

# State of Misconsin 2011 - 2012 LEGISLATURE



### 2011 ASSEMBLY BILL 683

March 8, 2012 – Introduced by Representatives Hebl, Jorgensen, Roys, C. Taylor, Berceau, Turner, Pasch, Richards, Bewley, Pope-Roberts and Kessler, cosponsored by Senators S. Coggs and C. Larson. Referred to Committee on Judiciary and Ethics.

AN ACT to amend 757.91 of the statutes; relating to: equally divided determinations of the Wisconsin Supreme Court on matters of judicial discipline or permanent disability.

#### Analysis by the Legislative Reference Bureau

Under current law, the Judicial Commission (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 Wisconsin Supreme Court (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, a jury. Also under current law, the supreme court must review the findings of fact, conclusions of law, and 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.

This bill provides that, in cases where the supreme court is equally divided on the question of appropriate discipline or action, the findings of fact, conclusions of law, and recommendations of the panel of judges 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

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heard by a jury, the jury verdict and recommendations of the presiding judge are binding on the disciplined or disabled judge or court commissioner.

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

**Section 1.** 757.91 of the statutes is amended to read:

757.91 Supreme court; disposition. The supreme court shall review the findings of fact, conclusions of law, and recommendations made under s. 757.89 by the panel of judges selected under s. 757.87 (3), or the jury verdict and the recommendations of the presiding judge given under s. 757.89 when a jury hearing is requested under s. 757.87 (1), and determine appropriate discipline in cases of misconduct and appropriate action in cases of permanent disability. The rules of the supreme court applicable to civil cases in the supreme court govern the review proceedings under this section. If any determination by the supreme court under this section is equally divided on the question of appropriate discipline or action, the findings of fact, conclusions of law, and recommendations of the panel, if a panel hearing is held under s. 757.89, or the jury verdict and recommendations of the presiding judge, if a jury hearing is held under s. 757.89, are binding on the judge or circuit or supplemental court commissioner.

15 (END)