



2019 ASSEMBLY BILL 404

September 5, 2019 - Introduced by Representatives HEBL, ANDERSON, EMERSON, KOLSTE, OHNSTAD, POPE, SINICKI, SPREITZER, SUBECK, C. TAYLOR, VRUWINK and BROSTOFF, cosponsored by Senator RINGHAND. Referred to Committee on Judiciary.

1 **AN ACT** *to renumber and amend* 757.91; and *to create* 757.91 (2) of the
2 statutes; **relating to:** equally divided determinations of the Wisconsin
3 Supreme Court on matters of judicial discipline or permanent disability.

Analysis by the Legislative Reference Bureau

This bill provides that, in cases where the Wisconsin Supreme Court is equally divided on a matter of judicial discipline or permanent disability, the findings of fact, conclusions of law, and recommendations of the panel of judges that heard the matter are binding on the disciplined or disabled judge or court commissioner. The bill also clarifies that, in those cases of discipline or permanent disability that are heard by a jury, the supreme court must review the jury verdict and recommendations of the presiding judge. If the supreme court is equally divided on the question of appropriate discipline or action in a case heard by a jury, the jury verdict and recommendations of the presiding judge are binding on the disciplined or disabled judge or court commissioner.

Under current law, the Judicial Commission must investigate any possible misconduct or permanent disability of a judge or circuit or supplemental court commissioner. If, after the investigation, the commission finds probable cause that the judge or court commissioner has engaged in misconduct or has a permanent disability, the commission must file a petition with the supreme court and prosecute the case against the judge or court commissioner. The case is heard either by a panel of judges or, when requested by the commission, by a jury. Also under current law, the supreme court must review the findings of fact, conclusions of law, and

