

# JUDICIAL RETENTION CONSTITUTIONAL AND STATUTORY PROVISIONS

## CONSTITUTION OF THE STATE OF VERMONT

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### *CHAPTER II.*

#### *PLAN OR FRAME OF GOVERNMENT*

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#### **§ 34. [JUDICIAL TERM OF OFFICE]**

The justices of the Supreme Court and judges of all subordinate courts, except Assistant Judges and Judges of Probate, shall hold office for terms of six years except when holding office under an interim appointment. At the end of the initial six year term and at the end of each six year term thereafter, such justice or judge may give notice in the manner provided by law of a desire to continue in office. When such justice or judge gives the required notice, the question of continuance in office shall be submitted to the General Assembly and the justice or judge shall continue in office for another term of six years unless a majority of the members of the General Assembly voting on the question vote against continuation in office.

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#### **§ 36. [SUSPENSION AND REMOVAL; IMPLEMENTATION PROCEDURES FOR SECTIONS 32 THROUGH 36]**

The justices of the Supreme Court and the judges of all subordinate courts shall hold office during good behavior for the terms for which they are appointed. The Supreme Court in the exercise of its disciplinary power over the judiciary of the state may suspend justices of the Supreme Court and judges of all subordinate courts from the judicial function for such cause and in such manner as may be provided by law. The General Assembly may establish procedures for the implementation of the provisions of sections thirty-two through thirty-six.

**The Vermont Statutes Online**  
**Title 4: Judiciary**

**Chapter 15: Judicial Nominations And Appointments**

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- **§ 602. Duties; justices, judges, magistrates, and the Chair of the Public Service Board**

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(d) A candidate shall possess the following attributes:

(1) Integrity. A candidate shall possess a record and reputation for excellent character and integrity.

(2) Legal knowledge and ability. A candidate shall possess a high degree of knowledge of established legal principles and procedures and have demonstrated a high degree of ability to interpret and apply the law to specific factual situations.

(3) Judicial temperament. A candidate shall possess an appropriate judicial temperament.

(4) Impartiality. A candidate shall exhibit an ability to make judicial determinations in a manner free of bias.

(5) Communication capability. A candidate shall possess demonstrated oral and written capacities, with reasonable accommodations, required by the position.

(6) Financial integrity. A candidate shall possess demonstrated financial probity.

(7) Work ethic. A candidate shall demonstrate diligence.

(8) Administrative capabilities. A candidate shall demonstrate management and organizational skills or experience required by the position.

(9) Courtroom experience. For Superior Court, a candidate shall have sufficient trial or other comparable experience that ensures knowledge of the Vermont Rules of Evidence and courtroom procedure. For the Environmental Division of the Superior Court, a candidate shall have experience in environmental and zoning law.

(10) Other. A candidate shall possess other attributes the Board deems relevant as identified through its rules.

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- **607. Joint Committee on Judicial Retention; creation**

(a) There is created a Joint Committee on Judicial Retention composed of four members of the House of Representatives appointed by the Speaker of the House and four members of the Senate appointed by the Committee on Committees of the Senate. The appointments shall be made, if practicable, within seven days of the convening of each biennial session of the General Assembly.

(b) The Committee shall endeavor to hold its organizational meeting within seven days of its appointment and shall elect a chair from among its membership and adopt rules of procedure consistent with the rules of the Senate.

(c) The Committee may use the staff and services of the Legislative Council to, in addition to other duties, obtain information on the performance of a judge or Justice by soliciting comments from members of the Vermont Bar and the public.

- **§ 608. Functions**

(a) Declarations submitted to the General Assembly by a Supreme Court Justice under subsection 4(c) of this title, by a Superior Court judge under subsection 71(b) of this title, or by a magistrate under subsection 461(c) of this title shall be referred immediately to the Joint Committee on Judicial Retention. The declarations shall be accompanied by a supporting statement by the judge, the Justice, or the magistrate seeking retention. In the case of a Superior Court judge or magistrate, the declaration shall also be accompanied by information on the next succeeding rotation schedule for the judge seeking retention.

(b) The Joint Committee responsible for the recommendation of retention shall review the candidacies of those Justices, Superior judges, and magistrates desiring to succeed themselves. In conducting its review, the Committee shall evaluate judicial performance, including such factors as integrity, judicial temperament, impartiality, health, diligence, legal knowledge and ability, and administrative and communicative skills.

(c) For the purpose of receiving information and hearing testimony, the Joint Committee responsible for the recommendation of retention shall hold hearings which, if possible, shall not commence until the General Assembly is in session. Information obtained under subsection 607(c) of this title, shall be confidential until the Committee commences its hearings under this subsection.

(d) A judge, a Justice, or a magistrate seeking retention has the right to present oral or written testimony to the Committee relative to his or her retention, may be represented by counsel, and may present witnesses to testify in his or her behalf. Copies of written comments received by the Committee shall be forwarded to the

judge, the Justice, or the magistrate. A judge, a Justice, or a magistrate seeking retention has the right to a reasonable time period to prepare and present to the Committee a response to any testimony or written complaint adverse to his or her retention and has the right to be present during any public hearing conducted by the Committee.

(e) On or before the tenth Thursday after the convening of each biennial and adjourned session, the Committee shall report to the General Assembly its recommendation whether the candidates should continue in office, with any amplifying information which it may deem appropriate, in order that the General Assembly may discharge its obligation under Chapter II § 34 of the Constitution of the State of Vermont.

(f) In the performance of its official functions, the Joint Committee on Judicial Retention may by a majority vote of its membership issue subpoenas to compel the attendance of witnesses to testify under oath and to produce documents.

(g) The votes on retention under subsections 4(c), 71(b), and 461(c) of this title shall be conducted in one joint assembly of the General Assembly, except that in the event that the Joint Committee reports to the General Assembly that it is not able to make its recommendation on a particular Justice, judge, or magistrate under subsection (b) of this section on or before the date set for such joint assembly, the vote on such individual or individuals shall be deferred to a subsequent joint assembly, and separate ballots shall be used despite any other statutory provisions relating to the votes on retention.

- **§ 609. Judicial retirement**

(a) The justices of the supreme court and judges of all subordinate courts shall be required to retire at the end of the calendar year in which they attain 90 years of age.

(b) This section shall not limit the supreme court's power to establish procedures for taking appropriate action to remove or suspend or restrict the services of an individual justice or judge of any age.