
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



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

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- 8 (1) Develop clear, written standards for evaluating
9 applicants and petitioners for judicial office;
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 - 11 (2) Develop protocols for training new and existing
12 members of the Judicial Selection Commission;
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 - 14 (3) Streamline the Judicial Selection Commission's voting
15 rules;
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 - 17 (4) Define the term "deliberations" under article VI,
18 section 4, of the Hawaii State Constitution; and
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 - 20 (5) Create greater transparency as to the rules and
21 procedures applicable to the Judicial Selection
22 Commission; and
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24 BE IT FURTHER RESOLVED that the Joint Committee on Judicial
25 Selection shall consist of the following members:

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- 27 (1) Two members appointed by the Speaker of the House of
28 Representatives;
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 - 30 (2) Two members appointed by the Senate President;
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 - 32 (3) One member appointed by the Governor;
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 - 34 (4) One member appointed by the Chief Justice of the
35 Hawaii Supreme Court; and
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 - 37 (5) One member appointed by the Hawaii State Bar
38 Association; and
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40 BE IT FURTHER RESOLVED that the Legislative Reference
41 Bureau is requested to assist the Joint Committee on Judicial
42 Selection; and

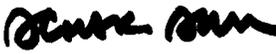


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2 BE IT FURTHER RESOLVED that the Joint Committee on Judicial
3 Selection, with the assistance of the Legislative Reference
4 Bureau, is requested to submit a report of its findings and
5 recommendations, including any proposed legislation, to the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

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

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OFFERED BY: 

JAN 22 2021

