

TITLE 1
COURTS AND COURT OFFICIALS

CHAPTER 21
JUDICIAL COUNCIL

1-2101. JUDICIAL COUNCIL -- CREATION -- MEMBERSHIP -- APPOINTMENTS -- VACANCIES. (1) There is hereby created a judicial council that shall consist of nine (9) members. There shall be four (4) attorney members, one (1) of whom shall be a district judge, one (1) of whom shall be a magistrate judge, and two (2) of whom shall be members of the Idaho state bar. The district judge and magistrate judge members shall be appointed by the governor from a list of three (3) judges for each position submitted to the governor by the Idaho supreme court from the roster of judges currently serving as full-time judges in the state of Idaho with the consent of the senate. The two (2) non-judicial attorney positions may be held by attorneys with any type of practice, provided they shall not both be attorneys whose practice as certified by them at the time of their appointment is predominantly civil defense, predominantly representing civil plaintiffs, predominantly criminal defense, or predominantly criminal prosecution. For each of the nonjudicial attorney positions, the Idaho state bar shall nominate from its membership and submit to the governor a list of three (3) attorneys who meet the criteria of this section. The governor shall select one (1) such attorney for each vacancy for appointment to the judicial council with the consent of the senate. There shall be four (4) non-attorney members that shall be appointed by the governor from the residents of the state of Idaho with the consent of the senate. If any of the above appointments are made during a recess of the senate, they shall be subject to consent of the senate at its next session. The term of office for an appointed member of the judicial council shall be four (4) years. Vacancies shall be filled for the unexpired term in like manner. Appointments shall be made with due consideration for area representation and not more than five (5) of the appointed members shall be from one (1) political party. The chief justice of the supreme court shall be the ninth member and chairman of the judicial council. No more than two (2) of the nonjudicial members of the judicial council may hold any other office or position of profit under the United States or the state of Idaho. The judicial council shall act by concurrence of five (5) or more members and according to rules that it adopts.

(2) In selecting nonjudicial attorneys to nominate for membership on the judicial council, the Idaho state bar commission shall solicit applications from members of the state bar who are eligible for nomination as provided in subsection (1) of this section and shall make a good faith effort to solicit feedback on such attorneys to determine each applicant's appropriateness to serve on the council.

(3) Members serving on the judicial council and confirmed by the senate as of July 1, 2023, shall continue to serve until the expiration of their terms. All subsequent appointments shall be made subject to the requirements of this section, provided that the length of the initial terms of the additional members added to the council by this act may be less than four (4) years as designated by the governor in his appointment in order to as nearly as practicable stagger the terms of newly appointed members and those currently serving in order to promote continuity and avoid disproportionate

council turnover in any given year. Subsequent terms thereafter shall be for four (4) years as required in this section.

[1-2101, added 1967, ch. 67, sec. 1, p. 153; am. 1990, ch. 71, sec. 1, p. 153; am. 2023, ch. 210, sec. 1, p. 585.]

1-2102. DUTIES OF COUNCIL. The judicial council shall:

- (1) Conduct studies for the improvement of the administration of justice;
- (2) Make reports to the supreme court and legislature at intervals of not more than two (2) years;
- (3) Submit to the governor the names of not less than three (3) and not more than four (4) qualified persons for each vacancy in the office of justice of the supreme court, judge of the court of appeals, or district judge, one (1) of whom shall be appointed by the governor; provided that the council shall submit only the names of those qualified persons who are eligible to stand for election pursuant to section [1-2404](#), [34-615](#), or [34-616](#), Idaho Code; and provided further, that for each vacancy the governor may request one (1) time that up to three (3) additional names be submitted for the vacancy, in which case the council shall solicit interest in the vacancy a second time and submit the number of additional qualified applicants as the governor requested for the vacant position to be considered with the original list;
- (4) For each list of names submitted to the governor under subsection (3) of this section, provide to the governor a report summarizing the factors considered in including each person on the list. Such factors may include references to comments and ratings received by the council regarding each nominee as well as other qualifications and considerations that the council considered in making its recommendations; provided however, that a comment that is not a public record or subject to disclosure pursuant to court rule shall not be disclosed in this report;
- (5) Recommend the removal, discipline, and retirement of judicial officers, including magistrates;
- (6) Prepare an annual budget request in the form prescribed in section [67-3502](#), Idaho Code, and submit such request to the supreme court, which shall include such request as submitted by the judicial council in the annual budget request of the judicial department;
- (7) Not less than forty-eight (48) hours prior to an interview of an applicant by the judicial council, if requested by an applicant, disclose to the applicant any written information or comments provided to the judicial council about the applicant, removing information that would identify the commenter, as part of or to be considered in the application and interview process. No written information submitted to the council shall be submitted to council members nor considered by them if it has been requested by, but not disclosed to, the applicant to whom the information relates. If such information is not a public record or is not subject to disclosure pursuant to court rule, it shall not be publicly disclosed in any manner by any person except as permitted by this section; and
- (8) Such other duties as may be assigned by law.

[1-2102, added 1967, ch. 67, sec. 2, p. 153; am. 1985, ch. 29, sec. 3, p. 53; am. 1990, ch. 71, sec. 2, p. 153; am. 2011, ch. 13, sec. 1, p. 40; am. 2023, ch. 210, sec. 2, p. 586.]

1-2103. REMOVAL, DISCIPLINING, OR RETIREMENT OF JUDGES OR JUSTICES -- PROCEDURE. A justice of the Supreme Court or judge of any district court, in accordance with the procedure prescribed in this section, may be disciplined or removed for wilful misconduct in office or wilful and persistent failure to perform his duties or habitual intemperance or conduct prejudicial to the administration of justice that brings judicial office into disrepute, or he may be retired for disability seriously interfering with the performance of his duties, which is, or is likely to become of a permanent character. The judicial council may, after such investigation as the council deems necessary, order a hearing to be held before it concerning the removal, discipline or retirement of a justice or a judge, or the council may in its discretion request the Supreme Court to appoint three (3) special masters, who shall be justices or judges, to hear and take evidence in any such matters, and to report their findings to the council. If, after hearing, or after considering the record and the findings and report of the masters, the council finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline or retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline or retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired pursuant to other provisions of law. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order.

All papers filed with and the proceedings before the judicial council or masters appointed by the Supreme Court, pursuant to this section, shall be subject to disclosure according to [chapter 1, title 74](#), Idaho Code, provided, however, that if allegations against a judge are made public by the complainant, judge or third persons, the judicial council may, in its discretion, comment on the existence, nature, and status of any investigation. The filing of papers with and the giving of testimony before the council or the masters shall be privileged; but no other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the council in the Supreme Court continues privileged and upon such filing loses its confidential character and (b) a writing which was privileged prior to its filing with the council or the masters does not lose such privilege by such filing. The judicial council shall by rule provide for procedures under this section, including the exercise of requisite process and subpoena powers. A justice or judge who is a member of the council or Supreme Court shall not participate in any proceedings involving his own removal, discipline or retirement.

This section is alternative to, and cumulative with, the removal of justices and judges by impeachment, and the original supervisory control of members of the judicial system by the Supreme Court.

[1-2103, added 1967, ch. 67, sec. 3, p. 153; am. 1969, ch. 225, sec. 1, p. 732; am. 1986, ch. 89, sec. 1, p. 261; am. 1990, ch. 213, sec. 3, p. 489; am. 2015, ch. 141, sec. 1, p. 379.]

1-2103A. REMOVAL, DISCIPLINING, OR RETIREMENT OF MAGISTRATES. A magistrate of the district court, in accordance with the procedure prescribed in this section, may be disciplined or removed for wilful misconduct in office or wilful and persistent failure to perform his duties or habitual intemper-

ance or conduct prejudicial to the administration of justice that brings judicial office into disrepute, or he may be recommended for retirement for disability seriously interfering with the performance of his duties, which is, or is likely to become of a permanent character.

The judicial council may, after such investigation as the council deems necessary, order a hearing to be held before it concerning the removal, discipline or retirement of a magistrate, or the council may in its discretion request the Supreme Court to appoint three (3) special masters, who shall be district judges or district magistrates, to hear and take evidence in any such matters, and to report their findings to the council. If, after hearing, or after considering the record and the findings and report of the masters, the council finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline or retirement, as the case may be, of the magistrate.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal or discipline, or recommend retirement for disability, or wholly reject the recommendation. Upon a recommendation for retirement for disability, the recommendation shall be presented to the public employee retirement system for action. Upon an order for removal, the magistrate shall thereby be removed from office, and his salary shall cease from the date of such order.

All papers filed with and the proceedings before the judicial council, or masters appointed by the Supreme Court, pursuant to this section, shall be confidential; provided, however, that if allegations against a magistrate are made public by the complainant, the magistrate, or third person, the judicial council may, in its discretion, comment on the existence, nature and status of any investigation. The filing of papers with and the giving of testimony before the council or the masters shall be privileged, but no other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the council in the Supreme Court continues privileged and upon such filing loses its confidential character; and (b) a writing which was privileged prior to its filing with the council or the masters does not lose such privilege by such filing. The judicial council shall by rule provide for procedures under the provisions of this section including the exercise of requisite process and subpoena powers.

The provisions of this section are alternative to, and cumulative with, the removal of magistrates by impeachment, and the original supervisory control of members of the judicial system by the Supreme Court.

[1-2103A, added 1990, ch. 71, sec. 3, p. 154.]

1-2104. HONORARIA AND EXPENSES OF MEMBERS. Each member of the judicial council, except a judge, justice or magistrate, shall be compensated as provided by section [59-509](#)(h), Idaho Code.

[1-2104, added 1967, ch. 67, sec. 4, p. 153; am. 1980, ch. 247, sec. 2, p. 584; am. 1985, ch. 76, sec. 1, p. 150; am. 1990, ch. 71, sec. 4, p. 155.]