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**HOUSE BILL NO. 575**

Offered January 19, 2000

*A BILL to amend and reenact § 16.1-69.9 of the Code of Virginia and to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 4.2, consisting of sections numbered 2.1-37.19 through 2.1-37.23, relating to the creation of local judicial nominations committees; procedures for the selection and appointment of judges.*

Patrons—Clement; Senator: Bolling

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-69.9 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 4.2, consisting of sections numbered 2.1-37.19 through 2.1-37.23, as follows:**

**CHAPTER 4.2.****LOCAL JUDICIAL NOMINATIONS COMMITTEES.**

*§ 2.1-37.19. Local judicial nominations committees; membership.*

*There is hereby created a local judicial nominations committee for each judicial circuit. Each member of the General Assembly who represents any portion of a circuit shall designate two persons who reside within such circuit, one of whom shall be an attorney licensed to practice law in the Commonwealth and one of whom shall never have been licensed to practice law in the Commonwealth, to sit as members of the local judicial nominations committee for that circuit. However, if a majority of the members of the General Assembly within the circuit agree that the appointment of two citizens by each member would create a committee of more members than would be practicable, they may, by majority vote, reduce the size to one appointment per member of the General Assembly. In such case, the committee member appointed by each member of the General Assembly may be an attorney or not, in the discretion of the member making such appointment. Members of a local judicial nominations committee shall serve at the pleasure of the member of the General Assembly who appointed them. Vacancies shall be filled in the same manner as original appointments. A majority of members shall constitute a quorum for the conduct of the business of any committee.*

*Each committee shall elect a chairman from among its members. Each committee shall determine its rules of procedure not inconsistent with the provisions of this chapter and shall establish procedures for maximizing relevant input from the general public into the process for nomination of judges and for ensuring the selection of qualified candidates for the bench. The Division of Legislative Services shall provide advice and assistance to a committee, upon request.*

*§ 2.1-37.20. Duties of local judicial nominations committees; investigation, nomination and report.*

*A. The local judicial nominations committee shall solicit the names of qualified individuals to fill anticipated vacancies and new seats on the circuit and district courts within the circuit. A committee may receive advice and recommendations from individuals, bar associations, and other entities and may investigate and consider persons on its own initiative.*

*The committee shall investigate the merits of candidates for nomination for judicial office, including incumbent judges, and shall examine the character, temperament, intelligence, mental and physical fitness, education, legal ability, experience, general interest, and past conduct of each person considered. Any person who is nominated for consideration by the General Assembly for judicial office shall have been licensed to practice law for at least five years in the Commonwealth of Virginia. Members of the General Assembly, during the term of office for which they were elected, shall not be eligible for consideration as nominees for judicial office.*

*B. In the case of a vacancy or new judgeship on the circuit court or district court, the committee shall, by majority vote of the members present and voting, nominate not more than three persons it deems qualified for that court on the basis of the factors specified in subsection A. In the case of an incumbent circuit or district court judge, the committee shall nominate the judge for reelection on such basis or advise the judge that he will not be nominated and treat the seat as if it were to become vacant upon expiration of the judge's current term. The committee shall submit nominations to the clerks of both houses of the General Assembly and to each member of the General Assembly elected to serve any portion of the circuit from which the nomination is made. In the case of pro tempore vacancies to be filled pursuant to §§ 16.1-69.9:2 and 17.1-509, these submissions may be made by the committee to the appropriate appointing authority.*

*C. The submission of a nomination shall be accompanied by a written report. The report shall be*

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HB575

60 concurred in by a majority of the committee members. The report shall include an explanation of the  
61 method by which the committee has selected each nominee, and his qualifications, as set out in  
62 subsection A. Members of the committee who disagree with the majority of the committee as to the  
63 qualifications of any nominee may file a dissenting report in writing, setting forth their reasons therefor,  
64 but no other nomination may be submitted unless the General Assembly fails to elect one of the  
65 nominees. The report shall be made available by the clerks to the public.

66 Upon written request of any member of the General Assembly, a local committee shall divulge to  
67 that member all papers filed with and proceedings before the committee with respect to a nominee  
68 before the General Assembly for consideration. Except as provided in this section, all papers and  
69 proceedings of a local committee shall be confidential and shall not be divulged to anyone whether such  
70 information is in the custody of the committee or a member of the General Assembly unless the nominee  
71 otherwise directs the chairman in writing.

72 D. Submission by a local committee of the name of a person to the General Assembly or appointing  
73 authority shall not be deemed a prerequisite for that person's election or appointment as a judge.

74 § 2.1-37.21. Expenses of members.

75 Members of the local judicial nominations committees shall be reimbursed for actual expenses  
76 necessary and incidental to the performance of their duties. Reimbursement shall be paid from the  
77 general fund of the state treasury in the manner provided by law.

78 § 2.1-37.22. Civil immunity for members of judicial nominations committee.

79 Members of the local judicial nominations committees shall be immune from civil liability for any  
80 act, decision, omission, or utterance done or made in the performance of their duties while serving as  
81 such member, provided that such act, decision, omission, or utterance is not done or made in bad faith  
82 or with malicious intent.

83 § 2.1-37.23. Exception to chapter; alternate processes.

84 The provisions of this chapter shall not apply to any circuit wherein the members of the General  
85 Assembly who represent a portion of such circuit, hereinafter referred to as "the delegation," certify in  
86 writing to the clerk of their respective houses that an alternate process for judicial nomination has been  
87 developed within that delegation which ensures the participation of each delegation member in the  
88 nomination process. The senior member of the delegation within each house shall submit to the clerk  
89 with the certification a detailed summary of the delegation's alternate process. The clerk shall send a  
90 copy of such certification and summary to the Chairman of the Committee for Courts of Justice of his  
91 or her house.

92 § 16.1-69.9. Judges in office continued; terms of judges; how elected or appointed.

93 Every judge or justice and every associate, assistant and substitute judge or justice of a court not of  
94 record in office January 1, 1973, shall continue in office as a judge or substitute judge of such court  
95 under its designation as a general district court or juvenile and domestic relations district court until the  
96 expiration of the term for which he was appointed or elected, or until a vacancy shall occur in his office  
97 or until a successor shall be appointed or elected, whichever is the latter.

98 Upon the expiration of such terms, or when a vacancy occurs, successors shall be elected only as  
99 authorized pursuant to §§ 16.1-69.10 and 16.1-69.14 and for the term and in the manner following:

100 (a), (a1) [Repealed.]

101 (b) 1. With respect to terms expiring on or after July 1, 1980, successors to judges shall be elected  
102 for a term of six years by the General Assembly as provided in (e) hereof subdivision 2.

103 Any vacancy in the office of any full-time district court judge shall be filled for a full term of six  
104 years in the manner prescribed herein, provided that such vacancy shall not be filled except as provided  
105 in § 16.1-69.9:3.

106 (e) 2. Full-time district court judges shall be elected by the majority of the members elected to each  
107 house of the General Assembly. The judges of the circuit court having jurisdiction over the district shall  
108 nominate a panel of no more than three persons for each judgeship within the district who are deemed  
109 qualified to hold the office; the General Assembly may consider such nominations in electing a judge to  
110 fill the office but may elect a person not on such panel to fill the office. Nominations shall be  
111 forwarded to the clerks of both houses of the General Assembly on or before December 15.

112 If an a pro tempore appointment is to be made by two or more judges and there is a tie vote, then  
113 the senior judge of the circuit court having jurisdiction in the district shall make the appointment.