



SENATE JOINT RESOLUTION No. 16

DIGEST OF INTRODUCED RESOLUTION

Citations Affected: Article 7 of the Constitution of the State of Indiana.

Synopsis: Confirmation of judicial appointments. Renames the judicial nominating commission as the commission on judicial nominations and qualifications. Provides that one commission member is selected by attorneys licensed in Indiana, one commission member is appointed by the speaker of the house of representatives, and one commission member is appointed by the president pro tempore of the senate. Requires that, of the three members appointed by the governor, at least one commission member must be an attorney. Prohibits a person who is a lobbyist from serving on the commission. Provides for the governor to fill a vacancy on the supreme court or the court of appeals from nominees recommended by the commission, subject to confirmation by the senate. Provides that a justice of the supreme court or a judge of the court of appeals serves until July 1 of the tenth year after the justice's or judge's appointment is confirmed by the senate or the justice's or judge's retention in office is confirmed by the house of representatives. Provides that if a justice or judge wants to serve a new term, the justice or judge must apply to the house of representatives for retention. Specifies that a judge or justice will be retained, unless: (1) the judge or justice does not apply to the house of representatives for
(Continued next page)

Effective: This proposed amendment must be agreed to by two consecutive general assemblies and ratified by a majority of the state's voters voting on the question to be effective.

Houchin, Young M, Garten, Gaskill

January 19, 2021, read first time and referred to Committee on Judiciary.



Digest Continued

retention; or (2) at least 60% of the members of the house of representatives vote against retention. Amends the provisions concerning impeachment proceedings for a justice or judge. Provides a transition for justices and judges serving at the time of the adoption of these amendments to the constitution. This proposed amendment has not been previously agreed to by a general assembly.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE JOINT RESOLUTION No. 16

A JOINT RESOLUTION proposing an amendment to Article 7 of the Constitution of the State of Indiana concerning courts and court officers.

Be it resolved by the General Assembly of the State of Indiana:

- 1 SECTION 1. The following amendment to the Constitution of the
2 State of Indiana is proposed and agreed to by this, the One Hundred
3 Twenty-Second General Assembly of the State of Indiana, and is
4 referred to the next General Assembly for reconsideration and
5 agreement.
6 SECTION 2. ARTICLE 7, SECTION 3 OF THE CONSTITUTION
7 OF THE STATE OF INDIANA IS AMENDED TO READ AS
8 FOLLOWS: Section 3. ~~Chief Justice:~~ **(a) The Commission on Judicial**
9 **Nominations and Qualifications shall select** the Chief Justice of the
10 State ~~shall be selected by the judicial nominating commission~~ from the
11 members of the Supreme Court. ~~and he shall retain~~
12 **(b) The Chief Justice may hold** that office for a period of five
13 years, subject to reappointment in the same manner. ~~except that a~~



1 ~~member of the Court~~ **The Chief Justice** may resign the office of Chief
2 Justice without resigning from the Court.

3 (c) During a vacancy in the office of Chief Justice caused by
4 absence, illness, incapacity, or resignation all powers and duties of ~~that~~
5 **the office shall** devolve upon the member of the Supreme Court who
6 is senior in length of service and if equal in length of service the
7 determination shall be by lot until such time as the cause of the vacancy
8 is terminated or the vacancy is filled.

9 (d) The Chief Justice ~~of the State~~ shall appoint such persons as the
10 General Assembly by law may provide for the administration of ~~his~~ **the**
11 **Chief Justice's** office.

12 (e) The Chief Justice shall have prepared and submit to the General
13 Assembly regular reports on the condition of the courts and such other
14 reports as may be requested **by the General Assembly.**

15 SECTION 3. ARTICLE 7, SECTION 9 OF THE CONSTITUTION
16 OF THE STATE OF INDIANA IS AMENDED TO READ AS
17 FOLLOWS: Section 9. ~~Judicial Nominating Commission.~~ (a) There
18 shall be ~~one judicial nominating commission for the Supreme Court~~
19 ~~and Court of Appeals. This commission shall, in addition, be the a~~
20 **Commission on Judicial Nominations and Qualifications. for the**
21 **Supreme Court and Court of Appeals.**

22 (b) ~~The judicial nominating Commission shall consist~~ **consists of**
23 **the following** seven members: a majority of whom shall form a
24 quorum; one of whom shall be

25 (1) The Chief Justice of the State or a Justice of the Supreme
26 Court ~~whom he may designate;~~ **designated by the Chief Justice,**
27 who shall act as ~~chairman.~~ **Those the Commission's chair.**

28 (2) **One individual** admitted to the practice of law ~~shall elect~~
29 ~~three of their number to serve as members of said commission.~~
30 ~~All elections shall be in such manner as the General Assembly~~
31 ~~may provide.~~ **in Indiana, elected by those admitted to the**
32 **practice of law in Indiana.**

33 (3) **Three citizens of Indiana appointed by the Governor.** ~~shall~~
34 ~~appoint to the commission three citizens;~~ ~~not~~ **At least one of the**
35 **citizens appointed by the Governor must be** admitted to the
36 practice of law. ~~The terms of office and compensation for~~
37 ~~members of a judicial nominating commission shall be fixed by~~
38 ~~the General Assembly. No~~

39 (4) **One citizen of Indiana appointed by the President Pro**
40 **Tempore of the Senate.**

41 (5) **One citizen of Indiana appointed by the Speaker of the**
42 **House of Representatives.**



1 (c) A member of a ~~judicial nominating~~ the Commission other than
 2 the Chief Justice or ~~his~~ **the Chief Justice's** designee ~~shall may not~~
 3 hold any other salaried public office. ~~No~~ **A Commission** member ~~shall~~
 4 ~~hold an office in a political party or organization. No may not:~~

- 5 (1) **hold an office in a political party or organization; or**
 6 (2) **be a lobbyist (as defined by law).**

7 A **Commission** member of the ~~judicial nominating~~ commission shall
 8 **be is not** eligible for appointment to a judicial office ~~so long as he~~
 9 **while the individual** is a member of the Commission and for a period
 10 of three years ~~thereafter. after the individual leaves the Commission.~~

11 (d) **The General Assembly shall provide by law for the**
 12 **following:**

- 13 (1) **The term of office of Commission members.**
 14 (2) **The compensation of Commission members.**
 15 (3) **The manner of election of the elected Commission**
 16 **member.**

17 (e) **Four Commission members constitute a quorum of the**
 18 **Commission. The affirmative vote of at least four members is**
 19 **necessary for the Commission to take action.**

20 SECTION 4. ARTICLE 7, SECTION 10 OF THE CONSTITUTION
 21 OF THE STATE OF INDIANA IS AMENDED TO READ AS
 22 FOLLOWS: Section 10. ~~Selection of Justices of the Supreme Court and~~
 23 ~~Judges of the Court of Appeals.~~ (a) **The Governor shall fill** a vacancy
 24 in a judicial office in the Supreme Court or Court of Appeals, ~~shall be~~
 25 ~~filled by the Governor;~~ without regard to political affiliation, **by**
 26 **appointing an individual** from a list of three nominees ~~presented to~~
 27 ~~him recommended~~ by the ~~judicial nominating~~ Commission ~~If the~~
 28 ~~Governor shall fail to make an appointment from the list within sixty~~
 29 ~~days from the day it is presented to him; the appointment shall be made~~
 30 ~~by the Chief Justice or the acting Chief Justice from the same list. on~~
 31 **Judicial Nominations and Qualifications.**

32 (b) To be eligible for nomination as a Justice of the Supreme Court
 33 or Judge of the Court of Appeals, a person:

- 34 (1) **must be domiciled within the geographic district;**
 35 (2) **must be** a citizen of the United States; **and**
 36 (3) **must have been** admitted to the practice of law in the courts
 37 of ~~the State~~ **Indiana** for a period of not less than ten (10) years or
 38 must have served as a judge of a circuit, superior, or criminal
 39 court of ~~the State of~~ **Indiana** for a period of not less than five (5)
 40 years.

41 (c) **Before an individual appointed as a Justice or Judge under**
 42 **this section may take office, the individual's appointment must be**



1 confirmed by the Senate by the affirmative vote of a majority of
 2 the members elected to the Senate under rules adopted by the
 3 Senate. The Governor may call the General Assembly into a special
 4 session to confirm an appointment to a judicial office under this
 5 section.

6 (d) If the Governor does not make an appointment not later
 7 than sixty days after the Commission makes a recommendation to
 8 fill the vacancy, the Senate may fill the vacancy by confirming any
 9 of the nominees recommended by the Commission to the Governor.

10 (e) If the Senate does not confirm a nominee before the sine die
 11 adjournment of the session of the General Assembly that occurs
 12 immediately after the names of nominees are submitted to the
 13 Governor:

14 (1) a nominee may not take the judicial office; and

15 (2) the office shall be filled as a vacancy by a nominee
 16 recommended to the Governor after the sine die adjournment,
 17 as provided in this section.

18 SECTION 5. ARTICLE 7 OF THE CONSTITUTION OF THE
 19 STATE OF INDIANA IS AMENDED BY ADDING A NEW
 20 SECTION TO READ AS FOLLOWS: Section 10.5. (a) A Justice of
 21 the Supreme Court or Judge of the Court of Appeals may serve
 22 until July 1 of the tenth year after the Justice's or Judge's:

23 (1) appointment is confirmed under Section 10 of this article;
 24 or

25 (2) retention is confirmed under this section.

26 (b) To serve an additional term, a Justice or Judge must apply
 27 to the House of Representatives for retention as provided by law.

28 (c) A Justice or Judge shall be retained in office unless at least
 29 sixty percent of the members of the House of Representatives vote
 30 not to retain the Judge or Justice in office under rules adopted by
 31 the House of Representatives.

32 (d) If a Judge or Justice fails to apply to the House of
 33 Representatives for retention as provided by law, or if at least sixty
 34 percent of the members of the House of Representatives vote not
 35 to retain the Justice or Judge in office:

36 (1) the term of the Judge or Justice expires as provided in
 37 subsection (a);

38 (2) the Judge or Justice may not continue in office; and

39 (3) the office shall be filled as a vacancy by another individual
 40 as provided in Section 10 of this article.

41 SECTION 6. ARTICLE 7, SECTION 11 OF THE CONSTITUTION
 42 OF THE STATE OF INDIANA IS AMENDED TO READ AS



1 FOLLOWS: Section 11. Tenure of Justices of Supreme Court and
 2 Judges of the Court of Appeals: A Justice of the Supreme Court or
 3 Judge of the Court of Appeals shall serve until the next general election
 4 following the expiration of two years from the date of appointment, and
 5 subject to approval or rejection by the electorate; shall continue to
 6 serve for terms of ten years; so long as he retains his office. In the case
 7 of a justice of the Supreme Court, the electorate of the entire state shall
 8 vote on the question of approval or rejection. In the case of judges of
 9 the Court of Appeals the electorate of the geographic district in which
 10 he serves shall vote on the question of approval or rejection. Every
 11 such (a) A Justice or Judge may be removed from office under this
 12 section, Article 6, Section 7, or Article 6, Section 8.

13 (b) A Justice and or Judge shall retire at the age specified by statute
 14 in effect at the commencement of his the Justice's or Judge's current
 15 term.

16 Every such (c) A Justice or Judge is disqualified from acting as a
 17 judicial officer, without loss of salary, while there is pending:

- 18 (1) an indictment or information charging him the Justice or
 19 Judge in any court in the United States with a crime punishable
 20 as a felony under the laws of Indiana or the United States; or
- 21 (2) a recommendation to the Supreme Court by the Commission
 22 on Judicial Nominations and Qualifications for his the Justice's
 23 or Judge's removal or retirement.

24 (d) On recommendation of the Commission on Judicial
 25 Nominations and Qualifications or on its own motion, the Supreme
 26 Court may suspend such a Justice or Judge from office without salary
 27 when in any court in the United States he the Justice or Judge:

- 28 (1) pleads guilty or to;
- 29 (2) pleads no contest to; or
- 30 (3) is found guilty of;

31 a crime punishable as a felony under the laws of Indiana or the United
 32 States, or of any other crime that involves moral turpitude under that
 33 law. If his the Justice's or Judge's conviction is reversed, the
 34 suspension terminates, and he the Justice or Judge shall be paid his
 35 the Justice's or Judge's salary for the period of suspension. If he the
 36 Justice or Judge is suspended and his the conviction becomes final,
 37 the Supreme Court shall remove him the Justice or Judge from office.

38 (e) On recommendation of the Commission on Judicial
 39 Nominations and Qualifications the Supreme Court may:

- 40 (1) retire such a Justice or Judge for disability that seriously
 41 interferes with the performance of his judicial duties and is or is
 42 likely to become permanent; and



1 (2) censure or remove ~~such a~~ Justice or Judge for action occurring
 2 not more than six years ~~prior to~~ **before** the commencement of ~~his~~
 3 **the Justice's or Judge's** current term, when such action
 4 constitutes:

5 (A) willful misconduct in office;

6 (B) willful and persistent failure to perform ~~his~~ **judicial** duties;

7 (C) habitual intemperance; or

8 (D) conduct prejudicial to the administration of justice that
 9 brings the judicial office into disrepute.

10 (f) A Justice or Judge ~~so~~ retired by the Supreme Court shall be
 11 considered to have retired voluntarily. A Justice or Judge ~~so~~ removed
 12 by the Supreme Court is ineligible for judicial office and pending
 13 further order of the Court ~~he~~ is suspended from practicing law in ~~this~~
 14 State: **Indiana.**

15 (g) Upon receipt by the Supreme Court of any such
 16 recommendation, the Court shall:

17 (1) hold a hearing, at which ~~such the~~ Justice or Judge is entitled
 18 to be present; and

19 (2) make ~~such any~~ determinations ~~as shall be required. No the~~
 20 **Court considers necessary.**

21 A Justice ~~shall~~ **may not** participate in the determination of ~~such a~~
 22 hearing when it concerns ~~himself: the Justice's own case.~~

23 (h) The Supreme Court shall make rules implementing this section
 24 and provide for convening of hearings. Hearings and proceedings shall
 25 be public upon request of the Justice or Judge whom it concerns.

26 ~~No such~~ (i) A Justice or Judge ~~shall~~, **may not** during ~~his the~~
 27 **Justice's or Judge's** term of office **do any of the following:**

28 (1) Engage in the practice of law.

29 (2) Run for elective office other than a judicial office.

30 (3) Directly or indirectly make any contribution to, or hold any
 31 office in, a political party or organization. ~~or~~

32 (4) Take part in any political campaign.

33 SECTION 7. ARTICLE 7 OF THE CONSTITUTION OF THE
 34 STATE OF INDIANA IS AMENDED BY ADDING THE
 35 FOLLOWING SCHEDULE:

36 SCHEDULE

37 (a) **An individual who serves as a Justice of the Indiana**
 38 **Supreme Court or a Judge of the Indiana Court of Appeals on the**
 39 **date the amendments to Article 7 of the Constitution of the State**
 40 **of Indiana, as amended by the joint resolution finally agreed to by**
 41 **the One Hundred Twenty-Third General Assembly, are approved**
 42 **by the voters of Indiana may continue in office until the date the**



1 **Justice's or Judge's term would have expired under Article 7 of the**
2 **Constitution of the State of Indiana before its amendment by the**
3 **joint resolution finally agreed to by the One Hundred**
4 **Twenty-Third General Assembly.**
5 **(b) A Justice or Judge described in subsection (a) may seek a**
6 **new term of office before the Justice's or Judge's term expires,**
7 **subject to confirmation by the Senate as if the Justice or Judge had**
8 **been nominated to fill a vacancy as provided in Article 7, Section**
9 **10 of the Constitution of the State of Indiana, as amended by the**
10 **joint resolution finally agreed to by the One Hundred**
11 **Twenty-Third General Assembly. The successors of such Justices**
12 **of the Supreme Court and Judges of the Court of Appeals shall be**
13 **chosen as provided in Article 7 of the Constitution of the State of**
14 **Indiana, as amended by the joint resolution finally agreed to by the**
15 **One Hundred Twenty-Third General Assembly.**
16 **(c) This SCHEDULE expires January 1, 2033.**

