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0264 Committees on: Exceptional Children and Community Colleges, The Judicial Caseload and Juvenile Sentencing

Colorado Legislative Council

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Report to the Colorado General Assembly:

RECOMMENDATIONS FOR 1982 COMITTEES ON:

Exceptional Children and Community Colleges

The Judicial Caseload and Juvenile Sentencing

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 264
December, 1981

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OF THE

COLORADO GENERAL ASSEMBLY

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The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on staffing standing committees, and, upon individual request, supplying legislators with personal memoranda which provides them with information needed to handle their individual legislative needs. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

COLORADO LEGISLATIVE COUNCIL
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RECOMMENDATIONS FOR 1982

COMMITTEES ON:

Exceptional Children and
Community Colleges

The Judicial Caseload and
Juvenile Sentencing

Legislative [redacted]

Report to [redacted]

Colorado General Assembly

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December, 1981

COLORADO GENERAL ASSEMBLY

LEGISLATIVE COUNCIL

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DENVER, COLORADO 80203
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AREA CODE 303

To Members of the Fifty-second Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1981. This year's report consolidates the individual reports of ten committees into four volumes of research publications: No. 262, No. 263, No. 264, and No. 265.

Respectfully submitted,

/s/ Representative John Hamlin
Chairman
Colorado Legislative Council

JH/pn

FOREWORD

The recommendations of the Colorado Legislative Council for 1981 appear in four separate volumes (Research Publication Nos. 262 through 265). The Legislative Council reviewed the reports contained in this volume (Research Publication No. 264) at its meeting on November 23, 1981. The Legislative Council voted to transmit the bills included herein to the 1982 Session of the General Assembly.

The committee and staff of the Legislative Council were assisted by the staff of the Legislative Drafting Office in the preparation of bills and resolutions contained in this volume. George Bogart assisted the Committee on Exceptional Children and Community Colleges, and Ann Goldfarb assisted the Committee on Judicial Caseload and Juvenile Sentencing.

December, 1981

Lyle C. Kyle
Director

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Chairman
Rep. Bob Stephenson,
Vice Chairman
Sen. Bob Allshouse
Sen. Martha Ezzard
Sen. William Hughes
Sen. Paul Sandoval

Rep. John Herzog
Rep. Wayne Knox
Rep. Leo Lucero
Rep. A. J. "Mick" Spano
Rep. Claire Traylor

Council Staff

Stanley Elofson
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Dan Chapman
Research Associate

SUMMARY OF COMMITTEE ACTIVITIES, RECOMMENDATIONS, AND FINDINGS

Introduction

The Committee on Exceptional Children and Community Colleges was charged with two responsibilities under House Joint Resolution 1034 (1981 Session):

> A study of the "Exceptional Children's Educational Act" and services, governance, and organization thereunder and the issues related to the current funding, governance, and organization of the state's system of occupational education and community, technical, and junior colleges, including, but not limited, to possible methods of supplementing the financing of these institutions through local effort.

It would have been difficult for one committee to fully resolve the numerous issues of both study topics, therefore, the committee directed the majority of its time and efforts towards problems and recommendations concerning the "Exceptional Children's Educational Act" (ECEA) and ten of the twelve committee bills concern this topic. Along with the recommended twelve bills, the committee submits one bill title and a request for a report to the General Assembly from four executive departments on interagency cooperation.

I. Committee Findings Concerning the Exceptional Children's Educational Act

The bills on the Exceptional Children's Educational Act address several topics:

-- Three bills (1, 2, and 3) relate to the staffing committees which recommend placement of children in special education programs.

-- Three bills (4, 5, and 6) concern reimbursement provisions under the ECEA, including use of school personnel in a consultative role, the cost of out-of-district placements, and establishment of maximum allowable percentages of children in handicapping conditions for which administrative units may be reimbursed.

A minority report to the Exceptional Children's Educational Act study was submitted by Representative Wayne Knox and Representative Leo Lucero and is on file in the Legislative Council Office.

-- Two recommended bills (7 and 8) concern the training of school personnel in the education of handicapped children.

-- One bill (9) concerns rules and regulations of the state Board of Education regarding provision by administrative units of "free appropriate public education" and related services.

-- A final bill creates pilot preschool programs for handicapped children, and directs a study of such programs.

The committee requests that a report and plan be prepared by March 1, 1982, by the state Departments of Education, Health, Institutions, and Social Services relative to the coordination of services to the mentally retarded and seriously handicapped. The report should clearly define the responsibility of each department, and other agencies, with regard to educational and related services for mentally retarded and seriously handicapped children under the ECEA. The committee requests that a bill title be placed on the Governor's call so that the findings of the report may be considered and implemented during the 1982 session.

Committee Activities

The committee used a variety of activities to identify problems in the administration, funding, governance, and general workings of the ECEA. Testimony was presented by school board members, superintendents, principals, classroom teachers, Board of Cooperative Services directors, special education teachers, and special education directors. Parents of handicapped children presented direct testimony and numerous documents. Administrators representing agencies connected with various facets of the ECEA, including community center boards, the divisions of Youth Services and Developmental Disabilities of the Department of Institutions, and the departments of Education, Health, and Social Services. The testimony focused attention on the specific problems encountered in the administration of the ECEA as perceived by those persons most closely associated with its workings.

Opinions of school personnel across the state were obtained through a survey questionnaire on the workings of the "Exceptional Children Educational Act". A random sample of 507 superintendents, principals, special education teachers and directors was used for this survey. The survey solicited both narrative responses and comments as well as responses to quantitative questions. A fifty-seven percent return rate was obtained. Survey results are tabulated and available in the Legislative Council office.

The committee worked in close cooperation with the Commissioner of Education and other officials in the state Department of Education in developing options for resolving problems identified during the study. These officials assisted in developing alternative approaches to those problems considered most significant and provided data and other information requested by the committee.

Committee Recommendations

Staffing Committees -- Bill 1

Several changes are proposed in Bill 1 to provide greater flexibility in the procedures for establishing staffing committees. The committee found that some confusion now exists in who is required to be present in staffing committee meetings. It appears that, in many instances, more professional persons than are necessary are in attendance, resulting in ineffective use of their time.

One major change in this bill would be to allow the administrative unit to determine the composition of the committee, rather than by rule and regulation. The requirement that professional people who are most qualified to assess a child and to plan a program appropriate for the needs of that child will be the criterion for the composition of the committee. The bill advises administrative units that they should use the minimum number of personnel for staffing.

Two other provisions in this bill concern the use of professional persons involved in the staffing of a child. A committee member who attends a prestaffing assessment would be required to attend the staffing committee only if the presence of that person would serve the best interest of the child.

Further, the law would specifically permit committee members to communicate with each other regarding the condition of the child before the meeting of the staffing committee. This change will provide that information can be shared by professional people regarding the child in order to make well informed decisions on the child's placement. The purpose of this provision, however, is certainly not to make a predetermination of the child's handicap prior to the meeting, but rather to have staff people as well informed as possible regarding the child.

Attendance of Parents at Staffing Committee Meetings -- Bill 2

Bill 2 would require that administrative units make good faith efforts to encourage the attendance and the active participation of a child's parent or legal guardian at the child's staffing committee meeting. The bill stipulates that part of the effort to notify the parents or legal guardian shall include a registered letter to the last known address of the parent or guardian.

The importance of parental participation in this process is significant. A parent or guardian is a person whose knowledge of the child needs to be considered in this process. Unfortunately, not all parents attend staffing committee meetings and sometimes they are intimidated by the numerous professionals present. Bill 2 is an attempt to ensure that the administrative unit does everything possible to notify parents of the staffing committee meeting and to invite their participation and contribution in this process.

Administrative Hearings -- Bill 3

One step in the administrative hearing procedure for appeals of staffing and placement decisions would be eliminated under Bill 3. At present, appeal of a determination of the handicap or the placement of a child goes to a hearing officer appointed by the local school district. Next, if either the board of education or the parent disagrees with the findings of the hearing officer, either party may appeal to the commissioner of education for review of the decision. After the second administrative review the case then will go to the district court.

Bill 3 would provide for one administrative hearing, to be conducted by a hearing officer appointed by the school district from a list maintained by the commissioner of education. The decision of that hearing officer would be appealable to the district court in the child's county of residence.

The effect of Bill 3 is to reduce the present two-tiered administrative system to a one-tiered administrative process by eliminating the appeal of the hearing officer's decision to the commissioner of education. The number of administrative hearings held under the ECEA in Colorado has been limited, but this proposal will provide adequate due process protection and will simplify the procedure.

Reimbursement of Personnel Providing Alternative Educational Programs -- Bill 4

Bill 4 seeks to provide greater flexibility in use of special education personnel and, hopefully, to reduce the number of children staffed under the ECEA. This bill would permit reimbursement of special education personnel in providing alternative educational programs by assisting classroom teachers in working with children who might otherwise be recommended for assessment and staffing.

Special education personnel would act in a consultative manner with classroom teachers to develop programs as an alternative to the costly assessment and staffing procedures. Reimbursement under the bill is contingent upon program approval by the State Department of Education.

The bill is an outgrowth of testimony by Dr. Lorrie Shepard of the University of Colorado-Boulder, based on the findings of her study "Evaluation of the Identification of Perceptual-Communicative Disorders in Colorado". Dr. Shepard recommended that ways be found to use school personnel, such as special education teachers, school psychologists, and school social workers, as consultants with regular classroom teachers. Bill 4 is an attempt to implement that recommendation in a manner that will reduce the number of costly assessments and staffings.

Maximum Percentages of Children in Handicapping Conditions -- Bill 5

The State Department of Education would be authorized to determine allowable percentages of children in each handicapping condition for reimbursement under Bill 5. The department would be authorized to promulgate rules and regulations to limit the numbers of children in areas such as perceptual/communicative disorders, speech handicapped, and emotionally/behaviorally disturbed children. These handicapping conditions are subject to the least objective measurements and are considered to be the area of greatest difficulty for assessment. Local conditions may be present which could warrant deviation from the maximum percentages and these percentages may be changed because of density of population, regional factors, or other considerations.

The bill reflects that the three handicapping conditions noted above may contain children misidentified and inappropriately served. These problems may derive from difficulties in measuring or testing these conditions. Bill 5 would help to ensure that all categories of handicap receive equal consideration between children of different catagories of handicap and between administrative units.

Financing Out-of-District Placements -- Bill 6

The "Public School Finance Act of 1973" would be amended by Bill 6 to clearly define the financial responsibility of the district of residence of a handicapped child who is placed in another administrative unit to receive the necessary educational services. The bill limits the financial responsibility of the "sending" district to the state average authorized revenue base.

The purpose of the bill is to resolve questions raised concerning the financial responsibility of the district of residence in Senate Bill 428 (1981 legislative session). The deletion of the word "total" from the bill as introduced had left as a gray area the responsibility of districts for excess costs of special education. Reinsertion of the word "total" will limit that responsibility to the state average authorized revenue base.

Inservice Training -- Bill 7

The inservice training provisions of the ECEA have not been funded by the state in recent years and the committee was concerned about the neglect of these programs. This bill would encourage inservice training for principals, as well as for classroom teachers, to establish building-wide concerns for handicapped children. Emphasis should be placed on inservice training encompassing the total school program.

Since school principals are key persons, responsible for the total school atmosphere, the committee wanted to be certain that any monies for inservice training could be used for these personnel.

Special Education Requirements for Renewal of Teaching Certificates -- Bill 8

Along with Bill 7 the committee further underscored the value of inservice training in special education by recommendation of draft Bill 8. A new subsection would be added to the provisions governing renewal of teaching certificates by Bill 8. The bill requires that any applicant for renewal of a teaching certificate must successfully complete at least three semester credit hours, or the equivalent thereof, in course work related to the education of the handicapped. The State Board of Education would give its approval to such course work and could consider completion of inservice courses as a means of fulfilling this requirement. This requirement would need to be met either at the date of first renewal or at the date of the second renewal following July 1, 1982.

It is hoped that this requirement will foster a better understanding of educational problems of the handicapped on the part of teachers, administrators, and other school personnel. The bill should assist them in coping with problems of handicapped children in the school environment.

Establishment and Pilot Study of Preschool Programs for the Handicapped -- Bill 9

Bill 9 requires that the State Department of Education establish pilot public preschool handicapped education programs and conduct a comprehensive study of such programs over a three-year period. Such programs would be established to identify and provide services to handicapped children who are younger than kindergarten age. The bill stipulates that to receive funds for a pilot program, an administrative unit must provide a dollar-for-dollar match of state funds from any other funds available to the unit. The state Department of Education is to establish guidelines to assure that, to the extent possible, such programs be distributed on a representative geographical and population basis.

An initial appropriation of $150,000 is made for funding of pilot preschool programs and for the department's study of these programs. The programs established and the study are to be funded at adequate levels through June 30, 1985.

Establishment of these pilot programs would provide a basis for evaluating the feasibility and value of a full-scale program for the identification and service of preschool handicapped children. Such a study can assist the state in assessing the efficiency, reliability, and long-term benefits of public preschool programs for handicapped children between the ages of three and five years.

Definition of Special Education Programs -- Bill 10

Bill 10 expresses the committee's intention that the State Board of Education define the concepts of "free appropriate public education" and "related services" to provide guidance to administrative units, local staffing committees, and other groups or agencies involved in provision of special education services. Such a definition could assist administrative units in determining their responsibilities for educational services and would clarify the state's responsibility for reimbursable special education costs.

The bill would require each administrative unit to develop a plan which makes certain that only educational programs and the necessary related support services are available to handicapped children under the administrative unit's jurisdiction. Additional self-help skills, treatment, care, or other non-educational services are to be provided by other appropriate agencies or resources, unless otherwise agreed to by the administrative unit. Services outside of those identified by the state board shall not be subject to reimbursement under the "Exceptional Children's Educational Act".

The purpose of this bill is to clearly define the educational responsibilities of the administrative unit, and to eliminate the grey areas surrounding the concept of related services. Consequently, the state's responsibility for funding special education services would also be clarified, but other agencies will need to be involved in the provision of necessary services to handicapped children.

Recommendation -- Interagency Agreement and Bill Title (Bill 11)

The committee, with approval of the Legislative Council, has requested that a report be submitted to the General Assembly no later than March 1, 1982, for the purpose of establishing a coordinated plan for serving developmentally disabled children in each area of the state. The report and plan would be developed by the state departments of Education, Health, Institutions, and Social Services.

The purpose of the plan is to define the responsibilities of each department, the community center boards, the administrative unit under ECEA, and other entities, consistent with the statutory requirements of the various departments and the ECEA. The report is to include agreement between agencies on common entrance and exit criteria as exceptional children continue in their developmental process. An important directive to the departments is that each agency's responsibility for the exceptional child is clearly identified.

Another goal in requesting this report is to achieve a continuum of services offered by various agencies so that no gaps will remain in serving exceptional children. It is the committee's conclusion that clarification of funding responsibilities of the

agencies will result from a coordinated plan to provide improved, overall services to exceptional children through a coordinated approach.

The committee acted to recommend this bill title only (striking the remainder of a draft bill) to request that an item be placed on the Governor's call relating to interagency agreements. This title would allow the General Assembly to consider legislation to implement recommendations of the interagency report requested early in the 1982 legislative session. The bill title would read, "Concerning the Coordination of Services to the Mentally Retarded and Seriously Handicapped.

II. Committee Recommendations Concerning Community Colleges

Two bills are submitted relative to the community college system. Bill 12 would provide a means for the withdrawal of community colleges from the state system while Bill 13 concerns the relationship of the State Board for Community Colleges and Occupational Education (SBCCOE) to the local college councils.

Removal from State System -- Bill 12

Procedures are now provided for establishing local district junior colleges and for local district junior colleges to enter the state system. Current procedures, however, do not provide a means for a state system institution to become a local district junior college and Bill 12 would establish such a procedure. A petition signed by not less than 500 qualified electors from the college's primary service area would be filed with the county clerk and recorder of each county in that area to submit the question of removing the college from the state system to the voters of that area. Part of the ballot proposal would include the maximum mill levy that would be imposed on the assessed valuation of the property of the district.

The college would become a local district community college if the electors favor its removal from the state system and if a local junior college district was created before a date set in the ballot question. However, the bill provides that if a local district is not created and the electors favor removal from the system, the SBCCOE would proceed to wind up the affairs of the institution.

The committee recommends that procedures be included to insure that the interests of all parties, including the interests of the state, be protected in this process. In brief, steps would be required in a manner similar to those necessary for inclusion of a

local district college in the state system. In this case, the SBCCOE submits its recommendation to the Colorado Commission on Higher Education (CCHE) and to the General Assembly relating to the location and priorities for establishment of new community colleges (section 23-60-202 (1) (a)). The CCHE then submits a report and recommendations to the General Assembly as part of its statewide planning function and the General Assembly then needs to act favorably for the addition of the college in the state system.

The committee concluded that removal of a college from the state system should follow similar procedures. Each state institution of postsecondary education represents a substantial state commitment in dollars, in efforts for planning and development, and in coordination of activities. The role and mission of a particular institution is contingent, in part, on how other institutions are governed. For these reasons, the possible removal of an institution from the state system should be presented to the General Assembly for consideration before an election is held regarding the removal of an institution from the state system.

Supervision by the State Board for Community Colleges and Occupational Education -- Bill 13

Considerable discussion was given to serious problems involving the responsibilities of local college councils and the SBCCOE. The committee submits Bill 13 to bring the issues to the General Assembly for resolution in the 1982 session.

Conflicts have occurred between the SBCCOE and some of the college councils in regard to the appointment of community college presidents and in the reporting responsibilities of the presidents to the local councils and to the state board. Clarification of this situation is necessary and three different proposals were presented to the committee:

1. Have the SBCCOE assign whatever duties and responsibilities to the college councils it so chooses.

2. Place responsibility for the selection and appointment of the college presidents exclusively with the college councils and to amend the statutes to provide that the councils would report directly to SBCCOE instead of having their college presidents report for them to the State Board. (Source: Association of College Councils).

3. Make no change in the statutes at this time although the following suggested language of the SBCCOE was submitted to further clarify the situation. A duty of each college council would be to "review the qualifications of individuals either seeking an appointment or employed as chief administrative officer of the college, and to make recommendations concerning such qualifications to the board." (Source: SBCCOE).

No consensus was reached by the committee for draft language to resolve these specific issues. Bill 13 provides that the councils shall have those duties and responsibilities as assigned to them by the SBCCOE, but also leaves the specific duties of the councils as they now appear in the statutes (section 23-60-206 (2), C.R.S. 1973, as amended). The committee recommends Bill 13 as a means of bringing the issue to the 1982 session for further consideration and resolution.

BILL 1

A BILL FOR AN ACT

CONCERNING THE COMPOSITION OF THE STAFFING COMMITTEE WHICH RECOMMENDS PLACEMENT OF CHILDREN IN SPECIAL EDUCATIONAL PROGRAMS UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides the administrative unit of a child's residence with the authority to determine the composition of the staffing committee under the "Exceptional Children's Educational Act". The staffing committee determines the handicapped condition of that child and recommends placement of that child in a special educational program. Removes the requirement that all staffing committee members who ~~attend a~~ prestaffing assessment must attend the staffing committee meeting for a particular child. Authorizes staffing committee members to communicate with each other regarding the condition of the child prior to the staffing committee meeting.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-20-108 (1), Colorado Revised Statutes 1973, as amended, is amended to read:

22-20-108. Determination of handicap - enrollment. (1) The determination that a child is handicapped and the recommendation for placement of that child in a special educational program shall be made by a committee of professionally qualified personnel designated by the board of education of the school district or by the governing board of the board of cooperative services if the administrative unit encompasses more than a single school district. ~~The composition of the committee shall be prescribed by the state board and may be composed of but not limited to the following: The director of special education for the administrative unit; a psychologist; a social worker; a physician; a school administrator; and a teacher of the handicapped.~~ THE ADMINISTRATIVE UNIT OF THE CHILD'S RESIDENCE SHALL DETERMINE THE COMPOSITION OF THE COMMITTEE BY SELECTING THOSE PROFESSIONAL QUALIFIED PERSONS THAT THE ADMINISTRATIVE UNIT DEEMS APPROPRIATE TO THE NEEDS OF THE CHILD. EACH ADMINISTRATIVE UNIT SHALL UTILIZE THE MINIMUM NUMBER OF PERSONNEL NECESSARY TO ADEQUATELY ASSESS AND PLACE EACH CHILD UNDER THIS ARTICLE. In the event that placement in a community center for the retarded and seriously handicapped is considered appropriate for the needs of a handicapped child, a joint placement committee composed of professional personnel, as described in this section, representing the administrative unit and the community center for the retarded and seriously handicapped, may recommend placement in such center. THE

ADMINISTRATIVE UNIT SHALL REQUIRE A COMMITTEE MEMBER WHO ATTENDS A PRESTAFFING ASSESSMENT TO ATTEND THE STAFFING COMMITTEE MEETING FOR THAT CHILD ONLY IF THE ADMINISTRATIVE UNIT CONCLUDES THAT HIS PRESENCE WILL SERVE THE BEST INTERESTS OF THE CHILD. The committee shall give parents of an allegedly handicapped child an opportunity to consult with the committee or representative thereof prior to determination that their child is handicapped. NOTHING SHALL PREVENT COMMITTEE MEMBERS FROM COMMUNICATING WITH EACH OTHER REGARDING THE CONDITION OF THE CHILD PRIOR TO THE STAFFING COMMITTEE MEETING. COMMITTEE MEMBERS SHALL COMMUNICATE IN THIS MANNER SOLELY FOR THE PURPOSE OF ACQUIRING SUFFICIENT KNOWLEDGE WITH WHICH TO MAKE A WELL-INFORMED DECISION IN THE BEST INTERESTS OF THE CHILD AT THE STAFFING COMMITTEE MEETING.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 2

A BILL FOR AN ACT

CONCERNING THE ATTENDANCE OF A CHILD'S PARENT OR LEGAL GUARDIAN AT THAT CHILD'S STAFFING COMMITTEE MEETING UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires the administrative unit of a child's residence to make good faith efforts to encourage the attendance of that child's parent or legal guardian at that child's staffing committee meeting under the "Exceptional Children's Educational Act".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-20-108 (1), Colorado Revised Statutes 1973, as amended, is amended to read:

22-20-108. Determination of handicap - enrollment. (1) (a) The determination that a child is handicapped and the recommendation for placement of that child in a special educational program shall be made by a committee of

professionally qualified personnel designated by the board of education of the school district or by the governing board of the board of cooperative services if the administrative unit encompasses more than a single school district. The composition of the committee shall be prescribed by the state board and may be composed of but not limited to the following: The director of special education for the administrative unit, a psychologist, a social worker, a physician, a school administrator, and a teacher of the handicapped. In the event that placement in a community center for the retarded and seriously handicapped is considered appropriate for the needs of a handicapped child, a joint placement committee composed of professional personnel, as described in this section, representing the administrative unit and the community center for the retarded and seriously handicapped, may recommend placement in such center. THE ADMINISTRATIVE UNIT OF THE CHILD'S RESIDENCE SHALL MAKE GOOD FAITH EFFORTS TO ENCOURAGE THE PARENT OR LEGAL GUARDIAN OF THE CHILD TO ATTEND, PARTICIPATE IN, AND CONTRIBUTE TO THE DECISIONS MADE IN THE STAFFING COMMITTEE MEETING. THESE EFFORTS TO NOTIFY THE PARENT OR LEGAL GUARDIAN OF THE MEETING SHALL INCLUDE A REGISTERED LETTER TO HIS LAST KNOWN ADDRESS.

(b) The committee shall give parents of an allegedly handicapped child an opportunity to consult with the committee or representative thereof prior to determination that their child is handicapped.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 3

A BILL FOR AN ACT

CONCERNING REVIEW OF STAFFING COMMITTEE DECISIONS UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Consolidates administrative hearing procedures for reviewing staffing committee decisions under the "Exceptional Children's Educational Act". The local school district shall select a hearing officer from a list provided by the commissioner of education. In addition, the commissioner of education shall approve the selection of each hearing officer. Each administrative hearing shall be conducted in accordance with procedures and timetables established by the state board of education. Also provides that aggrieved parties may appeal hearing decisions to the district court within sixty days. The district court shall conduct a trial de novo.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-20-108 (3), Colorado Revised Statutes 1973, as amended, is amended, and the said 22-20-108 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-20-108. Determination of handicap - enrollment.

(3) ~~(a)~~ In the event of an appeal of the determination of handicap or of the placement of a child in an educational program pursuant to subsection (1) of this section, or an appeal of the program to be offered, the local school district shall ~~first~~ appoint a hearing officer to make findings of fact and a recommendation concerning the matter at issue. ~~The findings of fact and recommendation shall be delivered to the local board of education.~~

~~(b) If the local board of education or the parent or guardian disagrees with the findings of the hearing officer, either party may appeal to the commissioner of education for review. This review shall be conducted~~ THE LOCAL SCHOOL DISTRICT SHALL MAKE THIS APPOINTMENT FROM A LIST OF HEARING OFFICERS MAINTAINED BY THE COMMISSIONER OF EDUCATION AND SUBJECT TO APPROVAL BY THE COMMISSIONER OF EDUCATION. THE HEARING OFFICER SHALL MAKE HIS FINDINGS AND RECOMMENDATIONS in accordance with procedures and timetables established by the state board of education, and a decision concerning the review shall be returned to the school district and the parent or guardian.

(8) Any person adversely affected or aggrieved by the decision of a hearing officer pursuant to subsection (3) of this section may commence an action for judicial review in the district court. The hearing officer's decision shall be final if the action for judicial review is not commenced within sixty days after the hearing officer's decision becomes

effective. The district court shall conduct a trial de novo and shall consider the record before and the findings of the hearing officer. The trial shall be conducted in the resident county of the child who was the subject of determination or placement made under subsection (1) of this section and under review here. In all other respects, the district court shall adhere to the Colorado Rules of Civil Procedure in making this review.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 4

A BILL FOR AN ACT

CONCERNING THE REIMBURSEMENT OF ADMINISTRATIVE UNITS FOR EMPLOYING PERSONNEL TO ADMINISTER PROGRAMS UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Allows administrative units to receive reimbursement under the "Exceptional Children's Educational Act" for utilizing personnel to provide alternative educational programs.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-20-114, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-20-114. Reimbursable costs of programs. (6) Personnel specified in paragraph (a) of subsection (1) of this section may assist a classroom teacher in providing alternative educational programs for children who might

otherwise be recommended for assessment and staffing under section 22-20-108. Each administrative unit seeking to provide alternative educational programs under this subsection (6) shall obtain program approval from the department prior to using funds for the purpose specified in this subsection (6).

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 5

A BILL FOR AN ACT

CONCERNING THE AUTHORIZATION OF THE DEPARTMENT OF EDUCATION TO DETERMINE MAXIMUM ALLOWABLE PERCENTAGES OF CHILDREN IN EACH HANDICAPPING CONDITION UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the department of education to determine the maximum allowable percentages of children in each handicapping condition for purposes of reimbursement under the "Exceptional Children's Educational Act". Allows the department to deviate from its previously determined percentages if local conditions warrant it.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-20-114, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-20-114. Reimbursable costs of programs. (6) The department may, by rule and regulation, determine the maximum

allowable percentages of children in each handicapping condition for purposes of reimbursement under this article. If the department concludes that local conditions warrant deviation from these percentages, it may change the percentages to reflect local conditions.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 6

A BILL FOR AN ACT

CONCERNING PUBLIC SCHOOL FINANCE ATTENDANCE ENTITLEMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Clarifies the responsibility of the school district of residence of a handicapped child to finance that child's education elsewhere. Limits this responsibility to the state average authorized revenue base.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-50-104 (5), Colorado Revised Statutes 1973, as amended, is amended to read:

22-50-104. Attendance entitlement. (5) For handicapped children included in the one-day counting period but receiving an education in another school district or another state institution or facility, or a residential child care facility, or an eligible nonprofit organization, the state average authorized revenue base shall be the district of residence's TOTAL responsibility under this article for the education of

that child.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 7

A BILL FOR AN ACT

CONCERNING IN-SERVICE TRAINING FOR SCHOOL PERSONNEL UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides state funding for in-service training for principals and regular classroom teachers to provide special education services to handicapped children.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-20-114 (1) (b) (IV), Colorado Revised Statutes 1973, is amended to read:

22-20-114. Reimbursable costs of programs. (1) (b) (IV) In-service training of FOR PRINCIPALS AND regular classroom teachers to provide special education services to children within regular classrooms insofar as is practicable and efficacious WITHIN THE TOTAL SCHOOL PROGRAM;

SECTION 2. Safety clause. The general assembly hereby

finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 8

A BILL FOR AN ACT

CONCERNING THE RENEWAL OF TEACHING CERTIFICATES BY THE DEPARTMENT OF EDUCATION, AND PROVIDING REQUIREMENTS THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires an applicant for renewal of a teaching certificate to give evidence of having successfully completed not less than three semester credit hours of a course related to the education of the handicapped as approved by the state board of education. Allows an applicant to complete this requirement by the date of the second renewal of his certificate following July 1, 1982.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-60-107, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-60-107. Renewal of a certificate. (7) In order to renew a certificate as defined in section 22-60-104, either at

the date of first renewal or at the date of second renewal following July 1, 1982, an applicant shall give evidence of having successfully completed not less than three semester credit hours of a course in an area related to the education of the handicapped, as approved by the state board of education. The state board of education may consider as fulfilling the requirements of this subsection (7) evidence of the applicant's successful completion of course work in the education of the handicapped which is equivalent to three semester hours and is in conjunction with an undergraduate or graduate degree program or in conjunction with a program for certification renewal. The state board of education may also consider as fulfilling the requirements of this subsection (7) evidence of successful completion of in-service courses offered to educators in the individual school districts.

SECTION 2. Effective date. This act shall take effect July 1, 1982.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 9

A BILL FOR AN ACT

CONCERNING PILOT PUBLIC PRESCHOOL PROGRAMS FOR HANDICAPPED CHILDREN, AND RELATING TO A STUDY THEREOF AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires and funds the department of education to establish pilot preschool programs and to conduct a comprehensive study to evaluate the feasibility and value of implementing a full-scale program to identify and provide services to handicapped children who have not yet attained the age of eligibility for kindergarten.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 20 of title 22, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

22-20-115. Study of preschool programs. (1) The department shall establish pilot preschool programs and shall conduct a comprehensive study to evaluate the feasibility and

value of implementing a full-scale program to identify and provide services to handicapped children who have not yet attained the age of eligibility for kindergarten. The department shall establish guidelines to insure as nearly as possible that the programs provide services in a manner representative of Colorado's geography and population. As a prerequisite to receiving funds to establish a pilot preschool program under this section, each local administrative unit shall match from any sources the sum made available to it for this purpose from the state on a dollar-for-dollar basis.

(2) It is the intent of the general assembly that the pilot preschool programs and the study authorized by this section continue through June 30, 1985, and that during this period they shall be funded at a level adequate to determine the feasibility and value of implementing a full-scale program.

SECTION 2. Appropriation. In addition to any other appropriation, there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to the department of education, for the fiscal year commencing July 1, 1982, the sum of one hundred fifty thousand dollars ($150,000), or so much thereof as may be necessary, to establish and maintain pilot preschool programs and to conduct a comprehensive study to evaluate the feasibility and value of implementing a full-scale program to identify and provide services to handicapped children who have not yet attained the

age of eligibility for kindergarten.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 10

A BILL FOR AN ACT

CONCERNING EDUCATIONAL PROGRAMS TO BE PROVIDED BY ADMINISTRATIVE UNITS UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires each administrative unit to develop a plan to insure that in performing its duties under the "Exceptional Children's Educational Act" the administrative unit provides only educational programs and only support services related to and necessary to educational programs. Each administrative unit shall develop a plan in accordance with definitions, rules, and guidelines provided by the state board of education. If an administrative unit provides services outside those identified by the state board of education, then the administrative unit shall not receive reimbursement for those services under the "Exceptional Children's Educational Act".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-20-106, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-20-106. Special educational programs. (9) In a manner consistent with the definitions, rules, and guidelines provided by the state board, each administrative unit shall be responsible for providing a plan to insure that only educational programs and only support services related to and necessary to educational programs are available to each handicapped child under the jurisdiction of the administrative unit. Other services for the development of self-help skills, care, treatment, and noneducational needs of the child shall be provided by other appropriate agencies or sources, unless otherwise agreed to by the administrative unit. Services provided by an administrative unit at its discretion and outside of those identified by the state board shall not be subject to reimbursement under this article.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 11

(Bill Title Only)

A BILL FOR AN ACT

CONCERNING THE COORDINATION OF SERVICES TO THE MENTALLY RETARDED AND SERIOUSLY HANDICAPPED.

(The letter which follows was prepared by the committee in order for the standing committees of the 1982 session to consider a report from four executive departments relating to the coordination of services to mentally retarded and seriously handicapped children.)

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November 23, 1981

Letters to:

Dr. Frank Traylor
Executive Director
Department of Institutions and
Department of Health

Mr. Ruben Valdez
Executive Director
Department of Social Services

Dr. Calvin Frazier
Commissioner of Education
Department of Education

Dear _____:

At the direction of the Legislative Council, the interim committee on Exceptional Children and Community Colleges is requesting your cooperation in an interagency effort to resolve some difficult areas relating to services for exceptional children.

At its November 17 meeting, the committee voted to ask that the Department of Education cooperate with the Departments of Health, Institutions, and Social Services in preparing a report to be submitted to the General Assembly no later than March 1, 1982, for the purpose of establishing a coordinated plan for serving developmentally disabled children in each area of the state. The committee requests that such a plan shall define the responsibilities of each department, community center board, administrative unit, or other entities providing services under the Exceptional Children's Educational Act. The plan is to define the services to be provided by each department in a manner consistent with the statutory requirements of the various departments. Several factors contributed to the committee's request for this study.

1. As services are now provided, there is a lack of uniformity in services, with some agencies accepting responsibility for certain groups of handicapped children and others refusing to serve these children.

2. A clear delineation does not exist for the provision of educational services for some exceptional children, and there appears to be little agreement on the characteristics of children to be served.

3. A variety of funding resources, with a total increase of funds, can be made available for use by the various agencies if agency responsibility for each child can be clearly defined. These funding sources can include monies from the state general fund, the school district ARB, local property taxes specifically provided for these children, and various federal monies.

4. Most importantly, the committee believes that a coordinated plan between agencies would improve the education of exceptional children and the provision of other needed services. Using a coordinated approach, programs can be designed to meet the specific needs of these children.

From the legislative viewpoint, one part of the study which needs to be emphasized is the need for agreement on common entrance and exit criteria between the agencies as exceptional children continue in their developmental process. Another concern is that the agency responsibility for each child be clearly identified in each case.

We ask that this study be completed no later than March 1, 1982, to assure that adequate time be available during the 1982 session to deal with any gaps of services which our study may identify. In this connection, the committee's report to the Legislative Council recommends that a bill title be requested for placement on the Governor's call to amend present statutes governing the Community Center Board statutes to clarify some of the issues outlined above.

Thank you for your consideration of this matter.

Very truly yours,

/s/Senator Al Meiklejohn, Chairman
Interim Committee on Exceptional
Children and Community Colleges

BILL 12

A BILL FOR AN ACT

CONCERNING THE REMOVAL OF COMMUNITY AND TECHNICAL COLLEGES OR JUNIOR COLLEGES FROM THE STATE SYSTEM, AND PROVIDING FOR THE SUBSEQUENT FUNDING OF SUCH COLLEGES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides mechanisms by which community and technical colleges or a junior college may be removed from the state system.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 2 of article 71 of title 23, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

23-71-205. Removal from state system. (1) A community and technical college or a junior college may be removed from the state system upon petition of not less than five hundred qualified electors residing within the area of primary service

designated by the board. The petition shall be filed with the board, which shall transmit the petition to the county clerk and recorder of each county which may be included in the area of primary service as defined by the board.

(2) The board shall submit its plan, if any, and recommendations on the question of removal from the state system to the commission on higher education, which shall submit recommendations to the general assembly on the question. Approval of the submission of the question to the qualified electors shall be given by the general assembly before an election is held under this section.

(3) Upon receipt of the petition, and after approval by the general assembly, the county clerk and recorder of each county shall give notice to the qualified electors residing in the area or primary service that at the next regular biennial school election, or at a special election which may be called for that purpose, the question of removing the specified college from the state system will be submitted to the qualified electors of the respective school districts located in the area of primary service. A community and technical college or junior college which may be removed from the state system in an upcoming election shall, prior to the election, inform the qualified electors of the financial impact that either possible outcome of the election is likely to have.

(4) To the extent practicable, the election shall be conducted pursuant to the elections procedures set forth in

part 1 of this article for the formation of a junior college district.

(5) At such election, the question shall be:

"Shall ..... (name of college) be removed from the state system of community and technical colleges by ..... (date)? (A yes vote by the majority of qualified electors shall authorize the board of county commissioners to impose a mill levy of not more than ..... mills on the valuation for assessment of all property within the proposed district.)

Yes ..... No ....."

(6) If a majority of the qualified electors voting vote "yes", the college shall be removed from the state system by the date specified, and the board shall proceed to wind up the affairs of the college; except that, in the event a junior college district is created prior to the date specified by the ballot question, the board and the committee of the junior college district shall adopt a plan which provides for the transfer of assets to the junior college district and for the meeting of all obligations and liabilities that may have been incurred by the state. If a junior college district is not created, the board shall proceed to wind up the affairs of the community and technical college or junior college.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 13

A BILL FOR AN ACT

CONCERNING THE SUPERVISION OF COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that the state board for community colleges and occupational education has the authority to assign duties and responsibilities to each college council.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 23-60-202 (1) (i) and (1) (j), Colorado Revised Statutes 1973, are amended, and the said 23-60-202 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

23-60-202. Duties of board with respect to state system. (1) (i) To plan, in cooperation with other state agencies, the allocation of federal funds for instructional programs and student services, including funds for vocational and technical

education and retraining; and

(j) To determine policies pertaining to the community and technical colleges, subject only to the functions and powers assigned by law to the commission on higher education relating to formal academic programs; AND

(k) To assign such duties and responsibilities to each college council as the board deems necessary.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMITTEE ON EXCEPTIONAL CHILDREN AND COMMUNITY COLLEGES

APPENDIX

The tables which follow provide a variety of data relative to the financing of and the number of children in special education programs in Colorado. These tables were adopted from the 1979-80 "Education of the Handicapped Student Status Report", Colorado Department of Education, published in 1981.

The purpose of these tables is to provide quick reference to data, for the most recent year available. For this reason most of the tables do not include data from years prior to 1979-80 and 1980-81. Further historical data, starting with 1973-74, are included in the 1979-80 status report. Some narrative explanations of the tables and charts are also provided in that report.

The tables are in the following order:

V. Program Costs:

VI. State Reimbursement:

VII. Federal Support:

I. Number of Students Served

TABLE A
NUMBER OF STUDENTS SERVED,
1979-80, AND ESTIMATES FOR 1980-81

Special Education Categorical Programs	Actual Number Served 1979-80	Estimated Number To Be Served 1980-81
Limited Intellectual Capacity	(5,996) (total)	(6,056) (total)
Trainable Mentally Retarded	838	881
Educable Mentally Retarded	5,158	5,175
Emotional/Behavioral	8,839	8,943
Perceptual/Communicative	26,387	26,410
Hearing Handicapped	878	891
Visually Handicapped	314	315
Physically Handicapped	996	980
Speech/Language	12,246 1/	12,431
Multiply Handicapped	884	906
Total Number of Individual Students Served	56,540 2/	56,932

1/ An additional 9,573 students, counted in other categorical program areas according to their primary handicapping condition, also received speech/language service due to a secondary handicapping condition.

2/ This represents 9.62 percent of the estimated total number of children in Colorado ages 5 through 17 (587,749) as referred to in C.R.S. 22-20-104(5).

TABLE B
STUDENTS SERVED AS A PERCENTAGE OF ALL STUDENTS
REPORTED IN AVERAGE DAILY ATTENDANCE ENTITLEMENT (ADAE), 1979-80

Special Education Categorical Areas	Total Students Served	Percent of ADAE
Limited Intellectual Capacity		
Trainable Mentally Retarded	838	.16%
Educable Mentally Retarded	5,158	1.00
Emotional/Behavioral	8,839	1.72
Perceptual/Communicative	26,387	5.14
Hearing Handicapped	878	.17
Visually Handicapped	314	.06
Physically Handicapped	996	.19
Speech/Language	12,246	2.38
Multiply Handicapped	884	.17
TOTAL	56,540	10.99%

TABLE C
NUMBER OF STUDENTS SERVED BY AGE LEVEL,
1979-80

Preschool		Elementary (Kndg. thru 8th Grade)	Secondary (9th Grade thru 12th Grade)		Total Number of Students Served
0 thru 2 Years	3 thru 5 Years	5 thru 17 Years	5 thru 17 Years	18 thru 21 Years	
55	942	43,902	10,804	837	56,540

II. How Students Are Served

TABLE D
NUMBER AND FTE STUDENT SERVED
IN DELIVERY SYSTEMS,
1979-80

	Number of Students	FTE Students
Consultative Services	2,179	117.93
Itinerant Services	14,796	580.31
Resource Room	28,387	5,273.50
Self-Contained Special Class	8,923	5,277.26
Work-Study Programs	1,305	843.80
Home-Hospital Programs	950	134.64
Total Served In Categorical Programs	56,540	12,227.40

III. Entrance Into Program

TABLE E
NUMBER OF STUDENTS REFERRED, ASSESSED, STAFFED AND
PLACED FOR THE FIRST TIME IN SPECIAL EDUCATION,
1979-80

Number of Students Referred to Special Education	38,708
Number of Students Assessed	33,963
Number of Students Staffed	26,302
Number of Students Initially Placed and Served	22,505

IV. Exit From Program

TABLE F
STATUS OF SPECIAL EDUCATION STUDENTS SERVED
AT THE CLOSE OF THE SCHOOL YEAR 1979-80

Status at Close of the Year	Number of Students	Percent of Total Served
1. Retained for Next School Year	40,813	72.2%
2. Dismissed From Special Education, Objectives Accomplished	6,917	12.2
3. Left The District	4,422	7.8
4. Dropped Out Of School	1,284	2.3
5. Withdrew From Program	868	1.5
6. Graduated From School	1,393	2.5
7. Other 1/	843	1.5
TOTAL	56,540	100.0%

1/ Students who were temporarily health impaired or transferred to new levels in school.

TABLE G
PERCENT OF SPECIAL EDUCATION STUDENTS DISMISSED WITH OBJECTIVES ACCOMPLISHED AND STUDENTS RETAINED FOR THE FOLLOWING YEAR, BY CATEGORICAL AREAS, 1979-80

	Dismissed With Objectives Accomplished 1979-80	Retained For Next School Year 1979-80
Limited Intellectual Capacity		
Trainable Mentally Retarded	3.8%	83.9%
Educable Mentally Retarded	7.4	79.5
Emotional/Behavioral	9.7	65.4
Perceptual/Communicative	9.1	77.2
Hearing Handicapped	.9	85.8
Visually Handicapped	2.5	81.8
Physically Handicapped	27.8	47.8
Speech/Language	26.5	62.2
Multiply Handicapped	1.2	84.8
Percent of Total Students Served	12.2%	72.2%

V. Program Costs

TABLE H
TOTAL ATTRIBUTABLE COST AND DIRECT SPECIAL EDUCATION COST FOR EDUCATING HANDICAPPED STUDENTS, 1979-80

Total Attributable Cost for Educating Handicapped Students	$181,480,625	
Regular Education Cost for Educating Handicapped Students	$ 87,955,795	(48.5%)
Direct Special Education Cost	$ 93,524,830	(51.5%)
Of the Direct Costs:		
--Sp.Ed. Instruction	$ 61,877,885	(66.2%)
--Sp.Ed. Support Services	$ 31,646,945	(33.8%)

TABLE I
DIRECT SPECIAL EDUCATION EXPENDITURES IN RELATION TO GENERAL OPERATING EXPENDITURES FOR SCHOOL DISTRICTS, 1979-80

General Operating Expenses 1/	$1,088,513,155	
Regular Education Cost (Nonhandicapped and handicapped students)	994,988,325	(91.4%)
Direct Special Education Cost	93,524,830	(8.6%)

1/Reflects the operating expenditures from the general fund, excluding transfers, capital outlay, debt service, and tuition payments to other districts or boards of cooperative services.

TABLE J
NUMBERS OF STUDENTS SERVED, DIRECT SPECIAL EDUCATION COST, AND TOTAL ATTRIBUTABLE COST FOR EDUCATING HANDICAPPED STUDENTS, 1979-80

	Number of Individual Students Served	Total Direct Special Education Cost 1/	Regular Education Cost For Educating Handicapped Students	Total Attributable Cost For Educating Handicapped Students
Limited Intellectual Capacity				
Trainable Mentally Retarded	838	$ 4,108,904	$ 277,189	$ 4,386,093
Educable Mentally Retarded	5,158	12,345,698	4,168,460	16,514,158
Emotional/Behavioral	8,839	21,427,159	12,674,823	34,101,982
Perceptual/Communicative	26,387	36,057,447	43,357,893	79,415,340
Hearing Handicapped	878	3,323,292	1,051,975	4,375,267
Visually Handicapped	314	989,887	548,683	1,538,570
Physically Handicapped	996	3,295,079	1,435,212	4,730,291
Speech/Language	12,246	7,575,370	23,618,998	31,194,368
Multiply Handicapped	884	4,401,994	822,562	5,224,556
TOTAL	56,540	$93,524,830	$87,955,795	$181,480,625
Percent of Total Attributable Cost		5.5%	48.5%	100.0%

1/ Includes instructional and support service costs.

TABLE K
AVERAGE PER STUDENT COST FOR EACH
CATEGORICAL PROGRAM, 1979-80

	Per Student Direct Special Education Cost	Per Student Attributable Cost
Limited Intellectual Capacity		
Trainable Mentally Retarded	$4,903	$5,234
Educable Mentally Retarded	2,394	3,202
Emotional/Behavioral	2,424	3,858
Perceptual/Communicative	1,366	3,010
Hearing Handicapped	3,785	4,983
Visually Handicapped	3,153	4,900
Physically Handicapped	3,308	4,749
Speech/Language	619	2,547
Multiply Handicapped	4,980	5,910

VI. State Reimbursement

TABLE L
REIMBURSEMENT TO ADMINISTRATIVE UNITS UNDER THE ECEA, 1979-80

Total Direct Special Education Cost	$93,524,830	
$ (and %) Not eligible of reimbursement under ECEA	$75,564,397	(35.8%)
$ (and %) Actually reimbursed by appropriations under ECEA	$60,095,861	(40.0%)
$ (and %) Eligible for reimbursement under ECEA, but dollars not appropriated to fund	$37,448,197	(24.2%)

VII. Federal Support

TABLE M
PURPOSES OF FEDERAL RESOURCES IN SUPPORT OF SPECIAL EDUCATION, 1979-80

SOURCE	PURPOSE	NUMBER OF UNITS RECEIVING FUNDS	NUMBER OF STATE-OPERATED PROGRAMS RECEIVING FUNDS
PUBLIC LAW 94-142, PART B EDUCATION OF THE HANDICAPPED ACT (EHA)	TO ASSURE THAT ALL HANDICAPPED CHILDREN HAVE AVAILABLE TO THEM A FREE APPROPRIATE PUBLIC EDUCATION WHICH EMPHASIZES SPECIAL EDUCATION AND RELATED SERVICES DESIGNED TO MEET THEIR UNIQUE NEEDS, TO ASSURE THAT THEIR RIGHTS AND THEIR PARENT'S RIGHTS ARE PROTECTED, AND TO ASSIST STATES AND LOCAL AGENCIES IN PROVIDING FOR THE EDUCATION OF ALL HANDICAPPED CHILDREN.		
STATE ALLOCATION FUNDS	TO BE USED BY THE STATE ENVIRONMENTAL AGENCY IN PROVIDING NEEDED SUPPORT SERVICES, AS WELL AS PROVIDING DIRECT SERVICES IN THE EDUCATION OF HANDICAPPED CHILDREN.	12	1
DISTRIBUTION FUNDS	TO BE USED BY THE LOCAL ADMINISTRATIVE UNITS FOR THE EXCESS COSTS OF PROVIDING SPECIAL EDUCATION AND RELATED SERVICES FOR HANDICAPPED CHILDREN.	47	
PRESCHOOL INCENTIVE GRANT FUNDS	TO BE USED BY THE STATE EDUCATIONAL AGENCY TO SUPPORT THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES TO HANDICAPPED CHILDREN AGES THREE, FOUR OR FIVE.	9	
PUBLIC LAW 91-230, PART C EDUCATION OF THE HANDICAPPED ACT (EHA)	TO SUPPORT EXPERIMENTAL DEMONSTRATION ACTIVITIES WHICH CAN PROVIDE INNOVATIVE AND EFFICTIVE MEANS OF SERVING PRESCHOOL HANDICAPPED CHILDREN AND THEIR FAMILIES AND TO DEVELOP MODELS WHICH OTHERS CAN USE.		
EARLY CHILDHOOD EDUCATION		2	
EDUCATION OF DEAF-BLIND CHILDREN	TO SUPPORT THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES TO CHILDREN WHO ARE DEAF AND BLIND IN STATE OPERATED PROGRAMS AND IN LOCAL EDUCATIONAL AGENCY PROGRAMS.	3	4
PUBLIC LAW 89-313, TITLE I, ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA)	TO ASSIST IN THE PROVISION OF EDUCATIONAL SERVICES TO HANDICAPPED STUDENTS PLACED IN A STATE-OPERATED FACILITY; AND TO ASSIST LOCAL EDUCATIONAL AGENCIES IN THE PROVISON OF EDUCATIONAL SERVICES TO HANDICAPPED STUDENTS WHO WERE PREVIOUSLY PLACED IN STATE-OPERATED FACILITIES.	16	6 STATE-OPERATED PROGRAMS 22 COMMUNITY CENTERED BOARDS
TITLE IV, PART C, ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA)	TO PROVIDE INCENTIVE GRANT DOLLARS FOR INNOVATIVE PROJECTS DESIGNED TO ARRIVE AT ALTERNATIVES FOR PROBLEMS OR UNSOLVED AREAS OF EDUCATION.	16	
PUBLIC LAW 90-576, VOCATIONAL EDUCATION	TO ASSIST IN THE PROVISION OF VOCATIONAL AND CAREER EDUCATIONAL SERVICES TO HANDICAPPED STUDENTS.	17	

TABLE N
SOURCES OF REVENUE IN SUPPORT OF THE DIRECT SPECIAL EDUCATION COST FOR EDUCATING HANDICAPPED STUDENTS, 1979-80

Direct Special Education Cost:

$93,524,830

Revenues Received	Dollars	Percent of Total
Federal	$ 7,288,195	7.8%
State (ECEA)	$37,448,197	40.0%
School District General Fund (Local and Other State Funds)	$48,788,438	52.2%
Total Revenues	$93,524,830	100.0%

LEGISLATIVE COUNCIL

COMMITTEE ON JUDICIAL CASELOAD
AND JUVENILE SENTENCING

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SUMMARY OF COMMITTEE ACTIVITIES, RECOMMENDATIONS, AND FINDINGS

Charge

House Joint Resolution No. 1034 of the 1981 legislative session provided for

> A study of various ways and means of assisting the Judicial Department in expediting the disposition of the current caseload and to examine various ways in which the judicial system can be improved, including compensation of judges, and a study of juvenile sentencing provisions in both the criminal code and the children's code.

The Committee on Judicial Caseload and Juvenile Sentencing established pursuant to House Joint Resolution No. 1034 recommended changes to alleviate the mounting backlog and increased number of cases filings in the state's court system and also attempted to clarify statutory provisions relating to juvenile sentencing. The topic of judicial compensation was deferred to the State Officials' Compensation Commission.

I. Judicial Caseload

The Colorado judicial system is facing an increasingly serious problem -- a mounting backlog of cases in all levels of the state's courts. This has in part been caused by, and is currently being excerbated by, a dramatic increase in litigation in the state over the last decade. This dual problem of an increasing backlog and a continuous rise in case filings has resulted in an ever increasing delay in processing a case through the court system. Despite efforts by the judiciary to speed the process, civil suits in Colorado frequently take more than one year, and quite often two or three years or even longer to complete. This results in increased legal costs, fading witnesses' memories, and continual anxiety and frustration for the litigants.

There are several factors which contribute to the state's growing backlog problem. First, more and more people are deciding to use the court system to settle their problems. Secondly, cases such as product-liability actions are becoming exceedingly complex and require more time and effort in reaching a decision. Third, the increase in judges in the state does not seem to be adequate to keep pace with the rising caseload.

Case Filing Statistics

Appendix A was prepared by the state court administrator's office and shows Colorado's caseload activity for the fiscal year 1980-1981.

Briefly summarized, Appendix A shows the problems the state courts are facing:

-- During the past eight years district court filings have increased forty-one percent, county court filings have increased fifty-four percent, the supreme court has had a fifty-eight percent increase in appeals, and the court of appeals reported a 187 percent increase.

-- The annual caseload growth rate over the past eight years has increased steadily, averaging four percent per year for district courts, six percent per year for county courts, six percent per year for the supreme court, and fourteen percent per year for the court of appeals.

-- The state supreme court had an increase of two percent in fiscal year 1980-1981 and filings increased six percent in this same period for the court of appeals. This is the eighth consecutive year that the appellate courts have shown an increase.

-- District court filings increased nine percent during fiscal year 1980-1981, mainly because of a fifteen percent increase in civil cases and twelve percent increase in criminal cases. Civil cases accounted for fifty-four percent of the total district court filings, most of these being contract disputes and personal injury cases.

-- Overall, county courts increased twelve percent in fiscal year 1980-1981, one of the largest increases in the last six years. The increase in the county court was due to increases in small claims actions (up fifty-nine percent), civil cases (up fourteen percent) and misdemeanor cases (up thirteen percent).

-- All areas of litigation increased. As previously mentioned, civil and criminal cases contributed to the largest increase in the district court while civil, misdemeanor, and small claims actions accounted for the county court increase.

-- Geographically, case filings increased in both urban and rural areas. Mesa county experienced the highest increase of the urban courts of eighteen percent; Dolores and Montezuma counties had a twenty-five percent increase to head the rural counties. In the county courts, Ouray had an increase of 106 percent while the Ninth District (Garfield, Pitkin, and Rio Blanco counties) had increases from twenty-nine percent to forty-six percent.

Judicial Department Responses to the Caseload Problem

In addition to the statistics on the state courts' caseload activity in fiscal year 1980-1981, Appendix A outlines some of the programs and projects which are being used by the courts to deal with the backlog of cases and the increasing number of filings. These include instituting a judicial control management system, case expediting projects, telephone conferencing, visiting and senior judge programs, modification of court rules, multiple case docketing system, increased use of referees, expanded use of paralegals, pre-settlement conferences, training seminars, and development of a cost management system.

Although the above programs and procedures may help alleviate the caseload problem, representatives from the judicial department stressed that only a greater number of judges could remedy the problems now being faced by the court and added the urgency is even greater this year for increasing judgeships because of the defeat during the 1981 legislative session of Senate Bill 356, which would have added twelve new judges.

Recommendations. The number one legislative priority established by the judicial department is the addition of six new district judges, one new county judge, and a panel of three judges and nine staff attorneys for the court of appeals. In addition, the judicial branch suggested that the legislature increase docket fees, provide a more expeditious means of processing non-contested dissolution of marriage cases, provide for dispute resolution outside the court setting, and implement any recommendations of the Committee on Court Jurisdiction.

Committee Activities

Although the interim Committee on Judicial Caseload and Juvenile Sentencing acknowledged the efforts of the judicial branch in alleviating some of the caseload problem, the committee questioned whether enough is being done. Some members on the committee objected to the judiciary continually requesting additional judgeships and not playing a larger role in helping solve their own problems through the implementation of even more internal improvements designed to reduce the delay and backlog presently being experienced.

One item which the committee used as an example is the judicial control management system first initiated in 1978 in the First Judicial District. 1/ This system, also known as the "Vollack System" (named after Judge Anthony F. Vollack of the First Judicial District),

1/ The description of this system is a summary taken from Anthony F. Vollack's Judicial Control Management, May 1, 1981.

was instituted on a pilot basis and is an attempt to change the administrative role of the court by allowing the judge to take charge of a case early in the process and to control the case throughout the process until disposition. Some of the more salient points of this management system are outlined below:

1. Use of a strict continuance policy -- continuances are not granted unless absolutely necessary.

2. Case control -- a case-by-case review of all pending cases, especially early ones, is done to determine what action is necessary to complete the case.

3. Pretrial and trial procedures -- pretrial conferences, improvements relating to dispositions, limiting voir dire, and adherence to a specific time schedules are used to speed the process.

4. Case categorization -- this procedure assists in allocating the appropriate amount of time for trials and motions.

After two years of experience, this judicial control management system implemented in Division Four of the First Judicial District resulted in a case backlog of seven percent in the division compared to an average of forty-three percent in similar divisions within the district.

Committee members questioned why this system isn't being implemented throughout the state, especially in light of the statistics showing a significant reduction in the division's backlog. The judicial department pointed to two reasons why the system has not been adopted statewide. First, the system is still relatively new and as time goes on it is expected that more judges will adopt this system. Secondly, there are philosophical differences on this issue and many judges are opposed to taking an active role in pushing cases to disposition.

Because the committee did not feel enough progress was being made by the judiciary in reforming their procedures and testing new programs, a letter was written to the Chief Justice of the Colorado Supreme Court by the committee chairman requesting to be informed as to the specific actions that the judiciary was willing to take in helping resolve their own problems. This letter specifically asks about judicial actions in the following areas: implementation of a case management system throughout the state, modification of voir dire, initial screening of cases, greater use of memorandum opinions, limiting discovery time and time for oral argument, and raising docket fees and juror fees. This letter is attached in Appendix B.

The chief justice in two separate letters to the committee (contained in Appendices C and D) outlined the programs being implemented by the judiciary in the areas mentioned in the preceding paragraph and other areas as well.

The chief justice emphasized that the efforts being made by the judiciary would expedite the processing of cases, but that only by increasing the number of judges could the caseload problem be solved.

Committee Recommendations

Eleven bills in the judicial caseload area are being recommended for adoption during the next session of the General Assembly.

Docket Fees -- Bills 14, 15, and 16

Appendix E contains a memorandum from Jim Thomas, state court administrator, on the current docket fee structure, a comparison of the current Colorado docket fees with those of selected other states, and a recommendation from the judiciary pertaining to potential increases.

The committee determined that litigants should bear a greater burden in paying for the operation of the state courts. Consequently, the committee recommends Bills 14, 15, and 16, which would increase the docket fees in the district, county, and appellate courts, respectively. The following table illustrates the current docket fee and what the increase would be under the proposed legislation.

Court and Fee Type	Current Docket Fee	Proposed Docket Fee
District Court Civil		
Filing Fee	$40	$150
Respondent Fee	$20	$75
Appellant Fee	$30	$100
County Court Civil		
Filing Fee	$8	$15
Respondent Fee	$8	$15
Court of Appeals		
Filing Fee	$65	$300
Respondent Fee	$30	$150
Supreme Court		
Filing Fee	$65	$300
Respondent Fee	$30	$150

Bill 14, would increase the district docket fees, also contains a provision requiring the judgment debtor to pay an additional fee of ten dollars for judgments rendered between $5,000 and $10,000 and one

percent of the judgment rendered for judgments over $10,000. The first $200,000 received from the increased docket fees in the district court is earmarked for the establishment of an office of dispute resolution, which is authorized by Bill 17.

Bill 15 would increase the docket fees for civil costs in county courts except for small claims court.

Currently under section 13-2-113 (1), Colorado Revised Statutes 1973, the Colorado Supreme Court has the power to set appellate court docket fees. Bill 16 would give the General Assembly the authority to set these fees, which fees are also increased in the bill. The current appellate court docket fees are deposited in the supreme court library fund, which is used for the purchase of books and capital equipment for the state's supreme court law library. The committee decided that this function should be maintained, so Bill 16 contains a provision which requires that one-third of the appellate court docket fee money be allocated to the supreme court library fund.

Appendix F contains the estimated amount of revenue that would be raised if the docket fees are increased. According to the projections of the judicial department, a total of $8,210,796 additional money will be raised by these increases -- $174,100 from the supreme court, $313,385 from the court of appeals, $7,244,486 from the district court, and $478,825 from the county court.

Mediation and Arbitration Programs -- Bills 17 and 18

In addition to a recommendation from the judicial department that a method for settling disputes outside the court setting be established, the committee heard testimony from persons familiar with mediation and arbitration programs.

The Center for Dispute Resolution is a non-profit corporation whose emphasis is on mediation of interpersonal and commercial disputes, and training of mediators. Referrals are made from a variety of sources (for example, police, judges, district attorneys, social service agencies, and community organizations). There is a charge for the mediation services. The center reports that of the disputes that are brought to them, fifty to sixty percent go to mediation and of these, over eighty percent are resolved to the satisfaction of all involved.

The Denver Custody Mediation Project is a three-year program started in March, 1979 for the purpose of administering mediation services for couples who are obtaining a divorce, and who disagree about custody and visitation arrangements for their children. Referrals come from the Denver and Jefferson courts, specifically from judges, referees, and probation and social service investigators. In a study done by the program using a mediation and a control group, settlement rate among control group couples or couples who rejected mediation were a good deal lower than those in the mediation group.

In comparison with the traditional court process, advocates of the mediation programs claim that mediation is less costly and more efficient, results in less recidivism, is more relaxed and easier to understand, is favorably received by all parties involved, and builds a general pattern of cooperation between groups and individuals.

Bill 17 would establish an office of dispute resolution in the judicial department, headed by a director who is appointed by the chief justice of the supreme court. The director is empowered to establish pilot dispute resolution programs in the Second (Denver) and the Eighth (Fort Collins) Judicial Districts. The director is responsible for administering these programs by establishing a simple, nonadversary procedure where persons can go on a voluntary basis to participate in the resolution of their dispute. Qualified mediators are appointed by the director to assist in the resolution of the dispute, but they may impose no adjudication or penalty on either party. The bill applies only to those persons who are involved in civil litigation. Confidentiality may be granted at the discretion of the mediator. The director is required to present an annual report on the operation of the program. The bill authorizes the seeking of federal and private funds for assistance in operation of the program and appropriates $200,000 of state moneys from the increase in district court docket fees authorized in Bill 14 for the implementation of the act.

This is an attempt by the committee to provide an alternative to litigation by encouraging people to set down and informally settle their differences. This bill was originally introduced during the 1981 legislative session as House Bill 1525, sponsored by Representative Ronald Strahle.

Bill 18 would establish binding arbitration proceedings for certain civil actions of $10,000 or less. This bill is similar to Bill 17 in that it is an attempt by the committee to deal with civil actions outside the traditional court structure.

An office of arbitration administration is created in two judicial districts which are selected by the chief justice. These offices are responsible for administering the mandatory programs established under the bill. A panel of arbitrators, selected by the director of the office of arbitration administration from a list of attorneys from that particular district, hears and decides all civil actions for sums of money of $10,000 or less. The bill stipulates certain procedures for assignment of cases to the panel and for the scheduling, conduct, and costs of hearings. Provisions are included to cover defaults and awards. A trial de novo may be demanded by any party not in default in the court where the action was commenced or transferred. An appropriation is included in Bill 18 to implement the act.

This legislation is patterned after the compulsory civil arbitration program in the city court in Rochester, New York. 2/ The Rochester program was authorized by the legislature in an attempt to alleviate the backlog problem faced by many of New York state's city courts. The Rochester program itself is similar to a Philadelphia compulsory arbitration program which has been in existence for almost twenty years.

An evaluation of the Rochester program indicates that the program is successful in disposing of cases and reducing the court's backlog, in reducing delay, in saving time and energy for both the attorneys and the participants, and, according to the views of all involved, dispensing quality justice.

The underlying lesson of the Rochester experience is that standard civil cases can be resolved by using a less complex system than the traditional court process, while reducing backlog, providing greater efficiency, and greater satisfaction for both attorneys and litigants.

Dissolution of Marriage -- Bill 19

Most courts in the state require the parties to be present in the courtroom when entering final orders for a dissolution of marriage. Bill 19 provides that when there are no children involved, final orders for a dissolution of marriage may be entered upon the affidavit of either or both parties and the adverse party is personally served, and there are no issues as to any material fact.

The committee hopes that this procedure will save both the court and the litigants time and money.

Administrative Handling of Traffic Offenses -- Bill 20

Much court time is taken with hearing traffic violations. The intent of Bill 20 is to reduce the amount of time judges spend on minor traffic offenses by creating a system for handling these offenses by use of referees. Hearings involving minor traffic violations are held before a referee who, after consideration of the evidence, determines whether the charges have been established. A referee is authorized by statute to impose a fine as a penalty for conviction of a minor traffic offense, but he is not authorized to impose a jail or prison term. The decision of a referee may be appealed. An appropriation section is contained in the bill for the administration of the referee system.

2/ The following synopsis of the Rochester compulsory arbitration program is taken from "The Rochester Answer to Court Backlogs", The Judges Journal, Summer 1981, Vol. 20, No. 3, pp. 36-45.

Juror Fees -- Bill 21

Appendix G contains a map which shows the fees paid to jurors in each state. As the map illustrates, Colorado is the lowest in the nation in fees paid to jurors. Although the General Assembly has repeatedly introduced legislation to increase juror fees, these attempts have never succeeded. Bill 21 would increase the present juror fees from six dollars per day for actual jury service to fifteen dollars per day; the current fee for service on the jury panel is raised from three dollars per day to eight dollars per day. In terms of mileage, jurors presently receive fifteen cents per mile one way. Bill 21 increases the mileage paid to jurors to the prevailing rate for state officials and employees (twenty cents per mile) and provides for round trip mileage.

In Attachment III in Appendix F contains the cost impact which the judicial department predicts the raising of juror fees and mileage allowances will have. According to Table 1 of Attachment III in Appendix F, raising fees for actual service from six dollars per day to fifteen dollars per day will result in an increase over the current cost of $361,656. The increase for serving on the jury panel from three dollars to eight dollars will result in an increase over the current cost of $428,805. In Table 2 of Attachment III, the projected cost impact of raising juror travel reimbursement to the current level for state officials and employees for roundtrip travel would result in an increase over the current cost of $276,947 annually. The total increase in cost would be $1,067,408.

Increase in District and County Court Judges -- Bill 22

Within Appendix D is a prioritized list of the judgship need as estimated by the judicial department. Bill 22 is based on this list, and would add judges in the Arapahoe county court (Littleton) and the following district courts: First (Golden), Seventh (Montrose), Eighth (Fort Collins), Seventeenth (Brighton), Twentieth (Boulder) and the Twenty-first (Grand Junction).

The cost of these additional judgeships is estimated to be $953,647 based on a cost per judge unit of $139,420 for district court judges and $116,527 for county court judges. A judge unit includes related personnel, capital equipment, and operating costs. See Attachment IV in Appendix F.

Increase in Number of Judges of the Court of Appeals -- Bill 23

The committee heard testimony twice from Judge David Enoch, Chief Judge of the Colorado Court of Appeals. Appendix H, prepared by Judge Enoch, illustrates the grave situation that the court of appeals finds itself in as a result of increasing appeals and a mounting backlog. Due to an 187 percent increase in the court of appeals over the last eight years, the current average time from filing to

disposition is twenty-two months for civil cases and twenty-one months for criminal cases. This lengthy delay is in spite of increases in the number of terminations during the last six fiscal years. Judge Enoch emphasized that although the court of appeals is constantly striving to improve methods and procedures for expediting cases, that the rate of dispositions per judge has reached its limit. His proposed solution is to add another division of three judges and nine staff attorneys to the court of appeals. If this suggestion is implemented, Judge Enoch believes that in addition to keeping up with the increased number of appeals, the case backlog would result in a steady decline from 700 cases in 1982 to 100 cases by the year 1986. (See Appendix H).

The estimated cost of this proposal is $771,809 which includes judges, staff attorneys, law clerks, clerical personnel, equipment needs, operating costs, and office space (see Appendix H).

Bill 23 would add another three judges to the court of appeals, but does not provide for the nine additional staff attorneys. The committee decided that the judicial branch should seek the nine additional staff attorneys for the court of appeals through the long bill, because the addition of those attorneys requires no statutory change as opposed to the additional judges. A letter is being drafted from the committee chairman to the Joint Budget Committee detailing the committee's action in recommending an additional three-judge panel to the court of appeals and also outlining the steps the committee has taken to raise revenues generated by the court system. The letter is to support the budget request of the judicial department in their request for nine staff attorneys to work with the additional three judges on the appeals court recommended by the interim committee.

Rate of Interest on Judgments -- Bill 24

In order to encourage judgment debtors to pay their settlements, the committee is recommending Bill 24, which would increase the interest rate of judgments which are appealed. The rate is set at two percentage points above the discount rate and is adjusted yearly. The interest is payable from the date a judgment is first entered in the trial court until the judgment is satisfied.

II. Juvenile Sentencing

During the 1981 legislative session, the Colorado General Assembly considered a number of bills relating to the sentencing of youthful offenders. The testimony received on these bills was often confusing and contradictory. In order to clarify the existing laws pertaining to juvenile sentencing and to ascertain whether or not statutory changes were necessary, the interim Committee on Judicial Caseload and Juvenile Sentencing received testimony from judges, lawyers, the police, social workers, and concerned citizens which

clarified the current statutory provisions on juvenile sentencing, some of the practices of law enforcement officials and judges in dealing with juvenile offenders, and conflicts and recommended changes vis-a-vis the current law.

Statistics on Juvenile Offenders

According to Orlando Martinez, Director of the Division of Youth Services, only 408 actual juvenile commitments took place during fiscal year 1979-1980 out of 39,427 arrests. The total number of commitments being received by the Division of Youth Services has been decreasing the last two years, but there was an indication that this trend is ending: total commitments were up twenty-eight percent the second half of fiscal year 1980-1981 compared with the first half. The Department of Institutions is also receiving more violent types of juvenile offenders. Most of the offenses for which juveniles are being sent to the Division of Youth Services involve burglary, theft, robbery, and assault. Many of the juveniles who commit crimes are under the influence of alcohol or drugs.

Additional statistics presented by Mr. Martinez are as follows:

1) There is an increase in the length of stay for juveniles committed to the Division of Youth Services -- in 1977-1978 the average length of stay was 9.5 months; this has risen to 11.2 months in 1979-1980.

2) Slightly more than twenty-seven percent of those juveniles committed to the division end up in an adult facility.

3) Approximately fifteen percent of the youths released from the division have a serious prior offense.

4) Of the youth sentenced to detention in fiscal year 1980-1981, over half are minorities.

Committee Activities

One point that was emphasized by a number of witnesses was the importance of a swift and sure sentencing process. A juvenile must be able to connect the punishment he is receiving with his wrongful actions.

Most of the testimony that was received indicated that no major rewrite or substantial revisions needed to be made to the "Colorado Children's Code." Those suggestions that were offered involved technical changes to the law.

Some of the suggestions received by the committee are contained in Appendix G. Many of these suggestions resulted in bill drafts

which were considered by the committee. Although the following list of bill drafts were discussed by the committee, no formal committee recommendations are being made in these areas.

1. CONCERNING THE DEFINITION OF A MANDATORY SENTENCE OFFENDER. This bill draft would have provided that the final act committed by a child which results in his adjudication as a mandatory sentence offender is an act which would constitute a felony if committed by an adult. Although the committee asked that this bill be redrafted there was no formal vote taken on the redraft.

2. CONCERNING THE ESTABLISHMENT OF TIME LIMITATIONS IN JUVENILE PROCEEDINGS. There were two bill drafts considered by the committee which provided for time limitations for juvenile proceedings.

3. CONCERNING THE AVAILABILITY OF A TRIAL BY JURY FOR A CHILD. This bill would have given a juvenile the right to a jury trial only if the juvenile was accused of an act which would constitute a felony if committed by an adult. Colorado, along with a few other states gives a juvenile the right to trial in misdemeanor cases. The committee thought that this right should be preserved.

4. CONCERNING THE DISPOSITION OF JUVENILE OFFENDERS. This draft provided that a child who is adjudicated as being a delinquent, a repeat juvenile offender, a violent juvenile offender, or a mandatory sentence offender for an act which would constitute a class 1, 2, or 3 felony if committed by an adult shall be placed out of the home for specified periods of time. This bill was an attempt by the committee to make the penalty commensurate with the type of crime committed. Testimony indicated that there were serious flaws with the bill.

5. CONCERNING DIVERSION PROGRAMS FOR CHILDREN. This bill would have defined diversion programs and would have provided that a district attorney, a law enforcement officer, or any other person may refer certain children within the juvenile court's jurisdiction for intake to a diversion program. The bill also required the Division of Youth Services to disburse the state funds which have been appropriated for diversion programs. Testimony on this bill indicated that the actual effect of the bill would be to destroy most of the diversionary programs in the state.

Committee Recommendations

Two bills in the juvenile caseload area are being recommended for adoption during the 1982 session of the General Assembly.

Expungement of Records -- Bill 25

Currently, a juvenile may petition to have his record expunged two years after the termination of the court's jurisdiction or two years after his unconditional release from parole supervision. This provision can create a problem in the situation of a juvenile who turns eighteen and is subsequently tried in adult court for a crime in that the sentencing judge has no indication of the number and types of offenses that the person committed when he was a juvenile.

Bill 25 would increase the time limit for a petition for record expungment for repeat and violent juvenile offenders to fifteen years after the date of adjudication as a repeat or violent juvenile offender.

Sentencing of Mandatory Sentence Offenders -- Bill 26

A problem in the sentencing of mandatory sentence offenders was pointed out by Judge Orrelle Weeks of the Denver Juvenile Court. Currently, if a juvenile is adjudicated a mandatory sentence offender and is eighteen years of age or older, the court must sentence that person to the Department of Institutions. Judge Weeks suggested that the option be given to the court to sentence this type person to the county jail.

Bill 26 would provide that a mandatory sentence offender who is eighteen or older at the time of disposition may be sentenced to the county jail for a period not to exceed one year.

BILL 14

A BILL FOR AN ACT

CONCERNING THE INCREASE OF DOCKET FEES IN CIVIL ACTIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases the docket fee in civil actions in district court which must be paid at the time of first appearance. Alters the additional fee schedule which requires payment by the judgment debtor after a trial in which a money judgment is rendered.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-32-101 (1) (d), Colorado Revised Statutes 1973, as amended, is amended to read:

13-32-101. Docket fees in civil actions. (1) (d) By each plaintiff, petitioner, third-party plaintiff, and party filing a cross claim or counterclaim filed in a district court of the state, a fee of ~~forty~~ ONE HUNDRED FIFTY dollars, and by each appellant, a fee of ~~thirty~~ ONE HUNDRED dollars; by an appellee and by each defendant or respondent not filing a cross claim or counterclaim, a fee of ~~twenty~~ SEVENTY-FIVE

dollars;

SECTION 2. 13-32-101 (4) (b), Colorado Revised Statutes 1973, as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

13-32-101. Docket fees in civil actions. (4) (b) The additional fee to be paid by the judgment debtor, as provided in paragraph (a) of this subsection (4), is as follows: For judgments over five thousand dollars but not over ten thousand dollars, ten dollars; and, for judgments over ten thousand dollars, one percent of the judgment rendered.

SECTION 3. Article 32 of title 13, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

13-32-101.5. Disposition of fees. The first two hundred thousand dollars received from the increase in district court docket fees over forty dollars paid by each plaintiff, petitioner, third-party plaintiff, and party filing a cross claim or counterclaim, over thirty dollars paid by each appellant, and over twenty dollars paid by each appellee and by each defendant or respondent not filing a cross claim or counterclaim shall be credited to a separate fund hereby established in the office of the state treasurer to fund any office of dispute resolution established by the state. Any moneys over and above the two hundred thousand dollars shall be disbursed in the same manner as other district court docket fees.

SECTION 4. Effective date. This act shall take effect July 1, 1982.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 15

A BILL FOR AN ACT

CONCERNING AN INCREASE IN THE DOCKET FEES FOR CIVIL ACTIONS IN COUNTY COURTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases the docket fees for civil costs in county courts.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-32-101 (1) (c), Colorado Revised Statutes 1973, as amended, is amended to read:

13-32-101. Docket fees in civil actions. (1) (c) By each plaintiff, petitioner, third-party plaintiff, and party filing a cross claim or counterclaim, when a money judgment sought is five thousand dollars or less, or in cases under the jurisdiction of the small claims court when the money judgment sought is one thousand dollars or less, and such action is commenced in a court of record of appropriate limited jurisdiction, a fee in the amount of ~~eight~~ FIFTEEN dollars,

and by each defendant, respondent, third-party defendant, or other party in such court, not filing a cross claim or counterclaim, a fee in the amount of ~~eight~~ FIFTEEN dollars; however, in an action filed in the small claims division of a county court, a plaintiff, third-party plaintiff, or party filing a cross claim or counterclaim shall pay a docket fee of eight dollars, and a defendant in an action filed in the small claims division of the county court shall pay a fee of four dollars;

SECTION 2. Effective date. This act shall take effect July 1, 1982.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 16

A BILL FOR AN ACT

CONCERNING THE DISPOSITION OF INCREASED APPELLATE COURT DOCKET FEES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases appellate court docket fees and provides that one-third of these docket fees shall be allocated to the supreme court library fund.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-2-113, Colorado Revised Statutes 1973, is amended to read:

13-2-113. Fees of clerk of supreme court. (1) EXCEPT FOR APPELLATE COURT DOCKET FEES, the supreme court is authorized to fix such fees for the services of the clerk of said court, in causes pending therein, as to the court seems proper, such fees to be paid by the parties to a cause pursuant to law and the order of the court.

(2) WITHIN THE TIME ALLOWED OR FIXED FOR TRANSMISSION OF

THE RECORD, THE APPELLANT SHALL PAY TO THE CLERK OF THE SUPREME COURT A DOCKET FEE OF THREE HUNDRED DOLLARS. THE DOCKET FEE FOR THE APPELLEE SHALL BE ONE HUNDRED FIFTY DOLLARS TO BE PAID UPON THE ENTRY OR APPEARANCE OF THE APPELLEE.

SECTION 2. 13-2-119, Colorado Revised Statutes 1973, as amended, is amended to read:

13-2-119. Disposition of fees. (1) At the end of each month, all fees collected by the clerk of the supreme court during said month, except fees for admission to the bar and attorney registration fees AND TWO-THIRDS OF THE APPELLATE COURT DOCKET FEES, shall be deposited by him with the state treasurer, by whom the same shall be kept separate and apart from all other funds in his hands.

(2) THE TWO-THIRDS OF THE APPELLATE COURT DOCKET FEES NOT DEPOSITED INTO THE FUND REFERRED TO IN SUBSECTION (1) OF THIS SECTION SHALL BE DEPOSITED IN THE GENERAL FUND.

SECTION 3. 13-4-112 (1), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

13-4-112. Fees of the clerk of court of appeals. (1) Within the time allowed or fixed for transmission of the record, the appellant shall pay to the clerk of the court of appeals a docket fee of three hundred dollars. The docket fee for the appellee shall be one hundred fifty dollars to be paid upon the entry or appearance of the appellee.

SECTION 4. Effective date - applicability. This act shall take effect July 1, 1982, and shall apply to all appeals

filed on or after said date.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 17

A BILL FOR AN ACT

CONCERNING THE ESTABLISHMENT OF AN OFFICE OF DISPUTE RESOLUTION, AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the establishment of an office of dispute resolution for the purpose of the administration, mediation, and settlement of disputes on a voluntary basis by neutral mediators. Provides for the hiring of a director, mediators, and other necessary staff. Establishes dispute resolution programs in the second and eighth judicial districts. Provides for confidentiality and settlement procedures. Requires an annual report on the operation of the dispute resolution programs. Authorizes the seeking of federal and private funds.

Makes an appropriation for the implementation of the act.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 22 of title 13, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW PART to read:

PART 3

DISPUTE RESOLUTION

13-22-301. Short title. This part 3 shall be known and may be cited as the "Dispute Resolution Act".

13-22-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Chief justice" means the chief justice of the Colorado supreme court.

(2) "Director" means the director of the office of dispute resolution.

(3) "Mediator" means the person who facilitates the resolution of a dispute.

(4) "Office" means the office of dispute resolution.

13-22-303. Office of dispute resolution - establishment. There is hereby established in the judicial department the office of dispute resolution, the head of which shall be the director of the office of dispute resolution, who shall be appointed by the chief justice of the supreme court and who shall receive such compensation as determined by the chief justice.

13-22-304. Director - assistants. The director shall be an employee of the judicial department and shall be responsible to the chief justice for the administration of the office. The director may but need not be an attorney and shall be hired on the basis of his training and experience in mediation. The director, subject to the approval of the chief justice, may appoint such additional employees as he deems necessary for the administration of this part 3.

13-22-305. Mediation services. (1) The director shall establish dispute resolution programs in the second and eighth judicial districts for the purpose of mediating disputes between persons involved in civil litigation. The director shall establish rules, regulations, and procedures for the prompt resolution of disputes. Such rules, regulations, and procedures shall be designed to establish a simple nonadversary format for the resolution of disputes by neutral mediators in an informal setting for the purpose of allowing each participant, on a voluntary basis, to define and articulate his particular problem for the possible resolution of such dispute.

(2) All rules, regulations, and procedures established pursuant to this section shall be subject to the approval of the chief justice.

(3) No adjudication, sanction, or penalty may be made or imposed by any mediator or the director.

13-22-306. Mediators. In order to resolve disputes, the director shall contract, on a case-by-case basis, with mediators who he feels are qualified to mediate such disputes. The tasks of such mediators shall be defined by the director. The director may also use qualified volunteers to assist in mediation efforts.

13-22-307. Confidentiality. Dispute resolution meetings may be closed at the discretion of the mediator. Mediation proceedings shall be regarded as settlement negotiations, and

no admission, representation, or statement made in mediation shall be admissible as evidence. In addition, a mediator shall not be subject to process requiring the disclosure of any matter discussed during mediation proceedings.

13-22-308. Settlement of disputes. If the parties involved in a dispute reach an agreement, the agreement shall be reduced to writing and approved by the parties and their attorneys and shall be presented to the court as a stipulation.

13-22-309. Reports. The director shall report annually to the chief justice, the general assembly, and the governor on the operation of the dispute resolution programs. Such information shall include, but shall not be limited to, the number and types of disputes received, the disposition of these disputes, and any problems being encountered. In addition, the report shall contain a comparison of the cost of mediation with the cost of litigation.

13-22-310. Funding. In addition to any moneys appropriated by the general assembly, the director shall explore methods for obtaining federal and private funds to assist in implementing this part 3.

SECTION 2. Appropriation. There is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, to the judicial department, for the fiscal year commencing July 1, 1982, the sum of _____ dollars ($), or so much thereof as may be necessary, for the implementation

of this act.

SECTION 3. Effective date. This act shall take effect July 1, 1982.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 18

A BILL FOR AN ACT

CONCERNING THE ESTABLISHMENT OF MANDATORY ARBITRATION, AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Establishes mandatory arbitration proceedings for certain civil cases. Establishes procedural requirements for the program and arbitration hearings. Makes an appropriation for the establishment of offices of arbitration administration to administer the mandatory arbitration program.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 22 of title 13, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW PART to read:

PART 3

MANDATORY ARBITRATION ACT

13-22-301. Short title. This part 3 shall be known and may be cited as the "Mandatory Arbitration Act".

13-22-302. Definitions. As used in this part 3, unless

the context otherwise requires:

(1) "Chairperson" means the attorney so designated by the director pursuant to section 13-22-306 or the single arbitrator assigned by the director.

(2) "Director" means the director of the office of arbitration administration.

(3) "Panel of arbitrators" or "panel" means a group of three attorneys chosen to serve as arbitrators by the director pursuant to section 13-22-306 or a single attorney assigned by the director, whichever the chief judge of the district shall designate from time to time in his district. The parties, by stipulation, may provide for arbitration before a single arbitrator in those cases where a panel of three arbitrators is otherwise required.

13-22-303. Office of arbitration administration - actions subject to arbitration. (1) There is hereby created an office of arbitration administration in two judicial districts to be designated by the chief justice of the supreme court. These offices shall administer the mandatory arbitration programs established in those districts by this part 3.

(2) In each district where the arbitration program is established, all civil actions for a sum of money only, except those commenced in small claims court, and not transferred to county court, where recovery sought for each cause of action is ten thousand dollars or less, exclusive of costs and

interest, shall be heard and decided by a panel of arbitrators. The director of the office of arbitration administration may also, at any time, upon the establishment of the program, provide for the submission to arbitration of actions, seeking recovery of such sums, that are pending for trial in county and district courts of the judicial district on the effective date of the program. In addition, upon stipulation filed with the clerk of the court where the action was commenced or, if the case was transferred, the clerk of the court to which it has been transferred, any civil action for a sum of money only, pending or thereafter commenced in such courts, regardless of the amount in controversy, shall be arbitrated, and, in any such action, the arbitration award shall not be limited to ten thousand dollars, exclusive of costs and interest, or to the monetary jurisdiction of the court. Any stipulation may set forth agreed facts, defenses waived, or similar terms and, to that extent, shall replace the pleadings.

(3) The chief judge of the district shall designate, in each district where arbitration is established pursuant to this part 3, a director of the office of arbitration administration. The compensation for the director shall be determined by the chief justice of the supreme court within the appropriation made available for that purpose.

(4) In any action subject to arbitration under this part 3 or by stipulation, any counterclaim or crossclaim that has

been interposed, whether or not seeking recovery of more than ten thousand dollars, shall likewise be subject to arbitration under these rules.

13-22-304. Director of office of arbitration administration - duties. (1) The director, by order, shall establish in his district the arbitration program authorized by this part 3.

(2) The director shall maintain complete and current records of all cases subject to arbitration in his district under this part 3 and a current list of attorneys consenting to act as arbitrators.

13-22-305. Arbitration calendar. All actions subject to arbitration shall be placed on a separate calendar known as the arbitration calendar in the order of filing for a trial date.

13-22-306. Selection of panels of arbitrators. (1) The members of each panel of arbitrators shall be appointed by the director from the list of attorneys-at-law admitted to practice in this state. An attorney appointed to the list in a district must reside or have an office in the district for which the panel is selected or in an adjoining district or must be a member of a local bar association of either district. No attorney may be appointed unless he has filed with the director a consent to act and an oath or affirmation equitably and justly to try all actions coming before him.

(2) The chairperson of each panel shall have been

admitted to practice in Colorado as an attorney for at least five years; and the second and third members must be admitted to practice but not for any specified period of time, unless the director shall, by order, otherwise determine. Names of attorneys shall be drawn at random from the list. Where a three-arbitrator panel is utilized, the name of the first attorney drawn for each three-arbitrator panel who has at least five years experience shall be the chairperson thereof. Not more than one member of a partnership or firm shall be appointed to any panel.

(3) No attorney who has served as an arbitrator shall be eligible to serve again until all other attorneys on the current list have had an opportunity to serve.

(4) An arbitrator who is related by blood, marriage, or professional ties to a party or his counsel shall be disqualified for cause. An arbitrator may disqualify himself upon his own application or by application of a party. Should a party object to the arbitrator's refusal to disqualify himself for cause, the party may apply to the director for a ruling. The director's ruling shall be binding on all parties. If an arbitrator is disqualified, the director shall select another arbitrator in the manner authorized by this section.

13-22-307. Assignment of actions to panel. (1) The director shall assign to each panel at least the first three, but no more than six, actions pending on the arbitration

calendar. Unless otherwise ordered, no action shall be assigned until twenty days after it was placed on the arbitration calendar.

(2) An application to the panel for the disqualification of an arbitrator must be made within five days after receipt by the party of notice of the hearing as provided by section 13-22-308.

(3) If an action is settled or discontinued before the hearing, the chairperson shall immediately notify the director who shall assign the next available action to the panel.

13-22-308. Scheduling of arbitration hearings. (1) Hearings shall be held in a place provided by the court, by the director, by the chairperson of the panel, or, at the request of the chairperson, by a member of the panel. Unless otherwise agreed by the panel, parties, and counsel, such place shall be within the district.

(2) The chairperson shall fix a hearing date and time, upon consent of the parties, and shall give written notice to the members of the panel and the parties or their counsel at least ten days before the date set. The director may, on good cause shown, extend for a reasonable period the time within which the hearing shall be commenced. Such date and time shall not be a Saturday, Sunday, legal holiday, or during evening hours except by agreement of the panel, parties, and counsel.

(3) Any action which is continued twice, after

assignment to two panels, shall be referred by the director to the court where the action was commenced or, if the action was transferred, to the court to which it was transferred for a hearing on the cause of the inability to hold an arbitration hearing. The court, upon such hearing, may order a dismissal or an inquest before another panel.

13-22-309. Defaults. (1) Where a party fails to appear at the hearing, the panel shall nonetheless proceed with the hearing and shall make an award and decision, as may be just and proper under the facts and circumstances of the action, which may be entered as a judgment forthwith under section 13-22-313. The judgment, if any, the default, and the award may be vacated, and the action may be restored to the arbitration calendar only upon order of the court where the action was commenced or, if the action was transferred, of the court to which it was transferred, upon good cause shown. Such order of restoration shall be upon condition that the moving party pay into the court an amount equal to the total fees payable by the judicial department to the panel.

(2) Should all parties fail to appear at the hearing, the panel shall file a report and award dismissing the action. The action may be restored to the arbitration calendar only upon order of the court where the action was commenced or, if the action was transferred, of the court to which it was transferred, upon good cause shown. Such order of restoration may provide for the payment by any party into court of panel

fees as the court may determine as just and proper.

13-22-310. Conduct of hearings. (1) The panel shall conduct the hearing with due regard to the law and established rules of evidence, which shall be liberally construed to promote justice. In personal injury cases, medical proof may be established by the submission into evidence of medical reports of attending or examining physicians upon stipulation of all parties.

(2) The panel shall have the general powers of a court, including, but not limited to:

(a) Subpoenaing witnesses to appear;

(b) Subpoenaing books, papers, documents, and other items of evidence;

(c) Administering oaths or affirmations;

(d) Determining the admissibility of evidence and the form in which it is to be offered;

(e) Deciding questions of law and facts in the actions submitted to them.

13-22-311. Costs of hearings - stenographic record. (1) Witness fees shall be the same as in the court, and the costs shall be borne by the same parties as in court.

(2) The panel shall not be required to cause a stenographic record to be made, but if any party requests that such record be kept and deposits fifty dollars or more as the panel may fix to secure payment therefor, the panel shall provide a stenographer. Any surplus deposited shall be

returned to the party depositing it. The cost of the stenographer shall not be a taxable disbursement.

13-22-312. Compensation of arbitrators. The director shall provide for the compensation, including expenses, payable to each arbitrator, all within appropriations made available to the judicial department for this purpose. Claims for such compensation shall be made after entry of the award on forms prescribed by the director. The director shall forward all claims approved by him to the judicial department. Any arbitrator may apply to the director for reimbursement of extraordinary expenses necessarily incurred by him in the same manner as provided for application for ordinary compensation.

13-22-313. Award. (1) The award shall be signed by the panel of arbitrators or at least a majority of them. The chairperson shall file a report and the award with the director within twenty days after the hearing and mail or deliver copies thereof to the parties or their counsel. The director shall mark his files accordingly, file the original with the clerk of the court where the action was commenced, or, if the action was transferred, of the court to which it was transferred and notify the parties of such filing.

(2) Unless a demand is made for trial de novo or the award vacated, the award shall be final and judgment shall be entered thereon by the clerk of the court where the action was commenced or, if the action was transferred, the clerk of the court to which it was transferred.

13-22-314. Trial de novo. (1) Demands may be made by any party not in default for trial de novo in the court where the action was commenced or, if the action was transferred, the court to which it was transferred, with or without jury. Any party, within thirty days after the award is filed with the appropriate court clerk, may serve upon all adverse parties a demand for trial de novo.

(2) If the demandant either serves or files a timely demand for trial de novo but neglects through mistake or excusable neglect to do another required act within the time limited, the court where the action was commenced or, if the action was transferred, the court to which it was transferred may grant an extension of time for curing the omission.

(3) The demandant shall also, concurrently with the filing of the demand, pay to the court clerk where the award was filed the amount of the fees payable to the panel by the judicial department pursuant to section 13-22-312. Such sum shall not be recoverable by the demandant upon trial de novo or in any other proceeding.

(4) The arbitrators shall not be called as witnesses nor shall the report or award of the arbitrators be admitted in evidence at the trial de novo.

(5) If the judgment upon the trial de novo is not more favorable than the arbitration award, in the amount of damages awarded or the type of relief granted to the demandant, the demandant shall not recover interest or costs from the time of

the award but shall pay costs to the other party or parties from that time.

13-22-315. Motion to vacate award. (1) Except as provided in subsection (2) of this section, any party, within thirty days after the award is served upon him, may file with the appropriate court clerk a motion to vacate the award on only the grounds that the rights of the moving party were prejudiced because:

(a) There was corruption, fraud, or misconduct in procuring the award;

(b) The panel making the award exceeded its power or so imperfectly executed it that a final and definite award was not made; or

(c) There was a substantial failure to follow the procedures established by this part 3.

(2) No party may apply to vacate the award if the party continued with the arbitration with notice of the defect and without objection.

(3) Copies of the motion papers shall be served upon the director within two days after filing. If the motion to vacate is granted, the case shall be returned to the top of the arbitration calendar and submitted to a new panel.

13-22-316. General power of court. The court where the action was commenced or, if the action was transferred, the court to which it was transferred shall hear and determine all collateral motions relating to arbitration proceedings.

SECTION 2. Appropriation. There is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, to the judicial department, for the fiscal year commencing July 1, 1982, the sum of _____ dollars ($), or so much thereof as may be necessary, for the implementation of this act.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 1982, and shall apply to cases filed on or after January 1, 1983.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 19

A BILL FOR AN ACT

CONCERNING THE REQUIREMENTS FOR DISSOLUTION OF MARRIAGE UPON AFFIDAVIT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that final orders in a procedure for dissolution of marriage may be entered upon the affidavit of either or both parties when there are no children of the husband and wife, the adverse party is personally served in the manner provided by the Colorado rules of civil procedure, and there is no genuine issue of material fact. Sets forth the procedures for filing and entry of a decree upon affidavit.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 10 of title 14, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

14-10-120.3. Dissolution of marriage upon affidavit - requirements. (1) Final orders in a proceeding for dissolution of marriage may be entered upon the affidavit of either or both parties when:

(a) There are no children of the husband and wife; and

(b) The adverse party is personally served in the manner provided by the Colorado rules of civil procedure; and

(c) There is no genuine issue as to any material fact.

(2) If one party desires to submit the matter for entry of final orders upon an affidavit, the submitting party shall file his affidavit setting forth sworn testimony showing the court's jurisdiction and factual averments supporting the relief requested in the proceeding. Such affidavit shall not be filed and shall not be considered for any purpose if statutory waiting periods have not expired.

(3) The affidavit shall be accompanied by the following:

(a) A copy of the decree proposed for entry by the affiant, including a copy of any separation agreement proposed for adoption by the court; and

(b) A notice to the adverse party which states that:

(I) The affidavit shall be submitted to the court for consideration in entering a final decree as proposed; and

(II) The adverse party shall have twenty days from the date of service or mailing to either file opposing affidavits with the court or file written request for a formal hearing; and

(III) If the adverse party does not object or file a request for a formal hearing within twenty days after the date of service or mailing, a final decree may enter as proposed by the affiant.

(4) Copies of the affidavit, proposed decree, and notice shall be served or mailed to the adverse party or to his attorney of record at least twenty days prior to their consideration by the court, and proof of service or mailing as required by this section shall be made by certificate of service or mailing.

(5) If the affidavit of each of the party litigants is filed in support of any proposed decree, the service requirements shall be dispensed with by the court.

(6) The court shall not be bound to enter a decree upon the affidavits of either or both parties, but the court may, upon its own motion, require that a formal hearing be held to determine any or all issues presented by the pleadings.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 1982, and shall apply to any petition for dissolution of marriage filed on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 20

A BILL FOR AN ACT

CONCERNING MINOR TRAFFIC OFFENSES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Creates a system for the use of traffic referees to handle class 3 and class 4 traffic offenses, sitting without a jury and without any prosecuting attorney. Sets qualification requirements for traffic referees to be the same as for county judges, depending on the classification of the county.

Provides that class 3 and class 4 traffic offenses are to be treated as civil offenses rather than criminal misdemeanors, that penalty assessment procedures are applicable to such offenses, as are provisions for bringing the person into court, and that failure to appear constitutes civil contempt. Makes conforming amendments.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-6-501 (4), Colorado Revised Statutes 1973, as amended, is amended to read:

13-6-501. County court referees - qualifications - duties. (4) Subject to the provision that no referee may preside in any trial by jury, county court referees shall have

THE power to hear ~~the following matters:~~

~~(a) Class 2, class 3, and class 4 traffic offenses, as defined in section 42-4-1501, C.R.S. 1973;~~

~~(b)~~ Such other matters as determined by rule of the supreme court.

SECTION 2. Article 6 of title 13, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW PART to read:

PART 6

TRAFFIC REFEREE ADJUDICATION SYSTEM

13-6-601. Legislative declaration. The general assembly hereby declares that an inordinate amount of time and effort is expended by the lower courts and district attorneys' offices in the adjudication of minor traffic offenses, resulting in less than adequate emphasis on more important major traffic and other misdemeanor offenses. The general assembly desires and intends that lower court judges and prosecutors be afforded adequate time to deal more effectively with those persons charged with more serious criminal offenses. To this end, the general assembly hereby establishes a system of traffic referee adjudication of minor traffic law violation charges dealing with class 3 and class 4 traffic offenses. The interest of the state as a whole in the improvement of the criminal justice system is so great and of such vital concern that the general assembly hereby declares that the establishment of such a traffic referee system is of

urgent statewide concern.

13-6-602. Traffic referees - numbers - qualifications. (1) (a) Each county court serving counties classified under section 13-6-201 as Class B shall, and each county court serving counties classified as Class C or Class D may, appoint a traffic referee or referees to hear and decide charges dealing with class 3 and class 4 traffic offenses as defined in section 42-4-1501 (1) (b), C.R.S. 1973, unless the judicial department in its discretion determines that a traffic referee is not needed in a particular county for timely disposition of all county court traffic business. If the judicial department determines that a traffic referee is not needed in a particular county, the chief judge of the judicial district in which that county sits shall assign one or more county judges in such county to act as traffic referees in all cases in which class 3 or class 4 traffic offenses are charged, and said offenses shall be heard in accordance with the procedural provisions of this title. One traffic referee may be appointed for each two county judges authorized by law for such counties, unless such county has only one county judge, in which case one traffic referee may be appointed. Qualifications of traffic referees shall be the same as for county judges in the county of appointment.

(b) Traffic referees who have not been admitted to the practice of law shall not take office for the first time as traffic referees until they have attended an institute

established by the supreme court to inform them of the duties and functions of the county court and their responsibilities therein, unless such attendance is waived by the supreme court.

(2) The use of traffic referees to try traffic cases in the city and county of Denver shall be as authorized and established by the charter and ordinances of that jurisdiction.

13-6-603. Jurisdiction - duties. (1) (a) Traffic referees shall have jurisdiction to hear and decide class 3 and class 4 traffic offense cases, to accept guilty pleas, to conduct hearings as to the guilt or innocence of a person charged with such an offense, to make orders binding on the person accused as to guilt or innocence, and to impose penalties upon those found guilty in the same manner as if the traffic referee were sitting as a county judge. The conviction of a person accused of a class 3 traffic offense before a traffic referee shall have the same effect as a conviction before a county judge for the purposes of assessing penalty points against the driving record of such person in accordance with section 42-4-1501, C.R.S. 1973.

(b) In order to carry out the provisions of paragraph (a) of this subsection (1), a traffic referee is granted the power to administer oaths and to take testimony. Upon a showing of necessity by said traffic referee, the county court shall issue such subpoenas as may be required for the

attendance at hearings of parties or witnesses. The failure of a person to appear at a hearing to which such person has been summoned or subpoenaed shall be reported by said traffic referee to the county court for such action as the county court in its discretion may consider appropriate.

(2) Any case in which charges are pending before a county court on January 1, 1983, may be reset for a hearing before a traffic referee if:

(a) The charges are class 3 or class 4 traffic offenses; and

(b) The presiding judge of the county court determines that such case should be transferred for hearing before a traffic referee.

13-6-604. Court jurisdiction. (1) The provisions of this part 6 shall not affect the jurisdiction of county courts over class 3 or class 4 traffic offenses; except that, where traffic referees have been appointed, the court shall normally exercise its jurisdiction through the traffic referees. If the presiding judge of the county court determines that a traffic referee is not available, for any reason, to promptly hear and determine a charge, he may assign such case to a county judge for hearing, and said county judge shall act as a traffic referee and hear said case pursuant to this part 6.

(2) Whenever a crime and a class 3 or class 4 traffic offense or whenever a crime and both such class 3 and class 4 traffic offenses are charged in the same summons and

complaint, all charges shall be made returnable before the court having jurisdiction over the crime. Nothing in this part 6 shall be construed to prevent a court having jurisdiction over a criminal charge relating to traffic law violations from lawfully entering a judgment on a case dealing with a class 3 or class 4 traffic offense.

(3) When a court of competent jurisdiction determines that a person charged with a class 1 or class 2 traffic offense is guilty of a lesser-included offense which is a class 3 or class 4 traffic offense, the court may enter a judgment as to such lesser charge.

13-6-605. Activities for traffic referees. Traffic referees in Class B, Class C, and Class D counties shall be held to the same rules and restrictions as are established for county judges in such counties by section 13-6-204.

13-6-606. Terms and appointments of traffic referees. (1) Traffic referees shall be selected by the chief judge of the judicial district in which that county sits.

(2) Traffic referees shall be appointed for an initial trial period of three months and may be released from appointment at the end of such period by the chief judge of the judicial district in which that county sits. Thereafter, the appointment of the traffic referee shall be for a period of two years; at the discretion of the chief judge of the judicial district in which the county sits, the appointment may be extended in increments of two years, but no such

extension shall be granted until the completion of the term next preceding such extension.

(3) A traffic referee may be removed from office before the completion of the term to which he has been appointed by the chief judge of the judicial district in which the county sits if he finds that the traffic referee has been found guilty of the commission of a crime classified as a felony, has a disability which interferes with the performance of his duty and which is or is likely to become of a permanent nature, has willfully or persistently failed to perform the duties of his office, has been found to be habitually intemperate, or has been found guilty of any offense involving moral turpitude.

13-6-607. Administration. (1) The duties, qualifications, compensation, conditions of employment, and other administrative details concerning traffic referees not set forth in this part 6 shall be established in accordance with the provisions of section 13-3-105.

(2) Requirements for establishing bond for a traffic referee and for such assistants as may be provided shall be established by the supreme court.

(3) The supreme court, by rule, shall determine the numbers and qualifications of persons to be employed as assistants to the traffic referees.

(4) The supreme court shall, by rule, establish the working schedule for traffic referee courts, including the

days of the week to be worked, any provisions for night and weekend court where such provisions will better carry on the business of the county court, and the place or places where the traffic referees will conduct hearings within the county. Hearings may be at the location where the county court sits or at such other location as the supreme court shall determine.

13-6-608. Hearing room facilities. The board of county commissioners of the county served by the county court to which traffic referees are assigned shall provide hearing room facilities for such traffic referees.

13-6-609. Records - fines. A traffic referee shall be responsible for maintaining records on all hearings held before him. Such records shall include the record of the offense charged, the name of the person charged, the address of such person, the disposition made of the charge, and the fine and the number of penalty points, if any, assessed against the person found guilty of the charge. Such records and the total sum of all moneys collected as fines shall be forwarded periodically, but not less often than once each seven days, to the clerk of the county court at the county seat of such court. Thereafter, the maintenance of the records and the disbursement of moneys shall be in accordance with the rules of the county court for records and moneys generated within such court.

13-6-610. Jury trials. Notwithstanding any other provision of law, the right to a jury trial shall not be

available at a hearing before a traffic referee or a county judge acting as a traffic referee where the accused is charged with the commission of a class 3 or class 4 traffic offense which does not constitute a crime.

13-6-611. Burden of proof. The traffic referee shall dismiss charges against an accused unless the state, through its witnesses, proves the guilt of the accused beyond a reasonable doubt. The district attorney or his deputy shall not represent the state at hearings conducted by a traffic referee or a county judge acting as a traffic referee where the accused is charged with the commission of a class 3 or class 4 traffic offense which does not constitute a crime. The accused may be represented by counsel but does not have a right to a court-appointed attorney. The public defender shall not represent an accused in a hearing before a traffic referee or county judge acting as a traffic referee. The guilt or innocence of the accused shall be determined by the traffic referee or county judge acting as a traffic referee on the basis of his inquiry into the facts of the case as presented by witnesses for the state and by witnesses for the accused if the accused desires to present witnesses in his own behalf. The accused may not be compelled to present any evidence or testimony in his behalf, and no adverse inference may be drawn by the traffic referee or county judge acting as a traffic referee by the failure of the accused to present evidence. The accused, or his attorney, may make relevant

cross-examination of the state's witnesses. The limits of said cross-examination shall be determined by the traffic referee or county judge acting as a traffic referee. Any evidence having probative value shall be received at the hearing, regardless of its admissibility under the Colorado rules of evidence or any other court rule or statute limiting admissibility of evidence, if the defendant or the state is afforded a fair opportunity to rebut said evidence.

13-6-612. Appeal procedures. Any appeal from a decision of a traffic referee or county judge acting as a traffic referee shall follow the procedures established for appeals from county courts to district courts. A notice of appeal shall be filed with the traffic referee or county judge acting as a traffic referee, and said traffic referee or county judge shall be responsible for the certification of the hearing record to the appellate court. Wherever, in the procedures for appeal from the judgment of a county court, a power, duty, responsibility, or procedure makes reference to the county or an agent thereof, it shall be read, for the purposes of this section only, as referring to the traffic referee or the county judge acting as a traffic referee and his assistants. The district attorney shall represent the state on the appeal.

SECTION 3. 42-4-1501 (1), (2) (a), (2) (b), (4) (a), (4) (b), and (6), Colorado Revised Statutes 1973, as amended, are amended to read:

42-4-1501. Traffic offenses classified - penalties.

(1) (a) It is a misdemeanor traffic offense for any person to violate any of the provisions of this article, IF SUCH VIOLATION IS CLASSIFIED AS A MISDEMEANOR OR AS A CLASS 1 OR CLASS 2 TRAFFIC OFFENSE, unless such violation is, by this article or by any other law of this state, declared to be a felony.

(b) CLASS 3 AND CLASS 4 TRAFFIC OFFENSES ARE NONCRIMINAL OFFENSES. A PENALTY ADJUDGED FOR A VIOLATION OF THE PROVISIONS OF THIS ARTICLE, WHERE THE OFFENSE IS CLASSIFIED AS A CLASS 3 OR CLASS 4 TRAFFIC OFFENSE, SHALL BE SOLELY A CIVIL PENALTY.

(c) FOR THE PURPOSES OF THIS PART 15, A COURT OF COMPETENT JURISDICTION SHALL INCLUDE A TRAFFIC REFEREE OR A COUNTY JUDGE ACTING AS A TRAFFIC REFEREE.

(2) (a) Except as provided in subsections (3) and (4) of this section and in section 42-4-1202 (4) (b), misdemeanor AND CIVIL traffic offenses are divided into four classes which are distinguished from one another by the following penalties which are authorized upon conviction:

MISDEMEANOR TRAFFIC OFFENSES:

Class	Minimum Sentence	Maximum Sentence
1	Ten days imprisonment, or $100 fine, or both.	One year imprisonment, or $1000 fine, or both.
2	Ten days imprisonment,	Ninety days imprisonment,

or $10 fine, or both. or $300 fine, or both.

CIVIL TRAFFIC OFFENSES:

CLASS	MINIMUM PENALTY	MAXIMUM PENALTY
3	$5 fine.	$100 fine.
4	$5 fine.	$100 fine.

(b) Any ~~misdemeanor~~ TRAFFIC OFFENSE defined by law outside of this article shall be punishable as provided in the statute defining it or as otherwise provided by law.

(4) (a) At the time that any person is arrested for the commission of any of the misdemeanors OR MISDEMEANOR TRAFFIC OFFENSES OR IS CITED FOR THE COMMISSION OF A TRAFFIC OFFENSE CLASSIFIED AS A CIVIL TRAFFIC OFFENSE AS set forth in subsection (3) of this section, the arresting OR CITING officer may, except when the provisions of paragraph (c) of this subsection (4) prohibit it, offer to give a notice to the person in charge of or operating the motor vehicle involved, which notice shall be in the form of a penalty assessment notice. Such notice shall contain all the information required by section 42-4-1505 (2) OR (5.5). Should the person to whom the penalty assessment notice is tendered accept said notice, such acceptance shall constitute an acknowledgment of guilt by such person of his ~~violation~~ COMMISSION of the offense stated in such notice and a promise on such person's part to pay the

fine OR PENALTY specified in subsection (3) of this section for the violation involved at the office of the department of revenue, motor vehicle division, Denver, Colorado, either in person or by mail within ten days ~~from~~ AFTER the date of arrest OR CITATION; but any arrested OR CITED person who accepts a penalty assessment notice but who does not furnish satisfactory evidence of identity or who the officer has reasonable and probable grounds to believe will disregard a written promise to pay the specified fine OR PENALTY may be taken by the officer to the nearest known post-office facility and required to remit the amount of the specified fine OR PENALTY to the department immediately by mail in United States currency or other legal tender by money order or personal check. Refusal or inability to remit the specified fine OR PENALTY by mail when required shall constitute a refusal to accept a penalty assessment notice. The officer shall advise the person arrested OR CITED of the points to be assessed in accordance with section 42-2-123. Acceptance and payment of the prescribed fine OR PENALTY shall be deemed a complete satisfaction for the violation, and the violator shall be given a receipt which so states when such fine OR PENALTY is paid in currency or other form of legal tender. Checks tendered by the violator to and accepted by the department and on which payment is received by the department shall be deemed sufficient receipt.

(b) Should the violator refuse to accept the notice

prescribed by paragraph (a) of this subsection (4) when such notice is tendered by the arresting OR CITING officer, the officer shall proceed in accordance with section 42-4-1504 or section 42-4-1505; EXCEPT THAT, WHERE THE VIOLATION IS A CLASS 3 OR CLASS 4 TRAFFIC OFFENSE, THE OFFICER SHALL PROCEED ONLY IN ACCORDANCE WITH SECTION 42-4-1505 (5.5) (a). Should the violator accept the notice but fail to pay the prescribed penalty within ten days thereafter, the notice shall be construed to be a summons OR CITATION as for a charge of a misdemeanor, MISDEMEANOR TRAFFIC OFFENSE, OR CIVIL TRAFFIC OFFENSE, and the prosecution for said violation shall thereafter be heard in the court of competent jurisdiction prescribed on the notice, in which event the violator shall be privileged to answer the charge made against him in the same manner as is provided in this article for prosecutions of the misdemeanors, MISDEMEANOR TRAFFIC OFFENSES, AND CIVIL TRAFFIC OFFENSES not specified in subsection (3) of this section; except that the maximum FINE OR penalty which may be imposed shall not exceed the FINE OR penalty set forth ~~in--the schedule--of-fines-contained~~ in subsection (3) of this section for such violation.

(6) Notwithstanding the provisions of paragraph (b) of subsection (4) and subsection (5) of this section, receipt of payment by mail by the department of revenue prior to the time at which the department forwards the penalty assessment ~~notices~~ NOTICE for the issuance of A summons OR CITATION shall

be deemed to constitute receipt on or before the date the payment was due.

SECTION 4. The introductory portion to 42-4-1504 (1) and 42-4-1504 (1) (e) and (2), Colorado Revised Statutes 1973, are amended to read:

42-4-1504. Person arrested to be taken before the proper court. (1) Whenever a person is arrested for any violation of this article punishable as a misdemeanor OR MISDEMEANOR TRAFFIC OFFENSE, the arrested person shall be taken without unnecessary delay before a county judge who has jurisdiction of such offense as provided by law, in any of the following cases:

(e) In any other event when the provisions of section 42-4-1501 (4)(b) and (4)(c) apply and the person arrested refuses to give his written promise to appear in court as provided in section 42-4-1505 (1) AND (2).

(2) Whenever any person is arrested by a police officer for any violation of this article punishable as a misdemeanor OR MISDEMEANOR TRAFFIC OFFENSE and is not required to be taken before a county judge as provided in subsection (1) of this section, the arrested person shall, in the discretion of the officer, either be given a written notice or summons to appear in court as provided in section 42-4-1505 (1) OR (2) or be taken without unnecessary delay before a county judge who has jurisdiction of such offense when the arrested person does not furnish satisfactory evidence of identity or when the officer

has reasonable and probable grounds to believe the person will disregard a written promise to appear in court. The court shall provide a bail bond schedule and available personnel to accept adequate security for such bail bonds.

SECTION 5. 42-4-1505 (1) and (2) (a), Colorado Revised Statutes 1973, as amended, are amended, and the said 42-4-1505 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-4-1505. Notice to appear in court - release - registration. (1) Whenever a person is arrested for any violation of this title punishable as a misdemeanor OR MISDEMEANOR TRAFFIC OFFENSE, other than **misdemeanors** THOSE to which the provisions of section 42-4-1501 (3) apply, **when such person accepts the notice tendered in accordance with the provisions of section 42-4-1501 (4) (a);** and such person is not required by the provisions of section 42-4-1504 to be taken without unnecessary delay before a county judge, the arresting officer shall prepare a written notice or summons to appear in court, which written notice and summons shall contain the name and address of such person, the number of such person's driver's license, if any, the offense charged, the time and place when and where such person shall appear in court, and a place for such person to execute his written promise to appear at the time and place indicated on the notice and summons.

(2) (a) Whenever any person is arrested for a

misdemeanor OR MISDEMEANOR TRAFFIC OFFENSE to which the provisions of section 42-4-1501 (3) and (4) (a) are applicable, the written notice which shall be tendered by the arresting officer shall contain the name and address of such person, the license number of the vehicle involved, if any, the number of such person's driver's license, the nature of the offense, the amount of the penalty prescribed for such offense, THE NUMBER OF POINTS ASSESSED AGAINST THE DEFENDANT'S DRIVING PRIVILEGE UPON CONVICTION, the date of the notice and summons, the time and place when and where such person shall appear in court in the event such penalty is not paid, and a place for such person to execute a signed acknowledgment of guilt and an agreement to pay the penalty prescribed within ten days, as well as such other information as may be required by law to constitute such notice as a summons to appear in court, should the prescribed penalty not be paid within the time allowed in section 42-4-1501.

(5.5) (a) Whenever a person is cited for any violation of this article classified as a civil traffic offense, other than those offenses to which the provisions of section 42-4-1501 (3) and (4) apply, the police officer charging the violation shall issue a written traffic citation to the offender. The citation shall contain the name and address of the offender and the number of such person's driver's license, if any; shall identify the offense charged, including a citation of the statute alleged to have been violated and a

brief statement or description of the offense, including the date and approximate location thereof; and shall direct the cited person to appear before a specified county judge or traffic referee at a stated date, time, and place. The place to appear as specified in said notice must be before a traffic referee or a county judge acting as a traffic referee within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense. The date of appearance by the alleged offender shall be the date of final determination of the offender's case unless a continuance for good cause is granted.

(b) Whenever a person is cited for any violation of this article classified as a civil traffic offense to which the provisions of section 42-4-1501 (3) apply, the police officer charging the violation shall follow the procedure set forth in section 42-4-1501 (4). The citation shall be in writing and shall contain: The name and address of the alleged offender; the license number of the vehicle involved, if any; the number of such person's driver's license, if any; the nature of the offense, including the citation of the statute alleged to have been violated, the date and approximate location of said violation, the amount of the penalty prescribed for such offense, including the number of points to be assessed against the offender's driving privilege upon conviction, and the time and place when and where such person shall appear in court in the event such penalty is not paid; and a place for such

person to execute a signed acknowledgment of guilt and an agreement to pay the penalty prescribed within ten days. The place to appear specified in said notice must be before a traffic referee or a county judge acting as a traffic referee within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense. One copy of said citation and notice shall be given to the violator by the citing officer, one copy shall be sent to the director of the motor vehicle division, and such other copies as may be required by rule and regulation of the motor vehicle division shall be sent to said director to govern the internal administration of this article between the motor vehicle division and the Colorado state patrol. The date of appearance should the penalty assessment not be paid within the specified time shall be the date of final determination of the offender's case.

(c) Service of the traffic citation shall have the force and effect of a summons to appear in the court shown on the face of the citation. When a violator is offered the opportunity to sign a promise to appear and refuses to so sign, the officer may make oral service by notifying the violator of the charge and the location, the place, and the time for appearance and by a notation on the citation form that he has complied with these requirements. Thereafter, a failure to appear in court at the time and place designated shall constitute civil contempt. Failure of the person cited

to provide written acknowledgment of guilt or to give a promise to appear shall not affect the validity of the civil notice to appear.

(d) If the cited person does not furnish satisfactory evidence of identity or the citing officer has reasonable grounds to believe that the person will disregard the notice to appear in court, the citing officer shall take the alleged offender without unnecessary delay before a county judge acting as a traffic referee or traffic referee who has jurisdiction over such traffic offense for a determination of whether a bail bond shall be required.

(e) When any person is apprehended for two or more violations of this article, arising out of the same incident, at least one of which is classified as a misdemeanor or misdemeanor traffic offense, the provisions of this section pertaining to misdemeanors and misdemeanor traffic offenses shall apply.

(f) When any person is cited for a civil traffic offense pursuant to paragraph (a) or (b) of this subsection (5.5), the date of appearance of the cited person shall be the date of final determination of the person's case. The date of appearance must be at least twenty days but not more than ninety days after the date of issuance of the citation unless the person cited demands an earlier hearing. At the cited person's first appearance before a traffic referee or a county judge acting as a traffic referee, the cited person shall be

advised of the nature of the charge or charges, the points to be assessed upon conviction, the possible pleas available, and the procedure to be followed upon each possible plea. The possible pleas available to the offender are guilty, no contest, or not guilty. A no contest plea shall have the same effect as a plea of guilty. Upon a plea of guilty or no contest, the traffic referee or county judge is authorized to impose a fine and assess penalty points within the prescribed limits of this article for the offense or offenses to which the offender has admitted guilt. The traffic referee or county judge is further authorized to impose applicable court costs as provided by statute. Failure of the person fined to pay the fine or costs within the time period prescribed shall constitute civil contempt. Upon a plea of not guilty, the cited person shall be entitled to an immediate trial on the merits pursuant to section 13-6-611, C.R.S. 1973. The offender shall not be entitled to a continuance unless, in the opinion of the traffic referee or county judge, there is good cause for said continuance. If a continuance for good cause is granted, the case must be reset for final determination within thirty days after the date a continuance is granted.

SECTION 6. 42-4-1506, Colorado Revised Statutes 1973, is amended to read:

42-4-1506. Compliance with promise to appear. A written promise to appear in court may be complied with by an appearance by counsel; EXCEPT THAT, WHERE A CIVIL TRAFFIC

OFFENSE IS CHARGED, THE CITED PERSON MUST APPEAR.

SECTION 7. Appropriation. There is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, to the judicial department, for the fiscal year commencing July 1, 1982, the sum of _____ ($), or so much thereof as may be necessary, for the implementation of this act.

SECTION 8. Effective date - applicability. This act shall take effect January 1, 1983, and shall apply to offenses committed on or after said date.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 21

A BILL FOR AN ACT

CONCERNING AN INCREASE IN JUROR FEES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases juror fees.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-10-114 (3), Colorado Revised Statutes 1973, is amended to read:

13-10-114. Trial by jury. (3) Jurors shall be paid the sum of ~~six~~ FIFTEEN dollars per day for actual jury service and ~~three~~ EIGHT dollars for each day of service on the jury panel alone.

SECTION 2. 13-33-101 (1), Colorado Revised Statutes 1973, is amended to read:

13-33-101. Fees of jurors. (1) For attending any court of record or grand jury, jurors shall receive ~~six~~ FIFTEEN dollars per day while actually engaged on the jury and ~~three~~

EIGHT dollars per day for attendance on the panel alone.

SECTION 3. 13-33-103 (1), Colorado Revised Statutes 1973, is amended to read:

13-33-103. Mileage fees of jurors and witnesses. (1) (a) ~~All--jurors--and-witnesses~~ EACH WITNESS shall receive fifteen cents per mile mileage fees in counties of every class for each mile actually and necessarily traveled in going from his place of residence to the place named in the subpoena.

(b) EACH JUROR SHALL RECEIVE THE PER MILE MILEAGE ALLOWANCE SET OUT IN SECTION 24-9-104, C.R.S. 1973, IN COUNTIES OF EVERY CLASS FOR EACH MILE ACTUALLY AND NECESSARILY TRAVELED IN GOING FROM HIS PLACE OF RESIDENCE TO THE PLACE NAMED IN THE SUMMONS AND FROM THE PLACE NAMED IN THE SUMMONS TO HIS PLACE OF RESIDENCE.

SECTION 4. Effective date - applicability. This act shall take effect July 1, 1982, and shall apply to all jurors selected on or after said date.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 22

A BILL FOR AN ACT

CONCERNING AN INCREASE IN DISTRICT AND COUNTY COURT JUDGES, AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides additional district and county court judges and makes an appropriation therefor.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-5-102 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

13-5-102. First district. (2) The number of judges for the first judicial district shall be ~~seven.--Effective-October 1,-1977,-the-number-of-judges-for-the-first-judicial--district shall-be-eight~~ NINE.

SECTION 2. 13-5-108 (2), Colorado Revised Statutes 1973, is amended to read:

13-5-108. Seventh district. (2) The number of judges for the seventh judicial district shall be ~~two~~ THREE.

SECTION 3. 13-5-109 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

13-5-109. Eighth district. (2) The number of judges for the eighth judicial district shall be ~~four~~ FIVE.

SECTION 4. 13-5-118 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

13-5-118. Seventeenth district. (2) The number of judges for the seventeenth judicial district shall be ~~five: Effective January 1, 1978, the number of judges for the seventeenth judicial district shall be six~~ SEVEN.

SECTION 5. 13-5-121 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

13-5-121. Twentieth district. (2) The number of judges for the twentieth judicial district shall be ~~four: Effective October 1, 1977, the number of judges for the twentieth judicial district shall be five~~ SIX.

SECTION 6. 13-5-122 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

13-5-122. Twenty-first district. (2) The number of judges for the twenty-first judicial district shall be ~~three~~ FOUR.

SECTION 7. 13-6-202, Colorado Revised Statutes 1973, as amended, is amended to read:

13-6-202. Number of judges. In each county there shall be one county judge; except that, in the county of El Paso, there shall be six county judges, in each of the counties of

Adams, ARAPAHOE, and Jefferson, there shall be five county judges, in ~~each-of-the-counties--of-Arapahoe-and~~ THE COUNTY OF Boulder, there shall be four county judges, in each of the counties of Larimer, Pueblo, and Weld, there shall be three county judges, in the county of Mesa, there shall be two county judges, and, in the city and county of Denver, there shall be the number of county judges provided by the charter and ordinances thereof. One of the county judges in Boulder county shall maintain a courtroom in the city of Longmont at least three days per week.

SECTION 8. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, for the fiscal year commencing July 1, 1982, to the judicial department, the sum of _____ dollars ($), or so much thereof as may be necessary for the implementation of this act.

SECTION 9. Effective date. This act shall take effect July 1, 1982.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 23

A BILL FOR AN ACT

CONCERNING AN INCREASE IN THE NUMBER OF JUDGES OF THE COURT OF APPEALS, AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases the number of judges of the court of appeals and makes an appropriation therefor.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-4-103 (1), Colorado Revised Statutes 1973, as amended, is amended to read:

13-4-103. Number of judges - qualifications. (1) The number of judges of the court of appeals shall be ~~ten~~ THIRTEEN.

SECTION 2. Appropriation. In addition to any other appropriation, there is hereby appropriated, and of any moneys in the state treasury not otherwise appropriated, for the fiscal year commencing July 1, 1982, to the judicial department, the seem of _____ dollars ($), or so

much thereof as may be necessary for the implementation of this act.

SECTION 3. Effective date. This act shall take effect July 1, 1982.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 24

A BILL FOR AN ACT

CONCERNING INTEREST PAYABLE ON APPEALED MONEY JUDGMENTS IN CIVIL ACTIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that a judgment debtor in a civil action shall pay interest on a judgment which he appeals unless he wins his appeal. Interest is payable from the date a judgment was first entered in the trial court until satisfaction of the judgment.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 12 of title 5, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

5-12-106. Rate of interest judgments which are appealed. (1) (a) If a judgment for money in a civil case is appealed by a judgment debtor and the judgment is affirmed, interest, as set out in subsections (2) and (3) of this section, shall be payable from the date of entry of judgment in the trial court until satisfaction of the judgment.

(b) If a judgment for money in a civil case is appealed by a judgment debtor and the judgment is modified or reversed with a direction that a judgment for money be entered in the trial court, interest, as set out in subsections (2) and (3) of this section, shall be payable from the date a judgment was first entered in the trial court until the judgment is satisfied. This interest shall be payable on the amount of the final judgment.

(2) The rate of interest shall be certified on each January 1 by the secretary of state to be two percentage points above the discount rate, which discount rate shall be the rate of interest a commercial bank pays to the federal reserve bank of Kansas City using a government bond or other eligible paper as security, and shall be rounded to the nearest full percent. Such annual rate of interest shall be so established as of December 31, 1982, to become effective January 1, 1983. Thereafter, as of December 31 of each year, the annual rate of interest shall be established in the same manner, to become effective on January 1 of the following year.

(3) The rate at which interest shall accrue during each year shall be the rate which the secretary of state has certified as the annual interest rate under subsection (2) of this section.

SECTION 2. 5-12-102 (4), Colorado Revised Statutes 1973, as amended, is amended to read:

5-12-102. Statutory interest. (4) EXCEPT AS PROVIDED IN SECTION 5-12-106, creditors shall be allowed to receive interest at the rate of eight percent per annum compounded annually on any judgment recovered before any court authorized to enter the same within this state from the date of entering said judgment until satisfaction thereof is made.

SECTION 3. Effective date - applicability. This act shall take effect January 1, 1983, and shall apply to all appeals filed with a district court, the court of appeals, or the supreme court on or after January 1, 1983.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 25

A BILL FOR AN ACT

CONCERNING THE EXPUNGEMENT OF COURT RECORDS OF REPEAT JUVENILE OFFENDERS AND VIOLENT JUVENILE OFFENDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that a repeat juvenile offender or a violent juvenile offender may have his court record expunged after a specified number of years.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 19-1-111 (2) (a), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

19-1-111. Court records - inspection - expungement. (2) (a) Any person who has been adjudicated under section 19-1-104 (1) (a) or (1) (b), who was handled pursuant to section 19-3-101 (2) (c), who was adjudicated a delinquent prior to July 1, 1967, or who was the subject of a petition dismissed pursuant to section 19-3-106 (3) (b) may petition

the court for the expungement of his record and UNLESS SUCH PERSON WAS A REPEAT JUVENILE OFFENDER, AS DEFINED IN SECTION 19-1-103 (23.5) OR A VIOLENT JUVENILE OFFENDER, AS DEFINED IN SECTION 19-1-103 (28), IN WHICH CASE, HE MAY PETITION THE COURT FOR EXPUNGEMENT OF HIS RECORD FIFTEEN YEARS AFTER THE DATE OF ADJUDICATION AS A REPEAT JUVENILE OFFENDER OR AS A VIOLENT JUVENILE OFFENDER. HE shall be so informed OF THIS RIGHT at the time of adjudication, or the court, on its own motion or on the motion of the juvenile probation or juvenile parole department, may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. Except as otherwise provided in this subsection (2), such petition shall be filed or such court order entered no sooner than two years after the date of termination of the court's jurisdiction over the person, or two years after his unconditional release from parole supervision, if he had been committed to the department of institutions. Only by stipulation of all parties involved may expungement be applied for prior to the expiration of two years from the date of termination of the court's jurisdiction or termination of the court's supervision under an informal adjustment.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 26

A BILL FOR AN ACT

CONCERNING THE SENTENCING OF MANDATORY SENTENCE OFFENDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that a mandatory sentence offender who is eighteen years of age or older on the date of a dispositional hearing may be sentenced to the county jail.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 19-3-113.1 (2) (b), Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is amended to read:

19-3-113.1. Violent and repeat juvenile offenders - mandatory offenders - disposition. (2) (b) The court shall place or commit a mandatory sentence offender out of the home for not less than one year; except that:

(I) IF THE PERSON IS EIGHTEEN YEARS OF AGE OR OLDER ON THE DATE OF A DISPOSITIONAL HEARING, THE COURT MAY SENTENCE THAT PERSON TO THE COUNTY JAIL FOR A PERIOD NOT TO EXCEED ONE YEAR, IF HE HAS BEEN ADJUDICATED A MANDATORY SENTENCE OFFENDER

PURSUANT TO SECTION 19-1-103 (19.5) FOR ACTS COMMITTED PRIOR TO HIS EIGHTEENTH BIRTHDAY; OR

(II) The child OR PERSON may be released by the committing judge upon a showing of exemplary behavior.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMITTEE ON JUDICIAL CASELOAD AND JUVENILE SENTENCING

APPENDICES

COLORADO JUDICIAL CASELOAD ACTIVITY FOR FY 1980-81

August 4, 1981

INTRODUCTION

This report contains a brief analysis of case filing statistics for fiscal year 1980-81 as well as short descriptions of responses by the Judicial Department to the steadily increasing caseload. The statistical information is a summary of material to be published in the Judicial Department's next annual report and was prepared from the preliminary data to meet the immediate needs of the Interim Committee on Judicial Caseload and Juvenile Sentencing. More detailed information on caseload activity will be furnished to the committee as requested.

Colorado's court activity over the past eight years has increased sharply. (Eight years of data are used to cover the period since the expansion of the jurisdiction of the Court of Appeals in 1975.) District court filings increased 41 percent and county court filings increased 54 percent. The appellate courts also demonstrated a similar increase in their caseload: the Supreme Court had a 58 percent increase in appeals, while the Court of Appeals experienced a 187 percent increase over the same period.

The growth in the state court caseload has been constant. The district court workload has grown at an average rate of 4 percent per year and the county court has grown at nearly 6 percent annually over the past eight years. The Supreme Court had a growth rate of 6 percent annually while the Court of Appeals outpaced all courts with a 14 percent growth rate. The growth rates for the appellate and the trial court caseloads grew faster than the population in the state. Specific increases by case type and by judicial districts are discussed later in this report.

To address the problems created by the rising caseload, the Judicial Department has continued its efforts to improve court management and streamline court procedures. The courts have initiated more efficient methods of handling the caseload through the implementation of a number of programs and changes in procedures. These programs are described in the last section of this report. From a managerial perspective,

the Judicial Department has responded to the rising caseload with a statistical or financial model ("cost model"). This cost model, developed in 1977, integrates budget and management processes through the use of long-range plans and the development of performance standards for the courts.

Despite these efforts to improve the quality and efficiency of court management, the continuing increase in caseload underscores the need for innovative court management practices and additional judicial resources.

OVERVIEW OF THE JUDICIAL CASELOAD

Last year's increase in appellate and trial court caseloads is continuing this year. The following summary indicates the growth in the caseload of the various appellate and trial courts. Those districts that have experienced significant growth also are identified in this section.

The Appellate Courts

For the eighth consecutive year the appellate courts show an increase in the number of appeals. The Supreme Court had a 2 percent increase in filings during the fiscal year 1980-81. This modest increase was caused by a 20 percent increase in the number of original proceedings and a 21 percent increase in the number of petitions for certiorari, counter-balanced by a 52 percent decrease in the number of criminal appeals. The 6 percent increase in filings for the Court of Appeals was accompanied by an increase in written opinions which is explained in the "Colorado Court of Appeals Recommendations for Reduction of Backlog of Cases at Issue", which is included in the materials furnished to the Interim Committee.

The District Courts

Case filings for the district courts have increased 41 percent since fiscal year 1973-74. This upward trend in case filings continued during fiscal year 1980-81 with a 9 percent increase for the state. This is the second largest increase since 1974 and comes after a 10 percent overall increase in the 1979-80 fiscal year. Civil cases alone increased by 15 percent while criminal filings grew at a rate of 12 percent. This is the second consecutive year of significant criminal case increase following a five-year period of stability.

District court activity changes are indicated by the following percentages shown in Table 1. (See Appendix A for fiscal year 1980-81 filings by district and case type.)

Table 1

DISTRICT COURT FILINGS
FY 1980 and FY 1981

Case Type	FY 1980	FY 1981 (See Note)	Percent Increase
Domestic Relations	34,505	35,937	4
Civil	37,365	42,866	15
Probate	7,223	7,615	5
Juvenile	16,687	17,510	5
Mental Health	2,523	2,637	4
Criminal	13,410	14,970	12
Total:	111,713	121,535	9

Note: Preliminary figures projected from 11 months data.

Urban counties led district court filings with a 9 percent increase compared to a 7 percent increase in the rural counties. Mesa County in the Twenty-first District experienced the highest increase of the urban courts jumping 18 percent in filings from last year, while Dolores and Montezuma Counties in the Twenty-second District, headed the rural courts with a 25 percent increase. (District courts with the highest percentage increase in case filings over the last year are listed in Appendix B.)

Civil. The largest increase in district court filings was in civil cases. An increase of 5501 case filings accounted for 54 percent of the total growth in district court filings. Fiscal year 1980-81 is the fourth consecutive year of civil filings increases with a 66 percent increase since fiscal year 1976-77. Increases occurred in nearly all districts.

Civil filings, such as contract disputes and personal injury cases, continue to dominate the total number of district court filings, with 35 percent of the total filings.

There may be a decrease in the number of civil case filings next year, however, due to an expected increase in the number of cases filed in county court as a result of the higher jurisdictional limit of $5,000 approved by the General Assembly during the 1981 session.

Domestic Relations. There was a 4 percent increase in domestic relations filings this year after a 2 percent increase in fiscal year 1980. Domestic relations cases comprised 29 percent of the total district court filings.

Probate. Probate cases increased 5 percent this year. Probate activity has increased 30 percent since fiscal year 1976-77.

Criminal. Fiscal year 1980-81 saw a 12 percent increase in criminal filings. This follows last year's 16 percent increase and continues a large upward trend.

Juvenile. Juvenile filings rose 5 percent this year. This was the largest increase in six years when there was a 27 percent increase in this type of case.

Mental Health. There was a 4 percent increase in mental health filings this year. Though this increase was not as great as last year the upward trend is still evident.

The district court increase in filings was matched in the county courts during the last year with the largest increase in caseload in six years.

The County Courts

County courts continued their upward trend in case filings during fiscal year 1980-81 with a 12 percent overall increase. This is the greatest rise since fiscal year 1974-75, when the state experienced a 13 percent increase in case filings. This year, small claims cases increased 59 percent while civil cases increased 14 percent. This trend is expected to continue with the change in civil jurisdiction where civil cases up to $5,000 can now be filed in the county court. (For a listing of case filings by county and by case type see Appendix C.)

Fiscal year 1980-81 increases by case type are shown in Table 2.

Table 2

COUNTY COURT FILINGS
FY 1980 and FY 1981

Case Type	FY 1980	FY 1981 (See Note)	Percent Increase
Civil	40,211	45,990	14
Small Claims	10,319	16,431	59
Traffic	161,817	174,566	8
Misdemeanor	29,299	33,068	13
Total:	241,646	270,055	12

Note: Figures are projected from 11 months of actual data.

Ouray County Court led all county courts with a 106 percent increase while all the counties in the Ninth District, which includes Garfield, Pitkin, Rio Blanco Counties, experienced increases ranging from 29 percent to 46 percent. (Appendix D lists those county courts which experienced the highest growth over the past year.)

Civil. Civil filings had the greatest increase since 1977. Filings increased by 11 percent in fiscal year 1978-79, 12 percent in fiscal year 1979-80 and 14 percent in fiscal year 1980-81; this represents an increase of 28 percent over the last two years. This rise parallels the overall increase in civil activity seen in the district court.

Small Claims. Ths most significant increase in filings for county courts was in small claims cases, where the addition of 6112 filings more than doubled over last year. This 59 percent increase in the largest single jump in small claims filings since the court's inception in 1977. This increase indicates that more litigants are turning to small claims courts to settle disputes. Raising the jurisdictional limit to $1,000 is expected to increase the number of cases filed in this court.

Traffic. Traffic filings showed a larger increase over the previous fiscal year with an 8 percent increase. Traffic filings constitute the largest portion of county court cases filed, comprising 65 percent of the total during fiscal year 1980-81.

Misdemeanor. Misdemeanor filings rose by 13 percent, which corresponds to the increase in criminal filings in the district court. Misdemeanor filings comprise over 12 percent of the total county court caseload.

In summary, total filings increased in most counties, however seven small counties had substantial decreases. Counties which saw 10 percent or greater decreases included Huerfano, Clear Creek, Hinsdale, Custer, Conejos, Costilla and Douglas.

INTERNAL RESPONSES TO THE RISING CASELOAD

A number of initiatives have been undertaken, both in the administration of the courts and in court procedures, to deal with the rising caseload. Projects and programs have been started by the appellate, district and county courts, the Judicial Planning Council and the State Court Administrator's Office. Included in these projects are innovative techniques for reducing case delay, a major study of court jurisdiction and the development of a financial model to serve as a management and budgetary tool. The following is a brief description of the projects and programs aimed at addressing caseload related problems.

The Appellate Courts

During the last six years, the Supreme Court has had a 75 percent rise in caseload. Given that the number of justices of this court is set by the Constitution, it is impractical to address this problem through the addition of new justices to the court. Consequently, the Supreme Court has considered the feasibility of expanding its use of law clerks to expedite the case processing. Such a proposal was made to the 1981 General Assembly.

The Court of Appeals has experienced a significant increase in its pending caseload over the past six years and they have developed a plan to reduce their backlog. This plan calls for the creation of a new division of judges and the gradual addition of 13 staff attorneys over the next few years. The Court's proposal accompanies this report.

Trial Courts

A number of innovative programs in the trial courts have been initiated on a pilot basis. These programs are

aimed at reducing delay, standardizing procedures, making more efficient use of judicial resources and equalizing the workload.

For example, case delay reduction programs have been implemented by the First Judicial District (Jefferson and Gilpin Counties), the Eighth District (Larimer County), Denver District Court, and the Twelfth Judicial District (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache Counties).

In 1978, the First Judicial District initiated a judicial control management system to address case backlog and court delay. This system, instituted on a pilot basis in one of the five divisions of the district court, applies to civil, criminal and domestic relations cases. The program does not require the use of outside judges, additional staff or equipment, but it does require careful planning and the long-term commitment of the division's judge and court staff. The program has resulted in significant reductions in case backlog and delay for both civil and criminal matters. For example, the percentage of open cases in the pilot division was 9 percent as of April 1, 1980, as contrasted with 28 percent in four comparable divisions within the district.

Denver District Court also has initiated a case expediting project to reduce trial delay for its civil cases. This program sets guidelines to establish firm docket dates for all cases within 12 months of the filing date. The result of this program is a more efficient use of the court's resources.

Denver is also experimenting with telephone conferencing in which judges and attorneys participate in hearings by phone rather than personal appearance. This program is being conducted in Boulder and the Twelfth District as well. It has resulted in a more efficient use of judge and lawyer time at considerable savings to both the public and litigants.

Another program to assist the trial court judges is the use of visiting judges and senior judges. Visiting judges are active judges temporarily reassigned from other courts by the Chief Justice under his administrative authority granted by the Constitution. Senior judges serve under Section 24-51-607(5), C.R.S. 1973, which authorizes additional compensation for retired judges who agree to provide 60 days of temporary service each year. Senior and visiting judges are appointed for a variety of reasons, including accumulation of judicial business, illness or death of an active judge, and disqualification of one or more judges in a court. Both visiting and senior judges greatly facilitate case processing in Colorado courts by providing services in emergencies, thereby reducing delay and preventing further accumulation of the backlog.

A number of training seminars for judges have been designed to address techniques and procedures to expedite case processing. Judicial training seminars are conducted semi-annually with a portion of this training devoted to the efficient processing of cases. A training team is also being organized to present techniques for improving case processing to judicial districts throughout the state. In addition, a delegation from Colorado will attend a fall conference conducted by the National Center for State Courts designed to assess the status of civil and criminal case processing in trial courts, to develop plans for implementing improvements and to determine how state level assistance can be furnished to trial courts which embark on delay reduction programs.

In addition, there are a number of other programs for handling caseload. One experiment, for example, involves modification of court rules. Most judicial districts have local rules whereby civil cases which have had no action within one year are dismissed. The First District in an attempt to expedite case processing, has adopted a 90 day rule.

Many districts use a multiple case docketing system, whereby trial dockets are set three to five cases deep in the known event that all but one case will settle or be withdrawn before it gets to trial. This has resulted in more efficient use of trial time. In other districts there has been an increased use of referees in small claims and traffic courts. This has been particularly effective in dealing with the increasing volume of cases. The expanded use of paralegals is utilized by some districts in civil cases. When a person makes their first appearance and is entering into default, paralegals are used to see that all forms are in order. The judge then signs the forms, rather than having the person appear before the bench. This procedure takes approximately one-tenth of the amount of time. Numerous other programs have been initiated including the increased use of pre-settlement conferences in civil cases to use trial time more effectively.

Two districts, the First and the Eighth, have initiated pilot projects to equalize judicial scheduling of cases. These projects provide that each judge hear all preliminary hearings and advisements for a set period of time. The judge is then responsible for those cases as they continue through the system. Procedures have been standardized by using more effective routine procedures. For example, two districts use rubber stamps rather than written orders in applicable cases, thus reducing judges and clerical time.

Finally, the Judicial Planning Council, an advisory body to the Chief Justice, has undertaken a jurisdictional study of the Colorado Courts. This study will make recommendations to solve the problems of the overlapping jurisdictions of the trial and appellate courts. It will further provide an analysis of the extra-judicial duties now performed by judges. The study will develop recommendations for the more effective and economical use of judicial resources.

Administrative Remedies

As the administrative arm of the state courts, the State Court Administrator's Office is concerned with the efficient and effective use of the resources appropriated to the courts. For this reason the Judicial Planning Council and the State Court Administrator's Office developed a cost-related management system in 1977 to improve the quality, availability and uniformity of court services.

The Cost Model integrates the budgeting and management processes of the courts through the development of long-range plans which include standards for workload and performance, staffing, case processing, case reporting, facilities and forecasting. These standards provide a more complete analysis of trial court staffing, both in terms of direct (adjudication of a case) and indirect (processing of a case) personnel needs, as well as caseload projections and resource assessment.

The same cost model methodology is used to analyze the need for additional judges in the trial courts. Last year's data indicated a need for additional judges in several districts and counties throughout the state, though, none were appropriated by the legislature.

The State Court Administrator's Office also provides a variety of management and financial services to the courts which serve to identify areas where the courts could be more effective and efficient. The most recent innovation, which was supported by the legislature, was the creation of an audit division which monitors budgetary and operational activities.

CONCLUSION

Reducing case delay has been and continues to be a high priority of the Chief Justice and the entire Colorado judiciary in an attempt to meet the increased demands on the judicial system resulting from rising caseload. Various new procedures

have been implemented to improve court management and to facilitate more efficient methods to handle the caseload. The improvements noted above will assist the Judicial Department to better administer its caseloads. However, improved procedures are only part of the solution to the problems that have arisen because of the increased caseload. In the final analysis, there is an urgent need for additional judges in many judicial districts that cannot be addressed solely by innovative management techniques.

B

October 30, 1981

The Honorable Paul V. Hodges
Chief Justice of the Supreme Court
of Colorado
State Judicial Building
2 East 14th Avenue
Denver, CO 80203

Dear Chief Justice Hodges:

This interim the legislative Committee on Judicial Caseload and Juvenile Sentencing has received numerous recommendations for alleviating the caseload problem of our state courts.

At our last meeting on October 23 the committee took action on many of these suggestions and requested that bill drafts be prepared on raising docket fees, more expeditious handling of non-contested dissolution of marriage cases, creation of a system for the administrative handling of minor traffic offenses, and the establishment of mediation and arbitration programs. These legislative drafts represent an attempt by the committee to remedy the delay and the rising backlog in the courts. There was also some discussion on raising juror fees and requiring that the litigants pay for these fees. This is a potential area of legislation.

One area which generated considerable discussion was whether or not the committee should recommend an increase in the number of judges. Although no recommendation was made on this issue, the topic will again be discussed at our final meeting scheduled for November 6.

Let me bring to your attention two items which have been of concern to the committee members. First, there has been some disappointment expressed that the committee has not received specific, concrete proposals from the judicial branch on legislative changes which would expedite the disposition of the current caseload and

assist in handling future filings. Secondly, many members on the committee have underscored the importance of the courts initiating methods to resolve their own problems by making internal changes in the administration and operation of the court system without legislative tinkering. Consequently, the committee respectfully requests you or your representative to describe the specific actions that the judiciary is willing to take in the following areas:

-- implementation of a case management system in all of the state's judicial districts;

-- elimination or modification of voir dire;

-- requiring attorneys, rather than the court, to keep depositions;

-- establishment of an initial screening process to reduce frivolous cases;

-- greater use of memorandum opinions by the courts;

-- provide for the administrative handling of traffic offenses;

-- increase fees for jurors in civil cases with a provision requiring the parties to pay in advance for the jury fees;

-- cooperation with local mediation and arbitration groups;

-- limiting discovery time;

-- limiting the time for oral argument; and

-- raising appellate docket fees.

In addition to addressing these items the committee would also like to have a definite proposal on the number of additional judges the judicial branch believes are needed, and in which districts and counties these judges would be located. We would also welcome your comments on Judge Enoch's proposal to add another division of three judges and nine staff attorneys to the Court of Appeals.

As I mentioned previously, our final meeting is scheduled for November 6. I know the time span is short, but the committee would appreciate your response on or before this date.

Thank you for your consideration of these matters.

Very truly yours,

S Paul Powers
Chairman
Interim Committee on
Judicial Caseload and
Juvenile Sentencing

PP/th

cc: Jim Thomas

Supreme Court of Colorado
STATE JUDICIAL BUILDING
2 EAST 14TH AVENUE
DENVER, COLORADO 80203

PAUL V. HODGES
CHIEF JUSTICE

October 30, 1981

Honorable Paul W. Powers
Chairman, Interim Committee on
Judicial Caseload and
Juvenile Sentencing
State Capitol Building
Denver, Colorado 80203

Dear Senator Powers:

As the work of your Interim Committee draws to a close, I want to commend you and the members for your genuine interest in exploring innovative suggestions and proposed changes in law for the improvement of the quality of services rendered by our Colorado judiciary. I'm hopeful the data and information which we furnished to you at your request were helpful and aided your committee in its studies. You have worked hard and performed ably this summer to meet the charge given in the interim resolution.

I continue to emphasize my view, shared by many users of our judicial system, that we have a sound, dedicated, and hard-working judiciary in Colorado. A constantly increasing caseload is causing backlog problems and will continue to do so in the future. Intensification of judicial docket management and the adoption of new procedures and administrative guidelines will, I am confident, expedite the processing of cases; however, this is not the total answer. The creation of several new judgeships in certain judicial districts is an absolute necessity also, if the judicial branch is to fulfill its responsibility to the citizens of our state.

I want to take this opportunity to review briefly several of the programs which are under way. I believe each will materially assist the judiciary in the processing of cases through the system.

Docket management pilot projects in two divisions of the Denver District Court, and the First and Eighth Judicial District Courts have been undertaken to expedite the disposition of cases. If the pilot efforts are successful, the

procedures will be implemented in the courts throughout the state.

The Project Director of the Juror Utilization and Management Program which has been in full operation in five of our judicial districts, has just advised me that during the months July to September 1981, the 17 courts that purchased telephone standby systems for jury management saved over forty-six thousand dollars in juror and mileage fees. This would permit the calling off of enough jurors to provide a $200,000 savings in a year, with resultant substantial savings to the business community.

The telephone conferencing experiments are proceeding as planned in at least three judicial districts. This innovation will surely result in more efficient use of the time of judges and lawyers. It will also permit considerable savings to both litigants and the general public.

In the past fiscal year, 22 senior judges participated in the 60-day service program, providing more than one thousand days of service in the various Colorado courts. This program is of extreme value to the system.

We also have other worthwhile pilot projects in the planning stage. Our efforts in this regard are of course geared to effectuating the more rapid flow of cases through the courts.

A committee of the Judicial Planning Council has now been charged with the responsibility of conducting a jurisdictional study of the Colorado courts. It is hoped that valuable recommendations for further improvements in court operation, procedures, and jurisdiction will be made by this blue ribbon committee of prominent citizens, including persons in business, the professions, the media, the General Assembly, and the judiciary.

Please be assured of my cooperation at all times.

Yours sincerely,

PAUL V. HODGES
Chief Justice

PVH/jb
cc: Committee Members

Supreme Court of Colorado
STATE JUDICIAL BUILDING
2 EAST 14TH AVENUE
DENVER, COLORADO 80203

PAUL V. HODGES
CHIEF JUSTICE

November 5, 1981

Hon. Paul W. Powers, Chairman,
Interim Committee on Judicial
Caseload and Juvenile Sentencing
State Capitol Building
Denver, Colorado, 80203

Dear Senator Powers:

I have your letter of October 30, 1981 detailing various concerns expressed by members of the Interim Committee on Judicial Caseload and Juvenile Sentencing.

In my letter to you last week, which was delivered to your office on October 30, 1981 before I received your letter, I briefly described a number of pilot programs which have been undertaken to explore the feasibility of innovative procedures which are designed to hasten the progress of cases through our courts. Some of the matters discussed in my letter relate to certain inquiries listed in your letter.

I respond as follows to your inquiries.

Implementation of a case management system in all of the state's judicial districts. As stated in my letter to you of October 30, 1981, docket management pilot programs are in progress in three of our judicial districts. It is too early to determine the feasibility or applicability in all our judicial districts of all the pilot procedures. Preliminary surveys indicate many of the procedures will be beneficial. Implementation of this type of new procedure in all judicial districts will definitely add to the workload in each court. This and other factors must be determined before such new procedures can be fully implemented. As procedures are determined to be feasible, they will be adopted. Meanwhile, the pilot ventures will be fully surveyed and analyzed, and may be extended to several rural area courts.

Elimination or modification of voir dire. We have given considerable thought and study to this issue. Our Rules of Criminal

Procedure allow the trial judge to limit and restrict voir dire and all judges have been encouraged to utilize this rule when they deem it proper. We have studied the use of voir dire in criminal cases in Adams, Denver, El Paso and Larimer counties during April, May and September 1980 and found that the average voir dire was 4.05 hours in felony cases and 1.16 hours for misdemeanors. This is not unreasonable in my view. Nevertheless, the Judicial Department and a committee of the Colorado Bar Association are studying the subject to determine whether further modification of the voir dire rule is needed or would significantly shorten criminal trials.

Requiring attorneys, rather than the Court, to keep depositions. This is a procedural matter in my view. The Supreme Court Committee on Civil Rules is studying the problem and if the Court adopts certain recommendations made by this committee, changes regarding the filing of depositions and interrogatories will be made. The only problem involved here seems to be a storage difficulty in certain courts.

Establishment of an initial screening process to reduce frivolous cases. There is no way to ascertain initially how frivolous a case might be. Such conclusions in most cases cannot be reached until later in the process or at trial. Any initial screening process would, in my view, be of no value.

Greater use of memorandum opinions by the courts. This is a matter our appellate courts have under continuous consideration. Where appropriate, memorandum or short opinions are issued. The decision as to which cases deserve memorandum opinions is properly left to the discretion of each court and the author.

Provide for the administrative handling of traffic offenses. This is a question of public policy and requires statutory change. Your committee has already recommended the drafting of a bill on this subject. I believe that the administrative handling of minor traffic violation cases initially would greatly relieve the caseload of our county courts.

Increase fees for jurors in civil cases with a provision requiring the parties to pay in advance for the jury fees. We have always supported the concept of increasing juror fees, and have

endorsed recent legislative proposals in this direction. It would be more practical just to raise the statutory fees, as provided in section 13-70-103, C.R.S. 1973, passed originally in 1963. As to the jury demand fee, it is impossible to know in advance what amount should be paid in a given case. If the jury demand fee were increased substantially, provision would have to be made for a refund if the fee exceeded the actual cost of the jury.

Cooperation with local mediation and arbitration groups. This is now our policy and we shall continue to work with such groups co-operatively.

Limiting discovery time. A new rule, 26.1, has recently been adopted and addresses this problem. A copy is attached.

Limiting the time for oral argument. This is already being done in the appellate courts. In the trial courts, the judge is better equipped to determine this factor in local situations and I am not inclined to suggest that the Supreme Court set arbitrary limits on oral arguments in the trial courts.

Raising appellate docket fees. These fees were raised from $35 to $65 effective January 1, 1981 by the Supreme Court.

With reference to your inquiry regarding the number of additional judges now required, I am enclosing a document entitled "Judge Need in Priority Order for FY 1982-1983." I believe this document will fully answer your inquiry. I do wish to emphasize, however, as I did in my letter of October 30, 1981, that the judge need as demonstrated in this document is urgent. The courts involved are seriously undermanned and require the additional judges to adequately serve the public needs.

You have also requested a comment from me on Chief Judge Enoch's proposals to add another division of three judges and nine staff attorneys to the Court of Appeals. The following is a brief summary of the caseload and projections relating to our Colorado Court of Appeals.

The Court of Appeals has experienced an increase of 48.4% in filings since 1974-75 and a 235% increase in cases at issue awaiting disposition. It is anticipated that by 1985-86, filings will increase another 31%. The court has increased its dispositions by

94% during this same period by the use of preargument conferences, accelerated docket, staff attorneys, screening of appeals, eliminating oral arguments in 46.4% of its cases and limiting the time of orals in another 46.5%. The court has also made greater use of short memorandum opinions and, where appropriate, affirmance without a written opinion. In spite of these internal changes, the number of cases coming at issue continues to exceed the rate of dispositions. The rate of dispositions per judge appears to have been pushed to the limit and without additional personnel, as required, the number of cases awaiting disposition will continue to increase.

From the above, it would appear obvious that our Colorado Court of Appeals is in urgent need of additional personnel.

I am hopeful my comments as to each of the matters you mentioned in your letter of October 30th will assist you and your committee in its deliberations.

With best personal regards.

Sincerely,

PAUL V. HODGES
Chief Justice

PVH/gh
Attachs. - 2

cc: Members of the Committee

JUDGE NEED IN PRIORITY ORDER FOR FY 1982-83

RANK	COURT	FY 1982-83 PROJ. FILINGS	STANDARD	JUDGE NEED	JUDGE ACTUAL** (Inc. REFEREES)	VARIANCE
1.	7th District Court (Montrose)	2431	888	3.0*	2	1.0
2.	8th District Court (Fort Collins)	5910	1023	5.8	4	1.8
3.	Arapahoe County Court (Littleton)	31089	4877	6.4	4 (.5)	1.9
4.	21st District Court (Grand Junction)	4052	1023	3.9	3	1.0
5.	20th District Court (Boulder)	7148	1023	7.0	5 (1)	1.0
6.	17th District Court (Brighton)	9070	1023	8.9	6 (2)	.9
7.	1st District Court (Golden)	12299	1023	12	8 (3)	1.0

* .25 has been added to Judge Need to account for water cases.

** Referees are denoted in parenthesis and included in the calculation of variance.

O R D E R

C.R.C.P. 26.1, Special Provisions Regarding Limited and Simplified Discovery, is hereby adopted as follows:

Rule 26.1. Special Provisions Regarding Limited and Simplified Discovery.

(a) Request for Limited and Simplified Discovery. A party may at any time file a written request that discovery in the case be governed by this Rule 26.1. Such request may be endorsed upon a pleading of the party. Any party opposing such request shall in his responsive pleading, if one is required, or within thirty (30) days after service of such request upon such party if no further responsive pleading is required, file a written response setting forth the reasons why the provisions of this Rule 26.1 should not apply. If no party opposes such request, the provisions of this Rule 26.1 shall govern discovery in the case. If opposition to the request is filed, the matter shall be determined by the court within thirty (30) days after demand for such determination is made to the court by any party.

(b) Determination. In ruling upon a demand for limited and simplified discovery, the court shall determine whether in the interest of justice discovery should be limited and simplified in accordance with this Rule 26.1. The factors to be considered shall include, but shall not be limited to, the following: First, whether the factual and legal issues involved in the case lend themselves to the limited and simplified discovery provided for in this Rule 26.1; Second. the extent and expense of discovery anticipated in the case; Third, the amount in controversy; Fourth, the number of parties and their alignment with respect to the underlying claims and defenses; Fifth, whether any party would be prejudiced in the trial of the case by application of or failure to apply this Rule 26.1.

(c) Discovery Procedures Under This Rule 26.1. When the provisions of this Rule 26.1 govern, the parties shall thereafter be limited to the following methods of discovery, unless modified or rescinded by order of court for good cause shown or by written stipulation of the parties:

(1) A party may take the depositions of three persons. The manner of proceeding by way of deposition and the use thereof shall otherwise be governed by Rules 26, 28, 29, 30, 31, 32 and 45.

(2) A party may serve one set of written interrogatories upon each adverse party. The scope and manner of proceeding by way of interrogatories and the use thereof shall otherwise be governed by Rules 26 and 33, except that the number of interrogatories to any one party shall not exceed thirty (30), each of which shall consist of a single question.

(3) When there is in controversy the mental or physical condition (including the blood group) of a party or of a person in the custody or under the legal control of a party, an adverse party may obtain a mental or physical examination of that party or person upon reasonable written notice to such party or person. Otherwise, the provisions of Rule 35 shall apply to such examinations.

(4) Inspection and copying of documents or tangible things and entry, inspection or testing of land or property shall be accomplished pursuant to Rule 34.

(5) A party may serve upon each adverse party one set of requests for admissions which shall not exceed twenty (20) in number, each of which shall consist of a single request. The scope and manner of proceeding by way of requests for admissions and the use thereof shall otherwise be governed by Rule 36.

(6) All discovery governed by this Rule 26.1(c) shall be completed no later than thirty (30) days before trial.

(d) Continuing Duty to Disclose. Every party is under a continuing duty to timely supplement or amend responses pursuant to Rule 26(e).

(e) Pre-Trial Disclosure. No later than thirty (30) days prior to trial, each party shall disclose the following material to all other parties: (1) the name, address and telephone number of any witness or party whom the party may call at trial, other than rebuttal or impeachment witnesses the necessity of whose testimony cannot be reasonably anticipated, together with a summary of such person's testimony or a copy of any written statement of such person which essentially covers the expected testimony; (2) a description, copy or photograph of any physical evidence which the party may offer into evidence at trial; (3) a copy of any document or writing

which the party may offer into evidence at trial; (4) a summary of the qualifications of any expert witness the party may call at trial, together with a report or statement of any such expert witness which sets forth the subject matter of the expert witness' anticipated testimony, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion; (5) an itemization of general and special damages, together with a discription of the basis for calculating special damages.

(f) Certificate of Compliance. Not later than fifteen (15) days before trial, each party in the case shall file with the court a certificate of compliance stating that such party has fully complied with all provisions of this Rule 26.1 applicable to the case and with all orders of court entered under this Rule 26.1. When the provisions of this Rule 26.1 govern, no pretrial procedures pursuant to Rule 16 or any local rule shall apply unless by specific order of court in the case.

(g) Deposition of Unavailable Witness. A party may take the testimony of any person by deposition upon stipulation, or upon court order if the court determines that there is a reasonable likelihood that the person will be unavailable at trial as a witness and that the testimony of such person is necessary to a claim or defense of any party. Such order may be made only on motion for good cause shown and upon notice to the person to be deposed and to all parties.

(h) Sanctions. If any party fails to comply with the provisions of this Rule 26.1 in an action governed by it, the court may impose sanctions upon such party pursuant to Rule 37.

Approved and adopted by the Court En Banc this 30th day of April 1981, effective July 1, 1981.

Robert B Gay
Justice,
Chairman, Court Rules Committee

E

Office Of The State Court Administrator

Colorado Judicial Department

JAMES D. THOMAS
STATE COURT ADMINISTRATOR

TWO EAST FOURTEENTH AVENUE
DENVER, COLORADO 80203
(303) 861-1111

E. KEITH STOTT, JR.
DEPUTY STATE COURT ADMINISTRATOR

October 23, 1981

M E M O R A N D U M

TO: Interim Committee on Judicial Caseload and Juvenile Sentencing

FROM: James D. Thomas

SUBJECT: Docket Fees

As you requested on October 2 we have reviewed various alternatives for increasing the docket fees presently in effect in the state court system.

On Table 1 we have listed the results of applying an inflation percentage to docket fees from 1975 through 1982. In the last column the fees are rounded to reflect our suggesticns should the committee wish to raise the fees commensurate with inflation since 1975. In addition, I suggest that fees for domestic relations cases be the same as fees for other district court civil cases. Table 2 reflects the current docket fees in Arizona, Kansas, Nebraska and Wyoming and the dates of their last increase. As you can see, those fees are lower than the current docket fees in Colorado.

We have also reviewed Section 13-16-103 which provides for the waiver of docket fees in cases where the party is unable to pay because of financial limitations. We were asked to provide some sliding scale or pro rata schedule of fees based on ability to pay. It is our opinion that such a schedule is unnecessary in view of Section 13-16-103 and would be extremely difficult to enforce equitably in the 63 counties which include 128 separate courts. I know from personal experience that if a person is unable to pay the docket fee the waiver is granted by the judges throughout the state.

A copy of the Section 13-16-103 is attached for your reference.

In summary, we recommend that the domestic relations docket filing fee be set at the same amount as the civil docket fee and that no sliding scale be established.

JDT:hk

Enclosure

TABLE 1

COLORADO
DOCKET FEES RELATED TO THE STATE AND LOCAL GOVERNMENT DEFLATOR INDEX
BY CALENDAR YEAR

Fee Type	Current Fee	1975 9.4%	1976 6.8%	1977 6.6%	1978 7.4%	1979 8.2%	1980 8.7%	1981 9.7%	1982 10.1%	Fees Rounded
Domestic Relations										
Plaintiff	$25	$27.35	$29.21	$31.14	$33.45	$36.19	$39.34	$43.16	$47.52	$ 50
Respondent	12.50	13.68	14.61	15.57	16.72	18.09	19.66	21.57	23.75	25
District Court Civil										
Plaintiff	40	43.76	46.74	49.83	53.52	57.91	62.95	69.06	76.04	75
Defendant	20	21.88	23.37	24.91	26.75	28.94	31.46	34.51	38.00	40
County Court Civil										
Plaintiff	8	8.75	9.35	9.97	10.71	11.59	12.60	13.82	15.22	15
Defendant	8	8.75	9.35	9.97	10.71	11.59	12.60	13.82	15.22	15
Small Claims										
Plaintiff	8	8.75	9.35	9.97	10.71	11.59	12.60	13.82	15.22	15
Defendant	4	4.38	4.68	4.99	5.36	5.80	6.31	6.92	7.62	8
Probate										
a) Docket Fee - Small Estates, Summary Administrative Proced.	3	3.28	3.50	3.73	4.01	4.34	4.72	5.18	5.70	6
b) Docket Fee - Other Estates	25	27.35	29.21	31.14	33.45	36.19	39.34	43.16	47.52	50
c) Add'l Fee - Supervision	50	54.70	58.42	62.28	66.89	72.38	78.68	86.31	95.03	95
d) Docket Fee - Claimant	25	27.35	29.21	31.14	33.45	36.19	39.34	43.16	47.52	50
e) Registration Fee - Trust	25	27.35	29.21	31.14	33.45	36.19	39.34	43.16	47.52	50
f) Docket Fee - Trust	25	27.35	29.21	31.14	33.45	36.19	39.34	43.16	47.52	50
Judgment Fees										
$5,001 - $10,000	10	10.94	11.68	12.45	13.37	14.47	15.73	17.26	19.00	20
10,001 - 20,000	30	32.82	35.05	37.36	40.12	43.41	47.19	51.77	57.00	60
20,001 - 30,000	50	54.70	58.42	62.28	66.89	72.38	78.68	86.31	95.03	95
30,001 - 50,000	90	98.46	105.16	112.10	120.40	130.27	141.60	155.34	171.03	175
50,001 -	90+	98.46	105.16	112.10	120.40	130.27	141.60	155.34	171.03	175+

COLORADO

DOCKET FEES RELATED TO THE STATE AND LOCAL GOVERNMENT DEFLATOR INDEX

BY CALENDAR YEAR

	Current Fee	1975 9.4%	1976 6.8%	1977 6.6%	1978 7.4%	1979 8.2%	1980 8.7%	1981 9.7%	1982 10.1%	Fees Rounded
Appeals-Special Proceedings										
County Court-Criminal	$10	10.94	11.68	12.45	13.37	14.47	15.73	17.26	19.00	20
Motion to Dismiss-Defendant	5	5.47	5.84	6.23	6.69	7.24	7.87	8.63	9.50	10
Motion to Authorize Sale	15	16.41	17.53	18.69	20.07	21.72	23.61	25.90	28.52	30
Criminal Actions										
District Court	15	16.41	17.53	18.69	20.07	21.72	23.61	25.90	28.52	30
County Court	8	8.75	9.35	9.97	10.71	11.59	12.60	13.82	15.22	15
County Court-Traffic	4	4.38	4.68	4.99	5.36	5.80	6.31	6.92	7.62	8
Adoption Fee	10	10.94	11.68	12.45	13.37	14.47	15.73	17.26	19.00	20

TABLE 2

DOCKET FEE COMPARISON

	Arizona		Kansas		Nebraska		Wyoming		Colorado	
Appellate Court	Amt.	Last Inc.	Amt.	Last Inc.	Amt.	Last Inc.	Amt.	Last Inc.	Amt.	Last Inc.
Special Actions	$15	1976	$35	1974	$20	1977	$25	1978	$66	1975
Direct Appeals	$25	1976	$35	1974	$20	1977	$25	1978	$65	1975
District Court (Gen. Juris.)										
Civil	$30	1976	-	-	$35	1977	$25	1978	$40	1975
Civil - Damages over $5,000	-	-	$35	1974	-	-	-	-	-	-
Civil - Damages from $500-$4,999	-	-	$15	1974	-	-	-	-	-	-
Civil - Damages under $500	-	-	$ 5	1974	-	-	-	-	-	-
Domestic	-	-	$35	1974	-	-	$25	1978	$25	1975
Divorce	$40	1976	-	-	-	-	$25	1978	-	-
Legal Separation	$30	1976	-	-	-	-	$25	1978	-	-
Probate	$30	1976	$50-125	1974	-	-	$25	1978	-	-
County Court (Limited Juris.)										
Civil	-	-	-	-	$14	1981	$10	1979	$ 8	1975
Small Claims	-	-	-	-	$ 2	1977	$10	1979	$ 8	1975

10/23/81

COSTS

ARTICLE 16

Costs - Civil Actions

13-16-103. Costs of poor person. If the judge or justice of any court, including the supreme court, is at any time satisfied that any person is unable to prosecute or defend any civil action or special proceeding because he is a poor person and unable to pay the costs and expenses thereof, the judge or justice, in his discretion, may permit such person to commence and prosecute or defend an action or proceeding without the payment of costs; but, in the event such person prosecutes or defends an action or proceeding successfully, there shall be a judgment entered in his favor for the amount of court costs which he would have incurred except for the provision of this section, and this judgment shall be first satisfied out of any money paid into court, and such costs shall be paid to the court before any such judgment is satisfied of record.

Source: Amended, L. 79, p. 600, § 21.

F

Office Of The State Court Administrator

Colorado Judicial Department

JAMES D. THOMAS
STATE COURT ADMINISTRATOR

TWO EAST FOURTEENTH AVENUE
DENVER, COLORADO 80203
(303) 861-1111

E. KEITH STOTT, JR.
DEPUTY STATE COURT ADMINISTRATOR

November 13, 1981

Honorable Paul W. Powers
Chairman, Interim Committee on Judicial
Caseload and Juvenile Sentencing
Room 208
State Capitol Building
Denver, Colorado 80203

Dear Senator Powers:

As you requested we have reviewed the impact of the proposed docket fee increases on revenue at the trial court and appellate court levels and found they will result in an increase of $8,210,796. We also reviewed the cost of raising the juror fees, the cost per domestic relations case, and the cost of setting up a new judge.

Documentation of these estimates are attached. Attachment I itemizes the revenues generated by the increased docket fees in county and district court as well as the Court of Appeals and the Supreme Court. Attachment II estimates the cost per case for domestic relations cases and offers a suggestion for raising the fee for administering the collection and disbursement of alimony and support funds. Attachment III is an estimate of the cost of the proposed raise in juror fees and Attachment IV is an estimate of the cost of setting up a judge.

Should you need anything further, please let me know.

Sincerely,

James D. Thomas
State Court Administrator

JDT:vr

Attachments

ATTACHMENT I

IMPACT OF PROPOSED DOCKET FEE
INCREASES ON REVENUE

The Judicial Interim Committee on Judicial Caseload and Juvenile Sentencing proposal to raise docket fees for cases filed in the Supreme Court, the Court of Appeals and in the district and county courts would generate an additional $8,210,796 in revenue during FY 1982-83. In arriving at these estimates projected filings for FY 1982-83 were used which account for the jurisdictional changes in district and county court civil cases. It must be noted, however, that the effects of the jurisdictional change were based on only two months experience.

Distribution of filings and judgment amounts are based on prior years' experience in the courts.

Table 1 compares the total effect on revenues for the Supreme Court, Court of Appeals, the district courts and the county courts. In the past all fees collected by the Supreme Court and Court of Appeals were used to fund the Supreme Court Law Library which in this fiscal year is approximately $125,000. Under the proposed bill 33% of the collected fees would be given to the library. That amount in FY 1982-83 is estimated to be $205,944.

Tables #2 - #5 compare the proposed fees to current fees and their effect on revenue for the Supreme Court, the Court of Appeals and the district and county courts.

TABLE 1

REVENUES FROM PROPOSED INCREASE
IN DOCKET FEES BY COURT

	Revenue Projections at Current Rate	Revenue Projections at Proposed Rate	Additional Revenue
SUPREME COURT[A]	$ 46,850	$ 220,950	$ 174,100
COURT OF APPEALS[A]	84,115	397,500	313,385
DISTRICT COURT	2,416,714	9,661,200	7,244,486
COUNTY COURT	547,228	1,026,053	478,825
Total	$ 3,094,907	$11,305,703	$8,210,796

[A] Fees collected in the appellate courts are currently used to fund the Supreme Court Law Library.

TABLE 2

IMPACT OF RAISING FILING FEES FOR THE
SUPREME COURT AND COURT OF APPEALS

	Current Fee	Proposed Fee	Filings 1982-83	Revenue Projection at Current Rate	Revenue Projection at Proposed Rate	Additional Revenue
COURT OF APPEALS						
Filing Fee[A]	$65	$300	923	$ 59,995	$276,900	$216,905
Respondent Fee[B]	30	150	804	24,120	120,600	96,480
Total				$ 84,115	$397,500	$313,385
SUPREME COURT						
Filing Fee[C]	$65	$300	532	$ 34,580	$159,600	$125,020
Respondent Fee[D]	30	150	409	12,270	61,350	49,080
Total				$ 46,850	$220,950	$174,100
Total Appellate Court Revenue				$130,965	$618,450[E]	$487,485

[A] Approximately 62 percent of these filings (1488) pay the filing fee.

[B] Approximately 54 percent of the Court of Appeals filings pay the "Respondent fee".

[C] Approximately 52 percent of all Supreme Court filings (1023) pay the filing fee.

[D] Approximately 40 percent of all Supreme Court filings pay the "Respondent Fee".

[E] Under the proposed legislation 33 1/3 percent or $205,944 would be earmarked for the Supreme Court Law Library.

TABLE 3

IMPACT OF RAISING DISTRICT COURT
CIVIL CASE DOCKET FEES

	Current Fee	Proposed Fee	Filings 1982-83	Revenue Projections at Current Rate	Revenue Projections at Proposed Rate	Additional Revenue
DISTRICT CT CIVIL						
Filing Fee[A]	$40	$150	37480	$1,499,204	$5,622,000	$4,122,796
Respondent Fee[B]	20	75	22488	449,760	1,686,600	1,236,840
Appellant Fee[C]	30	100	153	4,590	15,300	10,710
Total				$1,953,554	$7,323,900	$5,370,346

[A] Approximately 2 percent of the cases pay no filing fee because the type of case is exempted from paying a fee.

[B] Approximately 60 percent of the cases with a paid filing fee also have a paid respondent fee.

[C] Approximately .4 percent of total civil filings involve appeals from the county court.

TABLE 4

IMPACT OF RAISING DOCKET FEE TO 1%
OF THE JUDGMENT AWARD IN CASES OVER $10,000

	Current Fee	Proposed Fee	Projected No. of Judgments	Revenue Projection at Current Rate	Revenue Projection at Proposed Rate	Additional Revenue
DISTRICT CT (Civil Case Prayer Amounts)						
$5,000 - 10,000	$10	NA	585	$ 5,850	$ NA	$ NA
$10,000 - 20,000	30	A	337	10,110	50,550	40,440
$20,000 - 30,000	50	A	281	14,050	70,250	56,200
$30,000 - 50,000	90	A	225	20,250	90,000	69,750
over 50,000	(90+ $2	A	655	412,900	2,126,500	1,707,750
TOTAL	per 1,000)		2083	$ 463,160	$2,337,300	$1,874,140

[A] 1 percent of judgment

TABLE 5

IMPACT OF RAISING COUNTY COURT
CIVIL CASE DOCKET FEES

	Current Fee	Proposed Fee	Filings 1982-83	Revenue Projection at Current Rate	Revenue Projection at Proposed Rate	Additional Revenue
COUNTY CT CIVIL						
Filing Fee	$8	$15	62,185	$ 497,480	$ 932,775	$ 435,295
Respondent Fee [A]	8	15	6,219	49,748	93,278	43,530
Total				$ 547,228	$1,026,053	$ 478,825

[A] Approximately 10 percent of total filings

ATTACHMENT II

COST PER DOMESTIC RELATIONS CASE

The average cost for domestic relations cases is $66.68 per case using the cost model methodology. This is based on three districts -- Denver, Adams and Boulder -- which have court personnel, judges, referees, reporters, bailiffs and clerks exclusively assigned to domestic relations cases. Due to the limited time available to compute these costs, only these three districts were evaluated. It would appear that these probably are representative for purposes of calculating average cost per case.

The variable operating rate is added to the personnel cost to arrive at the total Average Cost Per Case. This is the amount which is allocated to each court to cover per case expenses such as file folders, labels, postage and miscellaneous materials.

	No.FTE	SALARY	TOTAL COST	CASE TERMINATIONS	COST/ CASE	VARIABLE OPERATING RATE	TOTAL COST/ CASE
Denver District Court							
Judges	3	47,260	$141,780				
Direct Support Staff	6	17,556	105,336				
Referees	2	26,784	53,568				
Clerks	4	16,600	66,400				
Total			$367,084	6058	$60.59	$3.91	$64.50
Adams District Court							
Judges	1	47,260	$ 47,260				
Direct Support Staff	2	17,556	35,112				
Referees	1	26,784	26,784				
Clerks	3	16,600	49,800				
Total			$158,956	2752	$57.76	$3.91	$61.67
Boulder District Court							
Judges	1	47,260	$ 47,260				
Direct Support Staff	2	17,556	35,112				
Referees	1	26,784	26,784				
Clerks		16,600	49,800				
Total			$158,956	2272	$69.96	$3.91	$73.87
Average Cost Per Case					$62.77	$3.91	$66.68

The legislature may wish to include an amendment to C.R.S. 1973, 13-32-101(a) which establishes a fee of $5 to administer the collection and disbursement of alimony and support funds. This is a one-time fee and does not reflect the cost of administering the collection and disbursement of funds. Some states collect a percentage per month, such as three percent. Another alternative is to consider an increase in the one-time fee.

ATTACHMENT III

PROPOSED RAISE IN JUROR FEES AND MILEAGE RATE

Raising fees to $15/day if a juror serves on a case and $8/day if the juror is called would result in a $790,461 increase in current costs. Raising mileage reimbursement to 20¢ for two ways would result in additional costs of $276,947 annually. The total increase in cost would be $1,067,408.

TABLE 1

COST IMPACT OF RAISING
JUROR FEES TO $8 AND $15

	Number Days [A]	Current Rate	Current Cost	Proposed Rate	Proposed Cost	Increase Over Current Cost
Called	85,761 (68%)	$3	$257,283	$8	$686,088	$428,805
Sworn	40,184 (32%)	6	241,104	15	602,760	361,656
	125,945 (100%)		$498,387		$1,288,848	$790,461

TABLE 2

COST IMPACT OF RAISING
JUROR TRAVEL REIMBURSEMENT TO 20¢/MILE

	Number Miles [A] (One Way)	Current (15¢ One Way)	Proposed (20¢ One Way)	Proposed (20¢ Two Ways)
Juror	1,107,787	$166,168	$221,557	$443,115

[A]The number of days and miles are based on FY 1980-81 data.

FY 83 COST PER JUDGE UNIT

	Salaries	PERA	H & L	Total
* District Judge 4.0 FTE				
Personal Services				
Judge	$47,260	$7,089	$516	$54,865
Reporter III (70/1)	21,576	2,632	516	24,724
Division Clerk II (53/1)	14,200	1,732	516	16,448
LSA I (51/1)	13,536	1,651	516	15,703
Total	$96,572	$13,104	$2,064	$111,740
Operating - Initial Setup & Fixed Costs First Year.				
Tele Installations, (4@ $195)				$ 780
Eq Mtce Typewriters (2@ $ 98)				196
Supplies (4@ $125)				500
Tele Avail (4@ $240)				960
Total				$ 2,436
Capital Equipment				
Judge-Chambers				$ 6,820
Reporter & Clerk @ $2,025				4,050
Legal Staff Assistant @ $750				750
Courtroom				11,597
Jury Room				2,027
Total				$25,244
TOTAL DISTRICT JUDGE				$139,420
* County Judge (Class B County)				
Personal Services				
Judge	$40,588	$6,088	$516	$47,192
Div. Clerk I (49/1)	12,900	1,574	516	14,990
Div. Clerk (47/1)	12,276	1,498	516	14,290
Bailiff (37/1)	9,624	1,174	516	11,314
Total	$75,388	$10,334	$2,064	$87,786
Operating - Initial Setup & Fixed Costs First Year.				
Tele Installation (4@ $195)				$ 780
Eq Mtce Typewriter (2@ $ 98)				196
Supplies (4@ $125)				500
Tele Avail (4@ $240)				960
Total				$ 2,436
Capital Equipment				
Judge Chambers				$ 6,820
Courtroom (Includes courtroom recorder)				13,288
Jury Room (six jurors)				1,397
Div. Clerks (2@ $2,025)				4,050
Bailiff (1@ $ 750)				750
Total				$26,305
TOTAL COUNTY JUDGE				$116,527

Notes: 1) Salaries of clerical raised 2 grades (5%) for FY 83 wage survey.
2) Capital equipment costs for clerical per page 7 of FY 83 budget.
3) Capital equipment for chambers, courtroom and jury room per FY 81 estimate plus 5% inflation.

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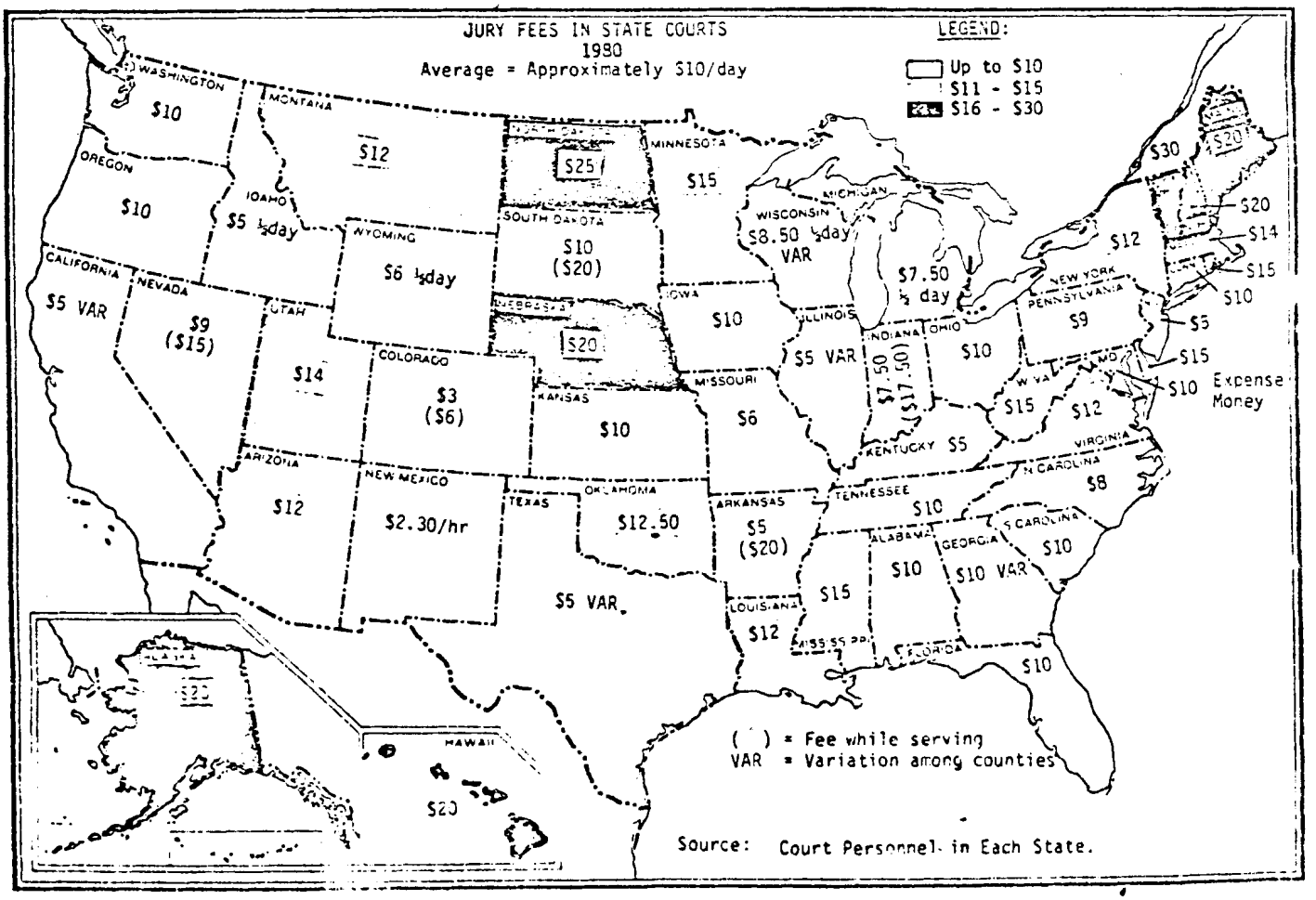
JURY FEES IN STATE AND LOCAL COURTS

In comparison to wage rates, now averaging $50 a day, jury fees are low and have not reflected inflationary increases. Despite recent increases in a few states, jury fees in state and local courts averaged about $10 per day at the start of 1980. Utah recently raised its fee from $4 to $14 per day; Louisiana from $6 to $12 throughout the state except for New Orleans where $16 is the premium rate, and Hudson City, NJ, increased from $3 to the statewide norm of $5 daily.

The following map shows the statewide or most common fee paid in each of the 50 states. Most rates are for a day but at least four states pay by the half-day and New Mexico measures its fees by the hour. Colorado, Arkansas, Indiana, Nevada and South Dakota differentiate their rates, paying about twice as much to sworn jurors as to those waiting in the lounge. Although the fee is usually set by state statute, it varies by county in California, Georgia, Illinois, Texas, Maryland, and elsewhere may be established separately for specific courts as in Cambridge, New Orleans and San Francisco. Moreover, many anomalies creep in, as in Philadelphia, PA, where the city employment tax of 39¢ is deducted from the $9 fee common elsewhere in the state. Whether any courts withholds federal income taxes is not known, although IRS instructions list jury fees along with royalties as declarable income.

Probably the most innovative fee structure is that introduced last year in Cambridge, MA, when one-day/one-trial began there. During the first three days of jury duty, no fee is paid but employers are required to continue paying regular wages; for longer periods the court pays jurors $40 per day. During 1979, only about 5% of petit jurors have served on long trials and thus received fees. Anchorage, AK, has adopted a variant of the Cambridge plan paying jurors $3 for the first day and $25 thereafter.

While such arrangements decrease the fees paid by the court, they shift the burden of juror costs to employers or to individuals losing income. Benefits of no-fee plans should thus be considered in the total context.



H

COLORADO COURT OF APPEALS
RECOMMENDATION FOR REDUCTION OF BACKLOG
OF CASES AT ISSUE

David W. Enoch
Chief Judge

August, 1981

I. INTRODUCTION

In 1968, when the Colorado Supreme Court's backlog was considered [illegible] enough to warrant a House Joint Resolution to direct the appointment of a Committee on Appellate Courts by the Legislative [illegible], cases in the Supreme Court had an average time of 18 to 20 months from filing to disposition. In 1981, the Court of Appeals has surpassed the 1968 time in its largest case load; non-accelerated civil [illegible]. The average time now from filing to disposition is 22 months for non-accelerated civil cases and 21 months for criminal cases.

If, in 1969, the General Assembly had not taken action to re-create the Court of Appeals, the Supreme Court's backlog obviously would have increased, as noted by the number and ages of cases transferred from the Supreme Court to the Court of Appeals. In 1970, 408 cases were transferred, and 157 of these were three and four years old.

The table below compares the delay time in months from "at issue" status to oral argument for civil cases in the Supreme Court in 1968; civil cases transferred to the Court of Appeals in 1970; and non-accelerated civil cases set for oral agument in September 1981 in the Court of Appeals.

COURT AND YEAR	NUMBER OF MONTHS FROM AT ISSUE TO ORAL ARGUMENT*
1968 Colo. Supreme Court	10
1970 Transferred cases	27.6 (Range - 24 to 36 months)
September 1981	14

*See Attachment A. For the 1970 transfers, the time elapsed is from at issue to date of transfer (January 1970).

The above table demonstrates that the present time problem in the Court of Appeals is more severe than that experienced by the Supreme Court in 1968, and also points out by example the potential for further backlog problems as evidenced by the age of cases transferred in 1970.

The table below illustrates the growth in time for a civil case to be set for oral argument over the past six years, and the increase in the time from date of filing to the date of disposition.

YEARS	NUMBER OF MONTHS FROM AT ISSUE TO ORAL ARGUMENT (Civil Cases)	FROM DATE OF FILING TO DISPOSITION*	
1975	1.4	1975	8.2
1976	2.4	1976	10.8
1977	1.9	1977	12.5
1978	2.5	1978	9.6
1979	7.0	1979	13.1
1980	10.6	1980	19.3
1981(Sept.)	14.0	1981(July)	22.0

*See Attachment B

II. CAUSE OF THE BACKLOG

As the following table shows, the Court of Appeals' pending cases figure has increased annually despite dramatic increases in the number of cases terminated.

FY	74-75	75-76	76-77	77-78	78-79	79-80	80-81
Cases pending	359	592	674	884	1003	1098	1139
New cases	858	915	1128	1119	1214	1207	1273
Total Caseload	1217	1507	1802	2003	2217	2305	2412
Terminations	625	833	918	1000	1120	1166	1213
(By opinion	467	559	593	651	745	720	791)
(dismissals & transfers	158	274	325	349	374	446	42?)
Cases pending	592	674	884	1003	1097	1139	1199

If the number of terminations does not keep up with the number of new filings, obviously the number of cases pending will increase. Another component to the court's backlog is the increasing number of "at issue" cases, or those ready for decision. This at issue backlog has grown from 169 cases at the end of FY 74-75 to 566 cases at the end of FY 80-81. The reason this backlog has grown is simply that the number of cases reaching at issue status each year has been greater than the number of at issue cases the court has terminated.

III. OVERVIEW

The Court of Appeals has always strived to reduce the time required for case disposition. However, the time required to dispose of an appeal is increasing at a rapid rate. All of the available information indicates that there will be no significant change in this situation unless there is an immediate change in the court's structure. The court recognizes its obligation to bring these matters to the attention of the members of the General Assembly and to the People of Colorado, and the further obligation to propose a solution.

The Intermediate Courts of Appeal in the 30 states with appellate courts have the same basic problem. A survey of these courts and an analysis of our own court leads to the conclusion that there is no easy solution nor is there a proven plan which is adaptable to our court. At best, the solution is a judgment call as to what changes are necessary.

IV. PROPOSED SOLUTION.

After considering numerous alternatives, including the financial implications, the court has determined that the most practical and effective solution is the addition of another division of three judges and the addition of nine staff attorneys. The details and specifics of this plan will be addressed later in this report.

V. ANTICIPATED CASELOAD

A formula has been developed to determine the number of cases coming at issue each year. This formula was worked out in conjunction with the statisticians of the Judicial Department, and in consideration of the most recent Judicial Department projections for District Court filings. District Court filings have had a positive relationship with the number of filings in the Court of Appeals. Following is the caseload projection used as the basis from which the recommendation was made.

CASELOAD PROJECTIONS WITH PRESENT STAFF

	79-80	80-81	81-82	82-83	83-84	84-85	85-86
Pending Cases Beginning of Fiscal Year	1098	1139	1199	1459	1746	2069	2431
New Filings	1207	1273	1457	1497	1550	1607	1669
Terminations W/O Opinion	446	422	463	476	493	511	531
Total Caseload	1859	1990	2193	2480	2803	3165	3569
Terminations by Opinion	720*	791*	734	734	734	734	734
At Issue at end of FY	527	566	743	1015	1317	1656	2036
Not at Issue	612	633	716	731	752	775	799
Pending Cases, End FY	1139	1199	1459	1746	2069	2431	2835

* Includes opinions concerning sentencing outside presumptive range (5 in FY 79-80, 28 in FY 80-81), and retired judge's opinions (9 in FY 79-80, 13 in FY 80-81).

The figures in the above table are used throughout this report. See appendix for explanation of the computations.

V. PROPOSED PLAN FOR ADDITION OF ONE DIVISION OF JUDGES AND NINE STAFF ATTORNEYS

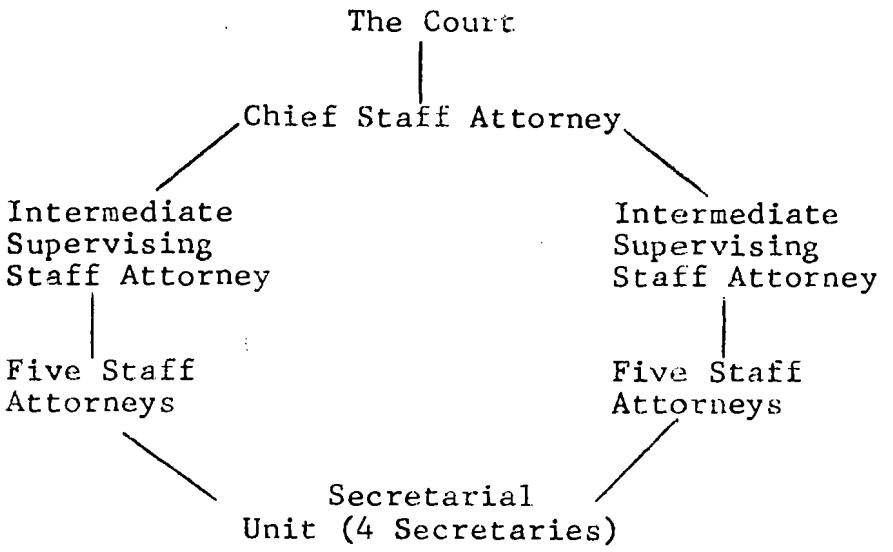
This plan calls for the addition of one division of three judges and nine additional staff attorneys for a total of 13 judges and 13 staff attorneys. The addition of three judges is necessary to increase the decisional capacity of the court. The present court of 10 judges, without additional assistance, has reached its limit for the disposition of cases, if the judges are to continue to give each case the careful consideration that is expected and demanded of an appellate court.

In addition to the three judges, the success of the plan is contingent upon an increase in the number of staff attorneys. The court has had the benefit of four staff attorneys and has learned that with their assistance in the screening of cases, research and preparation of rough drafts, the decisional and final drafting time of the judge is, in most cases, reduced as much as 50%.

It is anticipated that three of the staff attorneys would be permanent employees who would have some administrative responsibilities

in training and supervising the other staff attorneys, in addition to working on cases. The other 10 attorneys would devote their full time to cases at issue. They would be employed for two-year periods with five being hired each year. This staggered hiring will make it possible for the production of the central staff to remain relatively constant. All criminal cases and all civil cases, except those on the accelerated docket, would be processed by the central staff prior to oral arguments and assignment. After an orientation and training period of three months, an attorney would be expected to produce seven cases per month or 84 per year. As shown on the table on the next page, the additional division of judges and additional staff attorneys will result in a constant rate of production and a steady decrease in the Court's backlog.

Staff Attorney Configuration



	At Issue Cases At Start FY	Cases Coming At Issue, FY	Total No. of At Issues	Central Stf. Production	Staff Cases Per Judge	Accel. Docket Cases	Accel Docket Cases/J.	Tota No. of Opinions	Total Judge	Cases A Issue
FY 82-83	743	1006	1749	560	46	581	47	1141	93	608
FY 83-84	608	1036	1644	896	73	324	27	1220	100	424
FY 84-85	424	1073	1497	896	73	324	27	1220	100	277
FY 85-86	277	1114	1391	896	73	324	27	1220	100	171

This plan calls for the Court to retain two types of case dockets. One of these dockets would be accelerated cases, and the other docket would be all other remaining cases. Accelerated cases would be assigned without the benefit of staff attorney analysis. The remaining cases would first be assigned to the central staff unit for a bench memorandum and draft opinion. The difference in the projected production figures for FY 82-83 and subsequent years, as shown in the above table, is due to the fact that only half of the full compliment of staff attorneys will have been hired in that year. Following the computation relative to staff attorney production

FY 82-83 (5 new staff attorneys)

1st 3 mos.: 5 new staff attorneys x 7 cases/mo. x 3 mos. = 105 ÷ 2 = 53
Remaining 9 mos.: 5 new Staff Attorneys x 7 cases/mo. x 9 mos. = 315 315
One incumbent non-supervising staff attorney: 1 x 7 x 12 = 84 84
Two intermediate supervising staff attorneys: 2 x 4 x 12 = 96 96
One Chief Staff Attorney: 1 x 1 x 12 = 12 12
560

FY 84-85: Same as FY 83

FY 85-86: Same as FY 83

FY 83-84 (5 new staff attorneys: 4 new FTE and 1 incumbent staff attorney rollover)

1st 3 months: 5 new staff attorneys x 7 cases/mo. x 3 mos. = 105 ÷ 2 = 53
Remaining 9 mos.: 5 new staff attorneys x 7 cases/mo. x 9 mos. = 315 315
Five second year staff attorneys: 5 x 7 cases/mo. x 12 mos. = 420 420
Two intermediate supervising staff attorneys: 2 x 4 x 12 = 96 96
One Chief staff attorney: 1 x 1 x 12 = 12 12
896

From the above analysis, it is apparent that annually, 896 cases can be produced with a 50% time saving without losing the accuracy and detail that the public expects and deserves. The overall result is an annual reduction in the backlog of cases at issue.

See Attachments C & D

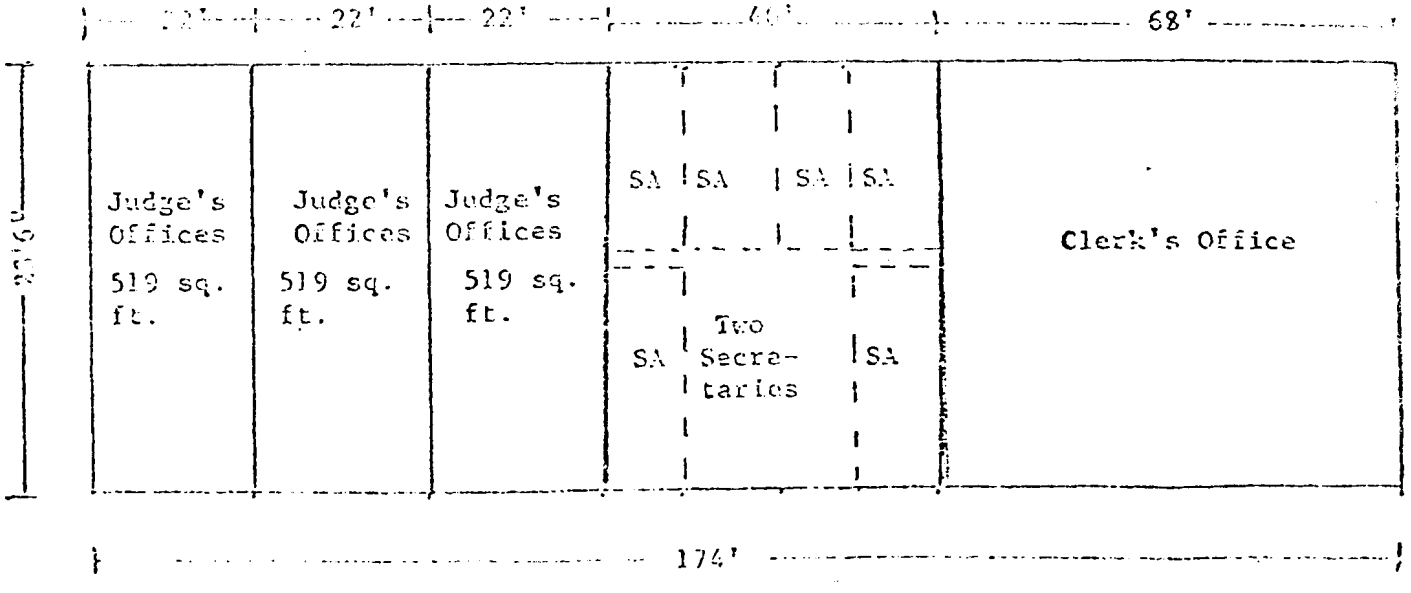
VII. COST FOR ADDITIONAL PERSONNEL

Listed below are the salary and benefits cost for the proposed plan.

		Salary	PERA	Health & Life	Subtotal
Judges	$51,152 x 3 =	153,456	23,016	1,440	[illegible]
Law Clerks	21,000 x 3 =	63,000	0	1,440	64,440
Secretaries	14,220 x 3 =	42,660	5,205	1,440	49,305
					$291,65[illegible]
10 regular Staff attorneys	$24,972 x 10 =	249,720	30,466	4,800	284,986
2 Intermediate supervisors	30,000 x 2 =	60,000	7,320	960	68,280
1 Chief Staff Attorney	35,000 x 1 =	35,000	4,270	480	39,750
					$393,016
4 secretaries (Admin. Sec. II)	12,900 x 4 =	51,600	6,295	1,920	59,815
					$74[illegible]
(Cost of present unit-4 staff attorneys & 1 sec.)					-124,946
Total For Plan					$6[illegible]

VIII. FACILITIES

This plan for expansion of court personnel will also require physical expansion. Because of the inadequacy of space at present in the clerk's office it will be necessary to increase that office for present and future needs. Below is a schematic diagram which depicts the approximate amount of space necessary for this plan. This schematic represents one-half of one floor in the Judicial Building. The dashed lines represent individual staff attorney offices with each approximately 100 square feet of space, which is approximately the space presently used by Court of Appeals' law clerks. It would be necessary for the staff attorney unit not shown on the schematic to occupy the space presently used by the clerk's office.



APPENDIX

f. The following will explain the rationale and calculations used in the Caseload Projections Without Additional Staff found on page two of this report. Rationale for Projections:

a. New Filings:

The number of new filings is based upon projections for District Court filings in Colorado. A positive relationship was found to exist between District Court filings and Court of Appeals filings. That relationship of District Court filings, with a one year time lag, and Court of Appeals filings, is as follows:

District Court filings		Court of Appeals filings		Correlation Coefficient
FY 75-76	93,939	FY 76-77	1128	1.2
FY 76-77	92,408	FY 77-78	1119	1.21
FY 77-78	95,907	FY 78-79	1241	1.27
FY 78-79	101,601	FY 79-80	1207	1.19
FY 79-80	111,713	FY 80-81	1273	1.14

A Judicial Department statistician determined the average correlation coefficient to be 1.20.

To compute the expected Court of Appeals filings through FY 85-86, multiply the District Court projected filings derived from their caseload projection model[1] by the correlation coefficient to arrive at the expected number of Court of Appeals filings, allowing for a one year time lag.

LISTED BELOW ARE CALCULATIONS TO COMPUTE NEW CASE FILINGS:

	District Court filings and Fiscal Year		Multiplied by 1.20%	Court of Appeals Filings and Fiscal Year	
ACTUAL	FY 79-80	111,713	x 1.20%	FY 80-81	1341
PROJECTED	FY 80-81	121,403	x 1.20%	FY 81-82	1457
PROJECTED	FY 81-82	124,729	x 1.20%	FY 82-83	1497
PROJECTED	FY 82-83	129,158	x 1.20%	FY 83-84	1550
PROJECTED	FY 83-84	133,904	x 1.20%	FY 84-85	1607
PROJECTED	FY 84-85	139,112	x 1.20%	FY 85-86	1669

b. Terminations Without Opinion:

One factor used throughout the projected number of terminations is that a static percentage of each year's filings was used to project the number of dismissals and transfers. Over the last six years the percentage of dismissals and transfers compared with each year's filings has remained relatively constant. The percentage averages out to be 31.8% and that percentage was used to project this type of termination.

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[1] The caseload projection model is explained on pages 55 and 56 of FY 79-80 Annual Report of the Colorado Judiciary

c. Total Caseload:

This is the addition of the figure from the Pending Cases at the Beginning of Fiscal Year column added to the number of new filings. Subtract from this sum the number of terminations without opinion.

d. Terminations by Opinion:

With the exception of the actual number of opinions issued in FY 79-80 and FY 80-81, the average of the court's opinion production for the last three fiscal years was used, after first subtracting out the opinions from presumptive penalty reviews and retired judge's cases. (745 + 706 + 750 = 2201 ÷ 3 + 734).

e. At Issue at the End of the Fiscal Year:

In order to arrive at this figure, one first must determine the number of cases which will come at issue in the fiscal year. To do this, it was determined that 42% of cases filed in any given fiscal year reach at issue status in that same fiscal year. This percentage was determined by going back through the cases which came at issue in calendar 1980 and determining what type of case each was, e.g., criminal, civil, accelerated civil, Industrial Commission. From this study the, average amount of time each type of case took to reach at issue status was determined . Once these averages were arrived at, one could then take the average percentages of types of cases filed and determine how many should come at issue in the same fiscal year. Again, it was determined that 42% of cases filed in one year came at issue in the same year.

Thus, to calculate the number of cases coming at issue in a certain year, the formula used is as follows:

Take the number of new filings and subtract from that number the number of cases which will be terminated without written opinion. This figure is then multiplied by 42%. Add this product to the previous year's filings minus terminations without opinion multiplied by 58% (the averages show that all cases should come at issue at least the year following the case's filing, albeit all do not). This sum is the number of cases which should come at issue.

To calculate the number of cases at issue at the end of the fiscal year, the calculations are as follows:

At Issue at end of year = New filings minus Dismissal/Transfers multiplied by 42%. That product is added to 58% of the previous year's filings after first subtracting out the previous year's dismissal/transfer figure. This sum is then added to the number of cases at issue pending at the end of the previous fiscal year. Subtract from this sum the projected number of terminations by opinion.

f. Cases Not At Issue

Initially, calculate the number of pending cases at the end of the fiscal year by subtracting from the total caseload figure the number of terminations by opinion. After this sum has been determined, subtract the number of cases at issue at the end of the fiscal year.

d. Non-Personnel Costs:

There are additional costs attendant to this plan. However, the figures are much more speculative than the salary costs covered previously in this report. Further, the rental of space cost is dependant upon location, availability of state owned buildings and for these reasons is also speculative.

ONE DIVISION

FURNITURE	
Judge Desk - 475 x 3	$ 1,425
Lawclerk desk - 375 x 3	1,125
Secretary desk - 250 x 3	750
Judge chair - 350 x 3	1,050
Lawclerk chair - 175 x 3	525
Secretary chair - 90 x 3	270
Typewriter - 900 x 3	2,700
Dictating Equipment - 1,200 x 3	3,600
Side Chair, Judge 100 x 6	600
Side Chair, secretary & Lawclerk - 80 x 12	960
File cabinets (lateral) - 420 x 6	2,520
Book cases - 200 x 9	1,800
Credenza - 400 x 3	1,200
Tables (lamp) - 150 x 6	900
Couch - 700 x 3	2,100
	$ 21,525
BOOKS	
Colo. Reports - free	-0-
Colo. App. Reports - free	-0-
Colo. Digest - 1,200 x 3	3,600
Colo. Statutes - free	-0-
Session Laws - free	-0-
West's Colo. Reporter - 2,500 x 3	7,500
Shepard's Colo. Cites - 115 x 3	345
Jury Insts. Civil 55 x 3	165
Jury Insts. Crim. - 64 x 3	192
	$ 11,802
MISC. OPERATING COSTS	
Desk Supplies - 210 x 9	$ 1,890
Telephone - 800 x 3	2,400
Stationery - 200 x 3	600
	$ 4,890
Total for One Additional Division of Judges Excluding Salaries:	
Furniture	$21,525
Books	11,802
Misc. Operating	4,890
	$38,409

Nine Additional Staff Attorneys and
Three additional secretaries:

Furniture

Desk - 450 x 9	$ 4,050
Chair - 175 x 9	1,575
Desk (secretary) - 250 x 3	750
Chair (secetary) - 90 x 3	270
Typewriter - 900 x 3	2,700
Dictating Equipment - 450 x 12	5,400
Side Chairs - 80 x 12	960
File cabinets (lateral) - 420 x 4	1,680
Book cases - 200 x 9	1,800
	$ 19,185

BOOKS

Colo. Reports - free	-0-
Colo. App. Reports - free	-0-
Colo. Digest - 1,200	1,200
Colo. Statutes - free	-0-
Session Laws - free	-0-
West's Colo. Reporter - 2,500	2,500
Shepard's Colo. Cites - 115	115
Jury Insts. Civil 55 x 3	165
Jury Insts. Crim. - 64 x 3	192
	4,172

MISC OPERATING COSTS

Desk Supplies - 210 x 12	$ 2,520
Telephone - 70 x 12	840
	$ 3,360

OFFICE SPACE FOR ADDITIONAL DIVISION AND STAFF ATTORNEYS

1/2 of one floor of Judicial Bldg. = 4089 sq. ft.
4089 sq. ft. x $15 per sq. ft. for rental = $ 61,335

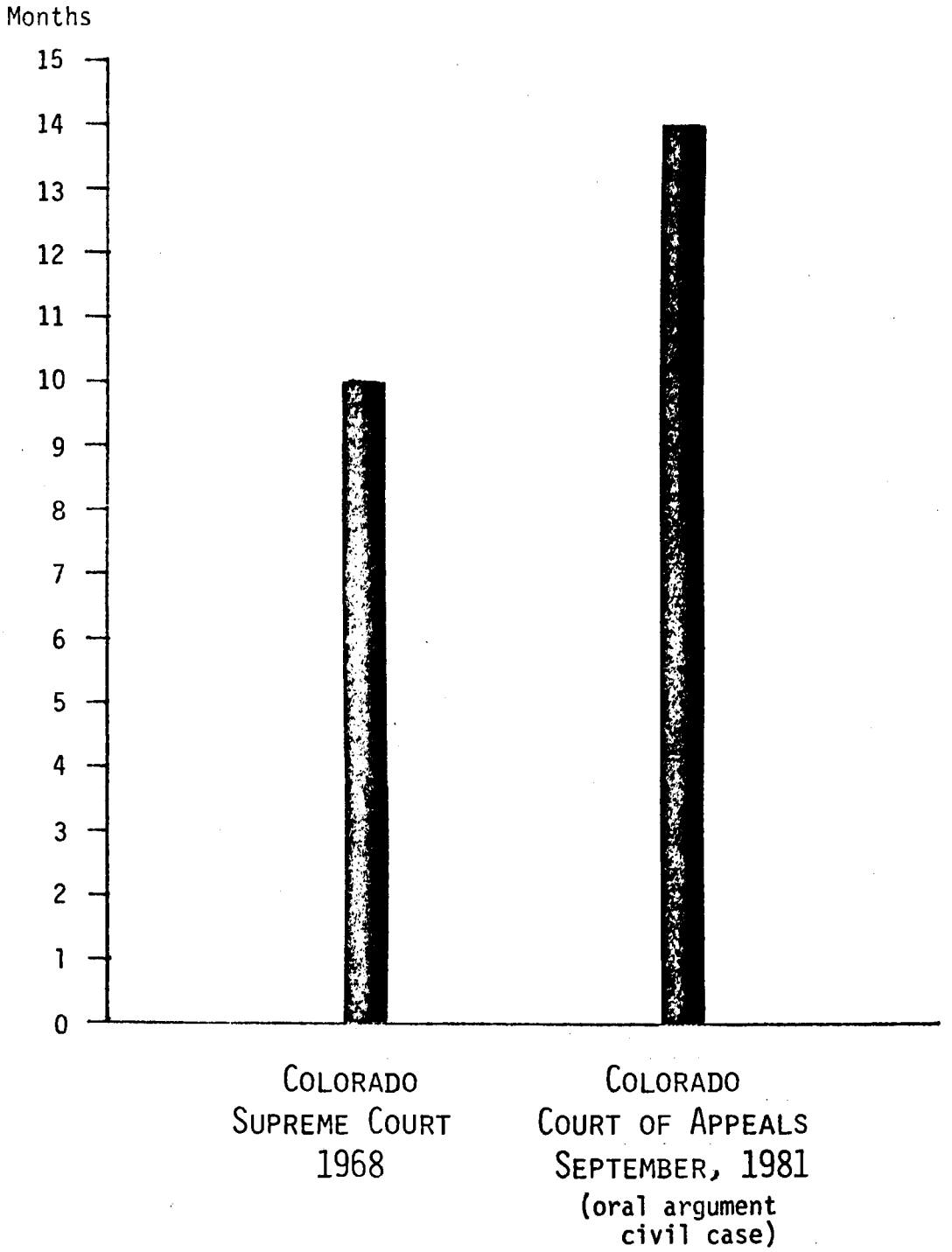
TOTAL COST FOR PLAN EXCLUDING SALARIES:

Furniture	$21,525 +	$ 19,185	$ 40,710
Books	11,802 +	4,172	15,974
Misc. Operating costs	4,890 +	3,360	8,250
Office Space		61,335	61,335
			$126,269

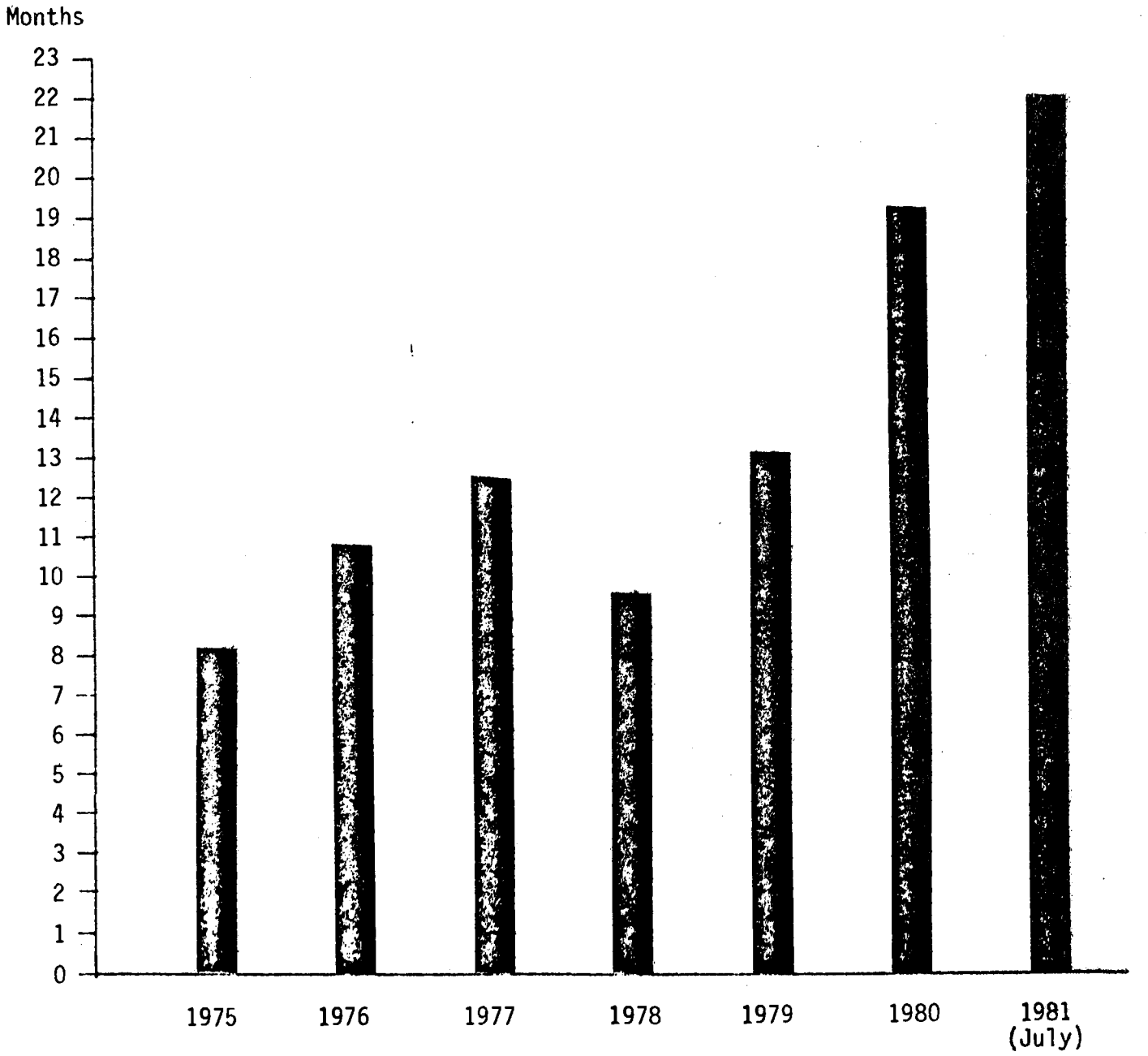
TOTAL COST FOR PLAN INCLUDING SALARIES

Non-Personnel	126,269
Personnel	615,540
Total:	$741,809

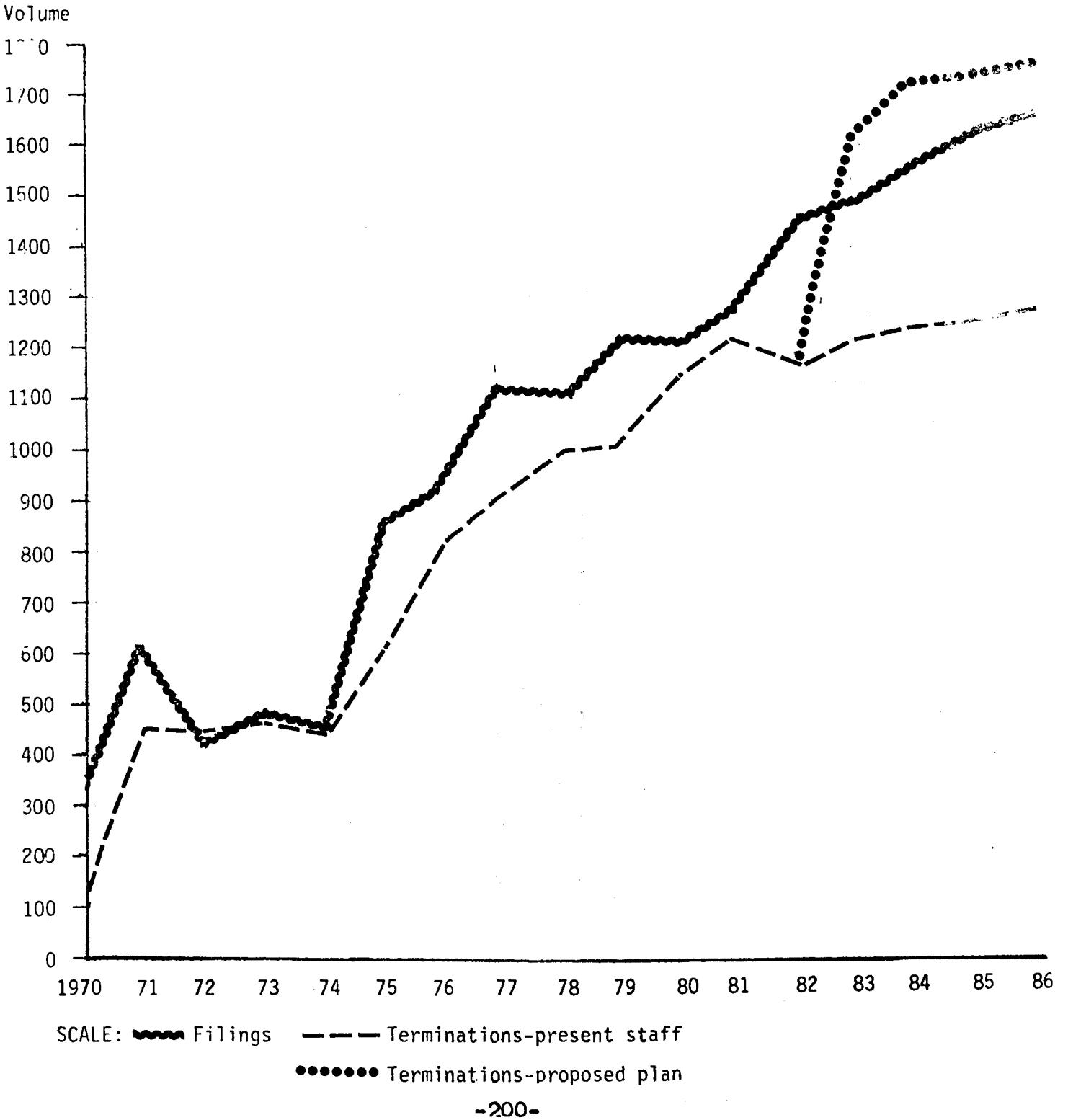
COURT OF APPEALS
CASES AT ISSUE TO ORAL ARGUMENT
IN MONTHS



COURT OF APPEALS
TIME FROM
DATE OF FILING TO DISPOSITION

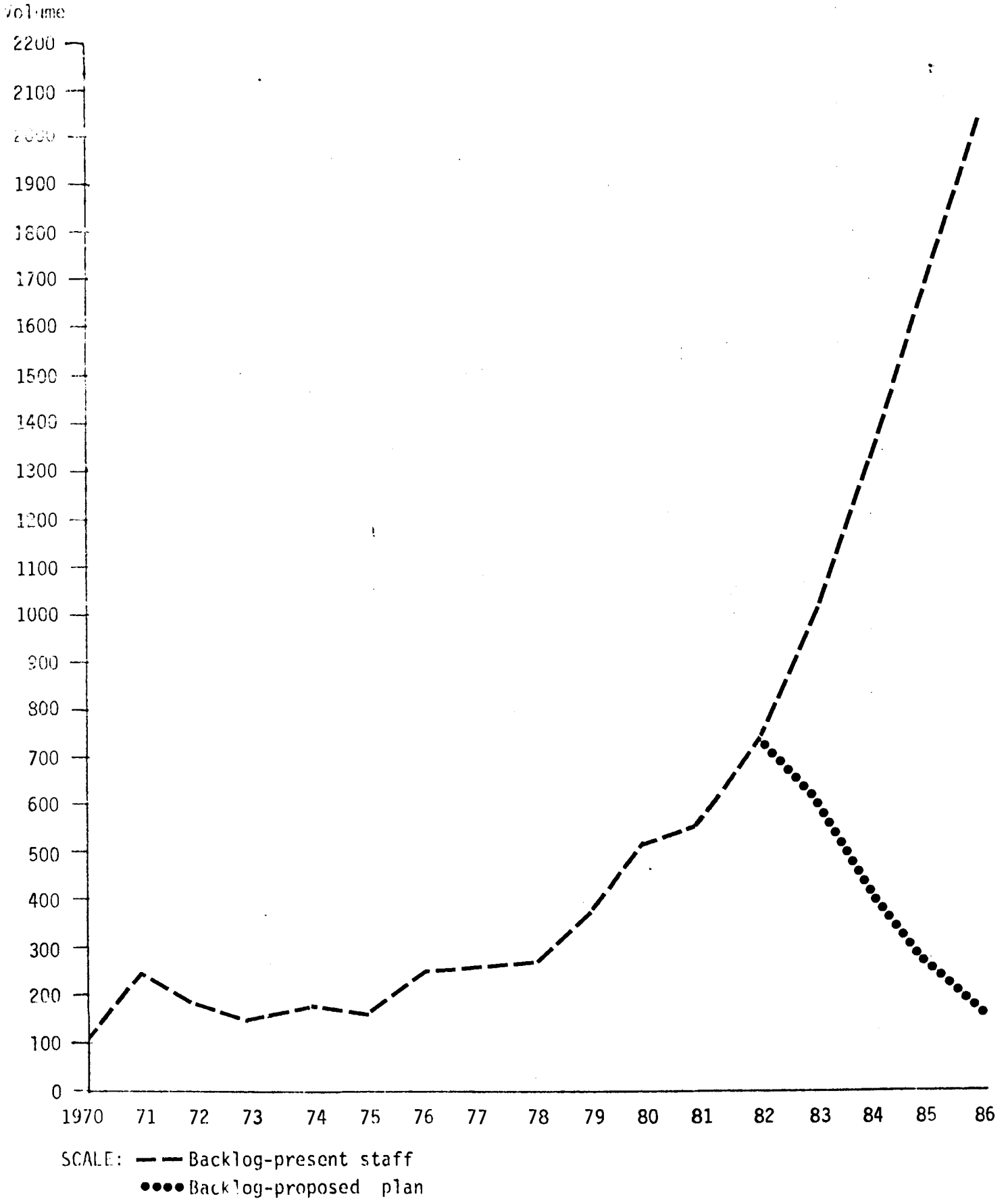


COURT OF APPEALS
FILINGS AND TERMINATIONS
FY 70 THROUGH FY 86



Attachment D

COURT OF APPEALS
BACKLOG - CASES AT ISSUE



I

Recommendations on Colorado's Juvenile Sentencing Law

OFFICE OF THE DISTRICT ATTORNEY

4th Judicial District — El Paso and Teller Counties

JUVENILE DIVISION
27 EAST VERMIJO — SECOND FLOOR - NORTH
COLORADO SPRINGS, COLORADO 80903
TELEPHONE: 471-5595

ROBERT L. RUSSEL
DISTRICT ATTORNEY

GARY SHUPP
CHIEF DEPUTY DISTRICT ATTORNEY

September 22nd, 1981

Mr. Jim Gottschalk
Legislative Council
State Capitol Building
Room 46
Denver, CO 80203

Dear Sir:

As per our recent conversation, I am sending you recommendations relative to the Juvenile Code.

1. Amend SB 26 so that it does not apply to youths involved in delinquency. It is most appropriate for dependency and neglect cases, but not in a delinquency case.

2. Provide a sentencing alternative, a "juvenile jail," for short-term sentences which provide immediate and concrete consequences for certain juvenile offenders.

3. Provide funding to allow studies to determine the effectiveness of alternative programs and psychological testing to try and determine what is truly in "the best interests of the child."

4. Amend Section 19-3-106 to allow continuance of the case without adjudication only with the consent of the District Attorney. This would bring the provision into conformance with the same standards as provided for deferred prosecutions or deferred sentencing for adult, and would prevent unnecessary trials.

5. Study maintaining juvenile records for violent and repeat offenders so that these convictions would have a bearing upon adult sentencing at least until the age of 25.

If I were to make a more controversial proposal, it would be to do away with the right to a jury trial for juvenile offenders, and to instead, expend those resources upon psychological testing and conforming dispositions to the unique aspects of each child's

case so that we truly concentrated upon the best long term interests of the child. The adversary process does not necessarily attempt to reach that goal and, in fact, frequently prevents it.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

Gary L. Shupp
Chief Deputy District Attorney

GLS/dp

J.D. MacFarlane
Attorney General

Richard F. Hennessey
Deputy Attorney General

Mary J. Mullarkey
Solicitor General

The State of Colorado

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street, 3rd. Fl.
Denver, Colorado 80203
Phone 866-3611 & 866-3621

MEMORANDUM

TO: Legislative Interim Committee
on Juvenile Sentencing
State Capitol

FROM: Sarah Scott Sammons SSS
Assistant Attorney General
Human Resources Section

DATE: September 4, 1981

RE: Conflicts in Juvenile Sentencing Law

(Caveat: Although the juvenile sentencing scheme in the State of Colorado is often confusing to those who are required to work within it, past attempts to alleviate the confusion have often resulted in greater confusion. The following remarks reflect problems which have been presented to me or of which I have become aware during my representation of the Division of Youth Services. I believe some of the problems need immediate attention; the majority, I believe, should only be addressed by way of a full scale study of juvenile sentencing).

The problems I have identified, as they occur chronologically in the juvenile process, are as follows:

(1) Detention. Last fall, a case called Weathers v. Leidig, was filed in the United States District Court for the District of Colorado. The suit challenges the confinement of juveniles in Mesa County Jail, as violative of Federal statutes and of the civil rights of juveniles. The basis for involving the Department of Institutions is C.R.S. 1973, §19-8-117, which requires detention services for the temporary care of a child to be provided by the Department of Institutions. The crux of the case is the definition of "detention services." The Plaintiffs are also alleging the Department of Institutions is obligated by statute to provide those services to all children in the State of Colorado. The State's position in the case is that the obligation of services, and certainly of facilities, applies only to those detention centers which were transferred to the Department of Institutions by C.R.S. 1973, §19-8-118, in 1973.

Although Senate Bill 416 has clarified the responsibility for detention to some degree, the question of State vs. local responsibility still exists. Some sort of policy decision needs to be made concerning the level of State involvement in the temporary care of a child.

(2) Coordination with adult system. Under C.R.S. 1973, §19-1-104, either the juvenile court or a district court may have jurisdiction over certain types of juvenile offenders. This has created some confusion. District courts particularly have been confused about juvenile sentencing, combining, rather than separating, their powers to sentence adults and juveniles. This has resulted in a number of requests to courts from the Department of Institutions, for correction or vacation of mittimi.

Recently-enacted Senate Bill 313 provides for adult sentencing under certain conditions, when a child is 16 at the time of sentencing. The Bill raises constitutional questions, as it appears to differentiate between children who are transferred to district court from those against whom criminal charges are directly filed. There may be a greater possibility of punishing, as adults, children transferred into the system.

(3) Mandator sentence offender. C.R.S. 1973, §19-1-103(19.5) adds a new classification, "mandatory sentencing offender," to the Juvenile Code. This statute, created in House Bill 1159, appears a little confusing. In comparing parts (a) and (b), it appears that subpart (II) under (a) may, by itself, and without reference to part (b) be the definition of such a child. There is no indication that the second part of the conduct required for mandatory sentence offender under (b)(II) must be subsequent to the probation revocation of (a)(II).

It also appears that the statute cannot apply to a child who is directly filed upon, or who was transferred to adult court, and found guilty of a felony. Thus, a district court could not sentence such a child as a "mandatory sentence offender," but would have to use other provisions for juvenile sentencing, or sentence as an adult.

(4) Placement vs. commitment. A number of courts seem to be unclear as to the difference between "placement" and "commitment." Part of the problem appears to be definitional. "Placement out of the home" is defined by §19-1-103 as 24-hour residential care. "Commitment" means transfer of legal custody.

It appears the only limit on the time of commitment is found in §19-3-118, C.R.S. 1973, which provides that juvenile court jurisdiction extends until the child is 21 years of age. However, institutional placement can be for two years only (§19-3-115), and parole is generally limited to two years (§19-9-102).

(5) Location. C.R.S. 1973, §19-3-115(3)(a) provides the legal custodian is to determine where a child lives, but specifically excludes the Department of Institutions from its purview. C.R.S. 1973, §19-3-113 provides any delinquent child committed to the Department of Institutions may be placed as determined by the Department of Institutions, and as provided by law. I believe the law referred to is found in §§19-8-109 and 19-8-110, which provide a wide range of possibilities. The question that remains is, what is the placement power of the court and of the Department of Institutions? Statutes appear inconsistent.

(6) Court Power of review. C.R.S. 1973, §19-3-101.1 is now limited to voluntary placements. However, it appears that under §19-3-113.1 (2)(b), the court can release a mandatory sentence offender upon a showing of exemplary behavior. There is no similar provision for children who are not repeat or violent offenders. Thus, it appears there is an anomalous situation of permitting repeat offenders to be released by court order while making no such provision for children who are not repeat offenders.

(7) Parole. C.R.S. 1973, §19-9-102 provides for parole for any child who has been committed to the Department of Institutions. It is unclear from the statute whether parole is appropriate while a commitment to the Department of Institutions is in effect, or after that commitment has expired. A number of practical considerations are involved in this question.

(8) Restitution. C.R.S. 1973, §19-3-113 provides for restitution but not for a mechanism to insure restitution. There is no indication of what body or person is to oversee restitution.

The courts attempt to enter provisions for restitution into their orders, however, the Department of Institutions is not empowered to force children to work off money judgments. In theory, the Juvenile Parole Board could oversee restitution, but I would suggest some form of guidance. Also, some order of restitution might be filed with the court registry so that failure of the child to recompense a victim could constitute contempt of court.

RECOMMENDATIONS:

(1) The statutory authority for Youth Services to provide detention and diversion services should be well-articulated. The questions raised above should be addressed.

(2) For equal protection purposes, I suggest that differences between juvenile offenders should be drawn at the time of offense, not at the time of sentence. I also suggest the reality of the transfer system be addressed. I believe studies conducted by the Division of Youth Services at this point indicate that children transferred to the adult system are spending less time incarcerated than those who remain within the juvenile system.

(3) Clarify and streamline the mandatory sentence offender categorization.

(4) Clearly distinguish commitment from placement, if such a distinction is desired.

(5) Clarify the apparent conflict between §19-3-115 and §19-3-113.

(6) Allow courts to oversee and amend all commitments, not just those of the more problematical offenders.

(7) Clarify when juvenile parole begins.

(8) Create a mechanism for restitution.

CONCLUSION:

The review of juvenile sentencing is a monumental task. I believe juvenile sentencing has worked reasonably well up to this time because the institutions and the courts have cooperated, keeping in mind the best interests of the children they judge and treat. With the exception of creation of authority for detention and diversion, I believe none of my recommendations should be enacted without a thorough study of the system, by a number of people who are directly involved. A sentencing commission should not be confined to a legislative session, but must be more expansive. Any worthwhile study must be multi-faceted, and, therefore, quite time-consuming.

Although I have lightly touched on Senate Bill 416, I would prefer to wait to give Senator Sandoval and the rest of the Committee my remarks and concerns. I would like to discuss the Bill with Lynn Hufnagel and Ed Donovan, who helped work on it.

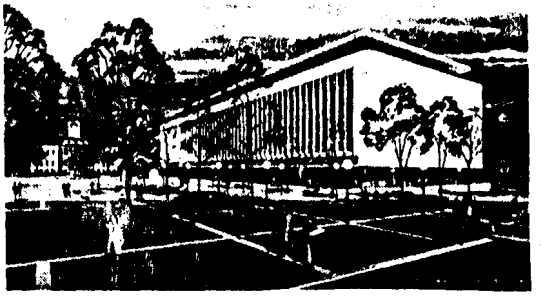
I regret I will be out of town on September 4, 1981, and unable to attend the Committee meeting. Please do not hesitate to contact me with any questions or concerns.

SSS:nh

OFFICE OF THE DISTRICT ATTORNEY

4th Judicial District – El Paso and Teller Counties

EL PASO COUNTY JUDICIAL BUILDING
SUITE 310 - 20 EAST VERMIJO AVENUE
COLORADO SPRINGS, COLORADO 80903



TELEPHONE (303) 475-8500

ROBERT L. RUSSEL
DISTRICT ATTORNEY

September 2, 1981

To whom it may concern:

It is our recommendation that the legislature consider local or regional facilities for juvenile incarceration. An alternate facility for juvenile delinquents is greatly needed. This should be used for closed setting rehabilitation and punishment. The type of delinquency I am referring to does not necessarily have to be taken out of the home but can be sentenced locally. At present, there is no such facility.

It has often been misunderstood as to what the value of punishment is. Punishment is not merely the retribution exacted by society; it forces reflection on the person being punished.

Local jails could be used if there was a method of isolation from adult offenders. Your consideration of this issue would be greatly appreciated.

Sincerely,

Robert L. Russel

ROBERT L. RUSSEL
District Attorney

RLR/tim

We would like to commend the Legislature for passing the bills on mandatory placement and direct filings to District Court on repeat and violent offenders. This has been a major help to the police, district attorneys and judges. We hope that what is now on the books will not be reduced. In fact, the Feds have recognized Colorado's stance on violent juvenile crime, and they are considering giving grants totalling several hundred thousand dollars to Colorado. 1159

We have supported the legislation of not holding juveniles in jail. We have been in support since the 1973 Diversion Programs in an effort to keep first-time offenders from going to court. In addition, we have a program that provides probation officers and social workers to be in the same room with the juvenile detectives to assist parents with any problems. We recognize and hope that the Legislature agrees with us that some juveniles are hard-core criminals.

The Denver Anti-Crime Council submitted a report indicating the below statistics:

Offense	Percentage	Arrests
Homicide	1.5 %	1
Rape	10.0 %	17
Robbery	23.3 %	121
Aggravated Assault	18.3 %	133
Burglary	53.0 %	1,047
Theft	31.4 %	2,178
Auto Theft	58.5 %	456

The above statistics are F.B.I. stats for Class 1 Felonies and not in accordance with the Colorado Statutes, 35.5% or 3,955 arrests.

We suggest the following:

1) As stated before, the law on repeat and violent offenders should not be reduced.

2) The Supreme Court has upheld this next suggestion: There are only approximately 13 states that still have jury trials for

juveniles. We feel that a non-felony case should be tried before a judge since the juvenile is not being tried for the crime itself, but only to determine if he or she is a delinquent. Non-felony crimes would not come under the ~~mandatory placement or~~ the repeat and violent crime statutes. We feel that this would reduce the court time in getting juveniles before the court, but still allow juveniles charged with felonies to have jury trials if they wish. IF HE ASKS FOR A JURY TRIAL IN DENVER THERE IS A 2½ MONTH DELAY

3) Probably one of the main problems is that when juveniles reach the age of eighteen they can expunge their entire record. Therefore, when they are over the age of eighteen they go into adult court as first-time offenders. We would like a change made to read that when a juvenile commits a certain number of felonies his or her record can follow into adult court. UNLESS ON PROBATION THEN ITS TWO YEARS

4) We feel that the police, district attorneys and judges will agree with this recommendation: When an offender is found guilty of a serious felony and sentenced to what we thought would be a closed facility, we discover that the Department of Institutions has placed them in an open setting. This discovery is made when the same offender is arrested for another crime a short time later. There should be some control over the placement of felony offenders by the Department of Institutions.

Colorado Commission on Children & Their Families

COLD STORAGE:

Rethinking the System's Response to Kids in Trouble

Issue No. 2

Sept., 1981

Kids, Courts, and the Law: Recommendations to the Interim Legislative Committee on Juvenile Sentencing

The General Assembly established an interim committee to study juvenile sentencing in the wake of the flurry of bills during the 1981 session concerning the sentencing of youthful offenders. Senator Paul Powers (D-Denver) chairs this interim committee, and Representative Bev Scherling (R-Aurora) is vice-chair. Judging from what happened during the hearings held on August 14 and September 4, Committee members appear to have no specific changes in mind for statutes dealing with the sentencing of juvenile offenders.

Orlando Martinez, Director of the Division of Youth Services, testified that during fiscal year 1979-80 only 408 commitments resulted out of 39,427 arrests of juveniles between twelve and eighteen years old. Of the 301 commitments in the next year (fiscal year 1980-81), only 93 were of juveniles designated as violent or repeat offenders. Yet the Committee has heard testimony mostly about repeat and violent juvenile offenders. Ken Harris of the Denver Police Department admitted that the Department's main goal was for the Committee to retain, not change, the present repeat, violent, and mandatory offender provisions.

Despite confusion about even the present state of the law, two strains of agreement among the professionals were obvious: The first is that **juveniles need to be responsible for their acts and to receive consequences for illegal behavior.** The second is that **the juvenile court system is cumbersome and whatever consequences are imposed on the juvenile occur in such an untimely fashion as to be meaningless to the juvenile.** Not only do delays cause juveniles to miss the connection between offense and punishment, but according to Orrelle Weeks, Chief Judge in Denver Juvenile Court, many juveniles become repeat offenders while waiting for their first offense to be processed through the system.

These two areas invite statutory overhaul which might greatly impact juvenile sentencing and juvenile crime. The Colorado Children's Code presently establishes almost no time limits for the processing of delinquency petitions through the juvenile court. The rules of juvenile procedure provide that a petition must be filed within seven days only if the child is **detained** for an alleged offense. If a juvenile is not detained, there is no time limit. Case law provides that a juvenile has a right to a "speedy trial" (within six months of the entry of plea). Other than these limits, no specific time limits are set.

Other states have experimented with setting strict time limits in delinquency cases—some as short as thirty days from detention through disposition. Perhaps it is time that the legislature in Colorado structure the various juvenile courts in the state by imposing statutory time limits for length of pretrial detention and filing of delinquency petitions and time periods in which preliminary hearing, pretrial motion, trial and disposition occur. This could reduce detention populations, moving adjudicated juveniles more quickly into treatment programs and releasing those against whom allegations are not proved. It could also prevent some juveniles from engaging in repeated delinquent activity because consequences would be imposed more quickly.

The second area in which the committee might meaningfully affect juvenile sentencing is setting standards for the consequences which may be imposed based upon the specific delinquent activity of the juvenile. Some delinquent activity should never result in commitment to the Department of Institutions, and other activity should never result in probation. Under the present sentencing statutes a juvenile who robs his neighbor is eligible for exactly the same consequences as one who calls his neighbor an offensive name. Burglary of a store netting thousands of dollars in stolen property is punishable in the same manner as shoplifting one candy bar. These inequities are not lost on juveniles who share probation officers, group homes or institutional placements—and such inequities cannot engender respect for the fairness of the courts or the justice in the system.

The legislature took a step in the direction of standardizing juvenile sentencing in 1981 by clarifying that commitments or placements out of the home must be for a determinate period of time (SB 337). The second step would be to insure more serious consequences for those juveniles adjudicated for delinquent behavior deemed more damaging to society. As long as any delinquent offense can result in commitment to the Department of

Institutions for two years, and, conversely, almost any delinquent act can result in probation or a continued judgment and sentence, consequences will never be perceived by juveniles as relating to the seriousness of the act. This is not to suggest that all discretion be stripped from judges and prosecutors. Discretion is essential to the implementation of justice. Nevertheless, the discretion which presently exists in plea bargaining and sentencing in the juvenile system contributes to the public perception that juvenile courts are ineffective in dealing with the massive problems of juvenile delinquency.

While both areas discussed have only come before the Interim Committee as asides in the testimony, they are crucial in dealing with juvenile sentencing issues. Consequences based upon the seriousness of illegal activity imposed in a timely fashion are the heart of any sentencing scheme. The Children's Code could be amended to provide both varying consequences based upon behavior and timely imposition of those consequences. In other words, two timeworn cliches should find expression in the juvenile sentencing statutes:

Justice delayed is justice denied.
Let the punishment fit the crime.

Juvenile Justice Funding Update

Funding of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has been on a roller coaster ride. Initially, the Reagan Administration entirely eliminated OJJDP from its proposed 1982 budget, which was presented to Congress in the spring. But after a succession of ups and downs, OJJDP was appropriated $77 million.

We might now be on the brink of another dive, however. The latest word from Washington has President Reagan threatening to veto the 1982 appropriations bill because it does not contain all the budget cuts his Administration wishes. The Congressional reconciliation bill resulted in $35 billion in budgetary cuts. Reagan wants more cuts (the desired amount is rumored to be somewhere in the $13-$18 billion range). Juvenile Justice funds might be included in this additional cut.

But this hasn't happened, and right now it seems reasonably likely we'll stay at a crest. If Reagan does sign the appropriations bill, Colorado will receive approximately $500,000.

Where does the money go? For what? The money will flow through the Colorado Division of Criminal Justice. However, decisions on which projects will be funded and for how much will be made by the Juvenile Justice and Delinquency Prevention Council, composed of thirty members appointed by the Governor. Projects are funded which will implement the 1982 Juvenile Justice and Delinquency Prevention Plan.

The JD Council, in conjunction with the Division of Criminal Justice, is now developing the plan. The plan, required by Washington, describes the juvenile justice system in Colorado and its major problems. It also earmarks priority areas for the expenditure of federal juvenile justice funds. The plan is based partly on results of a questionnaire survey of youth-serving practitioners across the state which assessed their views of Colorado's juvenile justice needs. Another factor is data collected by the Division of Criminal Justice on juvenile offenses/arrests and on children held in Colorado's detention centers and jails. Mandates of the Juvenile Justice and Delinquency Prevention Act are also addressed in the plan.

Plan completion and grant solicitation are slated for early winter, assuming Colorado does receive juvenile justice funds.

(For more information concerning the JD Council for the JD Plan, contact Peter Simons of the Division of Criminal Justice at 866-4984.)