

Judicial Nomination Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jason B. Kyle

Senate Sponsor:

LONG TITLE**General Description:**

This bill addresses judicial selection.

Highlighted Provisions:

This bill:

- contingent on passage of a proposed constitutional amendment:

- defines terms;
- authorizes the governor to request a list of nominees from a judicial nominating commission when the governor is filling a judicial vacancy;
- removes the authority of the chief justice of the Supreme Court to fill a judicial vacancy if the governor fails to fill the vacancy;
- authorizes the governor to appoint any qualified candidate even if the candidate is not nominated by the judicial nominating commission;
- addresses the time period during which a judicial nominating commission may accept an application from an individual seeking nomination to fill a judicial vacancy;
- removes the time constraint on the governor to make a judicial appointment; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

67-1-2, as last amended by Laws of Utah 2023, Chapter 250

78A-10a-102, as enacted by Laws of Utah 2023, Chapter 250

78A-10a-201, as enacted by Laws of Utah 2023, Chapter 250

78A-10a-202, as enacted by Laws of Utah 2023, Chapter 250

78A-10a-203, as enacted by Laws of Utah 2023, Chapter 250 and last amended by

Coordination Clause, Laws of Utah 2023, Chapter 250

78A-10a-303, as enacted by Laws of Utah 2023, Chapter 250

78A-10a-403, as enacted by Laws of Utah 2023, Chapter 250 and last amended by

Coordination Clause, Laws of Utah 2023, Chapter 250

78A-10a-503, as last amended by Laws of Utah 2024, Chapter 158

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **67-1-2** is amended to read:

67-1-2 . Senate confirmation of a gubernatorial nominee or a judicial appointee.

- (1)(a) Except as provided in Subsection (3), at least 30 days before the day of an extraordinary session of the Senate to confirm a gubernatorial nominee, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel the following information for each nominee:
- (i) the nominee's name and biographical information, including a resume and curriculum vitae with personal contact information, including home address, email address, and telephone number, redacted, except that the governor shall send to the Office of Legislative Research and General Counsel the contact information for the nominee;
 - (ii) a detailed list, with citations, of the legal requirements for the appointed position;
 - (iii) a detailed list with supporting documents explaining how, and verifying that, the nominee meets each statutory and constitutional requirement for the appointed position;
 - (iv) a written certification by the governor that the nominee satisfies all requirements for the appointment; and
 - (v) public comment information collected in accordance with Section 63G-24-204.
- (b) This Subsection (1) does not apply to a judicial appointee.
- (2)(a) A majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection (1) for a gubernatorial nominee other than a nominee for the following:
- (i) the executive director of a department;
 - (ii) the executive director of the Governor's Office of Economic Opportunity;
 - (iii) the executive director of the Labor Commission;
 - (iv) a member of the State Tax Commission;
 - (v) a member of the State Board of Education;

- 65 (vi) a member of the Utah Board of Higher Education; or
66 (vii) an individual:
- 67 (A) whose appointment requires the advice and consent of the Senate; and
68 (B) whom the governor designates as a member of the governor's cabinet.
- 69 (b) The Senate shall hold a confirmation hearing for a nominee for an individual
70 described in Subsection (2)(a).
- 71 (3) The governor shall:
- 72 (a) if the governor is aware of an upcoming vacancy in a position that requires Senate
73 confirmation, provide notice of the upcoming vacancy to the president of the Senate,
74 the Senate minority leader, and the Office of Legislative Research and General
75 Counsel at least 30 days before the day on which the vacancy occurs; and
- 76 (b) establish a process for government entities and other relevant organizations to
77 provide input on gubernatorial appointments.
- 78 (4) When the governor makes a judicial appointment, the governor shall immediately
79 provide to the president of the Senate and the Office of Legislative Research and
80 General Counsel:
- 81 (a) the name of the judicial appointee;[and]
82 ~~[(b) the judicial appointee's:]~~
83 ~~[(i) resume;]~~
84 ~~[(ii) complete file of all the application materials the governor received from the~~
85 ~~judicial nominating commission; and]~~
86 ~~[(iii) any other related documents, including any letters received by the governor~~
87 ~~about the appointee, unless the letter specifically directs that the letter may not be~~
88 ~~shared.]~~
- 89 (b) the judicial appointee's resume;
- 90 (c) if the judicial appointee was certified to the governor by a judicial nominating
91 commission under Section 78A-10a-203, a complete file of all the application
92 materials the governor received from the judicial nominating commission; and
- 93 (d) any other related documents, including any letters the governor received about the
94 appointee, unless the letter specifically directs that the governor may not share the
95 letter.
- 96 (5) The governor shall inform the president of the Senate and the Office of Legislative
97 Research and General Counsel of the number of letters withheld [pursuant to] in
98 accordance with Subsection [(4)(b)(iii)] (4)(d).

(6)(a) Letters of inquiry submitted by any judge at the request of any judicial nominating commission are classified as private in accordance with Section 63G-2-302.

(b) All other records received from the governor [~~pursuant to~~] in accordance with this Subsection (6) may be classified as private in accordance with Section 63G-2-302.

(7) The Senate shall consent or refuse to give the Senate's consent to a nomination or judicial appointment.

Section 2. Section **78A-10a-102** is amended to read:

78A-10a-102 . Nomination, appointment, and confirmation of judges.

(1) On and after July 1, 2023, judges for courts of record in this state are nominated, appointed, and confirmed in accordance with this chapter, Section 67-1-2, and Utah Constitution, Article VIII, Section 8.

(2) A commission, the governor, [~~the chief justice of the Supreme Court,~~] and the Senate shall nominate and select judges based solely upon consideration of fitness for office without regard to any partisan political consideration.

Section 3. Section **78A-10a-201** is amended to read:

78A-10a-201 . State Commission on Criminal and Juvenile Justice -- Duties -- Rulemaking.

The State Commission on Criminal and Juvenile Justice shall:

(1) enact rules establishing procedures for the meetings of a commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(2) ensure that the rules described in Subsection (1):

(a) comply with the requirements of this chapter;

(b) include standards that:

(i) maintain the confidentiality of applications for a judicial vacancy and related documents;

(ii) address destroying the records of the names of applicants, applications, and related documents upon the completion of the judicial nomination process; and

(iii) govern a commissioner's disqualification and inability to serve;

(c) allow for public comment concerning the judicial nomination process, qualifications for judicial office, and individual applicants;

(d) include evaluation criteria for the [~~selection~~] nomination of judicial nominees; and

(e) address procedures for:

(i) taking summary minutes at a commission meeting;

(ii) simultaneously forwarding the names of judicial nominees to the governor, the

president of the Senate, and the Office of Legislative Research and General Counsel as described in Subsection 78A-10a-203(5); and

(iii) requiring the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.

Section 4. Section **78A-10a-202** is amended to read:

78A-10a-202 . Governor request for judicial nominees -- Recruitment period for judicial vacancy -- Convening a judicial nominating commission.

~~[(1)(a) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:]~~

~~[(i) except as provided in Subsection (1)(a)(ii), the recruitment period to fill a judicial vacancy begins 235 days before the effective date of the judicial vacancy;]~~

~~[(ii) if sufficient notice of a judicial vacancy is not given to the governor, the recruitment period to fill a judicial vacancy begins within 10 days after the day on which the governor receives notice;]~~

~~[(iii) except as provided in Subsection (1)(b), the recruitment period is a minimum of at least 30 days but no more than 90 days; and]~~

~~[(iv) the chair of the commission having authority over the vacancy convenes a meeting no more than 10 days after the close of the recruitment period.]~~

~~[(b) If fewer than nine applications are received for a judicial vacancy, the governor may extend the recruitment period described in Subsection (1)(a)(iii) up to 30 days.]~~

(1) As used in this section, "recruitment period" means the time period during which a commission may accept applications from individuals seeking nomination to fill a judicial vacancy.

(2) The governor may request a commission for the court in which a judicial vacancy occurs to provide a list of judicial nominees to assist the governor in filling the vacancy.

(3)(a) If the governor makes a request described in Subsection (2), and except as otherwise provided in this section:

(i) the recruitment period begins:

(A) 235 days before the effective date of the judicial vacancy; or

(B) if the governor makes a request described in Subsection (2) fewer than 235 days before the effective date of the judicial vacancy, within 10 days after the day on which the governor makes the request;

(ii) the recruitment period is a minimum of 30 days but no more than 90 days; and

(iii) the chair of the commission shall convene a meeting no more than 10 days after

the day on which the recruitment period closes.

(b) If fewer than nine applications are received for a judicial vacancy, the governor may extend the recruitment period described in Subsection (3)(a)(ii) up to 30 days.

~~[(2)] (4) [Hf]~~ If the governor makes a request described in Subsection (2) and there is a hiring freeze implemented in accordance with Section 78A-2-113, the time periods described in Subsection ~~[(1)]~~ (3) shall begin to run on the day that the hiring freeze ends.

Section 5. Section **78A-10a-203** is amended to read:

**78A-10a-203 . Procedures for judicial nomination commission -- Meetings --
Certification -- Governor appointment.**

(1)(a) ~~[A]~~ If the governor makes a request described in Subsection 78A-10a-202(2), a commission may:

(i) meet as necessary to perform the commission's function; and

(ii) investigate the applicants of a judicial vacancy, including seeking input from members and employees of the judiciary and the community.

(b) A commission may consult with the Judicial Council regarding the applicants for a judicial vacancy.

(c) A commission is exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

(2) In determining which of the applicants are the most qualified, a commission shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies an applicant for the office.

(3)(a) Except as provided under Subsection (3)(b):

(i) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per judicial vacancy;

(ii) a district and juvenile court nominating commission shall certify to the governor a list of the five most qualified applicants per judicial vacancy; and

(iii) the business and chancery court nominating commission shall certify to the governor a list of the seven most qualified applicants per judicial vacancy.

(b) If a commission is considering applicants for more than one judicial vacancy existing at the same time and for the same court, the commission shall include one additional applicant for each additional judicial vacancy in the court in the list of applicants the commission certifies to the governor.

(4) A commission shall certify a list to the governor under Subsection (3) no more than 45

days after convening in accordance with Section 78A-10a-202.

- (5) A commission shall, at the time that the commission certifies a list of the most qualified applicants to the governor, submit the same list to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel.
- (6) A commission shall ensure that the list of applicants certified to the governor:
- (a) meet the qualifications required by law to fill the office; and
 - (b) are willing to serve.
- (7) In determining which of the applicants are the most qualified, a commission may not decline to certify an applicant's name to the governor because:
- (a) the commission declined to submit that applicant's name to the governor to fill a previous judicial vacancy;
 - (b) a previous commission declined to submit that applicant's name to the governor; or
 - (c) the commission or a previous commission submitted the applicant's name to the governor and the governor selected another individual to fill the judicial vacancy.
- (8) A commission may not certify:
- (a) an applicant who is a justice or judge that was not retained by the voters for the office for which the justice or judge was defeated until after the expiration of that justice's or judge's term of office; ~~and~~ or
 - (b) an applicant who has served on a commission within six months after the day on which the commission was last convened.
- ~~[(9) The governor shall fill a judicial vacancy within 30 days after the day on which the governor received the list of nominees from the commission.]~~
- ~~[(10) If the governor fails to fill a judicial vacancy within 30 days after the day on which the governor received the list of nominees from the commission, the chief justice of the Supreme Court shall, within 20 days, appoint an applicant from the list of nominees certified to the governor by the commission.]~~
- (9) A list of applicants certified by a commission:
- (a) is advisory only; and
 - (b) does not limit the governor's authority to appoint to a judicial vacancy any individual who meets the qualifications described in Utah Constitution, Article VIII, Section 7.

Section 6. Section **78A-10a-303** is amended to read:

78A-10a-303 . Membership -- Vacancies -- Removal.

- (1) The Appellate Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

- (2) A commissioner shall:
- (a) be a United States citizen;
 - (b) be a resident of Utah; and
 - (c) serve until the commissioner's successor is appointed.
- (3) The governor may not appoint:
- (a) a commissioner to serve successive terms; or
 - (b) a member of the Legislature to serve as a commissioner.
- (4) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission [selects] nominates applicants without any regard to partisan political consideration.
- (5) The governor shall appoint the chair of the commission from among the membership of the commission.
- (6) The governor shall fill any vacancy on the commission caused by the expiration of a commissioner's term.
- (7)(a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.
- (b) A replacement commissioner appointed under Subsection (7)(a) may not be reappointed upon expiration of the term of service.
- (8) The governor may remove a commissioner from the commission at any time with or without cause.

Section 7. Section **78A-10a-403** is amended to read:

78A-10a-403 . Membership -- Vacancies -- Removal.

- (1) A district and juvenile court nominating commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.
- (2) A commissioner shall:
- (a) be a United States citizen;
 - (b) be a resident of Utah;
 - (c) be a resident of the geographical division to be served by the commission to which the commissioner is appointed; and
 - (d) serve until the commissioner's successor is appointed.
- (3) The governor may not appoint:
- (a) a commissioner to successive terms; [~~and~~] or

(b) a member of the Legislature to serve as a commissioner.

- (4) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission [selects] nominates applicants without any regard to partisan political consideration.
- (5) The governor shall appoint the chair of each commission from among the membership of the commission.
- (6) The governor shall fill any vacancy on the commission caused by the expiration of a commissioner's term.
- (7)(a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.
- (b) A replacement commissioner appointed under Subsection (7)(a) may not be reappointed upon expiration of the term of service.
- (8) The governor may remove a commissioner from the commission at any time with or without cause.

Section 8. Section **78A-10a-503** is amended to read:

78A-10a-503 . Membership -- Appointment -- Vacancies -- Removal.

- (1) The Business and Chancery Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.
- (2) A commissioner shall:
- (a) be a United States citizen;
 - (b) be a resident of Utah; and
 - (c) serve until the commissioner's successor is appointed.
- (3) The governor may not appoint:
- (a) a commissioner to serve successive terms; or
 - (b) a member of the Legislature to serve as a member of the commission.
- (4) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission [selects] nominates applicants without any regard to partisan political consideration.
- (5) The governor shall appoint the chair of the commission from among the membership of the commission.
- (6) The governor shall fill any vacancy in the commission caused by the expiration of a

commissioner's term.

(7)(a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

(b) A replacement commissioner appointed under Subsection (7)(a) may not be reappointed upon expiration of the term of service.

(8) The governor may remove a commissioner from the commission at any time with or without cause.

Section 9. Effective Date.

This bill takes effect on January 1, 2027, if the amendment to the Utah Constitution proposed by H.J.R. 5, Proposal to Amend Utah Constitution - Judicial Nominations, 2026 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.