

HOUSE BILL No. 1453

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-33.

Synopsis: Judicial selection in Lake and St. Joseph counties. Provides that the judicial nominating commission (commission) for the Lake and St. Joseph superior courts consists of five members, with three members appointed by the governor and two members appointed by the county board of commissioners. (Current law provides that the commission for the Lake superior court consists of nine members and the commission for St. Joseph superior court consists of seven members.) Provides that a member of the commission for: (1) the Lake superior court shall reside in Lake County; and (2) the St. Joseph superior court shall reside in St. Joseph County. Repeals provisions concerning the appointment of nonattorney commissioners and the election of attorney commissioners to the commission. Provides that after the commission has nominated and submitted to the governor the names of five persons to fill a vacancy in the Lake or St. Joseph superior court, the governor shall select the most qualified person to fill the vacancy. (Current law provides that the commission for the Lake superior court nominate and submit to the governor the names of three people to fill a vacancy in the superior court.) Makes conforming changes.

Effective: July 1, 2021.

Aylesworth, Teshka, Slager

January 14, 2021, read first time and referred to Committee on Judiciary.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1453

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-33-45-28, AS AMENDED BY P.L.2-2007,
2 SECTION 368, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2021]: Sec. 28. (a) The judicial nominating
4 commission (referred to in this chapter as the commission) consists of
5 ~~nine (9)~~ **five (5)** members, the majority of whom form a quorum. ~~The~~
6 ~~chief justice of the supreme court (or a justice of the supreme court or~~
7 ~~judge of the court of appeals designated by the chief justice) shall be~~
8 ~~a member and shall act as chairman. The governor shall appoint the~~
9 **chairman of the commission.**

10 (b) ~~Under sections 30 and 31 of this chapter, those admitted to the~~
11 ~~practice of law and residing in Lake County shall elect four (4) of their~~
12 ~~members to serve on the commission, subject to the following:~~

13 (1) ~~At least one (1) attorney member must be a minority~~
14 ~~individual (as defined in IC 21-13-1-6).~~

15 (2) ~~Two (2) attorney members must be women.~~

16 (3) ~~Two (2) attorney members must be men.~~

17 (c) ~~(b)~~ **(b)** The:



1 (1) **governor shall appoint three (3) members to the**
 2 **commission; and**

3 (2) Lake County board of commissioners shall appoint ~~four (4)~~
 4 ~~nonattorney citizens~~ **two (2) members** to the commission. ~~subject~~
 5 ~~to the following:~~

6 (1) ~~Each of the three (3) county commissioners shall appoint one~~
 7 ~~(1) nonattorney member who is a resident of the appointing~~
 8 ~~commissioner's district.~~

9 (2) ~~After each county commissioner has had the opportunity to~~
 10 ~~make the county commissioner's appointment, the fourth~~
 11 ~~nonattorney member must be appointed by a majority vote of the~~
 12 ~~Lake County board of commissioners.~~

13 (3) ~~At least one (1) nonattorney member must be a minority~~
 14 ~~individual (as defined in IC 21-13-1-6).~~

15 (4) ~~Two (2) nonattorney members must be women.~~

16 (5) ~~Two (2) nonattorney members must be men.~~

17 (6) ~~Not more than two (2) of such appointees may be from the~~
 18 ~~same political party.~~

19 The appointees must **reside in Lake County and** reflect the
 20 composition of the community. If the Lake County board of
 21 commissioners fails to appoint any of the ~~nonattorney~~ commission
 22 members within the time required to do so in section 29 of this chapter,
 23 the appointment shall be made by the ~~chief justice of the supreme~~
 24 ~~court:~~ **chairman of the commission.**

25 (d) (c) A member of the commission, other than a judge or justice,
 26 may not hold any other elected public office. A member may not hold
 27 an office in a political party or organization. ~~A nonattorney member of~~
 28 ~~the commission may not hold an elected or salaried public office. A~~
 29 ~~nonattorney member may not be an employee of the state or of a~~
 30 ~~political subdivision of the state.~~

31 (e) (d) A member of the commission is not eligible for appointment
 32 to a judicial office in Lake County if the member is a member of the
 33 commission and for three (3) years thereafter.

34 (f) (e) If any member of the commission ~~other than a judge or~~
 35 ~~justice,~~ terminates the member's residence in Lake County, the member
 36 is considered to have resigned from the commission.

37 SECTION 2. IC 33-33-45-29 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 29. (a) The Lake
 39 County board of commissioners shall appoint ~~the four (4) nonattorney~~
 40 **two (2) members** of the commission.

41 (b) One (1) month before the expiration of a term of office of a
 42 ~~nonattorney commissioner~~ **appointed by the Lake County board of**



1 **commissioners**, an appointment or reappointment shall be made in
 2 accordance with section 28 of this chapter. All appointments made by
 3 the Lake County board of commissioners shall be certified to the
 4 secretary of state, the clerk of the supreme court, and the clerk of Lake
 5 circuit court within ten (10) days after the appointment.

6 (c) Each ~~nonattorney~~ member **appointed by the Lake County**
 7 **board of commissioners** shall be appointed for a term of four (4)
 8 years.

9 (d) Whenever a vacancy occurs in the office of a ~~nonattorney~~
 10 commissioner **appointed by the Lake County board of**
 11 **commissioners**, the chairman of the commission shall promptly notify
 12 the Lake County board of commissioners in writing of such fact.
 13 Vacancies in the office of ~~nonattorney~~ commissioners **appointed by**
 14 **the Lake County board of commissioners** shall be filled by
 15 appointment of the Lake County board of commissioners within sixty
 16 (60) days after notice of the vacancy is received. The term of the
 17 ~~nonattorney~~ commissioner **appointed by the Lake County board of**
 18 **commissioners** is for the unexpired term of the member whose
 19 vacancy the new member has filled.

20 SECTION 3. IC 33-33-45-30 IS REPEALED [EFFECTIVE JULY
 21 1, 2021]. ~~Sec. 30: (a) Those admitted to the practice of law and residing~~
 22 ~~in Lake County (referred to in this chapter as attorney electors) shall~~
 23 ~~elect four (4) of their number to the commission. To be eligible for the~~
 24 ~~office of attorney commissioner; a person must be on the current annual~~
 25 ~~list of attorneys certified to the clerk of the supreme court and must be~~
 26 ~~a resident of Lake County. The term of office of each elected attorney~~
 27 ~~member is four (4) years; commencing on the first day of October~~
 28 ~~following the attorney member's election. The election day is the date~~
 29 ~~on which the ballots are counted and; for purposes of this section; is the~~
 30 ~~first Tuesday in September 1995; and every four (4) years thereafter.~~
 31 ~~Thereafter, during the month before the expiration of each attorney~~
 32 ~~commissioner's term of office; an election shall be held to fill the~~
 33 ~~succeeding four (4) year term of office.~~

34 (b) Except when a term of office has less than ninety (90) days
 35 remaining; vacancies in the office of an attorney commissioner to the
 36 commission shall be filled for the unexpired term of the member
 37 creating the vacancy by a special election.

38 SECTION 4. IC 33-33-45-31 IS REPEALED [EFFECTIVE JULY
 39 1, 2021]. ~~Sec. 31: The attorney members of the commission shall be~~
 40 ~~elected by the following process:~~

41 (1) ~~The clerk of the Lake circuit court shall; at least ninety (90)~~
 42 ~~days before the date of election; notify all attorneys in Lake~~



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

County of the upcoming election by mail, informing them that nominations must be made to the clerk of the circuit court at least sixty (60) days before the election. The clerk shall secure a list of all attorneys and their correct addresses from the clerk of the supreme court.

(2) A nomination in writing, accompanied by a signed petition of ten (10) attorney electors, and the written consent of the qualified nominee shall be filed by any attorney elector or group of attorney electors residing in Lake County, by mail or otherwise, in the office of the clerk of the Lake circuit court at least sixty (60) days before the election.

(3) The clerk of the Lake circuit court shall prepare and print ballots containing the names and residential addresses of all attorney nominees whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election:

(A) The ballot shall read:
"SUPERIOR COURT OF LAKE COUNTY
NOMINATING COMMISSION BALLOT

To be cast by individuals residing in Lake County and admitted to the practice of law in Indiana. Vote for not more than four (4) of the following candidates for the term commencing _____.

(Name) (Address)
(Name) (Address)
(etc.) (etc.)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of the Lake circuit court not later than _____.

DESTROY BALLOT IF NOT USED".

(B) The four (4) nominees receiving the most votes whose election does not conflict with the requirements of section 28(b) of this chapter shall be elected.

(4) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting such ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, that the attorney elector resides in Lake County, and that the attorney elector voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(5) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the



1 voted ballot is to be placed. This envelope shall not be opened
2 until the counting of the ballots.

3 (6) The clerk of the Lake circuit court shall mail a ballot and its
4 accompanying material to all qualified attorney electors at least
5 two (2) weeks before the date of election.

6 (7) Upon receiving the completed ballots and the accompanying
7 certificate, the clerk shall ensure that the certificates have been
8 completed in compliance with this chapter. All ballots that are
9 accompanied by a valid certificate shall be placed in a package
10 designated to contain ballots. All accompanying certificates shall
11 be placed in a separate package.

12 (8) The clerk of the Lake circuit court, with the assistance of the
13 Lake County election board, shall open and canvass all ballots
14 after 4 p.m. on the day of election in the office of the clerk of the
15 Lake circuit court. Ballots received after 4 p.m. may not be
16 counted unless the chairman of the judicial nominating
17 commission orders an extension of time because of extraordinary
18 circumstances. Upon canvassing the ballots, the clerk shall place
19 all ballots back in their package. These, along with the
20 certificates, shall be retained in the clerk's office for six (6)
21 months, and the clerk shall permit no one to inspect them except
22 upon an order of the supreme court.

23 (9) In any election held for selection of attorney members of the
24 commission, in case two (2) or more nominees are tied so that one
25 (1) additional vote cast for one (1) of them would give the
26 nominee a plurality, the canvasser shall resolve the tie by lot and
27 the winner of the lot is considered to be elected.

28 SECTION 5. IC 33-33-45-32 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 32. After

30 ~~(1) the attorney members of the commission have been elected;~~
31 ~~and~~

32 ~~(2) the names of the nonattorney commissioners appointed by the~~
33 ~~governor and the members of the commission appointed by the~~
34 **Lake County board of commissioners** have been certified to the
35 secretary of state, clerk of the supreme court, and clerk of the
36 Lake circuit court as this chapter provides,

37 the clerk of the Lake circuit court shall by regular mail notify the
38 members of the commission of their election or appointment and shall
39 notify the chairman of the judicial nominating commission of the same.

40 SECTION 6. IC 33-33-45-33 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 33. A member of the
42 judicial nominating commission may serve until the member's



1 successor is appointed. ~~or elected. An attorney commissioner or a~~
 2 ~~nonattorney commissioner~~ **A member of the commission** is not
 3 eligible for more than two (2) successive ~~reelections or~~ reappointments.

4 SECTION 7. IC 33-33-45-34, AS AMENDED BY P.L.201-2011,
 5 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2021]: Sec. 34. (a) When a vacancy occurs in the superior
 7 court of Lake County, the clerk of the court shall promptly notify the
 8 chairman and each member of the commission of the vacancy. The
 9 chairman shall call a meeting of the commission within ten (10) days
 10 following the notice. The commission shall submit its nominations of
 11 ~~three (3)~~ **five (5)** candidates for each vacancy and certify them to the
 12 governor as promptly as possible, and not later than sixty (60) days
 13 after the vacancy occurs. When it is known that a vacancy will occur
 14 at a definite future date within the term of the governor then serving,
 15 but the vacancy has not yet occurred, the clerk shall notify the
 16 chairman and each member of the commission immediately of the
 17 forthcoming vacancy, and the commission may within fifty (50) days
 18 of the notice of the vacancy make its nominations and submit to the
 19 governor the names of ~~three (3)~~ **five (5)** persons nominated for the
 20 forthcoming vacancy.

21 (b) Meetings of the commission shall be called by its chairman or,
 22 if the chairman fails to call a necessary meeting, upon the call of any
 23 ~~five (5)~~ **three (3)** members of the commission. The chairman,
 24 whenever the chairman considers a meeting necessary, or upon the
 25 request by any ~~five (5)~~ **three (3)** members of the commission for a
 26 meeting, shall give each member of the commission at least five (5)
 27 days written notice by mail of the date, time, and place of every
 28 meeting unless the commission at its previous meeting designated the
 29 date, time, and place of its next meeting.

30 (c) Meetings of the commission are to be held at the Lake County
 31 government center in Crown Point or another place, as the circuit court
 32 clerk of Lake County may arrange, at the direction of the chairman of
 33 the commission.

34 (d) The commission may act only at a public meeting. IC 5-14-1.5
 35 applies to meetings of the commission. The commission may not meet
 36 in executive session under IC 5-14-1.5-6.1 for the consideration of a
 37 candidate for judicial appointment.

38 (e) The commission may act only by the concurrence of a majority
 39 of its members attending a meeting. ~~Five (5)~~ **Three (3)** members
 40 constitute a quorum at a meeting.

41 (f) The commission may adopt reasonable and proper rules and
 42 regulations for the conduct of its proceedings and the discharge of its



1 duties. These rules must provide for the receipt of public testimony
2 concerning the qualifications of candidates for nomination to the
3 governor.

4 SECTION 8. IC 33-33-45-35 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 35. In selecting the
6 ~~three (3)~~ **five (5)** nominees to be submitted to the governor, the
7 commission shall comply with the following requirements:

8 (1) The commission shall submit only the names of the ~~three (3)~~
9 **five (5)** most highly qualified candidates from among all those
10 eligible individuals considered. To be eligible for nomination as
11 a judge of the superior court of Lake County, a person must be
12 domiciled in the county of Lake, a citizen of the United States,
13 and admitted to the practice of law in Indiana.

14 (2) In abiding by the mandate in subdivision (1), the commission
15 shall evaluate in writing each eligible individual on the following
16 factors:

17 (A) Law school record, including any academic honors and
18 achievements.

19 (B) Contribution to scholarly journals and publications,
20 legislative drafting, and legal briefs.

21 (C) Activities in public service, including:

22 (i) writings and speeches concerning public or civic affairs
23 that are on public record, including but not limited to
24 campaign speeches or writings, letters to newspapers, and
25 testimony before public agencies;

26 (ii) government service;

27 (iii) efforts and achievements in improving the
28 administration of justice; and

29 (iv) other conduct relating to the individual's profession.

30 (D) Legal experience, including the number of years of
31 practicing law, the kind of practice involved, and reputation as
32 a trial lawyer or judge.

33 (E) Probable judicial temperament.

34 (F) Physical condition, including age, stamina, and possible
35 habitual intemperance.

36 (G) Personality traits, including the exercise of sound
37 judgment, ability to compromise and conciliate, patience,
38 decisiveness, and dedication.

39 (H) Membership on boards of directors, financial interests, and
40 any other consideration that might create conflict of interest
41 with a judicial office.

42 (I) Any other pertinent information that the commission feels



- 1 is important in selecting the best qualified individuals for
 2 judicial office.
- 3 (3) These written evaluations shall not be made on an individual
 4 until the individual states in writing that the individual desires to
 5 hold a judicial office that is or will be created by vacancy.
- 6 (4) The political affiliations of any candidate may not be
 7 considered by the commission in evaluating and determining
 8 which eligible candidates shall be recommended to the governor
 9 for a vacancy on the superior court of Lake County.
- 10 (5) In determining which eligible candidates are recommended to
 11 the governor, the commission shall consider that racial and gender
 12 diversity enhances the quality of the judiciary.
- 13 SECTION 9. IC 33-33-45-36 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 36. (a) The commission
 15 shall submit with the list of ~~three (3)~~ **five (5)** nominees to the governor
 16 its written evaluation of the qualifications of each candidate.
- 17 (b) The names of the nominees and the written evaluations are
 18 public records that may be inspected and copied under IC 5-14-3.
- 19 (c) Every eligible candidate whose name was not submitted to the
 20 governor shall have access to any evaluation on the candidate by the
 21 commission and the right to make such evaluation public.
- 22 (d) Records specifically prepared for discussion or developed during
 23 discussion in an executive session under IC 5-14-1.5-6.1 are excepted
 24 from public disclosure, unless the records are prepared for use in the
 25 consideration of a candidate for judicial appointment.
- 26 SECTION 10. IC 33-33-45-37 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 37. (a) After the
 28 commission has nominated and submitted to the governor the names of
 29 ~~three (3)~~ **five (5)** persons for appointment to fill a vacancy of the
 30 superior court of Lake County:
- 31 (1) any name may be withdrawn for cause considered by the
 32 commission to be of a substantial nature affecting the nominee's
 33 qualifications to hold office; and
 34 (2) another name may be substituted;
 35 before the appointment is made to fill the vacancy.
- 36 (b) If a nominee dies or requests in writing that the nominee's name
 37 be withdrawn, the commission shall nominate another person to replace
 38 the nominee.
- 39 (c) If two (2) or more vacancies exist, the commission shall
 40 nominate and submit to the governor a list of ~~three (3)~~ **five (5)** different
 41 persons for each of the vacancies. The commission may, before an
 42 appointment is made, withdraw the lists of nominations, change the



1 names of any persons nominated from one (1) list to another, and
 2 resubmit them as changed, or may substitute a new name for any of
 3 those previously nominated.

4 SECTION 11. IC 33-33-45-38 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 38. (a) A vacancy
 6 occurring on the court shall be filled by appointment of the governor
 7 from a list of ~~three (3)~~ **five (5)** nominees presented to the governor by
 8 the judicial nominating commission. If the governor fails to make an
 9 appointment from the list within sixty (60) days after the day it is
 10 presented to the governor, the appointment shall be made by the chief
 11 justice or the acting chief justice of the supreme court from the same
 12 list, or altered list as provided for in section 37 of this chapter.

13 (b) The governor shall make all appointments to the court without
 14 regard to the political affiliation of any of the ~~three (3)~~ **five (5)**
 15 nominees submitted to the governor. In the interest of justice, the
 16 governor shall consider only those qualifications of the nominees
 17 included in section 35 of this chapter.

18 SECTION 12. IC 33-33-71-30 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 30. (a) The judicial
 20 nominating commission (referred to as the "commission" in this
 21 chapter) consists of ~~seven (7)~~ **five (5)** members, the majority of whom
 22 shall form a quorum. ~~The chief justice shall appoint a justice of the~~
 23 ~~supreme court or a judge of the court of appeals to serve as a member~~
 24 ~~and chairman of the commission until a successor is appointed. Those~~
 25 ~~admitted to the practice of law in Indiana and residing in St. Joseph~~
 26 ~~County or maintaining their principal law office in St. Joseph County~~
 27 ~~shall elect, under sections 32 and 33 of this chapter, three (3) of their~~
 28 ~~number to serve as attorney members of the commission. If any~~
 29 ~~attorney member of the commission terminates residence in St. Joseph~~
 30 ~~County or discontinues the maintenance of a principal law office in St.~~
 31 ~~Joseph County; the member shall be considered to have resigned from~~
 32 ~~the commission. The three (3) remaining members of the commission~~
 33 ~~must be persons not admitted to the practice of law (referred to as~~
 34 ~~"nonattorney members" in this chapter) and residents of St. Joseph~~
 35 ~~County. However, not more than two (2) of the nonattorney members~~
 36 ~~may be from the same political party and that the appointment of the~~
 37 ~~nonattorney members of the commission shall be made under section~~
 38 ~~31 of this chapter. Not more than four (4) commission members may~~
 39 ~~be from the same political party. **The governor shall appoint three (3)**~~
 40 ~~**members to the commission and the St. Joseph County board of**~~
 41 ~~**commissioners shall appoint two (2) members to the commission.**~~
 42 ~~**The governor shall appoint the chairman of the commission. The**~~



1 **appointees must reside in St. Joseph County and reflect the**
 2 **composition of the community.**

3 (b) A member of the commission may not hold any other salaried
 4 public office nor an office in a political party organization. A member
 5 of the commission is not eligible for appointment to a judicial office in
 6 St. Joseph County who has, within four (4) years immediately
 7 preceding an appointment, served on the commission. If any
 8 ~~nonattorney~~ member of the commission terminates residence in St.
 9 Joseph County, the member is considered to have resigned from the
 10 commission.

11 SECTION 13. IC 33-33-71-31 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 31. (a) ~~The~~
 13 ~~appointment to membership on the commission of the nonattorney~~
 14 ~~members shall be made by a selection committee consisting of the~~
 15 ~~judge of the St. Joseph circuit court, the president of the board of St.~~
 16 ~~Joseph County commissioners, and mayors in each of the two (2) cities~~
 17 ~~having the largest populations in St. Joseph County. These~~
 18 ~~appointments~~ **Members appointed to the commission by the St.**
 19 **Joseph County board of commissioners** shall be made by a majority
 20 vote of the ~~selection committee~~. **St. Joseph County board of**
 21 **commissioners.** If a vacancy occurs on the commission among the
 22 ~~nonattorney~~ members **appointed by the St. Joseph County board of**
 23 **commissioners**, that fact shall be reported to the ~~judge of the St.~~
 24 ~~Joseph circuit court~~ **president of the St. Joseph County board of**
 25 **commissioners** by the commission. Upon notification, the ~~judge of the~~
 26 ~~St. Joseph circuit court~~ **president of the St. Joseph County board of**
 27 **commissioners** shall call into session the ~~selection committee~~, **St.**
 28 **Joseph County board of commissioners**, which shall, by majority
 29 vote, select a person or persons ~~not admitted to the practice of law~~, who
 30 shall serve the unexpired term of the vacant commission membership
 31 position and that this selection and appointment ~~by the selection~~
 32 ~~committee~~ shall be made within sixty (60) days after the date the ~~St.~~
 33 ~~Joseph circuit court~~ **president of the St. Joseph County board of**
 34 **commissioners** is notified of the creation of the vacancy. If the
 35 ~~selection committee~~ **St. Joseph County board of commissioners** fails
 36 to act to fill an unexpired term of a ~~nonattorney~~ member of the
 37 commission **previously appointed by the St. Joseph County board**
 38 **of commissioners** within sixty (60) days after the notification that the
 39 vacancy exists, the vacancy shall be filled by a majority vote of the
 40 remaining members of the commission.

41 (b) Not less than sixty (60) days before the expiration of the term of
 42 a ~~nonattorney~~ member of the commission **appointed by the St. Joseph**



1 **County board of commissioners**, the judge of the St. Joseph circuit
 2 ~~court president of the St. Joseph County board of commissioners~~
 3 shall call into session the ~~selection committee~~ **St. Joseph County**
 4 **board of commissioners** that shall appoint, by a majority vote, a
 5 person to the commission to serve a new term. If the ~~selection~~
 6 ~~committee~~ **St. Joseph County board of commissioners** fails to act to
 7 fill an expired term of a ~~nonattorney~~ member of the commission
 8 **previously appointed by the St. Joseph County board of**
 9 **commissioners** by the date of expiration of the term, of a ~~nonattorney~~
 10 ~~member of the commission~~; the remaining members on the commission
 11 shall, by majority vote, appoint a person to serve for the succeeding
 12 term. All appointments made to the commission shall be certified
 13 within ten (10) days to the clerk of the St. Joseph superior court.

14 (c) Each appointee of a ~~nonattorney member~~ to the commission,
 15 except those who fill a vacancy, shall serve for four (4) years.

16 SECTION 14. IC 33-33-71-32 IS REPEALED [EFFECTIVE JULY
 17 1, 2021]. Sec. 32: (a) Each year in which an attorney member's term
 18 expires, those admitted to the practice of law in Indiana and residing in
 19 St. Joseph County (referred to as "attorney electors" in this chapter)
 20 shall elect three (3) of their number to serve on the commission. Each
 21 attorney member of the commission shall serve for four (4) years. The
 22 term of each attorney member begins on the first day of October
 23 following the member's election. The election day is the date on which
 24 the ballots are counted. During the month before the expiration of each
 25 attorney commissioner's term of office, an election shall be held to fill
 26 the succeeding four (4) year term of office.

27 (b) Except when a term of office has less than ninety (90) days
 28 remaining, vacancies in the office of an attorney commissioner to the
 29 commission shall be filled for the unexpired term of the member
 30 creating the vacancy by a special election.

31 SECTION 15. IC 33-33-71-33 IS REPEALED [EFFECTIVE JULY
 32 1, 2021]. Sec. 33: The attorney members of the commission shall be
 33 elected by the following process:

34 (1) The clerk of the St. Joseph superior court shall at least ninety
 35 (90) days before the date of election notify all attorneys in St.
 36 Joseph County of the upcoming election by mail, informing them
 37 that nominations must be made to the clerk of the superior court
 38 at least sixty (60) days before the election. The clerk shall secure
 39 a list of all attorneys in the county and their correct addresses
 40 from the clerk of the supreme court.

41 (2) A nomination in writing accompanied by a signed petition of
 42 ten (10) attorney electors; and the written consent of the qualified



1 nominee shall be filed by an attorney elector or group of attorney
2 electors residing in St. Joseph County; by mail or otherwise; in the
3 office of the clerk of St. Joseph superior court at least sixty (60)
4 days before the election:

5 (3) The clerk of St. Joseph superior court shall prepare and print
6 ballots containing the names and residence addresses of all
7 attorney nominees whose written nominations, petitions and
8 written statements of consent have been received sixty (60) days
9 before the election:

10 The ballot must read:

11 "ST. JOSEPH SUPERIOR COURT
12 NOMINATING COMMISSION BALLOT

13 To be cast by individuals residing in St. Joseph County and admitted
14 to the practice of law in Indiana. Vote for one (1) of the following
15 candidates for the term commencing:

16 (Insert Date)

17	()	(Name)	(Address)
18	()	(Name)	(Address)
19	()	(etc.)	(etc.)

20 To be counted; this ballot must be completed; the accompanying
21 certificate completed and signed; and both together mailed or delivered
22 to the clerk of St. Joseph superior court not later than _____ (insert
23 date):

24 **DESTROY BALLOT IF NOT USED":**

25 (4) The nominee receiving the most votes is elected:

26 (5) The clerk shall also supply with each ballot distributed by the
27 clerk a certificate; to be completed and signed and returned by the
28 attorney elector voting that ballot; certifying that the attorney
29 elector is admitted to the practice of law in Indiana; resides in St.
30 Joseph County; and voted the ballot returned: A ballot not
31 accompanied by the signed certificate of the voter may not be
32 counted:

33 (6) To maintain the secrecy of each vote; a separate envelope
34 shall be provided by the clerk for the ballot; in which only the
35 voted ballot is to be placed: This envelope may not be opened
36 until the counting of the ballots:

37 (7) The clerk of St. Joseph superior court shall mail a ballot and
38 its accompanying material to all qualified attorney electors at least
39 two (2) weeks before the date of election:

40 (8) Upon receiving the completed ballots and the accompanying
41 certificates; the clerk shall insure that the certificates have been
42 completed in compliance with this chapter: All ballots that are



1 accompanied by a valid certificate shall be placed in a package
 2 designated to contain ballots. All accompanying certificates shall
 3 be placed in a separate package.

4 (9) The clerk of St. Joseph superior court, with the assistance of
 5 the St. Joseph County election board, shall open and canvass all
 6 ballots at 4 p.m. on the day of election in the office of the clerk of
 7 St. Joseph superior court. Ballots received after 4 p.m. may not be
 8 counted. Upon canvassing the ballots the clerk shall place all
 9 ballots back in their package. These, along with the certificates,
 10 shall be retained in the clerk's office for six (6) months. The clerk
 11 may not allow a person to inspect them except upon an order of
 12 the court of appeals.

13 (10) In any election held for selection of attorney members of the
 14 commission, in case two (2) or more nominees are tied so that one
 15 (1) additional vote cast for one (1) of them would give that
 16 nominee a plurality, the canvassers shall resolve the tie by lot, and
 17 the winner of the lot is considered elected.

18 SECTION 16. IC 33-33-71-34 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 34. After:

20 (1) the attorney members of the commission have been ~~elected~~;
 21 **appointed by the governor**; and

22 (2) the names of the ~~nonattorney~~ commissioners appointed by the
 23 ~~selection committee~~ **St. Joseph County board of commissioners**
 24 have been certified to the secretary of state, clerk of the supreme
 25 court, and the clerk of St. Joseph superior court under this
 26 chapter;

27 the clerk of St. Joseph superior court shall by regular mail notify the
 28 members of the commission of their election or appointment, and shall
 29 notify the chairman of the commission of the same.

30 SECTION 17. IC 33-33-71-35 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 35. A person who has
 32 been ~~elected or~~ appointed to a full four (4) year term upon the
 33 commission may not succeed himself or herself or be eligible for
 34 ~~election or~~ appointment to the commission for four (4) years after the
 35 expiration of the term to which the person was ~~elected or~~ appointed.

36 SECTION 18. IC 33-33-71-36, AS AMENDED BY P.L.173-2015,
 37 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2021]: Sec. 36. (a) When a vacancy occurs in the St. Joseph
 39 superior court, the clerk of the court shall promptly notify the chairman
 40 of the commission of the vacancy. The chairman shall call a meeting
 41 of the commission within ten (10) days following this notice. The
 42 commission shall submit its nominations of five (5) candidates for each



1 vacancy and certify them to the governor as promptly as possible, and
 2 not later than sixty (60) days after the vacancy occurs. When it is
 3 known that a vacancy will occur at a definite future date within the
 4 term of the serving governor, but the vacancy has not yet occurred, the
 5 clerk shall notify the commission immediately. The commission may
 6 within fifty (50) days of the notice of vacancy make its nominations
 7 and submit to the governor the names of five (5) persons nominated for
 8 the forthcoming vacancy.

9 (b) Meetings of the commission shall be called by the chairman or,
 10 if the chairman fails to call a necessary meeting, upon the call of any
 11 ~~four (4)~~ **three (3)** members of the commission. The chairman,
 12 whenever the chairman considers a meeting necessary, or upon the
 13 request by any ~~four (4)~~ **three (3)** members of the commission for a
 14 meeting, shall give each member of the commission at least five (5)
 15 days written notice by mail of the time and place of every meeting
 16 unless the commission at its previous meeting designated the time and
 17 place of its next meeting.

18 (c) Meetings of the commission must be held at a place in:

- 19 (1) the St. Joseph County courthouse; or
 20 (2) another building owned or operated by St. Joseph County;
 21 in South Bend as the clerk of the St. Joseph superior court may arrange.

22 (d) The commission shall act only at a meeting and may act only by
 23 the concurrence of a majority of its members. ~~Four (4)~~ **Three (3)**
 24 members are required to constitute a quorum at a meeting. The
 25 commission may adopt reasonable and proper rules and regulations for
 26 the conduct of its proceedings and the discharge of its duties.

27 SECTION 19. IC 33-33-71-40 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 40. (a) A vacancy
 29 occurring in the St. Joseph superior court shall be filled by appointment
 30 of the governor from a list of nominees presented to the governor by
 31 the judicial nominating commission. If the governor fails to make an
 32 appointment from the list within sixty (60) days from the day it is
 33 presented to the governor, the appointment shall be made by the chief
 34 justice or the acting chief justice of the supreme court from the same
 35 list presented to the governor.

36 (b) The governor shall make all appointments to the St. Joseph
 37 superior court without regard to the political affiliation of any of the
 38 nominees submitted to the governor. In the interest of justice, the
 39 governor shall consider only those qualifications of the nominees
 40 included in section 37 of this chapter.

41 (c) If the St. Joseph County judicial nominating commission, by a
 42 vote of any ~~five (5)~~ **three (3)** of its members, determines that, of the



1 persons considered for any existing or expected vacancy in the St.
 2 Joseph superior court, less than five (5) are qualified for judicial office,
 3 within the scope of this chapter, the commission shall certify that
 4 determination to the governor together with the name or names of the
 5 person or persons found to be qualified under this chapter. In that
 6 event, the governor, chief justice, or acting chief justice shall make the
 7 selection or, if only one (1) name is submitted, make the appointment.

8 SECTION 20. IC 33-33-71-47 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 47. (a) The commission
 10 on judicial qualifications shall meet periodically as necessary to
 11 discharge its statutory responsibilities. Meetings of the commission on
 12 judicial qualifications shall be called in the same manner as prescribed
 13 for the judicial nominating commission. A quorum for the transaction
 14 of business is ~~four (4)~~ **three (3)** members.

15 (b) The clerk of the St. Joseph circuit court shall make arrangements
 16 for a meeting place in St. Joseph County as the commission may
 17 request.

18 (c) The commission on judicial qualifications may act only at a
 19 meeting. The commission on judicial qualifications may adopt
 20 reasonable and proper rules and regulations for the conduct of its
 21 meetings and discharge of its duties.

22 SECTION 21. IC 33-33-71-55 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 55. (a) At the date,
 24 time, and place set for hearing, the commission on judicial
 25 qualifications may proceed with the hearing whether or not the judge
 26 has filed an answer or appears at the hearing.

27 (b) The failure of the judge to answer or to appear at the hearing,
 28 standing alone, may not be taken as evidence of the truth of the facts
 29 alleged to constitute grounds for censure, retirement, or removal. In any
 30 proceeding for involuntary retirement for disability, the failure of the
 31 judge to testify in the judge's own behalf or to submit to a medical
 32 examination requested by the commission on judicial qualifications
 33 may be considered, unless the failure to appear was due to
 34 circumstances beyond the judge's control.

35 (c) The proceedings at the hearing shall be reported verbatim.

36 (d) At least ~~four (4)~~ **three (3)** members of the commission on
 37 judicial qualifications must be present when the evidence is produced.

38 SECTION 22. IC 33-33-71-60 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 60. If the commission
 40 on judicial qualifications finds good cause, it shall recommend to the
 41 supreme court the censure, retirement, or removal of the judge. The
 42 affirmative vote of ~~four (4)~~ **three (3)** members of the commission on



1 judicial qualifications, including a majority of those who were present
2 at the hearing or hearings when the evidence was produced, is required
3 for a recommendation of discipline, retirement, or removal of a judge.

