

SUPREME COURT OF COLORADO
OFFICE OF THE CHIEF JUSTICE

JUDICIAL VACANCIES

Colorado Constitution, Article VI, Section 20 provides that a judicial nominating commission must submit a list of nominees for a judicial vacancy to the governor “not later than thirty days after the death, retirement, tender of resignation, removal under section 23, failure of an incumbent to file a declaration under section 25 or certification of a negative majority vote on the question of retention in office under section 25.”

In order to give the supreme court justice who will chair the nominating commission as much time as possible to publish the vacancy, and to permit the nominating commission as much time as possible to interview applicants and to submit nominees to the governor, and to clarify when the 30-day time period begins, the following policies and time frame definitions are adopted:

Policy – Notification to the Chief Justice

When a judge or justice decides to leave judicial office for any reason, he or she should write an informal letter to the chief justice setting forth the date of his or her last day in office. It is this informal letter to the chief justice that will permit the nominating commission to advertise the pending vacancy before the 30-day period begins to run. The chief justice should be given at least 90 days advance notice.

Policy – Notification to the Governor

The press release announcing the judicial vacancy informally notifies the governor that a judge is leaving office. There is no requirement that the judge notify the governor in writing of his or her intention to leave office. If the judge chooses to give such notice, the judge’s letter should be sent to the governor no sooner than seven days before the judge’s last day in office.

Policy – New Judgeships

When the governor signs legislation creating a new judgeship, the 30-day period for submitting names to the governor begins to run from the effective date of the creation of that office.

Time Frames Defined

“Certification of a negative majority vote on the question of retention in office under section 25” – Date the secretary of state certifies the election results.

Chief Justice Directive 00-01
Amended April, 2021

“Death” - Date of death or, if death is not immediately known or discovered, date on which chief justice is notified of death.

“Failure of an incumbent to file a declaration under section 25” – Date set by secretary of state as final day to file a declaration of intent to run for another term.

“Removal under Section 23” – Date the supreme court issues order removing justice or judge.

“Retirement” – Actual date of retirement.

“Tender of resignation” – When a judge sends a letter to the governor stating that he or she is resigning on a specific date, the letter will be treated as a “tender of resignation.” The letter should use the following or similar language: “I hereby tender my resignation from my judicial office, which resignation is effective as of _____.”

It is extremely difficult for a nominating commission to complete its work in 30 days. Informal notice to the chief justice prior to the start of the 30-day deadline will give the nominating commission additional time to fulfill its important responsibilities.

Done at Denver, Colorado this 21st day of April, 2021.

/s/

Brian D. Boatright, Chief Justice