

2020 Regular Session

HOUSE BILL NO. 318

BY REPRESENTATIVE ZERINGUE AND SENATOR MORRIS

PUBLIC RECORDS: Provides for availability of certain records and proceedings of the judiciary commission to the public

1 AN ACT

2 To amend and reenact R.S. 44:10, relative to the judiciary commission; to provide for the
3 applicability of the Public Records Law to certain records of the judiciary
4 commission; to provide that certain documents are public record; to require the
5 production of certain records; to provide relative to the public nature of certain
6 proceedings; to limit the applicability of confidentiality and restrictions on speech
7 relative to such records and proceedings; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 44:10 is hereby amended and reenacted to read as follows:

10 §10. Confidential nature of documents and proceedings of judiciary commission;
11 exceptions

12 A. ~~All~~ Except as otherwise provided in Subsections B and C of this Section,
13 documents filed with, and evidence and proceedings before the judiciary
14 commission, are confidential.

15 B.(1) The record filed by the commission with the supreme court and
16 proceedings before the supreme court are not confidential.

17 (2)(a) Written notice advising a judge of the institution of adversarial
18 proceedings before the judiciary commission or before a hearing officer, if one is
19 selected, including the specified allegations of misconduct or disability, shall not be
20 confidential and shall be a public record subject to inspection, examination, copying,

1 and reproduction in the manner provided by this Chapter; however, any private
2 medical or health data shall be redacted.

3 (b) Adversarial proceedings before the judiciary commission or before a
4 hearing officer, if one is selected, shall be open to the public.

5 (c) Any admonishment, caution, warning, reprimand, or reminder issued to
6 a judge as a result of an adversarial proceeding before the judiciary commission or
7 a hearing officer, if one is selected, shall not be confidential and shall be a public
8 record subject to inspection, examination, copying, and reproduction in the manner
9 provided by this Chapter.

10 (3) Any deferred recommendation of discipline agreement entered into
11 between a judge and the judiciary commission shall not be confidential and shall be
12 a public record subject to inspection, examination, copying, and reproduction in the
13 manner provided by this Chapter; however, any private medical or health data shall
14 be redacted.

15 (4)(a) Any admonishment by the judiciary commission to a judge of a court
16 of appeal or a justice of the supreme court issued prior to an adversarial proceeding
17 regarding conduct that may be contrary to the Code of Judicial Conduct shall not be
18 confidential and shall be a public record subject to inspection, examination, copying,
19 and reproduction in the manner provided by this Chapter if the judge receives the
20 admonishment within a ten-year period after receipt of a prior admonishment.

21 (b) Any admonishment by the judiciary commission to a judge not included
22 in Subparagraph (a) of this Paragraph issued prior to an adversarial proceeding
23 regarding conduct that may be contrary to the Code of Judicial Conduct shall not be
24 confidential and shall be a public record subject to inspection, examination, copying,
25 and reproduction in the manner provided by this Chapter if the judge receives the
26 admonishment within a six-year period after the receipt of a prior admonishment.

27 (5) Any deferred recommendation of discipline agreement, admonishment,
28 caution, warning, reprimand, or reminder issued to a judge who resigned to avoid
29 possible discipline by the judiciary commission or the supreme court and who has

1 publicly announced his candidacy or who qualifies for public office or who has been
2 appointed or who is being considered for appointment to an office of public trust
3 shall not be confidential and shall be a public record subject to inspection,
4 examination, copying, and reproduction in the manner provided by this Chapter.

5 C.(1) The judiciary commission shall compile summary and statistical
6 information regarding the number of complaints received, the number of complaints
7 summarily dismissed, the number of complaints dismissed after an inquiry, the
8 number of complaints dismissed after an investigation, the number of reminders
9 issued by type, the number of cautions issued by type, the number of admonishments
10 issued by type, the number of any other reprimand issued by type, the number of
11 deferred recommendation of discipline agreements entered into by type, and the
12 number of formal hearings held.

13 (2) The judiciary commission shall publish the summary and statistical
14 information required by Paragraph (1) of this Subsection no later than fifteen days
15 after the end of each quarter of each calendar year, including information for each
16 completed quarter and cumulative data for the year to date. Such summary and
17 statistical information shall not be confidential and shall be a public record subject
18 to inspection, examination, copying, and reproduction in the manner provided by this
19 Chapter.

20 D. Nothing in this Section shall limit or restrict the right of any person who
21 has filed a complaint with the judiciary commission from publicly disclosing that
22 fact or from publicly disclosing any of the underlying facts or circumstances upon
23 which his complaint was based.

24 Section 2. The provisions of R.S. 44:10 as amended by Section 1 of this Act shall
25 apply prospectively only with respect to records produced or received by the judiciary
26 commission that were explicitly confidential prior to the effective date of this Act.

27 Section 3. This Act shall take effect and become operative if and when the proposed
28 amendment of Article V of the Constitution of Louisiana contained in the Act which

- 1 originated as House Bill No. 90 of this 2020 Regular Session of the Legislature is adopted
2 at a statewide election and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 318 Original

2020 Regular Session

Zeringue

Abstract: Provides for the public nature of certain records and proceedings of the judiciary commission.

Present law (R.S. 44:1 et seq.—Public Records Law) provides that all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state are "public records". Present law establishes a framework for the ready availability of public records to requesting persons and specifically provides that it is the duty of the custodian of the public records of a public entity or agency to provide copies to persons so requesting. Provides for certain exceptions, exemptions, and limitations.

Present law provides that documents filed with, and evidence and proceedings before the judiciary commission, are confidential. Provides that the record filed by the commission with the supreme court and proceedings before the supreme court are not confidential.

Proposed law retains present law and additionally provides the following shall not be confidential and shall be public record subject to inspection, examination, copying, and reproduction in the manner provided by present law:

- (1) Written notice to a judge regarding the institution of adversarial proceedings before the judiciary commission including the specified allegations of misconduct or disability, except requires private medical or health data to be redacted. Further specifies that adversarial proceedings before the judiciary commission shall be open to the public.
- (2) Any admonishment, caution, warning, reprimand, or reminder from the judiciary commission to a judge as a result of an adversarial proceeding before the judiciary commission or a hearing officer.
- (3) Any deferred recommendation of discipline agreement entered into between a judge and the judiciary commission, except requires private medical or health data to be redacted.
- (4) Any admonishment from the judiciary commission to a judge issued prior to an adversarial proceeding if the judge receives the admonishment within a specified time period after receipt of a prior admonishment (6-year period for lower court judges; 10-year period for appellate and supreme court judges).

- (5) Any admonishment, reminder, caution, or other type of reprimand of a judge who resigned to avoid possible discipline by the judiciary commission or the supreme court and who has publicly announced his candidacy, or who qualifies for public office, or who has been appointed or who is being considered for appointment to an office of public trust.

Proposed law further requires the judiciary commission to compile specific information regarding complaints received and its actions. Requires the judiciary commission to publish the summary and statistical information no later than 15 days after the end of each quarter of each calendar year, including information for each completed quarter and cumulative data for the year to date. Provides that the summary and statistical information shall not be confidential and shall be a public record subject to inspection, examination, copying, and reproduction in the manner provided by present law.

Proposed law expressly provides that nothing in proposed law shall limit or restrict the right of any person who has filed a complaint with the judiciary commission from publicly disclosing that fact or from publicly disclosing any of the underlying facts or circumstances upon which his complaint was based.

Provides that proposed law shall apply prospectively with respect to records produced or received by the judiciary commission that were explicitly confidential prior to the effective date of proposed law.

Effective if and when the proposed amendment of Article V of the Constitution of La. contained in the Act which originated as House Bill No. 90 of this 2020 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 44:10)