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Measure to make JQC complaints public defeated

By Amy K. Brown

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A bill to make complaints against judges public was defeated in the House Judicial Oversight Committee in February, although the committee agreed to reconsider the bill, and an amendment, at a later meeting.

Legislators voting against the measure — which would have made public the pre-probable cause portion of Judicial Qualifications Commission proceedings — said they were wary of passing any legislation that could result in decreased public confidence in the judiciary.

But Committee Chair Larry Crow, who initially proposed PCB JO 02-05, said that wasn't the point.

"The [recent House judicial] impeachment proceedings were a very telling avenue about the courts and judicial discipline," said Crow, R-Dunedin, adding that, despite 20 years as a lawyer, it wasn't until he led the impeachment proceedings that he fully understood the JQC process.

This bill, Crow said, "very simply takes away the veil of secrecy from the JQC."

But some questioned whether the veil needed to be lifted

"Why are we going through this exercise?" asked Rep. Jack Seiler, D-Ft. Lauderdale. "I see a system that is not broken. I've not had a constituent in my district complain."

Several committee members also argued the bill would have a "chilling effect" on the people seeking to file a complaint against a judge.

Rep. Chris Smith, D-Ft. Lauderdale, described a scenario in which an attorney witnesses a judge's wrongdoing and reports it to the JQC, but then faces retribution from others in the courthouse.

"This would have a chilling effect on those making the accusations," he said.

JQC Chair and First DCA Judge Jim Wolf told the committee that, of the nearly 500 complaints filed with the JQC each year, about 450 are frivolous. Half of the total complaints are filed by incarcerated people, he said, and many more are filed as a result of an adverse ruling.

And the majority of the 50 or so valid complaints are from lawyers and other judges who, through the confidential nature of the current system, can even testify against a judge without divulging that they were the source of the complaint, he said.

By removing that confidentiality, Wolf said, the committee would be removing the JQC's main source of information about judges' wrongdoings and a powerful bargaining tool.

Keeping records confidential is “the carrot to get these people off the bench,” Wolf said. “The harmful effect this would have on the system outweighs any benefit.”

Eighth Circuit Chief Judge Stan Morris, of the Florida Conference of Circuit Court Judges, and Palm Beach County Judge Jeffrey Colbath, president of the Florida Conference of County Court Judges, both spoke out against the bill.

Colbath told the committee that every other state in the nation maintains a level of confidentiality similar to Florida's current rules.

“We would be the Lone Ranger,” he said.

Morris told legislators the idea of probable cause protection in Florida is not unique to the JQC. Even legislative disciplinary proceedings are kept confidential in the pre-probable cause stage, he said, along with those of the Ethics Commission and the Department of Business and Professional Regulation, and whistleblowers are afforded similar protections.

Crow concluded the discussion by saying the committee, as the “entity of last resort,” will likely become involved in more judicial impeachments.

“We’re going to end up with a standing select committee on impeachment,” he said.

After the bill was voted down, the committee agreed to reconsider the measure and left it pending. The committee was scheduled to hear the bill again at its February 21 meeting — after this *News* went to press — and an amendment that would open all JQC records after a finding of no probable cause.

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