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H.799

Introduced by Representative Arsenault of Williston
Referred to Committee on
Date:
Subject: Judiciary; judicial retention and judicial nominations
Statement of purpose of bill as introduced: This bill proposes to (1) require that a vote for retention be taken in the General Assembly for every judge who has commenced the judicial retention process; (2) require the Judiciary to establish procedures to permit members of the Joint Legislative Committee on Judicial Retention to conduct in-person or remote courtroom observations of judicial officers up for retention; (3) add empathy and a demonstrated understanding of equity and bias to the list of factors that the Retention Committee considers when evaluating judicial performance; and (4) appropriate \$50,000.00 to the Judiciary to reimburse the Judicial Nominating Board for the use of paralegals during the judicial nominating process.

An act relating to judicial retention and judicial nominations

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 4 V.S.A. § 607 is amended to read:

§ 607. JOINT COMMITTEE ON JUDICIAL RETENTION; CREATION

* * *

1 (c) The Committee may use the staff and services of the Office of
2 Legislative Counsel and the Office of Legislative Operations to, in addition to
3 other duties, obtain information on the performance of a judge ~~or~~, Justice, or
4 magistrate by soliciting comments from members of the Vermont Bar and the
5 public. The Committee may request any material or files from the Court
6 Administrator relating to the judicial performance of a judge, Justice, or
7 magistrate seeking to be retained in office.

8 Sec. 2. 4 V.S.A. § 608 is amended to read:

9 § 608. FUNCTIONS

10 (a) Declarations submitted to the General Assembly by a Supreme Court
11 Justice under subsection 4(c) of this title, by a Superior Court judge under
12 subsection 71(b) of this title, or by a magistrate under subsection 461(c) of this
13 title shall be referred immediately to the Joint Committee on Judicial
14 Retention. The declarations shall be accompanied by a supporting statement
15 by the judge, the Justice, or the magistrate seeking retention. In the case of a
16 Superior Court judge or magistrate, the declaration shall also be accompanied
17 by information on the next succeeding rotation schedule for the judge seeking
18 retention.

19 (b)(1) The Joint Committee responsible for the recommendation of
20 retention shall review the candidacies of those Justices, Superior judges, and
21 magistrates desiring to succeed themselves. In conducting its review, the

1 Committee shall evaluate judicial performance, including such factors as
2 integrity, judicial temperament, impartiality, ~~health~~, empathy, a demonstrated
3 understanding of equity and bias, diligence, legal knowledge and ability, and
4 administrative and communicative skills.

5 (2) Members of the Committee shall make a reasonable effort to conduct
6 an in-person or remote courtroom observation of each judicial officer up for
7 retention, and the Judiciary shall establish procedures to permit Committee
8 members to make in-person or remote courtroom observations under this
9 subdivision.

10 (c) For the purpose of receiving information and hearing testimony, the
11 Joint Committee responsible for the recommendation of retention shall hold
12 hearings that, if possible, shall not commence until the General Assembly is in
13 session. Information obtained under subsection 607(c) of this title shall be
14 confidential until the Committee commences its hearings under this subsection.

15 * * *

16 (g) The votes on retention under subsections 4(c), 71(b), and 461(c) of this
17 title shall be conducted in one joint assembly of the General Assembly, except
18 that in the event that the Joint Committee reports to the General Assembly that
19 it is not able to make its recommendation on a particular Justice, judge, or
20 magistrate under subsection (b) of this section on or before the date set for
21 such joint assembly, the vote on such individual or individuals shall be

1 deferred to a subsequent joint assembly, and separate ballots shall be used
2 despite any other statutory provisions relating to the votes on retention. A vote
3 on retention shall be conducted for each Supreme Court Justice, Superior
4 judge, and magistrate whose declaration was referred to the Joint Committee
5 pursuant to subsection (a) of this section and with respect to whom the Joint
6 Committee commenced hearings under subsection (c) of this section.

7 Sec. 3. APPROPRIATION

8 The amount of \$50,000.00 is appropriated from the General Fund to the
9 Judiciary to be used to reimburse the Judicial Nominating Board for expenses
10 incurred by paralegals providing services in support of the judicial nominating
11 process.

12 Sec. 4. EFFECTIVE DATE

13 This act shall take effect on passage.