

First Regular Session
Sixty-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 01-0070.01 Jerry Barry

SENATE BILL 01-060

SENATE SPONSORSHIP

Evans

HOUSE SPONSORSHIP

Lee

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING CHANGES TO JUDICIAL PERFORMANCE COMMISSIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates the office of commissions on judicial performance as an agency of the judicial department to assist the state and district commissions on judicial performance. Authorizes the state commission to appoint, with the consent of the senate, an executive director of the office. Directs the office to store all records of the commissions on judicial performance for at least 15 years.

Directs the state commission on judicial performance to develop:

- New performance criteria consisting of bail practices, order enforcement procedures, impartiality, demeanor or

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.

arrogance, and compliance with continuing education requirements;

- Before each election, a series of questions or statements to rate the performance of the justice or judge in each of the performance criteria areas;
- Criteria and standards for commissions to apply in responding to the performance questions;
- Criteria and standards for developing plans to improve a justice's, judge's, or magistrate's performance in a performance criteria area; and
- Surveys for justices, judges, and magistrates to evaluate other justices, judges, and magistrates.

Eliminates the 2-term limitation imposed on members of the commissions on judicial performance.

Requires commissions on judicial performance to respond to the questions or statements with "strongly agree", "agree", "disagree", "strongly disagree", or "no opinion" for each justice, judge, and magistrate, and to publish such responses. Authorizes each commission on judicial performance to develop an individual plan for a justice, judge, or magistrate to improve in a performance criteria area. Provides that the individual plan shall be released only to the chief justice, the state commission, and, if applicable, to the chief judge of the court and the district commission approving the plan. If a justice, judge, or magistrate fails to complete an improvement plan, directs that the justice's, judge's, or magistrate's performance on an improvement plan be included in the narrative profile in the following evaluation. Requires judicial performance commission evaluations to be available on the state's internet web page.

Creates a vacancy whenever a judicial performance commission member fails to appear at 2 consecutive meetings, unless such absence is excused by the chair of the commission.

Authorizes members of judicial performance commissions and employees of the office to receive a recusal from a justice or judge whom the member has evaluated.

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

2 **SECTION 1.** 13-5.5-101, Colorado Revised Statutes, is amended
3 to read:

4 **13-5.5-101. Legislative declaration.** The general assembly
5 hereby finds and declares that it is in the public interest to establish a AN

1 INDEPENDENT system of evaluating judicial performance to provide
2 persons voting on the retention of justices and judges with fair,
3 responsible, and constructive information about judicial performance and
4 to provide justices, judges, and magistrates with useful information
5 concerning their own performances. The general assembly further finds
6 and declares that the evaluation of judicial performance should be
7 conducted statewide and within each judicial district using uniform
8 criteria and procedures established by a state commission on judicial
9 performance pursuant to the provisions of this article.

10 **SECTION 2.** Article 5.5 of title 13, Colorado Revised Statutes,
11 is amended BY THE ADDITION OF A NEW SECTION to read:

12 **13-5.5-101.5. Office of commissions on judicial performance.**

13 (1) THERE IS HEREBY ESTABLISHED THE OFFICE OF COMMISSIONS ON
14 JUDICIAL PERFORMANCE AS AN AGENCY OF THE JUDICIAL DEPARTMENT,
15 REFERRED TO IN THIS ARTICLE AS THE "OFFICE". THE OFFICE SHALL ASSIST
16 THE STATE COMMISSION AND THE DISTRICT COMMISSIONS IN THE
17 PERFORMANCE OF THEIR ASSIGNED DUTIES.

18 (2) THE STATE COMMISSION SHALL APPOINT, WITH THE CONSENT OF
19 THE SENATE, AN EXECUTIVE DIRECTOR WHO SHALL BE THE EXECUTIVE
20 OFFICER OF THE OFFICE, SHALL SERVE AT THE PLEASURE OF THE STATE
21 COMMISSION, AND SHALL RECEIVE COMPENSATION COMMENSURATE WITH
22 THE DUTIES OF THE OFFICE. THE DUTIES AND RESPONSIBILITIES OF THE
23 EXECUTIVE DIRECTOR SHALL BE DISCHARGED IN ACCORDANCE WITH THE
24 POLICIES, PROCEDURES, AND DIRECTIVES OF THE STATE COMMISSION. THE
25 EXECUTIVE DIRECTOR SHALL EMPLOY SUCH PROFESSIONAL AND CLERICAL
26 PERSONNEL AS MAY BE DEEMED NECESSARY TO CARRY OUT THE DUTIES
27 AND FUNCTIONS OF THE OFFICE.

1 (3) THE OFFICE SHALL MAINTAIN ALL RECORDS OF PROCEEDINGS
2 AND DOCUMENTS OF THE STATE COMMISSION AND THE DISTRICT
3 COMMISSIONS FOR A PERIOD OF NOT FEWER THAN TEN YEARS. THE OFFICE
4 SHALL PROVIDE ADMINISTRATIVE ASSISTANCE TO THE STATE COMMISSION
5 AND THE DISTRICT COMMISSIONS.

6 **SECTION 3.** 13-5.5-102 (1) (a), (1) (b), and (2), Colorado
7 Revised Statutes, are amended to read:

8 **13-5.5-102. State commission on judicial performance.**

9 (1) (a) (I) There is hereby established IN THE OFFICE the state commission
10 on judicial performance, referred to in this article as the "state
11 commission".

12 (II) The state commission shall consist of ten members. The
13 speaker of the house of representatives and the president of the senate
14 shall each appoint one attorney and one nonattorney. The governor and
15 the chief justice of the supreme court shall each appoint one attorney and
16 two nonattorneys. All members of the state commission shall serve terms
17 of four years. ~~except that, of those first appointed, one person appointed~~
18 ~~by each appointing authority shall serve for a term of two years. All~~
19 ~~initial appointments shall be completed by July 1, 1988. The term of any~~
20 ~~member of the state commission serving as of June 30, 1997, shall expire~~
21 ~~on November 30 of the year in which the term is scheduled to expire. The~~
22 term of any member appointed on or after July 1, 1997, to replace a
23 member of the state commission at the end of his or her term shall
24 commence on December 1 of the year in which the previous member's
25 term is scheduled to expire. A VACANCY SHALL BE CREATED WHENEVER
26 A MEMBER FAILS TO APPEAR AT TWO CONSECUTIVE MEETINGS OF THE STATE
27 COMMISSION, UNLESS THE MEMBER'S ATTENDANCE AT ONE OF THE

1 MEETINGS IS EXCUSED BY THE CHAIR OF THE STATE COMMISSION.

2 (b) Any vacancy on the state commission shall be filled by the
3 original appointing authority. ~~but no member shall serve more than two~~
4 ~~full terms plus any balance remaining on an unexpired term if the initial~~
5 ~~appointment was to fill a vacancy.~~ Within five days after a vacancy arises
6 on the state commission, the state commission shall notify the appointing
7 authority of the vacancy, and the appointing authority shall make an
8 appointment within forty-five days after the date of the vacancy. If the
9 original appointing authority fails to make the appointment, or
10 appointments if more than one vacancy, within forty-five days after the
11 date of the vacancy, the state commission shall make the appointment or
12 appointments. Justices and judges actively performing judicial duties may
13 not be appointed to serve on the state commission. Retired justices and
14 judges are eligible to be appointed as attorney members; except that no
15 retired justice or judge may be assigned or appointed to perform judicial
16 duties while serving on the state commission.

17 (2) (a) ~~Members and employees~~ of the state commission AND
18 EMPLOYEES OF THE OFFICE shall be immune from suit in any action, civil
19 or criminal, based upon official acts performed in good faith as members
20 of the state commission OR EMPLOYEES OF THE OFFICE.

21 (b) IF ANY MEMBER OF THE STATE COMMISSION OR EMPLOYEE OF
22 THE OFFICE IS AN ATTORNEY OR A PARTY IN A MATTER BEFORE A JUSTICE OR
23 JUDGE WHOM THE MEMBER OR EMPLOYEE HAS EVALUATED, THE MEMBER
24 OR EMPLOYEE MAY FILE A MOTION TO RECUSE THE JUSTICE OR JUDGE AND
25 THE JUSTICE OR JUDGE SHALL GRANT THE MOTION TO RECUSE. THE
26 REQUIREMENT THAT THE JUDGE GRANT THE MOTION TO RECUSE PURSUANT
27 TO THIS PARAGRAPH (b) SHALL APPLY ONLY TO AN ATTORNEY WHO IS AN

1 ACTIVE PARTICIPANT IN THE MATTER AND NOT TO ANY OTHER ATTORNEY
2 IN THE ATTORNEY'S FIRM.

3 **SECTION 4.** 13-5.5-103 (1) (a), (1) (b), (1) (d.5), (1) (i), (1) (j),
4 and (1) (k), Colorado Revised Statutes, are amended, and the said
5 13-5.5-103 (1) is further amended BY THE ADDITION OF THE
6 FOLLOWING NEW PARAGRAPHS, to read:

7 **13-5.5-103. Powers and duties of the state commission.** (1) In
8 addition to other powers conferred and duties imposed upon the state
9 commission by this article, the state commission has the following powers
10 and duties:

11 (a) To develop techniques for evaluating district and county judges
12 AND MAGISTRATES, justices of the supreme court, and judges of the court
13 of appeals on relevant performance criteria, which include, but are not
14 limited to: Integrity; knowledge and understanding of substantive,
15 procedural, and evidentiary law; communication skills; preparation,
16 attentiveness, and control over judicial proceedings; sentencing AND BAIL
17 practices; ORDER ENFORCEMENT PROCEDURES; docket management and
18 prompt case disposition; administrative skills; punctuality; IMPARTIALITY;
19 DEMEANOR OR ARROGANCE; effectiveness in working with participants in
20 the judicial process; ~~and~~ service to the legal profession and the public;
21 AND COMPLIANCE WITH CONTINUING LEGAL EDUCATION REQUIREMENTS;

22 (a.5) ON OR BEFORE JANUARY 1, 2002, AND ON OR BEFORE
23 JANUARY 1 OF EACH EVEN-NUMBERED YEAR THEREAFTER, TO DEVELOP
24 BASIC QUESTIONS OR STATEMENTS, THE RESPONSES TO WHICH MAY BE
25 "STRONGLY AGREE", "AGREE", "DISAGREE", "STRONGLY DISAGREE", OR "NO
26 OPINION" TO RATE JUSTICES, JUDGES, AND MAGISTRATES ADDRESSING EACH
27 OF THE RELEVANT CRITERIA DEVELOPED PURSUANT TO PARAGRAPH (a) OF

1 THIS SUBSECTION (1) AND SELECT THREE OF SUCH QUESTIONS OR
2 STATEMENTS FOR WHICH RESPONSES ARE REQUIRED FOR EVERY JUSTICE,
3 JUDGE, OR MAGISTRATE BEING EVALUATED;

4 (b) To develop surveys for OTHER JUSTICES, JUDGES, AND
5 MAGISTRATES AND FOR lawyers, jurors, litigants, law enforcement
6 personnel, attorneys within the district attorney's and public defender's
7 offices, employees of local departments of social services, and victims of
8 crimes, as defined in section 24-4.1-302 (5), determine the statistical
9 validity of completed surveys, report to the district commissions on the
10 statistical validity of the surveys for their district, and specify when and
11 how statistically invalid surveys may be used, and to recommend judicial
12 performance evaluations by peers, chief judges, court personnel, and
13 others who have direct and continuing contact with justices, ~~and~~ judges,
14 AND MAGISTRATES;

15 (d.5) To develop criteria and standards that are to be utilized in
16 determining whether to recommend retention BASED UPON THE RESPONSES
17 TO THE QUESTIONS OR STATEMENTS DEVELOPED PURSUANT TO PARAGRAPH
18 (a.5) OF THIS SUBSECTION (1);

19 (d.6) TO DEVELOP CRITERIA AND STANDARDS THAT ARE TO BE
20 UTILIZED IN DETERMINING RESPONSES TO THE QUESTIONS OR STATEMENTS
21 DEVELOPED PURSUANT TO PARAGRAPH (a.5) OF THIS SUBSECTION (1);

22 (d.7) TO DEVELOP CRITERIA AND STANDARDS TO APPLY IN
23 DETERMINING THE CONTENT OF ANY IMPROVEMENT PLAN FOR ANY JUSTICE,
24 JUDGE, OR MAGISTRATE WHOSE PERFORMANCE IN A PERFORMANCE
25 CRITERIA AREA IS FOUND BY THE STATE COMMISSION OR THE DISTRICT
26 COMMISSION TO BE BELOW AVERAGE;

27 (h.5) TO SELECT FOR EACH APPELLATE JUSTICE OR JUDGE SUBJECT

1 TO RETENTION FROM THE QUESTIONS OR STATEMENTS DEVELOPED
2 PURSUANT TO PARAGRAPH (a.5) OF THIS SUBSECTION (1) NO FEWER THAN
3 TWO QUESTIONS OR STATEMENTS IN ADDITION TO THE QUESTIONS OR
4 STATEMENTS TO BE APPLIED TO EVERY JUSTICE AND JUDGE;

5 (i) To produce, ~~and~~ distribute to the public, AND MAKE AVAILABLE
6 ON THE STATE INTERNET HOME PAGE THE RESPONSES AND ANY
7 EXPLANATION OF THE RESPONSES TO THE THREE QUESTIONS OR
8 STATEMENTS SELECTED PURSUANT TO PARAGRAPH (a.5) OF THIS
9 SUBSECTION (1) AND THE ADDITIONAL QUESTIONS OR STATEMENTS
10 SELECTED PURSUANT TO PARAGRAPH (h.5) OF THIS SUBSECTION (1) AND A
11 SUMMARY OF a narrative profile and such other information as may be
12 permitted by the rules of the state commission concerning each appellate
13 justice or judge subject to retention election;

14 (i.5) TO DETERMINE WHETHER TO ADOPT AN IMPROVEMENT PLAN
15 FOR ANY APPELLATE JUSTICE OR JUDGE WHOSE PERFORMANCE IN ONE OF
16 THE PERFORMANCE CRITERIA AREAS IS RATED BELOW AVERAGE;

17 ~~(j) To hire an executive director and such other employees as it~~
18 ~~deems necessary;~~

19 (k) To promulgate ~~subject to approval by the supreme court,~~ rules
20 necessary to implement and effectuate the provisions of this article,
21 including rules to be followed by the district commissions;

22 **SECTION 5.** 13-5.5-103, Colorado Revised Statutes, is amended
23 BY THE ADDITION OF A NEW SUBSECTION to read:

24 **13-5.5-103. Powers and duties of the state commission.**

25 (2) (a) EXCEPT AS PERMITTED BY PARAGRAPH (b) OF THIS SUBSECTION (2),
26 ANY IMPROVEMENT PLAN ADOPTED PURSUANT TO PARAGRAPH (i.5) OF
27 SUBSECTION (1) OF THIS SECTION SHALL BE CONFIDENTIAL AND SHALL NOT

1 BE SUBJECT TO THE OPEN RECORDS REQUIREMENTS OF PART 2 OF ARTICLE
2 72 OF TITLE 24, C.R.S.

3 (b) (I) ANY IMPROVEMENT PLAN ADOPTED PURSUANT TO
4 PARAGRAPH (i.5) OF SUBSECTION (1) OF THIS SECTION SHALL BE RELEASED
5 ONLY TO THE JUSTICE OR JUDGE WHO IS THE SUBJECT OF THE PLAN, THE
6 CHIEF JUDGE OF THE COURT ON WHICH THE JUSTICE OR JUDGE SITS, THE
7 CHIEF JUSTICE, AND THE STATE COMMISSION.

8 (II) IF A JUSTICE OR JUDGE FAILS TO COMPLETE AN IMPROVEMENT
9 PLAN, THE IMPROVEMENT PLAN MAY BE RELEASED TO THE PUBLIC, AT THE
10 DISCRETION OF THE STATE COMMISSION.

11 **SECTION 6.** 13-5.5-104 (1) (a), (1) (b), (2), and (3), Colorado
12 Revised Statutes, are amended to read:

13 **13-5.5-104. District commission on judicial performance.**

14 (1) (a) There is hereby established in ~~each judicial district~~ THE OFFICE a
15 district commission on judicial performance FOR EACH JUDICIAL DISTRICT,
16 referred to in this article as the "district commission". ~~The~~ EACH district
17 commission shall consist of ten members. The speaker of the house of
18 representatives and the president of the senate shall each appoint one
19 attorney and one nonattorney TO EACH DISTRICT COMMISSION. The
20 governor and the chief justice of the supreme court shall each appoint one
21 attorney and two nonattorneys TO EACH DISTRICT COMMISSION. All
22 members of ~~the~~ A district commission shall serve terms of four years.
23 ~~except that, of those first appointed, one person appointed by each~~
24 ~~appointing authority shall serve for a term of two years. All initial~~
25 ~~appointments shall be completed by July 1, 1989.~~ The appointing
26 authority may remove members of ~~the~~ A district ~~commissions~~ COMMISSION
27 for cause. ~~The term of any member of a district commission serving as of~~

1 ~~June 30, 1997, shall expire on November 30 of the year in which the term~~
2 ~~is scheduled to expire.~~ The term of any member appointed on or after
3 July 1, 1997, to replace a member of a district commission at the end of
4 his or her term shall commence on December 1 of the year in which the
5 previous member's term is scheduled to expire. A VACANCY SHALL BE
6 CREATED WHENEVER A MEMBER FAILS TO APPEAR AT TWO CONSECUTIVE
7 MEETINGS OF THE DISTRICT COMMISSION, UNLESS THE MEMBER'S
8 ATTENDANCE AT ONE OF THE MEETINGS IS EXCUSED BY THE CHAIR OF THE
9 DISTRICT COMMISSION.

10 (b) Any vacancy on the district commission shall be filled by the
11 original appointing authority. ~~but no member shall serve more than two~~
12 ~~full terms plus any balance remaining on an unexpired term if the initial~~
13 ~~appointment was to fill a vacancy.~~ Within five days after a vacancy arises
14 on a district commission, the district commission shall notify the
15 appointing authority and the state commission of the vacancy, and the
16 appointing authority shall make an appointment within forty-five days
17 after the date of the vacancy. If the original appointing authority fails to
18 make the appointment, or appointments if more than one vacancy, within
19 forty-five days after the date of the vacancy, the state commission shall
20 make the appointment or appointments. Justices and judges actively
21 performing judicial duties may not be appointed to serve on the district
22 commission. Retired justices and judges are eligible to be appointed as
23 attorney members; except that no retired justice or judge may be assigned
24 or appointed to perform judicial duties while serving on the district
25 commission.

26 (2) The district administrator of each judicial district and his OR
27 HER staff shall ~~serve as the staff for~~ ASSIST the district commission. NO

1 DISTRICT ADMINISTRATOR OR HIS OR HER STAFF SHALL BE REPRIMANDED
2 OR PENALIZED IN ANY WAY FOR COOPERATING WITH THE DISTRICT
3 COMMISSION. THE DISTRICT ADMINISTRATOR OR HIS OR HER STAFF SHALL
4 PROMPTLY REPORT TO THE DISTRICT COMMISSION ANY ACTION TAKEN OR
5 THREATENED AGAINST THE ADMINISTRATOR OR STAFF FOR COOPERATING
6 WITH THE DISTRICT COMMISSION.

7 (3) (a) Members ~~and employees~~ of a district commission shall be
8 immune from suit in any action, civil or criminal, based upon official acts
9 performed in good faith as members of the district commission.

10 (b) IF ANY MEMBER OF THE DISTRICT COMMISSION IS AN ATTORNEY
11 OR A PARTY IN A MATTER BEFORE A JUDGE WHOM THE MEMBER HAS
12 EVALUATED, THE MEMBER MAY FILE A MOTION TO RECUSE THE JUDGE AND
13 THE JUDGE SHALL GRANT THE MOTION TO RECUSE. THE REQUIREMENT
14 THAT THE JUDGE GRANT THE MOTION TO RECUSE PURSUANT TO THIS
15 PARAGRAPH (b) SHALL APPLY ONLY TO AN ATTORNEY WHO IS AN ACTIVE
16 PARTICIPANT IN THE MATTER AND NOT TO ANY OTHER ATTORNEY IN THE
17 ATTORNEY'S FIRM.

18 **SECTION 7.** 13-5.5-105, Colorado Revised Statutes, is amended
19 to read:

20 **13-5.5-105. Powers and duties of district commissions.** (1) In
21 addition to other powers conferred and duties imposed upon a district
22 commission by this article, a district commission has the following powers
23 and duties subject to and in conformity with the rules promulgated by the
24 state commission and the state commission's review of deliberation
25 procedures pursuant to section 13-5.5-103 (1) (l):

26 (a) To distribute surveys, interview judges ANDMAGISTRATES, and,
27 to the extent deemed appropriate by the district commission, interview

1 other appropriate persons, accept information and documentation from
2 interested parties, and, following at least ten days' notice, conduct public
3 hearings; ~~and~~

4 (a.5) TO SELECT, FOR EACH JUDGE OR MAGISTRATE BEING
5 EVALUATED, FROM THE QUESTIONS OR STATEMENTS DEVELOPED PURSUANT
6 TO SECTION 13-5.5-103 (1) (a.5) NO FEWER THAN TWO QUESTIONS OR
7 STATEMENTS IN ADDITION TO THE QUESTIONS OR STATEMENTS TO BE
8 APPLIED TO EVERY JUSTICE, JUDGE, AND MAGISTRATE;

9 (b) To draft, produce, ~~and~~ distribute to the public, AND MAKE
10 AVAILABLE ON THE STATE INTERNET HOME PAGE THE RESPONSES AND ANY
11 EXPLANATION OF THE RESPONSES TO THE THREE QUESTIONS OR
12 STATEMENTS SELECTED PURSUANT TO SECTION 13-5.5-103 (1) (a.5) AND
13 THE ADDITIONAL QUESTIONS OR STATEMENTS SELECTED PURSUANT TO
14 PARAGRAPH (a.5) OF THIS SUBSECTION (1) AND A SUMMARY OF a narrative
15 profile on each district and county judge and magistrate required to be
16 evaluated under section 13-5.5-106 (2) or (3); AND

17 (c) TO DETERMINE WHETHER TO ADOPT AN IMPROVEMENT PLAN FOR
18 ANY JUDGE OR MAGISTRATE WHOSE PERFORMANCE IN ONE OF THE
19 PERFORMANCE CRITERIA AREAS IS RATED BELOW AVERAGE.

20 **SECTION 8.** 13-5.5-105, Colorado Revised Statutes, is amended
21 BY THE ADDITION OF A NEW SUBSECTION to read:

22 **13-5.5-105. Powers and duties of the district commissions.**

23 (2) (a) EXCEPT AS PERMITTED BY PARAGRAPH (b) OF THIS SUBSECTION (2),
24 ANY IMPROVEMENT PLAN ADOPTED PURSUANT TO PARAGRAPH (c) OF
25 SUBSECTION (1) OF THIS SECTION SHALL BE CONFIDENTIAL AND SHALL NOT
26 BE SUBJECT TO THE OPEN RECORDS REQUIREMENTS OF PART 2 OF ARTICLE
27 72 OF TITLE 24, C.R.S.

1 (b) (I) ANY IMPROVEMENT PLAN ADOPTED PURSUANT TO
2 PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION SHALL BE RELEASED
3 ONLY TO THE JUDGE OR MAGISTRATE WHO IS THE SUBJECT OF THE PLAN,
4 THE CHIEF JUDGE OF THE COURT ON WHICH THE JUDGE OR MAGISTRATE
5 SITS, THE CHIEF JUSTICE, THE STATE COMMISSION, AND THE DISTRICT
6 COMMISSION APPROVING THE PLAN.

7 (II) IF A JUDGE OR MAGISTRATE FAILS TO COMPLETE AN
8 IMPROVEMENT PLAN, THE IMPROVEMENT PLAN MAY BE RELEASED TO THE
9 PUBLIC, AT THE DISCRETION OF THE STATE COMMISSION.

10 **SECTION 9.** 13-5.5-106, Colorado Revised Statutes, is amended
11 to read:

12 **13-5.5-106. Evaluations of justices, judges, and magistrates.**

13 (1) (a) The state commission shall conduct an evaluation of each justice
14 of the supreme court and each judge of the court of appeals whose term
15 is to expire following the next general election. ~~but not before July 1,~~
16 ~~1989.~~ Evaluations shall be completed and the narrative profile AND
17 RESPONSES AND EXPLANATIONS OF THE RESPONSES TO THE QUESTIONS OR
18 STATEMENTS DEVELOPED PURSUANT TO SECTION 13-5.5-103 (1) (a.5)
19 prepared for communication to the appellate justice or judge no later than
20 ~~forty-five days prior to the last day available for the appellate justice or~~
21 ~~judge to declare such justice's or judge's intent to stand for retention~~ MAY
22 1 OF THE YEAR IN WHICH THE RETENTION ELECTION IS TO BE HELD. IF A
23 JUSTICE OR JUDGE FAILED TO COMPLETE A PERFORMANCE PLAN DEVELOPED
24 PURSUANT TO PARAGRAPH (a.5) OF THIS SUBSECTION (1), THE NARRATIVE
25 PROFILE SHALL INCLUDE A STATEMENT CONCERNING THE JUSTICE'S OR
26 JUDGE'S PERFORMANCE ON THE PERFORMANCE PLAN. The appellate justice
27 or judge shall have the opportunity to meet with the state commission or

1 otherwise respond to the evaluation, THE NARRATIVE PROFILE, AND THE
2 RESPONSES no later than ten days following such justice's or judge's
3 receipt of such evaluation, PROFILE, AND RESPONSES. If such meeting is
4 held or response is made, the state commission may CONDUCT ADDITIONAL
5 INTERVIEWS OR SEEK ADDITIONAL INFORMATION AND MAY revise its
6 evaluation, PROFILE, OR RESPONSES.

7 (a.5) IF THE STATE COMMISSION FINDS THAT A JUSTICE'S OR JUDGE'S
8 PERFORMANCE IN ONE OR MORE OF THE PERFORMANCE CRITERIA AREAS IS
9 BELOW AVERAGE, AS PART OF THE EVALUATION, THE STATE COMMISSION,
10 WITH INPUT FROM THE JUSTICE OR JUDGE, MAY DEVELOP AN IMPROVEMENT
11 PLAN DESIGNED TO IMPROVE THE JUSTICE'S OR JUDGE'S PERFORMANCE IN
12 SUCH AREA OR AREAS.

13 (b) After the requirement of paragraph (a) of this subsection (1) is
14 met, the state commission shall make a recommendation regarding the
15 retention of each appellate justice or judge who declares his or her intent
16 to stand for retention, which recommendation shall be stated as "retain",
17 "do not retain", or "no opinion" AND A FINAL DECISION ON RESPONSES TO
18 THE QUESTIONS OR STATEMENTS DEVELOPED PURSUANT TO SECTION
19 13-5.5-103 (1) (a.5). A "no opinion" recommendation OR RESPONSE shall
20 be made only when the state commission concludes that results are not
21 sufficiently clear to make a firm recommendation OR RESPONSE and shall
22 be accompanied by a detailed explanation.

23 (c) The state commission shall release the narrative profile, the
24 recommendation, THE RESPONSES AND ANY EXPLANATION OF THE
25 RESPONSES TO THE QUESTIONS OR STATEMENTS, and any other relevant
26 information to the public AND THE CHIEF JUSTICE no later than ~~forty-five~~
27 SIXTY days prior to the retention election. The state commission shall

1 arrange to have a summary of the narrative profile, ~~and~~ THE
2 recommendation, AND THE RESPONSES AND ANY EXPLANATION OF THE
3 RESPONSES TO THE QUESTIONS OR STATEMENTS printed in the ballot
4 information booklet prepared pursuant to section 1-40-124.5, C.R.S., and
5 mailed to electors pursuant to section 1-40-125, C.R.S.

6 (2) (a) The district commission shall conduct an evaluation of each
7 district and county judge whose term is to expire following the next
8 general election. ~~but not before July 1, 1989.~~ Evaluations shall be
9 completed and the narrative profile AND RESPONSES AND ANY
10 EXPLANATION OF THE RESPONSES TO THE QUESTIONS OR STATEMENTS
11 DEVELOPED PURSUANT TO SECTION 13-5.5-103 (1) (a.5) prepared for
12 communication to the judge no later than ~~forty-five days prior to the last~~
13 ~~day available for the judge to declare such judge's intent to stand for~~
14 ~~retention~~ MAY 1 OF THE YEAR IN WHICH THE RETENTION ELECTION IS TO BE
15 HELD. IF A JUDGE FAILED TO COMPLETE A PERFORMANCE PLAN DEVELOPED
16 PURSUANT TO PARAGRAPH (a.5) OF THIS SUBSECTION (2), THE NARRATIVE
17 PROFILE SHALL INCLUDE A STATEMENT CONCERNING THE JUDGE'S
18 PERFORMANCE ON THE PERFORMANCE PLAN. The judge shall have the
19 opportunity to meet with the district commission or otherwise respond to
20 the evaluation, PROFILE, AND RESPONSES no later than ten days following
21 such judge's receipt of such evaluation, PROFILE, AND RESPONSES. If such
22 meeting is held or response is made, the district commission may
23 CONDUCT ADDITIONAL INTERVIEWS OR SEEK ADDITIONAL INFORMATION
24 AND MAY revise its evaluation, PROFILE, OR RESPONSES.

25 (a.5) IF A DISTRICT COMMISSION FINDS THAT A JUDGE'S
26 PERFORMANCE IN ONE OR MORE OF THE PERFORMANCE CRITERIA AREAS IS
27 BELOW AVERAGE, AS PART OF THE EVALUATION, THE DISTRICT

1 COMMISSION, WITH INPUT FROM THE JUDGE, MAY DEVELOP AN
2 IMPROVEMENT PLAN DESIGNED TO IMPROVE THE JUDGE'S PERFORMANCE IN
3 SUCH AREA OR AREAS.

4 (b) After the requirement of paragraph (a) of this subsection (2) is
5 met, the district commission shall make a recommendation regarding the
6 retention of each district or county judge who declares his or her intent to
7 stand for retention, which recommendation shall be stated as "retain", "do
8 not retain", or "no opinion" and a final decision on responses to the
9 questions or statements developed pursuant to section 13-5.5-103 (1)
10 (a.5). A "no opinion" recommendation OR RESPONSE shall be made only
11 when the district commission concludes that results are not sufficiently
12 clear to make a firm recommendation OR RESPONSE and shall be
13 accompanied by a detailed explanation.

14 (c) The district commission shall release the narrative profile, the
15 recommendation, THE RESPONSES AND ANY EXPLANATION OF THE
16 RESPONSES TO THE QUESTIONS OR STATEMENTS, and any other relevant
17 information to the public AND TO THE CHIEF JUSTICE no later than
18 ~~forty-five~~ SIXTY days prior to the retention election. The district
19 commission shall arrange to have a summary of the narrative profile and
20 THE recommendation, AND THE RESPONSES AND ANY EXPLANATION OF THE
21 RESPONSES TO THE QUESTIONS OR STATEMENTS printed in the ballot
22 information booklet prepared pursuant to section 1-40-124.5, C.R.S., and
23 mailed to electors within the judicial district pursuant to section 1-40-125,
24 C.R.S.

25 (3) (a) In addition to the evaluations conducted pursuant to
26 subsection (2) of this section:

27 (I) The district commission shall conduct evaluations and prepare

1 narrative profiles pursuant to this subsection (3) of each district or county
2 judge during each even-numbered year in which the judge is not
3 scheduled for a retention election.

4 (II) The district commission shall conduct evaluations and prepare
5 narrative profiles pursuant to this subsection (3) of each magistrate each
6 odd-numbered year.

7 (b) Evaluations, RESPONSES AND ANY EXPLANATION OF THE
8 RESPONSES TO QUESTIONS OR STATEMENTS, and the narrative profile
9 developed under this subsection (3) shall be delivered to the judge or
10 magistrate on or before ~~July 1~~ MAY 1 of the year in which the evaluation
11 is performed. IF A JUDGE OR MAGISTRATE FAILED TO COMPLETE A
12 PERFORMANCE PLAN DEVELOPED PURSUANT TO PARAGRAPH (b.5) OF THIS
13 SUBSECTION (3), THE NARRATIVE PROFILE SHALL INCLUDE A STATEMENT
14 CONCERNING THE JUDGE'S OR MAGISTRATE'S PERFORMANCE ON THE
15 PERFORMANCE PLAN. The judge or magistrate shall have the opportunity
16 to meet with the district commission or otherwise respond to the
17 evaluation, PROFILE, AND RESPONSES no later than ten days following
18 receipt of such evaluation. If such meeting is held or response is made,
19 the district commission may revise its evaluation, PROFILE, OR RESPONSES.

20 (b.5) IF THE DISTRICT COMMISSION FINDS THAT A JUDGE'S OR
21 MAGISTRATE'S PERFORMANCE IN ONE OR MORE OF THE PERFORMANCE
22 CRITERIA AREAS IS BELOW AVERAGE, AS PART OF THE EVALUATION, THE
23 STATE COMMISSION, WITH INPUT FROM THE JUDGE OR MAGISTRATE, MAY
24 DEVELOP AN IMPROVEMENT PLAN DESIGNED TO IMPROVE THE JUDGE'S OR
25 MAGISTRATE'S PERFORMANCE IN SUCH AREA OR AREAS.

26 (c) The district commission shall release the narrative profile,
27 RESPONSES AND ANY EXPLANATION OF THE RESPONSES TO QUESTIONS OR

1 STATEMENTS, and any other relevant information developed under this
2 subsection (3) to the CHIEF JUSTICE, THE chief judge of the court, and to
3 the judge or magistrate no later than ~~September 1~~ AUGUST 1 of the year in
4 which the evaluation is performed. By ~~September 1~~ AUGUST 1 of the year
5 in which the evaluation is performed, the narrative profile, RESPONSES TO
6 QUESTIONS OR STATEMENTS, and any other relevant information developed
7 under this subsection (3) shall also be available to the public AND MADE
8 AVAILABLE ON THE STATE INTERNET HOME PAGE; except that narrative
9 profiles AND RESPONSES TO QUESTIONS OR STATEMENTS prepared pursuant
10 to this subsection (3) shall not be mailed to registered voters.

11 (4) IN CONNECTION WITH THE PREPARATION OF THE EVALUATIONS
12 PREPARED PURSUANT TO THIS SECTION, THE STATE COMMISSION AND THE
13 DISTRICT COMMISSIONS, IN ADDITION TO ANY OTHER RELEVANT
14 INFORMATION, SHALL HAVE ACCESS TO THE FOLLOWING INFORMATION FOR
15 EACH JUSTICE, JUDGE, OR MAGISTRATE FOR WHICH AN EVALUATION IS
16 REQUIRED:

17 (a) ALL REPORTS OF COMPENSATION FILED PURSUANT TO CANON 6
18 C. OF THE COLORADO CODE OF JUDICIAL CONDUCT;

19 (b) ALL PUBLIC REPORTS OF JUDICIAL MISCONDUCT; AND

20 (c) ALL INFORMATION, INCLUDING BUT NOT LIMITED TO
21 COMPUTERIZED REPORTS, MAINTAINED BY OR AVAILABLE TO THE STATE
22 JUDICIAL DEPARTMENT.

23 **SECTION 10.** 24-72-204 (3) (a) , Colorado Revised Statutes, is
24 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

25 **24-72-204. Allowance or denial of inspection - grounds -**
26 **procedure - appeal.** (3) (a) The custodian shall deny the right of
27 inspection of the following records, unless otherwise provided by law;

1 except that any of the following records, other than letters of reference
2 concerning employment, licensing, or issuance of permits, shall be
3 available to the person in interest under this subsection (3):

4 (XV) RECORDS RELATING TO AN IMPROVEMENT PLAN DEVELOPED
5 BY A COMMISSION ON JUDICIAL PERFORMANCE PURSUANT TO SECTION
6 13-5.5-106 (1) (a.5), (2) (a.5), OR (3) (b.5), C.R.S.

7 **SECTION 11. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.