

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 721

Representatives Lightbody, Weinstein

Cosponsors: Representatives Ingram, Russo, Smith, K., Liston, Miranda, Davis

A BILL

To amend sections 102.06 and 102.99 and to enact 1
section 102.10 of the Revised Code to prohibit 2
Ohio Supreme Court justices and statewide 3
executive officers from holding other employment 4
or paid positions. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 102.06 and 102.99 be amended and 6
section 102.10 of the Revised Code be enacted to read as 7
follows: 8

Sec. 102.06. (A) The appropriate ethics commission shall 9
receive and may initiate complaints against persons subject to 10
this chapter concerning conduct alleged to be in violation of 11
this chapter or section 2921.42 or 2921.43 of the Revised Code. 12
All complaints except those by the commission shall be by 13
affidavit made on personal knowledge, subject to the penalties 14
of perjury. Complaints by the commission shall be by affidavit, 15
based upon reasonable cause to believe that a violation has 16
occurred. 17

(B) The appropriate ethics commission shall investigate 18

complaints, may investigate charges presented to it, and may 19
request further information, including the specific amount of 20
income from a source, from any person filing with the commission 21
a statement required by section 102.02 or 102.021 of the Revised 22
Code, if the information sought is directly relevant to a 23
complaint or charges received by the commission pursuant to this 24
section. This information is confidential, except that the 25
commission, in its discretion, may share information gathered in 26
the course of any investigation with, or disclose the 27
information to, the inspector general, any appropriate 28
prosecuting authority, any law enforcement agency, or any other 29
appropriate ethics commission. If the accused person is a member 30
of the public employees retirement board, state teachers 31
retirement board, school employees retirement board, board of 32
trustees of the Ohio police and fire pension fund, or state 33
highway patrol retirement board, or is a member of the bureau of 34
workers' compensation board of directors, the appropriate ethics 35
commission, in its discretion, also may share information 36
gathered in the course of an investigation with, or disclose the 37
information to, the attorney general and the auditor of state. 38
The person so requested shall furnish the information to the 39
commission, unless within fifteen days from the date of the 40
request the person files an action for declaratory judgment 41
challenging the legitimacy of the request in the court of common 42
pleas of the county of the person's residence, the person's 43
place of employment, or Franklin county. The requested 44
information need not be furnished to the commission during the 45
pendency of the judicial proceedings. Proceedings of the 46
commission in connection with the declaratory judgment action 47
shall be kept confidential except as otherwise provided by this 48
section. Before the commission proceeds to take any formal 49
action against a person who is the subject of an investigation 50

based on charges presented to the commission, a complaint shall 51
be filed against the person. If the commission finds that a 52
complaint is not frivolous, and there is reasonable cause to 53
believe that the facts alleged in a complaint constitute a 54
violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 55
102.10, 2921.42, or 2921.43 of the Revised Code, it shall hold a 56
hearing. If the commission does not so find, it shall dismiss 57
the complaint and notify the accused person in writing of the 58
dismissal of the complaint. The commission shall not make a 59
report of its finding unless the accused person requests a 60
report. Upon the request of the accused person, the commission 61
shall make a public report of its finding. The person against 62
whom the complaint is directed shall be given reasonable notice 63
by certified mail of the date, time, and place of the hearing 64
and a statement of the charges and the law directly involved and 65
shall be given the opportunity to be represented by counsel, to 66
have counsel appointed for the person if the person is unable to 67
afford counsel without undue hardship, to examine the evidence 68
against the person, to produce evidence and to call and subpoena 69
witnesses in the person's defense, to confront the person's 70
accusers, and to cross-examine witnesses. The commission shall 71
have a stenographic record made of the hearing. The hearing 72
shall be closed to the public. 73

~~(C) (1) (a)~~ (C) (1) (a) (i) If, upon the basis of the hearing, 74
the appropriate ethics commission finds by a preponderance of 75
the evidence that the facts alleged in the complaint are true 76
and constitute a violation of section 102.02, 102.021, 102.03, 77
102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it 78
shall report its findings to the appropriate prosecuting 79
authority for proceedings in prosecution of the violation and to 80
the appointing or employing authority of the accused. If the 81

accused person is a member of the public employees retirement 82
board, state teachers retirement board, school employees 83
retirement board, board of trustees of the Ohio police and fire 84
pension fund, or state highway patrol retirement board, the 85
commission also shall report its findings to the Ohio retirement 86
study council. 87

~~(b)-(ii)~~ If the Ohio ethics commission reports its 88
findings to the appropriate prosecuting authority under division 89
~~(C)(1)(a)~~ (C)(1)(a)(i) of this section and the prosecuting 90
authority has not initiated any official action on those 91
findings within ninety days after receiving the commission's 92
report of them, the commission may publicly comment that no 93
official action has been taken on its findings, except that the 94
commission shall make no comment in violation of the Rules of 95
Criminal Procedure or about any indictment that has been sealed 96
pursuant to any law or those rules. The commission shall make no 97
comment regarding the merits of its findings. As used in 98
division ~~(C)(1)(b)~~ (C)(1)(a)(ii) of this section, "official 99
action" means prosecution, closure after investigation, or grand 100
jury action resulting in a true bill of indictment or no true 101
bill of indictment. 102

(b) If, upon the basis of the hearing, the appropriate 103
ethics commission finds by a preponderance of the evidence that 104
the facts alleged in the complaint are true and constitute a 105
violation of section 102.10 of the Revised Code, it shall notify 106
the accused person of its finding. The accused person's office 107
is vacant when the accused person receives the notification. If 108
the appropriate ethics commission has made a reasonable effort 109
to notify the accused person and the accused person refuses to 110
receive the notification or otherwise fails to receive the 111
notification, the office is vacant seven days after the 112

appropriate ethics commission makes its finding. 113

(2) If the appropriate ethics commission does not find by 114
a preponderance of the evidence that the facts alleged in the 115
complaint are true and constitute a violation of section 102.02, 116
102.021, 102.03, 102.04, 102.07, 102.10, 2921.42, or 2921.43 of 117
the Revised Code or if the commission has not scheduled a 118
hearing within ninety days after the complaint is filed or has 119
not finally disposed of the complaint within six months after it 120
has been heard, it shall dismiss the complaint and notify the 121
accused person in writing of the dismissal of the complaint. The 122
commission shall not make a report of its finding unless the 123
accused person requests a report. Upon the request of the 124
accused person, the commission shall make a public report of the 125
finding, but in this case all evidence and the record of the 126
hearing shall remain confidential unless the accused person also 127
requests that the evidence and record be made public. Upon 128
request by the accused person, the commission shall make the 129
evidence and the record available for public inspection. 130

(D) The appropriate ethics commission, or a member of the 131
commission, may administer oaths, and the commission may issue 132
subpoenas to any person in the state compelling the attendance 133
of witnesses and the production of relevant papers, books, 134
accounts, and records. The commission shall issue subpoenas to 135
compel the attendance of witnesses and the production of 136
documents upon the request of an accused person. Section 101.42 137
of the Revised Code shall govern the issuance of these subpoenas 138
insofar as applicable. Upon the refusal of any person to obey a 139
subpoena or to be sworn or to answer as a witness, the 140
commission may apply to the court of common pleas of Franklin 141
county under section 2705.03 of the Revised Code. The court 142
shall hold proceedings in accordance with Chapter 2705. of the 143

Revised Code. The commission or the accused person may take the 144
depositions of witnesses residing within or without the state in 145
the same manner as prescribed by law for the taking of 146
depositions in civil actions in the court of common pleas. 147

(E) At least once each year, the Ohio ethics commission 148
shall report on its activities of the immediately preceding year 149
to the majority and minority leaders of the senate and house of 150
representatives of the general assembly. The report shall 151
indicate the total number of complaints received, initiated, and 152
investigated by the commission, the total number of complaints 153
for which formal hearings were held, and the total number of 154
complaints for which formal prosecution was recommended or 155
requested by the commission. The report also shall indicate the 156
nature of the inappropriate conduct alleged in each complaint 157
and the governmental entity with which any employee or official 158
that is the subject of a complaint was employed at the time of 159
the alleged inappropriate conduct. 160

(F) All papers, records, affidavits, and documents upon 161
any complaint, inquiry, or investigation relating to the 162
proceedings of the appropriate ethics commission shall be sealed 163
and are private and confidential, except as otherwise provided 164
in this section and section 102.07 of the Revised Code. 165

(G) (1) When a complaint or charge is before it, the Ohio 166
ethics commission or the appropriate prosecuting authority, in 167
consultation with the person filing the complaint or charge, the 168
accused, and any other person the commission or prosecuting 169
authority considers necessary, may compromise or settle the 170
complaint or charge with the agreement of the accused. The 171
compromise or settlement may include mediation, restitution, 172
rescission of affected contracts, forfeiture of any benefits 173

resulting from a violation or potential violation of law, 174
resignation of a public official or employee, or any other 175
relief that is agreed upon between the commission or prosecuting 176
authority and the accused. 177

(2) Any settlement agreement entered into under division 178
(G) (1) of this section shall be in writing and be accompanied by 179
a statement of the findings of the commission or prosecuting 180
authority and the reasons for entering into the agreement. The 181
commission or prosecuting authority shall retain the agreement 182
and statement in the commission's or prosecuting authority's 183
office and, in the commission's or prosecuting authority's 184
discretion, may make the agreement, the statement, and any 185
supporting information public, unless the agreement provides 186
otherwise. 187

(3) If a settlement agreement is breached by the accused, 188
the commission or prosecuting authority, in the commission's or 189
prosecuting authority's discretion, may rescind the agreement 190
and reinstitute any investigation, hearing, or prosecution of 191
the accused. No information obtained from the accused in 192
reaching the settlement that is not otherwise discoverable from 193
the accused shall be used in any proceeding before the 194
commission or by the appropriate prosecuting authority in 195
prosecuting the violation. Notwithstanding any other section of 196
the Revised Code, if a settlement agreement is breached, any 197
statute of limitations for a violation of this chapter or 198
section 2921.42 or 2921.43 of the Revised Code is tolled from 199
the date the complaint or charge is filed until the date the 200
settlement agreement is breached. 201

Sec. 102.10. The governor, lieutenant governor, attorney 202
general, auditor of state, treasurer of state, secretary of 203

state, or a justice of the supreme court shall not hold private 204
employment, perform private work, or serve in any private 205
position, for which the person receives compensation or other 206
payment. This section does not apply to compensation or other 207
payment received as a member of the armed forces as defined in 208
section 5903.01 of the Revised Code. 209

Sec. 102.99. (A) Whoever violates division (C) of section 210
102.02 or division (C) of section 102.031 of the Revised Code is 211
guilty of a misdemeanor of the fourth degree. 212

(B) Whoever violates division (D) of section 102.02 or 213
section 102.021, 102.03, 102.04, or 102.07 of the Revised Code 214
is guilty of a misdemeanor of the first degree. 215

(C) Whoever violates section 102.10 of the Revised Code 216
forfeits the individual's office. 217

Section 2. That existing sections 102.06 and 102.99 of the 218
Revised Code are hereby repealed. 219