

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 ENROLLED ACT No. 1453

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

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

SECTION 1. IC 33-33-45-28, AS AMENDED BY P.L.2-2007, SECTION 368, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) The judicial nominating commission (referred to in this chapter as the commission) consists of ~~nine (9)~~ **seven (7) voting** members, the majority of whom form a quorum. ~~The chief justice of the supreme court (or a justice of the supreme court or judge of the court of appeals designated by the chief justice) shall be a member and shall act as chairman. The chief justice of Indiana or the chief justice's designee serves ex officio as a voting member only to resolve tie votes and as the chairperson of the commission.~~

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

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

(2) ~~Two (2) attorney members must be women:~~

(3) ~~Two (2) attorney members must be men:~~

(c) (b) The:

(1) **governor shall appoint three (3) members to the commission:**

(A) **one (1) of whom must be an attorney;**

HEA 1453 — Concur



- (B) one (1) of whom must be a nonattorney who has never been licensed to practice law; and**
- (C) one (1) of whom must be a woman; and**
- (2) Lake County board of commissioners shall appoint ~~four (4)~~ nonattorney citizens **three (3) members** to the commission:**
- (A) one (1) of whom must be an attorney;**
- (B) one (1) of whom must be a nonattorney who has never been licensed to practice law; and**
- (C) one (1) of whom must be an individual from a minority group (as defined in IC 5-28-20-5), subject to the following:**
- ~~(1) Each of the three (3) county commissioners shall appoint one (1) nonattorney member who is a resident of the appointing commissioner's district.~~
- ~~(2) After each county commissioner has had the opportunity to make the county commissioner's appointment, the fourth nonattorney member must be appointed by a majority vote of the Lake County board of commissioners.~~
- ~~(3) At least one (1) nonattorney member must be a minority individual (as defined in IC 21-13-1-6).~~
- ~~(4) Two (2) nonattorney members must be women.~~
- ~~(5) Two (2) nonattorney members must be men.~~
- ~~(6) Not more than two (2) of such appointees may be from the same political party.~~

The appointees must **reside in Lake County, have no prior felony conviction, and** reflect the composition of the community. If the Lake County board of commissioners fails to appoint any of the nonattorney commission members within the time required to do so in section 29 of this chapter, the appointment shall be made by the ~~chief justice of the supreme court.~~ **chairperson of the commission. The chairperson of the commission shall have standing to dispute the validity of an appointed member.**

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

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

~~(e)~~ **(e)** ~~Except for the chief justice of Indiana or the chief justice's designee, if any voting member of the commission other than a judge~~



or justice; terminates the member's residence in Lake County, the member is considered to have resigned from the commission.

SECTION 2. IC 33-33-45-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. (a) The Lake County board of commissioners shall appoint ~~the four (4)~~ **nonattorney three (3)** members of the commission.

(b) One (1) month before the expiration of a term of office of a **nonattorney commissioner appointed by the Lake County board of commissioners**, an appointment or reappointment shall be made in accordance with section 28 of this chapter. All appointments made by the Lake County board of commissioners shall be certified to the secretary of state, the clerk of the supreme court, and the clerk of Lake circuit court within ten (10) days after the appointment.

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

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

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

(b) ~~Except when a term of office has less than ninety (90) days~~



remaining, vacancies in the office of an attorney commissioner to the commission shall be filled for the unexpired term of the member creating the vacancy by a special election:

SECTION 4. IC 33-33-45-31 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 31. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the Lake circuit court shall, at least ninety (90) days before the date of election, notify all attorneys in Lake 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 voted ballot is to be placed. This envelope shall not be opened until the counting of the ballots.

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

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

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

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

SECTION 5. IC 33-33-45-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. After

(1) the attorney **voting** members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the governor and the **voting members of the commission appointed by the Lake County board of commissioners** have been



certified to the secretary of state, clerk of the supreme court, and clerk of the Lake circuit court as this chapter provides, the clerk of the Lake circuit court shall by regular mail notify the members of the commission of their election or appointment and shall notify the ~~chairman~~ **chairperson** of the judicial nominating commission of the same.

SECTION 6. IC 33-33-45-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. A member of the judicial nominating commission may serve until the member's successor is appointed. ~~or elected. An attorney commissioner or a nonattorney commissioner.~~ **A voting member of the commission** is not eligible for more than two (2) successive ~~reelections~~ or reappointments.

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

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

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



chairperson of the commission.

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

(e) The commission may act only by the concurrence of a majority of its **voting** members attending a meeting. ~~Five (5)~~ **Four (4)** voting members constitute a quorum at a meeting.

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

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

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

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

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

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

(C) Activities in public service, including:

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

(ii) government service;

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

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

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

HEA 1453 — Concur



(E) Probable judicial temperament.

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

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

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

(I) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

(3) These written evaluations shall not be made on an individual until the individual states in writing that the individual desires to hold a judicial office that is or will be created by vacancy.

(4) The political affiliations of any candidate may not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the superior court of Lake County.

(5) In determining which eligible candidates are recommended to the governor, the commission shall consider that racial and gender diversity enhances the quality of the judiciary.

SECTION 9. IC 33-33-45-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) The commission shall submit with the list of ~~three (3)~~ **five (5)** nominees to the governor its written evaluation of the qualifications of each candidate.

(b) The names of the nominees and the written evaluations are public records that may be inspected and copied under IC 5-14-3.

(c) Every eligible candidate whose name was not submitted to the governor shall have access to any evaluation on the candidate by the commission and the right to make such evaluation public.

(d) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1 are excepted from public disclosure, unless the records are prepared for use in the consideration of a candidate for judicial appointment.

SECTION 10. IC 33-33-45-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) After the commission has nominated and submitted to the governor the names of ~~three (3)~~ **five (5)** persons for appointment to fill a vacancy of the superior court of Lake County:

(1) any name may be withdrawn for cause considered by the



commission to be of a substantial nature affecting the nominee's qualifications to hold office; and

(2) another name may be substituted;

before the appointment is made to fill the vacancy.

(b) If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If two (2) or more vacancies exist, the commission shall nominate and submit to the governor a list of ~~three (3)~~ **five (5)** different persons for each of the vacancies. The commission may, before an appointment is made, withdraw the lists of nominations, change the names of any persons nominated from one (1) list to another, and resubmit them as changed, or may substitute a new name for any of those previously nominated.

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

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

SECTION 12. IC 33-33-71-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) The judicial nominating commission (referred to as the "commission" in this chapter) consists of seven (7) **voting** members, the majority of whom shall form a quorum. ~~The chief justice shall appoint a justice of the supreme court or a judge of the court of appeals to serve as a member and chairman of the commission until a successor is appointed. Those admitted to the practice of law in Indiana and residing in St. Joseph County or maintaining their principal law office in St. Joseph County shall elect, under sections 32 and 33 of this chapter, three (3) of their number to serve as attorney members of the commission. If any attorney member of the commission terminates residence in St. Joseph County or discontinues the maintenance of a principal law office in St. Joseph County, the member shall be considered to have resigned from~~

HEA 1453 — Concur



the commission. The three (3) remaining members of the commission must be persons not admitted to the practice of law (referred to as "nonattorney members" in this chapter) and residents of St. Joseph County. However, not more than two (2) of the nonattorney members may be from the same political party and that the appointment of the nonattorney members of the commission shall be made under section 31 of this chapter. Not more than four (4) commission members may be from the same political party. **The:**

(1) governor shall appoint three (3) voting members to the commission:

(A) one (1) of whom must be an attorney;

(B) one (1) of whom must be a nonattorney who has never been licensed to practice law; and

(C) one (1) of whom must be a woman; and

(2) St. Joseph County board of commissioners shall appoint three (3) voting members to the commission:

(A) one (1) of whom must be an attorney;

(B) one (1) of whom must be a nonattorney who has never been licensed to practice law; and

(C) one (1) of whom must be an individual from a minority group (as defined in IC 5-28-20-5).

The chief justice of Indiana or the chief justice's designee serves ex officio as a voting member only to resolve tie votes and as the chairperson of the commission. The voting appointees must reside in St. Joseph County, have no prior felony conviction, and reflect the composition of the community. The chairperson of the commission shall have standing to dispute the validity of a voting appointee.

(b) This subsection does not apply to the chief justice of Indiana or the chief justice's designee. A voting member of the commission may not hold any other salaried public office nor an office in a political party organization. A **voting** member of the commission is not eligible for appointment to a judicial office in St. Joseph County who has, within four (4) years immediately preceding an appointment, served on the commission. If any **nonattorney voting** member of the commission terminates residence in St. Joseph County, the member is considered to have resigned from the commission.

SECTION 13. IC 33-33-71-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) ~~The appointment to membership on the commission of the nonattorney members shall be made by a selection committee consisting of the judge of the St. Joseph circuit court, the president of the board of St.~~



Joseph County commissioners, and mayors in each of the two (2) cities having the largest populations in St. Joseph County. These appointments **Members appointed to the commission by the St. Joseph County board of commissioners** shall be made by a majority vote of the selection committee. **St. Joseph County board of commissioners.** If a vacancy occurs on the commission among the nonattorney members **appointed by the St. Joseph County board of commissioners**, that fact shall be reported to the judge of the St. Joseph circuit court **president of the St. Joseph County board of commissioners** by the commission. Upon notification, the judge of the St. Joseph circuit court **president of the St. Joseph County board of commissioners** shall call into session the ~~selection committee~~, **St. Joseph County board of commissioners**, which shall, by majority vote, select a person or persons ~~not admitted to the practice of law~~, who shall serve the unexpired term of the vacant commission membership position and that this selection and appointment ~~by the selection committee~~ shall be made within sixty (60) days after the date the St. Joseph circuit court **president of the St. Joseph County board of commissioners** is notified of the creation of the vacancy. If the ~~selection committee~~ **St. Joseph County board of commissioners** fails to act to fill an unexpired term of a nonattorney member of the commission **previously appointed by the St. Joseph County board of commissioners** within sixty (60) days after the notification that the vacancy exists, the vacancy shall be filled by a majority vote of the remaining members of the commission.

(b) Not less than sixty (60) days before the expiration of the term of a nonattorney member of the commission **appointed by the St. Joseph County board of commissioners**, the judge of the St. Joseph circuit court **president of the St. Joseph County board of commissioners** shall call into session the ~~selection committee~~ **St. Joseph County board of commissioners** that shall appoint, by a majority vote, a person to the commission to serve a new term. If the ~~selection committee~~ **St. Joseph County board of commissioners** fails to act to fill an expired term of a nonattorney member of the commission **previously appointed by the St. Joseph County board of commissioners** by the date of expiration of the term, ~~of a nonattorney member of the commission~~, the remaining members on the commission shall, by majority vote, appoint a person to serve for the succeeding term. All appointments made to the commission shall be certified within ten (10) days to the clerk of the St. Joseph superior court.

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



years.

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

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

SECTION 15. IC 33-33-71-33 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 33. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the St. Joseph superior court shall at least ninety (90) days before the date of election notify all attorneys in St. Joseph County of the upcoming election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days before the election. The clerk shall secure a list of all attorneys in the county 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 an attorney elector or group of attorney electors residing in St. Joseph County, by mail or otherwise, in the office of the clerk of St. Joseph superior court at least sixty (60) days before the election.

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

The ballot must read:

"ST. JOSEPH SUPERIOR COURT
NOMINATING COMMISSION BALLOT

To be cast by individuals residing in St. Joseph County and admitted to the practice of law in Indiana. Vote for one (1) of the following

HEA 1453 — Concur



candidates for the term commencing:

(Insert Date)

()	(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 St. Joseph superior court not later than _____ (insert date):

DESTROY BALLOT IF NOT USED":

- (4) The nominee receiving the most votes is elected:
- (5) 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 that ballot; certifying that the attorney elector is admitted to the practice of law in Indiana; resides in St. Joseph County; and voted the ballot returned: A ballot not accompanied by the signed certificate of the voter may not be counted.
- (6) To maintain the secrecy of each vote; a separate envelope shall be provided by the clerk for the ballot; in which only the voted ballot is to be placed: This envelope may not be opened until the counting of the ballots.
- (7) The clerk of St. Joseph superior court shall mail a ballot and its accompanying material to all qualified attorney electors at least two (2) weeks before the date of election:
- (8) Upon receiving the completed ballots and the accompanying certificates; the clerk shall insure that the certificates have been completed in compliance with this chapter: All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots: All accompanying certificates shall be placed in a separate package:
- (9) The clerk of St. Joseph superior court; with the assistance of the St. Joseph County election board; shall open and canvass all ballots at 4 p.m. on the day of election in the office of the clerk of St. Joseph superior court: Ballots received after 4 p.m. may not be counted: Upon canvassing the ballots the clerk shall place all ballots back in their package: These; along with the certificates; shall be retained in the clerk's office for six (6) months: The clerk may not allow a person to inspect them except upon an order of the court of appeals:
- (10) In any election held for selection of attorney members of the commission; in case two (2) or more nominees are tied so that one



~~(†) additional vote cast for one (†) of them would give that nominee a plurality; the canvassers shall resolve the tie by lot; and the winner of the lot is considered elected.~~

SECTION 16. IC 33-33-71-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. After:

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

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

the clerk of St. Joseph superior court shall by regular mail notify the members of the commission of their election or appointment, and shall notify the ~~chairman~~ **chairperson** of the commission of the same.

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

SECTION 18. IC 33-33-71-36, AS AMENDED BY P.L.173-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) When a vacancy occurs in the St. Joseph superior court, the clerk of the court shall promptly notify the ~~chairman~~ **chairperson** of the commission of the vacancy. The ~~chairman~~ **chairperson** shall call a meeting of the commission within ten (10) days following this notice. The commission shall submit its nominations of five (5) candidates for each vacancy and certify them to the governor as promptly as possible, and not later than sixty (60) days after the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the serving governor, but the vacancy has not yet occurred, the clerk shall notify the commission immediately. The commission may within fifty (50) days of the notice of vacancy make its nominations and submit to the governor the names of five (5) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by the ~~chairman~~ **chairperson** or, if the ~~chairman~~ **chairperson** fails to call a necessary meeting, upon the call of any four (4) members of the commission. The ~~chairman~~; **chairperson**, whenever the ~~chairman~~ **chairperson** considers a meeting necessary, or upon the request by any four (4) members of



the commission for a meeting, shall give each member of the commission at least five (5) days written notice by mail of the time and place of every meeting unless the commission at its previous meeting designated the time and place of its next meeting.

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

(1) the St. Joseph County courthouse; or

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

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

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

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

(c) If the St. Joseph County judicial nominating commission, by a vote of any five (5) of its **voting** members, determines that, of the persons considered for any existing or expected vacancy in the St. Joseph superior court, less than five (5) are qualified for judicial office, within the scope of this chapter, the commission shall certify that determination to the governor together with the name or names of the person or persons found to be qualified under this chapter. In that event, the governor, chief justice, or acting chief justice shall make the selection or, if only one (1) name is submitted, make the appointment.

SECTION 20. **An emergency is declared for this act.**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1453 — Concur

