



Legislator's Guide

A Legislator's Guide to the Judicial Selection Process

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Introduction

Virginia's judicial system consists of three types of courts: appellate, trial, and limited jurisdiction. These court types 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. Virginia is separated into 31 judicial circuits and 32 judicial districts. All judicial circuits share boundaries with their judicial districts, with the exception of the Second Judicial Circuit, which is divided into the Second Judicial District and Judicial District 2-A.¹

Justices and judges are elected for a full term to their respective bench. There is no limit to the number of terms a justice or judge can serve; however, the Code of Virginia provides that it is mandatory for justices and judges to be retired 20 days after the start of the next regular session following their 73rd birthday.²

The following table shows court membership and terms:

Court	Term
Supreme Court (Chief Justice and 6 Justices)	12 years
Court of Appeals (11 Judges)	8 years
Circuit Courts	8 years
General District Courts	6 years
Juvenile and Domestic Relations District Courts	6 years

Judicial Selection Process

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 a new seat is created by the General Assembly. In 2013, the General Assembly contracted with the National Center for State Courts to conduct a study every four years to assess judicial workload.³ Each study results in recommendations regarding the judicial need in each circuit and district, and the General Assembly votes on legislation to codify the number of vacancies.

The Supreme Court (for the appellate and circuit courts) and the Committee on District Courts (for the general district and juvenile and domestic relations district courts) subsequently

¹ Virginia Beach is considered separate from Northampton and Accomack at the district level; therefore, the City of Virginia Beach is the Second Judicial District and Northampton and Accomack Counties are Judicial District 2-A.

² VA. CODE § 51.1-305(B1).

³ The National Center for State Courts is an independent, nonprofit organization that conducts court assessments and judicial caseload studies at all government and court levels throughout the United States.

provide recommendations to the General Assembly on whether a vacancy should be filled. This decision is based primarily on judicial workload statistics. Certification by the Supreme Court of vacancies occurring in the appellate and circuit 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.

Nominations

Once a vacancy is certified by the appropriate body, the House and Senate Committees for Courts of Justice (the Courts Committees) begin taking nominations from General Assembly members.

The majority of local bar associations have informal procedures for evaluating judicial candidates for recommendation to the General Assembly. Upon completion of their interview process, many local bars provide letters of recommendation to the members of their legislative delegation.

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. Most members of the General Assembly do not become directly involved in the nomination process of the local bars.

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 individuals they deem best qualified.

Interview Process and Elections for New Judicial Candidates

Candidates recommended by their respective legislative delegations for a judgeship are invited for an interview before the Courts Committees. The interview schedules are posted online and the hearings held by the Courts Committees are open to the public. Any member of the public may request the opportunity to testify to a candidate's qualifications. Following the interviews, the Courts Committees determine whether each individual is "qualified" for the judgeship he or she seeks. They make no determination as to the rank of each candidate, only to whether the candidates are qualified to hold judicial office. A report from the Courts Committees listing these qualified candidates is submitted to each house of the General Assembly.

For nominations in the Senate for circuit courts and general district and juvenile and domestic relations district courts, the Senate's rules require a majority of senators representing the circuit for which there is a vacancy, comprised of both Republicans and Democrats, as applicable, to nominate a candidate from the Courts Committees' list of qualified candidates. In the event that no one is nominated by the Senators of a circuit for which there is a vacancy, any senator may make a nomination from the floor.

The House of Delegates and the Senate vote separately under a procedural resolution that typically begins in the House, and if a candidate receives a majority of votes in each house, the candidate is elected to the vacant judgeship or new seat. If there is no such majority in both houses, the seat is left vacant.



Judicial selection by legislative election does not require action by the Governor. The Clerk of the House of Delegates sends a letter with official notice of the election results to the Governor's Office naming newly elected judges. This letter allows the Governor's Office to begin preparing the oath and commission for each judge.

Incumbent Judges

Incumbent judges standing for election to a subsequent term are elected through a similar process. Interviews for incumbent judges are typically held in early December prior to the beginning of session. These interviews are open to the public and are held in the same manner as interviews for new judicial candidates. Members of the legislative delegation for each incumbent judge are welcome to appear before the Courts Committees during such judge's interview or to provide written comments.

Pursuant to the Code of Virginia, members of the Courts Committees are provided with a report generated each year with performance evaluations of incumbent judges seeking reappointment.⁴ The Judicial Performance Evaluation Program allows practicing attorneys, and in applicable courts, bailiffs, jurors, and court staff, to voluntarily and anonymously evaluate a judge's performance in several categories, including demeanor and legal knowledge. These reports are made available to members of the General Assembly and the public. For judges of the circuit courts, sentencing guideline reports are generated and made available to legislators and the public. Following certification of the incumbent candidates by the Courts Committees, elections are held in the House and Senate in the same manner as the elections for new judicial candidates.

Interim Appointments

When the General Assembly is not sitting in regular or special session, the Governor has the power to fill judicial vacancies that occur in the appellate and circuit courts. District court judges can be appointed by the circuit court of the same judicial circuit if the legislature is not in session and a vacancy that has been certified by the Committee on District Courts has occurred. These pro tempore appointees are subject to legislative election at the next session of the General Assembly following their appointment.

Shannon C. Heard, a legal associate with the Division of Legislative Services, administers the judicial selection process for the General Assembly. Each member of the General Assembly is encouraged to contact Ms. Heard to determine whether there are incumbent judges to be elected or vacancies or new seats to be filled within their districts.

For more information, contact the Division of Legislative Services staff:

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⁴ VA. CODE § 17.1-100.

