

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.

1 Senate BILL NO. 369
 2 INTRODUCED BY O'Chen

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 "3-1-1105. Confidential proceedings -- rules for
 13 commission. (1) ~~Until there has been a determination of~~
 14 ~~good cause and formal charges have been filed, all papers~~
 15 filed with and proceedings before the commission or masters
 16 are confidential.

17 ~~(2)--The and the filing of papers with and the~~
 18 ~~testimony given before the commission or masters is~~
 19 ~~privileged communication.~~

20 ~~(2) The judge may waive his right to confidentiality~~
 21 ~~as to those matters wherein good cause is found to exist. A~~
 22 ~~waiver prior to a finding of good cause may be allowed only~~
 23 ~~by unanimous consent of the commission.~~

24 ~~(3) In any case in which the subject matter becomes~~
 25 ~~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 prejudice;~~
- 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)(4) 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 Section 2. Section 3-1-1106, MCA, is amended to read:

16 "3-1-1106. Investigation of judicial officers --
 17 hearing -- recommendations. (1) The commission or any
 18 citizen of the state may, upon good cause shown, initiate an
 19 investigation of any judicial officer in the state by filing
 20 a verified written complaint with the commission.

21 (2) The commission, after such investigation as it
 22 considers necessary and upon the finding of good cause, may:

- 23 (a) order a hearing to be held before it concerning
- 24 the censure, suspension, removal, or retirement of a
- 25 judicial officer; or

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-