

By: Huffman, et al.
(Dutton)

S.B. No. 209

A BILL TO BE ENTITLED

AN ACT

relating to the functions and operation of the State Commission on
Judicial Conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (7), Subsection (a), Section 33.001,
Government Code, is amended to read as follows:

(7) "Formal proceedings" means the proceedings
ordered by the commission concerning the public sanction, public
censure, removal, or retirement of a judge.

SECTION 2. Section 33.002, Government Code, is amended by
adding Subsection (a-1) to read as follows:

(a-1) The commission is an agency of the judicial branch of
state government and administers judicial discipline. The
commission does not have the power or authority of a court in this
state.

SECTION 3. Section 33.003, Government Code, is amended to
read as follows:

Sec. 33.003. SUNSET PROVISION. The State Commission on
Judicial Conduct is subject to review under Chapter 325 (Texas
Sunset Act), but is not abolished under that chapter. The
commission shall be reviewed during the period in which state
agencies abolished in 2019 [~~2001~~] and every 12th year after 2019
[~~2001~~] are reviewed.

SECTION 4. Subsection (a), Section 33.005, Government Code,

1 is amended to read as follows:

2 (a) Not later than December 1 of each year, the commission
3 shall submit to the legislature a report for the preceding fiscal
4 year ending August 31. The report is required to be made in an
5 electronic format only.

6 SECTION 5. Subchapter A, Chapter 33, Government Code, is
7 amended by adding Section 33.0055 to read as follows:

8 Sec. 33.0055. ANNUAL PUBLIC MEETING. (a) The commission
9 shall annually hold a public hearing to seek public comment
10 regarding the commission's mission and operations.

11 (b) The commission shall provide notice of a public hearing
12 under this section to the secretary of state. The secretary of
13 state shall post the notice on the Internet for at least seven days
14 before the day of the hearing and provide members of the public
15 access to view the notice in the manner specified by Section 551.044
16 for notice of an open meeting.

17 SECTION 6. Subchapter B, Chapter 33, Government Code, is
18 amended by adding Section 33.0322 to read as follows:

19 Sec. 33.0322. CONFIDENTIAL INFORMATION PROVIDED TO SUNSET
20 ADVISORY COMMISSION. (a) Notwithstanding Section 33.032 or other
21 law, including Section 1-a(10), Article V, Texas Constitution, the
22 commission shall provide to the Sunset Advisory Commission staff
23 conducting a review under Chapter 325 (Texas Sunset Act) access to
24 the commission's confidential documents, records, meetings, and
25 proceedings, including proceedings in which testimony is given, as
26 the Sunset Advisory Commission staff determines necessary to
27 conduct a complete and thorough evaluation of the commission's

1 activities.

2 **(b) The confidentiality provisions of this chapter and**
3 **other law do not authorize the commission to withhold from the**
4 **Sunset Advisory Commission staff access to any confidential**
5 **document, record, meeting, or proceeding to which the Sunset**
6 **Advisory Commission staff determines access is necessary for a**
7 **review under Chapter 325 (Texas Sunset Act).**

8 **(c) The Sunset Advisory Commission staff shall maintain the**
9 **confidentiality the commission is required to maintain under this**
10 **chapter and other law for each document, record, meeting, or**
11 **proceeding that the staff accesses or receives as part of a review**
12 **under Chapter 325 (Texas Sunset Act).**

13 **(d) The commission does not violate the attorney-client**
14 **privilege, or any other privilege or confidentiality requirement**
15 **protected or required by the Texas Constitution, common law,**
16 **statutory law, or rules of evidence, procedure, or professional**
17 **conduct, by providing to the Sunset Advisory Commission staff for**
18 **purposes of a review under Chapter 325 (Texas Sunset Act) a**
19 **confidential communication, including a document or record or any**
20 **testimony or other information presented in a closed meeting or**
21 **proceeding of the commission, that is made between the commission**
22 **and its attorneys or other employees assisting the commission in**
23 **its decision-making process.**

24 SECTION 7. Subsection (e), Section 33.033, Government Code,
25 is amended to read as follows:

26 (b) If the complaint is dismissed by the commission, the
27 commission shall include in the notification under Subsection (a):

1 (1) an explanation of each reason for the dismissal,
2 including, as applicable, in plain, easily understandable
3 language, each reason the conduct alleged in the complaint did not
4 constitute judicial misconduct; and

5 (2) information relating to requesting
6 reconsideration of the dismissed complaint as provided by Sections
7 33.035(a) and (f).

8 SECTION 8. Subsections (a), (e), (f), and (g), Section
9 33.034, Government Code, are amended to read as follows:

10 (a) A judge who receives from the commission [~~any type of~~
11 ~~sanction, or~~] a sanction or censure issued by the commission under
12 Section 1-a(8), Article V, Texas Constitution, or any other type of
13 sanction is entitled to a review of the commission's decision as
14 provided by this section. This section does not apply to a decision
15 by the commission to institute formal proceedings.

16 (e) The review by the court under this section:

17 (1) of a sanction or censure issued in a formal
18 proceeding is a review of the record of the proceedings that
19 resulted in the sanction or censure and is based on the law and
20 facts that were presented in the proceedings and any additional
21 evidence that the court in its discretion may, for good cause shown,
22 permit; and

23 (2) of a sanction issued in an informal proceeding is
24 by trial de novo as that term is used in the appeal of cases from
25 justice to county court.

26 (f) Except as otherwise provided by this section, the
27 procedure for the review of a sanction issued in an informal

1 proceeding is governed to the extent practicable by the rules of
2 law, evidence, and procedure that apply to the trial of civil
3 actions generally.

4 (g) A judge is not entitled to a trial by jury in a review
5 under this section of a sanction issued in an informal proceeding
6 ~~[under this section]~~.

7 SECTION 9. Subchapter B, Chapter 33, Government Code, is
8 amended by adding Section 33.039 to read as follows:

9 Sec. 33.039. REVIEW OF COMMISSION OPERATIONS AND PROCEDURAL
10 RULES. The commission periodically as the commission determines
11 appropriate shall:

12 (1) assess the operations of the commission and
13 implement any improvements needed to increase efficiency; and

14 (2) review the commission's procedural rules adopted
15 by the supreme court to determine whether rule amendments are
16 necessary to reflect changes in law, including changes made through
17 court opinions and statutory and constitutional amendments, and
18 report to the supreme court the needed rule revisions and suggested
19 language for those revisions.

20 SECTION 10. As soon as possible after the effective date of
21 this Act, but not later than December 31, 2013, the State Commission
22 on Judicial Conduct shall:

23 (1) conduct an initial assessment of the operations of
24 the commission and an initial review of the procedural rules as
25 required by Section 33.039, Government Code, as added by this Act;
26 and

27 (2) report to the Texas Supreme Court any needed rule

1 revisions and suggested language for those revisions as required by
2 that section.

3 SECTION 11. (a) Except as provided by Subsection (b) of
4 this section, this Act takes effect September 1, 2013.

5 (b) Subdivision (7), Subsection (a), Section 33.001, and
6 Section 33.034, Government Code, as amended by this Act, take
7 effect on the date the constitutional amendment proposed by the
8 83rd Legislature, Regular Session, 2013, regarding the sanctions
9 that may be assessed against a judge or justice following a formal
10 proceeding instituted by the State Commission on Judicial Conduct
11 takes effect. If that amendment is not approved by the voters,
12 those sections have no effect.