

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 22-0764.03 Jerry Barry x4341

SENATE BILL 22-201

SENATE SPONSORSHIP

Lee and Gardner, Bridges, Buckner, Cooke, Coram, Danielson, Donovan, Fenberg, Fields, Ginal, Hansen, Holbert, Jaquez Lewis, Kirkmeyer, Kolker, Liston, Lundeen, Moreno, Priola, Rankin, Rodriguez, Scott, Simpson, Winter, Woodward, Zenzinger

HOUSE SPONSORSHIP

Weissman and Carver,

Senate Committees

Judiciary
Appropriations

House Committees

Legislative Council
Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING INDEPENDENT OVERSIGHT OF MATTERS CONCERNING**
102 **JUDICIAL DISCIPLINE, AND, IN CONNECTION THEREWITH,**
103 **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>.)

A commission on judicial discipline (commission) is established in current law pursuant to section 23 (3) of article VI of the state constitution. The bill implements the commission by:

- Specifying the duties of the commission;
- Establishing and specifying the duties of an office of

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

SENATE
3rd Reading Unamended
April 27, 2022

SENATE
Amended 2nd Reading
April 26, 2022

judicial discipline (office) as an independent office within the judicial department;

- Authorizing the commission to appoint an executive director of the office and specifying the duties of the executive director;
- Authorizing the commission to appoint and determine the duties of special counsel, which may include representing the people in formal proceedings;
- Establishing immunity for commissioners;
- Specifying when information should be shared among offices within the judicial department responsible for reviewing actions of current and potential judges and justices;
- Specifying duties of personnel within the judicial department when they become aware of potential issues of judicial discipline; and
- Establishing a special cash fund and specifying sources of money for the fund and uses of the money in the fund.

For rules, guidelines, and procedures relating to judicial discipline adopted by the supreme court, the bill requires the supreme court to:

- Provide the commission with notice and an opportunity to object and, if the commission objects, to engage with the commission 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.

The bill creates the legislative interim committee on judicial discipline to study Colorado's system of judicial discipline and make recommendations for necessary changes to that system.

The bill clarifies that the disclosure of materials and information to the state auditor pursuant to an investigation based on an allegation of fraud by an employee or contracted individual does not cause the materials and information to lose their status as privileged or confidential based solely upon such disclosure.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) An independent, fair, competent, and impartial judiciary is
5 indispensable to our system of justice. A judiciary composed of persons

1 committed to the highest levels of integrity and who hold office as a
2 public trust is essential to maintaining public confidence in the legal
3 system.

4 (b) In order to maintain public confidence in the legal system; to
5 protect the public from judicial conduct that is improper, illegal, or
6 unethical; to ensure judicial conduct is not tainted by bias, prejudice, or
7 illegal discrimination; to avoid impropriety or the appearance of
8 impropriety; and to ensure the preservation of the principles of justice and
9 the rule of law, a commission on judicial discipline is needed that is
10 financially and functionally independent from the judicial department and
11 empowered to fairly and expeditiously address complaints about judicial
12 conduct;

13 (c) Public confidence in the judicial department has been
14 significantly undermined over the past two and one-half years by media
15 reports describing alleged misconduct and improprieties in the judicial
16 department resulting in multiple resignations of senior judicial department
17 leaders and the commencement of six investigations by the judicial
18 discipline commission, the Colorado state auditor, the office of attorney
19 regulation counsel, the federal bureau of investigation, and two
20 investigations by outside counsel commissioned by the judicial
21 department;

22 (d) To credibly investigate and address allegations of judicial
23 misconduct and thereby fulfill the requirement of accountability, it is
24 important to establish a commission on judicial discipline that is
25 independent from the judges and justices who are subject to the
26 commission's oversight. Colorado's constitution, code of judicial conduct,
27 and rules of judicial discipline do not now provide a fair and impartial

1 system of judicial discipline because the judges overseeing discipline of
2 other judges decide the rules to be applied, determine evidence to be
3 considered, rule on appeals, and allocate funds to the disciplinary
4 commission.

5 (e) The credibility of Colorado's judiciary is best served by a
6 system of judicial discipline that is overseen by an independent
7 commission on judicial discipline that includes perspectives from the
8 community, the bar, and the judiciary, rather than being ultimately
9 controlled by the judiciary. This design will achieve independent
10 oversight while also being informed by the perspective of the judiciary.

11 (f) Within the constitutional limitations on confidentiality, the
12 work of the commission on judicial discipline should be as transparent as
13 possible;

14 (g) To effectively perform its constitutional function, the
15 commission on judicial discipline needs unfettered access to all
16 information and documents available to the state judicial department that
17 are relevant to any allegation or investigation of judicial misconduct or
18 judicial disability; and

19 (h) The efficacy of the commission on judicial discipline also
20 depends upon the existence of conflict-free, secure, stable, and defined
21 funding that allows the commission to maintain independence and
22 respond to disciplinary issues without delay and without being subject to
23 improper influence exercised by those being overseen.

24 (2) To restore public confidence in the judiciary and achieve the
25 goal of an independent commission on judicial discipline, the general
26 assembly hereby adopts and enacts the provisions set forth in this act and
27 establishes a an interim legislative committee to work with judges,

1 lawyers, members of the public, and other interested parties to meet to
2 review and examine the facts, evaluate other states' models of judicial
3 discipline, and make recommendations to the general assembly for
4 statutory or constitutional reforms during the 2023 session.

5 **SECTION 2.** In Colorado Revised Statutes, **add** article 5.3 to title
6 13 as follows:

7 **ARTICLE 5.3**

8 **Commission on Judicial Discipline**

9 **13-5.3-101. Definitions.** AS USED IN THIS ARTICLE 5.3, UNLESS
10 THE CONTEXT OTHERWISE REQUIRES:

11 (1) "ATTORNEY" MEANS A PERSON ADMITTED TO PRACTICE LAW
12 BEFORE THE COURTS OF THIS STATE.

13 (2) "CODE" MEANS THE COLORADO CODE OF JUDICIAL CONDUCT.

14 (3) "COMMISSION" MEANS THE COMMISSION ON JUDICIAL
15 DISCIPLINE, ESTABLISHED PURSUANT TO SECTION 23 (3) OF ARTICLE VI OF
16 THE COLORADO CONSTITUTION.

17 (4) "COMMISSIONER" MEANS AN APPOINTED MEMBER OF THE
18 COMMISSION ON JUDICIAL DISCIPLINE OR A SPECIAL MEMBER APPOINTED
19 PURSUANT TO SECTION 23 (3)(a) OF ARTICLE VI OF THE COLORADO
20 CONSTITUTION.

21 (5) "COMPLAINT" MEANS INFORMATION IN ANY FORM FROM ANY
22 SOURCE THAT ALLEGES OR FROM WHICH A REASONABLE INFERENCE CAN
23 BE DRAWN THAT A JUDGE COMMITTED MISCONDUCT OR IS INCAPACITATED.

24 (6) "DEPARTMENT" MEANS THE COLORADO STATE JUDICIAL
25 DEPARTMENT AND ALL ITS SUBPARTS, SUCH AS THE OFFICE OF THE STATE
26 COURT ADMINISTRATOR; THE OFFICE OF THE CHIEF JUSTICE OF THE
27 SUPREME COURT; _____ THE JUDICIAL DISTRICTS AND THEIR

1 ADMINISTRATIONS, INCLUDING CHIEF JUDGES AND DISTRICT
2 ADMINISTRATORS; THE HUMAN RESOURCES DEPARTMENT; AND OTHER
3 ADMINISTRATIVE SUBPARTS.

4 (7) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
5 THE OFFICE OF JUDICIAL DISCIPLINE APPOINTED PURSUANT TO SECTION
6 13-5.3-103.

7 (8) "FUND" MEANS THE COMMISSION ON JUDICIAL DISCIPLINE
8 SPECIAL CASH FUND, CREATED IN SECTION 13-5.3-104.

9 (9) (a) "JUDGE" MEANS ANY JUSTICE OR JUDGE OF ANY COURT OF
10 RECORD OF THIS STATE SERVING ON A FULL-TIME, PART-TIME, OR SENIOR
11 BASIS.

12 (b) "JUDGE" ALSO INCLUDES ANY JUSTICE OR JUDGE WHO HAS
13 RETIRED WITHIN THE JURISDICTIONAL LIMITS FOR DISCIPLINARY
14 PROCEEDINGS ESTABLISHED BY THIS ARTICLE 5.3, THE COMMISSION, OR
15 THE COLORADO SUPREME COURT.

16 (c) "JUDGE" DOES NOT INCLUDE MUNICIPAL JUDGES OR
17 MAGISTRATES, ADMINISTRATIVE LAW JUDGES, OR DENVER COUNTY COURT
18 JUDGES, WHO ARE SUBJECT TO DIFFERENT DISCIPLINARY AUTHORITIES.

19 (10) "JUSTICE" MEANS A JUSTICE SERVING ON THE SUPREME COURT
20 OF COLORADO ON EITHER A FULL-TIME OR SENIOR BASIS.

21 (11) "MISCONDUCT" MEANS CONDUCT BY A JUDGE THAT MAY
22 REASONABLY CONSTITUTE GROUNDS FOR DISCIPLINE UNDER THE CODE,
23 THE COLORADO RULES OF JUDICIAL DISCIPLINE, OR SECTION 23 (3) OF
24 ARTICLE VI OF THE COLORADO CONSTITUTION.

25 (12) "OFFICE" MEANS THE OFFICE OF JUDICIAL DISCIPLINE
26 ESTABLISHED IN SECTION 13-5.3-103.

27 (13) "OFFICE OF THE STATE COURT ADMINISTRATOR" MEANS THE

1 OFFICE CREATED PURSUANT TO SECTION 13-3-101 (1).

2 (14) "RULES" MEANS THE COLORADO RULES OF JUDICIAL
3 DISCIPLINE.

4 (15) "SUPREME COURT" MEANS THE SUPREME COURT OF THE STATE
5 OF COLORADO ESTABLISHED PURSUANT TO ARTICLE VI OF THE COLORADO
6 CONSTITUTION.

7 **13-5.3-102. Commission on judicial discipline - powers and**
8 **duties.** (1) PURSUANT TO SECTION 23 (3) OF ARTICLE VI OF THE
9 COLORADO CONSTITUTION, THE COLORADO COMMISSION ON JUDICIAL
10 DISCIPLINE IS ESTABLISHED AS AN INDEPENDENT COMMISSION HOUSED
11 WITHIN THE DEPARTMENT.

12 (2) MEMBERS OF THE COMMISSION ARE APPOINTED AND SERVE
13 PURSUANT TO SECTION 23 (3)(a) AND (3)(b) OF ARTICLE VI OF THE
14 COLORADO CONSTITUTION.

15 (3) THE COMMISSION SHALL:

16 (a) INVESTIGATE AND RESOLVE REQUESTS FOR EVALUATION OF
17 POTENTIAL JUDICIAL MISCONDUCT IN ACCORDANCE WITH THE COLORADO
18 CONSTITUTION, THE RULES, AND THIS ARTICLE 5.3;

19 (b) APPOINT AN EXECUTIVE DIRECTOR OF THE OFFICE OF JUDICIAL
20 DISCIPLINE;

21 (c) ESTABLISH POSITIONS, ROLES, AND MINIMUM STARTING
22 SALARIES FOR EMPLOYEES OF THE OFFICE;

23 (d) HIRE EMPLOYEES OF THE OFFICE WHO SERVE AT THE PLEASURE
24 OF THE COMMISSION. EMPLOYEES OF THE OFFICE MAY INCLUDE CLERICAL
25 ASSISTANTS; ATTORNEYS WHO SERVE AS SPECIAL COUNSEL; AND
26 INVESTIGATORS;

27 (e) EMPLOY ATTORNEYS OR APPOINT OUTSIDE SPECIAL COUNSEL

1 PURSUANT TO SECTIONS 24-31-101 (1)(g) AND 24-31-111 WHO SERVE AT
2 THE PLEASURE OF THE COMMISSION; ASSIGN DUTIES TO SPECIAL COUNSEL
3 AT THE DISCRETION OF THE COMMISSION, WHICH MAY INCLUDE SERVING
4 AS REPRESENTATIVES OF THE PEOPLE OF THE STATE OF COLORADO IN
5 FORMAL PROCEEDINGS; AND DETERMINE THE COMPENSATION OF SPECIAL
6 COUNSEL; AND

7 (f) APPROVE A BUDGET FOR THE COMMISSION AND THE OFFICE AND
8 ASSIST THE EXECUTIVE DIRECTOR IN MANAGING THE OFFICE AND
9 PROVIDING FISCAL OVERSIGHT OF THE OFFICE'S OPERATING BUDGET.

10 (4) COMMISSIONERS ARE IMMUNE FROM SUIT IN ANY ACTION, CIVIL
11 OR CRIMINAL, BASED UPON OFFICIAL ACTS PERFORMED IN GOOD FAITH AS
12 COMMISSIONERS CONSISTENT WITH THE "COLORADO GOVERNMENTAL
13 IMMUNITY ACT", ARTICLE 10 OF TITLE 24.

14 **13-5.3-103. Office of judicial discipline - created - executive**
15 **director - duties - oversight.** (1) (a) THE OFFICE OF JUDICIAL DISCIPLINE
16 IS ESTABLISHED AS AN INDEPENDENT OFFICE HOUSED WITHIN THE
17 DEPARTMENT. THE COMMISSION SHALL OVERSEE THE OFFICE.

18 (b) SUBJECT TO THE COMMISSION'S SUPERVISION, THE OFFICE
19 SHALL:

20 (I) STAFF AND SUPPORT THE COMMISSION'S OPERATIONS. THE
21 INITIAL STAFFING INCLUDES THE EXECUTIVE DIRECTOR, A FULL-TIME
22 ADMINISTRATIVE SUPPORT PERSON, AN ATTORNEY, AND AN INVESTIGATOR.

23 (II) RECEIVE REQUESTS FOR EVALUATION INVOLVING JUSTICES
24 AND JUDGES;

25 (III) CONDUCT PUBLIC EDUCATION EFFORTS CONCERNING THE
26 JUDICIAL DISCIPLINE PROCESS AND THE RECOMMENDATIONS MADE BY THE
27 COMMISSION;

1 (IV) ENGAGE IN AND PROVIDE EDUCATIONAL BACKGROUND TO THE
2 PUBLIC, THE DEPARTMENT, JUDICIAL NOMINATING COMMISSIONS, AND
3 JUDICIAL PERFORMANCE COMMISSIONS REGARDING THE REQUIREMENTS OF
4 THE CODE AND THE COMMISSION; AND

5 (V) COMPLETE ANY OTHER DUTIES AS ASSIGNED BY THE
6 COMMISSION.

7 (2) (a) THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR
8 OF THE OFFICE. THE EXECUTIVE DIRECTOR:

9 (I) SHALL BE ADMITTED TO PRACTICE LAW IN THE COURTS OF THIS
10 STATE AND HAVE PRACTICED LAW IN THIS STATE FOR AT LEAST TEN YEARS;

11 (II) SHALL NOT BE INVOLVED IN THE PRIVATE PRACTICE OF LAW
12 WHILE SERVING AS THE EXECUTIVE DIRECTOR; AND

13 (III) SHALL NOT APPEAR AS AN ATTORNEY BEFORE THE
14 COMMISSION FOR A PERIOD OF FIVE YEARS FOLLOWING SERVICE AS THE
15 EXECUTIVE DIRECTOR.

16 (b) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
17 COMMISSION. THE EXECUTIVE DIRECTOR'S COMPENSATION IS THE SAME AS
18 THE COMPENSATION THE GENERAL ASSEMBLY ESTABLISHES FOR DISTRICT
19 COURT JUDGES. THE EXECUTIVE DIRECTOR SHALL HIRE ADDITIONAL STAFF
20 FOR THE OFFICE AS NECESSARY AND AS APPROVED BY THE COMMISSION.

21 (c) THE EXECUTIVE DIRECTOR HAS THE FOLLOWING DUTIES:

22 (I) ESTABLISH AND MAINTAIN A PERMANENT OFFICE;

23 (II) RESPOND TO INQUIRIES ABOUT THE COMMISSION OR THE CODE;

24 (III) ADVISE THE COMMISSION ON THE APPLICATION AND
25 INTERPRETATION OF THE CODE AND THE RULES;

26 (IV) PROCESS REQUESTS FOR EVALUATION OF JUDICIAL CONDUCT;

27 (V) CONDUCT OR SUPERVISE EVALUATIONS AND INVESTIGATIONS

1 AS DIRECTED BY THE COMMISSION;

2 (VI) ADVISE THE COMMISSION AS TO POTENTIAL DISPOSITIONAL
3 RECOMMENDATIONS AS MAY BE REQUESTED BY THE COMMISSION;

4 (VII) MAINTAIN COMMISSION RECORDS;

5 (VIII) MAINTAIN STATISTICS CONCERNING THE OPERATION OF THE
6 COMMISSION AND MAKE THEM AVAILABLE TO THE COMMISSION;

7 (IX) PREPARE THE COMMISSION'S BUDGET AND, ONCE APPROVED
8 BY THE COMMISSION, SUBMIT IT TO THE JOINT BUDGET COMMITTEE OF THE
9 GENERAL ASSEMBLY;

10 (X) ADMINISTER COMMISSION MONEY AND RESOURCES, INCLUDING
11 MONEY IN THE COMMISSION ON JUDICIAL DISCIPLINE SPECIAL CASH FUND;

12 (XI) SUPERVISE COMMISSION STAFF;

13 (XII) NOTIFY THE APPROPRIATE APPOINTING AUTHORITY OF
14 VACANCIES ON THE COMMISSION;

15 (XIII) ASSIST THE COMMISSION IN PREPARING AN ANNUAL REPORT
16 OF THE COMMISSION'S ACTIVITIES FOR PRESENTATION TO THE COMMISSION,
17 THE SUPREME COURT, AND THE PUBLIC;

18 (XIV) SUPERVISE SPECIAL COUNSEL, INVESTIGATORS, OTHER
19 EXPERTS, OR PERSONNEL AS DIRECTED BY THE COMMISSION, AS THEY
20 INVESTIGATE AND PROCESS MATTERS BEFORE THE COMMISSION AND
21 BEFORE THE SUPREME COURT; AND

22 (XV) PERFORM SUCH OTHER DUTIES AS REQUIRED BY THE RULES,
23 THIS ARTICLE 5.3, THE RULES PROMULGATED BY THE COMMISSION, OR THE
24 COMMISSION.

25 (3) THE DEPARTMENT SHALL PROVIDE THE COMMISSION AND THE
26 OFFICE WITH OFFICE SPACE IN THE RALPH L. CARR COLORADO JUDICIAL
27 CENTER. THROUGH JUNE 30, 2023, THE DEPARTMENT OR THE OFFICE OF

1 ATTORNEY REGULATION COUNSEL SHALL PROVIDE THE COMMISSION AND
2 THE OFFICE WITH ACCOUNTING SUPPORT, INFORMATION TECHNOLOGY
3 SUPPORT, HUMAN RESOURCES AND PAYROLL SERVICES, AND SIMILAR
4 SUPPORT SERVICES TO THE SAME EXTENT, WITHOUT COST TO THE
5 COMMISSION OR THE OFFICE, AND ON THE SAME TERMS AS THE
6 DEPARTMENT PROVIDES SUCH SUPPORT TO THE COLORADO JUDICIAL
7 PERFORMANCE COMMISSIONS. ==

8 **13-5.3-104. Commission on judicial discipline special cash**
9 **fund - acceptance of federal funds - general appropriations.** (1) THE
10 COMMISSION IS AUTHORIZED TO ACCEPT ANY FEDERAL FUNDS MADE
11 AVAILABLE FOR ANY PURPOSE CONSISTENT WITH THE PROVISIONS OF THIS
12 ARTICLE 5.3.

13 (2) ANY MONEY RECEIVED PURSUANT TO THIS SECTION MUST BE
14 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
15 TO THE COMMISSION ON JUDICIAL DISCIPLINE SPECIAL CASH FUND, WHICH
16 IS CREATED IN THE STATE TREASURY.

17 (3) ANY EXPENSES, ATTORNEY FEES, OR COSTS RECOVERED
18 PURSUANT TO THIS ARTICLE 5.3 MUST BE TRANSMITTED TO THE STATE
19 TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

20 (4) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
21 COMMISSION FOR THE PURPOSES SPECIFIED IN SUBSECTION (6) OF THIS
22 SECTION.

23 (5) ANY INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT
24 OF MONEY IN THE FUND IS CREDITED TO THE FUND. ANY UNEXPENDED AND
25 UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF ANY
26 FISCAL YEAR REMAINS IN THE FUND AND IS NOT CREDITED OR
27 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

1 (6) MONEY IN THE FUND MAY BE USED FOR PAYMENT OF THE
2 EXPENSES FOR EVALUATIONS, INVESTIGATIONS, FORMAL PROCEEDINGS, OR
3 SPECIAL PROJECTS THAT THE COMMISSION HAS DETERMINED ARE TO BE
4 UNDERTAKEN BY PERSONNEL OTHER THAN OR IN ADDITION TO THOSE
5 EMPLOYED BY THE OFFICE.

6 (7) FOR THE STATE FISCAL YEAR 2022-23, THE GENERAL
7 ASSEMBLY SHALL APPROPRIATE FROM THE GENERAL FUND TO THE FUND
8 FOUR HUNDRED THOUSAND DOLLARS. IN EACH SUBSEQUENT FISCAL YEAR,
9 THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT MONEY TO THE
10 FUND SO THAT IT BEGINS THE FISCAL YEAR WITH NOT LESS THAN FOUR
11 HUNDRED THOUSAND DOLLARS.

12 **13-5.3-105. Information-sharing with judicial oversight**
13 **entities - legislative declaration.** (1) THE GENERAL ASSEMBLY FINDS
14 AND DECLARES THAT:

15 (a) SEVERAL ENTITIES WITHIN THE DEPARTMENT SHARE A ROLE IN
16 THE OVERSIGHT OF THE JUDICIARY AND, AS A RESULT, OFTEN BECOME
17 AWARE OF AND INVOLVED IN INVESTIGATIONS THAT RELATE TO MATTERS
18 THAT MAY COME BEFORE THE COMMISSION, INCLUDING THE OFFICE OF
19 JUDICIAL PERFORMANCE EVALUATION, THE JUDICIAL NOMINATING
20 COMMISSIONS, THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE, AND
21 THE OFFICE OF ATTORNEY REGULATION COUNSEL, COLLECTIVELY
22 REFERRED TO IN THIS SECTION AS "JUDICIAL OVERSIGHT ENTITIES"; AND

23 (b) IN ORDER FOR THE COMMISSION AND THE JUDICIAL OVERSIGHT
24 ENTITIES TO PROPERLY PERFORM THEIR FUNCTIONS, THEY NEED TO BE
25 ABLE TO SHARE RELEVANT INFORMATION AND DOCUMENTS WHILE
26 MAINTAINING THEIR RESPECTIVE RULES OF CONFIDENTIALITY.

27 (2) WHEN REQUESTED BY A JUDICIAL OVERSIGHT ENTITY, THE

1 COMMISSION MAY PROVIDE THE DISCIPLINARY RECORD OF A JUDGE OR
2 JUSTICE TO THE REQUESTING ENTITY. THE JUDICIAL OVERSIGHT ENTITY
3 SHALL KEEP THE INFORMATION CONFIDENTIAL TO THE SAME EXTENT THAT
4 THE COMMISSION IS REQUIRED TO DO SO PURSUANT TO THE STATE
5 CONSTITUTION AND THE RULES.

6 (3) WHEN A JUDICIAL OVERSIGHT ENTITY RECEIVES INFORMATION
7 INDICATING OR ALLEGING POTENTIAL JUDICIAL MISCONDUCT, THE ENTITY
8 SHALL SHARE THE PORTION OF THE COMPLAINT ALLEGING JUDICIAL
9 MISCONDUCT WITH THE COMMISSION WITHIN A REASONABLE TIME.
10 THEREAFTER, THE COMMISSION MAY REQUEST FURTHER MATERIAL OR
11 INFORMATION THAT THE OVERSIGHT ENTITY HOLDS RELATING TO THE
12 ALLEGATION OF JUDICIAL MISCONDUCT. ANY INFORMATION OR MATERIALS
13 RECEIVED FROM THE ENTITY ARE SUBJECT TO THE COMMISSION'S RULES OF
14 CONFIDENTIALITY.

15 **13-5.3-106. Information-sharing within the judicial**
16 **department - legislative declaration.** (1) THE GENERAL ASSEMBLY
17 FINDS AND DECLARES THAT:

18 (a) OFFICES OR PERSONNEL WITHIN THE DEPARTMENT ARE OFTEN
19 THE FIRST TO RECEIVE COMPLAINTS;

20 (b) THE DEPARTMENT OFTEN HOLDS EVIDENTIARY MATERIALS
21 RELATING TO POTENTIAL MISCONDUCT AND OFTEN DEVELOPS EVIDENCE,
22 THROUGH INVESTIGATIONS OR OTHERWISE, RELATING TO SUCH POTENTIAL
23 MISCONDUCT;

24 (c) THE COMMISSION CANNOT FULLY PURSUE ITS CONSTITUTIONAL
25 MANDATE UNLESS ALL INFORMATION RELEVANT TO A COMPLAINT
26 AVAILABLE TO THE DEPARTMENT IS FREELY AND PROMPTLY SHARED WITH
27 THE COMMISSION; AND

1 (d) THE CREDIBILITY OF THE JUDICIARY AND JUDICIAL DISCIPLINE
2 ARE BEST SERVED BY THE DEPARTMENT PROMPTLY SHARING WITH THE
3 COMMISSION ALL INFORMATION AND MATERIALS AVAILABLE TO THE
4 DEPARTMENT RELEVANT TO A COMPLAINT OR POTENTIAL MISCONDUCT.

5 (2) THE DEPARTMENT SHALL ENSURE THAT IF ANY MEMBER OF THE
6 DEPARTMENT, INCLUDING MEMBERS OF THE OFFICE OF THE STATE COURT
7 ADMINISTRATOR, THE OFFICE OF THE CHIEF JUSTICE, CHIEF JUDGES,
8 DISTRICT ADMINISTRATORS, THE HUMAN RESOURCES DEPARTMENT,
9 ADMINISTRATIVE PERSONNEL, JUDICIAL DISTRICTS, CLERKS OF COURT, AND
10 OTHERS, RECEIVES A COMPLAINT FROM AN EMPLOYEE, VOLUNTEER, OR
11 CONTRACTOR FOR THE DEPARTMENT, THE DEPARTMENT SHALL:

12 (a) DOCUMENT BOTH THE RECEIPT OF THE COMPLAINT AND THE
13 DEPARTMENT'S HANDLING OF THE COMPLAINT, INCLUDING ANY
14 INVESTIGATION THAT MAY BE CONDUCTED, AND MAINTAIN SUCH
15 DOCUMENTATION FOR AS LONG AS THE SUBJECT OF THE COMPLAINT IS A
16 JUDGE, PLUS THREE CALENDAR YEARS;

17 (b) WITHIN NOT MORE THAN THIRTY-FIVE DAYS AFTER RECEIPT OF
18 THE COMPLAINT, NOTIFY THE OFFICE OF THE COMPLAINT AND PROVIDE THE
19 OFFICE WITH ALL INFORMATION WITHIN THE CUSTODY OR CONTROL OF THE
20 DEPARTMENT RELATED TO THE COMPLAINT, INCLUDING:

- 21 (I) IDENTIFICATION OF POTENTIAL WITNESSES;
- 22 (II) A LIST OF ANY EVIDENCE HELD OR KNOWN;
- 23 (III) ACCESS TO ALL EVIDENCE, INCLUDING ADMINISTRATIVE FILES,
24 DIGITAL DATA, DIGITAL OR PAPER CASE FILES, RECORDINGS AND
25 TRANSCRIPTS, COMMUNICATIONS, AND METADATA, WITHOUT CHARGE;
26 AND
- 27 (IV) ANY DEPARTMENT INVESTIGATIVE MATERIALS THAT MAY

1 EXIST, INCLUDING ANY INVESTIGATIVE OR ACTION PLANS; AND

2 (c) NOTIFY ANY PERSON SUPPLYING ANY INFORMATION
3 CONCERNING A COMPLAINT, AND ANY WITNESS INTERVIEWED, OF THE
4 FOLLOWING:

5 (I) THE EXISTENCE, ROLE, INDEPENDENCE FROM THE DEPARTMENT,
6 AND PROCESS OF COMMUNICATING WITH THE COMMISSION;

7 (II) THAT INFORMATION GIVEN TO THE COMMISSION IS
8 CONFIDENTIAL UNLESS AND UNTIL A RECOMMENDATION IS MADE TO THE
9 SUPREME COURT;

10 (III) RULE 2.16 (B) OF THE CODE PROHIBITING RETALIATION
11 AGAINST ANY PERSON ASSISTING THE COMMISSION;

12 (IV) THAT THE DEPARTMENT HAS A DUTY TO DISCLOSE ALL
13 INFORMATION RELATED TO POTENTIAL JUDICIAL MISCONDUCT TO THE
14 COMMISSION; AND

15 (V) THAT THE DEPARTMENT IS PROHIBITED FROM DISCOURAGING
16 A PERSON FROM SHARING INFORMATION WITH THE COMMISSION,
17 INCLUDING ENTERING INTO A NONDISCLOSURE AGREEMENT THAT WOULD
18 HAVE THAT EFFECT.

19 (3) THE DEPARTMENT'S DUTIES OF DISCLOSURE ARISE WHEN THE
20 DEPARTMENT RECEIVES A COMPLAINT.

21 (4) IF THE DEPARTMENT RECEIVES A COMPLAINT ALLEGING
22 JUDICIAL MISCONDUCT FROM AN INDIVIDUAL OR ENTITY THAT IS NOT AN
23 EMPLOYEE, VOLUNTEER, OR CONTRACTOR FOR THE DEPARTMENT, THE
24 DEPARTMENT SHALL NOTIFY THE COMPLAINANT OF THE ROLE OF THE
25 COMMISSION AND PROVIDE THE COMPLAINANT WITH THE COMMISSION'S
26 CONTACT INFORMATION. IF THE COMPLAINANT SUBMITS WRITTEN OR
27 ELECTRONIC MATERIALS IN CONNECTION WITH A COMPLAINT, THE

1 DEPARTMENT SHALL FORWARD THOSE MATERIALS TO THE COMMISSION.
2 EACH JUDICIAL DISTRICT, THE APPELLATE COURTS, AND THE STATE COURT
3 ADMINISTRATOR'S OFFICE SHALL ADOPT A WRITTEN POLICY TO IMPLEMENT
4 THIS PROVISION.

5 (5) THE DUTIES TO DOCUMENT AND DISCLOSE POTENTIAL JUDICIAL
6 MISCONDUCT AND RELATED INFORMATION CONTINUE WHEN THE
7 DEPARTMENT RECEIVES ADDITIONAL INFORMATION.

8 (6) (a) THE DEPARTMENT SHALL:

9 (I) ADOPT PROCEDURES AND POLICIES TO IMPLEMENT THE DUTIES
10 STATED IN THIS SECTION AND TO EDUCATE DEPARTMENT PERSONNEL
11 ABOUT THESE DUTIES; AND

12 (II) COOPERATE WITH ANY REQUEST FROM THE COMMISSION FOR
13 INFORMATION RELATED TO EVALUATING A COMPLAINT AND SUPPLY
14 REQUESTED INFORMATION OR MATERIALS WITHIN A REASONABLE TIME OF
15 NOT MORE THAN THIRTY-FIVE DAYS AFTER THE DATE OF REQUEST.

16 (b) THE DEPARTMENT SHALL NOT:

17 (I) ADOPT ANY POLICY OR ENTER INTO ANY CONTRACT THAT
18 PURPORTS TO IMPEDE DISCLOSURE OF INFORMATION RELATED TO
19 POTENTIAL JUDICIAL MISCONDUCT TO THE COMMISSION. THE DEPARTMENT
20 SHALL NOT DISCOURAGE ANY PERSON OR ENTITY FROM COOPERATING
21 WITH THE COMMISSION OR DISCLOSING INFORMATION TO THE COMMISSION.

22 (II) WITHHOLD FROM THE COMMISSION DISCLOSURE OF MATERIALS
23 OR INFORMATION FOR ANY OF THE FOLLOWING REASONS:

24 (A) A CLAIM OF PRIVILEGE HELD BY THE DEPARTMENT, INCLUDING
25 ATTORNEY-CLIENT, ATTORNEY WORK PRODUCT, JUDICIAL DELIBERATION,
26 OR OTHER CLAIM OF PRIVILEGE;

27 (B) A CLAIM OF CONFIDENTIALITY;

1 (C) A CLAIM OF CONTRACTUAL RIGHT OR OBLIGATION ARISING
2 AFTER THE EFFECTIVE DATE OF THIS ACT NOT TO DISCLOSE INFORMATION,
3 INCLUDING A NONDISCLOSURE AGREEMENT; OR

4 (D) A CLAIM THAT ANY RECORDS ARE PART OF A STATE AUDITOR
5 FRAUD HOTLINE INVESTIGATION OR REPORT;

6 (III) RETALIATE, DIRECTLY OR INDIRECTLY, AGAINST ANY PERSON
7 COMMUNICATING WITH THE COMMISSION REGARDING POTENTIAL JUDICIAL
8 MISCONDUCT OR ITS EXAMINATION, ANY PERSON SEEKING TO COMPLY
9 WITH THE DOCUMENTATION AND DISCLOSURE OBLIGATIONS OF THIS
10 SECTION, OR ANY PERSON OTHERWISE ASSISTING OR SUSPECTED OF
11 ASSISTING THE COMMISSION TO FULFILL ITS CONSTITUTIONAL MANDATE OR
12 ITS ROLE IN JUDICIAL OVERSIGHT.

13 (c) THE DEPARTMENT AND THE OFFICE OF ATTORNEY REGULATION
14 COUNSEL WILL RESPECT THE CONFIDENTIALITY OF THE COMMISSION'S
15 COMMUNICATIONS AND RECORDS.

16 (d) NOTWITHSTANDING SUBSECTION (5)(b)(II) OF THIS SECTION,
17 THE DEPARTMENT MAY WITHHOLD FROM DISCLOSURE TO THE COMMISSION
18 MATERIALS AND INFORMATION WHOSE DISCLOSURE IS PROHIBITED BY
19 FEDERAL LAW, INFORMATION COVERED BY JUDICIAL DELIBERATION
20 PRIVILEGE, AND MATERIALS AND INFORMATION IN THE DEPARTMENT'S
21 CUSTODY OR CONTROL THROUGH AN ESTABLISHED AND CONFIDENTIALITY
22 BASED MENTAL HEALTH OR PROFESSIONAL DEVELOPMENT PROGRAM. FOR
23 ANY MATERIALS OR INFORMATION WITHHELD BY THE DEPARTMENT UNDER
24 THIS SUBSECTION, THE DEPARTMENT SHALL DISCLOSE TO THE COMMISSION
25 THE NATURE OF THE MATERIALS WITHHELD, THE REASON THE ITEMS ARE
26 WITHHELD AND, IF REQUESTED BY THE COMMISSION, A PRIVILEGE OR
27 CONFIDENTIALITY LOG COMPLIANT WITH THE STANDARDS GOVERNING

1 CIVIL LITIGATION DISCOVERY.

2 (e) THE TIMELY DISCLOSURE TO THE COMMISSION OF INFORMATION
3 OR MATERIALS PURSUANT TO THIS SECTION BY THE DEPARTMENT DOES
4 NOT, BY ITSELF, WAIVE ANY OTHERWISE VALID CLAIM OF PRIVILEGE OR
5 CONFIDENTIALITY HELD BY THE DEPARTMENT. WHEN THE DEPARTMENT
6 DISCLOSES MATERIALS OR INFORMATION IT ASSERTS IS PRIVILEGED OR
7 CONFIDENTIAL, THE DEPARTMENT AND THE COMMISSION SHALL ENTER AN
8 AGREEMENT UNDER RULE 502 OF THE COLORADO RULES OF EVIDENCE
9 IMPLEMENTING THIS PARAGRAPH (c), IN WHICH THE DEPARTMENT AND THE
10 COMMISSION AGREE THAT THE DISCLOSURE DOES NOT WAIVE, BY ITSELF,
11 ANY OTHERWISE VALID CLAIM OF PRIVILEGE OR CONFIDENTIALITY HELD BY
12 THE DEPARTMENT, AND THAT THE COMMISSION SHALL HOLD THE
13 MATERIALS AND INFORMATION AS CONFIDENTIAL UNDER THE
14 COMMISSION'S PROCEDURES AND NOT DISCLOSE PRIVILEGED OR
15 CONFIDENTIAL INFORMATION TO A THIRD PARTY EXCEPT AS MAY BE
16 REQUIRED THROUGH THE INVESTIGATIVE AND DISCIPLINARY PROCESS. THE
17 DEPARTMENT AND THE COMMISSION MAY ADD FURTHER TERMS TO
18 ADDRESS THE INDIVIDUAL CIRCUMSTANCES OF THE MATTER IF THEY
19 AGREE.

20 **13-5.3-107. Rulemaking.** (1) SECTION 23 (3)(h) OF ARTICLE VI
21 OF THE COLORADO CONSTITUTION DIRECTS THE SUPREME COURT TO
22 PROVIDE BY RULE FOR PROCEDURES BEFORE THE COMMISSION, THE
23 MASTERS, AND THE SUPREME COURT. IN EXERCISING ITS RULEMAKING
24 AUTHORITY, THE SUPREME COURT SHALL PROVIDE THE COMMISSION
25 REASONABLE NOTICE AND AN OPPORTUNITY TO OBJECT BEFORE ENACTING
26 ANY NEW RULE OR AMENDMENT AS IT PERTAINS TO JUDICIAL DISCIPLINE.
27 IF THE COMMISSION OBJECTS TO ANY RULE OR AMENDMENT,

1 REPRESENTATIVES OF THE SUPREME COURT SHALL MEET WITH
2 REPRESENTATIVES OF THE COMMISSION AND ENGAGE IN GOOD-FAITH
3 EFFORTS TO RESOLVE THEIR DIFFERENCES.

4 (2) WHENEVER THE SUPREME COURT PROPOSES A RULE,
5 GUIDELINE, OR PROCEDURE RELATED TO JUDICIAL DISCIPLINE, THE
6 SUPREME COURT SHALL POST NOTICE OF THE PROPOSED RULE, GUIDELINE,
7 OR PROCEDURE; ALLOW FOR A PERIOD FOR PUBLIC COMMENT; AND GIVE
8 THE PUBLIC AN OPPORTUNITY TO ADDRESS THE SUPREME COURT
9 CONCERNING THE PROPOSED RULE, GUIDELINE, OR PROCEDURE AT A
10 PUBLIC HEARING.

11 **13-5.3-108. Reporting requirements - "State Measurement for**
12 **Accountable, Responsive, and Transparent (SMART) Government**

13 **Act" report.** (1) THE COMMISSION SHALL GATHER AND MAINTAIN
14 ANNUAL DATA AND STATISTICS ON:

- 15 (a) THE NUMBER OF REQUESTS FOR EVALUATION RECEIVED;
- 16 (b) THE NUMBER OF INVESTIGATIONS PERFORMED;
- 17 (c) THE NUMBER OF FORMAL PROCEEDINGS PURSUED;
- 18 (d) THE TYPES AND RELATIVE VOLUME OF MISCONDUCT
19 ALLEGATIONS RECEIVED;
- 20 (e) THE TYPE AND RELATIVE VOLUME OF INCIDENTS OF JUDICIAL
21 MISCONDUCT IDENTIFIED;
- 22 (f) THE NUMBER AND TYPES OF DISPOSITIONS ENTERED; AND
- 23 (g) THE DEMOGRAPHICS, INCLUDING THE GENDER, AGE, RACE,
24 ETHNICITY, OR DISABILITY, OF JUDGES UNDER DISCIPLINE OR
25 INVESTIGATION AND THOSE DIRECTLY AFFECTED BY THE POTENTIAL
26 MISCONDUCT.

27 (2) BEGINNING JANUARY 2023, AND EVERY JANUARY

1 THEREAFTER, THE COMMISSION SHALL REPORT ON THE ACTIVITIES OF THE
2 COMMISSIONERS TO THE COMMITTEES OF REFERENCE OF THE GENERAL
3 ASSEMBLY AS PART OF ITS "STATE MEASUREMENT FOR ACCOUNTABLE,
4 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT"
5 PRESENTATION REQUIRED BY SECTION 2-7-203.

6 **13-5.3-109. Representation by attorney general.** (1) PURSUANT
7 TO SECTION 24-31-111, THE ATTORNEY GENERAL SHALL PROVIDE LEGAL
8 SERVICES, AS DEFINED IN SECTION 24-31-111 (6)(a), TO THE COMMISSION
9 AND THE OFFICE. THE ATTORNEY GENERAL SHALL DESIGNATE ONE OR
10 MORE ASSISTANT ATTORNEYS GENERAL TO PROVIDE SUCH LEGAL
11 SERVICES. ANY ASSISTANT ATTORNEYS GENERAL SHALL NOT BE WITHIN
12 THE SAME UNIT, SECTION, OR DIVISION OF THE COLORADO DEPARTMENT
13 OF LAW THAT PROVIDES LEGAL SERVICES TO THE JUDICIAL DEPARTMENT.

14 (2) THIS SECTION DOES NOT LIMIT THE COMMISSION'S OR OFFICE'S
15 AUTHORITY TO HIRE ATTORNEYS TO SERVE AS SPECIAL COUNSEL
16 PURSUANT TO SECTION 13-5.3-102 (3)(d).

17 **13-5.3-110. Legislative interim committee on judicial discipline**
18 **- creation - repeal.** (1) NOTWITHSTANDING SECTION 2-3-303.3, THERE IS
19 CREATED THE LEGISLATIVE INTERIM COMMITTEE ON JUDICIAL DISCIPLINE,
20 REFERRED TO IN THIS SECTION AS THE "INTERIM COMMITTEE", TO STUDY
21 THE ISSUES DESCRIBED IN SUBSECTION (6) OF THIS SECTION. THE INTERIM
22 COMMITTEE SHALL MEET DURING THE INTERIM BETWEEN THE 2022 AND
23 2023 LEGISLATIVE SESSIONS. THE INTERIM COMMITTEE CONSISTS OF:

24 (a) FOUR MEMBERS OF THE SENATE, WITH TWO MEMBERS
25 APPOINTED BY THE MAJORITY LEADER OF THE SENATE AND TWO MEMBERS
26 APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

27 (b) FOUR MEMBERS OF THE HOUSE OF REPRESENTATIVES, WITH

1 TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
2 REPRESENTATIVES AND TWO MEMBERS APPOINTED BY THE MINORITY
3 LEADER OF THE HOUSE OF REPRESENTATIVES.

4 (2) (a) THE APPOINTING AUTHORITIES SHALL APPOINT THE
5 MEMBERS OF THE INTERIM COMMITTEE AS SOON AS POSSIBLE AFTER THE
6 EFFECTIVE DATE OF THIS SECTION BUT NOT LATER THAN FIFTEEN DAYS
7 AFTER THE EFFECTIVE DATE OF THIS SECTION. IF A VACANCY ARISES ON
8 THE INTERIM COMMITTEE, THE APPROPRIATE APPOINTING AUTHORITY
9 SHALL APPOINT A MEMBER TO FILL THE VACANCY AS SOON AS POSSIBLE.

10 (b) THE MAJORITY LEADER OF THE SENATE SHALL APPOINT THE
11 CHAIR OF THE INTERIM COMMITTEE AND THE MINORITY LEADER OF THE
12 HOUSE OF REPRESENTATIVES SHALL APPOINT THE VICE-CHAIR OF THE
13 INTERIM COMMITTEE.

14 (3) THE CHAIR OF THE INTERIM COMMITTEE SHALL SCHEDULE THE
15 FIRST MEETING OF THE INTERIM COMMITTEE TO BE HELD NOT LATER THAN
16 THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. THE INTERIM
17 COMMITTEE MAY MEET UP TO FIVE TIMES DURING THE INTERIM BETWEEN
18 THE 2022 AND 2023 LEGISLATIVE SESSIONS.

19 (4) THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL
20 AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL
21 PROVIDE STAFF ASSISTANCE TO THE INTERIM COMMITTEE.

22 (5) THE INTERIM COMMITTEE SHALL SOLICIT INPUT FROM
23 COMMISSIONERS AND EMPLOYEES OF THE OFFICE, CURRENT AND FORMER
24 JUDGES AND JUSTICES; ATTORNEYS LICENSED TO PRACTICE IN COLORADO,
25 INCLUDING MEMBERS OF DIVERSE BAR ASSOCIATIONS; AND THE PUBLIC.

26 (6) THE INTERIM COMMITTEE MAY INTRODUCE UP TO A TOTAL OF
27 THREE BILLS, JOINT RESOLUTIONS, AND CONCURRENT RESOLUTIONS IN THE

1 2023 LEGISLATIVE SESSION. THE INTERIM COMMITTEE SHALL REPORT TO
2 THE LEGISLATIVE COUNCIL BY THE DATE SPECIFIED IN JOINT RULE 24
3 (b)(1)(D). LEGISLATION RECOMMENDED BY THE INTERIM COMMITTEE IS
4 SUBJECT TO THE APPLICABLE DEADLINES, BILL INTRODUCTION LIMITS, AND
5 ANY OTHER REQUIREMENT IMPOSED BY THE JOINT RULES OF THE GENERAL
6 ASSEMBLY. ==

7 (7) AT A MINIMUM, THE INTERIM COMMITTEE SHALL STUDY THE
8 FOLLOWING ISSUES:

9 (a) THE EFFECTIVENESS OF COLORADO'S SYSTEM OF JUDICIAL
10 DISCIPLINE IN INVESTIGATING AND ADDRESSING THE ALLEGATIONS OF
11 MISHANDLING JUDICIAL MISCONDUCT COMPLAINTS PUBLISHED IN 2021;

12 (b) HOW TO ACHIEVE A SYSTEM OF JUDICIAL DISCIPLINE IN WHICH
13 INDIVIDUAL CASES ARE INVESTIGATED AND DETERMINED INDEPENDENT OF
14 UNDUE INFLUENCE BY THE JUDICIARY, TO BE OVERSEEN BY THE
15 COMMUNITY, THE BAR, AND THE JUDICIARY;

16 (c) WHETHER A SYSTEM OF JUDICIAL DISCIPLINE CAN BE EFFECTIVE
17 AND INSPIRE PUBLIC CONFIDENCE WHILE RETAINING JUDICIAL CONTROL OF
18 FINAL DECISION-MAKING AUTHORITY OVER JUDICIAL DISCIPLINE CASES;

19 (d) WHETHER THE EXISTING COMMISSION SHOULD BE AUTHORIZED
20 TO MAKE INITIAL DECISIONS ON DISCIPLINE CASES FOR PUBLIC AND
21 PRIVATE DISCIPLINE THAT ARE THEN SUBJECT TO APPELLATE REVIEW
22 BEFORE A SEPARATE REVIEW BOARD THAT IS INDEPENDENT OF THE
23 JUDICIARY;

24 (e) THE BEST METHOD OF ASSIGNING RULEMAKING AUTHORITY
25 OVER THE JUDICIAL DISCIPLINE SYSTEM TO ACHIEVE EFFECTIVENESS AND
26 INDEPENDENCE WHILE INSPIRING PUBLIC CONFIDENCE;

27 (f) HOW TO ADDRESS JUDICIAL DISCIPLINE EFFECTIVELY AND

1 CREDIBLY WHEN MEMBERS, ACTIONS, OR DECISIONS OF THE SUPREME
2 COURT ARE BEING EVALUATED FOR POTENTIAL JUDICIAL MISCONDUCT;

3 (g) WHETHER THE SUPREME COURT SHOULD CONTINUE TO
4 CONTROL THE APPOINTMENT OF THE FOUR JUDGE MEMBERS OF THE
5 COMMISSION;

6 (h) THE APPROPRIATE METHOD FOR DEFINING A CONSISTENT AND
7 CLEAR SET OF DISQUALIFICATION STANDARDS FOR EACH OF THE DECISION
8 MAKERS IN THE JUDICIAL DISCIPLINE SYSTEM, INCLUDING SUPREME COURT
9 JUSTICES, COMMISSION MEMBERS, SPECIAL COUNSEL, AND SPECIAL
10 MASTERS, AND FOR DETERMINING DISQUALIFICATION ISSUES;

11 (i) THE BEST METHOD OF BALANCING THE VALUES OF
12 CONFIDENTIALITY AND TRANSPARENCY FOR JUDICIAL DISCIPLINE
13 MATTERS;

14 (j) HOW TO ENSURE THAT THE COMMISSION CAN OBTAIN
15 UNFETTERED ACCESS TO INFORMATION AND FILES IN THE CUSTODY OR
16 CONTROL OF THE DEPARTMENT RELEVANT TO JUDICIAL MISCONDUCT
17 COMPLAINTS;

18 (k) WHETHER RULE 13 OF THE RULES, WHICH ASSIGNS THE ROLE OF
19 SCREENING MISCONDUCT COMPLAINTS, SHOULD BE MODIFIED TO
20 AUTHORIZE THE DEPARTMENT TO PRE-SCREEN JUDICIAL MISCONDUCT
21 COMPLAINTS BEFORE REPORTING THEM TO THE COMMISSION;

22 (l) THE BENEFITS OF A VICTIM-CENTERED APPROACH TO JUDICIAL
23 MISCONDUCT COMPLAINTS THAT ALLOWS THE VICTIM TO HAVE A VOICE IN
24 HOW COMPLAINTS ARE HANDLED AND RESOLVED;

25 (m) AN EFFECTIVE ENFORCEMENT MECHANISM FOR ANY
26 DISCLOSURE OBLIGATION RELATED TO JUDICIAL DISCIPLINE;

27 (n) HOW BEST TO FUND THE SYSTEM FOR JUDICIAL DISCIPLINE;

1 (o) THE RELATIVE BENEFITS OF THE MODELS FOR ACHIEVING
2 INDEPENDENT JUDICIAL DISCIPLINE ADOPTED BY OTHER STATES AND THE
3 AMERICAN BAR ASSOCIATION'S MODEL RULES FOR JUDICIAL DISCIPLINARY
4 ENFORCEMENT OR ANY OTHER MODEL ADDRESSING THE FINAL
5 DECISION-MAKER CONFLICT THAT AROSE IN COLORADO IN 2021;

6 (p) RECOMMENDATIONS FROM THE DEPARTMENT, THE
7 COMMISSION, AND ANY OTHER STAKEHOLDERS THE INTERIM COMMITTEE
8 DEEMS APPROPRIATE; AND

9 (q) WHAT AMENDMENTS TO CONSTITUTIONAL, STATUTORY, OR
10 RULE-BASED LAW ARE ADVISABLE TO ADDRESS THE INTERIM COMMITTEE'S
11 FINDINGS.

12 **13-5.3-111. Advisory panel on judicial discipline - creation -**
13 **members - duties.** (1) THERE IS CREATED AN ADVISORY PANEL ON
14 JUDICIAL DISCIPLINE, REFERRED TO IN THIS SECTION AS THE "ADVISORY
15 PANEL", TO ADVISE THE INTERIM COMMITTEE CREATED PURSUANT TO
16 SECTION 13-5.3-110. THE FIRST MEETING OF THE ADVISORY PANEL SHALL
17 BE CONVENED NO LATER THAN FIFTEEN DAYS AFTER THE FIRST MEETING
18 OF THE INTERIM COMMITTEE. THE ADVISORY PANEL SHALL MEET NO MORE
19 THAN SIX TIMES DURING THE 2022 INTERIM. ALL MEETINGS OF THE
20 ADVISORY PANEL SHALL BE OPEN TO THE PUBLIC AND BROADCAST OVER
21 THE INTERNET. EACH MEETING OF THE ADVISORY PANEL SHALL INCLUDE
22 AN OPPORTUNITY FOR PUBLIC COMMENT.

23 (2) THE INTERIM COMMITTEE AND THE ADVISORY PANEL SHALL
24 CONDUCT A JOINT MEETING TO CONSIDER THE FINDINGS OF THE TWO
25 INDEPENDENT INVESTIGATIONS THAT WERE CONTRACTED FOR BY THE
26 JUDICIAL DEPARTMENT WITH THE ASSISTANCE OF A PANEL OF MEMBERS OF
27 THE GENERAL ASSEMBLY AND THE EXECUTIVE DEPARTMENT. THE INTERIM

1 COMMITTEE SHALL INVITE BOTH INVESTIGATORS TO MEET WITH THE
2 INTERIM COMMITTEE AND THE ADVISORY PANEL AT THE JOINT MEETING.
3 THE JOINT MEETING SHALL OCCUR AS SOON AS PRACTICABLE AFTER THE
4 RELEASE OF BOTH INDEPENDENT INVESTIGATIONS.

5 (3) NO LATER THAN OCTOBER 2, 2022, THE ADVISORY PANEL
6 SHALL MAKE ITS RECOMMENDATIONS TO THE INTERIM COMMITTEE. ANY
7 RECOMMENDATIONS OF THE ADVISORY PANEL MUST RECEIVE APPROVAL
8 FROM AT LEAST EIGHT MEMBERS OF THE ADVISORY PANEL TO BE
9 FORWARDED TO THE INTERIM COMMITTEE. ANY MEMBER OR GROUP OF
10 MEMBERS OF THE ADVISORY PANEL MAY SUBMIT A MINORITY REPORT TO
11 THE INTERIM COMMITTEE.

12 (4) THE INTERIM COMMITTEE SHALL HOLD AT LEAST ONE OF ITS
13 MEETINGS AFTER RECEIPT OF THE RECOMMENDATIONS FROM THE
14 ADVISORY PANEL. AT THE FIRST INTERIM COMMITTEE MEETING AFTER
15 RECEIPT OF THE RECOMMENDATIONS, THE INTERIM COMMITTEE SHALL
16 INVITE THE CHAIR AND VICE-CHAIR OF THE ADVISORY PANEL TO DISCUSS
17 THE RECOMMENDATIONS.

18 (5) (a) THE ADVISORY PANEL CONSISTS OF THE FOLLOWING
19 TWELVE MEMBERS:

20 (I) TWO MEMBERS APPOINTED BY THE CHAIR OF THE COLORADO
21 COMMISSION ON JUDICIAL DISCIPLINE;

22 (II) TWO MEMBERS OF THE JUDICIAL DEPARTMENT, APPOINTED BY
23 THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT;

24 (III) A REPRESENTATIVE FROM A COLORADO-BASED NATIONAL
25 INDEPENDENT RESEARCH CENTER DEDICATED TO FACILITATING
26 CONTINUOUS IMPROVEMENT AND ADVANCING EXCELLENCE IN THE
27 AMERICAN LEGAL SYSTEM, APPOINTED BY THE SENATE MAJORITY LEADER;

1 (IV) A CONSTITUTIONAL LAW EXPERT FROM ONE OF THE TWO LAW
2 SCHOOLS BASED IN COLORADO, APPOINTED BY THE SENATE MINORITY
3 LEADER;

4 (V) A REPRESENTATIVE OF A NONPARTISAN, NON-PROFIT
5 ORGANIZATION DEDICATED TO PROTECTING AND IMPROVING COLORADO'S
6 JUDICIAL MERIT SELECTION SYSTEM, APPOINTED BY THE SENATE MAJORITY
7 LEADER; AND

8 (VI) FIVE REPRESENTATIVES OF BAR ASSOCIATIONS OR LEGAL
9 SOCIETIES IN COLORADO, TWO APPOINTED BY THE SPEAKER OF THE HOUSE
10 OF REPRESENTATIVES; TWO APPOINTED BY THE HOUSE MINORITY LEADER;
11 AND ONE APPOINTED BY THE SENATE MINORITY LEADER.

12 (b) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
13 APPOINT THE CHAIR OF THE ADVISORY PANEL, AND THE SENATE MINORITY
14 LEADER SHALL APPOINT THE VICE-CHAIR OF THE ADVISORY PANEL.

15 (c) THE APPOINTING AUTHORITIES SHALL APPOINT THE MEMBERS
16 OF THE ADVISORY PANEL AS SOON AS POSSIBLE AFTER THE EFFECTIVE DATE
17 OF THIS SECTION, BUT NO LATER THAN FIFTEEN DAYS AFTER THE
18 EFFECTIVE DATE OF THIS SECTION. IF A VACANCY ARISES ON THE
19 ADVISORY PANEL, THE APPROPRIATE APPOINTING AUTHORITY SHALL
20 APPOINT A MEMBER TO FILL THE VACANCY AS SOON AS POSSIBLE AFTER
21 THE VACANCY OCCURS.

22

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23 **SECTION 3.** In Colorado Revised Statutes, 24-75-402, **add**
24 (5)(vv) as follows:

25 **24-75-402. Cash funds - limit on uncommitted reserves -**
26 **reduction in the amount of fees - exclusions - repeal.**

27 (5) Notwithstanding any provision of this section to the contrary, the

1 following cash funds are excluded from the limitations specified in this
2 section:

3 (vv) THE COMMISSION ON JUDICIAL DISCIPLINE SPECIAL CASH FUND
4 CREATED IN SECTION 13-5.3-105.

5 **SECTION 4. Appropriation.** (1) For the 2022-23 state fiscal
6 year, \$1,143,438 is appropriated to the judicial department for use by the
7 commission on judicial discipline. This appropriation is from the general
8 fund. To implement this act, the commission may use this appropriation
9 as follows:

10 (a) \$743,438 for the office of judicial discipline, which amount is
11 based on an assumption that the office will require an additional 4.0 FTE;
12 and

13 (b) \$400,000 for the appropriation to the commission on judicial
14 discipline special cash fund.

15 (2) For the 2022-23 state fiscal year, \$88,713 is appropriated to
16 the department of law. This appropriation is from reappropriated funds
17 received from the commission on judicial discipline under subsection
18 (1)(a) of this section and is based on an assumption that the department
19 of law will require an additional 0.5 FTE. To implement this act, the
20 department of law may use this appropriation to provide legal services for
21 the commission on judicial discipline.

22 (3) For the 2022-23 state fiscal year, \$53,463 is appropriated to
23 the legislative department. This appropriation is from the general fund. To
24 implement this act, the department may use this appropriation as follows:

25 (a) \$9,433 for use by the general assembly;

26 (b) \$24,456 for use by the legislative council, which amount is
27 based on an assumption that the legislative council will require an

1 additional 0.3 FTE; and

2 (c) \$19,574 for use by the office of legislative legal services,
3 which amount is based on an assumption that the office will require an
4 additional 0.2 FTE.

5 **SECTION 5. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, or safety.