

ASSEMBLY BILL NO. 20—COMMITTEE ON JUDICIARY

PREFILED JANUARY 7, 1999

Referred to Committee on Judiciary

SUMMARY—Clarifies certain provisions concerning eligibility for judicial office of persons who have previously been removed or retired from judicial office. (BDR 1-229)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to the state judicial department; clarifying that judges of municipal courts and justices of the peace may not seek reelection if they were previously removed or retired from any judicial office; clarifying that a justice of the supreme court, district court judge, justice of the peace or municipal court judge is not ineligible to be a candidate for judicial office if a decision to remove or retire him from judicial office is pending appeal before the supreme court or has been overturned by the supreme court; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE  
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     **Section 1.** NRS 1.4653 is hereby amended to read as follows:  
2     1.4653 1. The commission may remove, censure or impose other  
3 forms of discipline on a justice or judge if the commission determines that  
4 the justice or judge:  
5     (a) Has committed willful misconduct;  
6     (b) Has willfully or persistently failed to perform the duties of his office;  
7 or  
8     (c) Is habitually intemperate.  
9     ~~[A justice or judge removed pursuant to this subsection may not, unless the~~  
10 ~~supreme court overturns the removal upon appeal, thereafter seek or hold~~  
11 ~~judicial office within this state.]~~  
12 2. The commission may censure or impose other forms of discipline on  
13 a justice or judge if the commission determines that the justice or judge has

1 violated one or more of the provisions of the Nevada Code of Judicial  
2 Conduct in a manner that is not knowing or deliberate.

3 3. The commission may retire a justice or judge if the commission  
4 determines that:

5 (a) The advanced age of the justice or judge interferes with the proper  
6 performance of his judicial duties; or

7 (b) The justice or judge suffers from a mental or physical disability that  
8 prevents the proper performance of his judicial duties and is likely to be  
9 permanent in nature.

10 4. As used in this section:

11 (a) "Habitual intemperance" means the chronic, excessive use of alcohol  
12 or another substance that affects mental processes, awareness or judgment.

13 (b) "Willful misconduct" includes:

14 (1) Conviction of a felony or of a misdemeanor involving moral  
15 turpitude;

16 (2) A knowing or deliberate violation of one or more of the provisions  
17 of the Nevada Code of Judicial Conduct;

18 (3) A knowing or deliberate act or omission in the performance of  
19 judicial or administrative duties that:

20 (I) Involves fraud or bad faith or amounts to a public offense; and

21 (II) Tends to corrupt or impair the administration of justice in a  
22 judicial proceeding; and

23 (4) Knowingly or deliberately swearing falsely in testimony before  
24 the commission or in documents submitted under oath to the commission.

25 **Sec. 2.** NRS 2.020 is hereby amended to read as follows:

26 2.020 **1.** A person shall not be a candidate for or be eligible to the  
27 office of justice of the supreme court:

28 ~~(1)~~ (a) Unless he has attained the age of 25 years.

29 ~~(2)~~ (b) Unless he is an attorney licensed and admitted to practice law in  
30 the courts of this state.

31 ~~(3)~~ (c) Unless he is a qualified elector and has been a bona fide resident  
32 of this state for 2 years next preceding the election or appointment.

33 ~~(4)~~ (d) If he has *ever* been removed from *any* judicial office by the  
34 legislature or removed or retired from *any* judicial office by the  
35 commission on judicial discipline.

36 **2.** *For the purposes of this section, a person shall not be ineligible to*  
37 *be a candidate for the office of justice of the supreme court if a decision*  
38 *to remove or retire him from a judicial office is pending appeal before the*  
39 *supreme court or has been overturned by the supreme court.*

40 **Sec. 3.** NRS 3.060 is hereby amended to read as follows:

41 3.060 **1.** A person shall not be a candidate for or be eligible to the  
42 office of district judge:

43 ~~(1)~~ (a) Unless he has attained the age of 25 years.

~~(2.)~~ (b) Unless he is an attorney licensed and admitted to practice law in the courts of this state.

~~(3.)~~ (c) Unless he is a qualified elector and has been a bona fide resident of this state for 2 years next preceding the election or appointment.

~~(4.)~~ (d) If he has *ever* been removed from *any* judicial office by the legislature or removed or retired from *any* judicial office by the commission on judicial discipline.

*2. For the purposes of this section, a person shall not be ineligible to be a candidate for the office of district judge if a decision to remove or retire him from a judicial office is pending appeal before the supreme court or has been overturned by the supreme court.*

**Sec. 4.** NRS 4.010 is hereby amended to read as follows:

4.010 1. A person ~~who is~~ *shall* not *be* a ~~qualified elector is not~~ *candidate for or be* eligible to the office of justice of the peace ~~if~~ *unless he is a qualified elector and has never been removed or retired from any judicial office by the commission on judicial discipline. For the purposes of this subsection, a person shall not be ineligible to be a candidate for the office of justice of the peace if a decision to remove or retire him from a judicial office is pending appeal before the supreme court or has been overturned by the supreme court.*

2. A justice of the peace in a township whose population is 250,000 or more must be an attorney who is licensed and admitted to practice law in the courts of this state. A justice of the peace in a township whose population is less than 250,000 must have a high school diploma or its equivalent as determined by the state board of education.

3. Subsection 2 does not apply to any person who held the office of justice of the peace on June 30, 1987.

**Sec. 5.** NRS 5.020 is hereby amended to read as follows:

5.020 1. Except as *otherwise* provided in subsection 2, each municipal judge must be chosen by the electors of the city within which the municipal court is established on a day to be fixed by the governing body of that city. He shall hold his office for 1 year, unless a longer period is fixed by the charter of the city, in which case he shall hold his office for that longer period. Before entering upon his duties, a municipal judge shall take the constitutional oath of office. A municipal judge must:

(a) Be a citizen of ~~the~~ *this* state;

(b) Except as otherwise provided in the charter of a city organized under a special charter, have been a bona fide resident of the city for not less than 1 year next preceding his election; ~~and~~

(c) Be a qualified elector in the city ~~if~~ ; *and*

(d) *Not have ever been removed or retired from any judicial office by the commission on judicial discipline.*

1     2. The governing body of a city, with the consent of the board of  
2 county commissioners and the justice of the peace, may provide that a  
3 justice of the peace of the township in which the city is located is ex officio  
4 the municipal judge of the city.

5     ***3. For the purposes of this section, a person shall not be ineligible to***  
6 ***be a candidate for the office of municipal judge if a decision to remove or***  
7 ***retire him from a judicial office is pending appeal before the supreme***  
8 ***court or has been overturned by the supreme court.***

9     **Sec. 6.** NRS 5.023 is hereby amended to read as follows:

10    5.023   1. The governing body of the city shall select a number of  
11 persons it determines appropriate to comprise a panel of substitute  
12 municipal judges. The persons selected ***must not have ever been removed***  
13 ***or retired from any judicial office by the commission on judicial discipline***  
14 ***and*** must be:

15       (a) Members in good standing of the State Bar of Nevada;

16       (b) Adult residents of the city; or

17       (c) Justices of the peace of the county.

18    2. Whenever a municipal judge is disqualified from acting in a case  
19 pending in the municipal court or is unable to perform his duties because of  
20 his temporary sickness or absence, he shall, if necessary, appoint a person  
21 from the panel of substitute municipal judges to act in his place.

22    3. A person so appointed must take and subscribe to the official oath  
23 before acting as a municipal judge pro tempore. While acting in that  
24 capacity, he is entitled to receive a per diem salary set by the governing  
25 body. The annual sum expended for salaries of municipal judges pro  
26 tempore must not exceed the amount budgeted for that expense by the  
27 governing body.

28    4. If an appointment of a municipal judge pro tempore becomes  
29 necessary and the municipal judge fails or is unable to make the  
30 appointment, the mayor shall make the appointment from the panel of  
31 substitute municipal judges.

32    ***5. For the purposes of this section, a person shall not be ineligible to***  
33 ***be a candidate for the office of municipal judge pro tempore if a decision***  
34 ***to remove or retire him from a judicial office is pending appeal before the***  
35 ***supreme court or has been overturned by the supreme court.***