

## **BILL ANALYSIS**

Senate Research Center  
77R7063 JMC-D

S.B. 1022  
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Jurisprudence  
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### **DIGEST AND PURPOSE**

Currently, the State Commission on Judicial Conduct (commission) has certain functions and standards. As proposed, S.B. 1022 amends applicable chapters of the Government Code relating to the definition of terms; publications; notifications; the publicizing of certain information; immunity; and provisions applying to certain commission functions.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 33.001, Government Code, by amending Subsections (b) and (c) and adding Subsection (d), to redefine “wilful or persistent conduct that is clearly inconsistent with the proper performance of a judge’s duties.” Provides that the definitions, rather than definition, provided by Subsections (b) and (d) are, rather than is, not exclusive. Provides that a misdemeanor involving official misconduct, for purposes of Section 1-a(6) (relating to retirement, censure, removal, and compensation of justices and judges; state commission on judicial conduct; procedure), Article V, Texas Constitution, includes a misdemeanor involving an act relating to a judicial office or a misdemeanor involving an act involving moral turpitude.

SECTION 2. Amends Section 33.004(c), Government Code, to provide that a special master who is a retired judge of a district court or the court of criminal appeals or a retired justice of a court of appeals or the supreme court is entitled to compensation in the manner as provided by Section 74.061. Defines “court.” Deletes existing text pertaining to per diem and compensation entitlements of the special master.

SECTION 3. Amends Section 33.005(e), Government Code, to require the Texas Bar Journal to publish public statements and summaries of sanctions issued by, rather than a report received from, the commission. Deletes existing text pertaining to the application of Subsection (c).

SECTION 4. Amends Section 33.006(a), Government Code, to set forth provision relating to the application of this section.

SECTION 5. Amends Section 33.021, Government Code, to delete existing text pertaining to witnesses not subject to subpoena.

SECTION 6. Amends Sections 33.022(c) and (i), Government Code, to authorize the commission if, after conducting a preliminary investigation under this section, the commission does not determine that an allegation or appearance of misconduct or disability is unfounded or frivolous, to order, rather than request, certain specific actions of the judge. Deletes existing text that excepts the judge from a commission-ordered deposition. Requires that the notice be served on the judge or the judge’s attorney of record by personal service of a copy of the notice by a person designated by the

chairperson. Deletes existing text pertaining to a member of the commission.

SECTION 7. Amends Sections 33.023(a) and (b), Government Code, to authorize the commission, in any investigation or proceeding that involves physical or mental incapacity of a judge, rather than to discharge the judge's duty, to order the judge to submit to a physical or mental examination by one or more qualified physicians or a mental examination by one or more qualified psychologists selected and paid for by the commission. Deletes existing text pertaining to the involuntary retirement of a judge. Deletes existing text pertaining to the location of the examination.

SECTION 8. Amends Section 33.032, Government Code, by amending Subsections (a) and (c) and adding Subsections (f) and (g), as follows:

(a) Provides that the papers filed with and proceeding before the commission are confidential prior to the convening of a formal hearing except as otherwise provided by this section and Section 33.034. Deletes existing text citing Subsections (c), (d), and (e).

(c) Requires that the record of the informal appearance and the documents presented to the commission during the informal appearance that are not protected by attorney-client or work product privilege be public on the issuance of, rather than if the commission issues, a public admonition, warning, reprimand, or public requirement that a person obtain additional training or education by the commission. Deletes existing text pertaining to all papers, certain evidence and records, and forwarded information.

(f) Authorizes the commission to release to the Office of the Chief Disciplinary Counsel of the State Bar of Texas information indicating that an attorney, including a judge who is acting in the judge's capacity as an attorney, has violated the Texas Disciplinary Rules of Professional Conduct.

(g) Requires that a voluntary agreement to resign from judicial office in lieu of disciplinary action by the commission be public on the commission's acceptance of the agreement. Provides that the agreement and any agreed statement of facts relating to the agreement are admissible in a subsequent proceeding before the commission. Authorizes an agreed statement of facts to be released to the public only if the judge violates a term of the agreement.

SECTION 9. Amends Sections 33.033(a) and (b), Government Code, to require the commission to promptly notify a complainant of the disposition of the case, rather than the complaint. Requires that the communication inform the complainant of certain specific information.

SECTION 10. Amends Section 33.034(h), Government Code, to delete existing text pertaining to a court's discretion.

SECTION 11. Amends Chapter 33B, Government Code, by adding Section 33.035, as follows:

Sec. 33.035. CONTINUATION OF SUSPENSION ORDER. Requires, if a judge who is indicted for a felony or charged with a misdemeanor involving official misconduct is convicted of or granted deferred adjudication for the offense, that an order of suspension in effect on the date of conviction or grant of deferred adjudication remain in effect until the commission takes further action on the order.

SECTION 12. Makes application of Sections 33.001, 33.004, 33.006, 33.033, and 33.035, Government Code, as amended or added by this Act, prospective. Provides that Section 33.032, Government Code, as amended by this Act, applies to papers filed with and proceedings before the commission, regardless of whether the papers were filed or the proceedings were commenced before, on, or after the effective date of this Act.

SECTION 13. Effective date: September 1, 2001.