

HOUSE BILL 3939

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 16
and Title 17, relative to the evaluation of certain
judges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 17, Chapter 4, is amended by adding
the following as a new part:

Section 17-4-301.

(a) The Supreme Court shall establish by rule a Judicial Performance
and Evaluation Program designed specifically for trial court judges.

(b) The Trial Court Judicial Performance and Evaluation Program shall
be administered by a Judicial Performance Program Committee ("committee")
whose members shall be appointed by the Supreme Court. The committee's
membership shall be broadly based and shall be composed of persons of
independent quality drawn from the bench, the bar, and nonlawyers familiar with
the judicial system. The Supreme Court shall name the chair of the committee
and shall prescribe the terms of the members.

Section 17-4-302.

The committee shall have the responsibility for the design, the
implementation, and the day-to-day operation of the Trial Judge Judicial
Performance and Evaluation Program. The committee's decisions shall be
consistent with this part, and the committee has no power to waive or modify any
provision of this part.

Section 17-4-303.

The committee shall be administratively attached to the Administrative Office of the Courts but for all purposes other than administration shall be considered independent. The Administrative Office of the Courts shall provide staff assistance to the committee, and the committee may, to the extent that funds are available, retain other experts and consultants to assist with any part of its duties.

Section 17-4-304.

(a) The committee shall meet at least two (2) times per year or at the call of the chair or the request of a majority of the committee members.

(b) The committee shall administer the program for trial judges of courts or record for the purpose of self-improvement.

(c) The committee shall provide to the Judicial Evaluation Commission with the trial judge survey results which shall be used by the Commission to evaluate trial judges and publish a final report on each trial judge except where the trial judge has been in office less than one (1) year.

Section 17-4-305

(a) Trial judges shall be evaluated based on the following specific criteria:

(1) Integrity — In addition to other appropriate performance measures, the committee shall consider:

(A) Avoidance of impropriety and appearance of impropriety;

(B) Freedom from personal bias;

(C) Ability to decide issues based on the law and the facts without regard to the identity of the parties or counsel, or the

popularity of the decision and without concern for or fear of criticism;

(D) Impartiality of actions; and

(E) Compliance with the Code of Judicial Conduct

contained in Tenn. S. Ct. R. 10.

(2) Knowledge and understanding of the law — In addition to other appropriate performance measures, the committee shall consider:

(A) Understanding of substantive, procedural, and evidentiary law;

(B) Attentiveness to factual and legal issues before the court; and

(C) Proper application of judicial precedents and other appropriate sources of authority.

(3) Ability to communicate — In addition to other appropriate performance measures, the committee shall consider:

(A) Clarity of bench rulings and other oral communications;

(B) Quality of written opinions with specific focus on clarity and logic, and the ability to explain clearly the facts of the case and the legal precedents at issue; and

(C) Sensitivity to the impact of demeanor and other nonverbal communications.

(4) Preparation and attentiveness — In addition to other appropriate performance measures, the committee shall consider:

(A) Judicial temperament, including courtesy to all parties and participants; and

(B) Willingness to permit every person legally interested in a proceeding to be heard, unless precluded by law or rules of court.

(5) Service to the profession and the public — In addition to other appropriate performance measure, the committee shall consider:

(A) Efficient administration of caseload;

(B) Attendance at and participation in judicial and continuing legal education programs;

(C) Participation in organizations that are devoted to improving the administration of justice;

(D) Efforts to ensure that the court is serving the public and the justice system to the best of its ability and in such a manner as to instill confidence in the court system; and

(E) Service in leadership positions and within the organizations of the judicial branch of government.

(6) Effectiveness in working with other judges and court personnel — In addition to other appropriate performance measures, the committee shall consider:

(A) Exchanging ideas and opinions with other judges during the decision-making process;

(B) Commenting on the work of colleagues;

(C) Facilitating the performance of the administrative responsibilities of other judges; and

(D) Working effectively with court staff.

Section 17-4-306.

The Judicial Performance and Evaluation Program shall include the regular evaluation of the performance of trial judges. The evaluations shall be carried out using professionally accepted methods to provide objective and reliable evaluations and to reduce the risk of unfair ratings and statistical comparisons. Evaluations shall be based on sufficient data to ensure the statistical reliability of the evaluation information.

Section 17-4-307.

The Trial Court Judicial Performance and Evaluation Program for trial judges shall be for the purposes of self-improvement and for the evaluation of all incumbent trial judges seeking election or reelection to a full eight (8) year term.

SECTION 2. For the purpose of the Supreme Court establishing the Trial Court Judicial Performance and Evaluation Program, this act shall take effect upon becoming a law, the public welfare requiring it.