

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1159

By: Key

AS INTRODUCED

An Act relating to courts; creating the Judicial Evaluation Act; providing short title; stating legislative finding and intent; establishing the State Commission on Judicial Performance and district commissions; stating membership; providing terms of office; providing for vacancies; providing for a chairman; granting immunity from liability for performance of official acts; stating duties and powers; creating a revolving fund; authorizing the acceptance of grants; restricting implementation of act based on available funding; requiring a report; making an appropriation to the Judicial Performance Revolving Fund; providing lapse date; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1701 of Title 20, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 11 of this act shall be known and may be cited as the "Judicial Evaluation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1702 of Title 20, unless there is created a duplication in numbering, reads as follows:

The Legislature hereby finds and declares that it is in the public interest to establish a system of evaluating judicial performance to provide persons voting on the retention or election of justices and judges with fair, responsible, and constructive information about judicial performance and to provide justices and judges with useful information concerning their own performance. The Legislature further finds and declares that the evaluation of judicial performance should be conducted statewide and within each judicial district using uniform criteria and procedures established by a state commission on judicial performance pursuant to the provisions of the Judicial Evaluation Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1703 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established the State Commission on Judicial Performance, referred to in the Judicial Evaluation Act as the "State Commission". The State Commission shall consist of ten (10) members. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint two nonattorneys. The Governor and the Attorney General shall each appoint two attorneys and one nonattorney. All members of the State Commission shall serve terms of four (4) years; except that, of those first appointed, one person appointed by each appointing authority shall serve for a term of two (2) years. All initial appointments shall be completed by September 1, 1995.

B. Any vacancy on the State Commission shall be filled by the original appointing authority, but no member shall serve more than

two terms. The initial term of any member appointed to fill a vacancy created by the failure of any member of the State Commission to complete his term shall expire when the term of the departed member would otherwise have expired. Justices and judges actively performing judicial duties may not be appointed to serve on the State Commission. Retired justices and judges are eligible to be appointed as attorney members, except that no retired justice or judge may be assigned or appointed to perform judicial duties while serving on the State Commission.

C. The chair of the State Commission shall be elected by its members every two (2) years.

D. Members and employees of the State Commission shall be immune from suit in any action, civil or criminal, based upon official acts performed in good faith as members of the State Commission.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1704 of Title 20, unless there is created a duplication in numbering, reads as follows:

In addition to other powers conferred and duties imposed upon the State Commission by the Judicial Evaluation Act, the State Commission has the following powers and duties:

1. To develop techniques for evaluating district judges, Justices of the Supreme Court, Judges of the Court of Criminal Appeals, and Judges of the Court of Appeals on relevant performance criteria, which include, but are not limited to: Integrity; knowledge and understanding of substantive, procedural, and evidentiary law; communication skills; preparation, attentiveness, and control over judicial proceedings; sentencing practices; docket management and prompt case disposition; administrative skills; punctuality; effectiveness in working with participants in the judicial process; and service to the legal profession and the public;

2. To develop lawyer and juror surveys and then determine the validity of completed surveys and to recommend judicial performance evaluations by peers, chief judges, court personnel, and others who have direct and continuing contact with justices and judges;

3. To prepare alternatives to lawyer and juror surveys if sample populations are inadequate to produce valid results;

4. To develop and determine the validity of comprehensive evaluation profiles for judges;

5. To develop guidelines, in conjunction with the press, for disseminating and publishing the results of judicial performance evaluations in narrative form;

6. To consult with district commissions on judicial performance evaluation criteria, techniques, and sources;

7. To submit an annual report of the activity of the State Commission to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Governor, the Chief Justice of the Supreme Court and the Presiding Judge of the Court of Criminal Appeals;

8. To develop statewide evaluation forms and uniform criteria and procedures;

9. To produce and distribute to the public a narrative profile of each appellate justice or judge subject to retention election;

10. To hire an executive director and such other employees as it deems necessary; and

11. To promulgate, subject to approval by the Supreme Court, rules necessary to implement the provisions of the Judicial Evaluation Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1705 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established in each judicial administrative district a district commission on judicial performance, referred to

in the Judicial Evaluation Act as the "district commission". The district commission shall consist of ten (10) members. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint two nonattorneys. The Governor and the Chief Justice of the Supreme Court shall each appoint two attorneys and one nonattorney. All members of the commission shall serve terms of four (4) years, except that, of those first appointed, one person appointed by each appointing authority shall serve for a term of two (2) years. All initial appointments shall be completed by September 1, 1995.

B. Any vacancy on the district commission shall be filled by the original appointing authority, but no member shall serve more than two terms. The initial term of any member appointed to fill a vacancy created by the failure of any member of the district commission to complete his term shall expire when the term of the departed member would otherwise have expired. Justices and judges actively performing judicial duties may not be appointed to serve on the district commission. Retired justices and judges are eligible to be appointed as attorney members; except that no retired justice or judge may be assigned or appointed to perform judicial duties while serving on the district commission.

C. The chair of the district commission shall be elected by its members every two (2) years.

D. The presiding judge of each judicial administrative district shall serve as the district administrator for the district commission.

E. Members and employees of a district commission shall be immune from suit in any action, civil or criminal, based upon official acts performed in good faith as members of the district commission.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1706 of Title 20, unless there is created a duplication in numbering, reads as follows:

In addition to other powers conferred and duties imposed upon a district commission by the Judicial Evaluation Act, a district commission has the following powers and duties:

1. To distribute questionnaires and interview judges and other appropriate persons under the direction of the State Commission; and
2. To produce and distribute to the public a narrative profile on each district judge subject to election.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1707 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. 1. The State Commission shall conduct an evaluation of each Justice of the Supreme Court, each Judge of the Court of Criminal Appeals, and each Judge of the Court of Appeals whose term is to expire following the next general election but not before the second Monday in January, 1997. Evaluations shall be completed and the narrative profile prepared for communication to the justice or judge no later than thirty (30) days prior to the last day available for the justice or judge to declare his intent to stand for retention. The justice or judge shall have the opportunity to meet with the State Commission or otherwise respond to the evaluation no later than ten (10) days following receipt of the evaluation. If the meeting is held or response is made, the State Commission may revise its evaluation.

2. After the requirement of paragraph 1 of this subsection is met, the State Commission shall make a recommendation regarding the retention of each justice or judge who declares his intent to stand for retention, which recommendation shall be stated as "retain", "do not retain", or "no opinion". A "no opinion" recommendation shall be made only when the State Commission concludes that results are

not sufficiently clear to make a firm recommendation and shall be accompanied by a detailed explanation.

3. The State Commission shall release the narrative profile, the recommendation, and any other relevant information to the public no later than thirty (30) days prior to the retention election.

B. 1. The district commission shall conduct an evaluation of each district judge whose term is to expire following the next general election but not before the second Monday in January, 1997. Evaluations shall be completed and the narrative profile prepared for communication to the judge no later than thirty (30) days prior to the last day available for the judge to declare his intent to stand for reelection. The judge shall have the opportunity to meet with the district commission or otherwise respond to the evaluation no later than ten (10) days following receipt of the evaluation. If the meeting is held or response is made, the district commission may revise its evaluation.

2. After the requirement of paragraph 1 of this subsection is met, the district commission shall make a recommendation regarding the reelection of each district judge who declares his intent to stand for reelection, which recommendation shall be stated as "reelect", "do not reelect", or "no opinion". A "no opinion" recommendation shall be made only when the district commission concludes that results are not sufficiently clear to make a firm recommendation and shall be accompanied by a detailed explanation.

3. The district commission shall release the narrative profile, the recommendation, and any other relevant information to the public no later than thirty (30) days prior to the election.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1708 of Title 20, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the State Commission on Judicial Performance, to be designated

the "Judicial Performance Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Commission, from whatever source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Commission for the purposes provided in the Judicial Evaluation Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1709 of Title 20, unless there is created a duplication in numbering, reads as follows:

The State Commission is authorized to accept any grants of federal or private funds made available for any purpose consistent with the provisions of the Judicial Evaluation Act. Any funds received pursuant to this section shall be transmitted to the State Treasurer, who shall credit the same to the Judicial Performance Revolving Fund.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1710 of Title 20, unless there is created a duplication in numbering, reads as follows:

The implementation of the Judicial Evaluation Act shall be subject to the availability of funds received pursuant to Section 8 of this act. If funds received pursuant to said section are insufficient to fully implement the Judicial Evaluation Act, the State Commission shall reduce the number of district commissions by combining two or more judicial administrative districts for each district commission.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1711 of Title 20, unless there is created a duplication in numbering, reads as follows:

The State Commission shall provide, not later than the first Monday in February, 1997, a report of the effectiveness of the work of the State Commission and any other relevant information to the Legislature and make a recommendation as to whether the Judicial Evaluation Act should be repealed or continued.

SECTION 12.        APPROPRIATION        There is hereby appropriated to the Judicial Performance Revolving Fund from any monies in the General Revenue Fund for the fiscal year ending June 30, 1996, not otherwise appropriated the sum of Five Thousand Four Hundred Sixty Dollars (\$5,460.00), or so much thereof as may be necessary to carry out the duties imposed upon the State Commission on Judicial Performance by law.

SECTION 13.        The appropriation made by this act shall be subject to fiscal year limitations and may be encumbered through June 30, 1996. Any unexpended funds remaining after November 15, 1996, shall lapse and be transferred to the credit of the proper fund for the then current fiscal year.

SECTION 14.        This act shall become effective July 1, 1995.

SECTION 15.        It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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