

SECOND REGULAR SESSION

# HOUSE BILL NO. 2431

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALTON.

Read 1st time March 13, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5358L.01I

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### AN ACT

To amend chapter 476, RSMo, by adding thereto one new section relating to complaints against judges lodged, submitted or referred to the commission on retirement, removal, and discipline of judges or the Missouri house of representatives.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 476, RSMo, is amended by adding thereto one new section, to be known as section 476.447, to read as follows:

**476.447. 1. Any complaints of crimes, misconduct, habitual drunkenness, willful neglect of duty, corruption in office, incompetency, or any offense involving moral turpitude or oppression in office lodged, submitted, or referred to the commission on retirement, removal, and discipline of judges under Article V, Section 24, of the Missouri Constitution, shall also be submitted or referred concurrently to the Missouri house of representatives for its consideration or determination under Article VII, Section 1, of the Missouri Constitution.**

**2. The Missouri house of representatives may concurrently investigate, hear or dispose of, including issuing of articles of impeachment, any complaints concurrently submitted or referred to it under subsection 1 of this section or table the matter pending the disposition of the matter by the commission on retirement, removal, or discipline of judges.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13           **3. The record before the commission on retirement, removal, and discipline of**  
14 **judges for any complaints submitted or referred under subsection 1 of this section shall,**  
15 **upon final disposition, be forwarded to the Missouri house of representatives.**

16           **4. After final disposition of any complaints submitted or referred under subsection**  
17 **1 of this section by the commission on retirement, removal, and discipline of judges, the**  
18 **persons filing such complaints against a judge with the commission on retirement, removal,**  
19 **and discipline of judges for any of the matters set forth in subsection 1 of this section shall**  
20 **be notified by the commission of their right to file a complaint, de novo, with the Missouri**  
21 **house of representatives for its consideration or determination under Article VII, Section**  
22 **1, of the Missouri Constitution.**

23           **5. The disposition of any complaints submitted or referred under subsection 1 of**  
24 **this section by the commission on retirement, removal, and discipline of judges shall have**  
25 **no effect upon the power of the Missouri house of representatives to issue articles of**  
26 **impeachment under Article VII, Section 1, of the Missouri Constitution or to censure,**  
27 **reprimand, or take any other action, which the Missouri house of representatives deems**  
28 **appropriate to discipline any judge.**

29           **6. (1) There is hereby established the "Joint Office on Judicial Investigations and**  
30 **Disciplinary Counsel" to investigate and prosecute:**

31           **(a) Any complaints under subsection 1 of this section;**

32           **(b) Any complaints of alleged violations of the code of judicial conduct;**

33           **(c) Any complaints or matters referred to the commission on retirement, removal**  
34 **and discipline of judges under Article V, Section 24 of the Missouri Constitution or**  
35 **impeachable offenses under Article VII, Section 1 of the Missouri Constitution.**

36           **(2) The joint office shall consist of a chief disciplinary counsel and such attorneys,**  
37 **investigators, staff, and other employees as shall be funded by the general assembly.**

38           **(3) The chairs of the commission on retirement, removal and discipline of judges,**  
39 **the house judiciary committee, and the house ethics committee shall serve as the board of**  
40 **directors for the joint office. Such board shall appoint the chief disciplinary counsel who**  
41 **shall serve at the pleasure of the board. The chief disciplinary counsel shall appoint such**  
42 **attorneys, investigators, staff, and other employees as shall be funded by the general**  
43 **assembly who shall serve at the pleasure of the chief disciplinary counsel, subject to review,**  
44 **advice, and consent of the board.**

45           **(4) Any attorneys employed by the joint office shall be admitted to the practice of**  
46 **law in this state upon the effective date of his or her appointment. The chief disciplinary**  
47 **counsel shall not engage in the private practice of law.**

48           **(5) The joint office shall perform all investigatory and prosecutorial functions and**  
49 **shall have the authority to:**

50           **(a) Receive complaints concerning violations of the code of judicial conduct;**

51           **(b) Investigate and prosecute any complaints under subsection 1 of this section;**

52           **(c) Investigate information concerning violations or complaints alleging violations**  
53 **of the code of judicial conduct, or complaints or matters referred to the commission on**  
54 **retirement, removal and discipline of judges under Article V, Section 24 of the Missouri**  
55 **Constitution or impeachable offenses under Article VII, Section 1 of the Missouri**  
56 **Constitution;**

57           **(d) Prosecute any violations of the code of judicial conduct, or complaints or**  
58 **matters referred to the commission on retirement, removal and discipline of judges under**  
59 **Article V, Section 24 of the Missouri Constitution or impeachable offenses under Article**  
60 **VII, Section 1 of the Missouri Constitution;**

61           **(e) Employ and supervise staff necessary for the performance of investigatory and**  
62 **prosecutorial functions;**

63           **(f) Promptly notify the complainant and the respondent of the disposition of each**  
64 **matter;**

65           **(g) Notify the board of directors of any complaints or investigations being**  
66 **conducted by its office;**

67           **(h) Forward to the house of representatives for its review and action the record of**  
68 **disposition of any complaints considered by the commission on retirement, removal and**  
69 **discipline of judges;**

70           **(i) Forward to the board of directors a certified copy of the order or judgment of**  
71 **conviction for each jurisdiction in which a judge is convicted of a crime reflecting adversely**  
72 **on a judge's honesty, trustworthiness, or fitness as a judge in other respects;**

73           **(j) Maintain permanent records of discipline and disability matters and compile**  
74 **statistics to aid in the administration of the system, including but not limited to a single log**  
75 **of all complaints received, investigation files, statistical summaries of docket processing**  
76 **and case dispositions, transcripts of all proceedings or audiotapes if not transcribed, and**  
77 **other records as the board of directors may require to be maintained;**

78           **(k) Undertake, pursuant to information provided by or from any source**  
79 **whatsoever, whatever investigations are deemed appropriate; and**

80           **(l) Perform such other duties as are required by the board of directors.**

81           **(6) The salaries of the chief disciplinary counsel and staff, their expenses,**  
82 **administrative costs, and the expenses of the members of the board of directors shall be**  
83 **paid from moneys appropriated by the general assembly. The chief disciplinary counsel**

84 shall submit an annual budget to the general assembly detailing the projected revenues and  
85 expenses for approval by the general assembly. An independent audit shall be conducted  
86 annually by the state auditor of the moneys entrusted to the joint office.

87 (7) The chief disciplinary counsel shall make a separate monthly report to the  
88 board of directors regarding:

89 (a) The number of complaints under investigation;

90 (b) The number of complaints pending a probable cause decision;

91 (c) The number of complaints pending a hearing;

92 (d) The number of complaints pending a recommended decision;

93 (e) The number of complaints pending before the supreme court;

94 (f) The number of complaints filed to date in the current calendar year;

95 (g) The number of complaints closed to date in the current calendar year;

96 (h) The number of complaints in which formal charges have been filed to date in  
97 the current calendar year;

98 (i) The number of complaints pending less than six months;

99 (j) The number of complaints pending more than twelve months, but less than  
100 eighteen months;

101 (k) The number of complaints pending more than eighteen months, but less than  
102 twenty-four months;

103 (l) The number of complaints pending more than twenty-four months; and

104 (m) Such other statistics as may be required by the board of directors.

105 7. The joint office of judicial investigations and disciplinary counsel shall operate  
106 under such rules as are promulgated by the board of directors or established by law. Any  
107 rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created  
108 under the authority delegated in this section shall become effective only if it complies with  
109 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
110 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the  
111 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to  
112 delay the effective date, or to disapprove and annul a rule are subsequently held  
113 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
114 after August 28, 2008, shall be invalid and void.

115 8. All attorneys, investigators, staff, and employees employed by the commission  
116 on retirement, removal and discipline of judges on the effective date of this section shall  
117 become employees of the joint office of judicial investigations and disciplinary counsel and  
118 shall continue to serve in such positions at the pleasure of the board of directors.

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