

**Twenty-Sixth Report: 2011-2012
to the
Legislature and Supreme Court**

January 2013

The Alaska Judicial Council (2011-2012)

Members and Terms

Chairperson

Chief Justice Dana Fabe (2012-2015)
Chief Justice Walter L. Carpeneti (2009-2012)

Attorney Members

James H. Cannon (2006-2012)
Kevin Fitzgerald (2008-2014)
Aimee Oravec (2012-2018)
Julie Willoughby (2010-2016)

Non-Attorney Members

William F. Clarke (2008-2013)
Ken Kreitzer (2011-2017)
Kathleen R. Tompkins-Miller (2009-2015)
Christena Williams (2005-2011)

Council Staff

Larry Cohn, Executive Director
Teresa W. Carns, Special Project Coordinator
Susie Mason Dosik, Administrative Attorney
Susan McKelvie, Research Analyst
E.J. Pavsek, Fiscal Officer
Emily R. Marrs, Executive Secretary
Rhonda Hala, Selection and Retention Assistant
Kathy Grabowski, Selection and Retention Assistant

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Judicial Council Membership 2012

Members and staff, (standing) left to right

Teresa W. Carns (Special Project Coordinator), William F. Clarke, Ken Kreitzer,
Larry Cohn (Executive Director), Susie Mason Dosik (Administrative Attorney)

(seated)

Julie Willoughby, Aimee Oravec, Chief Justice Dana Fabe, Kathleen Tompkins-Miller,
Kevin Fitzgerald

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Part I

Introduction

Alaska's Constitution established the Alaska Judicial Council and required it to "make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years" (Article IV, Section 9). This twenty-sixth report to the legislature and the supreme court summarizes the Council's activities in 2011 and 2012.

A. Judicial Council Duties

The Judicial Council has constitutional and statutory duties in three general areas. First, the Council screens applicants for judicial vacancies and nominates the most qualified applicants to the governor for appointment. The legislature also has assigned to the Council the responsibility of screening applicants for the head of the Public Defender Agency.

Second, the Council by law must evaluate the performance of judges who appear on the ballot. Based on its evaluations, the Council recommends whether voters should retain each judge for another term. To help voters make informed decisions, the Council is required to publicize its judicial performance evaluations and its retention recommendations. The Council also conducts evaluations of retired judges sitting pro tem, masters, and magistrates.

Third, the Alaska Constitution directs the Judicial Council to conduct studies and make recommendations to improve the administration of justice in Alaska. The legislature has assigned the Council specific projects from time to time such as staffing Alaska's Criminal Justice Working Group that collaborates on improvements to Alaska's criminal justice system. Constitutional and statutory references to all mandated Judicial Council functions are posted on the Council's website at www.ajc.state.ak.us.

B. Council Membership

Article IV, Section 8, of Alaska's Constitution establishes the membership of the Council as three non-attorney members appointed by the Governor, three attorney members appointed by the Board of Governors of the Alaska Bar Association, and the Chief Justice of the Supreme Court of Alaska who serves, ex officio, as Chair. The Chief Justice rarely votes, and may not do so unless his or her vote can make a difference.

The Constitution provides that all appointments shall be made "with due consideration to area representation and without regard to political affiliation." A majority of both houses of the

legislature must confirm the non-attorney appointments, while the Board of Governors of the Alaska Bar Association appoints the attorney members after conducting advisory elections among Bar members within local judicial districts. Members serve six-year staggered terms. They serve as volunteers and receive no compensation other than reimbursement for travel expenses.

There have been changes in the Council membership since the last report. A historical roster of the Council's membership is in Appendix A and on the Council's website. Current members include:

Chief Justice Dana Fabe replaced Chief Justice Walter L. Carpeneti as chair ex officio of the Council when Chief Justice Carpeneti's three-year term as chief justice expired at the end of June 2012. Chief Justice Fabe also served as chair ex officio of the Council during her prior terms as chief justice in 2000-2003 and 2006-2009. Prior to her appointment to the supreme court in 1996 by Governor Tony Knowles, Chief Justice Fabe served as an Anchorage Superior Court Judge for eight years. She was appointed to that position by Governor Steve Cowper in 1988.

William F. Clarke is a public member from Chugiak. He was appointed by Governor Sarah Palin in 2008. Mr. Clarke is a retired Air Force pilot and engineering marketing manager and has been a resident of Alaska for thirty-two years.

Kevin Fitzgerald is an attorney member from Anchorage. He is a partner in Ingaldson Fitzgerald, P.C. He has practiced law since 1987 and is a second generation Alaskan. Mr. Fitzgerald has served on the Council since 2008.

Kathleen Tompkins-Miller is a public member from Fairbanks. She was appointed by Governor Sarah Palin in 2009. Ms. Tompkins-Miller is a schoolteacher and has been a resident of Alaska for sixteen years.

Julie Willoughby is an attorney member from Juneau. Ms. Willoughby is in private practice in Juneau. She has practiced law since 1998 and is a second generation Alaskan. Ms. Willoughby was appointed to the Council in 2010.

Ken Kreitzer is a public member from Juneau. He was appointed by Governor Sean Parnell in 2011.¹ Mr. Kreitzer has more than 27 years of public safety experience, including work as an airport safety officer, a corrections officer, a firefighter, EMT, a police officer, and a court security officer.

¹ Governor Parnell initially appointed Donald Haase of Valdez to replace Christena Williams of Ketchikan as a non-attorney member. Mr. Haase resigned shortly thereafter and Governor Parnell appointed Mr. Kreitzer to the position.

Aimee Oravec is an attorney member from Fairbanks. Ms. Oravec has practiced law since 1999, and is a shareholder in Oravec Law Group. Ms. Oravec was appointed to the Council in 2012.

C. Organization and Administration of the Council

The Judicial Council is governed by bylaws adopted in concurrence with the constitutional provision that the Council shall act "according to rules which it adopts" (Article IV, Section 8). The current bylaws are in Appendix B and on the Council's website at www.ajc.state.ak.us.

The Judicial Council's staff currently includes the executive director, administrative attorney, special project coordinator, fiscal officer, research analyst, selection and retention assistant, and secretary.

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Part II

Judicial Selection 2011-2012

A. Nominations

1. Number of vacancies

The trend toward more judicial vacancies per year continues, capped by an unprecedented number of vacancies during the past two years. Alaska averaged:

- 3.8 vacancies per year from 1984-1988;
- 4.2 vacancies per year from 1989-2002;
- 7 vacancies per year from 2003-2010;
- 9.5 vacancies per year in 2011-2012.²

2. Average number of applicants per vacancy

In addition to an increasing rate of judicial vacancies per year, the average number of applicants per vacancy has risen:

- 6.2 applicants per vacancy from 1984-1988;
- 8.5 applicants per vacancy from 1989-2002;
- 10 applicants per vacancy from 2003-2012.

² There were 19 vacancies in 2011-2012 resulting in 16 appointments (one appointment is pending and the Council will meet in January 2013 on two of the vacancies). In addition, the Council screened and interviewed applicants three other times when it was unable to nominate a sufficient number of applicants.

3. 2011-2012

Governor Sean Parnell appointed the following judges from among the most qualified applicants nominated by the Judicial Council in 2011 and 2012:

Position	Appointee	Date	Prior Judge
Alaska Supreme Court	Pending	Pending	Walter L. Carpeneti
Alaska Supreme Court	Peter J. Maassen	8/9/12	Morgan Christen
Alaska Court of Appeals	Marjorie K. Allard	11/23/12	Robert G. Coats
Anchorage Superior Court	Catherine M. Easter	3/5/12	Sharon Gleason
Anchorage Superior Court	Paul E. Olson	3/5/12	New position
Anchorage Superior Court	Kevin M. Saxby	3/5/12	New position
Anchorage Superior Court	Erin B. Marston	9/24/12	Peter Michalski
Bethel Superior Court	Chuck Ray	6/20/12	Marvin Charles Hamilton
Bethel Superior Court	Dwayne W. McConnell	7/11/12	Leonard R. Devaney
Dillingham Superior Court	Pat Douglass	12/16/11	Fred Torrissi
Fairbanks Superior Court	Bethany Spalding Harbison	9/24/12	Robert B. Downes
Juneau Superior Court	Louis James Menendez	5/23/11	Patricia A. Collins
Anchorage District Court	Leslie N. Dickson	11/9/12	Catherine M. Easter
Anchorage District Court	Jennifer Stuart Henderson	11/9/12	Paul E. Olson
Anchorage District Court	Jo-Ann M. Chung	5/26/11	Richard W. Postma
Fairbanks District Court	Ben Seekins	1/13/12	Raymond Funk

The Council met on additional occasions to interview judicial applicants. The Council met twice on the Bethel Superior Court vacancy to which Chuck Ray was appointed because it was unable to nominate a sufficient number of applicants after the first set of interviews. In 2011, the Council interviewed applicants for a vacancy on the Bethel District Court created by the retirement of Judge Dennis Cummings. The Council was unable to nominate a sufficient number of applicants. The position will be re-advertised in 2013. The Council met in 2012 to interview applicants for a vacancy on the Fairbanks Superior Court created by the retirement of Judge Randy Olsen. The Council was unable to nominate a sufficient number of applicants. The Council re-advertised the position and will meet in January 2013 to conduct interviews.

Appendix C contains a log of applicants, nominees, and appointees for judicial vacancies that occurred in 2011-2012. A historical log of all judicial applicants, nominees, and appointees for all judicial vacancies since statehood is on the Council's website.

B. Selection Procedures

The Council uses selection procedures that it has developed over the past three decades. The Council asks for character references and detailed reference letters and performance assessments by persons with direct, recent professional experience with the applicant, obtains feedback from the applicant's former employers, solicits comments from the public through its website and in public hearings conducted in the location of the vacancy, reviews information about professional discipline and credit and criminal histories, evaluates writing samples, and investigates issues that arise in any of the information. The Council interviews each applicant. Applicants may choose whether to have a public or private interview.

For each vacancy, the Council surveys every active and every in-state inactive and retired member of the Alaska Bar Association. In 2004, the Council began using an electronic survey to supplement its paper survey. In addition to reducing the Council's survey costs, use of electronic surveys resulted in an enhanced survey response rate and more information about applicants. Now, about 90 percent of survey responses are electronic.

The survey asks respondents to rate applicants based on their professional competence, integrity, fairness, judicial temperament, suitability of experience, and overall qualifications. Respondents may also submit comments. Comments are shared with applicants after the comments have been edited to preserve the anonymity of survey respondents. Council members do not consider unsigned comments unless the comments are substantiated, corroborated, or acknowledged by the applicant.

The Council periodically reviews its selection procedures to make improvements. A very detailed description of the Council's selection procedures is in Appendix D and on the Council's website.

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Part III

Judicial Performance Evaluations 2011-2012

A. Retention Election Evaluations

1. Introduction

Alaska's constitution and statutes require each judge periodically to stand for retention at the general election. The lengths of terms vary with the judicial position, with all judges serving a shorter initial term, and longer terms after the first retention. Statutes passed in 1975 require the Judicial Council to evaluate each judge standing for retention, and to make the results of the evaluations known to the public. The Council also recommends a "yes" or "no" vote on each judge to the voters, and publicizes its decisions.

Appendix F contains the retention election history for current judges. Lists of judges eligible to stand for retention in 2014 and 2016 are in Appendix G. Appendix H summarizes historical results of the Council's performance evaluations for retention. A history of retention votes from 1976 through 2012 may be found on the Council's website.

2. Evaluation Procedures

In 2012, the Judicial Council surveyed all active (and in-state inactive) members of the Alaska Bar Association, and all peace and probation officers in the state. The Council sent surveys to 3,029 attorneys (24.6% response rate) and 1,632 peace and probation officers (18.8% response rate). An independent contractor handled the surveys for the Judicial Council to assure objectivity in the findings. Survey respondents provided ratings and comments about judges' legal abilities, fairness, integrity, temperament, diligence, and overall performance. Similar surveys went to 123 social workers and guardians ad litem (advocates for Alaska's abused and neglected children and incapacitated adults) (32.5 % response rate). The Council asked jurors who had served on cases with the judges to rate and comment on the judges' abilities to handle trials fairly and capably (1,585 responded). The Council also surveyed 668 non-attorney court employees (43% response rate). The Council mostly used electronic surveys unless it was not feasible to do so.

Each judge standing for retention returned a self-evaluation questionnaire to the Judicial Council. The questionnaire included lists of recent cases that the judge believed were important for evaluation, with an emphasis on jury and non-jury trials. The Council asked each attorney in each

case to fill out an additional survey about the judge's performance in that particular case, including detailed comments about the judge's abilities.

Council staff reviewed a series of other public records, including conflict-of-interest annual statements filed with the Alaska Public Offices Commission and separate forms filed with the court system; court case files; disciplinary proceedings; and a report on any withheld salary warrants. The Council also reviewed performance-related court data, such as the number of peremptory challenges filed against a judge, the number of times a judge recused himself or herself from presiding over a case, and how frequently the judge was reversed on appeal in civil and criminal cases. The Alaska Judicial Observers, an independent group of community-based volunteer court observers, provided ratings and observations about judges in Anchorage, Kenai, and Palmer whom they had evaluated.

The Council widely publicized the evaluation process. The Council held statewide public hearings for public comment on all judges standing for retention, using the legislature's teleconference network and public meeting rooms. Statewide newspaper ads encouraged public participation. The Council solicited comments about judges on its website.

Council staff investigated specific issues by reviewing case files, listening to court proceedings, reviewing personnel files and medical records, and interviewing judges, attorneys, court administrators, and others. Council members interviewed some judges.

The Council made its retention evaluation information widely available to the public. The Official Election Pamphlet sent to each Alaska voter included a page summarizing the Council's performance evaluation materials on each judge. The Council published comprehensive materials, and posted most non-confidential information on its retention home page (knowyouralaskajudges.com). In 2012, the Council placed a series of ads in most of the state's newspapers during the weeks before the November election, ran radio ads in the Third and Fourth Judicial Districts, and engaged in community outreach. A detailed description of the Council's retention evaluation process is in Appendix E and on the Council's website.

3. Recommendations

Twenty-six judges stood for retention in 2012: one supreme court justice, one court of appeals judge, three trial court judges in the First Judicial District (one superior court, two district court), one in the Second District, seventeen in the Third District (ten superior court, seven district court), and three in the Fourth District (two superior and one district). The Council found all of the judges qualified and recommended that they be retained.

4. Election Results

a. Summary

Voters retained all of the judges recommended by the Council with yes vote percentages ranging from 55.1% to 76.5%.

b. Yes Vote Percentages for the Various Courts

1. Appellate Courts

Supreme Court: The percentage of yes votes for supreme court justices tends to vary more by year than for most other judicial positions. The reasons are often related to issues other than the evaluations of the justices standing in a particular year. In 2012, Justice Winfree was retained with 64.9% yes votes, within the 64% to 69% range for unopposed justices.

Court of Appeals: The percentage of yes votes for court of appeals judges ranges between 60.7% and 65.5%, a slightly lower range than that for the supreme court justices. Judge Bolger was retained with 65.2% yes votes.

2. First District

Voters in the First Judicial District retained the three judges with comfortable margins. Judge William Barker Carey, Ketchikan Superior Court, had 74.6% yes votes. Both Juneau District Court Judges Keith Levy (76.6%) and Thomas Nave (75.7%) were retained.

3. Second District

Judge Michael Jeffery was retained with a yes vote percentage of 74.0%.

4. Third Judicial District

Seventeen judges in the Third District stood for retention, ten from the superior courts and seven from the district courts. All were recommended for retention by the Judicial Council, and all were retained.

Superior Court: Notably, with the exception of Anchorage Judge Sen Tan, the Third District superior court judges as a group had yes vote percentages higher than in 2006, 2008, or 2010. The four superior court judges from outside Anchorage were retained without opposition, and with yes

vote percentages well within the usual range for the district.³ The six superior court judges from Anchorage also all were retained, one with substantial opposition and two with minor opposition.⁴

Anchorage Judge William Morse was opposed by a single individual who campaigned against the judge citing rulings in a 2008 Municipality of Anchorage elections case. Judge John Suddock was opposed in an email campaign, based on perceptions about his decisions in family law cases. Both were retained, Judge Morse with 62.7% yes votes, and Judge Suddock with 61.6% yes votes.

Judge Sen Tan was opposed in a campaign that became public in mid-October, about three weeks before the election. The campaign, primarily funded by the 501(c)(4) political arm of a non-profit corporation, used mass mailings, email and social media messages, radio ads, large public banners, press releases, and newspaper columns to communicate its views. The opposition cited two family law cases decided by Judge Tan more than ten years earlier in which the judge's rulings were affirmed by the Alaska Supreme Court. A group of Alaskans organized a campaign to retain Judge Tan, as is permitted by the canons of judicial ethics. They relied primarily on social media to communicate with voters. In limited newspaper advertising, the Judicial Council reiterated its recommendation that Judge Tan be retained, and reiterated his high ratings from persons with professional experience with the judge, including perfect ratings from advocates for abused and neglected children. Judge Tan was retained with 55.1% yes votes.

District Court: Historically, district court judges in the Third Judicial District have received slightly higher yes vote percentages than superior court judges from the same district. In 2012, the district court's judges were retained with yes vote percentages from 63.9% to 66.9%, well within the expected range.⁵ None were opposed.

5. Fourth District

Three judges in the Fourth Judicial District stood for retention, all in Fairbanks, and all for the first time. Superior Court Judges Paul Lyle (66.7%) and Michael McConahy (67.6%), and District Court Judge Patrick Hammers (68.8%) all were retained with yes vote percentages in the usual range for the Fourth Judicial District.

³ They were Steve Cole (64.5%, Kodiak), Gregory Heath (64.1%, Kodiak), Charles Huguelet (63.0%, Kenai), and Eric Smith (63.3%, Palmer).

⁴ The three Anchorage superior court judges who were unopposed were Judges Frank Pfiffner (63.2%), Judge Phillip Volland (63.8%), and Judge Michael Wolverton (64.7%).

⁵ Third District district court judges included Patrick Hanley (66.9%, Anchorage), Margaret Murphy (64.8%, Homer), Daniel Schally (63.9%, Valdez), Alex Swiderski (64.1%, Anchorage), David Wallace (65.9%, Anchorage), Pamela Scott Washington (66.2%, Anchorage), and David Zwink (65.0%, Palmer).

B. Performance Evaluation of Pro Tem Judges and Other Judicial Officers

1. Pro tem justices and judges

The Council's role in evaluation expanded in 1986, when the supreme court adopted Administrative Rule 23, requiring the Council to evaluate retired judges who wish to serve pro tem. The rule requires the Council to survey Bar members every two years, evaluate the judges' abilities to serve pro tem, and provide the evaluations to the Chief Justice. In 2012, the Council surveyed attorneys about the performance of sixteen pro tem judges and shared that information with the chief justice. Survey results are on the Council's website at www.ajc.state.ak.us/protem/protem12.pdf.

2. New judges

In 2012, the Council surveyed attorneys about the performance of six judges who will be on the ballot for the first time in 2014. The purpose of the evaluation was to provide new judges with performance feedback relatively soon after appointment so that judges could better understand what they were doing well and where they could improve their performance. Survey ratings and comments were shared with the chief justice. For the judges in their districts, presiding judges received survey results and comments edited to preserve the anonymity of survey respondents. Each new judge received his or her own survey ratings and edited comments.

3. Masters and magistrates

At the Alaska Court System's request, and with legislative funding, the Council completed an evaluation of all forty-six of Alaska's masters and magistrates in 2011. Masters and magistrates are not appointed by the governor nor are their qualifications reviewed by the Alaska Judicial Council. They are appointed by the presiding judge of the judicial district in which they serve. They are not subject to retention elections like Alaskan judges and justices. In some rural locations, magistrates are the only judicial officers. The Council surveyed all active in-state members of the Alaska Bar Association and all Alaska peace and probation officers.

The Council shared the results of its evaluation with the chief justice, court administrators, and presiding judges. Each master and magistrate was provided with a summary of the evaluation pertaining to his or her own performance. Summaries of the Council's survey results are posted on the Council's website. The evaluation provided the court, the legal community, law enforcement, and

the public with information about the performance of Alaska's masters and magistrates. The evaluation also provided useful feedback to these judicial officers.

Part IV

Other Work to Improve the Administration of Justice

A. Introduction

Alaska's constitution requires the Judicial Council to "conduct studies for the improvement of the administration of justice, and make reports and recommendations to the supreme court and to the legislature." This section of the Twenty-Sixth Report summarizes the reports, committee service, and projects that the Council completed in 2011 and 2012 to meet this mandate. It also describes the Council's plans for on-going work and collaboration with others to improve the administration of justice.

The Council serves the public by providing a wide variety of information about different aspects of the justice system. Staff regularly respond to questions from the public about courts and judges, provide copies of its reports to agencies and the public, and refer people to other resources for their specific needs. The Council maintains a comprehensive website with current information about judicial selection, retention, and the Council's other work. The next sections of Part IV detail the major projects undertaken in 2011 and 2012, and describe work in progress.

B. Criminal Justice Working Group

The 2007 legislature funded the Judicial Council to staff the inter-branch Criminal Justice Working Group (CJWG) which collaborates on ways to improve Alaska's criminal justice system. The group includes commissioners and other top policymakers from the state departments of Corrections, Health and Social Services, Public Safety, Law, Education, and the Mental Health Trust Authority. Other members include the heads of the Alaska Public Defender Agency and the Office of Public Advocacy; the Administrative Director of the Alaska Court System and the deputy court directors; the Judicial Council Executive Director; the U.S. Marshall; the Chief of the Anchorage Police Department; the Anchorage Municipal Prosecutor; and the Director of the Office of Victims' Rights. In 2011-2012, the CJWG was co-chaired by Alaska Attorney General John Burns who was succeeded as co-chair by Alaska Attorney General Michael Geraghty; and Alaska Supreme Court

Justice Walter L. Carpeneti, who has co-chaired the group since shortly after it was formed, including during his recent term as chief justice.⁶

The group meets monthly to resolve inter-branch issues, and to focus on longer term projects. The Judicial Council staffs the CJWG, providing meeting coordination, doing research and investigation, and developing materials for use by the committees. The CJWG has two main committees and several subcommittees.

1. Efficiencies Committee

As its name suggests, the Efficiencies Committee collaborates to make the criminal justice system work more smoothly, to maximize resources, and to minimize case disposition times. Christine Johnson, the Administrative Director of the Alaska Court System, has chaired the committee since it was formed. The committee's major projects in 2011 and 2012 included:

- **Electronic Exchange of Discovery.** Based on a needs assessment done by the Judicial Council, and using Multi-Agency Justice Integration Consortium (MAJIC) funds provided by the Alaska Court System, the committee hired a contractor to develop and implement a pilot program in Juneau to enable law enforcement agencies to provide discovery electronically to a server based in the Department of Law where it could be accessed by defense attorneys on a case-by-case basis. The system is intended to expedite the exchange of discovery, use fewer resources, and minimize litigation over whether and when discovery was provided. The pilot program is now operational. If the program is successful, the committee hopes to expand its use to other locations.
- **Minor Offenses Subcommittee.** The Efficiencies Committee formed the Minor Offenses Subcommittee to identify more efficient ways to process traffic violations and minor offenses. Colonel Audie Holloway, then-head of the Alaska State Troopers, directed the subcommittee's work. Subcommittee members included representatives from the Alaska Division of Motor Vehicles, Alaska Wildlife Troopers, Alaska Court System, Alaska Departments of Law and Transportation, the Anchorage Police and Airport Police Departments. The subcommittee issued findings and recommendations that culminated in the revision of court rules by the Alaska Supreme Court. The committee is also considering statutory and procedural improvements.

⁶ Governor Sean Parnell, then-Lieutenant Governor, co-chaired the group with Justice Carpeneti during its early years.

- **Therapeutic Courts Subcommittee.** The Efficiencies Committee formed a Therapeutic Court Subcommittee to coordinate agency funding and to maximize the effectiveness of the courts. The subcommittee is chaired by Steve Williams, a program officer of the Alaska's Mental Health Trust Authority. The subcommittee drafted a mission statement and a definition of therapeutic courts to distinguish them from other special projects.

At the subcommittee's request, Judicial Council staff interviewed therapeutic court stakeholders to insure that these courts operate at maximum capacity. To encourage consistent implementation among the various courts, the subcommittee drafted a statewide memorandum of agreement to replace individual court agreements. The subcommittee is working on the expansion of the DUI Courts in Kenai and Palmer. To promote rehabilitation, the committee is examining potential incentives and means to provide some offenders with an opportunity to reinstate their driver's licenses in ways that are consistent with public safety.

- **Appointment of Public Counsel Audit.** In response to concerns expressed by legislators, the Alaska Court System and the Alaska Judicial Council are auditing the appointment of public counsel. The court transcribed arraignments statewide during one week in May. The Judicial Council reviewed these transcripts and provided information to the court to assess judicial compliance with Criminal Rule 39.1 and to enable background investigations to determine the accuracy of financial information furnished by defendants. The court surveyed all private attorneys who have represented a criminal defendant in the past two years to obtain information about the fees that attorneys charge to represent criminal defendants. The information will be used to determine whether amendments to Rule 39.1 are needed.
- **Kotzebue Jail.** The Efficiencies Committee served as a forum for addressing inter-agency and inter-branch issues created by the closing of the Kotzebue jail.
- **Data Sharing Among Case Management Systems.** Member agencies are coordinating their efforts to reduce potential roadblocks in sharing criminal justice system data by ensuring that their case management systems comply with national standards. In conjunction with MAJIC, members participated in several national information sharing trainings. They also are collaborating on a project to ensure that all criminal justice agencies use the same person identification number, to aid in sharing data across systems.

To provide consistency and to assist with research and analysis, member agencies reviewed their respective definitions of criminal justice system terms such as “trial,” “acquittal,” and “conviction.”

- **Bethel Justice Center.** Committee members hope to examine the feasibility of a Justice Center in Bethel that might include a new courthouse and provide improved facilities and greater efficiencies for agencies involved with the criminal justice system.

2. Prevention-Recidivism Committee

The Prevention-Recidivism Committee collaborates to prevent crime, protect public safety, and reduce recidivism. Since its inception, the committee has been chaired by Joe Schmidt, Commissioner of the Alaska Department of Corrections. At the committee’s request, the Judicial Council, with the assistance of the Institute of Social and Economic Research, conducted substantial research and reported its results in 2011 and 2012:

- **Recidivism.** The Council analyzed recidivism rates of felons and misdemeanants released in 2008 and 2009. The Council used data provided by the Alaska Departments of Public Safety and Corrections.⁷
- **Evaluation of Substance Abuse Treatment Programs.** The Council reviewed outcomes for evidence-based programs in the adult criminal justice system by evaluating Alaska’s therapeutic courts for addictions and Department of Corrections institutional substance abuse programs.⁸
- **Preliminary Evaluation of PACE.** The Council analyzed a pilot program called PACE (Probationer Accountability with Certain Enforcement) that began operation in Anchorage in 2010.⁹ The program was based on an innovative program in Hawaii that provides for swift and certain punishment for probation violations. Since then, the program has been expanded to Palmer and to Fairbanks. In Fairbanks, the program focuses on misdemeanor domestic violence offenders.

Other work by the committee in 2011-2012 included:

⁷See below at Subsection D.5.

⁸See below at Subsection D.6.

⁹See below at Subsection D.4.

- **Alaska Prisoner Re-Entry Task Force.** The Task Force, formed by the Prevention-Recidivism Committee, focused on reintegration of Alaskan offenders into their communities to reduce recidivism. The Task Force, headed by DOC Deputy Commissioner Carmen Gutierrez,¹⁰ is comprised of representatives from the Alaska Departments of Corrections, Health and Social Services, Mental Health Trust Authority, Public Safety, Labor, and Education. Representatives of the Alaska Housing Finance Authority, the Alaska Court System, and the Alaska Judicial Council also participate. Other participants include the Alaska Native Justice Center, the Municipality of Anchorage, Akeela, Nine Star, Partners for Progress, Southcentral Foundation, the State Chamber of Commerce, representatives of faith-based organizations, workforce and community mental health service providers, former prisoners, and victims. In December 2010, the group completed a draft Five-Year Strategic Plan that focused on ways to improve housing, employment and educational opportunities, and increase sobriety and mental health support. In 2011-2012, the Task Force hired a project coordinator and established four areas of concentration – housing, employment, collateral consequences, and misdemeanor recidivism.
- **Barrier Crimes.** The committee is formulating a plan to review all of the crimes which serve as barriers to employment to see whether changes are needed and to create a more efficient and effective waiver process.
- **Title 12 Competency.** A Title 12 Competency Subcommittee, headed by Steve Williams, Program Officer with the Mental Health Trust, is examining more cost-effective approaches to addressing the high recidivism rates of adults and juveniles who are incompetent to stand trial. The subcommittee reviewed procedures for competency hearings and made recommendations for short-term changes. The subcommittee is reviewing changes that may require legislation and changes to court rules.

C. Committee Service

The Judicial Council plays an important role in Alaska’s justice system by working with the courts, legislature, and executive branch agencies on committees and shared interests. The Council also works with other states and national groups on topics of shared interest, and is often called upon to contribute to best practices and research in the selection and evaluation of judges.

¹⁰Deputy Commissioner Gutierrez recently retired and has been replaced as head of the Task Force by newly appointed Deputy Commissioner Ron Taylor, who will also retain his duties as head of the Division of Probation and Parole.

1. Supreme Court Committees

Council staff participate on two Alaska Supreme Court Committees: the Committee on Fairness, Diversity & Equality and the Civil Access Committee.

2. Judicial Education Committees

Council staff serve on two of the court's committees for planning judicial training and education. One committee plans training conferences for new judges and the other committee plans spring and fall judicial conferences for all judges. Council participation on these committees gives other members the benefit of the Council's perspective on judicial needs gained from the selection and evaluation processes.

3. MAJIC Committee

Council staff serve on the steering committee for the Multi-Agency Justice Integration Consortium (MAJIC). The group was formed in 2002 by the statutory Criminal Justice Information Advisory Board whose mission is to help agencies share information to improve performance of the criminal justice system as a whole. The eighteen agencies on the steering committee meet biweekly to resolve problems, test approaches to information sharing, and find ways to standardize data. The Council also reported periodically to MAJIC during the past two years about the Criminal Justice Working Group activities that needed to be coordinated with MAJIC members.

D. Publications

All Council research reports since 1974 and the Council's five most recent prior biennial reports are on the Council's website, at <http://www.ajc.state.ak.us/reports/admin.html>. In 2011 and 2012, the Council issued six reports:

1. Does the YLS/CMI help to predict recidivism? An Assessment of the Division of Juvenile Justice's Use of the Youth Level of Services/ Case Management Inventory. August 2011. [Revised August 2012]

At the request of Alaska's Division of Juvenile Justice, the Judicial Council, with ISER's help, assessed the effectiveness of the Division's risk assessment instrument, the YLS/CMI, for predicting recidivism. The report found that the YLS/CMI predicted recidivism for males, but not females. The report included suggestions for more effective use of the instrument, and other information about recidivism among youths served by the Division in 2008.

2. Batterer Intervention Programs: Stakeholder Observations. August 2011.

At the request of the Department of Corrections, the Council interviewed stakeholders from five Batterer Intervention Programs. The report identified some systemic strengths and weaknesses of the programs and included suggestions for their further development.

3. Alaska Civil Case Data 2001-2010. August 2011

This report summarized the effort to collect data about the resolution of civil cases in Alaska from 2001 through 2010. Significant analysis was precluded by insufficient reporting of data. The report noted that the Division of Insurance, based on reports from insurers, had been unable to assess the effect of tort reform on the costs and availability of insurance in Alaska.

4. Anchorage PACE - Probation Accountability with Certain Enforcement. A Preliminary Evaluation of the Anchorage Pilot PACE Project. September 2011

Probation Accountability with Certain Enforcement (PACE) was a pilot program that began operation in Anchorage in July 2010. The collaborative program monitored at-risk probationers with drug or alcohol-testing conditions to assure their compliance, through random testing for substance abuse and tracking participants' appointments with their probation officers. At the request of the Criminal Justice Working Group, and with ISER's assistance, the Council found that PACE appeared to be successful at reducing positive drug tests, but that definitive conclusions about the project's success required more data and further evaluation.

5. Criminal Recidivism in Alaska, 2008 and 2009. November 2011.

At the request of Alaska's Criminal Justice Working Group, the Judicial Council, with the assistance of the Institute of Social and Economic Research, UAA, studied the recidivism of nearly 23,000 offenders who returned to Alaskan communities in 2008 and 2009. This was the first study in Alaska to analyze the recidivism of offenders charged with misdemeanors, enabling comparisons that were not possible before. The report will be used as a baseline for assessing trends in the criminal justice system, and against which the effectiveness of new programs to protect the public can be measured. The report discussed the factors associated with recidivism depending on the type of offense, the offenders' demographic characteristics, and location in the state. It also examined the type and seriousness of new offenses.

6. Recidivism in Alaska's Therapeutic Courts for Addiction and Department of Corrections Institutional Substance Abuse Programs. March 2012.

The Alaska Criminal Justice Working Group asked the Alaska Judicial Council to review outcomes for evidence-based programs in the adult criminal justice system. The Judicial Council, with ISER's assistance, responded to that request by evaluating Alaska's therapeutic courts for addictions and Department of Corrections institutional substance abuse programs. Based on the information available, the study found that the programs were promising, especially for those who completed them. The study also identified ways to improve data collection.

E. Report in Progress

In 2008, the Council analyzed its data about judicial applicants, nominees, and appointees from 1984 to 2007. The report documented the substantial changes that had occurred in the characteristics of the bar and applicants in the years between 1984 and 2007, and noted changes in the numbers of vacancies and applications during that period. The report informed the public, bar members, prospective applicants, and the judiciary about the Council's practices, the performance of Alaska's judges, and the applicant qualifications associated with nomination by the Council and appointment by the governor. The report also provided information to the Judicial Council about its own performance. In 2013, the Council will update the analysis by examining data from the past five years, during which there were a substantial number of judicial appointments.

Part V

The Alaska Judicial Council Website

A Guide to Information and Materials

The Alaska Judicial Council maintains a comprehensive website, www.ajc.state.ak.us, to inform the public of its activities and to solicit public input about judges and judicial applicants. The Council has received national recognition for the amount of the information available to the public about the judicial selection process, the performance of Alaska's judges, and Council studies to improve the administration of justice in Alaska. Voters can directly access the Council's retention recommendations and comprehensive information about the performance of the judges on the ballot at www.knowyouralaskajudges.com.

A. Information about the Alaska Judicial Council

The Council's website includes information about the history of the Alaska Judicial Council. Minutes from Alaska's Constitutional Convention are provided so that the public can review the framers' intent in establishing Alaska's merit selection system. A roster of all current and past members of the Judicial Council is posted, along with photographs of the current Judicial Council and the first Judicial Council. Current Judicial Council by-laws are on the website, as are references to all current law regarding the Council.

B. Judicial Selection

The Council posts a detailed description of its judicial selection procedures on its website. To preserve the integrity and dignity of Alaska's judicial selection process and the public's confidence in it, the Council posts a copy of *Alaska Judicial Applicant Guidelines*, a manual prepared jointly by the Council and the Alaska Commission on Judicial Conduct. The manual discusses the statutes, court rules, and ethical considerations governing the permissible areas of activity by judicial applicants.

Attorneys may download applications for judicial positions from the Council's website. The Council's website enables the public to comment on judicial applicants via the Internet.

For all judicial vacancies, the Council posts:

- A press release announcing the vacancy.
- A list of all applicants with biographical information about each applicant.
- A complete technical analysis of bar survey data.
- Notice of the Council's public hearing to receive comments about applicants.
- A list of the Council's nominees for the vacancy, with copies of the public portions of their applications.
- Notice of the person appointed to the position.

The Council posts an historical log of all applicants, nominees, and appointees for judicial positions since statehood in 1959. The log contains links to additional information for all sitting judges.

C. Information about Judges and Other Judicial Officers

So that Alaskans can make informed decisions about whether to retain the judges on the ballot, Alaskan law requires the Council to evaluate the performance of judges, to make recommendations to the public about whether judges should be retained, and to publicize its performance evaluations and recommendations. The Alaska Judicial Council publishes as much or more information about the performance of judges than anywhere in the country, and perhaps the world. Voters can directly access the Council's retention recommendations and information about the performance of the judges at www.knowyouralaskajudges.com. The public may submit comments about the performance of judges via the Council's website.

The website includes a description of the procedures the Council uses to evaluate the performance of judges who appear on the ballot. Detailed summaries of all of the Council's retention evaluations since 1996 are posted. The Council also posts summaries of its evaluations of Alaska's pro tem judges, masters, and magistrates.

The website also includes information about all of Alaska's current judges and a list of former judges. A copy of the non-confidential section of each current judge's judicial application is posted. The website provides each judge's date of appointment and the years that the judge appeared on the ballot. For current judges, the next date that the judge will be on the ballot is indicated. The website provides retention vote history election results for each judge appearing on the ballot since 1976.

D. Publications

All Council biennial reports since 2003-2004 and all other Council publications since 1974 may be downloaded from the Council's website.

E. Links to Other Websites

The Council's website makes it easier for members of the public to access other information of interest by including links to websites maintained by the governor, the legislature, the Alaska Court System, the Commission on Judicial Conduct, the Alaska Bar Association, the Child Support Enforcement Division, the Office of Victims' Rights, the Division of Elections, the Alaska Justice Center, and UAA's Institute of Social and Economic Research, among others. Links to Alaskan newspapers, federal courts and justice agencies, and to national justice organizations are also posted.

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Appendix A

Judicial Council Membership

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Appendix A

Judicial Council Membership

Members of the Alaska Judicial Council		
Council Members	Appointment Effective	Expiration of Term
Chief Justice Dana Fabe Alaska Supreme Court 303 K Street Anchorage, AK 99501	7/1/12	6/30/15
Kevin Fitzgerald (<i>Attorney Member</i>) Ingaldson Fitzgerald, P.C. 813 W. 3 rd Avenue Anchorage, AK 99501	4/28/08	2/23/14
Aimee Oravec (<i>Attorney Member</i>) 330 Wendell Street, Ste E Fairbanks, AK 99701	4/10/12	2/23/18
Julie Willoughby (<i>Attorney Member</i>) 227 7 th Avenue Juneau, AK 99801	4/27/10	2/23/16
William F. Clarke (<i>Non-Attorney Member</i>) 1029 W. 3 rd Avenue, Ste 201 Anchorage, AK 99501	10/16/08	3/1/13
Ken Kreitzer (<i>Non-Attorney Member</i>) 1029 W. 3 rd Avenue, Ste 201 Anchorage, AK 99501	7/29/11	3/1/17
Kathleen Tompkins-Miller (<i>Non-Attorney Member</i>) 1029 W. 3 rd Avenue, Ste 201 Anchorage, AK 99501	3/1/09	3/1/15

Judicial Council attorney and non-attorney members serve terms of six years. The Chief Justice serves a three-year term.

Historical Roster of Alaska Judicial Council Members			
	Residence	Appointment Effective	Expiration of Term
Chairperson¹			
Chief Justice Buell A. Nesbett		11/29/59	06/18/70
Chief Justice George F. Boney		06/18/70	11/16/72
Chief Justice Jay A. Rabinowitz		11/16/72	11/16/75
Chief Justice Robert Boochever		11/16/75	11/16/78
Chief Justice Jay A. Rabinowitz		11/16/78	11/16/81
Chief Justice Edmond W. Burke		11/16/81	09/30/84
Chief Justice Jay A. Rabinowitz		10/01/84	09/30/87
Chief Justice Warren W. Matthews		10/01/87	09/30/90
Chief Justice Jay A. Rabinowitz ³		10/01/90	09/30/92
Chief Justice Daniel A. Moore, Jr.		10/01/92	09/30/95
Chief Justice Allen T. Compton ³		10/01/95	07/01/97
Chief Justice Warren W. Matthews		07/02/97	06/30/00
Chief Justice Dana Fabe		07/01/00	06/30/03
Chief Justice Alexander O. Bryner		07/01/03	06/30/06
Chief Justice Dana Fabe		07/01/06	06/30/09
Chief Justice Walter L. Carpeneti		07/01/09	06/30/12
Chief Justice Dana Fabe		07/01/12	06/30/15
Attorney Members			
E.E. Bailey ²	Ketchikan	02/24/59	02/24/62
E.E. Bailey	Ketchikan	02/24/62	02/24/68
Frank M. Doogan ³	Juneau	10/15/68	04/73
Michael L. Holmes ⁴	Juneau	05/73	02/24/74
Michael L. Holmes	Juneau	02/24/74	02/24/80
Walter L. Carpeneti ⁵	Juneau	02/24/80	02/81
James B. Bradley ⁴	Juneau	04/81	02/24/86
William T. Council	Juneau	02/24/86	02/24/92
Thomas G. Nave	Juneau	02/24/92	02/23/98
Geoffrey G. Currall	Ketchikan	02/24/98	02/23/04
Douglas Baily	Juneau	04/27/04	07/18/07
Louis James Menendez ⁴	Juneau	07/19/07	02/23/10
Julie Willoughby	Juneau	04/27/10	02/23/16
Robert A. Parrish ²	Fairbanks	02/24/59	02/24/64
William V. Boggess ⁵	Fairbanks	02/24/64	04/64
Michael Stepovich ⁴	Fairbanks	05/64	02/24/70
Michael Stepovich	Fairbanks	02/24/70	02/24/76
Michael Stepovich ³	Fairbanks	02/24/76	08/78
Marcus R. Clapp ⁴	Fairbanks	08/78	02/24/82
Mary E. Greene ³	Fairbanks	02/24/82	04/82
Barbara L. Schuhmann ⁴	Fairbanks	07/82	02/24/88
Daniel L. Callahan	Fairbanks	02/24/88	02/24/94
Christopher E. Zimmerman ⁵	Fairbanks	04/14/94	07/17/97
Paul J. Ewers	Fairbanks	07/18/97	02/23/00
Robert B. Groseclose	Fairbanks	04/05/00	02/23/06
James H. Cannon	Fairbanks	02/24/06	02/23/12
Aimee Oravec	Fairbanks	04/10/12	02/23/18

Historical Roster of Alaska Judicial Council Members			
	Residence	Appointment Effective	Expiration of Term
Attorney Members (Continued)			
Raymond E. Plummer ^{2,3}	Anchorage	02/24/59	09/26/61
Harold Butcher ⁴	Anchorage	11/61	02/24/66
George F. Boney ⁵	Anchorage	02/24/66	09/68
Lester W. Miller, Jr. ⁴	Anchorage	10/15/68	02/24/72
Eugene F. Wiles ³	Anchorage	02/24/72	03/75
Joseph L. Young ⁴	Anchorage	04/75	02/24/78
Joseph L. Young	Anchorage	02/24/78	02/24/84
James D. Gilmore	Anchorage	02/24/84	02/24/90
Mark E. Ashburn	Anchorage	03/23/90	02/23/96
Robert H. Wagstaff	Anchorage	03/22/96	02/23/02
Susan Orlansky	Anchorage	03/14/02	02/27/08
Kevin Fitzgerald	Anchorage	04/28/08	02/23/14
Non-Attorney Members			
Elmo LeRoy "Roy" J. Walker ²	Fairbanks	05/18/59	05/18/61
John Cross	Kotzebue	05/18/61	05/18/67
Thomas K. Downes ³	Fairbanks	05/18/67	Mid-1968
V. Paul Gavora ⁴	Fairbanks	10/15/68	05/18/73
Thomas J. Miklautsch ³	Fairbanks	05/28/73	12/10/74
Robert H. Moss ⁴	Homer	12/10/74	05/18/79
Robert H. Moss	Homer	05/18/79	05/18/85
Dr. Hilbert J. Henrickson	Ketchikan	08/13/85	05/18/91
David A. Dapcevich	Sitka	05/19/91	05/18/97
Mary Matthews ³	Fairbanks	05/19/97	08/23/98
Sandra Stringer ⁴	Fairbanks	08/24/98	07/12/99
Katie Hurley	Wasilla	07/13/99	05/18/03
Bill Gordon	Fairbanks	05/19/03	03/01/09
Kathleen Tompkins-Miller	Fairbanks	03/01/09	03/01/15
Jack E. Werner ²	Seward	05/18/59	05/18/63
Jack E. Werner	Seward	05/18/63	05/18/69
Ken Brady	Anchorage	06/28/69	05/18/75
Ken Brady	Anchorage	05/18/75	05/18/81
Mary Jane Fate	Fairbanks	05/18/81	05/18/87
Leona Okakok	Barrow	07/31/87	05/18/93
Janice Lienhart	Anchorage	05/19/93	05/18/99
Gigi Pilcher	Ketchikan	03/21/00	05/18/05
Christena Williams	Ketchikan	05/19/05	03/01/11
Donald J. Haase ³	Valdez	03/01/11	04/07/11
Ken Kreitzer	Juneau	07/29/11	03/01/17

Historical Roster of Alaska Judicial Council Members			
	Residence	Appointment Effective	Expiration of Term
Non-Attorney Members <i>(continued)</i>			
Dr. William M. Whitehead ^{2, 3}	Juneau	05/18/59	12/06/62
Charles W. Kidd ^{4, 3}	Juneau	04/63	01/64
H. Douglas Gray ⁴	Juneau	04/64	05/18/65
H.O. Smith ⁶	Ketchikan	05/18/65	06/65
Pete Meland ⁴	Sitka	01/66	05/18/71
Oral Freeman ³	Ketchikan	11/22/71	01/73
Lew M. Williams, Jr. ⁴	Ketchikan	04/73	05/18/77
John Longworth	Petersburg	05/18/77	05/18/83
Renee Murray	Anchorage	08/08/83	05/18/89
Janis Roller ³	Anchorage	09/01/89	02/14/91
Dr. Paul Dittrich, M.D. ^{4, 3}	Anchorage	04/06/91	10/03/91
Jim A. Arnesen ⁴	Anchorage	10/04/91	05/18/95
Vicki A. Otte ³	Juneau	05/31/95	11/21/00
Eleanor Andrews ⁴	Anchorage	11/15/00	05/18/01
Eleanor Andrews	Anchorage	05/18/01	03/01/07
Charles M. Kopp ³	Kenai	03/02/07	07/13/08
William F. Clarke⁴	Anchorage	10/16/08	03/01/13

¹ *The Judicial Council initially submitted nominations for the position of Chief Justice; the Constitution did not limit the Chief Justice's term. Chief Justice Nesbett and Chief Justice Boney were nominated and appointed in this manner. Voters amended the Constitution on August 25, 1970 to provide for the election of the Chief Justice by the justices of the Supreme Court for a three-year term; the amendment further provided that a Chief Justice may not be re-elected to consecutive terms.*

² *Appointed to initial staggered term.*

³ *Resigned during term.*

⁴ *Appointed to complete unexpired term.*

⁵ *Resigned during term to apply for judicial office.*

⁶ *Denied legislative confirmation.*

Appendix B

Bylaws of the Alaska Judicial Council

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Appendix B

Bylaws of the Alaska Judicial Council

Article I Policies

Section 1. Concerning Selection of Justices, Judges, and Public Defender

The Judicial Council shall endeavor to nominate for judicial office and for public defender those judges and members of the bar who stand out as most qualified based upon the Council's consideration of their: professional competence, including written and oral communication skills; integrity; fairness; temperament; judgment, including common sense; legal and life experience; and demonstrated commitment to public and community service. The Council shall actively encourage qualified members of the bar to seek nomination to such offices, shall endeavor to prevent political considerations from outweighing fitness in the judicial and public defender nomination processes, and shall consistently strive to inform the public of Alaska's Judicial Council selection process.

Section 2. Concerning Retention of Judges

Pursuant to the provisions of Alaska Statutes Titles 15 and 22, the Council may recommend the retention in judicial office of incumbent justices and judges found to be qualified through appropriate means of judicial performance assessment; and may recommend against retention of justices and judges found to be not qualified through assessment processes. The Council shall endeavor to prevent political considerations from outweighing fitness in the judicial retention recommendation process.

Section 3. Concerning Administration of Justice

The Council shall initiate studies and investigations for the improvement of the administration of justice. These studies and investigations may be conducted by the entire Council, by any of its members or by its staff as directed by the Council. The Council may hire researchers and investigators and may contract for the performance of these functions. A topic for any study or investigation may be proposed at any meeting of the Council by any member without prior notice.

Article II Membership

Section 1. Appointment; Limitation of Term

Members of the Council shall be appointed and shall serve their terms as provided by law; however, a member whose term has expired shall continue to serve until a successor has been appointed. Council members may be appointed to successive terms; however, no Council member should serve more than two full terms or one unexpired term and one full term.

Section 2. Effective Date of Appointment

(A) Non-Attorney Members. The effective date of a non-attorney member's appointment to the Council shall be the day following the effective date of the vacancy in the seat to which appointed, if appointed before that date; or the date of or specified in the gubernatorial letter of appointment, if appointed after that date. Non-attorney members shall have full voting rights effective upon the appointment date, unless and until denied confirmation by the legislature.

(B) Attorney Members. The effective date of an attorney member's appointment shall be the day following the effective date of the vacancy in the seat to which appointed, if appointed before that date; or the date of or specified in the letter of appointment from the board of governors of the Alaska Bar Association, if appointed after that date.

(C) Chief Justice. When the supreme court elects a new chief justice, the newly elected chief begins serving as a member and chair of the Council immediately upon assuming the office of chief justice.

Section 3. Oath of Office

The chair of the Council shall administer the oath of office to each new member, following a determination by the Council that the person selected has met the qualifications for membership as set forth by law.

Section 4. Vacancies

At least 90 days prior to the expiration of the term of any Council member, or as soon as practicable following the death, resignation, or announced intent to resign of any Council member, the executive director shall notify the appropriate appointing authority and request that the appointment process be initiated immediately to fill the vacancy.

Section 5. Disqualification

(A) Candidacy of Council Member. Any member of the Judicial Council who seeks appointment to a judicial office or the office of public defender must resign from the Council as of the date of the application and should not accept reappointment to the Council for a period of two years thereafter.

(B) Attendance at Regular Meetings. Council members shall attend all regular meetings of the Council unless excused by the chair for good cause. If a member is absent without good cause for two consecutive meetings, the chair shall formally request the resignation of that member.

Section 6. Expenses; Compensation

Council members shall be reimbursed for travel and other expenses incurred while on Council business and may receive compensation as otherwise provided by law.

Article III Officers

Section 1. Officers Specified

(A) The officers of the Council shall be the chair, vice-chair and executive director.

(B) **Chair.** The Chief Justice of the Alaska Supreme Court is the chair of the Alaska Judicial Council.

(C) **Vice-Chair.** The vice-chair will be the member of the Judicial Council whose current term will first expire.

(D) **Executive Director.** The Council by concurrence of four or more of its members may designate an executive director to serve at the pleasure of the Council.

Section 2. Duties and Powers

(A) **Chair.** The chair shall preside at all meetings of the Council and perform such other duties as may be assigned by the Council. In the absence of an executive director or acting director, the chair will serve as acting director.

(B) **Vice-Chair.** The vice-chair shall preside at meetings of the Council in the absence of the chair. The vice-chair shall perform such other duties as usually pertain to the office of the chair when the chair is unavailable to perform such functions.

(C) **Executive Director.** The executive director shall keep a record of all meetings of the Council; shall serve as chief executive officer of the Council; shall be responsible to the Council for planning, supervising and coordinating all administrative, fiscal and programmatic activities of the Council; and shall perform such other duties as may be assigned. The executive director may receive compensation as prescribed by the Council and allowed by law.

(D) **Acting Director.** In the event of the incapacity, disability, termination or death of the executive director, the Council may appoint an acting director, and may impose such limits on the authority of said acting director as it deems advisable, until such time as a new executive director can be found, or until such time as the incapacity of the executive director can be cured. Should the Council choose not to appoint an acting director or otherwise fail to appoint, the chair of the Council will, ex officio, serve as acting director until a replacement can be found.

Article IV Meetings

Section 1. Public Sessions; Public Notice

All meetings of the Judicial Council shall be open to the public, except as specifically provided. At least three days before any meeting to be held in Anchorage, Fairbanks, or Juneau, public notice of date, time, and place of the meeting and of general topics to be considered shall be

given through paid advertisements in major newspapers of general circulation in all three cities; for meetings to be held elsewhere in the state, paid public notice shall be provided at least three days in advance in the newspaper or newspapers of general circulation in such other areas as well as in the newspapers of general circulation in Anchorage, Fairbanks, and Juneau. When the notice requirements of this section are determined by the Council to be unreasonable, the Council is authorized to meet after such other period and utilizing such other form of public notice as it deems reasonable under the circumstances.

Section 2. Participation by Telecommunications

The Judicial Council shall meet in person when practicable. The Council may conduct a teleconference between regularly scheduled meetings with the consent of the chair. A teleconference conducted between regularly scheduled meetings is subject to the notice requirements in Article IV, Section 1 and Article IV, Section 8.

A member may participate telephonically in a regularly scheduled meeting only if the chair has found good cause to excuse the member from attending in person. A member may only participate telephonically if the member has had a substantially equal opportunity to evaluate all meeting materials, testimony, and other evidence related to the meeting.

Teleconferencing may be used to receive public input and to establish a quorum. At least one member or staff person must be present at the time and location publicly announced for any meeting or teleconference conducted by the Council.

Section 3. Regular Meetings

The Council shall hold two or more meetings per year, at times designated by the Council, to consider problems that may affect the Council and concern the administration of justice in the State of Alaska.

Section 4. Special Meetings

When a vacancy in the office of justice, judge, or public defender actually occurs or is otherwise determined to be impending, the chair shall call a special meeting of the Judicial Council within the time-frame required by law. The chair shall also call a special meeting of the Council upon the request of four or more members to consider business specified in the request; at that meeting, the Council may also consider other business that may come before the Council with the consent of four or more of the members present. The chair shall fix the time and place of such meeting not more than thirty days from the date of receipt of such request.

Section 5. Public Hearings

The Council may hold public hearings on all matters relating to the administration of justice as it deems appropriate and in such places as it determines advisable.

Section 6. Executive Sessions

The Council may decide as permitted by law whether its proceedings will be conducted in executive session. The Council may make this decision by concurrence of four or more members in a session open to the public. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session, unless auxiliary to the main question. The Council may not vote in an executive session.

Section 7. Place of Meeting

To the extent practicable, meetings should be held in the area of the State most directly affected by the subject matter under consideration.

Section 8. Notice of Meeting: Waiver

Notice of each meeting and teleconference shall be sent to all members of the Council as far in advance as practicable but in any event not less than five days before the date of the meeting or teleconference. Presence at a meeting or teleconference without objection shall constitute waiver of notice. When this notice requirement is determined by the chair to be unreasonable, the Council may meet on shorter notice.

**Article V
Voting and Quorum**

Section 1. Voting

All members of the Council present shall be entitled to vote on all matters coming before the Council, except as provided in Section 2 of this article and except that the chair shall only vote when to do so could change the result. The Council shall act by concurrence of four or more members. All votes shall be taken in public session. Any member can vote in the affirmative or negative or abstain on any matter. A member who wishes to abstain shall indicate the intention to do so prior to the question being called and shall disclose the reasons for the proposed abstention.

Section 2. Conflict of Interest; Disqualification

No member may vote on any matter in which he or she has a substantial personal or pecuniary interest. Any member who believes that his or her personal or business relationship to any applicant for a judicial or public defender vacancy or to any judge or justice being evaluated for retention purposes might prevent the member from fairly and objectively considering the qualifications of such person, or might otherwise involve a conflict of interest or create the appearance thereof, shall disclose the circumstances of the actual or apparent conflict to the Council

and shall disqualify himself or herself from discussing or voting on the nomination or retention of that person.

Section 3. Quorum

Four members of the Council shall constitute a quorum for the transaction of business at any meeting.

Section 4. Rules of Order

Robert's Rules of Order Revised will govern the meetings of the Council to the extent that they do not conflict with these bylaws.

**Article VI
Committees**

Section 1. Standing Committees

The Council may establish such standing committees from time to time when it finds them useful to conduct Council business. The chair may make standing committee assignments annually. The function of each committee shall be to monitor Council activities between meetings, to provide guidance and advice to staff, and to report to the Council at regularly scheduled meetings about the committees' areas of oversight. Each committee shall include at least one attorney and one non-attorney member. To the maximum extent possible, Council members should be permitted to serve on the committee or committees of their choice.

Section 2. Ad Hoc Committees

The chair may create ad hoc committees from time to time as needed. Ad hoc committees shall report to the Council on their activities and may make recommendations for Council action.

**Article VII
Procedure for Submitting Judicial and Public Defender Nominations to the
Governor**

Section 1. Notice of Vacancy; Recruitment

Whenever a vacancy to be filled by appointment exists, or is about to occur, in any supreme court, court of appeals, superior court, or district court of this state, or in the office of public defender, the Council, by mail or by such other publication means as may be appropriate, shall notify all active members of the Alaska Bar Association of the vacancy, and shall invite applications from qualified judges or other members of the bar of this state for consideration by the Council for recommendation to the governor. Council members may also encourage persons believed by such members to possess the requisite qualifications for judicial or public defender office to submit their applications for consideration and may cooperate with judicial selection committees of the state or

local bar associations or of such other organizations as may be appropriate in the identification and recruitment of potential candidates.

Section 2. Application Procedure

Each applicant for a judicial or chief public defender position shall obtain and complete an application for appointment provided by the Council and shall comply with all the requirements therein. Such application may request such information as deemed appropriate to a determination of qualification for office, including but not limited to the following: family and marital history; bar and/or judicial discipline history; criminal record; involvement as a party in litigation; credit history; physical and mental condition and history; community activities; academic and employment history; military record; and representative clientele.

Section 3. Evaluation and Investigation of Applicants' Qualifications

(A) Judicial Qualifications Polls. The Judicial Council may conduct judicial qualifications polls in such form and manner as may be prescribed by the Council and cause the same to be circulated among the members of the Alaska Bar Association. The poll should be relevant to criteria listed in Article 1, Section 1 of these bylaws. If the Alaska Bar Association conducts a qualifications poll satisfactory to the Council, the Council may recognize such poll. The Judicial Council may conduct such other surveys and evaluations of candidates' qualifications as may be deemed appropriate.

(B) Investigation. The Council and its staff shall investigate the background, experience, and other qualifications of an applicant under consideration for a judicial or a public defender vacancy, and may call witnesses before it for such purposes.

(C) Candidate Interviews; Expenses. The Council may, when and where it deems desirable, conduct a personal interview with one, some, or all applicants for any judicial or public defender vacancy. Candidates requested to appear before the Council for such interviews shall appear in person; when, however, a candidate for good cause shown is unable to personally attend such interview, the Council may arrange for an interview by telephone or other electronic communication means with such applicant, and such alternative interview as may be appropriate, including but not limited to interview of such candidate by a committee of the Council at such other time and place as may be convenient. A candidate may choose to be interviewed publicly or in executive session, to protect the candidate's privacy interests consistent with Alaska's Open Meetings Act. The choice to interview publicly or in executive session will have no bearing on the Council's evaluation of the candidate's qualifications.

A candidate's expenses for judicial or public defender office are that candidate's responsibility. The Council may reimburse candidates for travel expenses in the Council's discretion. The cost of a telephone interview requested by the Council shall be paid by the Council.

Section 4. Nomination Procedure; Recommendation of Best Qualified Candidates

The Council shall select two or more candidates who stand out as the most qualified under the criteria set out in Article I, Section 1 of these bylaws, considering (a) other candidates who have applied; (b) the position applied for; and (c) the community in which the position is to be located. The names of the selected candidates shall be submitted to the governor in alphabetical order; but if the Council's vote does not result in selecting at least two applicants who are sufficiently qualified, the Council shall decline to submit any names and will re-advertise the position.

Section 5. Reconsideration

The Council will not reconsider the names submitted to the governor after the nominees are submitted unless the disability or death of one or more nominees leaves the governor with less than two names for filling a judicial vacancy. If the governor requests additional nominees in such a situation, the Council will submit additional names so that the governor has at least two nominees for each vacancy. The Council may select additional names from the original applicants for the position or may re-advertise for the position.

Section 6. Publication and Review of Procedures

The Council shall establish and follow written forms and procedures for the nomination of attorneys who apply to be justices, judges, and public defender. The Council shall publish the bylaws and procedures in its biennial report to the Alaska Supreme Court and legislature, post them on its website, and provide them to applicants. The Council shall review these procedures at intervals not to exceed three years.

Article VIII Review of Judicial Performance

Section 1. Retention Election Evaluation

Prior to each general election in which one or more justices or judges has expressed the intention to be a candidate for retention election, the Council shall conduct evaluations of the qualifications and performance of such justices and judges and shall make the results of evaluations public. Evaluations may be based upon the results of a judicial performance survey conducted among all active members of the Alaska Bar Association and other members, retired or inactive, that the Council chooses. Evaluations also may be based upon such other surveys, interviews, or research into judicial performance as may be deemed appropriate, including but not limited to, any process that encourages expanded public participation and comment regarding candidate qualifications.

Section 2. Recommendation

Based upon the evaluative data, the Council may recommend that any justice or judge either be retained or not be retained. The Council may actively support the candidacy of every incumbent

judge recommended to be retained, and may actively oppose the candidacy of every incumbent judge whom it recommends not be retained. The Council shall publicize its recommendations.

Section 3. Judicial Performance Evaluation

The Council may conduct such additional evaluations of judges, other than at the time of retention elections, at such times and in such a manner as may be appropriate, and make the results of such additional evaluations public.

Section 4. Publication and Review of Procedures

The Council shall establish and follow written procedures for the evaluation of justices and judges. The Council shall publish the procedures in its biennial report to the Alaska Supreme Court and legislature, post them on its website, and provide them to justices and judges. The Council shall review these procedures at intervals not to exceed four years.

**Article IX
Extra-Council Communications**

Members of the public may wish to communicate their thoughts about the qualifications of applicants and the performance of judicial officers to individual Council members. All written communications between a Council member and any other person or organization regarding the qualifications of any applicant or the performance of any judicial officer should be forwarded to all other members; all oral communications regarding such matters should be shared with other members. Council members may encourage people to communicate with the Council in writing or at a public hearing.

Council members may discuss their individual views about the qualifications of applicants and the performance of judicial officers with members of the public, including the applicants and judicial officers. Council members may not publicly discuss the views of other Council members about the qualifications of applicants and the performance of judicial officers. Communications and deliberations among Council members that occur in executive session, including discussion about the qualifications of an applicant or the performance of a judicial officer shall be kept confidential in accordance with the law and Council bylaws.

**Article X
Access to Council Records**

Section 1. Public Records

All records of the Judicial Council, unless confidential or privileged, are public as provided in AS 40.25.110. The public shall have access to all public records in accordance with AS 40.25.120.

Public Records include:

1. Council bylaws and policy statements;
2. Minutes of Council meetings;
3. Final Council reports;
4. Financial accounts and transactions;
5. Library materials; and
6. All records other than those excepted in this bylaw.

Section 2. Right to Privacy

Materials that, if made public, would violate an individual's right to privacy under Art. I, Section 22 of the Alaska Constitution shall be confidential. Confidential materials are not open for public inspection and include:

1. Solicited communications relating to the qualifications of judicial or public defender vacancy applicants, or judicial officers;
2. Unsolicited communications relating to the qualifications of a judicial or public defender applicant or judicial officer, where the source requests confidentiality;
3. Those portions of the "application for judicial appointment" and "judge questionnaire" that reveal sensitive personal information entitled to protection under law;
4. Investigative research materials and internal communications that reveal sensitive personal information entitled to protection under law; and
5. Contents of Council employees' and members' personnel records, except that dates of employment, position titles, classification and salaries of present and/or past state employment for all employees are public information. In addition, application forms, resumes and other documents submitted to the Judicial Council in support of applications for any position with the Council grade 16 or above are public information.

Section 3. Deliberative Process

Materials that are part of the deliberative process of the Judicial Council, including those prepared by Council employees, are privileged and confidential if their disclosure would cause substantial and adverse effects to the Council that outweigh the need for access. These materials generally include drafts and computations prior to final document approval, internal memoranda conveying personal opinions, and other pre-decisional documents not incorporated into public records under this bylaw.

Section 4. Other Information

Information required or authorized to be kept confidential by law is not a public record.

Section 5. Privileged Communications

Communications that are legally privileged are not public information. These communications include but are not limited to communications between the Council and its attorney made for the purpose of facilitating the rendition of professional legal services to the Council.

Section 6. Release of Information

If a record contains both disclosable and nondisclosable information, the nondisclosable information will be deleted and the disclosable information will be disclosed. Information that otherwise would not be disclosable may be released to the subject of that information or to the public if it is in a form that protects the privacy rights of individuals and does not inhibit candid debate during the decision-making process.

**Article XI
Office of Judicial Council**

The Council shall designate an office of the Council in such location as it deems appropriate. Records and files of the Council's business shall be maintained by the Executive Director at this location.

**Article XII
Appropriations**

The Council will seek such appropriations of funds by the Alaska Legislature and other funding sources as it deems appropriate to carry out its constitutional and statutory functions.

**Article XIII
Bylaw Review and Amendment**

The Council shall review these bylaws at intervals not to exceed six years. These bylaws may be altered or amended by the Judicial Council by concurrence of four or more members, provided reasonable notice of proposed amendments has been provided to all Council members.

These bylaws adopted by the Alaska Judicial Council, this 15th day of February 1966; amended November 10, 1966; June 18, 1970; March 30, 1972; February 15, 1973; May 26, 1983; December 10, 1986; March 19, 1987; January 14, 1989; November 2, 1993; June 26, 1996; December 9, 1996; September 23-24, 1997; July 6-7, 1998; July 15, 2002; September 22, 2005; November 28, 2005; January 31, 2006; October 14, 2006; January 22, 2012.

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Appendix C
Judicial Appointment Log 2011-2012

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Appendix C Judicial Appointment Log 2011-2012 ¹

Historical Log of Judicial Appointments 2011-2012			
	Candidates	Nominated	Appointed
2011 - Juneau Superior - Patricia A. Collins			
	John W. Erickson, Jr. (<i>withdrew</i>) Keith B. Levy Leslie Longenbaugh Louis James Menendez Daniel Schally (<i>withdrew</i>)	Keith B. Levy Louis James Menendez <i>Meeting date 4/4/11</i>	Louis James Menendez <i>5/23/11 by Governor Sean Parnell</i>
2011 - Anchorage District - Richard Postma, Jr.			
	Daniel L. Cheyette Jo-Ann M. Chung Leslie Dickson John W. Erickson, Jr. (<i>withdrew</i>) Judy M. Kuipers Jonathon Lack Anne M. Marshall Bruce Roberts Erin White	Daniel L. Cheyette Jo-Ann M. Chung Leslie Dickson Bruce Roberts <i>Meeting date 4/5-6/11</i>	Jo-Ann M. Chung <i>5/26/11 by Governor Sean Parnell</i>
2011 - Bethel Superior Court - Marvin Charles Hamilton, III			
	Andrew V. Grannik (<i>withdrew</i>) Angela Greene Susan Mitchell (<i>withdrew</i>) Chuck Ray David Avraham Voluck (<i>withdrew</i>) Matthew Widmer	Chuck Ray <i>Meeting date 10/31/2011</i>	No appointment *No names forwarded to the Governor because two applicants were not nominated. See 5/8-9/12 meeting date.
2011 - Dillingham Superior Court - Fred Torrisi			
	Pat Douglass Andrew V. Grannik (<i>withdrew</i>) Susan Mitchell Chris Provost Tina Reigh Gregory G. Silvey David Avraham Voluck (<i>withdrew</i>) Matthew Widmer John W. Wolfe (<i>withdrew</i>)	Pat Douglass Chris Provost Tina Reigh <i>Meeting date 11/1/2011</i>	Pat Douglass <i>12/16/11 by Governor Sean Parnell</i>
2011 - Fairbanks District Court - Raymond Funk			
	Matthew Christian Gene L. Gustafson Bethany Spalding Harbison Robert S. Noreen Alicemary L. Rasley Ben Seekins Cassandra Tilly	Matthew Christian Gene L. Gustafson Bethany Spalding Harbison Ben Seekins <i>Meeting date 12/3-4/2011</i>	Ben Seekins <i>1/13/12 by Governor Sean Parnell</i>

¹ A historical log of judicial appointments prior to 2011 is available on the Council's website at www.ajc.state.ak.us.

Historical Log of Judicial Appointments 2011-2012			
	Candidates	Nominated	Appointed
2012 - Anchorage Superior Court - Sharon Gleason and two new positions			
	Sidney Kay Billingslea Elizabeth Brennan Rhonda F. Butterfield (<i>withdrew</i>) Kevin G. Clarkson Kimberlee Colbo Suzanne Cole Michael D. Corey Dani Crosby Jody Davis Leslie Dickson Ken Diemer Catherine M. Easter Joy Green-Armstrong (<i>withdrew</i>) Jennifer Stuart Henderson Barat M. LaPorte Dwayne W. McConnell Kevin F. McCoy Paul E. Olson Robert P. Owens Daniel Quinn Kevin M. Saxby Gregory G. Silvey Krista S. Stearns Jonathan Woodman	Sidney Kay Billingslea Elizabeth Brennan Michael D. Corey Dani Crosby Leslie Dickson Catherine M. Easter Dwayne W. McConnell Kevin F. McCoy Paul E. Olson Robert P. Owens Daniel Quinn Kevin M. Saxby Jonathan Woodman <i>Meeting date 1/22-25/2012</i>	Catherine M. Easter <i>3/5/12 by Governor Sean Parnell</i> Paul E. Olson <i>3/9/12 by Governor Sean Parnell</i> Kevin M. Saxby <i>3/12/12 by Governor Sean Parnell</i>
2012 - Bethel Superior Court - Marvin Charles Hamilton, III (readvertised from 10/31/11 meeting)			
	Sean E. Brown Angela Greene R. Poke Haffner (<i>withdrew</i>) Dwayne W. McConnell Margaret L. Murphy Chuck Ray David Lev Roghair Loren K. Stanton (<i>withdrew</i>)	Sean E. Brown Angela Greene Dwayne W. McConnell Chuck Ray <i>Meeting date 5/8-9/2012</i>	Chuck Ray <i>6/20/12 by Governor Sean Parnell</i>
2012 - Bethel District Court - Dennis P. Cummings			
	Andrew V. Grannik R. Poke Haffner (<i>withdrew</i>) David Lev Roghair Loren K. Stanton (<i>withdrew</i>)	No names forwarded to the Governor because two applicants were not nominated. <i>Meeting date 5/8-9/2012</i>	
2012 - Alaska Supreme Court - Morgan Christen			
	Joel H. Bolger William Grant Callow Kevin G. Clarkson Jeffrey Friedman Andy Harrington Charles T. Huguelet (<i>withdrew</i>) Peter J. Maassen Michael A. MacDonald Don McClintock Frank A. Pfiffner Eric Smith Terry L. Thurbon Daniel Westerburg Marc Wilhelm	Andy Harrington Peter J. Maassen <i>Meeting date 6/19-25/2012</i>	Peter J. Maassen <i>8/9/2012, by Governor Sean Parnell</i>

Historical Log of Judicial Appointments 2011-2012			
	Candidates	Nominated	Appointed
2012 - Court of Appeals - Robert G. Coats			
	Marjorie K. Allard Susan M. Carney Ken Diemer Sharon A.S. Illsley (<i>withdrew</i>) Doug Kossler Douglas Owen Moody David A. Nesbett Jude Pate Eric Smith Alex M. Swiderski Diane L. Wendlandt	Marjorie K. Allard Susan M. Carney Doug Kossler Douglas Owen Moody Jude Pate Eric Smith <i>Meeting date 10/1-5/2012</i>	Marjorie K. Allard <i>11/23/12 by Governor Sean Parnell</i>
2012 - Supreme Court - Walter L. Carpeneti			
	Joel H. Bolger Susan Cox Jeffrey Friedman Andrew Guidi Andy Harrington Peter J. Maassen - (<i>Appt. to Supreme Ct.</i>) Michael A. MacDonald Philip Pallenberg Eric Smith Trevor N. Stephens Terry L. Thurbon Daniel Westerburg Russ Winner	Joel H. Bolger Susan Cox Andy Harrington Trevor H. Stephens <i>Meeting date 12/8-10/2012</i>	<i>Appointment pending</i>

Appendix D
Judicial Selection Procedures

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Appendix D

The following information is given to each applicant for a judicial position. The Council updates this description of procedures periodically, so the information below should not be relied upon as the most current. The most current procedures are available at the Council's website at www.ajc.state.ak.us.

Alaska Judicial Council Procedures for Nominating Judicial Candidates

The Alaska Judicial Council is a constitutionally created state agency that evaluates the applications of persons seeking judicial appointment and nominates two or more qualified applicants to the governor for appointment to fill existing or impending vacancies.¹ The following is a brief summary of the judicial selection process - the steps that an applicant must take in order to be considered for a judicial appointment and the steps that are taken by the Judicial Council to ensure that applicants are fairly evaluated and that the most qualified are nominated. These procedures are published in the Council's biennial reports to the supreme court and to the legislature and are posted on the Council's website. Every applicant receives a copy of these procedures.

I. Application Procedures

A. Notice of Vacancy; Recruitment

1. Notice of Vacancy

As soon as possible after learning that a vacancy exists or is about to occur in the supreme court, court of appeals, superior court, or district court, the Council issues a press release announcing the vacancy, posts a notice on its website, and sends notice of the vacancy to all active members of the Alaska Bar Association. The notice describes the judicial vacancy, states the statutory requirements for the position, invites all qualified attorneys to apply, tells interested attorneys how to obtain applications, and sets the deadline for applying. The notice may also state that the Council has the discretion to use applications to make nominations for other pending or impending vacancies at the same level of court in the same location. The application deadline is typically three to four weeks after the Council announces the vacancy.

¹ Article IV, Section 5 of the Alaska Constitution; Titles 15 and 22 of the Alaska Statutes.

2. Recruitment

Council members and staff may actively encourage qualified persons to apply for a judicial position. The Council may cooperate with selection committees of the state bar or local bar associations, or other appropriate organizations to identify and recruit potential applicants. The Council may extend an application deadline to encourage more applications.

B. Submission of Applications

Application forms for open judicial positions may be requested from the Council's office and are also available on the Council's website. Each applicant seeking to be considered for nomination by the Council to an open judicial position must file a completed Judicial Council application form and must comply with all requirements described in the form.

1. Background Information

The application form asks for information that may be relevant to determine qualifications for office, including but not limited to: academic and employment history; bar and/or judicial discipline history; community service and pro bono activity; community activity and non-legal interests; involvement as a party in litigation; criminal record; credit history; military record; the addresses of all of the applicant's residences in the past five years; and the applicant's ability to perform essential job functions with or without reasonable accommodation. The Council asks each applicant to provide a photograph to assist members in recalling the interviews. The Council also asks whether an applicant prefers to be interviewed in public session or in executive session.

2. References

The Council requires an applicant to submit the names of three professional references and two character references. The Council asks the applicant to submit the names of attorneys and judges involved in three of the applicant's cases in the past three years that went to trial and three of the applicant's cases in the past three years that did not go to trial but in which the applicant did substantial work. An applicant must submit the names of persons who can verify and comment about the applicant's past and present employment.

3. Nature of Law Practice

An applicant is asked to provide detailed information about the applicant's practice of law, including the percentage of practice in state versus federal court, the percentage of practice in civil versus criminal matters, and the percentage of practice at the appellate versus trial court level. An applicant must describe how often the applicant appears in court and must provide an estimate of how many jury and non-jury trials, appellate matters, and administrative hearings the applicant has handled.

4. Writing Sample

The Council requires a sample of the applicant's writing ten to twenty pages in length, prepared solely by the applicant within the past five years. The Council also asks the applicant to provide a list of any legal publications the applicant has authored.

5. Information Needed to Determine Potential Conflicts

An applicant is asked to provide the amount and source of the applicant's income for the past three years and the names and occupations of the applicant's immediate family members. The applicant is asked to identify any public or political office the applicant has held. The applicant is asked to provide information about his or her membership in legal and non-legal organizations and other information bearing on potential conflicts of interest.

6. Short Biography to Post on Council Website

The Council requires an applicant to submit a brief written summary of his or her background, legal education, and legal experience. The Council posts applicants' summaries on its website and invites attorneys to review them when responding to Council surveys. Applicants may also choose to have their photograph posted on the website with their biographical summary.

7. Number of Copies; Re-Use of Applications

Applicants must submit the completed questionnaire and writing sample and five copies of their photograph to the Council on or by the date set forth in the notice of vacancy. If an applicant applies for another judicial position within six months of a prior application, the applicant must provide written notice to the Council of his or her intent to apply for the new vacancy. The Council may permit the applicant to rely on his or her most recent application, but requires the applicant to provide any supplemental information.

C. Confidentiality

1. Non-Public Materials

The Council maintains the confidentiality of sensitive and highly personal information in applications, including but not limited to: home and e-mail addresses; home and mobile telephone numbers; social security number; income; names and occupations of immediate family members; formal disciplinary or ethical complaints, charges or grievances brought against the applicant as an attorney or judge that did not result in public discipline; medical and health history; and the financial interests of the applicant. The Council maintains as non-public material all solicited counsel questionnaires, reference letters, and employment verifications except those that the authors state in writing can be provided to the governor. The Council maintains as non-public material all unsolicited comments and letters for which the author requests confidentiality or which the Council in its discretion believes should remain confidential to protect third parties.

2. Public Materials

Information not described above as non-public material is set forth in a separate part of the application and is available to the public.

II. Initial Review of Applications; Background Investigation

A. Initial Review for Completeness and Compliance with Statutory Requirements

As soon as possible after applications are received, Council staff review the applications for completeness and may reject non-conforming applications. Staff review applications to determine whether the applicant meets the minimum statutory requirements for the position, including active practice of law and residency requirements. Staff may request additional information from an applicant to resolve any potential problems the applicant may have in meeting statutory requirements. If the additional information does not resolve the problem, staff will refer the issue to the Council for it to make the determination. The Council may choose to determine the applicant's eligibility immediately, to request further investigation, or to defer a decision pending completion of the interview process. In deciding if an applicant meets an active practice requirement, the Council will consider whether the applicant has substantially complied with the requirement.

B. Background Investigation

1. Reference Check

Council staff begin an investigation to confirm and supplement information provided by the applicant. The Council writes to all of the applicant's references and former employers. References and prior employers are asked to comment on the applicants' qualifications under the criteria set forth in Article 1, Section 1 of the Council's bylaws and Section VI of these procedures, among other things. Attorneys and judges identified by the applicant as having had recent experience with the applicant are sent questionnaires that ask about these qualities and request the respondent's opinion about the applicant's suitability for nomination. Questionnaires may be submitted electronically via the Council's website or returned to the Council through the mail. Questionnaire respondents are provided with the option of signing their name. The Council does not share with applicants the materials it solicits, including reference letters, employment verification letters, or questionnaires. The Council may share with applicants the substance of a solicited comment. The Council does not reveal the identity of the respondent unless the respondent waives anonymity. The reference check takes about six weeks to complete.

2. Background Investigation

Council staff review bar files for the applicant's history with and standing in the bar, and fee arbitration and grievance histories, whether action was taken or not. It further investigates the allegations if necessary. An applicant's credit report is obtained. Staff investigate whether the applicant has been a party to any civil litigation and if so, what the applicant's involvement was in that litigation and how it was resolved. Staff investigate whether the applicant has had any criminal history, traffic violations, or administrative actions against his or her driver's license. Staff review the applicant's potential conflicts of interest as indicated on the application, or from attorney or public comment or other sources that could pose a significant problem for the proper functioning of the courts if the applicant is appointed. Staff members obtain and/or verify information on pro bono or other legal service activity. Staff members may otherwise investigate any specific verifiable information obtained from any source about an applicant's fitness for office. This may include speaking with the source of that information, researching the Internet, newspapers, court files, transcripts, hearing records, or otherwise attempting to ascertain the veracity of the information. The background investigation normally takes about two months to complete. Because the Council continually solicits and receives public feedback about applicants, a background investigation can extend until the time the Council votes on its nominations.

3. Evaluation of Writing Samples

After the application deadline, staff evaluate applicant writing samples for organization, use of language, correct grammar and syntax and other characteristics of good writing. Staff also review the samples for the quality of the applicant's legal research and analysis.

III. Bar Poll; Public Comment

A. Bar Poll

1. Form of Poll

The Council surveys all active in-state members of the Alaska Bar Association. The Council also surveys inactive in-state members and in-state retired members and active out-of-state members if those members have made their e-mail addresses available to the Council. The bar poll asks attorneys to rate each candidate on a five point scale [1 (Poor) to 5 (Excellent)] on six criteria: professional competence, integrity, judicial temperament, fairness, suitability of experience, and overall professional qualifications. Survey respondents indicate whether they base their numerical ratings on direct professional experience, other personal contacts, or professional reputation, or whether they are declining to evaluate a particular candidate due to insufficient knowledge. Respondents with direct professional experience with an applicant are asked to specify whether that experience includes experience within the past five years and whether that experience is substantial, moderate, or limited. Respondents are asked to provide demographic information including their length, location, and type of law practice and their gender.

The Council asks respondents to submit comments about an applicant. Respondents are not required to provide their names with each comment but are encouraged to do so. Respondents are reminded of their ethical obligation to be truthful in all comments submitted. Respondents are assured that their names, if provided, will not be given to applicants and will not be used by the Council to identify the respondent's survey ratings. Sample pages of a bar poll are appended (Attachment A)

2. Method of Polling

The Council uses an electronic survey and a paper survey to poll attorneys. Surveys are distributed about one week after the application deadline. Attorneys have three to four weeks to respond to the Council's surveys.

The Council maintains an updated list of active members, in-state inactive members and retired members of the Alaska Bar Association. Immediately after the application deadline, the Council sends the complete list to an independent contractor. The contractor receives paper surveys, administers the electronic survey and analyzes all survey data. For each new selection, the contractor assigns a randomly selected control number to each attorney on the list. The same ID number is assigned for contemporaneous surveys.

a. Electronic Bar Survey

The contractor sends an e-mail invitation to participate in the bar poll to attorneys on the Council's e-mail list. The invitation provides an attorney with a password encoded link to access the survey. The electronic survey asks those attorneys who also receive paper surveys if they wish to continue receiving paper surveys. Attorneys receiving electronic surveys are sent an e-mail reminder prior to the response deadline, if they have not yet responded to the survey. Electronic survey data are encrypted during transmission to preserve the confidentiality of the data. The contractor strips the response of its e-mail address, and identifies the electronic survey response by the assigned control number for that selection.

b. Paper Bar Survey

The Council sends paper surveys to in-state active members who have indicated a preference for paper surveys or whose e-mail addresses are unknown to the Council. The paper survey reminds an attorney to not respond to the electronic survey if the attorney responds to the paper survey. Respondents are instructed to place the completed survey inside a plain envelope that is provided by the Council and marked "confidential." That envelope then is placed inside a pre-paid postage return envelope addressed to the Council's contractor, on which the respondent puts his or her name, address, and signature. Upon receipt, the contractor separates the outside envelope from the survey form. Thereafter, the contractor identifies the paper survey response by its control number.

3. Method of Evaluating Poll Results

a. Review for Duplicate Responses

The contractor eliminates the possibility of duplicate responses by comparing the control numbers of paper and electronic survey responses. If the contractor identifies duplicate responses, the contractor discards the survey that is less complete.

b. Numerical Ratings

The contractor prepares a statistical analysis of all survey responses, including average ratings for each quality for each candidate by range. Ratings based on personal contacts or professional reputation are not included in most average ratings. The report provides detailed information about ratings by different demographic groups. The Council may use these data to identify patterns in poll results. The Council may ask the contractor to analyze the report for statistical or other anomalies in the data. The report includes a discussion of methodology and data management procedures. The Council publishes the report of numerical ratings on its website.

c. Bar Poll Comments

The contractor also prepares a separate report that includes a transcription of all respondent survey comments about applicants. If a respondent signed a comment, the respondent's name is transcribed with the comment. If a respondent did not sign a comment, the comment is associated with the new control number assigned by the contractor. The assignment of a new control number precludes the Council from identifying the author of a bar poll comment from a survey respondent who wants to remain anonymous. Staff may investigate substantive comments submitted in the bar poll.

4. Distribution of Bar Poll Results

The contractor provides the Council with its analysis and a transcript of all bar survey comments two to three weeks after the survey response deadline. Shortly thereafter Council staff inform applicants of survey results.

a. Numerical Ratings

Staff inform the applicant of his or her ratings and provide the applicant with a general idea of the spectrum of ratings received by applicants. Staff do not identify the ratings of other applicants.

About one week after staff have contacted all applicants about their ratings, the Council publicly announces the numerical ratings received by applicants who have not withdrawn. An applicant's ratings are not released publicly if the applicant withdraws sufficiently in advance of publication. All applicants who have not withdrawn receive a copy of the complete survey rating

analysis. The Council posts the survey rating analysis on its website. The survey rating analysis remains on the Council website for six months after a judicial vacancy has been filled.

b. Bar Poll Comments

Council staff edit the transcribed bar poll comments to remove information that might compromise the identities of respondents. When staff sends an applicant his or her ratings, staff include the applicant's written edited comments. The edited comments indicate whether the comments were signed or unsigned, but no identifying information about the survey respondent is provided. Bar poll comments about applicants are not released publicly.

To insure the confidentiality of bar poll comments, an applicant must return to the Council his or her edited comments including any copies the applicant may have made. Comments must be returned when the applicant is interviewed by the Council or when the applicant withdraws his or her application, whichever is sooner.

B. Solicitation of Public Comment

Immediately after the application deadline has passed, the Council issues a press release announcing the names of applicants; it also publicizes and posts on its website the place and approximate date of the Council meeting set for candidate interviews and the Council's vote. In its press release and on its website, the Council invites comments from the public about applicants. The public is invited to write, telephone, or fax comments to the Council. The public is also invited to submit comments via the Council's website.

The Council holds a public hearing to receive public comments. If feasible, the hearing is held in the community where the judge will sit. The hearing typically coincides with the time set for applicant interviews. The Council advertises its public hearing through paid advertisements in major newspapers in Anchorage, Fairbanks, and Juneau, and in the location of the vacancy if different. The Council may take public comments telephonically at the Council's expense.

IV. Distribution of Applicant Materials to Council Members

Council staff compile all solicited materials and any unsolicited materials submitted to the Council about applicants. Approximately three weeks prior to the Council's meeting to interview applicants, Council staff send a packet of materials to each Council member about the applicants. This packet includes:

1. copies of the written applications
2. applicant writing samples and a memo prepared by staff analyzing the samples
3. a staff memorandum summarizing staff review of the applicant's discipline files, credit, civil, and criminal history, and conflicts of interest

4. memoranda concerning particular matters investigated by staff
5. a report of the complete bar poll numerical ratings and statistical analysis
6. an unedited transcription of attorney comments submitted in the bar poll in a format that identifies information omitted in the edited version received by each applicant
7. if applicable, bar poll ratings received by the applicant in prior applications or judicial retention elections
8. all letters of reference
9. all responses to questionnaires solicited by the Council from attorneys and judges with recent experience with the applicant
10. all public comments
11. any unsolicited materials received concerning the applicant

These materials typically exceed one hundred pages of written materials per applicant. Council members review all of these materials before meeting to interview applicants. Staff may supply Council members with electronic versions of these materials instead of, or in addition to paper copies.

V. Interview Procedures

A. Prior to the Interview

1. Scheduling

Within a few days after bar poll results are publicly released, the Council schedules specific interview times for applicants. The Council sends letters to applicants notifying them of the date, time, and location of their interview. Applicants are given about four to six weeks notice of their specific interview time. The Council posts a schedule of interview times on its website. In its advertisements and notices of a Council meeting to interview applicants, the Council invites the public to contact the Council or review the Council's website for an interview schedule.

The Council typically interviews all applicants. If an applicant applies for multiple judicial openings that are simultaneously pending, the applicant is interviewed only once for all vacancies.

Interviews usually occur in the location of the vacancy. The Council interviews applicants in person or may arrange an interview by telephone or other electronic means, at its discretion. Expenses incurred by the applicant are the applicant's responsibility. The Council has the discretion to reimburse applicants for travel expenses or the cost of a telephone interview.

2. Public and Private Interviews

The application gives applicants a choice between an interview in public session or an interview in executive session. Applicants may change their request at any time before the interview starts. An applicant's choice of a public or private interview has no bearing on the Council's determination of the applicant's qualifications or on the questions the Council may ask. The Council notes on its schedule which interviews are expected to be in public session and which are expected to be in executive session. To the extent possible, the Council schedules public interviews consecutively.

3. Communicating Comments About Applicants

Without identifying the source, staff inform an applicant of comments about the applicant that the Council may have received that were not included in the bar survey comments forwarded to the applicant.

4. Disclosures by Council Members

Immediately before interviewing an applicant, the Council convenes briefly in executive session and each Council member discloses to other Council members any relevant information known or communicated to the Council member about the applicant that other members may not know. Members disclose conversations the member has had with an applicant about a past or present judicial application.

B. The Interview

1. Length of Interview

An interview usually lasts about forty-five minutes.

2. The Interview Process

The interview is preceded by an introduction of the applicant to all Council members and any Council staff present. The chief justice typically begins the interview by asking the applicant to provide an opening statement concerning the applicant's interest in and qualifications for the position. Each Council member is then given an opportunity to question the applicant. After all Council members have completed the first round of questioning, any Council member may ask additional questions. The chief justice then has an opportunity to ask questions. At the conclusion of the interview, applicants may make a brief closing statement and address any matters not raised during the interview.

3. Focus of Interview Questions: Selection Criteria

The Council's interview questions will focus on matters relevant to determining the applicant's qualifications under the criteria set out in Article I, Section 1 of the Council's bylaws. Council members may inquire about any relevant concerns raised in the materials provided to the Council or any issues arising from the applicant's testimony before the Council.

Members will not ask questions designed to elicit views on issues likely to be litigated before the applicant, if appointed. Nor will Council members ask about an applicant's political affiliations, religious beliefs, or other "prohibited considerations" listed below in Part VI, except when reliable evidence or the applicant's own testimony suggests that questions relating to these topics may be reasonably necessary to address specific concerns about the applicant's qualifications. Thus, for example, if the Council received credible and specific information indicating that an applicant's actions on the bench might be influenced by religious bias, Council members could pursue the issue to ensure that the applicant would be able to act fairly and impartially as a judge. Similarly, if an applicant made statements about having strong political affiliations or views, Council members could ask follow-up questions to confirm that these affiliations and views would not carry over to the applicant's judicial performance.

4. Questions Based on Confidential or Anonymous Source

When questioning an applicant about information received from a source who was promised confidentiality, Council members will phrase their questions to avoid revealing the confidential source's identity, and the Council will not otherwise disclose the source to the applicant during the interview or at any other time. When a Council member asks a question concerning unfavorable information received from a confidential or anonymous source and it appears that the confidentiality or anonymity of the Council's source might impair the applicant's ability to answer the question, the applicant's inability to respond fully will be taken into account. If the applicant can shed any light on the allegation, the Council will consider the applicant's explanation; if not, the applicant's failure to explain will have no negative effect on the Council's decision. An applicant who is asked such a question has no "burden" to defend against the confidential or anonymous allegation; and the mere fact that a Council member asks about a confidential or anonymous allegation does not imply that the Council member or the Council as a whole assume that the allegation is true. Although Council members may ask such questions to determine if the applicant might be able to shed light on the issue, members always bear in mind that, ultimately, anonymous allegations cannot be held against an applicant unless they are corroborated, independently substantiated, or acknowledged by the applicant.

VI. Nomination Procedures

A. Criteria for Evaluating Qualifications of Individual Applicants

Article I, Section 1 of the Council's Bylaws requires Council members to determine the qualifications of individual judicial applicants by considering the following selection criteria:

- Professional Competence, Including Written and Oral Communication Skills. When addressing professional competence, Council members consider intellectual capacity, legal judgment, diligence, substantive and procedural knowledge of the law, organizational and administrative skills, and the ability to work well with a variety of types of people. Because communications play a vital role in any judge's work, Council members assess an applicant's ability to communicate in writing and speaking. Members consider the applicant's ability to discuss factual and legal issues in clear, logical, and accurate legal writing. They also consider the applicant's effectiveness in communicating orally in a way that will readily be understood and respected by people from all walks of life.
- Integrity. In evaluating integrity, Council members consider whether the applicant has demonstrated a consistent history of honesty and high moral character in the applicant's professional and personal life. Members also consider the applicant's respect for professional duties arising under the codes of professional and judicial conduct, as well as the applicant's ability to understand the need to maintain propriety and the appearance of propriety.
- Fairness. To assess an applicant's fairness, Council members examine whether the applicant has demonstrated the ability to be impartial to all persons and groups of people and has shown a commitment to equal justice under the law. Members look for applicants who have shown themselves to be open-minded and capable of deciding issues according to the law, even when the law conflicts with their personal views.
- Temperament. In assessing an applicant's temperament, Council members consider whether the applicant possesses compassion and humility; whether the applicant has a history of courtesy and civility in dealing with others; whether the applicant has shown an ability to maintain composure under stress; and whether the applicant is able to control anger and maintain calmness and order.
- Judgment, Including Common Sense. To determine an applicant's judgment and common sense, Council members look for a sound balance between abstract knowledge and practical reality: members consider whether, in making decisions in the legal arena or in other spheres of life, the applicant has demonstrated the ability to make prompt decisions that resolve difficult problems in a way that makes practical sense within the constraints of any applicable rules or governing principles.

- Legal and Life Experience. Council members consider both legal and life experience. They evaluate the amount and breadth of an applicant's legal experience and the suitability of that experience for the position sought, including trial and other courtroom experience and administrative skills. At the same time, Council members look for broader qualities reflected in the applicant's life experiences, such as the diversity of the applicant's personal and educational history, exposure to persons of different ethnic and cultural backgrounds, and demonstrated interests in areas outside the legal field.
- Demonstrated Commitment to Public and Community Service. In assessing an applicant's commitment to public and community service, Council members consider the extent to which an applicant has demonstrated a commitment to the community generally and to improving access to the justice system in particular.

B. Initial Discussion of Individual Applicant's Qualifications

Immediately after concluding an individual applicant's interview, the Council discusses that applicant to enable each Council member to evaluate the applicant's qualifications under the selection criteria described above and in Article I, Section 1 of the Council's Bylaws. The Council holds the discussion in executive session to promote candid discussion about the qualifications of applicants. Each Council member is given an opportunity to comment on that member's assessment of the applicant; the order of discussion follows the order in which Council members questioned the applicant.

At this stage, the discussion centers on the individual applicant's strengths and weaknesses under the selection criteria. Council members do not decide which applicants rank as most qualified among all the applicants. Each Council member independently assesses the individual applicant's qualifications. The Council does not attempt to reach a consensus, and no vote occurs.

After each member has spoken, all members have an opportunity to make further comments. The discussion then ends, and the Council turns to the next applicant interview, if any is scheduled. The Council repeats the same procedure until all candidates have been interviewed and their individual qualifications have been discussed.

C. Deliberation to Determine Most Qualified Applicants

After all applicants have been interviewed, the Council deliberates on the entire slate of candidates. By this time, each Council member has evaluated the individual qualifications of all applicants under the criteria described in Article I, Section 1 of the bylaws; the deliberations now turn to comparing and ranking all applicants so that each member can identify the candidates whose overall qualifications, in that member's view, make them most qualified to be nominated. The procedure for making this determination is spelled out in Article VIII, Section 4 of the Council's bylaws. This section requires Council members to select the candidates who are most qualified under the criteria described in Article I, Section 1 by considering:

- All Candidates Who Have Applied. Under the procedures set out in Article VIII, Section 4, each Council member compares the relative standing of all applicants, relying on that member's independent judgment as to each candidate's individual qualifications according to Article 1, Section 1's selection criteria.
- The Position Applied For. Each Council member takes into account the specific level of judgeship applied for and considers the ability of each candidate to serve at that level.
- The Community in Which the Position is Located. Each Council member looks at the needs of the particular community where the new judge will serve.

In all cases, then, each Council member's final choice of the most qualified applicants will reflect a relative determination that depends in part on the strength of the entire slate of applicants, the nature of the open position, and the needs of the community to be served.

With these procedures in mind, the Council begins its deliberations. It deliberates in executive session to promote candid discussion about the qualifications of applicants in order to determine the most qualified applicants. The order of discussion usually follows the order in which Council members questioned the first applicant for the position; the chief justice speaks last. After each Council member has spoken, all members may engage in additional discussion until no member wishes to make further comments.

Although all members consider the views of other members and strive for consensus if possible, each ultimately makes an independent decision as to which candidates are most qualified under the Council's selection standards, voting on the basis of the member's personal judgment and conscience. No vote is taken in executive session. The Council has no policy regarding the ideal or “target” number of applicants who should be named as most qualified — either generally or for any given judicial position. In each case, the number of candidates nominated is simply determined by how many candidates receive four or more affirmative votes — a determination that occurs in the public session after the Council ends its deliberations.

D. Vote To Nominate Most Qualified Applicants

As soon as practicable after the Council completes its deliberations in executive session, it goes into public session and takes its formal vote to nominate the most qualified applicants. Each Council member votes according to that member's personal assessment of the applicants' qualifications as determined under the criteria and procedures set out in this statement of procedures. The vote consists of a roll call vote taken for each applicant individually, in alphabetical order. The Council's executive director ordinarily administers the voting. After the roll call is completed as to all applicants for a vacancy, the person administering the voting confirms that no further voting by regular members is needed and declares voting by regular members closed. At any time during the voting on a vacancy until the person administering the voting declares voting by regular members

closed, Council members may change their vote for or against any applicant. Once voting by regular members is closed, the chief justice votes if the vote might affect the outcome.

To be nominated, a candidate must receive four or more affirmative votes. If the Council votes to nominate fewer than two applicants it will decline to submit any names. Typically, the Council will re-advertise the position immediately.

E. Prohibited Considerations in Determining Qualifications and Voting

1. Anonymous Comments

Council members do not rely on anonymous comments unless they are corroborated, independently substantiated, or acknowledged by the applicant.

2. Discrimination

The Council refrains from any form of discrimination prohibited under state and federal law.

3. Religious and Political Beliefs

The Council does not consider an applicant's political or religious beliefs, but will consider whether the applicant's personal beliefs indicate a substantial bias or conflict of interest that could impede the proper functioning of the courts or show that the applicant would be unable to apply the law impartially.

4. Likelihood of appointment.

The Council does not consider an applicant's likelihood of appointment by the governor.

VII. Post-Nomination Procedures

A. Notification of Applicants

At the interview, applicants are asked for contact numbers where they can be reached immediately after the Council's vote. As soon as possible after the Council completes its vote, the Council's executive director or designee telephones applicants about the Council's vote. The Council also sends each applicant written notice of its decisions. Nominations are posted on the Council's website as soon as possible after the meeting. The Council issues a press release about its nominations.

B. Council Member Materials

Each Council member returns all meeting materials to staff at the conclusion of each meeting. Any member who received an electronic copy of the meeting materials, deletes the electronic copy.

C. Transmittal to the Governor

1. Preparation of List of Nominated Candidates and Press Release

As soon as possible after the Council meeting, staff prepare a list of nominated candidates compiled in alphabetical order. Staff also prepare a press release listing the Council's nominees.

2. Call to Governor's Office

As soon as possible after individual applicants are notified, Council staff call the governor's office to communicate the Council's nominations.

3. Written Notification to Governor

On the first business day after the Council's vote, the Council sends the governor a letter listing the nominees in alphabetical order, accompanied by the following materials: the Council's vote tally; each nominee's application, including the confidential sections; the results of any qualification surveys, without comments provided to the Council in confidence; written responses solicited by the Council from persons identified by the nominee in his or her application as references, former employers, and attorneys and judges who had recent experience with the nominee, but only if these persons gave written permission to send their responses to the governor; and any unsolicited materials received by the Council about the nominee, unless the source requested, in writing, that the material be kept confidential.

D. Requests for Additional Names; Reconsideration

The Council does not reconsider its nominees after the names are submitted except in the case of death, disability, or withdrawal of a nominee. If the death, disability, or withdrawal of one or more nominees leaves the governor with fewer than two names for filling a vacancy, the Council may, upon request of the governor, submit enough additional names so that the governor has at least two nominees for the vacancy. The Council will vote to determine if there are additional applicants who can be nominated from the original list of applicants. If no candidate receives sufficient votes to be nominated, the Council will re-advertise the position.

Effective date: October 3, 2005, amended October 17, 2009, amended June 20, 2012.

Appendix E
Retention Evaluation Procedures

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Appendix E

Alaska Judicial Council Retention Evaluation Procedures

A. Retention Evaluation Procedures ²

The legislature first authorized retention evaluations in 1976. The evaluation procedures have evolved since that time into a thorough, objective review of each judge. Revisions in the process have focused on broadening the scope and effectiveness of the evaluations. The Council also has improved its communication of evaluation information and recommendations to voters.

B. Judge's Questionnaire

Each judge is asked to fill out a short questionnaire about the types of cases he or she handled during the previous term, legal or disciplinary matters the judge may have been involved in, and health matters that could be related to the judge's ability to perform judicial duties. The questionnaire also asks the judge to describe satisfaction with judicial work during the previous term and to make any comments that would help the Council in its evaluations.

C. Attorney & Peace Officer Surveys

The Council surveys all active and all in-state inactive members of the Alaska Bar Association and all peace and probation officers in the state who handle state criminal cases. The survey asks about the judges' legal ability, fairness, integrity, temperament, diligence and administrative skills. An independent contractor carries out the surveys for the Judicial Council, to assure objectivity in the findings.

D. Social Worker, Guardian ad Litem (GAL) and Court Appointed Special Advocate (CASA) Surveys

The Council also surveys social workers and citizens who participate in helping Alaska's children as GALs and CASA volunteers. The survey is similar in content to the attorney and peace officer surveys. An independent contractor also carries out this survey for the Judicial Council.

²Please review the Council's website at www.ajc.state.ak.us for updates to the procedures.

E. Juror and Court Employee Surveys

The Council surveys all jurors who have served with the judges up for retention, as well as all court employees. These surveys give varied perspectives on the judges' performance.

F. Counsel Questionnaires

Each judge gives the Judicial Council a list of three trials, three non-trial cases, and any other cases that the judge found significant during his or her most recent term in office. The Council sends a brief questionnaire to all of the attorneys in each case. The questionnaire asks about the judge's fairness, legal abilities, temperament and administrative handling of the case.

G. Other Records

Council staff review a series of other public records, including conflict-of-interest annual statements filed with the Alaska Public Offices Commission and separate forms filed with the court system, court case files, and Commission on Judicial Conduct public files. The Council also reviews performance-related court data, such as the number of peremptory challenges filed against a judge, the number of times the judge recused him/herself and the number of reversals on appeal. The Council scrutinizes performance-related data carefully, because the type of caseload or a judge's location may play a major part in the numbers of challenges or appeals and reversals. A domestic relations judge assigned 6,000 cases in one year may have more challenges (and possibly more appellate reversals) than a judge handling 1,000 criminal and civil cases. These challenges may arise more from the nature of the cases than from the judges' decisions.

H. Public Hearings

The Council holds statewide public hearings for all judges standing for retention using the legislature's teleconference network and public meeting rooms. Statewide newspaper ads and public service announcements on radio stations encourage public participation. Public hearings give citizens a valuable opportunity to speak out about their experiences with judges. They also provide a forum in which citizens can hear the opinions of others. The Council tries to balance all the information it receives from all sources.

I. Interviews

Any judge may request an interview with the Judicial Council. The Council, in turn, may ask judges to speak with the Council members during the final stages of the evaluation process. Judges may respond to concerns raised during the evaluation process.

J. Other Publicity and Input

The Council widely publicizes the evaluation process through frequent press releases, personal contacts with radio and television stations, speeches to public groups such as community

councils and feature articles in newspapers. Alaska Judicial Observers, a non-profit organization, provides independent observations of judicial performance.

K. Dissemination of Results

The Council meets in July to consider the information gathered and make retention recommendations. By law, the Council must make its evaluations and recommendations public at least sixty days prior to the election, and also must submit materials to the Lieutenant Governor's Official Election Pamphlet. The Council's evaluation information and recommendations are summarized in the Election Pamphlet. Extremely detailed evaluation materials on each judge are available on the website, or in printed form by calling the Council at 279-2526 in Anchorage or 1-888-790-2526 elsewhere in Alaska.

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Appendix F

Retention Election History for Judges Currently Serving on the Bench

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Appendix F Retention Election History for Judges Currently Serving on the Bench

Note: Years shown in italics and parentheses indicate when a judge stood for retention in a prior position.

Supreme Court Justices			
<i>Retention Dates: First general election held more than three years after appointment; every ten years thereafter.</i>			
Justice	Appointed	Prior Retention Elections	Next Retention
Walter L. Carpeneti	11/4/1998	<i>(84, 90, 96) 02</i>	Retiring 2013
Dana A. Fabe	1/26/1996	<i>(92) 00, 10</i>	2020
Peter J. Maassen	8/9/1912	<i>None</i>	2016
Craig F. Stowers	12/2/2009	<i>(8)</i>	2014
Daniel E. Winfree	11/16/2007	12	2022

Court of Appeals			
<i>Retention Dates: First general election held more than three years after appointment; every eight years thereafter.</i>			
Judge	Appointed	Prior Retention Elections	Next Retention
Marjorie K. Allard	11/23/2012	<i>None</i>	2016
David Mannheimer	10/11/1990	94, 02, 10	2018
Joel H. Bolger	8/29/2008	<i>(00, 06) 12</i>	2020

First Judicial District			
Judge	Appointed	Prior Retention Elections	Next Retention
Superior Court Judges			
<i>Retention Dates: First general election held more than three years after appointment; every six years thereafter.</i>			
William Barker Carey - <i>Ketchikan</i>	12/7/2008	12	2018
David V. George - <i>Sitka</i>	10/25/2007	10	2016
Louis James Menendez - <i>Juneau</i>	5/23/2011	<i>None</i>	2014
Philip M. Pallenberg - <i>Juneau</i>	8/31/2007	10	2016
Trevor Stephens - <i>Ketchikan</i>	7/31/2000	04, 10	2016
District Court Judges			
<i>Retention Dates: First general election held more than two years after appointment; every four years thereafter.</i>			
Keith B. Levy - <i>Juneau</i>	1/24/2005	08, 12	2016
Kevin G. Miller - <i>Ketchikan</i>	8/30/1999	02, 06, 10	2014
Thomas G. Nave - <i>Juneau</i>	9/24/2010	12	2016

Second Judicial District			
Judge	Appointed	Prior Retention Elections	Next Retention
Superior Court Judges			
<i>Retention Dates: First general election held more than three years after appointment; every six years thereafter.</i>			
Ben Esch - <i>Nome</i>	2/16/1996	00, 06	Retiring 2013
Michael I. Jeffery - <i>Barrow</i>	5/29/2008	<i>(86, 92, 98, 04) 12</i>	N/A
Paul A. Roetman - <i>Kotzebue</i>	7/9/2010	<i>None</i>	2014
District Court Judges			
<i>No District Court Judge positions in the Second Judicial District.</i>			

Retention Election History (continued)

Third Judicial District			
Judge	Appointed	Prior Retention Elections	Next Retention
Superior Court Judges			
<i>Retention Dates: First general election held more than three years after appointment; every six years thereafter.</i>			
Eric A. Aarseth - Anchorage	11/30/2005	10	2016
Carl Bauman - Kenai	8/3/2007	10	2016
Steve W. Cole - Kodiak	3/4/2009	12	2018
Pat Douglass - Dillingham	12/16/2011	None	2016
Catherine M. Easter - Anchorage	3/5/2012	(10)	2016
Andrew Guidi - Anchorage	7/12/2010	None	2014
Gregory Louis Heath - Palmer	7/9/2009	(06) 12	2018
Charles Huguelet - Kenai	9/2/2003	06, 12	2018
Kari Kristiansen - Palmer	11/17/2006	10	2016
Erin B. Marston - Anchorage	9/24/2012	None	2016
Patrick J. McKay - Anchorage	11/30/2005	10	2016
Gregory Miller - Anchorage	1/3/2011	None	2014
Anna M. Moran - Kenai	3/5/2007	10	2016
William F. Morse - Anchorage	2/27/2002	06, 12	2018
Olson, Paul E. - Anchorage	3/9/2012	None	2016
Frank A. Pfiffner - Anchorage	10/29/2009	12	N/A
Mark Rindner - Anchorage	10/20/2000	04, 10	2016
Kevin M. Saxby - Anchorage	3/12/2012	None	2016
Eric Smith - Palmer	4/18/1996	00, 06, 12	2018
Jack W. Smith - Anchorage	11/17/2006	(06) 10	2016
Michael Spaan - Anchorage	11/17/2006	10	N/A
John Suddock - Anchorage	11/14/2002	06, 12	N/A
Sen K. Tan - Anchorage	12/4/1996	00, 06, 12	2018
Philip R. Volland - Anchorage	11/14/2002	06, 12	2018
Vanessa H. White - Palmer	11/17/2006	10	2016
Michael L. Wolverton - Anchorage	12/4/1996	(90, 94) 00, 06, 12	2018
District Court Judges			
<i>Retention Dates: First general election held more than two years after appointment; every four years thereafter.</i>			
Jo-Ann M. Chung - Anchorage	5/26/2011	None	2014
Brian K. Clark - Anchorage	1/23/2003	06, 10	2014
Leslie N. Dickson - Anchorage	11/9/2012	None	2016
William L. Estelle - Palmer	6/11/2003	06, 10	2014
J. Patrick Hanley - Anchorage	1/14/2005	08, 12	2016
Jennifer Stuart Henderson - Anchorage	11/9/2012	None	2016
Sharon A.S. Illsley - Kenai	6/14/2007	10	2014
Gregory J. Motyka - Anchorage	7/26/1991	94, 98, 02, 06, 10	2014
Margaret L. Murphy - Homer	4/20/2005	08, 12	2016
Stephanie Rhoades - Anchorage	7/30/1992	94, 98, 02, 06, 10	2014
Daniel Schally - Valdez	1/17/2005	08, 12	2016
Alex M. Swiderski - Anchorage	4/11/2005	08, 12	2016
David R. Wallace - Anchorage	1/23/2009	12	2016
Pamela Scott Washington - Anchorage	8/9/2010	12	2016
John W. Wolfe - Palmer	11/1/2004	06, 10	2014
David Zwink - Palmer	1/29/2010	12	2016

Retention Election History (continued)

Fourth Judicial District			
Judge	Appointed	Prior Retention Elections	Next Retention
Superior Court Judges			
<i>Retention Dates: First general election held more than three years after appointment; every six years thereafter.</i>			
Douglas L. Blankenship - Fairbanks	3/10/2006	10	2016
Bethany Spalding Harbison - Fbks	9/24/2012	None	2016
Paul R. Lyle - Fairbanks	2/19/2008	12	2018
Michael A. MacDonald - Fairbanks	6/1/2007	10	2016
Michael P. McConahy - Fairbanks	7/9/2009	12	2018
Dwayne W. McConnell - Bethel	7/11/2012	None	2016
Chuck Ray - Bethel	6/20/2012	None	2016
District Court Judges			
<i>Retention Dates: First general election held more than two years after appointment; every 4 years thereafter.</i>			
Patrick S. Hammers - Fairbanks	7/9/2009	12	2016
Jane F. Kauvar - Fairbanks	2/18/1981	82, 86, 90, 94, 98, 02, 06,10	2014
Ben Seekins - Fairbanks	1/13/2012	None	2014

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Appendix G

Judges Eligible to Stand for Retention Election in 2014 and 2016

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Appendix G

Judges Eligible to Stand for Retention Election in 2014			
Judge	Court Level	Date Appointed	Prior Retentions
Supreme Court Justices			
Craig F. Stowers	N/A	12/2/2009	(8)
First Judicial District			
Louis James Menendez - <i>Juneau</i>	Superior	5/23/2011	<i>None</i>
Kevin G. Miller - <i>Ketchikan</i>	District	8/30/1999	02, 06, 10
Second Judicial District			
Paul A. Roetman - <i>Kotzebue</i>	Superior	7/9/2010	<i>None</i>
Third Judicial District			
Andrew Guidi - <i>Anchorage</i>	Superior	7/12/2010	<i>None</i>
Gregory Miller - <i>Anchorage</i>	Superior	1/3/2011	<i>None</i>
Jo-Ann Chung - <i>Anchorage</i>	District	5/26/2011	<i>None</i>
Brian K. Clark - <i>Anchorage</i>	District	1/23/2003	06, 10
William L. Estelle - <i>Palmer</i>	District	6/11/2003	06, 10
Sharon A.S. Illsley - <i>Kenai</i>	District	6/14/2007	10
Gregory Motyka - <i>Anchorage</i>	District	7/26/1991	94, 98, 02, 06, 10
Stephanie Rhoades - <i>Anchorage</i>	District	7/30/1992	94, 98, 02, 06, 10
John W. Wolfe - <i>Palmer</i>	District	11/1/2004	06, 10
Fourth Judicial District			
Jane F. Kauvar - <i>Fairbanks</i>	District	2/18/1981	82, 86, 90, 94, 98, 02, 06, 10
Ben Seekins - <i>Fairbanks</i>	District	1/13/2012	<i>None</i>
<i>Total = 15 standing for retention</i>			

Note: Years shown in italics and parentheses indicate when a judge stood for retention in a prior position.

Judges Eligible to Stand for Retention Election in 2016			
Judge	Court Level	Date Appointed	Prior Retentions
Supreme Court Justices			
Peter J. Maassen	N/A	8/9/2012	None
Vacant (<i>Open position</i>)	N/A		
Court of Appeals			
Marjorie K. Allard	N/A	11/23/2012	None
First Judicial District			
David V. George - <i>Sitka</i>	Superior	10/25/2007	10
Philip M. Pallenberg - <i>Juneau</i>	Superior	8/31/2007	10
Trevor Stephens - <i>Ketchikan</i>	Superior	7/31/2000	04, 10
Keith B. Levy - <i>Juneau</i>	District	1/24/2005	08, 12
Thomas G. Nave - <i>Juneau</i>	District	9/24/2010	12
Second Judicial District			
Nome Superior (<i>Open position</i>)			
Third Judicial District			
Eric A. Aarseth - <i>Anchorage</i>	Superior	11/30/2005	10
Carl Bauman - <i>Kenai</i>	Superior	8/3/2007	10
Pat Douglass - <i>Dillingham</i>	Superior	12/16/2011	None
Catherine M. Easter - <i>Anchorage</i>	Superior	3/5/2012	(10)
Kari Kristiansen - <i>Palmer</i>	Superior	11/17/2006	10
Erin B. Marston - <i>Anchorage</i>	Superior	9/24/2012	None
Patrick J. McKay - <i>Anchorage</i>	Superior	11/30/2005	10
Anna M. Moran - <i>Kenai</i>	Superior	3/5/2007	10
Paul E. Olson - <i>Anchorage</i>	Superior	3/29/2012	None
Mark Rindner - <i>Anchorage</i>	Superior	10/20/2000	04, 10
Kevin Saxby - <i>Anchorage</i>	Superior	3/12/2012	None
Jack Smith - <i>Anchorage</i>	Superior	11/17/2006	(06) 10
Vanessa H. White - <i>Palmer</i>	Superior	11/17/2006	10
Leslie N. Dickson - <i>Anchorage</i>	District	11/9/2012	None
J. Patrick Hanley - <i>Anchorage</i>	District	1/14/2005	08, 12
Jennifer Stuart Henderson - <i>Anchorage</i>	District	11/9/2012	None
Margaret L. Murphy - <i>Homer</i>	District	4/20/2005	08, 12
Daniel Schally - <i>Valdez</i>	District	1/17/2005	08, 12
Alex M. Swiderski - <i>Anchorage</i>	District	4/11/2005	08, 12
David R. Wallace - <i>Anchorage</i>	District	1/23/2009	12
Pamela Scott Washington - <i>Anchorage</i>	District	8/9/2010	12
David Zwink - <i>Palmer</i>	District	1/29/2010	12
Fourth Judicial District			
Douglas Blankenship - <i>Fairbanks</i>	Superior	3/10 2006	10
Bethany Spalding Harbison - <i>Fairbanks</i>	Superior	9/24/2012	None
Michael A. MacDonald - <i>Fairbanks</i>	Superior	6/1/2007	10
Dwayne McConnell - <i>Bethel</i>	Superior	7/11/2012	None
Chuck Ray - <i>Bethel</i>	Superior	6/20/2012	None
Fairbanks Superior - (<i>Open position</i>)			
Patrick S. Hammers - <i>Fairbanks</i>	District	7/9/2009	12
Bethel District - (<i>Open position</i>)			
<i>Total = 39 standing for retention</i>			