

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

REREVISED

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

LLS NO. 19-0974.01 Jerry Barry x4341

SENATE BILL 19-187

SENATE SPONSORSHIP

Lee and Gardner, Tate

HOUSE SPONSORSHIP

Bird and McKean, Arndt, Becker, Bockenfeld, Herod, Lontine, Michaelson Jenet, Valdez
A.

Senate Committees
Judiciary

House Committees
Judiciary

HOUSE
3rd Reading Unamended
April 26, 2019

A BILL FOR AN ACT

101 **CONCERNING COMMISSIONS ON JUDICIAL PERFORMANCE.**

HOUSE
2nd Reading Unamended
April 24, 2019

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>.)

SENATE
3rd Reading Unamended
April 9, 2019

Currently, senior judges are evaluated by the state commission on judicial performance. The bill repeals this provision and makes conforming amendments.

Under current law, for a vacancy on a state or district commission on judicial performance, if the appointing authority does not appoint a replacement within 45 days after the vacancy arises, the governor appoints a replacement member of the commission. The bill changes this from the governor to the state commission.

SENATE
Amended 2nd Reading
April 8, 2019

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

The bill clarifies language concerning persons who are offered surveys and repeals mention of specific groups for whom the judicial department does not have the information to send the surveys electronically.

For rules of the state commission on judicial performance, the bill clarifies that they may provide for a matrix or scorecard to evaluate a judge or justice and repeals the requirement that the rules contain a threshold for deciding whether a judge or justice meets a performance standard.

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

2 **SECTION 1.** In Colorado Revised Statutes, 13-5.5-101, **amend**
3 (1)(b), (1)(c), (2)(a), and (2)(b) as follows:

4 **13-5.5-101. Legislative declaration.** (1) It is the intent of the
5 general assembly to provide:

6 (b) Information to the people of Colorado regarding the
7 performance of judges AND justices ~~and senior judges~~ throughout the
8 state; and

9 (c) Transparency and accountability for judges AND justices ~~and~~
10 ~~senior judges~~ throughout the state of Colorado.

11 (2) Therefore, the general assembly finds and declares that it is in
12 the public interest and is a matter of statewide concern to:

13 (a) Provide judges AND justices ~~and senior judges~~ with useful
14 information concerning their own performances, along with training
15 resources to improve judicial performance as necessary;

16 (b) Establish a comprehensive system of evaluating judicial
17 performance to provide persons voting on the retention of judges AND
18 justices ~~and senior judges~~ with fair, responsible, and constructive
19 information about individual judicial performance;

20 **SECTION 2.** In Colorado Revised Statutes, 13-5.5-102, **amend**

1 (9); and **repeal** (13) as follows:

2 **13-5.5-102. Definitions.** As used in this article 5.5, unless the
3 context otherwise requires:

4 (9) "Judge" includes all active ~~and senior judges. as defined in~~
5 ~~subsection (13) of this section.~~

6 (13) ~~"Senior judge" means a retired judge who has returned to~~
7 ~~temporary judicial duties pursuant to section 24-51-1105.~~

8 **SECTION 3.** In Colorado Revised Statutes, 13-5.5-104, **amend**
9 (5)(b) as follows:

10 **13-5.5-104. State commission on judicial performance -**
11 **district commissions on judicial performance - established -**
12 **membership - terms - immunity - conflicts - repeal.** (5) (b) The
13 original appointing authority shall fill any vacancy on a commission, but
14 a commissioner shall not serve more than two full terms including any
15 balance remaining on an unexpired term if the initial appointment was to
16 fill a vacancy. Within five days after a vacancy arises on a commission,
17 the commission with the vacancy shall notify the original appointing
18 authority of the vacancy. The original appointing authority shall make an
19 appointment within forty-five days after the date of the vacancy. If the
20 original appointing authority fails to make the appointment within
21 forty-five days after the date of the vacancy, the ~~governor~~ STATE
22 COMMISSION shall make the appointment.

23 **SECTION 4.** In Colorado Revised Statutes, 13-5.5-105, **amend**
24 (2)(d)(I), (2)(d)(III), and (2)(h)(II); and add (2)(d)(L5) as follows:

25 **13-5.5-105. Powers and duties of the state and district**
26 **commissions - rules.** (2) In addition to other powers conferred and
27 duties imposed upon the state commission by this article 5.5 and section

1 13-5.5-106, the state commission has the following powers and duties:

2 (d) (I) To develop surveys ~~for persons affected by~~ TO EVALUATE
3 THE PERFORMANCE OF justices and judges, WHICH SURVEYS ARE
4 COMPLETED BY INDIVIDUALS WHO INTERACT WITH THE COURT, including
5 but not limited to attorneys, jurors, represented and unrepresented
6 litigants; law enforcement personnel; attorneys within the district
7 attorneys' and public defenders' offices, employees of the court, court
8 interpreters, employees of probation offices, AND employees of local
9 departments of social services; and victims of crimes, as defined in
10 section 24-4.1-302 (5);

11 (I.5) THE SURVEYS DEVELOPED PURSUANT TO SUBSECTION
12 (2)(d)(I) OF THIS SECTION ARE TO BE DISTRIBUTED PRIMARILY THROUGH
13 ELECTRONIC MEANS, AND THE STATE COMMISSION SHALL MAKE EFFORTS
14 TO LOCATE ELECTRONIC MAIL ADDRESSES FOR THE PARTIES IDENTIFIED IN
15 SAID SUBSECTION.

16 (III) To develop rules, guidelines, and procedures to provide
17 ~~attorneys, pro se litigants, and clients~~ INTERESTED PARTIES with accessible
18 and timely opportunities to review the surveys developed pursuant to this
19 subsection (2)(d); and

20 (h) To promulgate rules pursuant to section 13-5.5-106
21 concerning:

22 (II) The creation of a standards matrix OR SCORECARD related to
23 the performance evaluation criteria set forth in section 13-5.5-107; ~~and a~~
24 ~~clear description of the thresholds for the recommendations of "meets~~
25 ~~performance standard" or "does not meet performance standard" and how~~
26 ~~that information will be made available to the public; and~~

27 **SECTION 5.** In Colorado Revised Statutes, **repeal** 13-5.5-111 as

1 follows:

2 **13-5.5-111. Judicial performance evaluations - senior judges.**

3 ~~(1) Every third year following the initial appointment of a senior judge~~
4 ~~to the bench through a contract pursuant to section 24-51-1105, the state~~
5 ~~commission shall conduct a performance evaluation of the senior judge~~
6 ~~based on the judicial performance evaluation criteria set forth in section~~
7 ~~13-5.5-107. The state commission shall complete the performance~~
8 ~~evaluation of such senior judge and communicate the related narrative to~~
9 ~~the chief justice no later than forty-five days prior to the expiration of the~~
10 ~~senior judge's contract for that year. The narrative must include an~~
11 ~~assessment of the senior judge's strengths and weaknesses with respect to~~
12 ~~the judicial performance evaluation criteria set forth in section~~
13 ~~13-5.5-107.~~

14 ~~(2) The state commission shall make a recommendation to the~~
15 ~~chief justice of the Colorado supreme court regarding the senior judge's~~
16 ~~performance. The recommendations must be stated as "meets~~
17 ~~performance standard" or "does not meet performance standard".~~

18 **SECTION 6. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.