

**REPORT**  
**OF THE ILLINOIS**  
**JUDICIAL**  
**CONFERENCE**  
**2012**



**2012 REPORT OF THE ILLINOIS JUDICIAL CONFERENCE**

## 2012 REPORT

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### ROSTER OF JUDICIAL CONFERENCE OF ILLINOIS

The following are members of the Judicial Conference of Illinois during the 2012 Conference year.

#### SUPREME COURT

Hon. Thomas L. Kilbride  
Chief Justice  
Third Judicial District

Hon. Charles E. Freeman  
Supreme Court Justice  
First Judicial District

Hon. Rita B. Garman  
Supreme Court Justice  
Fourth Judicial District

Hon. Anne M. Burke  
Supreme Court Justice  
First Judicial District

Hon. Robert R. Thomas  
Supreme Court Justice  
Second Judicial District

Hon. Lloyd A. Karmeier  
Supreme Court Justice  
Fifth Judicial District

Hon. Mary Jane Theis  
Supreme Court Justice  
First Judicial District

#### Appellate Court

Hon. Margaret S. McBride  
Chairman, Executive Committee  
First District Appellate Court

Hon. Ann B. Jorgensen  
Presiding Judge  
Second District Appellate Court

Hon. Daniel L. Schmidt  
Presiding Judge  
Third District Appellate Court

Hon. John W. Turner  
Presiding Judge  
Fourth District Appellate Court

Hon. James K. Donovan  
Presiding Judge  
Fifth District Appellate Court

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### APPOINTEES

Hon. Adrienne W. Albrecht  
Circuit Judge  
Twenty-First Judicial Circuit

Hon. Robert J. Anderson  
Circuit Judge  
Eighteenth Judicial Circuit

Hon. Thomas R. Appleton  
Appellate Judge  
Fourth District Appellate Court

Hon. Dinah J. Archambeault  
Associate Judge  
Twelfth Judicial Circuit

Hon. Patricia Banks  
Circuit Judge  
Circuit Court of Cook County

Hon. John A. Barsanti  
Circuit Judge  
Sixteenth Judicial Circuit

Hon. Jennifer H. Bauknecht  
Circuit Judge  
Eleventh Judicial Circuit

William J. Becker  
Associate Judge  
Fourth Judicial Circuit

Hon. Kathy Bradshaw Elliott  
Chief Judge  
Twenty-First Judicial Circuit

Hon. Liam C. Brennan  
Associate Judge  
Eighteenth Judicial Circuit

Hon. George Bridges  
Associate Judge  
Nineteenth Judicial Circuit

Hon. Elizabeth M. Budzinski  
Associate Judge  
Circuit Court of Cook County

Hon. Ann Callis  
Chief Judge  
Third Judicial Circuit

Hon. Diane Gordon Cannon  
Circuit Judge  
Circuit Court of Cook County

Hon. John E. Childress  
Associate Judge  
Seventh Judicial Circuit

Hon. Neil H. Cohen  
Associate Judge  
Circuit Court of Cook County

Hon. Maureen E. Connors  
Appellate Court Judge  
First Appellate Court District

Hon. Joy V. Cunningham  
Appellate Court Judge  
First Appellate Court District

Hon. Thomas M. Donnelly  
Associate Judge  
Circuit Court of Cook County

Hon. Frank R. Fuhr  
Circuit Judge  
Fourteenth Judicial Circuit

Hon. Mark S. Goodwin  
Associate Judge  
Fifth Judicial Circuit

Hon. Robert E. Gordon  
Appellate Judge  
First District Appellate Court

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Hon. Katherine Gorman Hubler  
Associate Judge  
Tenth Judicial Circuit

Hon. Daniel P. Guerin  
Circuit Judge  
Eighteenth Judicial Circuit

Hon. David E. Haracz  
Associate Judge  
Circuit Court of Cook County

Hon. Bobby G. Hardwick  
Circuit Judge  
Eighth Judicial Circuit

Hon. Kimbara G. Harrell  
Associate Judge  
Second Judicial Circuit

Hon. LaGuina Clay-Herron  
Associate Judge  
Circuit Court of Cook County

Hon. Thomas E. Hoffman  
Appellate Court Judge  
First Appellate Court District

Hon. Janet R. Holmgren  
Chief Judge  
Seventeenth Judicial Circuit

Hon. William H. Hooks  
Circuit Judge  
Circuit Court of Cook County

Hon. Julie E. Katz  
Associate Judge  
Twentieth Judicial Circuit

Hon. Robert G. Kleeman  
Associate Judge  
Eighteenth Judicial Circuit

Hon. Kimberly G. Koester  
Circuit Judge  
Fourth Judicial Circuit

Hon. Paul G. Lawrence  
Circuit Judge  
Eleventh Judicial Circuit

Hon. Marjorie C. Laws  
Circuit Judge  
Circuit Court of Cook County

Hon. Charles McRae Leonhard  
Associate Judge  
Sixth Judicial Circuit

Hon. Jerelyn D. Maher  
Associate Judge  
Tenth Judicial Circuit

Hon. Michael J. Murphy  
Appellate Court Judge  
First Appellate Court District

Hon. Leonard Murray  
Associate Judge  
Circuit Court of Cook County

Hon. Jeffrey W. O'Connor  
Chief Judge  
Fourteenth Judicial Circuit

Hon. David K. Overstreet  
Circuit Judge  
Second Judicial Circuit

Hon. Michael Panter  
Associate Judge  
Circuit Court of Cook County

Hon. Barbara N. Petrunaro  
Circuit Judge  
Twelfth Judicial Circuit

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Hon. Kenneth L. Popejoy  
Circuit Judge  
Eighteenth Judicial Circuit

Hon. Joan E. Powell  
Circuit Judge  
Circuit Court of Cook County

Hon. Carolyn Quinn  
Associate Judge  
Circuit Court of Cook County

Hon. Charles V. Romani, Jr.  
Circuit Judge  
Third Judicial Circuit

Hon. Colleen F. Sheehan  
Circuit Judge  
Circuit Court of Cook County

Hon. Mitchell K. Shick  
Circuit Judge  
Fifth Judicial Circuit

Hon. Domenica A. Stephenson  
Associate Judge  
Circuit Court of Cook County

Hon. Carl Anthony Walker  
Circuit Judge  
Circuit Court of Cook County

Hon. Thaddeus Wilson  
Circuit Judge  
Circuit Court of Cook County

Hon. Lori M. Wolfson  
Associate Judge  
Circuit Court of Cook County

## 2012 REPORT

### MEMBERS OF EXECUTIVE COMMITTEE

Hon. Thomas L. Kilbride, Chairman  
Chief Justice  
Third Judicial District

Hon. James J. Allen  
Circuit Judge  
Twelfth Judicial Circuit

Hon. Susan Fox Gillis  
Associate Judge  
Circuit Court of Cook County

Hon. Robert L. Carter  
Appellate Court Judge  
Third Appellate Court District

Hon. Shelvin Louise Marie Hall  
Appellate Court Judge  
First Appellate Court District

Hon. Mark H. Clarke  
Chief Judge  
First Judicial Circuit

Hon. Elizabeth A. Robb  
Chief Judge  
Eleventh Judicial Circuit

Hon. Mary Ellen Coghlan  
Circuit Judge  
Circuit Court of Cook County

Hon. Christopher C. Starck  
Circuit Judge  
Nineteenth Judicial Circuit

Hon. Lynn M. Egan  
Circuit Judge  
Circuit Court of Cook County

Hon. John O. Steele  
Appellate Court Judge  
First Appellate Court District

Hon. Timothy C. Evans  
Chief Judge  
Circuit Court of Cook County

Hon. Milton S. Wharton  
Circuit Judge  
Twentieth Judicial Circuit

Hon. Robert G. Gibson  
Circuit Judge  
Eighteenth Judicial Circuit

Hon. Lisa Holder White  
Circuit Judge  
Sixth Judicial Circuit

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## 2012 REPORT

### OVERVIEW OF THE ILLINOIS JUDICIAL CONFERENCE

The Supreme Court of Illinois created the Illinois Judicial Conference in 1953 in the interest of maintaining a well-informed judiciary, active in improving the administration of justice. The Conference has met annually since 1954 and has the primary responsibility for the creation and supervision of the continuing judicial education efforts in Illinois.

The Judicial Conference was incorporated into the 1964 Supreme Court Judicial Article and is now provided for in Article VI, Section 17, of the 1970 Constitution. Supreme Court Rule 41 implements section 17 by establishing membership in the Conference, creating an Executive Committee to assist the Supreme Court in conducting the Conference, and appointing the Administrative Office as secretary of the Conference.

In 1993, the Supreme Court continued to build upon past improvements in the administration of justice in this state. The Judicial Conference of Illinois was restructured to more fully meet the constitutional mandate that “the Supreme Court shall provide by rule for an annual Judicial Conference to consider the work of the courts and to suggest improvements in the administration of justice and shall report thereon annually in writing to the General Assembly.” The restructuring of the Conference was the culmination of more than two years of study and work. In order to make the Conference more responsive to the mounting needs of the judiciary and the administration of justice (1) the membership of the entire Judicial Conference was totally restructured to better address business of the judiciary; (2) the committee structure of the Judicial Conference was reorganized to expedite and improve the communication of recommendations to the Court; and (3) the staffing functions were overhauled and strengthened to assist in the considerable research work of committees and to improve communications among the Conference committees, the courts, the judges and other components of the judiciary.

The Judicial Conference, which formerly included all judges in the State of Illinois, with the exception of associate judges (approximately 500 judges), was downsized to a total Conference membership of 82. The membership of the reconstituted Conference includes:

Supreme Court Justices	7
Presiding judges of downstate appellate districts and chair of First District Executive Committee	5
Judges appointed from Cook County (including the chief judge and 10 associate judges)	30
Ten judges appointed from each downstate district (including one chief judge and 3 associate judges from each district)	<u>40</u>
Total Conference Membership	82

The first meeting of the reconstituted Conference convened December 2, 1993, in Rosemont, Illinois.

A noteworthy change in the Conference is that it now includes associate judges who comprise more than a quarter of the Conference membership. In addition to having all classifications of judges represented, the new structure continues to provide for diverse geographical representation.

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Another important aspect of the newly restructured Conference is that the Chief Justice of the Illinois Supreme Court presides over both the Judicial Conference and the Executive Committee of the Conference, thus providing a strong link between the Judicial Conference and the Supreme Court.

The natural corollary of downsizing the Conference, and refocusing the energies and resources of the Conference on the management aspect of the judiciary, is that judicial education will now take place in a different and more suitable environment, rather than at the annual meeting of the Conference. A comprehensive judicial education plan was instituted in conjunction with the restructuring of the Judicial Conference. The reconstituted judicial education committee was charged with completing work on the comprehensive education plan, and with presenting the plan for consideration at the first annual meeting of the reconstituted Judicial Conference. By separating the important functions of judicial education from those of the Judicial Conference, more focus has been placed upon the important work of providing the best and most expanded educational opportunities for Illinois judges. These changes have improved immensely the quality of continuing education for Illinois judges.

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**2012 ANNUAL MEETING**  
**OF THE ILLINOIS JUDICIAL CONFERENCE**  
**Doubletree Hotel ~ Chicago, Illinois**

**Thursday, October 25, 2012**

- 7:30 - 9:00 a.m. Buffet Breakfast & Registration**
- 9:00 - 9:45 a.m. Committee Meetings**
- *Alternative Dispute Resolution Coordinating Committee*
  - *Automation and Technology Committee*
  - *Committee on Criminal Law and Probation Administration*
  - *Committee on Discovery Procedures*
  - *Committee on Education*
  - *Study Committee on Complex Litigation*
  - *Study Committee on Juvenile Justice*
- 10:00 - 11:00 a.m. Plenary Session**
- *Call to Order by Honorable Thomas L. Kilbride, Chief Justice*
  - *Presentation of Consent Calendar*
  - *Presentation of Committee Reports & Discussion*
    - *Committee on Criminal Law and Probation Administration*
    - *Study Committee on Juvenile Justice*
    - *Committee on Education*
    - *Alternative Dispute Resolution Coordinating Committee*
    - *Committee on Discovery Procedures*
    - *Automation and Technology Committee*
    - *Study Committee on Complex Litigation*
- (Moderators: Hon. Robert L. Carter, Hon. Timothy C. Evans, Hon. Susan Fox Gillis)*
- 11:15 - 11:30 a.m. Judicial Conference Address**  
*Honorable Thomas L. Kilbride, Chief Justice, Supreme Court of Illinois*
- 11:30 - 12:30 p.m. Presentation**  
*Professor R. Dale Lefever, Ph.D.*
- 12:30 - 1:30 p.m. Luncheon**
- 1:30 - 4:30 p.m. Strategic Planning Discussion/Breakout Groups**  
**Planning of Conference on Future of the Courts**
- 4:30 p.m. Adjourn**

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### Annual Report to the General Assembly on 2012 Judicial Conference

On October 25, 2012, the Illinois Judicial Conference convened its annual meeting in Chicago, Illinois. Article 6, section 17, of the Illinois Constitution mandates the Conference to consider the work of the courts and to suggest improvements in the administration of justice. Illinois Supreme Court Rule 41 implements this constitutional mandate by defining the duties and the membership of the Illinois Judicial Conference. Consistent with Rule 41, the Conference is composed of judges from every level of the judiciary and represents Illinois' five judicial districts. The Chief Justice of the Supreme Court of Illinois presides over the Conference, and the other Justices serve as members.

Eight appointed committees largely perform the work of the Judicial Conference throughout the year. These committees are the Alternative Dispute Resolution Coordinating Committee, Automation and Technology Committee, Study Committee on Complex Litigation, Committee on Criminal Law and Probation Administration, Committee on Discovery Procedures, Committee on Education, Study Committee on Juvenile Justice, and the recently added Committee on Strategic Planning. The committees' rosters include appellate, circuit, and associate judges who serve as members of the Judicial Conference. Their work is aided by judges, law professors, and attorneys appointed by the Supreme Court as either associate members or advisors to the committees. Senior level staff of the Administrative Office of the Illinois Courts serve as liaisons to support the committees' activities.

As authorized in Supreme Court Rule 41, the Executive Committee acts on behalf of the Conference when it is not in session. The Executive Committee consists of fourteen judges, with six from the First Judicial District (Cook County) and two from each of judicial districts two, three, four and five. The Executive Committee previews the written reports of the Conference committees and submits an annual meeting agenda for the Supreme Court's approval.

The 2012 Annual Meeting of the Judicial Conference lasted only one day, minimizing the judges' time away from the bench and managing costs more effectively. Chief Justice Thomas L. Kilbride convened the meeting. In his opening remarks, Chief Justice Kilbride welcomed those in attendance and thanked them for their hard work during the Conference year. He also recognized the current members of the Supreme Court, as well as the retired Supreme Court Justices in attendance. Concluding his introductions, Chief Justice Kilbride recognized Michael J. Tardy, Director of the Administrative Office of the Illinois Courts, and thanked the Director and his staff for their work in preparing for the Annual Meeting of the Conference.

Chief Justice Kilbride remarked that, even without a constitutional mandate, a similar gathering would arise due to Illinois judges' shared commitment to improving the administration of justice. Reflecting on the role of the courts, the Chief Justice challenged the Conference members to work toward the common goal of providing the state's citizens a fair and efficient judicial system. Chief Justice Kilbride also noted that good ideas do not exist only at the top of an organization but arise at all levels. With that premise in mind, Chief Justice Kilbride encouraged the judges, clerks, probation departments, the Administrative Office of the Illinois Courts, and all individuals of the court system to foster a culture that promotes the development of good ideas from all sources.

Chief Justice Kilbride announced that the Supreme Court issued new statewide standards and new and amended Supreme Court rules to allow all Illinois circuit courts to begin electronically filing court documents in civil cases. Concurrently, the new statewide e-filing principles and standards protect against identity theft and the disclosure of sensitive information. Chief Justice Kilbride commented that uniform standards allow all circuit courts to benefit from e-filing's greater efficiencies and long-range cost savings as well as provide a modern way of doing business. Chief Justice Kilbride expressed his hope that the

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Illinois judiciary would begin to implement e-business practices as quickly and efficiently as possible, stating that "the door is open for any circuit in any county around the state to implement e-filing" as long as the chief judge and circuit clerk agree they are ready.

Chief Justice Kilbride reminded the attendees that the Judicial Conference's purpose "to consider the work of the courts and to suggest improvements in the administration of justice" creates a framework for self-evaluation. As a forum for its members, the Conference offers an opportunity to examine existing judicial practices carefully and to recommend adjustments and improvements to the court system. The Conference should report on the current state of the judicial branch as well as outline plans for furthering an efficient and adaptive state judiciary. Committee charges and work should be open to all ideas that advance judicial principles and adapt the judiciary to meet changing demands.

In 2012, Chief Justice Kilbride also changed the format of the Conference's Annual Meeting. A nationally renowned court consultant guided a new strategic planning process. Conference members were assigned to specific groups for comprehensive strategic planning about automation and technology, access to justice, case management and court performance, court funding and use of public resources, organizational structure and systems governance, civil justice, criminal justice, juvenile justice, and judicial education, performance, and conduct. On behalf of the Illinois Supreme Court, Chief Justice Kilbride asked Conference members to partner with them to develop a plan for the future of Illinois' justice system. In closing, Chief Justice Kilbride encouraged Conference members to continue to reflect on ways to enhance Illinois' courts because their work is the foundation for improving our justice system.

After the Chief Justice concluded his remarks, Conference committees met during the morning session to finalize committee reports and to initiate planning for Conference Year 2013. The morning plenary session included a presentation of each committee's activities in Conference Year 2012

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### CONSENT CALENDAR

*The Consent Calendar includes memorials for deceased judges, biographies for retired judges and a listing of new judges for the period from August 1, 2011 through July 31, 2012.*

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE HARRIS H. AGNEW**

The Honorable Harris H. Agnew, former circuit judge for the Seventeenth Judicial Circuit, passed away December 13, 2011.

Judge Agnew was born September 1, 1936 in Peoria, Illinois. He received his law degree from The John Marshall Law School, and was admitted to the bar in 1973. Judge Agnew became an associate judge for the Seventeenth Judicial Circuit in 1975, and a circuit judge in 1980. During Judge Agnew's tenure he pioneered the first Mandatory Court Annexed Arbitration Pilot Program in the state, for Boone and Winnebago counties. He served as chief judge of the Seventeenth Judicial Circuit for 11 years. Judge Agnew retired from the bench December 20, 1996.

The Illinois Judicial Conference extends to the family of Judge Agnew its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE MARTIN C. ASHMAN**

The Honorable Martin C. Ashman, former federal magistrate judge, passed away June 4, 2012.

Judge Ashman was born May 5, 1931 in Chicago, Illinois. He received his law degree from DePaul University College of Law in 1953, and was admitted to the bar that same year. Judge Ashman was appointed a circuit judge for the Circuit Court of Cook County in 1987. He retained that position until 1995, when the judges of the U. S. District Court selected him to serve as a federal magistrate judge. After serving his eight year term, Judge Ashman retired, and became a recalled magistrate judge.

The Illinois Judicial Conference extends to the family of Judge Ashman its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE ROBERT CAHILL**

The Honorable Robert Cahill, former appellate judge for the First District, passed away December 4, 2011.

Judge Cahill was born April 7, 1936, in Oak Park, Illinois. He received his law degree from Loyola University Chicago School of Law in 1966, and was admitted to the bar that same year. Judge Cahill served as counsel to the Illinois Senate's Education Committee, chief of the Senate staff and with the Cook County State's Attorney's Office. He was in private practice prior to being appointed an associate judge for the Circuit Court of Cook County in 1983. In 1992, Judge Cahill was elected to the appellate court for a ten year term, and retained for a second term in 2002. He was serving in that position at the time of his death.

The Illinois Judicial Conference extends to the family of Judge Cahill its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE KEITH E. CAMPBELL**

The Honorable Keith E. Campbell, former circuit judge for the Eleventh Judicial Circuit, passed away January 25, 2012.

Judge Campbell was born November 15, 1923, in Bloomington, Illinois. He received his law degree from the University of Illinois College of Law in 1951, and was admitted to the bar that same year. He became an associate judge for the Eleventh Judicial Circuit in 1970, and a circuit judge in 1972. Judge Campbell retired from the bench December 2, 1990.

The Illinois Judicial Conference extends to the family of Judge Campbell its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE EDWARD C. EBERSPACHER, III**

The Honorable Edward C. Eberspacher, III, former circuit judge for the Fourth Judicial Circuit, passed away February 10, 2012.

Judge Eberspacher was born September 28, 1949. He received his law degree from the University of Illinois College of Law in 1974, and was admitted to the bar that same year. Judge Eberspacher served as the State's Attorney for Shelby County from 1976 – 1980. He was appointed a circuit judge for the Fourth Judicial Circuit in 1985, and elected to that position in 1986. Judge Eberspacher resigned December 6, 1992.

The Illinois Judicial Conference extends to the family of Judge Eberspacher its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE DONNA PHELPS FELTON**

The Honorable Donna Phelps Felton, former circuit judge for the Circuit Court of Cook County, passed away January 13, 2012.

Judge Felton was born August 14, 1945, in Chicago, Illinois. She received her law degree from Loyola University of Chicago School of Law and was admitted to the bar in 1984. Judge Felton began her legal career as an assistant Cook County State's Attorney. In 1996, she became an administrative law judge for the Illinois Department of Public Aid. She subsequently became a hearing officer for the Cook County Labor Relations Department, the position she held immediately prior to being elected a circuit judge for the Circuit Court of Cook County in 2000. She remained in this position until the time of her death.

The Illinois Judicial Conference extends to the family of Judge Felton its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE DON A. FOSTER**

The Honorable Don A. Foster, former circuit judge for the Second Judicial Circuit, passed away January 15, 2012.

Judge Foster was born March 2, 1932, in Ridgway, Illinois. He received his law degree from the Vanderbilt Law School, and was admitted to the bar in 1962. Judge Foster served as a Justice of the Peace for Gallatin County from 1961 – 1962, county judge from 1962 – 1963, and was appointed an associate judge for the Second Judicial Circuit in 1964. He became a circuit judge in 1972. Judge Foster retired from the bench in 2008.

The Illinois Judicial Conference extends to the family of Judge Foster its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE JOSEPH GORDON**

The Honorable Joseph Gordon, former appellate judge for the First District, passed away June 26, 2012.

Judge Gordon was born December 4, 1932, in Chicago, Illinois. He received his law degree from Northwestern University School of Law in 1960, and was admitted to the bar that same year. Judge Gordon began his legal career as a law clerk for Federal Judge Julius J. Hoffman. He was in private practice until 1976, when he was appointed a circuit judge for the Circuit Court of Cook County. Judge Gordon left the bench in 1982. In 1989, the Illinois Supreme Court assigned him to the First District Appellate Court. He was elected to that position December 3, 1990, and held that position at the time of his death.

The Illinois Judicial Conference extends to the family of Judge Gordon its sincere expression of sympathy.

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**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE JAY M. HANSON**

The Honorable Jay M. Hanson, former circuit judge for the Fourteenth Judicial Circuit, passed away January 30, 2012.

Judge Hanson was born September 27, 1940, in Moline, Illinois. He received his law degree from the University of Idaho College of Law, and was admitted to the bar in 1966. Judge Hanson served as the city attorney for Geneseo and assistant State's Attorney for Henry County from 1967 – 1970. He was a Magistrate (Lawyer) from 1970 – 1971, and then appointed an associate judge for the Fourteenth Judicial Circuit in 1971. He was elected a circuit judge in 1976, and retired from the bench in 2002.

The Illinois Judicial Conference extends to the family of Judge Hanson its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE WILLIAM J. HIBBLER**

The Honorable William J. Hibbler, former district court judge, passed away March 19, 2012.

Judge Hibbler was born August 7, 1946, in Kennedy, Alabama. He received his law degree from DePaul University College of Law in 1973, and was admitted to the bar that same year. Judge Hibbler served as an assistant Cook County State's Attorney, and in private practice. In 1986, he was appointed an associate judge for the Circuit Court of Cook County. He became a U. S. District Court judge in 1999, a position he retained until his death.

The Illinois Judicial Conference extends to the family of Judge Hibbler its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE ROBERT HUNTER**

The Honorable Robert Hunter, former circuit judge, for the Eighth Judicial Circuit, passed away February 22, 2012.

Judge Hunter was born August 13, 1919. He was admitted to the bar in 1942. Judge Hunter was elected a circuit judge for the Eighth Judicial Circuit June 3, 1957, and remained in that position until resigning January 10, 1964.

The Illinois Judicial Conference extends to the family of Judge Hunter its sincere expression of sympathy.

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**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE EDWARD R. JORDAN**

The Honorable Edward R. Jordan, former circuit judge for the Circuit Court of Cook County, passed away June 28, 2012.

Judge Jordan was born August 13, 1936, in Chicago, Illinois. He received his law degree from The John Marshall Law School, and was admitted to the bar in 1973. Judge Jordan served solely in the private sector until 1994, when he was appointed a circuit judge for the Circuit Court of Cook County. He retained that position until his death.

The Illinois Judicial Conference extends to the family of Judge Jordan its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE SCOTT I. KLUKOS**

The Honorable Scott I. Klukos, former circuit judge for the Ninth Judicial Circuit, passed away December 7, 2011.

Judge Klukos was born September 27, 1921, in Carlinville, Illinois. He received his law degree from the University of Illinois College of Law in 1950, and was admitted to the bar that same year. Judge Klukos served as a Warren County judge from 1954 – 1963. In 1966, he became an associate judge for the Ninth Judicial Circuit, and in 1972, was elected a circuit judge. Judge Klukos retired from the bench December 1, 1996.

The Illinois Judicial Conference extends to the family of Judge Klukos its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE JOSEPH W. MIODUSKI**

The Honorable Joseph W. Mioduski, former associate judge for the Circuit Court of Cook County, passed away January 21, 2012.

Judge Mioduski was born July 7, 1918, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1943, and was admitted to the bar that same year. Judge Mioduski served as Cook County State's Attorney from 1957 – 1961. In 1968, he was appointed a Magistrate (Lawyer) for the Circuit Court of Cook County, becoming an associate judge in 1971. Judge Mioduski retired December 24, 1985.

The Illinois Judicial Conference extends to the family of Judge Mioduski its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE DON A. MOORE**

The Honorable Don A. Moore, former circuit judge for the Circuit Court of Cook County, passed away March 28, 2012.

Judge Moore was born January 1, 1928, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1950, and was admitted to the bar that same year. Judge Moore served in both the public and private sectors, serving as an assistant State's Attorney for Cook County, Representative with the General Assembly from 1963 – 1972, and Senator for the Ninth District from 1972 – 1981. He was appointed a circuit judge for the Circuit Court of Cook County in 1981. Judge Moore's retired December 3, 1984.

The Illinois Judicial Conference extends to the family of Judge Moore its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE KATHLEEN P. MORAN**

The Honorable Kathleen P. Moran, former circuit judge for the Fourth Judicial Circuit, passed away October 31, 2011.

Judge Moran was born August 12, 1950, in St. Louis, Missouri. She received her law degree from the University of Kansas School of Law in 1976, and was admitted to the bar that same year. Judge Moran served in both the public and private sectors until being elected a circuit judge for the Fourth Judicial Circuit in 1994. She retired from the bench July 2, 2010.

The Illinois Judicial Conference extends to the family of Judge Moran its sincere expression of sympathy.

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**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE ANGUS S. MORE, JR.**

The Honorable Angus S. More, Jr., former associate judge for the Seventeenth Judicial Circuit, passed away December 30, 2011.

Judge More was born June 26, 1939, in Kankakee, Illinois. He received his law degree from American University Washington College of Law in 1967, and was admitted to the bar that same year. Judge More served in both the public and private sectors prior to becoming an associate judge for the Seventeenth Judicial Circuit in 1995. Judge More retired from the bench December 20, 2007.

The Illinois Judicial Conference extends to the family of Judge More its sincere expression of sympathy.

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**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE WILLIAM R. NASH**

The Honorable William R. Nash, former appellate judge for the Second Appellate District, passed away May 4, 2012.

Judge Nash was born August 4, 1924, in Rockford, Illinois. He received his law degree from IIT/Chicago Kent College of Law in 1951, and was admitted to the bar that same year. Judge Nash served as the Winnebago County State's Attorney from 1960 – 1968. He was elected a circuit judge for the Seventeenth Judicial Circuit in 1968. He was assigned to the Second District Appellate Court in 1977, and retired from that position December 3, 1989.

The Illinois Judicial Conference extends to the family of Judge Nash its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE ODAS NICHOLSON**

The Honorable Odas Nicholson, former circuit judge for the Circuit Court of Cook County, passed away March 10, 2012.

Judge Nicholson was born March 25, 1924, in Pickens, Mississippi. She received her law degree from DePaul University College of Law, and was admitted to the bar in 1948. Judge Nicholson was appointed a circuit judge for the Circuit Court of Cook County in 1980, and elected to that position in 1982. She retired from the bench December 4, 1994.

The Illinois Judicial Conference extends to the family of Judge Nicholson its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE LAWRENCE A. PASSARELLA**

The Honorable Lawrence A. Passarella, former circuit judge for the Circuit Court of Cook County, passed away October 14, 2011.

Judge Passarella was born February 3, 1937, in Oak Park, Illinois. He received his law degree from Northwestern University School of Law, and was admitted to the bar in 1962. Judge Passarella was an assistant State's Attorney for Cook County from 1962 – 1967. He was elected a circuit judge for the Circuit Court of Cook County in 1980, and resigned from that position November 30, 1986.

The Illinois Judicial Conference extends to the family of Judge Passarella its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE CHARLES J. PERRIN**

The Honorable Charles J. Perrin, former associate judge for the Tenth Judicial Circuit, passed away August 13, 2011.

Judge Perrin was born May 21, 1920, in Chicago, Illinois. He received his law degree from the University of Notre Dame Law School, and was admitted to the bar in 1952. Judge Perrin served as Councilman and Mayor for Vetville, Indiana from 1949 – 1951. He was appointed an associate judge for the Tenth Judicial Circuit in 1977. Judge Perrin retired October 31, 1987.

The Illinois Judicial Conference extends to the family of Judge Perrin its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE BERNARD POLIKOFF**

The Honorable Bernard A. Polikoff, former associate judge for the Circuit Court of Cook County, passed away October 14, 2011.

Judge Polikoff was born July 30, 1912, in Chicago, Illinois. He received his law degree from DePaul University College of Law, and was admitted to the bar in 1940. Judge Polikoff served as an assistant to Probate Judge and as a Magistrate (Lawyer) from 1959 – 1964. He was appointed an associate judge for the Circuit Court of Cook County in 1964. Judge Polikoff retired December 21, 1985.

The Illinois Judicial Conference extends to the family of Judge Polikoff its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE JOHN P. SHONKWILER**

The Honorable John P. Shonkwiler, former chief judge of the Sixth Judicial Circuit, passed away July 18, 2012.

Judge Shonkwiler was born April 5, 1933, in Decatur, Illinois. He received his law degree from Northwestern University School of Law in 1962, and was admitted to the bar that same year. By appointment, Judge Shonkwiler served as a magistrate in the Sixth Judicial Circuit from 1965 – 1971, serving as an associate judge from 1971 – 1972. In 1972, he was appointed a circuit judge by the Supreme Court of Illinois, and elected to that position in 1974. Judge Shonkwiler served as chief judge for the Sixth Judicial Circuit from 1994 until his death.

The Illinois Judicial Conference extends to the family of Judge Shonkwiler its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE CHARLES W. SPENCER**

The Honorable Charles W. Spencer, former associate judge for the Eighteenth Judicial Circuit, passed away February 28, 2012.

Judge Spencer was born November 16, 1933, in Ann Arbor, Michigan. He received his law degree from IIT/Chicago Kent College of Law in 1962, and was admitted to the bar that same year. Judge Spencer served as an associate judge for the Eighteenth Judicial Circuit from 1975 – 1987.

The Illinois Judicial Conference extends to the family of Judge Spencer its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE PAUL STRALKA**

The Honorable Paul Stralka, former circuit judge for the Circuit Court of Cook County, passed away November 8, 2011.

Judge Stralka was born November 1, 1950. He received his law degree from The John Marshall Law School, and was admitted to the bar in 1976. Judge Stralka was affiliated with the Cook County Public Defender's office his entire legal career, prior to joining the bench. He was elected a circuit judge for the Circuit Court of Cook County in 1998, and retained that position until his death.

The Illinois Judicial Conference extends to the family of Judge Stralka its sincere expression of sympathy.

**2012 REPORT**

**RESOLUTION**

**IN MEMORY OF**

**THE HONORABLE JOHN S. TESCHNER**

The Honorable John S. Teschner, former circuit judge for the Eighteenth Judicial Circuit, passed away February 13, 2012.

Judge Teschner was born January 29, 1935, in Shorewood, Wisconsin. He received his law degree from the University of Wisconsin Law School in 1965, and was admitted to the bar that same year. Judge Teschner served as an assistant Illinois Attorney General from 1969 – 1975. He was appointed an associate judge for the Eighteenth Judicial Circuit in 1975, and a circuit judge in 1977. He was elected to that position in 1978. Judge Teschner retired July 18, 1995.

The Illinois Judicial Conference extends to the family of Judge Teschner its sincere expression of sympathy.

## 2012 REPORT

### RETIRED JUDGES

**ARNOLD, Nancy J.** was born March 8, 1945, in Chicago, Illinois. She received her law degree from Loyola University Chicago School of Law in 1977, and was admitted to the bar that same year. Judge Arnold began her legal career as law clerk for U. S. District Judge Frank McGarr. She was in private practice from 1979 – 1997. Judge Arnold was appointed a circuit judge for the Circuit Court of Cook County in 1997, and retained that position until her retirement June 29, 2012.

**AUSTIN, C. Stanley** was born January 29, 1953, in Mason City, Iowa. He received his law degree from DePaul University College of Law in 1979, and was admitted to the bar that same year. Judge Austin served solely in the private sector until being appointed an associate judge for the Eighteenth Judicial Circuit in 1992. Except for his appointment to serve as a full circuit judge from July 17, 2002 until December 6, 2004 to fill a vacancy, he remained in his position as associate judge in the Eighteenth Circuit until his retirement December 31, 2011.

**BLACKWOOD, Alan** was born July 19, 1945, in Butler, Pennsylvania. He received his law degree from St. Louis University School of Law, and was admitted to the bar in 1973. In 1995, Judge Blackwood was appointed a resident circuit judge for the Fourteenth Judicial Circuit. His term of office expired in December 1996, and in January 1997, he was appointed an associate judge for the Fourteenth Judicial Circuit. Judge Blackwood retained that position until his retirement November 30, 2011.

**BURKE, Dennis J.,** was born July 25, 1949, in Evergreen Park, Illinois. He received his law degree from The John Marshall Law School in 1975, and was admitted to the bar that same year. Judge Burke served solely in the private sector until being appointed an associate judge for the Circuit Court of Cook County in 1997. He became a circuit judge in 2007, and remained in that position until his retirement January 30, 2012.

**CULLITON, Stephen J.** was born February 14, 1943, in Waltham, Massachusetts. He received his law degree from The John Marshall Law School in 1970, and was admitted to the bar that same year. Judge Culliton served as an assistant State's Attorney for DuPage County from 1970 to 1973. Throughout his time in private practice, he simultaneously served as a part-time Public Defender, Associate General Counsel and General Counsel for the DuPage County Bar Association and was Chief of Staff in the Illinois Attorney General's Office. Judge Culliton was appointed an associate judge for the Eighteenth Judicial Circuit in 1998, and appointed a circuit judge in 2000. He served as chief judge in the Eighteenth Circuit from 2008 until retiring December 31, 2011.

## 2012 REPORT

**ETCHINGHAM, James P.** was born March 30, 1952, in Oak Park, Illinois. He received his law degree from Northern Illinois University College of Law in 1978, and was admitted to the bar that same year. Judge Etchingham served in both the public and private sectors prior to being appointed a circuit judge for the Circuit Court of Cook County in 1994. When his term expired in 1996, he resumed private practice. Judge Etchingham returned to the bench in 1998, when he was appointed an associate judge for the Circuit Court of Cook County. He remained in that position until his retirement July 9, 2012.

**GAMBER, Terry H.** was born August 25, 1947, in East St. Louis, Illinois. He received his law degree from DePaul University College of Law in 1973, and was admitted to the bar that same year. Judge Gamber served in both the public and private sectors until being elected a circuit judge in 1992, for the Second Judicial Circuit. He retained that position until his retirement December 31, 2011.

**GARBER, Sheldon C.** was born July 19, 1938, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1964, and was admitted to the bar that same year. Judge Garber served solely in the private sector until being appointed an associate judge for the Circuit Court of Cook County in 1985. He retained that position until retiring from the bench July 31, 2012.

**GROSSI, Gilbert** was born June 24, 1951, in Chicago, Illinois. He received his law degree from The John Marshall Law School in 1977, and was admitted to the bar that same year. Judge Grossi was an assistant Cook County State's Attorney, prior to being appointed an associate judge for the Circuit Court of Cook County in 1988. He retained that position until his retirement January 19, 2012.

**HALL, David M.** was born October 18, 1952, in Racine, Wisconsin. He received his law degree from Loyola University-New Orleans School of Law in 1976, and was admitted to the bar that same year. Judge Hall served solely in the private sector until joining the Nineteenth Judicial Circuit, in 1989, as an associate judge. He became a circuit judge in 2000, serving as chief judge for the Nineteenth Judicial Circuit from December 1, 2007 through May 7, 2008. Judge Hall retired from the bench July 11, 2012.

**HAMILTON, R. Morgan** was born September 29, 1947, in Russellville, Alabama. She received her law degree from Cleveland-Marshall College of Law and was admitted to the bar in 1981. Judge Hamilton served in both the public and private sectors prior to being appointed an associate judge for the Circuit Court of Cook County in 1988. She retained that position until her retirement July 20, 2012.

## 2012 REPORT

**HARVEY, James R.** was born February 8, 1949, in Vincennes, Indiana. He received his law degree from The John Marshall Law School in 1975, and was admitted to the bar that same year. Judge Harvey served solely in the private sector prior to joining the Fourth Judicial Circuit as an associate judge. He retained that position until retiring August 31, 2011.

**HEASTON, Curtis** was born March 25, 1931, in Dyersburg, Tennessee. He received his law degree from Loyola University Chicago School of Law in 1958, and was admitted to the bar that same year. Judge Heaston served in both the public and private sectors prior to being appointed an associate judge for the Circuit Court of Cook County in 1986. He was elected a circuit judge in 1988, and remained in that position until his retirement November 30, 2011.

**JONES, Dorothy F.** was born September 3, 1944. She received her law degree from DePaul University College of Law in 1979, and was admitted to the bar that same year. Judge Jones worked as an assistant Public Defender in Cook County, prior to being elected a circuit judge for the Circuit Court of Cook County 1992. She retained that position until her retirement November 8, 2011.

**KIMMEL, Everett D.** was born May 5, 1937, in DuQuoin, Illinois. He received his law degree from the University of Illinois College of Law in 1967, and was admitted to the bar that same year. Judge Kimmel served mainly in the private sector prior to joining the First Judicial Circuit as an associate judge in 1990. He retained that position until his retirement July 8, 2012.

**McDONALD, Barbara A.** was born March 21, 1955, in Springfield, Massachusetts. She received her law degree from the University of Notre Dame Law School in 1980, and was admitted to the bar that same year. Judge McDonald served in both the public and private sectors prior to being elected a circuit judge for the Circuit Court of Cook County in 1996. She retained that position until retiring from the bench July 2, 2012.

**McDONOUGH, Martin E.** was born July 15, 1934, in Chicago, Illinois. He received his law degree from Loyola University Chicago School of Law in 1959, and was admitted to the bar that same year. Judge McDonough has served as an assistant Attorney General, and as an assistant Corporation Counsel. Prior to being appointed an associate judge for the Circuit Court of Cook County, in 1981, he was in private practice. Judge McDonough retained that position until his retirement October 10, 2011.

## 2012 REPORT

**McSWEENEY MOORE, Colleen** was born July 17, 1955, in Chicago, Illinois. She received her law degree from The John Marshall Law School in 1982, and was admitted to the bar that same year. Judge McSweeney Moore was an assistant State's Attorney in Cook County until being appointed a circuit judge for the Circuit Court of Cook County in 1994. She retained that position until her retirement August 31, 2011.

**METZ, Nelson F.** was born July 30, 1946, in Alton, Illinois. He received his law degree from Southern Illinois University School of Law in 1982, and was admitted to the bar that same year. Judge Metz served in both the private and public sectors until being appointed an associate judge for the Third Judicial Circuit in 2000. Judge Metz remained in that position until retiring April 6, 2012.

**OLSON, Tim P.,** was born February 14, 1954, in Jacksonville, Illinois. He received his law degree from the University of Kentucky College of Law, and was admitted to the bar in 1980. Judge Olson began his legal career as an assistant State's Attorney from 1980 – 1981, and served as the Morgan County State's Attorney from 1981 - 1988. He became an associate judge for the Seventh Judicial Circuit in 1988. He retained that position until his retirement October 31, 2011.

**PEMBERTON, Stephen C.** was born September 16, 1950, in Louisville, Kentucky. He received his law degree from the University of Illinois College of Law in 1975, and was admitted to the bar that same year. Judge Pemberton was an assistant State's Attorney in Coles County from 1975 – 1978. He was in private practice from 1978 until being elected a circuit judge for the Fifteenth Judicial Circuit in 1994. Judge Pemberton served as Chief Judge for the Fifteenth Judicial Circuit from August 1, 2001 through July 31, 2004. Judge Pemberton retired July 3, 2012.

**PIERCE, Cary B.** was born December 24, 1951, in Avon, Illinois. He received his law degree from Northern Illinois University College of Law in 1979, and was admitted to the bar that same year. From 1982 – 1985, Judge Pierce served as a deputy Public Defender in DuPage County. In 1986, he was appointed as public administrator, guardian and conservator for DuPage County. During that time he also served as deputy court clerk for the Eighteenth Judicial Circuit. He was engaged in private practice prior to being appointed an associate judge for the Eighteenth Judicial Circuit in 1991. He retained that position until his retirement June 29, 2012.

**PIETRUCHA, Edward N.** was born October 13, 1951, in Chicago, Illinois. He received his law degree from DePaul University College of Law in 1976, and was admitted to the bar that same year. Judge Pietrucha served as a prosecutor for the Stephenson County State's Attorney's Office and as a law clerk for the Pennsylvania Supreme Court. Prior to being elected a circuit judge for the Circuit Court of Cook County in 1996, he served as an assistant Cook County State's Attorney. Judge Pietrucha retired August 31, 2011.

## 2012 REPORT

**SIMMONS, Jr., Henry R.** was born December 30, 1955, in Chicago, Illinois. He received his law degree from DePaul University College of Law in 1980, and was admitted to the bar that same year. Judge Simmons served as an assistant State's Attorney for Cook County prior to being appointed a circuit judge for the Circuit Court of Cook County in 1992. He retained that position until his retirement August 31, 2011.

**SULLIVAN, Daniel J.** was born June 18, 1955, in Chicago, Illinois. He received his law degree from DePaul University College of Law and was admitted to the bar in 1985. Judge Sullivan served as assistant Public Defender for Cook County from 1985 – 1992. He was elected a circuit judge for the Circuit Court of Cook County in 1992. He retained that position until retiring July 2, 2012.

## **2012 REPORT**

### **NEW JUDGES**

Berg, Joel D. – Associate Judge, 22<sup>nd</sup> Judicial Circuit  
Beyers, II, Ben L. – Associate Judge, 3<sup>rd</sup> Judicial Circuit  
Brown, David A. – Associate Judge, 10<sup>th</sup> Judicial Circuit  
Buick, Marcy L. – Associate Judge, 16<sup>th</sup> Judicial Circuit  
Carroll, Thomas J. – Circuit Judge, Circuit Court of Cook County  
Cataldo, Joseph M. – Associate Judge, Circuit Court of Cook County  
Church, Peter W. – Associate Judge, 14<sup>th</sup> Judicial Circuit  
Cobbs, Cynthia Y. – Circuit Judge, Circuit Court of Cook County  
Costello, Kevin G. – Associate Judge, 22<sup>nd</sup> Judicial Circuit  
Cunnington, Thomas W. – Associate Judge, 21<sup>st</sup> Judicial Circuit  
Douglas, Robert E. – Associate Judge, 18<sup>th</sup> Judicial Circuit  
Flack, Donald M. – Associate Judge, 3<sup>rd</sup> Judicial Circuit Johnson,  
Lana C. – Associate Judge, Circuit Court of Cook County Kane,  
Michael J. – Associate Judge, Circuit Court of Cook County  
Karayannis, Kathryn – Associate Judge, 16<sup>th</sup> Judicial Circuit  
Kennison, Victoria M. – Associate Judge, 12<sup>th</sup> Judicial Circuit  
Lyle, Freddrenna M. – Circuit Judge, Circuit Court of Cook County  
Lyons, Kevin W. – Circuit Judge, 10<sup>th</sup> Judicial Circuit Marsalek,  
Diann K. – Circuit Judge, Circuit Court of Cook County  
McGimpsey, III Alex F. – Associate Judge, 18<sup>th</sup> Judicial Circuit  
Otto, Michael F. – Circuit Judge, Circuit Court of Cook County  
Parkhurst, William J. – Associate Judge, 16<sup>th</sup> Judicial Circuit Peters,  
Daniel L. – Circuit Judge, Circuit Court of Cook County  
Schwind, Richard D. – Associate Judge, Circuit Court of Cook County  
Tobin, Jeffery E. – Associate Judge, 7<sup>th</sup> Judicial Circuit Villani,  
Nicole L. – Circuit Judge, 2<sup>nd</sup> Judicial Circuit Wagner, Steven M. –  
Associate Judge, Circuit Court of Cook County Walker, Allen P. –  
Associate Judge, Circuit Court of Cook County  
Walters, John N. – Circuit Judge, 16<sup>th</sup> Judicial Circuit  
Yoder, William A. – Associate Judge, 11<sup>th</sup> Judicial Circuit

## 2012 REPORT

**2012 REPORT**

**ANNUAL REPORT  
OF THE  
ALTERNATIVE DISPUTE RESOLUTION  
COORDINATING COMMITTEE  
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. David E. Haracz, Chair

Hon. Patricia Banks  
Hon. LaGuina Clay-Herron  
Hon. Mark S. Goodwin  
Hon. John G. Laurie, Ret.

Mr. Kent Lawrence, Esq.  
Hon. Daniel L. Schmidt  
Hon. John O. Steele  
Hon. Carl Anthony Walker

October 2012

## **2012 REPORT**

### **I. STATEMENT ON COMMITTEE CONTINUATION**

Since the 2011 Annual Meeting of the Illinois Judicial Conference, the Alternative Dispute Resolution Coordinating Committee ("Committee") has found that the climate for alternative dispute resolution ("ADR") continues to be favorable and the legal community continues to be receptive to ADR processes. This Conference year, the Committee was busy with many activities, including the calibrating of responses to a participant satisfaction survey, and formulating a plan to accomplish the projects and priorities set forth by the Supreme Court for Conference Year 2012.

As part of the Committee's charge, court-annexed mandatory arbitration programs, operating in sixteen counties, continued to be monitored throughout the Conference year. Madison County, in the Third Judicial Circuit, which commenced an arbitration program in July 2007, is the last county to request authorization to operate such a program under the auspices of the Supreme Court.

In the area of mediation, the Committee continued to monitor the activities of the court-annexed major civil case mediation programs operating in eleven judicial circuits pursuant to Supreme Court Rule 99. During the 2012 Conference Year, it is anticipated that the Committee will continue to monitor court-annexed mandatory arbitration programs, oversee and facilitate the improvement and expansion of major civil case mediation programs, consider proposed amendments to Supreme Court rules for mandatory arbitration, and continue to study and evaluate other alternative dispute resolution options. The Committee also will continue to work on the projects and priorities delineated by the Court and stand ready to accept new projects for

## **2012 REPORT**

Conference Year 2013.

Because the Committee continues to provide service to arbitration practitioners, make recommendations on mediation and arbitration program improvements, facilitate information to Illinois judges and lawyers, and promote the expansion of court-annexed alternative dispute resolution programs in Illinois, the Committee respectfully requests that it be continued.

### **II. SUMMARY OF COMMITTEE ACTIVITIES**

#### ***Project 1: Court-Annexed Mandatory Arbitration***

As part of its charge, the Committee surveys and compiles information on existing court supported dispute resolution programs. Court-annexed mandatory arbitration has been operating in Illinois in excess of twenty-four years. Since its inception in Winnebago County in 1987, under Judge Harris Agnew's leadership, the program has steadily and successfully grown to meet the needs of sixteen counties. Most importantly, court-annexed mandatory arbitration has become an effective case management tool to reduce the number of cases tried and the length of time cases remain in the court system. Court-annexed mandatory arbitration continues to be widely accepted in the legal culture.

On May 30 , 2012, the Illinois General Assembly passed SB 3726 repealing 735 ILCS 5/2-1008A, which required the Supreme Court to conduct an annual evaluation of the effectiveness of mandatory court-annexed arbitration and report the results annually to the General Assembly. However, a more complete statistical summary for each circuit with a court-sponsored mandatory arbitration program will be included in the annual Statistical Summary which is

## **2012 REPORT**

available on the Court's website. The Committee emphasizes that it is best to evaluate the success of a program by the percentage of cases resolved before trial through the arbitration process, rather than focusing on the rejection rate of arbitration awards.

The following is a statement of Committee activities since the 2011 Annual Meeting of the Illinois Judicial Conference concerning court-annexed mandatory arbitration.

### **Continued Projects from 2011**

#### ***Project 1: Participant Satisfaction Survey***

The Committee was charged with "developing a statewide arbitration program participant satisfaction survey." During Conference Year 2009, the Committee collected survey instruments from arbitration jurisdictions that had conducted program participant satisfaction surveys in the past. The Committee reviewed the survey instruments and related data, and began to identify which information is most useful for improving arbitration programs.

During Conference Year 2010, the Committee workgroup assigned to this project developed survey instruments for arbitrators, attorneys, and litigants. The workgroup narrowed the scope of the surveys to meet the objective of this project, and obtain information that is useful to the Committee in considering arbitration program improvements.

During Conference Year 2011, the Committee finalized the survey instrument and disseminated the survey, along with explanatory correspondence, to all arbitration programs for circulation to the targeted arbitration program constituents. An individualized survey was developed to solicit information from arbitrators, attorneys, and the parties. The arbitration program administrators were instructed to distribute the surveys and send the completed surveys to

## 2012 REPORT

the Administrative Office for data tabulation and synthesis.

During Conference Year 2012, the Committee tabulated the responses to the survey and created a report for submission to the Court. In summary, the survey revealed that the participants in alternative dispute resolution proceedings are generally satisfied with the current arbitration system. However, one criticism that should be noted by a minority of the responding attorneys indicated that the discovery allowed pursuant to Rule 89 was too limiting in scope. An executive summary highlighting the survey results is appended to this report.

The Committee will be submitting a comprehensive report about the survey to the Court at a later date.

### **Conference Year 2012 Projects/Priorities**

#### ***Project 1: Consider the perceptions of judges and attorneys surrounding assignment of cases to civil mediation.***

After initial discussion of this charge the Committee concluded there are two issues that need to be explored. The first issue identified that a perception existed that parties in civil cases were being forced into mediation even after the parties had determined mediation was not feasible. The second issue was if the parties agreed to mediation, but could not choose a mediator, the trial judges were either appointing or strongly recommending use of particular mediators. After talking with stakeholders, judges, and others, the Committee concluded that the perceptions contained in each issue were false.

Once it was determined the two perceptions were false, the Committee began discussion on how to implement a positive perception for use of mediation in Illinois. The discussion ranged from standardizing mediation processes to the feasibility of a mandatory mediation program

## **2012 REPORT**

similar to the current mandatory arbitration system. The Committee would like to continue to explore this topic in 2013.

***Project 2: Consider development of a "train-the-trainer" curriculum in conjunction with the Uniform Arbitrator Reference Manual and Arbitrator Training Video.***

The Committee meets annually with the Arbitration Administrators (Administrators) to discuss issues surrounding the day to day operations of the various arbitration centers. This year's meeting was held on May 4, 2012, at the Kane County Arbitration Center. After extensive discourse, it was determined that the current method of live training of arbitrators was still the best approach and that a specific curriculum to "train the trainer" was not needed. Furthermore, the Administrators advised the Committee that the Uniform Arbitration Manual and Arbitrator Training video are beneficial until such time as a live training is conducted.

### **III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR**

The Committee requests to continue its work toward completing the projects and priorities outlined for Conference Year 2012 and other initiatives as directed by the Court.

During the 2013 Conference Year, the Committee will continue to monitor and assess court-annexed mandatory arbitration programs, suggest broad-based policy recommendations, explore and examine innovative dispute resolution techniques and continue studying the impact of rule amendments. In addition, the Committee will continue to study, draft and propose rule amendments in light of suggestions and information received from program participants, supervising judges and arbitration administrators. The Committee will continue to study the projects/priorities and other assignments delineated by the Court for the upcoming Conference

## **2012 REPORT**

year.

The Committee plans to facilitate the improvement and expansion of major civil case mediation programs. The Committee would like to continue discussion on the resistance to mediation in Illinois and to formulate ideas and suggestions on how to reduce that resistance.

### **IV. RECOMMENDATIONS**

The Committee is making no recommendations to the Conference at this time.

## 2012 REPORT

# APPENDIX

## **2012 REPORT**

### **Alternative Dispute Resolution Coordinating Committee Mandatory Arbitration Participant Survey**

#### **I. Overview**

The Alternative Dispute Resolution Coordinating Committee (Committee) was charged with developing Mandatory Arbitration Participant Satisfaction Surveys in order to solicit feedback from stakeholders with the intent of determining strengths and weaknesses in the existing mandatory arbitration programs. To achieve this goal, three surveys were developed: one for arbitrators consisting of 28 questions; one for attorneys consisting of 37 questions; and another for parties consisting of seven questions. These surveys were delivered to the arbitration centers in March, 2011. The arbitration administrators distributed the surveys to stakeholders, collected the responses and mailed the completed questionnaires to the Administrative Office of the Illinois Courts (AOIC). The responses were received by the AOIC, entered into a database, and were analyzed by the Committee. Overall, responses were greater for the Arbitrator Survey, which totaled 580. The responses for the Attorney Survey totaled 236. There were 196 responses received from the Party Survey. From the 11 circuits with a mandatory arbitration program, a total of 1,012 responses were received. Of those totals, Cook County accounted for approximately 24 percent of the responses received.

#### **II. Findings**

##### **Arbitrator Survey**

The Arbitrator Survey responses revealed the following:

- Average years practicing law – 28
- Attorneys were well prepared – 68%
- Enjoyed serving as an arbitrator – 95%
- Had sufficient time to become familiar with applicable case law – 90%
- Had sufficient time to become familiar with case facts – 92%
- Hearing not used as a discovery vehicle – 87%
- Three-person-arbitrator panel is appropriate – 95%

## 2012 REPORT



Arbitrators were asked what they liked/disliked about the arbitration process:

### Liked

- Informal setting
- Quick and efficient
- Reduces court docket

### Disliked

- Automatic rejection by some insurers
- Counsel not prepared
- *Pro se* party
- Contract cases require more time

The major themes in response to whether they had any recommendations for changing the process:

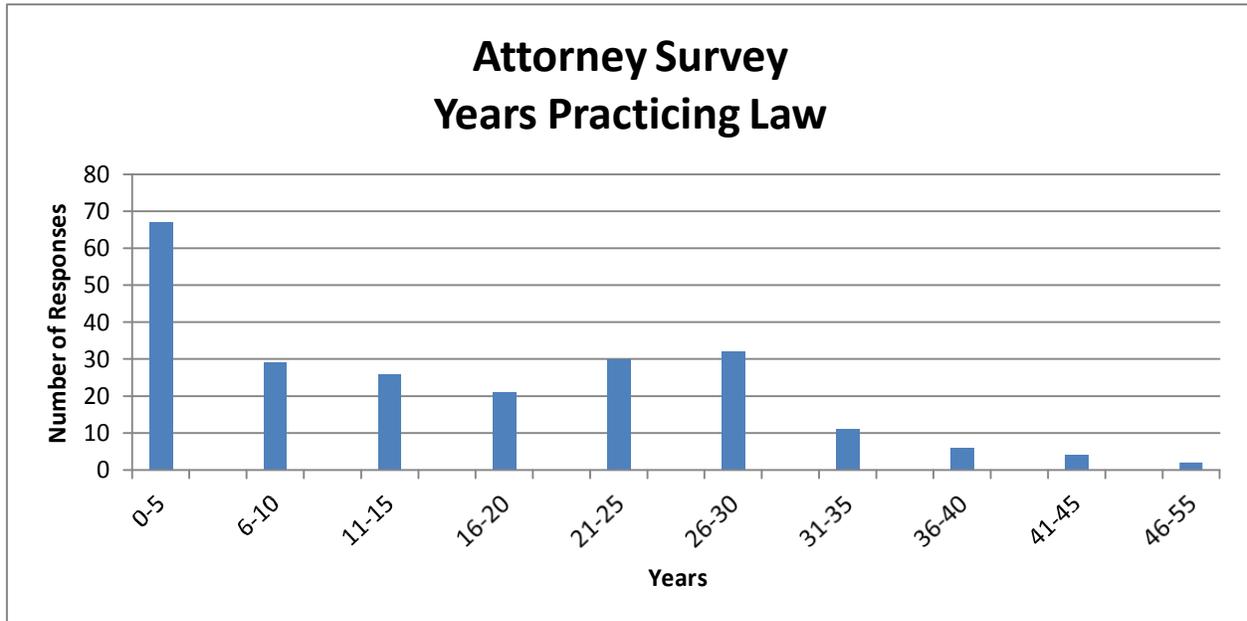
- Increase jurisdictional limit
- Make arbitration binding
- Provide pleadings before hearing
- Review rejection guidelines, including fees

## Attorney Survey

The Attorney Survey responses showed the following:

- Average years practicing law – 16
- Arbitrators understood factual issues – 90%
- Arbitrators understood legal issues – 89%
- Arbitrators understood theory of case well – 78%
- Confident in arbitrators' ability to apply law to case facts – 69%
- Other attorney(s) did not use hearing as a discovery vehicle – 84%
- Was enough time for their case in chief – 93%

## 2012 REPORT



Attorneys were also asked what they liked/disliked about the arbitration process:

#### Liked

- Economical
- Relaxed setting
- Quick and efficient

#### Disliked

- Discovery timeframes inadequate
- Too easy for defendant to reject
- Arbitration decision non-binding
- Not shown how award calculated
- Rarely resolves cases

The major themes in response to whether they had any recommendations for changing the process:

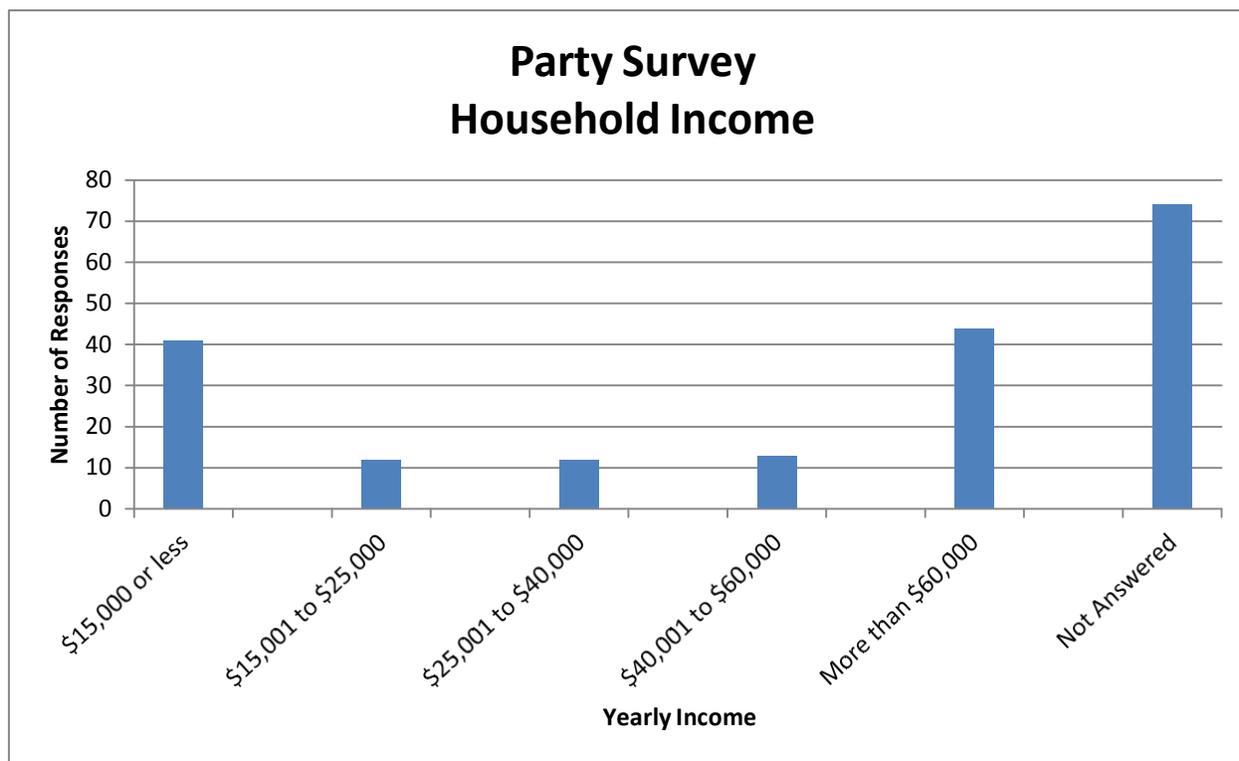
- Make it binding
- Raise rejection fee
- Review rejection guidelines

### Party Survey

The Party Survey responses revealed the following:

- Involved in lawsuit as a private individual – 57%
- Represented by an attorney – 93%
- Yearly household income, as shown in the following graph:

## 2012 REPORT



The parties were also asked what they liked/disliked about the arbitration process. Out of the responses received, 66 percent listed no comments. Of the remaining comments, there were eight negative responses, which included comments regarding:

- Hearing was too long
- Start time of the hearing – too early
- Gap between scheduled and start time

### III. Conclusion

Overall, participants are satisfied with the arbitration program and procedures. It is clear that the informal, streamlined process greatly reduces court dockets and produces just results in a timely manner. As with any program, improvements can be made. There is minor dissatisfaction expressed by both arbitrators and attorneys concerning the ease by which awards are rejected. In their opinion, these rejections are made by a certain group of insurers on an almost automatic basis. Additionally, a few attorneys expressed a belief that discovery times need to be expanded, especially in contract cases.

## 2012 REPORT

**2012 REPORT**

**ANNUAL REPORT  
OF THE  
AUTOMATION AND TECHNOLOGY COMMITTEE  
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Adrienne W. Albrecht, Chair

Hon. F. Keith Brown  
Hon. Ann Callis  
Hon. James K. Donovan

Hon. Ann B. Jorgensen  
Hon. Hon. William G. Schwartz  
Hon. Thaddeus L. Wilson

October 2012

## **2012 REPORT**

### **I. STATEMENT ON COMMITTEE CONTINUATION**

For Conference Year 2012, the Supreme Court charged the Automation and Technology Committee (Committee) with the development of guidelines which promote the effective and efficient use of technology and automation in the trial courts, including recommendations for statewide standards, protocols, or procedures. The Committee's work also included the review of technology applications and their impact on court operations as well as recommendations of rules and statutory changes which manage the use of technology in the courts. The Committee may also research and recommend response protocols to resolve security issues affecting the court's use of technology.

The Automation and Technology Committee, working in conjunction with the Special Supreme Court Committee on E-Business, is to represent the judges' viewpoint for the development and implementation of e-Business applications in the Illinois court system, including but not limited to e-Filing. The Committee is to develop general guidelines and statewide standards, protocols, and procedures on the use of e-Business in the trial courts, the Appellate Court, and the Supreme Court.

The Automation and Technology Committee requests that it be continued in the 2013 Conference Year to proceed with this work.

### **II. SUMMARY OF COMMITTEE ACTIVITIES**

The Committee actively participated with the Special Supreme Court Committee on E-Business, chaired by Mr. Bruce Pfaff, and a subcommittee from The Illinois Association of Court Clerks, to draft a report recommending guidelines and policies related to e-Filing, electronic

## 2012 REPORT

access, and an official electronic record for the trial courts. At the same time, members of the Committee participated in pilot projects to facilitate electronic access and filing in the appellate court. The proposed guidelines and report have been submitted to the Supreme Court for consideration.

Also in 2012, Committee members participated in a special task force to review and make recommendations to modify the Electronic Access Policy for Circuit Court Records of the Illinois Courts. The proposed changes to the electronic access policy have been submitted to the Supreme Court for its consideration.

The work on these two projects has enabled the Committee on Legal Technology to identify and discuss specific challenges which further the implementation of automation and technology with clerks of court and court personnel. It has also enabled the Committee to gather information and disseminate that information to the various stakeholders. The ongoing process of modification and acquisition in various courts has provided the Committee with unique insight into the challenges associated with implementing change on a statewide basis.

For example, it turns out that not all PDF files have the same utility to the court system, as described by Rick Borstein in an article reprinted in the *Court Technology Bulletin*, on July 12, 2012, *The "Flavors" of PDF*. Also, empirical data with regards to the per page cost of paper filing and storage, compared to electronic filing and storage, is starting to become available. See *Calculating an E-Court Return on Investment*, posted at Court Technology Bulletin, February 16, 2012, <http://courttchbulletin.blogspot.com/2012/02/calculating-e-court-return-on.html>. In addition, an informal and unscientific survey of judges revealed a generalized belief that their

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system was not yet ready to do away with paper files. This observation alone resulted in a renewed effort to identify and accommodate the needs of the judiciary. In fact, the Committee has undertaken the task of identifying and clarifying what those needs are in order to assist counties in the process of updating their case management systems and technical infrastructure. At the same time, the Committee is considering different ways that it can assist judges in learning and embracing the use of technology to streamline their work flow. After all, the investment in technology is only worthwhile when it assists and enhances the work of the court.

The Committee has had occasion to consider the role of technology in data acquisition and utilization. For example, the Administrative Office of the Illinois Courts has an ongoing project aimed at collecting data and using the results to spur improvements in outcomes in child dependency courts. For the initial data collection phase of the project, much of the work involved the review by hand of court files. It has since become apparent that an electronic tool is needed. Further, the court systems need to incorporate the requisite fields in order to enable the collection of the requisite data. Those fields would, ideally, be standardized throughout the State.

Appropriate and standardized data collection could enhance the work of the courts in many areas of the law; not just Juvenile Court. There are mandatory time limits in almost every type of litigation. For example, in child custody litigation, the 900 series rules provide clear and mandatory time limits. Similarly, criminal courts face deadlines for speedy trial, as well as post-conviction petitions. Computer systems are ideal tools to calculate and monitor compliance with those time lines. However, they require programming with specific and universally identified and defined fields. It could provide savings in both time and money were those time limits and

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fields to be identified for counties investing in changing or modifying their case management system.

### **III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR**

The Committee remains willing and able to fulfill the Court's mandate, and will respond to any directions from the Supreme Court with regards to specific areas of work and inquiry.

### **IV. RECOMMENDATIONS**

The Committee is making no recommendations to the Conference at this time.

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**ANNUAL REPORT  
OF THE  
COMMITTEE ON CRIMINAL  
LAW AND PROBATION ADMINISTRATION  
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Leonard Murray, Chair

Hon. Thomas R. Appleton  
John A. Barsanti  
Diane Gordon Cannon  
Hon. John E. Childress  
Hon. Neil H. Cohen  
Kathy Bradshaw Elliott  
Hon. Daniel P. Guerin  
Hon. Janet R. Holmgren

Hon. William H. Hooks Hon.  
Hon. Paul G. Lawrence Hon.  
Hon. Marjorie C. Laws  
Hon. Charles McRae Leonhard  
Hon. Charles V. Romani, Jr. Hon.  
Hon. Mitchell K. Shick  
Hon. Domenica A. Stephenson

October 2012

## **2012 REPORT**

### **I. STATEMENT ON COMMITTEE CONTINUATION**

The purpose of the Criminal Law and Probation Administration Committee, (Committee), of the Illinois Judicial Conference is to review and make recommendations on matters affecting the administration of criminal law and monitor, evaluate and provide recommendations on issues affecting the probation system. The Committee is further charged to review, analyze and examine new issues arising out of legislation and case law that impact criminal law and procedures and probation resources and operations. The Committee is also charged with reviewing and commenting on changes to Illinois Supreme Court Rules which affect the administration of criminal law and/or the probation system.

Since the inception of the Committee, a number of critical issues related to criminal law and probation administration have been addressed. Over the years this Committee has been instrumental in recommending amendments to Supreme Court Rules which were subsequently adopted by the Supreme Court, including Rule 605(a) and Rule 605(b). The Committee has made recommendations for the enacting of new rules, specifically Rule 430, which provides guidelines to trial court judges for the use of restraints on criminal defendants. Rule 430 was adopted by the Court on March 22, 2010 and became effective July 1, 2010. The Committee has also prepared and presented to the Conference a pre-sentence investigation report format incorporating the principles of Evidence Based Practices, (EBP). In addition, the Committee prepared and presented to the Conference a one page EBP bench guide, and a similar document created for use by probation officers, supervisors, and managers. Finally, the Committee also made recommendations on the use of videoconferencing technology in criminal cases.

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This Conference year, as part of the charge to update the 2007 Specialty Court Survey, the Committee circulated an initial assessment to the Trial Court Administrators in order to ascertain the nature and extent of problem solving or specialty courts in each judicial circuit. Based on the information received from the initial assessment, the Committee prepared and circulated an enhanced survey instrument for the purpose of obtaining additional details about specialty court operations in Illinois. Further, at the request of the Rules Committee, the Committee began discussion on a proposed rule amendment which would authorize the use of conditional pleas similar to the methodology detailed and authorized in Federal Rule of Criminal Procedure 11. The Committee also discussed the impact of the Third District Appellate Court opinion of *People v. Rippatoe* on Supreme Court Rule 430.

As a final matter, the death penalty was abolished in Illinois on July 1, 2011 pursuant to Public Act 96-1543. In response to Public Act 96-1543, the Court charged the Special Supreme Court Committee on Capital Cases, (Capital Cases Committee), to prepare and submit a comprehensive report, descriptive of the Capital Cases Committee's work and chronicling its activities to date. The Court specifically requested the final report include commentary regarding recommendations on Supreme Court Rules concerning capital cases. As part of the Capital Cases Committee's final report, a minority of that committee believed further discussion was warranted regarding whether a rule similar to the language contained in Rule 416(c), (f), (g) and (h) should be drafted and made applicable to all felony cases. The Court agreed with the minority, and on April 5, 2012, a letter was sent asking the Criminal Law Committee to examine the feasibility of applying 416(c), (f), (g) and (h) to other felony cases. The Committee is currently examining this

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issue and will report its findings to the Conference in 2013.

The Committee is dedicated to serving the Court in meeting the assigned projects and priorities, and producing quality information and a useful work product. The Committee is requesting to continue addressing matters affecting criminal law and procedure and the administration of probation services.

### **II. SUMMARY OF COMMITTEE ACTIVITIES**

#### **Continued Projects/Priorities 2011**

##### ***Project 1: Update the 2007 Specialty Court Survey.***

In 2010, the Committee began to undertake an update of the 2007 Specialty Court Survey by examining and discussing problem solving courts designed to address issues unique to veterans. The Hon. John Kirby, Presiding Judge of the Cook County Veterans Court program and Mr. Mark Kammerer, Cook County Specialty Courts Coordinator spoke to the Committee about the Cook County Veterans Court program. Judge Kirby and Mr. Kammerer detailed to the Committee the screening process used to determine participation eligibility, the tools used by the court to address veterans issues, the resources used, and the success rate of the program.

Due to the in-depth nature of this charge, the Administrative Office of the Illinois Courts, in conjunction with the Committee, developed an initial assessment for the purpose of determining the nature and extent of problem solving courts in each judicial circuit. The initial assessment was sent to the Chief Judges and Trial Court Administrators of each judicial circuit. The initial assessment sought to elicit the following: the types of specialty courts in each circuit; the inception

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date of each specialty court; and the keeper of data for each specialty court.

Once the responses contained in the initial assessment were analyzed, the Committee, in conjunction with the Administrative Office of the Illinois Courts, developed a detail oriented survey instrument which is capable of providing the Conference with a more comprehensive overview of specialty courts in Illinois. The detailed survey seeks to elicit the following information: titles of all persons involved in each specialty court in each circuit; whether the presiding judge is an associate or circuit judge; the number of successful participants since the specialty court's inception; number of successful participants since inception who received sanctions during their time in the specialty court; the nature and type of sanctions available, minimum number of sanctions allowed before a participant is terminated from the specialty court; number of persons who left the program whether voluntarily or involuntarily; and how frequently the specialty court is convened. During the summer of 2012 the detailed survey was e-mailed to the Trial Court Administrators for data collection.

***Project 2: Study, examine and report on Supreme Court Rules as they relate to criminal procedure and court process.***

On October 12, 2011, a letter was sent on behalf of the Supreme Court Rules Committee seeking comment on a proposed amendment to add paragraph (g) to Supreme Court Rule 402. The proposed amendment would authorize the defendant, with the permission of the court and prosecution, to enter a plea of guilty conditioned upon his or her ability to have the adverse pretrial suppression motion reviewed by an appellate court. Proposal 11-07 is drawn directly from Federal Rule of Criminal Procedure 11 and is commonly known as a "conditional plea".

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A subcommittee was formed to examine this proposed rule. During discussions of the proposed rule, a consensus was reached that stakeholder comments were needed because conditional pleas exist only in the federal system. As a result, the subcommittee is currently seeking input on the feasibility of implementing conditional pleas from the Illinois State's Attorneys Association, the Illinois Public Defenders Association, including appellate defenders, and the Criminal Justice Section of the Illinois State Bar Association. Once the stakeholders have provided their input and insights, the Committee will further discuss this charge and report back to the Conference in 2013.

### **Conference Year 2012 Projects/Priorities**

***Project 1:*** Discuss and make recommendations on the possible effect of *People v. Rippatoe*, 408 Ill. App.3d 1061 (2011) on Supreme Court Rule 430 (Trial of Incarcerated Defendant).

The *Rippatoe* decision stemmed from an appeal on a post-trial claim of ineffective assistance of counsel. The Third District Appellate Court, while noting that the Defendant first raised the restraint issue on appeal, held that defendant's rights were denied because he was kept in restraints during post-trial proceedings without a hearing on whether or not the restraints were necessary as required by *People v. Boose*, 66 Ill. 2d 261 (1977) and *People v. Allen*, 222 Ill. 2d 340 (2006). The *Rippatoe* decision caused concern because in 2010, the Committee recommended, and the Court adopted, Rule 430 which codifies the *Boose* and *Allen* decisions governing the use of restraints. As part of the discussion leading to the formulation of Rule 430 the Committee concluded that *Boose* and *Allen* were applicable only to the guilt/innocence phase of a criminal proceeding.

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To accomplish this charge the Committee reviewed and discussed the *Rippatoe* decision and re-examined the holdings of *Boose* and *Allen*. Based on this discussion and review, the Committee again reached a consensus that the *Boose* and *Allen* decisions regarding whether or not to place a defendant in restraints applies only to the guilt/innocence phase of the proceedings. As a result, the Committee concluded that a conflict exists between the holding in *Rippatoe* and the Supreme Court's holdings in *Boose* and *Allen*. As a result of this conflict, the Committee recommends that absent an opinion from the Supreme Court expanding the *Boose* and *Allen* opinions to include post trial proceedings, an amendment to Rule 430 to incorporate the *Rippatoe* decision is not required at this time.

***Project 2: Discuss and make recommendations on possible actions concerning the reliability of the current method used by Illinois trial courts for determining admissibility of eyewitness testimony.***

The Committee examined multiple judicial opinions from Illinois, and other states along with scientific treatises on the reliability of eye witness testimony. In particular, the Committee examined the New Jersey Supreme Court case of *State v. Larry Henderson*, 27 A.3d 872 (2011), the United State's Supreme Court decision of *Manson v. Brathwaite*, 432 U.S. 98 (1977), the Illinois decisions of *People v. Manion*, 67 Ill.2d 564, (1977), and *People v. Slim*, 127 Ill.2d 302 (1989) and the New Jersey Attorney General Photo Identification guidelines. After thorough discussion of this project, the Committee believes that the process in Illinois provides adequate guidance to trial courts to determine the reliability of eye witness testimony.

## **2012 REPORT**

### **III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR**

While the Committee has made significant progress addressing its charges, much of the Committee's work is ongoing and developing. The Committee is requesting to continue its work in updating the 2007 Specialty Court Survey and the feasibility of conditional pleas in Illinois. The Committee further requests to examine and comment on whether or not Supreme Court Rule 416(c), (f), (g) and (h) should be expanded to all felony cases. Finally, the Committee would like to continue reviewing and making recommendations on matters affecting the administration of criminal law and the probation system, and continue to study, examine and report on proposed Supreme Court Rules as they relate to criminal procedure and court process.

### **IV. RECOMMENDATIONS**

The Committee is making no recommendations to the Conference at this time.

**2012 REPORT**

**ANNUAL REPORT OF THE COMMITTEE ON  
DISCOVERY PROCEDURES TO THE  
ILLINOIS JUDICIAL CONFERENCE**

Hon. Maureen E. Connors, Chair

Hon. William J. Becker  
Hon. Frank R. Fuhr  
Hon. Kimbara G. Harrell  
Hon. Katherine Gorman Hubler  
Hon. Jeffrey W. O'Connor  
Hon. Michael Panter

Hon. Barbara N. Petrunaro  
Hon. Kenneth L. Popejoy  
Mr. Joseph R. Marconi, Esq.  
Mr. David B. Mueller, Esq.  
Mr. Eugene I. Pavalon, Esq.  
Mr. Paul E. Root, Esq.

Prof. Marc D. Ginsberg

October 2012

## **2012 REPORT**

### **I. STATEMENT ON COMMITTEE CONTINUATION**

The purpose of the Committee on Discovery Procedures (Committee) is to review and assess discovery devices used in Illinois. It is the goal of the Committee to propose recommendations that expedite discovery and eliminate any abuses of the discovery process. To accomplish this goal, the Committee researches significant discovery issues and responds to discovery-related inquiries. The Committee therefore believes that it provides valuable expertise in the area of civil discovery. For this reason, the Committee requests that it be permitted to continue its work in Conference Year 2013.

### **II. SUMMARY OF COMMITTEE ACTIVITIES**

#### **A. Committee Charge**

The Committee is charged with studying and making recommendations on the discovery devices used in Illinois. The Committee also is charged with investigating and making recommendations on innovative means of expediting pretrial discovery and ending any abuses of the discovery process so as to promote early settlement discussions and encourage civility among attorneys. Finally, the Committee's charge includes reviewing and making recommendations on proposals concerning discovery matters submitted by the Supreme Court Rules Committee, other committees, or other sources.

In conjunction with its charge, the Committee considered two proposals that were forwarded to it from the Supreme Court Rules Committee.

#### *Supreme Court Rule 216 (Admission of Fact or of Genuineness of Documents)*

The Committee considered the concerns raised by an attorney about a conflict in the rule

## 2012 REPORT

for time periods (14 or 28 days) in responding to requests depending on whether the document is a public record. The Committee determined that there should not be a different time frame for responding when a public record is involved. Instead, a 28-day time frame should be applicable in all instances. Therefore, the Committee determined that Rule 216(d) should be modified to incorporate a 28-day time frame. Pursuant to Supreme Court Rule 3, the Committee forwarded its recommendation and proposal to the Supreme Court Rules Committee.

### Supreme Court Rule 204 (Compelling Appearance of Deponent)

The Committee considered correspondence from the Illinois Association of Defense Trial Counsel (IDC) regarding its former proposal to amend Supreme Court Rule 204(c) to place a limit of \$400 per hour on the fee that physicians may charge for giving deposition testimony. This proposal was previously considered and rejected by the Committee. The IDC requested that the Committee reconsider its proposal. The Committee determined that there was not a need for an amendment to the rule since trial courts have authority under Rule 204 to apportion deposition fees for doctors if necessary. The Committee therefore decided to maintain its prior position rejecting the proposed amendment to Supreme Court Rule 204.

### **B. Conference Year 2011 Continued Projects/Priorities**

The following subjects represent the projects/priorities assigned by the Supreme Court to the Committee for consideration in Conference Year 2011, which were extended into Conference Year 2012.

The Committee primarily focused its attention on the issue of e-Discovery. The Court requested that the Committee draft proposed amendments to select Supreme Court Rules, which may be modeled on the federal amendments, as well as guidelines, to assist trial court

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judges in addressing e-Discovery issues. In a prior conference year, the Committee formed a subcommittee to address this task. After surveying other state and federal discovery rules, examining case law and discussing articles on the subject of e-Discovery, the subcommittee recommended that certain current discovery rules be amended to address four key issues: (1) scope of electronic discovery, (2) cost allocation/proportionality, (3) pretrial conference and (4) preservation, all of which parallel some of the 2006 Amendments to the Federal Rules of Civil Procedure.

### *Scope of Electronic Discovery*

Currently, the discovery rules do not provide for discovery of electronic data. As such, the subcommittee drafted amendments to include and define "electronically stored information" (ESI), which is the common reference for discovery of electronic data. The subcommittee also proposed amendments to limit the discovery of certain categories of ESI unless requested and ordered by the court. The Committee agreed with the amendments proposed by the subcommittee, which will next focus on drafting Committee Comments for the Committee's consideration.

### *Cost Allocation/Proportionality*

The subcommittee drafted amendments to permit the trial court to examine the likely burden or expense of producing certain ESI by empowering trial courts to apply a proportionality principle when considering protective orders. In so doing, the subcommittee noted that the issue of cost allocation is an important issue in discovery of ESI. The Committee agreed with the amendments proposed by the subcommittee, which will next focus on drafting Committee Comments for the Committee's consideration.

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### Pretrial Conference

In light of the controversy that often arises with ESI, the subcommittee drafted amendments to require early discussion of any issues regarding the production of ESI at the pretrial case management conference. The subcommittee indicated that early discussions prompt resolution of such issues and thereby reduce the potential for discovery abuse and delay. The Committee agreed with the amendments proposed by the subcommittee, which will next focus on drafting Committee Comments for the Committee's consideration.

### Preservation

The subcommittee drafted amendments to address the issue of when the duty to preserve ESI arises and the potential sanctions for failure to preserve ESI. The subcommittee recognized that companies often have standard deletion policies regarding ESI and seek direction from the court on this issue. The Committee continues to debate the proposed amendments given its struggle with whether to preclude sanctions where there has been a good faith destruction of ESI or to leave any said sanctions to the discretion of the trial court.

Also pending with the subcommittee is consideration of the feasibility of a rule requiring mandatory disclosure of relevant documents similar to the federal rules, which require mandatory disclosure irrespective of written requests. The subcommittee recognized that such a request would be a fundamental change for the Illinois discovery rules. As such, the subcommittee continues to discuss this issue.

Finally, the Committee deferred its consideration of whether business records produced by a party should be presumptively admissible during discovery absent foundation testimony.

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### **III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR**

During the 2013 Conference year, the Committee requests that it be permitted to address pending projects continued from the prior Conference year. Specifically, the Committee seeks to complete its project on e-Discovery by presenting to the Court for its consideration proposed amendments to Illinois Supreme Court Discovery Rules, Committee Comments and Guidelines that will act as a roadmap for trial judges addressing the various issues surrounding e-Discovery. The Committee also will review any proposals submitted by the Supreme Court Rules Committee.

### **IV. RECOMMENDATIONS**

The Committee is making no recommendations to the Conference at this time.

**2012 REPORT**

**ANNUAL REPORT  
OF THE  
COMMITTEE ON EDUCATION  
TO THE ILLINOIS JUDICIAL CONFERENCE**

Lisa Holder White, Chair

Hon. Robert J. Anderson  
Hon. Andrew Berman  
Hon. Liam C. Brennan  
Hon. Elizabeth M. Budzinski  
Hon. Mark H. Clarke Hon.  
Joy V. Cunningham Hon.  
Craig H. DeArmond Hon.  
Thomas M. Donnelly Hon.  
Robert E. Gordon  
Hon. Shelvin Louise Marie Hall  
Hon. Thomas E. Hoffman  
Hon. Susan F. Hutchinson  
Hon. Julie K. Katz

Hon. Nancy J. Katz  
Hon. Kathleen O. Kauffmann  
Hon. Jerelyn D. Maher  
Hon. Margaret Stanton McBride  
Hon. Katherine M. McCarthy  
Hon. Gregory K. McClintock  
Hon. Michael J. Murphy  
Hon. William T. O'Brien  
Hon. Tracy W. Resch  
Hon. Heinz M. Rudolf  
Hon. Daniel B. Shanes  
Hon. Scott A. Shore  
Hon. Ronald D. Spears

October 2012

## 2012 REPORT

### I. STATEMENT ON COMMITTEE CONTINUATION

Consistent with the purpose and provisions of the Supreme Court's *Comprehensive Judicial Education Plan for Illinois Judges*, the Committee on Education was established to identify the educational needs of the Illinois judiciary and design educational programs to meet those needs. In conjunction with the general charge to the Committee, the Court provided the following list of Conference Year 2012 projects and priorities:

- Complete the 2011 Illinois Judicial Benchbook projects.
- Initiate 2012 Illinois Judicial Benchbook projects, including a pilot project with a vendor known in the industry for the provision of legal resources to offer at least one benchbook in electronic format that may be searched (cases, statutes and key legal terms), downloaded and printed.
- Deliver and evaluate two presentations of Education Conference 2012.
- Deliver and evaluate the 2012 DUI/Traffic regional seminar.
- Assess Education Conference 2012 evaluations.
- Initiate planning for Education Conference 2014.
- Plan, if deemed viable by the Committee, one mini-seminar in addition to the 2013 DUI/Traffic regional seminar, as part of the 2012-2013 Seminar Series.
- Plan the January 2013 New Judge Seminar.
- Initiate planning for the June 2013 Advanced Judicial Academy.
- Continue the commitment to recruit diverse faculty reflective of the geographic, racial, ethnic, gender and cultural differences in the Illinois judiciary.
- Undertake any such other projects or initiatives that are consistent with the Committee charge.

The Committee achieved each of the above Conference Year 2012 projects and met 2011 priorities set by the Court. In Conference Year 2012, the Committee, in partnership

## **2012 REPORT**

with the Administrative Office, will continue to deliver judicial education programs for new and experienced jurist that reflect upon substantive and procedural issues, as well as ethical and professional subject areas of significance to members of the Illinois judiciary.

The 2012 Conference Year began with the presentation of Education Conference, presented January 30 – February 3, 2012 and April 16 – 20, 2012, and planning for Education Conference 2014 will begin August 2012. Early in 2012, the Committee engaged in planning for the January 2013 New Judge Seminar, two spring 2013 regional seminars, the 2013 Advanced Judicial Academy and the September 2013 Faculty Development Workshop.

## **II. SUMMARY OF COMMITTEE ACTIVITIES**

### **New Judge Seminar**

*New Judge Seminar* is a weeklong seminar for judges who have recently transitioned to the bench. Over the course of a week, judicial ethics and conduct, as well as a diverse range of emerging legal and procedural subject matters are presented and discussed by experienced judicial faculty. Faculty presentations will continue to focus on the need to assist new judges in developing the skills of successful, effective and knowledgeable jurists. This curriculum approach encourages faculty to include question and answer sessions, role playing and problem solving scenarios whenever possible. Informational kiosks continue to be a popular option. These brief, practical information sessions allow judges to gain insight on topics not otherwise addressed in seminars. In 2011, New Judge Seminar was presented twice – January 2011 to 82 new judges and received an overall rating of 4.7 out of 5.0, and

## **2012 REPORT**

December 2011 to 30 judges, receiving an overall rating of 4.8 on a 5.0 scale. The next New Judge Seminars will be held in January 28 – February 1, 2013 and December 9 – 13, 2013.

### **Faculty Development Workshop**

Faculty development provides an opportunity for prospective Education Conference faculty to meet in person, in small groups and engage in a day and half of sessions meant to improve facilitation and presentation skills. Workshop presentations and discussions are designed to highlight adult learning theories, effective presentation design and content, and demonstrate the effective use of technology. The last workshop was held September 15-16, 2011, was attended by 110 faculty and received an overall rating of 4.6 on a 5.0 scale. The next workshop will be held September 2013.

### **Faculty Recruitment**

The Administrative Office maintains a database of members of the Illinois judiciary who have indicated their interest in serving as faculty, or members of a Benchbook writing team. Faculty and benchbook volunteer forms are posted on the Supreme Court's website under judicial education, on the judicial portal, and provided at each judicial education event. Judge's interested in serving as faculty, or as a member of the benchbook writing team should submit a volunteer form to the Administrative Office which maintains a database of volunteers for the Committee and its Workgroups to consider when contemplating potential faculty for various judicial education events.

## **2012 REPORT**

### **2011 – 2012 Seminar Series**

The Committee on Education seminar series is generally composed of one day mini seminars and two day regional seminars hosted in either Chicago or Springfield. The seminar series offers judges the opportunity to present a broad range of topics of major significance to members of the Illinois judiciary worthy of in-depth review and discussion. In this regard, the Committee presented the annual two day DUI/Traffic Issues regional seminar May 15-16, 2012, attended by 37 judges with an overall rating of 4.9 on a 5.0 scale.

### **Illinois Judicial Benchbooks**

The Illinois Judicial Benchbooks have proven to be valuable educational resources for judges in chambers and on the bench. Benchbooks are updated annually, or new editions are proposed, as recommended by the Project Benchbook Editorial Board of the Committee on Education. The following benchbooks are available on CD, the *Illinois Judicial Portal*, or in hardcopy: *Civil Law and Procedure*, *Criminal Law and Procedure*, *Domestic Violence*, *DUI/Traffic*, *Evidence* and *Family Law and Procedure*. Benchbooks are evaluated on a volunteer basis through narrative feedback requested from users and distributed with each benchbook. While benchbook hard copies are still distributed in great volume, over 3,000 copies annually, there is an increased interest in electronic formats.

## **2012 REPORT**

### **Non-Judicial Conference Judicial Education Programs and Providers**

Requests for approval of non-judicial conference judicial education credit hours should be submitted prior to the event. Forms are available on the Supreme Court website under the hyperlink for judicial education. While Illinois judges achieve thirty hours of judicial education credit through attendance at the biennial meeting of Education Conference, when requests for approval of non-judicial conference judicial credit hours are made, the Committee on Education, through its workgroup, reviews each request on its merits and based upon criteria set forth in the *Comprehensive Judicial Education Plan*, makes recommendations to the Court to approve either the program or provider.

### **III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR**

The Committee proposes to continue activities in Conference Year 2013 related to the activities noted below:

#### **2012 - 2013 Seminar Series**

During the 2012-2013 Seminar Series, the Committee will present a regional seminar, March 6-7, 2013 in Springfield on the topic, *Upholding Rights While Enforcing Legal Obligations: An Appropriate Judicial Response to Financial Matters in the Courtroom*, and the annual two day regional DUI/Traffic Issues seminar in the Spring of 2013. The Spring 2013 DUI/Traffic seminar will expand upon previous seminars to include a systemic approach to the management and sanctioning of DUI offenders, and other collaborative strategies.

## **2012 REPORT**

### **2013 New Judge Seminar**

New Judge Seminar will be presented January 28 – February 1, 2013 and again I in December 9 – 13, 2013 in Chicago. The 2013 seminars will add two new sessions, technology and the judiciary, and mental health. In addition, the Committee will continue to engage in the evaluation, review and planning of New Judge Seminars to ensure the delivery of seminars consistent with the Court's *Statement of Expectations*.

### **2013 Advanced Judicial Academy**

The biennial *Advanced Judicial Academy* will be held June 10 - 13, 2013 at the University of Illinois College of Law in Champaign, which provides a casual learning environment that promotes collegiality while achieving the goal of continued judicial education. The *Academy* theme will be explored over three and half days through daily subthemes and an optional writing workshop that contemplate the disciplines of law, ethics, history and the social sciences. Judges are nominated to attend the Academy by their chief circuit judge or in the case of appellate judges, the presiding justice, or Chair of the Executive Committee in Cook County.

### **2013 Faculty Development Workshop**

Faculty development will be planned for September 2013 in anticipation of Education Conference 2014. The workshop will provide an opportunity for 2014 Education Conference faculty to meet informally as colleagues, and as a plenary or small group to discuss upcoming presentations, facilitation and presentation skills, and substantive materials.

## **2012 REPORT**

### **Education Conference 2014**

In August 2012, the Committee will begin planning for the delivery of Education Conference 2014. The Committee will also seek during its planning phase to be responsive to participant evaluations and other informal feedback.

### **Illinois Judicial Benchbooks**

The Committee will continue efforts to update and revise the six Illinois Judicial Benchbooks based upon significant changes in legal authorities, while balancing the need to produce a user friendly judicial resource.

## **IV. RECOMMENDATIONS**

The Committee is making no recommendations to the Conference at this time.

**2012 REPORT**

**ANNUAL REPORT OF THE  
STUDY COMMITTEE ON COMPLEX LITIGATION  
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Carolyn Quinn, Chair

Hon. Dinah J. Archambeault  
Hon. Nancy J. Arnold  
Hon. Robert L. Carter  
Hon. Joan E. Powell

Hon. Christopher C. Starck  
Hon. Michael J. Sullivan  
Hon. John W. Turner  
Hon. Thaddeus L. Wilson

Professor Martha A. Pagliari

October 2012

## **2012 REPORT**

### **I. STATEMENT ON COMMITTEE CONTINUATION**

The purpose of the Illinois Judicial Conference Study Committee on Complex Litigation ("the Committee") is to make recommendations, through proposed rules or other procedures, to reduce the cost and increase the efficiency of protracted civil and criminal trials, which often involve multiple parties, multiple issues, and/or unique substantive or procedural considerations. Historically, the Committee's work has been focused on updating and revising its manuals for complex litigation (Civil and Criminal), and adding forms to the manual appendices. During the past few Conference years, the Committee also has, at the Supreme Court's request, researched and offered proposed rules, policies and procedures to improve the administration of justice in complex litigation cases. The Committee members include Illinois circuit court and appellate court judges who possess significant civil and/or criminal complex litigation experience.

For Conference Year 2012, the Supreme Court's charge to the Committee carried over the projects/priorities from Conference Year 2011: to make revisions and provide new topics and updates as necessary to the Civil and Criminal Manuals, including the maintenance and updating of forms and links contained within those manuals.

The Committee believes that its work continues to be of great value to the mission of the Conference. Specifically, the completion in 2011 of the fourth edition of the Civil Manual, and the undertaking of several significant revisions, updates and additions to the Criminal Manual, will further the Committee's goal of providing topical, user-friendly references for Illinois judges presiding over complex litigation. As such, the Committee respectfully requests that it be continued as a full standing committee of the Illinois Judicial Conference in order to

## **2012 REPORT**

carry on its work on the Civil and Criminal Manuals.

### **II. SUMMARY OF COMMITTEE ACTIVITIES**

The following offers a brief summary of the Committee's work on those projects/priorities carried over from Conference Year 2011 and undertaken in Conference Year 2012.

#### **A. Conference Year 2012 Continued Projects/Priorities**

##### **1. Finalize, Publish and Circulate the 4<sup>th</sup> Edition of the Manual on Complex Civil Litigation**

In Conference Year 2011, the Committee largely focused on drafting the remaining chapters of the new fourth edition of the Civil Manual. By the end of 2011, the Committee completed the final, finished product and published the new manual in hard copy and CD-ROM format. The latter affords users the convenience of downloading hyperlink and search capabilities.

A bound copy of the updated Civil Manual was displayed at the 2012 Illinois Judicial Education Conference, allowing judges to review the new edition of the Civil Manual and order copies in the format of their choice. Prior to the 2012 Illinois Judicial Conference, an order form will be sent electronically to all Illinois judges allowing them to order the Civil Manual in their chosen format.

In previous years, the Committee's charge contemplated annual revisions and updates to both the Civil and Criminal Manuals, as well as review the forms contained in the appendices to both manuals. With regard to the Civil Manual, the Committee has made it a priority for members to track changes in the law that would affect the accuracy and timeliness of the

## **2012 REPORT**

information, links and forms contained within the Civil Manual, and to identify the necessary revisions.

### **2. Prepare Revisions, Updates and New Topics as Necessary to the Manual on Complex Criminal Litigation**

In Conference Year 2011, the Committee reviewed the Criminal Law and Procedure benchbook created by the IJC Committee on Education in order to identify what revisions, if any, were necessary to ensure the accuracy and relevance of the information in the Criminal Manual. A subcommittee was formed to review and compare the Criminal Benchbook and Criminal Manual to determine the extent of overlap between the resources and content. The subcommittee's efforts were focused on deciding what information would remain in the Criminal Manual and identifying the material that should be removed as duplicative of the Criminal Benchbook. The subcommittee drafted a detailed table of contents for the revised Criminal Manual which was then approved by the full Committee.

In Conference Year 2012, the drafting of the updated Criminal Manual was undertaken in earnest. Thanks to the roadmap created by the subcommittee's revised table of contents, individual chapters were assigned to Committee members to either review and renew the content, or in many cases, introduce topics and content that had not been included in previous editions of the Criminal Manual. Several new Committee members with deep experience in criminal law and procedure accepted the challenge of drafting newly added chapters, while members having less criminal law experience undertook the revisions, editing and redrafting of the content in existing chapters.

The Criminal Manual will be similar in style to the 4<sup>th</sup> Edition of the Civil Manual. Specifically, the text will be more streamlined, with fewer footnotes, and will include

## 2012 REPORT

downloadable order forms and topic checklists for each chapter.

Several chapters from the previous edition were removed because it was determined that those chapters were better suited to and adequately addressed by the Criminal Benchbook. Other chapters were pared down or consolidated with other chapters of the Criminal Manual. The streamlining of the information within the Criminal Manual will provide judges with an information-rich, yet concise, handbook that can guide a judge in complex criminal matters.

As of the date of this report, the chapters in the forthcoming Criminal Manual are as follows:

**Chapter 1** (title to be determined) serves as a primer to the Criminal Manual, explaining and defining notorious, complex and high profile cases. **Chapter 2: Media** will speak to the current issues associated with the interaction between the court and the media arising out of complex or high profile litigation, including planning for media presence, broadcast coverage of the litigation, and jury concerns. **Chapter 3: Security** will offer an updated resource of information on the many logistics of keeping the courtroom, employees, litigants, jurors and observers safe in light of the often dangerous circumstances that can surround criminal trials. This chapter will include information on implementing risk assessment procedures, screening and access to courtrooms, and securing and transporting defendants. **Chapter 4: Special Prosecutors** will deal with the unique situations and procedural implications facing judges in the wake of a request for the appointment of a special prosecutor, including grounds for such an appointment. **Chapter 5: Pretrial Motions** will offer procedural guidance on pretrial motions concerning joinder and severance, and the legal principles that govern those

## 2012 REPORT

procedures. **Chapter 6: Jury Issues** will cover the information and procedures that encompass the selection of jurors in complex criminal cases, including pre-screening prospective jurors, *voir dire*, and issues that arise with jurors during the trial. **Chapter 7: Sentencing Issues** will contain updated information on situations central to the sentencing stage of criminal litigation, including sentencing hearings, extended terms sentencing, and consecutive/concurrent sentencing.

The updated Criminal Manual will contain a Table of Authorities, providing judges an easy reference to the caselaw, statutes and other sources contained within the Manual. It will also contain a selection of forms and checklists essential to the judicial management of complex criminal cases. The Committee anticipates that the revised *Manual on Complex Criminal Litigation* will be completed in late 2013.

### III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the next Conference year, the Committee will be working to complete the comprehensive revision to the Criminal Manual. Additionally, the Committee will track changes in the law to be included in future updates or supplements to the Civil Manual.

### IV. RECOMMENDATION

The Committee is making no recommendations to the Conference at this time.

**2012 REPORT**

**ANNUAL REPORT  
OF THE  
STUDY COMMITTEE ON JUVENILE JUSTICE  
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Elizabeth A. Robb, Chairperson

Hon. James J. Allen

Hon. Jennifer H. Bauknecht

Hon. George Bridges

Hon. Susan Fox Gillis

Hon. Bobby G. Hardwick

Hon. Robert G. Kleman

Hon. Kimberly G. Koester

Hon. Patricia M. Martin

Hon. David K. Overstreet

Hon. Colleen F. Sheehan

Hon. Milton S. Wharton

Hon. Lori M. Wolfson

Prof. Lawrence Schlam, Reporter

October 2012

## 2012 REPORT

### I. STATEMENT ON COMMITTEE CONTINUATION

It is the function of the Study Committee on Juvenile Justice (Committee) to review and assess practices related to the processing of juvenile delinquency, abuse, neglect, and dependency cases. The Committee's stated purpose is to provide judges with current developments in the processing of juvenile court cases through up-dating and distributing the *Illinois Juvenile Law Benchbook*.

The Juvenile Law Benchbook, which consists of Volumes I and II, is designed to provide judges with a practical and convenient guide to procedural, evidentiary, and substantive issues arising in juvenile court proceedings. Each volume is organized transactionally, whereby issues are identified and discussed in the order in which they arise during the course of a case. In general, the discussions begin with an examination of how a case arrives in juvenile court and end with post-dispositional matters such as termination of parental rights proceedings, termination of wardship, and appeal. The appendix in each volume contains procedural checklists and sample forms that can be used or adapted to meet the needs of each judge and the requirements of a particular county/circuit. Each volume is intended to provide judges with an overview of juvenile court proceedings, to direct them to relevant statutory provisions and case law, to highlight recent amendments, and to identify areas that present special challenges. Historically, the Committee has focused its attention on creating and updating this benchbook, each volume of which is updated every other year.

The Committee therefore believes that its work in providing instruction on the continually developing area of juvenile law is a valuable source of information for judges who preside over juvenile matters in Illinois. For this reason, the Committee requests that it be permitted to continue its work in Conference Year 2013.

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### II. SUMMARY OF COMMITTEE ACTIVITIES

#### *A. Committee Charge*

The Committee is charged with studying and making recommendations on the processing of juvenile delinquency, abuse, neglect, and dependency cases. The Committee also is charged with preparing supplemental updates to the juvenile law benchbook for distribution to judges presiding over juvenile proceedings. Finally, the Committee's charge includes making recommendations regarding training for juvenile court judges on emerging issues of juvenile law identified during the course of the Committee's work on the benchbook or during Committee meetings. This charge provides the framework to guide the Committee's work during the Conference year.

Consistent with its charge, during this Conference year, the Committee will complete its update of Volume II of the Juvenile Law Benchbook. Volume II, published in 2002 and most recently updated in 2010, addresses proceedings brought in juvenile court that involve allegations of abused, neglected and dependent minors. In preparing the update to Volume II, the Committee researched statutory changes and relevant case law through June 2012. The Committee reasonably anticipates that its update to Volume II will be available for the New Judge Seminar in January 2013.

#### *B. Conference Year 2011 Continued Projects/Priorities*

The Court requested that the Committee study the issue of disproportionate minority representation in juvenile justice and abuse and neglect cases. In addressing this issue, the Committee considered several resource materials as provided by the National Incidence Studies, MacArthur Foundation's Models for Change Initiative, Haywood Burns

## **2012 REPORT**

Institute, U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention, Illinois Juvenile Justice Commission, The Annie E. Casey Foundation and the Georgetown University Center for Juvenile Justice Reform. After examining these resources, the Committee determined that there are four key areas where suggested changes can assist in addressing the issue of disproportionate minority representation of juveniles.

### **1. Data Collection**

First and foremost, the Committee determined that there cannot be a proper assessment of disproportionate minority representation in the juvenile system unless there is uniform data collection, which currently is lacking in the Illinois courts. It is the position of the Committee that there should be a systemic way to report on disproportionate minority representation in juvenile cases. More specifically, collection of standardized information, which includes the self-identified race and ethnicity of the juvenile, should be enforced. The Committee therefore recommends that the Supreme Court require all trial courts to require the collection and reporting of the race and ethnicity of all juveniles in juvenile abuse & neglect, juvenile delinquency and all other juvenile cases filed in the trial court.

### **2. Judicial Training**

The Committee determined that training for judges is essential to combat disproportionate minority representation. Specifically, training would focus on heightening awareness of possible biases toward juvenile minorities. The Committee therefore recommends that the Supreme Court require judges who hear juvenile abuse & neglect, juvenile delinquency and other juvenile cases receive judicial training on disproportionate minority representation, evidence-based practices in juvenile court and cultural competency

## **2012 REPORT**

by incorporating these topics as a part of the biennial Education Conferences and New Judge Seminars.

### **3. Judicial Tenure**

The Committee contends that consistency and continuity are necessary for judges to be effective in the juvenile court. As such, the Committee recommends that judges be assigned to juvenile court for a significant amount of time.

### **4. Legislation**

The Committee determined that one of the biggest problems affecting and perpetuating disproportionate minority representation are certain flawed provisions in the Juvenile Court Act. It is the Committee's position that providing more judicial discretion in sentencing will assist trial courts in addressing disproportionate minority representation and increase the application of proven evidence-based practices to better address the specific risks and needs of the juvenile and his/her family. Specifically, the Committee examined four key provisions in the Juvenile Court Act regarding supervision, probation and detention and a related provision in the Sex Offender Registration Act. The Committee also discussed juvenile expungement, and suggested that it should not be more difficult to obtain an expungement of a juvenile matter than it is to obtain an expungement of an adult conviction. The Committee, however, decided not to propose amendments regarding juvenile expungement given pending legislation on this issue. The Committee therefore recommends that the Supreme Court encourage the legislature to amend the specific provisions of the Juvenile Court Act and the Sex Offender Registration Act as delineated in Exhibit A, which also includes the justification for each proposed amendment.

## **2012 REPORT**

### *C. Conference Year 2012 Projects/Priorities*

The Court requested that the Committee study the issue of truancy and the lack of adequate measures to address it in the court system under the Juvenile Court Act. The Committee decided to defer its discussion on this issue until it has completed its task regarding disproportionate minority representation.

### **III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR**

During the 2013 Conference Year, the Committee seeks to update Volume I of the *Illinois Juvenile Law Benchbook*, which addresses juvenile court proceedings involving allegations of delinquency, addicted minors, minors requiring authoritative intervention (MRAI) and truant minors in need of supervision. The Committee requests that it be permitted to continue its work on the issue of truancy and the lack of adequate measures to address it in the court system under the Juvenile Court Act. Finally, the Committee seeks to undertake any other projects or initiatives assigned by the Court for its consideration.

### **IV. RECOMMENDATIONS**

The Committee recommends to the Conference that it forward to the Court for its consideration the Committee's aforementioned four recommendations regarding disproportionate minority representation; namely, (1) data collection, (2) judicial training, (3) judicial tenure in juvenile court assignments and (4) proposed amendments to the Juvenile Court Act and Sex Offender Registration Act.

# EXHIBIT A

## 2012 REPORT

### Exhibit A Proposed Amendments

#### Juvenile Court Act

##### (705) ILCS 405/5-615)

##### **Sec. 5-615. Continuance under supervision.**

(1) The court may enter an order of continuance under supervision for an offense other than first degree murder, a Class X felony or a forcible felony ~~(a)~~ upon an admission or stipulation by the appropriate respondent or minor respondent of the facts supporting the petition and before proceeding to adjudication, or after hearing the evidence at the trial. ~~and (b) in the absence of objection made in open court by the minor, his or her parent, guardian, or legal custodian, the minor's attorney or the State's Attorney.~~

~~(2) If the minor, his or her parent, guardian, or legal custodian, the minor's attorney or State's Attorney objects in open court to any continuance and insists upon proceeding to findings and adjudication, the court shall so proceed.~~

(2) If the minor is not barred from receiving an order for supervision as provided in this subsection, the court may continue the case under supervision after considering the circumstances of the offense, and the history, character and condition of the offender minor, if the court is of the opinion that:

(1) the offender minor is not likely to commit further crimes;

(2) the defendant minor and the public would be best served if the defendant minor were not to receive a criminal juvenile record; and

(3) in the best interests of justice an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

\*\*\*

#### **Justification for Proposed Change:**

The Juvenile Court Act allows for a case to be continued under supervision before adjudication of delinquency. The purpose of the statute, like the corresponding provisions in the Unified Code of Corrections at 730 ILCS 5/5-6-1(c), is, under appropriate circumstances, to avoid an adjudication of delinquency and keep the juvenile's record clear. Supervision in the Unified Code of Corrections is at the judge's discretion with no party having the power to veto supervision. However, in the Juvenile Court Act, "the minor, his or her parent, guardian, or legal custodian, the minor's attorney or the State's Attorney" can block supervision by simply objecting to it. Even if the judge truly believes a continuance under supervision is the best disposition, that judge cannot grant it if any of these parties object. The proposed change would not prevent those parties from objecting to supervision but would leave it up to the discretion of the sentencing judge as to whether or not the minor should get the benefit of supervision. The language proposed mirrors the supervision language in the Unified Code of Corrections and gives the court the same factors to consider in its decision.

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### (705) ILCS 405/5-715)

#### **Sec. 5-715. Probation.**

- (1) The period of probation or conditional discharge shall not exceed 5 years or until the minor has attained the age of 21 years, whichever is less, except as provided in this Section for a minor who is found to be guilty for an offense which is first degree murder. , ~~a Class X felony or a forcible felony~~. The juvenile court may terminate probation or conditional discharge and discharge the minor at any time if warranted by the conduct of the minor and the ends of justice; provided, however, that the period of probation for a minor who is found to be guilty for an offense which is first degree murder, ~~a Class X felony, or a forcible felony~~ shall be at least 5 years.

\*\*\*

#### **Justification for Proposed Change:**

A mandatory five year term of probation for forcible felonies runs counter to the research of evidence based practices for supervising juveniles. Our court services divisions have received training on assessing each juvenile to determine the appropriate level of supervision, based on risk factors and the likelihood of committing further criminal offenses. Some juveniles who commit forcible felonies do not have high risk factors, and requiring them to serve a five year term of probation forces court services offices to commit resources to juveniles who are low risk to reoffend while limiting the ability of the offices to assign officers to more intensively supervise those who are at a high risk to reoffend.

Additionally a five year term of probation results in many juveniles who are 19 and 20 years of age to remain on juvenile probation—often after they have demonstrated that they do not require supervision. It results in high case loads for court services officers, diversion of resources from younger and higher risk juveniles, developing programming for young adults while diverting such programming away from younger juveniles. Often a young adult might be on both juvenile and adult probation, which is a waste of judicial/court services resources. A five year term of probation also runs counter to evidence based research and practices.

### (705) ILCS 405/5-710)

#### **Sec. 5-710. Kinds of sentencing orders.**

- (1) The following kinds of sentencing orders may be made in respect of wards of the court:
  - (a) Except as provided in Sections 5-805, 5-810, 5-815, a minor who is found guilty under Section 5-620 may be:

\*\*\*

- (v) placed in detention for a period not to exceed ~~30~~ 90 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older.

#### **Justification for Proposed Change:**

The proposed amendment is needed to give the court more leverage to enforce behavior changes in minors where commitment to the Department of Juvenile Justice is not appropriate, but where further detention is warranted. There are many cases where a minor has already been detained for close to 30 days such that the court has no further time to detain the minor and this amendment would rectify those situations.

## 2012 REPORT

### Sex Offender Registration Act

#### 730 ILCS 150/3-5.

##### **Section 3-5. Application of Act to adjudicated juvenile delinquents**

(a) In all cases involving an adjudicated juvenile delinquent who meets the definition of sex offender as set forth in paragraph (5) of subsection (A) of Section 2 of this Act, the court ~~shall~~ may order the minor to register as a sex offender. In determining whether to order the minor to register, the court shall consider the aggravating and mitigating factors in addition to, but not limited to the following factors, none of which is more important than any other:

1. the use of force or violence during the commission of the sex offense
2. whether the minor's actions were an on-going course of conduct over period of time
3. the wishes of victim and victim's family
4. whether there were multiple victims
5. the nature of the sexual contact
6. whether the minor was found guilty based upon an accountability theory

##### **Justification for Proposed Change:**

The general purpose of the Juvenile Court Act of 1987 is to “secure for each minor subject hereto such care and guidance, preferably in his or her own home, as will serve the safety and moral, emotional, mental and physical welfare of the minor and the best interests of the community...” Further, in regards to juvenile delinquents, the Act goes on to state that “[i]t is the intent of the General Assembly to promote a juvenile justice system...[that will] equip juvenile offenders with competencies to live responsibly and productively”. Throughout the Act it is evident that the General Assembly recognizes the need to treat juveniles differently than adults consistent with evidence based practices and medical research on adolescent development. Yet, when it comes to requiring a juvenile delinquent to register as a sex offender, they are treated just like an adult with no consideration given to the safety and welfare of the minor or equipping him/her with competencies to live responsibly and productively. The current registration requirements have the opposite effect often separating juveniles from their families, siblings and communities and hindering their ability to obtain an education or employment. When this is considered in the light of DMC, it is evident that more and more minorities are being “put in the system”, rather than learning tools to live responsibly and productively. The trickle effect into adult court is undeniable. Giving discretion to judges, after considering all of the circumstances of the offense together with the aforementioned factors, will help reduce DMC both in juvenile court and adult court, and is consistent with the purpose and intent of the Juvenile Court Act of 1987.

## 2012 REPORT

### ALTERNATIVE DISPUTE RESOLUTION COORDINATING COMMITTEE

#### Conference Year 2012

##### *Statement of Purpose:*

The Committee shall examine the range of civil and criminal dispute resolution processes, utilized in other jurisdictions, convene alternative dispute resolution program administrators for the purpose of facilitating informational exchanges to promote program efficacy, and monitor the progress of all court-sponsored alternative dispute resolution programs.

##### *General Charge:*

The Committee shall examine the range of civil and criminal dispute resolution processes utilized in other jurisdictions and make recommendations regarding programs and various types of dispute resolution techniques suitable for adoption in Illinois, including methods for ongoing evaluation. The Committee shall develop recommendations for implementing and administering dispute resolution programs that remain affordable, appropriate, and provide an efficient alternative to protracted litigation. The Committee shall monitor and assess on a continuous basis the performance of circuit court dispute resolution programs approved by the Supreme Court and make regular reports regarding their operations. The Committee shall develop uniform reporting requirements for circuit courts in the collection and monitoring of statistical information for alternative dispute resolution cases. The Committee will also examine and develop training programs in ADR techniques and practices to promote consistency in ADR services. The Committee shall also explore the feasibility of expanding ADR into other courts.

#### COMMITTEE ROSTER

##### Conference Members

Hon. Patricia Banks  
Hon. Mark S. Goodwin  
Hon. David E. Haracz

Hon. LaGuina Clay-Herron  
Hon. Daniel L. Schmidt  
Hon. John O. Steele

Hon. Carl Anthony Walker

##### Associate Members

None

##### Advisors

Hon. John G. Laurie, Ret.

Kent Lawrence, Esq.

**COMMITTEE STAFF LIAISON: B. Paul Taylor**

## 2012 REPORT

### COMMITTEE ON AUTOMATION & TECHNOLOGY

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#### **Conference Year 2012**

##### *Statement of Purpose:*

The Automation and Technology Committee shall provide consultation, guidance, and recommendations regarding standards, policies and procedures relating to the use of technology and automation within the judicial branch.

##### *General Charge:*

The Committee shall develop general guidelines which promote the effective and efficient use of technology and automation in the trial courts including recommendations for statewide standards, protocols, or procedures. The Committee shall analyze and develop recommendations related to rules and statutory changes that will manage the use of technology within the courts. The Committee's work also includes the review and evaluation of technology applications and their impact on the operation and workflow of the court. The Committee will also research and recommend response protocols to resolve security issues which may affect the use of technology.

#### COMMITTEE ROSTER

##### Conference Members

Hon. Adrienne W. Albrecht  
Hon. Ann Callis

Hon. James K. Donovan  
Hon. Ann B. Jorgensen

Hon. Thaddeus L. Wilson

##### Associate Member

Hon. F. Keith Brown

##### Advisors

None

**COMMITTEE STAFF LIAISONS: Skip Robertson & Dawn Marie Rubio**

## 2012 REPORT

### COMMITTEE ON CRIMINAL LAW & PROBATION ADMINISTRATION

#### Conference Year 2012

##### *Statement of Purpose:*

To advise the Judicial Conference in matters affecting criminal law and procedures and the administration of probation services.

##### *General Charge:*

The Committee shall review and make recommendations on matters affecting the administration of criminal law and shall monitor, evaluate and provide recommendations on issues affecting the probation system. The Committee will review, analyze and examine new issues arising out of legislation and case law that impact criminal law and procedures and probation resources and operations.

### COMMITTEE ROSTER

#### Conference Members

Hon. Thomas R. Appleton  
Hon. John A. Barsanti  
Hon. Kathy Bradshaw Elliott  
Hon. Diane Gordon Cannon  
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Hon. Leonard Murray  
Hon. Charles V. Romani, Jr.  
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Hon. Domenica A. Stephenson

#### Associate Members

None

#### Advisors

None

**COMMITTEE STAFF LIAISON: B. Paul Taylor**

## 2012 REPORT

### COMMITTEE ON DISCOVERY PROCEDURES

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#### **Conference Year 2012**

##### *Statement of Purpose:*

The Committee on Discovery Procedures shall review and assess discovery devices used in Illinois, with the goal of making recommendations to expedite discovery and to eliminate any abuses of the discovery process.

##### *General Charge:*

The Committee shall study and make recommendations on the discovery devices used in Illinois including, but not limited to, depositions, interrogatories, requests for production of documents or tangible things or inspection of real property, disclosures of expert witnesses, and requests for admission. The Committee shall investigate and make recommendations on innovative means of expediting pretrial discovery and ending any abuses of the discovery process so as to promote early settlement discussions and to encourage civility among attorneys. The Committee will also review and make recommendations on proposals concerning discovery matters submitted by the Supreme Court Rules Committee, other Committees or other sources.

#### **COMMITTEE ROSTER**

##### **Conference Members**

Hon. William J. Becker  
Hon. Maureen E. Connors  
Hon. Frank R. Fuhr  
Hon. Kimbara G. Harrell  
Hon. Katherine Gorman Hubler

Hon. Jeffrey W. O'Connor  
Hon. Michael Panter  
Hon. Barbara N. Petrungaro  
Hon. Kenneth L. Popejoy

##### **Associate Members**

None

##### **Advisors**

Joseph R. Marcone, Esq.  
David B. Mueller, Esq.

Eugene I. Pavalon, Esq.  
Paul E. Root, Esq.

**COMMITTEE STAFF LIAISON: Jan B. Zekich**

## 2012 REPORT

### COMMITTEE ON EDUCATION

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#### **Conference Year 2012**

##### *Statement of Purpose:*

The Committee shall identify education needs for the Illinois judiciary and develop short and long term plans to address these needs.

##### *General Charge:*

The Committee shall develop and recommend a "core" judicial education curriculum for Illinois judges which identifies the key judicial education topics and issues to be addressed through the judicial education activities each Conference year. This will include identifying emerging legal, sociological, cultural, and technical issues that may impact decision making and court administration by Illinois judges. Based on the core curriculum, the Committee shall recommend and develop programs for new and experienced Illinois judges. To do so, the Committee shall recommend topics and faculty for the annual New Judge Seminar and Seminar Series, and, in alternate years, the Education Conference and the Advanced Judicial Academy. The Committee will also assess the judicial education needs, expectations and program participation of Illinois judges. The Committee shall also review and recommend judicial education programs, offered by organizations and entities other than the Supreme Court, to be approved for the award of continuing judicial education credits.

#### **COMMITTEE ROSTER**

##### **Conference Members**

Hon. Robert J. Anderson  
Hon. Liam C. Brennan  
Hon. Elizabeth M. Budzinski  
Hon. Mark H. Clarke  
Hon. Joy V. Cunningham  
Hon. Thomas M. Donnelly  
Hon. Robert E. Gordon

Hon. Shelvin Louise Marie Hall  
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Hon. Katherine M. McCarthy

Hon. Gregory K. McClintock  
Hon. William Timothy O'Brien  
Hon. Tracy W. Resch  
Hon. Heinz M. Rudolf  
Hon. Daniel B. Shanes  
Hon. Scott A. Shore

Hon. Ronald D. Spears

##### **Advisors**

None

**COMMITTEE STAFF LIAISON: Cyrana Mott  
Hon. Mary Jane Theis, Supreme Court Liaison**

## 2012 REPORT

### STUDY COMMITTEE ON COMPLEX LITIGATION

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#### **Conference Year 2012**

##### *Statement of Purpose:*

The Study Committee shall make recommendations, through proposed rules or other procedures, to reduce the cost and delay attendant to lengthy civil and criminal trials with multiple parties or issues. The Committee shall provide yearly updates to its Manual for Complex Litigation (Civil and Criminal).

##### *General Charge:*

The Committee shall prepare revisions, updates, and new topics as necessary, for the Manual for Complex Litigation, including the maintenance of forms accurate to the Manual Appendix.

#### **COMMITTEE ROSTER**

##### **Conference Members**

Hon. Dinah J. Archambeault  
Hon. Nancy Jo Arnold  
Hon. Robert L. Carter  
Hon. Joan E. Powell

Hon. Carolyn Quinn  
Hon. Christopher C. Starck  
Hon. Michael J. Sullivan  
Hon. John W. Turner

Hon. Thaddeus L. Wilson

##### **Associate Members**

None

##### **Advisors**

Martha A. Pagliari, Professor, Reporter

**COMMITTEE STAFF LIAISON: Jennifer Donahue**

## 2012 REPORT

### STUDY COMMITTEE ON JUVENILE JUSTICE

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#### Conference Year 2012

##### *Statement of Purpose:*

The Study Committee on Juvenile Justice shall review and assess practices related to the processing of juvenile delinquency, abuse, neglect, and dependency cases. The Committee shall provide judges with current developments in the processing of juvenile court cases through up-dating and distributing the juvenile law benchbook (Volumes I and II).

##### *General Charge:*

The Committee shall study and make recommendations on the processing of juvenile delinquency, abuse, neglect, and dependency cases; prepare supplemental updates to the juvenile law benchbooks for distribution to judges reviewing such proceedings brought in juvenile court; and, make recommendations regarding training for juvenile court judges on emerging issues of juvenile law identified during the course of the Committee's work on the benchbook or during Committee meetings.

#### **COMMITTEE ROSTER**

##### **Conference Members**

Hon. James J. Allen  
Hon. Jennifer H. Bauknecht  
Hon. George Bridges  
Hon. Susan Fox Gillis  
Hon. Bobby G. Hardwick  
Hon. Robert G. Kleeman

Hon. Kimberly G. Koester  
Hon. David K. Overstreet  
Hon. Elizabeth A. Robb  
Hon. Colleen F. Sheehan  
Hon. Milton S. Wharton  
Hon. Lori M. Wolfson

##### **Associate Members**

None

##### **Advisors**

Hon. Patricia M. Martin

Lawrence Schlam, Professor-Reporter

**COMMITTEE STAFF LIAISON: Jan B. Zekich**

**2012 REPORT**