



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1453 be amended to read as follows:

- 1 Page 16, between lines 27 and 28, begin a new paragraph and insert:
- 2 "SECTION 13. IC 33-33-82-31, AS AMENDED BY P.L.161-2018,
- 3 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 31. (a) The judge of the Vanderburgh circuit
- 5 court and each of the seven (7) judges of the Vanderburgh superior
- 6 court shall be elected in nonpartisan elections every six (6) years.
- 7 (b) Not later than December 31 of the year immediately preceding
- 8 a year in which the office of judge of the Vanderburgh superior court
- 9 will be on the ballot, the clerk of the circuit court shall file with the
- 10 election division a list containing the name and the court number
- 11 assigned by the roster of judicial officers maintained by the office of
- 12 judicial administration, for each judge of the Vanderburgh superior
- 13 court.
- 14 (c) During the period under IC 3-8-2-4 in which a declaration of
- 15 candidacy may be filed for a primary election, any person desiring to
- 16 become a candidate for any one (1) of the eight (8) judgeships affected
- 17 by this chapter shall file with the election division a declaration of
- 18 candidacy adapted from the form prescribed under IC 3-8-2, signed by
- 19 the candidate and designating by court number the judgeship the
- 20 candidate seeks. Any petition without the designation shall be rejected
- 21 by the election division (or by the Indiana election commission under
- 22 IC 3-8-1-2). To be eligible for election, a candidate must be:
- 23 (1) domiciled in the county of Vanderburgh;
- 24 (2) a citizen of the United States; and
- 25 (3) admitted to the practice of law in Indiana.
- 26 (d) If an individual who files a declaration under subsection (c)
- 27 ceases to be a candidate after the final date for filing a declaration

1 under subsection (c); the election division may accept the filing of
 2 additional declarations of candidacy for that judgeship not later than
 3 noon August 1.

4 (c) All candidates for each respective judgeship shall be listed on
 5 the general election ballot in the form prescribed by IC 3-11, without
 6 party designation. The candidate receiving the highest number of votes
 7 for each judgeship shall be elected to that office.

8 (f) IC 3, where not inconsistent with this chapter, applies to
 9 elections under this chapter.

10 **judicial nominating commission (referred to in this section and**
 11 **section 31.5 of this chapter as the commission) consists of five (5)**
 12 **voting members, the majority of whom form a quorum. The chief**
 13 **justice of Indiana or the chief justice's designee serves ex officio as**
 14 **a voting member only to resolve tie votes and as the chairperson of**
 15 **the commission.**

16 (b) The:

17 (1) governor shall appoint two (2) members to the
 18 commission, one (1) of whom must be an attorney and one (1)
 19 of whom must be a nonattorney who has never been licensed
 20 to practice law; and

21 (2) Vanderburgh County board of commissioners shall
 22 appoint two (2) members to the commission, one (1) of whom
 23 must be an attorney and one (1) of whom must be a
 24 nonattorney who has never been licensed to practice law.

25 The appointees must reside in Vanderburgh County, have no prior
 26 felony convictions, and reflect the composition of the community.
 27 If the Vanderburgh County board of commissioners fails to do
 28 appoint any commission members within the time required to do
 29 so, the appointment shall be made by the chairperson of the
 30 commission. The chairperson of the commission shall have
 31 standing to dispute the validity of an appointed member.

32 (c) A member of the commission, other than a judge or justice,
 33 may not hold any other elected public office. A member may not
 34 hold an office in a political party or organization.

35 (d) A member of the commission is not eligible for appointment
 36 to a judicial office in Vanderburgh County if the member is a
 37 member of the commission and for three (3) years thereafter.

38 (e) Except for the chief justice of Indiana or the chief justice's
 39 designee, if any voting member of the commission terminates the
 40 member's residence in Vanderburgh County, the member is
 41 considered to have resigned from the commission.

42 (f) One (1) month before the expiration of a term of office of a
 43 commissioner appointed by the Vanderburgh County board of
 44 commissioners, an appointment or reappointment shall be made in
 45 accordance with this section. All appointments made by the
 46 Vanderburgh County board of commissioners shall be certified to

1 the secretary of state, the clerk of the supreme court, and the clerk
2 of the Vanderburgh circuit court within ten (10) days after the
3 appointment.

4 (g) Each member appointed by the Vanderburgh County board
5 of commissioners shall be appointed for a term of four (4) years.

6 (h) Whenever a vacancy occurs in the office of a commissioner
7 appointed by the Vanderburgh County board of commissioners,
8 the chairperson of the commission shall promptly notify the
9 Vanderburgh County board of commissioners in writing of such
10 fact. Vacancies in the office of commissioners appointed by the
11 Vanderburgh County board of commissioners shall be filled by
12 appointment of the Vanderburgh County board of commissioners
13 within sixty (60) days after the notice of the vacancy is received.
14 The term of the commissioner appointed by the Vanderburgh
15 County board of commissioners is for the unexpired term of the
16 member whose vacancy the new member has filled.

17 (i) After the voting members of the commission have been
18 appointed by the governor and the voting members of the
19 commission appointed by the Vanderburgh County board of
20 commissioners have been certified to the secretary of state, the
21 clerk of the supreme court, and the clerk of the Vanderburgh
22 circuit court as this section requires, the clerk of the Vanderburgh
23 circuit court shall, by regular mail, notify the members of the
24 commission of their election or appointment and shall notify the
25 chairperson of the commission of the same.

26 (j) A member of the commission may serve until the member's
27 successor is appointed. A voting member of the commission is not
28 eligible for more than two (2) successive reappointments.

29 SECTION 2. IC 33-33-82-31.5 IS ADDED TO THE INDIANA
30 CODE AS A NEW SECTION TO READ AS FOLLOWS
31 [EFFECTIVE UPON PASSAGE]: Sec. 31.5. (a) When a vacancy
32 occurs in the circuit court of Vanderburgh County, the clerk of the
33 court shall promptly notify the chairperson and each member of
34 the commission of the vacancy. The chairperson shall call a
35 meeting of the commission within ten (10) days following the
36 notice. The commission shall submit its nomination of five (5)
37 candidates for each vacancy and certify them to the governor as
38 promptly as possible, and not later than sixty (60) days after the
39 vacancy occurs. When it is known that a vacancy will occur at a
40 definite future date within the term of the governor then serving,
41 but the vacancy has not yet occurred, the clerk shall notify the
42 chairperson and each member of the commission may, within fifty
43 (50) days of the notice of the vacancy, make its nominations and
44 submit to the governor the names of five (5) persons nominated for
45 the forthcoming vacancy.

46 (b) Meetings of the commission shall be called by its chairperson
47 or, if the chairperson fails to call a necessary meeting, upon the call

1 of any three (3) members of the commission. The chairperson,
2 whenever the chairperson considers a meeting necessary, or upon
3 the request by any three (3) members of the commission for a
4 meeting, shall give each member of the commission at least five (5)
5 days written notice by mail of the date, time, and place of every
6 meeting unless the commission, at its previous meeting, designated
7 the date, time, and place of its next meeting.

8 (c) Meetings of the commission are to be held as the circuit court
9 clerk of Vanderburgh County may arrange, at the direction of the
10 chairperson of the commission.

11 (d) The commission may act only at a public meeting.
12 IC 5-14-1.5 applies to meetings of the commission. The commission
13 may not meet in executive session under IC 5-14-1.5-6 for the
14 consideration of a candidate for judicial appointment.

15 (e) The commission may act only by the concurrence of a
16 majority of its voting members attending a meeting. Three (3)
17 voting members constitute a quorum at a meeting.

18 (f) The commission may adopt reasonable and proper rules and
19 regulations for the conduct of its proceeding and the discharge of
20 its duties. These rules must provide for the receipt of public
21 testimony concerning the qualifications of candidates for
22 nomination to the governor.

23 (g) In selecting the five (5) nominees to be submitted to the
24 governor, the commission shall comply with the following
25 requirements:

26 (1) The commission shall submit only the names of the five (5)
27 most highly qualified candidates from among all those eligible
28 individuals considered. To be eligible for nomination as a
29 judge of the superior court of Vanderburgh County, a person
30 must be domiciled in the county of Vanderburgh, a citizen of
31 the United States, and admitted to the practice of law in
32 Indiana.

33 (2) In abiding by the mandate in subdivision (1), the
34 commission shall evaluate, in writing, each eligible individual
35 on the following factors:

36 (A) Law school record, including any academic honors and
37 achievements.

38 (B) Contribution to scholarly journals and publications,
39 legislative drafting, and legal briefs.

40 (C) Activities in public service, including:

41 (i) writings and speeches concerning public or civic
42 affairs that are on public record, including but not
43 limited to campaign speeches or writings, letters to
44 newspapers, and testimony before public agencies;

45 (ii) government service;

46 (iii) efforts and achievements in improving the
47 administration of justice; and

- 1 (iv) other conduct relating to the individual's profession.
- 2 (D) Legal experience, including the number of years of
- 3 practicing law, the kind of practice involved, and
- 4 reputation as a trial lawyer or judge.
- 5 (E) Probable judicial temperament.
- 6 (F) Physical condition, including age, stamina, and possible
- 7 habitual intemperance.
- 8 (G) Personality traits, including the exercise of sound
- 9 judgment, ability to compromise and conciliate, patience,
- 10 decisiveness, and dedication.
- 11 (H) Membership on boards of directors, financial interests,
- 12 and any other consideration that might create conflict of
- 13 interest with a judicial office.
- 14 (I) Any other pertinent information that the commission
- 15 feels is important in selecting the best qualified individuals
- 16 for judicial office.
- 17 (3) These written evaluations shall not be made on an
- 18 individual until the individual states in writing that the
- 19 individual desires to hold a judicial office that is or will be
- 20 created by vacancy.
- 21 (4) The political affiliations of any candidate may not be
- 22 considered by the commission in evaluating and determining
- 23 which eligible candidates shall be recommended to the
- 24 governor for a vacancy on the superior court of Vanderburgh
- 25 County.
- 26 (5) In determining which eligible candidates are
- 27 recommended to the governor, the commission shall consider
- 28 that racial and gender diversity enhances the quality of the
- 29 judiciary.
- 30 (h) The commission shall submit with the list of five (5)
- 31 nominees to the governor its written evaluation of the
- 32 qualifications of each candidate.
- 33 (i) The names of the nominees and the written evaluations are
- 34 public records that may be inspected and copied under IC 5-14-3.
- 35 (j) Every eligible candidate whose name was not submitted to
- 36 the governor shall have access to any evaluation on the candidate
- 37 by the commission and the right to make such evaluation public.
- 38 (k) Records specifically prepared for discussion or developed
- 39 during discussion in an executive session under IC 5-14-1.5-6.1 are

1 **excepted from public disclosure, unless the records are prepared**
2 **for use in the consideration of a candidate for judicial**
3 **appointment."**

4 Renumber all SECTIONS consecutively.
(Reference is to EHB 1453 as printed March 26, 2021.)

Senator RANDOLPH LONNIE M