

2021 -- H 5297

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

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

Introduced By: Representatives Williams, McEntee, 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

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

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

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

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

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

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

1 Vacancies other than those arising through the expiration of a term shall be filled for the unexpired
2 portion of the term in the same manner as vacancies due to the expiration of a term.

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

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

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

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

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

28 (i) The commission shall actively and aggressively solicit persons of color to apply for all
29 judicial appointments. The commission shall actively solicit persons of color who reside in the
30 State of Connecticut and the Commonwealth of Massachusetts who are active, practicing members
31 of the Rhode Island Bar; provided, they have acted as attorney of record in a minimum of seven (7)
32 matters before the Rhode Island courts, within the last two (2) years. It shall keep records of all
33 persons of color who apply for a judicial appointment, the success rate of having those names
34 submitted to the governor for judicial appointment, and its recruiting methods. The commission

1 [shall promulgate regulations which promote the diversification of the judicial appointment](#)
2 [applications' pool, consistent with this subsection.](#)

3 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
NOMINATING COMMISSION

1 This act would require that the judicial nominating commission actively and aggressively
2 solicit attorneys of color to apply for judicial appointments, including practicing members of the
3 Rhode Island Bar residing in border states and to promulgate regulations to promote that objective.

4 This act would take effect upon passage.

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