



2021 ASSEMBLY BILL 353

May 27, 2021 - Introduced by Representatives HEBL, ANDERSON, BALDEH, CONLEY, EMERSON, NEUBAUER, POPE, S. RODRIGUEZ, SPREITZER, STUBBS and SUBECK, cosponsored by Senators RINGHAND, ROYS, ERPENBACH and JOHNSON. 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

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recommendations made by the panel of judges and determine appropriate discipline of the judge or court commissioner in cases of misconduct and appropriate action in cases of permanent disability.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 757.91 of the statutes is renumbered 757.91 (1) and amended to
2 read:

3 757.91 (1) The supreme court shall review the findings of fact, conclusions of
4 law, and recommendations made under s. 757.89 by the panel of judges selected
5 under s. 757.87 (3), or the jury verdict and the recommendations of the presiding
6 judge given under s. 757.89 when a jury hearing is requested under s. 757.87 (1), and
7 determine appropriate discipline in cases of misconduct and appropriate action in
8 cases of permanent disability. The rules of the supreme court applicable to civil cases
9 in the supreme court govern the review proceedings under this section.

10 **SECTION 2.** 757.91 (2) of the statutes is created to read:

11 757.91 (2) If any determination by the supreme court under this section is
12 equally divided on the question of appropriate discipline or action, the following
13 apply:

14 (a) In a case heard by a panel of judges selected under s. 757.87 (3), the findings
15 of fact, conclusions of law, and recommendations of the panel are binding on the judge
16 or circuit or supplemental court commissioner.

17 (b) In a case heard when a jury hearing is requested under s. 757.87 (1), the jury
18 verdict and recommendations of the presiding judge are binding on the judge or
19 circuit or supplemental court commissioner.

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(END)