

**COURT NOMINATING COMMISSION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kirk A. Cullimore**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill amends membership requirements for judicial nominating commissions.

**Highlighted Provisions:**

This bill:

- ▶ removes certain requirements for:
  - membership of the Appellate Court Nominating Commission; and
  - membership of the Trial Court Nominating Commission.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78A-10-202**, as last amended by Laws of Utah 2010, Chapter 134

**78A-10-204**, as enacted by Laws of Utah 2008, Chapter 3

**78A-10-302**, as last amended by Laws of Utah 2010, Chapter 134

**78A-10-304**, as enacted by Laws of Utah 2008, Chapter 3

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

Section 1. Section **78A-10-202** is amended to read:



28 **78A-10-202. Membership.**

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

31 (2) Each commissioner shall:

32 (a) be a United States citizen;

33 (b) be a resident of Utah; and

34 (c) serve until the commissioner's successor is appointed.

35 (3) The governor may not appoint[~~:(a) a commissioner to serve successive terms; (b) ]~~  
36 a member of the Legislature to serve as a member of the Appellate Court Nominating  
37 Commission[~~; or~~].

38 [~~(c) more than four commissioners from the same political party to the Appellate Court~~  
39 ~~Nominating Commission.~~]

40 [~~(4) (a) The Utah State Bar shall submit to the governor a list of six nominees to serve~~  
41 ~~as Appellate Court Nominating Commissioners.~~]

42 [~~(b) The governor shall appoint two commissioners from the list of nominees provided~~  
43 ~~by the Utah State Bar.~~]

44 [~~(c) The governor may reject the list submitted by the Utah State Bar and request a new~~  
45 ~~list of nominees.~~]

46 [~~(5) The governor may not appoint more than four persons who are members of the~~  
47 ~~Utah State Bar to the Appellate Court Nominating Commission.~~]

48 [~~(6) The chief justice of the Supreme Court shall appoint another member of the~~  
49 ~~Judicial Council to serve as an ex officio, nonvoting member of the Appellate Court~~  
50 ~~Nominating Commission.~~]

51 [~~(7) ]~~ (4) The governor shall appoint the chair of the Appellate Court Nominating  
52 Commission from among the Appellate Court Nominating Commission's membership.

53 Section 2. Section **78A-10-204** is amended to read:

54 **78A-10-204. Vacancies.**

55 (1) The governor shall fill any vacancy [~~in the office of~~] on the Appellate Court  
56 Nominating Commission.

57 (2) If an appellate court nominating commissioner is disqualified or is otherwise  
58 unable to serve, the governor shall appoint a new commissioner [~~of the same political party as~~

59 ~~the unavailable commissioner].~~

60  ~~[(3) If a vacancy occurs among commission members who are also members of the~~  
 61  ~~Utah State Bar, the governor shall replace that commissioner with a person from a list of~~  
 62  ~~nominees submitted by the Utah State Bar as provided in Section ~~78A-10-202.~~]~~

63  ~~[(4) The governor shall ensure that each person who is appointed to fill any vacancy on~~  
 64  ~~the Appellate Court Nominating Commission, other than a vacancy caused by expiration of~~  
 65  ~~term, is a member of the same political party as the commissioner whom the person replaced.]~~

66  ~~[(5)] (3) When a vacancy occurs in the membership of the Appellate Court Nominating~~  
 67  ~~Commission for any reason, the governor shall appoint a replacement [shall be appointed] for~~  
 68  ~~the unexpired term [and may not be reappointed].~~

69 Section 3. Section **78A-10-302** is amended to read:

70 **78A-10-302. Membership.**

71 (1) The Trial Court Nominating Commission shall consist of seven commissioners,  
 72 each appointed by the governor to serve a ~~[single]~~ four-year term.

73 (2) Each commissioner shall:

74 (a) be a United States citizen;

75 (b) be a resident of Utah;

76 (c) be a resident of the geographic division to be served by the commission to which  
 77 the commissioner is appointed; and

78 (d) serve until the commissioner's successor is appointed.

79 (3) The governor may not appoint~~[(a) a commissioner to serve successive terms; (b)]~~  
 80 a member of the Legislature to serve as a member of a Trial Court Nominating Commission~~;~~  
 81 ~~or].~~

82  ~~[(c) more than four commissioners from the same political party to a Trial Court~~  
 83  ~~Nominating Commission.]~~

84  ~~[(4) The governor shall appoint two commissioners from a list of nominees provided~~  
 85  ~~by the Utah State Bar.]~~

86  ~~[(5) The Utah State Bar shall submit:]~~

87  ~~[(a) six nominees from Districts 2, 3, and 4; and]~~

88  ~~[(b) four nominees from Districts 1, 5, 6, 7, and 8.]~~

89  ~~[(6) The governor may reject any list and request a new list of nominees.]~~

90 ~~[(7) The governor may not appoint more than four persons who are members of the~~  
91 ~~Utah State Bar to a Trial Court Nominating Commission.]~~

92 ~~[(8) The chief justice of the Supreme Court shall appoint another member of the~~  
93 ~~Judicial Council to serve as an ex officio, nonvoting member of each Trial Court Nominating~~  
94 ~~Commission.]~~

95 ~~[(9) (4) The governor shall appoint the chair of each Trial Court Nominating~~  
96 ~~Commission from among [its] the Trial Court Nominating Commission's membership.~~

97 Section 4. Section **78A-10-304** is amended to read:

98 **78A-10-304. Vacancies.**

99 (1) The governor shall fill any vacancy on the Trial Court Nominating Commission.

100 (2) If a trial court nominating commissioner is disqualified or otherwise unable to  
101 serve, the governor shall appoint a new commissioner ~~[of the same political party as the~~  
102 ~~unavailable commissioner].~~

103 ~~[(3) If a vacancy occurs among commission members who are also members of the~~  
104 ~~Utah State Bar, the governor shall replace that commissioner with a person from a list of~~  
105 ~~nominees submitted by the Utah State Bar as provided in Section 78A-10-302.]~~

106 ~~[(4) The governor shall ensure that each person who is appointed to fill any vacancy in~~  
107 ~~the office of commissioner, other than a vacancy caused by expiration of term, is a member of~~  
108 ~~the same political party as the commissioner whom the person replaced.]~~

109 ~~[(5) (3) When a vacancy occurs in the membership of the Trial Court Nominating~~  
110 ~~Commission for any reason, the governor shall appoint a replacement ~~[shall be appointed]~~ for~~  
111 ~~the unexpired term ~~[of the commissioner being replaced and may not be reappointed].~~~~