

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/27/23

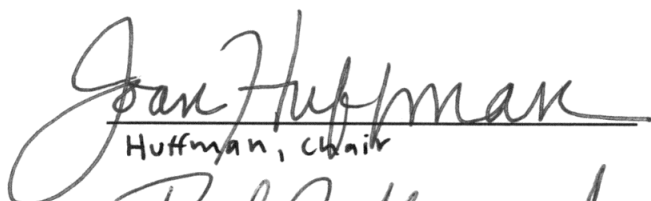
Date

Honorable Dan Patrick  
President of the Senate

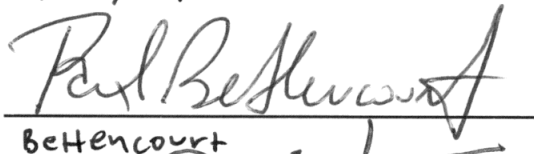
Honorable Dade Phelan  
Speaker of the House of Representatives

Sirs:

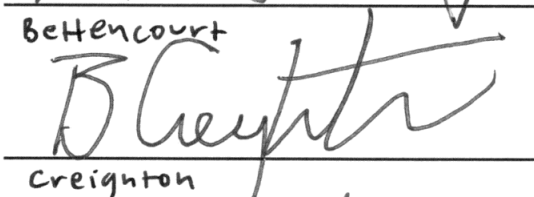
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 3452 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

  
Huffman, Chair

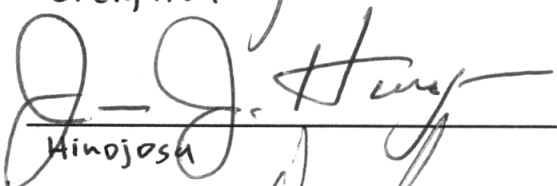
  
Phelan, Chair

  
Bettencourt

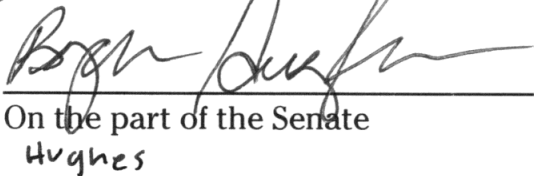
Leach

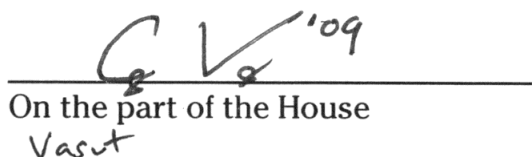
  
Creighton

Moody

  
Hinojosa

  
Slawson

  
On the part of the Senate  
Hughes

  
On the part of the House  
Vasut

### Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.



# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 3452

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the discipline of judges by the State Commission on  
3 Judicial Conduct and the legislature.

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

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

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

11 (1) wilful, persistent, and unjustifiable failure to  
12 timely execute the business of the court, considering the quantity  
13 and complexity of the business;

14 (2) wilful violation of a provision of the Texas penal  
15 statutes or the Code of Judicial Conduct;

16 (3) persistent or wilful violation of the rules  
17 promulgated by the supreme court;

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

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

21 (6) violation of any provision of a voluntary  
22 agreement to resign from judicial office in lieu of disciplinary  
23 action by the commission; or

24 (7) persistent or wilful violation of Article 17.15,

1 Code of Criminal Procedure.

2 SECTION 2. Section 33.0212, Government Code, is amended to  
3 read as follows:

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

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

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

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

19 (a-2) Not later than the 10th business day before a  
20 scheduled commission meeting [~~120th day after the date a complaint~~  
21 ~~is filed with the commission~~], commission staff shall prepare and  
22 file with each member of the commission a report detailing:

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

27 (2) the results of the preliminary investigation of

1 the complaint; and

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

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

- 11 (1) a public sanction;  
12 (2) a private sanction;  
13 (3) a suspension;  
14 (4) an order of education;  
15 (5) an acceptance of resignation in lieu of  
16 discipline;  
17 (6) a dismissal; or  
18 (7) an initiation of formal proceedings.

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

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

26 (2) as the commission determines appropriate, notice  
27 of the action to be taken published on the commission's Internet

1 website not more than seven business days after the commission  
2 meeting.

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

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

26 [(e)] If the commission orders an extension of time under  
27 Subsection (c) [chairperson grants additional time under

1 ~~Subsection (d)]~~, the commission must timely inform the legislature  
2 of the extension. The commission may not disclose to the  
3 legislature any confidential information regarding the complaint.

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

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

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

13 (2) shall ~~the commission may~~ continue an  
14 investigation that would not jeopardize a law enforcement  
15 investigation regarding the conduct subject to the complaint and  
16 may issue a censure or sanction based on the complaint.

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

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

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

1           Sec. 33.037. SUSPENSION FROM OFFICE [~~PENDING APPEAL~~]. (a)

2 If a judge who is convicted of a felony or a misdemeanor involving  
3 official misconduct appeals the conviction, the commission shall  
4 suspend the judge from office without pay pending final disposition  
5 of the appeal.

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

11           (c) If the commission issues a public reprimand of a judge  
12 based on the judge's persistent or wilful violation of Article  
13 17.15, Code of Criminal Procedure, the commission shall:

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

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

17                           (A) the governor;

18                           (B) the lieutenant governor;

19                           (C) the speaker of the house of representatives;

20                           (D) the presiding officers of each legislative

21 standing committee with jurisdiction over the judiciary;

22                           (E) the comptroller;

23                           (F) the chief justice of the supreme court;

24                           (G) the Office of Court Administration of the

25 Texas Judicial System; and

26                           (H) the presiding judge of the administrative  
27 judicial region for the court served by the suspended judge.



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

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

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

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

10 (3) not have been removed from office;

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

13 (A) the judge has never been either:

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

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

20 (B) the judge:

21 (i) did not resign or retire from office  
22 after the State Commission on Judicial Conduct notified the judge  
23 of the commencement of a full investigation into an allegation or  
24 appearance of misconduct or disability of the judge as provided in  
25 Section 33.022 and before the final disposition of that  
26 investigation; or

27 (ii) if the judge did resign from office

1 under circumstances described by Subparagraph (i), was not publicly  
2 reprimanded or censured as a result of the investigation;

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

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

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

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

13 (1) gross ignorance of official duties;

14 (2) gross carelessness in the discharge of official  
15 duties; [~~or~~]

16 (3) inability or unfitness to discharge promptly and  
17 properly official duties because of a serious physical or mental  
18 defect that did not exist at the time of the officer's election; or

19 (4) persistent or wilful violation of Article 17.15,  
20 Code of Criminal Procedure.

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

25 SECTION 9. Sections 33.001(b) and 665.052(b), Government  
26 Code, as amended by this Act, apply only to an allegation of  
27 judicial misconduct received by the State Commission on Judicial

1 Conduct or the legislature on or after the effective date of this  
2 Act, regardless of whether the conduct or act that is the subject of  
3 the allegation occurred or was committed before, on, or after the  
4 effective date of this Act.

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

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

14 SECTION 12. This Act takes effect September 1, 2023.

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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.*

SENATE VERSION (CS)

*No equivalent provision.*

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;

CONFERENCE

Same as Senate version.

SECTION 1. Same as Senate version.

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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:

SECTION 2. Same as Senate version.

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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

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website not more than seven business days after the 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

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disclose to the legislature any confidential information regarding the complaint.

*No equivalent provision.*

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

SECTION 3. Same as Senate version.

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 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 ~~[-~~ [(1)] 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*

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.

SECTION 4. Same as Senate version.



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*and facts that were presented in the proceedings and any additional evidence that the court in its discretion may, for 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.

*No equivalent provision.*

SECTION 5. Same as House version except as follows:

Sec. 33.037. SUSPENSION **FROM OFFICE [PENDING APPEAL].**

(a) Same as House version.

(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:

SECTION 5. Same as Senate version.

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- (A) the governor;
- (B) the lieutenant governor;
- (C) the speaker of the house of representatives;
- (D) the presiding officers of each legislative standing 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**

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**

SECTION 6. Same as Senate version.

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(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 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.*

SENATE VERSION (CS)

(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 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

CONFERENCE

SECTION 7. Same as Senate version.

SECTION 8. Same as Senate version.

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adopt rules to implement Section 33.001(b), Government Code, as amended by this Act.

*No equivalent provision.*

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 9. Same as Senate version.

*No equivalent provision.*

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 10. Same as Senate version.

*No equivalent provision.*

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 11. Same as Senate version.

SECTION 5. Effective date.

SECTION 12. Same as House version.

SECTION 12. Same as House version.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 27, 2023**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
 Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3452** by Jetton (Relating to the discipline of judges by the State Commission on Judicial Conduct and the legislature.), **Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3452, Conference Committee Report : a negative impact of (\$494,948) through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	(\$247,474)
2025	(\$247,474)
2026	(\$247,474)
2027	(\$247,474)
2028	(\$247,474)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$247,474)	2.0
2025	(\$247,474)	2.0
2026	(\$247,474)	2.0
2027	(\$247,474)	2.0
2028	(\$247,474)	2.0

**Fiscal Analysis**

The bill would amend the Government Code to shorten the timeframes for investigating and disposing of complaints filed with the State Commission on Judicial Conduct (SCJC).

The bill would amend the Government Code to require SCJC to conduct a preliminary investigation and draft recommendations for commission action as soon as practicable after complaint has been filed.

The bill would require SCJC to provide to judges who are the subject of a complaint of the commission staff's

recommendations for commission action and the judge's right to attend each commission meeting at which a report prepared and filed not later than the 10th business day before a scheduled commission meeting includes the complaint against the judge.

The bill would require SCJC to prepare and file, not later than the 10th business day before a scheduled commission meeting, a report detailing each complaint for which a preliminary investigation has been conducted but for which the investigation report is not finalized; the results of the preliminary investigation; and the commission staff's recommendations for commission action regarding the complaint.

The bill would also require the agency, not later than the 120th day following the date of the first commission meeting at which the complaint is included in the the report filed not later than the 10th business day before a scheduled commission meeting, to finalize the investigation report.

The bill would require SCJC, within 5 days of the commission meeting at which the investigation report is finalized and a commission action is determined, to provide the judge who is subject to a complaint written notice of the action to be taken regarding the complaint and to publish notice of the action to be taken on the commission's website not more than 7 business days after the commission meeting.

If, because of extenuating circumstances, the agency is unable to finalize an investigation report and determine an action to be taken regarding the complaint before the 120th day from the date of the first commission meeting at which the complaint is included in the the report filed not later than the 10th business day before the commission meeting, the bill would provide that the agency could order an extension of not more than 240 days from the date of that first commission meeting.

The bill would also amend the Government Code to add persistent or willful violation of the rules for setting bail under Article 17.15 of the Code of Criminal Procedure to the definition of "willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties" for the purposes of Section 1-a, Article V, Texas Constitution.

The bill would require SCJC to suspend a judge from office without pay for 60 days under certain circumstances and, if they do, to notify the governor, lieutenant governor, speaker of the House of Representatives, the presiding officers of the standing committees of each house of the legislature with applicable jurisdiction, and the comptroller.

The bill would allow the commission to suspend, or place on hold, an investigation if the person is under continued investigation by any law enforcement agency.

The bill would take effect September 1, 2023.

## **Methodology**

Costs reflected in the table above are based on information provided by SCJC.

Based on the information provided by SCJC, this analysis assumes the agency would need additional staff to resolve complaints in the shorter times frames that would be established by the bill. Because many of the complaints the agency receives involve issues requiring substantial legal research and analysis it is assumed 2.0 additional attorney positions (2.0 FTEs) would be required to implement the bill's provisions.

Salary, benefit, and payroll contributions for these positions would total \$245,204 in fiscal year 2024; \$245,204 in fiscal year 2025; \$245,204 in fiscal year 2026; \$245,204 in fiscal year 2027; and \$245,204 in fiscal year 2028.

Other operating expenses would total \$2,270 in fiscal year 2024; \$2,270 in fiscal year 2025; \$2,270 in fiscal year 2026; \$2,270 in fiscal year 2027; and \$2,270 in fiscal year 2028.

## **Technology**

Operating expenses above include technology impacts of \$1,325 in Fiscal Year 2024 and \$1,325 in Fiscal Year

2025, for hardware and Lexis Nexis licenses.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 242 State Commission on Judicial Conduct

**LBB Staff:** JMc, SD, KDw, JPa, MW