

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

INTRODUCED

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

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE JUDICIAL PERFORMANCE EVALUATION SYSTEM.**

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;
- ! The current membership of all commissions is left in place as-is until February 1, 2019, at which time all commission

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.

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

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

4 **13-5.5-102. Definitions.** AS USED IN THIS ARTICLE 5.5, UNLESS
5 THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

19 (6) "FUND" MEANS THE STATE COMMISSION ON JUDICIAL
20 PERFORMANCE CASH FUND, CREATED IN SECTION 13-5.5-114.

21 (7) "INTERIM EVALUATION" MEANS AN INTERIM EVALUATION
22 CONDUCTED BY A COMMISSION PURSUANT TO SECTION 13-5.5-109 DURING
23 A FULL TERM OF OFFICE OF A JUSTICE OR JUDGE.

24 (8) "JUDGE" INCLUDES ALL ACTIVE AND SENIOR JUDGES, AS
25 DEFINED IN SUBSECTION (12) OF THIS SECTION.

26 (9) "JUSTICE" MEANS A JUSTICE SERVING ON THE SUPREME COURT
27 OF COLORADO.

1 (10) "OFFICE" MEANS THE OFFICE ON JUDICIAL PERFORMANCE
2 EVALUATION CREATED IN SECTION 13-5.5-103.

3 (11) "RETENTION YEAR EVALUATION" MEANS A JUDICIAL
4 PERFORMANCE EVALUATION CONDUCTED BY A COMMISSION PURSUANT TO
5 SECTION 13-5.5-108 OF A JUSTICE OR JUDGE WHOSE TERM IS TO EXPIRE
6 AND WHO MUST STAND FOR RETENTION ELECTION.

7 (12) "SENIOR JUDGE" MEANS A RETIRED JUDGE WHO HAS
8 RETURNED TO TEMPORARY JUDICIAL DUTIES PURSUANT TO SECTION
9 24-51-1105.

10 **13-5.5-103. Office on judicial performance evaluation -**
11 **executive director - duties - oversight.** (1) THE OFFICE ON JUDICIAL
12 PERFORMANCE EVALUATION IS ESTABLISHED IN THE JUDICIAL
13 DEPARTMENT. THE STATE COMMISSION ON JUDICIAL PERFORMANCE,
14 ESTABLISHED PURSUANT TO SECTION 13-5.5-104, SHALL OVERSEE THE
15 OFFICE.

16 (2) THE STATE COMMISSION SHALL APPOINT AN EXECUTIVE
17 DIRECTOR OF THE OFFICE. THE EXECUTIVE DIRECTOR SERVES AT THE
18 PLEASURE OF THE STATE COMMISSION. THE EXECUTIVE DIRECTOR'S
19 COMPENSATION IS THE SAME AS THAT WHICH THE GENERAL ASSEMBLY
20 ESTABLISHES FOR A JUDGE OF THE DISTRICT COURT. THE STATE
21 COMMISSION SHALL NOT REDUCE THE EXECUTIVE DIRECTOR'S
22 COMPENSATION DURING THE TIME THAT HE OR SHE SERVES AS EXECUTIVE
23 DIRECTOR. THE EXECUTIVE DIRECTOR SHALL HIRE ADDITIONAL STAFF FOR
24 THE OFFICE AS NECESSARY AND AS APPROVED BY THE STATE COMMISSION.

25 (3) SUBJECT TO THE STATE COMMISSION'S SUPERVISION, THE
26 OFFICE SHALL:

27 (a) STAFF THE STATE AND DISTRICT COMMISSIONS WHEN DIRECTED

1 TO DO SO BY THE STATE COMMISSION;

2 (b) TRAIN STATE AND DISTRICT COMMISSIONERS AS NEEDED AND
3 REQUESTED;

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

7 (d) CONDUCT PUBLIC EDUCATION EFFORTS CONCERNING THE
8 JUDICIAL PERFORMANCE EVALUATION PROCESS AND THE
9 RECOMMENDATIONS MADE BY THE STATE AND DISTRICT COMMISSIONS;

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

12 (f) COMPLETE ANY OTHER DUTIES AS ASSIGNED BY THE STATE
13 COMMISSION.

14 (4) OFFICE EXPENSES ARE PAID FOR FROM THE STATE COMMISSION
15 ON JUDICIAL PERFORMANCE CASH FUND CREATED PURSUANT TO SECTION
16 13-5.5-114.

17 **13-5.5-104. State commission on judicial performance -**
18 **district commissions on judicial performance - established -**
19 **membership - terms - immunity - conflicts.** (1) (a) THE STATE
20 COMMISSION ON JUDICIAL PERFORMANCE IS ESTABLISHED, AND A DISTRICT
21 COMMISSION ON JUDICIAL PERFORMANCE IS ESTABLISHED IN EACH
22 JUDICIAL DISTRICT OF THE STATE. IN APPOINTING THE MEMBERSHIP OF
23 EACH COMMISSION, THE APPOINTING ENTITIES MUST, TO THE EXTENT
24 PRACTICABLE, INCLUDE PERSONS FROM THROUGHOUT THE STATE OR
25 JUDICIAL DISTRICT AND PERSONS WITH DISABILITIES AND TAKE INTO
26 CONSIDERATION RACE, GENDER, AND THE ETHNIC DIVERSITY OF THE STATE
27 OR DISTRICT.

1 (b) EACH COMMISSION CONSISTS OF TEN MEMBERS, APPOINTED AS
2 FOLLOWS:

3 (I) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
4 PRESIDENT OF THE SENATE SHALL EACH APPOINT ONE ATTORNEY AND ONE
5 NONATTORNEY; AND

6 (II) THE GOVERNOR AND THE CHIEF JUSTICE OF THE SUPREME
7 COURT SHALL EACH APPOINT ONE ATTORNEY AND TWO NONATTORNEYS.

8 (c) JUSTICES AND JUDGES ACTIVELY PERFORMING JUDICIAL DUTIES
9 MAY NOT BE APPOINTED TO SERVE ON A COMMISSION. FORMER JUSTICES
10 AND JUDGES ARE ELIGIBLE TO BE APPOINTED AS ATTORNEY
11 COMMISSIONERS; EXCEPT THAT A FORMER JUSTICE OR JUDGE MAY NOT BE
12 ASSIGNED OR APPOINTED TO PERFORM JUDICIAL DUTIES WHILE SERVING ON
13 A COMMISSION.

14 (d) THE APPOINTING AUTHORITY MAY REMOVE A COMMISSIONER
15 WHOM HE OR SHE APPOINTED FOR CAUSE.

16 (e) NOTWITHSTANDING THE TERM FOR WHICH THE COMMISSIONER
17 WAS APPOINTED, THE GOVERNOR'S ATTORNEY APPOINTMENT AND THE
18 CHIEF JUSTICE'S ONE ATTORNEY AND TWO NONATTORNEY APPOINTMENTS
19 EXPIRE ON JANUARY 30, 2019.

20 (2) EACH COMMISSION SHALL ELECT A CHAIR EVERY TWO YEARS
21 BY A VOTE OF THE MEMBERSHIP.

22 (3) (a) THE TERM FOR A COMMISSIONER IS FOUR YEARS AND
23 EXPIRES ON NOVEMBER 30 OF AN ODD-NUMBERED YEAR. THE TERM OF A
24 COMMISSIONER APPOINTED TO REPLACE A MEMBER AT THE END OF THE
25 COMMISSIONER'S TERM BEGINS ON DECEMBER 1 OF THE SAME YEAR.

26 (b) THE ORIGINAL APPOINTING AUTHORITY SHALL FILL ANY
27 VACANCY ON A COMMISSION, BUT A COMMISSIONER SHALL NOT SERVE

1 MORE THAN TWO FULL TERMS, INCLUDING ANY BALANCE REMAINING ON
2 AN UNEXPIRED TERM IF THE INITIAL APPOINTMENT WAS TO FILL A
3 VACANCY. WITHIN FIVE DAYS AFTER A VACANCY ARISES ON A
4 COMMISSION, THE COMMISSION WITH THE VACANCY SHALL NOTIFY THE
5 ORIGINAL APPOINTING AUTHORITY OF THE VACANCY. THE ORIGINAL
6 APPOINTING AUTHORITY SHALL MAKE AN APPOINTMENT WITHIN
7 FORTY-FIVE DAYS AFTER THE DATE OF THE VACANCY. IF THE ORIGINAL
8 APPOINTING AUTHORITY FAILS TO MAKE THE APPOINTMENT WITHIN
9 FORTY-FIVE DAYS AFTER THE DATE OF THE VACANCY, THE GOVERNOR
10 SHALL MAKE THE APPOINTMENT.

11 (4) STATE AND DISTRICT COMMISSIONERS AND EMPLOYEES OF THE
12 STATE OR A DISTRICT COMMISSION ARE IMMUNE FROM SUIT IN ANY
13 ACTION, CIVIL OR CRIMINAL, BASED UPON OFFICIAL ACTS PERFORMED IN
14 GOOD FAITH AS COMMISSIONERS AND EMPLOYEES OF THE STATE OR A
15 DISTRICT COMMISSION.

16 (5) A COMMISSIONER SHALL RECUSE HIMSELF OR HERSELF FROM
17 AN EVALUATION OF THE PERSON WHO APPOINTED THE COMMISSIONER TO
18 THE COMMISSION.

19 **13-5.5-105. Powers and duties of the state and district**
20 **commissions - rules.** (1) IN ADDITION TO ANY OTHER POWERS
21 CONFERRED OR DUTIES ASSIGNED UPON THE SEPARATE COMMISSIONS BY
22 THIS ARTICLE 5.5, ALL COMMISSIONS HAVE THE FOLLOWING POWERS AND
23 DUTIES:

24 (a) TO REVIEW ANY AVAILABLE CASE MANAGEMENT DATA AND
25 STATISTICS PROVIDED BY THE STATE COURT ADMINISTRATOR, THE STATE
26 COMMISSION, AND DISTRICT COMMISSIONS RELATED TO INDIVIDUAL
27 JUSTICES AND JUDGES;

1 (b) TO REVIEW WRITTEN JUDICIAL OPINIONS AND ORDERS
2 AUTHORIZED BY JUSTICES AND JUDGES UNDER THE COMMISSION'S
3 OVERSIGHT;

4 (c) TO COLLECT INFORMATION FROM COURTROOM OBSERVATION
5 OF JUSTICES AND JUDGES, WHICH MAY BE PROVIDED BY VOLUNTEER
6 OBSERVER PROGRAMS UNDER THE OVERSIGHT OF THE STATE COMMISSION
7 OR ANY RESPECTIVE DISTRICT COMMISSION;

8 (d) TO INTERVIEW JUSTICES AND JUDGES UNDER THE COMMISSION'S
9 OVERSIGHT AND TO ACCEPT INFORMATION AND DOCUMENTATION FROM
10 INTERESTED PERSONS AS NECESSARY, INCLUDING JUDICIAL PERFORMANCE
11 SURVEYS;

12 (e) TO MAKE RECOMMENDATIONS AND PREPARE NARRATIVES THAT
13 REFLECT THE RESULTS OF PERFORMANCE EVALUATIONS OF JUSTICES AND
14 JUDGES;

15 (f) IF NECESSARY, AND AT THE INDIVIDUAL COMMISSION'S
16 DISCRETION, TO DEVELOP AN INDIVIDUAL JUDICIAL IMPROVEMENT PLAN
17 AFTER THE COMPLETION OF AN INTERIM EVALUATION PURSUANT TO
18 SECTION 13-5.5-109. IF A JUDGE OR JUSTICE IS REQUIRED TO COMPLETE AN
19 INDIVIDUAL IMPROVEMENT PLAN PURSUANT TO THIS SUBSECTION (1)(f),
20 AND HE OR SHE FAILS TO SATISFACTORILY COMPLETE THE REQUIREMENTS
21 OF SUCH IMPROVEMENT PLAN, THE APPROPRIATE COMMISSION SHALL
22 AUTOMATICALLY ISSUE A "DOES NOT MEET PERFORMANCE STANDARD"
23 DESIGNATION ON THE PERFORMANCE EVALUATION SUMMARY.

24 (g) THE ABILITY TO DEVELOP UNIFORM PROCEDURES AND
25 TECHNIQUES FOR THE EVALUATION OF JUSTICES AND JUDGES BASED ON
26 PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107;

27 (h) THE ABILITY TO REQUIRE SYSTEMWIDE JUDICIAL TRAINING

1 PROGRAMS; AND

2 (i) THE ABILITY TO DEVELOP GUIDELINES AND PROCEDURES FOR
3 THE CONTINUOUS COLLECTION OF DATA FOR USE IN THE EVALUATION
4 PROCESS, INCLUDING THE SURVEYS DEVELOPED PURSUANT TO SUBSECTION
5 (2)(d) OF THIS SECTION.

6 (2) IN ADDITION TO OTHER POWERS CONFERRED AND DUTIES
7 IMPOSED UPON THE STATE COMMISSION BY THIS ARTICLE 5.5, THE STATE
8 COMMISSION HAS THE FOLLOWING POWERS AND DUTIES:

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

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

13 (c) TO REVIEW DATA, PREPARE NARRATIVES, AND MAKE
14 RECOMMENDATIONS RELATED TO INDIVIDUAL SUPREME COURT JUSTICES
15 AND JUDGES OF THE COURT OF APPEALS IN ACCORDANCE WITH SECTIONS
16 13-5.5-108 AND 13-5.5-109;

17 (d) (I) TO DEVELOP SURVEYS FOR PERSONS AFFECTED BY JUSTICES
18 AND JUDGES, INCLUDING BUT NOT LIMITED TO ATTORNEYS; JURORS;
19 REPRESENTED AND UNREPRESENTED LITIGANTS; LAW ENFORCEMENT
20 PERSONNEL; ATTORNEYS WITHIN THE DISTRICT ATTORNEYS' AND PUBLIC
21 DEFENDERS' OFFICES; EMPLOYEES OF THE COURT; COURT INTERPRETERS;
22 EMPLOYEES OF PROBATION OFFICES; EMPLOYEES OF LOCAL DEPARTMENTS
23 OF SOCIAL SERVICES; AND VICTIMS OF CRIMES, AS DEFINED IN SECTION
24 24-4.1-302 (5);

25 (II) TO DEVELOP GUIDELINES AND PROCEDURES TO MAKE THE
26 RESULTS OF SURVEYS DEVELOPED PURSUANT TO THIS SUBSECTION (2)(d)
27 READILY AVAILABLE TO ALL PARTIES SET FORTH IN SUBSECTION (2)(d)(I)

1 OF THIS SECTION;

2 (III) TO DEVELOP GUIDELINES AND PROCEDURES TO PROVIDE
3 ATTORNEYS, PRO SE LITIGANTS, AND CLIENTS WITH ACCESSIBLE AND
4 TIMELY OPPORTUNITIES TO REVIEW THE SURVEYS DEVELOPED PURSUANT
5 TO THIS SUBSECTION (2)(d); AND

6 (IV) TO DEVELOP GUIDELINES AND PROCEDURES TO MAKE THE
7 SURVEYS DEVELOPED PURSUANT TO THIS SUBSECTION (2)(d) AND ANY
8 AVAILABLE SURVEY REPORTS AVAILABLE TO THE PUBLIC;

9 (e) TO DETERMINE THE VALIDITY OF COMPLETED SURVEYS
10 DEVELOPED PURSUANT TO THIS SUBSECTION (2), REPORT TO THE DISTRICT
11 COMMISSIONS ON THE VALIDITY OF THE SURVEYS FOR THEIR DISTRICTS,
12 AND PREPARE ALTERNATIVES TO SURVEYS WHERE SAMPLE POPULATIONS
13 ARE INADEQUATE TO PRODUCE VALID RESULTS;

14 (f) TO PRODUCE AND DISTRIBUTE SURVEY REPORTS AND PUBLIC
15 NARRATIVES THAT REFLECT THE RESULTS OF EACH JUDICIAL
16 PERFORMANCE EVALUATION;

17 (g) TO DEVELOP PROCEDURES FOR THE REVIEW OF THE
18 DELIBERATION PROCEDURES ESTABLISHED BY THE DISTRICT COMMISSIONS;
19 EXCEPT THAT THE STATE COMMISSION DOES NOT HAVE THE POWER OR
20 DUTY TO REVIEW ACTUAL DETERMINATIONS MADE BY A DISTRICT
21 COMMISSION;

22 (h) TO PROMULGATE RULES PURSUANT TO SECTION 13-5.5-106;
23 AND

24 (i) TO PREPARE A REPORT PURSUANT TO SECTION 13-5.5-113.

25 (3) IN ADDITION TO OTHER POWERS CONFERRED AND DUTIES
26 IMPOSED UPON A DISTRICT COMMISSION BY THIS ARTICLE 5.5, IN
27 CONFORMITY WITH THE RULES, GUIDELINES, AND PROCEDURES ADOPTED

1 BY THE STATE COMMISSION PURSUANT TO SECTION 13-5.5-106 AND THE
2 STATE COMMISSION'S REVIEW OF THE DELIBERATION PROCEDURES
3 PURSUANT TO SUBSECTION (2) OF THIS SECTION, EACH DISTRICT
4 COMMISSION HAS THE FOLLOWING POWERS AND DUTIES:

5 (a) TO OBTAIN INFORMATION FROM PARTIES AND ATTORNEYS
6 REGARDING JUDGES' HANDLING OF CASES WITH RESPECT TO THE JUDGES'
7 FAIRNESS, PATIENCE WITH PRO SE PARTIES, GENDER NEUTRALITY, AND
8 HANDLING OF EMOTIONAL PARTIES;

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

12 (c) UPON COMPLETING THE REQUIRED RECOMMENDATIONS AND
13 NARRATIVES PURSUANT TO SUBSECTION (1) OF THIS SECTION, TO COLLECT
14 ALL DOCUMENTS AND OTHER INFORMATION, INCLUDING ALL SURVEYS AND
15 COPIES, RECEIVED REGARDING EACH JUDGE WHO WAS EVALUATED AND
16 FORWARD SUCH DOCUMENTS AND INFORMATION TO THE STATE
17 COMMISSION WITHIN THIRTY DAYS.

18 (4) UNLESS RECUSED PURSUANT TO A PROVISION OF THIS ARTICLE
19 5.5, EACH COMMISSIONER OF THE STATE AND DISTRICT COMMISSIONS HAS
20 THE DISCRETION TO EVALUATE THE PERFORMANCE OF A JUSTICE OR JUDGE
21 UNDER THE COMMISSION'S OVERSIGHT AND VOTE AS TO WHETHER THE
22 JUSTICE OR JUDGE MEETS THE PERFORMANCE STANDARD BASED UPON THE
23 COMMISSIONER'S REVIEW OF ALL OF THE INFORMATION AVAILABLE TO THE
24 COMMISSION.

25 **13-5.5-106. Guidelines and procedures.** (1) THE STATE
26 COMMISSION SHALL ADOPT GUIDELINES AND PROCEDURES AS NECESSARY
27 TO IMPLEMENT AND EFFECTUATE THE PROVISIONS OF THIS ARTICLE 5.5,

1 INCLUDING GUIDELINES AND PROCEDURES GOVERNING THE DISTRICT
2 COMMISSIONS.

3 (2) THE STATE COMMISSION SHALL CONSIDER SUGGESTED
4 GUIDELINES OR PROCEDURES FROM THE JUDICIAL DEPARTMENT; EXCEPT
5 THAT NOTHING IN THIS SECTION REQUIRES THE STATE COMMISSION TO
6 SEEK APPROVAL FROM THE JUDICIAL DEPARTMENT. THE STATE
7 COMMISSION RETAINS THE AUTHORITY FOR THE ADOPTION OF FINAL
8 GUIDELINES OR PROCEDURES.

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

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

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

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

25 **13-5.5-107. Judicial performance evaluation criteria.** (1) THE
26 STATE COMMISSION AND EACH DISTRICT COMMISSION SHALL EVALUATE
27 EACH JUSTICE AND JUDGE IN COLORADO UTILIZING THE POWERS AND

1 DUTIES CONFERRED UPON EACH COMMISSION IN SECTION 13-5.5-105. THE
2 EVALUATIONS MUST ONLY INCLUDE THE FOLLOWING PERFORMANCE
3 EVALUATION CRITERIA:

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

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

7 (II) DISPLAYS FAIRNESS AND IMPARTIALITY TOWARD ALL
8 PARTICIPANTS; AND

9 (III) AVOIDS EX PARTE COMMUNICATIONS;

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

12 (I) DEMONSTRATES, THROUGH WELL-REASONED OPINIONS AND
13 COURTROOM CONDUCT, AN UNDERSTANDING OF SUBSTANTIVE LAW AND
14 RELEVANT RULES OF PROCEDURE AND EVIDENCE;

15 (II) DEMONSTRATES, THROUGH WELL-REASONED OPINIONS AND
16 COURTROOM CONDUCT, ATTENTIVENESS TO FACTUAL AND LEGAL ISSUES
17 BEFORE THE COURT; AND

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

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

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

25 (II) PRESENTS CLEARLY STATED AND UNDERSTANDABLE
26 QUESTIONS OR STATEMENTS DURING ORAL ARGUMENTS OR
27 PRESENTATIONS, AND, FOR TRIAL JUDGES, CLEARLY EXPLAINS ALL ORAL

1 DECISIONS; AND
2 (III) CLEARLY PRESENTS INFORMATION TO THE JURY, AS
3 NECESSARY;
4 (d) JUDICIAL TEMPERAMENT, INCLUDING BUT NOT LIMITED TO
5 WHETHER THE JUSTICE OR JUDGE:
6 (I) DEMONSTRATES COURTESY TOWARD ATTORNEYS, LITIGANTS,
7 COURT STAFF, AND OTHERS IN THE COURTROOM; AND
8 (II) MAINTAINS AND REQUIRES ORDER, PUNCTUALITY, AND
9 APPROPRIATE DECORUM IN THE COURTROOM;
10 (e) ADMINISTRATIVE PERFORMANCE, INCLUDING BUT NOT LIMITED
11 TO WHETHER THE JUSTICE OR JUDGE:
12 (I) DEMONSTRATES PREPARATION FOR ORAL ARGUMENTS, TRIALS,
13 AND HEARINGS, AS WELL AS ATTENTIVENESS TO AND APPROPRIATE
14 CONTROL OVER JUDICIAL PROCEEDINGS;
15 (II) MANAGES WORKLOAD AND COURT TIME EFFECTIVELY AND
16 EFFICIENTLY;
17 (III) ISSUES OPINIONS, FINDINGS OF FACT, CONCLUSIONS OF LAW,
18 AND ORDERS IN A TIMELY MANNER AND WITHOUT UNNECESSARY DELAY;
19 (IV) PARTICIPATES IN A PROPORTIONATE SHARE OF THE COURT'S
20 WORKLOAD, TAKES RESPONSIBILITY FOR MORE THAN HIS OR HER OWN
21 CASELOAD, AND IS WILLING TO ASSIST OTHER JUSTICES OR JUDGES; AND
22 (V) UNDERSTANDS AND COMPLIES, AS NECESSARY, WITH
23 DIRECTIVES OF THE COLORADO SUPREME COURT; AND
24 (f) SERVICE TO THE LEGAL PROFESSION AND THE PUBLIC BY
25 PARTICIPATING IN SERVICE-ORIENTED EFFORTS DESIGNED TO EDUCATE THE
26 PUBLIC ABOUT THE LEGAL SYSTEM AND IMPROVE THE LEGAL SYSTEM.

27 **13-5.5-108. Judicial performance evaluations in retention**

1 **election years - procedure - recommendations.** (1) JUDICIAL
2 PERFORMANCE EVALUATIONS FOR JUSTICES OR JUDGES WHOSE TERMS ARE
3 TO EXPIRE AND WHO MUST STAND FOR RETENTION ELECTION ARE
4 CONDUCTED AS FOLLOWS:

5 (a) THE STATE COMMISSION SHALL CONDUCT A JUDICIAL
6 PERFORMANCE EVALUATION OF EACH SUCH JUSTICE OF THE SUPREME
7 COURT AND JUDGE OF THE COURT OF APPEALS; AND

8 (b) THE DISTRICT COMMISSION SHALL CONDUCT A JUDICIAL
9 PERFORMANCE EVALUATION FOR EACH DISTRICT JUDGE AND COUNTY
10 JUDGE.

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

16 (b) THE NARRATIVE PREPARED FOR A RETENTION YEAR
17 EVALUATION MUST INCLUDE AN ASSESSMENT OF THE JUSTICE'S OR JUDGE'S
18 STRENGTHS AND WEAKNESSES WITH RESPECT TO THE JUDICIAL
19 PERFORMANCE CRITERIA CONTAINED IN SECTION 13-5.5-107, A DISCUSSION
20 REGARDING ANY DEFICIENCY IDENTIFIED IN AN INTERIM EVALUATION
21 PREPARED PURSUANT TO SECTION 13-5.5-109, A REVIEW OF ANY
22 IMPROVEMENT PLAN DEVELOPED PURSUANT TO SECTION 13-5.5-105 (1)(f),
23 AND A STATEMENT OF WHETHER THE APPLICABLE COMMISSION
24 CONCLUDES THAT ANY DEFICIENCY IDENTIFIED HAS BEEN SATISFACTORILY
25 ADDRESSED OR AN IMPROVEMENT PLAN SATISFACTORILY FOLLOWED BY
26 THE JUSTICE OR JUDGE.

27 (c) THE APPLICABLE COMMISSION SHALL GRANT EACH JUSTICE OR

1 JUDGE WHO RECEIVES A RETENTION YEAR EVALUATION THE OPPORTUNITY
2 TO MEET WITH THE COMMISSION OR OTHERWISE RESPOND TO THE
3 EVALUATION NO LATER THAN TEN DAYS FOLLOWING HIS OR HER RECEIPT
4 OF THE EVALUATION. IF THE MEETING IS HELD OR A RESPONSE IS MADE,
5 THE APPLICABLE COMMISSION MAY REVISE ITS EVALUATION.

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

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

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

1 PURSUANT TO SECTION 1-40-124.5 AND MAILED TO ELECTORS PURSUANT
2 TO SECTION 1-40-125.

3 **13-5.5-109. Judicial performance evaluations in interim years**
4 **between elections - procedure.** (1) WITHIN THE FIRST TWO YEARS OF A
5 JUSTICE'S OR JUDGE'S APPOINTMENT TO THE BENCH, THE APPROPRIATE
6 COMMISSION SHALL CONDUCT AN INITIAL EVALUATION OF EACH JUSTICE
7 AND EACH JUDGE. THE APPROPRIATE COMMISSION SHALL COMPLETE AND
8 COMMUNICATE ITS JUDICIAL PERFORMANCE INTERIM EVALUATIONS AS
9 FOLLOWS:

10 (a) THE STATE COMMISSION SHALL COMMUNICATE ITS FINDINGS TO
11 THE CHIEF JUSTICE OF THE SUPREME COURT OR THE CHIEF JUDGE OF THE
12 COURT OF APPEALS AND THE APPELLATE JUSTICE OR JUDGE WHO WAS
13 EVALUATED; AND

14 (b) THE APPLICABLE DISTRICT COMMISSION SHALL COMMUNICATE
15 ITS FINDINGS TO THE CHIEF JUDGE OF THE DISTRICT AND THE JUDGE WHO
16 WAS EVALUATED.

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

21 (3) THE APPROPRIATE COMMISSION SHALL GRANT EACH JUSTICE OR
22 JUDGE WHO RECEIVES AN INITIAL OR INTERIM EVALUATION THE
23 OPPORTUNITY TO MEET WITH THE COMMISSION OR OTHERWISE RESPOND TO
24 THE INITIAL OR INTERIM EVALUATION NO LATER THAN TEN DAYS
25 FOLLOWING THE JUSTICE'S OR JUDGE'S RECEIPT OF THE INITIAL OR INTERIM
26 EVALUATION. IF A MEETING IS HELD OR A RESPONSE IS MADE, THE
27 APPROPRIATE COMMISSION MAY REVISE ITS INITIAL OR INTERIM

1 EVALUATION.

2 **13-5.5-110. Judicial performance evaluations - senior judges.**

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

15 (2) SUBSEQUENT TO THE INITIAL PERFORMANCE EVALUATION OF
16 A SENIOR JUDGE PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE
17 STATE COMMISSION SHALL CONDUCT PERFORMANCE EVALUATIONS EVERY
18 TWO CALENDAR YEARS UNTIL THE SENIOR JUDGE NO LONGER SERVES ON
19 THE BENCH.

20 (3) THE STATE COMMISSION SHALL MAKE A RECOMMENDATION TO
21 THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT REGARDING THE
22 SENIOR JUDGE'S PERFORMANCE. THE RECOMMENDATIONS MUST BE STATED
23 AS "MEETS PERFORMANCE STANDARD" OR "DOES NOT MEET PERFORMANCE
24 STANDARD".

25 **13-5.5-111. Recusal.** (1) A COMMISSIONER SHALL DISCLOSE TO
26 HIS OR HER COMMISSION ANY PROFESSIONAL OR PERSONAL RELATIONSHIP
27 WITH A JUSTICE OR JUDGE THAT MAY AFFECT AN UNBIASED EVALUATION

1 OF THE JUSTICE OR JUDGE, INCLUDING INVOLVEMENT WITH ANY
2 LITIGATION INVOLVING THE JUSTICE OR JUDGE AND THE COMMISSIONER,
3 THE COMMISSIONER'S FAMILY, OR THE COMMISSIONER'S FINANCIAL
4 INTERESTS. A COMMISSION MAY REQUIRE, UPON A TWO-THIRDS VOTE OF
5 THE OTHER COMMISSIONERS, THE RECUSAL OF ONE OF ITS COMMISSIONERS
6 BECAUSE OF A RELATIONSHIP WITH A JUSTICE OR JUDGE.

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

11 **13-5.5-112. Confidentiality.** (1) EXCEPT AS PROVIDED IN
12 SUBSECTION (3) OF THIS SECTION, ALL SELF-EVALUATIONS, PERSONAL
13 INFORMATION PROTECTED UNDER SECTION 24-72-204 (3)(a)(II),
14 ADDITIONAL ORAL OR WRITTEN INFORMATION, CONTENT OF ANY JUDICIAL
15 IMPROVEMENT PLANS, AND ANY MATTER DISCUSSED IN EXECUTIVE
16 SESSION IS CONFIDENTIAL EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED
17 BY RULE. ALL SURVEYS MUST ALLOW FOR THE PARTICIPANT'S NAME TO
18 REMAIN CONFIDENTIAL. COMMENTS IN SURVEYS ARE CONFIDENTIAL, BUT
19 MAY BE SUMMARIZED IN AGGREGATE FOR USE IN JUDICIAL PERFORMANCE
20 EVALUATION NARRATIVES. A COMMISSIONER SHALL NOT PUBLICLY
21 DISCUSS THE EVALUATION OF A PARTICULAR JUSTICE OR JUDGE.

22 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, ALL
23 RECOMMENDATIONS AND NARRATIVES ARE CONFIDENTIAL UNTIL
24 RELEASED TO THE PUBLIC ON THE FIRST DAY FOLLOWING THE DEADLINE
25 FOR JUSTICES AND JUDGES TO DECLARE THEIR INTENT TO STAND FOR
26 RETENTION.

27 (3) INFORMATION REQUIRED TO BE KEPT CONFIDENTIAL PURSUANT

1 TO THIS ARTICLE 5.5 MAY BE RELEASED ONLY UNDER THE FOLLOWING
2 CIRCUMSTANCES:

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

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

7 (c) WITH THE CONSENT OF THE JUSTICE OR JUDGE BEING
8 EVALUATED.

9 **13-5.5-113. Reporting requirements - "State Measurement for**
10 **Accountable, Responsive, and Transparent (SMART) Government**
11 **Act" report.** (1) THE STATE COMMISSION SHALL GATHER AND MAINTAIN

12 STATEWIDE DATA AND POST A STATISTICAL REPORT OF THE STATEWIDE
13 DATA ON ITS WEBSITE NO LATER THAN THIRTY DAYS PRIOR TO EACH
14 RETENTION ELECTION. THE REPORT MUST SPECIFY, AT A MINIMUM:

15 (a) THE TOTAL NUMBER OF JUSTICES AND JUDGES WHO WERE
16 ELIGIBLE TO STAND FOR RETENTION AND THE NUMBER WHO DECLARED
17 THEIR INTENT TO STAND FOR REELECTION;

18 (b) THE TOTAL NUMBER OF JUDICIAL PERFORMANCE EVALUATIONS
19 OF JUSTICES AND JUDGES PERFORMED BY THE STATE AND DISTRICT
20 COMMISSIONS;

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

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

26 (2) BEGINNING IN JANUARY 2019, AND EVERY TWO YEARS
27 THEREAFTER, THE STATE COMMISSION SHALL REPORT ON THE ACTIVITIES

1 OF THE COMMISSIONERS TO THE JOINT JUDICIARY COMMITTEE OF THE
2 GENERAL ASSEMBLY AS PART OF ITS "STATE MEASUREMENT FOR
3 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
4 GOVERNMENT ACT" PRESENTATION REQUIRED BY SECTION 2-7-203.

5 **13-5.5-114. State commission on judicial performance cash**
6 **fund - acceptance of private or federal grants - general**
7 **appropriations.** THE STATE COMMISSION IS AUTHORIZED TO ACCEPT ANY
8 GRANTS OF FEDERAL OR PRIVATE FUNDS MADE AVAILABLE FOR ANY
9 PURPOSE CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE 5.5. ANY
10 MONEY RECEIVED PURSUANT TO THIS SECTION MUST BE TRANSMITTED TO
11 THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE STATE
12 COMMISSION ON JUDICIAL PERFORMANCE CASH FUND, WHICH IS HEREBY
13 CREATED. THE FUND ALSO INCLUDES THE AMOUNT OF THE INCREASES IN
14 DOCKET FEES COLLECTED PURSUANT TO SECTIONS 13-32-105 (1) AND
15 42-4-1710 (4)(a). ANY INTEREST DERIVED FROM THE DEPOSIT AND
16 INVESTMENT OF MONEY IN THE FUND IS CREDITED TO THE FUND. ANY
17 UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT
18 THE END OF ANY FISCAL YEAR REMAINS IN THE FUND AND SHALL NOT BE
19 CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.
20 MONEY IN THE FUND MAY BE EXPENDED BY THE STATE COMMISSION,
21 SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, FOR
22 THE PURPOSES OF THIS ARTICLE 5.5. IN ADDITION, THE GENERAL ASSEMBLY
23 MAY MAKE ANNUAL APPROPRIATIONS FROM THE GENERAL FUND FOR THE
24 PURPOSES OF THIS ARTICLE 5.5.

25 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
26 **with amendments,** section 13-5.5-104, as added by Section 1 of this act,
27 as follows:

1 **13-5.5-104. State commission on judicial performance -**
2 **district commissions on judicial performance - established -**
3 **membership - terms - immunity - conflicts.** (1) (a) 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 THE GENDER, RACIAL, AND ETHNIC DIVERSITY OF THE
11 STATE OR DISTRICT.

12 (b) EACH COMMISSION CONSISTS OF TEN MEMBERS, APPOINTED ON
13 OR BEFORE MARCH 1, 2019, AS FOLLOWS:

14 (I) ONE ATTORNEY AND ONE NONATTORNEY, APPOINTED BY THE
15 SPEAKER OF THE HOUSE OF REPRESENTATIVES;

16 (II) ONE ATTORNEY AND ONE NONATTORNEY, APPOINTED BY THE
17 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

18 (III) ONE ATTORNEY AND ONE NONATTORNEY, APPOINTED BY THE
19 PRESIDENT OF THE SENATE;

20 (IV) ONE ATTORNEY AND ONE NONATTORNEY, APPOINTED BY THE
21 MINORITY LEADER OF THE SENATE; AND

22 (V) TWO NONATTORNEYS, APPOINTED BY THE GOVERNOR.

23 (c) JUSTICES AND JUDGES ACTIVELY PERFORMING JUDICIAL DUTIES
24 MAY NOT BE APPOINTED TO SERVE ON A COMMISSION. FORMER JUSTICES
25 AND JUDGES ARE ELIGIBLE TO BE APPOINTED AS ATTORNEY
26 COMMISSIONERS; EXCEPT THAT A FORMER JUSTICE OR JUDGE MAY NOT BE
27 ASSIGNED OR APPOINTED TO PERFORM JUDICIAL DUTIES WHILE SERVING ON

1 A COMMISSION.

2 (d) THE APPOINTING AUTHORITY MAY REMOVE A COMMISSIONER
3 WHOM HE OR SHE APPOINTED FOR CAUSE.

4 (2) (a) THE COMMISSIONERS SHALL SERVE FOUR-YEAR TERMS,
5 WITH NO MORE THAN TWO CONSECUTIVE FOUR-YEAR TERMS.

6 (b) WITHIN FIVE DAYS AFTER A VACANCY ARISES ON A
7 COMMISSION, THE COMMISSION WITH THE VACANCY SHALL NOTIFY THE
8 ORIGINAL APPOINTING AUTHORITY OF THE VACANCY. THE ORIGINAL
9 APPOINTING AUTHORITY SHALL MAKE AN APPOINTMENT WITHIN
10 FORTY-FIVE DAYS AFTER THE DATE OF THE VACANCY. IF THE ORIGINAL
11 APPOINTING AUTHORITY FAILS TO MAKE THE APPOINTMENT WITHIN
12 FORTY-FIVE DAYS AFTER THE DATE OF THE VACANCY, THE GOVERNOR
13 SHALL MAKE THE APPOINTMENT.

14 (c) A VACANCY ON A COMMISSION, WHETHER BY EXPIRATION OF
15 A TERM OR OTHERWISE, IS FILLED IN THE SAME MANNER AS THE ORIGINAL
16 APPOINTMENT AND IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION
17 (2)(b) OF THIS SECTION, BUT FOR THE REMAINDER OF THE UNEXPIRED TERM
18 ONLY.

19 (d) A COMMISSIONER, INCLUDING A COMMISSIONER WHO SERVED
20 PRIOR TO JANUARY 31, 2019, IS ELIGIBLE FOR REAPPOINTMENT, AND
21 SERVICE ON ANY COMMISSION PRIOR TO JANUARY 31, 2019, DOES NOT
22 COUNT AGAINST A COMMISSIONER'S TERM LIMITS AS STATED IN SECTION
23 13-5.5-104 (2)(a).

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

26 (4) 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 (5) A STATE COMMISSIONER SHALL RECUSE HIMSELF OR HERSELF
5 FROM AN EVALUATION OF THE CHIEF JUSTICE WHO APPOINTED THE STATE
6 COMMISSIONER TO THE COMMISSION.

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

9 **13-3-101. State court administrator.** (5) The state court
10 administrator shall provide to the director of research of the legislative
11 council criminal justice information and statistics and any other related
12 data requested by the director. The state court administrator shall provide
13 to the state commission on judicial performance and to district
14 commissions on judicial performance, ESTABLISHED IN SECTION
15 13-5.5-104, case management statistics for justices and judges WHO ARE
16 being evaluated.

17 **SECTION 4.** In Colorado Revised Statutes, 13-32-105, **amend**
18 (1)(b) as follows:

19 **13-32-105. Docket fees in criminal actions.** (1) (b) On and after
20 June 6, 2003, the docket fee in all criminal actions in all courts of record,
21 except the county court, court of appeals, and the supreme court, ~~shall be~~
22 ~~IS~~ increased by five dollars and the docket fee in county court criminal
23 actions ~~shall be~~ ~~IS~~ increased by three dollars. The additional revenue
24 generated by the docket fee increases shall be transmitted to the state
25 treasurer for deposit in the state commission on judicial performance cash
26 fund created in ~~section 13-5.5-107~~ SECTION 13-5.5-114.

27 **SECTION 5.** In Colorado Revised Statutes, 24-75-402, **amend**

1 (5)(r) as follows:

2 **24-75-402. Cash funds - limit on uncommitted reserves -**
3 **reduction in amount of fees - exclusions - repeal.** (5) Notwithstanding
4 any provision of this section to the contrary, the following cash funds are
5 excluded from the limitations specified in this section:

6 (r) The state commission on judicial performance cash fund
7 created in ~~section 13-5.5-107, C.R.S.~~ SECTION 13-5.5-114, until this
8 ~~paragraph (r)~~ SUBSECTION (5)(r) is repealed, effective July 1, 2017;

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

11 **42-4-1710. Failure to pay penalty for traffic infractions -**
12 **failure of parent or guardian to sign penalty assessment notice -**
13 **procedures.** (4) (a) (II) On and after June 6, 2003, the docket fee
14 assessed in ~~subparagraph (I) of this paragraph (a) shall be~~ SUBSECTION
15 (4)(a)(I) OF THIS SECTION IS increased by three dollars. The additional
16 revenue generated by the docket fee shall be transmitted to the state
17 treasurer for deposit in the state commission on judicial performance cash
18 fund created in ~~section 13-5.5-107, C.R.S.~~ SECTION 13-5.5-114.

19 **SECTION 7. Act subject to petition - effective date.** (1) Except
20 as otherwise provided in subsection (2) of this section, this act takes
21 effect at 12:01 a.m. on the day following the expiration of the ninety-day
22 period after final adjournment of the general assembly (August 9, 2017,
23 if adjournment sine die is on May 10, 2017); except that, if a referendum
24 petition is filed pursuant to section 1 (3) of article V of the state
25 constitution against this act or an item, section, or part of this act within
26 such period, then the act, item, section, or part will not take effect unless
27 approved by the people at the general election to be held in November

1 2018 and, in such case, will take effect on the date of the official
2 declaration of the vote thereon by the governor.

3 (2) Section 2 of this act takes effect February 1, 2019.