

2016 -- H 8017

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO COURTS - CIVIL PROCEDURE - COURTS - JUDICIAL SELECTION

Introduced By: Representative Anastasia P. Williams

Date Introduced: March 30, 2016

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

14 (b) The governor shall fill any vacancy within twenty-one (21) days of the public  
15 submission by the commission. [If the governor fails to timely fill a vacancy within twenty-one](#)  
16 [\(21\) days of the public submission by the commission, then the chief judge of the court with the](#)  
17 [vacancy shall have the power to nominate one of the three \(3\) to five \(5\) highly qualified](#)  
18 [candidates from the eligible list of candidates to fill the vacancy for their respective court.](#)

19 (c) Each nomination shall be forwarded forthwith to the senate, and by and with the

1 advice and consent of the senate, each nominee shall be appointed by the governor to serve  
2 subject to the general laws. The senate shall, after seven (7) calendar days of receipt of the  
3 nomination consider the nomination, but if the senate fails within ninety (90) days after the  
4 submission to confirm the nominee, or if the senate does not, by a majority vote of its members,  
5 extend the deliberation an additional seven (7) calendar days, the governor shall appoint some  
6 other person to fill the vacancy and shall submit his or her appointment to the senate for  
7 confirmation in like manner until the senate shall confirm the nomination. If the nominee is  
8 rejected by the senate, the commission shall submit a new list of three (3) to five (5) candidates to  
9 the governor for the purpose of nomination in accordance with this chapter. Any new list may  
10 include, but need not be limited to, the names of any candidates who were previously submitted  
11 to the governor by the commission but who were not forwarded to the senate for its advice and  
12 consent. Provided, that any candidate whose name was previously submitted to the governor by  
13 the judicial nominating commission and who was eligible for appointment as of March 31, 2013,  
14 continue and any other candidates who were submitted after that date shall be eligible for  
15 appointment to a vacancy of a judgeship in the same court for which the particular candidate has  
16 previously applied shall be extended until March 31, 2018.

17 (d) During the time for consideration of the nominees by the senate, the senate judiciary  
18 committee shall conduct an investigation and public hearing on the question of the qualifications  
19 of the nominee or nominees. At the public hearing, the testimony of every witness shall be taken  
20 under oath and stenographic records shall be taken and maintained. Further, the senate judiciary  
21 committee shall, during the course of its investigation and hearing, have the power upon majority  
22 vote of the committee members present to issue witness subpoenas, subpoenas duces tecum, and  
23 orders for the production of books, accounts, papers, records, and documents that shall be signed  
24 and issued by the chairperson of the committee, or the person serving in his or her capacity. All  
25 such subpoenas and orders shall be served as subpoenas in civil cases in the superior court are  
26 served, and witnesses so subpoenaed shall be entitled to the same fees for attendance and travel as  
27 provided for witnesses in civil cases in the superior court. If the person subpoenaed to attend  
28 before the committee fails to obey the command of the subpoena without reasonable cause; refuse  
29 to be sworn; or to be examined; or to answer a legal and pertinent question; or if any person shall  
30 refuse to produce books, accounts, papers, records, and documents material to the issue, set forth  
31 in an order duly served on him or her; the committee by majority vote of the committee members  
32 present may apply to any justice of the superior court, for any county, upon proof by affidavit of  
33 the fact, for a rule or order returnable in not less than two (2), nor more than five (5), days,  
34 directing the person to show cause before the justice who made the order or any other justice of

1 the superior court, why he or she should not be adjudged in contempt. Upon the return of the  
2 order, the justice before whom the matter is brought on for hearing shall examine under oath the  
3 person, and the person shall be given an opportunity to be heard, and if the justice shall determine  
4 that the person has refused without reasonable cause or legal excuse to be examined, or to answer  
5 a legal and pertinent question, or to produce books, accounts, papers, records, and documents  
6 material to the issue that he or she was ordered to bring or produce, he or she may forthwith  
7 commit the offender to the adult correctional institutions, there to remain until the person submits  
8 to do the act which he or she was so required to do, or is discharged according to law.

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

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

16 (2) Whether the nominee has ever filed a personal bankruptcy petition or an assignment  
17 for the benefit of creditors in this or any other state or foreign country; and whether the nominee  
18 has ever been a partner in, held ten percent (10%) or more of stock in, or held office in any sole  
19 proprietorship, partnership, or corporation that has been involved in bankruptcy or receivership  
20 actions as a debtor or because of insolvency at the time the nominee was a partner in, held ten  
21 percent (10%) or more stock in, or held office in any such sole proprietorship, partnership, or  
22 corporation;

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

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

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

33 (g) The committee shall also require a financial statement to be submitted by each  
34 nominee, prior to the public hearing, to the chairperson of the senate judiciary committee, to

1 investigate each nominee to determine his or her compliance with the provisions of chapter 14 of  
2 title 36.

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

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

10 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 - CIVIL PROCEDURE - COURTS - JUDICIAL SELECTION

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1           This act would authorize the chief judges of all state courts to appoint judicial candidates  
2 from lists sent to the governor by the judicial nominating commission if the governor fails to fill a  
3 vacancy in their court within the required twenty-one (21) days. It would also extend the list of  
4 eligible candidates as of March 31, 2013 and later until March 31, 2018.

5           This act would take effect upon passage.

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