

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0591.03 Jane Ritter x4342

HOUSE BILL 17-1303

HOUSE SPONSORSHIP

Wist and Lee, Van Winkle

SENATE SPONSORSHIP

Gardner and Kagan, Cooke

House Committees

Judiciary
Appropriations

Senate Committees

State, Veterans, & Military Affairs
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE JUDICIAL PERFORMANCE EVALUATION SYSTEM, AND,**
102 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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://leg.colorado.gov>.)

The bill addresses issues related to the state commission on judicial performance and the various district commissions on judicial performance (state commission, district commissions, or collectively all commissions), including:

- ! Procedures and duties common to all commissions are combined in a more user-friendly fashion;

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.*

SENATE
Amended 2nd Reading
May 9, 2017

HOUSE
3rd Reading Unamended
May 3, 2017

HOUSE
Amended 2nd Reading
May 2, 2017

- ! The current membership of all commissions is left in place as-is until February 1, 2019, at which time all commission members must be reappointed. The structure for appointing members to all commissions is streamlined and, if an original appointing authority fails to fill a vacancy within 45 days, the governor shall make the new appointment.
- ! Duties of all commissions are streamlined, and both the state and multiple district commissions may work collaboratively to develop uniform judicial evaluation procedures and techniques, systemwide judicial training programs, and guidelines and procedures for the continuous collection of data for use in the judicial evaluation process;
- ! The state commission is tasked with developing surveys to provide to persons who are affected by justices and judges and to develop guidelines and procedures to make such surveys readily available to those persons. The state commission shall develop guidelines and procedures to provide attorneys, pro se litigants, and clients with accessible and timely opportunities to review the surveys.
- ! The bill adds senior, retired judges who have returned to temporary judicial duties per contract with the judicial department, as allowed by statute, to the list of judges that commissions are to evaluate;
- ! Judicial performance evaluation criteria is retained, as is the requirement for all commissions to perform election-retention-year evaluations as well as initial and interim evaluations. Narratives and recommendations stemming from such evaluations are still required, and the option to develop an individual improvement plan for a judge who receives a "does not meet performance standard" recommendation is authorized.
- ! The state commission is required to gather and maintain statewide data and post a report of the data on its website at least 30 days prior to each retention election; and
- ! Beginning in January 2019, and every 2 years thereafter, the judicial department shall include a summary of the commissions' activities in the department's "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation to the joint judicial committee.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**

1 **with amendments**, article 5.5 of title 13 as follows:

2 **ARTICLE 5.5**

3 **Commissions on Judicial Performance**

4 **13-5.5-101. Legislative declaration.** (1) IT IS THE INTENT OF THE
5 GENERAL ASSEMBLY TO PROVIDE:

6 (a) A COMPREHENSIVE EVALUATION SYSTEM OF JUDICIAL
7 PERFORMANCE;

8 (b) INFORMATION TO THE PEOPLE OF COLORADO REGARDING THE
9 PERFORMANCE OF JUDGES, JUSTICES, AND SENIOR JUDGES THROUGHOUT
10 THE STATE; AND

11 (c) TRANSPARENCY AND ACCOUNTABILITY FOR JUDGES, JUSTICES,
12 AND SENIOR JUDGES THROUGHOUT THE STATE OF COLORADO.

13 (2) THEREFORE, THE GENERAL ASSEMBLY FINDS AND DECLARES
14 THAT IT IS IN THE PUBLIC INTEREST AND IS A MATTER OF STATEWIDE
15 CONCERN TO:

16 (a) PROVIDE JUDGES, JUSTICES, AND SENIOR JUDGES WITH USEFUL
17 INFORMATION CONCERNING THEIR OWN PERFORMANCES, ALONG WITH
18 TRAINING RESOURCES TO IMPROVE JUDICIAL PERFORMANCE AS
19 NECESSARY;

20 (b) ESTABLISH A COMPREHENSIVE SYSTEM OF EVALUATING
21 JUDICIAL PERFORMANCE TO PROVIDE PERSONS VOTING ON THE RETENTION
22 OF JUDGES, JUSTICES, AND SENIOR JUDGES WITH FAIR, RESPONSIBLE, AND
23 CONSTRUCTIVE INFORMATION ABOUT INDIVIDUAL JUDICIAL
24 PERFORMANCE;

25 (c) ESTABLISH AN INDEPENDENT OFFICE ON JUDICIAL
26 PERFORMANCE EVALUATION WITH FULL AUTHORITY TO IMPLEMENT THE
27 PROVISIONS OF THIS ARTICLE 5.5; AND

1 (d) CONDUCT STATEWIDE JUDICIAL PERFORMANCE EVALUATIONS,
2 AS WELL AS JUDICIAL PERFORMANCE EVALUATIONS WITHIN EACH JUDICIAL
3 DISTRICT, USING UNIFORM CRITERIA AND PROCEDURES PURSUANT TO THE
4 PROVISIONS OF THIS ARTICLE 5.5.

5 **13-5.5-102. Definitions.** AS USED IN THIS ARTICLE 5.5, UNLESS
6 THE CONTEXT OTHERWISE REQUIRES:

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

9 (2) "COMMISSION" MEANS BOTH THE STATE AND DISTRICT
10 COMMISSIONS ON JUDICIAL PERFORMANCE, ESTABLISHED IN SECTION
11 13-5.5-104, UNLESS THE USAGE OTHERWISE SPECIFIES THE STATE
12 COMMISSION OR A DISTRICT COMMISSION.

13 (3) "COMMISSIONER" MEANS AN APPOINTED MEMBER OF THE
14 STATE COMMISSION OR ONE OF THE DISTRICT COMMISSIONS ON JUDICIAL
15 PERFORMANCE ESTABLISHED IN SECTION 13-5.5-104.

16 (4) "DEPARTMENT" MEANS THE STATE JUDICIAL DEPARTMENT.

17 (5) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
18 THE OFFICE ON JUDICIAL PERFORMANCE EVALUATION CREATED IN SECTION
19 13-5.5-103.

20 (6) "FUND" MEANS THE STATE COMMISSION ON JUDICIAL
21 PERFORMANCE CASH FUND, CREATED IN SECTION 13-5.5-115.

22 (7) "IMPROVEMENT PLAN" MEANS AN INDIVIDUAL JUDICIAL
23 IMPROVEMENT PLAN DEVELOPED AND IMPLEMENTED PURSUANT TO
24 SECTION 13-5.5-110.

25 (8) "INTERIM EVALUATION" MEANS AN INTERIM EVALUATION
26 CONDUCTED BY A COMMISSION PURSUANT TO SECTION 13-5.5-109 DURING
27 A FULL TERM OF OFFICE OF A JUSTICE OR JUDGE.

1 (9) "JUDGE" INCLUDES ALL ACTIVE AND SENIOR JUDGES, AS
2 DEFINED IN SUBSECTION (12) OF THIS SECTION.

3 (10) "JUSTICE" MEANS A JUSTICE SERVING ON THE SUPREME COURT
4 OF COLORADO.

5 (11) "OFFICE" MEANS THE OFFICE ON JUDICIAL PERFORMANCE
6 EVALUATION CREATED IN SECTION 13-5.5-103.

7 (12) "RETENTION YEAR EVALUATION" MEANS A JUDICIAL
8 PERFORMANCE EVALUATION CONDUCTED BY A COMMISSION PURSUANT TO
9 SECTION 13-5.5-108 OF A JUSTICE OR JUDGE WHOSE TERM IS TO EXPIRE
10 AND WHO MUST STAND FOR RETENTION ELECTION.

11 (13) "SENIOR JUDGE" MEANS A RETIRED JUDGE WHO HAS
12 RETURNED TO TEMPORARY JUDICIAL DUTIES PURSUANT TO SECTION
13 24-51-1105.

14 (14) "VOLUNTEER COURTROOM OBSERVER PROGRAM" MEANS A
15 SYSTEMWIDE PROGRAM COMPRISED OF VOLUNTEERS WHO PROVIDE
16 COURTROOM OBSERVATION REPORTS FOR USE BY STATE AND DISTRICT
17 COMMISSIONS IN JUDICIAL PERFORMANCE EVALUATIONS. THE STATE
18 COMMISSION SHALL DEVELOP RULES, GUIDELINES, AND PROCEDURES FOR
19 THE VOLUNTEER COURTROOM OBSERVER PROGRAM PURSUANT TO SECTION
20 13-5.5-105 (2)(i).

21 **13-5.5-103. Office on judicial performance evaluation -**
22 **executive director - duties - oversight.** (1) THE OFFICE ON JUDICIAL
23 PERFORMANCE EVALUATION IS ESTABLISHED IN THE JUDICIAL
24 DEPARTMENT. THE STATE COMMISSION ON JUDICIAL PERFORMANCE,
25 ESTABLISHED PURSUANT TO SECTION 13-5.5-104, SHALL OVERSEE THE
26 OFFICE.

27 (2) THE STATE COMMISSION SHALL APPOINT AN EXECUTIVE

1 DIRECTOR OF THE OFFICE. THE EXECUTIVE DIRECTOR SERVES AT THE
2 PLEASURE OF THE STATE COMMISSION. THE EXECUTIVE DIRECTOR'S
3 COMPENSATION IS THE SAME AS THAT WHICH THE GENERAL ASSEMBLY
4 ESTABLISHES FOR A JUDGE OF THE DISTRICT COURT. THE STATE
5 COMMISSION SHALL NOT REDUCE THE EXECUTIVE DIRECTOR'S
6 COMPENSATION DURING THE TIME THAT HE OR SHE SERVES AS EXECUTIVE
7 DIRECTOR. THE EXECUTIVE DIRECTOR SHALL HIRE ADDITIONAL STAFF FOR
8 THE OFFICE AS NECESSARY AND AS APPROVED BY THE STATE COMMISSION.

9 (3) SUBJECT TO THE STATE COMMISSION'S SUPERVISION, THE
10 OFFICE SHALL:

11 (a) STAFF THE STATE AND DISTRICT COMMISSIONS WHEN DIRECTED
12 TO DO SO BY THE STATE COMMISSION;

13 (b) TRAIN STATE AND DISTRICT COMMISSIONERS AS NEEDED AND
14 REQUESTED;

15 (c) COLLECT AND DISSEMINATE DATA ON JUDICIAL PERFORMANCE
16 EVALUATIONS, INCLUDING JUDICIAL PERFORMANCE SURVEYS DEVELOPED,
17 COLLECTED, AND DISTRIBUTED, PURSUANT TO SECTION 13-5.5-105 (2);

18 (d) CONDUCT PUBLIC EDUCATION EFFORTS CONCERNING THE
19 JUDICIAL PERFORMANCE EVALUATION PROCESS AND THE
20 RECOMMENDATIONS MADE BY THE STATE AND DISTRICT COMMISSIONS;

21 (e) MEASURE PUBLIC AWARENESS OF THE JUDICIAL PERFORMANCE
22 EVALUATION PROCESS THROUGH REGULAR POLLING; AND

23 (f) COMPLETE ANY OTHER DUTIES AS ASSIGNED BY THE STATE
24 COMMISSION.

25 (4) OFFICE EXPENSES ARE PAID FOR FROM THE STATE COMMISSION
26 ON JUDICIAL PERFORMANCE CASH FUND CREATED PURSUANT TO SECTION
27 13-5.5-114.

1 **13-5.5-104. State commission on judicial performance -**
2 **district commissions on judicial performance - established -**
3 **membership - terms - immunity - conflicts - repeal. (1)** THE STATE

4 COMMISSION ON JUDICIAL PERFORMANCE IS ESTABLISHED, AND A DISTRICT
5 COMMISSION ON JUDICIAL PERFORMANCE IS ESTABLISHED IN EACH
6 JUDICIAL DISTRICT OF THE STATE. IN APPOINTING THE MEMBERSHIP OF
7 EACH COMMISSION, THE APPOINTING ENTITIES MUST, TO THE EXTENT
8 PRACTICABLE, INCLUDE PERSONS FROM THROUGHOUT THE STATE OR
9 JUDICIAL DISTRICT AND PERSONS WITH DISABILITIES AND TAKE INTO
10 CONSIDERATION RACE, GENDER, AND THE ETHNIC DIVERSITY OF THE STATE
11 OR DISTRICT. JUSTICES AND JUDGES ACTIVELY PERFORMING JUDICIAL
12 DUTIES MAY NOT BE APPOINTED TO SERVE ON A COMMISSION. FORMER
13 JUSTICES AND JUDGES ARE ELIGIBLE TO BE APPOINTED AS ATTORNEY
14 COMMISSIONERS; EXCEPT THAT A FORMER JUSTICE OR JUDGE MAY NOT BE
15 ASSIGNED OR APPOINTED TO PERFORM JUDICIAL DUTIES WHILE SERVING ON
16 A COMMISSION.

17 (2)(a) EACH COMMISSION CONSISTS OF TEN MEMBERS, APPOINTED
18 AS FOLLOWS:

19 (I) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
20 APPOINT ONE ATTORNEY AND ONE NONATTORNEY;

21 (II) THE PRESIDENT OF THE SENATE SHALL APPOINT ONE ATTORNEY
22 AND ONE NONATTORNEY;

23 (III) THE GOVERNOR SHALL APPOINT ONE ATTORNEY AND TWO
24 NONATTORNEYS; AND

25 (IV) THE CHIEF JUSTICE OF THE SUPREME COURT SHALL APPOINT
26 ONE ATTORNEY AND TWO NONATTORNEYS.

27 (b) (I) THE TERMS OF COMMISSIONERS APPOINTED PRIOR TO THE

1 EFFECTIVE DATE OF THIS SECTION SHALL CONTINUE THROUGH JANUARY
2 31, 2019.

3 (II) NOTWITHSTANDING THE TERM FOR WHICH THE COMMISSIONER
4 WAS APPOINTED, THE GOVERNOR'S ATTORNEY APPOINTMENT TO A
5 DISTRICT COMMISSION MADE PURSUANT TO SUBSECTION (2)(a)(III) OF THIS
6 SECTION AND THE CHIEF JUSTICE'S TWO NONATTORNEY APPOINTMENTS TO
7 A DISTRICT COMMISSION MADE PURSUANT TO SUBSECTION (2)(a)(IV) OF
8 THIS SECTION EXPIRE ON JANUARY 31, 2019.

9 (III) EXCEPT AS PROVIDED FOR IN SUBSECTION (2)(b)(II) OF THIS
10 SECTION, THE TERM OF A COMMISSIONER APPOINTED PRIOR TO JANUARY
11 31, 2019, SHALL CONTINUE AFTER THIS SUBSECTION (2) IS REPEALED UNTIL
12 SUCH TIME AS THE COMMISSIONER'S TERM WAS ORIGINALLY SET TO
13 EXPIRE.

14 (c) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JANUARY 31,
15 2019.

16 (3) (a) THE STATE COMMISSION CONSISTS OF ELEVEN MEMBERS,
17 APPOINTED ON OR BEFORE MARCH 1, 2019, AS FOLLOWS:

18 (I) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
19 APPOINT ONE ATTORNEY AND ONE NONATTORNEY;

20 (II) THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES
21 SHALL APPOINT ONE NONATTORNEY;

22 (III) THE PRESIDENT OF THE SENATE SHALL APPOINT ONE
23 ATTORNEY AND ONE NONATTORNEY;

24 (IV) THE MINORITY LEADER OF THE SENATE SHALL APPOINT ONE
25 NONATTORNEY;

26 (V) THE CHIEF JUSTICE OF THE SUPREME COURT SHALL APPOINT
27 TWO ATTORNEYS; AND

1 (VI) THE GOVERNOR SHALL APPOINT TWO NONATTORNEYS AND
2 ONE ATTORNEY.

3 (b) THE TERMS OF STATE COMMISSIONERS APPOINTED PRIOR TO
4 JANUARY 31, 2019, SHALL CONTINUE UNTIL SUCH TIME AS HIS OR HER
5 TERM WAS ORIGINALLY SET TO EXPIRE; EXCEPT THAT THE TERM OF THE
6 TWO NONATTORNEYS APPOINTED BY THE CHIEF JUSTICE OF THE SUPREME
7 COURT PURSUANT TO SUBSECTION (2)(a)(IV) OF THIS SECTION EXPIRES ON
8 JANUARY 31, 2019.

9 (c) THIS SUBSECTION (3) BECOMES EFFECTIVE FEBRUARY 1, 2019.

10 (4) (a) EACH DISTRICT COMMISSION CONSISTS OF TEN MEMBERS,
11 APPOINTED ON OR BEFORE MARCH 1, 2019, AS FOLLOWS:

12 (I) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
13 APPOINT ONE ATTORNEY AND ONE NONATTORNEY;

14 (II) THE PRESIDENT OF THE SENATE SHALL APPOINT ONE ATTORNEY
15 AND ONE NONATTORNEY;

16 (III) THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES
17 SHALL APPOINT ONE NONATTORNEY;

18 (IV) THE MINORITY LEADER OF THE SENATE SHALL APPOINT ONE
19 NONATTORNEY;

20 (V) THE CHIEF JUSTICE OF THE SUPREME COURT SHALL APPOINT
21 TWO ATTORNEYS; AND

22 (VI) THE GOVERNOR SHALL APPOINT TWO NONATTORNEYS.

23 (b) THE TERMS OF DISTRICT COMMISSIONERS APPOINTED PRIOR TO
24 JANUARY 31, 2019, SHALL CONTINUE UNTIL SUCH TIME AS HIS OR HER
25 TERM WAS ORIGINALLY SET TO EXPIRE; EXCEPT THAT THE FOLLOWING
26 COMMISSIONERS' TERMS EXPIRE ON JANUARY 31, 2019:

27 (I) THE TWO NONATTORNEYS APPOINTED BY THE CHIEF JUSTICE OF

1 THE SUPREME COURT PURSUANT TO SUBSECTION (2)(a)(IV) OF THIS
2 SECTION; AND

3 (II) THE ATTORNEY APPOINTED BY THE GOVERNOR PURSUANT TO
4 SUBSECTION (2)(a)(III) OF THIS SECTION.

5 (c) THIS SUBSECTION (4) BECOMES EFFECTIVE FEBRUARY 1, 2019.

6 (5) (a) THE TERM FOR A COMMISSIONER IS FOUR YEARS AND
7 EXPIRES ON NOVEMBER 30 OF AN ODD-NUMBERED YEAR. THE TERM OF A
8 COMMISSIONER APPOINTED TO REPLACE A MEMBER AT THE END OF THE
9 COMMISSIONER'S TERM BEGINS ON DECEMBER 1 OF THE SAME YEAR.

10 (b) THE ORIGINAL APPOINTING AUTHORITY SHALL FILL ANY
11 VACANCY ON A COMMISSION, BUT A COMMISSIONER SHALL NOT SERVE
12 MORE THAN TWO FULL TERMS INCLUDING ANY BALANCE REMAINING ON AN
13 UNEXPIRED TERM IF THE INITIAL APPOINTMENT WAS TO FILL A VACANCY.
14 WITHIN FIVE DAYS AFTER A VACANCY ARISES ON A COMMISSION, THE
15 COMMISSION WITH THE VACANCY SHALL NOTIFY THE ORIGINAL
16 APPOINTING AUTHORITY OF THE VACANCY. THE ORIGINAL APPOINTING
17 AUTHORITY SHALL MAKE AN APPOINTMENT WITHIN FORTY-FIVE DAYS
18 AFTER THE DATE OF THE VACANCY. IF THE ORIGINAL APPOINTING
19 AUTHORITY FAILS TO MAKE THE APPOINTMENT WITHIN FORTY-FIVE DAYS
20 AFTER THE DATE OF THE VACANCY, THE GOVERNOR SHALL MAKE THE
21 APPOINTMENT.

22 (c) THE APPOINTING AUTHORITY MAY REMOVE A COMMISSIONER
23 WHOM HE OR SHE APPOINTED FOR CAUSE.

24 (6) EACH COMMISSION SHALL ELECT A CHAIR EVERY TWO YEARS
25 BY A VOTE OF THE MEMBERSHIP.

26 (7) STATE AND DISTRICT COMMISSIONERS AND EMPLOYEES OF THE
27 STATE OR A DISTRICT COMMISSION ARE IMMUNE FROM SUIT IN ANY

1 ACTION, CIVIL OR CRIMINAL, BASED UPON OFFICIAL ACTS PERFORMED IN
2 GOOD FAITH AS COMMISSIONERS AND EMPLOYEES OF THE STATE OR A
3 DISTRICT COMMISSION.

4 (8) A COMMISSIONER SHALL RECUSE HIMSELF OR HERSELF FROM
5 AN EVALUATION OF THE PERSON WHO APPOINTED THE COMMISSIONER TO
6 THE COMMISSION.

7 [REDACTED]

8 **13-5.5-105. Powers and duties of the state and district**
9 **commissions - rules.** (1) IN ADDITION TO ANY OTHER POWERS
10 CONFERRED OR DUTIES ASSIGNED UPON THE SEPARATE COMMISSIONS BY
11 THIS ARTICLE 5.5, ALL COMMISSIONS HAVE THE FOLLOWING POWERS AND
12 DUTIES:

13 (a) TO REVIEW ANY AVAILABLE CASE MANAGEMENT DATA AND
14 STATISTICS PROVIDED BY THE STATE COURT ADMINISTRATOR, THE STATE
15 COMMISSION, AND DISTRICT COMMISSIONS RELATED TO INDIVIDUAL
16 JUSTICES AND JUDGES. A DISTRICT COMMISSION MAY ASK THE STATE
17 COURT ADMINISTRATOR TO PROVIDE SUPPLEMENTAL INFORMATION AND
18 ASSISTANCE IN ASSESSING A JUDGE'S OVERALL CASE MANAGEMENT;

19 (b) TO REVIEW WRITTEN JUDICIAL OPINIONS AND ORDERS
20 AUTHORIZED BY JUSTICES AND JUDGES UNDER THE COMMISSION'S
21 OVERSIGHT;

22 (c) TO COLLECT INFORMATION FROM COURTROOM OBSERVATION
23 BY COMMISSIONERS OF JUSTICES AND JUDGES, AS WELL AS INFORMATION
24 PROVIDED TO THE COMMISSIONS BY THE VOLUNTEER COURTROOM
25 OBSERVER PROGRAM;

26 (d) TO INTERVIEW JUSTICES AND JUDGES UNDER THE COMMISSION'S
27 OVERSIGHT AND TO ACCEPT INFORMATION AND DOCUMENTATION FROM

1 INTERESTED PERSONS AS NECESSARY, INCLUDING JUDICIAL PERFORMANCE
2 SURVEYS;

3 (e) TO MAKE RECOMMENDATIONS AND PREPARE NARRATIVES THAT
4 REFLECT THE RESULTS OF PERFORMANCE EVALUATIONS OF JUSTICES AND
5 JUDGES; AND

6 (f) AT AN INDIVIDUAL COMMISSION'S DISCRETION AFTER IT
7 COMPLETES AN INTERIM EVALUATION OF A JUSTICE OR JUDGE PURSUANT
8 TO SECTION 13-5.5-109, TO RECOMMEND THAT THE CHIEF JUSTICE OR
9 APPROPRIATE CHIEF JUDGE DEVELOP AN INDIVIDUAL JUDICIAL
10 IMPROVEMENT PLAN PURSUANT TO SECTION 13-5.5-110;

11 (2) IN ADDITION TO OTHER POWERS CONFERRED AND DUTIES
12 IMPOSED UPON THE STATE COMMISSION BY THIS ARTICLE 5.5 AND SECTION
13 13-5.5-106, THE STATE COMMISSION HAS THE FOLLOWING POWERS AND
14 DUTIES:

15 (a) TO APPOINT AND SUPERVISE THE EXECUTIVE DIRECTOR OF THE
16 OFFICE ON JUDICIAL PERFORMANCE EVALUATION;

17 (b) TO ASSIST THE EXECUTIVE DIRECTOR IN MANAGING THE OFFICE
18 AND PROVIDING FISCAL OVERSIGHT OF THE OFFICE'S OPERATING BUDGET;

19 (c) TO REVIEW DATA, PREPARE NARRATIVES, AND MAKE
20 RECOMMENDATIONS RELATED TO INDIVIDUAL SUPREME COURT JUSTICES
21 AND JUDGES OF THE COURT OF APPEALS IN ACCORDANCE WITH SECTIONS
22 13-5.5-108 AND 13-5.5-109;

23 (d) (I) TO DEVELOP SURVEYS FOR PERSONS AFFECTED BY JUSTICES
24 AND JUDGES, INCLUDING BUT NOT LIMITED TO ATTORNEYS; JURORS;
25 REPRESENTED AND UNREPRESENTED LITIGANTS; LAW ENFORCEMENT
26 PERSONNEL; ATTORNEYS WITHIN THE DISTRICT ATTORNEYS' AND PUBLIC
27 DEFENDERS' OFFICES; EMPLOYEES OF THE COURT; COURT INTERPRETERS;

1 EMPLOYEES OF PROBATION OFFICES; EMPLOYEES OF LOCAL DEPARTMENTS
2 OF SOCIAL SERVICES; AND VICTIMS OF CRIMES, AS DEFINED IN SECTION
3 24-4.1-302 (5);

4 (II) TO DEVELOP RULES, GUIDELINES, AND PROCEDURES TO MAKE
5 THE RESULTS OF SURVEYS DEVELOPED PURSUANT TO THIS SUBSECTION
6 (2)(d) READILY AVAILABLE TO ALL PARTIES SET FORTH IN SUBSECTION
7 (2)(d)(I) OF THIS SECTION;

8 (III) TO DEVELOP RULES, GUIDELINES, AND PROCEDURES TO
9 PROVIDE ATTORNEYS, PRO SE LITIGANTS, AND CLIENTS WITH ACCESSIBLE
10 AND TIMELY OPPORTUNITIES TO REVIEW THE SURVEYS DEVELOPED
11 PURSUANT TO THIS SUBSECTION (2)(d); AND

12 (IV) TO DEVELOP RULES, GUIDELINES, AND PROCEDURES TO MAKE
13 THE SURVEYS DEVELOPED PURSUANT TO THIS SUBSECTION (2)(d) AND ANY
14 AVAILABLE SURVEY REPORTS AVAILABLE TO THE PUBLIC;

15 (e) TO DETERMINE THE VALIDITY OF COMPLETED SURVEYS
16 DEVELOPED PURSUANT TO THIS SUBSECTION (2), REPORT TO THE DISTRICT
17 COMMISSIONS ON THE VALIDITY OF THE SURVEYS FOR THEIR DISTRICTS,
18 AND PREPARE ALTERNATIVES TO SURVEYS WHERE SAMPLE POPULATIONS
19 ARE INADEQUATE TO PRODUCE VALID RESULTS;

20 (f) TO PRODUCE AND DISTRIBUTE SURVEY REPORTS AND PUBLIC
21 NARRATIVES THAT REFLECT THE RESULTS OF EACH JUDICIAL
22 PERFORMANCE EVALUATION;

23 (g) TO DEVELOP RULES, GUIDELINES, AND PROCEDURES FOR THE
24 REVIEW OF THE DELIBERATION PROCEDURES ESTABLISHED BY THE
25 DISTRICT COMMISSIONS; EXCEPT THAT THE STATE COMMISSION DOES NOT
26 HAVE THE POWER OR DUTY TO REVIEW ACTUAL DETERMINATIONS MADE
27 BY A DISTRICT COMMISSION;

1 (h) TO PROMULGATE RULES PURSUANT TO SECTION 13-5.5-106
2 CONCERNING:

3 (I) THE EVALUATION OF JUSTICES AND JUDGES BASED ON
4 PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107;

5 (II) THE CREATION OF A STANDARDS MATRIX RELATED TO THE
6 PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107
7 AND A CLEAR DESCRIPTION OF THE THRESHOLDS FOR THE
8 RECOMMENDATIONS OF "MEETS PERFORMANCE STANDARD" OR "DOES NOT
9 MEET PERFORMANCE STANDARD" AND HOW THAT INFORMATION WILL BE
10 MADE AVAILABLE TO THE PUBLIC; AND

11 (III) THE CONTINUOUS COLLECTION OF DATA FOR USE IN THE
12 EVALUATION PROCESS, INCLUDING SURVEYS DEVELOPED PURSUANT TO
13 SUBSECTION (2)(d) OF THIS SECTION;

14 (i) TO DEVELOP RULES, GUIDELINES, AND PROCEDURES
15 CONCERNING A SYSTEMWIDE JUDICIAL TRAINING PROGRAM AND A
16 SYSTEMWIDE VOLUNTEER COURTROOM OBSERVER PROGRAM; AND

17 (j) TO PREPARE A REPORT PURSUANT TO SECTION 13-5.5-114.

18 (3) IN ADDITION TO OTHER POWERS CONFERRED AND DUTIES
19 IMPOSED UPON A DISTRICT COMMISSION BY THIS ARTICLE 5.5, IN
20 CONFORMITY WITH THE RULES, GUIDELINES, AND PROCEDURES ADOPTED
21 BY THE STATE COMMISSION PURSUANT TO SECTION 13-5.5-106 AND THE
22 STATE COMMISSION'S REVIEW OF THE DELIBERATION PROCEDURES
23 PURSUANT TO SUBSECTION (2) OF THIS SECTION, EACH DISTRICT
24 COMMISSION HAS THE FOLLOWING POWERS AND DUTIES:

25 (a) TO OBTAIN INFORMATION FROM PARTIES AND ATTORNEYS
26 REGARDING JUDGES' HANDLING OF CASES WITH RESPECT TO THE JUDGES'
27 FAIRNESS, PATIENCE WITH PRO SE PARTIES, GENDER NEUTRALITY, RACIAL

1 DISPARITY, AND HANDLING OF EMOTIONAL PARTIES;

2 (b) TO REVIEW DATA, PREPARE NARRATIVES, AND MAKE
3 EVALUATIONS RELATED TO JUDGES PURSUANT TO THE PROVISIONS OF
4 SECTIONS 13-5.5-108 AND 13-5.5-109; AND

5 (c) UPON COMPLETING THE REQUIRED RECOMMENDATIONS AND
6 NARRATIVES PURSUANT TO SUBSECTION (1) OF THIS SECTION, TO COLLECT
7 ALL DOCUMENTS AND OTHER INFORMATION, INCLUDING ALL SURVEYS AND
8 COPIES, RECEIVED REGARDING EACH JUDGE WHO WAS EVALUATED AND
9 FORWARD SUCH DOCUMENTS AND INFORMATION TO THE STATE
10 COMMISSION WITHIN THIRTY DAYS.

11 (4) UNLESS RECUSED PURSUANT TO A PROVISION OF THIS ARTICLE
12 5.5, EACH COMMISSIONER OF THE STATE AND DISTRICT COMMISSIONS HAS
13 THE DISCRETION TO EVALUATE THE PERFORMANCE OF A JUSTICE OR JUDGE
14 UNDER THE COMMISSION'S OVERSIGHT AND VOTE AS TO WHETHER THE
15 JUSTICE OR JUDGE MEETS THE PERFORMANCE STANDARD BASED UPON THE
16 COMMISSIONER'S REVIEW OF ALL OF THE INFORMATION AVAILABLE TO THE
17 COMMISSION.

18 **13-5.5-106. Rules, guidelines, and procedures.** (1) THE STATE
19 COMMISSION SHALL ADOPT RULES, GUIDELINES, AND PROCEDURES AS
20 NECESSARY TO IMPLEMENT AND EFFECTUATE THE PROVISIONS OF THIS
21 ARTICLE 5.5, INCLUDING RULES, GUIDELINES, AND PROCEDURES
22 GOVERNING THE DISTRICT COMMISSIONS.

23 (2) THE STATE COMMISSION SHALL CONSIDER PROPOSED RULES,
24 GUIDELINES, OR PROCEDURES FROM THE JUDICIAL DEPARTMENT; EXCEPT
25 THAT NOTHING IN THIS SECTION REQUIRES THE STATE COMMISSION TO
26 SEEK APPROVAL FROM THE JUDICIAL DEPARTMENT. THE STATE
27 COMMISSION RETAINS THE AUTHORITY FOR THE ADOPTION OF FINAL RULES,

1 GUIDELINES, OR PROCEDURES. THE STATE COMMISSION MAY, AT ITS
2 DISCRETION AND WITHIN EXISTING APPROPRIATIONS AND RESOURCES,
3 RETAIN INDEPENDENT LEGAL COUNSEL TO REVIEW ANY RULES,
4 GUIDELINES, OR PROCEDURES ADOPTED PURSUANT TO THIS SECTION OR
5 SECTION 13-5.5-105.

6 (3) THE STATE COMMISSION MAY ADOPT RULES, GUIDELINES, OR
7 PROCEDURES THAT PROVIDE GUIDANCE TO COMMISSIONERS REGARDING
8 THE REVIEW OR INTERPRETATION OF INFORMATION OBTAINED AS A RESULT
9 OF THE EVALUATION PROCESS AND THE CRITERIA CONTAINED IN SECTION
10 13-5.5-107. ANY SUCH RULES, GUIDELINES, OR PROCEDURES MUST:

11 (a) TAKE INTO CONSIDERATION THE RELIABILITY OF SURVEY DATA
12 AND BE CONSISTENT WITH SECTION 13-5.5-105; AND

13 (b) NOT DIVEST ANY COMMISSIONER OF HIS OR HER ULTIMATE
14 AUTHORITY TO DECIDE WHETHER A JUSTICE OR JUDGE MEETS THE
15 MINIMUM PERFORMANCE STANDARDS, AS ESTABLISHED BY THE STATE AND
16 DISTRICT COMMISSIONS.

17 (4) THE STATE COMMISSION SHALL POST A NOTICE OF THE
18 PROPOSED RULE, GUIDELINE, OR PROCEDURE, ALLOW FOR A PERIOD FOR
19 PUBLIC COMMENT, AND GIVE THE PUBLIC AN OPPORTUNITY TO ADDRESS
20 THE STATE COMMISSION CONCERNING THE PROPOSED RULE, GUIDELINE, OR
21 PROCEDURE AT A PUBLIC HEARING.

22 **13-5.5-107. Judicial performance evaluation criteria.** (1) THE
23 STATE COMMISSION AND EACH DISTRICT COMMISSION SHALL EVALUATE
24 EACH JUSTICE AND JUDGE IN COLORADO UTILIZING THE POWERS AND
25 DUTIES CONFERRED UPON EACH COMMISSION IN SECTION 13-5.5-105. THE
26 EVALUATIONS MUST ONLY INCLUDE THE FOLLOWING PERFORMANCE
27 EVALUATION CRITERIA:

1 (a) INTEGRITY, INCLUDING BUT NOT LIMITED TO WHETHER THE
2 JUSTICE OR JUDGE:

3 (I) AVOIDS IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY;

4 (II) DISPLAYS FAIRNESS AND IMPARTIALITY TOWARD ALL
5 PARTICIPANTS; AND

6 (III) AVOIDS EX PARTE COMMUNICATIONS;

7 (b) LEGAL KNOWLEDGE, INCLUDING BUT NOT LIMITED TO
8 WHETHER THE JUSTICE OR JUDGE:

9 (I) DEMONSTRATES, THROUGH WELL-REASONED OPINIONS AND
10 COURTROOM CONDUCT, AN UNDERSTANDING OF SUBSTANTIVE LAW AND
11 RELEVANT RULES OF PROCEDURE AND EVIDENCE;

12 (II) DEMONSTRATES, THROUGH WELL-REASONED OPINIONS AND
13 COURTROOM CONDUCT, ATTENTIVENESS TO FACTUAL AND LEGAL ISSUES
14 BEFORE THE COURT; AND

15 (III) ADHERES TO PRECEDENT OR CLEARLY EXPLAINS THE LEGAL
16 BASIS FOR DEPARTURE FROM PRECEDENT AND APPROPRIATELY APPLIES
17 STATUTES OR OTHER SOURCES OF LEGAL AUTHORITY;

18 (c) COMMUNICATION SKILLS, INCLUDING BUT NOT LIMITED TO
19 WHETHER THE JUSTICE OR JUDGE:

20 (I) PRESENTS CLEARLY WRITTEN AND UNDERSTANDABLE OPINIONS,
21 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERS;

22 (II) PRESENTS CLEARLY STATED AND UNDERSTANDABLE
23 QUESTIONS OR STATEMENTS DURING ORAL ARGUMENTS OR
24 PRESENTATIONS, AND, FOR TRIAL JUDGES, CLEARLY EXPLAINS ALL ORAL
25 DECISIONS; AND

26 (III) CLEARLY PRESENTS INFORMATION TO THE JURY, AS
27 NECESSARY;

1 (d) JUDICIAL TEMPERAMENT, INCLUDING BUT NOT LIMITED TO
2 WHETHER THE JUSTICE OR JUDGE:

3 (I) DEMONSTRATES COURTESY TOWARD ATTORNEYS, LITIGANTS,
4 COURT STAFF, AND OTHERS IN THE COURTROOM; AND

5 (II) MAINTAINS AND REQUIRES ORDER, PUNCTUALITY, AND
6 APPROPRIATE DECORUM IN THE COURTROOM;

7 (e) ADMINISTRATIVE PERFORMANCE, INCLUDING BUT NOT LIMITED
8 TO WHETHER THE JUSTICE OR JUDGE:

9 (I) DEMONSTRATES PREPARATION FOR ORAL ARGUMENTS, TRIALS,
10 AND HEARINGS, AS WELL AS ATTENTIVENESS TO AND APPROPRIATE
11 CONTROL OVER JUDICIAL PROCEEDINGS;

12 (II) MANAGES WORKLOAD AND COURT TIME EFFECTIVELY AND
13 EFFICIENTLY;

14 (III) ISSUES OPINIONS, FINDINGS OF FACT, CONCLUSIONS OF LAW,
15 AND ORDERS IN A TIMELY MANNER AND WITHOUT UNNECESSARY DELAY;

16 (IV) PARTICIPATES IN A PROPORTIONATE SHARE OF THE COURT'S
17 WORKLOAD, TAKES RESPONSIBILITY FOR MORE THAN HIS OR HER OWN
18 CASELOAD, AND IS WILLING TO ASSIST OTHER JUSTICES OR JUDGES; AND

19 (V) UNDERSTANDS AND COMPLIES, AS NECESSARY, WITH
20 DIRECTIVES OF THE COLORADO SUPREME COURT; AND

21 (f) SERVICE TO THE LEGAL PROFESSION AND THE PUBLIC BY
22 PARTICIPATING IN SERVICE-ORIENTED EFFORTS DESIGNED TO EDUCATE THE
23 PUBLIC ABOUT THE LEGAL SYSTEM AND IMPROVE THE LEGAL SYSTEM.

24 **13-5.5-108. Judicial performance evaluations in retention**
25 **election years - procedure - recommendations.** (1) JUDICIAL
26 PERFORMANCE EVALUATIONS FOR JUSTICES OR JUDGES WHOSE TERMS ARE
27 TO EXPIRE AND WHO MUST STAND FOR RETENTION ELECTION ARE

1 CONDUCTED AS FOLLOWS:

2 (a) THE STATE COMMISSION SHALL CONDUCT A JUDICIAL
3 PERFORMANCE EVALUATION OF EACH SUCH JUSTICE OF THE SUPREME
4 COURT AND JUDGE OF THE COURT OF APPEALS; AND

5 (b) THE DISTRICT COMMISSION SHALL CONDUCT A JUDICIAL
6 PERFORMANCE EVALUATION FOR EACH DISTRICT JUDGE AND COUNTY
7 JUDGE.

8 (2) (a) THE APPLICABLE COMMISSION SHALL COMPLETE A
9 RETENTION YEAR EVALUATION AND RELATED NARRATIVE TO BE
10 COMMUNICATED TO THE JUSTICE OR JUDGE NO LATER THAN FORTY-FIVE
11 DAYS PRIOR TO THE LAST DAY AVAILABLE FOR THE JUSTICE OR JUDGE TO
12 DECLARE HIS OR HER INTENT TO STAND FOR RETENTION.

13 (b) THE NARRATIVE PREPARED FOR A RETENTION YEAR
14 EVALUATION MUST INCLUDE AN ASSESSMENT OF THE JUSTICE'S OR JUDGE'S
15 STRENGTHS AND WEAKNESSES WITH RESPECT TO THE JUDICIAL
16 PERFORMANCE CRITERIA CONTAINED IN SECTION 13-5.5-107, A DISCUSSION
17 REGARDING ANY DEFICIENCY IDENTIFIED IN AN INTERIM EVALUATION
18 PREPARED PURSUANT TO SECTION 13-5.5-109, A REVIEW OF ANY
19 IMPROVEMENT PLAN DEVELOPED PURSUANT TO SECTION 13-5.5-110, AND
20 A STATEMENT OF WHETHER THE APPLICABLE COMMISSION CONCLUDES
21 THAT ANY DEFICIENCY IDENTIFIED HAS BEEN SATISFACTORILY ADDRESSED,
22 OR A STATEMENT FROM THE CHIEF JUSTICE OR APPROPRIATE CHIEF JUDGE
23 THAT AN IMPROVEMENT PLAN, IF ANY, WAS SATISFACTORILY FOLLOWED
24 BY THE JUSTICE OR JUDGE.

25 (c) THE APPLICABLE COMMISSION SHALL GRANT EACH JUSTICE OR
26 JUDGE WHO RECEIVES A RETENTION YEAR EVALUATION THE OPPORTUNITY
27 TO MEET WITH THE COMMISSION OR OTHERWISE RESPOND TO THE

1 EVALUATION NO LATER THAN TEN DAYS FOLLOWING HIS OR HER RECEIPT
2 OF THE EVALUATION. IF THE MEETING IS HELD OR A RESPONSE IS MADE,
3 THE APPLICABLE COMMISSION MAY REVISE ITS EVALUATION.

4 (3) AFTER THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION
5 ARE MET, THE APPLICABLE COMMISSION SHALL MAKE A RECOMMENDATION
6 REGARDING THE PERFORMANCE OF EACH JUSTICE OR JUDGE WHO
7 DECLARES HIS OR HER INTENT TO STAND FOR RETENTION. THE
8 RECOMMENDATIONS MUST BE STATED AS "MEETS PERFORMANCE
9 STANDARD" OR "DOES NOT MEET PERFORMANCE STANDARD". FOR A
10 JUSTICE OR JUDGE TO RECEIVE A DESIGNATION OF "DOES NOT MEET
11 PERFORMANCE STANDARD", THERE MUST BE A MAJORITY VOTE BY THE
12 COMMISSION MEMBERS THAT THE PARTICULAR JUSTICE OR JUDGE SHOULD
13 RECEIVE SUCH A RECOMMENDATION.

14 (4) DISTRICT COMMISSIONS SHALL FORWARD RECOMMENDATIONS,
15 NARRATIVES, AND ANY OTHER RELEVANT INFORMATION, INCLUDING ANY
16 COMPLETED JUDICIAL SURVEYS, TO THE STATE COMMISSION ACCORDING
17 TO THE PROVISIONS OF SECTION 13-5.5-105.

18 (5) THE STATE COMMISSION SHALL RELEASE THE NARRATIVE, THE
19 RECOMMENDATION, AND ANY OTHER RELEVANT INFORMATION RELATED
20 TO A RETENTION YEAR EVALUATION, INCLUDING THE INFORMATION
21 FORWARDED PURSUANT TO SECTION 13-5.5-105, TO THE PUBLIC NO LATER
22 THAN TWO MONTHS PRIOR TO THE RETENTION ELECTION. THE STATE
23 COMMISSION SHALL ARRANGE TO HAVE THE NARRATIVE AND
24 RECOMMENDATION FOR EACH JUSTICE AND JUDGE STANDING FOR
25 RETENTION PRINTED IN THE BALLOT INFORMATION BOOKLET PREPARED
26 PURSUANT TO SECTION 1-40-124.5 AND MAILED TO ELECTORS PURSUANT
27 TO SECTION 1-40-125.

1 **13-5.5-109. Judicial performance evaluations in interim years**

2 **between elections - procedure.** (1) WITHIN THE FIRST TWO YEARS OF A
3 JUSTICE'S OR JUDGE'S APPOINTMENT TO THE BENCH, THE APPROPRIATE
4 COMMISSION SHALL CONDUCT AN INITIAL EVALUATION OF EACH JUSTICE
5 AND EACH JUDGE. THE APPROPRIATE COMMISSION SHALL COMPLETE AND
6 COMMUNICATE ITS JUDICIAL PERFORMANCE INTERIM EVALUATIONS AS
7 FOLLOWS:

8 (a) THE STATE COMMISSION SHALL COMMUNICATE ITS FINDINGS,
9 INCLUDING ANY RECOMMENDATIONS FOR IMPROVEMENT PLANS, TO THE
10 CHIEF JUSTICE OF THE SUPREME COURT OR THE CHIEF JUDGE OF THE COURT
11 OF APPEALS AND THE APPELLATE JUSTICE OR JUDGE WHO WAS EVALUATED;
12 AND

13 (b) THE APPLICABLE DISTRICT COMMISSION SHALL COMMUNICATE
14 ITS FINDINGS, INCLUDING ANY RECOMMENDATIONS FOR IMPROVEMENT
15 PLANS, TO THE CHIEF JUDGE OF THE DISTRICT AND THE JUDGE WHO WAS
16 EVALUATED.

17 (2) IF A COMMISSION RECOMMENDS AN IMPROVEMENT PLAN, THE
18 PROCEDURE DEVELOPMENT AND IMPLEMENTATION FOR SUCH A PLAN WILL
19 FOLLOW THE GUIDELINES SET FORTH IN SECTION 13-5.5-110.

20 (3) THE APPROPRIATE COMMISSION, AT ITS DISCRETION, MAY
21 CONDUCT A SUBSEQUENT INTERIM EVALUATION OF EACH JUSTICE AND
22 EACH JUDGE DURING THE YEARS BETWEEN WHEN THE JUSTICE OR JUDGE
23 STANDS FOR RETENTION, IF APPLICABLE.

24 (4) THE APPROPRIATE COMMISSION SHALL GRANT EACH JUSTICE OR
25 JUDGE WHO RECEIVES AN INITIAL OR INTERIM EVALUATION THE
26 OPPORTUNITY TO MEET WITH THE COMMISSION OR OTHERWISE RESPOND TO
27 THE INITIAL OR INTERIM EVALUATION NO LATER THAN TEN DAYS

1 FOLLOWING THE JUSTICE'S OR JUDGE'S RECEIPT OF THE INITIAL OR INTERIM
2 EVALUATION. IF A MEETING IS HELD OR A RESPONSE IS MADE, THE
3 APPROPRIATE COMMISSION MAY REVISE ITS INITIAL OR INTERIM
4 EVALUATION.

5 **13-5.5-110. Individual judicial improvement plans.** (1) (a) IF
6 THE STATE COMMISSION OR A DISTRICT COMMISSION RECOMMENDS,
7 PURSUANT TO SECTION 13-5.5-109(1), THAT A JUSTICE OR JUDGE RECEIVE
8 AN INDIVIDUAL JUDICIAL IMPROVEMENT PLAN, THE COMMISSION SHALL
9 COMMUNICATE SUCH RECOMMENDATION TO THE CHIEF JUSTICE OR
10 APPROPRIATE CHIEF JUDGE. THE CHIEF JUSTICE OR CHIEF JUDGE SHALL
11 THEN DEVELOP AN IMPROVEMENT PLAN FOR SUCH JUDGE AND SHALL SEND
12 THE IMPROVEMENT PLAN TO THE STATE COMMISSION FOR REVIEW. AFTER
13 THE STATE COMMISSION REVIEWS AND APPROVES THE IMPROVEMENT
14 PLAN, THE CHIEF JUSTICE OR CHIEF JUDGE SHALL HAVE THE
15 RESPONSIBILITY FOR IMPLEMENTING AND OVERSEEING THE IMPROVEMENT
16 PLAN.

17 (b) ONCE THE JUSTICE OR JUDGE HAS COMPLETED THE
18 IMPROVEMENT PLAN, THE CHIEF JUSTICE OR CHIEF JUDGE SHALL CONVEY
19 THE RESULTS OF THE IMPROVEMENT PLAN ACTIVITIES TO THE APPROPRIATE
20 COMMISSION, WHICH WILL THEN MAINTAIN A COPY OF THE IMPROVEMENT
21 PLAN AND THE STATEMENT OF RESULTS IN ITS FILES.

22 (2) IF A JUSTICE OR JUDGE IS REQUIRED TO COMPLETE AN
23 IMPROVEMENT PLAN PURSUANT TO THIS SECTION, AND HE OR SHE FAILS TO
24 SATISFACTORILY COMPLETE THE REQUIREMENTS OF SUCH IMPROVEMENT
25 PLAN, THE APPROPRIATE COMMISSION SHALL AUTOMATICALLY ISSUE A
26 "DOES NOT MEET PERFORMANCE STANDARD" DESIGNATION ON HIS OR HER
27 PERFORMANCE EVALUATION SUMMARY.

1 **13-5.5-111. Judicial performance evaluations - senior judges.**

2 (1) EVERY THIRD YEAR FOLLOWING THE INITIAL APPOINTMENT OF A
3 SENIOR JUDGE TO THE BENCH THROUGH A CONTRACT PURSUANT TO
4 SECTION 24-51-1105, THE STATE COMMISSION SHALL CONDUCT A
5 PERFORMANCE EVALUATION OF THE SENIOR JUDGE BASED ON THE JUDICIAL
6 PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107.
7 THE STATE COMMISSION SHALL COMPLETE THE PERFORMANCE
8 EVALUATION OF SUCH SENIOR JUDGE AND COMMUNICATE THE RELATED
9 NARRATIVE TO THE CHIEF JUSTICE NO LATER THAN FORTY-FIVE DAYS
10 PRIOR TO THE EXPIRATION OF THE SENIOR JUDGE'S CONTRACT FOR THAT
11 YEAR. THE NARRATIVE MUST INCLUDE AN ASSESSMENT OF THE SENIOR
12 JUDGE'S STRENGTHS AND WEAKNESSES WITH RESPECT TO THE JUDICIAL
13 PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107.

14 (2) THE STATE COMMISSION SHALL MAKE A RECOMMENDATION TO
15 THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT REGARDING THE
16 SENIOR JUDGE'S PERFORMANCE. THE RECOMMENDATIONS MUST BE STATED
17 AS "MEETS PERFORMANCE STANDARD" OR "DOES NOT MEET PERFORMANCE
18 STANDARD".

19 **13-5.5-112. Recusal.** (1) A COMMISSIONER SHALL DISCLOSE TO
20 HIS OR HER COMMISSION ANY PROFESSIONAL OR PERSONAL RELATIONSHIP
21 WITH A JUSTICE OR JUDGE THAT MAY AFFECT AN UNBIASED EVALUATION
22 OF THE JUSTICE OR JUDGE, INCLUDING INVOLVEMENT WITH ANY
23 LITIGATION INVOLVING THE JUSTICE OR JUDGE AND THE COMMISSIONER,
24 THE COMMISSIONER'S FAMILY, OR THE COMMISSIONER'S FINANCIAL
25 INTERESTS. A COMMISSION MAY REQUIRE, UPON A TWO-THIRDS VOTE OF
26 THE OTHER COMMISSIONERS, THE RECUSAL OF ONE OF ITS COMMISSIONERS
27 BECAUSE OF A RELATIONSHIP WITH A JUSTICE OR JUDGE.

1 (2) A JUSTICE OR JUDGE WHO IS BEING EVALUATED BY A STATE OR
2 DISTRICT COMMISSION MAY NOT RECUSE HIMSELF OR HERSELF FROM A
3 CASE SOLELY ON THE BASIS THAT AN ATTORNEY, PARTY, OR WITNESS IN
4 THE CASE IS A COMMISSIONER ON THE EVALUATING COMMISSION.

5 **13-5.5-113. Confidentiality.** (1) EXCEPT AS PROVIDED IN
6 SUBSECTION (3) OF THIS SECTION, ALL SELF-EVALUATIONS, PERSONAL
7 INFORMATION PROTECTED UNDER SECTION 24-72-204 (3)(a)(II),
8 ADDITIONAL ORAL OR WRITTEN INFORMATION, CONTENT OF ANY JUDICIAL
9 IMPROVEMENT PLANS, AND ANY MATTER DISCUSSED IN EXECUTIVE
10 SESSION IS CONFIDENTIAL EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED
11 BY RULE. ALL SURVEYS MUST ALLOW FOR THE PARTICIPANT'S NAME TO
12 REMAIN CONFIDENTIAL. COMMENTS IN SURVEYS ARE CONFIDENTIAL, BUT
13 MAY BE SUMMARIZED IN AGGREGATE FOR USE IN JUDICIAL PERFORMANCE
14 EVALUATION NARRATIVES. A COMMISSIONER SHALL NOT PUBLICLY
15 DISCUSS THE EVALUATION OF A PARTICULAR JUSTICE OR JUDGE.

16 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, ALL
17 RECOMMENDATIONS AND NARRATIVES ARE CONFIDENTIAL UNTIL
18 RELEASED TO THE PUBLIC ON THE FIRST DAY FOLLOWING THE DEADLINE
19 FOR JUSTICES AND JUDGES TO DECLARE THEIR INTENT TO STAND FOR
20 RETENTION.

21 (3) INFORMATION REQUIRED TO BE KEPT CONFIDENTIAL PURSUANT
22 TO THIS ARTICLE 5.5 MAY BE RELEASED ONLY UNDER THE FOLLOWING
23 CIRCUMSTANCES:

24 (a) TO THE SUPREME COURT ATTORNEY REGULATION COMMITTEE,
25 AS PROVIDED BY RULE OF THE STATE COMMISSION;

26 (b) TO THE COMMISSION ON JUDICIAL DISCIPLINE, AS PROVIDED BY
27 RULE OF THE STATE COMMISSION; OR

1 (c) WITH THE CONSENT OF THE JUSTICE OR JUDGE BEING
2 EVALUATED.

3 **13-5.5-114. Reporting requirements - "State Measurement for**
4 **Accountable, Responsive, and Transparent (SMART) Government**

5 **Act" report.** (1) THE STATE COMMISSION SHALL GATHER AND MAINTAIN
6 STATEWIDE DATA AND POST A STATISTICAL REPORT OF THE STATEWIDE
7 DATA ON ITS WEBSITE NO LATER THAN THIRTY DAYS PRIOR TO EACH
8 RETENTION ELECTION. THE REPORT MUST SPECIFY, AT A MINIMUM:

9 (a) THE TOTAL NUMBER OF JUSTICES AND JUDGES WHO WERE
10 ELIGIBLE TO STAND FOR RETENTION AND THE NUMBER WHO DECLARED
11 THEIR INTENT TO STAND FOR REELECTION;

12 (b) THE TOTAL NUMBER OF JUDICIAL PERFORMANCE EVALUATIONS
13 OF JUSTICES AND JUDGES PERFORMED BY THE STATE AND DISTRICT
14 COMMISSIONS;

15 (c) THE TOTAL NUMBER OF JUSTICES AND JUDGES WHO WERE
16 EVALUATED BUT DID NOT STAND FOR RETENTION; AND

17 (d) THE TOTAL NUMBER OF JUSTICES AND JUDGES WHO RECEIVED
18 A "MEETS PERFORMANCE STANDARD" OR "DOES NOT MEET PERFORMANCE
19 STANDARD" RECOMMENDATION, RESPECTIVELY.

20 (2) BEGINNING IN JANUARY 2019, AND EVERY TWO YEARS
21 THEREAFTER, THE STATE COMMISSION SHALL REPORT ON THE ACTIVITIES
22 OF THE COMMISSIONERS TO THE JOINT JUDICIARY COMMITTEE OF THE
23 GENERAL ASSEMBLY AS PART OF ITS "STATE MEASUREMENT FOR
24 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
25 GOVERNMENT ACT" PRESENTATION REQUIRED BY SECTION 2-7-203.

26 **13-5.5-115. State commission on judicial performance cash**
27 **fund - acceptance of private or federal grants - general**

1 **appropriations.** THE STATE COMMISSION IS AUTHORIZED TO ACCEPT ANY
2 GRANTS OF FEDERAL OR PRIVATE FUNDS MADE AVAILABLE FOR ANY
3 PURPOSE CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE 5.5. ANY
4 MONEY RECEIVED PURSUANT TO THIS SECTION MUST BE TRANSMITTED TO
5 THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE STATE
6 COMMISSION ON JUDICIAL PERFORMANCE CASH FUND, WHICH IS HEREBY
7 CREATED. THE FUND ALSO INCLUDES THE AMOUNT OF THE INCREASES IN
8 DOCKET FEES COLLECTED PURSUANT TO SECTIONS 13-32-105 (1) AND
9 42-4-1710 (4)(a). ANY INTEREST DERIVED FROM THE DEPOSIT AND
10 INVESTMENT OF MONEY IN THE FUND IS CREDITED TO THE FUND. ANY
11 UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT
12 THE END OF ANY FISCAL YEAR REMAINS IN THE FUND AND SHALL NOT BE
13 CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.
14 MONEY IN THE FUND MAY BE EXPENDED BY THE STATE COMMISSION,
15 SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, FOR
16 THE PURPOSES OF THIS ARTICLE 5.5. IN ADDITION, THE GENERAL ASSEMBLY
17 MAY MAKE ANNUAL APPROPRIATIONS FROM THE GENERAL FUND FOR THE
18 PURPOSES OF THIS ARTICLE 5.5.

19 **13-5.5-116. Private right of action.** (1) FINAL ACTIONS OF THE
20 STATE COMMISSION ARE SUBJECT TO JUDICIAL REVIEW AS PROVIDED FOR
21 IN THIS SECTION. FOR PURPOSES OF THIS SECTION, "FINAL ACTION" MEANS
22 A RULE, GUIDELINE, OR PROCEDURE ADOPTED BY THE STATE COMMISSION
23 PURSUANT TO THIS ARTICLE 5.5. A "FINAL ACTION" DOES NOT INCLUDE A
24 FINAL RECOMMENDATION REGARDING A JUSTICE OR A JUDGE THAT IS MADE
25 BY THE STATE COMMISSION OR A DISTRICT COMMISSION PURSUANT TO
26 SECTION 13-5.5-108 OR 13-5.5-109, AN IMPROVEMENT PLAN DEVELOPED
27 PURSUANT TO SECTION 13-5.5-109, SURVEYS DEVELOPED PURSUANT TO

1 SECTION 13-5.5-105 (2)(d), OR ANY ASPECT OF AN INDIVIDUAL JUSTICE'S
2 OR JUDGE'S INDIVIDUAL JUDICIAL PERFORMANCE EVALUATION.

3 (2) A PERSON ADVERSELY AFFECTED OR AGGRIEVED BY A FINAL
4 ACTION OF THE STATE COMMISSION MAY COMMENCE AN ACTION FOR
5 JUDICIAL REVIEW IN THE DENVER DISTRICT COURT WITHIN THIRTY-FIVE
6 DAYS AFTER SUCH ACTION BECOMES EFFECTIVE. UPON A FINDING BY THE
7 COURT THAT IRREPARABLE INJURY WOULD OTHERWISE RESULT, THE
8 REVIEWING COURT SHALL POSTPONE THE EFFECTIVE DATE OF THE STATE
9 COMMISSION'S ACTION TO PRESERVE THE RIGHTS OF THE PARTIES, PENDING
10 CONCLUSION OF THE REVIEW PROCEEDINGS.

11 (3) IF THE COURT FINDS NO ERROR, IT SHALL AFFIRM THE STATE
12 COMMISSION'S FINAL ACTION. IF THE COURT FINDS THAT THE STATE
13 COMMISSION'S ACTION IS ARBITRARY OR CAPRICIOUS; A DENIAL OF A
14 STATUTORY RIGHT; CONTRARY TO CONSTITUTIONAL RIGHT, POWER,
15 PRIVILEGE, OR IMMUNITY; IN EXCESS OF STATUTORY JURISDICTION,
16 AUTHORITY, PURPOSES, OR LIMITATIONS; NOT IN ACCORD WITH THE
17 PROCEDURES OR PROCEDURAL LIMITATIONS SET FORTH IN THIS ARTICLE 5.5
18 OR AS OTHERWISE REQUIRED BY LAW; AN ABUSE OR CLEARLY
19 UNWARRANTED EXERCISE OF DISCRETION; BASED UPON FINDINGS OF FACT
20 THAT ARE CLEARLY ERRONEOUS ON THE WHOLE RECORD; UNSUPPORTED
21 BY SUBSTANTIAL EVIDENCE WHEN THE RECORD IS CONSIDERED AS A
22 WHOLE; OR OTHERWISE CONTRARY TO LAW, THEN THE COURT SHALL HOLD
23 THE ACTION UNLAWFUL, SET IT ASIDE, RESTRAIN ENFORCEMENT, AND
24 AFFORD SUCH OTHER RELIEF AS MAY BE APPROPRIATE. IN ALL CASES
25 UNDER REVIEW, THE COURT SHALL DETERMINE ALL QUESTIONS OF LAW,
26 INTERPRET THE STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED,
27 AND APPLY THE INTERPRETATION TO THE FACTS DULY FOUND OR

1 ESTABLISHED.

2

3 **SECTION 2.** In Colorado Revised Statutes, 13-3-101, **amend** (5)
4 as follows:

5 **13-3-101. State court administrator.** (5) The state court
6 administrator shall provide to the director of research of the legislative
7 council criminal justice information and statistics and any other related
8 data requested by the director. The state court administrator shall provide
9 to the state commission on judicial performance and to district
10 commissions on judicial performance, ESTABLISHED IN SECTION
11 13-5.5-104, case management statistics for justices and judges WHO ARE
12 being evaluated.

13 **SECTION 3.** In Colorado Revised Statutes, 13-32-105, **amend**
14 (1)(b) as follows:

15 **13-32-105. Docket fees in criminal actions.** (1) (b) On and after
16 June 6, 2003, the docket fee in all criminal actions in all courts of record,
17 except the county court, court of appeals, and the supreme court, ~~shall be~~
18 ~~IS~~ increased by five dollars and the docket fee in county court criminal
19 actions ~~shall be~~ ~~IS~~ increased by three dollars. The additional revenue
20 generated by the docket fee increases shall be transmitted to the state
21 treasurer for deposit in the state commission on judicial performance cash
22 fund created in ~~section 13-5.5-107~~ SECTION 13-5.5-115.

23 **SECTION 4.** In Colorado Revised Statutes, 24-75-402, **amend**
24 (5)(r) as follows:

25 **24-75-402. Cash funds - limit on uncommitted reserves -**
26 **reduction in amount of fees - exclusions - repeal.** (5) Notwithstanding
27 any provision of this section to the contrary, the following cash funds are

1 excluded from the limitations specified in this section:

2 (r) The state commission on judicial performance cash fund
3 created in ~~section 13-5.5-107, C.R.S.~~ SECTION 13-5.5-115, until this
4 ~~paragraph (r)~~ SUBSECTION (5)(r) is repealed, effective July 1, 2017;

5 **SECTION 5.** In Colorado Revised Statutes, 42-4-1710, **amend**
6 (4)(a)(II) as follows:

7 **42-4-1710. Failure to pay penalty for traffic infractions -**
8 **failure of parent or guardian to sign penalty assessment notice -**
9 **procedures.** (4) (a) (II) On and after June 6, 2003, the docket fee
10 assessed in ~~subparagraph (I) of this paragraph (a) shall be~~ SUBSECTION
11 (4)(a)(I) OF THIS SECTION IS increased by three dollars. The additional
12 revenue generated by the docket fee shall be transmitted to the state
13 treasurer for deposit in the state commission on judicial performance cash
14 fund created in ~~section 13-5.5-107, C.R.S.~~ SECTION 13-5.5-115.

15 **SECTION 6. Appropriation.** For the 2017-18 state fiscal year,
16 \$24,500 is appropriated to the judicial department. This appropriation is
17 from the general fund. To implement this act, the department may use this
18 appropriation for the office of judicial performance evaluation.

19 **SECTION 7. Act subject to petition - effective date.** This
20 act takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in
27 November 2018 and, in such case, will take effect on the date of the

1 official declaration of the vote thereon by the governor.

2 