

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0151.01 Conrad Imel x2313

HOUSE BILL 23-1019

HOUSE SPONSORSHIP

Weissman and Lynch, Bacon, Amabile, Bird, Boesenecker, deGruy Kennedy, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Kipp, Lieder, Lindsay, Marshall, Martinez, McCluskie, Parenti, Sharbini, Sirota, Snyder, Soper, Story

SENATE SPONSORSHIP

Gardner and Gonzales, Moreno, Van Winkle

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING JUDICIAL DISCIPLINE, AND, IN CONNECTION THEREWITH,**
102 **ENSURING COMPLAINANT RIGHTS IN JUDICIAL DISCIPLINE**
103 **PROCEEDINGS AND MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Legislative Interim Committee on Judicial Discipline. The bill requires the rule-making committee that is established in the constitution to propose rules for the commission on judicial discipline (commission) to provide the commission with reasonable notice before proposing any new rule or amendment and requires the committee to post notice of each

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
3rd Reading Unamended
April 6, 2023

HOUSE
Amended 2nd Reading
April 5, 2023

rule change and allow for public comment concerning proposed changes.

For the rules governing judicial discipline adjudicative board (board) proceedings promulgated by the Colorado supreme court, the bill requires the supreme court to provide the board with notice and an opportunity to object and, if the board objects, to engage with the board in good-faith efforts to resolve differences, and post notice of each rule, guideline, or procedure and allow for public comment, including an opportunity for the public to address the supreme court.

Current law requires the commission to maintain annual data and statistics related to its work and judicial misconduct allegations. The bill requires the commission to maintain additional information and requires the commission to include the data and information in its annual report and make the data and information available online in a searchable format.

The bill repeals the statute establishing the legislative interim committee on judicial discipline because the committee is not authorized to meet after the 2022 legislative interim.

The bill permits a person to submit a request for evaluation of judicial misconduct by mail or online. The office of judicial discipline (office) is required to develop an online request for evaluation form that is accessible from the commission's public website. The bill permits a person to submit a confidential or anonymous request for evaluation.

The bill establishes a process for the office to provide complainants with information about the judicial discipline process and about the status of the complainant's request and any subsequent investigation and disciplinary or adjudicative process.

The bill requires a judge member of a board panel hearing a judicial discipline proceeding to provide administrative staff support for the panel.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-5.3-101, **add** (9.5)

3 and (13.5) as follows:

4 **13-5.3-101. Definitions.** As used in this article 5.3, unless the
5 context otherwise requires:

6 (9.5) "JUDICIAL DISCIPLINE ADJUDICATIVE BOARD" MEANS THE
7 JUDICIAL DISCIPLINE ADJUDICATIVE BOARD CREATED PURSUANT TO
8 SECTION 23 (3) OF ARTICLE VI OF THE COLORADO CONSTITUTION TO

1 CONDUCT FORMAL JUDICIAL DISCIPLINARY PROCEEDINGS.

2 (13.5) "PANEL" MEANS A THREE-MEMBER PANEL OF THE JUDICIAL
3 DISCIPLINE ADJUDICATIVE BOARD CONSISTING OF ONE JUDGE, ONE
4 ATTORNEY LICENSED TO PRACTICE IN COLORADO, AND ONE CITIZEN,
5 CONVENED PURSUANT TO SECTION 23 (3) OF ARTICLE VI OF THE
6 COLORADO CONSTITUTION UPON AN ORDER OF A FORMAL HEARING OR TO
7 HEAR AN APPEAL OF AN ORDER OF INFORMAL REMEDIAL ACTION.

8 **SECTION 2. In Colorado Revised Statutes, 13-5.3-102, amend**
9 **(2) as follows:**

10 **13-5.3-102. Commission on judicial discipline - powers and**
11 **duties. (2) (a) Members of the commission are appointed and serve**
12 **pursuant to section 23 (3)(a) and (3)(b) of article VI of the Colorado**
13 **constitution.**

14 **(b) PURSUANT TO SECTION 23 (3)(a) OF ARTICLE VI OF THE**
15 **COLORADO CONSTITUTION, THE MEMBERS OF THE COMMISSION WHO ARE**
16 **JUDGES OF THE DISTRICT COURTS AND JUDGES OF COUNTY COURTS ARE**
17 **APPOINTED BY THE ACTIVE DISTRICT JUDGES AND COUNTY COURT JUDGES**
18 **OF THE STATE. THE STATEWIDE ASSOCIATIONS OF DISTRICT AND COUNTY**
19 **COURT JUDGES SHALL JOINTLY DETERMINE THE PROCESS FOR APPOINTING**
20 **THE JUDGE MEMBERS OF THE COMMISSION BY THE DISTRICT AND COUNTY**
21 **COURT JUDGES OF THE STATE AND SHALL JOINTLY ADMINISTER THE**
22 **APPOINTMENT PROCESS. THE ASSOCIATIONS SHALL REPORT TO THE**
23 **COMMISSION WHEN A DISTRICT OR COUNTY COURT JUDGE IS APPOINTED TO**
24 **THE COMMISSION.**

25 **SECTION 3. In Colorado Revised Statutes, 13-5.3-105, amend**
26 **(3) as follows:**

27 **13-5.3-105. Information-sharing with judicial oversight**

1 entities - legislative declaration. (3) (a) When a judicial oversight entity
2 receives information indicating or alleging potential judicial misconduct,
3 the entity shall share the portion of the complaint alleging judicial
4 misconduct with the commission within a reasonable time. Thereafter, the
5 commission may request further material or information that the oversight
6 entity holds relating to the allegation of judicial misconduct. THE
7 JUDICIAL OVERSIGHT ENTITY SHALL PROVIDE THE REQUESTED MATERIAL
8 OR INFORMATION TO THE COMMISSION WITHIN FOURTEEN CALENDAR DAYS
9 AFTER THE COMMISSION'S REQUEST. A JUDICIAL OVERSIGHT ENTITY MAY
10 NOT WITHHOLD REQUESTED MATERIAL OR INFORMATION THROUGH A
11 CLAIM OF PRIVILEGE OR CONFIDENTIALITY THAT IT HOLDS. Any
12 information or materials received from the entity are subject to the
13 commission's rules of confidentiality.

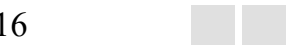
14 (b) A PROVISION IN A CONTRACT, INCLUDING IN A NONDISCLOSURE
15 AGREEMENT, ENTERED INTO AFTER THE EFFECTIVE DATE OF THIS ACT THAT
16 PROHIBITS A JUDICIAL OVERSIGHT ENTITY FROM DISCLOSING TO THE
17 COMMISSION INFORMATION DESCRIBED IN THIS SUBSECTION (3) IS VOID AS
18 AGAINST PUBLIC POLICY AND IS UNENFORCEABLE.

19 **SECTION 4.** In Colorado Revised Statutes, **amend** 13-5.3-107
20 as follows:

21 **13-5.3-107. Rule-making.** (1) ~~Section 23 (3)(h)~~ (3) of article
22 VI of the Colorado constitution ~~directs the supreme court to provide by~~
23 ~~rule for procedures before the commission, the masters, and the supreme~~
24 ~~court~~ ESTABLISHES A RULE-MAKING COMMITTEE TO PROPOSE RULES FOR
25 THE COMMISSION AND THE JUDICIAL DISCIPLINE ADJUDICATIVE BOARD. In
26 exercising its ~~rulemaking~~ authority, the ~~supreme court~~ RULE-MAKING
27 COMMITTEE shall provide the commission AND THE JUDICIAL DISCIPLINE

1 ~~ADJUDICATIVE BOARD~~ reasonable notice ~~and an opportunity to object~~
2 before ~~enacting~~ PROPOSING any new rule or amendment. ~~as it pertains to~~
3 ~~judicial discipline. If the commission objects to any rule or amendment,~~
4 ~~representatives of the supreme court shall meet with representatives of the~~
5 ~~commission and engage in good-faith efforts to resolve their differences.~~

6 (2) ~~Whenever the supreme court proposes a rule, guideline, or~~
7 ~~procedure related to judicial discipline, the supreme court shall post~~
8 ~~notice of the proposed rule, guideline, or procedure; allow for a period for~~
9 ~~public comment; and give the public an opportunity to address the~~
10 ~~supreme court concerning the proposed rule, guideline, or procedure at a~~
11 ~~public hearing.~~ WHENEVER THE RULE-MAKING COMMITTEE PROPOSES A
12 RULE, THE COMMITTEE SHALL POST NOTICE OF THE PROPOSED RULE,
13 ALLOW FOR A PERIOD FOR PUBLIC COMMENT, AND GIVE THE PUBLIC AN
14 OPPORTUNITY TO ADDRESS THE COMMITTEE CONCERNING THE PROPOSED
15 RULE AT A PUBLIC HEARING.



17 **SECTION 5.** In Colorado Revised Statutes, 13-5.3-108, **amend**
18 (1); and **add** (3) as follows:

19 **13-5.3-108. Reporting requirements - "State Measurement for**
20 **Accountable, Responsive, and Transparent (SMART) Government**
21 **Act" report - annual report.** (1) The commission shall gather and
22 maintain annual data and statistics on THE FOLLOWING INFORMATION:

23 (a) The number of requests for evaluation received, THE NUMBER
24 OF OTHER ALLEGATIONS OF JUDICIAL MISCONDUCT RECEIVED REGARDLESS
25 OF FORM, AND THE NUMBER OF REQUESTS FOR EVALUATION THAT THE
26 COMMISSION DISMISSED BECAUSE IT LACKS JURISDICTION OVER THE JUDGE
27 OR CONDUCT THAT IS THE SUBJECT OF THE COMPLAINT;

1 (b) The number of JUDICIAL MISCONDUCT investigations
2 performed, THE TYPES OF COMPLAINTS INVESTIGATED, AND THE RESULTS
3 OF THE INVESTIGATIONS;

4 (c) THE TYPES OF JUDICIAL MISCONDUCT COMPLAINTS REVIEWED
5 BY THE COMMISSION FOLLOWING AN INVESTIGATION, THE NUMBER OF
6 REVIEWED COMPLAINTS THAT WERE SUBSTANTIATED, AND THE NUMBER
7 OF REVIEWED COMPLAINTS THAT WERE NOT SUBSTANTIATED;

8 ~~(c)~~ (d) The number of formal proceedings pursued;

9 ~~(d)~~ The types and relative volume of misconduct allegations
10 received;

11 ~~(e)~~ The type and relative volume of incidents of judicial
12 misconduct identified;

13 ~~(f)~~ (e) The number and types of dispositions entered, INCLUDING
14 THE TYPE OF ANY DISCIPLINE IMPOSED OR RECOMMENDED; and

15 ~~(g)~~ (f) The demographics, including the gender, age, race,
16 ethnicity, or disability, of judges under discipline or investigation and
17 those directly affected by the potential misconduct.

18 (3) (a) THE COMMISSION SHALL MAKE THE INFORMATION
19 DESCRIBED IN SUBSECTION (1) OF THIS SECTION AVAILABLE ONLINE IN A
20 SEARCHABLE FORMAT AND INCLUDE THE INFORMATION IN ITS ANNUAL
21 REPORT. THE COMMISSION SHALL REPORT AND MAKE THE INFORMATION
22 AVAILABLE IN AGGREGATE FORM AND WITHOUT INDIVIDUALLY
23 IDENTIFIABLE INFORMATION CONCERNING A JUDGE, COMPLAINANT, OR
24 WITNESS.

25 (b) NOTHING IN THIS SUBSECTION (3) REQUIRES THE COMMISSION
26 TO MAKE PUBLICLY AVAILABLE ANY INFORMATION IT IS REQUIRED TO KEEP
27 CONFIDENTIAL PURSUANT TO THE COLORADO CONSTITUTION OR LAW.

1 **SECTION 6.** In Colorado Revised Statutes, **repeal** 13-5.3-110.

2 **SECTION 7.** In Colorado Revised Statutes, **add** 13-5.3-111 as
3 follows:

4 **13-5.3-111. Requests for evaluation - manner - confidential**
5 **requests.** (1) IN ADDITION TO ANY OTHER METHOD PERMITTED BY THE
6 COMMISSION OR OFFICE, A PERSON MAY SUBMIT A REQUEST FOR
7 EVALUATION BY MAIL OR ONLINE. THE OFFICE SHALL DEVELOP AN ONLINE
8 REQUEST FOR EVALUATION FORM THAT IS ACCESSIBLE FROM THE
9 COMMISSION'S PUBLIC WEBSITE.

10 (2) THE COMMISSION AND OFFICE SHALL PERMIT A PERSON TO
11 SUBMIT A CONFIDENTIAL OR ANONYMOUS REQUEST FOR EVALUATION.

12 **SECTION 8.** In Colorado Revised Statutes, **add** 13-5.3-112 as
13 follows:

14 **13-5.3-112. Complainant notification - point of contact.**
15 (1) UPON RECEIPT OF A COMPLAINT, THE OFFICE SHALL EXPLAIN TO THE
16 COMPLAINANT THE JUDICIAL DISCIPLINE PROCESS, INCLUDING THE STEPS
17 IN THE PROCESS, THE AVAILABILITY OF CONFIDENTIAL REPORTING, AND
18 CONFIDENTIALITY REQUIREMENTS DURING EACH STEP OF THE PROCESS.

19 (2) THE OFFICE SHALL DESIGNATE A POINT OF CONTACT TO KEEP
20 COMPLAINANTS APPRISED OF THE STATUS OF THE COMPLAINANT'S
21 COMPLAINT, INCLUDING PERIODIC UPDATES RELATED TO THE COMPLAINT
22 AND TIMELY NOTICE OF THE OUTCOME OF THE INVESTIGATION OF THE
23 COMPLAINT AND THE DISCIPLINARY OR ADJUDICATIVE PROCESS. UPDATES
24 MUST INCLUDE, BUT ARE NOT LIMITED TO, INFORMATION ABOUT THE
25 FOLLOWING:

26 (a) DISMISSAL OF A COMPLAINT;

27 (b) COMPLETION OF AN INVESTIGATION;

- 1 (c) SCHEDULING OF ANY HEARINGS;
2 (d) RESULTS OF ANY HEARINGS;
3 (e) IMPOSITION OF ANY REMEDIAL MEASURES OR SANCTIONS; AND
4 (f) APPEAL OF ANY REMEDIAL MEASURES OR SANCTIONS.
5 (3) IF A COMPLAINT IS DISMISSED BECAUSE IT IS OUTSIDE THE
6 COMMISSION'S JURISDICTION, THE OFFICE SHALL PROVIDE AN
7 EXPLANATION OF THE DISMISSAL TO THE COMPLAINANT.

8 **SECTION 9.** In Colorado Revised Statutes, **add** 13-5.3-113 as
9 follows:

10 **13-5.3-113. Judicial discipline adjudicative board -**
11 **administrative support.** WHEN A PANEL OF THE JUDICIAL DISCIPLINE
12 ADJUDICATIVE BOARD CONVENES PURSUANT TO SECTION 23 (3) OF
13 ARTICLE VI OF THE COLORADO CONSTITUTION, THE JUDGE MEMBER OF THE
14 PANEL IS RESPONSIBLE FOR PROVIDING ADMINISTRATIVE SUPPORT
15 NECESSARY TO FACILITATE THE PANEL'S HEARINGS. WITH ANY NECESSARY
16 APPROVAL FROM THE CHIEF JUDGE OF A DISTRICT COURT, THE PANEL
17 JUDGE MAY USE THE JUDGE'S OWN STAFF TO PROVIDE THE
18 ADMINISTRATIVE SUPPORT OR, IF NECESSARY, STAFF OF OTHER JUDGES IN
19 THE JUDGE'S DISTRICT OR ANOTHER DISTRICT MAY PROVIDE THE SUPPORT.
20 STAFF FROM THE SAME DISTRICT AS THE RESPONDENT JUDGE IN THE
21 PROCEEDING SHALL NOT PROVIDE ADMINISTRATIVE SUPPORT TO THE
22 PANEL.

23 **SECTION 10.** In Colorado Revised Statutes, **repeal** 24-72-401
24 as follows:

25 **24-72-401. Commission on judicial discipline - confidentiality**
26 **of records and procedures.** ~~The record of an investigation conducted by~~
27 ~~the commission on judicial discipline or by masters appointed by the~~

1 ~~supreme court at the request of the commission shall contain all papers~~
2 ~~filed with and all proceedings before the commission or the masters. The~~
3 ~~record shall be confidential and shall remain confidential after filing with~~
4 ~~the supreme court. A recommendation of the commission for the removal~~
5 ~~or retirement of a justice or judge shall not be confidential after it is filed~~
6 ~~with the supreme court.~~

7 **SECTION 11.** In Colorado Revised Statutes, **repeal** 24-72-402
8 as follows:

9 **24-72-402. Violation - penalty.** ~~Any member of the commission,~~
10 ~~any master appointed by the supreme court, or anyone providing~~
11 ~~assistance to such commission or such masters who willfully and~~
12 ~~knowingly discloses the contents of any paper filed with, or any~~
13 ~~proceeding before, such commission or such masters, or willfully and~~
14 ~~knowingly discloses the contents of any recommendation of the~~
15 ~~commission before such recommendation is filed with the supreme court~~
16 ~~is guilty of a misdemeanor and, upon conviction thereof, shall be~~
17 ~~punished by a fine of not more than five hundred dollars. This section~~
18 ~~shall not apply to any necessary communication between the members of~~
19 ~~the commission or the masters appointed by the supreme court or anyone~~
20 ~~employed to aid such commission or such masters in the filing or~~
21 ~~documentation of any paper filed with, or any proceedings before, such~~
22 ~~commission or such masters or the preparation of the recommendation of~~
23 ~~such commission.~~

24 **SECTION 12.** In Colorado Revised Statutes, 42-4-1301, **amend**
25 (6)(c)(IV) as follows:

26 **42-4-1301. Driving under the influence - driving while**
27 **impaired - driving with excessive alcoholic content - definitions -**

1 **penalties.** (6) (c) (IV) The department of public health and environment
2 may release nonpersonal identifying information from the database in
3 accordance with sections 24-72-101 to ~~24-72-402~~, C.R.S. ~~24-72-309~~.

4 **SECTION 13. Appropriation.** For the 2023-24 state fiscal year,
5 \$126,986 is appropriated to the judicial department for use by the
6 commission on judicial discipline. This appropriation is from the general
7 fund and is based on an assumption that the commission will require an
8 additional 0.8 FTE. To implement this act, the commission may use this
9 appropriation for the office of judicial discipline.

10 **SECTION 14. Act subject to petition - effective date.**

11 (1) Except as provided in subsection (2) of this section, this act takes
12 effect at 12:01 a.m. on the day following the expiration of the ninety-day
13 period after final adjournment of the general assembly; except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2024 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.

20 (2) Sections 1, 2, 4, and 9 of this act take effect only if House
21 Concurrent Resolution 23-1001 is approved by the people at the general
22 election to be held November 2024 and will take effect on the date of the
23 official declaration of the vote on said Concurrent Resolution 23-1001 by
24 the governor; except that, if a referendum petition is filed pursuant to
25 subsection (1) of this section against this act or sections 1, 2, 4, and 9 of
26 this act, then the act or section will not take effect unless approved by the

1 people at the general election to be held in November 2024 and, in such
2 case, will take effect on the date of the official declaration of the vote
3 thereon by the governor.