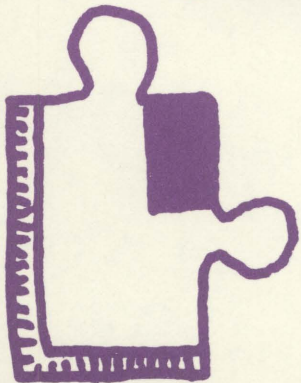
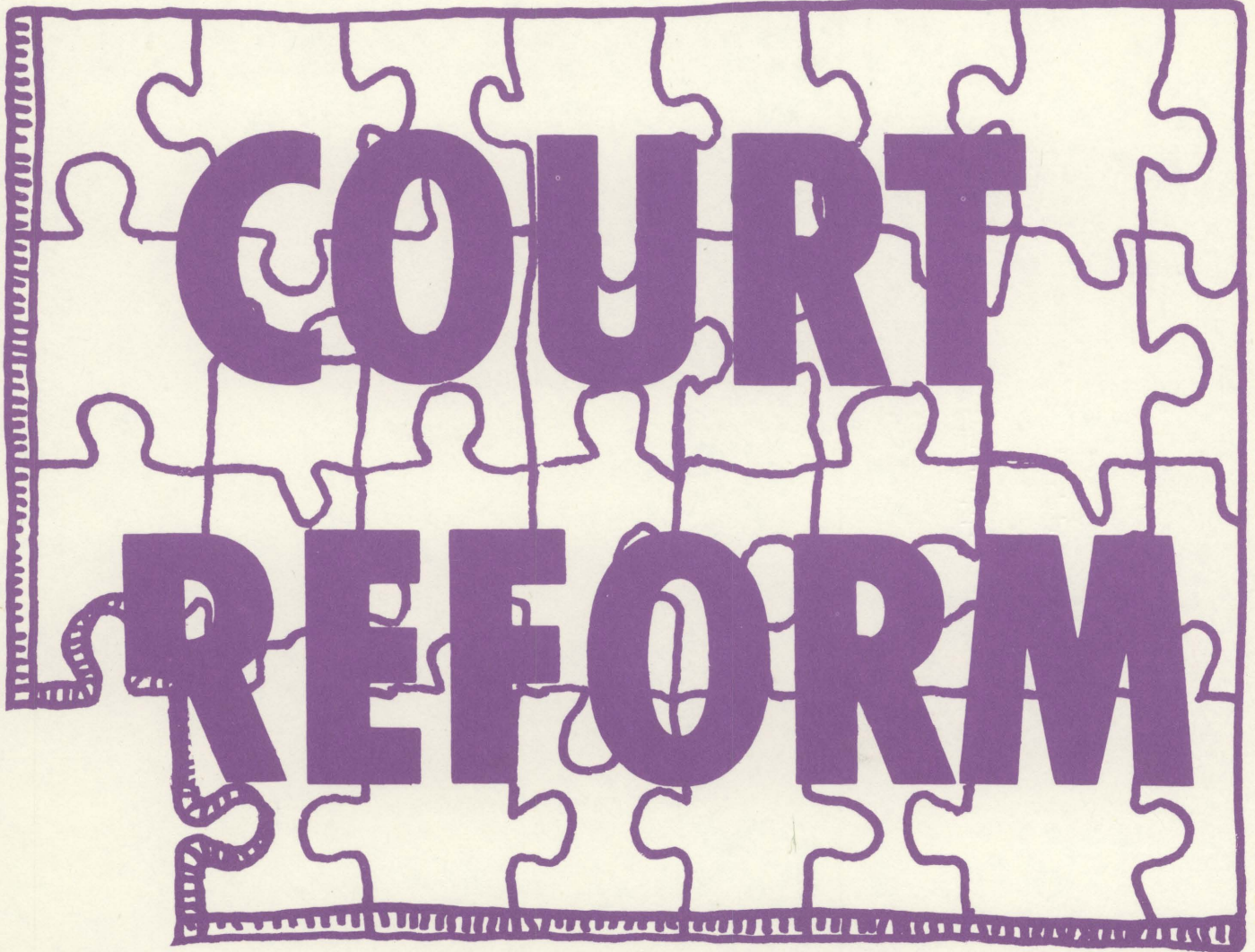


**for a more perfect union -**



**Advisory Commission on  
Intergovernmental Relations.**

**Washington, D.C. 20575**



**for a more perfect union-**

# **COURT REFORM**

**ADVISORY COMMISSION ON  
INTERGOVERNMENTAL RELATIONS  
WASHINGTON, D.C. 20575**

**M-63      July 1971**

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# Foreword

To combat rising crime rates and to build more justice into their criminal justice systems, States and localities should make far-reaching improvements in courts and corrections, police and prosecution – and should carefully tie together these component elements of criminal justice into a coherent system.

That is the basic conclusion of the Advisory Commission on Intergovernmental Relations in its report, *State-Local Relations in the Criminal Justice System*. Based on 18 months of intensive study, the Commission formulated 44 specific recommendations for State-local action to improve all segments of criminal justice.

The Commission is a 26-member bipartisan, permanent, national body, founded by Federal law to monitor the operations of the federal system and to make recommendations for improvements at all levels of government. Its membership represents the legislative and executive branches of Federal, State and local governments and the public.

The Commission does not speak for the Federal Government and it should not be inferred that the Federal Government necessarily concurs in all recommendations of the Commission or draft legislation to implement Commission proposals.

Commission *recommendations for improving the courts* have been incorporated into a draft State Constitutional Judicial Article and a draft State Omnibus Judicial Act, reprinted in this volume. These draft proposals were developed by the ACIR staff with the advice and assistance of State and local officials and others with special knowledge of the subject matter. They also were reviewed in detail by the Commission's Advisory Board on State Legislation. In addition, as a service to State Legislatures, the Committee on Suggested State Legislation of the Council of State Governments accepted the draft proposals for publication in CSG's annual volume of *Suggested State Legislation*.

*Court Reform* is one of a series of ACIR action packets designed to present in brief form selected Commission findings and recommendations together with draft legislation intended to serve as a point of departure for States wishing to incorporate the Commission's recommendations into their statutes.

The complete 300-page Commission report, *State-Local Relations in the Criminal Justice System* (A-38), may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Multiple copies of individual slip bills contained in this action packet are available without charge from the Commission.

Wm. R. MacDougall  
Executive Director





# Court Reform: Key to a Balanced Criminal Justice System

The courts are the balance wheel of our Nation's criminal justice system, and the balance wheel is out of alignment.

Designed to guarantee the rights of the individual and protect those of society, the courts must strike a balance between fairness and effectiveness. But overwhelming caseloads in one jurisdiction next door to part-time judges in another, overlapping jurisdictions, widely varying procedures for trying similar types of offenses, wide disparities in the quality of judicial personnel — in short, little "system" in the court system — pose a severe threat to the independence, reputation and functioning of the judiciary at State and local levels.

Most of the country's judicial business is conducted in the State and local courts. They handle about 3 million cases a year, compared with about 140,000 in the Federal courts. About 90 percent of these cases are disposed of in the lower courts — primarily those in urban jurisdictions — where the dockets are heaviest and the most severe problems lie.

The Commission's recommendations seek improvements in court administration and organization, financial arrangements, judicial qualifications and selection, and Federal-State court working relationships.

## Administration

One basic problem is lack of coherent organization and administration of the courts in many States. Eighteen States have substantially unified their court systems. In the remaining 32 States, responsibility and authority — to greater or lesser degrees — are scattered among State, county and municipal courts, with some of the lower courts having general jurisdiction and others limited.

Ultimately, the State is responsible for all these courts whether their authority comes directly from constitutional provision or statute, or indirectly from the power delegated to a municipality. Over the years, all three methods have been used to establish courts to meet varying needs. But some of these needs no longer exist while others have emerged. For example, a study commission in Iowa found that below the courts of general jurisdiction there are a plethora of municipal, justice-of-the-peace, mayors, superior and police courts based on towns and townships, the common units of government in 1846.

As layers and diverse categories of courts accumulate, lines of authority become crossed and blurred. A Georgia State law enforcement plan — not untypically — terms its superior courts "judicial kingdoms" run independently by each judge who jealously guards his prerogatives.

Confusion is worst in many urban areas where frequently State, county and municipal courts with overlapping jurisdictions may hear similar cases.

This could happen in any number of cities across the country. A man is arrested for petty larceny. Depending on the arbitrary choice of the policeman, he may be taken before the municipal police court, the county court or the State trial court. If he goes before the police court, he might appear before a judge who is not a lawyer and the prosecutor will be the policeman. If he goes before the county court, perhaps there is no provision for probation. If he is taken before the State court, he will probably appear before a judge with legal training and the prosecutor will be a full time professional, but he may have to wait in jail for weeks because the calendar is so backed up.

And the non-urban lower court? In 33 States, that is still the justice-of-the-peace court, a hold-over from the colonial period. In all but five of these States, the JP is compensated at least in part by fees collected when he convicts, earning him the epithet, "justice for the plaintiff."

Moreover, many JPs conduct little court business. For example, as long ago as 1955, only 167 of Kentucky's 678 justices-of-the-peace were active, and not more than half of them tried many cases. In 1967, Kentucky JPs were active in criminal cases in only 37 of the State's 120 counties, and only 101 of the 626 JPs were performing judicial duties.

To cut through this maze and provide one system of justice for everyone in the State, the Commission recommends that each State establish a simplified and unified court system, consisting of a supreme court, an intermediate court of appeals, if necessary, a general trial court and special subdivisions of the general trial court performing the duties of courts of limited jurisdiction.

The Commission also recommends that the States abolish justice-of-the-peace courts, or overhaul them by placing them under State supervision, direction and administration, by compensating justices by salary rather

than by fees; and by requiring them to be licensed to practice law in the State or pass an appropriate qualifying examination.

The Commission further urges that all courts be subject to administrative supervision and direction by the State supreme court or the chief justice; to uniform rules of practice and procedure promulgated by the supreme court subject to change by the legislature; and to the flexible assignment by the supreme court or chief justice of judges from court to court within and between levels. More modern management practices are a basic factor in rendering many judicial systems more effective and these proposals are geared to filling this gap.

There are those who defend the courts of limited jurisdiction and the JP courts as “bastions of democracy” accessible to the ordinary citizen who can come and receive justice informally. Yet, the quality of justice dispensed by many of these courts casts serious doubts on their responsiveness or accessibility. By establishing special subdivisions of general trial courts in urban areas, the special reasons for establishing courts of limited jurisdiction may be recognized, while the quality and uniformity of justice is enhanced. Illinois followed this plan of reform in the early 1960s. Similarly, in rural areas, a consolidated county court system or a qualified full time “circuit rider” judge rather than a part-time justice-of-the-peace would provide both professionalism and accessibility.

State court systems are large-scale operations, spending hundreds of millions of dollars every year and employing personnel in the tens of thousands. To obtain fair and swift justice and get the most output for the judicial dollar demands modern management. It necessitates new procedures and modern techniques including computers and microfilm, new systems of statistical recording and reporting. It means up-to-date recruiting, testing and training of administrative personnel. And above all, it means administrators who understand and can utilize these management devices.

Overall supervisory responsibility for the courts is vested in the supreme court, the chief justice or the chief judge of an individual court, depending on the degree of unification. However, the qualities of a good judge do not necessarily coincide with the skills of a good administrator. For these reasons, the Commission recommends that all States provide an administrative office of the State courts, headed by a professional administrator to assist in the administrative supervision and direction of the State court system. Thirty-five States provide for a central State court administrator.

Because of the magnitude of court operations in large urban areas — many spend more than \$1 million a year — the Commission further recommends that States

authorize and encourage establishment of administrative offices for the general trial courts of large urban areas. These offices should be headed by professional administrators and be under the general supervision of the State court administrator, where one exists. Such offices exist in metropolitan areas of at least 13 States. There are enough administrators now to have organized their own association, the National Association of Trial Court Administrators, and their number can be expected to increase.

## Finances

As States move to unified and simplified court systems — and the move in that direction is steady if not speedy — they are also moving slowly to a greater sharing of court costs.

State and local courts spent more than \$900 million in fiscal 1969, according to a special U. S. Census Bureau study. But the localities picked up about three-quarters of the tab, \$607 million, and the States \$236 million.

The range in cost-sharing varies greatly among States. Four States — Connecticut, Hawaii, Rhode Island and Vermont — paid practically all of the total cost of courts with a fifth State, Colorado, assuming full court financing in 1970. A total of nine States provided about two-thirds or more of the funds to run the court systems. However, three States provided less than 15 percent of such costs.

All States but Virginia assumed the full fiscal responsibility for the State's highest court in 1969. Of the 20 States having an intermediate appellate court, 17 picked up their total cost. In addition, 25 States assumed the whole cost of judicial retirement systems.

The Commission recommends that States assume full responsibility for financing State and local courts. Where the State has unified the court system and thus assumed the full responsibility for the courts, it obviously should pay for them. But even in a fragmented system, the State government has a fundamental responsibility for seeing to it that all State and local courts administer justice fairly, consistently, and effectively. This is practically impossible if the State relies heavily on local funding. Variations in local levels of financing produce wide disparities in the performance of the courts. A Maryland study pointed out that reassignment of judges from court to court is made difficult if varying local financing patterns produce disparities in salaries of judges of the same type of court. If a State is going to mandate salary levels, standards for nonjudicial personnel and facilities, it should be prepared to pay the bill or at least a substantial part of it.



## Quality of Judges

The best jurist in the world would be hampered by weak court administration, but despite the most modern administration and most generous funding the courts would fail if they have incompetent judges. Nothing can make judicial selection and retention fool proof, but over the years various States have adopted approaches to raise standards, improve selection procedures and ease removal when that is necessary.

The most basic requirement for a competent judge is that he know law. Yet 14 States do not require their appellate judges to be learned in the law, 11 of them do not make this requirement for trial judges either. Half the States do not stipulate a minimum period of legal training and experience for judges at these levels. And the overwhelming majority of the 33 States with justices-of-the-peace have no formal training requirement for them.

The Commission recommends that all States require all judges to be licensed to practice law in the State.

A second elementary requirement — somewhat related — is that all judges be required to devote full time to their judicial duties. The conflict-of-interest possibilities of part-time judges is obvious. In addition, it does nothing to enhance their stature or the stature of the court. Yet all of the States with JP courts permit those officials to engage in outside work and 14 States, in 1968, permitted judges of other lower courts — mainly municipal and county courts — to render only part-time service.

The problem both of unqualified judges and of part-time judges arises mostly in sparsely-settled areas where it is difficult to find adequately-trained individuals and where there is not enough work to keep them busy full time. The answer to both problems would be solved in part by streamlining the court system and enlarging the jurisdiction to provide a big enough base to attract and support judges with high qualifications.

Another significant element in improving the standards of the courts is the manner of selecting judges. In 25 States, judges still must run for election — on partisan ballots in 15 and nonpartisan in ten. The idea of judicial elections grew out of the belief in the last century that this would assure greater sensitivity to public opinion and needs. It has not proved to be the case. The skills necessary for running a successful election campaign have little in common with the needs of the bench. And in partisan elections, the emphasis might be on party loyalty rather than fitness for office. However, the judge should not be insulated totally from popular control. The most widely accepted compromise was reached in Missouri in 1940, when it adopted its prototype “Merit Plan,” now in effect in whole or in

part in 17 States.

The Commission endorses the “Merit Plan” of selecting judges, whereby commissions consisting of representatives of the bar, the judiciary, and the public screen and nominate qualified candidates for appointment by the chief executive. Judges so appointed should be required to submit themselves to voter approval or disapproval at an election at the end of each term.

Once even the most eminent judge is selected, there is no guarantee that he will remain competent. For one thing, he will age, may become tired, and can grow out-of-touch. However, compulsory retirement for older judges is controversial. Many will point out that mandatory retirement would have compelled Brandeis, Holmes and Black to step down when they were still vigorous. Yet the argument for mandatory retirement is persuasive.

Twenty-two States have compulsory retirement; one fixes the age at 71, two at 72, four at 75, and the remainder at 70. Five of these States extend the age limit to the end of the judge’s term and often permit extended service in special cases. The Commission recommends that States require mandatory retirement of State and local judges upon reaching age 70.

But what about the younger judge who physically, mentally or ethically turns out not to be competent? Twenty-two States have no provisions for disciplining judges of general trial courts other than the cumbersome and largely ineffective methods of impeachment, legislative address or recall. Often, removal is not necessary, but only a less severe disciplinary action.

The 31 States that provide a special means of disciplining judges take a variety of different approaches. Thirteen States authorize courts of the judiciary, either the existing high court or specially constituted tribunals, to hear charges, and either dismiss them or order removal of the judge. In 18 States, there are judicial qualifications commissions composed of judges, lawyers and lay persons that receive and investigate complaints, hold formal hearings and make recommendations for dismissal of the charges, disciplinary action, or retirement.

The Commission prefers the judicial qualifications commissions approach and recommends that States establish such bodies modeled after the California Commission on Judicial Qualifications. Under it commissions are set up composed of judges appointed by the supreme court, lawyers appointed by the State Bar Association, and laymen named by the governor. The commission evaluates complaints, rejects those it considers unfounded, cautions the accused on those not very serious or orders a formal hearing on serious complaints. Based on the hearing, the commission may

dismiss the charges or recommend to the supreme court that it impose involuntary retirement or undertake removal or some lesser disciplinary action. Removal for misconduct is used only as a last resort and thorough investigation is assured.

### **State-Federal Working Relations**

There is an increasing need for closer working relationships between States and Federal court systems. One symptom of the problem is the dramatic increase in post-conviction petitions of State prisoners to Federal courts (from an annual rate of 89 to 12,000 in 30 years).

Some State courts, Federal district courts and individual judges have developed informal relationships to deal with joint problems. But the Commission feels that much more should be done on a much broader scale, especially as it relates to joint conviction petitions, judicial rules and criminal codes.

The Commission therefore urges State and Federal district judges, judicial officers and Bar Associations to initiate and support the development of State-Federal Judicial Councils, composed of chief judges of State and appropriate Federal district courts, to cooperatively explore problems of joint concern. Although the idea for such intergovernmental bodies is relatively new, the Commission is not alone in its recommendation. Chief Justice Warren Burger called for establishment of such bodies in his August 10, 1970 address to the American Bar Association.

All States but South Dakota now have State judicial councils that serve to varying degrees as coordinating

bodies among the various State courts. These could be building blocks for establishing the closer State-Federal judicial ties.

And while post-conviction petitions are a pressing problem, needing immediate solution, the councils should have the longer-range goal of improving general communications between Federal and State courts. They could stimulate and aid in the development of more uniform criminal codes, sentencing procedures and judicial rules, in addition to providing a forum for exchange of ideas and experience on the full range of judicial business.

### **Toward A Better System**

The courts are a vital component of our criminal justice system, but they are only one segment of an interdependent whole. The Commission stresses the need for court reform to unify administration and modernize management of the court system, increase State financial responsibility for the courts, improve the quality and standards of the judges, and gain a closer working relationship between State and Federal courts. Beyond this, the Commission stresses the need to treat the system as a whole by recognizing the interdependence of its police, prosecution, courts and corrections components. Custom, tradition and other factors tend to accentuate and perpetuate the separateness and autonomy of these functions. But the time has come for balanced consideration of the relations of each element to all the others, and their collective impact on the public-at-large.

# Judicial Constitutional Article

A substantial part of the disorganization in most State-local criminal justice systems stems from the confused character of the judicial process. Too often judicial systems suffer from lack of centralized court administration, wide disparities in the qualifications for and conduct in judicial office, overly cumbersome procedures for judicial retirement and discipline and an over reliance on partisan methods of judicial selection.

Judicial reform in these matters needs to be of a constitutional and statutory nature. The separation of powers necessitates the drafting of a model constitutional article that will be the basis for statutory court reforms. The following draft constitutional article provides the fundamental construct for (1) a unified court system under the central direction of a Supreme Court and the chief justice, (2) uniform rules concerning judicial conduct, (3) modernized procedures for judicial retirement, removal, and discipline, and (4) "merit" selection of judges.

State judicial constitutional reform has enjoyed considerable support in the past three decades. Beginning with thorough reforms in Missouri in 1945 and New Jersey in 1947 and building on the model constitutions of Alaska and Hawaii in 1959, a number of other States have revised their constitutional judicial articles. Among such States are California (1966), Colorado (1966), Illinois (1962), Michigan (1964), Nebraska (1962, 1966), New Mexico (1966, 1967), New York (1961), and Oklahoma (1967). This model constitutional article is derived from the various provisions of the Alaska, California, Hawaii, Illinois, Missouri, Nebraska, and New Jersey constitutions as well as the model judicial constitutional articles of the American Bar Association and the National Municipal League.

## Suggested Constitutional Judicial Article

1            *Section 1. The Judicial Power.* The judicial power of the state is vested in [a unified judicial  
2 system] [one Court of Justice], which shall include a Supreme Court, [a Court of Appeals,] a Trial  
3 Court of General Jurisdiction, the geographic divisions of which shall be District Courts, [and special  
4 subdivisions of the Trial Court of General Jurisdiction known as Courts of Limited Jurisdiction].  
5 All courts except the Supreme Court may be divided into geographic districts and into functional  
6 divisions and subdivisions as provided by law or by judicial rules not inconsistent with the law. The  
7 several courts shall have original and appellate jurisdiction as provided by law.

8            *Section 2. Court Administration.* The chief justice of the Supreme Court shall be the execu-  
9 tive head of the judicial system and shall appoint, with the approval of the Supreme Court, an  
10 administrator and such assistants as the administrator deems necessary to supervise the administration  
11 of the courts of the state. The chief justice with the approval of the Supreme Court, may [assign  
12 judges from one court or division thereof to another] [assign judges to any court in the state] in order  
13 to aid in the prompt disposition of judicial business.

14            *Section 3. Rule Making Power.* The Supreme Court shall adopt rules governing the adminis-  
15 tration, practice and procedure in all courts. These rules may be changed by the legislature by a

1 [majority] [two-thirds] vote of the members elected to each house.

2       **Section 4. Judicial Rules of Conduct.** (a) The Supreme Court shall adopt rules of conduct for  
3 all judges.

4       (b) All judges shall devote full time to judicial duties. They shall not, while in office, engage in  
5 the practice of law or other gainful employment. They shall not hold any other public office under  
6 the United States, this state or its civil divisions. They also shall not directly or indirectly make any  
7 contribution to, or hold any office in, a political party or organization.

8       **Section 5. Commission on Judicial Qualifications.** The legislature shall establish a Commission  
9 on Judicial Qualifications. The Commission may recommend to the Supreme Court the removal,  
10 retirement, or discipline of any judge who the Commission finds is physically or mentally incapable  
11 of performing his judicial duties, or who has persistently failed to perform his judicial duties or whose  
12 other conduct has been prejudicial to the administration of justice.

13       **Section 6. Judicial Nominating Commissions.** The legislature shall establish a judicial nomi-  
14 nating commission for the Supreme Court and for each geographic division of [the Court of Appeals  
15 and] the Trial Court of General Jurisdiction. All judges shall be appointed initially by the Governor  
16 from a list of nominees submitted by the appropriate judicial nominating commission. Each judge  
17 shall stand for retention in office on a ballot which shall submit the question of whether he should  
18 be retained in judicial office for the prescribed term.

# Omnibus Judicial Act

This nation's State-local judicial systems suffer from a number of serious administrative, structural, and fiscal maladies. Court systems in most States are highly fragmented, lack central administrative direction, exhibit disparate rules of practice and procedure, have cumbersome and unprofessional procedures for judicial selection, discipline, removal, and retirement, and are often faced with a critical lack of funding. The result is too often a disorganized, inefficient judicial system.

To rectify this situation, 18 States have unified their court systems, 35 States have instituted a central court administrator, 17 States use the Missouri Plan for selection and appointment of judges; 18 States use judicial qualifications commissions to scrutinize the performance of incumbent judicial personnel; four States have assumed all judicial costs and 22 States provide for compulsory judicial retirement on or after the age of 70. All these State reforms have resulted in a more efficient and manageable judiciary.

The omnibus judicial bill is divided into ten titles. Title I sets forth the purpose and definitions of the act. Title II delineates the structure of a unified judicial system and provides for the organization and jurisdiction of the supreme court, court of appeals, and trial courts of general and limited jurisdiction. The chief justice is made executive head of the judicial department, and the supreme court or the legislature may organize the geographical divisions of the court of appeals and the trial courts of general and limited jurisdiction.

Title III structures the administrative responsibility for court operation. Part A creates a three-tiered hierarchy of judicial administration making departmental justices and chief judges responsible to the chief justice for the conduct of court business. Part B provides for professional court administrators at all levels to aid chief judicial personnel in their management responsibilities. The office of the State court administrator centralizes management responsibilities at the highest judicial level and should be a guiding force in effecting more uniform court procedures, more flexible assignment of court personnel, and more continuous scrutiny of the operations of the judicial system as a whole. The appellate and general trial court administrators provide similar guidance in other courts.

Title IV confers upon the chief justice assignment power over judicial personnel and Title V centralizes judicial rule-making power in the supreme court and the chief justice.

Title VI specifies the qualifications for judicial office and the method of judicial selection. It authorizes the creation of judicial nominating commissions that shall select nominees for appointment to any judicial vacancy. Procedures for nonpartisan election of judges so appointed are also set forth.

Title VII provides for the promulgation of a canon of judicial ethics, full-time service for judges, and the institution of a judicial qualifications commission to scrutinize the performance of incumbent judges. The judicial qualifications commission may recommend to the supreme court the (i) involuntary retirement of judges due to mental or physical disability which hinders their judicial performance or (ii) the removal or discipline of judges whose conduct may be deemed prejudicial to the administration of justice.

Title VIII mandates State assumption of court finances and the institution of centralized budget and personnel procedures for the judicial system. Title IX makes judicial retirement mandatory at the age of 70. It also sets forth, in general terms, other conditions of retirement for judicial department personnel.

Title II is modelled after Connecticut, Idaho, and Vermont laws on judicial organization. Title III

is derived from statutes of the over 30 States that have central court administrators. Titles IV and V are adapted from Puerto Rico and Hawaii law respectively.

Title VI on “merit” selection of judges is adapted from Missouri and Nebraska laws.

Title VII on judicial conduct is designed after California Supreme Court rules as well as Idaho, Nebraska, and Oregon laws on the subject.

Title VIII is modelled after Colorado law and parts of Title IX are adapted from Maine legislation.

## Suggested Legislation

### TITLE I

#### PURPOSE AND DEFINITIONS

1        *Section 1. Purpose.* The purpose of this act is to: (i) create a unified court system, subject to  
2 central direction by the chief justice and the supreme court, (ii) to institute a corps of professional  
3 court administrators to assist the chief justice and judicial associates in matters of court administra-  
4 tion, (iii) to provide modernized procedures of judicial retirement and discipline, (iv) promulgate  
5 uniform rules on judicial conduct and judicial qualifications, (v) to provide for “merit” selection of  
6 judicial personnel, and (vi) to mandate state assumption of all court finances.

7        *Section 2. Definitions.* As used in this act:

- 8        (1) “Judicial department” means the judicial branch of the state government.  
9        (2) “Judge” means any duly appointed or elected presiding judicial officer in the state.  
10        (3) “Chief justice” means the chief justice of the state supreme court.  
11        (4) “Director” means the head of the administrative office of the courts.  
12        (5) “Departmental justice” means the judicial administrative head of a judicial circuit.  
13        (6) “Administrator” means the general trial court administrator of each judicial district.  
14        (7) “Member of the state bar” means any person admitted to the practice of law in this state.  
15        (8) “Nonjudicial personnel” means all employees of the judicial department who do not hold  
16 the post of judge.  
17        [(9) “Judicial circuit” means a geographical division of the state court of appeals.]  
18        (10) “Judicial district” means a geographical division of the state general trial court.



## TITLE II

### JUDICIAL DEPARTMENT ORGANIZATION AND STRUCTURE

1        *Section 1. General Plan of Organization.* The judicial department of the state shall consist of a  
2 supreme court, [a court of appeals and] a statewide general trial court and such subdivisions of the  
3 general trial court to be known as trial courts of limited jurisdiction as [the supreme court may estab-  
4 lish] [may be established by law]. The executive head of the judicial department shall be the chief  
5 justice of the supreme court. The territorial jurisdiction of all courts in the judicial department shall  
6 be coextensive with the boundaries of the state.

7        *Section 2. Supreme Court Organization.* There shall be one supreme court which shall be the  
8 highest court of the state and shall consist of a chief justice and [ ] associate justices.

9        *Section 3. Supreme Court Jurisdiction.* The supreme court shall have final appellate jurisdic-  
10 tion. Appeals to the supreme court from the [court of appeals] [general trial court] are a matter of  
11 right if a question under the Constitution of the United States or of this state arises for the first time  
12 in and as a result of the action of the [court of appeals] [general trial court] or if the [court of  
13 appeals] [general trial court] certifies that a case decided by it involves a question of such impor-  
14 tance that the case should be decided by the supreme court except that a defendant shall have an  
15 absolute right to one appeal in all criminal cases. On all appeals authorized to be taken to the su-  
16 preme court in criminal cases, that court shall have the power to review all questions of law and, to  
17 the extent provided by rule, to review and revise the sentence imposed.

18        [*Section 4. Organization of the Court of Appeals.* The court of appeals shall consist of as  
19 many geographical divisions known as judicial circuits as [the supreme court shall from time to time  
20 determine to be necessary] [may be established by law]. Each judicial circuit of the court shall  
21 consist of one chief judge and [ ] associate judges. The court shall sit at the times and places pre-  
22 scribed by [the rules of the supreme court] [the chief justice].]

23        [*Section 5. Jurisdiction of the Court of Appeals.* Appeals from final judgments of a general  
24 trial court are a matter of right to the court of appeals in the judicial circuit in which the general trial  
25 court is located except in (a) criminal cases directly appealable to the supreme court and (b) criminal  
26 cases where there has been an acquittal. The court of appeals shall exercise appellate jurisdiction in  
27 all other cases under such terms and conditions as the supreme court shall specify by rule.]

28        *Section 6. General Trial Court Organization.* There shall be one general trial court having  
29 statewide jurisdiction. The general trial court shall consist of as many geographical divisions as [the  
30 supreme court shall from time to time determine to be necessary] [as may be established by law].

1 [The boundaries of judicial districts shall be contained within the judicial circuits in the state.] The  
2 supreme court shall designate the principal office in each district and shall also designate the chief  
3 judge of each district court. The court may hold sessions anywhere in its geographical area where  
4 adequate facilities exist for the disposition of court business. It shall hold continuous sessions or be  
5 in session as often as the chief justice finds that the caseload of each district requires.

6 *Section 7. Jurisdiction of General Trial Court.* The general trial court shall have original juris-  
7 diction, subject to appeal and exceptions by the supreme court.

8 *Section 8. Trial Courts of Limited Jurisdiction.* (a) The supreme court may authorize the es-  
9 tablishment of trial courts of limited jurisdiction as functional subdivisions of the general trial court.  
10 These courts shall be under the general direction of the chief judge of the judicial district of which they  
11 are a part.

12 (b) [These courts shall exercise jurisdiction in such cases as the supreme court may designate  
13 by rule.] [These courts shall exercise original jurisdiction in the case of criminal misdemeanors and  
14 violations of municipal ordinances.]

### TITLE III

#### COURT ADMINISTRATION

##### PART A

#### JUDICIAL ADMINISTRATORS

1 *Section 1. Chief Justice as Executive Head of Courts.* The chief justice shall be the executive  
2 head of the judicial department and be responsible for the efficient operation thereof, for the expedi-  
3 tious dispatch of litigation therein, and for the proper conduct of business in all courts. The chief jus-  
4 tice may require reports from all courts in the state and may issue rules and regulations as may be nec-  
5 essary for the efficient operation of the courts and the prompt and proper administration of justice.

6 [Section 2. *Departmental Justices.* The chief justice shall appoint from the ranks of all  
7 [appellate and] general trial court judges a departmental justice for each judicial circuit in the state.  
8 Departmental justices shall be responsible to the chief justice for the efficient operation of courts in  
9 their circuits. The departmental justice shall be assisted in his duties by an appeals court  
10 administrator.]

11 *Section 3. Chief Judges.* Every general trial court district shall have a chief judge selected  
12 from the judges in the district by the [departmental justice in the circuit in which the district is  
13 located] [chief justice]. The chief judge shall be responsible to the [departmental justice] [chief

1 justice] for the efficient operation of the courts in his district. Each chief judge shall be assisted in  
2 his duties by a general trial court administrator as directed by the [departmental justice] [chief  
3 justice].

4 *Section 4. Administrative Powers of Chief Justice.* The chief justice of the supreme court may:

5 (1) assign or reassign all judicial department personnel to any court in the state as described in  
6 title IV of this act.

7 (2) exercise powers of general financial management as detailed in title VIII of this act.

8 (3) exercise all other powers as the supreme court shall deem necessary to insure the proper  
9 administration of justice.

## PART B

### STATE COURT [COURT OF APPEALS,] AND GENERAL TRIAL COURT ADMINISTRATORS

1 *Section 1. Creation of the Office.* There is hereby established a state office known as the  
2 administrative office of the courts. It shall be supervised by a director who shall be appointed by the  
3 chief justice to serve at his pleasure. The director may appoint assistants and other employees  
4 necessary for the performance of duties of the office.

5 *Section 2. Qualifications of the Director, Compensation of Employees.* The director and other  
6 personnel shall have whatever qualifications as may be prescribed by [law] [the supreme court]  
7 provided that no personnel in the office shall be engaged directly or indirectly in the practice of law  
8 nor hold any other office or employment. The compensation of the director shall be [prescribed by  
9 law]. [The director shall fix the compensation of the personnel under his supervision.]

10 *Section 3. Powers and Duties.* The director, under the direction of the chief justice, shall:

11 (1) carry on a continuous survey and study of the organization, operation, condition of busi-  
12 ness, practice and procedure of the judicial department and make recommendations to the chief  
13 justice concerning the number of judges, other judicial personnel, and prosecutors required for the  
14 efficient administration of justice.

15 (2) examine the status of the dockets of all courts so as to determine cases and other judicial  
16 business that have been delayed beyond [ ] months and make reports thereon. From such reports,  
17 the director shall indicate which courts are in need of additional judicial personnel and make recom-  
18 mendations to the chief justice concerning the assignment or reassignment of personnel to courts  
19 that are in need of such personnel. The director shall also carry out the directives of the chief justice  
20 as to the assignment or reassignment of personnel in these instances.

- 1 (3) investigate complaints with respect to the operation of the courts.
- 2 (4) examine the statistical systems of the courts and make recommendations for a uniform  
3 system of judicial statistics. The director shall also collect and analyze statistical and other data re-  
4 lating to the business of the courts.
- 5 (5) prescribe uniform administrative and business methods, systems, forms, and records to be  
6 used in all state courts.
- 7 (6) assist in preparing assignment calendars of all judges and attend to the printing and distri-  
8 bution thereof.
- 9 (7) implement standards and policies set by the chief justice regarding hours of court, the  
10 assignment of term parts, judges and justices, and the publication of judicial opinions.
- 11 (8) act as fiscal officer of the courts and in so doing:
  - 12 (i) maintain fiscal controls and accounts of funds appropriated for the judicial system;
  - 13 (ii) prepare all requisitions for the payment of state monies appropriated for the mainte-  
14 nance and operation of the judicial system;
  - 15 (iii) prepare budget estimates of state appropriations necessary for the maintenance and  
16 operation of the judicial system and make recommendations with respect thereto;
  - 17 (iv) collect statistical and other data and make reports to the chief justice relating to the  
18 expenditures of public monies [, both state and local,] for the maintenance and operation of the  
19 judicial system;
  - 20 (v) develop a uniform set of accounting and budgetary accounts for all courts in the state  
21 court system;<sup>1</sup> and
  - 22 (vi) fix the compensation of all nonjudicial personnel whose compensation is not otherwise  
23 fixed pursuant to title VIII.
- 24 (9) examine the arrangements for the use and maintenance of court facilities and supervise the  
25 purchase, distribution, exchange, and transfer of judicial equipment and supplies thereof.
- 26 (10) act as secretary to the judicial council and prepare for an annual conference of all judges of  
27 courts of record to discuss recommendations for the improvement of the administration of justice.
- 28 (11) submit an annual report to the chief justice, legislature, and governor of the activities and  
29 accomplishments of the office for the preceding calendar year.
- 30 (12) attend to other matters consistent with the powers delegated herein as may be assigned by  
31 the chief justice.

<sup>1</sup>Some states also have the director serve as the auditor for the judicial department.

1           [*Section 4. Appeals Court Administrator: Creation.* The departmental justice of each judicial  
2 circuit, subject to the approval of the chief justice, shall appoint an appeals court administrator to  
3 assist him in his administrative duties. The appeals court administrator shall serve at the pleasure of  
4 the departmental justice and he shall, subject to the approval of the chief justice, employ such other  
5 personnel as may be necessary to enable him to perform the duties of his office.]

6           *Section 5. General Trial Court Administrator: Creation.* The chief judge of each judicial dis-  
7 trict, subject to the approval of the chief justice, shall appoint a general trial court administrator to  
8 assist him in his administrative duties. The administrator shall serve at the pleasure of the chief judge  
9 and he shall, subject to the approval of the [departmental justice] [chief justice], employ such other  
10 personnel as may be necessary to enable him to perform the duties of his office.

11           *Section 6. [Appeals court and] General Trial Court Administrator: Qualifications, Compensa-*  
12 *tion and Employees.* The [appeals court administrator and general trial court administrator]  
13 [administrator] and [their] [his] employees shall have whatever qualifications may be prescribed  
14 pursuant to title VIII of this act except that they shall not engage in the practice of law nor hold any  
15 other office or employment. The compensation of the [appeals court and general trial court admin-  
16 istrator] [administrator] and [their] [his] employees shall be prescribed pursuant to title VIII of this  
17 act.

18           *Section 7. Compliance with Requests for Information.* All employees of the state court system  
19 [the attorney general, and all district attorneys] shall promptly comply with the requests of the  
20 director for information and statistical data bearing on the business of the courts and such other  
21 information as may be needed to carry out the lawful duties of the administrative office of the  
22 courts. The director shall be assisted by all [appeals court and] general trial court administrators in  
23 the performance of his duties.

#### TITLE IV

##### ASSIGNMENT OF JUDICIAL DEPARTMENT PERSONNEL

1           *Section 1. Assignment Powers of Chief Justice.* The chief justice shall supervise, with the aid  
2 of the director, all employees of the judicial department of the state and assign, reassign, or modify  
3 assignments to various parts of the judicial department as the need may require.

4           *Section 2. Assignment Powers of [Departmental Justices and] Chief Judges.* [(a) Subject to the  
5 authority of and upon consultation with the chief justice, departmental justices shall have the power  
6 to assign or reassign judges to conduct sessions of the respective courts in their judicial circuit as the

1 business of those courts may require. In performing these tasks, the departmental justices shall be  
2 aided by the appeals court administrator.]

3 (b) Chief judges shall have general supervisory power over judges in their courts. They shall be  
4 subject to the assignment power of [departmental justices and] the chief justice as the situation may  
5 require.

6 *Section 3. Compensation for Assignment or Reassignment.* Any employee of the judicial de-  
7 partment, when reassigned to any court in this state on less than a permanent basis, shall serve with-  
8 out additional compensation but shall be reimbursed for all reasonable expenses actually incurred as  
9 a result of such reassignment.

## TITLE V

### RULES OF PRACTICE AND PROCEDURE

1 *Section 1. Rule Making Powers Vested in Supreme Court.* The supreme court shall make uni-  
2 form rules regulating practices and procedures in all courts of the judicial department and thereafter  
3 revise such rules at its discretion subject to modification by a [majority] [two-thirds] vote of each  
4 house of the legislature. All rules and regulations made under this act shall, when duly promulgated,  
5 have the force and effect of law.

6 *Section 2. Nature of Uniform Rules.* Uniform rules of practice and procedures shall apply to  
7 all courts. The supreme court shall provide for a public hearing not less than [ ] days before the  
8 adoption of any general rule or amendment thereof.

9 *Section 3. Criminal and Civil Procedures Rules Committee.* The supreme court may appoint a  
10 criminal and civil procedures rules committee [, the members of which shall be members of the state  
11 bar,] which shall assist the supreme court and the director in the preparation, revision, promulga-  
12 tion, publication and administration of general rules of practice and procedure.

13 *Section 4. General Rules of Court Business.* The chief justice may prescribe uniform rules  
14 governing the general business of and practice in any of the courts in the state. Such rules shall  
15 become immediately effective as of the date fixed by the chief justice.

## TITLE VI

### JUDICIAL QUALIFICATIONS AND SELECTION

1 *Section 1. Judicial Qualifications.* All judges in this state shall be licensed to practice law in  
2 this state [and shall possess the following additional qualifications: ].



1           *Section 2. Judicial Nominating Commissions.* There shall be one nominating commission for  
2 the supreme court [and court of appeals] and one judicial nominating commission for each general  
3 trial court district. After [insert appropriate date] whenever a vacancy shall occur in the office of  
4 judge in any court in this state, the governor shall fill such vacancy by appointing one of three per-  
5 sons possessing the qualifications for such office who shall be nominated and whose names shall be  
6 submitted to the governor by the appropriate judicial nominating commission established and organ-  
7 ized as hereafter provided. All such appointments shall be for a period of [ ] year [s]. If the governor  
8 fails for [45] days to make the appointment, [it shall be made from such nominees by the chief  
9 justice] [another set of three qualified nominees shall be submitted by the nominating commission  
10 to the governor].

11           *Section 3. Composition of Commissions.* Each judicial nominating commission shall consist of  
12 [ ] members. Members of the state bar shall elect [ ] of their number to act as members of the  
13 nominating commission in the judicial district where they reside. The governor shall appoint, subject  
14 to confirmation by the legislature, [ ] judges, and [ ] citizens who are neither judges, retired  
15 judges, nor members of the state bar to each judicial nominating commission in the state. [The chief  
16 justice shall be an ex officio member of the judicial nominating commission for the supreme court  
17 and court of appeals.] [[Departmental justices] [Chief judges] shall be ex officio members of the  
18 judicial nominating commissions for the judicial districts over which they have jurisdiction.] All  
19 terms shall be for [ ] years. [Insert language to provide for staggered terms.]

20           *Section 4. Restrictions on Members.* Members of judicial nominating commissions shall not  
21 hold any other elective or salaried public office. [Members shall not be eligible for reappointment or  
22 reelection to a judicial nominating commission.] No member of the commission, except members  
23 appointed to the commission as judges and ex officio members, shall be eligible for appointment as  
24 a judge as long as he is a member of that commission and for a period of [ ] years thereafter. All  
25 acts of judicial nominating commissions shall be made with the concurrence of a majority of its  
26 members. All commissions shall operate in accordance with rules promulgated by the supreme court.

27           *Section 5. Nominating Procedures.* In the event of a judicial vacancy, the chairman of the  
28 appropriate judicial nominating commission shall notify other members of the commission and sched-  
29 ule a public hearing to be held on qualified nominees for the vacancy. He shall also cause appropriate  
30 notice of such hearing to be published by the various news media and make known the interest of the  
31 judicial nominating commission to receive information relating to qualified applicants for the judicial  
32 vacancy. Any member of the public shall be entitled to attend the public hearing to express, either  
33 orally or in writing, his views concerning candidates for the judicial vacancy. After the public

1 hearing, a judicial nominating commission shall hold any additional [confidential] meetings and make  
2 any independent investigation and inquiry it deems necessary to determine the qualifications of can-  
3 didates for the judicial vacancy. Thereafter, the judicial nominating commission, upon the concur-  
4 rence of a majority of its members, shall recommend three qualified nominees for the judicial vacancy.  
5 [If the commission cannot name three qualified nominees within [ ] months of the judicial va-  
6 cancy, the governor, subject to the confirmation of the legislature, may appoint a qualified judge to  
7 the judicial vacancy.]

8 *Section 6. Election of Judges.* (a) Any judge desiring to retain his office after initial gubernatorial  
9 appointment and every [ ] years thereafter shall certify his candidacy to the proper election  
10 officials and the secretary of state no less than [ ] days before the said election. At the election  
11 the name of each judge who has filed such a certification shall be submitted to the voters, on the  
12 ballot without party designation, on the sole question of whether he shall be retained in office for  
13 another term. The elections shall be conducted in the appropriate judicial [circuits or] districts.

14 (b) The affirmative votes of a majority of qualified voters voting on the question shall retain  
15 a judge in office for the prescribed term.

16 (c) Any judge failing to file a declaration of candidacy or who fails reelection shall vacate his  
17 office at the expiration of his term. His vacancy shall be filled according to procedures of sections 2  
18 and 5 of this title.

19 *Section 7. Compensation of Commissions.* The members of judicial nominating commissions  
20 [who are public officials] shall receive no salary or other compensation for their service. [All other  
21 members shall be eligible for a per diem compensation of [\$50].] All members may be reimbursed  
22 for all reasonable expenses incurred in the discharge of their official duties. The budgets of all  
23 nominating commissions shall be included in the judicial department operating budget.

24 *Section 8. Unlawful Influence of Commissions.* It shall be unlawful and a breach of ethics for  
25 any judge, public officeholder, lawyer, or any other person or organization to attempt to influence  
26 any judicial nominating commission in any manner and on any basis except by presenting facts and  
27 opinions relevant to the judicial qualifications of the proposed nominees, at the times and in the  
28 manner set forth in section 5 of this title. Violation of this section shall be considered as contempt  
29 of the supreme court. Violation of this section by any judge of this state shall be grounds for dis-  
30 cipline or removal as provided for in title VI of this act.

## TITLE VII

### JUDICIAL CONDUCT

1            *Section 1. Judicial Canon of Ethics.* After due notice and hearing, the supreme court shall  
2 adopt and put into effect canons of judicial ethics which shall govern the conduct of all judges.  
3 Any violations of these canons shall be grounds for removal or retirement or discipline as provided in  
4 sections 5 through 8 of this title.

5            *Section 2. Full-time Judges.* (a) All judges shall devote full time to their judicial duties. Dur-  
6 ing his term of office a judge shall not practice law nor shall he be the partner or associate of any  
7 person in the practice of law. A judge shall also not hold any other employment or position of profit  
8 or hold a public office under the United States, this State, or any of its civil divisions during his term  
9 of office.

10           (b) Any judge violating section 2(a) of this title shall be subject to removal or discipline as  
11 provided for in sections 5 through 8 of this title.

12           *Section 3. Grounds for removal and Suspension.* (a) Without recourse to the commission on  
13 judicial qualifications, the supreme court shall suspend any judge from office without salary when he  
14 pleads guilty or no contest or is found guilty in a general trial court of a crime punishable as a felony  
15 under state or federal law or any other crime that involves moral turpitude under the law. If his  
16 conviction is reversed, suspension terminates and he shall be paid his salary for the period of his  
17 suspension. If his conviction becomes final, the supreme court shall remove him from his office.

18           (b) All other proceedings for removal shall be conducted through the judicial qualifications  
19 commission as provided for in sections 5 through 8 of this title.

20           *Section 4. Commission on Judicial Qualifications.* A commission on judicial qualifications  
21 is hereby established which shall consist of [ ] judges [appointed by the chief justice], [ ]  
22 members of the state bar [elected by that body], and [ ] citizens who shall not be judges, retired  
23 judges, or persons admitted to the practice of law. Members shall be appointed for a term of [ ]  
24 years. [Insert language to provide staggered terms.] Whenever a member resigns, dies, or ceases to  
25 be a member of the commission, the appointing authority as herein provided shall appoint a successor  
26 for the unexpired term. The commission shall elect one of its members to serve as a chairman for the  
27 term prescribed by the commission.

28           *Section 5. Grounds for Retirement or Removal.* Any judge, in accordance with the procedures  
29 described in this title, may by action of the supreme court be:

30           (1) retired from office for any physical or mental disability seriously interfering with the per-  
31 formance of his duties which is, or is likely to become, of a permanent character.

1 (2) disciplined or removed from office for action occurring within [ ] years before the  
2 commencement of his current term which constitutes willful misconduct in office, willful and per-  
3 sistent failure to perform his duties, habitual intemperance, unlawful influence of a judicial nominating  
4 commission, or any other conduct deemed prejudicial to the administration of justice or that brings  
5 the judicial office into disrepute.

6 *Section 6. Powers of the Commission.* (a) The commission shall have, but not be limited to,  
7 the following powers:

8 (1) to hold hearings and subpoena witnesses and exercise requisite process powers;

9 (2) to require a judge to submit to physical or mental examination by qualified medical experts;

10 (3) to make independent investigations either by members of the commission, or by special  
11 investigators employed by the commission or by the office of attorney general;

12 (4) to hold confidential hearings with all parties involved in the proceedings before the  
13 commission;

14 (5) to employ investigators, medical experts and such other employees as the commission in  
15 its discretion determines to be necessary to carry out its functions and purposes.

16 (b) All personnel of the judicial department of this state shall cooperate with and give reason-  
17 able assistance and information to the commission and any authorized representative thereof in  
18 connection with any investigations or proceedings within the jurisdiction of the commission. It also  
19 shall be the duty of any law enforcement officer of this state to serve process and execute all lawful  
20 orders of the commission throughout the state.

21 *Section 7. Procedures of the Commission.* (a) The commission on its own motion or on the  
22 complaint of any citizen may initiate proceedings for the retirement, discipline, or removal of any  
23 judge in the state. All citizen complaints shall be directed to the commission or to any member of  
24 the commission. No specified form of complaint shall be required.

25 (b) The commission may make such investigation as it deems necessary to verify or refute the  
26 substance of the complaint. After such investigation, the commission may order a confidential hear-  
27 ing to be held before it concerning the complaint. After confidential hearing, the commission may  
28 recommend to the supreme court the retirement, removal, or discipline, as the case may be, of the  
29 judge against whom the complaint is filed.

30 (c) The supreme court shall review the record of the commission proceedings and in its discre-  
31 tion may permit the introduction of additional evidence. It shall make whatever determinations it  
32 finds just and proper, and may order the removal, discipline, or retirement of the judge, or may  
33 wholly reject the recommendation. Upon an order for retirement, the judge shall thereby be retired

1 with the same rights and privileges as if he had retired pursuant to other provisions of law relating to  
2 retirement of judges. Upon an order for removal, the judge shall be removed from office and his  
3 salary shall cease from the date of such order. He shall be ineligible for judicial office for [ ] years.

4 (d) The director shall be the commission's executive secretary. He shall certify each order of  
5 the commission to the governor and the chief justice.

6 (e) No act of the commission shall be valid unless concurred in by a majority of its members.

7 (f) All papers filed with and proceedings before the commission shall be confidential and the  
8 record filed by the commission may become public record with the consent of the judge being in-  
9 vestigated. No members or employees of the commission shall disclose or use any commission  
10 records, files, or communications in any other than their official duties.

11 (g) No judge who is a member of the commission or of the supreme court shall sit on the  
12 commission or the court in any proceedings involving his own discipline, removal or retirement.

13 *Section 8. Rights of Judicial Defendants in Commission Action.* (a) In any proceeding involv-  
14 ing a judge's discipline, removal, or retirement, the judge shall have the right and reasonable opportu-  
15 nity to defend himself against complaints by the introduction of evidence, to be represented by  
16 counsel, and to examine and cross-examine witnesses. He shall also have the right to the issuance of  
17 subpoenas for attendance of witnesses to testify or produce books, papers, or other evidentiary  
18 matter.

19 (b) In any proceedings under this act, the judge under investigation and his counsel shall be  
20 given [ ] days advance notice of such proceedings.

21 (c) A judge is disqualified from acting as a judge, without loss of salary, while there is pending  
22 a recommendation to the supreme court by the commission for his removal or retirement.

23 *Section 9. Voluntary Retirement for Disability.* Any judge desiring to retire on the grounds of  
24 mental or physical disability shall certify to the commission his request for retirement and the nature  
25 of his disability; and the commission may order a medical examination and make a report and  
26 recommendation.

27 *Section 10. Budget and Compensation of Commission.* The judicial department shall be  
28 responsible for preparing and presenting to the legislature proposed annual budgets for the commis-  
29 sion. Members of the commission [who hold other salaried public office] shall serve without com-  
30 pensation. [Other members shall be eligible for a per diem compensation of [\$50].] Members shall  
31 be reimbursed for all reasonable expenses incurred by them in connection with their duties as mem-  
32 bers of the commission.

## TITLE VIII

### COURT PERSONNEL AND FINANCES

1        *Section 1. State Responsibility for Court Finances.* After [insert appropriate date] the legisla-  
2        ture shall appropriate funds for the expenses of the judicial department.

3        *Section 2. Court Personnel and Compensation.* (a) After [insert appropriate date] the chief  
4        justice shall prescribe by rule a personnel classification plan for all courts in the judicial department.  
5        Such a plan shall include: (i) a basic compensation plan of pay ranges to which classes of positions  
6        shall be assigned and may be reassigned; (ii) qualifications for all nonjudicial positions and classes of  
7        positions which shall include education, experience, special skills, and legal knowledge; (iii) an  
8        outline of duties to be performed in each position and class of positions; (iv) the number of full-time  
9        and part-time positions, by position title and classification, in each court in the state; (v) the proce-  
10       dures for and regulations governing the appointment and removal of nonjudicial personnel; (vi) the  
11       procedures for and regulations governing the promotion of nonjudicial personnel; and (vii) the  
12       amount, terms, and conditions of sick leave and vacation time and fringe benefits for court personnel,  
13       including annual allowance and accumulation thereof, and hours of work and other conditions of  
14       employment.

15       (b) The chief justice, in promulgating rules as set forth in this section, shall take into account  
16       the compensation and classification plans, vacation and sick leave provisions, and other conditions of  
17       employment applicable to the employees of the executive and legislative departments. The chief  
18       justice shall be aided by the administrative office of the courts in the implementation of this section.

19       *Section 3. Operating Budgets.* (a) The director shall, subject to the approval of the chief  
20       justice, prepare annually a consolidated operating budget for all courts in the state to be known as  
21       the judicial department operating budget. He shall be assisted in this task by all [appeals court and]  
22       general trial court administrators.

23       (b) The director shall prepare the consolidated court budget according to procedures prescribed  
24       by the [state budget officer] [and the joint budget committee of the legislature]. Budget requests  
25       and other additional information as requested shall be transmitted to the [state budget officer] [and  
26       the joint budget committee of the legislature] by [insert appropriate date]. The governor shall  
27       include his recommendations for court appropriations by [insert appropriate date] and the legislature  
28       shall make appropriations to courts based on an evaluation of the budget request, the governor's  
29       recommendations and the availability of state funds.

30       (c) The director, subject to the approval of the chief justice, shall prescribe the financial



1 management procedures to be used in all courts of the judicial department. These procedures shall  
2 include but not be limited to: (1) the preparation of budget requests, (2) the disbursement of funds  
3 appropriated to the judicial department, (3) the purchase of forms, supplies, equipment, and other  
4 items as authorized in the judicial department operating budget, and (4) any other matter relating to  
5 fiscal administration.

6 *Section 4. Capital Budgets.* (a) The director shall, subject to the approval of the chief justice,  
7 prepare a consolidated capital budget for all courts in the state. He shall be assisted in this task by all  
8 [appeals court and] general trial court administrators.

9 (b) The director shall prepare the consolidated capital budget according to procedures pre-  
10 scribed by the [state budget officer] [and the joint budget committee of the legislature]. Budget  
11 requests and other additional information as requested shall be transmitted to the [state budget offi-  
12 cer] [and the joint budget committee] by [insert appropriate date]. The governor shall include his  
13 recommendations for court capital expenditures by [insert appropriate date] and the legislature  
14 shall make appropriations or authorize bond issues for court capital expenditures based on an evalua-  
15 tion of the budget request, the governor's recommendations and the availability of state funds.

16 (c) The consolidated capital budget for the judicial department shall include but not be  
17 limited to:

18 (1) projections of additional court facilities required for each court;

19 (2) estimated costs of the additional facilities and whether these facilities will include space to  
20 be used by other state agencies or governmental units of the state; and

21 (3) a detailed report on the present court facilities currently in use and the reasons for their  
22 inadequacy. The capital budget shall also indicate the relative priority of the capital construction  
23 needs for each court for the next [ ] years.

24 (d) The director, subject to the approval of the chief justice, may enter into leasing agreements  
25 with local units of government or other departments of the state government when joint construction  
26 of capital facilities is authorized. The leasing agreement shall provide for the payment of state funds  
27 for that portion of the construction costs related to the operation of the courts.

## TITLE IX

### JUDICIAL RETIREMENT

1 *Section 1. Mandated Retirement.* All judges shall retire at the age of seventy. They shall be  
2 included in a retirement plan of the state.

1           *Section 2. Eligibility for Reappointment.* All retired judges shall be eligible for reappointment  
2 by the chief justice as an active retired judge. An active retired judge shall be subject to the same  
3 judicial rules and regulations as other judges. He shall act only in such cases and matters and hold  
4 court only at such times as he may be directed and assigned by the chief judge of his court. In no  
5 case shall a judge serve on the bench after [eighty] years of age.

6           *Section 3. Retirement System.*<sup>2</sup> (a) After [insert appropriate date] the director, subject to  
7 the approval of the supreme court [and the state retirement board] shall promulgate the terms and  
8 conditions of retirement for judicial department personnel. They shall include, but not be limited  
9 to:

- 10           (1) eligibility for retirement,
- 11           (2) basis of retirement compensation for the employees of the judicial department and their  
12 survivors,
- 13           (3) conditions of receiving retirement pay as concerns outside employment,
- 14           (4) conditions for retirement for disability,
- 15           (5) any other matter that may be properly related to the determination of retirement pay.

16 In defining the terms and condition of retirement for personnel of the judicial department, the  
17 director shall take into account the retirement plans applicable to employees of the executive and  
18 legislative departments.

19           (b) After [insert effective date of act] all employees of local judicial agencies shall be deemed  
20 to be employees of the judicial department. These employees shall receive full credit for the time  
21 employed by local judicial agencies in computing the number of years of service required to receive  
22 pension benefits under the [insert appropriate state retirement plan].

## TITLE X

### MISCELLANEOUS

1           *Section 1. Effective Date.* [Insert effective date.]

2           *Section 2. Severability.* [Insert severability clause.]

3           *Section 3. Transition.* [Insert appropriate transition provisions.]

<sup>2</sup>Some States may wish to integrate the judicial personnel retirement system with an existing retirement system.

PUBLISHED REPORTS OF THE ADVISORY COMMISSION  
ON INTERGOVERNMENTAL RELATIONS<sup>1</sup>

- Coordination of State and Federal Inheritance, Estate and Gift Taxes. Report A-1, January 1961. 134 pages.
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