

House of Representatives, April 8, 1998. The Committee on Judiciary reported through REP. LAWLOR, 99th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE JUDICIAL REVIEW COUNCIL.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 51-51i of the general
2 statutes is repealed and the following is
3 substituted in lieu thereof:
4 (a) In addition to removal by impeachment and
5 removal by the Governor on the address of
6 two-thirds of each house of the General Assembly
7 as provided in the Connecticut constitution, a
8 judge shall be subject, in the manner and under
9 the procedures provided in this chapter to
10 censure, suspension or removal from office for (1)
11 conduct prejudicial to the impartial and effective
12 administration of justice which brings the
13 judicial office in disrepute, (2) wilful violation
14 of section 51-39a or any canon of judicial ethics,
15 (3) wilful and persistent failure to perform his
16 duty, (4) neglectful or incompetent performance of
17 his duties, (5) final conviction of a felony or of
18 a misdemeanor involving moral turpitude, (6)
19 disbarment or suspension as an attorney-at-law,
20 (7) wilful failure to file a financial statement
21 or the filing of a fraudulent financial statement
22 required under section 51-46a, AS AMENDED, or (8)

23 temperament which adversely affects the orderly
24 carriage of justice.

25 (b) In addition to removal by the Governor
26 for cause pursuant to subsection (f) of section
27 46b-231, AS AMENDED, a family support magistrate
28 shall be subject, in the manner and under the
29 procedures provided in this chapter to censure,
30 suspension or removal from office for (1) conduct
31 prejudicial to the impartial and effective
32 administration of justice which brings the
33 magisterial office in disrepute, (2) wilful
34 violation of section 51-39a or any canon of
35 judicial ethics, (3) wilful and persistent failure
36 to perform his duty, (4) neglectful or incompetent
37 performance of his duties, (5) final conviction of
38 a felony or of a misdemeanor involving moral
39 turpitude, (6) disbarment or suspension as an
40 attorney-at-law, (7) wilful failure to file a
41 financial statement or the filing of a fraudulent
42 financial statement required under section 51-46a,
43 AS AMENDED, or (8) temperament which adversely
44 affects the orderly carriage of justice.

45 (c) In addition to removal by the Governor
46 for cause pursuant to subsection (e) of section
47 31-276, a compensation commissioner shall be
48 subject, in the manner and under procedures
49 provided in this chapter to censure, suspension or
50 removal from office for (1) conduct prejudicial to
51 the impartial and effective administration of his
52 duties which brings the office of compensation
53 commissioner in disrepute, (2) WILFUL VIOLATION OF
54 ANY PROVISION OF THE CODE OF ETHICS FOR WORKERS'
55 COMPENSATION COMMISSIONERS, [(2)] (3) wilful and
56 persistent failure to perform his duty, [(3)] (4)
57 neglectful or incompetent performance of his
58 duties, [(4)] (5) final conviction of a felony or
59 a misdemeanor involving moral turpitude, [(5)] (6)
60 disbarment or suspension as an attorney-at-law, or
61 [(6)] (7) temperament which adversely affects the
62 orderly carriage of his duties.

63 Sec. 2. Section 51-51q of the general
64 statutes, as amended by section 6 of public act
65 97-132, is repealed and the following is
66 substituted in lieu thereof:

67 (a) The Judicial Review Council, UPON
68 REQUEST, shall submit [its recommendations]
69 INFORMATION concerning the nomination for
70 appointment to a different court of any judge or

71 nomination for reappointment of any judge whose
72 term of office is about to expire, including a
73 report of any complaint filed against any such
74 judge and the disposition of any such complaint,
75 and including any investigation of any such judge
76 by the council, to the Governor, to the Judicial
77 Selection Commission and to the standing committee
78 on judiciary of the House of Representatives and
79 the standing committee on judiciary of the Senate,
80 or joint standing committee on judiciary, as the
81 case may be, provided the Judicial Selection
82 Commission shall not consider any investigation of
83 the Judicial Review Council which resulted in the
84 exoneration of a judge. The Judicial Review
85 Council shall make all complaint files concerning
86 any such judge available to the [chairmen]
87 CHAIRPERSONS and ranking members of the standing
88 committee on judiciary of the House of
89 Representatives, the standing committee on
90 judiciary of the Senate, or the joint standing
91 committee on judiciary, as the case may be. [If
92 the Judicial Review Council has reason to believe
93 any such judge is guilty of judicial conduct under
94 section 51-51i, material neglect of duty or
95 incompetence in the conduct of his office, it may
96 refuse to recommend such judge for nomination for
97 appointment to a different court or for
98 reappointment. The Judicial Review Council shall
99 not recommend a judge for nomination for
100 appointment to a different court or for
101 reappointment if the council finds such judge has
102 wilfully violated section 51-39a or has been
103 convicted of a felony or of a misdemeanor
104 involving moral turpitude.]

105 (b) The Judicial Review Council, UPON
106 REQUEST, shall submit [its recommendations]
107 INFORMATION concerning the reappointment of any
108 family support magistrate whose term of office is
109 about to expire, including a report of any
110 investigation of any such magistrate by the
111 council, to the Governor.

112 (c) The Judicial Review Council, UPON
113 REQUEST, shall submit [its recommendations]
114 INFORMATION concerning the nomination for
115 reappointment of any compensation commissioner
116 whose term of office is about to expire, including
117 a report of any investigation of such compensation
118 commissioner by the council, to the Governor and

119 to the standing committee on judiciary of the
120 House of Representatives and the standing
121 committee on judiciary of the Senate, or the joint
122 standing committee on judiciary, as the case may
123 be.

124 [(d) If a complaint against any such judge,
125 compensation commissioner or family support
126 magistrate is received by the Judicial Review
127 Council and the Judicial Review Council is unable
128 to make its findings and complete its duties with
129 respect to such judge, compensation commissioner
130 or family support magistrate prior to the
131 expiration of the term of office of such judge,
132 compensation commissioner or family support
133 magistrate, the Judicial Review Council shall not
134 refuse to recommend such judge, compensation
135 commissioner or family support magistrate for
136 reappointment based on such complaint, but shall
137 report the fact of such complaint to the Governor
138 and the joint standing committee on judiciary of
139 the General Assembly.]

140 Sec. 3. Section 51-511 of the general
141 statutes, as amended by section 4 of public act
142 97-132, is repealed and the following is
143 substituted in lieu thereof:

144 (a) Except as provided in subsection (d), the
145 Judicial Review Council shall investigate every
146 written complaint brought before it alleging
147 conduct under section 51-51i, AS AMENDED BY THIS
148 ACT, and may initiate an investigation of any
149 judge, compensation commissioner or family support
150 magistrate if (1) the council has reason to
151 believe conduct under section 51-51i, AS AMENDED
152 BY THIS ACT, has occurred or (2) previous
153 complaints indicate a pattern of behavior which
154 would lead to a reasonable belief that conduct
155 under section 51-51i, AS AMENDED BY THIS ACT, has
156 occurred. The council shall, not later than five
157 days after such initiation of an investigation or
158 receipt of such complaint, notify by registered or
159 certified mail any judge, compensation
160 commissioner or family support magistrate under
161 investigation or against whom such complaint is
162 filed. A copy of any such complaint shall
163 accompany such notice. The council shall also
164 notify the complainant of its receipt of such
165 complaint not later than five days thereafter. Any
166 investigation to determine whether or not there is

167 probable cause that conduct under section 51-51i,
168 AS AMENDED BY THIS ACT, has occurred shall be
169 confidential and any individual called by the
170 council for the purpose of providing information
171 shall not disclose his knowledge of such
172 investigation to a third party prior to the
173 decision of the council on whether probable cause
174 exists, unless the respondent requests that such
175 investigation and disclosure be open, provided
176 information known or obtained independently of any
177 such investigation shall not be confidential. The
178 judge, compensation commissioner or family support
179 magistrate shall have the right to appear and be
180 heard and to offer any information which may tend
181 to clear him of probable cause to believe he is
182 guilty of conduct under section 51-51i, AS AMENDED
183 BY THIS ACT. The judge, compensation commissioner
184 or family support magistrate shall also have the
185 right to be represented by legal counsel and
186 examine and cross-examine witnesses. In conducting
187 its investigation under this subsection, the
188 council may request that a court furnish to the
189 council a record or transcript of court
190 proceedings made or prepared by a court reporter,
191 assistant court reporter or monitor and the court
192 shall, upon such request, furnish such record or
193 transcript.

194 (b) The council shall, not later than three
195 business days after the termination of such
196 investigation, notify the complainant, if any, and
197 the judge, compensation commissioner or family
198 support magistrate that the investigation has been
199 terminated and the results thereof. If the council
200 finds that conduct under section 51-51i, AS
201 AMENDED BY THIS ACT, has not occurred, but the
202 judge, compensation commissioner or family support
203 magistrate has acted in a manner which gives the
204 appearance of impropriety or constitutes an
205 unfavorable judicial or magisterial practice, the
206 council may issue an admonishment to the judge,
207 compensation commissioner or family support
208 magistrate recommending a change in judicial or
209 magisterial conduct or practice. If an
210 admonishment is issued, the council shall inform
211 the complainant, if any, that an admonishment was
212 issued, provided the admonishment is the result of
213 misconduct alleged in the complaint and the

214 substance of the admonishment shall not be
215 disclosed.

216 (c) If a preliminary investigation indicates
217 that probable cause exists that the judge,
218 compensation commissioner or family support
219 magistrate is guilty of conduct under section
220 51-51i, AS AMENDED BY THIS ACT, the council shall
221 hold a hearing concerning the conduct or
222 complaint. All hearings held pursuant to this
223 subsection shall be open. A judge, compensation
224 commissioner or family support magistrate
225 appearing before such a hearing shall be entitled
226 to counsel, to present evidence and to
227 cross-examine witnesses. The council shall make a
228 record of all proceedings pursuant to this
229 subsection. The council shall not later than
230 thirty days after the close of such hearing
231 publish its findings together with a memorandum of
232 its reasons therefor.

233 (d) No complaint against a judge,
234 compensation commissioner or family support
235 magistrate alleging conduct under section 51-51i,
236 AS AMENDED BY THIS ACT, shall be brought under
237 this section but within one year from the date the
238 alleged conduct occurred or was discovered or in
239 the exercise of reasonable care should have been
240 discovered, except that no such complaint may be
241 brought more than three years from the date the
242 alleged conduct occurred.

243 (e) Notwithstanding the provisions of
244 subsections (a) and (b) of this section, the
245 council shall disclose any information concerning
246 complaints received by the council on and after
247 January 1, 1978, investigations, and disposition
248 of such complaints to the legislative program
249 review and investigations committee when requested
250 by the committee in the course of its functions,
251 in writing and upon a majority vote of the
252 committee, provided no names or other identifying
253 information shall be disclosed.

254 (f) On and after December 19, 1991, any
255 judge, compensation commissioner or family support
256 magistrate who has been the subject of an
257 investigation by the Judicial Review Council as a
258 result of a complaint brought before such council
259 may request that such complaint, investigation and
260 the disposition of such complaint be open to
261 public inspection.

262 (g) Whenever a complaint against a judge,
263 compensation commissioner or family support
264 magistrate is pending before the Judicial Review
265 Council within the final year of the term of
266 office of such judge, compensation commissioner or
267 family support magistrate, the Judicial Review
268 Council shall designate such complaint as
269 privileged and shall conduct an expedited
270 investigation and hearing so that its duties with
271 respect to such complaint are completed in
272 sufficient time to enable the Judicial Review
273 Council to [make its recommendation concerning any
274 such judge] REPORT SUCH INFORMATION, UPON REQUEST,
275 to the Judicial Selection Commission, [and] the
276 Governor AND THE STANDING COMMITTEE ON JUDICIARY
277 OF THE HOUSE OF REPRESENTATIVES AND THE STANDING
278 COMMITTEE ON JUDICIARY OF THE SENATE, OR THE JOINT
279 STANDING COMMITTEE ON JUDICIARY, AS THE CASE MAY
280 BE, under section 51-51q, AS AMENDED BY THIS ACT,
281 in a timely manner.

282 STATEMENT OF LEGISLATIVE COMMISSIONERS: In
283 subsection (g) of section 3, the phrase ", OR THE
284 JOINT STANDING COMMITTEE ON JUDICIARY, AS THE CASE
285 MAY BE," was added for consistency.

286 JUD COMMITTEE VOTE: YEA 39 NAY 0 JFS-LCO

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sHB 5543

STATE IMPACT	None
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Judicial Review Council

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OLR BILL ANALYSIS

sHB 5543

AN ACT CONCERNING THE JUDICIAL REVIEW COUNCIL

SUMMARY: This bill adds willful violations of the code of ethics for workers' compensation commissioners to the list of conduct which can subject a commissioner to censure, suspension, or removal from office. It also eliminates the requirement that the Judicial Review Council submit recommendations for the elevation or reappointment of judges, family support magistrates, and workers' compensation commissioners. Instead, it requires the council to submit information concerning these nominations on request.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION

Information Sent on Request

The bill requires the Judicial Review Council, on request, to provide (1) the governor, the Judicial Selection Commission, and the Judiciary Committee with information about a judge being considered for

elevation or reappointment including a report of any complaint filed and the disposition of the complaint, and any investigation conducted by the council; (2) the governor with a report including any investigation by the council, on a family support magistrate being considered for reappointment; and (3) the governor and the Judiciary Committee with information including a report of any investigation of a workers' compensation commissioner by the council.

Expedited Investigations

The bill retains the provision for expedited investigations and hearings by the Judicial Review Council when a complaint is pending within the final year of a judge's, family support magistrate's, or compensation commissioner's term of office. The information on the resolution of the complaint is no longer necessary for recommendations but the bill requires the council to report this information on request. The bill requires that the Judiciary Committee receive this information in addition to the Judicial Selection Committee and the governor.

BACKGROUND

The Judicial Review Council

The Judicial Review Council investigates written complaints alleging improper conduct, as defined in the statutes, by a judge, family support magistrate, or workers' compensation commissioner. The council may, in some circumstances, initiate its own investigations. After an investigation and hearing, the council has the authority to publicly censure, issue suspensions of up to one year, or exonerate the individual. The council may also make a recommendation for a longer suspension or removal to the Supreme Court for a judge or family support magistrate and to the Governor for a compensation commissioner.

Conduct of Workers' Compensation Commissioners

Current law allows censure, suspension, or removal of a compensation commissioner for (1) conduct prejudicial to the impartial and effective administration of his office, (2) willful and persistent failure to perform his duty, (3) neglectful or incomplete performance of

duties, (4) final conviction of a felony or misdemeanor involving moral turpitude, (5) disbarment or suspension as an attorney, or (6) temperament affecting the orderly conduct of his duties. This is in addition to the power of the governor to remove a workers' compensation commissioner for cause.

Code of Ethics for Workers' Compensation Commissioners

The Code of Ethics are guidelines established by the Judicial Review Council in 1994. The code focuses on the impartiality of the commissioner, the avoidance of impropriety, and the manner of conducting hearings.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 39 Nay 0