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Annual Report to the General Assembly on 2001 Judicial Conference

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The 48th annual meeting of the Illinois Judicial Conference was held October 25-26, 2001, in Chicago. The Conference, which is authorized by Article 6, section 17 of the Illinois Constitution, is charged to consider the work of the courts and to suggest improvements in the administration of justice. Conference membership includes the seven Illinois Supreme Court Justices, and appellate, circuit and associate judges from each of Illinois' five judicial districts.

The work of the Conference is ongoing, conducted throughout the year, largely through the efforts of seven separately appointed committees: Alternative Dispute Resolution Coordinating Committee, Criminal Law and Probation, Committee on Discovery Procedures, Study Committee on Juvenile Justice, Study Committee on Complex Litigation, Automation and Technology, and the Committee on Judicial Education. The committee rosters include appellate, circuit and associate judges who serve as full judicial conference members. The committees are assisted in their work by non-judicial conference judges, attorneys, and law professors, who are appointed by the Supreme Court to serve as either associate members or advisors.

An Executive Committee, which is authorized by Supreme Court Rule 41, acts on behalf of the Conference when the Conference is not in session. The Committee is comprised of fourteen judges, six from the first judicial district and eight from the downstate judicial districts, and is chaired by the Chief Justice. The Executive Committee previews the written reports of the conference committees and submits, for the Court's approval, an agenda for the annual meeting.

Day one of the 2001 Annual Meeting commenced with conference committee meetings devoted in part to the finalization of their annual reports and then to preliminary planning for conference year 2002 initiatives. At the conference dinner, Chief Justice Moses W. Harrison II welcomed the attendees and then also recognized the presence of current members of the Supreme Court as well as retired Supreme Court Justices Seymour Simon and John L. Nickels. Members of the conference were joined at dinner by associate members and advisors. In his remarks, the Chief Justice praised the work of the conference members and committees for their public service and dedication to improving the administration of justice in Illinois. Noting the events of September 11th, he admonished that judges must do everything in their power to insure that our system of justice remains strong, efficient and fair, and that, in the face of civil unrest, it is ultimately the court's responsibility to preserve reason and wisdom.

On day two of the Annual Meeting Chief Justice Harrison convened the members for the plenary session. At that time, each of the committees presented its annual report and recommendations to the full conference. The following summarizes the written and oral content of those reports:

Alternate Dispute Resolution Coordinating Committee.

The Alternate Dispute Resolution Coordinating Committee, whose task it is to evaluate, monitor, study, and make recommendations regarding the use of dispute resolution programs, reported that the climate for alternate dispute resolution (ADR) continues to be favorable and the legal community is becoming increasingly receptive to ADR programs. As part of its charge, the Committee monitored the court-annexed mandatory arbitration program, now in its fourteenth year of operation. Since its inception, court-annexed mandatory arbitration has grown to meet the needs of fifteen counties and has become an effective case management tool, reducing the number of cases that proceed to trial as well as the amount of time cases remain in the court system.

During conference year 2001, the Committee held a public hearing to consider several proposals to amend particular Supreme Court Rules relating to arbitration. The Committee studied a recommendation to amend Supreme Court Rule 93(a) to provide an increase in the time period to reject an award by an additional thirty days. It is contemplated that this amendment would allow more time for insurance companies to review awards, thereby decreasing the rejection rate. In an effort to develop increased commonality between arbitration awards and a jury's verdict, the Committee also studied a proposal to change the appointment of arbitrators to hearing panels and drafted a proposal to require parties to file summary cover sheets detailing money damages incurred. In its report, the Committee additionally noted the Supreme Court's adoption of an amendment to Rule 87(d) allowing for arbitrators to file one oath in each county where they will be hearing cases, rather than for every case heard.

In the area of mediation, the Committee continued to oversee the court-sponsored pilot major civil case mediation programs, which are currently operating in six circuits, and welcomed the addition of a new program in the Sixth Judicial Circuit (Champaign County). More than 1,500 cases have progressed through these programs. From July 1, 2000, through June 30, 2001, a total of 247 cases were referred to mediation in the seven programs. Of that number, 158 resulted in full settlement.

The Committee observed that court-sponsored mediation programs have been successful and well received and have resulted in more expeditious resolution of cases. The Committee noted the Supreme Court's adoption of Rule 99. The new rule allows circuits to continue operating existing programs and to submit current and amended local mediation rules to the Court for approval. Finally, the Committee continued to study the development of uniform rules and practices for "family law" mediation in Illinois.

Criminal Law and Probation Administration Committee.

The Committee on Criminal Law and Probation Administration is responsible for making recommendations on matters affecting the administration of criminal justice and the probation system. During the 2001 conference

year, the Committee continued to express its support for the work of the Criminal Code Rewrite and Reform Commission and encouraged the Commission's consideration of issues such as community corrections, youthful offender programs, funding mechanisms for trial expenses and judicial discretion in sentencing. In addition, the Committee suggested that existing statutes be redrafted only when necessary to address specific issues, such as clarification of confusing provisions and elimination of obsolete and unnecessary sections.

The Committee reiterated its concern about the inadequacy of pay and compensation for assistant state's attorneys and public defenders, noting that constant turnover of assistant state's attorneys and public defenders is a serious problem. The Committee observed that the loss of experienced attorneys creates the risk of error in criminal trials, and adds to the delays in the criminal justice system. Citing the urgent need for implementation of measures to improve retention of experienced prosecutors and public defenders, the Committee formally recommended that the Supreme Court provide its support for legislation to address this issue. The Conference approved the Committee's recommendation.

In addition to these activities, the Committee presented proposed rule amendments intended to clarify and simplify Supreme Court Rule 605(a), which sets forth admonishments to defendants following a finding of guilty. The Committee reported that, effective October 1, 2001, the proposed amendments to the rule were adopted by the Court. The Committee also began a comprehensive investigation of the impact of *Apprendi v. New Jersey* on criminal trials.

Committee on Discovery Procedures.

The goals of the Committee on Discovery Procedures include streamlining discovery procedures, increasing compliance with existing rules, and eliminating loopholes and potential delay tactics. The Committee devoted much of the 2001 conference year to consideration of whether to limit the application of written interrogatories under Supreme Court Rule 213. Specifically, the Committee studied interpretation problems associated with Rule 213(g) with respect to written interrogatories in the context of opinion witnesses. The Committee noted that improper interpretations of Rule 213(g) have resulted in the erroneous exclusion of witnesses who give an observation rather than an opinion. The Committee intends to give further consideration to this issue during the 2002 conference year.

The Committee also began to study several other discovery related proposals, including a proposal to amend Supreme Court Rule 206(c) concerning the method of taking depositions on oral examination, a proposal to amend Supreme Court Rule 201(l) allowing flexibility in the determination whether to conduct discovery while a personal jurisdiction motion is pending, and a proposal to amend Supreme Court Rule 218(c) to include rebuttal witnesses within the dates set for the disclosure of witnesses and the completion of discovery.

Study Committee on Juvenile Justice.

Consistent with its charge, the Study Committee on Juvenile Justice continued to study and make recommendations on aspects of the juvenile justice system, propose education and training programs for judges, and prepare and update the juvenile law bench book. During the 2001 conference year, two initiatives commanded the Committee's attention - Volume II of the Juvenile Law Bench Book and the 2003 federal audit of the Illinois Juvenile Court. During the year, the Committee continued its drafting work on Volume II of the Juvenile Law Bench Book which will focus exclusively on cases involving allegations of neglect, abuse and dependency. The book will provide to judges an overview of Juvenile Court proceedings, direct them to relevant statutory and case law, highlight recent amendments and identify areas that present special challenges to judges as they carry out their adjudicatory responsibilities.

The Committee also had extensive discussion concerning the anticipated 2003 federal audit of the Illinois Juvenile Court which will study compliance with federal funding mandates concerning necessary findings in juvenile cases. The Committee noted the Supreme Court's issuance of a supervisory order directing judges to comply with the federal requirements. To assist judges in complying with the Court's order, the Committee determined that it would be beneficial for judges hearing juvenile matters to have uniform orders including, the orders required for compliance with the federal audit. To that end, the Committee created four uniform orders intended to address each of the subjects mandated by the federal law.

In addition to these activities, the Committee noted a continuing demand for additional education concerning the increased complexity of the juvenile law issues. The Committee expressed its commitment to educate Illinois judges on these issues by offering recommendations for judicial education programs. Consistent with its commitment, Committee members contributed to and served on the faculty of the New Judge Seminar as well as the Juvenile Law regional seminar.

Study Committee on Complex Litigation.

The charge of the Study Committee on Complex Litigation is to study, make recommendations, and disseminate information on successful practices for managing complex civil and criminal litigation. During the 2001 conference year, the Committee produced a supplement and update to the *Illinois Manual for Complex Civil Litigation*. To date, more than 200 judges have received copies of the manual which has been used as the basic reading material for a regional educational seminar on complex litigation. This year's cumulative update discusses recent case law and alerts readers to continuing developments in the law at the appellate level. This year's supplement addresses complex employment, consumer, and antitrust litigation and includes extensive references to case law and provides practical guidance to the reader.

The Committee also produced a third update to the *Illinois Manual for Complex Criminal Litigation*, cumulating the previous updates and discussing recent case law developments. The 2001 update includes discussion of developments in the law concerning the right to a speedy trial, the timeliness of post-conviction petitions, and accommodations for defendants with limited English proficiency. Finally, the update takes note of the new rules regarding capital cases and the controversies concerning the application of *Apprendi v. New Jersey*.

Automation and Technology Committee.

Technology affects, or has the potential to affect, nearly every operational and administrative judicial function. New and improved applications and devices are introduced regularly, each promising to bestow greater efficiency upon the judicial system and lower operating costs. The Automation and Technology Committee is charged with the formidable task of evaluating, monitoring, coordinating and making recommendations concerning automated systems for the Illinois judiciary.

During the past conference year, the Committee, as part of its continuing effort to educate judges, continued its work on the development of a practical guide for judges concerning computer security. The Committee has previously identified education regarding computer security as a critical area, especially in light of today's technological advances. The Committee also created two subcommittees to gather information, one to review and identify data protection issues and another to review and evaluate

existing and emerging technologies and legislation affecting court technology. The Committee also continued to assist the Administrative Office of the Illinois Courts (AOIC) in the development of a statewide judicial information system (Intranet).

Committee on Judicial Education.

The members of the Committee on Judicial Education reaffirmed their commitment to judicial education as an essential element of our judicial system. The Committee maintains that given the rapid developments in substantive and procedural law, the need for an effective and efficient approach to judicial education cannot be overstated. During the 2001 conference year, the Committee conducted a new type of judicial education program. Seventy-seven judges attended the first Illinois Advanced Judicial Academy held in June at the University of Illinois. The theme of this five-day residency program was *Law and Science and the Highly Effective Judge* and included presentations by leading faculty from across the nation in the biological and medical sciences. The Committee anticipates conducting an Academy every two years, with each one focusing on a different theme.

In addition to the Academy, the Committee conducted a full complement of seminars during the 2001 conference year that included a New Judge Seminar, nine regional seminars, five mini-seminars, and a faculty development workshop. For the fourth consecutive year, the Committee obtained funding from the Illinois Department of Transportation to conduct a special seminar on sentencing in DUI cases. In early 2001, the Committee developed topic and faculty recommendations for *Education Conference 2002*. The Committee also recommended the appointment of a special committee to develop a new mentor training videotape.

The Education Committee continues to sponsor the Resource Lending Library. Housed in the Springfield Office of the Administrative Office, the library continues to be an invaluable resource for judges. Loan materials available through the Library include video tapes, audio tapes, and publications. In fiscal year 2001, nearly one-third of the state's judges requested one or more items from the Library, with trial court judges comprising 98% of the patrons.