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Guidelines For The Use Of Lawyers To Supplement Judicial Resources

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Advisory Board on the Use of Volunteer Lawyers as Supplemental Judicial Resources

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Introduction

The bar has a long tradition of assisting courts when the need arises either on a *pro bono* basis (no compensation) or for minimal compensation. Many courts from time to time have asked for and received assistance from practicing lawyers. Much of the assistance has been in the form of providing legal representation for indigent criminal defendants, but it also has included service in a judicial or quasi-judicial role to supplement available judicial resources. Service in this latter capacity has been poorly documented, however, and, so far as can be determined, rarely evaluated for effectiveness. Many courts do not use lawyers to supplement judicial resources; the programs in many of the courts that do are informal. A more systematic use of lawyers as supplemental resources might enable courts experiencing backlog or delay problems to eliminate or at least significantly reduce these problems.

Motivated by this possibility, the National Institute of Justice, U. S. Department of Justice, approached the National Center for State Courts (NCSC) to discuss these issues and subsequently agreed to fund a project with the following goals: (1) to identify and assess the experiences of jurisdictions around the country that have involved lawyers as judicial adjuncts; (2) to use this information as the basis for developing, in conjunction with a nationally representative Advisory Board, nationally applicable guidelines concerning the most appropriate uses of lawyers in such roles; and (3) to design experimental judicial adjunct programs by which to evaluate the impact of such programs on the courts and litigants. It was anticipated that these demonstration programs would be implemented and evaluated during a second phase. This report addresses the first two of these goals. The guidelines offered and views expressed are those of the Advisory Board and NCSC project staff. They do not necessarily represent the views or opinions of the U.S. Department of Justice or the National Institute of Justice.

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The NCSC project director was Alexander B. Aikman; staff members were Douglas C. Dodge, Mary E. Elsner, and Frederick G. Miller. Charlotte A. Carter and John G. Greacen, former NCSC staff members, were other members of the project staff.

The Term "Judicial Adjunct"

At the inception of this project the focus was on lawyers who assist courts on a *pro bono* basis, i.e., without compensation. Thus, early project documents used the term "volunteer lawyers." As indicated, there have been and currently are thousands of lawyers across the land who fit that definition. As more information about the use of lawyers was obtained and the issue was considered further, it became apparent that there are also thousands of lawyers providing assistance who receive limited compensation. Such compensation usually is less than the lawyer's hourly rate for clients; it may or may not be sufficient even to cover an attorney's overhead costs. Because

these programs offering compensation constitute an important aspect of the courts' use of lawyers as supplemental resources, they have been included within the scope of the review. The focus of this study, therefore, is courts' uses of lawyers as supplemental resources, regardless of whether the lawyers are compensated. Given this broader view, the term "judicial adjunct" has been chosen as more appropriately encompassing the various categories of lawyer use addressed by these guidelines.

Project Methodology

Three major information-gathering efforts were involved in this phase of the project. Initially a survey was sent to all 50 states and the District of Columbia to determine what types of judicial adjunct programs currently are permitted. This questionnaire survey was supplemented by the results of research on each state's constitution, statutes, and rules. The statutory research was done by National Center staff in Williamsburg, Virginia. The results of this effort are displayed in Appendix A.

The second component of the information-gathering was to visit four general jurisdiction trial courts (referred to as "field sites" in the commentary to the guidelines) that make extensive use of judicial adjuncts. The site selection was based on the National Center staff's knowledge of trial court operations across the country. The sites were Pittsburgh, Pennsylvania; Seattle, Washington; Santa Ana (Orange County), California; and Phoenix, Arizona. Pittsburgh was selected because of its long-standing and nationally recognized use of lawyers as arbitrators in its mandatory arbitration program. Seattle and Orange County use lawyers as arbitrators and *pro tem* judges and in settlement conferences. In addition, Orange County uses lawyers on its domestic relations motions calendar, as privately hired reference judges (often referred to as "rent-a-judge"), and as juvenile court referees. In Seattle, staff also obtained information about the local limited jurisdiction court's use of lawyers as *pro tem* judges. Phoenix uses lawyers in several different programs, but staff focused their attention on the use of lawyers as *pro tem* judges. In each field site, several days were spent interviewing judges, court staff, lawyers who have served in each program, and lawyers who have appeared before judicial adjuncts. In three of the four sites, staff members also observed one or more proceedings in which lawyers were serving as judicial adjuncts.

In addition, the Honorable Pat Irwin, former Chief Justice of the Oklahoma Supreme Court and a member of the Advisory Board, supplied the Board with information on the use of lawyers as *pro tem* judges on the appellate level in Oklahoma. Details of that program appear in Appendix B.

The third information-gathering effort was to collect statistical data from programs at each field site using a survey. It was hoped that the data provided would enable staff to evaluate statistically the impact of the use of lawyers as judicial adjuncts. This effort was only marginally successful.

The Advisory Board met four times. At the first meeting the members reviewed a memorandum prepared by project staff outlining the policy issues associated with the use of lawyers as judicial adjuncts. Following discussion, the Board selected issues believed to be deserving of special attention. At its second meeting the Board reviewed the results of the site visits and a draft of tentative guidelines. The third and fourth meetings were devoted to detailed review, revision, and modification of the guidelines and associated commentary. The Board also offered advice to the project staff on experimental programs being planned for Phase II.

Second Phase of Project

A second phase of the project started in the spring of 1984. As the need for rigorous evaluation of judicial adjunct programs had not been satisfied, the second phase would focus on assisting courts to establish experimental programs involving several different uses of judicial adjuncts, monitoring their progress, and evaluating the results. The following demonstration programs were chosen for Phase II:

- *Pro tem* program for the Arizona Court of Appeals
- *Pro tem* program for the Pima County (Tucson) Superior Court, Arizona
- Trial referee program in Connecticut
- Court-annexed arbitration program for the Hennepin County (Minneapolis) District Court, Minnesota
- *Pro tem* program for the Multnomah County (Portland) Circuit Court, Oregon
- Mandatory settlement conferences for King County (Seattle) Superior Court, Washington

The preliminary guidelines that follow are offered both as suggestions and to stimulate comment. Although their value will be tested during Phase II of the project by personnel at the experimental sites and by project staff, it also is hoped they will be used by other trial and appellate courts that need temporary help or additional resources to implement a new legislative or court-designed program. The Advisory Board welcomes comments and suggestions from interested parties. Communications should be addressed to Judicial Adjunct Project, National Center for State Courts, Western Regional Office, 720 Sacramento Street, Suite 300, San Francisco, California 94108.

Judicial adjuncts can be a valuable asset to the courts. Courts are urged to use these resources whenever the need arises and their use seems feasible and effective.

Guidelines for the Use of Lawyers to Supplement Judicial Resources

Guideline 1: The Use of Lawyers to Supplement Judicial Resources

Court systems should consider using lawyers in a variety of capacities as supplemental resources when full-time judicial resources are inadequate to meet the demands made of them. Such use should not be a permanent alternative to the creation of needed full-time judicial positions. Lawyers temporarily serving the courts in any capacity are referred to in these guidelines as judicial adjuncts.

Commentary

Increasing caseloads have caused courts many problems. Recent statistics show that in the four years from 1977 to 1981 court filings increased 23 percent for civil cases, 27 percent for criminal cases, and 32 percent for appeals.[1] If this rate of increase for case filings continues, the volume of civil cases will double every 13.5 years, criminal filings every 11 years, and appellate cases every 10.5 years.[2] During that same period the number of trial court judges increased only 7 percent and appellate judges only 15 percent.[3] The resulting, and increasing, disproportion between expanding court workloads and existing judicial resources is considerable.

Traditionally, the most common response to concern about case delay and increasing volume has been the addition of judges. In a period of fiscal restraints, however, the nation's courts have been faced with tight budgets. Public budgets have not supported judicial resource increases proportionate to the increases in caseloads.

In an effort to deal with backlog and delay without greatly increasing costs, a number of jurisdictions have experimented with the use of lawyers as judicial adjuncts on a *pro bono* or minimal compensation basis. Preliminary research discloses that the courts' ability to serve the public can be improved by using judicial adjuncts either to perform judicial duties or to perform other functions that would consume judicial time or to conduct

1. "An Update: State Caseload Statistics." 7 *State Court Journal* 3, p. 8 (Summer 1983).
2. *Ibid.*
3. National Court Statistics Project. National Center for State Courts.

procedures to resolve cases that otherwise would come before the courts.

In some courts lawyers serving as quasi-judicial officers (such as commissioners or referees) are full-time employees of the court. Persons in these positions are excluded from the scope of these guidelines, which are intended to address only the use of lawyers who work or could work substantially full-time in a legal practice and who donate their services to a court or provide their time at a reduced fee.

The use of judicial adjuncts can be put into six basic classifications, based on the amount of judicial or quasi-judicial authority the adjunct is empowered to exercise.

1. *Alternative dispute-resolution mechanisms.* Examples are court-annexed arbitration or mediation programs.
2. *Settlement conferences.* Typically, the conferences are mandated by the court, conducted before a lawyer, a team of lawyers, or two lawyers and a judge. The lawyers usually have expertise in the general subject area of the lawsuit in question. The settlement conferences are used to provide the parties and their counsel with an evaluation of the case by a disinterested third party.
3. *Quasi-judges.* Although the terminology differs, these are usually known as referees, fact-finders, or masters. The majority are granted power to compel testimony, hold hearings, and make recommended findings of fact and law to the supervising judge.
4. *Commissioners or magistrates.* They are empowered to perform limited judicial duties, such as signing warrants and subpoenas, setting bail, hearing arraignments, and presiding over preliminary hearings, nonjury misdemeanor cases, traffic infractions, and small claims cases.
5. *Pro tempore trial judges.* They are given full judicial powers temporarily. They may hear and decide any case, and their rulings are as appealable as those of any other judge of the court on which they are sitting. This classification includes lawyers who serve as substitute judges while a regular judge is absent and those who routinely supplement existing judicial resources in an effort to reduce backlog.[4]
6. *Pro tem* judges on the appellate bench. They serve as full-fledged members of the appellate court for hearing and deciding one or more cases, and draft their share of opinions for the court.

Legitimate philosophical and political objections can be posed to the use of practicing lawyers to preside over cases involving the substantial legal rights and interest of litigants. The position of full-time judge has been

4. Readers interested in this particular use of judicial adjuncts may wish to refer to Appendix C, in which are two states' constitutional and legislative authorizations for judges *pro tempore.*

structured carefully to insulate the judge from any possible interest in the outcome of a case or from bias for or against any party. In every state, judicial selection processes are in place to choose persons with special qualifications for the job. Judicial discipline bodies exist to provide a remedy for improper or incompetent judicial performance. To some unavoidable extent, the use of practicing lawyers as judicial adjuncts, especially as part-time judges, contravenes these traditional structural safeguards characteristic of the judicial branch of government.

There are two other practical objections. The first is the real possibility that the use of judicial adjuncts, especially on a long-term basis, may have a negative effect upon the ability of the courts to obtain needed full-time judicial positions. Because many judicial adjuncts work on a *pro bono* or limited compensation basis, there is concern that a successful program using judicial adjuncts may be seen as a permanent alternative to the creation of needed additional judgeships or judicial positions. Finally, the availability of judicial adjuncts might provide an opportunity for full-time judges to avoid handling some types of cases that they consider difficult, dull, or especially time-consuming, despite the fact that these cases (e.g., mental health commitments) may involve sensitive personal interests or questions of liberty.

The Advisory Board has concluded, based upon its review of the experience in jurisdictions that have experimented with the use of judicial adjuncts, that these grounds for caution, though legitimate, are outweighed by the potential advantages that such programs, when created with proper safeguards and limitations, may offer. These advantages include (1) the ability of the courts to hear and dispose of more cases, (2) the reportedly high quality of decisions rendered by judicial adjuncts, with no apparent diminution in litigants' perception of the quality of justice dispensed, (3) the training afforded judicial adjuncts by the opportunity to view the trial process from a judge's perspective, and (4) the creation of additional flexibility in the way in which judicial resources are structured. The fourth advantage is exemplified by the use of *pro tempore* judges as part of a guaranteed firm trial date program. Here the purpose is not to increase the overall number of cases set for trial, but rather to have supplementary judicial resources available on a standby basis for those days on which an unusually low percentage of the cases scheduled for trial will settle, and, consequently, more judges will be needed to maintain the trial guarantee which is essential to the success of such programs.

The remaining guidelines set forth the limits and safeguards considered by the Advisory Board to be essential to a proper balance between the traditional interests of judicial system integrity and the opportunity presented by judicial adjunct programs to improve the courts' performance. For emphasis, this first guideline articulates the Board's overall concern that judicial adjunct programs not become substitutes for needed judicial branch resources and judgeships. The judiciary should be sufficiently

supported without the continuing necessity for support from volunteers from the legal community. One basic means of assuring that these programs do not become a substitute for adequate funding of the judiciary is to limit the duration of a program or to precisely define its objective (such as the elimination of a large case backlog so that full-time judges can devote their energies to remaining current thereafter). The specific length of a program should, of course, be determined by the purposes and goals to be achieved.

Guideline 2: Establishing a Judicial Adjunct Program

The development of any judicial adjunct program should include the following:

Program Objectives. Programs should be developed to meet identified needs. Objectives for each program should be related to the identified needs and should be stated prior to the start of each program. These objectives should be explicit and, to the extent feasible, expressed in measurable terms.

Court Involvement and Control. Responsibility for administration of the program should reside with the court. Judges and other personnel of the court to be served should be involved in its planning.

Bar Involvement. The support and cooperation of the local legal community is necessary to the success of any judicial adjunct program. Lawyers should be involved in program planning from the outset.

Other Support. The court should solicit the advice and cooperation of others who will play a role in the program.

Evaluation and Monitoring Procedures. To the extent possible, programs should be planned to permit sound evaluation of their effectiveness. Evaluation procedures should be in place before a program is commenced. Continuing programs should be monitored periodically for sustained effectiveness.

Commentary

Program Objectives

The established objectives of any judicial adjunct program should be based upon the identified needs of a particular court. Judicial adjunct programs may affect the following areas—case processing procedures, case processing time, number of cases pending, court costs, costs to litigants, and local bar support. Thus, a court may identify the following as possible objectives: decrease in the time from filing to disposition of cases handled by adjuncts, decrease in time from filing to disposition of other cases handled by judges, decrease in the cost of processing cases, increase in the number of dispositions, reallocation of judicial resources, or improvement of bench and bar relations. When possible, objectives for case processing and financial benefits should be stated in terms that can be translated into

specific measurable quantities in the evaluation phase of the program.[5]

Most objectives of a program will be direct; a few indirect objectives also may be specified. A program that uses judicial adjuncts to hear nonjury trials could have as direct objectives reducing the number of nonjury cases awaiting trial and reducing the time from request for a trial to its start. An indirect objective might be to reduce the pending jury trial list as judges are transferred from nonjury to jury trials. Other indirect objectives could include the assumption by the court of more responsibility for managing cases, or the improvement of relations between the bench and the bar, or greater public support for the court and its programs.

The program objectives will influence the specific program design. Consequently, objectives should be clearly articulated before the start of a program, providing a focus for planning, easing communication with and recruitment of judicial adjuncts, helping to ensure public acceptance, and facilitating the monitoring and evaluation of results. Objectives will also help define the number, skill level, time commitments, and need for compensation of judicial adjuncts. Well thought-out and clearly defined objectives also should help program sponsors obtain needed support. Furthermore, the success of a program may depend in part on how well the goals are stated and understood at the start of the program by all persons involved.

Court Control

The court's support of and responsibility for any judicial adjunct program is crucial to its success. To assure litigants a high quality of justice, the judiciary must retain control over the administration of the program, especially over sensitive issues such as the selection process for judicial adjuncts. Members of the bench and other court personnel should be involved from the start in planning the program; their commitment is important in ensuring that the needs of the court are met.

Bar Support

The support and cooperation of the local bar is also a critical element in planning a judicial adjunct program. The program must be a cooperative effort between the bench and the bar. Lawyers must be willing both to serve as judicial adjuncts and to accept the judicial adjuncts program. Those who are reluctant to accept such programs could hinder the program by attempting to put themselves outside its scope. For example, where assignment to court-sponsored arbitration is determined by the amount of damages claimed, attorneys might claim damages above the dollar ceiling for the program simply to avoid assignment to arbitration. Or, when

5. For examples of how objectives might be quantified, *see* the Conference of State Court Administrators, Resolution Adopting National Time Standards for Case Processing, 29th Annual Meeting of the Conference of State Court Administrators, Savannah, Georgia, July 27, 1983; and Task Force on Principles for Assessing the Adequacy of Judicial Resources, *Assessing the Need for Judicial Resources: Preliminary Draft* 39-40 (1983).

affirmative consent of the parties or their counsel is required, the attorneys concerned might withhold consent to a hearing or trial before a *pro tem* judge. The bar should be involved in discussions early in the planning process to avoid serious problems later that could sharply limit the success of the program and possibly damage relations between the bar and the bench.

One concern voiced at the outset of this project was that long-term use of lawyers might exhaust the goodwill of the local bar. In jurisdictions that have used judicial adjuncts for some time, the length of the program itself seems to have had little impact on the level of the bar's cooperation. After twenty-four years the Pittsburgh arbitration program has become firmly established and continues to be well-supported. Similarly, *pro tems* have been used as part of Phoenix's trial delay reduction program for five years with no apparent diminution of bar support.

What does appear to have a significant effect on participation levels, however, is demand on the time of individual lawyers. Significant time requirements may affect the number of lawyers willing to participate or the frequency with which they will serve. Consequently, the average time required to hear and dispose of matters assigned to judicial adjuncts should be considered carefully during the planning phase of the program. The amount of time deemed acceptable may vary with what lawyers become accustomed to in a given locale. For example, arbitration hearings in Pittsburgh have rarely lasted a full day. The jurisdictional ceiling recently was increased from $10,000 to $20,000. This has caused concern among the bar that more complicated cases now may be assigned to the arbitration program, thus increasing the time required to conduct hearings. Many arbitrators indicated they might have to reduce their participation if the hearings began regularly to require two days. In Phoenix, where the panel of lawyers eligible to serve as *pro tems* is relatively small, the civil cases assigned to them usually last no more than three days. Although the level of cooperation and support among the participating lawyers is high, many speculate that it would be burdensome to continue serving as frequently if the trials routinely took longer.

Other Support

There are other groups whose support and cooperation may be needed to ensure the program's acceptance and success. Depending upon the specifics of the program, the support of the following groups might be needed: legislators (particularly the members of legislative committees that address issues relating to the judicial branch), the media and general public, and the insurance business. Program sponsors should make an attempt to inform these groups and others affected about the program and its objectives in order to enlist their cooperation.

Legislators. Legislative support will be particularly important if enabling legislation is required to authorize a particular judicial

adjunct program. The institution of some programs, such as the assignment of lawyers as *pro tempore* judges or as arbitrators, may in some states require constitutional or statutory change. In other states programs may be instituted by court rule. If a particular program requires additional funding for the judiciary's budget, support from legislative and executive officials will be needed.

Media. The news media constitute the public's most important source of information about the judicial system. According to a recent survey, a majority of the public obtain their information about courts and judicial systems from television news or newspapers.[6] Therefore, the media's understanding of, support for, and reporting on court programs will largely determine the public's understanding and acceptance of these programs.

Insurance Companies. It also may be important to inform the insurance community about the objectives of judicial adjunct programs that affect personal injury cases. Because insurance companies have a major financial interest in the management and outcome of these cases, their support and cooperation, especially for settlement and arbitration programs, will be necessary to the effectiveness and success of these programs.[7]

Evaluation and Monitoring Procedures

Evaluation is a continuous process with several phases. It requires (1) a statement of objectives against which to measure progress; (2) collection of data that relate to those objectives; (3) analysis of the data to determine how the court's performance compares to the objectives; (4) adjustment of the program, if necessary, in light of problems or deficiencies shown by the data; and (5) continued monitoring of data.

The evaluation design and data collection procedures should be set in place before the program is begun. The design selected will be determined by the conditions under which the program will have to function and the level of confidence desired in the evaluation results. Presented below is a brief description of evaluation designs that would lend themselves to this type of study.

The Controlled Experimental Design

The controlled experimental design evaluates the effectiveness of a program by comparing specific changes in two carefully separated groups: a

6. Bennack, "The Public, the Media, and the Judicial System: A National Survey on Citizens' Awareness." (New York: Hearst Corporation, 1983). Reprinted with permission, 7 *State Court Journal* 4 (Fall 1983).

7. An important aspect of the Orange County mandatory settlement conference program is the requirement that a claims representative with authority to settle cases be present at the conferences. Even if the support of the insurance business is not necessary to start a program, jurisdictions that do have it report that such support is very important to the continuing success of the programs.

group of cases affected by the program (the experimental group) and a similar group of cases *not* affected (the control group). In the most rigorous designs a pool of cases are chosen randomly from all cases eligible for the program; these cases are assigned randomly to the experimental and control groups. These two groups theoretically are identical in all respects except for the experimental group's contact with the program. Consequently, any differences observed in the experience of these cases, e.g., differences in average time to disposition or trial rates, may be attributed to the program. Statistical analysis techniques may be used to determine whether any of the observed differences are large enough to be considered "statistically significant," i.e., unlikely to have occurred by chance. There are many advantages to using this experimental design. The primary one is that the presence of a control group reduces the possibility that uncontrollable effects will harm the evaluation, because any factors that may affect case processing, such as a change in the jurisdiction of the court, should occur to both the control and experimental groups.

Before-and-After Design

If it is not feasible to assign cases into experimental and control groups, then a before-and-after design may be the most feasible. This design will identify changes brought about by the judicial adjunct program by comparing a group of previously processed cases that would have been eligible for the program, had it been in existence, with a group of cases processed after the program is implemented.

The before-and-after design has several major drawbacks. First, it is less capable of controlling for unexpected factors that may affect program outcomes. For example, an increase in the maximum jurisdictional amount of a lower court after all the "before" (control) data are collected may affect the number of civil cases filed. It is unlikely that this intervening occurrence will have the same effect on both the "before" and the "after" groups. Thus, it will be difficult to determine the extent to which any differences in case outcomes or time-to-disposition rates of the "after" (experimental) group of cases are due to the program or to the change in jurisdictional amount.

Another drawback is the time possibly required to collect data on the "before" group of cases. Also, comparing statistics from two different time periods may allow differences actually resulting from the experimental program to be either artificially enhanced or diminished by unmeasurable changes in underlying statistical trends. For example, assuming that the time-to-disposition rate has been increasing each year, and if that disposition period is reduced when a program is implemented, the comparison of current time-to-disposition with that of the previous year may understate the reduction produced by the program.

Despite these problems, this evaluation technique often is used in courts and may be the most feasible. As with the controlled experimental design, any difference in case outcomes for the "before" and "after" groups

should be tested for statistical significance.

Case Study

If it is not possible to evaluate the program using one of the designs described above, cases in the program may be studied and the program's functioning described empirically. This undertaking will not allow any conclusions to be made concerning differences in case outcomes or disposition times that can be attributed to the program rather than to nonprogram factors. Nevertheless, the descriptive data will permit the court to assess its current position with respect to case processing. With this information the court may be in a better position to conduct a subsequent evaluation of the continuing effects of the program.

Other Evaluation Considerations

Regardless of the evaluation design chosen, the evaluation results should be used to help the jurisdiction decide whether to continue, modify, or terminate the program. They also will be important in discovering whether a program has any unexpected or unfavorable effects. In many cases the evaluation may help identify sources of problems that arise so that steps may be taken to remedy them or to avoid the same or similar unwanted or unfavorable consequences in the future.

If multiple uses of judicial adjuncts are contemplated, each type of use should be treated as a distinct program in the evaluation. Also, it would be best from the perspective of evaluation design and results if different types of use could be implemented separately and sufficient time intervals could be allowed to permit complete monitoring and evaluation of each use.

Depending upon the chosen objectives, data collection may involve any of the following areas: case processing, court financing, and local bar support. The effects on case processing may be measured by caseload statistics; the financial impact may be measured by cost figures for the program; and program support may be measured by attitudinal data collected from program participants and others affected by the program through interviews, questionnaires, and surveys.[8]

8. The attitudinal or acceptance portion of the evaluation should be undertaken with care because the manner in which questions are worded to elicit subjective information can frequently influence the responses given. See Sudman and Bradbam, *Asking Questions: A Practical Guide to Questionnaire Design*, p.146 & ch. 5 generally (1983).

Guideline 3:
Scope of Judicial Adjunct Programs

Except for serious criminal trials and child custody proceedings, most types of cases are appropriate for assignment to judicial adjuncts.

Commentary

Observations by project staff and interviews with scores of judges and lawyers confirm that lawyers may appropriately serve as judicial adjuncts in virtually all types of cases. The determination of areas considered inappropriate for judicial adjunct use should reflect policy choices by the jurisdiction. In considering ways in which judicial adjuncts might assist the courts, jurisdictions need not narrow their sights appreciably regarding the types of cases that might be included within their program. Nevertheless, Guideline 3 recommends that serious criminal trials and contested child custody proceedings be excluded from the scope of any program. Accountability and the appearance of justice in these cases demand the attention and expertise of a full-time judge whose duty it is to adjudicate serious issues affecting the personal rights and liberties of citizens.

Although a few jurisdictions authorize lawyers to sit as *pro tem* judges on criminal matters, most jurisdictions are wary of assigning judicial adjuncts to handle felony matters for several reasons. First, if the use of a *pro tem* is mandatory rather than a matter of choice, there is a significant risk of additional appeals.[9] Second, there may be a problem finding a sufficient number of experienced criminal lawyers considered impartial by members of both the prosecution and the defense bars. Defense lawyers might object to the appointment of prosecutors as *pro tem* judges as a conflict of interest. Most prosecutors similarly would be wary of defense attorneys. It also is conceivable that the use of active defense lawyers would raise a public outcry, especially if a notorious case results in an acquittal or if the press perceives leniency in sentencing. A third difficulty may be with maintaining

9. Both Mississippi and Tennessee statutes authorize *pro tem* judges to try or otherwise dispose of criminal cases: Miss. Code Ann. § 11-1-11 (1972) and Tenn. Code Ann. § 17-2-118. The appointment of lawyers to serve as special judges in criminal trials does not deny due process or equal protection. *See* Powers v. State, 83 Miss. 691, 36 So. 6 (1904); Ridout v. State, 161 Tenn. 248, 30 S.W.2d 255 (1930); Harris v. State, 100 Tenn. 287, 45 S.W. 438 (1898).

consistency in criminal sentencing. Finally, where judges retain continuing jurisdiction after sentencing a criminal defendant, recalling a *pro tem* judge in a case he or she had handled in the event of a probation or parole revocation proceeding could present administrative difficulties.

Assigning judicial adjuncts to less serious criminal cases and ancillary criminal duties presents fewer objections. A number of jurisdictions use them for bail setting, warrant application reviews, receiving guilty pleas, and trial of minor matters. Some jurisdictions use judicial adjuncts for drunk driving trials that may involve sentences of incarceration but are less likely to entail any post-conviction supervisory issues.

Child custody matters are among the most sensitive decisions made by judges and thus are considered inappropriate for assignment to judicial adjuncts. Concern exists that lawyers should not be in a position to make such decisions because of the potential for enormous impact upon families. Also, effective enforcement of child custody awards requires full judicial authority, especially across county or state lines.

The propriety of assigning other sensitive matters, such as those involving juveniles or mental competency, may be open to question. The inclusion of these matters within the scope of a judicial adjunct program should be weighed carefully against the personal liberties and interests involved and the desire for consistency.

Otherwise, consideration of the time demands required to handle certain types of matters and the goals set for the program should determine the program's scope. Some preference exists in courts presently using adjuncts for assigning them to short-cause, high-volume matters because of the shorter time commitments required. There also is some support for assigning judicial adjuncts to hear specialized matters that might require an extensive amount of the court's time. In some instances lawyers specializing in a particular area of law may be preferred to judges if the judges lack experience or interest in that field. Domestic relations cases were mentioned frequently as examples. Moreover, parties with cases involving particularly technical or complex civil or commercial law issues—such as real property, condemnation, banking and commercial paper, environmental law, trademark and patent law—may be more comfortable if the case is heard by a lawyer with expertise in the subject. This raises some concern, however, that judicial adjuncts with expert knowledge in particular areas of the law will be inclined to act as advocates instead of remaining impartial or will otherwise interfere with the trial strategy planned by the litigating attorney. Also, it could increase the potential for conflict-of-interest problems if there are only a few lawyers specializing in the particular area of law.

Guideline 4: Selection of Judicial Adjuncts

Those eligible to serve as judicial adjuncts should be selected by the appropriate judicial authority. Criteria should be established to ensure that participants in the program are highly qualified. As required by the nature of the duties to be performed, emphasis should be placed on reputation, demeanor, knowledge of the law, and specific experience in trial, appellate, or other relevant practice.

Commentary

It is important that the court maintain control over the selection process. The term "appropriate judicial authority" is used to indicate that the person or persons actually responsible for selecting judicial adjuncts should have sufficient administrative authority to obviate any question of their impartiality in the selection process. Thus, the appropriate judicial authority may be a senior state judicial officer, such as the chief justice, the chief or administrative judge of a trial court, a panel of judges, or the designee of any of these. The appropriate authority will vary in each jurisdiction. To avoid even the appearance of partiality in appointing adjuncts, an individual trial judge should not be responsible for selecting judicial adjuncts.

Criteria for selecting judicial adjuncts must be carefully considered to ensure that those chosen to participate are qualified, experienced lawyers. It should be left to each jurisdiction to determine what constitutes sufficient experience to qualify, as this will vary according to the nature of the duties to be performed. Special considerations, such as subject-matter expertise, mediation skills, and other specialized knowledge, should be included when relevant to the nature of the duties to be performed.

Generally, the selection processes observed in the field sites can be classified as two basic types. One is highly selective and restricted to a limited number of blue-ribbon trial lawyers. In the other, all lawyers possessing minimum qualifications are encouraged to submit their names for participation, and further screening of the applicants' abilities is limited. In the "blue ribbon" sites visited by project staff, the lawyers participating as judicial adjuncts were viewed by other lawyers as equal in ability to the full-time judges. Also, little doubt was expressed about their

integrity or impartiality.

Different attitudes and perceptions were observed by project staff in the less selective sites. Some of those interviewed expressed concern about the quality of the participating lawyers and especially about their lack of trial experience. Among the improvements suggested by litigating lawyers in these sites were the development of stricter criteria for selection and the establishment of a screening mechanism for participants.

Attorneys also seemed uncertain that full-time advocates assigned to serve temporarily as judicial officers could maintain the level of impartiality required of full-time judges. There was some apprehension that trial lawyers, particularly those who routinely represent a particular point of view in personal injury cases or family law matters, may find it difficult to step out of their advocate's role when they serve for only one or two days a year.

These concerns are best met by carefully screening the qualifications of those selected to participate to ensure that they meet established criteria. Consequently, the criteria should be set as high as possible given the number of lawyers needed to support the particular judicial adjunct program. When the number needed is relatively small, as with most *pro tem* programs, it is preferable to select a small number of highly qualified lawyers through a careful screening process rather than to accept generally qualified volunteers. If a large pool of judicial adjuncts is required, as with mandatory court-annexed arbitration programs, a less restrictive selection process may be necessary to obtain a sufficient number of participants.

It may be difficult to ensure that lawyers participating as judicial adjuncts are both highly qualified and sufficient in number to meet the needs of the program. Sponsors of Pittsburgh's mandatory court-annexed arbitration program, which uses a three-person panel and thus requires an extremely large pool, have recognized this and attempted to accommodate these interests with two sets of criteria: one for the panel chairperson and one for the other panel members. To qualify for the chairperson's list, lawyers must have at least three years of trial experience. General panel members are not required to have trial experience, but must be members of the bar and be found acceptable for the program by the presiding judge. This dual list assures Pittsburgh a sufficient number of attorneys while providing each panel with a trial-experienced leader.

Guideline 5: Orientation and Training of Judicial Adjuncts

Orientation and training programs should be provided for new judicial adjuncts. Their scope, format, and length should vary with the complexity and formality of proceedings over which the judicial adjunct will preside.

Commentary

This guideline recognizes an obligation to ensure the quality of justice by providing appropriate orientation and training for new judicial adjuncts. This may be particularly helpful to them in developing a judicial perspective. Topics that deserve attention include the following: demeanor while serving; proper order of events and procedures; controlling the proceedings; making and reporting decisions; limitations on authority; and other program expectations of the judicial adjunct. Orientation and training may be accomplished by use of a handbook, manual, or seminar in conjunction with a local bar meeting or a judicial conference. In some cases it may also be desirable to make a full-time judge available to judicial adjuncts who need advice or additional assistance. It is likely—and staff interviews in the field sites confirm—that lawyers willing to serve in these programs will not object to giving an additional half-day or day of their time to attend a training session. In states requiring continuing legal education, credit for attending such sessions should be considered. The exact type of training and orientation program developed—as well as its length and scope—will depend upon the specifics of the judicial adjunct program involved and the commitment of the bar.

Guideline 6: Party Consent to Appearance Before a Judicial Adjunct

Assignment of cases to judicial adjunct programs should not be subject to the consent of the parties or their counsel. Appropriate mechanisms should be established to provide parties an option concerning the particular judicial adjunct before whom they will appear, without permitting a party to delay the resolution of the case.

Commentary

Judicial adjuncts are not subject to the usual appointment or election procedures the public uses to screen judges and, unlike judges, are not publicly accountable. Therefore, to preserve the appearance of justice, and as a matter of fairness, the issue of consent should be considered. The consent issue has two aspects: consent by the parties to participation in programs using judicial adjuncts and consent to an individual adjunct's hearing a specific case.

Consent to Participation

In those jurisdictions that impose a program consent requirement, it appears to have been included solely to induce bar support by providing a means of avoiding the assignment of specific cases to judicial adjuncts. Permitting parties to avoid assignment to a judicial adjunct program may seriously dilute the program's effectiveness, however. For example, the objective of the Phoenix trial delay reduction program is to guarantee firm trial dates. If a case is set for trial and a full-time judge is unavailable, the case is scheduled before a *pro tem* judge to avoid continuance and delay. If parties were allowed to withhold consent to the assignment of a *pro tem*, it might become impossible to guarantee trial dates. Parties in Phoenix may exercise a peremptory challenge to a particular lawyer assigned as a *pro tem* (as they could with a judge), but they cannot opt out of using a *pro tem*.

Arbitration programs present another illustration of the deleterious effect presented by a program-consent requirement. Where arbitration has been voluntary, it appears to have had little success. In jurisdictions where arbitration has become mandatory, the number of cases arbitrated increases dramatically, thus diverting a greater number of cases from the

normal trial process. Mandatory arbitration can improve the disposition time of arbitrated cases and reduce a court's caseload.[10] These gains would be lost with return to voluntary submission of cases to arbitration.

Participation in the Selection Process for Individual Cases

Neither the achievement of justice nor the appearance of achieving justice is jeopardized by requiring parties to participate in a judicial adjunct program designed and implemented in accordance with these guidelines. Nevertheless, there may be some instances when the use of a specific judicial adjunct might deny a litigant the sense that the judiciary's treatment of his or her dispute was "fair." Recognizing this, the guidelines recommend that parties be allowed some participation in the selection process. Several jurisdictions provide litigating attorneys and parties some control over the selection of the particular judicial adjunct before whom they will appear. Means of exercising that control vary. In some areas, counsel are encouraged to agree among themselves upon the particular judicial adjunct to handle the matter. If they cannot agree, a judicial adjunct is randomly assigned. For example, in one jurisdiction parties are given the names of three lawyers qualified for the program. Each party is permitted to strike one name. If there are multiple parties with adverse interests, the initial list of names may be expanded. The court then assigns a lawyer from among those whose names are not struck from the list. Where three-person panels are used rather than an individual adjunct, there seems less reason to permit parties any role in the selection process because the panel is intended to provide sufficient safeguard against prejudicial conduct by a judicial adjunct.

10. Judicial Council of California, *Report and Recommendation on Effectiveness of Judicial Arbitration*, pp. 8-11, 15-17 (1983).

Guideline 7: Ethical Considerations

Judicial adjuncts should be bound by the Code of Professional Responsibility and by appropriate provisions of the Code of Judicial Conduct. The judicial adjunct and the litigating attorneys should share responsibility for identifying conflicts and possible conflicts that preclude the judicial adjunct from hearing a particular matter.

Commentary

This guideline recognizes that the profession of judging requires the elimination of possible conflicts of interest. In addition to being bound by the Code of Professional Responsibility, judicial adjuncts should be subject to certain provisions of the Code of Judicial Conduct. Some categories of judicial adjuncts are covered by the American Bar Association's Code of Judicial Conduct. For the purpose of compliance with the code, a judge is "anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial functions, including an officer such as a referee in bankruptcy, special master, court commissioner, or magistrate...."[11] The code specifically imposes upon all those within its scope—which includes most judicial adjuncts—the responsibility to

- uphold the integrity and independence of the judiciary (Canon 1);
- avoid impropriety and the appearance of impropriety (Canon 2);
- perform his or her duties impartially and diligently (Canon 3);
- assist in improvement of the justice system (Canon 4); and
- refrain from inappropriate political activity (Canon 7).

Other canons in the ABA's Code regarding conflicts of interest (Canon 5) and compensation (Canon 6) also apply, except that a *pro tem* judge may

- hold and manage investments that a judge might have to divest;
- be an officer or director of a business or otherwise engage in business;
- retain investments and other financial interests that might require frequent disqualification;

11. Special Committee on Standards of Judicial Conduct, American Bar Association, *Code of Judicial Conduct*, "Compliance with the Code of Judicial Conduct," § B(2).

- be an executor or similar court officer or fiduciary for persons other than his or her family;
- serve as an arbitrator and mediator;
- practice law; and
- accept appointments to governmental bodies.

Pro tem judges also are not required to file public reports on compensation.

Given the types of judicial adjunct programs covered by these guidelines, some of the canons that apply to judicial adjuncts appear to be too restrictive for general application. For example, according to Canon 7(A) of the ABA Code, the following political activity is considered inappropriate for judges and *pro tem* judges:

- acting as a leader or holding any office in a political organization;
- making speeches for a political organization or candidate or publicly endorsing a candidate; and
- soliciting funds or making a contribution to a political organization or candidate, attending political gatherings, or purchasing tickets for political party dinners.

It seems proper to exclude *pro tem* judges and other judicial adjuncts from the financial constraints imposed on judges. It may be equally proper to create or acknowledge exceptions to the restrictions on judicial political activity by adjuncts, especially when they serve infrequently (e.g., once or twice a year).

It is recommended that judicial adjuncts participating in the types of programs envisioned by these guidelines be subject only to Canons 1 through 4 of the ABA Code of Judicial Conduct. The opportunity for participation by parties in the selection process provided for in Guideline 6 should be a sufficient safeguard if in a particular case a person is deemed inappropriate to serve as a judicial adjunct because of his or her political connections or activities. Where judicial adjuncts are not covered by the provisions of a state's code of judicial conduct, states experimenting with judicial adjunct programs should consider what restrictions are appropriate in view of the nature of the program.

The ABA Code of Judicial Conduct also attempts to protect against obvious conflicts-of-interest situations by prohibiting a *pro tem* judge from acting as a lawyer in a proceeding in which he or she has served as a judge or in any other related proceeding.[12] The codes of judicial conduct of individual states may impose different and more stringent ethical obligations on *pro tem* judges. Other situations, although not prohibited, may raise more subtle conflict-of-interest problems, as when a judicial adjunct either has appeared recently as an adversary in another case against one of the lawyers in the case over which the adjunct is presiding or is scheduled to appear as the lawyer's adversary shortly thereafter. In such instances the

12. *Ibid.*

judicial adjunct may be perceived as able to obtain unfair advantages for his or her clients.

It appears from the experiences of the field sites that the principals in a case have been able to determine the existence of conflict of interest problems. When a conflict exists, the judicial adjunct usually has recused himself or herself from the proceeding. In light of this experience, the responsibility for identifying conflicts and possible conflicts should be left to the litigating lawyers and the judicial adjuncts. It is strongly recommended, however, that any circumstances presenting or giving the appearance of potential conflicts of interest be disclosed at the outset of the proceeding.

Despite the lack of actual problems, most judicial adjuncts interviewed believe a training program reviewing ethical matters and alerting the adjuncts to potential problems is highly desirable. Orientation materials for judicial adjuncts should advise them about circumstances that may lead to conflicts of interest and the appearance of conflicts and remind them of the applicable provisions of the codes of professional responsibility and judicial conduct.

Guideline 8: Compensation

Courts establishing programs of limited duration or programs that require limited time from judicial adjuncts should solicit service on a *pro bono* basis. Other programs should compensate judicial adjuncts in the amount necessary to recruit and retain an adequate number of qualified lawyers.

Commentary

Compensation generally appears to have little effect on the willingness of lawyers to serve as judicial adjuncts. Several factors play a primary role in motivating lawyers to participate: a sense of professional and civic duty; the prestige, both among one's peers and in the community, that accompanies such service; the educational experience of sitting on the other side of the bench; and self-interest in moving one's own cases closer to trial by helping to expedite the court's calendar. Consequently, most lawyers will be willing to serve on a *pro bono* basis when the time required is limited.

Ongoing programs that demand greater time commitments and could prove more disruptive to a lawyer's practice should be treated differently. Compensation, even when minimal, may help to offset overhead costs incurred during participation. Furthermore, compensation serves as a recognition by the court of the sacrifice made and the service given. The complete absence of compensation might force participating lawyers to reduce the number of days they are able to serve and thus complicate finding a sufficient number of qualified lawyers to participate. This may be particularly true when hearings typically last more than a day or two.

Therefore, compensation should be offered for ongoing programs at the lowest level sufficient to secure and retain an adequate number of qualified lawyers to support the program. Compensation may be at an hourly or daily rate or on a per-case basis. In at least one field site, the compensable time includes review, preparation, and hearing time. Also, at least one jurisdiction reimburses for expenses incurred.

Guideline 9: Facilities and Other Resources

The type of judicial function to be performed and the availability of public facilities and other resources should be considered in determining the facilities and other services furnished to judicial adjuncts.

Commentary

The issue of whether, and at what level, the public should provide resources to support judicial adjunct programs should be determined by the type of program, its identified goals, and the availability of needed resources. For example, whether the court should provide a public facility will depend upon such factors as the formality and complexity of the proceeding and the availability of courthouse or lawyer-supplied facilities. A general preference exists for conducting proceedings before judicial adjuncts within the courthouse to promote the appearance of justice and to demonstrate that the program is sponsored by the court. This is especially true for proceedings in which judicial adjuncts exercise full judicial powers. Where proceedings are intended to be less formal, it may be appropriate to hold them at the judicial adjunct's office. It must be recognized, however, that some lawyers may not have an office or conference room to accommodate the parties, witnesses, and counsel present at a hearing.

The provision of support staff (i.e., clerks, court reporters, bailiffs) and other court resources also will depend upon such factors as the nature of the proceeding—its formality and complexity—and the need for a record of the proceedings. If it is determined that support staff are required, the court should ensure that sufficient staff are available. This may require an increase in staffing levels to make certain that proceedings are not delayed because of the unavailability of staff. Also, depending upon the type of program, necessary judicial accoutrements (e.g., flags, gavels) should be provided. In addition, where appropriate, judicial adjuncts should wear robes and be addressed as "judge" during the performance of their judicial duties.

Appendix A

States' Use of Judicial Adjuncts

Appendix A: States' Use of Judicial Adjuncts

PRO TEMPORE JUDGES						OTHER JUDICIAL ADJUNCT USE				
STATE	Permitted	Statutory/ Rule Authority	Court(s)	Consent of Parties Required?	Lawyers Compensated?	Types of Program(s)	Statutory/ Rule Authority	Court(s)	Consent of Parties Required?	Lawyers Compensated?
Alabama	Yes	Code §§ 12-2-14, 12-13-37, 12-13-38, 12-14-34	Supreme[a] Circuit District Probate[a] Municipal	No	Yes[b]	Magistrate[c]	Code §§ 12-17-250 to 251	District	No	Not addressed in statute or rule
						Referee	Code § 12-15-6	Juvenile	Yes	Not addressed in statute or rule
Alaska	Yes	Stat. §§ 22.15.170, 22.15.100	District[a,c]	No	Not addressed in statute or rule	Special Master	Stat. §§ 22.15.170, 22.15.100 R. Civ. Proc. 53	Superior	No	Yes
Arizona	Yes	Stat. §§ 12-141-144, 12-145-147	Superior Ct. Appeals	No	Yes	Traffic Hearing Officer[c]	Stat. § 8-232	Juvenile	No	Yes
						Commissioner	Supreme Ct. Rule 46	Superior Juvenile	Yes	Yes
						Arbitration	Arbitr. Rule 2 Med. Liab. Rule 2	Superior Superior	No Yes	Yes Not addressed in statute or rule
Arkansas	Yes	Const. Art. 7, §§ 21, 36-37 Stat. §§ 22-436, 22-438, 22-147, 22-705 to 5.2, 22-812	Circuit[a] County, Probate Chancery[a] Municipal[a] County[c] Probate[c] Mayor's (City)[a,c] Police	No	Yes, but not addressed for circuit or chancery courts in statute or rule	Master, Commissioner[c]	Stat. §§ 22-449 Stat. §§ 22-361.1, 22-361.3	Chancery Circuit	No No	Yes Yes
						Magistrate	Stat. § 59-1427	Probate	No	Not addressed in statute or rule
California	Yes	Const. Art. 6, § 21 Civil Code § 259 Ct. Rules 244, 532	Superior Municipal	Yes Yes	Not addressed in statute or rule	Referee	Code Civ. Proc. §§ 639, 640	Superior Municipal	Yes	Yes
						Arbitration[d]	Code Civ. Proc. §§ 1141.18 to .19 Ct. Rules 1602 to 04	Superior Municipal	No	Yes
						Commissioner	Const. Art. 6, § 22 Civil Code § 259	Superior Municipal	No	Yes
						None				

Delaware	No				
District of Columbia	No				
Florida	No				
Georgia	Yes[a]	Code §§ 15-9-10, 15-9-13, 15-11-63	Probate Juvenile	No	Yes
Commissioner					
Fact-finder	Stat. §§ 52-549n, 549o, 549s Prac. Rules 546C, 546D, 546E	Superior	No	Yes	
Arbitration	Stat. §§ 52-549v, 549w Prac. Rules 546M, 546O				
Referee	Stat. § 52-434	Superior	No	Yes	
None					
Commissioner (Full-time)	D.C. Code 11-1732 & Family Rule D	Superior	Yes	Not addressed in statute or rule	
Auditor-Master (Full-time)	Civil Rule 53	Superior	No	Yes	
Special Master	Civil Rule 53	Superior	No	Yes	
General Master Special Master[c]	Civ. Proc. Rule 1.490	Circuit	No	Not addressed in statute or rule	
Special Master	Code §§ 22-2-103, 22-2-108, 23-3-63, 23-3-66, 45-19-37	Superior	No	Yes	
Arbitration[e]	Code §§ 9-9-112, 9-9-117, 9-9-118	Superior	Yes	Yes	
Referee	Code § 15-11-10	Juvenile	Yes	Yes	

a. Use limited to filling in for justice or judge during illness, absence, disqualification, or pending appointment.
b. Compensation for probate court not addressed in statute or rule.
c. Need not be a lawyer.
d. Mandatory for all cases valued by court at $15,000 or less in larger superior courts ($25,000 in some courts) and optional for smaller courts and municipal courts.
e. Medical malpractice claims only.

Note: A number of states have adopted the Uniform Arbitration Act or a similar set of provisions allowing parties to agree to arbitrate future disputes rather than or prior to resolving the dispute in a court. Arbitrators under these contractual arbitration agreements need not be lawyers; the statutes are outside the scope of the use of lawyers being studied in this project and are not included in this listing. Also, the use of retired judges as judges *pro tempore* is outside the scope of this listing.

PRO TEMPORE JUDGES						OTHER JUDICIAL ADJUNCT USE				
STATE	Permitted	Statutory/ Rule Authority	Court(s)	Consent of Parties Required?	Lawyers Compensated?	Types of Program(s)	Statutory/ Rule Authority	Court(s)	Consent of Parties Required?	Lawyers Compensated?
Hawaii	Yes	Stat. § 604-2	District	No	Yes	Commissioner[f]	Stat. § 668-13	Circuit	No	Yes
						Master, Commissioner, or Receiver	Fam. Ct. Rule 66	Family	No	Yes
						Master	Land Ct. Rule 20	Land Court	No	Yes
						Conciliator[e]	Stat. § 671-11	District	No	No
Idaho	No					Referee[f]	Code §§ 6-510 to 513	District	No	Yes
						Special Master[c]	R. Civ. Proc. 53	District	No	Yes
Illinois	No					None				
Indiana	Yes	R. Trial Proc. 63	All Trial Courts	No	Yes	Special Judge	R. Trial Proc. 79	All Courts	No	Yes
						Special Master	R. Trial Proc. 53	All Trial Courts	No	Yes
						Referee	R. Small Claims 13	Circuit	No	Yes
Iowa	No					Master	R. Civ Proc. 207 to 209	All Courts	No	Yes
Kansas	Yes	Const. Art. 3, § 6 Stat. § 20-310a	District	No	Yes	Master	Civ. Proc. Rule 60-253	District	No	Yes
Kentucky	Yes	Stat. § 31A.040	Circuit	No	Yes	Commissioner	R. Civ. Proc. 53	Circuit	No	Yes
Louisiana	Yes[a]	Const. Art. V. § 22 Stat. §§ 13:1567 13:2492 13:1598 Code Civ. Proc. Arts. 4864 to 4865	All Juvenile (Orleans Parish) Municipal (New Orleans) Jefferson Parish	No	Yes	Arbitration	Stat. § 13:5207C	City	Yes	Yes
Maine	No					Referee	R. Civ. Proc. 53	Superior	Yes	Yes

Michigan	No				
Minnesota	No				
Mississippi	Yes[a,c]	Code §§ 9-1-13, §§ 11-1-11	Circuit County Chancery	Yes, under § 11-1-11	Yes
Missouri	No				
Montana	No				
Nebraska	Yes	Stat. § 26-1,203	Municipal	No	Yes
Nevada	No				
New Hampshire	No				

Commissioners	Appeals Ct. R. 2:03	Appeals Ct.	No	Yes
Masters	R. Civ. Proc. 53, Super Ct. R. 49	Superior District/Mun.		
	Gen. Laws ch.221, § 57; Prob. Ct. R. 20, 21, 24	Probate		
Special Magistrate	R. Crim. P. 47	Superior	No	Yes
Mediation	Gen. Ct. R. 316 (MCR 2:403)	Circuit District	No	Yes
Arbitration	Stat. § 484.73	District County	No	Yes
Referee	Stat. § 484.70	All Trial Courts	Yes	Yes
Referee[g]	Stat. §§ 488.13, 488A.30	Municipal	No	Yes
Special Commissioner	Code § 9-5-251	Chancery	No	Yes
Master	R. Civ. Proc. 68.01, 68.03	Circuit Appellate	No	Yes
Referee	Stat. § 515.030	Circuit	No	Yes
None				
Referee	Stat. §§ 25-1130, 25-1132	District County	No Yes	Yes Yes
None				
Referee or Master	Stat. § 519:9	Superior	No	Yes

a. Use limited to filling in for justice or judge during illness, absence, disqualification, or pending appointment.
c. Need not be a lawyer.
e. Medical malpractice claims only.
f. Real estate partition cases only.
g. In 2nd and 4th Judicial Districts only.

PRO TEMPORE JUDGES						OTHER JUDICIAL ADJUNCT USE				
STATE	Permitted	Statutory/ Rule Authority	Court(s)	Consent of Parties Required?	Lawyers Compensated?	Types of Program(s)	Statutory/ Rule Authority	Court(s)	Consent of Parties Required?	Lawyers Compensated?
New Jersey	No					Referee	Rule 5:25-2	Superior (Family Part)	No	Not addressed in statute or rule
						Master	Rule 4:41-1, 4:41-3	Superior	No	Yes
New Mexico	Yes	Const. Art. VI, § 15	District	Yes	Not addressed in statute or rule	Arbitration[h]	Stat. 39:6A-27	Superior	No	Yes
New York	No					Master	Dist. Ct. Rule 53	District	No	Yes
						Special Master	22 N.Y.C.R.R. § 660.8	Supreme, New York Co.	No	Yes
						Arbitration	22 N.Y.C.R.R. Part 28	Statewide	No	Yes
						Mediator	22 N.C.Y.R.R. Part 116	Statewide	No	Yes
						Referee	CPLR 4311, 4312	Statewide	No	Yes
North Carolina	No					Referee	R. Civ. Proc. § 1A-1, R. 53	Superior District	No	Yes
North Dakota	Yes	Stat. ch. 27-24-01 Admin. Rule 8	All Trial Courts	No	Yes	Master	R. Civ. Proc. 53	All Courts	No	Yes
Ohio	Yes[a]	Code 1901.10	Municipal[a]	No	Yes	Referee	R. Civ. Proc. 53, 75; Juv. R. 40; Code §§ 2315.37, 2151.16	All Courts	No	Yes
Oklahoma	Yes	20 Stat. § 103.1	District	No	Yes	Master Commissioner	Code § 2101.06	Probate	No	Yes
Oregon	Yes[a,c]	Const. Art. 7, § 2a; Stat. §§ 1.635,	All (ex. Supreme)	No	Yes	Referee	12 Stat. §§ 613, 615	District Superior	No	Yes
						Reference Judge	Ch. 704, Ore. Laws 1983[i]	Circuit	Yes	Yes

Rhode Island	No				
South Carolina	No				
South Dakota	No				
Tennessee	Yes[a]	Stat. §§ 17-2-102 to 108, 17-2-115 to 119	All Courts	No	Yes
Texas	Yes	Code Crim. Proc. Art. 30.03	County	No	Yes
		28 Stat. Art. 1199a	Municipal[a]	No	Yes
		38 Stat. Art. 1803	Ct. Crim. Appeals	No	Not addressed in statute or rule
		29 Stat. Art. 1815	Ct. Civ. Appeals	No	Not addressed in statute or rule
Utah	Yes	Const. Art. VIII, § 5[l]	District	Yes	Not addressed in statute or rule
		Code 30-3-4	District (Divorce)	Yes	Not addressed in statute or rule
		20 Stat. § 751 23 Stat. § 304[l] R. Civ. Proc. 1558, 1920.51	Pleas		
Arbitration		42 Stat. 7361	Ct. Common Pleas	No	Yes
Special Master		Civ. Proc. Rule 53	All Trial Courts	No	Yes
Referee		Stat. §§ 15-31-40, 15-31-50, 15-31-140	Circuit	No	Yes
Arbitration[k]		Stat. §§ 56-11-510 to 520 Cir. Ct. Rule 91	Circuit	Yes	Yes
Referee		Stat. §§ 15-6-53(a), 15-6-53(c)	All Courts	No	Yes
Master		R. Civ. Proc. 53.01, 53.05	All Courts	No	Yes
None					
None					

a. Use limited to filling in for justice or judge during illness, absence, disqualification, or pending appointment.
c. Need not be a lawyer.
h. Mandatory for all automobile negligence actions in which damages for "pain and suffering" are $15,000 or less; parties whose cases exceed this amount may voluntarily submit to arbitration.
i. Codified following Or. Rev. Stat. § 3.280. Both programs will expire on January 1, 1986, unless extended.
j. Issues in divorce cases only.
k. Auto reparation and property damage liability claims.
l. Amendment pending as of 7/1/84.

PRO TEMPORE JUDGES						OTHER JUDICIAL ADJUNCT USE				
STATE	Permitted	Statutory/ Rule Authority	Court(s)	Consent of Parties Required?	Lawyers Compensated?	Types of Program(s)	Statutory/ Rule Authority	Court(s)	Consent of Parties Required?	Lawyers Compensated?
Vermont	Yes	Stat. Title 4, § 22	District	No	Yes	Master	Civ. Proc. Rule 53	All Courts	No	Yes
Virginia	Yes	Code §§ 17-8, 17-9	Circuit	Yes	Yes	Commissioner	§§ 8.01-607 to 609	Circuit	No	Yes
Washington	Yes	Const. Art. 4, § 7	Superior	Yes	Yes	Referee	Stat. § 2.24.060	Superior	No	Not addressed in statute or rule
		Code 3.34.130	Justice	No	Yes	Arbitration	Stat. §§ 7.06.010 to 910	Superior	No[m]	Yes
West Virginia	No					None				
Wisconsin	No					Referee	Stat. §§ 752.39, 751.09, 814.13, 814.131, 805.06	Appellate Courts Circuit	No	Yes
Wyoming	No					Commissioners	Stat. §§ 5-5-162, 5-5-167	County	No	Yes

Appendix B

Summaries of Information for Pittsburgh, Seattle, Orange County, Phoenix, and the Oklahoma Courts of Appeal

Pittsburgh, Pennsylvania, Arbitration Program

All civil cases seeking $20,000 or less in damages filed in the Court of Common Pleas are referred first to the Arbitration Division. (The limit was raised from $10,000 to $20,000 in 1983.) Each case is given an arbitration hearing within three to four months of filing in the Arbitration Division. During 1982, there were 6,319 cases disposed of: 1,170 by judges; 1,088 by settlement; and 4,061 by awards from the arbitration hearing. Of the 6,319 cases disposed of, 1,166 (18%) were appealed to the Civil Division. It is not known how many of these appeals were pursued to trial. In any event, the Arbitration Program disposed of at least 82 percent of the cases scheduled for arbitration hearing during 1982.

The filing fee for cases in the Arbitration Division is $36.50, the same as in the Civil Division. This money is placed in the county general fund. Each lawyer who serves on a panel is paid $100 per day. If an arbitration case is appealed, the party appealing must reimburse the court for the cost of the arbitration panel in his or her case, usually between $35 and $45. Allegheny County provided $244,800 for the administration costs of the program during 1982; $87,098 in fees collected were returned to the county. Therefore, it cost the county approximately $31 for each case disposed of by arbitration during the year. This money goes to pay the staff of the Arbitration Division (four administrative personnel and fifteen clerks) and the fees of the lawyers serving as arbitrators.

Seattle, Washington, Mandatory Arbitration

All cases pleading damages of $15,000 or less are referred to arbitration. The Mandatory Arbitration Program handled approximately 1,750 cases during 1982—37 percent of the civil caseload of the court. A pool of 750 lawyers (approximately 15 percent of the membership of the local bar) volunteer to serve the court in this program, all of whom participate.

Each attorney spends approximately six hours in each service as an arbitrator. In a year, this averages approximately thirty-six hours of service for each attorney. It is estimated that 10,000 hours were contributed in 1982 by attorneys to this program.

During 1982, half of the cases assigned to arbitration were settled as a result of the arbitration hearing. An estimated 20 percent of the arbitration awards are appealed for a *de novo* trial. The court believes that there are fewer continuances requested for arbitration hearings than for trials. It estimates that continuances are requested for around 40 percent of the cases assigned to arbitration, compared with 60 to 70 percent of those scheduled for trial. Cases that are sent to mandatory arbitration are usually disposed of within 90 to 100 days of filing; civil cases not in the program are normally not disposed of until 11 to 14 months after filing.

No information has been made available on the costs of the program.

Orange County, California, Programs

Mandatory Arbitration

Cases determined by a judge to have a value of $25,000 or less are referred to mandatory arbitration. During fiscal year 1983, approximately one-third (5,500) of the total civil active list of cases were referred. Although there is no direct comparison group, the program is thought to have expedited the processing of the cases referred and generally helped the entire civil portion of the court. Time to disposition for cases referred has been 8 months, compared with 18 to 24 months for cases not in the program. There were 3,977 cases disposed of by the program during fiscal year 1983. Of these, 23 percent requested a trial *de novo*. There were 27 jury and 45 nonjury trials conducted on these cases, or less than 2 percent of the total number of cases disposed of. Approximately 27 percent of the cases in the program were dismissed. Data supplied by the court indicate that approximately 3,000 continuances have been requested by cases in the program, less than one per case of those disposed of during the year. No information was available on the number of continuances requested for cases not in the program.

Approximately 10 percent of the bar has volunteered to participate in the program. At an average of two hours per service, most attorneys spent a total of around ten hours in the program during the year. The pay is $150 per case, plus $150 per day for cases that last over one day. Attorney fees made up 75 percent of the $380,000 cost for fiscal 1983; other costs are for ancillary staff salaries (15 percent), nonpersonnel program support (8 percent), and less than one percent for coordination and administration of the program.

Pretrial Mandatory Settlement Conferences

During fiscal 1983, approximately 6 percent (1,350 cases) of the total civil active caseload was handled by this program. The purpose is to encourage settlement just before trial. According to the data supplied by the court, 22 percent of the cases are settled during these conferences, whether the conferences are held before a lawyer or a judge. (In addition, a number of

cases scheduled for these conferences are disposed of by the parties prior to the conference; are ordered to arbitration; or are otherwise disposed of.) Ten percent of the local bar have volunteered to participate in the program; in fiscal 1982-83, 11 percent of the volunteers were used. Attorneys spend one day in service each time they participate, for a total of two to three days each year; they are not compensated for their service. The program is coordinated by one staff member, supplemented by small portions of the time of other employees. The court considers that the costs of the program are not significant and has made no attempt to measure them.

Civil *Pro Tem* Jury Trial Panel

During fiscal year 1983, four cases, less than one percent of the entire caseload, participated in this program. With so small a sample of cases to examine, not much is known about the actual results of this program. One of the four cases has been disposed of by settlement. All parties must stipulate to the entry of a case into this program, which has occurred in only a few instances. The twenty attorneys who have been selected for service receive no compensation from the court. The average service is expected to last five days, and the yearly total per attorney to be between five and ten days. Coordination of the program is handled by the master calendar supervisor. No cost estimates for the program were available.

Civil Mandatory Settlement Week Program

Four times a year, some of the court's judges and volunteer lawyers set aside up to five days of time to handle settlement conferences scheduled to be heard all week. All civil cases with an estimated trial time of over two hours that are not ordered to arbitration are put into this program. There were 4,400 cases referred during fiscal year 1983; conferences were held in 4,266 cases. Less than 14 percent were settled; 11 percent were dismissed. Forty-nine percent of the 4,266 cases requested a jury trial after the settlement conference, but it was not possible to determine how many trials were actually conducted.

Despite this incomplete disposition information and the absence of any comparison group, the court reports that the program is considered successful, since less than half of these cases were placed on the trial calendar. Thus the court could assign earlier trial dates to these and to other, more serious cases, reducing the average time from filing to trial from over 36 months at the beginning of the program to an average of 20 months in late 1983. Less than one continuance of a settlement conference was requested for every five cases disposed of.

Attorneys who participate in this program receive no compensation. Ten percent of the bar has volunteered, and 40 percent of the volunteers have been used. Each service usually lasts one day; volunteers contribute between one and ten days per year. The program cost approximately $9,000 during fiscal 1983; of this, 53 percent was spent on salaries for ancillary

staff, 37 percent on nonpersonnel program support, and 10 percent on the program coordinator.

Family Law—Orders-to-Show-Cause Calendar

This program handled 8,460 cases during fiscal year 1983, constituting 30 percent of the cases of similar nature. As a result of this program, 30 percent of the 8,460 cases were disposed of, compared with 27 percent for a similar, nonprogram group of cases. Slightly more continuances are requested by program cases than by nonprogram cases—40 percent and 37 percent respectively. Lawyers are not compensated for their participation. Seventy-five members of the total bar of 3,120 have volunteered, and actively participate, contributing between two and five days a year. Each service lasts about one day. The program is coordinated by two people who perform this task as a small portion of their regular duties. No estimate is available on the cost of the program, but it is thought to be minimal.

Family Law—Mandatory Settlement Program

There were 366 cases handled by the program, approximately 17 percent of the similar cases. All of the 34 members of the bar who have volunteered to participate have served. Each service usually lasts one day, and most attorneys serve one or two days during the year. They are not compensated for their service. Two administrative personnel coordinate the program along with their other tasks. No estimate is available on the cost of the program, but it is thought to be minimal. No information was provided on the impact of the program.

Juvenile Court—*Pro Tem* Referees

During fiscal year 1983, juvenile *pro tem* referees conducted 3,100 hearings. These cases have the same average time-to-disposition—45 days—as similar cases not in the program. The program serves to increase the judicial resources available to the court. It is not known how many of these cases are appealed, but the number is believed to be very small and not different from the number of similar, nonprogram cases appealed. Attorneys are compensated at a rate of $24.50 per hour for their service, for a minimum of four hours. Each case takes between 15 and 20 minutes. During August 1983, lawyers spent 113 hours in service. Nine of the ten members of the local bar who have volunteered for the program currently are being used. One regular administrative staff member is responsible for coordinating the program. During the last fiscal year, almost $25,000 was spent on the program. Postage and other nonpersonnel expenses consumed $100, and the remainder of the budget was spent on attorneys' fees for service.

Phoenix, Arizona, Programs

Civil *Pro Tem* Program

Most cases included in this program are tried by an attorney *pro tem* judge; a few are referred to the *pro tem* judge for hearings on motions or orders to show cause and then are transferred to their regularly assigned judge. A total of 344 cases were handled, either for trial or for a hearing, by *pro tem* judges between September 1982 and August 1983. Of these, 301 cases were disposed of: 85 percent by jury trial, 10 percent by settlement before trial, and 5 percent by dismissal, default, or disposal by arbitration or some other method. The comparable figures for similar cases assigned to regular judges were 13 percent jury trial, 53 percent settlement, and 33 percent dismissal, default, or other.

In interpreting these figures, it must be kept in mind that a case is assigned to a *pro tem* judge when it is ready for trial. In contrast, many of the settlements and other nontrial dispositions credited to the regular judges may have occurred long before the case was ready for trial. Accordingly, these data are not in fact comparable with those for the *pro tem* judges even though they represent the distribution of dispositions for similar cases.

Seventy members of the local bar association have volunteered to serve the program; thirty-five have been used. Lawyer *pro tem* judges are paid $25.48 per hour for their service; the pay of retired judges is based on a retirement annuity factor. Each service usually lasts three days. Five people work on program coordination—a full-time secretary and a full-time chief bailiff, together with part of the time of an administrative reporter, a chief clerk supervisor, and a judicial administrator. Approximately 5.3 full-time-equivalent ancillary personnel also serve the program—bailiffs, pool reporters, and court clerks. The total cost during a recent year was approximately $320,000. Of this amount, 30 percent went to *pro tem* judges' fees for service; 15 percent to coordination personnel; 44 percent to ancillary personnel; and 11 percent to maintenance of courtrooms. The state contributes half the fees for the *pro tem* lawyers.

Arbitration

Almost 20 percent of the cases on the civil active calendar were referred to arbitration. The court lists 817 cases as being disposed of at arbitration and 183 appeals (22 percent). These cases went from certificate of readiness to disposition in a median time of 8 months. The median for cases not included in the program was 9.5 months for the same stage of case processing. No data for cases not in the program were available for comparison with these figures. Attorneys are paid $50 per day for a total of $100 maximum for each case. During fiscal year 1983, $53,446 was spent on the program: 70 percent for attorneys' fees for service and 30 percent for the salaries of the program coordinators.

Domestic Relations *Pro Tem* Judges

During fiscal year 1983, attorneys serving in this program conducted 199 trials and 256 order-to-show-cause hearings. No information was available on the outcomes of cases included in the program or on the extent to which the program is meeting its goals. Sixty-two lawyers have volunteered to participate in the program; all have been used. A typical service lasts one day, and most lawyers serve for two days during the year. They are not paid for their service. One employee coordinates the program, but no estimates were available for the total cost of the program.

Special Commissioners (Medical Malpractice Boards)

Two cases per month are handled by this program. By mid-1983 80 lawyers had volunteered to participate. They are paid $50 per day for up to two days. No information was available on the outcomes of cases, on the impact of the program in meeting its goals, or on the length of time most lawyers give to the program. The entire program is estimated to have cost $10,313 during fiscal year 1983. Of this amount, 28 percent went to fees for participating lawyers; 20 percent to administrative coordination staff; and 43 percent for the use of courtrooms.

Oklahoma Court of Appeals Temporary Divisions

Between July 1981 and August 1982, 549 lawyers were appointed to 183 temporary divisions of the Court of Appeals. Twenty-six additional divisions consisting of 78 lawyer-judges were established in 1983. All appeals are filed with the Supreme Court, which then assigns some cases to the Court of Appeals for decision. During the temporary program, it also assigned cases to the temporary divisions of the Court of Appeals.

Each division's commission expired upon disposition of the assigned appeals. Between July 1981 and August 1982 approximately 45 to 50 civil cases were assigned to temporary divisions each month. All cases assigned to these divisions had been disposed of by the end of the year—between 540 and 600 additional cases. Approximately 1,800 civil appeals are filed in the Supreme Court each year, so the temporary courts were able to help the Supreme Court dispose of approximately one-third of its caseload.

Although the legislature appropriated $15,000 to cover the costs of the program, almost no costs were incurred. Lawyers serving were permitted to request reimbursement for actual expenses, but none did. The only expenses were the cost of mailing and delivering the records and briefs.

Appendix C

Sample Legal Provisions Regarding Judges *Pro Tempore*

State of Arizona

Revised Statutes

§ 12-141. Upon request of the presiding judge of the superior court in any county the chief justice of the state supreme court may appoint judges pro tempore of the superior court for such county in the manner provided by this article and subject to the approval of the board of supervisors of the county.

§ 12-142. A. A judge pro tempore of the superior court shall be:

1. Not less than thirty years of age.
2. Of good moral character.
3. Admitted to the practice of law in this state for not less than five years next preceding this appointment.
4. A resident of this state for not less than five years next preceding his appointment.

B. A judge pro tempore may be appointed to serve in the county of his residence or in a county of which he is not a resident.

C. The salary of a judge pro tempore shall be paid for the period of the appointment based on an annual salary equal to that of a superior court judge.

D. Judges pro tempore are not subject to any provision of law relating to the retirement of judges.

§ 12-143. A. The salary of a judge pro tempore shall be paid one-half by the state and one-half by the county to which such judge is assigned.

B. The sessions of the superior court presided over by a judge pro tempore shall be held wherever the county board of supervisors may direct, if approved by the chief justice of the supreme court. The expense for the court and other required facilities such as attendants, judicial employees, fuel, lights and supplies suitable and sufficient for the transaction of business shall be provided by the county.

C. Assignment of judicial employees to the court over which a judge pro tempore presides, such as any deputy clerk of the court, certified superior court reporter, bailiff, interpreter and adult probation officer, shall be made by the county.

§ 12-144. A. The chief justice of the state supreme court may appoint a judge pro tempore of the superior court for a county as provided for in § 12-141 without regard to the number of judges prescribed by § 12-121.

B. The term of a judge pro tempore may be for any period of time not to exceed six months for any one term and a person previously appointed as judge pro tempore may be reappointed by the chief justice. The chief justice may at any time terminate the term of a judge pro tempore.

C. The judicial powers and duties of a judge pro tempore shall extend beyond the period of his appointment for the purpose of hearing and determining any proceeding necessary to a final determination of a cause heard by him in whole or in part during the period of his appointment.

D. The powers and duties of a judge pro tempore of the superior court are the same as are provided for superior court judges in title 12, chapter 1, article 2, relating to the superior court.

§ 12-145. Upon request of the chief judge of a division of the court of appeals, the chief justice of the state supreme court may appoint judges pro tempore of the court of appeals for such division in the manner prescribed by this article, subject to the availability of appropriated funds.

§ 12-146. A. A judge pro tempore of the court of appeals shall be:

1. Not less than thirty years of age.
2. Of good moral character.
3. Admitted to the practice of law in this state for not less than five years next preceding his appointment.
4. A resident of this state for not less than five years next preceding his appointment.

B. A judge pro tempore may be appointed to serve in the division of his residence or in a division of which he is not a resident.

C. The salary of a judge pro tempore shall be paid for the period of his appointment based on an annual salary equal to that of a judge of the court of appeals.

D. Judges pro tempore are not subject to any provision of law relating to the retirement of judges.

§ 12-147. A. The chief justice of the state supreme court may appoint a judge pro tempore for a division of the court of appeals as provided for in § 12-145 without regard to the number of judges prescribed by § 12-120, subsection B.

B. The term of a judge pro tempore may be for any period of time not to exceed six months for any one term, and a person previously appointed as judge pro tempore may be reappointed by the chief justice. The chief justice may at any time terminate the term of a judge pro tempore.

C. The judicial powers and duties of a judge pro tempore shall extend beyond the period of his appointment for the purpose of hearing and determining any proceeding necessary to a final determination of a cause heard by him in whole or in part during the period of his appointment.

D. The powers and duties of a judge pro tempore of the court of appeals are the same as are provided for court of appeals judges in article 1.1 of this chapter, relating to the court of appeals.

State of Arkansas

Constitution, Article 7.

§ 21. Whenever the office of judge of the circuit court of any county is vacant at the commencement of a term of such court, or the judge of said court shall fail to attend, the regular practicing attorneys in attendance on said court may meet at 10 o'clock a.m. on the second day of the term, and elect a judge to preside at such court, or until the regular judge shall appear; and if the judge of said court shall become sick or die or unable to continue to hold such court after its term shall have commenced, or shall from any cause be disqualified from presiding at the trial of any cause then pending therein, then the regular practicing attorneys in attendance on said court may in like manner, on notice from the judge or clerk of said court, elect a judge to preside at such court or to try said causes, and the attorney so elected shall have the same power and authority in said court as the regular judge would have had if present and presiding; but this authority shall cease at the close of the term at which the election shall be made. The proceeding shall be entered at large upon the record. The special judge shall be learned in law and a resident of the state.

Statutes

§ 22.705. Whenever the office of the judge of a municipal court is vacant, and before his successor has been selected and qualified, or when the judge of a municipal court shall be disqualified from presiding at any trial pending in the court, the regular practicing attorneys in attendance on such court may, on notice from the clerk of such court, elect a special judge to preside over the court. Whenever the judge of a municipal court is to be temporarily absent from the court because of illness or for any other reason, the judge of the court may, by order of the court entered prior to the temporary absence of such judge appoint a special judge to preside over the court in his absence. A special judge selected by the practicing attorneys or appointed by the regular judge of a municipal court shall have the same power and authority in the court as the regular judge would have if present and presiding, and shall have the same qualifications as is required by law for the regular municipal judge. The authority of a special municipal judge selected pursuant to the provisions of this Act shall cease upon the qualification of a successor to the regular municipal judge in the case of a vacancy in the office, or upon termination of the case for which the regular judge was disqualified from presiding, or upon the return to the court of the regular judge of the court. A special judge appointed or selected under the provisions of this Act shall receive compensation for his service at the rate of ten dollars ($10.00) per day for each day he holds the municipal court, or any other sum not exceeding ten dollars ($10.00) per day which the city council of any city subject to this Act may prescribe by ordinance.

National Center for State Courts

The National Center for State Courts is a nonprofit organizaton dedicated to the modernization of court operations and the improvement of justice at the state and local level throughout the country. It functions as an extension of the state court systems, working for them at their direction and providing for them an effective voice in matters of national importance.

In carrying out its purpose, the National Center acts as a focal point for state judicial reform, serves as a catalyst for setting and implementing standards of fair and expeditious judicial administration, and finds and disseminates answers to the problems of state judicial systems. In sum, the National Center provides the means for reinvesting in all states the profits gained from judicial advances in any state.

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