

## JUDICIAL DISCIPLINE

### LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

**Legislation can be complex, and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.**

---

### Background Materials and Research

**Topic Summary:** Article VII, section 11, of the Montana Constitution provides for the removal and discipline of judges. Prior to the adoption of the 1973 Constitution, impeachment was the only method to remove a judge from office. Article VII, section 11, of the current constitution requires the Legislature create a Judicial Standards Commission, which receives and may investigate complaints against judicial officers. The commission members are two district court judges from different judicial districts who are elected by the district courts judges, one attorney who is appointed by the Montana Supreme Court, and two citizens who are not attorneys or judges and who are appointed by the governor. They serve four-year terms and must be confirmed by the Montana Senate.

### Legislative Services Division Materials:

[HJ 40 \(2021\) Study of the Judicial Standards Commission webpage, 2021-2022](#)

### Other Materials:

[Judicial Standards Commission website](#)

[2021 Report of the Judicial Standards Commission to the Legislature](#)

[Code of Judicial Conduct](#) -- Montana Supreme Court, 2009

[Composition of Judicial Conduct Commissions](#) -- National Center for State Courts, 2019

### Introduced Legislation

\*Chapter number assigned means bill was passed and approved.

## 2021

[House Bill No. 380](#) -- Chapter Number Assigned -- AN ACT REQUIRING SENATE CONFIRMATION FOR MEMBERS OF THE JUDICIAL STANDARDS COMMISSION; AND AMENDING SECTION 3-1-1101, MCA.

[House Bill No. 685](#) -- Died on Second Reading (H) -- AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 11, OF THE MONTANA CONSTITUTION REVISING THE MAKEUP AND DUTIES OF THE JUDICIAL STANDARDS COMMISSION; AND PROVIDING AN EFFECTIVE DATE.

[Senate Bill No. 252](#) -- Died on Second Reading (S) -- AN ACT REVISING LAWS RELATED TO JUDICIAL IMPEACHMENT; PROVIDING A DEFINITION FOR "MALFEASANCE" IN A JUDICIAL SETTING; AND AMENDING SECTION 5-5-401, MCA.

[Senate Bill No. 318](#) -- Died on Second Reading (H) -- AN ACT REVISING LAWS FOR THE JUDICIARY; RESTRICTING A JUDGE IN A CITY COURT FROM PRACTICING LAW IN THE CITY COURT; PROVIDING A DEFINITION FOR "MALFEASANCE" IN A JUDICIAL IMPEACHMENT SETTING; REQUIRING A JUDICIAL OFFICER TO DISQUALIFY THE JUDICIAL OFFICER IN CERTAIN PROCEEDINGS; PROVIDING FOR ENFORCEMENT OF COMPLAINTS AGAINST JUDICIAL OFFICERS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION SECTIONS 2-2-136, 3-1-604, AND 5-5-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[Senate Bill No. 366](#) -- Died in Committee (S) -- AN ACT GENERALLY REVISING LAWS REGARDING THE JUDICIAL STANDARDS COMMISSION COMPLAINT PROCESS; PROVIDING THAT A WRITTEN COMPLAINT MUST HAVE A SWORN AFFIDAVIT AND ALL WRITTEN COMPLAINTS WITH AFFIDAVITS MUST BE INVESTIGATED; PROVIDING THAT THE JUDICIAL OFFICER SHALL FILE A RESPONSE AND THAT THE RESPONSE BE PROVIDED TO THE CITIZEN; REMOVING CONFIDENTIALITY PROVISIONS; PROVIDING THAT A HEARING MUST BE HELD WITH THE CITIZEN PRESENT; ALLOWING THE CITIZEN THE RIGHT TO REBUT THE JUDICIAL OFFICER, APPEAL A DECISION, AND MAKE PUBLIC THE COMPLAINT ABOUT THE JUDICIAL OFFICER; PROVIDING THAT ALL HEARINGS ARE PUBLIC; PROVIDING THAT THE NAME OF THE JUDICIAL OFFICER AGAINST WHOM A COMPLAINT IS FILED WILL BE INCLUDED IN A REPORT TO THE LEGISLATURE; AND AMENDING SECTIONS 3-1-1105, 3-1-1106, 3-1-1121, 3-1-1122, 3-1-1123, 3-1-1124, 3-1-1125, AND 3-1-1126, MCA.

[House Joint Resolution No. 40](#) -- Filed with Secretary of State -- A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY AND A PERFORMANCE AUDIT OF THE JUDICIAL STANDARDS COMMISSION.

## 2019

[House Bill No. 485](#) -- Died in Committee (H) -- AN ACT PROVIDING A NOMINATING PROCESS IN WHICH A NOMINATING COMMITTEE COMPOSED OF LEGISLATIVE LEADERSHIP APPOINTS THE CITIZEN AND NONATTORNEY MEMBERS OF THE JUDICIAL STANDARDS COMMISSION; AND AMENDING SECTION 3-1-1101, MCA.

[House Bill No. 486](#) -- Died in Committee (H) -- AN ACT REVISING LAWS REGARDING THE JUDICIAL STANDARDS COMMISSION COMPLAINT PROCESS; PROVIDING THAT A WRITTEN COMPLAINT MUST HAVE A SWORN AFFIDAVIT AND ALL WRITTEN COMPLAINTS WITH AFFIDAVITS MUST BE INVESTIGATED; PROVIDING THAT THE JUDICIAL OFFICER MUST FILE A RESPONSE AND THAT THE RESPONSE BE PROVIDED TO THE CITIZEN; REMOVING THE CONFIDENTIALITY PROVISIONS; PROVIDING THAT A HEARING MUST BE HELD WITH THE CITIZEN PRESENT; ALLOWING THE CITIZEN THE RIGHT TO REBUT THE JUDICIAL OFFICER, APPEAL A DECISION, AND MAKE PUBLIC THE COMPLAINT ABOUT THE JUDICIAL OFFICER; PROVIDING THAT ALL HEARINGS ARE PUBLIC; PROVIDING THAT THE NAME OF THE JUDICIAL OFFICER AGAINST WHOM A COMPLAINT IS FILED WILL BE INCLUDED IN A REPORT TO THE LEGISLATURE; AND AMENDING SECTIONS 3-1-1105, 3-1-1106, 3-1-1121, 3-1-1122, 3-1-1123, 3-1-1124, 3-1-1125, AND 3-1-1126, MCA.

2017 -- None

2015 -- None

2013 -- None

**Prepared By:**

Rachel Weiss, Research Analyst  
Office of Research and Policy Analysis  
Nov. 5, 2022