

1 H.780

2 An act relating to judicial nominations and appointments

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. 4 V.S.A. § 601 is amended to read:

5 § 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

6 (a) The Judicial Nominating Board is created for the nomination of  
7 Supreme Court Justices, Superior judges, magistrates, and the Chair and  
8 members of the Public Utility Commission.

9 (b)~~(1)~~ The Board shall consist of ~~14~~ 12 members who shall be selected as  
10 follows:

11 ~~(1)~~(A) The Governor shall appoint two members who are not attorneys  
12 at law.

13 ~~(2)~~(B) The Senate shall elect three of its members, not all of whom shall  
14 be members of the same party, and only one of whom may be an attorney at  
15 law.

16 ~~(3)~~(C) The House shall elect three of its members, not all of whom shall  
17 be members of the same party, and only one of whom may be an attorney at  
18 law.

19 ~~(4)~~(D) Attorneys at law admitted to practice before the Supreme Court  
20 of Vermont, and residing in the State, shall elect three of their number as

1 members of the Board. The Supreme Court shall regulate the manner of their  
2 nomination and election.

3 (E) The Executive Director of Racial Equity, or designee.

4 ~~(5)~~(2) The members of the Board shall serve for terms of two years. All  
5 appointments or elections shall be between January 1 and February 1 of each  
6 odd-numbered year, except to fill a vacancy. A House vacancy that occurs  
7 when the General Assembly is adjourned shall be filled by the Speaker of the  
8 House and a Senate vacancy that occurs when the General Assembly is  
9 adjourned shall be filled by the Senate Committee on Committees. Members  
10 shall serve until their successors are elected or appointed. Members shall serve  
11 ~~no~~ not more than three consecutive terms in any capacity.

12 ~~(6)~~(3) The members shall elect their own chair, who will serve for a  
13 term of two years.

14 \* \* \*

15 Sec. 2. 4 V.S.A. § 602 is amended to read:

16 § 602. DUTIES; JUSTICES, JUDGES, MAGISTRATES, AND THE CHAIR  
17 OF THE PUBLIC UTILITY COMMISSION

18 (a)(1) Prior to submitting to the Governor the names of candidates for  
19 Justices of the Supreme Court, Superior Court judges, magistrates, and the  
20 Chair of the Public Utility Commission, the Judicial Nominating Board shall  
21 submit to the Court Administrator a list of all candidates, and ~~he or she~~ the

1 Court Administrator shall disclose to the Board information solely about  
2 professional disciplinary action taken or pending concerning any candidate.

3 (2) From the list of candidates, the Judicial Nominating Board shall  
4 select by majority vote, provided that a quorum is present, well-qualified  
5 candidates for the position to be filled.

6 (b)(1) Whenever a vacancy occurs in the office of a Supreme Court Justice,  
7 a Superior Court judge, magistrate, or Chair of the Public Utility Commission,  
8 or when an incumbent does not declare that ~~he or she~~ the incumbent will be a  
9 candidate to succeed ~~himself or herself~~ themselves, the Board shall submit to  
10 the Governor the names of as many persons as it deems well qualified to be  
11 appointed to the office.

12 (2)(A) A person may nominate another person to fill a vacancy in the  
13 office of a Supreme Court Justice, a Superior Court judge, magistrate, or Chair  
14 of the Public Utility Commission by submitting a form developed by the Court  
15 Administrator pursuant to subdivision (B) of this subdivision (2).

16 (B) The Court Administrator shall make available on the Judiciary  
17 website a form that permits a person to nominate another person to fill a  
18 vacancy in the office of a Supreme Court Justice, a Superior Court judge,  
19 magistrate, or Chair of the Public Utility Commission. If a person is  
20 nominated pursuant to this subdivision (2), the Court Administrator shall  
21 provide the person nominated with information about the application process.

1 (c)(1) A candidate for judge or Justice shall be a Vermont resident and an  
2 experienced lawyer who has practiced law ~~in Vermont~~ for a minimum of  
3 ~~ten~~ 10 years, with at least ~~five~~ three years in Vermont immediately preceding  
4 ~~his or her~~ the candidate's application to the Board. The Board may make  
5 exceptions to the ~~five-year~~ requirement ~~for absences from practice~~ that the  
6 candidate's three years of practice in Vermont be contiguous and immediately  
7 preceding the candidate's application for reasons including family, military,  
8 academic, or medical leave.

9 (2) A candidate for magistrate shall be a Vermont resident and an  
10 experienced lawyer who has practiced law ~~in Vermont~~ for at least five years,  
11 with at least three years in Vermont immediately preceding ~~his or her~~ the  
12 candidate's application to the Board. The Board may make exceptions to the  
13 requirement that the candidate's three years of practice in Vermont be  
14 contiguous and immediately preceding the candidate's application for reasons  
15 including family, military, academic, or medical leave.

16 (3) A candidate for Chair of the Public Utility Commission shall not be  
17 required to be an attorney; however, if the candidate is admitted to practice law  
18 in Vermont, the Judicial Nominating Board shall submit the candidate's name  
19 to the Court Administrator, and ~~he or she~~ the Court Administrator shall  
20 disclose to the Board information solely about professional disciplinary action  
21 taken or pending concerning the candidate. If a candidate is not admitted to

1 practice law in Vermont; but practices a profession requiring licensure,  
2 certification, or other professional regulation by the State, the Judicial  
3 Nominating Board shall submit the candidate's name to the State professional  
4 regulatory entity and that entity shall disclose to the Board any professional  
5 disciplinary action taken or pending concerning the candidate.

6 (d) A candidate shall possess the following attributes:

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

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

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

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

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

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

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

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

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

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

11 (e) The Board shall consider the candidate's ties to the Vermont legal  
12 community and the candidate's familiarity with the Vermont legal system.

13 (f) The Board shall consider the extent to which a candidate would  
14 contribute to a Judicial branch that has diverse backgrounds and a broad range  
15 of lived experience.

16 Sec. 3. 4 V.S.A. § 603 is amended to read:

17 § 603. APPOINTMENT OF JUSTICES, JUDGES, MAGISTRATES,

18 PUBLIC UTILITY COMMISSION CHAIR, AND MEMBERS

19 (a) Whenever the Governor appoints a Supreme Court Justice, a Superior  
20 Judge, a magistrate, the Chair of the Public Utility Commission, or a member  
21 of the Public Utility Commission, ~~he or she~~ the Governor shall select from the

1 list of names of ~~qualified~~ well-qualified persons submitted by the Judicial  
2 Nominating Board pursuant to law. The names of candidates submitted and  
3 not selected shall remain confidential.

4 (b) Upon request from the Governor, the Judicial Nominating Board shall  
5 reopen the search and provide the Governor with an additional list of persons it  
6 deems well qualified to be appointed to the office. A request from the  
7 Governor for additional names pursuant to this subsection shall not be made  
8 more than once.

9 Sec. 4. EFFECTIVE DATE

10 This act shall take effect on July 1, 2024.