

2019 -- S 0834

LC002273

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - JUDICIAL SELECTION

Introduced By: Senators McCaffrey, Lynch Prata, and Lombardi

Date Introduced: April 30, 2019

Referred To: Senate 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  
6 of 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  
9 least three (3) attorneys;

10 (ii) The president of the senate shall submit to the governor a list of at least three (3)  
11 persons 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  
13 jointly 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  
17 (3) 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  
2 this 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  
6 efforts 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  
10 of representatives and one of the attorneys appointed by the governor without regard to any of the  
11 lists 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  
14 for 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  
26 elected official, or be a candidate for any public office, or hold any compensated federal, state, or  
27 municipal public office or elected office in a political party during his or her tenure or for a period  
28 of one year prior to appointment. No member of the commission may hold any other public office  
29 (except that of notary public) under the laws of the United States, of this state, or of any other  
30 governmental entity for which monetary compensation is received. No members shall be eligible  
31 for appointment to a state judicial office during the period of time he or she is a commission  
32 member and for a period of one year thereafter. No two (2) or more members of the commission  
33 shall be members or employees of the same law firm, or employees of the same profit or  
34 nonprofit corporation. Vacancies other than those arising through the expiration of a term shall be

1 filled for the unexpired portion of the term in the same manner as vacancies due to the expiration  
2 of a term.

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

7 (e) The commission shall have the power to adopt rules and procedures which aid in its  
8 selection of the most highly qualified nominees for judicial office. The governor shall designate a  
9 member of the commission to serve as chairperson, who shall serve in that capacity for the  
10 duration of his or her tenure. All meetings of the commission shall be subject to the open  
11 meetings law as defined in chapter 46 of title 42. Minutes of the commission's meetings shall  
12 contain, in writing, all votes in the consideration of judicial nominee applicants by the  
13 commission members.

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

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  
22 to make such other expenditures as are necessary for the effective performance of its functions.  
23 ~~Expenses for office space, The department of administration shall designate office space within~~  
24 secured state property and provide staffing, and necessary monetary outlays ~~shall be provided by~~  
25 ~~the department of administration~~ that shall be reported as a separate line item in the state budget  
26 under the term "judicial nominating commission." All correspondence to the judicial nominating  
27 commission including, but not limited to, applications, letters of support, and investigative reports  
28 shall be sent to the designated office space within secured state property.

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

1           (i) All departments, boards, and agencies of the state shall cooperate with the commission  
2 and furnish any advice and information, documentary and otherwise, that may be necessary or  
3 desirable to facilitate the purposes of this chapter.

4           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

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1           This act would require that all departments, boards, and agencies of the state cooperate  
2 with the judicial nominating commission and provide any information that might assist the  
3 commission in the process of judicial selection. It would further require that the department of  
4 administration provide the commission with staffing as well as a designated office space on  
5 secured state property where the commission would receive all mail, communications and  
6 investigative reports. The act would also require written minutes of the commission meetings to  
7 include all votes by commission members regarding judicial nominee applications and would  
8 require that all investigations of judicial nominees remain confidential.

9           This act would take effect upon passage.

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