

HOUSE BILL 1666

By Cobb

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 29 and Title 16, Chapter 21, Part 1,
relative to the judicial council.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-234(a), is amended by adding the following language as a new, appropriately designated subdivision:

() Judicial council, created by § 16-21-101;

SECTION 2. Tennessee Code Annotated, Title 16, Chapter 21, Part 1, is amended by deleting Part 1 in its entirety and substituting instead the following:

16-21-101. There is established a judicial council, which shall consist of one (1) of the judges of the supreme court, to be selected by a majority vote of the judges of the supreme court; one (1) of the judges of the court of appeals, to be selected by a majority vote of the judges of the court of appeals; one (1) of the judges of the court of criminal appeals to be selected by a majority vote of the judges of the court of criminal appeals; one (1) chancellor, one (1) circuit court judge, and one (1) criminal court judge, to be selected by a majority vote of the judges of the supreme court; one (1) general sessions court judge to be selected by a majority vote of the members of the board of governors of the Tennessee general sessions judges' conference; one (1) juvenile court judge to be selected by a majority vote of the executive committee of the Tennessee council of juvenile and family court judges; one (1) municipal court judge to be selected by a majority vote of the board of governors of the Tennessee municipal judges' conference; the speaker of the senate, or the speaker's designee; the speaker of the house of representatives, or the speaker's designee; the chair of the judiciary committee of the senate; the chair of the judiciary committee of the house of representatives; the attorney

general and reporter, ex officio; the administrative director of the courts, ex officio; two (2) laypersons to be selected by the governor; two (2) members of the bar of the state of Tennessee who have each practiced law at least three (3) years in the state, to be selected by the governor; and one (1) clerk of a civil court and one (1) clerk of a criminal court to be appointed by the president of the state court clerks' conference. The appointing authorities shall give due consideration in the appointments to the need for geographic, racial, gender and ethnic diversity on the council.

16-21-102. The term of each of the members of the council, except the attorney general and reporter, the administrative director of the courts, the speaker of the senate, the speaker of the house of representatives, the chair of the judiciary committee of the senate, and the chair of the judiciary committee of the house of representatives, shall be for a period of four (4) years from the date of their respective appointments. The terms of the attorney general and reporter, the administrative director of the courts, the member who is speaker of the senate and the member who is speaker of the house of representatives, and the members who are chairs of the judiciary committees of the senate and house of representatives, respectively, shall be for their respective terms of office. All vacancies shall be filled for the remainder of any term by appointment by the official or officials having the original power of appointment. No member whose term is set at four (4) years shall serve more than two (2) full consecutive terms. Such member shall, however, be eligible for reappointment after an absence from the judicial council of at least one (1) year.

16-21-103. In addition to the members designated in § 16-21-101, the council shall have and possess the power to elect six (6) members at large, who may or may not be practicing attorneys. Such members shall hold office for a period of four (4) years

from the date of their election and until their successors are elected and qualified, and shall possess the same powers and privileges as other members of the council.

16-21-104. The council shall have and possess the power, whenever any member of the council fails to attend two (2) consecutive regular meetings of the council without sufficient excuse for failure to attend, after due notice and hearing, if requested, to declare that member's place on the council vacant and to certify the fact of the vacancy to the person or body charged with the right to fill such vacancies, and such appointing power shall proceed to fill the vacancy upon receipt of due notice.

16-21-105.

(a) The members shall elect a chair from among their number.

(b) The council may make, and from time to time modify, the rules for its procedure and the conduct of its business.

(c) The administrative office of the courts (AOC) may employ such staff as is necessary to support the judicial council in its reporting, statistical and other duties.

(d) The AOC may procure such office supplies, and may incur such other expense, as is necessary to support the judicial council in the performance of its duties.

16-21-106. The council shall meet regularly in Nashville. The regular meeting schedule shall include at least one (1) meeting a year in November. Other meetings, either regular or special, may be provided for by rules adopted by the council.

16-21-107.

(a) It is the duty of the council to:

(1) Receive and consider suggestions from judges, chancellors, public officers, members of the bar and others as to remedies for faults in the administration of justice;

(2) Submit from time to time to the general assembly, the courts, the judges or any other officer or department, either upon the request of the general assembly, court, judge, officer or department, or upon the council's own motion, such suggestions or recommendations as it deems advisable for changes in rules, procedure or methods of administration, or upon any other matter pertaining to the judicial system;

(3)

(A) Report annually, on or before December 31, to the general assembly, governor and the supreme court on the condition of business in the judicial department. The report shall be a public record, and the council shall file copies of the report with the clerk of the supreme court and make the report accessible to the bar and to the public generally;

(B) In accordance with subdivision (a)(4), the council shall also report its recommendation concerning any legislation proposing creation or reallocation of any judgeship, district attorney general, assistant district attorney general, public defender, assistant public defender or staff for any such offices. The legislation must be filed with the judicial council by August 12 prior to the legislative session in which a recommendation is required. The August 12 deadline may be waived if the chair of the judicial council, the chair of the judiciary committee of the senate

and the chair of the judiciary committee of the house of representatives determine that, due to circumstances beyond the control of the sponsor, the legislation could not reasonably be filed by the deadline and that the legislation is necessitated by an emergency situation of sufficient importance to the judiciary that the interests of justice merit the waiver of the deadline; and

(4)

(A) If legislation is introduced in the senate or house of representatives, or both, proposing creation or reallocation of a judgeship, district attorney general, assistant district attorney general, public defender, assistant public defender or staff for any such offices, then the legislation must be properly filed with the judicial council pursuant to subdivision (a)(3)(B) and must be referred to the appropriate standing committee. No action shall be taken on the proposed legislation by the standing committee until the council reports its recommendation as well as its analysis of the cost and impact of the legislation; provided, that if the council fails to comply with the deadline established within subdivision (a)(4)(D), then the standing committee may take action on the legislation without further delay;

(B) Recommendations of the judicial council regarding any bill referral made pursuant to subdivision (a)(4)(A) shall be consistent with the findings of the most recently published weighted caseload report of the comptroller of the treasury; provided, that if the council specifically determines that a particular

judicial district possesses unique and material characteristics not evaluated and considered within the weighted caseload report, then the council's recommendations with respect to such district may deviate from the findings of the caseload report. If the council proposes alteration of the weighted caseload formula, then the proposal must be published within the report required by subdivision (a)(3)(A) and must be timely submitted to the speaker of the senate, the speaker of the house of representatives and the comptroller of the treasury in the proper form of a proposed legislative enactment;

(C) Recommendations, with regard to any legislation filed with the judicial council pursuant to subdivision (a)(4)(A), must be reported to the appropriate standing committee no later than five (5) weeks after the later of the dates established by the house of representatives or the senate for cutting off the introduction of new bills;

(b)

(1) The judicial council is vested with the authority and power to remove for sufficient cause any person from the office of district public defender, assistant district public defender or district investigator after notice and a hearing at which the person shall be entitled to counsel and to testify and present witnesses and other evidence. The council has the power to subpoena and enforce the attendance of witnesses; and

(2) Any order of removal is reviewable by the supreme court of Tennessee by certiorari, and any judge of the supreme court has the right

to require by certiorari the removal to that court for review of any case in which the judicial council has made a final order removing an official named in subdivision (b)(1). Upon writ of certiorari being granted, the full proceedings before the council shall be transcribed by the reporter taking the proceedings and certified by the reporter and the council chair and filed in the supreme court, and the transcription shall constitute the entire record to be filed and reviewed by the supreme court.

16-21-108. Judges, chancellors and other officers of the courts, whether of record or not, and all other state, county and municipal officers shall render the council such reports as it requests of matters within the scope of its duties.

16-21-109. Members of the council shall receive no compensation for their services, but shall be allowed their actual expenses while on business for the council, and the council shall be allowed its expenses, to be paid out of any funds appropriated for that purpose, upon the approval of the chair of the council.

16-21-110.

(a) For the purpose of enabling the judicial council to employ an auditor, who shall be appointed by the chair of the council and shall serve at the chair's pleasure and who shall obtain information and data of the volume of litigation in the courts of this state and any other information in connection with the volume of litigation in the courts of this state that may be deemed relevant by the council or chair, there is appropriated annually the sum of three thousand five hundred dollars (\$3,500), to pay the salary and necessary traveling expenses of the auditor.

(b) For the purpose of defraying any and all expenses that may be incurred in the administration of this chapter, other than the salary and necessary

traveling expenses of the auditor, there is appropriated out of any money in the general fund not otherwise appropriated, the sum of three thousand dollars (\$3,000) annually.

16-21-111.

(a) The clerks of circuit courts and the clerks and masters of chancery courts shall report, on a monthly basis, to the Tennessee judicial council on a form to be devised and distributed by the judicial council, the following data:

(1) The number of cases filed claiming money damages for personal injury or death;

(2) The number of such cases actually proceeding to trial; and

(3) For each such case actually proceeding to trial, the number of cases in which the plaintiff was awarded some money damages for personal injury or death, the amount of the verdict given in a jury case, the amount of judgment in a case without a jury, and any additur or remittitur awarded in the case by the trial judge.

(b) The presiding judge in each circuit shall verify the trial data reported to the Tennessee judicial council.

(c) The Tennessee judicial council shall compile such data and report the findings of the previous fiscal year, on or before February 1 of each year, to the chair of the senate judiciary committee, the chair of the judiciary committee of the house of representatives and the attorney general and reporter. The report shall be a public document, available on request from the judicial council.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.