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**HOUSE BILL NO. 744**

Offered January 23, 1998

*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 2.1-37.22, creating local judicial nominations committees; procedures for the selection and appointment of judges.*

Patrons—Clement, Abbitt, Albo, Armstrong, Barlow, Behm, Bennett, Bloxom, Bryant, Cantor, Christian, Councill, Croshaw, Darner, Davies, Day, Deeds, Devolites, Diamonstein, Griffith, Guest, Hall, Hamilton, Hargrove, Howell, Ingram, Keating, Kilgore, Landes, Marshall, McClure, Morgan, Murphy, Nixon, O'Brien, Orrock, Parrish, Plum, Putney, Reid, Rhodes, Rollison, Ruff, Scott, Sherwood, Shuler, Thomas, Van Yahres, Wagner, Weatherholtz and Williams; Senators: Couric, Hawkins, Houck and Reynolds

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 2.1-37.22, 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 local nominations committee shall be comprised of not less than two nor more than ten citizens and not less than one nor more than nine active members of the Virginia State Bar. The members of each committee shall be appointed by majority vote of the members of each house of the General Assembly who represent any portion of the circuit. The citizen members shall reside within the circuit for which they are elected and may not be active members of the bar. The lawyer members shall be active members of the bar from the circuit as reflected in the records of the Virginia State Bar.*

*The initial terms of the citizen and lawyer members shall be staggered for one, two and three years, and thereafter each member shall be appointed for a term of four years. Each local committee shall have at least five but not more than nineteen members, with the number of citizen members exceeding the number of lawyer members by at least one. The number of citizen and lawyer members for each circuit shall be determined by majority vote of the General Assembly. The terms of each member shall be determined by majority vote of the members of the General Assembly representing any portion of the circuit. Committee members shall be elected for no more than two consecutive terms. Vacancies shall be filled in the same manner as the original appointment. Members elected or appointed to fill vacancies may serve two consecutive terms in addition to the unexpired term.*

*Each committee shall elect a chairman and determine its rules of procedure. 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 committees for each judicial circuit 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 committees shall investigate the merits of candidates for nomination for such vacancies, 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*

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60 both houses of the General Assembly and to each member of the General Assembly elected to serve any  
 61 portion of the circuit from which the nomination is made. In the case of pro tempore vacancies to be  
 62 filled pursuant to §§ 16.1-69.9:2 and 17-120, these submissions may be made by the committee to the  
 63 appropriate appointing authority.

64 C. The submission of a nomination shall be accompanied by a written report. The report shall be  
 65 concurred in by a majority of the committee members. The report shall include an explanation of the  
 66 method by which the committee has selected each nominee, and his qualifications, as set out in  
 67 subsection A. If a minority of the members of the committee disagree with the majority of the committee  
 68 as to the qualifications of any nominee, they may file a dissenting report in writing, setting forth their  
 69 reasons therefor, but no other nomination may be submitted unless the General Assembly fails to elect  
 70 one of the nominees. The report shall be made available by the clerks to the public.

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

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

80 § 2.1-37.21. Expenses and compensation of members.

81 Members of the local judicial nominations committees shall be reimbursed for actual expenses,  
 82 necessary and incidental to the performance of their duties. Compensation and reimbursement shall be  
 83 paid from the general fund of the state treasury in the manner provided by law.

84 § 2.1-37.22. Civil immunity for members of judicial nominations committee.

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

89 § 16.1-69.9. Judges in office continued; terms of judges; how elected or appointed.

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

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

97 (a), (a1) ~~[Repealed.]~~

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

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

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

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

111 2. That the number of members of the local judicial nominations committees shall be appointed as  
 112 follows:

113 Circuit	Citizens	Lawyers
114		
115 First	3	2
116		
117 Second	9	8
118		
119 Third	4	3
120		

121	Fourth	5	4
122			
123	Fifth	6	5
124			
125	Sixth	6	5
126			
127	Seventh	5	4
128			
129	Eighth	4	3
130			
131	Ninth	8	7
132			
133	Tenth	5	4
134			
135	Eleventh	7	6
136			
137	Twelfth	7	6
138			
139	Thirteenth	7	6
140			
141	Fourteenth	8	7
142			
143	Fifteenth	7	6
144			
145	Sixteenth	7	6
146			
147	Seventeenth	5	4
148			
149	Eighteenth	3	2
150			
151	Nineteenth	10	9
152			
153	Twentieth	5	4
154			
155	Twenty-first	3	2
156			
157	Twenty-second	6	5
158			
159	Twenty-third	5	4
160			
161	Twenty-fourth	8	7
162			
163	Twenty-fifth	5	4
164			
165	Twenty-sixth	7	6
166			
167	Twenty-seventh	8	7
168			
169	Twenty-eighth	4	3
170			
171	Twenty-ninth	4	3
172			
173	Thirtieth	3	2
174			
175	Thirty-first	5	4
176			