

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 21, 2022

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB22-201 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 4, line 27 strike "working group of" and
2 substitute "an interim legislative committee to work with".
- 3 Page 5, line 27, strike "THE OFFICE OF ATTORNEY REGULATION COUNSEL;".
- 4 Page 7, after line 1 insert:
5 "(14) "RULES" MEANS THE COLORADO RULES OF JUDICIAL
6 DISCIPLINE."
- 7 Renumber succeeding subsection accordingly.
- 8 Page 7, line 16, strike "RULES OF JUDICIAL DISCIPLINE," and substitute
9 "RULES,".
- 10 Page 7, strike lines 23 and 24 and substitute "ASSISTANTS; ATTORNEYS
11 WHO SERVE AS SPECIAL COUNSEL; AND INVESTIGATORS;".
- 12 Page 7, strike line 25 and substitute:
13 (e) EMPLOY ATTORNEYS OR APPOINT OUTSIDE SPECIAL COUNSEL
14 PURSUANT TO SECTIONS 24-31-101 (1)(g) AND 24-31-111 WHO SERVE AT
15 THE".
- 16 Page 8, line 18, strike "MAY INCLUDE" and substitute "INCLUDES".
- 17 Page 8, line 19, strike "A STAFF ATTORNEY," and substitute "AN
18 ATTORNEY,".
- 19 Page 9, line 23, strike "RULES OF JUDICIAL DISCIPLINE;" and substitute

1 "RULES;".

2 Page 10, line 20, after "BY", insert "THE RULES,".

3 Page 10, strike line 24 and substitute "CENTER. THROUGH JUNE 30, 2023,
4 THE DEPARTMENT OR THE OFFICE OF ATTORNEY REGULATION COUNSEL
5 SHALL PROVIDE THE COMMISSION AND THE OFFICE WITH ACCOUNTING
6 SUPPORT, INFORMATION TECHNOLOGY SUPPORT,".

7 Page 11, strike lines 2 through 4.

8 Page 13, line 2, strike "RULES OF JUDICIAL DISCIPLINE." and substitute
9 "RULES.".

10 Page 13, line 5, strike "ALL SUCH INFORMATION" and substitute "THE
11 PORTION OF THE COMPLAINT ALLEGING JUDICIAL MISCONDUCT".

12 Page 13, line 6, after "TIME." insert "THEREAFTER, THE COMMISSION MAY
13 REQUEST FURTHER MATERIAL OR INFORMATION THAT THE OVERSIGHT
14 ENTITY HOLDS RELATING TO THE ALLEGATION OF JUDICIAL MISCONDUCT.".

15 Page 14, strike lines 3 through 6 and substitute "ADMINISTRATIVE
16 PERSONNEL, JUDICIAL DISTRICTS, CLERKS OF COURT, AND OTHERS,
17 RECEIVES A COMPLAINT FROM AN EMPLOYEE, VOLUNTEER, OR
18 CONTRACTOR FOR THE DEPARTMENT, THE DEPARTMENT".

19 Page 15, after line 16, insert:

20 (4) IF THE DEPARTMENT RECEIVES A COMPLAINT ALLEGING
21 JUDICIAL MISCONDUCT FROM AN INDIVIDUAL OR ENTITY THAT IS NOT AN
22 EMPLOYEE, VOLUNTEER, OR CONTRACTOR FOR THE DEPARTMENT, THE
23 DEPARTMENT SHALL NOTIFY THE COMPLAINANT OF THE ROLE OF THE
24 COMMISSION AND PROVIDE THE COMPLAINANT WITH THE COMMISSION'S
25 CONTACT INFORMATION. IF THE COMPLAINANT SUBMITS WRITTEN OR
26 ELECTRONIC MATERIALS IN CONNECTION WITH A COMPLAINT, THE
27 DEPARTMENT SHALL FORWARD THOSE MATERIALS TO THE COMMISSION.
28 EACH JUDICIAL DISTRICT, THE APPELLATE COURTS, AND THE STATE COURT
29 ADMINISTRATOR'S OFFICE SHALL ADOPT A WRITTEN POLICY TO IMPLEMENT
30 THIS PROVISION.".

31 Renumber succeeding subsections accordingly.

32 Page 16, line 9, strike "PRIVILEGE," and substitute "PRIVILEGE HELD BY
33 THE DEPARTMENT,".

- 1 Page 16, line 12, strike "OR"
- 2 Page 16, line 13, after "OBLIGATION" insert ARISING AFTER THE EFFECTIVE
3 DATE OF THIS ACT".
- 4 Page 16, line 14, after "AGREEMENT;" insert "OR".
- 5 Page 16, after line 14 insert:
6 "(D) A CLAIM THAT ANY RECORDS ARE PART OF A STATE AUDITOR
7 FRAUD HOTLINE INVESTIGATION OR REPORT;".
- 8 Page 16, line 21, strike "OVERSIGHT; OR" and substitute "OVERSIGHT."
- 9 Page 16, strike lines 22 through 25 and substitute:
10 "(c) THE DEPARTMENT AND THE OFFICE OF ATTORNEY REGULATION
11 COUNSEL WILL RESPECT THE CONFIDENTIALITY OF THE COMMISSION'S
12 COMMUNICATIONS AND RECORDS.
13 (d) NOTWITHSTANDING SUBSECTION (5)(b)(II) OF THIS SECTION,
14 THE DEPARTMENT MAY WITHHOLD FROM DISCLOSURE TO THE COMMISSION
15 MATERIALS AND INFORMATION WHOSE DISCLOSURE IS PROHIBITED BY
16 FEDERAL LAW, INFORMATION COVERED BY JUDICIAL DELIBERATION
17 PRIVILEGE, AND MATERIALS AND INFORMATION IN THE DEPARTMENT'S
18 CUSTODY OR CONTROL THROUGH AN ESTABLISHED AND CONFIDENTIALITY
19 BASED MENTAL HEALTH OR PROFESSIONAL DEVELOPMENT PROGRAM. FOR
20 ANY MATERIALS OR INFORMATION WITHHELD BY THE DEPARTMENT UNDER
21 THIS SUBSECTION, THE DEPARTMENT SHALL DISCLOSE TO THE COMMISSION
22 THE NATURE OF THE MATERIALS WITHHELD, THE REASON THE ITEMS ARE
23 WITHHELD AND, IF REQUESTED BY THE COMMISSION, A PRIVILEGE OR
24 CONFIDENTIALITY LOG COMPLIANT WITH THE STANDARDS GOVERNING
25 CIVIL LITIGATION DISCOVERY."
- 26 Reletter succeeding paragraph accordingly.
- 27 Page 17, line 2, after the period, add "WHEN THE DEPARTMENT DISCLOSES
28 MATERIALS OR INFORMATION IT ASSERTS IS PRIVILEGED OR CONFIDENTIAL,
29 THE DEPARTMENT AND THE COMMISSION SHALL ENTER AN AGREEMENT
30 UNDER RULE 502 OF THE COLORADO RULES OF EVIDENCE IMPLEMENTING
31 THIS PARAGRAPH (c), IN WHICH THE DEPARTMENT AND THE COMMISSION
32 AGREE THAT THE DISCLOSURE DOES NOT WAIVE, BY ITSELF, ANY
33 OTHERWISE VALID CLAIM OF PRIVILEGE OR CONFIDENTIALITY HELD BY THE
34 DEPARTMENT, AND THAT THE COMMISSION SHALL HOLD THE MATERIALS
35 AND INFORMATION AS CONFIDENTIAL UNDER THE COMMISSION'S
36 PROCEDURES AND NOT DISCLOSE PRIVILEGED OR CONFIDENTIAL

1 INFORMATION TO A THIRD PARTY EXCEPT AS MAY BE REQUIRED THROUGH
2 THE INVESTIGATIVE AND DISCIPLINARY PROCESS. THE DEPARTMENT AND
3 THE COMMISSION MAY ADD FURTHER TERMS TO ADDRESS THE INDIVIDUAL
4 CIRCUMSTANCES OF THE MATTER IF THEY AGREE."

5 Page 18, after line 15 insert:

6 **"13-5.3-109. Representation by attorney general.**

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

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

18 Renumber succeeding C.R.S. section accordingly.

19 Page 18, line 20, strike "(7)" and substitute "(6)".

20 Page 19, strike lines 12 and 13 and substitute "INTERIM COMMITTEE."

21 Page 19, after line 21, insert:

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 Renumber succeeding subsections accordingly.

27 Page 19, strike lines 24 through 27 and substitute "2023 LEGISLATIVE
28 SESSION. THE INTERIM COMMITTEE SHALL REPORT TO THE LEGISLATIVE
29 COUNCIL BY THE DATE SPECIFIED IN JOINT RULE 24 (b)(1)(D).
30 LEGISLATION RECOMMENDED BY THE INTERIM COMMITTEE IS SUBJECT TO
31 THE APPLICABLE DEADLINES, BILL INTRODUCTION LIMITS, AND ANY OTHER
32 REQUIREMENT IMPOSED BY THE JOINT RULES OF THE GENERAL
33 ASSEMBLY."

34 Page 20, strike lines 1 through 25.

- 1 Renumber succeeding subsection accordingly.
- 2 Page 22, line 10, strike "RULES OF JUDICIAL DISCIPLINE," and substitute
- 3 "RULES,".
- 4 Page 22, after line 14, insert:
- 5 "(1) THE BENEFITS OF A VICTIM-CENTERED APPROACH TO JUDICIAL
- 6 MISCONDUCT COMPLAINTS THAT ALLOWS THE VICTIM TO HAVE A VOICE IN
- 7 HOW COMPLAINTS ARE HANDLED AND RESOLVED;".
- 8 Reletter succeeding paragraphs accordingly.
- 9 Page 23, strike lines 2 through 19.
- 10 Renumber succeeding sections accordingly.

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