

Senate Bill 369

In The Senate

February 5, 1981

Introduced and referred  
to Committee on Judiciary.

February 18, 1981

Committee recommend bill  
do not pass.

*Senate* BILL NO. 369

1 INTRODUCED BY Decher

2  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING  
5 CONSTITUTIONAL AMENDMENT NO. 9, WHICH AUTHORIZES THE  
6 LEGISLATURE TO ESTABLISH EXCEPTIONS TO THE CONFIDENTIALITY  
7 OF PROCEEDINGS BEFORE THE JUDICIAL STANDARDS COMMISSION;  
8 AMENDING SECTIONS 3-1-1105 AND 3-1-1106, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 3-1-1105, MCA, is amended to read:  
12  
13 "3-1-1105. Confidential proceedings -- rules for  
14 commission. (1) ~~Att Until there has been a determination of~~  
15 ~~good cause and formal charges have been filed, all papers~~  
16 ~~filed with and proceedings before the commission or masters~~  
17 ~~are confidential.~~  
18  
19 (2) ~~the and the filing of papers with and the~~  
20 ~~testimony given before the commission or masters is~~  
21 ~~privileged communication.~~  
22  
23 (2) ~~The judge may waive his right to confidentiality~~  
24 ~~as to those matters wherein good cause is found to exist. A~~  
25 ~~waiver prior to a finding of good cause may be allowed only~~  
26 ~~by unanimous consent of the commission.~~  
27  
28 (3) ~~In any case in which the subject matter becomes~~  
29 ~~public, through independent sources or through a waiver by~~

1 the judge against whom the complaint was filed, the  
2 commission may issue statements as it considers appropriate  
3 in order to:  
4 (a) confirm the pending of the investigation;  
5 (b) clarify the procedural aspects of the disciplinary  
6 proceedings;  
7 (c) explain the right of the judge to a fair hearing  
8 without prejudgment;  
9 (d) state that the judge denies the allegations; or  
10 (e) declare that there is insufficient evidence for a  
11 finding of good cause.  
12 (3) The commission shall make rules for the conduct  
13 of its affairs and provide for the confidentiality of its  
14 proceedings consistent with this section."  
15  
16 Section 2. Section 3-1-1106, MCA, is amended to read:  
17  
18 "3-1-1106. Investigation of judicial officers --  
19 hearing -- recommendations. (1) The commission or any  
20 citizen of the state may, upon good cause shown, initiate an  
21 investigation of any judicial officer in the state by filing  
22 a verified written complaint with the commission.  
23 (2) The commission, after such investigation as it  
24 considers necessary and upon the finding of good cause, may:  
25 (a) order a hearing to be held before it concerning  
the censure, suspension, removal, or retirement of a  
judicial officer; or

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1        (b) request the supreme court to appoint one or more  
2 special masters who are judges of courts of record to hear  
3 and take evidence and to report to the commission.

4        (3) If after hearing or after considering the record  
5 and report of the masters the commission finds the charges  
6 true, it shall recommend to the supreme court the censure,  
7 suspension, removal, or retirement of the judicial officer.

8        (4) A hearing ordered under this section is open to  
9 the public."

-End-