

State of New York

Executive Chamber

No. 10

EXECUTIVE ORDER

ESTABLISHING JUDICIAL SCREENING COMMITTEES TO ENSURE THAT JUDICIAL OFFICER APPOINTMENTS ARE OF THE HIGHEST QUALITY

WHEREAS, under the Constitution and Laws of the State of New York the Governor is entrusted with the responsibility of appointing various judicial officers;

WHEREAS, both the rule of law and public confidence in the integrity of the judicial process require that the primary criteria for selecting judicial officers be the quality of their intellect, judgment, temperament, character and experience; that candidates for judicial office be chosen without regard to political party affiliation or background; that highly qualified candidates be encouraged to apply for judicial offices; and that highly qualified candidates should be drawn from a cross-section of the state, reflecting a diversity of experience and background;

WHEREAS, the highest quality of judicial officer appointments can best be assured with the assistance of non-partisan judicial screening committees composed of outstanding citizens drawn from all quarters of the State; and

WHEREAS, the first obligation of Government is to protect its citizens from crime and violence; public confidence in the criminal justice system has been eroded; and certain judicial offices exercise important responsibilities in the administration of the criminal justice system;

NOW, THEREFORE, I, GEORGE E. PATAKI, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, do hereby order as follows:

1. Judicial Screening Committees, as described below, are hereby established.
2. Each Judicial Screening Committee shall:
 - a. Actively recruit candidates for appointment or designation to the judicial offices within the committee's jurisdiction, to the end of obtaining candidates reflecting the diverse backgrounds and experience of the citizens of this State;
 - b. Review and evaluate the qualifications of candidates recruited by it or proposed to it by any person or organization, and conduct all appropriate inquiry into the qualifications of all such candidates. In reviewing and evaluating the qualifications of candidates, each committee member shall give primary consideration to the quality of a candidate's intellect, judgment, temperament, character and experience, and shall not give any consideration to the race, religion, gender, national origin, sexual orientation or political party affiliation of a candidate. Whenever appropriate to a particular judicial office, each committee member

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shall remain cognizant of my commitment to protecting the citizens of this State from crime and violence and to enhancing public confidence in the criminal justice system;

c. Recommend for appointment or designation only those candidates who, as determined by a majority vote of all members of the committee, are highly qualified for the judicial office for which they are being considered. No committee shall pass on the qualifications of any candidate until after a thorough inquiry has been made by the committee and its staff.

d. Prepare written reports on the qualifications of each candidate it determines to be highly qualified and recommends to the Governor. The reports shall remain confidential, except that upon the announcement by the Governor of an appointment the report relating to the appointee shall be available for public inspection. All records and deliberations of, and all communications to, the Judicial Screening Committee with respect to a candidate's qualifications shall be held in confidence and shall not be disclosed to anyone other than the Governor, Counsel to the Governor or their designees. Notwithstanding the foregoing, information submitted to the Judicial Screening Committees relating to an appointee may be disclosed to the Senate when necessary for constitutional confirmation of the appointee, and information submitted to the Judicial Screening Committee may be disclosed to any other person or organization if disclosure is required in connection with disciplinary proceedings.

3. A State Judicial Screening Committee is hereby established. The State Judicial Screening Committee shall consist of thirteen members: the Counsel to the Governor, the Chairperson of each of the Departmental Judicial Screening Committees established by paragraph 4 of this Order, and two of the other members of each of the Departmental Judicial Screening Committees, who shall be selected by the Governor. The Chairperson of the State Judicial Screening Committee shall be appointed by the Governor from among the members of the Committee.

The term of office of any member of the State Judicial Screening Committee shall expire at the same time as the member's term of office on a Departmental Screening Committee expires.

The State Judicial Screening Committee shall have jurisdiction to consider the qualifications of candidates for appointment to the offices of Judge and Presiding Judge of the Court of Claims, and to recommend to the Governor all persons whom it finds highly qualified for those judicial offices.

When exercising the power to designate the Presiding Judge of the Court of Claims pursuant to section 2(7) of the Court of Claims Act; or the power to appoint a Judge of the Court of Claims pursuant to section 9 of Article VI of the Constitution and sections 2(2) and 2(4) of the Court of Claims Act; or the power to fill a vacancy in the office of Judge of the Court of Claims pursuant to section 21(b) of Article VI of the Constitution, the Governor shall appoint or designate only persons who have been recommended by the State Judicial Screening Committee as highly qualified for the judicial office to which the appointment or designation is to be made.

The State Judicial Screening Committee shall promulgate appropriate rules and regulations to govern its proceedings and those of the Departmental and County Judicial Screening Committees established by this Order. The rules and regulations shall include standards and procedures for ensuring, to the extent possible, uniformity of criteria for evaluating the qualifications of candidates for appointment or designation to judicial office throughout the State.

4. A Department Judicial Screening Committee is hereby established in each judicial department of the State. Each Departmental Judicial Screening Committee shall consist of thirteen members: five members shall be selected by the Governor, two members shall be selected by the Chief Judge of the Court of Appeals, two members shall be selected by the Attorney General, one member shall be selected by the Presiding Justice of the Appellate Division for that department, one member shall be selected jointly by the leaders of one major political party in each house of the Legislature, one member shall be selected jointly by the leaders of the other major political party in each house of the Legislature, and one member shall be selected by the President of the New York State Bar Association. The Chairperson of each Departmental Judicial Screening Committee shall be appointed by the Governor from among the members of the

Committee. Each member of the Committee shall be a resident of, have an office in, or work in the judicial department in which he or she is to serve.

Each Departmental Judicial Screening Committee shall have jurisdiction to consider the qualifications of candidates for designation to the offices of Justice, Temporary Justice and Presiding Justice of the Appellate Division of the Supreme Court for such department, and candidates for appointment to the office of Supreme Court Justice for such department, and to recommend to the Governor all persons whom it finds highly qualified for those judicial offices.

When exercising the power to designate the Presiding Justice of each Appellate Division pursuant to section 4(c) of Article VI of the Constitution; or the power to designate other Justices of any Appellate Division pursuant to sections 4(c) and 4(d) of Article VI of the Constitution; or the power to designate additional Justices of any Appellate Division pursuant to section 4(e) of Article VI of the Constitution; or the power to fill a vacancy in the office of Justice of the Supreme Court pursuant to section 21(a) of Article VI of the Constitution, the Governor shall appoint or designate only persons who have been recommended by the appropriate Departmental Judicial Screening Committee as highly qualified for the judicial office to which the appointment is to be made.

5. A County Judicial Screening Committee is hereby established in each county of the State, consisting of the members of the Departmental Judicial Screening Committee for the department in which the county is located plus one additional person who shall be resident of, have an office in, or work in the county in which he or she is to serve, to be selected by the chief executive officer of the county. The Chairman of the Department Judicial Screening Committee shall also serve as Chairman of the County Judicial Screening Committee.

As used herein, the term "chief executive officer" for the county shall mean the appointed or elected county executive, as the case may be, or if there be no such office, the chairman of the governing body of the county; provided, however, that for counties within the City of New York, the term "chief executive officer" for the county shall mean the Mayor of the City of New York.

Each County Judicial Screening Committee shall have jurisdiction to consider the qualifications of candidates for appointment to the offices of Judge of the County Court, Judge of the Surrogate's Court, and Judge of the Family Court outside of the City of New York, for such county, and to recommend to the Governor all persons whom it finds highly qualified for those judicial offices.

When exercising the power of appointment to fill a vacancy in the office of Judge of the County Court, Judge of the Surrogate's Court, or of Judge of the Family Court outside of the City of New York, pursuant to section 21(a) of Article VI of the Constitution, the Governor shall appoint only persons who have been recommended by the appropriate County Judicial Screening Committee as highly qualified for the judicial office to which the appointment is to be made.

6. The terms of office of the members of the Judicial Screening Committees established by this Executive Order shall be for a term of three years and subject to the provisions of section 5 of the Public Officers Law. Vacancies shall be filled in the same manner as initial appointments, and a person appointed to fill a vacancy shall serve for the remainder of the unexpired term. No member shall be removed by the Governor except for cause.

7. No member of a Judicial Screening Committee shall hold any judicial or elected public office for which he shall receive compensation during his period of service, nor shall he hold any office in any political party. No member of a Judicial Screening Committee shall be eligible for appointment to any judicial office within the jurisdiction of the Judicial Screening Committee on which the member serves during the member's period of service or within one year thereafter. Members of Judicial Screening Committees shall receive no compensation for their service, but shall be entitled to reimbursement for any necessary expenses incurred by them in connection with the performance of their duties. Each judicial screening committee shall have a paid staff available to it sufficient to enable the committee to carry out properly its responsibilities including adequate investigations into all matters relevant to the qualifications of candidates for appointment to judicial office.

8. Except as may be necessary or appropriate prior to the time the Judicial Screening Committees established by this Executive Order are fully operational, the power to fill a vacancy in a judicial office will be

exercised by the Governor in accordance with the provisions of this Executive Order. Executive Order Number 134.2 dated May 26, 1993, is revoked and superseded by this Executive Order.

G I V E N under my hand and the Privy
Seal of the State in the City
of Albany, this ~~twenty-fifth~~
day of April in the year one
thousand nine hundred ninety-
five.

L.S.

BY THE GOVERNOR

/s/ George E. Pataki

/s/ Bradford J. Race, Jr.
Secretary to the Governor