

2024 -- H 7306

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS -- JUDICIAL SELECTION

Introduced By: Representatives Knight, Craven, Dawson, Shanley, Batista, McEntee,
Kazarian, J. Brien, Potter, and Ajello

Date Introduced: January 26, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-16.1-6 of the General Laws in Chapter 8-16.1 entitled "Judicial
2 Selection" is hereby amended to read as follows:

3 **8-16.1-6. Nomination and appointment of judges.**

4 (a)(1) The governor shall immediately notify the commission of any vacancy or
5 prospective vacancy of a judge of any state court other than the Rhode Island supreme court. The
6 commission shall advertise for each vacancy and solicit prospective candidates and shall consider
7 names submitted from any source. Within ninety (90) days of any vacancy, the commission shall
8 publicly submit the names of not less than three (3), and not more than five (5), highly qualified
9 persons for each vacancy to the governor. ~~The governor shall fill any vacancy of any judge of the
10 Rhode Island superior court, family court, district court, workers' compensation court, or any other
11 state court that the general assembly may, from time to time, establish, by nominating one of the
12 three (3) to five (5) highly qualified persons forwarded to him or her by the commission for the
13 court where the vacancy occurs.~~

14 (2) Notwithstanding any other law to the contrary, any individual whose name was publicly
15 submitted to the governor by the commission, as described in subsection (1) of this section, shall
16 also be eligible for subsequent nomination by the governor for any vacancy, or prospective
17 vacancy, of a judge in the same court for with that particular individual had previously applied
18 except for a vacancy in the position of presiding justice, chief justice or chief judge.

19 (3) Such individuals shall remain eligible for nomination to fill any vacancy, or prospective

1 vacancy, with the same court to which they previously applied for a period of five (5) years from
2 the date their name or names were publicly submitted to the governor by the commission unless
3 such individuals withdraw from future consideration in writing to the judicial nominating
4 commission. However, such individuals must reapply for any subsequent vacancy, or prospective
5 vacancy, in the same court for the position of presiding justice, chief justice, or chief judge. Any
6 individual who has applied for any vacancy or prospective vacancy must, after a period of five (5)
7 years, reapply in order to be considered for any vacancy or prospective vacancy in the court in
8 which their names were previously submitted.

9 (4) Subject to the eligibility requirements set forth in subsection (a)(2) of this section, the
10 governor shall fill any vacancy of any judge of the Rhode Island superior court, family court, district
11 court, workers' compensation court, or any other state court that the general assembly may, from
12 time to time, establish, by nominating one of the three (3) to five (5) highly qualified persons
13 forwarded to him or her by the commission for the court where the vacancy occurs, or by
14 nominating another individual who has previously applied for a vacancy or prospective vacancy
15 within the same court and whose name had been previously publicly submitted to the governor
16 within the previous five (5) years.

17 (b) The governor shall fill any vacancy within twenty-one (21) days of the public
18 submission by the commission.

19 (c) Each nomination shall be forwarded forthwith to the secretary of the senate for
20 presentation to the senate, and by and with the advice and consent of the senate, each nominee shall
21 be appointed by the governor to serve subject to the general laws. The senate shall, after seven (7)
22 calendar days of receipt of the nomination consider the nomination, but if the senate fails within
23 ninety (90) days after the submission to confirm the nominee, or if the senate does not, by a majority
24 vote of its members, extend the deliberation an additional seven (7) calendar days, the governor
25 shall appoint some other person to fill the vacancy and shall submit his or her appointment to the
26 senate for confirmation in like manner until the senate shall confirm the nomination. If the nominee
27 is rejected by the senate, the commission shall submit a new list of three (3) to five (5) candidates
28 to the governor for the purpose of nomination in accordance with this chapter. Any new list may
29 include, but need not be limited to, the names of any candidates who were previously submitted to
30 the governor by the commission but who were not forwarded to the senate for its advice and
31 consent.

32 (d) During the time for consideration of the nominees by the senate, the senate judiciary
33 committee shall conduct an investigation and public hearing on the question of the qualifications
34 of the nominee or nominees. At the public hearing, the testimony of every witness shall be taken

1 under oath and stenographic records shall be taken and maintained. Further, the senate judiciary
2 committee shall, during the course of its investigation and hearing, have the power upon majority
3 vote of the committee members present to issue witness subpoenas, subpoenas duces tecum, and
4 orders for the production of books, accounts, papers, records, and documents that shall be signed
5 and issued by the chairperson of the committee, or the person serving in his or her capacity. All
6 such subpoenas and orders shall be served as subpoenas in civil cases in the superior court are
7 served, and witnesses so subpoenaed shall be entitled to the same fees for attendance and travel as
8 provided for witnesses in civil cases in the superior court. If the person subpoenaed to attend before
9 the committee fails to obey the command of the subpoena without reasonable cause; refuse to be
10 sworn; or to be examined; or to answer a legal and pertinent question; or if any person shall refuse
11 to produce books, accounts, papers, records, and documents material to the issue, set forth in an
12 order duly served on him or her; the committee by majority vote of the committee members present
13 may apply to any justice of the superior court, for any county, upon proof by affidavit of the fact,
14 for a rule or order returnable in not less than two (2), nor more than five (5), days, directing the
15 person to show cause before the justice who made the order or any other justice of the superior
16 court, why he or she should not be adjudged in contempt. Upon the return of the order, the justice
17 before whom the matter is brought on for hearing shall examine under oath the person, and the
18 person shall be given an opportunity to be heard, and if the justice shall determine that the person
19 has refused without reasonable cause or legal excuse to be examined, or to answer a legal and
20 pertinent question, or to produce books, accounts, papers, records, and documents material to the
21 issue that he or she was ordered to bring or produce, he or she may forthwith commit the offender
22 to the adult correctional institutions, there to remain until the person submits to do the act which he
23 or she was so required to do, or is discharged according to law.

24 (e) The committee shall, for the purpose of investigating the qualifications of the nominee
25 or nominees, be furnished with a report compiled by the state police in conjunction with the attorney
26 general's office indicating the determinations and findings of the state police and attorney general's
27 office investigations concerning the background of the nominee or nominees, and the report shall
28 include, but not be limited to, the following:

29 (1) Whether the nominee has ever been convicted of, or pleaded guilty to, a misdemeanor
30 or felony in this or any other state or foreign country;

31 (2) Whether the nominee has ever filed a personal bankruptcy petition or an assignment for
32 the benefit of creditors in this or any other state or foreign country; and whether the nominee has
33 ever been a partner in, held ten percent (10%) or more of stock in, or held office in any sole
34 proprietorship, partnership, or corporation that has been involved in bankruptcy or receivership

1 actions as a debtor or because of insolvency at the time the nominee was a partner in, held ten
2 percent (10%) or more stock in, or held office in any such sole proprietorship, partnership, or
3 corporation;

4 (3) Whether the nominee has ever had a civil judgment rendered against him or her arising
5 out of an allegation of fraud, misrepresentation, libel, slander, professional negligence, or any
6 intentional tort in this state or any other state or foreign country;

7 (4) The state police, in conjunction with the attorney general's department, shall provide
8 in their report the names and addresses of each and every source of their information.

9 (f) The reports set forth in this section shall be delivered to the chairperson and members
10 of the senate judiciary committee in addition to the nominee or nominees only prior to the
11 commencement of the public hearing. Provided, however, that if the nominee or nominees
12 withdraw or decline the appointment prior to the public hearing, then the report or reports shall be
13 returned to the chairperson of the judiciary committee and destroyed.

14 (g) The committee shall also require a financial statement to be submitted by each nominee,
15 prior to the public hearing, to the chairperson of the senate judiciary committee, to investigate each
16 nominee to determine his or her compliance with the provisions of chapter 14 of title 36.

17 (h) Any associate justice of any state court who is appointed to serve as the chief or
18 presiding justice of that court on an interim basis shall retain his or her status as an associate justice
19 until the appointment to chief or presiding justice is made permanent.

20 (i) In case a vacancy shall occur when the senate is not in session, the governor shall appoint
21 some person from a list of three (3) to five (5) persons submitted to the governor by the commission
22 to fill the vacancy until the senate shall next convene, when the governor shall make an appointment
23 as provided in this section.

24 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS -- JUDICIAL SELECTION

1 This act would require individuals seeking a judicial nomination to reapply to the judicial
2 nomination commission every five (5) years and make those individuals selected as finalists,
3 eligible only for the court in which they applied and were chosen during the five (5) years following
4 their selection.

5 This act would take effect upon passage.

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