

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

BILL B

LLS NO. 23-0151.01 Conrad Imel x2313

HOUSE BILL

HOUSE SPONSORSHIP

Weissman and Lynch, Bacon

SENATE SPONSORSHIP

Gardner and Gonzales, Moreno, Van Winkle

House Committees

Senate Committees

A BILL FOR AN ACT

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

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 statute.
Dashes through the words indicate deletions from existing statute.*

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, **amend** 13-5.3-107
9 as follows:

10 **13-5.3-107. Rule-making.** (1) (a) Section 23 ~~(3)(h)~~ (3) of article
11 VI of the Colorado constitution ~~directs the supreme court to provide by~~
12 ~~rule for procedures before the commission, the masters, and the supreme~~
13 ~~court~~ ESTABLISHES A RULE-MAKING COMMITTEE TO PROPOSE RULES FOR
14 THE COMMISSION. In exercising its ~~rulemaking~~ authority, the ~~supreme~~
15 ~~court~~ RULE-MAKING COMMITTEE shall provide the commission reasonable
16 notice ~~and an opportunity to object before enacting~~ PROPOSING any new
17 rule or amendment. ~~as it pertains to judicial discipline. If the commission~~
18 ~~objects to any rule or amendment, representatives of the supreme court~~
19 ~~shall meet with representatives of the commission and engage in~~
20 ~~good-faith efforts to resolve their differences.~~

21 (b) WHENEVER THE RULE-MAKING COMMITTEE PROPOSES A RULE,
22 THE COMMITTEE SHALL POST NOTICE OF THE PROPOSED RULE, ALLOW FOR
23 A PERIOD FOR PUBLIC COMMENT, AND GIVE THE PUBLIC AN OPPORTUNITY
24 TO ADDRESS THE COMMITTEE CONCERNING THE PROPOSED RULE AT A
25 PUBLIC HEARING.

26 (2) (a) PURSUANT TO SECTION 23 (3) OF ARTICLE VI OF THE
27 COLORADO CONSTITUTION, THE SUPREME COURT MAY PROMULGATE

1 RULES GOVERNING PROCEEDINGS BEFORE A PANEL OF THE JUDICIAL
2 DISCIPLINE ADJUDICATIVE BOARD. IN EXERCISING ITS AUTHORITY, THE
3 SUPREME COURT SHALL PROVIDE THE JUDICIAL DISCIPLINE ADJUDICATIVE
4 BOARD REASONABLE NOTICE AND AN OPPORTUNITY TO OBJECT BEFORE
5 ENACTING ANY NEW RULE OR AMENDMENT GOVERNING PROCEEDINGS
6 BEFORE A PANEL. IF THE JUDICIAL DISCIPLINE ADJUDICATIVE BOARD
7 OBJECTS TO ANY RULE OR AMENDMENT, REPRESENTATIVES OF THE
8 SUPREME COURT SHALL MEET WITH REPRESENTATIVES OF THE
9 ADJUDICATIVE BOARD AND ENGAGE IN GOOD-FAITH EFFORTS TO RESOLVE
10 THEIR DIFFERENCES.

11 (b) Whenever the supreme court proposes a rule, guideline, or
12 procedure ~~related to judicial discipline~~ TO GOVERN THE PROCEEDINGS
13 BEFORE A PANEL, the supreme court shall post notice of the proposed rule,
14 guideline, or procedure; allow for a period for public comment; and give
15 the public an opportunity to address the supreme court concerning the
16 proposed rule, guideline, or procedure at a public hearing.

17 **SECTION 3.** 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 ~~(e)~~ (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 4.** In Colorado Revised Statutes, **repeal** 13-5.3-110.

2 **SECTION 5.** 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 6.** 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 7.** 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 8. Act subject to petition - effective date.** (1) Except
24 as provided in subsection (2) of this section, this act takes effect at 12:01
25 a.m. on the day following the expiration of the ninety-day period after
26 final adjournment of the general assembly; except that, if a referendum
27 petition is filed pursuant to section 1 (3) of article V of the state

1 constitution against this act or an item, section, or part of this act within
2 such period, then the act, item, section, or part will not take effect unless
3 approved by the people at the general election to be held in November
4 2024 and, in such case, will take effect on the date of the official
5 declaration of the vote thereon by the governor.

6 (2) Sections 1, 2, and 7 of this act take effect only if House
7 Concurrent Resolution 23-_____ is approved by the people at the general
8 election to be held November 2024 and will take effect on the date of the
9 official declaration of the vote on said Concurrent Resolution 23-_____
10 by the governor; except that, if a referendum petition is filed pursuant to
11 subsection (1) of this section against this act or sections 1, 7, and 8 of this
12 act, then the act or section will not take effect unless approved by the
13 people at the general election to be held in November 2024 and, in such
14 case, will take effect on the date of the official declaration of the vote
15 thereon by the governor.