

1 A RESOLUTION directing the appointment of a committee to determine whether
2 there is sufficient cause to institute impeachment proceedings against Richard Boling,
3 Commonwealth's attorney for the 3rd Judicial Circuit, consisting of Christian County,
4 and present articles of impeachment to the House of Representatives.

5 WHEREAS, on February 28, 2020, the Inquiry Commission of the Kentucky Bar
6 Association issued a complaint against Richard Boling regarding a letter written by Mr.
7 Boling on his official Christian County Commonwealth's Attorney letterhead in favor of
8 a pardon request in which Mr. Boling attacked the prosecutorial discretion of the
9 predecessor Commonwealth's attorney, and questioned the integrity of the former
10 prosecutor, the circuit judge who presided over the case, and the defendant's attorney; and

11 WHEREAS, on May 4, 2020, the Inquiry Commission of the Kentucky Bar
12 Association initiated a second complaint against Mr. Boling for "prosecutorial
13 misconduct in a criminal prosecution" arising from his prosecution and trial of a
14 defendant "for two counts of arson and six counts of attempted murder"; and

15 WHEREAS, on October 29, 2020, the Supreme Court of Kentucky rejected a
16 motion for consensual discipline for Mr. Boling arising from the February 28, 2020
17 complaint proposing a 60-day suspension from the practice of law, probated for one year,
18 as "woefully inadequate," stating in a subsequent order that the court deemed Mr.
19 Boling's conduct related to the February 2020 complaint "particularly egregious"; and

20 WHEREAS, on December 22, 2020, the Supreme Court of Kentucky reversed the
21 conviction obtained at the trial that was the subject of the May 4, 2020 complaint and
22 "remanded the case for a new trial due to Boling's misconduct" having "found his
23 conduct rendered the trial fundamentally unfair"; and

24 WHEREAS, on February 5, 2021, Mr. Boling filed a second motion for consensual
25 discipline proposing a 120-day suspension with 60 days to serve and 60 days probated for
26 2 years as a resolution of both pending disciplinary cases; and

27 WHEREAS, on April 29, 2021, the Supreme Court of Kentucky again rejected the

1 proposed discipline and remanded the case to the Kentucky Bar Association for further
2 disciplinary proceedings; and

3 WHEREAS, on February 11, 2022, Roderick Messer was appointed as Trial
4 Commissioner to hear the charges against Mr. Boling; and

5 WHEREAS, a hearing on the charges was held in Hopkinsville beginning on
6 August 16, 2022 with proceedings concluding August 22, 2022; and

7 WHEREAS, at the hearing, Mr. Boling admitted that the pardon request letter was
8 written on Christian County Commonwealth's Attorney letterhead, was written in the
9 voice of the Commonwealth's attorney, and was signed by Mr. Boling as the
10 Commonwealth's attorney; and

11 WHEREAS, Mr. Boling further admitted that "he knew his statements regarding the
12 judge were false," and admitted "that he knew that other allegations made in the letter
13 were not true or that he had no basis for the claims"; and

14 WHEREAS, Mr. Boling denied the charges against him in the May 4, 2020
15 complaint and claimed "he did not intentionally mislead the trial jury during his
16 presentation of the evidence or in his closing argument"; and

17 WHEREAS, following the evidentiary hearing, the Trial Commissioner issued a
18 report on December 7, 2022, and included findings of fact and conclusions of law; and

19 WHEREAS, in the report, the Trial Commissioner found that Mr. Boling made
20 "false statements in his pardon request letter about" the judge which Mr. Boling "knew to
21 be false"; and

22 WHEREAS, with regard to other claims and statements in the pardon request letter,
23 the Trial Commissioner found, "The evidence offered has clearly shown that the
24 Respondent either knew these claims were false or that he made the statements with a
25 reckless disregard for the truth." The Commissioner further stated, "At the hearing the
26 Respondent made no claim that any of the allegations in his pardon request letter were
27 true"; and

1 WHEREAS, regarding the prosecutorial misconduct charges under the May 4, 2020
2 complaint, the Trial Commissioner found that Mr. Boling "took deliberate and calculated
3 steps to mislead the jury when he failed to disclose known evidence 'that tends to negate
4 the guilt of the accused or mitigate the offense' as found by the Kentucky Supreme
5 Court"; and

6 WHEREAS, the Trial Commissioner found that not only did Mr. Boling "not share
7 with the defense the observations" of the detective regarding the defendant's intoxication,
8 "In fact, he acted to conceal that information. He argued against a voluntary intoxication
9 instruction and misled the jury in his closing argument. Respondent admitted that
10 voluntary intoxication would have been a defense to the intent element of the offense";
11 and

12 WHEREAS, the Trial Commissioner found "that Respondent engaged in conduct
13 involving dishonesty, fraud, deceit and misrepresentation when he made grossly
14 misleading statements to the jury in the" trial "as found by the Kentucky Supreme Court";
15 and

16 WHEREAS, the Trial Commissioner concluded that Mr. Boling "violated his duties
17 owed the public. He engaged in intentional misconduct that involved dishonesty, fraud,
18 deceit or misrepresentation. Acting in his role as Christian County Commonwealth
19 Attorney, Respondent failed to follow proper procedures or rules and, as a result, caused
20 injury to a party and the integrity of the legal process. With intent to deceive the court,
21 Respondent made false statements and improperly withheld material information and
22 caused serious injury to a party"; and

23 WHEREAS, the Trial Commissioner further concluded that Mr. Boling "knowingly
24 engaged in conduct with the intent to obtain a benefit for the lawyer or another and
25 caused serious injury to the public and the legal system. Respondent acted intentionally
26 and knowingly by writing the" pardon letter "and by his actions in the" trial, "caused
27 serious injury to the public, the profession, the court system and a criminal defendant";

1 and

2 WHEREAS, the Trial Commissioner recommended that Mr. Boling be found guilty
3 of all counts against him and "be suspended from the practice of law for a period of
4 **FIVE (5) YEARS** from the date of this report, and that at the end of the recommended
5 suspension the Respondent shall be required to reapply for admission to the Kentucky
6 Bar Association"; and

7 WHEREAS, in its order of May 6, 2022, the Supreme Court of Kentucky took
8 judicial notice of a 2021 case "wherein the Circuit Court dismissed a manslaughter
9 indictment because the Commonwealth, specifically Respondent Boling, knowingly and
10 intentionally presented false and misleading information to the grand jury" and the
11 Supreme Court requested additional information regarding the dismissal of the
12 indictment; and

13 WHEREAS, pursuant to Section 66 of the Constitution of Kentucky and KRS
14 63.020, the House of Representatives has the sole power of impeachment, and
15 proceedings for impeachment may be instituted in the House of Representatives; and

16 WHEREAS, given the significant and severe nature of the findings by the Trial
17 Commissioner against Richard Boling, a committee should be formed to investigate and
18 review the record to determine whether impeachment proceedings should be instituted
19 against Richard Boling, Commonwealth's attorney for the 3rd Judicial Circuit, and
20 whether Richard Boling's actions as stated by the Trial Commissioner warrant articles of
21 impeachment to be submitted to the House of Representatives;

22 NOW, THEREFORE,

23 *Be it resolved by the House of Representatives of the General Assembly of the*
24 *Commonwealth of Kentucky:*

25 ➔Section 1. The Speaker of the House of Representatives shall appoint a
26 committee of the House of Representatives to investigate and review the record as to
27 whether impeachment proceedings shall be instituted against Richard Boling,

1 Commonwealth's attorney for the 3rd Judicial Circuit, and whether Richard Boling's
2 actions as found by the Trial Commissioner warrant articles of impeachment to be
3 submitted to the House of Representatives.