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 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 11.  Section 659.012(a), Government Code, is amended to read as follows:

(a)  Notwithstanding Section 659.011 and subject to Subsections (b) and (b-1):

(1)  a judge of a district court or a division of the business court is entitled to an annual base salary from the state as set by the General Appropriations Act in an amount equal to at least $161,000 [~~$140,000~~], except that the combined base salary of a district judge or judge of a division of the business court from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is $5,000 less than the maximum combined base salary from all state and county sources for a justice of a court of appeals other than a chief justice as determined under this subsection;

(2)  except as provided by Subdivision (3), a justice of a court of appeals other than the chief justice is entitled to an annual base salary from the state in the amount equal to 110 percent of the state base salary of a district judge as set by the General Appropriations Act, except that the combined base salary of a justice of the court of appeals other than the chief justice from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is $5,000 less than the base salary for a justice of the supreme court as determined under this subsection;

(3)  a justice of the Court of Appeals for the Fifteenth Court of Appeals District other than the chief justice is entitled to an annual base salary from the state in the amount equal to $5,000 less than 120 percent of the state base salary of a district judge as set by the General Appropriations Act;

(4)  a justice of the supreme court other than the chief justice or a judge of the court of criminal appeals other than the presiding judge is entitled to an annual base salary from the state in the amount equal to 120 percent of the state base salary of a district judge as set by the General Appropriations Act; and

(5)  the chief justice or presiding judge of an appellate court is entitled to an annual base salary from the state in the amount equal to $2,500 more than the state base salary provided for the other justices or judges of the court, except that the combined base salary of the chief justice of a court of appeals from all state and county sources may not exceed the amount equal to $2,500 less than the base salary for a justice of the supreme court as determined under this subsection.

SECTION 12.  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 13.  Section 814.103, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d)  Notwithstanding Subsection (a) or (a-1) or any other law:

(1)  any increase in the state base salary being paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012 by the 89th Legislature, Regular Session, 2025, does not apply to a standard service retirement annuity computed under this section for a retiree or beneficiary if the retiree on whose service the annuity is based retired before September 1, 2025; and

(2)  the amount of the state base salary being paid to a district judge as set by Chapter 1170 (H.B. 1), Acts of the 88th Legislature, Regular Session, 2023 (the General Appropriations Act), for the fiscal year ending August 31, 2025, in accordance with Section 659.012 continues to apply to the annuities described by Subdivision (1) until the 90th Legislature or a later legislature enacts legislation that increases the state base salary being paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012.

(e)  On the date the 90th Legislature or a later legislature enacts legislation that increases the state base salary being paid to a district judge, as described by Subsection (d), this subsection and Subsection (d) expire.

SECTION 14.  Section 834.102, Government Code, is amended by adding Subsections (e) and (f) to read as follows:

(e)  Notwithstanding Subsection (a) or (d) or any other law:

(1)  any increase in the state base salary being paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012 by the 89th Legislature, Regular Session, 2025, does not apply to a service retirement annuity computed under this section of a retiree or beneficiary if the retiree on whose service the annuity is based retired before September 1, 2025; and

(2)  the amount of the state base salary being paid to a district judge as set by Chapter 1170 (H.B. 1), Acts of the 88th Legislature, Regular Session, 2023 (the General Appropriations Act), for the fiscal year ending August 31, 2025, in accordance with Section 659.012 continues to apply to the annuities described by Subdivision (1) until the 90th Legislature or a later legislature enacts legislation that increases the state base salary being paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012.

(f)  On the date the 90th Legislature or a later legislature enacts legislation that increases the state base salary being paid to a district judge, as described by Subsection (e), this subsection and Subsection (e) expire.

SECTION 15.  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.

SECTION 16.  As soon as practicable after the effective date of this Act, the Texas Supreme Court shall adopt rules for purposes of Section 72.0396, Government Code, as added by this Act.

SECTION 17.  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 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 18.  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 19.  This Act takes effect September 1, 2025.