
HOUSE CONCURRENT RESOLUTION

ESTABLISHING A JOINT COMMITTEE ON JUDICIAL SELECTION.

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

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15 WHEREAS, Hawai'i'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 Hawai'i; 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 Hawai'i; and
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4 WHEREAS, the continued opacity of Hawai'i'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, Hawai'i'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 Hawai'i'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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1 BE IT RESOLVED by the House of Representatives of the
2 Thirty-first Legislature of the State of Hawai'i, Regular Session
3 of 2021, the Senate concurring, that the Joint Committee on
4 Judicial Selection is requested to be established to work with
5 the Judicial Selection Commission and Judiciary to:

- 6 (1) Develop clear, written standards for evaluating
7 applicants and petitioners for judicial office;
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- 9 (2) Develop protocols for training new and existing
10 members of the Judicial Selection Commission;
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- 12 (3) Streamline the Judicial Selection Commission's voting
13 rules;
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- 15 (4) Define the term "deliberations" under article VI,
16 section 4, of the Hawai'i State Constitution; and
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- 18 (5) Create greater transparency as to the rules and
19 procedures applicable to the Judicial Selection
20 Commission; and
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23 BE IT FURTHER RESOLVED that the Joint Committee on Judicial
24 Selection is requested to consist of the following members:

- 25 (1) One member appointed by the Speaker of the House of
26 Representatives;
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- 28 (2) One member appointed by the Senate President;
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- 30 (3) One member appointed by the Governor;
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- 32 (4) One member appointed by the Chief Justice of the
33 Hawai'i Supreme Court;
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- 35 (5) One member appointed by the Hawai'i State Bar
36 Association; and
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- 38 (6) One member appointed by Hawai'i Women Lawyers; and
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41 BE IT FURTHER RESOLVED that the Joint Committee on Judicial
42 Selection is requested to work with the Judicial Selection



1 Commission to improve recruitment in terms of quantity of
2 applicants, in addition to qualifications of applicants; and
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4 BE IT FURTHER RESOLVED that the Legislative Reference
5 Bureau is requested to assist the Joint Committee on Judicial
6 Selection; and
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8 BE IT FURTHER RESOLVED that the Joint Committee on Judicial
9 Selection, with the assistance of the Legislative Reference
10 Bureau, is requested to submit a report of its findings and
11 recommendations, including any proposed legislation, to the
12 Legislature no later than forty days prior to the convening of
13 the Regular Session of 2022; and
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15 BE IT FURTHER RESOLVED that a certified copy of this
16 Concurrent Resolution be transmitted to the Governor, Speaker of
17 the House of Representatives, President of the Senate, Chief
18 Justice of the Hawai'i Supreme Court, Chairperson of the Judicial
19 Selection Commission, Executive Director of the Hawai'i State Bar
20 Association, and Director of the Legislative Reference Bureau.

