

2019 -- S 0834 SUBSTITUTE A

LC002273/SUB A

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 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
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.

18 (g) The commission shall direct the performance of such administrative duties as may be
19 required for the effective discharge of the obligations granted to the commission, and is hereby
20 empowered to engage the services of legal, secretarial, clerical, and investigative employees and
21 to make such other expenditures as are necessary for the effective performance of its functions.
22 ~~Expenses for office space;~~ The department of administration shall designate office space within
23 secured state property and provide staffing, and necessary monetary outlays ~~shall be provided by~~
24 ~~the department of administration~~ that shall be reported as a separate line item in the state budget
25 under the term "judicial nominating commission." All correspondence to the judicial nominating
26 commission including, but not limited to, applications, letters of support, and investigative reports
27 shall be sent to the designated office space within secured state property.

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

34 (i) All departments, boards, and agencies of the state shall cooperate with the commission

1 [and furnish any advice and information, documentary and otherwise, that may be necessary or](#)
2 [desirable to facilitate the purposes of this chapter.](#)

3 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 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.

8 This act would take effect upon passage.

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