

STATE OF VERMONT

JUDICIAL NOMINATING BOARD

MEMORANDUM

TO: Members of the Bar of the Vermont Supreme Court

FROM: Eleanor Spottswood, Esq., Chair
Judicial Nominating Board

SUBJECT: **Information Concerning Superior Judge Vacancy**

DATE: October 17, 2022

The Judicial Nominating Board is seeking applicants for the Superior Judge vacancies which will be created by the retirements of Judges Thomas Devine, Robert Gerety, Scot Kline, and Robert Mello of the Vermont Superior Court.

Superior Judges serve in the civil, criminal, and family divisions of the Superior Court. Please note that these vacancies and the appointments are in several different regions and the appointments will not be made until after the time of the actual retirement of Judges Devine, Gerety, and Mello in January, 2023. As to the Judge Kline position, the appointment will be made after March 31, 2023.

The successful candidate filling the Judge Devine vacancy will, regardless of current residence, be assigned to the Northern Region of the Superior Court, with primary assignments to the Washington, Lamoille, Caledonia, Essex, and Orleans units. The appointment will be effective for a term that technically expires on March 31, 2023. Any appointment made after on or after April 1, 2023, will expire on March 31, 2029. (If the successful candidate is sworn in before March 31, 2023, they will go through the 2023 retention process.)

The successful candidate filling the Judge Gerety vacancy will, regardless of current residence, be assigned to the East Region of the Superior Court, with primary assignments to the Windsor and Orange units. The appointment will be effective for a term that expires on March 31, 2025.

The successful candidate for the Judge Kline vacancy will, regardless of current residence, be assigned to the West Region of the Superior Court, with primary assignments to the Bennington and Rutland units. The appointment will be effective for a term that expires on March 31, 2029.

The successful candidate filling the Judge Mello vacancy will, regardless of current residence, be assigned to the Northern Region of the Superior Court, with primary assignments to the Chittenden, Franklin, Grand Isle, Lamoille, and Washington units. The appointment will be effective for a term that expires on March 31, 2028.

In evaluating candidates, the Judicial Nominating Board uses established criteria and standards for nomination that include, but are not necessarily limited to, such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, communication capability, financial integrity, experience, diligence, social consciousness, and public service. Consideration will be given to the nature and extent of the candidate's legal training, practice, and experience.

The Supreme Court and the Chief Superior Judge will expect each judge to preside in the civil, criminal, and family divisions of the Superior Court, to carry out administrative policy directives and statewide trial court operational policies, and to work cooperatively with court clerks and judicial colleagues to:

- manage the flow of litigation and the pace of courtroom proceedings in order to deal with the workload of the court efficiently and effectively.
- communicate clearly and regularly with the local bar, representatives of state agencies, community organizations, and other court users to enhance effective functioning of the court.
- ensure that court proceedings are conducted in an atmosphere that makes litigants and lawyers feel welcome, ensures fairness and the perception of fairness, and treats court users and court staff with courtesy and respect.

In addition, a Superior Judge may be assigned as the presiding judge of a unit pursuant to 4 V.S.A. § 71(e). Pursuant to Administrative Directive No. 29, the responsibilities of a presiding judge for a geographical unit include: allocation of judicial resources within the unit; resolution of scheduling conflicts between divisions within the unit; increase of efficiencies and standardization of procedures; and maintenance of a collaborative working relationship with the Superior Court Clerk and Court Operations Managers on issues related to case scheduling, calendaring, court programs, use of court facilities, and the relationship between the court and the local bar and the community.

Please note 4 V.S.A. §§ 602(b) and 602(c), which reads as follows:

Whenever a vacancy occurs in the office of a Supreme Court Justice, a Superior Court Judge, magistrate, or Chair of the Public Utility Commission, or when an incumbent does not declare that he or she will be a candidate to succeed himself or herself, the Board shall submit to the Governor the names of as many persons as it deems well qualified to be appointed to the office. [§ 602(b)]

A candidate for judge or Justice shall be a Vermont resident and an experienced lawyer who has practiced law in Vermont for a minimum of ten years, with at least five years immediately preceding his or her application to the Board. The Board may make exceptions to the five-year requirement for absences from practice for reasons including family, military, academic, or medical leave. [§ 602(c)(1)]

Other information relating to the Superior Judge vacancies is as follows:

- (1) 4 V.S.A. § 601(d) and § 602(b) set forth the general qualifications required of candidates for Judges. See also Vt. Const. ch. II, § 35 and the Judicial Nominating Board Rules.
- (2) Superior Judges rotate and are assigned to serve from time to time in the Superior Court in the three geographic divisions of the state. See Administrative Order No. 13 and 4 V.S.A. §§ 21(a) and 22.
- (3) Effective July 1, 2022, the salary of a Superior Judge is \$175,654. 32 V.S.A. § 1003(c).
- (4) The procedures for selection and appointment of Superior Judges are set forth at Vt. Const. ch. II, §§ 32-35 and 4 V.S.A. §§ 601-603.
- (5) The procedures for retention of Superior Judges are found at Vt. Const. ch. II, §§ 34-35 and 4 V.S.A. §§ 607 and 608.
- (6) Superior Judges are subject to the disciplinary and administrative authority of the Supreme Court and the Chief Superior Judge. Vt. Const. ch. II, §§ 30, 36, 37; 4 V.S.A. §§ 3, 72, and 605; Rules of the Supreme Court for Disciplinary Control of Judges; Vermont Code of Judicial Conduct; and Administrative Order No. 18.
- (7) Under 4 V.S.A. § 26, the Legislature authorized appointment of half-time judges. Two half-time judges may share the position on a weekly, monthly or semi-annual basis subject to the assignment of the Chief Superior Judge. Each appointment will be made as one full-time judge or as two half-time judges. The salary of a half-time Superior Judge is half the salary of a full-time judge (see #3 above).

Any individual interested in applying for this vacancy may download the [Application for Candidates Applying for Superior Court Judge](#) on the Judiciary website. The application has been revised, so please fill out the new application even if you have applied to be a Superior Judge in the past. Please note that while you no longer need to submit your Social Security Number, you must include your date of birth. Your completed application, in PDF form, must be filed with me at the following email address **on or before November 10, 2022:** eleanor.spottswood@gmail.com

Your application must be accompanied by your writing sample.

Interviews by the Judicial Nominating Board are tentatively planned to be held in person in the Burlington area. The interviews will be on **December 12 and 13** and, if necessary, on **November 29 and 30**.

If you have any questions, please feel free to contact me at 802-391-0061 or at eleanor.spottswood@gmail.com