CHAPTER 19

South Carolina Judicial Merit Selection Commission Screening and Election of Justices and Judges

**SECTION 2-19-5. South Carolina Judicial Merit Selection Commission creation; appointment; terms.**

(A) There is created the South Carolina Judicial Merit Selection Commission composed of twelve members who must be appointed as follows:

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

(a) three members must be members of the House of Representatives; and

(b) one member must be selected from the South Carolina Bar who must be a member of the Bar in good standing with ten years' experience in the practice of law;

(2) four members appointed by the Senate and of these appointments:

(a) two members must be appointed by the President of the Senate one of whom must be a member of the Senate and one of whom must be selected from the South Carolina Bar and must be a member in good standing with ten years' experience in the practice of law; and

(b) two members must be appointed by the Chairman of the Senate Judiciary Committee both of whom must be members of the Senate; and

(3) four members appointed by the Governor all of which must be members in good standing of the South Carolina Bar with at least ten years' experience in the practice of law.

(B) No person is eligible for appointment if he individually contributed to a campaign of one of the appointing authorities in the most recent election. Nonlegislative members may not be a public employee or serve in another elected office.

(C) Members of the commission shall serve for a term of two years and may serve no more than two consecutive terms. However, a member of the House of Representatives or Senate who ceases to serve as a member of the General Assembly will have his service on the commission terminated upon the end of his service in the General Assembly. Additionally, a member appointed to fill a vacancy in an unexpired term may serve two full terms thereafter. The initial appointments must be made as follows:

(1) one member each appointed by the Speaker of the House of Representatives pursuant to subsection (A)(1)(a) and (b) shall serve an initial term of one year and may be reappointed to a following two-year term;

(2) one member each appointed by the President of the Senate and the Chairman of the Senate Judiciary Committee pursuant to subsection (A)(2)(a) and (b) shall serve an initial term of one year and may be reappointed to a following two-year term; and

(3) two members appointed by the Governor pursuant to subsection (A)(3) shall serve an initial term of one year and may be reappointed to a following two-year term.

(D) In making appointments to the commission, race, gender, national origin, and other demographic factors shall be considered to ensure nondiscrimination to the greatest extent possible as to all segments of the population of the State.

(E) A vacancy on the commission must be filled for the remainder of the unexpired term in the same manner as provided for the original selection.

(F) Members of the Judicial Merit Selection Commission serving on the effective date of this act who have served more than four years on the commission are not eligible for appointment to the commission pursuant to the provisions of this act except for the current chairman and vice chairman who can serve a two-year term but then may not serve a successive term.

(G) No member of the commission shall receive any compensation for commission services, except those set by law for travel, board, and lodging expenses incurred in the performance of commission duties.

(H) No member of the commission is eligible for nomination and appointment as a judge or justice of the state court system or administrative law court while serving on the commission and for a period of one year thereafter. If a candidate is a family member of a member of the commission, the member must resign. For the purposes of this subsection, "family member" means a spouse, parent, brother, sister, child, step-child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild.

HISTORY: 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-10. Meetings; rules.**

When an election is to be held by the General Assembly in Joint Session, for members of the judiciary, the South Carolina Judicial Merit Selection Commission, composed of twelve members, shall consider the qualifications of the candidates. The commission shall meet at least once annually and at other times as may be designated by the chairman. The commission, at its first meeting and then annually, shall elect a chairman and a vice chairman who shall serve for a term of one year and until their successors are elected and qualified, and adopt rules necessary to the purposes of the commission. These rules shall address, among other things:

(1) the confidentiality of records and other information received concerning candidates for judicial office;

(2) the conduct of proceedings before the commission;

(3) receipt of public statements in support of or in opposition to any of the candidates;

(4) procedures to review the qualifications of retired judges for continued judicial service;

(5) contacting incumbent judges regarding their desire to seek reelection;

(6) prohibition against candidates communicating with individual members of the commission concerning the qualifications of candidates unless specifically authorized by the commission; and

(7) format and use of anonymous surveys by the commission.

Seven members of the commission constitute a quorum at all meetings.

HISTORY: 1975 (59) 122; 1996 Act No. 391, Part I, § 1; 2019 Act No. 1 (S.2), § 21, eff January 31, 2019; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-20. Investigation by Commission; publication of vacancies.**

(A) It is the responsibility of the South Carolina Judicial Merit Selection Commission to determine when judicial vacancies are to occur in the Administrative Law Court and on the family court, circuit court, court of appeals, or Supreme Court and to expeditiously investigate in advance the qualifications of those who seek the position. For purposes of this chapter, a vacancy is created in the Administrative Law Court or on the family court, circuit court, court of appeals, or Supreme Court when any of the following occurs: a term expires; a new judicial position is created; or a judge can no longer serve due to resignation, retirement, disciplinary action, disability, or death.

(B) The commission, upon receiving notice of a judicial vacancy, ascertaining that a judicial vacancy shall occur, or receiving the decision of an incumbent judge regarding his seeking reelection, shall notify the Supreme Court of the vacancy for publication in the advance sheets provided by the Clerk of the Supreme Court at least thirty days prior to closing applications for the vacancy. The commission shall, if practicable, also notify the South Carolina Bar, other professional legal organizations it considers appropriate, and each newspaper of this State with daily circulation of the vacancy at least thirty days prior to closing applications for the vacancy. This notice must include, but not be limited to, the judicial office in which the vacancy occurs, the address to which, and the date by which interested candidates may apply.

(C) The commission shall announce and publicize vacancies and forthcoming vacancies in the Administrative Law Court, on the family court, circuit court, court of appeals, and Supreme Court. A person who desires to be considered for a position as justice or judge may make application to the commission. The commission shall announce the names of those persons who have applied.

(D) Any person wishing to seek a judicial office, which is elected by the General Assembly, shall file a notice of intention to seek the office with the commission. Upon receipt of the notice of intention, the commission shall begin to conduct the investigation of the candidate as it considers appropriate and may in the investigation utilize the services of any agency of state government. This agency shall, upon request, cooperate fully with the commission.

HISTORY: 1975 (59) 122; 1996 Act No. 391, Part I, § 1; 1999 Act No. 32, § 1; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-25. Solicitation of Bar assessment.**

(A) The South Carolina Judicial Merit Selection Commission is authorized to investigate and obtain information relative to any candidate for an Administrative Law Court judgeship or a family court, circuit court, court of appeals, or Supreme Court judgeship from any state agency or other group including, but not limited to, court administration and any law enforcement agency, to the extent permitted by law. And, as part of the investigation, candidates for election to judicial office or reelection to judicial office must disclose any sanctions, including private reprimands, to the commission.

(B) The chairman of the commission shall notify the President of the South Carolina Bar of the judgeships to be filled and of the candidates for those judgeships no later than four weeks before the scheduled date for the public hearing. The chairman of the commission shall also request the South Carolina Bar to offer the commission an assessment of each candidate's qualifications for the judgeship sought, and the date by which the assessment must be returned to the commission. This assessment must specify the bar's finding as to whether each candidate is qualified or unqualified for the judgeship sought and the reasons for that finding. The commission may receive the bar's assessment in that form and at that time it desires but shall attach the assessments to its findings of fact in such form as the commission considers appropriate. Failure of the bar to return the assessment by the date requested is not a ground for delaying the applicable hearings or election.

(C) The commission shall forward the names of justices and judges who are at the midpoint in their terms to the committee in order for the committee to conduct midterm reviews utilizing the electronic ballot box survey polling or other forms of electronic surveys as it deems appropriate. The results of the midterm reviews must be forwarded to the Chief Justice of the Supreme Court. Midterm reviews also must be provided to the commission at the next public screening of each judicial candidate.

HISTORY: 1996 Act No. 391, Part I, § 1; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-30. Hearings; executive session.**

(A) Upon completion of the investigation, the Chairman of the South Carolina Judicial Merit Selection Commission shall schedule a public hearing concerning the qualifications of the candidates. Any person who desires to testify at the hearing, including candidates, shall furnish a written statement of his proposed testimony to the commission no later than two weeks prior to the date and time set for the hearing unless sufficient cause is determined by the commission for allowing the submitting individual's testimony after the deadline. The commission shall determine the persons who shall testify at the hearing. All testimony, including documents furnished to the commission, must be submitted under oath and persons knowingly furnishing false information either orally or in writing are subject to the penalties provided by law for perjury and false swearing.

(B) During the course of the investigation, the commission may schedule an executive session at which each candidate, and other persons whom the commission wishes to interview, may be interviewed by the commission on matters pertinent to the candidate's qualification for the office to be filled.

(C) At a reasonable time thereafter the commission shall render its tentative findings as to whether the candidate is qualified for the office to be filled and its reasons therefor as to each candidate.

(D) As soon as possible after the completion of the hearing, a verbatim copy of the testimony, documents submitted at the hearing, and findings of fact must be transcribed and published or otherwise made available in a reasonable number of copies to the members of both houses prior to the date of the scheduled election, and a copy shall be furnished to each candidate and anyone else upon request. A charge for these copies may be made as authorized in the Freedom of Information Act.

(E) A candidate may withdraw at any time prior to the public hearing or after the draft report is issued to members of the General Assembly. The information concerning a withdrawn candidate also shall be exempt from disclosure pursuant to Chapter 4 of Title 30. However, all materials concerning the candidate must be retained and may not be destroyed by the commission.

(F) All of the commission's public hearings shall be live streamed except for the portions of the hearings conducted in executive session.

HISTORY: 1975 (59) 122; 1993 Act No. 181, § 28; 1996 Act No. 391, Part I, § 1; 1998 Act No. 388, § 1; 2008 Act No. 219, § 1, eff May 15, 2008; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-35. Criteria for investigations and consideration of Commission.**

(A) The responsibility of the South Carolina Judicial Merit Selection Commission is to investigate and consider the qualifications of the candidates for judicial office in Administrative Law Court or on the family court, circuit court, court of appeals, or Supreme Court. Investigations and consideration of the commission should include, but are not limited to, the following areas:

(1) constitutional qualifications;

(2) ethical fitness;

(3) professional and academic ability;

(4) character;

(5) reputation;

(6) physical health;

(7) mental stability;

(8) experience; and

(9) judicial temperament.

(B) Race, gender, national origin, and other demographic factors shall be considered by the commission to ensure nondiscrimination to the greatest extent possible as to all segments of the population of the State.

HISTORY: 1994 Act No. 413, § 1; 1996 Act No. 391, Part I, § 1; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-40. Reserved.**

HISTORY: Former Section, titled Exemption from hearing, had the following history: 1975 (59) 122; 1996 Act No. 391, Part I, § 1. Reserved by 2024 Act No. 219, § 1, eff July 1, 2025.

**SECTION 2-19-50. Confidentiality of records, information, and other material.**

All records, information, and other material that the South Carolina Judicial Merit Selection Commission has obtained or used to make its findings of fact, except materials, records, and information presented under oath at the public hearing, must be kept strictly confidential. The information required to be kept confidential also shall be exempt from disclosure pursuant to Chapter 4, Title 30.

HISTORY: 1975 (59) 122; 1996 Act No. 391, Part I, § 1; 1998 Act No. 388, § 2; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-60. Powers of Commission.**

(A) The South Carolina Judicial Merit Selection Commission in the discharge of its duties may administer oaths and affirmations, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary in connection with the investigation of the candidate.

(B) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, or other records before the commission on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no individual shall be prosecuted or subjected to any criminal penalty based upon testimony or evidence submitted or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury and false swearing committed in so testifying.

(C) In case of contumacy by any person or refusal to obey a subpoena issued to any person, any circuit court of this State or circuit judge within the jurisdiction of which the person guilty of contumacy or refusal to obey is found, resides, or transacts business, upon application by the commission may issue to this person an order requiring him to appear before the commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the court may be punished as a contempt. Subpoenas shall be issued in the name of the South Carolina Judicial Merit Selection Commission and shall be signed by the commission chairman. Subpoenas shall be issued to those persons as the commission may designate.

HISTORY: 1975 (59) 122; 1996 Act No. 391, Part I, § 1; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-70. Prohibition against dual offices, privileges of the floor, and pledges.**

(A) No member of the General Assembly may be elected to a judicial office while he is serving in the General Assembly nor shall that person be elected to a judicial office for a period of one year after he 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.

(B) The privilege of the floor in either house of the General Assembly may not be granted to any candidate or any immediate family member of a candidate unless the family member is serving in the General Assembly, during the time the candidate's application is pending before the commission and during the time his nomination by the commission for election to a particular judicial office is pending in the General Assembly.

(C) No person may seek, directly or indirectly, the pledge of a member of the General Assembly's vote or, directly or indirectly, contact a member of the General Assembly regarding screening for the judicial office until the qualifications of all candidates for that office have been determined by the Judicial Merit Selection Commission and the commission has formally released its report as to the qualifications of all candidates for the vacancy to the General Assembly. No member of the General Assembly may offer his pledge to any person until the qualifications of all candidates for that office have been determined by the Judicial Merit Selection Commission and until the commission has formally released its report as to the qualifications of its nominees to the General Assembly. The formal release of the report of qualifications shall occur no earlier than twelve days after the nominees have been initially released to members of the General Assembly. 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 to contact a member of the General Assembly on behalf of the candidate before nominations for that office are formally made by the commission. Prior to the formal release of the report as to the qualifications of judicial candidates, a person may not request that a member of the General Assembly, nor may a member of the General Assembly offer to, act on behalf of a candidate in furtherance of the candidate's candidacy in any capacity including, but not limited to, acting as a vote counter for a candidate. The prohibitions of this section do not extend to an announcement of candidacy by a person and statements by the candidate detailing the candidate's qualifications.

(D) No member of the General Assembly may trade anything of value, including pledges to vote for legislation or for other candidates now or in the future, in exchange for another member's pledge to vote for a candidate for judicial office or as an inducement for a candidate to withdraw.

(E) Violations of this section may be considered by the merit selection commission when it considers the candidate's qualifications and until the time set for election of candidates. Violations of this section by members of the General Assembly shall be reported by the commission to the House or Senate Ethics Committee, as may be applicable. Violations of this section by nonlegislative commission members shall be reported by the commission to the State Ethics Commission. A violation of this section is a misdemeanor and, upon conviction, the violator must be fined not more than one thousand dollars or imprisoned not more than ninety days. Cases tried under this section may not be transferred from general sessions court pursuant to Section 22-3-545.

HISTORY: 1990 Act No. 610, Part IV, § 6; 1993 Act No. 181, § 29; 1996 Act No. 391, Part I, § 1; 1998 Act No. 388, § 3; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-80. Nomination of qualified candidates to the General Assembly.**

(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 Court. 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 not more than six candidates whom it considers best qualified for the judicial office under consideration. If fewer than six persons apply to fill a vacancy or if the commission concludes there are fewer than six 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 six names.

(B) The nominations of the commission for any judgeship are binding on the General Assembly, and it shall not elect a person not nominated by the commission. Nothing shall prevent the General Assembly from rejecting all persons nominated. In this event, the commission shall submit another group of names and qualifications for that position. Further procedures in the manner required by this chapter must be made until the office is filled.

(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 reelection 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 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, 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.

(D) The commission shall accompany its nominations to the General Assembly with reports as to the qualifications of particular candidates and the particular reasons a candidate or candidates were not found qualified.

(E) A period of at least twenty-two days must elapse between the date of the commission's nominations to the General Assembly and the date the General Assembly conducts the election for these judgeships.

HISTORY: 1990 Act No. 610, Part IV, § 7; 1996 Act No. 391, Part I, § 1; 2001 Act No. 49, § 1; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-90. Approval of General Assembly in joint session.**

The General Assembly shall meet in joint session for the election of judges. The date and time for the joint session shall be set by concurrent resolution upon the recommendation of the South Carolina Judicial Merit Selection Commission. The Chairman of the Judicial Merit Selection Commission shall announce the commission's nominees for each judicial race, and no further nominating or seconding speeches shall be allowed by members of the General Assembly. In order to be elected, a candidate must receive a majority of the vote of the members of the General Assembly voting in joint session.

HISTORY: 1996 Act No. 391, Part I, § 1; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-100. Eligibility of retired judges for appointment.**

In order to be eligible for appointment by the Chief Justice to serve, any retired justice or judge of this State must have been reviewed by the South Carolina Judicial Merit Selection Commission under procedures it shall establish to review retired judges' qualifications for continued judicial service and be found by the commission to be qualified to serve in these situations within four years of the date of his appointment to serve, except that if a justice or judge retired before the expiration of his then current term, no further review of that justice or judge is required until that term would have expired.

HISTORY: 1996 Act No. 391, Part I, § 1; 1997 Act No. 35, § 1; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-110. Vacancy in office of master-in-equity; recommendations by county legislative delegations.**

Upon a vacancy in the office of master-in-equity, candidates shall submit an application to the South Carolina Judicial Merit Selection Commission. Upon completion of reports and recommendations, the commission shall submit such reports and recommendations on all qualified master-in-equity candidates to the appropriate county legislative delegations. The county legislative delegations may then submit the name of a candidate to the Governor for consideration for appointment. Nothing shall prevent the delegation from rejecting a candidate and directing the commission to reopen the process. And, nothing shall prevent the Governor from rejecting the person nominated by the delegation. In this event, the delegation shall submit another name for consideration. No person found not qualified by the commission may be appointed to the office of master-in-equity. For purposes of this section, a vacancy is created in the office of the master-in-equity when any of the following occurs: a term expires, a new judicial position is created, or a judge no longer can serve due to resignation, retirement, disciplinary action, disability, or death. The commission may begin screening prior to the actual date of the vacancy in the case of an expiration of term, resignation, or retirement pursuant to written notice.

HISTORY: 1996 Act No. 391, Part I, § 1; 1997 Act No. 35, § 2; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.

**SECTION 2-19-120. Citizens Committees on Judicial Qualifications; membership; compensation.**

(A) The Chairman of the Judicial Merit Selection Commission, upon the advice of the commission, shall select members to serve on Citizens Committees on Judicial Qualifications for each geographic district set by the commission. These committees shall, under the rules adopted by the commission, advise the commission concerning judicial candidates. The committees shall report their findings to the commission in such form as prescribed by the commission.

(B) The members appointed to the Citizens Committees on Judicial Qualifications shall be compensated with an emolument of one hundred dollars per round of screening.

HISTORY: 1997 Act No. 35, § 3; 2024 Act No. 219 (S.1046), § 1, eff July 1, 2025.