

Offered: 2/12/90
Referred: Judiciary

6-1132M

Original sponsor(s): Judiciary Committee

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 268 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act relating to the Commission on Judicial Con-
7 duct."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 22.30.011(a) is amended to read:

10 (a) The commission shall on its own motion or on receipt of a
11 written complaint inquire into an allegation that a judge

12 (1) has been convicted of a crime punishable as a felony
13 under state or federal law or convicted of a crime that involves moral
14 turpitude under state or federal law;

15 (2) suffers from a disability that seriously interferes
16 with the performance of judicial duties and that is or may become
17 permanent;

18 (3) within a period of not more than six years before the
19 filing of the complaint or before the beginning of the commission's
20 inquiry based on its own motion [START OF THE CURRENT TERM], committed
21 an act or acts that constitute

22 (A) wilful misconduct in office;

23 (B) wilful and persistent failure to perform judicial
24 duties;

25 (C) conduct prejudicial to the administration of
26 justice;

27 (D) conduct that brings the judicial office into
28 disrepute; or

29 (E) conduct in violation of the code of judicial

1 conduct; or

2 (4) is habitually intemperate.

3 * Sec. 2. AS 22.30.011(b) is amended to read:

4 (b) After preliminary informal consideration of an allegation,
5 the commission may exonerate the judge, informally and privately
6 admonish the judge or recommend counseling, or [THE COMMISSION MAY]
7 hold a formal hearing on the [AN] allegation [UNDER (a) OF THIS SEC-
8 TION]. A hearing under this subsection [SECTION] is public. Proceed-
9 ings and records pertaining to proceedings that occur before the
10 commission holds a public hearing on an allegation are confidential,
11 subject to the provisions of AS 22.30.060(b) [A HEARING UNDER AS 44.-
12 62.310(d) AND IS PRIVATE UNLESS A PUBLIC HEARING IS REQUESTED BY THE
13 JUDGE].

14 * Sec. 3. AS 22.30.011(d) is amended to read:

15 (d) The commission may, after a hearing held under (b) of this
16 section,

17 (1) exonerate the judge of the charges;

18 (2) [INFORMALLY AND PRIVATELY ADMONISH THE JUDGE OR RECOM-
19 MEND COUNSELING;

20 (3)] reprimand the judge publicly or privately;

21 (3) [(4)] refer the matter to the supreme court with a
22 recommendation that the judge be suspended, removed, or retired from
23 office or publicly or privately censured by the supreme court.

24 * Sec. 4. AS 22.30.060 is repealed and reenacted to read:

25 Sec. 22.30.060. RULES AND CONFIDENTIALITY. (a) The commission
26 shall adopt rules implementing this chapter.

27 (b) All records, files, and reports compiled by the staff of the
28 commission in relation to an allegation are confidential until the
29 commission meets to consider the allegation and has an opportunity to

1 vote on whether to keep the records, files, reports, and its proceed-
2 ings confidential. After the commission has had an opportunity to
3 vote on the issue, all proceedings, records, files, and reports of the
4 commission, including minority reports, if any, are public unless at
5 least five members of the commission vote to make a particular pro-
6 ceeding, record, file, or report confidential and at least one public
7 member votes on the question. If the commission imposes confidential-
8 ity under this subsection, disclosure may not be made by the commis-
9 sion unless waived in writing by the judge who is the subject of the
10 proceeding, record, file, or report except that the commission may
11 disclose relevant information to the supreme court when the commission
12 refers a matter to the court under AS 22.30.011(d)(3).

13 * Sec. 5. AS 22.30 is amended by adding a new section to read:

14 Sec. 22.30.068. MINORITY REPORTS. (a) A member of the commis-
15 sion who believes that the commission failed to impose a sufficiently
16 severe disciplinary measure with respect to a particular allegation
17 under this chapter may submit a report recommending a more severe
18 disciplinary measure. The report shall be submitted by the member to
19 the chief justice of the supreme court, the attorney general, and the
20 chair of the senate and house judiciary committees.

21 (b) A report under this section shall be submitted to the per-
22 sons described in (a) of this section notwithstanding a commission
23 vote to make a proceeding, record, file, or report confidential under
24 AS 22.30.060(b).

25 * Sec. 6. AS 22.30.080(2) is amended to read:

26 (2) "judge" means a justice of the supreme court, a judge
27 of the court of appeals, a judge of the superior court, or a judge of
28 the district court who is the subject of an investigation or proceed-
29 ing under sec. 10, art. IV, Constitution of the State of Alaska and

- 1 this chapter, including a justice or judge who is serving in a full-
2 time, part-time, permanent, or temporary position, or who is retired.