

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0865.01 Jane Ritter x4342

HOUSE BILL 16-1235

HOUSE SPONSORSHIP

Van Winkle,

SENATE SPONSORSHIP

Kefalas and Lundberg,

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A REPRESENTATIONAL STATE JUDICIAL PERFORMANCE
102 COMMISSION TO INCREASE THE FLOW OF INFORMATION
103 BETWEEN JUDICIAL PERFORMANCE COMMISSIONS TO ENHANCE
104 THE COMMISSIONS' ABILITY TO MAKE INFORMED JUDICIAL
105 RETENTION RECOMMENDATIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill makes revisions to various functions of the state commission on judicial performance (state commission) and the district

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

commissions on judicial performance (district commission), referred to collectively as the "commissions". The changes include:

- ! Changing the makeup of the state commission to include one representative from each judicial district to ensure representation from the entire state;
- ! Establishing guidelines for when attorneys and nonattorneys are appointed to the state commission by a district commission;
- ! Not allowing the chief justice to select individuals for the state commission, which reviews the chief justice's performance;
- ! Mandating annual public meetings at which the public is invited to attend and confidentially comment on justices and judges;
- ! Requiring the state commission to obtain and verify required financial disclosures, criminal histories, and driving histories for each justice or judge reviewed by the commissions;
- ! Requiring judicial evaluations to take place every 2 years and to be made public at that time;
- ! Mandating that the commissions make a "do not retain" recommendation when a majority of commissioners determine that it is more probable than not that a justice or judge:
 - ! Knowingly committed a dishonest act during the performance of judicial duties;
 - ! Knowingly made inaccurate or insufficient public financial disclosures; or
 - ! Was improperly influenced by a conflict of interest in performing a judicial act; and
- ! Mandating that the commissions make a "do not retain" recommendation when two-thirds of the attorneys who complete a questionnaire or survey for the commission recommend that the justice or judge is not retained.

The bill is funded from any fees and cost recoveries for electronic filings, network access and searches of court databases, electronic searches of court records, and any other information technology services performed pursuant to statute.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 13-5.5-101.3 as
3 follows:

1 **13-5.5-101.3. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
2 CONTEXT OTHERWISE REQUIRES:

3 (1) "ATTORNEY" MEANS A PERSON ADMITTED TO PRACTICE LAW
4 BEFORE THE COURTS OF THIS STATE.

5 (2) "DISTRICT COMMISSION" MEANS A DISTRICT COMMISSION ON
6 JUDICIAL PERFORMANCE ESTABLISHED IN SECTION 13-5.5-104.

7 (3) "INTERIM EVALUATION" MEANS A JUDICIAL EVALUATION
8 CONDUCTED PURSUANT TO SECTION 13-5.5-106.3.

9 (4) "JUDICIAL PERFORMANCE EVALUATION" OR "EVALUATION"
10 MEANS EITHER AN INTERIM EVALUATION OR A RETENTION YEAR
11 EVALUATION OF A JUSTICE OR JUDGE.

12 (5) "OFFICE" MEANS THE OFFICE OF JUDICIAL PERFORMANCE
13 EVALUATION ESTABLISHED IN SECTION 13-5.5-101.5.

14 (6) "RETENTION YEAR EVALUATION" MEANS A JUDICIAL
15 EVALUATION CONDUCTED PURSUANT TO SECTION 13-5.5-106.

16 (7) "STATE COMMISSION" MEANS THE STATE COMMISSION ON
17 JUDICIAL PERFORMANCE ESTABLISHED PURSUANT TO SECTION 13-5.5-102.

18 **SECTION 2.** In Colorado Revised Statutes, 13-5.5-101.5, **amend**
19 (1) and (3) as follows:

20 **13-5.5-101.5. Office of judicial performance evaluation.**

21 (1) ~~There is hereby established in the judicial department~~ The office of
22 judicial performance evaluation referred to in this article as the "office".
23 ~~The state commission~~ IS ESTABLISHED IN THE JUDICIAL DEPARTMENT. THE
24 STATE COMMISSION on judicial performance ~~established pursuant to~~
25 ~~section 13-5.5-102~~ shall oversee the office.

26 (3) Subject to the ~~supervision of the state commission~~ STATE
27 COMMISSION'S SUPERVISION, the office shall:

1 (a) Staff the state ~~and district commissions~~ COMMISSION, when
2 directed to do so by the state commission, AS FOLLOWS:

3 (I) A STAFF MEMBER OR THE EXECUTIVE DIRECTOR OF THE STATE
4 COMMISSION MAY NOT CONCURRENTLY SERVE IN ANY OTHER POSITION
5 RELATED TO THE COURTS OR IN ANY POSITION WHERE THE STAFF MEMBER
6 OR EXECUTIVE DIRECTOR IS SUPERVISED BY, OVERSEEN BY, OR WORKS
7 ALONGSIDE A JUSTICE OR JUDGE. A STAFF MEMBER OR EXECUTIVE
8 DIRECTOR OF THE STATE COMMISSION MAY NOT REPORT TO ANY JUSTICE
9 OR JUDGE FOR ADDITIONAL DUTIES.

10 (II) ASSIGN EACH DISTRICT ADMINISTRATOR AND HIS OR HER
11 STAFF, AS DESCRIBED IN SECTION 13-5.5-104 (2), TO PERFORM STAFF
12 DUTIES FOR ONE PERFORMANCE COMMISSION IN A DIFFERENT JUDICIAL
13 DISTRICT. A DISTRICT ADMINISTRATOR OR HIS OR HER STAFF MUST NOT
14 SERVE AS PERFORMANCE COMMISSION STAFF FOR THE JUDICIAL DISTRICT
15 IN WHICH HE OR SHE CURRENTLY WORKS.

16 (b) Train members of the state and district commissions;

17 (c) Collect ~~and disseminate~~ data on judicial performance
18 evaluations ANNUALLY. THE DATA COLLECTED REGARDING EACH JUSTICE
19 AND JUDGE MUST INCLUDE THE FOLLOWING:

20 (I) PUBLIC FINANCIAL DISCLOSURES FILED PURSUANT TO PART 2 OF
21 ARTICLE 6 OF TITLE 24, C.R.S.;

22 (II) AT LEAST ONE INDEPENDENT CREDIT REPORT FROM A
23 CONSUMER REPORTING AGENCY, AS DEFINED IN SECTION 12-14.3-102 (4),
24 C.R.S.;

25 (III) THE JUSTICE'S OR JUDGE'S CRIMINAL HISTORY RECORD FROM
26 THE PUBLIC WEBSITE MAINTAINED BY THE COLORADO BUREAU OF
27 INVESTIGATION;

1 (IV) THE JUSTICE'S OR JUDGE'S DRIVING HISTORY RECORD FROM
2 THE DIVISION OF MOTOR VEHICLES IN THE DEPARTMENT OF REVENUE;

3 (V) ALL COMPLETED SURVEYS AND QUESTIONNAIRES, AND ANY
4 REPORTS, COMMENTS, OR COMPLAINTS FILED WITH THE OFFICE
5 CONCERNING A JUSTICE OR JUDGE; AND

6 (VI) THE DISTRICT COMMISSION'S AND THE STATE COMMISSION'S
7 COMPLETED JUDICIAL PERFORMANCE EVALUATIONS.

8 (c.5) DISSEMINATE THE DATA COLLECTED PURSUANT TO
9 PARAGRAPH (c) OF THIS SUBSECTION (3) ON JUDICIAL PERFORMANCE
10 EVALUATIONS TO ALL COMMISSIONERS WHO EVALUATE A JUSTICE OR
11 JUDGE. THE OFFICE SHALL DISSEMINATE RECORDS REGARDING COURT OF
12 APPEALS JUDGES OR SUPREME COURT JUSTICES TO ALL DISTRICT
13 COMMISSIONERS. THE RECORDS ARE CONFIDENTIAL UNLESS REFERRED TO
14 IN AN INTERIM OR RETENTION YEAR EVALUATION REGARDING A VIOLATION
15 OF LAW OR AN INADEQUACY OF PUBLIC FINANCIAL DISCLOSURES. THE
16 OFFICE SHALL DISSEMINATE COMPLETED EVALUATIONS OF EACH JUSTICE
17 AND JUDGE TO THE PUBLIC IN A MANNER CONSISTENT WITH THIS ARTICLE.

18 (d) Conduct public education efforts concerning the judicial
19 performance evaluation process and retention recommendations of the
20 state and district commissions;

21 (e) Measure public awareness of the judicial performance
22 evaluation process through regular polling; ~~and~~

23 (f) Complete other duties as assigned by the state commission;
24 AND

25 (g) VERIFY THE ACCURACY AND COMPLETENESS OF THE PUBLIC
26 FINANCIAL DISCLOSURES FILED BY EACH JUSTICE AND JUDGE WITH THE
27 SECRETARY OF STATE BY COMPARING SUCH DISCLOSURES WITH AT LEAST

1 ONE CREDIT REPORT FROM A CONSUMER REPORTING AGENCY, SEARCHING
2 PROPERTY RECORDS, AND PERFORMING ANY OTHER INVESTIGATION
3 NECESSARY TO VERIFY SAID ACCURACY AND COMPLETENESS. IF THE
4 OFFICE FINDS ANY INACCURACIES OR DISCREPANCIES IN THE PUBLIC
5 FINANCIAL DISCLOSURES FILED BY A JUSTICE OR JUDGE, THE OFFICE SHALL
6 NOTIFY ANY COMMISSIONERS WHO EVALUATE THAT JUSTICE OR JUDGE.

7 **SECTION 3.** In Colorado Revised Statutes, 13-5.5-102, **amend**
8 (1) (a) (II) (A) and (1) (b) (I); and **repeal and reenact, with**
9 **amendments,** (1) (a) (I) as follows:

10 **13-5.5-102. State commission on judicial performance.**

11 (1) (a) (I) THE STATE COMMISSION ON JUDICIAL PERFORMANCE IS
12 ESTABLISHED. THE STATE COMMISSION CONSISTS OF ONE REPRESENTATIVE
13 OF EACH DISTRICT COMMISSION. ON OR BEFORE NOVEMBER 30, 2016,
14 EACH ODD-NUMBERED JUDICIAL DISTRICT SHALL APPOINT A
15 NONATTORNEY MEMBER OF THE DISTRICT COMMISSION TO REPRESENT
16 THAT JUDICIAL DISTRICT ON THE STATE COMMISSION. ON OR BEFORE
17 NOVEMBER 30, 2016, EACH EVEN-NUMBERED JUDICIAL DISTRICT SHALL
18 APPOINT AN ATTORNEY MEMBER OF THE DISTRICT COMMISSION TO
19 REPRESENT THAT JUDICIAL DISTRICT ON THE STATE COMMISSION. EACH
20 DISTRICT COMMISSION SHALL APPOINT ITS MEMBER TO SERVE ON THE
21 STATE COMMISSION BY A MAJORITY VOTE.

22 (II) (A) ~~All~~ Members of the state commission shall serve terms of
23 ~~four~~ TWO years. The term of each member of the state commission ~~shall~~
24 ~~expire~~ EXPIRES on November 30 of an ~~odd-numbered~~ EVEN-NUMBERED
25 year, and the term of a member appointed to replace a member at the end
26 of the member's term ~~shall commence~~ BEGINS on December 1 of the year
27 in which the previous member's term expires. WHEN A MEMBER'S

1 TWO-YEAR TERM IS NEARING COMPLETION, IF THE CURRENT
2 REPRESENTATIVE IS AN ATTORNEY, THE DISTRICT COMMISSION SHALL
3 SELECT A NONATTORNEY TO SERVE THE SUBSEQUENT TWO-YEAR TERM. IF
4 THE CURRENT REPRESENTATIVE IS A NONATTORNEY, THE DISTRICT
5 COMMISSION SHALL SELECT AN ATTORNEY TO SERVE THE SUBSEQUENT
6 TWO-YEAR TERM. DISTRICT COMMISSION MEMBERS WHO WERE APPOINTED
7 BY THE CHIEF JUSTICE MAY NOT SERVE AT ANY TIME ON THE STATE
8 COMMISSION.

9 (b) (I) ~~Any~~ A vacancy on the state commission shall be filled by
10 the ~~original appointing authority~~ DISTRICT COMMISSION WHOSE STATE
11 COMMISSION REPRESENTATIVE POSITION BECAME VACANT, but a member
12 OF THE STATE COMMISSION shall not serve more than two full
13 NONCONSECUTIVE terms plus any balance remaining on an unexpired term
14 if the initial appointment was to fill a vacancy. Within five days after a
15 vacancy arises on the state commission, the state commission shall notify
16 the ~~appointing authority of the vacancy~~ DISTRICT COMMISSION THAT
17 APPOINTED THE PERSON VACATING, and the ~~appointing authority~~ DISTRICT
18 COMMISSION shall make an appointment within forty-five days after the
19 date of the vacancy. ~~If the original appointing authority fails to make the~~
20 ~~appointment within forty-five days after the date of the vacancy, the state~~
21 ~~commission shall make the appointment~~ IF THE VACANCY OCCURS BEFORE
22 THE COMPLETION OF A TERM, THE APPOINTING DISTRICT COMMISSION MUST
23 SELECT AN ATTORNEY TO REPLACE AN ATTORNEY OR A NONATTORNEY TO
24 REPLACE A NONATTORNEY.

25 **SECTION 4.** In Colorado Revised Statutes, 13-5.5-103, **repeal**
26 **and reenact, with amendments,** (1) (c), (1) (f), (1) (g), (1) (j), (1) (o)
27 (III), and (1) (p) as follows:

1 **13-5.5-103. Powers and duties of the state commission.** (1) In
2 addition to other powers conferred and duties imposed upon the state
3 commission by this article, the state commission has the following powers
4 and duties:

5 (c) TO ENSURE ALL DISTRICT COMMISSIONS OBTAIN SUFFICIENT
6 INFORMATION AND SUPPORT TO FACILITATE AND PROMOTE AN OPEN
7 DISCOURSE REGARDING JUDICIAL PERFORMANCE EVALUATIONS;

8 (f) TO ENSURE THAT A DISTRICT COMMISSION DOES NOT SOLELY
9 RELY ON AGGREGATE NUMERICAL TOTALS FROM SURVEY RESULTS TO
10 MAKE A RECOMMENDATION ON ANY JUSTICE OR JUDGE;

11 (g) IN ADDITION TO REVIEWING UP TO TWO OPINIONS OR ORDERS
12 SUBMITTED BY A JUSTICE OR JUDGE, TO ACCEPT AND CONSIDER ALL
13 ORDERS OR OPINIONS OF ANY JUSTICE OR JUDGE THAT ARE SUBMITTED BY
14 A PERSON OTHER THAN A JUSTICE OR JUDGE, THE JUSTICE'S OR JUDGE'S
15 FAMILY, OR STAFF;

16 (j) TO REVIEW AT LEAST FIVE WRITTEN OPINIONS OR ORDERS OF
17 EACH JUSTICE OR JUDGE THAT ARE EITHER SELECTED AT RANDOM OR ARE
18 PROVIDED BY A PERSON OTHER THAN THE JUSTICE'S OR JUDGE'S FAMILY OR
19 STAFF;

20 (o) (III) THE STATE COMMISSION MAY NOT ADOPT A RULE THAT:

21 (A) ATTEMPTS TO LIMIT THE INFORMATION A COMMISSIONER CAN
22 RELY ON TO SUPPORT HIS OR HER RECOMMENDATION;

23 (B) ENCOURAGES COMMISSIONERS TO GIVE GREATER OR LESSER
24 WEIGHT TO ANY INFORMATION; OR

25 (C) DISCOURAGES COMMISSIONERS FROM ADVOCATING FOR OR
26 AGAINST A PARTICULAR JUSTICE OR JUDGE IN A COMMISSION MEETING.

27 (p) TO ENSURE THAT DISTRICT COMMISSIONS MAKE INDEPENDENT

1 RECOMMENDATIONS REGARDING JUSTICES AND JUDGES WITHOUT ANY
2 IMPROPER INFLUENCE FROM JUSTICES, JUDGES, JUDICIAL STAFF, POLITICAL
3 ENTITIES, OR THE STATE COMMISSION. THE COMMISSIONERS SHALL BASE
4 THEIR RECOMMENDATIONS ON THE QUALITY OF THE JUSTICE'S OR JUDGE'S
5 WORK USING PRIMARILY THE CRITERIA ENUMERATED IN SECTION
6 13-5.5-105.5. THE STATE COMMISSION DOES NOT HAVE THE POWER OR
7 DUTY TO REVIEW ACTUAL DETERMINATIONS MADE BY THE DISTRICT
8 COMMISSIONS.

9 **SECTION 5.** In Colorado Revised Statutes, 13-5.5-104, **amend**
10 (1) (a) (I) and (2) as follows:

11 **13-5.5-104. District commission on judicial performance.**

12 (1) (a) (I) (A) There is ~~hereby~~ established in each judicial district a
13 district commission on judicial performance. ~~referred to in this article as~~
14 ~~the "district commission".~~ The A district commission ~~shall consist~~
15 CONSISTS of ten members, EACH OF WHOM MUST RESIDE IN THE JUDICIAL
16 DISTRICT WHERE THE JUDGES HE OR SHE EVALUATES PRESIDE. The speaker
17 of the house of representatives and the president of the senate shall each
18 appoint one attorney and one nonattorney TO A DISTRICT COMMISSION.
19 The governor and the chief justice of the supreme court shall each appoint
20 one attorney and two nonattorneys.

21 (B) ~~For purposes of this subsection (1), "attorney" means a person~~
22 ~~admitted to practice law before the courts of this state.~~

23 (2) ~~The district administrator of each judicial district and his or~~
24 ~~her staff shall serve as the staff for the district commission~~ A DISTRICT
25 ADMINISTRATOR OR A MEMBER OF HIS OR HER STAFF MAY NOT SERVE AS
26 DISTRICT COMMISSION STAFF FOR THE JUDICIAL DISTRICT WHERE HE OR
27 SHE CURRENTLY WORKS. THE OFFICE SHALL ASSIGN THE DISTRICT

1 ADMINISTRATOR AND HIS OR HER STAFF TO SERVE AS STAFF FOR ONE
2 DISTRICT PERFORMANCE COMMISSION IN A DIFFERENT JUDICIAL DISTRICT
3 PURSUANT TO SECTION 13-5.5-101.5 (3).

4 **SECTION 6.** In Colorado Revised Statutes, 13-5.5-105, **amend**
5 (1) as follows:

6 **13-5.5-105. Powers and duties of district commissions.** (1) In
7 addition to other powers conferred and duties imposed upon a district
8 commission by this article, in conformity with the rules, guidelines, and
9 procedures adopted by the state commission pursuant to section
10 13-5.5-103 ~~(1)-(f)~~ (1) (c) AND (1) (o) and the state commission's review
11 of the deliberation procedures pursuant to section 13-5.5-103 (1) (p), a
12 district commission has the following powers and duties:

13 (a) To review case management statistics and data PROVIDED BY
14 THE STATE COURT ADMINISTRATOR for ~~individual~~ district ~~and~~ COURT
15 JUDGES, county court judges, ~~provided by the state court administrator~~
16 APPELLATE JUDGES, AND JUSTICES;

17 (b) To review written judicial opinions and orders of district and
18 county court judges within the judicial district AND APPELLATE JUDGES
19 AND JUSTICES;

20 (c) To collect information from direct courtroom observation of
21 district and county court judges within the judicial district AND, AT THE
22 STATE COMMISSION'S REQUEST, INFORMATION FROM DIRECT COURTROOM
23 OBSERVATION OF APPELLATE JUDGES AND JUSTICES;

24 (d) To interview district and county court judges and other persons
25 and accept information and documentation from interested persons;

26 (e) To obtain information from parties and attorneys regarding
27 district and county court judges' handling of domestic relations and family

1 law cases with respect to the judges' fairness, patience with pro se parties,
2 gender neutrality, and handling of emotional parties; **and**

3 (f) To draft narratives that reflect the results of judicial
4 performance evaluations of district and county court judges;

5 (g) TO HOLD AT LEAST ONE PUBLIC MEETING ANNUALLY TO WHICH
6 THE PUBLIC IS INVITED AND ENCOURAGED TO ATTEND AND COMMENT
7 CONCERNING JUDGES OR JUSTICES OR PROCEDURES FOLLOWED BY THE
8 COMMISSION;

9 (h) IN ADDITION TO REVIEWING UP TO TWO OPINIONS OR ORDERS
10 SUBMITTED BY A JUDGE, TO ACCEPT AND CONSIDER ALL ORDERS OR
11 OPINIONS OF A JUDGE THAT ARE SUBMITTED BY A PERSON OTHER THAN
12 THAT JUDGE OR THE JUDGE'S FAMILY OR STAFF;

13 (i) TO REVIEW AT LEAST FIVE WRITTEN OPINIONS OR ORDERS OF
14 EACH JUDGE THAT ARE EITHER SELECTED AT RANDOM OR ARE PROVIDED
15 BY ANY PERSON OTHER THAN THE JUDGE'S FAMILY OR STAFF;

16 (j) TO SELECT, BY A MAJORITY VOTE, A MEMBER OF THE DISTRICT
17 COMMISSION TO REPRESENT THE DISTRICT ON THE STATE COMMISSION IN
18 ACCORDANCE WITH THE PROVISIONS OF SECTION 13-5.5-102 (1); AND

19 (k) TO MAKE RECOMMENDATIONS TO THE DISTRICT COMMISSION'S
20 REPRESENTATIVE ON THE STATE COMMISSION CONCERNING MATTERS OF
21 INTEREST, INCLUDING RULES AND PROCEDURES TO BE FOLLOWED,
22 INFORMATION ON JUSTICES OR JUDGES THAT WOULD BE HELPFUL, AND
23 WHETHER TO RECOMMEND RETENTION FOR A PARTICULAR APPELLATE
24 JUSTICE OR JUDGE. A DISTRICT COMMISSION HAS THE DISCRETION TO
25 REVIEW APPELLATE DECISIONS TO MAKE SUCH A RECOMMENDATION.

26 **SECTION 7.** In Colorado Revised Statutes, 13-5.5-105.5, **add** (3)
27 and (4) as follows:

1 **13-5.5-105.5. Judicial performance criteria.** (3) IF A MAJORITY
2 OF THE DISTRICT OR STATE COMMISSION IS CONVINCED THROUGH THE
3 PERFORMANCE OF ITS DUTIES THAT IT IS MORE PROBABLE THAN NOT THAT
4 A JUSTICE OR JUDGE IS PERCEIVED BY THE PUBLIC AS UNFAIR OR LACKING
5 PROPER JUDICIAL TEMPERAMENT, EVEN IF THE COMMISSIONERS ARE
6 UNABLE TO FIND FAULT WITH THE RULINGS THAT HAVE BEEN PRESENTED
7 TO THE COMMISSION, THEN THE COMMISSIONERS MUST CONSIDER A "DO
8 NOT RETAIN" RECOMMENDATION.

9 (4) A DISTRICT COMMISSION OR THE STATE COMMISSION SHALL
10 MAKE A "DO NOT RETAIN" RECOMMENDATION IN ANY OF THE FOLLOWING
11 CIRCUMSTANCES:

12 (a) IF A MAJORITY OF THE MEMBERS OF THE DISTRICT OR STATE
13 COMMISSION BECOME CONVINCED THROUGH THE PERFORMANCE OF THEIR
14 DUTIES THAT IT IS MORE PROBABLE THAN NOT THAT A JUSTICE OR JUDGE
15 PERFORMED A KNOWINGLY DISHONEST ACT DURING THE PERFORMANCE OF
16 HIS OR HER JUDICIAL DUTIES. FOR THE PURPOSES OF THIS PARAGRAPH (a),
17 A DISHONEST ACT INCLUDES A KNOWINGLY FALSE STATEMENT OF FACT OR
18 LAW IN AN ORDER.

19 (b) IF A MAJORITY OF THE MEMBERS OF THE DISTRICT OR STATE
20 COMMISSION BECOME CONVINCED THROUGH THE PERFORMANCE OF THEIR
21 DUTIES THAT IT IS MORE PROBABLE THAN NOT THAT A JUSTICE OR JUDGE
22 KNOWINGLY MADE INACCURATE OR INSUFFICIENT PUBLIC FINANCIAL
23 DISCLOSURES;

24 (c) IF A MAJORITY OF THE MEMBERS OF THE DISTRICT OR STATE
25 COMMISSION BECOME CONVINCED THROUGH THE PERFORMANCE OF THEIR
26 DUTIES THAT IT IS MORE PROBABLE THAN NOT THAT A JUSTICE OR JUDGE
27 PERFORMED AN ACT DURING THE COURSE OF HIS OR HER JUDICIAL DUTIES

1 THAT WAS IMPROPERLY INFLUENCED BY A CONFLICT OF INTEREST; OR

2 (d) IF TWO-THIRDS OR MORE OF THE ATTORNEYS WHO COMPLETED
3 SURVEYS OR QUESTIONNAIRES REGARDING A PARTICULAR JUSTICE OR
4 JUDGE RECOMMEND THAT THE JUSTICE OR JUDGE NOT BE RETAINED.

5 **SECTION 8.** In Colorado Revised Statutes, 13-5.5-106, **amend**
6 (1) (a) (I), (1) (a) (III), (1) (c), (2) (a) (I), (2) (a) (III), and (2) (c) as
7 follows:

8 **13-5.5-106. Evaluation in retention election years.**

9 (1) (a) (I) The state commission shall conduct ~~an~~ A RETENTION YEAR
10 evaluation of each justice of the supreme court and each judge of the
11 court of appeals whose term is to expire and who must stand for retention
12 election. ~~The evaluations shall be referred to in this subsection (1) as~~
13 ~~"retention year evaluations".~~

14 (III) Prior to the completion of the narratives for retention year
15 evaluations, and following at least ten days' notice to the public and the
16 appellate justices and judges, ~~it is highly recommended that~~ the state
17 commission SHALL hold a public hearing regarding all JUSTICES AND
18 appellate justices and judges who are subject to retention year
19 evaluations. ~~The state commission shall arrange to have the public~~
20 ~~hearing electronically recorded and shall make copies of the recording~~
21 ~~available to members of the public. The state commission shall supply a~~
22 ~~copy of the recording at no cost to any justice or judge who is the subject~~
23 ~~of the hearing~~ THE IDENTITY OF ANY PERSON WHO COMMENTS AT SUCH A
24 HEARING MUST REMAIN CONFIDENTIAL UNLESS SUCH PERSON REQUESTS TO
25 WAIVE CONFIDENTIALITY. THE STATE COMMISSION SHALL NOT REVEAL
26 THE NAMES OF THOSE WHO COMMENT TO ANY JUSTICE OR JUDGE.

27 (c) The state commission shall release the narrative, the

1 recommendation, and any other relevant information related to a retention
2 year evaluation to the public no later than ~~forty-five days~~ THE AUGUST 1
3 prior to the retention election. The state commission shall arrange to have
4 the narrative and recommendation printed in the ballot information
5 booklet prepared pursuant to section 1-40-124.5, C.R.S., and mailed to
6 electors pursuant to section 1-40-125, C.R.S.

7 (2) (a) (I) The district commission shall conduct ~~an~~ A RETENTION
8 YEAR evaluation of each district and county judge whose term is to expire
9 and who must stand for retention election. ~~The evaluations shall be~~
10 ~~referred to in this subsection (2) as "retention year evaluations".~~

11 (III) Prior to the completion of narratives for retention year
12 evaluations, and following at least ten days' notice to the public and the
13 district and county judges, ~~it is highly recommended that~~ the district
14 commission SHALL conduct a public hearing regarding all district and
15 county judges who are subject to retention year evaluations. ~~The district~~
16 ~~commission shall arrange to have the public hearing electronically~~
17 ~~recorded and shall make copies of the recording available to members of~~
18 ~~the public. The district commission shall supply a copy of the recording~~
19 ~~at no cost to any judge who is the subject of the hearing.~~

20 (c) The state commission shall release the narrative, the
21 recommendation, and any other relevant information to the public no later
22 than ~~forty-five days~~ THE AUGUST 1 prior to the retention election. The
23 state commission shall arrange to have a summary of the narrative and
24 recommendation printed in the ballot information booklet prepared
25 pursuant to section 1-40-124.5, C.R.S., and mailed to electors within the
26 judicial district pursuant to section 1-40-125, C.R.S.

27 **SECTION 9.** In Colorado Revised Statutes, 13-5.5-106.3, **amend**

1 (1) (a), (1) (d), (2) (a), and (2) (d) as follows:

2 **13-5.5-106.3. Interim evaluations.** (1) (a) ~~During each full term~~
3 ~~of office of each Colorado supreme court justice and each judge of the~~
4 ~~court of appeals,~~ The state commission shall conduct ~~at least one~~ AN
5 interim evaluation of each justice and each judge ~~The evaluations shall be~~
6 ~~referred to in this subsection (1) as "interim evaluations"~~ EVERY TWO
7 YEARS.

8 (d) The state commission shall release the ~~survey evaluations~~
9 INFORMATION related to interim evaluations to the public ~~simultaneously~~
10 ~~with, and no earlier than, the release of the retention year evaluations~~
11 ~~pursuant to section 13-5.5-106(1)(c) prepared for that year~~ IMMEDIATELY
12 UPON THE COMPLETION OF THE EVALUATION.

13 (2) (a) ~~During each full term of office of each district judge and~~
14 ~~county judge,~~ The district commission shall conduct ~~at least one~~ AN
15 interim evaluation of each district judge and county judge ~~The evaluations~~
16 ~~shall be referred to in this subsection (2) as "interim evaluations"~~ EVERY
17 TWO YEARS. PRIOR TO THE COMPLETION OF THE NARRATIVES FOR INTERIM
18 EVALUATIONS, AND FOLLOWING AT LEAST TEN DAYS' NOTICE TO THE
19 PUBLIC AND THE JUSTICES AND JUDGES, THE DISTRICT COMMISSION SHALL
20 HOLD A PUBLIC HEARING CONCERNING ALL DISTRICT AND COUNTY COURT
21 JUDGES TO WHICH THE PUBLIC IS INVITED TO ATTEND, COMMENT, AND
22 SUBMIT ANY INFORMATION REGARDING JUDGES OR THE PROCEDURES
23 FOLLOWED BY THE DISTRICT COMMISSION. THE IDENTITY OF ANY PERSON
24 WHO COMMENTS AT OR SUBMITS INFORMATION TO SUCH A HEARING IS
25 CONFIDENTIAL, UNLESS THE PERSON REQUESTS TO WAIVE
26 CONFIDENTIALITY.

27 (d) The state commission shall release the ~~survey evaluations~~

1 INFORMATION related to interim evaluations to the public ~~simultaneously~~
2 ~~with, and no earlier than, the release of the retention year evaluations~~
3 ~~prepared for that year~~ IMMEDIATELY UPON THE COMPLETION OF THE
4 EVALUATION.

5 **SECTION 10.** In Colorado Revised Statutes, **amend**
6 13-5.5-106.5 as follows:

7 **13-5.5-106.5. Confidentiality.** (1) THE OPEN MEETINGS LAW,
8 PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., IS APPLICABLE TO ALL MEETINGS
9 OF THE STATE AND DISTRICT COMMISSIONS. EACH COMMISSION IS A "STATE
10 PUBLIC BODY", AS DEFINED IN SECTION 24-6-402 (1), C.R.S. JUSTICES AND
11 JUDGES, EVEN IF SERVING DURING THEIR INITIAL APPOINTMENT PERIOD,
12 ARE CONSIDERED "ELECTED OFFICIALS", AS THAT TERM IS USED IN SECTION
13 24-6-402 (3) (b) (II), C.R.S. Except as provided in subsection (3) of this
14 section, ~~all comments in survey reports, self-evaluations,~~ personal
15 information protected under section 24-72-204 (3) (a) (II), C.R.S.,
16 ~~additional oral or written information, content of improvement plans, and~~
17 ~~any matter discussed in executive session shall remain confidential except~~
18 ~~as otherwise specifically provided by rule. Comments in survey reports~~
19 ~~may be summarized for use in a narrative. A member of a commission~~
20 ~~shall not publicly discuss the evaluation of any particular justice or judge~~
21 AND THE NAMES OF INDIVIDUALS WHO COMMENT OR PROVIDE
22 INFORMATION TO EITHER THE STATE OR A DISTRICT COMMISSION ARE
23 CONFIDENTIAL.

24 (2) Except as provided in subsection (3) of this section, all
25 recommendations, narratives, and survey reports are confidential until
26 ~~released to the public on the first day following the deadline for justices~~
27 ~~and judges to declare their intent to stand for retention. Any comments~~

1 ~~included in the report shall be made available only to members of the~~
2 ~~commissions, the justice or judge being evaluated, and the chief justice~~
3 ~~or chief judge~~ THE EVALUATIONS OF THE STATE COMMISSION ARE MADE
4 PUBLIC PURSUANT TO SECTIONS 13-5.5-106 AND 13-5.5-106.3.

5 (3) Information required to be kept confidential pursuant to this
6 article may be released only under the following circumstances:

7 (a) To the supreme court attorney regulation committee ~~as~~
8 ~~provided by rule of the state commission~~ WHEN ANY DISTRICT OR STATE
9 COMMISSION MEMBER BELIEVES REPORTING TO THE SUPREME COURT
10 ATTORNEY REGULATION COMMITTEE IS APPROPRIATE; OR

11 (b) To the commission on judicial discipline ~~as provided by rule~~
12 ~~of the state commission; or~~ WHEN ANY DISTRICT OR STATE COMMISSION
13 MEMBER BELIEVES REPORTING TO THE COMMISSION ON JUDICIAL
14 DISCIPLINE IS APPROPRIATE.

15 (c) ~~With the consent of the justice or judge being evaluated.~~

16 **SECTION 11.** In Colorado Revised Statutes, 13-5.5-107, **amend**
17 (1); and **add** (3) as follows:

18 **13-5.5-107. Acceptance of federal grants - general**
19 **appropriations.** (1) The state commission is authorized to accept any
20 ~~grants of federal or private funds made~~ GRANTS available for any purpose
21 consistent with the provisions of this article. Any ~~funds~~ MONEY received
22 pursuant to this section shall be transmitted to the state treasurer, who
23 shall credit the same to the state commission on judicial performance cash
24 fund, which is ~~hereby~~ created and referred to in this section as the "fund".
25 The fund ~~shall also include~~ ALSO INCLUDES the amount of the increases
26 in docket fees collected pursuant to sections 13-32-105 (1) and 42-4-1710
27 (4) (a), C.R.S. Any interest derived from the deposit and investment of

1 ~~moneys~~ MONEY in the fund shall be credited to the fund. Any unexpended
2 and unencumbered ~~moneys~~ MONEY remaining in the fund at the end of
3 any fiscal year shall remain in the fund and shall not be credited or
4 transferred to the general fund or another fund. ~~Moneys~~ MONEY in the
5 fund may be expended by the state commission, subject to annual
6 appropriation by the general assembly, for the purposes of this article. In
7 addition, the general assembly may make annual appropriations from the
8 general fund for the purposes of this article.

9 (3) (a) FEES AND COST RECOVERIES FOR ELECTRONIC FILINGS,
10 NETWORK ACCESS AND SEARCHES OF COURT DATABASES, ELECTRONIC
11 SEARCHES OF COURT RECORDS, AND ANY OTHER INFORMATION
12 TECHNOLOGY SERVICES PERFORMED PURSUANT TO SECTION 13-32-114
13 MUST BE DEPOSITED INTO THE FUND.

14 (b) THE STATE COMMISSION SHALL ANNUALLY REPORT ON ITS
15 WEBSITE:

16 (I) A COMPLETE ACCOUNTING OF THE EXPENSES, FEES, AND COST
17 RECOVERIES FOR ELECTRONIC FILINGS, NETWORK ACCESS AND SEARCHES
18 OF COURT DATABASES, ELECTRONIC SEARCHES OF COURT RECORDS, AND
19 ANY OTHER INFORMATION TECHNOLOGY SERVICES PERFORMED PURSUANT
20 TO SECTION 13-32-114; AND

21 (II) ALL REVENUE PROVIDED TO THE STATE COMMISSION FROM
22 FEDERAL GRANTS AND ANY APPROPRIATIONS BY THE GENERAL ASSEMBLY.

23 **SECTION 12.** In Colorado Revised Statutes, **repeal** 13-5.5-109.

24 **SECTION 13.** In Colorado Revised Statutes, 13-32-114, **amend**

25 (2) as follows:

26 **13-32-114. Judicial department information technology cash**
27 **fund - creation - uses.** (2) The ~~moneys~~ MONEY in the fund ~~shall be~~ IS

1 subject to annual appropriation by the general assembly to the judicial
2 department for any expenses related to the department's information
3 technology needs OR THE NEEDS OF THE COMMISSIONS ON JUDICIAL
4 PERFORMANCE, ARTICLE 5.5 OF THIS TITLE. Any ~~moneys~~ MONEY in the
5 fund not expended for the purpose of this section may be invested by the
6 state treasurer as provided in section 24-36-113, C.R.S. All interest and
7 income derived from the investment and deposit of ~~moneys~~ MONEY in the
8 fund shall be credited to the fund. Any unexpended and unencumbered
9 ~~moneys~~ MONEY remaining in the fund at the end of any fiscal year ~~shall~~
10 ~~remain~~ REMAINS in the fund and ~~shall~~ MUST not be credited or transferred
11 to the general fund or any other fund.

12 **SECTION 14. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.