

**SENATE BILL NO. 31**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTY-THIRD LEGISLATURE - FIRST SESSION

**BY SENATOR SHOWER**

**Introduced: 1/13/23**  
**Referred: Prefiled**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the selection, retention, and rejection of judicial officers for the**  
2 **court of appeals and the district court and of magistrates; relating to the duties of the**  
3 **judicial council; and relating to the duties of the Commission on Judicial Conduct."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 15.15.030(10) is amended to read:

6 (10) A nonpartisan ballot shall be designed for each judicial district in  
7 which a justice, [OR] judge, or magistrate is seeking retention in office. The ballot  
8 shall be divided into five [FOUR] parts. Each part must bear a heading indicating the  
9 court or position to which the candidate is seeking approval, and provision shall be  
10 made for marking each question "Yes" or "No." Within each part, the question of  
11 whether the justice, [OR] judge, or magistrate shall be approved or rejected shall be  
12 set out in substantially the following manner:

13 (A) "Shall . . . . . be retained as justice of the supreme court  
14 for 10 years?";

1 (B) "Shall . . . . . be retained as judge of the court of appeals  
2 for eight years?";

3 (C) "Shall . . . . . be retained as judge of the superior court  
4 for six years?"; [OR]

5 (D) "Shall . . . . . be retained as judge of the district court for  
6 four years?"; or

7 (E) "Shall . . . . . be retained as a magistrate for four  
8 years?"

9 \* **Sec. 2.** AS 15.35.100 is amended to read:

10 **Sec. 15.35.100. Approval or rejection of district judge or magistrate.** (a)

11 Each district judge and each magistrate shall be subject to approval or rejection at  
12 the first general election held more than two years after the judge's or magistrate's  
13 appointment under the provisions of AS 22.15.170. If approved, the judge or  
14 magistrate shall thereafter be subject to approval or rejection in a like manner every  
15 fourth year.

16 (b) The district judge or magistrate shall seek approval in the judicial district  
17 in which the judge or magistrate was originally appointed, or in the district where the  
18 judge or magistrate has served the major portion of the judge's or magistrate's term.  
19 The district judge or magistrate shall designate on the declaration of candidacy the  
20 judicial district in which the judge or magistrate was appointed, or the district where  
21 the judge or magistrate has served the major portion of the judge's or magistrate's  
22 term.

23 \* **Sec. 3.** AS 15.35.110 is amended to read:

24 **Sec. 15.35.110. Filing declaration by district judge or magistrate.** Each  
25 district judge and each magistrate seeking retention in office shall file with the  
26 director a declaration of candidacy for retention not [NO] later than August 1 before  
27 the general election at which approval or rejection is required [REQUISITE].

28 \* **Sec. 4.** AS 15.35.120 is amended to read:

29 **Sec. 15.35.120. Requirement of filing fee for district court or magistrate**  
30 **candidate.** At the time the declaration is filed, each candidate for retention on the  
31 district court or as a magistrate position shall pay a filing fee of \$30 to the director.

1 \* **Sec. 5.** AS 15.35.130 is amended to read:

2           **Sec. 15.35.130. Placing name of district judge or magistrate on ballot.** The  
3 director shall place the name of a district judge or magistrate who has properly filed a  
4 declaration of candidacy for retention on the ballot in the judicial district designated in  
5 the declaration of candidacy for the general election at which approval is sought.

6 \* **Sec. 6.** AS 15.35.135 is amended to read:

7           **Sec. 15.35.135. Withdrawal of candidacy; removal of name from general**  
8 **election ballot.** (a) Notice of withdrawal of candidacy for retention for a supreme  
9 court justice, judge of the court of appeals, superior court judge, [OR] district court  
10 judge, or magistrate must be in writing over the signature of the candidate.

11           (b) The name of a candidate for retention for supreme court justice, judge of  
12 the court of appeals, superior court judge, [OR] district court judge, or magistrate  
13 must appear on the general election ballot unless notice under (a) of this section of  
14 withdrawal of candidacy is received by the director at least 64 days before the date of  
15 the general election.

16 \* **Sec. 7.** AS 15.58.050 is amended to read:

17           **Sec. 15.58.050. Information and recommendations on judicial officers. Not**  
18 [NO] later than August 7 of the year in which the state general election will be held,  
19 the judicial council shall file with the lieutenant governor a statement including  
20 information about each supreme court justice, court of appeals judge, superior court  
21 judge, [AND] district court judge, and magistrate who will be subject to a retention  
22 election. The statement shall reflect the evaluation of each justice, [OR] judge, or  
23 magistrate conducted by the judicial council according to law and shall contain a  
24 brief statement describing each public reprimand, public censure, or suspension  
25 received by the judge or magistrate under AS 22.30.011(d) during the period covered  
26 in the evaluation. A statement may not exceed 600 words.

27 \* **Sec. 8.** AS 15.58.060(a) is amended to read:

28           (a) Each general election candidate shall pay to the lieutenant governor at the  
29 time of filing material under this chapter the following:

30                   (1) President or Vice-President of the United States, United States  
31 senator, United States representative, governor, lieutenant governor, supreme court

1 justice, and court of appeals judge, \$300 each;

2 (2) superior court judge, [AND] district court judge, **and magistrate,**  
3 \$150 each;

4 (3) state senator and state representative, \$100 each.

5 \* **Sec. 9.** AS 22.07.060 is amended to read:

6 **Sec. 22.07.060. Approval or rejection.** Each judge of the court of appeals is  
7 subject to approval or rejection as provided in AS 15 (Alaska Election Code). The  
8 judicial council shall conduct an evaluation of each judge before the retention election  
9 and shall provide information to the public about the judge and may provide a  
10 recommendation regarding retention or rejection. The information and any  
11 recommendation shall be made public at least 60 days before the election. The judicial  
12 council shall also provide the information and any recommendation to the office of the  
13 lieutenant governor in time for publication in the election pamphlet as required by  
14 AS 15.58.050. If a majority of those voting on the question rejects the candidacy of a  
15 judge, the rejected judge may not for a period of four years thereafter be appointed to  
16 fill a vacancy in the supreme court, the court of appeals, the superior court, [OR] the  
17 district court, **or a magistrate position** of the state.

18 \* **Sec. 10.** AS 22.07.070 is amended to read:

19 **Sec. 22.07.070. Vacancies.** (a) The governor shall fill a vacancy or appoint a  
20 successor to fill an impending vacancy in the office of judge of the court of appeals  
21 [WITHIN 45 DAYS] after receiving nominations **and recommendations** from the  
22 judicial council **on the person or persons submitted to the judicial council for**  
23 **review under (b) of this section,** by appointing, **for each actual or impending**  
24 **vacancy, one person who was** [OF TWO OR MORE PERSONS] nominated by the  
25 council **or who was reviewed by the council under (b) of this section at the request**  
26 **of the governor and who is qualified under AS 22.07.040. If the governor does not**  
27 **appoint a person from the first round of persons nominated or reviewed by the**  
28 **judicial council under (b) of this section, the governor shall submit the names of**  
29 **not more than two additional persons to the judicial council for review under (b)**  
30 **of this section and the judicial council shall submit to the governor the names of**  
31 **at least two and not more than four additional persons under (b) of this section.**

1 **An appointment made under this section is subject to confirmation by a majority**  
 2 **of the members of the legislature in joint session** [FOR EACH ACTUAL OR  
 3 IMPENDING VACANCY]. An appointment to fill an impending vacancy becomes  
 4 effective upon **the later of either confirmation by the legislature or** the actual  
 5 occurrence of the vacancy.

6 (b) The office of a judge of the court of appeals becomes vacant 90 days after  
 7 the election at which the judge is rejected by a majority of those voting on the question  
 8 or for which the judge fails to file a declaration of candidacy. Upon the occurrence of  
 9 (1) an actual vacancy; (2) the certification of rejection following an election; [OR] (3)  
 10 the election following failure of a judge to file a declaration of candidacy; **or (4) the**  
 11 **decision of the governor not to appoint a person under (a) of this section, the**  
 12 **governor shall, within 90 days, submit to the judicial council the names of not**  
 13 **more than two persons qualified for the judicial office. The** [, THE] judicial  
 14 council shall meet within 90 days **after receiving the names submitted by the**  
 15 **governor to review the qualifications of the person or persons proposed by the**  
 16 **governor, provide recommendations to the governor concerning the**  
 17 **qualifications of those persons for appointment to the judicial office,** and submit to  
 18 the governor the names of **up to four additional** [TWO OR MORE] persons qualified  
 19 for the judicial office; however, **if the governor requires a second round of**  
 20 **nominations under (a) of this section, the judicial council shall submit to the**  
 21 **governor the names of at least two and not more than four additional persons**  
 22 **qualified for judicial office. The** [THE] 90-day period **for the council to meet** may  
 23 be extended by the judicial council with the concurrence of the supreme court. In the  
 24 event of an impending vacancy other than by reason of rejection or failure to file a  
 25 declaration of candidacy, the **governor may submit to the judicial council the**  
 26 **names of not more than two persons qualified for the judicial office, and the**  
 27 **judicial council, after receiving names submitted by the governor,** may meet at any  
 28 time within the 90-day period immediately preceding the effective date of the vacancy  
 29 **to review the qualifications of the person or persons proposed by the governor,**  
 30 **provide recommendations to the governor concerning the qualifications of those**  
 31 **persons for appointment to the judicial office,** and submit to the governor the names

1 of **up to four additional** [TWO OR MORE] persons qualified for the judicial office.

2 \* **Sec. 11.** AS 22.15.170(a) is amended to read:

3 (a) The governor shall fill a vacancy or appoint a successor to fill an  
 4 impending vacancy in an office of district judge **or magistrate** [WITHIN 45 DAYS]  
 5 after receiving nominations **and recommendations** from the judicial council **on the**  
 6 **person or persons submitted to the judicial council for review under (e) of this**  
 7 **section, by appointing, for each actual or impending vacancy, one person who was**  
 8 [OF TWO OR MORE PERSONS] nominated by the council **or who was reviewed by**  
 9 **the council under (e) of this section at the request of the governor and who is**  
 10 **qualified under AS 22.07.040. If the governor does not appoint a person from the**  
 11 **first round of persons nominated or reviewed by the judicial council under (e) of**  
 12 **this section, the governor shall submit the names of not more than two additional**  
 13 **persons to the judicial council for review under (e) of this section and the judicial**  
 14 **council shall submit to the governor the names of at least two and not more than**  
 15 **four additional persons under (e) of this section. An appointment made under**  
 16 **this section is subject to confirmation by a majority of the members of the**  
 17 **legislature in joint session. An** [FOR EACH ACTUAL OR IMPENDING  
 18 VACANCY. THE] appointment to fill an impending vacancy becomes effective upon  
 19 **the later of either confirmation by the legislature or** the actual occurrence of the  
 20 vacancy.

21 \* **Sec. 12.** AS 22.15.170(e) is amended to read:

22 (e) The office of a district court judge **or magistrate** becomes vacant 90 days  
 23 after the election at which the judge **or magistrate** is rejected by a majority of those  
 24 voting on the question or for which the judge **or magistrate** fails to file a declaration  
 25 of candidacy. Upon the occurrence of (1) an actual vacancy; (2) the certification of  
 26 rejection following an election; [OR] (3) the election following failure of a judge **or**  
 27 **magistrate** to file a declaration of candidacy; **or (4) the decision of the governor not**  
 28 **to appoint a person under (a) of this section, the governor shall, within 90 days,**  
 29 **submit to the judicial council the names of not more than two persons qualified**  
 30 **for the judicial office or magistrate position. The** [, THE] judicial council shall  
 31 meet within 90 days **after receiving the names submitted by the governor to review**

1 the qualifications of the person or persons proposed by the governor, provide  
 2 recommendations to the governor concerning the qualifications of those persons  
 3 for appointment to the judicial office or magistrate position, and submit to the  
 4 governor the names of up to four additional [TWO OR MORE] persons qualified for  
 5 the judicial office or magistrate position; however, if the governor requires a  
 6 second round of nominations under (a) of this section, the judicial council shall  
 7 submit to the governor the names of at least two and not more than four  
 8 additional persons qualified for judicial office. The [; EXCEPT THAT THIS] 90-  
 9 day period for the council to meet may be extended by the council with the  
 10 concurrence of the supreme court. In the event of an impending vacancy other than by  
 11 reason of rejection or failure to file a declaration of candidacy, the governor may  
 12 submit to the judicial council the names of not more than two persons qualified  
 13 for the judicial office or magistrate position, and the council, after receiving  
 14 names submitted by the governor, may meet at any time within the 90-day period  
 15 immediately preceding the effective date of the vacancy to review the qualifications  
 16 of the person or persons proposed by the governor, provide recommendations to  
 17 the governor concerning the qualifications of those persons for appointment to  
 18 the judicial office or magistrate position, and submit to the governor the names of  
 19 up to four additional [TWO OR MORE] persons qualified for the judicial office or  
 20 magistrate position.

21 \* **Sec. 13.** AS 22.15.195 is amended to read:

22 **Sec. 22.15.195. Approval or rejection.** Each district court judge and  
 23 magistrate is subject to approval or rejection as provided in AS 15 (Alaska Election  
 24 Code). The judicial council shall conduct an evaluation of each judge or magistrate  
 25 before the retention election and shall provide to the public information about the  
 26 judge or magistrate and may provide a recommendation regarding retention or  
 27 rejection. The information and the recommendation shall be made public at least 60  
 28 days before the election. The judicial council shall also provide the information and  
 29 any recommendation to the office of the lieutenant governor in time for publication in  
 30 the election pamphlet under AS 15.58.050. If a majority of those voting on the  
 31 question rejects the candidacy of a judge or magistrate, the rejected judge or

1        **magistrate** may not for a period of four years thereafter be appointed to fill any  
2        vacancy in the supreme court, court of appeals, superior court, or district courts of the  
3        state, **or in a magistrate position.**

4        \* **Sec. 14.** AS 22.15.205 is amended to read:

5                **Sec. 22.15.205. Impeachment.** A district judge **or magistrate** is subject to  
6        impeachment by the legislature for malfeasance or misfeasance in the performance of  
7        official duties. Impeachment must originate in the senate and must be approved by  
8        two-thirds vote of its members. The motion for impeachment must list fully the basis  
9        for the proceeding. Trial on impeachment shall be conducted by the house of  
10       representatives. A supreme court justice designated by the court shall preside at the  
11       trial. Concurrence of two-thirds of the members of the house is required for a  
12       judgment of impeachment. The judgment may not extend beyond removal from office,  
13       but does not prevent proceedings in the courts on the same or related charges.

14       \* **Sec. 15.** AS 22.20 is amended by adding a new section to article 4 to read:

15                **Sec. 22.20.230. Judicial report.** The judicial council shall prepare an annual  
16       report summarizing the responses to the questions asked of supreme court, court of  
17       appeals, superior court, district court, and magistrate candidates under  
18       AS 22.05.080(b), AS 22.07.070(b), AS 22.10.100(b), and AS 22.15.170(e). Not later  
19       than February 14 of each year, the judicial council shall submit the report to the senate  
20       secretary and the chief clerk of the house of representatives and notify the legislature  
21       that the report is available.

22       \* **Sec. 16.** AS 22.30.011(a) is amended to read:

23                (a) The commission shall on its own motion or on receipt of a written  
24       complaint inquire into an allegation that a judge **or magistrate**

25                        (1) has been convicted of a crime punishable as a felony under state or  
26       federal law or convicted of a crime that involves moral turpitude under state or federal  
27       law;

28                        (2) suffers from a disability that seriously interferes with the  
29       performance of [JUDICIAL] duties and that is or may become permanent;

30                        (3) within a period of not more than six years before the filing of the  
31       complaint or before the beginning of the commission's inquiry based on its own



1 motion, committed an act or acts that constitute

2 (A) wilful misconduct in office;

3 (B) wilful and persistent failure to perform **the** [JUDICIAL]

4 duties **of the judge or magistrate**;

5 (C) conduct prejudicial to the administration of justice;

6 (D) conduct that brings the judicial office **or magistrate's**  
7 **office** into disrepute; or

8 (E) conduct in violation of the code of judicial conduct; or

9 (4) is habitually intemperate.

10 \* **Sec. 17.** AS 22.30.011(b) is amended to read:

11 (b) After preliminary informal consideration of an allegation, the commission  
12 may exonerate the judge **or magistrate**, informally and privately admonish the judge  
13 **or magistrate**, or recommend counseling. Upon a finding of probable cause, the  
14 commission shall hold a formal hearing on the allegation. A hearing under this  
15 subsection is public. Proceedings and records pertaining to proceedings that occur  
16 before the commission holds a public hearing on an allegation are confidential, subject  
17 to the provisions of AS 22.30.060(b).

18 \* **Sec. 18.** AS 22.30.011(c) is amended to read:

19 (c) A judge **or magistrate** appearing before the commission at the hearing is  
20 entitled to counsel, may present evidence, and may cross-examine witnesses.

21 \* **Sec. 19.** AS 22.30.011(d) is amended to read:

22 (d) The commission shall, after a hearing held under (b) of this section,

23 (1) exonerate the judge **or magistrate** of the charges; or

24 (2) refer the matter to the supreme court with a recommendation that  
25 the judge **or magistrate** be reprimanded, suspended, removed [,] or retired from  
26 office, or publicly or privately censured by the supreme court.

27 \* **Sec. 20.** AS 22.30.011(g) is amended to read:

28 (g) If the commission exonerates a judge **or magistrate**, a copy of the  
29 proceedings and report of the commission may be made public on the request of the  
30 judge **or magistrate**.

31 \* **Sec. 21.** AS 22.30.011(h) is amended to read:

1 (h) If a judge or magistrate has been publicly reprimanded, suspended, or  
 2 publicly censured under this section and the judge or magistrate has filed a  
 3 declaration of candidacy for retention in office, the commission shall report to the  
 4 judicial council for inclusion in the statement filed by the judicial council under  
 5 AS 15.58.050 each public reprimand, suspension, or public censure received by the  
 6 judge or magistrate

7 (1) since appointment; or

8 (2) if the judge or magistrate has been retained by election, since the  
 9 last retention election of the judge or magistrate.

10 \* **Sec. 22.** AS 22.30.070 is amended to read:

11 **Sec. 22.30.070. Disqualification, suspension, removal, retirement, and**  
 12 **censure of judges and magistrates.** (a) A judge or magistrate is disqualified from  
 13 acting as a judge or magistrate, without loss of salary, while there is pending

14 (1) an indictment or an information charging the judge or magistrate  
 15 in the United States with a crime punishable as a felony under state [ALASKA] or  
 16 federal law; [,] or

17 (2) a recommendation to the supreme court by the commission for the  
 18 removal or retirement of the judge or magistrate.

19 (b) On recommendation of the commission, the supreme court may reprimand,  
 20 publicly or privately censure, or suspend a judge or magistrate from office without  
 21 salary when in the United States the judge or magistrate pleads guilty or no contest or  
 22 is found guilty of a crime punishable as a felony under state or federal law or of a  
 23 crime that involves moral turpitude under state or federal law. If the conviction is  
 24 reversed, suspension terminates, and the judge or magistrate shall be paid the judge's  
 25 or magistrate's salary for the period of suspension. If the judge or magistrate is  
 26 suspended and the conviction becomes final, the supreme court shall remove the judge  
 27 or magistrate from office.

28 (c) On recommendation of the commission, the supreme court may (1) retire a  
 29 judge or magistrate for disability that seriously interferes with the performance of  
 30 duties and that is or may become permanent, and (2) reprimand, publicly or privately  
 31 censure, or remove a judge or magistrate for action, occurring not more than six

1 years before the [COMMENCEMENT OF THE JUDGE'S] current term **of the judge**  
 2 **or magistrate begins, that** [WHICH] constitutes wilful misconduct in the office,  
 3 wilful and persistent failure to perform duties, habitual intemperance, conduct  
 4 prejudicial to the administration of justice, or conduct that brings the judicial office **or**  
 5 **magistrate's office** into disrepute. The effective date of retirement under (1) of this  
 6 subsection is the first day of the month coinciding with or after the date that the  
 7 supreme court files written notice with the commissioner of administration that the  
 8 judge **or magistrate** was retired for disability. A duplicate copy of the notice shall be  
 9 filed with the judicial council.

10 (d) A judge **or magistrate** retired by the supreme court shall be considered to  
 11 have retired voluntarily. A judge **or magistrate** removed by the supreme court is  
 12 ineligible for judicial office **or for a magistrate position** for a period of three years.

13 (e) A supreme court justice who has participated in proceedings involving a  
 14 judge or justice of any court **or a magistrate** may not participate in an appeal  
 15 involving that judge, [OR] justice, **or magistrate** in that particular matter.

16 \* **Sec. 23.** AS 22.35 is amended by adding a new section to read:

17 **Sec. 22.35.035. Prohibited use of state funds.** (a) State funds may not be used  
 18 to support or oppose the retention or rejection of a judicial officer in an election under  
 19 AS 15 (Alaska Election Code). In this subsection, "judicial officer" means a supreme  
 20 court justice, including the chief justice, a judge of the court of appeals, a judge of the  
 21 superior court, a district court judge, or a magistrate.

22 (b) This section does not apply to the duties of the judicial council under  
 23 AS 15.58.050, AS 22.05.100, AS 22.07.060, AS 22.10.150, and AS 22.15.195.

24 \* **Sec. 24.** AS 22.15.170(c) and 22.15.170(d) are repealed.