

A Legislator's Guide to the Judicial Selection Process

Courts/Terms

Virginia's judicial system is made up of three levels of courts; appellate, trial, and limited jurisdiction courts. These levels consist of five jurisdictionally distinct courts: the Supreme Court, the Court of Appeals, the circuit courts, the general district courts, and the juvenile and domestic relations district courts. The Supreme Court of Virginia consists of seven justices who serve for terms of twelve years. The ten judges of the Court of Appeals serve for terms of eight years. The judges of the circuit courts also serve for terms of eight years. Judges of the general district courts and judges of the juvenile and domestic relations courts serve for terms of six years.

Selection/Certification

Judges in Virginia are selected for the bench by a process of legislative election. The judicial selection process begins when a vacancy occurs in the judiciary or when a new seat is created by the General Assembly. The Supreme Court (circuit and appellate levels) and the Committee on District Courts (district level) advise the General Assembly whether or not a vacancy should be filled based primarily upon caseload statistics. Certification by the Supreme Court of vacancies occurring in the circuit court and appellate courts is not binding on the General Assembly; however, certification of district court vacancies by the Committee on District Courts is required prior to the filling of any vacancy in a district court.

Nomination

Once the vacancy is "certified" by the appropriate body, the House and Senate Committees for Courts of Justice begin taking

nominations from General Assembly members. In some areas of the state, most notably Northern Virginia, the local bar associations have established extensive procedures for screening candidates. These procedures include a series of interviews prior to a vote to choose the most qualified candidates for recommendation to the General Assembly delegation by the local bar. Members of the General Assembly from Northern Virginia follow a similar process for the consideration of individuals recommended by these local bars. By and large, however, most members of the General Assembly do not become directly involved in the local bars' process. The majority of local bar associations has informal procedures for evaluating judicial candidates for recommendation to the General Assembly.



In the last couple of years, some delegations have moved toward local screening or nominating committees made up of citizens, attorneys, and local officials. The committees review candidates' qualifications and recommend to the delegation the best qualified individuals.

Qualification of Candidates

Names of candidates are then submitted by General Assembly members to the House and Senate Committees for Courts of Justice. These Committees determine whether or not each individual is "qualified" for the judgeship he or she seeks. They make no determination as to the rank of each candidate, only that the candidates are qualified to hold judicial office. The hearings held by the Courts' Committees are open to the public and the public is given an opportunity to appear before the Committees, if someone so desires.

Voting

Following the Courts Committees' determination of qualification, a report listing qualified candidates is made to each house of the General Assembly. The House of Delegates and the Senate vote separately, under a procedural resolution, and the candidate receiving the most votes in each house is elected to the vacant judgeship or new seat. Incumbent judges standing for election to a subsequent term must go through the same process. The election does not require action by the Governor.

The Senate's rules require all senators, both Republicans and Democrats, representing each circuit to unanimously nominate a candidate for each vacancy or new seat. That person is normally supported on the floor by the rest of the senators. In the event that no one is nominated by the circuit senators, any senator may make a nomination on the floor.

Powers of the Governor

During those months when the General Assembly is not sitting, the Governor has the power to fill judicial vacancies which occur in the appellate courts and the circuit courts. District court judges can be appointed by the circuit court if the legislature is not in session and a vacancy has occurred in one of those courts. Nevertheless, these pro tempore appointees are subject to legislative election at the next session of the General Assembly following their appointment.

Process Administrator

Mary Kate Felch, a senior research associate with the Division of Legislative Services, administers the judicial election process for the General Assembly. Each member is encouraged to contact Mrs. Felch to determine whether there are incumbent judges to be elected, vacancies, or new seats to be filled within their districts.

Division of Legislative Services

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