

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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

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 **ARTICLE 5.5**

2 **Commissions on Judicial Performance**

3 **13-5.5-101. Legislative declaration.** (1) IT IS THE INTENT OF THE
4 GENERAL ASSEMBLY TO PROVIDE:

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

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

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

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

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

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

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

27 (d) CONDUCT STATEWIDE JUDICIAL PERFORMANCE EVALUATIONS,

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 13-5.5-115.

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

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

27 (9) "JUDGE" INCLUDES ALL ACTIVE AND SENIOR JUDGES, AS

1 DEFINED IN SUBSECTION (12) OF THIS SECTION.

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

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

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

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

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

20 **13-5.5-103. Office on judicial performance evaluation -**
21 **executive director - duties - oversight.** (1) THE OFFICE ON JUDICIAL
22 PERFORMANCE EVALUATION IS ESTABLISHED IN THE JUDICIAL
23 DEPARTMENT. THE STATE COMMISSION ON JUDICIAL PERFORMANCE,
24 ESTABLISHED PURSUANT TO SECTION 13-5.5-104, SHALL OVERSEE THE
25 OFFICE.

26 (2) THE STATE COMMISSION SHALL APPOINT AN EXECUTIVE
27 DIRECTOR OF THE OFFICE. THE EXECUTIVE DIRECTOR SERVES AT THE

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

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

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

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

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

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

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

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

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

27 **13-5.5-104. State commission on judicial performance -**

1 **district commissions on judicial performance - established -**
2 **membership - terms - immunity - conflicts - repeal.** (1) THE STATE
3 COMMISSION ON JUDICIAL PERFORMANCE IS ESTABLISHED, AND A DISTRICT
4 COMMISSION ON JUDICIAL PERFORMANCE IS ESTABLISHED IN EACH
5 JUDICIAL DISTRICT OF THE STATE. IN APPOINTING THE MEMBERSHIP OF
6 EACH COMMISSION, THE APPOINTING ENTITIES MUST, TO THE EXTENT
7 PRACTICABLE, INCLUDE PERSONS FROM THROUGHOUT THE STATE OR
8 JUDICIAL DISTRICT AND PERSONS WITH DISABILITIES AND TAKE INTO
9 CONSIDERATION RACE, GENDER, AND THE ETHNIC DIVERSITY OF THE STATE
10 OR DISTRICT. JUSTICES AND JUDGES ACTIVELY PERFORMING JUDICIAL
11 DUTIES MAY NOT BE APPOINTED TO SERVE ON A COMMISSION. FORMER
12 JUSTICES AND JUDGES ARE ELIGIBLE TO BE APPOINTED AS ATTORNEY
13 COMMISSIONERS; EXCEPT THAT A FORMER JUSTICE OR JUDGE MAY NOT BE
14 ASSIGNED OR APPOINTED TO PERFORM JUDICIAL DUTIES WHILE SERVING ON
15 A COMMISSION.

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

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

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

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

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

26 (b) (I) THE TERMS OF COMMISSIONERS APPOINTED PRIOR TO THE
27 EFFECTIVE DATE OF THIS SECTION SHALL CONTINUE THROUGH JANUARY

1 31, 2019.

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

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

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

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

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

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

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

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

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

27 (VI) THE GOVERNOR SHALL APPOINT TWO NONATTORNEYS AND

1 ONE ATTORNEY.

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

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

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

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

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

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

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

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

21 (VI) THE GOVERNOR SHALL APPOINT TWO NONATTORNEYS.

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

26 (I) THE NONATTORNEY APPOINTED BY THE CHIEF JUSTICE OF THE
27 SUPREME COURT PURSUANT TO SUBSECTION (2)(a)(IV) OF THIS SECTION;

1 AND

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

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

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

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

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

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

25 (7) STATE AND DISTRICT COMMISSIONERS AND EMPLOYEES OF THE
26 STATE OR A DISTRICT COMMISSION ARE IMMUNE FROM SUIT IN ANY
27 ACTION, CIVIL OR CRIMINAL, BASED UPON OFFICIAL ACTS PERFORMED IN

1 GOOD FAITH AS COMMISSIONERS AND EMPLOYEES OF THE STATE OR A
2 DISTRICT COMMISSION.

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

6

7 **13-5.5-105. Powers and duties of the state and district**
8 **commissions - rules.** (1) IN ADDITION TO ANY OTHER POWERS
9 CONFERRED OR DUTIES ASSIGNED UPON THE SEPARATE COMMISSIONS BY
10 THIS ARTICLE 5.5, ALL COMMISSIONS HAVE THE FOLLOWING POWERS AND
11 DUTIES:

12 (a) TO REVIEW ANY AVAILABLE CASE MANAGEMENT DATA AND
13 STATISTICS PROVIDED BY THE STATE COURT ADMINISTRATOR, THE STATE
14 COMMISSION, AND DISTRICT COMMISSIONS RELATED TO INDIVIDUAL
15 JUSTICES AND JUDGES;

16 (b) TO REVIEW WRITTEN JUDICIAL OPINIONS AND ORDERS
17 AUTHORIZED BY JUSTICES AND JUDGES UNDER THE COMMISSION'S
18 OVERSIGHT;

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

23 (d) TO INTERVIEW JUSTICES AND JUDGES UNDER THE COMMISSION'S
24 OVERSIGHT AND TO ACCEPT INFORMATION AND DOCUMENTATION FROM
25 INTERESTED PERSONS AS NECESSARY, INCLUDING JUDICIAL PERFORMANCE
26 SURVEYS;

27 (e) TO MAKE RECOMMENDATIONS AND PREPARE NARRATIVES THAT

1 REFLECT THE RESULTS OF PERFORMANCE EVALUATIONS OF JUSTICES AND
2 JUDGES; AND

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

8 (2) IN ADDITION TO OTHER POWERS CONFERRED AND DUTIES
9 IMPOSED UPON THE STATE COMMISSION BY THIS ARTICLE 5.5 AND SECTION
10 13-5.5-106, THE STATE COMMISSION HAS THE FOLLOWING POWERS AND
11 DUTIES:

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

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

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

20 (d) (I) TO DEVELOP SURVEYS FOR PERSONS AFFECTED BY JUSTICES
21 AND JUDGES, INCLUDING BUT NOT LIMITED TO ATTORNEYS; JURORS;
22 REPRESENTED AND UNREPRESENTED LITIGANTS; LAW ENFORCEMENT
23 PERSONNEL; ATTORNEYS WITHIN THE DISTRICT ATTORNEYS' AND PUBLIC
24 DEFENDERS' OFFICES; EMPLOYEES OF THE COURT; COURT INTERPRETERS;
25 EMPLOYEES OF PROBATION OFFICES; EMPLOYEES OF LOCAL DEPARTMENTS
26 OF SOCIAL SERVICES; AND VICTIMS OF CRIMES, AS DEFINED IN SECTION
27 24-4.1-302 (5);

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

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

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

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

17 (f) TO PRODUCE AND DISTRIBUTE SURVEY REPORTS AND PUBLIC
18 NARRATIVES THAT REFLECT THE RESULTS OF EACH JUDICIAL
19 PERFORMANCE EVALUATION;

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

25 (h) TO PROMULGATE RULES PURSUANT TO SECTION 13-5.5-106
26 CONCERNING;

27 (I) THE EVALUATION OF JUSTICES AND JUDGES BASED ON

1 PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107;

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

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

11 (i) TO DEVELOP RULES, GUIDELINES, AND PROCEDURES
12 CONCERNING A SYSTEMWIDE JUDICIAL TRAINING PROGRAM AND A
13 SYSTEMWIDE VOLUNTEER COURTROOM OBSERVER PROGRAM; AND

14 (i) TO PREPARE A REPORT PURSUANT TO SECTION 13-5.5-114.

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

22 (a) TO OBTAIN INFORMATION FROM PARTIES AND ATTORNEYS
23 REGARDING JUDGES' HANDLING OF CASES WITH RESPECT TO THE JUDGES'
24 FAIRNESS, PATIENCE WITH PRO SE PARTIES, GENDER NEUTRALITY, RACIAL
25 DISPARITY, AND HANDLING OF EMOTIONAL PARTIES;

26 (b) TO REVIEW DATA, PREPARE NARRATIVES, AND MAKE
27 EVALUATIONS RELATED TO JUDGES PURSUANT TO THE PROVISIONS OF

1 SECTIONS 13-5.5-108 AND 13-5.5-109; AND

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

8 (4) UNLESS RECUSED PURSUANT TO A PROVISION OF THIS ARTICLE
9 5.5, EACH COMMISSIONER OF THE STATE AND DISTRICT COMMISSIONS HAS
10 THE DISCRETION TO EVALUATE THE PERFORMANCE OF A JUSTICE OR JUDGE
11 UNDER THE COMMISSION'S OVERSIGHT AND VOTE AS TO WHETHER THE
12 JUSTICE OR JUDGE MEETS THE PERFORMANCE STANDARD BASED UPON THE
13 COMMISSIONER'S REVIEW OF ALL OF THE INFORMATION AVAILABLE TO THE
14 COMMISSION.

15 **13-5.5-106. Rules, guidelines, and procedures.** (1) THE STATE
16 COMMISSION SHALL ADOPT RULES, GUIDELINES, AND PROCEDURES AS
17 NECESSARY TO IMPLEMENT AND EFFECTUATE THE PROVISIONS OF THIS
18 ARTICLE 5.5, INCLUDING RULES, GUIDELINES, AND PROCEDURES
19 GOVERNING THE DISTRICT COMMISSIONS.

20 (2) THE STATE COMMISSION SHALL CONSIDER PROPOSED RULES,
21 GUIDELINES, OR PROCEDURES FROM THE JUDICIAL DEPARTMENT; EXCEPT
22 THAT NOTHING IN THIS SECTION REQUIRES THE STATE COMMISSION TO
23 SEEK APPROVAL FROM THE JUDICIAL DEPARTMENT. THE STATE
24 COMMISSION RETAINS THE AUTHORITY FOR THE ADOPTION OF FINAL RULES,
25 GUIDELINES, OR PROCEDURES. THE STATE COMMISSION SHALL SUBMIT ANY
26 RULES, GUIDELINES, OR PROCEDURES ADOPTED PURSUANT TO THIS
27 SECTION OR SECTION 13-5.5-105 TO THE INDEPENDENT ETHICS

1 COMMISSION ESTABLISHED PURSUANT TO SECTION 24-18.5-101.

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

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

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

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

18 **13-5.5-107. Judicial performance evaluation criteria.** (1) THE
19 STATE COMMISSION AND EACH DISTRICT COMMISSION SHALL EVALUATE
20 EACH JUSTICE AND JUDGE IN COLORADO UTILIZING THE POWERS AND
21 DUTIES CONFERRED UPON EACH COMMISSION IN SECTION 13-5.5-105. THE
22 EVALUATIONS MUST ONLY INCLUDE THE FOLLOWING PERFORMANCE
23 EVALUATION CRITERIA:

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

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

27 (II) DISPLAYS FAIRNESS AND IMPARTIALITY TOWARD ALL

1 PARTICIPANTS; AND

2 (III) AVOIDS EX PARTE COMMUNICATIONS;

3 (b) LEGAL KNOWLEDGE, INCLUDING BUT NOT LIMITED TO

4 WHETHER THE JUSTICE OR JUDGE:

5 (I) DEMONSTRATES, THROUGH WELL-REASONED OPINIONS AND

6 COURTROOM CONDUCT, AN UNDERSTANDING OF SUBSTANTIVE LAW AND

7 RELEVANT RULES OF PROCEDURE AND EVIDENCE;

8 (II) DEMONSTRATES, THROUGH WELL-REASONED OPINIONS AND

9 COURTROOM CONDUCT, ATTENTIVENESS TO FACTUAL AND LEGAL ISSUES

10 BEFORE THE COURT; AND

11 (III) ADHERES TO PRECEDENT OR CLEARLY EXPLAINS THE LEGAL

12 BASIS FOR DEPARTURE FROM PRECEDENT AND APPROPRIATELY APPLIES

13 STATUTES OR OTHER SOURCES OF LEGAL AUTHORITY;

14 (c) COMMUNICATION SKILLS, INCLUDING BUT NOT LIMITED TO

15 WHETHER THE JUSTICE OR JUDGE:

16 (I) PRESENTS CLEARLY WRITTEN AND UNDERSTANDABLE OPINIONS,

17 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERS;

18 (II) PRESENTS CLEARLY STATED AND UNDERSTANDABLE

19 QUESTIONS OR STATEMENTS DURING ORAL ARGUMENTS OR

20 PRESENTATIONS, AND, FOR TRIAL JUDGES, CLEARLY EXPLAINS ALL ORAL

21 DECISIONS; AND

22 (III) CLEARLY PRESENTS INFORMATION TO THE JURY, AS

23 NECESSARY;

24 (d) JUDICIAL TEMPERAMENT, INCLUDING BUT NOT LIMITED TO

25 WHETHER THE JUSTICE OR JUDGE:

26 (I) DEMONSTRATES COURTESY TOWARD ATTORNEYS, LITIGANTS,

27 COURT STAFF, AND OTHERS IN THE COURTROOM; AND

1 (II) MAINTAINS AND REQUIRES ORDER, PUNCTUALITY, AND
2 APPROPRIATE DECORUM IN THE COURTROOM;

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

5 (I) DEMONSTRATES PREPARATION FOR ORAL ARGUMENTS, TRIALS,
6 AND HEARINGS, AS WELL AS ATTENTIVENESS TO AND APPROPRIATE
7 CONTROL OVER JUDICIAL PROCEEDINGS;

8 (II) MANAGES WORKLOAD AND COURT TIME EFFECTIVELY AND
9 EFFICIENTLY;

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

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

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

17 (f) SERVICE TO THE LEGAL PROFESSION AND THE PUBLIC BY
18 PARTICIPATING IN SERVICE-ORIENTED EFFORTS DESIGNED TO EDUCATE THE
19 PUBLIC ABOUT THE LEGAL SYSTEM AND IMPROVE THE LEGAL SYSTEM.

20 **13-5.5-108. Judicial performance evaluations in retention**
21 **election years - procedure - recommendations.** (1) JUDICIAL
22 PERFORMANCE EVALUATIONS FOR JUSTICES OR JUDGES WHOSE TERMS ARE
23 TO EXPIRE AND WHO MUST STAND FOR RETENTION ELECTION ARE
24 CONDUCTED AS FOLLOWS:

25 (a) THE STATE COMMISSION SHALL CONDUCT A JUDICIAL
26 PERFORMANCE EVALUATION OF EACH SUCH JUSTICE OF THE SUPREME
27 COURT AND JUDGE OF THE COURT OF APPEALS; AND

1 (b) THE DISTRICT COMMISSION SHALL CONDUCT A JUDICIAL
2 PERFORMANCE EVALUATION FOR EACH DISTRICT JUDGE AND COUNTY
3 JUDGE.

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

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

21 (c) THE APPLICABLE COMMISSION SHALL GRANT EACH JUSTICE OR
22 JUDGE WHO RECEIVES A RETENTION YEAR EVALUATION THE OPPORTUNITY
23 TO MEET WITH THE COMMISSION OR OTHERWISE RESPOND TO THE
24 EVALUATION NO LATER THAN TEN DAYS FOLLOWING HIS OR HER RECEIPT
25 OF THE EVALUATION. IF THE MEETING IS HELD OR A RESPONSE IS MADE,
26 THE APPLICABLE COMMISSION MAY REVISE ITS EVALUATION.

27 (3) AFTER THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION

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

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

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

24 **13-5.5-109. Judicial performance evaluations in interim years**
25 **between elections - procedure.** (1) WITHIN THE FIRST TWO YEARS OF A
26 JUSTICE'S OR JUDGE'S APPOINTMENT TO THE BENCH, THE APPROPRIATE
27 COMMISSION SHALL CONDUCT AN INITIAL EVALUATION OF EACH JUSTICE

1 AND EACH JUDGE. THE APPROPRIATE COMMISSION SHALL COMPLETE AND
2 COMMUNICATE ITS JUDICIAL PERFORMANCE INTERIM EVALUATIONS AS
3 FOLLOWS:

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

9 (b) THE APPLICABLE DISTRICT COMMISSION SHALL COMMUNICATE
10 ITS FINDINGS, INCLUDING ANY RECOMMENDATIONS FOR IMPROVEMENT
11 PLANS, TO THE CHIEF JUDGE OF THE DISTRICT AND THE JUDGE WHO WAS
12 EVALUATED.

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

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

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

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

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

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

24 **13-5.5-111. Judicial performance evaluations - senior judges.**

25 (1) EVERY THIRD YEAR FOLLOWING THE INITIAL APPOINTMENT OF A
26 SENIOR JUDGE TO THE BENCH THROUGH A CONTRACT PURSUANT TO
27 SECTION 24-51-1105, THE STATE COMMISSION SHALL CONDUCT A

1 PERFORMANCE EVALUATION OF THE SENIOR JUDGE BASED ON THE JUDICIAL
2 PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107.
3 THE STATE COMMISSION SHALL COMPLETE THE PERFORMANCE
4 EVALUATION OF SUCH SENIOR JUDGE AND COMMUNICATE THE RELATED
5 NARRATIVE TO THE CHIEF JUSTICE NO LATER THAN FORTY-FIVE DAYS
6 PRIOR TO THE EXPIRATION OF THE SENIOR JUDGE'S CONTRACT FOR THAT
7 YEAR. THE NARRATIVE MUST INCLUDE AN ASSESSMENT OF THE SENIOR
8 JUDGE'S STRENGTHS AND WEAKNESSES WITH RESPECT TO THE JUDICIAL
9 PERFORMANCE EVALUATION CRITERIA SET FORTH IN SECTION 13-5.5-107.

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

15 **13-5.5-112. Recusal.** (1) A COMMISSIONER SHALL DISCLOSE TO
16 HIS OR HER COMMISSION ANY PROFESSIONAL OR PERSONAL RELATIONSHIP
17 WITH A JUSTICE OR JUDGE THAT MAY AFFECT AN UNBIASED EVALUATION
18 OF THE JUSTICE OR JUDGE, INCLUDING INVOLVEMENT WITH ANY
19 LITIGATION INVOLVING THE JUSTICE OR JUDGE AND THE COMMISSIONER,
20 THE COMMISSIONER'S FAMILY, OR THE COMMISSIONER'S FINANCIAL
21 INTERESTS. A COMMISSION MAY REQUIRE, UPON A TWO-THIRDS VOTE OF
22 THE OTHER COMMISSIONERS, THE RECUSAL OF ONE OF ITS COMMISSIONERS
23 BECAUSE OF A RELATIONSHIP WITH A JUSTICE OR JUDGE.

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

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

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

17 (3) INFORMATION REQUIRED TO BE KEPT CONFIDENTIAL PURSUANT
18 TO THIS ARTICLE 5.5 MAY BE RELEASED ONLY UNDER THE FOLLOWING
19 CIRCUMSTANCES:

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

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

24 (c) WITH THE CONSENT OF THE JUSTICE OR JUDGE BEING
25 EVALUATED.

26 **13-5.5-114. Reporting requirements - "State Measurement for**
27 **Accountable, Responsive, and Transparent (SMART) Government**

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

5 (a) THE TOTAL NUMBER OF JUSTICES AND JUDGES WHO WERE
6 ELIGIBLE TO STAND FOR RETENTION AND THE NUMBER WHO DECLARED
7 THEIR INTENT TO STAND FOR REELECTION;

8 (b) THE TOTAL NUMBER OF JUDICIAL PERFORMANCE EVALUATIONS
9 OF JUSTICES AND JUDGES PERFORMED BY THE STATE AND DISTRICT
10 COMMISSIONS;

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

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

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

22 **13-5.5-115. State commission on judicial performance cash**
23 **fund - acceptance of private or federal grants - general**
24 **appropriations.** THE STATE COMMISSION IS AUTHORIZED TO ACCEPT ANY
25 GRANTS OF FEDERAL OR PRIVATE FUNDS MADE AVAILABLE FOR ANY
26 PURPOSE CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE 5.5. ANY
27 MONEY RECEIVED PURSUANT TO THIS SECTION MUST BE TRANSMITTED TO

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

15 [REDACTED]

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

18 **13-3-101. State court administrator.** (5) The state court
19 administrator shall provide to the director of research of the legislative
20 council criminal justice information and statistics and any other related
21 data requested by the director. The state court administrator shall provide
22 to the state commission on judicial performance and to district
23 commissions on judicial performance, ESTABLISHED IN SECTION
24 13-5.5-104, case management statistics for justices and judges WHO ARE
25 being evaluated.

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

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

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

11 **24-75-402. Cash funds - limit on uncommitted reserves -**
12 **reduction in amount of fees - exclusions - repeal.** (5) Notwithstanding
13 any provision of this section to the contrary, the following cash funds are
14 excluded from the limitations specified in this section:

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

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

20 **42-4-1710. Failure to pay penalty for traffic infractions -**
21 **failure of parent or guardian to sign penalty assessment notice -**
22 **procedures.** (4) (a) (II) On and after June 6, 2003, the docket fee
23 assessed in ~~subparagraph (I) of this paragraph (a) shall be~~ SUBSECTION
24 (4)(a)(I) OF THIS SECTION IS increased by three dollars. The additional
25 revenue generated by the docket fee shall be transmitted to the state
26 treasurer for deposit in the state commission on judicial performance cash
27 fund created in ~~section 13-5.5-107, C.R.S.~~ SECTION 13-5.5-115.

1 **SECTION 6. Act subject to petition - effective date.** This
2 act takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2018 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.

11