

2021 -- H 5298

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE --COURTS -- JUDICIAL
NOMINATING COMMISSION

Introduced By: Representatives Williams, McEntee, Batista, Giraldo, and Biah

Date Introduced: January 29, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **8-16.1-2. Judicial nominating commission.**

4 (a) There is hereby established an independent nonpartisan judicial nominating
5 commission which shall consist of nine (9) members, all of whom shall be residents of the state of
6 Rhode Island, and who shall be appointed as follows:

7 (1) Within seven (7) days after June 2, 1994:

8 (i) The speaker of the house of representatives shall submit to the governor a list of at least
9 three (3) attorneys;

10 (ii) The president of the senate shall submit to the governor a list of at least three (3) persons
11 who may be attorneys and/or members of the public;

12 (iii) The speaker of the house of representatives and the president of the senate shall jointly
13 submit to the governor a list of four (4) members of the public;

14 (iv) The minority leader of the house of representatives shall submit to the governor a list
15 of at least three (3) members of the public; and

16 (v) The minority leader of the senate shall submit to the governor a list of at least three (3)
17 members of the public.

18 (2) Within fourteen (14) days after June 2, 1994, the governor shall appoint to the

1 commission:

2 (i) One person from each of the lists submitted in accordance with subsection (a)(1) of this
3 section;

4 (ii) Three (3) attorneys, without regard to any of the lists; and

5 (iii) One member of the public, without regard to any of the lists.

6 (3) The governor and the nominating authorities hereunder shall exercise reasonable efforts
7 to encourage racial, ethnic, and gender diversity within the commission.

8 (4) Effective January 1, 2022, the commission shall be composed of at least three (3)
9 members who are persons of color. When the governor is making an appointment to the
10 commission, that appointment shall adhere to the legislative mandate that the commission be
11 composed of at least three (3) members who are persons of color.

12 (b) Members of the commission shall serve for terms of four (4) years, except that, of the
13 members first appointed:

14 (1) The individual appointed from the list submitted by the minority leader of the house of
15 representatives and one of the attorneys appointed by the governor without regard to any of the lists
16 shall serve for one year;

17 (2) The individual appointed from the list submitted by the minority leader of the senate
18 and one of the attorneys appointed by the governor without regard to any of the lists shall serve for
19 two (2) years;

20 (3) The individual appointed from the list submitted jointly by the speaker of the house of
21 representatives and by the president of the senate and the member of the public appointed by the
22 governor without regard to any of the lists shall serve for three (3) years; and

23 (4) The individuals appointed from the lists submitted by the president of the senate and
24 by the speaker of the house of representatives and one of the attorneys appointed by the governor
25 without regard to any of the lists shall serve for four (4) years.

26 (c) No person shall be appointed at any time to serve more than one term as a member of
27 the commission; provided, however, that a person initially appointed to serve twelve (12) months
28 or less of a full four (4) year term may, upon expiration of that term, be reappointed to serve one
29 full term; and provided further, however, that each member shall continue to serve until his or her
30 successor is appointed and qualified. No commission member shall be a legislator, judge, or elected
31 official, or be a candidate for any public office, or hold any compensated federal, state, or municipal
32 public office or elected office in a political party during his or her tenure or for a period of one year
33 prior to appointment. No member of the commission may hold any other public office (except that
34 of notary public) under the laws of the United States, of this state, or of any other governmental

1 entity for which monetary compensation is received. No members shall be eligible for appointment
2 to a state judicial office during the period of time he or she is a commission member and for a
3 period of one year thereafter. No two (2) or more members of the commission shall be members or
4 employees of the same law firm, or employees of the same profit or nonprofit corporation.
5 Vacancies other than those arising through the expiration of a term shall be filled for the unexpired
6 portion of the term in the same manner as vacancies due to the expiration of a term.

7 (d) A quorum consisting of five (5) members shall be necessary in order for the commission
8 to conduct any business. All names submitted to the governor by the commission shall be approved
9 by at least five (5) members of the commission voting in favor of each selection.

10 (e) The commission shall have the power to adopt rules and procedures which aid in its
11 selection of the most highly qualified nominees for judicial office. The governor shall designate a
12 member of the commission to serve as chairperson, who shall serve in that capacity for the duration
13 of his or her tenure. All meetings of the commission shall be subject to the open meetings law as
14 defined in chapter 46 of title 42.

15 (f) The commission is hereby authorized and empowered to investigate the personal
16 background of each nominee as it relates to a determination of judicial fitness through the Rhode
17 Island state police and the attorney general's office, and to require full financial disclosure under
18 the provisions of chapter 14 of title 36.

19 (g) The commission shall direct the performance of such administrative duties as may be
20 required for the effective discharge of the obligations granted to the commission, and is hereby
21 empowered to engage the services of legal, secretarial, clerical, and investigative employees and to
22 make such other expenditures as are necessary for the effective performance of its functions.
23 Expenses for office space, staffing, and necessary monetary outlays shall be provided by the
24 department of administration as a separate line item in the state budget under the term "judicial
25 nominating commission."

26 (h) Each person appointed to the commission shall, prior to exercising any authority or
27 assuming any duties as a member of the commission, take an engagement of office in accordance
28 with § 36-1-2. The governor may remove a commission member from office for neglect of duty,
29 malfeasance in office, or conviction of a criminal offense. After a commission member is notified
30 of any allegations against her or him in writing, the commission member shall be entitled to one
31 public hearing prior to removal by the governor.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COURTS AND CIVIL PROCEDURE --COURTS -- JUDICIAL
NOMINATING COMMISSION

- 1 This act would require that the judicial nominating commission be composed of at least
- 2 three (3) members of color.
- 3 This act would take effect upon passage.

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