

## SENATE BILL NO. 66

INTRODUCED BY M. NOLAND

BY REQUEST OF THE SENATE SELECT COMMITTEE ON JUDICIAL OVERSIGHT AND REFORM

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TERMS RELATING TO JUDICIAL OFFICERS;  
CREATING DEFINITIONS OF GENERAL APPLICATION RELATING TO JUDICIAL OFFICERS AND  
CONDUCT; AND AMENDING SECTION 1-1-202, MCA."

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

**Section 1.** Section 1-1-202, MCA, is amended to read:

**"1-1-202. Terms relating to procedure and the judiciary.** Unless the context requires otherwise, the  
following definitions apply in the Montana Code Annotated:

(1) "Bias" means a prejudice for or against a party or issue arising for reasons other than the facts  
of a case or the law governing a case. Bias in a judicial officer may be inferred from comments, facial  
expressions, prior activity, distortion of the law to obtain a particular result, or a conflict of interest.

(2) "Conflict of interest" arises when a judicial officer has a financial, political, or other kind of  
interest that arguably creates bias.

(3) "Deposition" means a written declaration under oath or affirmation, made upon-on notice to the  
adverse party for the purpose of enabling the adverse party to attend and cross-examine.

(4) "Impartiality" means the practice of making judicial decisions in accordance with the law fairly  
and without evidence of bias.

(2)(5) "Judicial officers" means justices of the supreme court, judges of the district courts, justices of  
the peace, municipal judges, and city judges, water court judges, standing masters, and administrative judges  
or hearing examiners.

(3)(6) "Judicial record" means the record of official entry of the proceedings in a court of justice or of  
the official act of a judicial officer in an action or special proceeding.

(7) "Open-mindedness" means a willingness to:

1 (a) consider opposing views and alternative solutions permitted by law for resolving cases;

2            (b) remain open to persuasion despite a judicial officer's existing views;

3 (c) concede that there is an appearance of one's own bias; and

4 (d) treat each case in accordance with the facts presented and the governing law.

5           (4)(8) "Oral examination" means an examination in the presence of the jury or tribunal that is to  
6   decide the fact or act ~~upon~~on it or the spoken testimony of the witness being heard by the jury or tribunal.

7            ~~(5)(9)~~ "Process" means a writ or summons issued in the course of judicial proceedings.

8            ~~(6)~~(10) "Registered mail", for purposes of legal notification, means registered or certified mail.

9            ~~(7)~~(11) "Testify" means every mode of oral statement under oath or affirmation.

10        ~~(8)~~(12) "Writ" means an order in writing issued in the name of the state or of a court or judicial officer."

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