

TITLE 1
COURTS AND COURT OFFICIALS

CHAPTER 21
JUDICIAL COUNCIL

1-2101. JUDICIAL COUNCIL -- CREATION -- MEMBERSHIP -- APPOINTMENTS -- VACANCIES. (1) There is hereby created a judicial council which shall consist of seven (7) permanent members, and one (1) adjunct member. Three (3) permanent attorney members, one (1) of whom shall be a district judge, shall be appointed by the board of commissioners of the Idaho state bar with the consent of the senate. Three (3) permanent non-attorney members shall be appointed by the governor with the consent of the senate. If any of the above appointments be made during a recess of the senate, they shall be subject to consent of the senate at its next session. The term of office for a permanent appointed member of the judicial council shall be six (6) years. Vacancies shall be filled for the unexpired term in like manner. Appointments shall be made with due consideration for area representation and not more than three (3) of the permanent appointed members shall be from one (1) political party. The chief justice of the Supreme Court shall be the seventh member and chairman of the judicial council. No permanent member of the judicial council, except a judge or justice, may hold any other office or position of profit under the United States or the state. The judicial council shall act by concurrence of four (4) or more members and according to rules which it adopts.

(2) In addition to the permanent members of the judicial council, whenever there is an issue before the council which involves the removal, discipline or recommendation for retirement of a district court magistrate, the chief justice shall appoint an adjunct member of the judicial council, who shall be a district court magistrate. For all purposes for which the adjunct appointment is made, the adjunct member shall be a full voting member of the judicial council.

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

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

(1) Conduct studies for the improvement of the administration of justice;

(2) Make reports to the supreme court and legislature at intervals of not more than two (2) years;

(3) Submit to the governor the names of not less than two (2) nor more than four (4) qualified persons for each vacancy in the office of justice of the supreme court, judge of the court of appeals, or district judge, one (1) of whom shall be appointed by the governor; provided, that the council shall submit only the names of those qualified persons who are eligible to stand for election pursuant to section [1-2404](#), [34-615](#) or [34-616](#), Idaho Code;

(4) Recommend the removal, discipline and retirement of judicial officers, including magistrates;

(5) Prepare an annual budget request in the form prescribed in section 67-3502, Idaho Code, and submit such request to the supreme court, which shall include such request as submitted by the judicial council in the annual budget request of the judicial department; and

(6) Such other duties as may be assigned by law.

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

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

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

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

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

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

1-2103A. REMOVAL, DISCIPLINING, OR RETIREMENT OF MAGISTRATES. A magistrate of the district court, in accordance with the procedure prescribed in this section, may be disciplined or removed for wilful misconduct in office or wilful and persistent failure to perform his duties or habitual intemperance or conduct prejudicial to the administration of justice that brings judicial office into disrepute, or he may be recommended for retirement for disability seriously interfering with the performance of his duties, which is, or is likely to become of a permanent character.

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

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

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

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

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

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

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