

By Senator Bracy

11-00267A-18

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1 A bill to be entitled
2 An act relating to judicial nominating commissions;
3 amending s. 43.291, F.S.; revising the composition of
4 judicial nominating commissions; establishing
5 additional restrictions regarding commission members;
6 terminating the terms of commission members as of a
7 specified date; providing for initial appointments and
8 staggered terms for the reconstituted commissions;
9 prohibiting a commission member from serving more than
10 two full terms; providing an exception; requiring
11 appointing authorities to consider certain attributes
12 in making appointments to ensure diversity on
13 commissions; requiring appointing authorities to
14 collect and release certain demographic data regarding
15 commission members and applicants to commissions;
16 specifying circumstances under which a commission
17 member may not vote on a matter and must disclose a
18 conflict; requiring a commission member to complete an
19 educational course after his or her appointment;
20 prescribing minimum requirements for the course;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 43.291, Florida Statutes, is amended to
26 read:

27 43.291 Judicial nominating commissions.—

28 (1) Each judicial nominating commission is ~~shall be~~
29 composed of the following members:

11-00267A-18

2018420__

30 (a) Three ~~Four~~ members of The Florida Bar, appointed by the
31 Board of Governors of The Florida Bar ~~Governor~~, who are engaged
32 in the practice of law, each of whom is a resident of the
33 territorial jurisdiction served by the commission to which the
34 member is appointed. ~~The Board of Governors of The Florida Bar~~
35 ~~shall submit to the Governor three recommended nominees for each~~
36 ~~position. The Governor shall select the appointee from the list~~
37 ~~of nominees recommended for that position, but the Governor may~~
38 ~~reject all of the nominees recommended for a position and~~
39 ~~request that the Board of Governors submit a new list of three~~
40 ~~different recommended nominees for that position who have not~~
41 ~~been previously recommended by the Board of Governors.~~

42 (b) Three ~~Five~~ members appointed by the Governor, each of
43 whom is a resident of the territorial jurisdiction served by the
44 commission to which the member is appointed, of which only at
45 ~~least~~ two may be ~~are~~ members of The Florida Bar engaged in the
46 practice of law.

47 (c) Three members, each of whom is a resident of the
48 territorial jurisdiction served by the commission to which the
49 member is appointed, and who are not members of The Florida Bar
50 and are not engaged in the practice of law, selected and
51 appointed by a majority vote of the members of the commission
52 appointed pursuant to paragraphs (a) and (b).

53
54 No more than five members of each commission may be of the same
55 political party.

56 (2) A member of a judicial nominating commission may not:

57 (a) Serve as a member of more than one judicial nominating
58 commission at the same time.

11-00267A-18

2018420__

59 (b) Serve as a member of the Judicial Qualifications
60 Commission concurrent with a term of office on a judicial
61 nominating commission.

62 (c) Hold any elective or appointive state, federal, or
63 other political office while serving on a judicial nominating
64 commission.

65 (d) Be appointed to any state judicial office for 2 years
66 after his or her term on the judicial nominating commission
67 expires ~~justice or judge may not be a member of a judicial~~
68 ~~nominating commission. A member of a judicial nominating~~
69 ~~commission may hold public office other than judicial office. A~~
70 ~~member of a judicial nominating commission is not eligible for~~
71 ~~appointment, during his or her term of office and for a period~~
72 ~~of 2 years thereafter, to any state judicial office for which~~
73 ~~that commission has the authority to make nominations.~~

74 (3) All acts of a judicial nominating commission must be
75 made with a concurrence of a majority of its members.

76 (4)~~(3)~~ Effective July 1, 2018, the terms of all members of
77 judicial nominating commissions are terminated. In order to
78 achieve staggered terms, new members to judicial nominating
79 commissions shall be initially appointed in the following
80 manner:

81 (a) One appointment for a term ending July 1, 2019, for
82 each appointing authority listed under paragraphs (1) (a), (b),
83 and (c).

84 (b) One appointment for a term ending July 1, 2020, for
85 each appointing authority listed under paragraphs (1) (a), (b),
86 and (c).

87 (c) One appointment for a term ending July 1, 2021, for

11-00267A-18

2018420__

88 each appointing authority listed under paragraphs (1) (a), (b),
89 and (c) Notwithstanding any other provision of this section,
90 each current member of a judicial nominating commission
91 appointed directly by the Board of Governors of The Florida Bar
92 shall serve the remainder of his or her term, unless removed for
93 cause. The terms of all other members of a judicial nominating
94 commission are hereby terminated, and the Governor shall appoint
95 new members to each judicial nominating commission in the
96 following manner:

97 ~~(a) Two appointments for terms ending July 1, 2002, one of~~
98 ~~which shall be an appointment selected from nominations~~
99 ~~submitted by the Board of Governors of The Florida Bar pursuant~~
100 ~~to paragraph (1) (a);~~

101 ~~(b) Two appointments for terms ending July 1, 2003; and~~

102 ~~(c) Two appointments for terms ending July 1, 2004.~~

103
104 Every subsequent appointment, except an appointment to fill a
105 vacant, unexpired term, shall be for 4 years. Each expired term
106 or vacancy shall be filled by appointment in the same manner as
107 the member whose position is being filled. A member of any
108 judicial nominating commission may not serve more than two full
109 terms, which does not include any balance remaining on an
110 unexpired term if the initial appointment was to fill a vacancy.

111 ~~(5)-(4)~~ In making an appointment, the Governor, the Board of
112 Governors of The Florida Bar, and members of the judicial
113 nominating commissions shall seek to ensure that, to the extent
114 possible, the membership of the commission reflects the racial,
115 ethnic, and gender diversity as to ethnicity, race, disability,
116 veteran status, gender, gender identity, sexual orientation, and

11-00267A-18

2018420__

117 ~~as well as the~~ geographic distribution~~7~~ of the population within
118 the territorial jurisdiction of the court for which nominations
119 will be considered. The Governor, the Board of Governors of The
120 Florida Bar, and members of the judicial nominating commissions
121 shall also consider the adequacy of representation of each
122 county within the judicial circuit.

123 (a) The Executive Office of the Governor shall collect and
124 release annually, on an aggregate statewide and commission-level
125 basis, the demographic data provided by all members of judicial
126 nominating commissions and all applicants to a judicial
127 nominating commission received by the Governor relative to
128 ethnicity, race, disability, veteran status, gender, gender
129 identity, and sexual orientation.

130 (b) The Board of Governors of The Florida Bar shall collect
131 and release annually, on an aggregate statewide and commission-
132 level basis, the demographic data provided by all members of
133 judicial nominating commissions and all applicants to a judicial
134 nominating commission received by the Board of Governors of The
135 Florida Bar relative to ethnicity, race, disability, veteran
136 status, gender, gender identity, and sexual orientation.

137 (c) The judicial nominating commissions shall collect and
138 release annually, on a commission-level basis, the demographic
139 data provided by all members of that judicial nominating
140 commission and all applicants to a judicial nominating
141 commission received by the members of the respective commission
142 relative to ethnicity, race, disability, veteran status, gender,
143 gender identity, and sexual orientation.

144 (d) Demographic data of members of judicial nominating
145 commissions and applicants shall be collected through anonymous

11-00267A-18

2018420__

146 surveys and released in the statistical aggregate.

147 (6) A member may not vote on any matter in which he or she
148 has a substantial personal or pecuniary interest. Any member who
149 believes that his or her personal or business relationship to
150 any applicant for a judicial vacancy might prevent the member
151 from fairly and objectively considering the qualifications of
152 that applicant, or might otherwise involve a conflict of
153 interest or create the appearance thereof, shall disclose the
154 circumstances of the actual or apparent conflict to the
155 commission and shall recuse himself or herself from discussing
156 or voting on the nomination of that applicant.

157 (7)~~(5)~~ A member of a judicial nominating commission may be
158 suspended for cause by the Governor pursuant to uniform rules of
159 procedure established by the Executive Office of the Governor
160 consistent with s. 7 of Art. IV of the State Constitution.

161 (8)~~(6)~~ A quorum of the judicial nominating commission is
162 necessary to take any action or transact any business. For
163 purposes of this section, a quorum consists of a majority of
164 commission members currently appointed.

165 (9) Within the first 6 months of appointment, each member
166 of a judicial nominating commission shall complete an
167 educational course designed to familiarize a member with the
168 rules of procedure of the judicial nominating commission to
169 which the member is appointed. In addition, the educational
170 course must include content on implicit bias in order to educate
171 members about the science surrounding bias and how to develop a
172 nominating process that is as free from bias as possible.

173 (10)~~(7)~~ The Executive Office of the Governor shall provide
174 all administrative support for each judicial nominating

11-00267A-18

2018420__

175 commission.

176 Section 2. This act shall take effect July 1, 2018.