

SENATE BILL 2322

By McNally

AN ACT to amend Tennessee Code Annotated, Title 2; Title 4; Title 8; Title 10, Chapter 7, Part 5; Title 16; Title 17; Title 18; Title 33, Chapter 3, Part 5; Title 33, Chapter 7, Part 3; Title 36, Chapter 3, Part 6; Title 37, Chapter 1, Part 1 and Title 40, relative to the state judiciary.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-26-101(1)(B), is amended by deleting the language "administrative office of the courts" and by substituting instead the language "state treasurer".

SECTION 2. Tennessee Code Annotated, Section 8-30-102, is amended by deleting the language "including, but not limited to, employees of the administrative office of the courts" from subdivision (b)(2) and adding such language at the end of subdivision (b)(5).

SECTION 3. Tennessee Code Annotated, Section 16-3-502, is amended by deleting subdivision (1) in its entirety and redesignating the remaining subdivisions accordingly, and by deleting the language "Direct the administrative director of the courts" wherever it appears and by substituting instead the language "Urge the administrative director of the courts".

SECTION 4. Tennessee Code Annotated, Section 16-3-801, is amended by deleting the section its entirety and by substituting instead the following:

There is created the administrative office of the courts. On and after the effective date of this act, the administrative office of the courts shall be attached to the office of the comptroller of the treasury for all administrative purposes. The administrative office of the courts shall assist in improving the administration of justice in the state by performing the duties and exercising the powers conferred in this part.

SECTION 5. Tennessee Code Annotated, Section 16-3-802, is amended by deleting the section in its entirety and substituting instead the following:

(a) The comptroller of the treasury shall appoint the administrative director of the courts and may designate the administrative director as the chief administrative officer of the courts of this state. The administrative director shall serve at the pleasure of the comptroller.

(b) The comptroller shall fix the salary of the administrative director of the courts at an amount not to exceed the salary paid to judges of the court of appeals.

SECTION 6. Tennessee Code Annotated, Section 16-3-803(c)(2), is amended by deleting the language "administrative director of the courts" wherever it appears and by substituting instead the language "state treasurer".

SECTION 7. Tennessee Code Annotated, Section 16-3-804, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) The administrative director of the courts shall, subject to the approval of the comptroller of the treasury, appoint and fix the compensation of assistants, clerical staff, or other employees that are necessary to enable the administrative director to perform the duties of the administrative office of the courts.

SECTION 8. Tennessee Code Annotated, Section 16-3-806, is amended by deleting the language "shall be appropriated to the administrative director of the courts to be allocated to, and pursuant to standards established by agreement of, the chief justice, the attorney general and reporter, the executive director of the conference of district attorneys general and the executive director of the conference of district public defenders" and by substituting instead the language "shall be appropriated to the state treasurer to be allocated to, and pursuant to standards established by agreement of, the comptroller of the treasury, the chief justice, the attorney general and reporter, the executive director of the conference of district attorneys general and the executive director of the conference of district public defenders".

SECTION 9. Tennessee Code Annotated, Section 16-3-808(d), is amended by deleting the language “administrative office of the courts” wherever it appears and by substituting instead the language “state treasurer”.

SECTION 10. Tennessee Code Annotated, Section 16-3-821(b)(1), is amended by deleting the language “administrative office of the courts (AOC)” and by substituting instead the language “state treasurer”.

SECTION 11. Tennessee Code Annotated, Section 16-3-821(g), is amended by deleting the language “AOC” and by substituting instead the language “state treasurer”.

SECTION 12. Tennessee Code Annotated, Section 17-5-314, is amended by deleting the language “administrative office of the courts” and by substituting instead the language “state treasurer”.

SECTION 13. Tennessee Code Annotated, Section 18-1-506, is amended by deleting the second sentence in its entirety and by substituting instead the following:

The state, through the state treasurer, shall pay for all expenses incurred in administering the seminar.

SECTION 14. Tennessee Code Annotated, Section 33-3-503, is amended by deleting the language “administrative director of the courts” wherever it appears and by substituting instead the language “state treasurer”.

SECTION 15. Tennessee Code Annotated, Section 33-7-301, is amended by deleting the language “administrative office of the courts” wherever it appears and by substituting instead the language “state treasurer”.

SECTION 16. Tennessee Code Annotated, Section 36-3-610, is amended by deleting the language “administrative office of the courts” and by substituting instead the language “state treasurer”.

SECTION 17. Tennessee Code Annotated, Section 37-1-150, is amended by deleting the language “administrative office of the courts” wherever it appears and by substituting instead the language “state treasurer”.

SECTION 18. Tennessee Code Annotated, Section 40-14-103, is amended by deleting the language “administrative director of the courts” and by substituting instead the language “state treasurer”.

SECTION 19. Tennessee Code Annotated, Section 40-14-202, is amended by deleting the language “administrative office of the courts” wherever it appears and by substituting instead the language “state treasurer”.

SECTION 20. Tennessee Code Annotated, Section 40-14-208, is amended deleting the language “administrative director of the courts” and by substituting instead the language “state treasurer”.

SECTION 21. Tennessee Code Annotated, Section 40-14-313, is amended by deleting the language "and shall be paid upon the administrative director's approval of the fees and expenses" and substituting instead the language "shall be paid by the state treasurer upon the administrative director's approval of the fees and expenses".

SECTION 22. Tennessee Code Annotated, Section 40-14-314, is amended by deleting the language "administrative director is authorized, upon a determination of a need therefor" and substituting instead the language "state treasurer is authorized, upon a determination of a need by the administrative director of the courts".

SECTION 23. Tennessee Code Annotated, Section 40-28-106, is amended by deleting the language “administrative director of the courts” wherever it appears and by substituting instead the language “state treasurer”.

SECTION 24. Tennessee Code Annotated, Section 40-28-122, is amended by deleting the language “administrative director of the courts” wherever it appears and by substituting instead the language “state treasurer”.

SECTION 25. Tennessee Code Annotated, Section 40-30-313, is amended by deleting the language “administrative director of the courts” wherever it appears and by substituting instead the language “state treasurer”.

SECTION 26. Tennessee Code Annotated, Section 17-5-205, is amended by deleting the language “supreme court” and by substituting instead the language “office of the comptroller of the treasury”, and by deleting the language “administrative director of the courts” and by substituting instead the language “comptroller of the treasury”.

SECTION 27. Tennessee Code Annotated, Section 17-5-314, is amended by deleting the language “administrative office of the courts” and by substituting instead the language “state treasurer”.

SECTION 28. Tennessee Code Annotated, Section 4-29-235(a), is amended by deleting subdivision (53) in its entirety.

SECTION 29. Tennessee Code Annotated, Section 4-29-237(a), is amended by adding the following as a new, appropriately designated subdivision:

() Judicial standards and review board, created by § 17-5-201;

SECTION 30. Tennessee Code Annotated, Section 17-5-201, is amended by deleting the section in its entirety and by substituting instead the following:

17-5-201.

(a) Notwithstanding any other law to the contrary, the board of judicial conduct shall be abolished and shall cease to exist on the effective date of this act, and the terms of the present members of the board of judicial conduct shall terminate on such date. On that date, there is created the judicial standards and review board, also referred to in this

section as the “board”, which shall be attached to the office of the comptroller of the treasury for all administrative purposes and shall serve as the successor entity to the board of judicial conduct. On and after the effective date of this act, the judicial standards and review board shall keep and maintain all records of the board of judicial conduct. All records submitted to, maintained, or compiled by the board of judicial conduct on or after July 1, 2009, and prior to the effective date of this act, shall be transferred to the judicial standards and review board.

(b) The judicial standards and review board shall consist of seven (7) members who shall be appointed in the following manner:

(1) One (1) member to be appointed by the governor;

(2) Three (3) members, one (1) from each grand division of this state, to be appointed by the speaker of the senate, and

(3) Three (3) members, one (1) from each grand division of this state, to be appointed by the speaker of the house of representatives.

(c)

(1) One (1) of the members appointed by the speaker of the senate shall serve as chair, one (1) of the members appointed by the speaker of the house of representatives shall serve as vice chair, and the member appointed by the governor shall serve as secretary.

(2) The term of office of each member of the board shall begin on the effective date of this act. As soon as practicable after the effective date of this act, the board shall meet in an organizational session convened by the member appointed by the governor. At the organizational meeting, the member appointed by the governor shall preside as temporary chair and a permanent chair and vice chair shall be elected from the membership of the board.

(3) No member shall be a current or former state judge.

(4) Five (5) members of the board shall constitute a quorum for a meeting. No action of the board shall be valid unless authorized by the affirmative vote of a majority of members present.

(5) Each member of the board shall serve for a term of three (3) years and or until their successor shall be appointed. No member may serve more than two (2) consecutive terms. At least three (3) years shall lapse before a member may be reappointed to the board or may serve in any capacity associated with the board. Vacancies on the board for an unexpired term shall be filled for the remainder of the term by the appointing power of the original appointment.

(d)

(1) The chair shall divide the board into a hearing panel of three (3) members and an investigative panel of three (3) members. Membership on the panels may rotate in a manner determined by the chair; provided, that no members shall sit on both the hearing and investigative panels for the same proceeding.

(2) A hearing panel has the duty and authority to rule on prehearing motions, conduct hearings on formal charges and make findings, conclusions, and impose sanctions or dismiss the case.

(3) An investigative panel has the duty and authority to:

(A) Review the recommendations of disciplinary counsel after preliminary investigation and either authorize a full investigation or dismiss the complaint; and

(B) Review the recommendations of disciplinary counsel after a full investigation and approve, disapprove or modify the recommendations as provided in § 17-5-304.

(4) No member of the board who is an attorney shall sit on any investigative or hearing panel if the attorney has ever appeared before the judge against whom the complaint is filed.

(5) Two (2) members of each panel shall constitute a quorum for a meeting of the panel and the concurrence of two (2) members of each panel shall be sufficient to constitute a majority vote or decision of the panel.

(e) The appointing authorities, in making appointments, shall make appointments that approximate the population of the state with respect to race and gender.

SECTION 31. Tennessee Code Annotated, Title 17, Chapter 5, is amended in Sections 17-5-202, 17-5-301, 17-5-303, 17-5-310, and 17-5-311, by deleting the language “board of judicial conduct” and by substituting instead the language “judicial standards and review board”.

SECTION 32. Tennessee Code Annotated, Section 17-5-203, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The board is authorized to establish policies and procedures under which the board shall be guided in the administration of this section. The board has the power to prescribe its rules and regulations and govern its meetings and procedures as it may deem advisable.

(b) Upon the termination of the board of judicial conduct, the judicial standards and review board is expressly granted the same powers and duties as set forth above for the board of judicial conduct in order to perform its responsibilities established by this chapter. The judicial standards and review board also is expressly authorized to

continue any preliminary investigations, full investigations, or trials scheduled or in progress by the board of judicial conduct at the time of termination of the board of judicial conduct. This authorization includes the right to use any evidence obtained or taken by the board of judicial conduct without the need to obtain again or retake any such evidence, including but not limited to, prior issued subpoenas.

(c) All rules of the board of judicial conduct in effect on the effective date of this act shall remain in full force and effect as rules of the judicial standards and review board until modified or repealed by the judicial standards and review board. The initial rules adopted by the judicial standards and review board shall serve as the temporary rules of the board. The temporary rules shall remain in effect until such time as approved or not approved by the general assembly, with the board's chair presenting the rules, during the first session of the One Hundred Ninth General Assembly using the same procedure set out in § 16-3-404 for rules of court. If approved, the rules shall become the permanent rules of the board. All subsequent modifications or additions to such rules shall be approved by the general assembly in accordance with the procedures set forth in § 16-3-404.

SECTION 33. Tennessee Code Annotated, Section 17-5-204, is amended by deleting the section in its entirety and by substituting instead the following:

The secretary of the board shall serve as clerk of the board, and shall keep such records, minutes and dockets as the board from time to time prescribes.

SECTION 34. Tennessee Code Annotated, Title 17, Chapter 5, is amended in Sections 17-5-206 and 17-5-301(e)(6) by deleting the language “presiding judge” and substituting instead the language “chair”.

SECTION 35. Tennessee Code Annotated, Section 17-2-202(b), is amended by deleting the language "presiding judge of the board of judicial conduct" and substituting instead the language "chair of the judicial standards and review board".

SECTION 36. Tennessee Code Annotated, Title 16, Chapter 3, Part 8, is amended by adding the following new section:

16-3-822.

Notwithstanding any law or Tennessee Supreme Court Rule to the contrary, all records; reports; memoranda; correspondence; emails; notes; statements; files; or other documents of the administrative office of the courts shall be considered open records pursuant to title 10, chapter 7 and shall be available for public inspection during regular business hours.

SECTION 37. Tennessee Code Annotated, Title 16, Chapter 3, Part 2, is amended by adding the following as a new section:

16-3-213.

Notwithstanding § 23-3-105, Tennessee Supreme Court Rules 8 and 9, or any other law to the contrary, all records; minutes; exhibits referenced in minutes; reports; memoranda; correspondence; emails; notes; statements; files; work product; or other documents of the board of professional responsibility, district committee members and disciplinary counsel that involve allegations of misconduct by an attorney shall be considered open records pursuant to title 10, chapter 7 and shall be available for public inspection during regular business hours; except, that any documents that involve allegations of the disability of an attorney shall be confidential.

SECTION 38. Tennessee Code Annotated, Section 40-14-207, is amended by deleting subsection (b) in its entirety and substituting instead the following:

(b) In capital cases where the defendant has been found to be indigent by the court of record having jurisdiction of the case, the court in an ex parte hearing may, in its discretion, determine that investigative or expert services or other similar services are necessary to ensure that the constitutional rights of the defendant are properly protected. If that determination is made, the court may grant prior authorization for these necessary services in a reasonable amount to be determined by the court. The authorization shall be evidenced by a signed order of the court. The order shall provide for the reimbursement of reasonable and necessary expenses by the state treasurer as authorized by this part and rules promulgated thereunder by the supreme court.

(c)

(1) Any attorney who is appointed pursuant to this part shall reimburse the state for any compensation paid by the state treasurer in connection with the services provided by the attorney, if:

(A) A final court order or judgment is entered granting a petition for post-conviction relief pursuant to chapter 30, part 1, of this title, based on a determination that the attorney provided the ineffective assistance of counsel to the petitioner; and

(B) The state compensated the attorney for the services provided by the attorney in connection with the petitioner's case.

(2) The attorney shall reimburse the state within thirty (30) days of the entry of the order.

SECTION 39. Tennessee Code Annotated, Section 40-30-107(b)(2), is amended by deleting the language ", unless extended for good cause" and by deleting the last sentence in its entirety.

SECTION 40. Tennessee Code Annotated, Section 40-30-108(a), is amended by deleting the language ", unless extended for good cause. Good cause will not be met by a routine statement that the press of other business prevents a response within the thirty-day period".

SECTION 41. Tennessee Code Annotated, Section 40-30-109, is amended by deleting the language "within four (4) calendar months" and substituting instead the language "within sixty (60) days", and by deleting the seventh and eighth sentences in their entirety.

SECTION 42. Tennessee Code Annotated, Section 40-30-111(d), is amended by deleting the second, third and last sentences in their entirety.

SECTION 43. Tennessee Code Annotated, Section 40-30-111, is amended by deleting subsection (e) in its entirety and substituting instead the following:

(e)

(1) Within ninety (90) days of the effective date of this act, the administrative office of the courts shall report to the speaker of the house of representatives, the speaker of the senate, the chair of the criminal justice committee of the house of representatives, and the chair of the judiciary committee of the senate the status of each capital case in which a post-conviction petition has been filed that has been continuously pending for more than three (3) years. The report must include the name of the state court judge involved in the case and the reason for noncompliance with the time limits established in subsection (d).

(2) In a capital post-conviction proceeding in which it has been determined that an attorney of record provided ineffective assistance of counsel and relief has been granted as a result of such determination, after the highest court having jurisdiction to review such determination has issued its final order

affirming the determination, the court making such determination shall furnish a copy of the findings to the board of professional responsibility.

SECTION 44. Tennessee Code Annotated, Section 40-30-116, is amended by deleting the language "within nine (9) months" wherever it appears and by substituting instead the language "within six (6) months".

SECTION 45. Tennessee Code Annotated, Section 40-30-116, is amended by deleting the fifth, sixth, and seventh sentences in their entirety and by substituting instead the following:

Within ninety (90) days of the effective date of this act, the administrative office of the courts shall report to the speaker of the senate, the speaker of the house of representatives, the chair of the criminal justice committee of the house of representatives, and the chair of the judiciary committee of the senate on the compliance of the appellate courts with the time limits established in this section, as such section existed prior to the effective date of this act.

SECTION 46. Tennessee Code Annotated, Section 40-30-120(a), is amended by deleting the language "four (4) months" and substituting instead the language "sixty (60) days", and by deleting the language "except upon a showing by the petitioner of the petitioner's inability to file a petition prior to the execution date and that the inability is justified by extraordinary circumstances beyond the petitioner's control".

SECTION 47. Tennessee Code Annotated, Title 17, Chapter 4, Part 2, is amended by adding the following new section:

17-4-202.

(a) Notwithstanding § 17-4-201(a)(3), § 17-4-201(c)(1), or Tennessee Supreme Court Rule 27 to the contrary, individual records for each appellate judge, including individual evaluations, final scores for survey results, surveys, forms, applications, comments and other documents submitted to, maintained by or compiled by the

commission for the purpose of judicial evaluation, and final reports, shall be considered open records pursuant to title 10, chapter 7 and shall be available for public inspection during regular business hours; provided, that any names and personal information of any survey respondents shall be confidential. On the first Sunday in July 2014, preceding the regular August 2014 election, the final report of the judicial performance evaluation program shall be published in a daily newspaper of general circulation in the Tri-Cities area, Knoxville, Chattanooga, Nashville, Jackson and Memphis. The final report for each appellate court judge may not exceed six hundred (600) words.

(b) If Sections 48 through 79 of this act take effect, then this section is deleted on December 1, 2014, and shall no longer be effective.

SECTION 48. Tennessee Code Annotated, Section 4-29-233(a), is amended by deleting subdivision (15) in its entirety.

SECTION 49. Tennessee Code Annotated, Section 4-29-234(a), is amended by deleting subdivision (37) in its entirety.

SECTION 50. Tennessee Code Annotated, Section 4-29-237(a), is amended by adding the following as a new, appropriately designated subdivision:

() Board of judicial nominations, created by § 17-4-102;

SECTION 51. Tennessee Code Annotated, Section 17-4-101, is amended by deleting the section in its entirety and substituting instead the following:

17-4-101.

It is the legislative intent to assist the governor in finding and appointing the best qualified persons available for service on the appellate courts of this state, who shall temporarily discharge the duties of the courts until August 31 after the next regular August election at which the vacancy shall be filled in a contested election.

SECTION 52. Tennessee Code Annotated, Section 17-4-102, is amended by deleting the section in its entirety and substituting instead the following:

17-4-102.

(a) There is created the board of judicial nominations, also referred to in this section as the “board”, which shall be attached to the office of the comptroller of the treasury for all administrative purposes and shall serve as the successor entity to the judicial nominating commission.

(b) The board of judicial nominations shall consist of seven (7) members whom shall be appointed in the following manner:

(1) One (1) member to be appointed by the governor;

(2) Three (3) members, one (1) from each grand division of this state, to be appointed by the speaker of the senate, and

(3) Three (3) members, one (1) from each grand division of this state, to be appointed by the speaker of the house of representatives.

(c) One (1) of the members appointed by the speaker of the senate shall serve as chair, one (1) of the members appointed by the speaker of the house of representatives shall serve as vice chair, and the member appointed by the governor shall serve as secretary. The term of office of each member of the board shall begin on the effective date of this act. As soon as practicable after the effective date of this act, the board shall meet in an organizational session convened by the member appointed by the governor. At the organizational meeting, the member appointed by the governor shall preside as temporary chair and a permanent chair and vice chair shall be elected from the membership of the board.

(d) The appointing authorities, in making appointments, shall make appointments that approximate the population of the state with respect to race and gender.

SECTION 53. Tennessee Code Annotated, Section 17-4-103, is amended by deleting the language "judicial nominating commission" and substituting instead the language "board of judicial nominations".

SECTION 54. Tennessee Code Annotated, Section 17-4-104, is amended by deleting the section in its entirety and substituting instead the following:

17-4-104.

No member shall be a salaried office holder of this state or the United States; provided, that members of the national guard and members of any armed forces reserve organization shall not be considered salaried office holders. Any member of the Board of judicial nominations who becomes a salaried office holder of this state or the United States ipso facto vacates the member's office as a member of the board.

SECTION 55. Tennessee Code Annotated, Section 17-4-105, is amended by deleting the section in its entirety and substituting instead the following:

17-4-105.

Five (5) members of the board shall constitute a quorum for a meeting. No action of the board shall be valid unless authorized by the affirmative vote of a majority of members present. The board may elect such other officers as it deems necessary and proper, and may adopt and from time to time amend bylaws and rules of procedure for the conduct of its business and discharge of its duties. The board may employ such secretarial and clerical assistance as it deems necessary.

SECTION 56. Tennessee Code Annotated, Section 17-4-106, is amended by deleting the section in its entirety and substituting instead the following:

17-4-106.

Each member of the board shall serve for a term of three (3) years and or until their successor shall be appointed. No member may serve more than two (2) consecutive terms. At least three (3) years shall lapse before a member may be reappointed to the board or may serve in any capacity associated with the board.

SECTION 57. Tennessee Code Annotated, Section 17-4-107, is amended by deleting the section in its entirety and substituting instead the following:

17-4-107.

Vacancies on the board for an unexpired term shall be filled for the remainder of the term by the appointing power of the original appointment.

SECTION 58. Tennessee Code Annotated, Section 17-4-108, is amended by deleting the section in its entirety and substituting instead the following:

17-4-108.

Members of the board shall not receive any compensation for their services but shall be reimbursed for their official travel expenses pursuant to policies and guidelines promulgated by the comptroller of the treasury. Subject to budgetary restrictions, the administrative office of the courts shall pay or reimburse the necessary expenses authorized or incurred by the board in the performance of the duties pursuant to policies and guidelines promulgated by the comptroller of the treasury.

SECTION 59. Tennessee Code Annotated, Section 17-4-109, is amended by deleting the section in its entirety and substituting instead the following:

17-4-109.

(a)

(1) If a vacancy occurs during the term of office of a judge of the court of appeals or court of criminal appeals on or after the effective date of this act, then

the board of judicial nominations shall, at the earliest practicable date, hold a public meeting in the grand division from which the vacancy is to be filled.

However, if the board is reliably informed that a vacancy is impending for another reason, then the public meeting may be held prior to the actual occurrence of the vacancy.

(2) If a vacancy occurs during the term of office of a judge of the supreme court on or after the effective date of this act, then the board of judicial nominations shall, at the earliest practicable date, hold a public meeting in Nashville. However, if the board is reliably informed that a vacancy is impending for another reason, then the public meeting may be held prior to the actual occurrence of the vacancy.

(b) Notice of the time, place and purpose of the meeting shall be given by such means as the board deems proper.

(c) After one (1) public hearing, the board may hold such additional interviews with the candidates as it deems necessary. The board shall make independent investigation and inquiry to determine the qualifications of possible nominees for the judicial vacancy. All hearings, interviews, meetings and deliberations of the board shall be conducted publicly and shall comply with title 8, chapter 44, part 1; provided, however, that when selecting nominees, board members shall vote anonymously by written ballots, but the ballots shall be collected, announced and tallied at the meeting by the presiding officer. The Tennessee bureau of investigation Level II security clearance as to nominees shall be performed exclusively at the direction of the governor. After receiving the board's panel or panels of nominees pursuant to § 17-4-112(a)(1), but prior to making an appointment pursuant to § 17-4-112(a)(1), the governor shall direct the Tennessee bureau of investigation or other appropriate agencies to perform appropriate

financial and criminal background investigations and inquiries of the prospective appointees, and the board shall review and assess the results of the background investigations and inquiries.

(d) As soon as practicable, and no later than sixty (60) days from receipt of written notice from the governor that a vacancy has occurred, the board, with the assent of a majority of all the members to which it is entitled under § 17-4-102(a), shall select three (3) persons whom the board deems best qualified and available to fill the vacancy and shall certify the names of the three (3) persons to the governor as nominees for the judicial vacancy. However, if the board is reliably informed that a vacancy is impending for any other reason, then the board may meet, select such persons and certify the names of such nominees to the governor prior to actual receipt of written notice from the governor that a vacancy has occurred.

(e) The board of judicial nominations, in compiling its list of nominees for a supreme court position, shall ensure that the requirements of Article VI, Section 2, of the Tennessee Constitution and § 16-4-102 are satisfied.

(f) In the event three (3) or fewer applicants apply for any vacancy in which the board of judicial nominations must hold a public meeting, members of the board of judicial nominations may participate in the public meeting by telephone or other means of telecommunication or electronic communication.

SECTION 60. Tennessee Code Annotated, Section 17-4-110, is amended by deleting the section in its entirety and by substituting instead the following:

17-4-110.

(a) Any person appointed by the board shall be an attorney who is duly licensed to practice law in this state and who is fully qualified under the Tennessee Constitution and state law to fill the office for which the person is appointed.

(b) A candidate who has been defeated in any election held under this chapter is not eligible for reappointment to the office for which the candidate was defeated until after one (1) regular August election has occurred.

SECTION 61. Tennessee Code Annotated, Section 17-4-111, is amended by deleting the section in its entirety and substituting instead the following:

17-4-111.

A member of the board is not eligible to be nominated by the board during the member's tenure and the two-year period immediately following conclusion of the member's service on the board.

SECTION 62. Tennessee Code Annotated, Section 17-4-112, is amended by deleting the section in its entirety and substituting instead the following:

17-4-112.

(a) When a vacancy occurs in the office of an appellate court on and after the effective date of this act, by death, resignation or otherwise, the governor shall fill the vacancy by appointing one (1) of the three (3) persons nominated by the board of judicial nominations, or the governor may require the board to submit one (1) other panel of three (3) additional nominees. Within sixty (60) days following receipt of the additional panel of nominees, the governor shall fill the vacancy by appointing any one (1) of the six (6) nominees certified by the board.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular August election occurring more than thirty (30) days after the vacancy occurs.

SECTION 63. Tennessee Code Annotated, Section 17-4-113, is amended by deleting the language "judicial nominating commission" and by substituting instead the language "board of judicial nominations".

SECTION 64. Tennessee Code Annotated, Title 17, Chapter 4, Part 1, is amended by deleting Sections 17-4-114 – 17-4-116 in their entirety.

SECTION 65. Tennessee Code Annotated, Section 17-4-117, is amended by deleting the section in its entirety and substituting instead the following:

17-4-117.

On and after the effective date of this act, the board of judicial nominations shall keep and maintain all records of the judicial nominating commission and judicial performance evaluation commission. All records submitted to or maintained or compiled by, the commissions on or after July 1, 2009, and prior to the effective date of this act, are hereby transferred to the board of judicial nominations. Individual records for each appellate judge, including individual evaluations, final scores for survey results, surveys, forms, applications, comments and other documents submitted, conveyed or compiled for the purpose of judicial evaluation, and final reports, shall be considered open records pursuant to title 10, chapter 7 and shall be available for public inspection during regular business hours; provided, that any names and personal information of individual survey respondents shall be confidential.

SECTION 66. Tennessee Code Annotated, Section 17-4-118, is amended by deleting the section in its entirety and substituting instead the following:

17-4-118.

(a) On and after the effective date of this act, when a vacancy occurs in the office of a state trial court judge by death, resignation or otherwise, the governor shall fill the vacancy by appointing one (1) of the three (3) persons nominated by the board of judicial nominations.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular August election recurring more than thirty (30) days after the vacancy occurs.

(c) The board of judicial nominations shall follow the process established in § 17-4-109, except that the board shall hold a public meeting in the judicial district from which the vacancy is to be filled.

(d) If the judicial district is one (1) of the five (5) smallest judicial districts according to the 2000 federal census or any subsequent federal census, the board of judicial nominations may submit two (2) names to the governor.

(e) At the next regular August election recurring more than thirty (30) days after the vacancy occurs, the vacancy shall be filled by the electorate in a contested election for the remainder of the unexpired term or a complete term, as provided in the general election law in title 2.

SECTION 67. Tennessee Code Annotated, Section 17-4-119, is amended by deleting the section in its entirety and substituting instead the following:

17-4-119.

Upon the motion of a member of the board qualified to make such motion under this section, or the member's attorney or representative, any court, constituted under the laws of this state, any administrative board or commission or other agency authorized to conduct hearings shall grant a continuance or postponement of the proceedings, at any stage of the action, if it is shown that an attorney, party or material witness is a member of the board and that the member would be required to be absent from any meeting of the board if a continuance is not granted.

SECTION 68. Tennessee Code Annotated, Section 17-4-201, is amended by deleting the section in its entirety.

SECTION 69. Tennessee Code Annotated, Section 17-1-301, is amended by deleting the section in its entirety.

SECTION 70. Tennessee Code Annotated, Section 16-4-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a)

(1) At the regular August election held in 2022 and at the regular August election held every eight (8) years thereafter, twelve (12) judges of the court of appeals shall be elected for a full term of eight (8) years by the qualified voters in a contested election, as follows:

(A) Four (4) judges shall be elected by the qualified voters of the state's eastern grand division, as described in § 4-1-202;

(B) Four (4) judges shall be elected by the qualified voters of the state's middle grand division, as described in § 4-1-203; and

(C) Four (4) judges shall be elected by the qualified voters of the state's western grand division, as described in § 4-1-204.

(2) The grand divisions provided in this subsection (a) shall constitute districts for purposes of Article VI, Section 4, of the Constitution of Tennessee.

(b) Each judge shall be at least thirty (30) years of age and duly licensed to practice law in this state, and shall have been a resident of the applicable grand division for at least one (1) year, and a resident of this state for a period of at least five (5) years, immediately preceding election or appointment to the court.

(c)

(1) Notwithstanding § 2-10-124, § 8-18-101, § 39-16-103 and § 40-20-114 to the contrary, any person who has been convicted of a felony or any violation of any federal or state laws or city ordinances involving any offense that

consists of moral turpitude or any misdemeanor involving bodily harm, is forever disqualified from qualifying for, seeking, or holding the office of judge of the supreme court, court of appeals, or court of criminal appeals under the laws or constitution of this state; except, that if the person committed the felony of offering a bribe in violation of § 39-16-102(a)(1) while serving as a candidate for any such office, then the person shall only be disqualified from qualifying for, seeking, or holding that office for a period of six (6) years pursuant to Article X, Section 3, of the Constitution of Tennessee. Violations consisting of moral turpitude under this subdivision (c)(1) include offenses relating to force, violence, theft, dishonesty, gambling, liquor, controlled substances, or controlled substance analogues.

(2) This subsection (c) shall apply to any person, whether or not the person committed the offense in the person's official capacity or while performing the duties of the person's office, whether or not the offense or the conviction occurred while the person was holding an elected public office at any level, and whether or not the conviction occurred prior to, or on and after, the effective date of this act; provided, that if a person is holding an elected public office and was convicted of a felony or other offense pursuant to the qualifications in this subsection (c), then the person shall be allowed to remain in office for the remainder of the term, but shall forever be prohibited from qualifying for, seeking, or holding any office of supreme court judge, court of appeals judge, or court of criminal appeals judge when the person's term expires or when the person vacates the office, whichever is first. This subsection (c) shall apply even if the person's citizenship rights have been restored; provided, that this subsection (c) shall not be construed as limiting the restoration of any other citizenship rights,

including the right of suffrage provided for in § 2-2-139, § 2-19-143, or § 40-29-105.

(d) Any person owing money or a debt to, or having a delinquent account with, any county or city of this state, this state or another state, or the United States, or any entity thereof, which obligation has not been adjudicated as satisfied by court order, set aside by court order, or discharged in bankruptcy, regardless of whether there is an outstanding judgment for the sum due and owing; or any person who has filed, or is filing, a petition for bankruptcy in this state or another state, shall be ineligible to qualify for, seek election to, or hold the office of judge of the supreme court, court of appeals, or court of criminal appeals, until the obligation has been adjudicated as satisfied by court order, set aside by court order, or discharged in bankruptcy court, applicable.

(e) Any person who has been sanctioned pursuant to § 17-5-301(f) for violating any judicial offense under § 17-5-302 shall be ineligible to qualify for, seek election to, or hold the office of judge of the supreme court, court of appeals, or court of criminal appeals.

(f) The oath of office of each judge shall be filed and entered on the minutes of the court in the particular grand division from which the judge has been elected or appointed. The oath shall likewise be filed and entered on the records in the office of the secretary of state at Nashville.

SECTION 71. Tennessee Code Annotated, Section 16-5-101, is amended by adding the following sentence to the end of the section:

The court shall be composed of twelve (12) judges.

SECTION 72. Tennessee Code Annotated, Section 16-5-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a)

(1) At the regular August election in 2022 and at the regular August election held every eight (8) years thereafter, twelve (12) judges of the court of criminal appeals shall be elected for a full term of eight (8) years by the qualified voters in a contested election, as follows:

(A) Four (4) judges shall be elected by the qualified voters of the state's eastern grand division, as described in § 4-1-202;

(B) Four (4) judges shall be elected by the qualified voters of the state's middle grand division, as described in § 4-1-203; and

(C) Four (4) judges shall be elected by the qualified voters of the state's western grand division, as described in § 4-1-204.

(2) The grand divisions provided in this subsection (a) shall constitute districts for purposes of Article VI, Section 4, of the Constitution of Tennessee.

(b) Each judge shall be at least thirty (30) years of age and duly licensed to practice law in this state, and shall have been a resident of the applicable grand division from which the judge is elected or appointed for at least one (1) year, and a resident of this state for a period of at least five (5) years, immediately preceding election or appointment to the court. A person qualifying for, seeking, or holding such office shall also meet the qualifications described in § 16-4-102(c) – (e).

SECTION 73. Tennessee Code Annotated, Section 16-5-103, is amended by deleting the section in its entirety and substituting instead the following:

The oath of office of each judge shall be filed and entered on the minutes of the court in the particular grand division from which the judge has been elected or appointed. The oath shall likewise be filed and entered on the records in the office of the secretary of state at Nashville.

SECTION 74. Tennessee Code Annotated, Section 16-5-104, is amended by adding the language “in accordance with 16-5-102” at the end of the sentence before the period (.).

SECTION 75. Tennessee Code Annotated, Section 16-3-101, is amended by deleting the section in its entirety and by substituting instead the following:

(a)

(1)

(A) Each judge of the supreme court shall be elected to a full eight-year term of office by the qualified voters of the state in a contested election held at the regular August election in 2022, and at the regular August election recurring every eight (8) years thereafter. Judges of the supreme court shall be elected to one (1) of five (5) supreme court districts of this state.

(B) Judges of the supreme court shall have been a resident of this state for five (5) years, and a resident of the district for which the judge seeks election for one (1) year, immediately preceding election or appointment to the court. To be elected or appointed as judge of the supreme court a person shall be duly licensed to practice law in this state and be at least thirty-five (35) years of age. A person qualifying for, seeking, or holding such office shall also meet the qualifications described in § 16-4-102(c) – (e).

(C) The five (5) supreme court districts of this state for the election of supreme court judges are defined and divided, as follows:

(i) West: Comprising the counties of Lake, Dyer, Gibson, Lauderdale, Crockett, Tipton, Haywood, Madison, Shelby, Fayette and Hardeman;

(ii) Middle West: Comprising the counties of Stewart, Obion, Weakley, Henry, Carroll, Henderson, Chester, McNairy, Montgomery, Robertson, Benton, Houston, Humphreys, Dickson, Cheatham, Davidson, Decatur, Perry, Hickman, Lewis, Hardin and Wayne;

(iii) Middle: Comprising the counties of Sumner, Macon, Williamson, Maury, Lawrence, Giles, Trousdale, Wilson, Smith, DeKalb, Cannon, Rutherford, Marshall, Bedford, Moore, Lincoln and Franklin;

(iv) Middle East: Comprising the counties of Pickett, Clay, Jackson, Putnam, White, Van Buren, Warren, Coffee, Grundy, Overton, Fentress, Scott, Campbell, Cumberland, Morgan, Claiborne, Union, Grainger, Anderson, Roane, Loudon, Rhea, Bledsoe, Meigs, McMinn, Monroe, Sequatchie, Marion, Hamilton, Bradley and Polk; and

(v) East: Comprising the counties of Hancock, Hawkins, Sullivan, Hamblen, Greene, Washington, Unicoi, Carter, Johnson, Jefferson, Cocke, Sevier, Knox and Blount.

(2) If a vacancy occurs during the term of office of any judge of the supreme court, court of appeals, or court of criminal appeals because of death, resignation, removal, or other reason, then the vacancy shall be filled, for the remainder of the unexpired term, by the qualified voters of the state in a contested election held at the next regular August election occurring more than thirty (30) days after the vacancy occurs. In accordance with Article VI, Sections 2 and 3 of the Constitution of Tennessee and this section, § 16-4-102 or § 16-5-

102, as applicable, the vacancy shall be filled from the grand division or district of the state in which the vacancy occurs. In the meantime, the governor shall make an interim appointment of a person pursuant to § 17-4-109 and § 17-4-112 to discharge the duties of the office until August 31 following the next regular August election occurring more than thirty (30) days after the occurrence of the vacancy. Subdivision (a)(1)(C), § 16-4-102(a), and § 16-5-102(a), which define the grand divisions or districts from which a judge is to be elected or appointed, shall not apply to vacancies filled prior to the regular August election in 2022; provided, that the grand divisions or districts set forth under this section, § 16-4-102, and § 16-5-102, as such sections existed prior to the effective date of this act, shall be applicable to such vacancies.

(3) Each election for the office of judge of the supreme court, court of appeals, or court of criminal appeals shall be conducted in accordance with general election law set forth in title 2. In accordance with § 2-13-203, each statewide political party may nominate a candidate for election to each such office; and in accordance with § 2-5-101, independent candidates may also qualify for each such office.

SECTION 76. Tennessee Code Annotated, Section 2-5-208(c), is amended by deleting subdivision (3) in its entirety.

SECTION 77. Tennessee Code Annotated, Section 2-5-208(f)(1), is amended by deleting the following language in its entirety:

a retention judicial question is on the ballot as provided for in subdivision (c)(3), this question shall be placed after the retention judicial question; provided, that whenever

SECTION 78. Tennessee Code Annotated, Section 2-5-208(k), is amended by deleting the second sentence in its entirety and substituting instead the following:

The county election commission shall cause the names of the candidates to be arranged on the ballot so as to denote the supreme court district for which they are seeking to be elected by prefixing to the names of the candidates the words "west", "middle west", "middle", "middle east", or "east" division.

SECTION 79. Tennessee Code Annotated, Section 2-13-203(a)(1), is amended by deleting the period "." and by substituting instead the following:

; provided, however, each candidate for the office of judge of the supreme court or other state appellate court shall be nominated exclusively by the assent of a majority of all the members to which the state executive committee is entitled under § 2-13-103.

SECTION 80. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 81. Unless the people approve and ratify the amendment to Article VI, Section 3 of the Constitution of Tennessee, proposed and submitted to the people pursuant to SJR 710 of the One Hundred Seventh General Assembly and SJR 2 of the One Hundred Eighth General Assembly, Sections 48 through 79 of this act shall take effect December 1, 2014, and shall apply to each full eight-year term or vacancy filled on or after such date; however, if the people approve and ratify such amendment, then Sections 48 through 79 of this act shall not take effect. Sections 1 through 35 of this act shall take effect on September 2, 2014, the public welfare requiring it. All remaining sections of this act shall take effect upon becoming a law, the public welfare requiring it.