

SENATE BILL 1992

By Bell

AN ACT to amend Tennessee Code Annotated, Title 17,
Chapter 5 and Title 50, Chapter 6, Part 2, relative
to the board of judicial conduct.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 17-5-102(a)(1), is amended by deleting the subdivision and substituting instead:

(1) All Tennessee judges, including, but not limited to, appellate, trial, general sessions, probate, juvenile, municipal, and senior judges, claims commissioners, administrative law judges, judicial commissioners, magistrates, referees, special masters, hearing officers, workers' compensation judges, and all other judges sitting on or presiding over any court created by the general assembly or by the express or implied authority of the general assembly;

SECTION 2. Tennessee Code Annotated, Section 17-5-102, is amended by deleting subsection (b).

SECTION 3. Tennessee Code Annotated, Section 50-6-238(c), is amended by deleting the following language:

However, any complaints regarding the conduct of a workers' compensation judge under the code shall be made to the chief workers' compensation judge. Any complaints about the chief judge shall be made to the administrator.

SECTION 4. Tennessee Code Annotated, Section 17-5-302(a), is amended by deleting the subsection and substituting instead:

(a) The board is authorized, on its own motion, or pursuant to the complaint of a person having reason to believe a judge is disabled, to investigate and take appropriate

action, including recommendation of removal from office, in any case in which an active judge is suffering from a temporary or permanent disability, physical or mental, that would substantially interfere with the prompt, orderly, and efficient performance of the judge's duties. As used in this subsection (a), temporary or permanent disability includes, but is not limited to, substance abuse or dependency, the repeated and consistent inability to stay alert during court proceedings, impairment of cognitive abilities that render the judge unable to function effectively, and any other documented or diagnosed physical or mental behavioral condition adversely affecting the administration of justice.

SECTION 5. Tennessee Code Annotated, Section 17-5-302, is amended by adding the following subsection (b) and redesignating the current subsection (b) and subsequent subsection appropriately:

(b) As part of an investigation or at another point in the disciplinary process, the board or an investigative panel of the board may refer the matter to the Tennessee lawyers assistance program. If the referral is made and the Tennessee lawyers assistance program notifies the board in writing that the judge in the matter is uncooperative or has failed to comply with the recommendations issued under the program, the board may order the judge to submit to a physical or mental evaluation by an appropriately licensed healthcare provider chosen by the board. An investigative panel of the board may also order such a physical or mental evaluation if the action is taken by unanimous vote of the investigative panel and approved by the board chair. The expense of such evaluation must be borne by the board. Prior to a hearing under § 17-5-307, the examiner chosen by the board must disclose any report or opinion issued by the examiner to the judge, the judge's legal representative, the investigative panel, and the disciplinary counsel for the board.

SECTION 6. Tennessee Code Annotated, Section 17-5-303, is amended by adding the following new subsection:

(h) A complaint must be filed within one (1) year of the time that the party filing the complaint knew or reasonably should have known of the alleged misconduct. When the last episode of an alleged pattern of misconduct occurs within the one (1) year period, all prior acts or omissions related to the alleged pattern of misconduct may be considered, except a prior act or omission for which a complaint was filed and dismissed as unfounded or frivolous without a full investigation by the board.

SECTION 7. Tennessee Code Annotated, Section 17-5-303(c)(3), is amended by deleting the subdivision and substituting instead the following:

(3) The investigative panel shall review the disciplinary counsel's recommendations and either dismiss the complaint or authorize a full investigation within fourteen (14) days of receipt of the disciplinary counsel's recommendation. The disciplinary counsel has no authority to dismiss a complaint without the review of and approval by the investigative panel, except when the complaint alleges conduct the entirety of which has been the subject of a prior complaint, is untimely, or alleges matters beyond the permissible scope of the board's inquiry.

SECTION 8. Tennessee Code Annotated, Section 17-5-201(b), is amended by adding the following as a new subdivision:

(7) Notwithstanding this subsection (b) to the contrary and subject to resignation, each member shall serve until the member's successor is duly appointed.

SECTION 9. This act takes effect July 1, 2022, the public welfare requiring it.