

First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

DRAFT  
9.9.22

**BILL 2**

LLS NO. 23-0151.01 Conrad Imel x2313

**INTERIM COMMITTEE BILL**

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**Legislative Interim Committee on Judicial Discipline**

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**BILL TOPIC:** "Judicial Discipline Procedures & Reporting"

**DEADLINES:** File by: 9/9/2022

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**A BILL FOR AN ACT**

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

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**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.** Current law requires the commission on judicial discipline (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

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

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 authorizes the commission and panels of the judicial discipline adjudicative board to issue subpoenas related to specific matters before the commission or panel.

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 clarifies statutory provisions related to the confidentiality of judicial discipline proceedings.

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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 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  
9 CONDUCT FORMAL JUDICIAL DISCIPLINARY PROCEEDINGS.

10 **SECTION 2.** In Colorado Revised Statutes, 13-5.3-108, **amend**  
11 (1); and **add** (3) as follows:

12 **13-5.3-108. Reporting requirements - "State Measurement for**  
13 **Accountable, Responsive, and Transparent (SMART) Government**  
14 **Act" report - annual report.** (1) The commission shall gather and

1 maintain annual data and statistics on THE FOLLOWING INFORMATION:

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

7 (b) The number of JUDICIAL MISCONDUCT investigations  
8 performed, THE TYPES OF COMPLAINTS INVESTIGATED, AND THE RESULTS  
9 OF THE INVESTIGATIONS;

10 (c) THE TYPES OF JUDICIAL MISCONDUCT COMPLAINTS REVIEWED  
11 BY THE COMMISSION FOLLOWING AN INVESTIGATION, THE NUMBER OF  
12 REVIEWED COMPLAINTS THAT WERE SUBSTANTIATED, AND THE NUMBER  
13 OF REVIEWED COMPLAINTS THAT WERE NOT SUBSTANTIATED;

14 ~~(e)~~ (d) The number of formal proceedings pursued;

15 ~~(d)~~ The types and relative volume of misconduct allegations  
16 received;

17 ~~(e)~~ The type and relative volume of incidents of judicial  
18 misconduct identified;

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

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

24 (3) (a) THE COMMISSION SHALL MAKE THE INFORMATION  
25 DESCRIBED IN SUBSECTION (1) OF THIS SECTION AVAILABLE ONLINE IN A  
26 SEARCHABLE FORMAT AND INCLUDE THE INFORMATION IN ITS ANNUAL  
27 REPORT. THE COMMISSION SHALL REPORT AND MAKE THE INFORMATION

1 AVAILABLE IN AGGREGATE FORM AND WITHOUT INDIVIDUALLY  
2 IDENTIFIABLE INFORMATION CONCERNING A JUDGE, COMPLAINANT, OR  
3 WITNESS.

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

7 **SECTION 3.** In Colorado Revised Statutes, **repeal** 13-5.3-110.

8 **SECTION 4.** In Colorado Revised Statutes, **add** 13-5.3-111 as  
9 follows:

10 **13-5.3-111. Requests for evaluation - manner - confidential**  
11 **requests.** (1) IN ADDITION TO ANY OTHER METHOD PERMITTED BY THE  
12 COMMISSION OR OFFICE, A PERSON MAY SUBMIT A REQUEST FOR  
13 EVALUATION BY MAIL OR ONLINE. THE OFFICE SHALL DEVELOP AN ONLINE  
14 REQUEST FOR EVALUATION FORM THAT IS ACCESSIBLE FROM THE  
15 COMMISSION'S PUBLIC WEBSITE.

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

18 **SECTION 5.** In Colorado Revised Statutes, **add** 13-5.3-112 as  
19 follows:

20 **13-5.3-112. Subpoena authority - commission - adjudicative**  
21 **board.** (1) THE COMMISSION MAY COMPEL BY SUBPOENA THE  
22 ATTENDANCE AND TESTIMONY OF WITNESSES AND PROVIDE FOR THE  
23 PRODUCTION AND INSPECTION OF DOCUMENTS, BOOKS, ACCOUNTS, AND  
24 OTHER RECORDS. A SUBPOENA MUST RELATE TO A SPECIFIC MATTER FOR  
25 WHICH THERE HAS BEEN A REQUEST FOR EVALUATION, INCLUDING A  
26 REQUEST FOR EVALUATION INITIATED BY THE COMMISSION FOR A SPECIFIC  
27 MATTER OR INCIDENT INVOLVING A JUDGE OR JUSTICE RAISED IN THE NEWS

1 MEDIA, BY A CONFIDENTIAL OR ANONYMOUS REPORT, OR OTHERWISE.

2 (2) A PANEL OF THE JUDICIAL DISCIPLINE ADJUDICATIVE BOARD  
3 MAY COMPEL BY SUBPOENA THE ATTENDANCE AND TESTIMONY OF  
4 WITNESSES AND PROVIDE FOR THE PRODUCTION AND INSPECTION OF  
5 DOCUMENTS, BOOKS, ACCOUNTS, AND OTHER RECORDS. A SUBPOENA  
6 ISSUED BY THE PANEL MUST RELATE TO A SPECIFIC MATTER FOR WHICH A  
7 FORMAL DISCIPLINARY HEARING HAS BEEN ORDERED AND IS BEFORE THE  
8 PANEL. THE JUDICIAL DISCIPLINE ADJUDICATIVE BOARD MAY ISSUE A  
9 SUBPOENA BY A MAJORITY VOTE OF THE PANEL MEMBERS.

10 (3) THE POWER TO SUBPOENA IS ENFORCEABLE BY THE COURTS.

11 **SECTION 6.** In Colorado Revised Statutes, **add** 13-5.3-113 as  
12 follows:

13 **13-5.3-113. Complainant notification - point of contact.**

14 (1) UPON RECEIPT OF A COMPLAINT, THE OFFICE SHALL EXPLAIN TO THE  
15 COMPLAINANT THE JUDICIAL DISCIPLINE PROCESS, INCLUDING THE STEPS  
16 IN THE PROCESS, THE AVAILABILITY OF CONFIDENTIAL REPORTING, AND  
17 CONFIDENTIALITY REQUIREMENTS DURING EACH STEP OF THE PROCESS.

18 (2) THE OFFICE SHALL DESIGNATE A POINT OF CONTACT TO KEEP  
19 COMPLAINANTS APPRISED OF THE STATUS OF THE COMPLAINANT'S  
20 COMPLAINT, INCLUDING PERIODIC UPDATES RELATED TO THE COMPLAINT  
21 AND TIMELY NOTICE OF THE OUTCOME OF THE INVESTIGATION OF THE  
22 COMPLAINT AND THE DISCIPLINARY OR ADJUDICATIVE PROCESS.

23 (3) IF A COMPLAINT IS DISMISSED BECAUSE IT IS OUTSIDE THE  
24 COMMISSION'S JURISDICTION, THE OFFICE SHALL PROVIDE AN  
25 EXPLANATION OF THE DISMISSAL TO THE COMPLAINANT.

26 **SECTION 7.** In Colorado Revised Statutes, **amend** 24-72-401 as  
27 follows:

1           **24-72-401. Commission on judicial discipline - confidentiality**  
2 **of records and procedures.** The record of an investigation conducted by  
3 the commission on judicial discipline ~~or by masters appointed by the~~  
4 ~~supreme court at the request of the commission shall~~ MUST contain all  
5 papers filed with and all proceedings before the commission. ~~or the~~  
6 ~~masters.~~ The record ~~shall be~~ IS confidential and ~~shall~~ MUST remain  
7 confidential ~~after filing with the supreme court~~ UNTIL THE  
8 COMMENCEMENT OF FORMAL PROCEEDINGS BEFORE A PANEL OF THE  
9 JUDICIAL DISCIPLINE ADJUDICATIVE BOARD. A ~~recommendation of the~~  
10 ~~commission for~~ COMMISSION ORDER FOR A FORMAL HEARING CONCERNING  
11 the removal or retirement of a justice or judge ~~shall not be~~ IS NOT  
12 confidential after it is filed with the ~~supreme court~~ JUDICIAL DISCIPLINE  
13 ADJUDICATIVE BOARD.

14           **SECTION 8.** In Colorado Revised Statutes, **amend** 24-72-402 as  
15 follows:

16           **24-72-402. Violation - penalty.** Any member of the commission,  
17 ~~any master appointed by the supreme court,~~ or anyone providing  
18 assistance to ~~such~~ THE commission ~~or such masters~~ who willfully and  
19 knowingly discloses the contents of any paper filed with, or any  
20 proceeding before, ~~such~~ THE commission, ~~or such masters,~~ or willfully  
21 and knowingly discloses the contents of any ~~recommendation~~ RECORD of  
22 the commission before ~~such recommendation~~ THE RECORD is filed with  
23 the ~~supreme court~~ JUDICIAL DISCIPLINE ADJUDICATIVE BOARD is guilty of  
24 a misdemeanor and, upon conviction thereof, shall be punished by a fine  
25 of not more than five hundred dollars. This section ~~shall~~ DOES not apply  
26 to any necessary communication between the members of the commission  
27 ~~or the masters appointed by the supreme court~~ or anyone employed to aid

1 ~~such~~ THE commission ~~or such masters~~ in the filing or documentation of  
2 any paper filed with, or any proceedings before, ~~such~~ THE commission OR  
3 THE JUDICIAL DISCIPLINE ADJUDICATIVE BOARD ~~or such masters~~ or the  
4 preparation of ~~the recommendation of such commission~~ A COMMISSION  
5 ORDER FOR FORMAL PROCEEDINGS.

6           **SECTION 9. Act subject to petition - effective date.** (1) Except  
7 as provided in subsection (2) of this section, this act takes effect at 12:01  
8 a.m. on the day following the expiration of the ninety-day period after  
9 final adjournment of the general assembly; except that, if a referendum  
10 petition is filed pursuant to section 1 (3) of article V of the state  
11 constitution against this act or an item, section, or part of this act within  
12 such period, then the act, item, section, or part will not take effect unless  
13 approved by the people at the general election to be held in November  
14 2024 and, in such case, will take effect on the date of the official  
15 declaration of the vote thereon by the governor.

16           (2) Sections 1, 7, and 8 of this act and section 13-5.3-112 (2),  
17 Colorado Revised Statutes, enacted in section 5 of this act, take effect  
18 only if \_\_\_\_\_ Concurrent Resolution 23-\_\_\_\_ is approved by the people  
19 at the next general election, in which case these provisions of this act take  
20 effect on the date of the official declaration of the vote thereon by the  
21 governor; except that, if a referendum petition is filed pursuant to section  
22 1 (3) of article V of the state constitution against these sections of this act  
23 within such period, then these sections of this act or any item, section, or  
24 part thereof will not take effect unless approved by the people at the  
25 general election to be held in November 2024.