

By Senator Thurston

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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; requiring
13 appointing authorities to collect and release certain
14 demographic data regarding commission members and
15 applicants for commission membership; requiring that
16 such demographic data be collected through anonymous
17 surveys and released in the statistical aggregate;
18 specifying circumstances under which a commission
19 member may not vote on a matter and must disclose a
20 conflict; requiring a commission member to complete an
21 educational course after his or her appointment;
22 prescribing minimum requirements for the course;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 43.291, Florida Statutes, is amended to
28 read:

29 43.291 Judicial nominating commissions.—

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

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

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

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

56
57 Not more than five members of each commission may be of the same
58 political party.

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

60 (a) Concurrently serve as a member of more than one
61 judicial nominating commission.

62 (b) Concurrently serve as a member of the Judicial
63 Qualifications Commission and a term of office on a judicial
64 nominating commission.

65 (c) Concurrently hold any elective or appointive state,
66 federal, or other political office and serve on a judicial
67 nominating commission.

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

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

79 (4)~~(3)~~ Effective July 1, 2020, the terms of all members of
80 judicial nominating commissions are terminated. In order to
81 achieve staggered terms, new members to judicial nominating
82 commissions must be initially appointed in the following manner:

83 (a) One appointment for a term ending July 1, 2021, for
84 each appointing authority specified in paragraphs (1)(a), (b),
85 and (c).

86 (b) One appointment for a term ending July 1, 2022, for
87 each appointing authority specified in paragraphs (1)(a), (b),

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88 and (c).

89 (c) One appointment for a term ending July 1, 2023, for
90 each appointing authority specified in paragraphs (1) (a), (b),
91 and (c) Notwithstanding any other provision of this section,
92 each current member of a judicial nominating commission
93 appointed directly by the Board of Governors of The Florida Bar
94 shall serve the remainder of his or her term, unless removed for
95 cause. The terms of all other members of a judicial nominating
96 commission are hereby terminated, and the Governor shall appoint
97 new members to each judicial nominating commission in the
98 following manner:

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

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

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

105

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

113 ~~(5) (4)~~ In making an appointment, the Governor, the Board of
114 Governors of The Florida Bar, and members of the judicial
115 nominating commissions shall seek to ensure that, to the extent
116 possible, the membership of the commission reflects the racial,

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117 ~~ethnic, and gender~~ diversity as to ethnicity, race, disability,
118 veteran status, gender, gender identity, sexual orientation, and
119 ~~as well as the~~ geographic distribution~~,~~ of the population within
120 the territorial jurisdiction of the court for which nominations
121 will be considered. The Governor, the Board of Governors of The
122 Florida Bar, and members of the judicial nominating commissions
123 shall also consider the adequacy of representation of each
124 county within the judicial circuit.

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

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

140 (c) The judicial nominating commissions shall collect and
141 release annually, on a commission-level basis, the demographic
142 data provided by all members of that judicial nominating
143 commission and all applicants for membership on a judicial
144 nominating commission received by the members of the respective
145 commission relative to ethnicity, race, disability, veteran

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146 status, gender, gender identity, and sexual orientation.

147 (d) Demographic data of members of judicial nominating
148 commissions and applicants must be collected through anonymous
149 surveys and released in the statistical aggregate.

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

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

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

168 (9) Within the first 6 months after his or her appointment,
169 each member of a judicial nominating commission shall complete
170 an educational course designed to familiarize members with the
171 rules of procedure of the judicial nominating commission to
172 which they are appointed. In addition, the educational course
173 must include content on implicit bias in order to educate
174 members on the science surrounding bias and how to develop a

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175 nominating process that is as free from bias as possible.

176 (10)~~(7)~~ The Executive Office of the Governor shall provide
177 all administrative support for each judicial nominating
178 commission.

179 Section 2. This act shall take effect July 1, 2020.