

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 23-0151.01 Conrad Imel x2313

HOUSE BILL 23-1019

HOUSE SPONSORSHIP

Weissman and Lynch, Bacon

SENATE SPONSORSHIP

Gardner and Gonzales, Moreno, Van Winkle

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

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

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 law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
April 5, 2023

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) ~~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 AND THE JUDICIAL DISCIPLINE ADJUDICATIVE BOARD. In
15 exercising its ~~rulemaking~~ authority, the ~~supreme court~~ RULE-MAKING
16 COMMITTEE shall provide the commission AND THE JUDICIAL DISCIPLINE
17 ADJUDICATIVE BOARD reasonable notice and an opportunity to object
18 before ~~enacting~~ PROPOSING any new rule or amendment. as it pertains to
19 judicial discipline. If the commission objects to any rule or amendment,
20 representatives of the supreme court shall meet with representatives of the
21 commission and engage in good-faith efforts to resolve their differences.

22 (2) ~~Whenever the supreme court proposes a rule, guideline, or~~
23 ~~procedure related to judicial discipline, the supreme court shall post~~
24 ~~notice of the proposed rule, guideline, or procedure; allow for a period for~~
25 ~~public comment; and give the public an opportunity to address the~~
26 ~~supreme court concerning the proposed rule, guideline, or procedure at a~~
27 ~~public hearing.~~ WHENEVER THE RULE-MAKING COMMITTEE PROPOSES A

1 RULE, THE COMMITTEE SHALL POST NOTICE OF THE PROPOSED RULE,
2 ALLOW FOR A PERIOD FOR PUBLIC COMMENT, AND GIVE THE PUBLIC AN
3 OPPORTUNITY TO ADDRESS THE COMMITTEE CONCERNING THE PROPOSED
4 RULE AT A PUBLIC HEARING.

5 

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

8 **13-5.3-108. Reporting requirements - "State Measurement for**
9 **Accountable, Responsive, and Transparent (SMART) Government**
10 **Act" report - annual report.** (1) The commission shall gather and
11 maintain annual data and statistics on THE FOLLOWING INFORMATION:

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

17 (b) The number of JUDICIAL MISCONDUCT investigations
18 performed, THE TYPES OF COMPLAINTS INVESTIGATED, AND THE RESULTS
19 OF THE INVESTIGATIONS;

20 (c) THE TYPES OF JUDICIAL MISCONDUCT COMPLAINTS REVIEWED
21 BY THE COMMISSION FOLLOWING AN INVESTIGATION, THE NUMBER OF
22 REVIEWED COMPLAINTS THAT WERE SUBSTANTIATED, AND THE NUMBER
23 OF REVIEWED COMPLAINTS THAT WERE NOT SUBSTANTIATED;

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

25 ~~(d)~~ The types and relative volume of misconduct allegations
26 received;

27 ~~(e)~~ The type and relative volume of incidents of judicial

1 ~~misconduct identified;~~

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

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

7 (3) (a) THE COMMISSION SHALL MAKE THE INFORMATION
8 DESCRIBED IN SUBSECTION (1) OF THIS SECTION AVAILABLE ONLINE IN A
9 SEARCHABLE FORMAT AND INCLUDE THE INFORMATION IN ITS ANNUAL
10 REPORT. THE COMMISSION SHALL REPORT AND MAKE THE INFORMATION
11 AVAILABLE IN AGGREGATE FORM AND WITHOUT INDIVIDUALLY
12 IDENTIFIABLE INFORMATION CONCERNING A JUDGE, COMPLAINANT, OR
13 WITNESS.

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

17 **SECTION 4.** In Colorado Revised Statutes, **repeal** 13-5.3-110.

18 **SECTION 5.** In Colorado Revised Statutes, **add** 13-5.3-111 as
19 follows:

20 **13-5.3-111. Requests for evaluation - manner - confidential**
21 **requests.** (1) IN ADDITION TO ANY OTHER METHOD PERMITTED BY THE
22 COMMISSION OR OFFICE, A PERSON MAY SUBMIT A REQUEST FOR
23 EVALUATION BY MAIL OR ONLINE. THE OFFICE SHALL DEVELOP AN ONLINE
24 REQUEST FOR EVALUATION FORM THAT IS ACCESSIBLE FROM THE
25 COMMISSION'S PUBLIC WEBSITE.

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

1 **SECTION 6.** In Colorado Revised Statutes, **add** 13-5.3-112 as
2 follows:

3 **13-5.3-112. Complainant notification - point of contact.**

4 (1) UPON RECEIPT OF A COMPLAINT, THE OFFICE SHALL EXPLAIN TO THE
5 COMPLAINANT THE JUDICIAL DISCIPLINE PROCESS, INCLUDING THE STEPS
6 IN THE PROCESS, THE AVAILABILITY OF CONFIDENTIAL REPORTING, AND
7 CONFIDENTIALITY REQUIREMENTS DURING EACH STEP OF THE PROCESS.

8 (2) THE OFFICE SHALL DESIGNATE A POINT OF CONTACT TO KEEP
9 COMPLAINANTS APPRISED OF THE STATUS OF THE COMPLAINANT'S
10 COMPLAINT, INCLUDING PERIODIC UPDATES RELATED TO THE COMPLAINT
11 AND TIMELY NOTICE OF THE OUTCOME OF THE INVESTIGATION OF THE
12 COMPLAINT AND THE DISCIPLINARY OR ADJUDICATIVE PROCESS. UPDATES
13 MUST INCLUDE, BUT ARE NOT LIMITED TO, INFORMATION ABOUT THE
14 FOLLOWING:

- 15 (a) DISMISSAL OF A COMPLAINT;
- 16 (b) COMPLETION OF AN INVESTIGATION;
- 17 (c) SCHEDULING OF ANY HEARINGS;
- 18 (d) RESULTS OF ANY HEARINGS;
- 19 (e) IMPOSITION OF ANY REMEDIAL MEASURES OR SANCTIONS; AND
- 20 (f) APPEAL OF ANY REMEDIAL MEASURES OR SANCTIONS.

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

24 **SECTION 7.** In Colorado Revised Statutes, **add** 13-5.3-113 as
25 follows:

26 **13-5.3-113. Judicial discipline adjudicative board -**
27 **administrative support.** WHEN A PANEL OF THE JUDICIAL DISCIPLINE

1 ADJUDICATIVE BOARD CONVENES PURSUANT TO SECTION 23 (3) OF
2 ARTICLE VI OF THE COLORADO CONSTITUTION, THE JUDGE MEMBER OF THE
3 PANEL IS RESPONSIBLE FOR PROVIDING ADMINISTRATIVE SUPPORT
4 NECESSARY TO FACILITATE THE PANEL'S HEARINGS. WITH ANY NECESSARY
5 APPROVAL FROM THE CHIEF JUDGE OF A DISTRICT COURT, THE PANEL
6 JUDGE MAY USE THE JUDGE'S OWN STAFF TO PROVIDE THE
7 ADMINISTRATIVE SUPPORT OR, IF NECESSARY, STAFF OF OTHER JUDGES IN
8 THE JUDGE'S DISTRICT OR ANOTHER DISTRICT MAY PROVIDE THE SUPPORT.
9 STAFF FROM THE SAME DISTRICT AS THE RESPONDENT JUDGE IN THE
10 PROCEEDING SHALL NOT PROVIDE ADMINISTRATIVE SUPPORT TO THE
11 PANEL.

12 **SECTION 8.** In Colorado Revised Statutes, **repeal** 24-72-401 as
13 follows:

14 **24-72-401. Commission on judicial discipline - confidentiality**
15 **of records and procedures.** ~~The record of an investigation conducted by~~
16 ~~the commission on judicial discipline or by masters appointed by the~~
17 ~~supreme court at the request of the commission shall contain all papers~~
18 ~~filed with and all proceedings before the commission or the masters. The~~
19 ~~record shall be confidential and shall remain confidential after filing with~~
20 ~~the supreme court. A recommendation of the commission for the removal~~
21 ~~or retirement of a justice or judge shall not be confidential after it is filed~~
22 ~~with the supreme court.~~

23 **SECTION 9.** In Colorado Revised Statutes, **repeal** 24-72-402 as
24 follows:

25 **24-72-402. Violation - penalty.** ~~Any member of the commission,~~
26 ~~any master appointed by the supreme court, or anyone providing~~
27 ~~assistance to such commission or such masters who willfully and~~

1 knowingly discloses the contents of any paper filed with, or any
2 proceeding before, such commission or such masters, or willfully and
3 knowingly discloses the contents of any recommendation of the
4 commission before such recommendation is filed with the supreme court
5 is guilty of a misdemeanor and, upon conviction thereof, shall be
6 punished by a fine of not more than five hundred dollars. This section
7 shall not apply to any necessary communication between the members of
8 the commission or the masters appointed by the supreme court or anyone
9 employed to aid such commission or such masters in the filing or
10 documentation of any paper filed with, or any proceedings before, such
11 commission or such masters or the preparation of the recommendation of
12 such commission.

13 **SECTION 10.** In Colorado Revised Statutes, 42-4-1301, amend
14 (6)(c)(IV) as follows:

15 **42-4-1301. Driving under the influence - driving while**
16 **impaired - driving with excessive alcoholic content - definitions -**
17 **penalties.** (6) (c) (IV) The department of public health and environment
18 may release nonpersonal identifying information from the database in
19 accordance with sections 24-72-101 to ~~24-72-402~~, C.R.S. **24-72-309.**

20 **SECTION 11. Appropriation.** For the 2023-24 state fiscal year,
21 \$126,986 is appropriated to the judicial department for use by the
22 commission on judicial discipline. This appropriation is from the general
23 fund and is based on an assumption that the commission will require an
24 additional 0.8 FTE. To implement this act, the commission may use this
25 appropriation for the office of judicial discipline.

26 **SECTION 12. Act subject to petition - effective date.**
27 (1) Except as provided in subsection (2) of this section, this act takes

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

9 (2) Sections 1, 2, and 7 of this act take effect only if House
10 Concurrent Resolution 23-1001 is approved by the people at the general
11 election to be held November 2024 and will take effect on the date of the
12 official declaration of the vote on said Concurrent Resolution 23-1001 by
13 the governor; except that, if a referendum petition is filed pursuant to
14 subsection (1) of this section against this act or sections 1, 2, and 7 of this
15 act, then the act or section will not take effect unless approved by the
16 people at the general election to be held in November 2024 and, in such
17 case, will take effect on the date of the official declaration of the vote
18 thereon by the governor.