

Assembly Bill No. 1414

CHAPTER 88

An act to amend Sections 6086.15, 6093.5, and 6095 of, and to repeal, add, and repeal Section 6086.11 of, the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor July 5, 1995. Filed with
Secretary of State July 6, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1414, W. Brown. State Bar of California: discipline.

Existing law provides for a complainants' grievance panel within the State Bar to monitor complaints and disciplinary proceedings against attorneys. The panel consists of 3 members of the State Bar and 4 public members who have never been members of the State Bar or admitted to practice before any court in the United States.

This bill would repeal these provisions and instead provide for a discipline audit panel within the State Bar, consisting of 3 members of the State Bar and 4 public members who have never been members of the State Bar or admitted to practice before any court in the United States. The panel would conduct specified audits relating to the processing of complaints against attorneys by the State Bar. These provisions would be repealed on January 1, 2000, unless extended.

Existing law provides for a disciplinary agency charged with the discipline of attorneys for professional misconduct. Among other things, the agency is required to notify complainants of the disposition of each matter brought to its attention, and to advise complainants of any appropriate procedures and applicable time limitations if the complainant is dissatisfied with the disposition of the complaint.

This bill would delete the requirement for the complainant to be notified of the procedures and time limitations.

The bill would make other clarifying changes.

The people of the State of California do enact as follows:

SECTION 1. Section 6086.11 of the Business and Professions Code is repealed.

SEC. 2. Section 6086.11 is added to the Business and Professions Code, to read:

6086.11. (a) The board of governors shall establish a panel known as the discipline audit panel. The panel shall exercise the following powers:



(1) Conduct one random audit annually of closures of complaints in lieu of disciplinary prosecution by the chief trial counsel. This includes the imposition of admonitions, the issuance of warning letters and directional letters, and agreements in lieu of discipline.

(2) Conduct one annual audit concerning specified subject matter areas selected by the discipline audit panel.

(3) The scope of the audit shall be to evaluate whether or not the office of the chief trial counsel is:

(A) Adopting adequate internal policies, procedures, and guidelines and adhering to them.

(B) Adhering to the Statement of Commitments to Complainants.

(C) Acting in a consistent manner with respect to filing decisions and the imposition of informal discipline and with respect to diversion programs.

(D) Appropriately utilizing internal procedures and processes concerning complainant dissatisfaction.

(E) Responding to discipline committee directions, if any, concerning prior complainants' grievance panel and discipline audit panel recommendations.

(4) The office of the chief trial counsel shall provide to the discipline audit panel access to all current and updated policies, procedures, and standards in addition to all materials relevant to the audit, including computer data, reports, and complete files.

(b) The discipline audit panel shall consist of seven members. The panel shall elect one of its members to be chair of the discipline audit panel to preside over its deliberations.

(1) Four members of the panel shall be public members who have never been members of the State Bar or admitted to practice before any court in the United States. The Governor shall appoint two nonattorney members who shall each serve for a term of four years. The Senate Committee on Rules shall appoint one nonattorney member who shall serve for a term of four years. The Speaker of the Assembly shall appoint one nonattorney member who shall serve for a term of four years.

(2) The board of governors shall appoint three members who shall be members of the State Bar and who shall each serve for a term of four years. One attorney member first appointed shall serve for two years, one for three years, and one for four years, as determined by lot.

(3) Each respective appointing authority shall fill any vacancy in and make any reappointment to each respective office.

(4) Members serving on the predecessor complainants' grievance panel on December 31, 1995, shall constitute members of the discipline audit panel for a period consistent with their initial appointment to the complainants' grievance panel.

(c) The discipline audit panel shall provide a written report annually to the discipline committee of the Board of Governors of the



State Bar as to its findings and recommendations concerning the two audits identified in paragraphs (1) and (2) of subdivision (a).

(1) The report shall include, but not be limited to, evaluation of the ongoing reduction of any outstanding complaint inventories; the speed of the system; the accuracy of the initial and subsequent decision on complaints; the overall efficiency of the system; the fairness and courtesy given to complainants and members of the State Bar; the consistency and application of sanctions or discipline imposed; the implementation of laws and rules affecting discipline; the effectiveness of the alternatives to discipline programs directed to ensuring honesty and competence of attorneys or preventing acts warranting discipline.

(2) Within 60 days of the discipline audit panel rendering a written report to the discipline committee of the Board of Governors of the State Bar, the office of the chief trial counsel shall provide a written response to that report to each of the findings, recommendations, and conclusions set forth in that report. Upon receipt and evaluation of both the discipline audit panel report and the office of the chief trial counsel response, the discipline committee shall direct the office of the chief trial counsel to take whatever action, if any, the committee deems appropriate. Copies of the discipline audit panel report, the office of the chief trial counsel response, and the discipline committee direction, if any, shall be provided to the Governor, to the Senate Rules Committee, to the Senate and Assembly Judiciary Committees, and to the Chief Justice of California.

(d) The public members of the discipline audit panel shall be entitled to receive per diem at the same daily rate specified in Section 11564.5 of the Government Code for each day actually spent in the discharge of their official duties.

(e) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

SEC. 3. Section 6086.15 of the Business and Professions Code is amended to read:

6086.15. (a) The State Bar shall issue an Annual Discipline Report by April 30 of each year describing the performance and condition of the State Bar discipline system. The report shall cover the previous calendar year and shall include accurate and complete descriptions of all of the following:

- (1) The existing backlog of cases within the discipline system.
- (2) The number of inquiries and complaints and their disposition.
- (3) The number and types of matters self-reported by members of the State Bar pursuant to subdivision (o) of Section 6068 and subdivision (c) of Section 6086.8.
- (4) The number and types of matters reported by other sources pursuant to Sections 6086.7 and 6086.8.



(5) The speed of complaint handling and dispositions by type.

(6) The number and types of filed notices to show cause and formal disciplinary outcomes.

(7) The number and types of informal discipline outcomes, including petitions to terminate practice, interim suspensions and license restrictions, criminal conviction monitoring, letters of warning, private reprovos, admonitions, and agreements in lieu of discipline.

(8) A description of the programs of the State Bar directed at assuring honesty and competence by attorneys.

(9) A description of the programs of the State Bar directed at preventing acts warranting discipline.

(10) A description of the condition of the Client Security Fund, including an accounting of payouts.

(11) An accounting of the cost of the discipline system by function.

(b) The Annual Discipline Report shall include statistical information presented in a consistent manner for year-to-year comparison and shall compare the information required under subdivision (a) to similar information for the previous three years. The report shall include the general data and tables included in the previous reports of the State Bar Discipline Monitor where feasible.

(c) The Annual Discipline Report shall be presented to the Chief Justice of California, to the Governor, to the Speaker of the Assembly, and the President pro Tempore of the Senate for their consideration and shall be considered a public document.

SEC. 4. Section 6093.5 of the Business and Professions Code is amended to read:

6093.5. Upon request, the disciplinary agency shall notify a complainant of the status of his or her complaint and shall provide him or her with a written summary of any response by the attorney to his or her complaint if the response was the basis for dismissal of the complaint. A complainant shall be notified in writing of the disposition of his or her complaint, and of the reasons for the disposition.

Receipt of a written complaint shall be acknowledged by the disciplinary agency within two weeks of its receipt.

A complainant may also designate another person as his or her agent to receive copies of the information to which he or she is entitled pursuant to this section. This is in addition to any designation by a complainant of one of his or her elected representatives to receive the information.

SEC. 5. Section 6095 of the Business and Professions Code is amended to read:

6095. (a) The disciplinary agency shall annually hold at least two public hearings, one in southern California and one in northern California, to hear proposals on bar disciplinary procedures, attorney competency, and admissions procedures.



(b) To the extent the information is known to the disciplinary agency, it shall report annually to the Assembly and Senate Judiciary Committees concerning the judicial or disciplinary disposition of all criminal or disciplinary proceedings involving the allegation of the commission of a felony by an attorney.

(c) Undertake a study of the coverage of the Client Security Fund with a goal of expanding its coverage, and report to the Legislature, and the Chairpersons of the Assembly and Senate Judiciary Committees by June 1, 1988.

