

THIS RESOLUTION IS OFFERED TO COMPLY WITH ARTICLE XI, SECTION 7 OF THE CONSTITUTION OF THE STATE OF MICHIGAN OF 1963.

Rep. Theis offered the following resolution:

**House Resolution No. 399.**

A resolution directing the impeachment of Theresa M. Brennan, District Court Judge for the Fifty-third District Court, for corrupt conduct in office and for crimes and misdemeanors.

Whereas, Article XI, Section 7 of the *Constitution of the State of Michigan of 1963* states, in part:

The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected thereto and serving therein shall be necessary to direct an impeachment.

; and

Whereas, Theresa M. Brennan has exhibited a pattern of conduct contrary to her duties and responsibilities as a District Court Judge. This pattern of corrupt and criminal conduct has been detailed by staff of the Judicial Tenure Commission as part of Formal Complaint No. 99, as amended July 23, 2018, and may include additional actions or inactions by Theresa M. Brennan that are discovered in the course of the ongoing investigation; now, therefore, be it

Resolved by the House of Representatives, That Theresa M. Brennan, District Court Judge for the Fifty-third District Court, is impeached for corrupt conduct in office and for crimes and misdemeanors. The following Articles of Impeachment are adopted by the House of Representatives and shall be exhibited to the Senate:

ARTICLES OF IMPEACHMENT EXHIBITED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MICHIGAN IN THE NAME OF ITSELF AND OF THE PEOPLE OF THE STATE OF MICHIGAN AGAINST THERESA M. BRENNAN, DISTRICT COURT JUDGE FOR THE FIFTY-THIRD DISTRICT COURT, IN MAINTENANCE AND SUPPORT OF ITS IMPEACHMENT AGAINST HER FOR CORRUPT CONDUCT IN OFFICE AND FOR CRIMES AND MISDEMEANORS.

ARTICLE I

In multiple cases in which she was presiding, Theresa M. Brennan failed to disclose personal relationships, and/or relevant details thereof, with witnesses, counsel, and litigants, and knowingly misrepresented facts of those relationships in and out of court, and knowingly made false statements about those relationships under oath to the Judicial Tenure Commission:

(1) When presiding over *People v Jerome Walter Kowalski* (Case No. 08-17643-FC), Judge Brennan failed to disclose her close personal relationship with Michigan State Police Detective Sergeant Sean Furlong, who was a significant witness for the prosecution. When the existence of the personal relationship came to light, Judge Brennan knowingly downplayed the extent of the relationship, serving to conceal relevant facts and preventing counsel from adequately pursuing a disqualification petition. During the course of the case, Judge Brennan made

statements she knew to be false and/or misleading, both in conference with counsel and in open court, and continued to engage in a personal relationship with Detective Sergeant Furlong, and failed to inform the parties of contact with him, even after the issue was initially raised in court.

(2) In five cases in which Judge Brennan was presiding, Shari Pollesch served as counsel for one of the litigants and Judge Brennan did not disclose that she was close personal friends with Pollesch. Judge Brennan also failed to disclose her friendship with Pollesch when other attorneys at Pollesch's firm appeared before her in five additional cases. In response to written questions about her relationship with Pollesch and her conduct in the relevant cases, Judge Brennan knowingly made false statements to the Judicial Tenure Commission while under oath.

(3) In two divorce cases involving Francine Zysk over which she presided, Judge Brennan failed to disclose she had regular contact with Zysk due to Zysk's employment with the Fifty-third District Court and their personal friendship. Given Judge Brennan's relationship to Zysk, she was potentially in position to be called as a witness in one of the proceedings.

Judge Brennan's conduct in these cases demonstrates, at best, a pattern of blatant disregard for court rules and judicial ethics, and at worst, concerted efforts to aid particular litigants based on her personal relationships. Even if Judge Brennan behaved in an impartial manner when making decisions in these cases, the appearance of impropriety harms the judicial system and her intentionally false statements to the Judicial Tenure Commission constitute a serious crime.

The conduct described in this article is contrary to numerous court rules, provisions of the Code of Judicial Conduct, and constitutes perjury under MCL 750.423, as stated by Paragraph 390 of Formal Complaint No. 99, as amended July 23, 2018.

Wherefore, Theresa M. Brennan, by such conduct, warrants impeachment and trial, and removal from office.

## ARTICLE II

Theresa M. Brennan has demonstrated a pattern of unethical behavior and disregard for the law and the administration of justice. In addition to her conduct in *People v Jerome Walter Kowalski* (Case No. 08-17643-FC), cases involving Shari Pollesch and her firm, cases involving Francine Zysk, and the use of public resources for private purposes, Judge Brennan has demonstrated a pattern of failing to follow court rules, provisions of the Judicial Code of Conduct, state law, and accepted ethical norms that shows a disregard for her duties and responsibilities as a judge:

(1) When Judge Brennan was assigned her own divorce case in 2016, she failed to disqualify herself in a timely manner. Further, when being deposed in her divorce proceedings, Judge Brennan made false statements about the extent of her contact with Michigan State Police Detective Sergeant Sean Furlong and interjected during the depositions of other people.

(2) When presiding in *Kevin Brisson v Erin Terlecky* (44<sup>th</sup> Circuit Case No. 17-051753-DP), Judge Brennan initially failed to follow MCL 722.716(4) which requires 14 days after service of paternity tests before a trial can be held. Judge Brennan informed the parties she intended to proceed with the trial and stay the discussion of paternity for 14 days. When counsel for one of the parties asked Judge Brennan to comply, she threatened to place the attorney in lockup, and ordered that she be placed in lockup when the attorney continued to make her case. Judge Brennan, despite no substantive basis to do so, accused the attorney of threatening the judge.

(3) When presiding in *Michael Sullivan v Denise Sullivan* (44<sup>th</sup> Circuit Case No. 14-006162-DO), Judge Brennan repeatedly conducted herself in an unprofessional demeanor and failed to treat litigants and lawyers fairly and with respect. Judge Brennan also failed to allow testimony by telephone during the case claiming that the court did not have that capability, when in fact it did. As a result, the defendant in the case incurred the unnecessary expense of traveling from Florida to Michigan.

The conduct described in this article constitutes a violation of numerous court rules, provisions of the Code of Judicial Conduct, and statutes, as stated by Paragraph 390 of Formal Complaint No. 99, as amended July 23, 2018.

Wherefore, Theresa M. Brennan, by such conduct, warrants impeachment and trial, and removal from office.

; and be it further

Resolved, That in accordance with Article XI, Section 7 of the *Constitution of the State of Michigan of 1963*, the House of Representatives will proceed with the election from its own body three members whose duty it shall be to prosecute such impeachment and that these members are authorized and empowered to prepare and present the Articles of Impeachment adopted by this resolution.