

2021 -- H 5300

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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 SELECTION

Introduced By: Representatives Williams, Batista, Giraldo, Biah, and Vella-Wilkinson

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
19 commission:

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

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

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

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

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

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

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

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

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

21 (c) No person shall be appointed at any time to serve more than one term as a member of
22 the commission; provided, however, that a person initially appointed to serve twelve (12) months
23 or less of a full four (4) year term may, upon expiration of that term, be reappointed to serve one
24 full term; and provided further, however, that each member shall continue to serve until his or her
25 successor is appointed and qualified. No commission member shall be a legislator, judge, or elected
26 official, or be a candidate for any public office, or hold any compensated federal, state, or municipal
27 public office or elected office in a political party during his or her tenure or for a period of one year
28 prior to appointment. No member of the commission may hold any other public office (except that
29 of notary public) under the laws of the United States, of this state, or of any other governmental
30 entity for which monetary compensation is received. No members shall be eligible for appointment
31 to a state judicial office during the period of time he or she is a commission member and for a
32 period of one year thereafter. No two (2) or more members of the commission shall be members or
33 employees of the same law firm, or employees of the same profit or nonprofit corporation.
34 Vacancies other than those arising through the expiration of a term shall be filled for the unexpired

1 portion of the term in the same manner as vacancies due to the expiration of a term.

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

5 (e) The commission shall have the power to adopt rules and procedures which aid in its
6 selection of the most highly qualified nominees for judicial office. The commission shall prepare
7 application forms that seek sufficient information for the commission to adequately assess the
8 applicant's qualifications, including, but not limited to, questions relative to the applicant's
9 personal and professional background, legal experience, financial information, race, nationality,
10 ethnicity, and gender. The commission shall retain all data regarding race, nationality, ethnicity,
11 and gender of applicants, regardless of whether those applicants received interviews or reached the
12 final stages of the selection process. The governor shall designate a member of the commission to
13 serve as chairperson, who shall serve in that capacity for the duration of his or her tenure. All
14 applicants' names, applications and resumes submitted to the commission shall be classified as
15 public records subject to public inspection pursuant to chapter 2 of title 38; provided, however, an
16 applicant may choose to have their application remain private and opt out of their information
17 becoming public records unless and until the applicant receives an interview with the commission.
18 Once an applicant reaches the interview process, their application and all other information shall
19 become a public record pursuant to chapter 2 of title 38. All meetings of the commission shall be
20 subject to the open meetings law as defined in chapter 46 of title 42.

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

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

32 (h) Each person appointed to the commission shall, prior to exercising any authority or
33 assuming any duties as a member of the commission, take an engagement of office in accordance
34 with § 36-1-2. The governor may remove a commission member from office for neglect of duty,

1 malfeasance in office, or conviction of a criminal offense. After a commission member is notified
2 of any allegations against her or him in writing, the commission member shall be entitled to one
3 public hearing prior to removal by the governor.

4 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 SELECTION

1 This act would require the judicial nominating commission to include certain questions on
2 a judicial application, would require the commission to retain data relative to race, nationality,
3 ethnicity, and gender, and would classify the names, resumes and other information of applicants
4 as public records. An applicant could opt out of that information becoming public up to the point
5 of receiving an interview from the commission.

6 This act would take effect upon passage.

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