

**20-2904. Same; lawyer members; qualifications; selection.** (a) Lawyer members of the district judicial nominating commission shall be elected pursuant to this section. The clerk of the supreme court shall use the certified roster of attorneys licensed to practice law in Kansas, as provided to the secretary of state pursuant to K.S.A. 2016 Supp. 20-2917, and amendments thereto, for ascertaining the names and places of residence of those entitled to receive ballots and for ascertaining the qualifications of those nominated for membership on the district judicial nominating commission.

(b) The number of lawyer members to be elected to the district judicial nominating commission of a judicial district shall be as follows:

(1) In a judicial district consisting of a single county, the number of members elected shall be equal to the number of nonlawyer members appointed pursuant to K.S.A. 20-2905(a)(1), and amendments thereto.

(2) In a judicial district consisting of two counties, four members shall be elected.

(3) In a judicial district consisting of three or more counties, the number of members elected shall equal the number of counties in such judicial district.

(c) (1) Between December 1 and December 15 of the year in which nonpartisan selection of judges of the district court is approved by the electors of the judicial district as provided in K.S.A. 20-2901, and amendments thereto, the clerk of the supreme court shall send to each lawyer by ordinary first class mail a form for nominating one lawyer for election to the commission. Any such nomination shall be received in the office of the clerk of the supreme court on or before January 1 of the following year, together with the written consent of the nominee. After receipt of all nominations which are timely submitted, the clerk shall prepare a ballot containing the names of all lawyers so nominated and shall mail one such ballot and instructions for voting such ballot to each registered lawyer in the judicial district. Ballots shall be prepared in such manner that each lawyer receiving the same shall be instructed to vote for not more than the number of positions to be filled. Each such ballot shall be accompanied by a certificate to be signed and returned by the lawyer voting such ballot, evidencing the qualifications of such lawyer to vote, including the name and residential address of such lawyer, and certifying that the ballot was voted by such person. In any judicial district in which the number of nominees does not exceed the number of positions to be filled, the clerk shall declare those nominees to be elected without preparation of a ballot.

(2) In order to insure that the election of lawyer members is by secret ballot, the clerk shall provide a separate envelope for the ballot, in which the voted ballot only shall be placed, and the envelope containing the voted ballot shall be placed in another envelope, also to be supplied by the clerk, together with the signed certificate, and received in the office of the clerk of the supreme court on or before February 15 of such year. A ballot not accompanied by the signed certificate of the voter shall not be counted. The ballots returned as provided in this section shall be canvassed within 10 days thereafter. The canvassers shall consist of the clerk of the supreme court, the secretary of state or the secretary of state's designee and the attorney general or the attorney general's designee. The canvassers shall open and canvass the ballots and shall tabulate and sign the results as a record in the office of the clerk. After the ballots are counted and the results certified, the ballots shall be preserved by the clerk for a period of six months, and the certificates shall be preserved by the clerk for a period of five years. No one shall be permitted to inspect the ballots received pursuant to this section except upon order by the supreme court. Unless otherwise ordered by the supreme court, at the end of such six-month period, the clerk shall destroy the ballots received pursuant to this section, and at the end of such five-year period, the clerk shall destroy the certificates received pursuant to this section.

(c) Within 14 days after the results of an election are certified pursuant to this section, the clerk of the supreme court shall: (1) Create a list designating the positions and year for which the selection was held and containing the names and residential addresses of all persons who returned a ballot with a signed certificate as described in subsection (b); and (2) transmit a certified copy of the list to the secretary of state. The list described in this subsection shall be transmitted in a format prescribed by the secretary of state. Upon receipt of the list described in this subsection, the secretary of state shall append the information contained therein to the roster for such election as described in section 8, and amendments thereto.

(d) Notwithstanding any other provision of law, the certificates received for an election pursuant to this section shall be disclosed upon proper request submitted to the clerk of the supreme court pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

(e) Notwithstanding any other provision of law, the lists described in subsection (c) shall be disclosed upon proper request submitted to the clerk of the supreme court or to the secretary of state pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

(f) After the ballots are counted and tabulated in descending order from the nominee receiving the highest number of votes the canvassers shall declare to be elected those nominees who are equal in number to the number of lawyers to be elected and who have the greatest number of votes. In the event of a tie creating more nominees to be elected than there are positions to be filled, the canvassers shall determine the person or persons to be elected by lot. In the event that less than the required number of lawyers is elected, the positions for which lawyers have not been elected shall be declared vacant and the vacancies filled in the manner prescribed by K.S.A. 20-2906(e), and amendments thereto.

(g) The procedure provided in this section for election of lawyers to serve as members of the first district judicial nominating commission established in a judicial district shall apply to the election of lawyers to succeed lawyer members of the commission whose terms of office expire, except that the form for submitting a nomination shall be sent between December 1 and December 15 of the year preceding the year in which such terms of office expire, and the dates prescribed for submission of nominations and the mailing, returning and canvassing of ballots shall apply in the year in which such terms of office expire.

**History:** L. 1974, ch. 137, § 4; L. 1976, ch. 145, § 98; L. 1978, ch. 116, § 1; L. 1983, ch. 106, § 1; L. 1992, ch. 283, § 3; L. 2003, ch. 99, § 11; L. 2016, ch. 93, § 9; July 1.