**South Carolina General Assembly**

125th Session, 2023-2024

**S. 879**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Harpootlian, McLeod and Climer

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Currently residing in the Senate

Summary: Judicial Reform

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 11/30/2023 Senate Prefiled

 11/30/2023 Senate Referred to Committee on **Judiciary**

 1/9/2024 Senate Introduced and read first time (Senate Journal‑page 69)

 1/9/2024 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 69)

 1/16/2024 Senate Referred to Subcommittee: Talley (ch), Malloy,
 Campsen, Sabb, Senn

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**VERSIONS OF THIS BILL**

[11/30/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/879_20231130.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 2‑19‑10, RELATING TO APPOINTMENT OF THE JUDICIAL MERIT SELECTION COMMISSION, SO AS TO PROVIDE THAT TWO MEMBERS MUST BE APPOINTED UPON THE RECOMMENDATION OF THE SOUTH CAROLINA BAR ASSOCIATION; BY AMENDING SECTION 2‑19‑30, RELATING TO JMSC HEARINGS, SO AS TO PROVIDE THAT A CANDIDATE MAY NOT WITHDRAW HIS CANDIDACY AFTER THE JMSC BEGINS ITS INVESTIGATION INTO HIS QUALIFICATIONS; BY AMENDING SECTION 2‑19‑35, RELATING TO CRITERIA FOR INVESTIGATIONS AND CONSIDERATION BY THE JMSC SO AS TO PROVIDE THAT THE COMMISSION SHALL NOT CONSIDER ANY INFORMATION FROM ANONYMOUS SOURCES; BY AMENDING SECTION 2‑19‑70, RELATING TO PROHIBITION AGAINST CERTAIN PEOPLE BEING ELECTED TO A JUDGESHIP, SO AS TO PROHIBIT ANY PERSON RELATED TO A MEMBER OF THE GENERAL ASSEMBLY BY CONSANGUINITY OR AFFINITY WITHIN THE SECOND DEGREE FROM BEING ELECTED JUDGE; BY AMENDING SECTION 2‑19‑80, RELATING TO NOMINATION OF QUALIFIED CANDIDATES TO THE GENERAL ASSEMBLY, SO AS TO PROVIDE THAT ALL QUALIFIED CANDIDATES ARE SUBMITTED TO THE GENERAL ASSEMBLY; AND BY AMENDING SECTION 2‑19‑80, RELATING TO NOMINATION OF QUALIFIED CANDIDATES TO THE GENERAL ASSEMBLY, SO AS TO CLARIFY WHEN AN INCUMBENT JUDGE MAY WITHDRAW HIS NAME FROM CONSIDERATION BY THE JMSC.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 2‑19‑10(B) of the S.C. Code is amended to read:

 (B) Notwithstanding any other provision of law, the Judicial Merit Selection Commission shall consist of the following individuals:

 (1) five members appointed by the Speaker of the House of Representatives and of these appointments:

 (a) three two members must be serving members of the General Assembly who are not licensed to practice law in this State; and

 (b) two members must be selected from the general public; and

 (c) one member, selected from the general public upon the recommendation of the South Carolina Bar Association, must be licensed to practice law in this State with at least ten years trial or appellate experience.

 (2) three two members, appointed by the Chairman of the Senate Judiciary Committee, who must be serving members of the Senate who are not licensed to practice law in this State; and

 (3) two members, appointed by the President of the Senate, who must be selected from the general public.; and

 (4) one member, selected from the general public and appointed by the Chairman of the Senate Judiciary Committee upon the recommendation of the South Carolina Bar Association, who must be licensed to practice law in this State with at least ten years trial or appellate experience.

SECTION 2. Section 2‑19‑30(E) of the S.C. Code is amended to read:

 (E) A candidate may not withdraw his candidacy at any stage of the proceedings and in this event no further inquiry or consideration of his candidacy shall be made. All materials concerning that candidate including his report, transcript, application, materials, and other information gathered during the commission's investigation must be kept confidential and destroyed as soon as possible after the candidate's written notification to the commission of his withdrawal. The information concerning a withdrawn candidate also shall be exempt from disclosure pursuant to Chapter 4 of Title 30. after the Judicial Merit Screening Commission initiates its investigation pursuant to Section 2‑19‑25. The Judicial Merit Screening Commission is presumed to have initiated its investigation upon the commission’s receipt of a candidate’s application containing information related to the candidate’s qualifications for office.

SECTION 3. Section 2‑19‑35 of the S.C. Code is amended by adding:

 (C) The commission shall not consider any anonymous surveys, ratings, complaints, or other statements regarding a candidate during its investigation of a candidate.

SECTION 4. Section 2‑19‑70(A) of the S.C. Code is amended to read:

 (A) No member of the General Assembly or any person related to a member of the General Assembly by consanguinity or affinity within the second degree may be elected to a judicial office while he the member is serving in the General Assembly, nor shall that person be elected to a judicial office for a period of one year after he the member either:

 (1) ceases to be a member of the General Assembly; or

 (2) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

SECTION 5. Section 2‑19‑80(A) of the S.C. Code is amended to read:

 (A) The commission shall make nominations to the General Assembly of candidates and their qualifications for election to the Supreme Court, court of appeals, circuit court, family court, and the administrative law judge division. It shall review the qualifications of all applicants for a judicial office and select therefrom and submit to the General Assembly the names and qualifications of all of the three candidates whom it considers best qualified for the judicial office under consideration. If fewer than three persons apply to fill a vacancy or if the commission concludes there are fewer than three candidates qualified for a vacancy, it shall submit to the General Assembly only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

SECTION 6. Section 2‑19‑80(C) of the S.C. Code is amended to read:

 (C)(1) If the commission does not find the incumbent justice or judge qualified for the judicial office held and sought, his name shall not be submitted to the General Assembly for re‑election and upon expiration of his then current term of office, he shall cease serving in that judicial position.

 (2) If the commission finds an incumbent judge not qualified for the office sought, or if an incumbent judge withdraws as provided in Section 2‑19‑30(E), or dies, withdraws, or becomes otherwise disqualified for the office sought between the time he makes application for the office and the date of the election therefor, the election for the office may not be held at that scheduled time, and the commission shall proceed in accordance with the provisions of this chapter to make other nominations for the office as though a new vacancy without an incumbent exists in that office, including reopening the application process with all required notices. Nothing prevents the commission from including in its new nominations the names and qualifications of persons other than the incumbent judge it included in its previous nominations.

SECTION 7. This act takes effect upon approval by the Governor.

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