

1 SENATE JOINT RESOLUTION 3

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

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10 A JOINT RESOLUTION

11 PROPOSING AN AMENDMENT TO ARTICLE 6, SECTION 32 OF THE
12 CONSTITUTION OF NEW MEXICO TO END CONFIDENTIALITY IN JUDICIAL
13 MISCONDUCT PROCEEDINGS WHEN THE JUDICIAL STANDARDS COMMISSION
14 ORDERS A HEARING.

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16 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. It is proposed to amend Article 6, Section 32
18 of the constitution of New Mexico to read:

19 "There is created the "judicial standards commission",
20 consisting of two justices or judges, one magistrate and two
21 lawyers selected as may be provided by law to serve for terms
22 of four years, and six citizens, none of whom is a justice,
23 judge or magistrate of any court or licensed to practice law in
24 this state, who shall be appointed by the governor for
25 five-year staggered terms as may be provided by law. If a

.187916.1

underscoring material = new
[bracketed material] = delete

1 position on the commission becomes vacant for any reason, the
2 successor shall be selected by the original appointing
3 authority in the same manner as the original appointment was
4 made and shall serve for the remainder of the term vacated. No
5 act of the commission is valid unless concurred in by a
6 majority of its members. The commission shall select one of
7 the members appointed by the governor to serve as [~~chairman~~
8 chair].

9 In accordance with this section, any justice, judge or
10 magistrate of any court may be disciplined or removed for
11 willful misconduct in office, persistent failure or inability
12 to perform a judge's duties, or habitual intemperance, or [~~he~~
13 may be retired for disability seriously interfering with the
14 performance of [~~his~~] the justice's, judge's or magistrate's
15 duties that is, or is likely to become, of a permanent
16 character. The commission may, after investigation it deems
17 necessary, order a hearing to be held before it concerning the
18 discipline, removal or retirement of a justice, judge or
19 magistrate, or the commission may appoint three masters who are
20 justices or judges of courts of record to hear and take
21 evidence in the matter and to report their findings to the
22 commission. After hearing or after considering the record and
23 the findings and report of the masters, if the commission finds
24 good cause, it shall recommend to the supreme court the
25 discipline, removal or retirement of the justice, judge or

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underscored material = new
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1 magistrate.

2 The supreme court shall review the record of the
3 proceedings on the law and facts and may permit the
4 introduction of additional evidence, and it shall order the
5 discipline, removal or retirement as it finds just and proper
6 or wholly reject the recommendation. Upon an order for [~~his~~]
7 retirement, any justice, judge or magistrate participating in a
8 statutory retirement program shall be retired with the same
9 rights as if [~~he~~] the justice, judge or magistrate had retired
10 pursuant to the retirement program. Upon an order for removal,
11 the justice, judge or magistrate shall thereby be removed from
12 office, and [~~his~~] the justice's, judge's or magistrate's
13 salary shall cease from the date of the order.

14 All papers filed with the commission or its masters, and
15 proceedings before the commission or its masters, are
16 confidential until such time as the commission orders a hearing
17 to be held before it concerning the discipline, removal or
18 retirement of a justice, judge or magistrate, or until the
19 commission appoints masters to hear and take evidence in a
20 matter. The filing of papers and giving of testimony before
21 the commission or its masters is privileged in any action for
22 defamation [~~except that the record filed by the commission in~~
23 ~~the supreme court continues privileged but, upon its filing,~~
24 ~~loses its confidential character~~], and a writing [~~which~~] that
25 was privileged prior to its filing with the commission or its

underscoring material = new
~~[bracketed material] = delete~~

1 masters does not lose its privilege by the filing. The
2 commission shall promulgate regulations establishing procedures
3 for hearings under this section. No justice, ~~[or]~~ judge or
4 magistrate who is a member of the commission or supreme court
5 shall participate in any proceeding involving ~~[his]~~ the
6 justice's, judge's or magistrate's own discipline, removal or
7 retirement.

8 This section is alternative to, and cumulative with, the
9 removal of justices, judges and magistrates by impeachment and
10 the original superintending control of the supreme court."

11 SECTION 2. The amendment proposed by this resolution
12 shall be submitted to the people for their approval or
13 rejection at the next general election or at any special
14 election prior to that date that may be called for that
15 purpose.