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HOUSE CONCURRENT  
RESOLUTION

ESTABLISHING A JOINT COMMITTEE ON JUDICIAL SELECTION.

1 WHEREAS, Hawaii's Judicial Selection Commission was  
2 proposed by the 1978 Constitutional Convention as a method of  
3 selecting judges based solely on their qualifications and not on  
4 political patronage; and

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6 WHEREAS, this merit-based selection process was intended to  
7 assure the public that only the candidates best qualified for a  
8 vacancy would be considered for judicial appointment; and

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10 WHEREAS, however, doubts have been raised over the years  
11 regarding the selection and retention of judges and justices and  
12 the closed and confidential operations of the Judicial Selection  
13 Commission; and

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15 WHEREAS, Hawaii's judicial selection process is shrouded in  
16 unlimited secrecy due to strict laws and rules regulating  
17 disclosure; and

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19 WHEREAS, deliberations of the Judicial Selection Commission  
20 are further determined to be confidential pursuant to the  
21 Constitution of the State of Hawaii; and

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23 WHEREAS, to keep deliberations confidential, the rules of  
24 the Judicial Selection Commission provide, in perpetuity,  
25 blanket confidentiality for information relating to the identity  
26 of any applicant, information received from or about current or  
27 former applicants and petitioners, and any communications among  
28 or votes by commissioners that have transpired in the course of  
29 their deliberations on any subject; and

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31 WHEREAS, the only time an applicant's name is publicly  
32 released is upon nomination by the Judicial Selection Commission



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1 for a vacant judicial position as provided by the Constitution  
2 of the State of Hawaii; and

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4 WHEREAS, the continued opacity of Hawaii's judicial  
5 selection process may further erode public confidence in the  
6 judicial selection process and, by extension, the Judiciary; and

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8 WHEREAS, Hawaii's merit-based judicial selection process  
9 can only be preserved through public confidence and public  
10 confidence requires full disclosure of the process and the need  
11 for confidentiality as an inherent part of merit-based judicial  
12 selection; and

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14 WHEREAS, to preserve Hawaii's merit-based selection  
15 process, it is critical that the public has a clear  
16 understanding of the thorough process utilized by the Judicial  
17 Selection Commission in selecting and retaining judges and  
18 justices; and

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20 WHEREAS, the rules of the Judicial Selection Commission do  
21 not identify any clear or measurable evaluation standards for  
22 applicants or petitioners for judicial office, including  
23 standards that address the specific skills that are required for  
24 trial or appellate courts and the knowledge required for courts  
25 with specialized jurisdiction; and

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27 WHEREAS, establishing clear, defined standards for  
28 evaluating applicants and petitioners for judicial office will  
29 promote public confidence that the best qualified applicants are  
30 being selected and quality petitioners are retained in a  
31 consistent manner and assure applicants and petitioners that  
32 they will be held to predictable and transparent standards; and

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34 WHEREAS, the efficiency and operations of the Judicial  
35 Selection Commission could also be improved with an orientation  
36 program for new members of the Commission and annual training  
37 for all members of the Commission; and

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39 WHEREAS, the Judicial Selection Commission's voting process  
40 can be streamlined by amending the voting system, voting for  
41 multiple lists at the same time, or authorizing remote  
42 participation; now, therefore,



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BE IT RESOLVED by the House of Representatives of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2021, the Senate concurring, that the Joint Committee on Judicial Selection shall be established to work with the Judicial Selection Commission and Judiciary to:

- (1) Develop clear, written standards for evaluating applicants and petitioners for judicial office;
- (2) Develop protocols for training new and existing members of the Judicial Selection Commission;
- (3) Streamline the Judicial Selection Commission's voting rules;
- (4) Define the term "deliberations" under article VI, section 4, of the Hawaii State Constitution; and
- (5) Create greater transparency as to the rules and procedures applicable to the Judicial Selection Commission; and

BE IT FURTHER RESOLVED that the Joint Committee on Judicial Selection shall consist of the following members:

- (1) Two members appointed by the Speaker of the House of Representatives;
- (2) Two members appointed by the Senate President;
- (3) One member appointed by the Governor;
- (4) One member appointed by the Chief Justice of the Hawaii Supreme Court; and
- (5) One member appointed by the Hawaii State Bar Association; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to assist the Joint Committee on Judicial Selection; and



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BE IT FURTHER RESOLVED that the Joint Committee on Judicial Selection, with the assistance of the Legislative Reference Bureau, is requested to submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2022; and

BE IT FURTHER RESOLVED that a certified copy of this Concurrent Resolution be transmitted to the Governor, Speaker of the House of Representatives, President of the Senate, Chief Justice of the Hawaii Supreme Court, Chairperson of the Judicial Selection Commission, Executive Director of the Hawaii State Bar Association, and Director of the Legislative Reference Bureau.

OFFERED BY: \_\_\_\_\_

