

SENATE BILL NO. 313

INTRODUCED BY K. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE JUDICIAL STANDARDS COMMISSION; REMOVING CERTAIN CONFIDENTIALITY PROVISIONS CONCERNING THE PROCEDURES OF THE JUDICIAL STANDARDS COMMISSION; AMENDING SECTIONS 3-1-1105, 3-1-1106, 3-1-1121, 3-1-1123, 3-1-1124, AND 3-1-1126, MCA; AND REPEALING SECTION 3-1-1122, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-1-1105, MCA, is amended to read:

"3-1-1105. Confidential proceedings -- rules for commission. (1) Except as provided in 3-1-1107 and 3-1-1121 through 3-1-1126, all papers filed with and proceedings before the commission or masters are confidential and the filing of papers with and the testimony given before the commission or masters is privileged communication.

(2) The commission shall make rules for the conduct of its affairs and the enforcement of confidentiality and provide public disclosure when appropriate consistent with this part.

~~(3) A complainant is not required to keep their complaint confidential."~~

Section 2. Section 3-1-1106, MCA, is amended to read:

"3-1-1106. Investigation of judicial officers -- complaint -- hearing -- recommendations. (1) (a) The commission, upon the filing of a written complaint by any citizen of the state, ~~may~~ shall initiate an investigation of any judicial officer in the state to determine if there are grounds for conducting additional proceedings before the commission. If the commission's investigation indicates that additional proceedings before the commission may be justified, the commission shall require the citizen who filed the original written complaint to sign a verified written complaint by affidavit before conducting additional proceedings.

(b) The commission shall give the judicial officer written notice of the citizen's complaint and of the initiation of an investigation. Notice must also be given if a verified written complaint by affidavit is filed and

1 must include the charges made, the grounds for the charges, and a statement that the judicial officer may file
2 an answer. The notice must be signed by the commission.

3 (2) The commission, after an investigation that it considers necessary and ~~upon~~on a finding of
4 good cause, ~~may~~ shall:

5 (a) order a hearing to be held before it concerning the censure, suspension, removal, or retirement
6 of a judicial officer;

7 (b) ~~confidentially~~publicly advise the judicial officer and the supreme court, in writing, that the
8 complaint will be dismissed if the judicial officer files with the commission a letter stating that the officer will take
9 corrective action satisfactory to the commission; or

10 (c) request that the supreme court appoint one or more special masters who are judges of courts
11 of record to hear and take evidence and to report to the commission.

12 (3) If after a hearing or after considering the record and the report of the masters the commission
13 finds the charges true, it shall publicly recommend to the supreme court the censure, suspension, removal, or
14 disability retirement of the judicial officer."

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16 **Section 3.** Section 3-1-1121, MCA, is amended to read:

17 **"3-1-1121. Public disclosure required.** (1) If the commission finds good cause to order a hearing
18 pursuant to 3-1-1106(2), the commission must allow public access to:

19 ~~(1)(a)~~ all papers pertaining to each finding of good cause, including charges that are later determined
20 not to be grounds for recommending retirement or disciplinary action to the supreme court;

21 ~~(2)(b)~~ the proceedings in which the commission or masters hear the charges against a judge; and

22 ~~(3)(c)~~ all transcripts or recordings of proceedings before the commission or masters pertaining to the
23 matters described in subsections ~~(1)~~ (1)(a) and ~~(2)~~ (1)(b).

24 (2) A complaint must be made public on request by a member of the public ~~5~~ 12 years after
25 dismissal."

26
27 **Section 4.** Section 3-1-1123, MCA, is amended to read:

28 **"3-1-1123. Public statements by commission.** In any case in which the subject matter becomes