

1-1 By: Huffman, Nichols S.B. No. 209  
1-2 (In the Senate - Filed March 4, 2013; March 12, 2013, read  
1-3 first time and referred to Committee on Jurisprudence;  
1-4 April 17, 2013, reported favorably by the following vote: Yeas 6,  
1-5 Nays 0; April 17, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	West	X		
1-9	Rodriguez	X		
1-10	Campbell	X		
1-11	Carona		X	
1-12	Garcia	X		
1-13	Hancock	X		
1-14	Paxton	X		

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to the functions and operation of the State Commission on  
1-18 Judicial Conduct.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Subdivision (7), Subsection (a), Section 33.001,  
1-21 Government Code, is amended to read as follows:

1-22 (7) "Formal proceedings" means the proceedings  
1-23 ordered by the commission concerning the public sanction, public  
1-24 censure, removal, or retirement of a judge.

1-25 SECTION 2. Section 33.002, Government Code, is amended by  
1-26 adding Subsection (a-1) to read as follows:

1-27 (a-1) The commission is an agency of the judicial branch of  
1-28 state government and administers judicial discipline. The  
1-29 commission does not have the power or authority of a court in this  
1-30 state.

1-31 SECTION 3. Section 33.003, Government Code, is amended to  
1-32 read as follows:

1-33 Sec. 33.003. SUNSET PROVISION. The State Commission on  
1-34 Judicial Conduct is subject to review under Chapter 325 (Texas  
1-35 Sunset Act), but is not abolished under that chapter. The  
1-36 commission shall be reviewed during the period in which state  
1-37 agencies abolished in 2019 [~~2001~~] and every 12th year after 2019  
1-38 [~~2001~~] are reviewed.

1-39 SECTION 4. Subsection (a), Section 33.005, Government Code,  
1-40 is amended to read as follows:

1-41 (a) Not later than December 1 of each year, the commission  
1-42 shall submit to the legislature a report for the preceding fiscal  
1-43 year ending August 31. The report is required to be made in an  
1-44 electronic format only.

1-45 SECTION 5. Subchapter A, Chapter 33, Government Code, is  
1-46 amended by adding Section 33.0055 to read as follows:

1-47 Sec. 33.0055. ANNUAL PUBLIC MEETING. (a) The commission  
1-48 shall annually hold a public hearing to seek public comment  
1-49 regarding the commission's mission and operations.

1-50 (b) The commission shall provide notice of a public hearing  
1-51 under this section to the secretary of state. The secretary of  
1-52 state shall post the notice on the Internet for at least seven days  
1-53 before the day of the hearing and provide members of the public  
1-54 access to view the notice in the manner specified by Section 551.044  
1-55 for notice of an open meeting.

1-56 SECTION 6. Subchapter B, Chapter 33, Government Code, is  
1-57 amended by adding Section 33.0322 to read as follows:

1-58 Sec. 33.0322. CONFIDENTIAL INFORMATION PROVIDED TO SUNSET  
1-59 ADVISORY COMMISSION. (a) Notwithstanding Section 33.032 or other  
1-60 law, including Section 1-a(10), Article V, Texas Constitution, the  
1-61 commission shall provide to the Sunset Advisory Commission staff

conducting a review under Chapter 325 (Texas Sunset Act) access to the commission's confidential documents, records, meetings, and proceedings, including proceedings in which testimony is given, as the Sunset Advisory Commission staff determines necessary to conduct a complete and thorough evaluation of the commission's activities.

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

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

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

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

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

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

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

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

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

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

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

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

(f) Except as otherwise provided by this section, the procedure for the review of a sanction issued in an informal proceeding is governed to the extent practicable by the rules of law, evidence, and procedure that apply to the trial of civil actions generally.

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

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

Sec. 33.039. REVIEW OF COMMISSION OPERATIONS AND PROCEDURAL RULES. The commission periodically as the commission determines

3-1 appropriate shall:

3-2 (1) assess the operations of the commission and  
 3-3 implement any improvements needed to increase efficiency; and

3-4 (2) review the commission's procedural rules adopted  
 3-5 by the supreme court to determine whether rule amendments are  
 3-6 necessary to reflect changes in law, including changes made through  
 3-7 court opinions and statutory and constitutional amendments, and  
 3-8 report to the supreme court the needed rule revisions and suggested  
 3-9 language for those revisions.

3-10 SECTION 10. As soon as possible after the effective date of  
 3-11 this Act, but not later than December 31, 2013, the State Commission  
 3-12 on Judicial Conduct shall:

3-13 (1) conduct an initial assessment of the operations of  
 3-14 the commission and an initial review of the procedural rules as  
 3-15 required by Section 33.039, Government Code, as added by this Act;  
 3-16 and

3-17 (2) report to the Texas Supreme Court any needed rule  
 3-18 revisions and suggested language for those revisions as required by  
 3-19 that section.

3-20 SECTION 11. (a) Except as provided by Subsection (b) of  
 3-21 this section, this Act takes effect September 1, 2013.

3-22 (b) Subdivision (7), Subsection (a), Section 33.001, and  
 3-23 Section 33.034, Government Code, as amended by this Act, take  
 3-24 effect on the date the constitutional amendment proposed by the  
 3-25 83rd Legislature, Regular Session, 2013, regarding the sanctions  
 3-26 that may be assessed against a judge or justice following a formal  
 3-27 proceeding instituted by the State Commission on Judicial Conduct  
 3-28 takes effect. If that amendment is not approved by the voters,  
 3-29 those sections have no effect.

3-30 \* \* \* \* \*