

To: Candidates for Judicial Office
From: Judicial Merit Selection Commission
Date: 1997
RE: Opinion Interpreting the Pledging Prohibitions of Section 2-19-70

The General Assembly, effective July 1, 1993, amended Section 2-19-70 to provide that:

"[n]o candidate for judicial office may seek directly or indirectly the pledge of a member of the General Assembly's vote until the qualifications of all candidates for that office have been determined by the judicial screening committee, nor may a member offer the pledge until the qualifications of all candidates for that office have been determined by the judicial screening committee. For purposes of this section, indirectly seeking a pledge means the candidate or someone acting on behalf of and at the request of the candidate requesting a person, before screening, to contact a member of the General Assembly on behalf of the candidate. The prohibitions of this section do not extend to an announcement of candidacy by the candidate and statements by the candidate detailing the candidate's qualifications. Violations of this section may be considered by the screening committee when it considers the candidate's qualifications."

The following is the Judicial Merit Selection Commission's interpretation of Section 2-19-70. This opinion is issued in an effort to help candidates for judicial office comply with the law.

Before the Commission makes its findings as to candidate qualifications, a candidate may announce an intention to run for judicial office and describe his or her qualifications for the seat. These communications may be in the form of public statements, written correspondence, and personal conversations. In contacting members of the General Assembly, the candidate must not go beyond announcing his or her candidacy and qualifications, and it must be clear that the candidate is not directly or indirectly soliciting pledges.

The law prohibits someone acting on behalf of and at the request of a candidate from contacting members of the General Assembly about the candidate before the Commission makes its findings. In the opinion of the Commission, this does not prohibit individuals from contacting members of the General Assembly if the action is not taken at the request of the candidate. Furthermore, the Commission believes it would not be improper for a candidate to, before screening is complete, request that friends, colleagues, or members of the General Assembly contact members of the General Assembly after the Commission issues its report. However, the Commission is likely to interpret the statute strictly, and while it will not presume a violation of the law, the Commission will closely examine the conduct of candidates to ensure the statute has not been violated.

The prohibitions of Section 2-19-70 apply to conduct before the Commission has made its findings, so after the Commission issues its report, candidates or persons acting on their behalf may contact legislators as they consider appropriate.

Please contact Mike Couick at 212-6610 with specific questions with regard to Section 2-19-70 or if staff may be of assistance.