

An Act

HOUSE BILL NO. 1079.

BY REPRESENTATIVES Bath, Anderson, Bowen, Chlouber, Dambman, Dyer, Faatz, Fagan, Fish, Jenkins, Lawson, Owens, Romero, Ruddick, and Thiebaut;
also SENATORS Traylor and P. Powers.

CONCERNING THE ESTABLISHMENT OF COMMISSIONS FOR THE PURPOSE OF
EVALUATING JUDICIAL PERFORMANCE, AND MAKING AN
APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 13, Colorado Revised Statutes, 1987 Repl. Vol., is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 5.5

Commissions on Judicial Performance

13-5.5-101. Legislative declaration. The general assembly hereby finds and declares that it is in the public interest to establish a system of evaluating judicial performance to provide persons voting on the retention of justices and judges with fair, responsible, and constructive information about judicial performance and to provide justices and judges with useful information concerning their own performance. The general assembly further finds and declares that the evaluation of judicial performance should be conducted statewide and within each judicial district using uniform criteria and procedures established by a state commission on judicial performance pursuant to the provisions of this article.

13-5.5-102. State commission on judicial performance.
(1) (a) There is hereby established the state commission on judicial performance, referred to in this article as the "state commission". The state commission shall consist of ten

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

members. The speaker of the house of representatives and the president of the senate shall each appoint two nonattorneys. The governor and the chief justice of the supreme court shall each appoint two attorneys and one nonattorney. All members of the commission shall serve terms of four years; except that, of those first appointed, one person appointed by each appointing authority shall serve for a term of two years. All initial appointments shall be completed by July 1, 1988.

(b) Any vacancy on the commission shall be filled by the original appointing authority, but no member shall serve more than two terms. The initial term of any member appointed to fill a vacancy created by the failure of any member of the state commission to complete his term shall expire when the term of the departed member would otherwise have expired. Justices and judges actively performing judicial duties may not be appointed to serve on the state commission. Retired justices and judges are eligible to be appointed as attorney members; except that no retired justice or judge may be assigned or appointed to perform judicial duties while serving on the state commission.

(c) The chair of the state commission shall be elected by its members every two years.

(2) Members and employees of the state commission shall be immune from suit in any action, civil or criminal, based upon official acts performed in good faith as members of the state commission.

13-5.5-103. Powers and duties of the state commission.

(1) In addition to other powers conferred and duties imposed upon the state commission by this article, the state commission has the following powers and duties:

(a) To develop techniques for evaluating district and county judges, justices of the supreme court, and judges of the court of appeals on relevant performance criteria, which include, but are not limited to: Integrity; knowledge and understanding of substantive, procedural, and evidentiary law; communication skills; preparation, attentiveness, and control over judicial proceedings; sentencing practices; docket management and prompt case disposition; administrative skills; punctuality; effectiveness in working with participants in the judicial process; and service to the legal profession and the public;

(b) To develop lawyer and juror surveys and then determine the validity of completed surveys and to recommend judicial performance evaluations by peers, chief judges, court personnel, and others who have direct and continuing contact with justices and judges;

(c) To prepare alternatives to lawyer and juror surveys where sample populations are inadequate to produce valid results;

(d) To develop and determine the validity of comprehensive evaluation profiles for judges;

(e) To develop guidelines, in conjunction with the press, for disseminating and publishing the results of judicial performance evaluations in narrative form;

(f) To consult with district commissions on judicial performance evaluation criteria, techniques, and sources;

(g) To submit an annual report of the state commission's activity to the general assembly, the governor, and the supreme court;

(h) To develop statewide evaluation forms and uniform criteria and procedures;

(i) To produce and distribute to the public a narrative profile of each appellate justice or judge subject to retention election;

(j) To hire an executive director and such other employees as it deems necessary;

(k) To promulgate, subject to approval by the supreme court, rules necessary to implement the provisions of this article.

13-5.5-104. District commission on judicial performance.

(1) (a) There is hereby established in each judicial district a district commission on judicial performance, referred to in this article as the "district commission". The district commission shall consist of ten members. The speaker of the house of representatives and the president of the senate shall each appoint two nonattorneys. The governor and the chief justice of the supreme court shall each appoint two attorneys and one nonattorney. All members of the commission shall serve terms of four years; except that, of those first appointed, one person appointed by each appointing authority shall serve for a term of two years. All initial appointments shall be completed by July 1, 1989.

(b) Any vacancy on the commission shall be filled by the original appointing authority, but no member shall serve more than two terms. The initial term of any member appointed to fill a vacancy created by the failure of any member of the district commission to complete his term shall expire when the term of the departed member would otherwise have expired.

Justices and judges actively performing judicial duties may not be appointed to serve on the district commission. Retired justices and judges are eligible to be appointed as attorney members; except that no retired justice or judge may be assigned or appointed to perform judicial duties while serving on the district commission.

(c) The chair of the district commission shall be elected by its members every two years.

(2) The district administrator of each judicial district and his staff shall serve as the staff for the district commission.

(3) Members and employees of a district commission shall be immune from suit in any action, civil or criminal, based upon official acts performed in good faith as members of the district commission.

13-5.5-105. Powers and duties of district commissions.

(1) In addition to other powers conferred and duties imposed upon a district commission by this article, a district commission has the following powers and duties:

(a) To distribute questionnaires and interview judges and other appropriate persons under the state commission's direction; and

(b) To produce and distribute to the public a narrative profile on each district and county judge subject to retention election.

13-5.5-106. Recommendations on retention of justices and judges.

(1) (a) The state commission shall conduct an evaluation of each justice of the supreme court and each judge of the court of appeals whose term is to expire following the next general election but not before July 1, 1989. Evaluations shall be completed and the narrative profile prepared for communication to the appellate justice or judge no later than thirty days prior to the last day available for the appellate justice or judge to declare his intent to stand for retention. The appellate justice or judge shall have the opportunity to meet with the state commission or otherwise respond to the evaluation no later than ten days following his receipt of such evaluation. If such meeting is held or response is made, the state commission may revise its evaluation.

(b) After the requirement of paragraph (a) of this subsection (1) is met, the state commission shall make a recommendation regarding the retention of each appellate justice or judge who declares his intent to stand for

retention, which recommendation shall be stated as "retain", "do not retain", or "no opinion". A "no opinion" recommendation shall be made only when the state commission concludes that results are not sufficiently clear to make a firm recommendation and shall be accompanied by a detailed explanation.

(c) The state commission shall release the narrative profile, the recommendation, and any other relevant information to the public no later than thirty days prior to the retention election.

(2) (a) The district commission shall conduct an evaluation of each district and county judge whose term is to expire following the next general election but not before July 1, 1989. Evaluations shall be completed and the narrative profile prepared for communication to the judge no later than thirty days prior to the last day available for the judge to declare his intent to stand for retention. The judge shall have the opportunity to meet with the district commission or otherwise respond to the evaluation no later than ten days following his receipt of such evaluation. If such meeting is held or response is made, the district commission may revise its evaluation.

(b) After the requirement of paragraph (a) of this subsection (2) is met, the district commission shall make a recommendation regarding the retention of each district or county judge who declares his intent to stand for retention, which recommendation shall be stated as "retain", "do not retain", or "no opinion". A "no opinion" recommendation shall be made only when the district commission concludes that results are not sufficiently clear to make a firm recommendation and shall be accompanied by a detailed explanation.

(c) The district commission shall release the narrative profile, the recommendation, and any other relevant information to the public no later than thirty days prior to the retention election.

13-5.5-107. Acceptance of private or federal grants.
The state commission is authorized to accept any grants of federal or private funds made available for any purpose consistent with the provisions of this article. Any funds received pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the state commission on judicial performance cash fund, which is hereby created. Moneys in the fund may be expended by the state commission, subject to annual appropriation by the general assembly, for the purposes of this article.

13-5.5-108. Implementation of article. The implementation of this article shall be subject to the availability of funds received pursuant to section 13-5.5-107. If funds received pursuant to said section are insufficient to fully implement this article, the state commission shall reduce the number of judicial districts in which district commissions are established by section 13-5.5-104. No general fund appropriation for the purposes of this article shall be made in the annual general appropriation bill but may be made by separate bill.

13-5.5-109. Repeal of article. (1) This article is repealed, effective June 30, 1993.

(2) The state commission shall provide, not later than January 1, 1993, relevant information to the general assembly and make a recommendation as to whether this article should be repealed or continued. Not later than January 31, 1991, and again January 31, 1993, a report shall be provided concerning the effectiveness of the commission's work.

SECTION 2. Appropriation. There is hereby appropriated, out of any moneys in the state commission on judicial performance cash fund created in section 13-5.5-107, Colorado Revised Statutes, to the judicial department, for the fiscal year commencing July 1, 1988, the sum of ninety-six thousand sixty-seven dollars (\$96,067), or so much thereof as may be necessary, for the implementation of this act. The general assembly has determined that no appropriation of general fund moneys is required for the implementation of this act.

SECTION 3. Safety clause. The general assembly hereby

finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

CB Bledsoe

Carl B. Bledsoe
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Ted L. Strickland

Ted L. Strickland
PRESIDENT OF
THE SENATE

Lee C. Bahrych

Lee C. Bahrych
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Joan M. Albi

Joan M. Albi
SECRETARY OF
THE SENATE

APPROVED

May 12, 1988 at 5:16 pm

Roy Romer

Roy Romer
GOVERNOR OF THE STATE OF COLORADO

