

**78A-12-206 Publication of the judicial performance evaluation -- Response by judge.**

- (1)
  - (a) The commission shall compile a retention report of its judicial performance evaluation of a judge.
  - (b) The report of a judicial performance evaluation nearest the judge's next scheduled retention election shall be provided to the judge at least 45 days before the last day on which the judge may file a declaration of the judge's candidacy in the retention election.
  - (c) A report prepared in accordance with Subsection (1)(b) and information obtained in connection with the evaluation becomes a public record under Title 63G, Chapter 2, Government Records Access and Management Act, on the day following the last day on which the judge who is the subject of the report may file a declaration of the judge's candidacy in the judge's scheduled retention election if the judge declares the judge's candidacy for the retention election.
  - (d) Information collected and a report that is not public under Subsection (1)(c) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.
- (2) Within 15 days of receiving a copy of the commission's report under Subsection (1)(b):
  - (a) a judge who is the subject of an unfavorable retention recommendation under this section may:
    - (i) provide a written response to the commission about the report; and
    - (ii) request an interview with the commission for the purpose of addressing the report; and
  - (b) a judge who is the subject of a favorable retention recommendation under this section may provide a written response to the commission about the commission's report.
- (3)
  - (a) After receiving a response from a judge in any form allowed by Subsection (2), the commission may meet and reconsider its decision to recommend the judge not be retained.
  - (b) If the commission does not change its decision to recommend the judge not be retained, the judge may provide a written statement, not to exceed 100 words, that shall be included in the commission's report.
- (4) The retention report of a judicial performance evaluation shall include:
  - (a) the results of the judicial performance survey, in both raw and summary form;
  - (b) information concerning the judge's compliance with the minimum performance standards;
  - (c) information concerning any public discipline that a judge has received that is not subject to restrictions on disclosure under Title 78A, Chapter 11, Judicial Conduct Commission;
  - (d) a narrative concerning the judge's performance;
  - (e) the commission's recommendation concerning whether the judge should be retained, or the statement required of the commission if it declines to make a recommendation;
  - (f) the number of votes for and against the commission's recommendation; and
  - (g) any other information the commission considers appropriate to include in the report.
- (5)
  - (a) The commission may not include in its retention report specific information concerning an earlier judicial performance evaluation.
  - (b) The commission may refer to information from an earlier judicial performance evaluation concerning the judge in the commission's report only if the reference is in general terms.
- (6) The retention report of the commission's judicial performance evaluation shall be made publicly available on an Internet website.
- (7) The commission may make the report of the judicial performance evaluation immediately preceding the judge's retention election publicly available through other means within budgetary constraints.

- (8) The commission shall provide a summary of the judicial performance evaluation for each judge to the lieutenant governor for publication in the voter information pamphlet in the manner required by Title 20A, Chapter 7, Issues Submitted to the Voters.
- (9) The commission may also provide any information collected during the course of a judge's judicial performance evaluation immediately preceding the judge's retention election to the public to the extent that information is not otherwise subject to restrictions on disclosure.
- (10) The commission shall provide the Judicial Council with:
  - (a) the judicial performance survey results for each judge; and
  - (b) a copy of the retention report of each judicial performance evaluation.
- (11) The Judicial Council shall provide information obtained concerning a judge under Subsection (10) to the subject judge's presiding judge, if any.

Amended by Chapter 80, 2011 General Session