

SENATE BILL No. 39

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-2-3.1-4; IC 33-2.1-5-6; IC 33-2.1-6-9; IC 34-1-2-3.5.

Synopsis: Complaints against lawyers and judges. Limits the period within which a civil action may be filed against a lawyer to not later than two years after the date the act or omission complained of occurs. Limits the period within which a complaint may be filed with the commission on judicial qualifications against a judge or justice to not later than two years after the date the act or omission complained of occurs. Limits the period within which a disciplinary action may be filed against an attorney to not later than two years after the act or omission complained of occurs.

Effective: July 1, 1998.

Randolph

January 6, 1998, read first time and referred to Committee on Judiciary.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 39

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-2-3.1-4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1998]: **Sec. 4. A complaint filed by a citizen under this chapter**
4 **must be filed not later than two (2) years after the date the act or**
5 **omission complained of occurs.**

6 SECTION 2. IC 33-2.1-5-6 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. ~~Request of Justice~~
8 ~~or Judge to Retire; Complaint Filed by Citizen or on Commission's~~
9 ~~Own Motion; Investigation.~~ (a) Any citizen of the state of Indiana shall
10 have the right at ~~all times~~ to complain to the Commission on Judicial
11 Qualifications with reference to the activities, fitness, or qualifications
12 of a judge or justice. **A complaint filed by a citizen under this section**
13 **must be filed not later than two (2) years after the date the act or**
14 **omission complained of occurs.** Upon receipt of any such complaint
15 or request, the Commission shall make such initial inquiry as is
16 necessary to determine if a complaint is founded and not frivolous. If
17 the Commission determines that the complaint was frivolous or

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1 malicious, the Commission shall file with the proper court charges
2 against the person or persons bringing such charges.

3 The Commission, without receiving a complaint, may make such an
4 initial inquiry on its own motion.

5 (b) If the Commission deems it necessary as the results of its initial
6 inquiry to conduct an investigation, the justice or judge involved shall
7 then be notified of the investigation, the nature of the charge, and the
8 name of the person making the complaint, if any, or that the
9 investigation is on the Commission's own motion, and shall be afforded
10 reasonable opportunity in the course of the investigation to present
11 such matters as he may choose. Such notice shall be given by pre-paid
12 registered or certified mail addressed to the judge at his chambers and
13 at his last known address.

14 If the investigation does not disclose sufficient cause to warrant
15 further proceedings, the judge shall be so notified. The Commission
16 shall have the power to make investigations by members of the
17 Commission or by special investigators employed by the Commission;
18 to hold confidential hearings with the person or persons filing the
19 complaint, or with his or their agents or attorneys; and to hold
20 confidential hearings with the judge or justice involved in the
21 complaint.

22 (c) If the Commission's initial inquiry or investigation does not
23 disclose sufficient cause to warrant further proceedings and if the
24 complainant subsequently issues any statement or statements of any
25 kind for public dissemination relating to the activities or actions of the
26 Commission, the Commission shall have the right to answer such
27 statement or statements by reference to so much of the record of its
28 proceedings or results of its investigation as it deems necessary.

29 SECTION 3. IC 33-2.1-6-9 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. ~~Request of Justice~~
31 ~~or Judge to Retire; Complaint by Citizen or on Commission's Own~~
32 ~~Motion; Investigation.~~ (a) Any judge may request that he be retired
33 because of disability.

34 (b) Any citizen of the State of Indiana shall have the right at all
35 times to complain to the Commission on Judicial Qualifications with
36 reference to the activities, fitness, or qualifications of a judge. **A**
37 **complaint filed by a citizen under this section must be filed not**
38 **later than two (2) years after the date the act or omission**
39 **complained of occurs.** Upon receipt of any such complaint or request,
40 the Commission shall make such initial inquiry as is necessary to
41 determine if a complaint is founded and not frivolous.

42 The Commission, without receiving a complaint, may take such an



1 initial inquiry on its own motion.

2 (c) If the Commission deems it necessary, as the result of its initial
3 inquiry, to conduct an investigation, the judge involved shall then be
4 notified of the investigation, the nature of the charge, and the name of
5 the person making the complaint, if any, or that the investigation is on
6 the Commission's own motion, and shall be afforded reasonable
7 opportunity in the court of the investigation to present such matters as
8 he may choose. Such notice shall be given by pre-paid registered or
9 certified mail addressed to the judge at his chambers and at his last
10 known address.

11 If the investigation does not disclose sufficient cause to warrant
12 further proceedings, the judge shall be so notified. The Commission
13 shall have the power to make investigations by members of the
14 Commission or by special investigators employed by the Commission,
15 to hold confidential hearings with his or their agents or attorneys, and
16 to hold confidential hearings with the judge or judges involved.

17 (d) If the Commission's initial inquiry or investigation does not
18 disclose sufficient cause to warrant further proceedings and if the
19 complainant subsequently issues any statement or statements for public
20 dissemination relating to the activities or actions of the Commission,
21 the Commission shall have the right to answer such statement or
22 statements by reference to so much of the record of its proceedings or
23 results of its investigations as it deems necessary.

24 SECTION 4. IC 34-1-2-3.5 IS ADDED TO THE INDIANA CODE
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 1998]: **Sec. 3.5. (a) Notwithstanding any other section of this
27 chapter, a disciplinary action brought under IC 33-2 or IC 33-2.1
28 against an attorney, a judge, or a justice must be commenced not
29 later than two (2) years after the date the act or omission
30 complained of occurs.**

31 **(b) Notwithstanding any other section of this chapter, a
32 malpractice action brought against an attorney must be
33 commenced not later than two (2) years after the date the act or
34 omission complained of occurs.**

