

STATE OF DELAWARE



**EXECUTIVE DEPARTMENT
DOVER**

**EXECUTIVE ORDER
NUMBER FOUR**

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: MAGISTRATES SCREENING COMMITTEE

WHEREAS, Article IV, Section 30 of the Delaware Constitution of 1897 empowers the Governor to appoint Justices of the Peace by and with the consent of a majority of all the members elected to the State Senate; and

WHEREAS, the purpose of the Justice of the Peace Courts is to provide speedy and inexpensive legal recourse to the citizens of Delaware regarding matters which need not be determined by a lawyer-judge; and

WHEREAS, the Delaware Constitution does not specify qualifications for persons to be appointed as Justices of the Peace; and

WHEREAS, the citizens of Delaware deserve to have only capable individuals appointed to serve as Justices of the Peace so as to ensure the quality of justice meted out by and to foster public confidence in the Justice of the Peace Courts; and

WHEREAS, since 1970 Governors of the State of Delaware have found it useful to engage a bipartisan Magistrates Screening Committee to recruit potential candidates, assess their qualifications and supply the Governor with the names of those candidates who are most qualified to serve; and

WHEREAS, the merit selection process used by the Magistrates Screening Committee has improved the quality of justice available to Delawareans in the Justice of the Peace Courts.

NOW THEREFORE, I, THOMAS R. CARPER, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order that:

1. The Magistrates Screening Committee is hereby continued to assist the Governor regarding all appointments of Justices of the Peace.

2. The Committee shall consist of nine members. Eight members shall be appointed by the Governor pursuant to this Executive Order and shall serve during his pleasure. The ninth member shall be appointed by the Executive Committee of the Delaware State Bar Association and shall serve during its pleasure. Members appointed by the Governor shall reflect the broad diversity of the citizenry of Delaware. No more than five of the nine members of the Committee shall be active members of the Bar of the Supreme Court of the State of Delaware at the time of their appointment. No more than five members of the Committee shall be registered members of the same political party at the time of their appointment. No member of the Committee shall hold elective constitutional office during the member's term on the Committee.

3. The Governor shall designate a Chairperson from among the members of the Committee.

4. The Committee shall perform the following responsibilities:

- (a) Screen candidates who apply to be considered for appointment as a Justice of the Peace;
- (b) Adopt appropriate procedures and criteria for use in the selection process; and
- (c) Periodically, or upon request of the Governor, furnish to the Governor the names of individuals whom the Committee deems qualified to serve as a Justice of the Peace.

5. In considering persons to submit to the Governor as prospective nominees, the Commission shall seek men and women of the highest calibre, who by intellect, work ethic, temperament, integrity and ability demonstrate the capacity and commitment to be excellent Justices of the Peace. The Commission shall seek the best qualified persons available at the time for vacancies.

6. In adopting appropriate procedures and criteria for the selection process, the Committee may develop or designate a test designed to test an applicant's ability to perform the required duties of a Justice of the Peace. Any costs associated with the administration of such a test may be defrayed by the imposition by the Committee of a reasonable application fee.

7. If any member of the Committee currently is an attorney for, client of, employer or employee of, or relative of any candidate, then such member shall disclose the relationship to the Committee and shall not participate in the deliberations of the Committee concerning that candidate.

8. All records and deliberations with respect to persons under consideration as candidates or prospective candidates shall be held in confidence by the Committee and may be disclosed only at the direction of the Governor and only to the Governor or his designee. The Magistrates Screening Committee is established by the Governor to assist him in the exercise of his discretion regarding his constitutional power to appoint Justices of the Peace, and the creation of the Committee and its adoption of selection procedures and criteria in no way waives any privilege attaching to the source and substance of any advice rendered to the Governor in this regard, nor waives any privilege attaching to the records, investigations and deliberations of the Committee regarding the performance of its duties under this Executive Order. The Committee may, in its discretion, disclose to an individual applicant his or her test score.

9. The Governor shall nominate for appointment as Justices of the Peace only persons found qualified for appointment by the Magistrates Screening Committee.

10. Executive Order Number Two approved by Governor Castle is hereby rescinded.

APPROVED this 21ST day of April, 1993

Thomas R. Gage
Governor

Attest:

William J. Zullen
Secretary of State

