

## 1 SENATE BILL NO. 158

2 INTRODUCED BY D. EMRICH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE JUDICIAL STANDARDS COMMISSION TO  
5 SEND ANY REPORTS AND EVIDENCE FROM AN INVESTIGATION OF A JUDICIAL OFFICER TO THE  
6 HOUSE OF REPRESENTATIVES; LIMITING WHEN THE REPORTS AND EVIDENCE MAY BE MADE  
7 PUBLIC BY THE HOUSE OF REPRESENTATIVES; AND AMENDING SECTIONS 3-1-1105 AND 3-1-1106,  
8 MCA."

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

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

13 **"3-1-1105. Confidential proceedings -- rules for commission.** (1) Except as provided in 3-1-1106,  
14 3-1-1107, and 3-1-1121 through 3-1-1126, all papers filed with and proceedings before the commission or  
15 masters are confidential and the filing of papers with and the testimony given before the commission or masters  
16 is privileged communication.

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

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

21 **"3-1-1106. Investigation of judicial officers -- complaint -- hearing -- recommendations.** (1) (a)  
22 The commission, upon the filing of a written complaint by any citizen of the state, shall initiate an investigation  
23 of any judicial officer in the state to determine if there are grounds for conducting additional proceedings before  
24 the commission. If the commission's investigation indicates that additional proceedings before the commission  
25 may be justified, the commission shall require the citizen who filed the original written complaint to sign a  
26 verified written complaint by affidavit before conducting additional proceedings.

27 (b) The commission shall give the judicial officer written notice of the citizen's complaint and of the  
28 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 on a finding of good  
4 cause, 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) publicly advise the judicial officer and the supreme court, in writing, that the complaint will be  
8 dismissed if the judicial officer files with the commission a letter stating that the officer will take corrective action  
9 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) The commission shall provide the house of representatives with a report of an investigation  
13 initiated pursuant to subsection (1)(a). The report must include any evidence found in the course of the  
14 investigation.

15 ~~(3)(4)~~ If after a hearing or after considering the record and the report of the masters the commission  
16 finds the charges true, it shall publicly recommend to the supreme court and the house of representatives the  
17 censure, suspension, removal, or disability retirement of the judicial officer. The report must include any  
18 evidence found in the course of the investigation.

19 (5) The speaker of the house, a member of the house of representatives, or a staff member of the  
20 house of representatives may release to the public a report received as required in subsection (3) or (4) only if  
21 the report is used in impeachment proceedings."

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