

## SENATE BILL No. 544

By Committee on Judiciary

2-8

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AN ACT concerning the judicial branch of state government; relating to the nomination and selection of justices and judges; amending K.S.A. 20-119, 20-120, 20-122, 20-123, 20-124, 20-125, 20-126, 20-129, 20-133, 20-138, 20-2904, 20-2905, 20-2906, 20-2909, 20-2914 and 20-3004 and K.S.A. 2001 Supp. 20-2915 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 20-119 is hereby amended to read as follows: 20-119. The member who is to be ~~chairman~~ *chairperson* of the supreme court nominating commission shall be selected in the following manner: *The clerk of the supreme court, in March of any year in which the chairperson is to be elected by members of the bar, shall send by ordinary first-class mail to all members of the bar eligible to vote a notice that such election is to be held and advising how nominations for such office may be made.* Any member or group of members of the bar resident of and licensed to practice law in Kansas, may, on or before April 1, ~~1959~~, file in writing by mail or otherwise, in the office of the clerk of the supreme court, a nomination in writing accompanied by the written consent of the nominee, of a qualified individual for such office. After the nominations have been made the clerk of the supreme court ~~shall~~, on or before ~~the first day of May, 1959~~ *1*, shall send by ordinary first class United States mail to each of the members of the bar who are residents of and licensed to practice law in Kansas, a list of all the names and places of residence of the qualified nominees together with a ballot, in such form as may be prescribed by the ~~said such~~ clerk, for voting upon ~~said such~~ nominees.

Each member of the bar receiving such ballot may cast one ~~(1)~~ vote thereon for one ~~(1)~~ of the nominees named and shall return the ballot by mail in time to be received by the clerk ~~by on or before May 15, 1959~~. All ballots received at the office of the clerk by ~~said such~~ date shall be counted and the nominee receiving the greatest number of votes cast shall be the ~~chairman~~ *chairperson* member of ~~said such~~ commission: ~~Provided, however,~~ *except* that if there are more than two ~~(2)~~ nominees and no one ~~(1)~~ of them receives a majority of the votes cast, the names of the two ~~(2)~~ receiving the greatest number of votes shall be resubmitted for

1 vote by ballot in like manner as is ~~herein~~ prescribed for the first ballot;  
2 ~~said~~. *Such* second ballot to be mailed on or before June 15, ~~1959~~; and  
3 voted and returned so as to be received at the office of the clerk ~~by on~~  
4 ~~or before~~ July 1, ~~1959~~.

5 Sec. 2. K.S.A. 20-120 is hereby amended to read as follows: 20-120.  
6 The members of the supreme court nominating commission to be chosen  
7 from among the members of the bar of each congressional district shall  
8 be selected in the following manner: *The clerk of the supreme court, in*  
9 *March of any year in which a member of the commission is to be elected*  
10 *by members of the bar, shall send by ordinary first class mail to all mem-*  
11 *bers of the bar eligible to vote for the member to be elected a notice that*  
12 *such election is to be held and advising how nominations for such office*  
13 *may be made. Any member or group of members of the bar resident of*  
14 *the congressional district and licensed to practice law in Kansas may, on*  
15 *or before April 1, 1959, file in writing by mail or otherwise in the office*  
16 *of the clerk of the supreme court, a nomination accompanied by the*  
17 *written consent of the nominee, of a qualified individual who resides in*  
18 *the same congressional district, as member of the commission from that*  
19 *district. After the nominations have been made the ~~said such~~ clerk shall,*  
20 *on or before the first day of May, 1959, shall send by ordinary first class*  
21 *United States mail to each of the members of the bar who are residents*  
22 *of the congressional district and licensed to practice law in Kansas, a list*  
23 *of all the names and places of residence of the qualified nominees for*  
24 *that district, together with a ballot in such form as the clerk may prescribe,*  
25 *for voting upon ~~said such~~ nominees.*

26 Each member of the bar receiving such ballot may cast one ~~(1)~~ vote  
27 thereon for one ~~(1)~~ of the district nominees named and shall return the  
28 ballot by mail in time to be received at the office of the clerk ~~by on or~~  
29 ~~before~~ May 15, ~~1959~~. All ballots received at the office of the clerk by ~~said~~  
30 ~~such~~ date shall be counted by congressional districts and the nominee in  
31 each district receiving the greatest number of votes cast in the district  
32 shall be a member of the commission from that district: ~~Provided, how-~~  
33 ~~ever,~~ *except* that if in any district there are more than two ~~(2)~~ nominees  
34 and no one ~~(1)~~ of them receives a majority of the votes cast in the district,  
35 the names of the two ~~(2)~~ receiving the greatest number of votes shall be  
36 resubmitted in the district for vote by ballot in like manner as is ~~herein~~  
37 prescribed for the first ballot; ~~said~~. *Such* second ballot to be mailed on or  
38 before June 15, ~~1959~~, and returned in time so as to be received at the  
39 office of the clerk ~~by on or before~~ July 1, ~~1959~~.

40 Sec. 3. K.S.A. 20-122 is hereby amended to read as follows: 20-122.  
41 The clerk of the supreme court may use the roster of attorneys in ~~his the~~  
42 ~~clerk's~~ office licensed to practice law in Kansas; ~~and the edition of the~~  
43 ~~Martindale Hubbel legal directory, current at the time of mailing the~~

1 ~~ballots~~, for ascertaining the names and places of residence of those en-  
2 titled to receive ballots and for ascertaining the qualifications of those  
3 nominated for membership on the commission. The clerk shall supply  
4 with each ballot distributed by ~~him~~ a certificate to be signed and returned  
5 by the member of the bar voting such ballot, evidencing the qualifications  
6 of such member of the bar to vote, and certifying that the ~~voted ballot~~  
7 ~~returned by him was voted~~ *ballot was voted* by the certifying voter.

8 To the end that the vote cast may be secret a separate envelope shall  
9 be provided for the ballot, in which the voted ballot only shall be placed,  
10 and the envelope containing the voted ballot shall be returned in an en-  
11 velope, also to be supplied by the clerk, together with the signed certifi-  
12 cate. No ballot not accompanied by the signed certificate of the voter  
13 shall be counted. When the voted ballots are received by the clerk they  
14 shall be separated from the certificates by the canvassers, and after the  
15 ballots are counted and the results certified both the ballots and the cer-  
16 tificates shall be preserved by the clerk for a period of six ~~(6)~~ months and  
17 ~~he shall permit~~ no one *shall be permitted* to inspect them except on order  
18 of the supreme court. At the end of such six ~~(6)~~ months period the clerk  
19 ~~shall~~, unless otherwise ordered by the supreme court, *shall* destroy them.

20 Sec. 4. K.S.A. 20-123 is hereby amended to read as follows: 20-123.  
21 When the ~~chairman~~ *chairperson* and other members of the commission  
22 chosen by the members of the bar have been elected, and after the names  
23 of the nonlawyer members appointed by the governor have been certified  
24 to the clerk of the supreme court as *provided* in this act ~~provided~~, the  
25 ~~said~~ clerk shall make a record thereof in ~~his~~ *the clerk's* office and shall  
26 notify the members of the commission of their election and appointment.  
27 The commission shall meet from time to time as may be necessary to  
28 discharge the responsibilities of the commission; Such meetings ~~to shall~~  
29 be held at such place ~~in the state house in Topeka, Kansas~~, as the clerk  
30 of the supreme court may arrange, ~~and~~ *Such meeting shall be held* upon  
31 the call of the ~~chairman~~ *chairperson*, or in the event of ~~his~~ *the chairper-*  
32 *son's* failure to call a meeting when a meeting ~~be~~ *is* necessary, upon the  
33 call of any four ~~(4)~~ members of the commission. The commission shall  
34 act only at a meeting, and may act only by the concurrence of a majority  
35 of its members. The commission shall have power to adopt such reason-  
36 able and proper rules and regulations for the conduct of its proceedings  
37 and the discharge of its duties as are consistent with this act and the  
38 constitution of the state of Kansas.

39 Sec. 5. K.S.A. 20-124 is hereby amended to read as follows: 20-124.  
40 ~~The governor shall appoint the first nonlawyer members of the commis-~~  
41 ~~sion, one (1) from each congressional district, and certify the names of~~  
42 ~~such appointees to the clerk of the supreme court on or before May 15,~~  
43 ~~1959. Thereafter,~~ As terms of office of nonlawyer members *from each*

1 congressional district are about to expire, their successors shall be ap-  
2 pointed by the governor and the names of such appointees certified by  
3 the governor to the ~~said~~ clerk of the supreme court before their terms of  
4 office begin. Any vacancy occurring among the nonlawyer members of  
5 the commission shall be filled by appointment by the governor within ~~ten~~  
6 ~~(10)~~ 10 days after ~~he~~ the governor has notice of such vacancy, for the  
7 unexpired term of the member whose place is being filled, and the name  
8 of such appointee shall be certified to the clerk. All appointments by the  
9 governor shall be without regard to the political affiliations of the  
10 appointees.

11 Sec. 6. K.S.A. 20-125 is hereby amended to read as follows: 20-125.  
12 The term of office of the ~~chairman~~ chairperson of the commission shall  
13 be for as many years as there are, at the time of ~~his~~ such chairperson's  
14 election, congressional districts in the state. ~~The terms of office of the~~  
15 ~~first members of the commission selected by the members of the bar~~  
16 ~~from the congressional districts, and the terms of office of the nonlawyer~~  
17 ~~members appointed by the governor, shall be as follows: First district~~  
18 ~~members for one (1) year, second district members for two (2) years,~~  
19 ~~third district members for three (3) years, fourth district members for~~  
20 ~~four (4) years, fifth district members for five (5) years, and sixth district~~  
21 ~~members for six (6) years. The terms of office of the first members of the~~  
22 ~~commission shall begin on July 1, 1959. Except for those appointed to fill~~  
23 ~~vacancies all terms of office for members of the commission subsequently,~~  
24 ~~elected or appointed, shall be for as many years as there are, at the time~~  
25 ~~of their election or appointment, congressional districts in the state.~~

26 Sec. 7. K.S.A. 20-126 is hereby amended to read as follows: 20-126.  
27 ~~The selection of subsequent members of the commission by the members~~  
28 ~~of the bar shall be in like manner as is prescribed in K.S.A. 20-119 and~~  
29 ~~20-120, and amendments thereto, for the selection of the first members,~~  
30 ~~and nominations shall be made and ballots mailed and returned within~~  
31 ~~the times of the years when such elections are held as correspond to the~~  
32 ~~times mentioned in K.S.A. 20-119 and 20-120, and amendments thereto,~~  
33 ~~except that~~ In any uncontested election, the nominee shall be declared  
34 elected without preparation of a ballot. ~~The clerk of the supreme court,~~  
35 ~~in March of any year in which a member of the commission is to be~~  
36 ~~elected by members of the bar, shall send by ordinary first class mail to~~  
37 ~~all members of the bar eligible to vote for the member to be elected a~~  
38 ~~notice that such election is to be held and advising how nominations for~~  
39 ~~such office may be made.~~

40 Sec. 8. K.S.A. 20-129 is hereby amended to read as follows: 20-129.  
41 In the event of redistricting which changes the number of congressional  
42 districts in the state, the members of the commission as constituted at  
43 the time of redistricting shall continue to be members of the commission

1 until the first day of July following the expiration of four ~~(4)~~ months after  
2 such redistricting becomes effective, ~~on which~~. *Except for the chairperson*  
3 *on such* date, the terms of all members of the commission ~~except that of~~  
4 ~~chairman~~ shall expire. During the four ~~(4)~~ months immediately preceding  
5 such termination of office, new commissioners shall be elected and ap-  
6 pointed from the newly constituted congressional districts in the same  
7 manner which is provided in this act for election and appointment of ~~the~~  
8 ~~first~~ commissioners. The terms of elected and appointed members first  
9 chosen from such newly constituted districts shall be staggered on the  
10 basis of the number of such districts and their successors shall be elected  
11 and appointed in such manner and for such terms as *provided* in this act  
12 ~~provided~~.

13 Sec. 9. K.S.A. 20-133 is hereby amended to read as follows: 20-133.  
14 It is the intent of this act that the members of the commission shall consist  
15 only of those persons whose purpose it will be to recommend for ap-  
16 pointment on the supreme court only lawyers or judges of recognized  
17 integrity, character, ability and judicial temperament, and whose conduct  
18 will conform to the letter and the spirit of the constitutional amendment  
19 implemented by this act. The commission shall take cognizance of the  
20 fact that the best qualified nominees may be those whom it would be  
21 most difficult to persuade to serve. Accordingly the commission shall not  
22 limit its consideration to persons who have been suggested by others or  
23 to persons who have indicated their willingness to serve. The commission  
24 may, if it sees fit to do so, tender nominations to one ~~(1)~~ or more qualified  
25 persons, prior to and subject to the formal action of the commission in  
26 making its nominations, in order to ascertain whether such person will  
27 agree to serve if nominated. ~~Under no circumstances may the commission~~  
28 ~~describe potential nominees as applicants or otherwise suggest that they~~  
29 ~~are seeking to be nominated.~~

30 Sec. 10. K.S.A. 20-138 is hereby amended to read as follows: 20-138.  
31 The compensation and expenses of the supreme court nominating com-  
32 mission, the expenses of the members of a district judicial nominating  
33 commission and the compensation of the clerk, and ~~his~~ *clerk's* expenses  
34 for supplies, equipment, and clerical and other assistance necessary to  
35 carry out the provisions of this act, including any expenses and clerical  
36 assistance necessary to perform ~~his~~ *the clerk's* duties with respect to the  
37 nonpartisan selection of district court judges, shall be paid from the ju-  
38 dicial nominating commissions fund, which fund is hereby created in the  
39 state treasury and made available to the commission and the clerk of the  
40 supreme court for such purposes. The director of accounts and reports  
41 is hereby authorized to draw ~~his~~ warrants on the treasurer of state ~~against~~  
42 ~~said~~ fund for the use and purposes specified in this section upon the  
43 presentation of vouchers duly itemized and approved by the clerk of the

1 supreme court. ~~The supreme court nominating commission fund is~~  
2 ~~hereby abolished, and on the effective date of this act, the state treasurer~~  
3 ~~shall transfer all moneys in said fund to the judicial nominating commis-~~  
4 ~~sions fund created herein.~~

5 Sec. 11. K.S.A. 20-2904 is hereby amended to read as follows: 20-  
6 2904. (a) Lawyer members of the district judicial nominating commission  
7 shall be elected by the lawyers who are qualified electors of the judicial  
8 district and who are registered with the clerk of the supreme court pur-  
9 suant to rule ~~201~~ 208 of such court. Each lawyer member of a district  
10 judicial nominating commission shall be a qualified elector of such judicial  
11 district. The number of lawyer members to be elected to the district  
12 judicial nominating commission of a judicial district shall be as follows:

13 (1) In a judicial district consisting of a single county, the number of  
14 members elected shall be equal to the number of nonlawyer members  
15 appointed pursuant to subsection (a)(1) of K.S.A. 20-2905, and amend-  
16 ments thereto.

17 (2) In a judicial district consisting of two counties, four members shall  
18 be elected.

19 (3) In a judicial district consisting of three or more counties, the num-  
20 ber of members elected shall equal the number of counties in such judi-  
21 cial district.

22 (b) Between December 1 and December 15 of the year in which  
23 nonpartisan selection of judges of the district court is approved by the  
24 electors of the judicial district as provided in K.S.A. 20-2901, and amend-  
25 ments thereto, the clerk of the supreme court shall send to each lawyer  
26 by ordinary first class mail a form for nominating one lawyer for election  
27 to the commission. Any such nomination shall be ~~returned to~~ *received in*  
28 *the office of* the clerk of the supreme court on or before January 1 of the  
29 following year, together with the written consent of the nominee. After  
30 receipt of all nominations which are timely submitted, the clerk shall  
31 prepare a ballot containing the names of all lawyers so nominated and  
32 shall mail one such ballot and instructions for voting such ballot to each  
33 registered lawyer in the judicial district. Ballots shall be prepared in such  
34 manner that each lawyer receiving the same shall be instructed to vote  
35 for ~~the same number of nominees as~~ *not more than* the number of po-  
36 sitions to be filled. Each such ballot shall be accompanied by a certificate  
37 to be signed and returned by the lawyer voting such ballot, evidencing  
38 the qualifications of such lawyer to vote and certifying that the ballot was  
39 voted by such person. In any judicial district in which the number of  
40 nominees does not exceed the number of positions to be filled, the clerk  
41 shall declare those nominees to be elected without preparation of a ballot.

42 In order to insure that the election of lawyer members is by secret  
43 ballot, the clerk shall provide a separate envelope for the ballot, in which

1 the voted ballot only shall be placed, and the envelope containing the  
2 voted ballot shall be placed in another envelope, also to be supplied by  
3 the clerk, together with the signed certificate, and ~~returned to~~ *received*  
4 *in the office of* the clerk of the supreme court ~~prior to~~ *on or before* Feb-  
5 ruary 15 of such year. The ballots ~~so~~ returned *as provided in this section*  
6 shall be canvassed within five days thereafter. The canvassers shall consist  
7 of the clerk of the supreme court and two or more persons who are  
8 registered members of the bar residing in Kansas, either practicing law-  
9 yers, justices or judges, designated to act as such by the chief justice. The  
10 canvassers shall open and canvass the ballots and shall tabulate and sign  
11 the results as a record in the office of the clerk. ~~Any ballot which does~~  
12 ~~not contain separate votes for nominees equal in number to the number~~  
13 ~~of persons to be elected shall be void and shall not be counted.~~

14 (c) After the ballots are counted and tabulated in descending order  
15 from the nominee receiving the highest number of votes the canvassers  
16 shall declare to be elected those nominees who are equal in number to  
17 the number of lawyers to be elected and who have the greatest number  
18 of votes.

19 In the event of a tie creating more nominees to be elected than there  
20 are positions to be filled, the canvassers shall determine the person or  
21 persons to be elected by lot. In the event that less than the required  
22 number of lawyers is elected, the positions for which lawyers have not  
23 been elected shall be declared vacant and the vacancies filled in the man-  
24 ner prescribed by subsection (e) of K.S.A. 20-2906, and amendments  
25 thereto.

26 (d) The procedure provided in this section for election of lawyers to  
27 serve as members of the first district judicial nominating commission es-  
28 tablished in a judicial district shall apply to the election of lawyers to  
29 succeed lawyer members of the commission whose terms of office expire,  
30 except that the form for submitting a nomination shall be sent between  
31 December 1 and December 15 of the year preceding the year in which  
32 such terms of office expire, and the dates prescribed for submission of  
33 nominations and the mailing, returning and canvassing of ballots shall  
34 apply in the year in which such terms of office expire.

35 Sec. 12. K.S.A. 20-2905 is hereby amended to read as follows: 20-  
36 2905. (a) The appointments of nonlawyer members of a district judicial  
37 nominating commission shall be made as follows:

38 (1) In a judicial district consisting of a single county, each member  
39 of the board of county commissioners of such county shall appoint one  
40 nonlawyer to serve as a member of the nominating commission.

41 (2) In a judicial district consisting of two ~~(2)~~ counties, the board of  
42 county commissioners of each such county shall appoint two ~~(2)~~ nonlaw-  
43 yers to serve as members of the nominating commission.

1 (3) In a judicial district consisting of three ~~(3)~~ or more counties, the  
2 board of county commissioners of each such county shall appoint one  
3 nonlawyer to serve as a member of the nominating commission.

4 Each nonlawyer member of the nominating commission shall be a qual-  
5 ified elector of the county from which ~~he or she~~ *such member* is  
6 appointed.

7 (b) All appointments of nonlawyers to serve as members of the first  
8 district judicial nominating commission of a judicial district shall be made  
9 and certified to the clerk of the supreme court ~~prior to~~ *on or before*  
10 February 15 of the year following the general election at which the non-  
11 partisan selection of judges of the district court is approved. Thereafter,  
12 all appointments of nonlawyers to serve for full terms on the commission  
13 shall be made and certified to the clerk of the supreme court ~~prior to~~ *on*  
14 *or before* February 15 of the year in which such terms of office  
15 commence.

16 Sec. 13. K.S.A. 20-2906 is hereby amended to read as follows: 20-  
17 2906. (a) All members of the district judicial nominating commission who  
18 are elected or appointed to full terms of office shall commence their terms  
19 of office on the first Monday in March following their election or ap-  
20 pointment, and shall serve for terms of four years, except that lawyer  
21 members of the first nominating commission established in a judicial dis-  
22 trict shall serve for terms of office as provided in subsection (b), and  
23 nonlawyer members of the first commission shall serve for terms of office  
24 as provided in subsection (c).

25 No member of a district judicial nominating commission, while such  
26 member is a member, shall hold any office or official position in a political  
27 party or be eligible for nomination to the position of judge of the district  
28 court.

29 (b) The terms of office for lawyer members of the first nominating  
30 commission established in a judicial district shall be determined by lot at  
31 the first meeting of the commission in accordance with the following:

32 (1) Where there are three lawyer members of a commission, two of  
33 such members shall serve for terms of one year and one such member  
34 shall serve for a term of three years.

35 (2) Where there are four lawyer members on a commission, two such  
36 members shall serve for terms of one year and two such members shall  
37 serve for terms of three years.

38 (3) Where there are five lawyer members on a commission, three  
39 such members shall serve for terms of one year and two such members  
40 shall serve for terms of three years.

41 (4) Where there are six lawyer members on a commission, three such  
42 members shall serve for terms of one year and three such members shall  
43 serve for terms of three years.



1 (5) Where there are seven lawyer members on a commission, four  
2 such members shall serve for terms of one year and three such members  
3 shall serve for terms of three years.

4 (c) The terms of office for nonlawyer members of the first nominating  
5 commission established in a judicial district shall be determined by lot at  
6 the first meeting of the commission in accordance with the following:

7 (1) Where there are three nonlawyer members of a commission, one  
8 such member shall serve for a term of one year and two such members  
9 shall serve for terms of three years.

10 (2) Where there are four nonlawyer members of a commission, two  
11 such members shall serve for terms of one year and two such members  
12 shall serve for terms of three years.

13 (3) Where there are five nonlawyer members of a commission, two  
14 such members shall serve for terms of one year and three such members  
15 shall serve for terms of three years.

16 (4) Where there are six nonlawyer members of a commission, three  
17 such members shall serve for terms of one year and three such members  
18 shall serve for terms of three years.

19 (5) Where there are seven nonlawyer members of a commission,  
20 three such members shall serve for terms of one year and four such  
21 members shall serve for terms of three years.

22 (d) In determining terms of office of members of the first nominating  
23 commission established in a judicial district pursuant to subsections (b)  
24 and (c), the supreme court shall prescribe the method of determining the  
25 terms by lot. Any method or procedure so prescribed shall be officiated  
26 by the chairperson of the commission. Upon the expiration of the terms  
27 of office provided in subsections (b) and (c), successors shall be selected  
28 for terms of four years in the same manner as the members whose terms  
29 of office are expiring were selected.

30 (e) Whenever a vacancy for any reason other than the expiration of a  
31 term of office shall occur in a lawyer's position on the district judicial  
32 nominating commission, leaving an unexpired term of office of more than  
33 90 days, the chief justice of the supreme court shall appoint a successor  
34 of like qualifications to serve until the first Monday in March that occurs  
35 more than 90 days after the date of the vacancy or until the end of the  
36 unexpired term, whichever occurs first. If such first Monday in March  
37 occurs prior to the end of the unexpired term, a lawyer of like qualifica-  
38 tions shall be elected in the manner prescribed by subsection (d) of K.S.A.  
39 20-2904, and amendments thereto, to serve from such Monday in March  
40 until the end of the unexpired term. If any such vacancy occurs in a  
41 lawyer's position on the nominating commission leaving an unexpired  
42 term of office of 90 days or less, there shall be no appointment or election  
43 of a successor to fill the unexpired term.

1 (f) Whenever a vacancy for any reason other than the expiration of a  
2 term of office shall occur in a nonlawyer's position on the district judicial  
3 nominating commission, a successor of like qualification shall be ap-  
4 pointed *for the unexpired term* in the same manner as the member whose  
5 position is vacant was appointed. *Such successor shall serve until the end*  
6 *of the unexpired term.*

7 Sec. 14. K.S.A. 20-2909 is hereby amended to read as follows: 20-  
8 2909. (a) (1) Whenever a vacancy occurs in the office of judge of the  
9 district court in any judicial district, or whenever a vacancy will occur in  
10 such office on a specified future date, the chief justice of the supreme  
11 court promptly shall give notice of such vacancy to the chairperson of the  
12 district judicial nominating commission of such judicial district.

13 (2) The chairperson ~~shall call a meeting of the commission to be held,~~  
14 *in consultation with members of the commission,* within five days after  
15 receipt of such notice *shall set a schedule for accepting nominations and*  
16 *conducting interviews* for the purpose of nominating persons for appoint-  
17 ment to such office. It shall be the duty of the commission to nominate  
18 not less than two nor more than three persons for each office which is  
19 vacant, and shall submit the names of the persons so nominated to the  
20 governor. Any person ~~so~~ nominated shall have the qualifications pre-  
21 scribed by subsection (b) of K.S.A. 20-2903 and amendments thereto,  
22 and in order to obtain the best qualified persons as nominees, the com-  
23 mission shall not limit its consideration of potential nominees to those  
24 persons whose names have been submitted to the commission or who  
25 have expressed a willingness to serve. The commission may authorize one  
26 or more members of the commission to tender a nomination to any qual-  
27 ified person in order to ascertain the person's willingness to serve if nomi-  
28 nated, but any such tender of nomination shall be subject to final action  
29 of the commission under the conditions prescribed by subsection (b) of  
30 K.S.A. 20-2907 and amendments thereto. ~~Under no circumstances shall~~  
31 ~~the commission refer to or describe potential nominees as applicants or~~  
32 ~~otherwise suggest that such persons are seeking to be nominated.~~

33 (3) In order that a vacancy in the office of judge of the district court  
34 does not exist for an inordinate length of time, the commission shall con-  
35 duct the business of selecting nominees for appointment to such office  
36 and certifying the same to the governor as promptly and expeditiously as  
37 possible, having due regard for the importance of selecting the best pos-  
38 sible nominees. In no event shall the commission submit its nominations  
39 to the governor more than ~~30~~ 45 days after the date *the chief justice has*  
40 *notified the nominating commission that a vacancy occurs is to be filled,*  
41 unless the chief justice permits an extension of such time period.

42 (b) If there are not at least two attorneys deemed qualified by the  
43 district judicial nominating commission who reside in the judicial district

1 and who are willing to accept the nomination to fill a vacancy in a district  
2 judge position, the nominating commission need not limit its considera-  
3 tion of nominees to attorneys residing in the judicial district, ~~however,~~  
4 In cases where there is one such attorney, such attorney shall be one of  
5 the nominees submitted to the governor. If an appointee is not a resident  
6 of the judicial district at the time of appointment to a district judge po-  
7 sition, the appointee shall establish residency in the judicial district before  
8 taking office and ~~thereafter~~ shall maintain such residency while holding  
9 such office.

10 Sec. 15. K.S.A. 20-2914 is hereby amended to read as follows: 20-  
11 2914. (a) Whenever a vacancy shall occur in the office of district magis-  
12 trate judge in any judicial district which has approved the proposition of  
13 nonpartisan selection of district court judges, or whenever a vacancy will  
14 occur in such office on a specified future date, the chief justice of the  
15 supreme court promptly shall give notice of such vacancy to the chair-  
16 person of the district judicial nominating commission of such judicial dis-  
17 trict. ~~Said~~ The chairperson shall call a meeting of the commission to be  
18 held, in consultation with members of the commission, within five ~~(5)~~ days  
19 after receipt of such notice shall set a schedule for accepting nominations  
20 and conduction interviews for the purpose of selecting a person to fill  
21 such vacancy. Any person so selected shall have the qualifications pre-  
22 scribed by subsection (c) of K.S.A. 20-334, and in order to obtain the best  
23 qualified person as a district magistrate judge, the commission shall not  
24 limit its consideration of potential appointees to those persons whose  
25 names have been submitted to the commission or who have expressed a  
26 willingness to serve. The commission may authorize one ~~(1)~~ or more  
27 members of the commission to tender an appointment to any qualified  
28 person in order to ascertain ~~his or her~~ such person's willingness to serve  
29 if appointed, ~~but~~. Any such tender of appointment shall be subject to final  
30 action of the commission under the conditions prescribed by subsection  
31 (b) of K.S.A. 20-2907, and amendments thereto. ~~Under no circumstances~~  
32 ~~shall the commission refer to or describe potential appointees as appli-~~  
33 ~~cants or otherwise suggest that such persons are seeking to be appointed.~~

34 (b) Any appointment made pursuant to subsection (a) shall be con-  
35 tingent upon the acceptance of such appointment by the person so ap-  
36 pointed and, if such person is not regularly admitted to practice law in  
37 Kansas, the appointment shall be made on a temporary basis until such  
38 person has been certified by the supreme court as qualified to hold such  
39 office, in the manner provided by K.S.A. 20-337, and amendments  
40 thereto.

41 Sec. 16. K.S.A. 2001 Supp. 20-2915 is hereby amended to read as  
42 follows: 20-2915. (a) ~~Whenever a vacancy in the office of district magis-~~  
43 ~~trate judge exists at the time the appointment to fill such vacancy is made~~

1 as provided in K.S.A. 20-2914 and amendments thereto, the appointment  
2 shall be effective at the time it is made, but where any such appointment  
3 is made to fill a vacancy which will occur at a future date, such appoint-  
4 ment shall not take effect until such date. *Appointments made by the*  
5 *commission shall be effective as of the official appointment date set by the*  
6 *supreme court.*

7 (b) Any person appointed to the office of district magistrate judge as  
8 provided in K.S.A. 20-2914 and amendments thereto, shall commence  
9 upon the duties of office on the date such appointment takes effect, and  
10 any such person appointed shall have all the rights, privileges, powers and  
11 jurisdiction prescribed by law for the office of district magistrate judge.  
12 Except as otherwise provided in K.S.A. 20-337 and amendments thereto,  
13 any such judge shall be eligible for retention in office in the same manner  
14 and under the same conditions prescribed by law for the retention of  
15 district judges in judicial districts which have approved the proposition of  
16 nonpartisan selection of district court judges.

17 Sec. 17. K.S.A. 20-3004 is hereby amended to read as follows: 20-  
18 3004. (a) In addition to the powers and duties prescribed by K.S.A. 20-  
19 119 ~~to through 20-131, inclusive and amendments thereto~~, the supreme  
20 court nominating commission established by section 5 of article 3 of the  
21 constitution of the state of Kansas shall nominate persons to serve as  
22 judges of the court of appeals as provided in this act. To carry out its  
23 duties under this act, the commission shall meet only upon call of the  
24 ~~chairman~~ *chairperson*, and the commission shall not take any final action  
25 except at such meeting. For the purpose of this act, a majority of the  
26 commission shall constitute a quorum to do business, but no final action  
27 shall be taken except upon a vote of the majority of the members of the  
28 commission. For the purposes of this act, the commission shall not be  
29 subject to the Kansas open meetings act as provided in K.S.A. 75-4317  
30 *et seq.*, and amendments thereto.

31 (b) Any person nominated by the commission to serve as a judge of  
32 the court of appeals shall have the qualifications prescribed by subsection  
33 (a) of K.S.A. 20-3002 and shall be a person of recognized integrity, char-  
34 acter, ability, experience and judicial temperament, to the end that per-  
35 sons serving as judges of the court of appeals will be the best qualified  
36 therefor. In order to obtain the best qualified persons as nominees, the  
37 commission shall not be limited in its consideration of potential nominees  
38 to those persons whose names have been submitted to the commission  
39 or who have expressed a willingness to serve.

40 (c) The commission may authorize one or more members of the com-  
41 mission to tender a nomination to any qualified person in order to ascer-  
42 tain ~~his or her~~ *such person's* willingness to serve if nominated, but any  
43 such tender of nomination shall be subject to final action of the commis-

1 sion under the conditions prescribed by subsection (a). ~~Under no circum-~~  
2 ~~stances shall the commission refer to or describe potential nominees as~~  
3 ~~applicants or otherwise suggest that such persons are seeking to be nomi-~~  
4 ~~nated.~~

5 (d) No member of the supreme court nominating commission shall  
6 be eligible for nomination for the office of judge of the court of appeals  
7 while a member of such commission or for six months thereafter.

8 Sec. 18. K.S.A. 20-119, 20-120, 20-122, 20-123, 20-124, 20-125, 20-  
9 126, 20-129, 20-133, 20-138, 20-2904, 20-2905, 20-2906, 20-2909, 20-  
10 2914 and 20-3004 and K.S.A. 2001 Supp. 20-2915 are hereby repealed.

11 Sec. 19. This act shall take effect and be in force from and after its  
12 publication in the statute book.

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