

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1989, in the omnibus appropriations act, this act shall be null and void.

Passed the Senate March 14, 1989.

Passed the House April 23, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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CHAPTER 367

[Substitute Senate Bill No. 5186]

COMMISSION ON JUDICIAL CONDUCT

AN ACT Relating to the commission on judicial conduct; amending RCW 2.64.010, 2.64.020, and 2.64.050; adding new sections to chapter 2.64 RCW; repealing RCW 2.64.091 and 2.64.110; and providing a contingent effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 268, Laws of 1981 as amended by section 1, chapter 186, Laws of 1987 and RCW 2.64.010 are each amended to read as follows:

~~((For purposes of this chapter,))~~ Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Admonishment" means a written disposition of an advisory nature that cautions a judge or justice not to engage in certain proscribed behavior. An admonishment may include a requirement that the judge or justice follow a specified corrective course of action.

(2) "Censure" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that conduct of the judge or justice violates a rule of judicial conduct, detrimentally affects the integrity of the judiciary, undermines public confidence in the administration of justice, and may or may not require a recommendation to the supreme court that the judge or justice be suspended or removed. A censure shall include a requirement that the judge or justice follow a specified corrective course of action.

(3) "Commission" means the commission on judicial conduct provided for in Article IV, section 31 of the state Constitution, which is authorized to recommend to the supreme court, after notice and hearing, the ~~((censure,))~~ suspension or removal of a judge or justice for violating a rule of judicial conduct, or the retirement of a judge or justice for disability ~~((which is permanent, or likely to become permanent, and which seriously interferes with the performance of judicial duties. For purposes of this chapter, the term))~~.

(4) "Judge or justice" includes justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges of any court organized under Titles 3 or 35 RCW, judges pro tempore, court commissioners, and magistrates.

(5) "Removal" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of all duties of his or her office.

(6) "Reprimand" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that the conduct of the judge or justice is a minor violation of the code of judicial conduct and does not require censure or a formal recommendation to the supreme court that the judge or justice be suspended or removed. A reprimand shall include a requirement that the judge or justice follow a specified corrective course of action.

(7) "Retirement" means a written recommendation by the commission and a finding by the supreme court that a judge or justice has a disability which is permanent, or likely to become permanent, and that seriously interferes with the performance of judicial duties.

(8) "Suspension" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of the duties of his or her office by the court for a specified period of time, as determined by the court.

This chapter shall apply to any judge or justice, regardless of whether the judge or justice serves full time or part time, and regardless of whether the judge or justice is admitted to practice law in this state.

Sec. 2. Section 3, chapter 268, Laws of 1981 as amended by section 2, chapter 186, Laws of 1987 and RCW 2.64.020 are each amended to read as follows:

The commission shall consist of ~~((nine))~~ eleven members. One member shall be a judge selected by and from the court of appeals judges; one member shall be a judge selected by and from the superior court judges; one member shall be a judge selected by and from the district court judges; two members shall be selected by the state bar association and be admitted to the practice of law in this state; and ~~((four))~~ six members shall be nonlawyers appointed by the governor ~~((and confirmed by the senate))~~. The term of each member of the commission shall be four years.

Sec. 3. Section 6, chapter 268, Laws of 1981 and RCW 2.64.050 are each amended to read as follows:

The commission may employ (~~any~~) personnel, including (~~lawyers~~) attorneys, and make any other expenditures necessary for the effective performance of its duties and the exercise of its powers. The commission may hire attorneys or others by personal service contract to conduct initial proceedings regarding a complaint against a judge or justice. Commission employees shall be exempt from the civil service law, chapter 41.06 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 2.64 RCW to read as follows:

The commission is authorized to impose the following disciplinary actions, in increasing order of severity: (a) Admonishment; (b) reprimand; or (c) censure. If the conduct of the judge or justice warrants more severe disciplinary action, the commission may recommend to the supreme court the suspension or removal of the judge or justice.

NEW SECTION. Sec. 5. A new section is added to chapter 2.64 RCW to read as follows:

The commission is authorized to investigate and consider for probative value any conduct that may have occurred prior to, on, or after December 4, 1980, by a person who was, or is now, a judge or justice when such conduct relates to a complaint filed with the commission against the same judge or justice.

NEW SECTION. Sec. 6. A new section is added to chapter 2.64 RCW to read as follows:

All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled or obtained during the course of an investigation or initial proceeding involving the discipline or retirement of a judge or justice, are exempt from the public disclosure requirements of chapter 42.17 RCW during such investigation or initial proceeding. As of the date of a public hearing, all those records of the initial proceeding that were the basis of a finding of probable cause are subject to the public disclosure requirements of chapter 42.17 RCW.

NEW SECTION. Sec. 7. A new section is added to chapter 2.64 RCW to read as follows:

The adjudicative proceedings, judicial review, and civil enforcement provisions of chapter 34.05 RCW, the administrative procedure act, do not apply to any investigations, initial proceedings, public hearings, or executive sessions involving the discipline or retirement of a judge or justice.

NEW SECTION. Sec. 8. A new section is added to chapter 2.64 RCW to read as follows:

The commission is subject to the open public meetings act, chapter 42.30 RCW. However, investigations, initial proceedings, public hearings, and executive sessions involving the discipline or retirement of a judge or justice are governed by this chapter and Article IV, section 31 of the state Constitution and are exempt from the provisions of chapter 42.30 RCW.

**NEW SECTION.** Sec. 9. A new section is added to chapter 2.64 RCW to read as follows:

The commission shall provide by rule for confidentiality of its investigations and initial proceedings in accordance with Article IV, section 31 of the state Constitution.

Any person violating a rule on confidentiality is subject to a proceeding for contempt in superior court.

**NEW SECTION.** Sec. 10. A new section is added to chapter 2.64 RCW to read as follows:

Whenever the commission determines that there is probable cause to believe that a judge or justice has violated a rule of judicial conduct or that the judge or justice suffers from a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties, the commission shall disclose to the judge or justice any material or information within the commission's knowledge which tends to negate the determination of the commission, except as otherwise provided by a protective order.

**NEW SECTION.** Sec. 11. The following acts or parts of act are each repealed:

(1) Section 4, chapter 186, Laws of 1987 and RCW 2.64.091; and

(2) Section 12, chapter 268, Laws of 1981, section 5, chapter 186, Laws of 1987 and RCW 2.64.110.

**NEW SECTION.** Sec. 12. This act shall take effect upon the effective date of an amendment to Article IV, section 31 of the state Constitution making changes to the commission on judicial conduct. If such amendment is not validly submitted to and approved and ratified by the voters at a general election held in November 1989, this act shall be null and void in its entirety.

Passed the Senate April 23, 1989.

Passed the House April 22, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 368

[House Bill No. 1518]

### WORKERS' COMPENSATION—INTERSTATE COMMON AND CONTRACT CARRIERS—COVERAGE FOR WASHINGTON EMPLOYEES

AN ACT Relating to industrial insurance coverage; amending RCW 51.12.095; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 170, Laws of 1983 and RCW 51.12.095 are each amended to read as follows: