

SENATE BILL 2130

By McNally

AN ACT to amend Tennessee Code Annotated, Title 2,
Title 4, Title 16 and Title 17, relative to selection
and election of judges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 17-4-101(b), is amended by deleting the subsection in its entirety.

SECTION 2. Tennessee Code Annotated, Section 17-4-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a) There is established as a part of the judicial branch of the state a judicial selection commission to be composed of four (4) members as follows.

(1) One (1) member appointed by the republican party caucus of the senate to serve an initial term of six (6) years;

(2) One (1) member appointed by the democratic party caucus of the senate to serve an initial term of four (4) years;

(3) One (1) member appointed by the republican party caucus of the house of representatives to serve an initial term of two (2) years; and

(4) One (1) member appointed by the democratic party caucus of the house of representatives to serve an initial term of six (6) years.

(b) Each subsequent appointment to the judicial selection commission shall be made in the same manner as prescribed by subsection (a), but shall be subject to the requirements set forth in § 17-4-106.

(c) All meetings of the judicial selection commission shall be open to the public. Notice of the time, place and purpose of the meetings shall be given in accordance with the requirements set forth in § 8-44-103.

(d) Notwithstanding any law or rule to the contrary, all records, papers, forms, applications and other documents requested, required or maintained by the judicial selection commission shall be open for public inspection in accordance with the requirements set forth in title 10, chapter 7, part 5.

SECTION 3. Tennessee Code Annotated, Section 17-4-105, is amended by deleting the section in its entirety and substituting instead the following:

(a) Effective July 31, 2009, the entire membership of the judicial selection commission is hereby vacated and shall be replaced by new appointments made pursuant to this act. The term of office of each newly appointed member of the judicial selection commission shall begin on August 1, 2009. The term of office of each member appointed after July 1, 2009, but prior to August 1, 2009, shall end on March 31 of the year such term is to expire pursuant to § 17-4-102(a). The term of office of each member of the judicial selection commission appointed after August 1, 2009, shall begin on April 1 of each year of such appointment.

(b)

(1) As soon as practicable after August 1, 2009, the commission shall meet in organizational session as convened by the chief justice of the supreme court.

(2) At the first organizational meeting, the chief justice shall preside as temporary chair, and a permanent chair shall be elected from the membership of the commission.

(3) If the chief justice is unable to convene the commission or serve as temporary chair, the chief justice may designate another member of the supreme court to so serve.

(c) The commission may elect such other officers as it deems necessary and proper and may adopt and from time to time amend bylaws and rules of procedure for the conduct of its business and discharge of its duties.

(d) The commission may employ such secretarial and clerical assistance as it deems necessary.

SECTION 4. Tennessee Code Annotated, Section 17-4-106, is amended by deleting the section in its entirety and substituting instead the following:

(a) After the initial terms as prescribed by § 17-4-102(a), each subsequent term of a commission member is six (6) years.

(b) A commission member is eligible for reappointment.

(c)

(1) No commission member shall serve more than two (2) terms.

(2) For purposes of the two-year limitation in this section, any member who has served any portion of a six-year term shall be considered to have served a term.

SECTION 5. Tennessee Code Annotated, Section 17-4-107, is amended by deleting the section in its entirety and substituting instead the following:

(a) If a vacancy occurs in the membership of the judicial selection commission at the time when the general assembly is in session, the vacancy shall be filled as provided in § 17-4-102(a).

(b) If a vacancy occurs at a time when the general assembly is not in session, the vacancy shall be filled by the speaker of the senate and the speaker of the house of

representatives. Notwithstanding § 17-4-105(a), persons selected to fill vacancies pursuant to this subsection (b) shall serve only until the next session of the general assembly, when the general assembly shall fill the vacancies as if they had occurred when the general assembly was in session.

SECTION 6. Tennessee Code Annotated, Section 17-4-109, is amended by adding the following sentence at the end of subsection (c):

In order to be eligible for consideration by the commission, each prospective nominee must provide, in addition to any other information required by the commission, a complete work and credit history and must submit to a criminal records background check.

SECTION 7. Tennessee Code Annotated, Section 17-4-109(d), is amended by deleting the first sentence and by substituting instead the following:

After one (1) public hearing, the commission may hold such additional public meetings as it deems necessary.

SECTION 8. Tennessee Code Annotated, Section 17-4-109(e), is amended by deleting the language “in public or private meeting” and by substituting instead the following:

in one (1) or more public meetings

SECTION 9. Tennessee Code Annotated, Section 17-4-109(e), is further amended by deleting the language “then the commission may meet, select such persons and certify the names of such nominees” and by substituting instead the following:

then the commission may meet, in one (1) or more public meetings, select such persons and certify the names of such nominees

SECTION 10. Tennessee Code Annotated, Section 17-4-110, is amended by adding the following language as a new, appropriately designated subsection:

(c) No person holding the office of executive director of the administrative office of the courts, the office of attorney general and reporter, or the chairmanship of the judicial council shall be eligible for nomination by the judicial selection commission during such person's tenure in office or during the two-year period immediately following such person's departure from such office.

SECTION 11. Tennessee Code Annotated, Section 16-4-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a) At the regular judicial election held every eight (8) years, there shall be elected twelve (12) judges of the court of appeals as follows:

(1) Four (4) judges shall be elected by the qualified voters of the state's eastern grand division, as described in § 4-1-202;

(2) Four (4) judges shall be elected by the qualified voters of the state's middle grand division, as described in § 4-1-203; and

(3) Four (4) judges shall be elected by the qualified voters of the state's western grand division, as described in § 4-1-204.

(b) Each judge shall be at least thirty (30) years of age, shall be duly licensed to practice law in this state, shall reside within the grand division from which the judge was appointed or elected, and shall have been a resident of the state for a period of at least five (5) years immediately preceding appointment or election to the court. The oath of office of each judge shall be filed and entered on the minutes of the court in the particular grand division from which the judge has been appointed or elected, and the oath shall likewise be filed and entered on the records in the office of the secretary of state at Nashville.

SECTION 12. Tennessee Code Annotated, Section 16-5-101, is amended by adding the following sentence to the end of the section:

The court shall be composed of twelve (12) judges.

SECTION 13. Tennessee Code Annotated, Section 16-5-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a) At the regular judicial election held every eight (8) years, there shall be elected twelve (12) judges of the court of criminal appeals as follows:

(1) Four (4) judges shall be elected by the qualified voters of the state's eastern grand division, as described in § 4-1-202;

(2) Four (4) judges shall be elected by the qualified voters of the state's middle grand division, as described in § 4-1-203; and

(3) Four (4) judges shall be elected by the qualified voters of the state's western grand division, as described in § 4-1-204.

(b) Each judge shall be at least thirty (30) years of age, shall be duly licensed to practice law in the state of Tennessee, shall reside within the grand division from which the judge was appointed or elected, and shall have been a resident of the state for a period of at least five (5) years immediately preceding appointment or election to the court.

SECTION 14. Tennessee Code Annotated, Section 16-5-103, is amended by deleting the section in its entirety and substituting instead the following:

The oath of office of each judge of the court of criminal appeals shall be filed and entered on the minutes of the court in the particular grand division from which the judge has been appointed or elected. The oath shall likewise be filed and entered on the records in the office of the secretary of state at Nashville.

SECTION 15. Tennessee Code Annotated, Section 17-1-103, is amended by deleting the section in its entirety and by substituting instead the following:

The judges of the supreme court are elected by the qualified voters of the state at large. The judges of the court of appeals and the judges of the court of criminal appeals are elected by the qualified voters of the respective grand divisions of the state, in accordance with §§ 16-4-102 and 16-5-102. The chancellors, circuit judges, and judges of special courts are elected by the qualified voters of the respective judicial districts, and special judicial districts.

SECTION 16. Tennessee Code Annotated, Section 17-4-114(b)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) If the declaration of candidacy is timely filed, then only the name of the candidate, without party designation, shall be submitted to voters in the regular August election. If the candidate seeks retention as judge of the supreme court, then all county election commissions within the state shall cause the following question to be placed on the ballot; however, if the candidate seeks retention as judge of the court of appeals or the court of criminal appeals, then only the county election commissions within the appropriate grand division of the state, as determined pursuant to § 16-4-102 or § 16-5-102, shall cause the following question to be placed on the ballot:

Shall (Name of Candidate) be elected and retained in office as (Name of Office)? Yes..... Or No.....

SECTION 17. Tennessee Code Annotated, Section 17-4-115(b)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) If the declaration of candidacy is timely filed, then only the name of the candidate, without party designation, shall be submitted to voters in the regular August election. If the candidate seeks retention as judge of the supreme court, then all county election commissions within the state shall cause the following question to be placed on the ballot; however, if the candidate seeks retention as judge of the court of appeals or

the criminal court of appeals, then only the county election commissions within the appropriate grand division of the state, as determined pursuant to § 16-4-102 or § 16-5-102, shall cause the following question to be placed on the ballot:

Shall (Name of Candidate) be elected and retained in office as (Name of Office)? Yes..... Or No.....

SECTION 18. Tennessee Code Annotated, Section 4-29-229(a), is amended by deleting subdivisions (46) and (47).

SECTION 19. Tennessee Code Annotated, Section 4-29-232(a), is amended by adding the following new appropriately designated subdivisions thereto:

- () Judicial evaluation commission, created by § 17-4-201;
- () Judicial selection commission, created by § 17-4-102;

SECTION 20. Sections 18 and 19 of this act shall take effect upon becoming a law, the public welfare requiring it. All remaining sections of this act shall take effect July 1, 2009, the public welfare requiring it.