

## Part 1 General Provisions

### **78A-10-101 Title.**

This chapter is known as the "Judicial Selection Act."

Enacted by Chapter 3, 2008 General Session

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

Judges for courts of record in Utah shall be nominated, appointed, and confirmed as provided in Utah Constitution Article VIII, Section 8, and this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

### **78A-10-103 Procedures governing meetings of judicial nominating commissions.**

- (1) The Commission on Criminal and Juvenile Justice shall:
  - (a) in consultation with the Judicial Council, enact rules establishing procedures governing the meetings of the judicial nominating commissions in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
  - (b) ensure that those procedures include:
    - (i) a minimum recruitment period of at least 30 days but not more than 90 days, unless fewer than nine applications are received for a judicial vacancy, in which case the recruitment period may be extended up to 30 days;
    - (ii) standards for maintaining the confidentiality of the applications and related documents;
    - (iii) standards governing the release of applicant names before nomination;
    - (iv) standards for destroying the records of the names of applicants, applications, and related documents upon completion of the nominating process;
    - (v) an opportunity for public comment concerning the nominating process, qualifications for judicial office, and individual applicants;
    - (vi) evaluation criteria for the selection of judicial nominees;
    - (vii) procedures for taking summary minutes at nominating commission meetings;
    - (viii) procedures for simultaneously forwarding the names of nominees to the governor, the president of the Senate, and the Office of Legislative Research and General Counsel;
    - (ix) standards governing a nominating commissioner's disqualification and inability to serve; and
    - (x) procedures that require the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.
- (2) In determining which of the applicants are the most qualified, the nominating commissions shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies them 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 vacancy; and
    - (ii) trial court nominating commissions shall certify to the governor a list of the five most qualified applicants per vacancy.

- (b) If a nominating commission is considering applicants for more than one judicial vacancy existing at the same time and for the same court, the nominating commission shall include one additional applicant for each additional vacancy in the court in the list of applicants the commission certifies to the governor.
- (4) Nominating commissions shall ensure that the list of applicants submitted to the governor:
  - (a) meet the qualifications required by law to fill the office; and
  - (b) are willing to serve.
- (5) In determining which of the applicants are the most qualified, nominating commissions may not decline to submit a candidate's name to the governor merely because:
  - (a) the nominating commission had declined to submit that candidate's name to the governor to fill a previous vacancy;
  - (b) a previous nominating commission had declined to submit that candidate's name to the governor; or
  - (c) that nominating commission or a previous nominating commission had submitted the applicant's name to the governor and the governor selected someone else to fill the vacancy.
- (6) A judicial nominating commission may not nominate a justice or judge who was not retained by the voters for the office for which the justice or judge was defeated until after the expiration of that term of office.
- (7) Judicial nominating commissions are exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 7, 2016 Special Session 3

**78A-10-104 Convening of judicial nominating commissions -- Certification to governor of nominees -- Meetings to investigate prospective candidates.**

- (1) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:
  - (a) the recruitment period to fill a judicial vacancy begins 235 days before the effective date of a vacancy, unless sufficient notice is not given, in which case the recruitment period shall begin within 10 days of receiving notice;
  - (b) the recruitment period is a minimum of 30 days but not more than 90 days, unless fewer than nine applications are received, in which case the recruitment period may be extended up to 30 days; and
  - (c) the chair of the judicial nominating commission having authority over the vacancy shall convene a meeting not more than 10 days after the close of the recruitment period.
- (2) The time limits in Subsection (1) shall begin to run the day the hiring freeze ends.
- (3) The nominating commission may:
  - (a) meet as necessary to perform its function; and
  - (b) investigate prospective candidates.
- (4) Not later than 45 days after convening, the:
  - (a) appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and
  - (b) trial court nominating commission shall certify to the governor a list of the five most qualified applicants per vacancy.
- (5) The governor shall fill the vacancy within 30 days after receiving the list of nominees.
- (6) If the governor fails to fill the vacancy within 30 days of receiving the list of nominees from the nominating commission, the chief justice of the Supreme Court shall, within 20 days, appoint a person from the list of nominees certified to the governor.

- (7) A nominating commission may not nominate a person who has served on a nominating commission within six months of the date that the commission was last convened.

Amended by Chapter 134, 2010 General Session

Amended by Chapter 134, 2010 General Session, (Coordination Clause)

**78A-10-105 Senate confirmation of judicial appointments -- Courts of record.**

(1) The Senate shall:

(a) consider and decide on each judicial appointment within 60 days of the date of appointment;  
and

(b) if necessary, convene itself in extraordinary session to consider a judicial appointment.

(2) If the Senate fails to approve the appointment, the office is considered vacant and a new nominating process begins.

(3) An appointment is effective upon approval of a majority of all members of the Senate.

(4) The judicial nominating commission, the governor, the chief justice, and the Senate shall nominate and select judges based solely upon consideration of their fitness for office without regard to any partisan political considerations.

Enacted by Chapter 134, 2010 General Session