

BILL ANALYSIS

Senate Research Center
86R11377 TSS-F

C.S.S.B. 467
By: Zaffirini
State Affairs
3/6/2019
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 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 SCJC's disciplinary process is through the Sunset review process, which happens only once every decade.

A result of Texas Judicial Council recommendations, S.B. 467 would require SCJC to include in its annual report to the legislature the number of complaints on which SCJC has not issued a decision for more than a year since filing, as well as those referred to law enforcement and deferred pending a criminal investigation; notify a complainant of a change in a complaint's status within the investigative process unless notice would jeopardize an undercover investigation; provide online access to an index of pending complaint investigations, searchable by complaint number, that includes the date the complaint is received by SCJC and the status of the investigation or review; 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 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. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 467 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 the annual report of the State Commission on Judicial Conduct (report; SCJC) to include:

(1) makes no change to this subdivision;

(2) annual statistical information for the preceding fiscal year, including:

(A)–(D) makes no changes to these paragraphs;

(E) the number of complaints pending with SCJC for a year or more for which SCJC has not issued a tentative decision;

(F) the number of complaints referred to law enforcement;

(G) creates this paragraph from existing text and makes no further changes; and

(H) redesignates existing Paragraph (F) as paragraph (H);

(3)–(4) makes no changes to these subdivisions.

SECTION 2. Amends Section 33.0211(b), Government Code, to require SCJC, until final disposition of the complaint, rather than at least quarterly until final disposition, to notify the person filing the complaint of any change in the status of the complaint investigation unless the notice would jeopardize an undercover investigation.

SECTION 3. Amends Subchapter B, Chapter 33, Government Code, by adding Sections 33.02114, 33.02115, and 33.02116, as follows:

Sec. 33.02114. COMPLAINT INFORMATION ON COMMISSION WEBSITE. (a) Requires SCJC to maintain on SCJC's Internet website information written in plain language on:

- (1) the steps for filing a complaint with SCJC;
- (2) the complaint process, including a clear and concise description of the process from filing to disposition;
- (3) confidentiality, including a statement that a complainant is not required to maintain confidentiality of the complaint filed by the complainant; and
- (4) each complaint resulting in the imposition of a public sanction.

(b) Prohibits SCJC from including on SCJC's Internet website any confidential complaint information.

Sec. 33.02115. SANCTION GUIDELINES. Requires SCJC to establish guidelines for the imposition of a sanction to ensure each sanction imposed is proportional to the judicial misconduct.

Sec. 33.02116. COMPLAINT SCHEDULE. Requires SCJC to establish a schedule outlining times for SCJC action on a complaint. Requires the schedule to allow the executive director of SCJC to approve an extension of time for complaint disposition due to extenuating circumstances, including a need for further investigation.

SECTION 4. Effective date: September 1, 2019.