

Judicial Nominating Commissions **Governing Laws**

Arizona State Constitution, Article 6

6. [Supreme court; qualifications of justices](#)

Section 6. A justice of the supreme court shall be a person of good moral character and admitted to the practice of law in and a resident of the state of Arizona for ten years next preceding his taking office.

22. [Superior and other courts; qualifications of judges](#)

Section 22. Judges of the superior court, intermediate appellate courts or courts inferior to the superior court having jurisdiction in civil cases of one thousand dollars or more, exclusive of interest and costs, established by law under the provisions of section 1 of this article, shall be at least thirty years of age, of good moral character and admitted to the practice of law in and a resident of the state for five years next preceding their taking office.

36. [Commission on appellate court appointments and terms, appointments and vacancies on commission](#)

Section 36. A. There shall be a nonpartisan commission on appellate court appointments which shall be composed of the chief justice of the supreme court, who shall be chairman, five attorney members, who shall be nominated by the board of governors of the state bar of Arizona and appointed by the governor with the advice and consent of the senate in the manner prescribed by law, and ten nonattorney members who shall be appointed by the governor with the advice and consent of the senate in the manner prescribed by law. At least ninety days prior to a term expiring or within twenty-one days of a vacancy occurring for a nonattorney member on the commission for appellate court appointments, the governor shall appoint a nominating committee of nine members, not more than five of whom may be from the same political party. The makeup of the committee shall, to the extent feasible, reflect the diversity of the population of the state. Members shall not be attorneys and shall not hold any governmental office, elective or appointive, for profit. The committee shall provide public notice that a vacancy exists and shall solicit, review and forward to the governor all applications along with the committee's recommendations for appointment.

Attorney members of the commission shall have resided in the state and shall have been admitted to practice before the supreme court for not less than five years. Not more than three attorney members shall be members of the same political party and not more than two attorney members shall be residents of any one county. Nonattorney

members shall have resided in the state for not less than five years and shall not be judges, retired judges or admitted to practice before the supreme court. Not more than five nonattorney members shall be members of the same political party. Not more than two nonattorney members shall be residents of any one county. None of the attorney or nonattorney members of the commission shall hold any governmental office, elective or appointive, for profit, and no attorney member shall be eligible for appointment to any judicial office of the state until one year after he ceases to be a member. Attorney members of the commission shall serve staggered four-year terms and nonattorney members shall serve staggered four-year terms. Vacancies shall be filled for the unexpired terms in the same manner as the original appointments.

B. No person other than the chief justice shall serve at the same time as a member of more than one judicial appointment commission.

C. In making or confirming appointments to the appellate court commission, the governor, the senate and the state bar shall endeavor to see that the commission reflects the diversity of Arizona's population.

In the event of the absence or incapacity of the chairman the supreme court shall appoint a justice thereof to serve in his place and stead.

D. Prior to making recommendations to the governor as hereinafter provided, the commission shall conduct investigations, hold public hearings and take public testimony. An executive session as prescribed by rule may be held upon a two-thirds vote of the members of the commission in a public hearing. Final decisions as to recommendations shall be made without regard to political affiliation in an impartial and objective manner. The commission shall consider the diversity of the state's population, however the primary consideration shall be merit. Voting shall be in a public hearing. The expenses of meetings of the commission and the attendance of members thereof for travel and subsistence shall be paid from the general fund of the state as state officers are paid, upon claims approved by the chairman.

E. After public hearings the supreme court shall adopt rules of procedure for the commission on appellate court appointments.

F. Notwithstanding the provisions of subsection A, the initial appointments for the five additional nonattorney members and the two additional attorney members of the commission shall be designated by the governor for staggered terms as follows:

1. One appointment for a nonattorney member shall be for a one-year term.
2. Two appointments for nonattorney members shall be for a two-year term.
3. Two appointments for nonattorney members shall be for a three-year term.
4. One appointment for an attorney member shall be for a one-year term.
5. One appointments for an attorney member shall be for a two-year term.

G. The members currently serving on the commission may continue to serve until the expiration of their normal terms. All subsequent appointments shall be made as prescribed by this section.

37. Judicial vacancies and appointments; initial terms; residence; age

Section 37. A. Within sixty days from the occurrence of a vacancy in the office of a justice or judge of any court of record, except for vacancies occurring in the office of a judge of the superior court or a judge of a court of record inferior to the superior court, the commission on appellate court appointments, if the vacancy is in the supreme court or an intermediate appellate court of record, shall submit to the governor the names of not less than three persons nominated by it to fill such vacancy, no more than two of whom shall be members of the same political party unless there are more than four such nominees, in which event not more than sixty percentum of such nominees shall be members of the same political party.

B. Within sixty days from the occurrence of a vacancy in the office of a judge of the superior court or a judge of a court of record inferior to the superior court except for vacancies occurring in the office of a judge of the superior court or a judge of a court of record inferior to the superior court in a county having a population of less than two hundred fifty thousand persons according to the most recent United States census, the commission on trial court appointments for the county in which the vacancy occurs shall submit to the governor the names of not less than three persons nominated by it to fill such vacancy, no more than two of whom shall be members of the same political party unless there are more than four such nominees, in which event no more than sixty percentum of such nominees shall be members of the same political party. A nominee shall be under sixty-five years of age at the time his name is submitted to the governor. Judges of the superior court shall be subject to retention or rejection by a vote of the qualified electors of the county from which they were appointed at the general election in the manner provided by section 38 of this article.

C. A vacancy in the office of a justice or a judge of such courts of record shall be filled by appointment by the governor without regard to political affiliation from one of the nominees whose names shall be submitted to him as hereinabove provided. In making the appointment, the governor shall consider the diversity of the state's population for an appellate court appointment and the diversity of the county's population for a trial court appointment, however the primary consideration shall be merit. If the governor does not appoint one of such nominees to fill such vacancy within sixty days after their names are submitted to the governor by such commission, the chief justice of the supreme court forthwith shall appoint on the basis of merit alone without regard to political affiliation one of such nominees to fill such vacancy. If such commission does not, within sixty days after such vacancy occurs, submit the names of nominees as hereinabove provided, the governor shall have the power to appoint any qualified person to fill such vacancy at any time thereafter prior to the time the names of the nominees to fill such vacancy are submitted to the governor as hereinabove provided. Each justice or judge so appointed shall initially hold office for a term ending sixty days following the next regular general election after the expiration of a term of two years in

office. Thereafter, the terms of justices or judges of the supreme court and the superior court shall be as provided by this article.

D. A person appointed to fill a vacancy on an intermediate appellate court or another court of record now existing or hereafter established by law shall have been a resident of the counties or county in which that vacancy exists for at least one year prior to his appointment, in addition to possessing the other required qualifications. A nominee shall be under sixty-five years of age at the time his name is submitted to the governor.

39. Retirement of justices and judges; vacancies

Section 39. On attaining the age of seventy years a justice or judge of a court of record shall retire and his judicial office shall be vacant, except as otherwise provided in section 35 of this article. In addition to becoming vacant as provided in this section, the office of a justice or judge of any court of record becomes vacant upon his death or his voluntary retirement pursuant to statute or his voluntary resignation, and also, as provided in section 38 of this article, upon the expiration of his term next following a general election at which a majority of those voting on the question of his retention vote in the negative or for which general election he is required, but fails, to file a declaration of his desire to be retained in office.

This section is alternative to and cumulative with the methods of removal of judges and justices provided in parts 1 and 2 of article 8 and article 6.1 of this Constitution.

40. Option for counties with less than two hundred fifty thousand persons

Section 40. Notwithstanding any provision of this article to the contrary, any county having a population of less than two hundred fifty thousand persons, according to the most recent United States census, may choose to select its judges of the superior court or of courts of record inferior to the superior court as if it had a population of two hundred fifty thousand or more persons. Such choice shall be determined by vote of the qualified electors of such county voting on the question at an election called for such purpose by resolution of the board of supervisors of such county. If such qualified electors approve, the provisions of sections 12, 28, 30, 35 through 39, 41 and 42 shall apply as if such county had a population of two hundred fifty thousand persons or more.

41. Superior court divisions; commission on trial court appointments; membership; terms

A. Except as otherwise provided, judges of the superior court in counties having a population of two hundred fifty thousand persons or more according to the most recent United States census shall hold office for a regular term of four years.

B. There shall be a nonpartisan commission on trial court appointments for each county having a population of two hundred fifty thousand persons or more according to the most recent United States census which shall be composed of the following members:

1. The chief justice of the supreme court, who shall be the chairman of the commission. In the event of the absence or incapacity of the chairman the supreme court shall appoint a justice thereof to serve in his place and stead.

2. Five attorney members, none of whom shall reside in the same supervisorial district and not more than three of whom shall be members of the same political party, who are nominated by the board of governors of the state bar of Arizona and who are appointed by the governor subject to confirmation by the senate in the manner prescribed by law.

3. Ten nonattorney members, no more than two of whom shall reside in the same supervisorial district.

C. At least ninety days prior to a term expiring or within twenty-one days of a vacancy occurring for a nonattorney member on the commission for trial court appointments, the member of the board of supervisors from the district in which the vacancy has occurred shall appoint a nominating committee of seven members who reside in the district, not more than four of whom may be from the same political party. The make-up of the committee shall, to the extent feasible, reflect the diversity of the population of the district. Members shall not be attorneys and shall not hold any governmental office, elective or appointive, for profit. The committee shall provide public notice that a vacancy exists and shall solicit, review and forward to the governor all applications along with the committee's recommendations for appointment. The governor shall appoint two persons from each supervisorial district who shall not be of the same political party, subject to confirmation by the senate in the manner prescribed by law.

D. In making or confirming appointments to trial court commissions, the governor, the senate and the state bar shall endeavor to see that the commission reflects the diversity of the county's population.

E. Members of the commission shall serve staggered four year terms, except that initial appointments for the five additional nonattorney members and the two additional attorney members of the commission shall be designated by the governor as follows:

1. One appointment for a nonattorney member shall be for a one-year term.

2. Two appointments for nonattorney members shall be for a two-year term.

3. Two appointments for nonattorney members shall be for a three-year term.

4. One appointment for an attorney member shall be for a one-year term.

5. One appointment for an attorney member shall be for a two-year term.

F. Vacancies shall be filled for the unexpired terms in the same manner as the original appointments.

G. Attorney members of the commission shall have resided in this state and shall have been admitted to practice in this state by the supreme court for at least five years and shall have resided in the supervisory district from which they are appointed for at least one year. Nonattorney members shall have resided in this state for at least five years, shall have resided in the supervisory district for at least one year before being nominated and shall not be judges, retired judges nor admitted to practice before the supreme court. None of the attorney or nonattorney members of the commission shall hold any governmental office, elective or appointive, for profit and no attorney member is eligible for appointment to any judicial office of this state until one year after membership in the commission terminates.

H. No person other than the chief justice shall serve at the same time as a member of more than one judicial appointment commission.

I. The commission shall submit the names of not less than three individuals for nomination for the office of the superior court judge pursuant to section 37 of this article.

J. Prior to making recommendations to the governor, the commission shall conduct investigations, hold public hearings and take public testimony. An executive session as prescribed by rule may be held upon a two-thirds vote of the members of the commission in a public hearing. Final decisions as to recommendations shall be made without regard to political affiliation in an impartial and objective manner. The commission shall consider the diversity of the county's population and the geographical distribution of the residences of the judges throughout the county, however the primary consideration shall be merit. Voting shall be in a public hearing. The expenses of meetings of the commission and the attendance of members thereof for travel and subsistence shall be paid from the general fund of the state as state officers are paid, upon claims approved by the chairman.

K. After public hearings the supreme court shall adopt rules of procedure for the commission on trial court appointments.

L. The members of the commission who were appointed pursuant to section 36 of this article prior to the effective date of this section may continue to serve until the expiration of their normal terms. All subsequent appointments shall be made as prescribed by this section.

42. [Retention evaluation of justices and judges](#)

The supreme court shall adopt, after public hearings, and administer for all justices and judges who file a declaration to be retained in office, a process, established by court rules for evaluating judicial performance. The rules shall include written performance standards and performance reviews which survey opinions of persons who have knowledge of the justice's or judge's performance. The public shall be afforded a full

and fair opportunity for participation in the evaluation process through public hearings, dissemination of evaluation reports to voters and any other methods as the court deems advisable.

Arizona Revised Statutes, Title 12

12-101. [Justices; number; term; election](#)

The supreme court shall consist of seven justices. The term of office of each justice shall be six years and shall take effect on the first Monday in January of the year in which it begins. Justices shall be elected at the general election next preceding the expiration of a term of office.

12-120. [Creation of court of appeals; court of record; composition; sessions](#)

A. There is created a court of appeals which shall constitute a single court and such court shall be a court of record.

B. The court of appeals shall be divided into two divisions which shall be designated as division 1 and division 2. Division 1 shall have sixteen judges, consisting of the chief judge and five departments of three judges each, denominated, respectively, department A, department B, department C, department D and department E. Division 2 shall have six judges, consisting of two departments of three judges each, denominated, respectively, department A and department B.

C. Division 1 shall consist of the counties of Maricopa, Yuma, La Paz, Mohave, Coconino, Yavapai, Navajo and Apache.

D. Division 2 shall consist of the counties of Pima, Pinal, Cochise, Santa Cruz, Greenlee, Graham and Gila.

E. The sessions of divisions 1 and 2 shall be held in Phoenix and Tucson, respectively. Sessions may be held at places other than Phoenix or Tucson when in the opinion of a majority of the judges of a division or department the public interest so requires. The judges of the respective divisions and departments may hold sessions in either division and shall do so when directed by the chief justice of the supreme court. Each judge of the court of appeals may participate in matters pending before a different division or department.

F. No more than three judges of the court of appeals, including superior court judges and retired judges sitting with the court, shall hear and determine a matter and render a decision, and a majority of two of the three judges shall be sufficient to render a decision.

12-120.01. Qualifications of judges; terms; ballots; vacancies

A. A judge of the court of appeals shall be:

1. Not less than thirty years of age.
2. Of good moral character.
3. A qualified elector of the county of his residence, and a resident of such county for not less than three years next preceding taking office.
4. A resident of the division in which he is elected.
5. Admitted to the practice of law in the state of Arizona for not less than five years next preceding taking office.
6. A resident of Arizona for not less than five years next preceding taking office.

B. Except for the initial term, each judge shall hold office for a term of six years to commence on the first Monday in January following his retention election and until his successor is appointed and qualified. Each judge shall be appointed by the governor and serve an initial term pursuant to article VI, section 37, Constitution of Arizona.

12-120.02. Election of judges

A. In division 1, of the fifteen judges who are on the bench on July 1, 1995, ten of the judges shall be residents of and elected for retention from Maricopa county and five of the judges shall be residents of the remaining counties in the division and shall be elected for retention by the voters of the counties in division 1, excluding Maricopa county. If the sixteenth judge is a resident of Maricopa county, the judge shall be elected for retention by the voters of Maricopa county. If the sixteenth judge is not a resident of Maricopa county, the judge shall be elected for retention by the voters of the counties in division 1, excluding Maricopa county.

B. In division 2, four of the judges shall be residents of and elected from Pima county and two of the judges shall be residents of the remaining counties in the division and shall be elected by the voters of the counties in division 2, excluding Pima county.

12-131. Commission on trial court appointments; notification; appointment of nonattorney member; time limits

A. At least ninety days before a term of a nonattorney member on a commission on trial court appointments expires the commission shall notify the member of the board of supervisors from the district in which the vacancy will occur of that vacancy.

B. Pursuant to article VI, section 41, Constitution of Arizona at least ninety days before a term of a nonattorney member on a commission on trial court appointments expires or within twenty-one days of a vacancy occurring for a nonattorney member on the commission for trial court appointments, the member of the board of supervisors from the district in which the vacancy has occurred shall appoint a nominating committee of seven members who reside in the district, not more than four of whom may be from the same political party. The makeup of the nominating committee shall to the extent feasible, reflect the diversity of the population of the district. Nominating committee members shall not be attorneys and shall not hold any governmental office, elective or appointive, for profit.

C. The nominating committee, within twenty days after being appointed, shall provide public notice that a vacancy exists and shall solicit applications.

D. The nominating committee, within sixty days after providing public notice that a vacancy exists, shall review the applications and forward to the governor all applications along with the committee's recommendations for appointment.

E. Pursuant to section 38-211, the governor may appoint a nonattorney member to a commission on trial court appointments without being forwarded an application from a nominating committee if any of the following applies:

1. A member of the board of supervisors does not appoint a nominating committee within twenty-one days of a vacancy occurring for a nonattorney member on the commission on trial court appointments.

2. The nominating committee does not provide public notice that a vacancy exists on the commission on trial court appointments within twenty days of appointment.

3. The nominating committee does not forward all applications to the governor within sixty days of providing public notice that a vacancy exists.

Arizona Revised Statutes, Title 38

38-211. [Nominations by governor; consent of senate; appointment](#)

A. When it is provided by law that a state officer shall be appointed pursuant to this section, the governor shall nominate and with the consent of the senate appoint such officer as prescribed in this section.

B. If the term of any state office that is appointive pursuant to this section expires, begins or becomes vacant during a regular legislative session, the governor shall during such session nominate a person who meets the requirements of law for such office and shall promptly transmit the nomination to the president of the senate. If the incumbent is capable of continuing to serve until his successor has qualified, a nominee to that position shall not assume and discharge the duties of the office, pending senate

confirmation. If the incumbent is unable to continue to discharge the duties of office, the nominee shall assume and discharge the duties of the office pending senate confirmation. If the senate consents to the nomination, the governor shall then appoint the nominee to serve for the term or, in the case of a vacancy, for the unexpired term in which the vacancy occurred. If the senate rejects the nomination the nominee shall not be appointed and the governor shall promptly nominate another person who meets the requirements for such office. If the senate takes no formal action on the nomination during such legislative session, or if a nomination other than one that is required to be sent to the senate during the first week of the legislative session is not received during the session, the governor shall after the close of such legislative session appoint the nominee to serve, and the nominee shall discharge the duties of office, subject to confirmation during the next legislative session.

C. If the term of any state office that is appointive pursuant to this section expires, begins or becomes vacant during a time in which the legislature is not in regular session, the governor shall nominate a person who meets the requirements of law for such office and shall transmit the nomination to the president of the senate during the first week of the next regular session. The nominee shall assume and discharge the duties of the office until rejection of the nomination or inaction of the senate.

D. Every officer who is subject to confirmation as provided in this section and whose term is not fixed by law shall hold office at the pleasure of the appointing power.

E. In no event shall a nominee serve longer than one year after nomination without senate consent.

F. Nominations made by the governor shall be in writing, designating the residence of the nominee and the office for which nominated.

G. When the senate consents to a nomination, its secretary shall deliver a copy of the resolution of consent, certified by the president of the senate, to the secretary of state, who shall notify the governor. When the senate rejects a nomination, its secretary shall inform the governor promptly.

H. Before nomination or appointment by the governor pursuant to this section, the prospective nominee shall submit a full set of fingerprints to the governor for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.