

Senator Gene Davis proposes the following substitute bill:

JUDICIAL CONDUCT COMMISSION

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: Neal B. Hendrickson

LONG TITLE

General Description:

This bill amends the confidentiality requirements of the Judicial Conduct Commission.

Highlighted Provisions:

This bill:

- allows the Senate Judicial Confirmation Committee to review relevant complaints, papers, testimony, and records of the Judicial Conduct Commission for the purpose of determining a nominee's fitness for judicial office.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-11-112, as enacted by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78A-11-112** is amended to read:



26 **78A-11-112. Confidentiality.**

27 (1) The transmission, production, or disclosure of any complaints, papers, or testimony
28 in the course of proceedings before the commission, the masters appointed under Section
29 78A-11-110, or the Supreme Court may not be introduced in any civil action.

30 (2) The transmission, production, or disclosure of any complaints, papers, or testimony
31 in the course of proceedings before the commission or the masters appointed under Section
32 78A-11-110 may be introduced in any criminal action, consistent with the Utah Rules of
33 Evidence. This information shall be shared with the prosecutor conducting a criminal
34 investigation or prosecution of a judge as provided in Section 78A-11-106.

35 (3) Complaints, papers, testimony, or the record of the commission's confidential
36 hearing may not be disclosed by the commission, masters, or any court until the Supreme Court
37 has entered its final order in accordance with this section, except:

38 (a) upon order of the Supreme Court;

39 (b) upon the request of the judge who is the subject of the complaint;

40 (c) as provided in Subsection (4);

41 (d) to aid in a criminal investigation or prosecution as provided in Section 78A-11-106;

42 or

43 (e) this information is subject to audit by the Office of Legislative Auditor General, and
44 any records released to the Office of Legislative Auditor General shall be maintained as
45 confidential, except:

46 (i) for information that has already been made public; and

47 (ii) the final written and oral audit report of the Legislative Auditor General may
48 present information about the commission as long as it contains no specific information that
49 would easily identify a judge, witness, or complainant.

50 (4) If the Senate Judicial Confirmation Committee requests Judicial Conduct
51 Commission records, the commission shall disclose the information to the Senate Judicial
52 Confirmation Committee or its staff if the chair of the Senate Confirmation Committee certifies
53 in writing that the committee will limit the disclosure of any information received to the
54 minimum amount necessary to allow the Senate to evaluate the candidate's fitness for office.

55 [~~4~~] (5) Upon the dismissal of a complaint or allegation against a judge, the dismissal
56 shall be disclosed without consent of the judge to the person who filed the complaint.

S.B. 271 1st Sub. (Green) - Judicial Conduct Commission Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
