



The Supreme Court of Texas

CHIEF JUSTICE
NATHAN L. HECHT

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September 16, 2024

Mr. Charles L. "Chip" Babcock
Chair, Supreme Court Advisory Committee
Jackson Walker L.L.P.
cbabcock@jw.com

Re: Referral of Rules Issue

Dear Chip:

The Supreme Court requests the Advisory Committee to study and make recommendations on the following matters.

Procedural Rules for the State Commission on Judicial Conduct. The Procedural Rules for the State Commission on Judicial Conduct do not reflect recent statutory changes, including changes enacted by the 87th Legislature in HB 4344, and, in some instances, are unclear or unworkable. The Court asks the Committee to conduct a wholesale review of the Procedural Rules for the State Commission on Judicial Conduct and draft amendments for the Court's consideration.

As always, the Court is grateful for the Committee's counsel and your leadership.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan L. Hecht", written in a cursive style.

Nathan L. Hecht
Chief Justice

Attachment

AN ACT

relating to a complaint filed with the State Commission on Judicial Conduct.

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

SECTION 1. Section 33.0211, Government Code, is amended by adding Subsection (c) to read as follows:

(c) For each complaint filed with the commission under this chapter, each member of the commission must be:

(1) notified of the complaint; and

(2) briefed and provided detailed information about the complaint.

SECTION 2. Subchapter B, Chapter 33, Government Code, is amended by adding Sections 33.0212, 33.0213, 33.040, and 33.041 to read as follows:

Sec. 33.0212. REPORT AND RECOMMENDATIONS ON FILED COMPLAINTS. (a) Not later than the 120th day after the date a complaint is filed with the commission, commission staff shall prepare and file with each member of the commission a report detailing the investigation of the complaint and recommendations for commission action regarding the complaint.

(b) Not later than the 90th day following the date commission staff files with the commission the report required by Subsection (a), the commission shall determine any action to be taken regarding the complaint, including:

- 1 (1) a public sanction;
- 2 (2) a private sanction;
- 3 (3) a suspension;
- 4 (4) an order of education;
- 5 (5) an acceptance of resignation in lieu of
6 discipline;
- 7 (6) a dismissal; or
- 8 (7) an initiation of formal proceedings.

9 (c) If, because of extenuating circumstances, commission
10 staff is unable to provide an investigation report and
11 recommendation to the commission before the 120th day following the
12 date the complaint was filed with the commission, the staff shall
13 notify the commission and propose the number of days required for
14 the commission and commission staff to complete the investigation
15 report and recommendations and finalize the complaint. The staff
16 may request an extension of not more than 270 days from the date the
17 complaint was filed with the commission. The commission shall
18 finalize the complaint not later than the 270th day following the
19 date the complaint was filed with the commission.

20 (d) The executive director may request that the chairperson
21 grant an additional 120 days to the time provided under Subsection
22 (c) for the commission and commission staff to complete the
23 investigation report and recommendations and finalize the
24 complaint.

25 (e) If the chairperson grants additional time under
26 Subsection (d), the commission must timely inform the legislature
27 of the extension. The commission may not disclose to the

1 legislature any confidential information regarding the complaint.

2 Sec. 33.0213. NOTIFICATION OF LAW ENFORCEMENT AGENCY
3 INVESTIGATION. On notice by any law enforcement agency
4 investigating an action for which a complaint has been filed with
5 the commission, the commission may place the commission's complaint
6 file on hold and decline any further investigation that would
7 jeopardize the law enforcement agency's investigation. The
8 commission may continue an investigation that would not jeopardize
9 a law enforcement investigation.

10 Sec. 33.040. ANNUAL REPORT. Not later than September 1 of
11 each year, the commission shall prepare and submit to the
12 legislature a report of:

13 (1) the total number of complaints the commission
14 failed to finalize not later than the 270th day following the date
15 the complaint was filed with the commission; and

16 (2) the total number of complaints included in
17 Subdivision (1) that the commission declined to further
18 investigate because of a law enforcement agency investigation.

19 Sec. 33.041. LEGISLATIVE REPORT. (a) The commission shall
20 prepare a report for the 88th Legislature regarding any statutory
21 changes that would improve the commission's effectiveness,
22 efficiency, and transparency in filing, investigating, and
23 processing any complaint filed with the commission.

24 (b) This section expires September 1, 2023.

25 SECTION 3. Section 33.0212, Government Code, as added by
26 this Act, applies only to a complaint filed with the State
27 Commission on Judicial Conduct on or after the effective date of

1 this Act.

2 SECTION 4. This Act takes effect September 1, 2022.

President of the Senate

Speaker of the House

I certify that H.B. No. 4344 was passed by the House on April 27, 2021, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4344 on May 28, 2021, by the following vote: Yeas 147, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4344 was passed by the Senate, with amendments, on May 25, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor