



Contact: Chris Forsyth
cforsyth@judicialintegrity.org
Phone: 303-892-3894
www.judicialintegrity.org

Vote NO on HB17-1303

Also known as the Judicial Protection Act of 2017, HB17-1303 would be a big step backwards for Colorado. You don't want to betray your constituents by supporting this bill. It re-enacts and revises our judicial performance commissions – the commissions responsible for advising you how to vote on judges. Here are the **TOP 10 reasons why HB17-1303 should die.**

10. It's a surprise. The bill was introduced long after established bill deadlines had passed. And worse yet, it was heavily revised after committee without holding a hearing on the revisions. The bill summary is incredibly misleading and fails to point out significant changes such as the removal of the recommendation for public hearings. Yes, the bill actually reduces the information flowing to performance commissioners. Its bill summary also fails to point out that the legislative intent section was rewritten to put judges first and voters second. So the bill changes the priority of our performance commissions.

9. The bill allows the commissions to continue making recommendations about judges when the commissions don't know whether the judges have been disciplined. Unbelievable. Had the commissions followed their stated legislative intent, they would long ago have proposed The Honest Judge Amendment that we have proposed to make judicial discipline proceedings public so they would have the discipline information.

8. The bill changes the commissions' function from advising voters to advising the chief justice. That's because it would require the commissions to review retired judges, who are serving on a contract basis, and provide the information to the chief justice who arbitrarily hires retired judges. Voters would not receive the information regarding retired judges because voters don't vote on retired judges.

7. The bill fails to even attempt to correct the much-maligned survey process. Our state performance commission sent out an unlawfully insufficient amount of surveys before the 2016 election. Meetings held across the state showed a broad consensus that the surveys need to be improved and more widely distributed. This bill fails to do anything about that.

6. The bill promotes politically imbalanced performance commissions to judicial boards that determine the curriculum our judges must complete to remain on the bench. The bill allows the commissions to require system-wide judicial training. The state does not provide such training. Private entities are providing training, and we don't want them tainting our judges. The performance commissions should not be in the role of requiring training.

5. The bill creates a fallacy called a "judicial improvement plan." Performance commissions would be allowed to require such a plan, which is not defined in the bill. The chief judge of a district or court would create the plan and determine if a judge successfully completes the plan. The performance commissions would be bound by the chief judge's determination. There's a lot wrong with this. First, it takes away the power of recommendation from the performance commissions and gives it to a judge. Second, our state constitution doesn't allow one judge to



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supervise another. Chief judges only have administrative authority. So, if you don't think a judge would really give an unfavorable recommendation about another judge, the plans are a sham. If they're not a sham, they give a chief judge too much power. They weaken the authority of performance commissioners to vote their conscience.

4. The bill fails to apply Colorado's Open Records Act to the records kept by the commissions and fails to require the commissions to keep records. So the status quo of darkness, including the executive director of the Office of Judicial Performance Evaluation destroying records so neither future commissions nor the public can see them, continues. Does anyone trust such darkness?

3. The bill fails to give the performance commissions any additional information about judges and leaves conflicts of interest intact. One reason the evaluations by the performance commissions are so thin and useless is that the performance commissions don't receive much information regarding judges. Based on comments from former performance commissioners, we proposed that the commissions receive background checks on judges by providing them with the DMV history and criminal history of judges. We also proposed that the financial disclosures of judges be checked. HB17-1303 fails to give performance commissioners information that would be helpful. The chief justice will still appoint commission members, the performance commissions would still be in the judicial branch, and with this bill the chief justice can write the rules for the commissions to follow.

2. The "standards matrix" robs performance commissioners, and the public, from candid critiques of judges. The bill actually requires the state commission to come up with a matrix that will be the standard by which a judge will receive a favorable or unfavorable recommendation. First, the legislature should determine the standard and not delegate such an important decision to a commission. Second, the state commission has used this philosophy in the past to keep bad judges on the bench. They wrote a rule stating that if a judge scored an average of 3.0 on a 5.0 scale on surveys, then the commissioners had to consider a "retain" recommendation. This improperly ties commissioners' hands and gives judges the lowest standard of care to comply with in the entire state. Judges should be held to a high standard. A single instance of conduct in certain circumstances is all that should be needed to give a judge an unfavorable recommendation. Commissioners should be able to vote their conscience. The matrix prevents that. The matrix protects a Jekyll & Hyde judge.

1. The bill fails to provide any more information to voters. The one thing that was abundantly clear after statewide meetings regarding judicial performance was that the public wants more information about judges. We need more information flowing to voters so they have enough information to make a knowledgeable decision about whether to retain a judge. Based on the public's desire, we proposed public reports every 2 years on judges and application of the Open Records Act to these commissions. Yet this bill fails to improve transparency or to provide the public with more information. Your constituents deserve better. We can write a better law.

HB17-1303 is not what its sponsors claim. **Vote NO on HB17-1303.**



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