
SUBSTITUTE SENATE JOINT RESOLUTION 8212

State of Washington 61st Legislature 2009 Regular Session

By Senate Judiciary (originally sponsored by Senators Honeyford and Kline)

READ FIRST TIME 02/24/09.

1 BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
2 STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

3 THAT, At the next general election to be held in this state the
4 secretary of state shall submit to the qualified voters of the state
5 for their approval and ratification, or rejection, an amendment to
6 Article IV, section 31 of the Constitution of the state of Washington
7 to read as follows:

8 Article IV, section 31. (1) There shall be a commission on
9 judicial conduct, existing as an independent agency of the judicial
10 branch, and consisting of a judge selected by and from the court of
11 appeals judges, ((a)) two judges selected by and from the superior
12 court judges, a judge selected by and from the limited jurisdiction
13 court judges, ((two)) three persons admitted to the practice of law in
14 this state selected by the state bar association, and ((six)) seven
15 persons who are not attorneys appointed by the governor.

16 (2) Whenever the commission receives a complaint against a judge or
17 justice, or otherwise has reason to believe that a judge or justice
18 should be admonished, reprimanded, censured, suspended, removed, or
19 retired, the commission shall first investigate the complaint or belief

1 and then conduct initial proceedings for the purpose of determining
2 whether probable cause exists for conducting a public hearing or
3 hearings to deal with the complaint or belief. The investigation and
4 initial proceedings shall be confidential. Upon beginning an initial
5 proceeding, the commission shall notify the judge or justice of the
6 existence of and basis for the initial proceeding.

7 (3) Whenever the commission concludes, based on an initial
8 proceeding, that there is probable cause to believe that a judge or
9 justice has violated a rule of judicial conduct or that the judge or
10 justice suffers from a disability which is permanent or likely to
11 become permanent and which seriously interferes with the performance of
12 judicial duties, the commission shall conduct a public hearing or
13 hearings and shall make public all those records of the initial
14 proceeding that provide the basis for its conclusion. If the
15 commission concludes that there is not probable cause, it shall notify
16 the judge or justice of its conclusion. Commission members or
17 alternates who take part in the determination of probable cause shall
18 not participate in any further proceedings on that cause, including a
19 public hearing.

20 (4) Upon the completion of the hearing or hearings, the commission
21 in open session shall either dismiss the case, or shall admonish,
22 reprimand, or censure the judge or justice, or shall censure the judge
23 or justice and recommend to the supreme court the suspension or removal
24 of the judge or justice, or shall recommend to the supreme court the
25 retirement of the judge or justice. The commission may not recommend
26 suspension or removal unless it censures the judge or justice for the
27 violation serving as the basis for the recommendation. The commission
28 may recommend retirement of a judge or justice for a disability which
29 is permanent or likely to become permanent and which seriously
30 interferes with the performance of judicial duties.

31 (5) Upon the recommendation of the commission, the supreme court
32 may suspend, remove, or retire a judge or justice. The office of a
33 judge or justice retired or removed by the supreme court becomes
34 vacant, and that person is ineligible for judicial office until
35 eligibility is reinstated by the supreme court. The salary of a
36 removed judge or justice shall cease. The supreme court shall specify
37 the effect upon salary when it suspends a judge or justice. The
38 supreme court may not suspend, remove, or retire a judge or justice

1 until the commission, after notice and hearing, recommends that action
2 be taken, and the supreme court conducts a hearing, after notice, to
3 review commission proceedings and findings against the judge or
4 justice.

5 (6) Within thirty days after the commission admonishes, reprimands,
6 or censures a judge or justice, the judge or justice shall have a right
7 of appeal de novo to the supreme court.

8 (7) Any matter before the commission or supreme court may be
9 disposed of by a stipulation entered into in a public proceeding. The
10 stipulation shall be signed by the judge or justice and the commission
11 or court. The stipulation may impose any terms and conditions deemed
12 appropriate by the commission or court. A stipulation shall set forth
13 all material facts relating to the proceeding and the conduct of the
14 judge or justice.

15 (8) Whenever the commission adopts a recommendation that a judge or
16 justice be removed, the judge or justice shall be suspended
17 immediately, with salary, from his or her judicial position until a
18 final determination is made by the supreme court.

19 (9) The legislature shall provide for commissioners' terms of
20 office and compensation. The commission shall employ one or more
21 investigative officers with appropriate professional training and
22 experience. The investigative officers of the commission shall report
23 directly to the commission. The commission shall also employ such
24 administrative or other staff as are necessary to manage the affairs of
25 the commission.

26 (10) The commission shall, to the extent that compliance does not
27 conflict with this section, comply with laws of general applicability
28 to state agencies with respect to rule-making procedures, and with
29 respect to public notice of and attendance at commission proceedings
30 other than initial proceedings. The commission shall establish rules
31 of procedure for commission proceedings including due process and
32 confidentiality of proceedings.

33 BE IT FURTHER RESOLVED, That the secretary of state shall cause
34 notice of this constitutional amendment to be published at least four
35 times during the four weeks next preceding the election in every legal
36 newspaper in the state.

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