

HOUSE JOINT RESOLUTION P

March 12, 2009, Introduced by Reps. Meadows and Lipton and referred to the Committee on Judiciary.

A joint resolution proposing an amendment to the state constitution of 1963, by adding section 31 to article VI, to clarify the circumstances under which a justice of the supreme court must disqualify himself or herself.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to clarify the circumstances under which a justice of the supreme court must disqualify himself or herself, is proposed, agreed to, and submitted to the people of the state:

ARTICLE VI

SEC. 31. (1) A JUSTICE OF THE SUPREME COURT SHALL DISQUALIFY HIMSELF OR HERSELF IN ANY PROCEEDING IN WHICH HIS OR HER IMPARTIALITY MIGHT REASONABLY BE QUESTIONED, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING CIRCUMSTANCES:

1 (A) THE JUSTICE HAS A PERSONAL BIAS OR PREJUDICE CONCERNING A
2 PARTY OR A PARTY'S LAWYER, OR PERSONAL KNOWLEDGE OF FACTS THAT ARE
3 IN DISPUTE IN THE PROCEEDING.

4 (B) THE JUSTICE KNOWS THAT HE OR SHE, OR PERSON RELATED TO THE
5 JUSTICE, IS ANY OF THE FOLLOWING:

6 (i) A PARTY TO THE PROCEEDING, OR AN OFFICER, DIRECTOR, GENERAL
7 PARTNER, MANAGING MEMBER, OR TRUSTEE OF A PARTY TO THE PROCEEDING.

8 (ii) ACTING AS A LAWYER IN THE PROCEEDING.

9 (iii) A PERSON WHO HAS MORE THAN A DE MINIMIS FINANCIAL INTEREST
10 THAT COULD BE SUBSTANTIALLY AFFECTED BY THE PROCEEDING.

11 (iv) LIKELY TO BE A MATERIAL WITNESS IN THE PROCEEDING.

12 (C) THE JUSTICE KNOWS THAT HE OR SHE, INDIVIDUALLY OR AS A
13 FIDUCIARY, OR THE JUSTICE'S SPOUSE, DOMESTIC PARTNER, PARENT, OR
14 CHILD, OR ANY OTHER MEMBER OF THE JUSTICE'S FAMILY RESIDING IN THE
15 JUSTICE'S HOUSEHOLD, HAS AN ECONOMIC INTEREST IN THE SUBJECT MATTER
16 IN CONTROVERSY OR IN A PARTY TO THE PROCEEDING.

17 (D) THE JUSTICE, WHILE A JUDGE OR A JUDICIAL CANDIDATE, HAS
18 MADE A PUBLIC STATEMENT THAT COMMITS OR APPEARS TO COMMIT THE
19 JUSTICE TO REACH A PARTICULAR RESULT OR RULE IN A PARTICULAR WAY IN
20 THE PROCEEDING OR CONTROVERSY.

21 (E) THE JUSTICE SERVED AS A LAWYER IN THE MATTER IN
22 CONTROVERSY, OR WAS ASSOCIATED SUBSTANTIALLY AS A LAWYER IN THE
23 MATTER DURING SUCH ASSOCIATION.

24 (F) IF THE PROCEEDING IS ONE IN WHICH A GOVERNMENTAL ENTITY IS
25 A PARTY, THE JUSTICE SERVED IN GOVERNMENTAL EMPLOYMENT, AND IN THAT
26 CAPACITY HE OR SHE PARTICIPATED PERSONALLY AND SUBSTANTIALLY AS A
27 LAWYER OR PUBLIC OFFICIAL CONCERNING THAT PARTICULAR PROCEEDING OR

1 PUBLICLY EXPRESSED AN OPINION REGARDING THE PARTICULAR MATTER IN
2 CONTROVERSY.

3 (G) THE JUSTICE WAS A MATERIAL WITNESS CONCERNING THE MATTER.

4 (H) THE JUSTICE PREVIOUSLY PRESIDED AS A JUDGE OVER THE MATTER
5 IN ANOTHER COURT.

6 (2) A JUSTICE SHALL KEEP INFORMED ABOUT THE JUSTICE'S PERSONAL
7 AND FIDUCIARY ECONOMIC INTERESTS AND SHALL MAKE A REASONABLE EFFORT
8 TO KEEP INFORMED ABOUT THE PERSONAL ECONOMIC INTERESTS OF THE
9 JUSTICE'S SPOUSE OR DOMESTIC PARTNER AND MINOR CHILDREN RESIDING IN
10 THE JUSTICE'S HOUSEHOLD.

11 (3) AS USED IN THIS SECTION, "PERSON RELATED TO THE JUSTICE"
12 MEANS ANY OF THE FOLLOWING:

13 (A) A JUSTICE'S SPOUSE OR DOMESTIC PARTNER.

14 (B) A PERSON WITHIN THE THIRD DEGREE OF CONSANGUINITY OR
15 AFFINITY TO THE JUSTICE OR THE JUSTICE'S SPOUSE OR DOMESTIC
16 PARTNER.

17 (C) THE SPOUSE OR DOMESTIC PARTNER OF A PERSON DESCRIBED IN
18 SUBDIVISION (B).

19 (4) THE LEGISLATURE SHALL IMPLEMENT THIS SECTION BY LAW.

20 Resolved further, That the foregoing amendment shall be
21 submitted to the people of the state at the next general election
22 in the manner provided by law.