PLANNING FOR STATE-FUNDED
COURTS IN NEW JERSEY
Technical Assistance Assignment No. 3-038

PLANNING FOR STATE-FUNDED COURTS IN NEW JERSEY

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Consultants:
CTAP: Harry O. Lawson
NCSC: Gerald Kuban
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Consultants Assigned: Harry O. Lawson and Gerald Kuban
Local Coordinator: Ms. Brooks Durbin,
                  Ass't. Director, Human Resources
                  New Jersey AOC
CTAP Staff Coordinator: Joseph A. Trotter, Jr.
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Special Note: This assignment was jointly undertaken with the National Center for State Courts, which shared in the costs of the assignment. Mr. Gerald Kuban represented the NCSC on the consultant team.

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PLANNING FOR STATE-FUNDED COURTS
IN NEW JERSEY

Background

On November 3, 1992, the citizens of New Jersey will vote on a proposed constitutional amendment that authorizes the complete state funding of the New Jersey trial courts except for facilities.¹

This technical assistance project was requested by the New Jersey Administrative Office of the Courts (AOC) to assist it in planning the tasks and timetable required should the amendment be adopted at the November 3, 1992 election. Passage of the amendment would place some 7,200 court, court service, and probation employees on the state payroll, and the state would become responsible for all operating expenses and furniture and equipment. Court facilities would still be a local responsibility.

The technical assistance consultants, Gerald B. Kuban and Harry O. Lawson, were provided at the New Jersey's AOC request by the National Center for State Courts and by the American University, State Justice Institute-funded, Courts Technical Assistance Project.

The most significant tasks involved if the state-funding constitutional amendment is adopted include:

• creation and regulation of a separate judicial personnel system, as contemplated by the proposed enabling legislation;²

• case management organization plan (not required by the amendment, but consistent with it);

• development of state-wide employee bargaining units;

• determination of staffing needs and tasks required in connection with state funding at both AOC and trial court levels; and

• employee classification and pay study.

¹ The text of the amendment is attached as Appendix B. Prior to the vote on the amendment, the state funds the Supreme Court, Appellate Division of the Supreme Court, Tax Court, Administrative Office of the Courts, and Trial Judges' salaries and selected other trial court positions.

² See Appendix C for the proposed enabling legislation.
Justification for Separate Judicial Personnel System

States with Separate Judicial Branch Personnel Systems

State-funded court systems have opted for the creation of a separate judicial branch personnel system for nonjudicial personnel, even though there is an executive branch civil service system in each of these states. Prominent among these states are Massachusetts, Connecticut, Colorado, Alaska, Hawaii, New York, and the other four New England states (Maine, New Hampshire, Rhode Island, and Vermont).3

Very few state judicial systems were state funded prior to the National Conference of the Judiciary (Williamsburg I) 1971. Those with separate judicial branch personnel systems at that time included: Alaska, Colorado, Connecticut, New Mexico, New York, and North Carolina. The consensus statement of the 1971 National Conference of the Judiciary included the following, concerning judicial branch personnel systems for court employees:

A state-wide personnel system based on merit for the recruitment, appointment, training, promotion, tenure and removal of persons other than judges employed within the judicial system should be developed.4

Reasons for a Separate Judicial Branch Personnel System

Roscoe Pound once wrote, "The judiciary is the only great agency of government which is habitually given no control over the clerical force. Even the pettiest agency has more control than the average state court."5

State-funded court systems have created separate judicial branch personnel plans for this reason, as well as several others, although in some jurisdictions it wasn't easy to accomplish initially. In at least two states, Alaska and Colorado, there were lawsuits to establish the authority and responsibility of the judicial branch over its own personnel. In Alaska, the matter was settled through a memorandum of agreement between the Department of Administration and

3 Other states with judicial branch personnel systems include: Alabama, Delaware, Iowa, Kansas, Kentucky, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Virginia, and West Virginia. The Minnesota judicial branch has a separate personnel system developed for when and if it becomes state funded.


5 Roscoe Pound, "Principles and Outlines of a Modern Court Organization," Journal of the American Judicature Society 23, April 1940.
the State Court Administrator. In Colorado, the Supreme Court ruled that judicial branch employees were not subject to inclusion in the executive branch personnel system.

It took until July 1, 1977, for the Hawaii judicial system to gain legislative authority to operate its own personnel system, even though the judicial system had been state funded since 1966. Prior to 1977, the executive branch personnel system had been responsible for recruitment and administration of all state employees, except the legislative branch.

There are several reasons why state-funded judicial systems have established judicial branch personnel plans for nonjudicial personnel. One of the most important is to foster employee identity with, and loyalty to, the judicial branch rather than executive branch civil service. The judicial branch has unique needs and requirements, and a separate personnel system makes it possible to guide human resources to meet judicial branch needs. This can be done through career development within the judicial branch, providing career ladders and special training, special recognition, and rewards.

The Executive branch civil service can provide parallel technical and professional skills, but these are not geared to unique judicial branch needs. If judicial employees became a part of the executive branch system, they would be the "new kids on the block." As such, they probably would not receive the special attention required by the judicial branch, at least this has been the experience in other jurisdictions. There is also another problem with becoming part of the executive branch system. Judicial branch employees, being the last in, could be subject to bumping by other state employees, should there be further layoffs.

Finally, creation of a judicial branch personnel system for nonjudicial personnel not only is in keeping with the separation of powers doctrine, but it is the best way, if not the only way, to accomplish the principles set forth by the Gruccio Committee Subcommittee on Personnel Organization:

1) Simple system of job titles and job descriptions, emphasizing wide-banded, generic titles;

2) consistency and uniformity in job titles and position descriptions;

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7 In Re Interrogatory of the Governor, Concerning Article XIII, Section 13 of the Constitution of Colorado, 162 Colo. 158, 425 and 31.


9 Discussion of all of the above is found in H. O. Lawson, H. R. Ackerman, and D. E. Fuller, Personnel Administration in the Courts. (Denver, CO: Westview Press, 1979) pp. 6-7, and 15.
3) principles of merit and fitness in hiring and promotion, with clear minimum objective qualifications for each title but with flexibility in decision-making beyond the minimum qualifications, and with strong emphasis on affirmative action and equal employment opportunity;

4) statewide mobility to emphasize promotional opportunities and broad career development;

5) uniformity throughout the state in salary ranges for the same positions, but flexibility within the range to react to local conditions and specific conditions;

6) a standard, formalized selection process, with emphasis on group involvement in hiring and promotion decisions;

7) a differentiation between positions with state-level impact and positions with only local impact concerning the level of decision-making on personnel actions;

8) wide opportunities for training and continuing development of skills;

9) statewide units for collective bargaining reflecting the wide-banded titles;

10) for local-impact positions, some flexibility with the use of part-time positions, with the opportunity to do some work off-site, and other kinds of options to use the best resources available; and

11) a consistent and uniform program of oversight and monitoring by the Administrative Office of the Courts to ensure compliance with rules and procedures.

The creation of a separate judicial branch personnel system does not preclude the judiciary from using State Department of Personnel resources where the use may be cost saving and beneficial, such as valid tests for lower level employees and sharing testing locations. Cooperation and exchange of information should be facilitated between the two systems.

ABA Standards Relating to Court Organization

The reasons that a separate judicial branch personnel system is necessary and vital to judicial system independence and governance are embodied in Section 1.00 Aims of Court Organization of the American Bar Association Standards Relating to Court Organization, 1990 Edition.

Section 1.00 Aims of Court Organization. The organization of a court system should serve the courts' basic task of determining cases justly, promptly, effectively, and efficiently. To this end, the organizational structure should promote judicial accountability, authority over all judicial operations, clear delineation between
judicial and nonjudicial responsibilities, and common management systems so that the delivery of services may be administered uniformly throughout the jurisdiction. The administration of a court system should facilitate the development of skilled executive leadership; selection and assignment of competent judicial, administrative, and other personnel; sound financial management; efficient use of human resources, facilities, and equipment; public accountability and responsiveness; and continuous planning for the future. Planning should place emphasis on resource flexibility to meet varying and changing systemwide and local contingencies.¹⁰

The ABA, Standards Relating to Court Organization, 1990 Edition specifically cover the creation and operation of a separate judicial branch personnel system. This standard and a portion of the commentary are included here, because of their significance to this subject.

Section 1.42 Nonjudicial Personnel of Court System.

(a) Judicial branch personnel system. There should be a judicial branch personnel system administered by the administrative director of the courts, in accordance with regulations adopted pursuant to Standard 1.32. The personnel system should provide for:

(i) A uniform system of position classification and levels of compensation;

(ii) A system of open and competitive application, examination, and appointment of new employees that reflects the special requirements of each type of position in regard to education, professional certification, experience, proficiency, and performance of confidential functions. Employment should be made without discrimination on the basis of race or ethnic identity, age, sex, physical disability, or religious or political affiliation, and should include affirmative action plans to seek out and encourage members of minority or disadvantaged groups to seek employment in the court system;

(iii) Uniform procedures for making periodic evaluation of employee performance and decisions concerning retention and promotion;

(iv) Requirements that discipline or discharge be based on good cause and be subject to appropriate review; and

(v) Compatibility, so far as possible, with the employment system in the executive department. Transfer of individuals from one system to the other, without impairment of compensation, seniority, or fringe benefits should be facilitated.

b) Staff classifications. Regulations governing nonjudicial employees of the court system should reflect the differences in duties and responsibilities of various types of nonjudicial personnel including the following:

(i) Administrative personnel. Administrative personnel, such as the administrative director of the administrative office of the courts, court administrators of subordinate court units, and their principal deputies, should perform duties requiring managerial skills and discretion. Administrative personnel should have qualifications that include general education, appropriate professional experience, and education and training in court management or public administration. The administrative director should be appointed and hold office as provided in Section 1.41 (a)(i). The court administrator of a subordinate court unit should be appointed and hold office as provided in Section 1.41 (b)(i). The principal deputies of the administrative director should be appointed by and hold office at the administrative director's pleasure, and a corresponding arrangement should apply to the principal deputies of court administrators of subordinate court units.

(ii) Professional personnel. Professional personnel include persons such as examining physicians, psychological and social diagnostician, appraisers, and accountants, whose duties require advanced education, specialized technical knowledge, and the exercise of critical judgment. They should be selected on the basis of competence within their own profession and adaptability to the working environment of the court system. The procedure for evaluating potential appointees to professional positions should include participation by persons of recognized standing in the professional discipline involved.

(iii) Confidential employees. Confidential employees include secretaries and law clerks and other persons whose duties require them to work on a personal and confidential basis with individual judges or judicial officers. Confidential employees should meet qualifications prescribed in regulations adopted pursuant to Section 1.32, but their appointment and tenure may be at the pleasure of the person for whom they work.
(iv) Technical and clerical employees. All other employees should be appointed by the chief administrative official of the administrative office in which they are employed.

Commentary

The nonjudicial personnel of a court system should be selected by the court system itself on the basis of competence, as determined as objectively as possible, and retained in employment according to policies and practices that reward capable service. There should be complete abolition of the practice whereby court staff, such as the clerk of court, are elected or appointed by persons from outside the court system. Political considerations, patronage, and personal favoritism should be systematically excluded as bases for employing or giving preference in employing people to work in the court system. To this end, the personnel policies of the court system should be formulated as regulations governing employment and the employment relationship throughout the court system. Court system employment should be made without discrimination on the basis of race or ethnic identity, age, sex, physical disability, or religious or political affiliation. Personnel regulations should include affirmative action plans to seek out and encourage members of minority and disadvantaged groups to seek employment in the court system.

The regulations should provide a rational and uniform system of job classifications to assure parity of treatment of employees who do essentially the same work, to assure fair relationships regarding compensation and responsibilities between levels of employee positions, and to facilitate promotion and transfer of personnel within the system. They should provide competitive procedures in filling positions to assure that the court system obtains the best available personnel and that its employment policies appear to the public to be evenhanded and efficient. They should provide for regular evaluation of every employee's performance, and for retention and promotion on the basis of good performance. They should prescribe fair procedures, including the opportunity for a hearing and recommendations from a disinterested panel, in the case of unresolved disputes concerning employee discipline or discharge...\(^{11}\) (emphasis supplied)

Enabling Legislation

The proposed enabling legislation contemplates that the employees of the state-funded trial courts will become employees of the administrative office of the courts, if the constitutional amendment providing for state funding is adopted. (See Appendix B.) Specifically, the proposed enabling legislation provides:

Judicial employees shall be employees of the Administrative Office of the Courts, except that the Administrative Office of the Courts shall provide that classified employees be accorded the same rights, privileges, and protections in regard to hiring, firing, layoffs, transfers, promotions and disciplinary actions which are accorded employees in the career service of state service.¹²

New Jersey Judicial System

In 1947, New Jersey adopted the first modern judicial article providing for the independence, organization, and governance of the New Jersey judicial system. Since that time, not only have additional improvements been made, but the New Jersey judiciary has demonstrated its capacity to operate as an independent branch of government. As some thirty other states attest by their action, a vital linchpin in maintaining and demonstrating judicial independence is judicial branch responsibility for the recruitment selection, retention, promotion, and others functions related to court personnel.

Judicial System Human Resources Task Force

The study team recommends that the AOC create a Judicial System Human Resources Task Force. The composition of this task force should be similar to those that have worked on human resource concerns in the past: a combination of judges, appropriate AOC staff, division managers, perhaps a TCA or two, and a CFO.

The task force, which should be appointed as soon as possible upon passage of the constitutional amendment, should have these objectives:

1) define and create a meaningful participatory management role and function in the judicial branch employee personnel system;

2) develop as open a system as possible, one that is receptive to creative ideas and suggestions;

3) develop personnel system structure and governance, and

¹² Senate Bill 888.
4) adopt and adapt recent concepts and developments in personnel management and administration.

This task force should have a broad focus in achieving these objectives and not be concerned with direct labor management relationships, such as collective bargaining. Nevertheless, the task force should have the assistance of a Labor Advisory Committee. This committee should comprise union and bargaining agent officials not directly involved in contract negotiations with the AOC. Participation of organized labor in an advisory capacity means that no one union can dominate deliberations.

Within its broad focus, the Judicial System Human Resources Task Force should consider and discuss the personnel principles listed in the Gruccio Committee report and set forth in this document on pages 3 and 4. Other matters for consideration include, but are not limited to, comparable worth, EEO/Affirmative Action, pay for performance (including performance evaluation keyed to objective criteria), and provision of employee assistance and support services, such as counseling where appropriate. A significant topic for committee consideration is meaningful employee and union participation in personnel policy development.

A major assignment for the Human Resources Task Force and the Labor Advisory Committee is periodic review of the classification study. A separate Classification Steering Committee should oversee and direct the classification study; the composition of this committee should be representative of those being covered by the study and include an AJ, TCA, and an appropriate person from the AOC. This committee should report periodically to the Human Resources Task Force and the Labor Advisory Committee on study progress, problems, and concerns and seek the advise of the task force and advisory committee where appropriate.

Case Management Organization Plan

The implementation of the case management organization plan should receive the highest priority among all the tasks that must be accomplished in connection with the implementation of state funding. One might argue that the case management organization plan can be implemented without state funding, but state funding makes its accomplishment much easier, because all involved judicial branch employees will be integrated in the same personnel system and classified and compensated accordingly.

While state funding makes successful accomplishment of the case management organization plan more of a certainty, it poses a number of challenges, most important of which is that time is of the essence for several reasons:

1) The case management organization plan should be put in place as soon as possible especially if the state-funding constitutional amendment is adopted. This action is necessary to implement the plan already adopted by the Supreme Court.

2) The case management organization plan should be in place prior to the position classification study, which the study team recommends be undertaken as the
foundation for the new judicial branch personnel system. This step is necessary to assure the validity and application of the study.

3) The staffing ratio studies and the white and green papers relating to staffing needs for the case management organization plan are in the latter stages of completion and agreement, at least for the criminal and civil divisions. This status makes it propitious to move ahead on plan implementation as soon as possible.

In light of the above, the study team strongly recommends that the assignment judges move to put in place the case management organization plan as quickly as possible. If action is taken as soon as possible, the timing is extremely advantageous in light of the strong possibility of state funding and all that it involves.

**Disciplinary Appeals**

Section 8 of the proposed enabling legislation provides in part that "classified employees shall be accorded rights, privileges and protections in regard to hiring, firing, layoffs, transfers, promotions and disciplinary actions such as those accorded employees in the career service of state service." (Emphasis supplied; see Appendix C.)

The statutes relating to state civil service cover appeal of disciplinary actions applying to two categories of employees: 1) those civil service employees covered by a union contract; and 2) those civil service employees who are not. The former may bring an appeal under a procedure provided by a negotiated contract provision. The latter may appeal first to the appointing authority and then to the Merit System Board. These provisions require that, if the judicial branch accords the same protections in disciplinary actions as does state civil service, the judicial branch process for its classified employees should be an exact replication of the state civil service process. This poses no problem for judicial branch classified employees covered by a union contract disciplinary appeal process. For those who are not, the judicial branch should establish a board specifically to hear disciplinary appeals. The composition of the board should be determined by the Administrative Director of the Courts as provided by administrative rule, and the Administrative Director should appoint the board. Staff services for the board should be provided by the Human Resources Division.

There is one other category of employees to consider: those who are unclassified. There are several alternatives:

1) No unclassified employee should have the right to appeal a disciplinary action.

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13 NJS 11A:2-16.
14 NJS 11A:2-13 through 2-16.
2) Only the lowest level or lower levels of unclassified employees should have the right to appeal a disciplinary action.

3) Every unclassified employee should have the right of appeal.

4) The right of appeal should depend both on the nature of the disciplinary action and unclassified employee level.

The study team recommends the fourth alternative, with the right of appeal available for disciplinary actions involving termination, demotion, suspension, or similar severe penalties. The levels of unclassified employees for whom there would be no right of appeal of any disciplinary action should be determined by the Administrative Director and specified by rule.

The next concern is the appeal process to be followed for unclassified employees allowed the right of appeal. The process could be the same as that for classified employees not covered by a union contract appeals procedure. Another approach could be peer review, as explained in Appendix D. The study team has no experience with the peer review process, so it has no informed comment, except to state that its use for disciplinary actions taken against unclassified employees does not appear to be in conflict with the provisions of the enabling legislation.

**Job Classification and Pay Study**

The proposed enabling legislation contemplates a comparison of judicial job classifications with executive branch job classifications, where valid comparisons exist, to achieve parity to the greatest extent possible between judicial branch and executive branch employees. In addition the intent is to turn the existing job classification system into a new job classification structure. To accomplish this, existing job titles and positions serving the courts at the county level must be examined (currently 284 titles, plus 153 titles from positions authorized under Administrative Rule 1.33), and a new job classification structure must be developed which is:

1) reflective of court work;

2) uses common titles for similar work and eliminates redundant and nondescriptive titles;

3) recognizes appropriate levels of job responsibility; and

4) applies uniform rates of pay for similar types of work.

At the trial court level, civil service court employee positions are classified under the state department of personnel, but administered under 21 different county offices.

A review of reports compiled by the Human Resources Division of the AOC indicates that there are numerous levels among the trial court job classes currently found in the county-funded personnel systems:
## County Titile

<table>
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<tr>
<th>County Title</th>
<th>Number of Job Levels</th>
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<tr>
<td>Account Clerks</td>
<td>6</td>
</tr>
<tr>
<td>Accountants</td>
<td>3</td>
</tr>
<tr>
<td>Administrative Assistants</td>
<td>5</td>
</tr>
<tr>
<td>Bookkeeping Machine Operator</td>
<td>4</td>
</tr>
<tr>
<td>Cashier</td>
<td>10</td>
</tr>
<tr>
<td>Court Aide</td>
<td>4</td>
</tr>
<tr>
<td>Court Interpreter</td>
<td>3</td>
</tr>
<tr>
<td>Data Entry Machine Operator</td>
<td>7</td>
</tr>
<tr>
<td>Investigator</td>
<td>6</td>
</tr>
<tr>
<td>Probation Officer</td>
<td>9</td>
</tr>
<tr>
<td>Program Coordinator</td>
<td>6</td>
</tr>
<tr>
<td>Secretary</td>
<td>12</td>
</tr>
<tr>
<td>Clerk</td>
<td>6</td>
</tr>
<tr>
<td>Docket Clerk</td>
<td>7</td>
</tr>
</tbody>
</table>

These job levels all represent varying salary ranges and sometimes overlapping titles, e.g., clerk and docket clerk. Further analysis indicates that of the 326 identifiable job classes in county personnel systems, 102 (or 31 percent) are single position classes. Another 47 are two-position classes. Together the one-position and two-position classes constitute 46 percent of the total classes. A job classification and pay study contemplated by the enabling legislation would address the issues of excess class titles, numerous pay levels, and the appropriateness of specialized titles.

In addition to addressing trial court positions, a classification and pay study should also include the positions that are already on the state payroll in the Supreme Court, Appellate Division of Superior Court, Administrative Office of the Courts, Tax Court, and ancillary agencies. In carrying out this study a number of purposes are served:

1) The study is given credibility in that the AOC can be viewed as willing to subject itself to the same job classification scrutiny that it is applying to field personnel in the trial courts.

2) One judicial personnel system will be created covering all levels of courts and the AOC.

3) A broader array of career paths can be created, thus expanding the promotional opportunities of all state-funded judicial personnel.

The following estimates indicate the size of the future judicial personnel system:
### Function

<table>
<thead>
<tr>
<th>Function</th>
<th>Number of employees</th>
</tr>
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<tbody>
<tr>
<td>1) Trial court personnel</td>
<td>4,828</td>
</tr>
<tr>
<td>2) Probation personnel</td>
<td>2,406</td>
</tr>
<tr>
<td>3) Supreme Court, Appellate Court, Superior Court,</td>
<td></td>
</tr>
<tr>
<td>Tax Court, AOC, Official Court Reporters</td>
<td>1,273</td>
</tr>
<tr>
<td>Total Judicial Personnel</td>
<td>8,507</td>
</tr>
</tbody>
</table>

Other state judicial systems that have recently implemented state-funded personnel systems have undertaken job classification and pay studies. These include Minnesota (system developed in anticipation of state funding), Iowa, Oregon, and New Hampshire. Although the New Jersey system is very large (second only to the state-funded judicial personnel system of New York), the basic steps are the same. The steps include:

1) The appointment of a job classification steering committee

2) completion of job questionnaires by all employees included in the study; (These questionnaire responses are in each employee’s words, reviewed and commented on by supervisors.)

3) preparation of organization charts for each court or function to determine structure, job commonalities, and supervisory hierarchies;

4) conduct of desk audits or interviews of at least 25 to 40 percent of the positions covered in the study; (These interviews, which average about one half hour per employee, help to clarify questionnaire responses, broaden the analyst’s knowledge of operations, and help to sell the study and uniform personnel system by establishing the credibility of the AOC in personnel matters.)

5) development of a job class structure that reflects the unique nature and functions of court work;

6) development of written job specifications for each class of work that is identified;

7) allocation of positions in the newly-created classes;

8) comparison of the class structure where valid to that of the executive branch career service to effectuate the intent of the enabling legislation;
9) calculation of the fiscal impact of this analysis on the AOC budget in bringing 8,500 employees into one judicial branch personnel system; and

10) the conduct of employee classification appeals to fine tune the allocation of positions into the new judicial personnel system. This task is desirable but optional.

Classification Appeal Process. Under this informal administrative procedure, employees are notified of their recommended job classification via written notice and may respond in writing concerning their desire to appeal their classification. It should be noted that this appeal process would address classification matters only—not salary matters. Since salary matters may be subject to collective bargaining and legislative appropriation, the only matter ripe for appeal would be the recommended job classification.

The conduct of appeals by a consultant is desirable but optional. It is desirable for a number of reasons.

- Since not all positions will be audited, it is mechanism for fine tuning the allocation process.

- Some job duties for certain positions may change between the inception of the classification study and its conclusion. These employees should be afforded the opportunity to request a review of the allocation of their position prior to the consultant's submission of final recommendations.

- The fair treatment of employees in this appeal phase will remove this issue as one the union(s) can bring forward as "unfinished business" under the collective negotiations process.

- An appeal process conducted by an outside consultant makes it unnecessary for the AOC to become involved, thus enhancing the objectivity of the process.

- Employees should have a higher level of satisfaction with the entire job classification study and process if they are given a final personal right of appeal concerning their jobs.

The appeal process, however, would increase the cost and time frame of the classification study. It cannot be predicted with certainty the number of employees who might appeal their classification. In other judicial systems a ten percent appeal rate has been the experience but these systems were not heavily unionized. Using the ten percent factor would yield about 850 appeals; about half of these would be informational requests or appeals that could be dismissed for lack of justification. These could be handled with appropriate paperwork. Another 425, it is estimated, would be true appeals which would be processed with a face to face meeting, on the record, with the employees and his/her representative if desired. It would be conducted much like an "after the fact" desk audit with a short written decision prepared for each appeal heard.
The estimated cost for the appeal phase is $51,000 for all units under the study. This cost is further detailed under the section on estimated costs and time frames for the study.

Timing the Study

The desk audits should be scheduled so that they cover a representative sample including jobs in each identifiable class; a sample of large, medium, and small court operations; and geographic coverage of all areas of the state. The AOC reports that there are 117 trial court, probation, ancillary and state court administrative operations locations (63 court and related, 48 probation, and 6 state administrative) in the state. This includes locations that are apart from the main county seat location.

This sample would also include interviews of a representative sample of positions involved in case management activities. These functions should be organized and implemented prior to initiation of the job classification and pay study. (See previous comments.) In this manner, the job specifications that have been developed by the AOC can be reviewed and the jobs properly integrated into the overall judicial personnel merit system.

Finally, under the desk audit phase, the positions appointed pursuant to Rule 1:33 (total 1,065) will be interviewed on a sample basis, and the 26 statewide job specifications that have been prepared by the AOC will be reviewed as part of the development of a uniform set of written job specifications.

Under the enabling legislation, county employees would become state employees on July 1, 1993. At this point it would appear that, if no classification study is undertaken, employees would be absorbed at present salary rates, plus any transitional/interim salary adjustments. (See page 22.) The phasing of the position classification study is dependent on three factors:

1) effective date of the enabling legislation (July 1, 1993);

2) expiration of the longest running collective bargaining agreement (December 1994),\(^{15}\) and

3) length of time required by the Public Employment Relations Commission (PERC) to hold hearings and designate new bargaining units.

For instance, if PERC began the hearing process in January 1993, it is estimated that it would take until the end of 1993 before a union certification election is held. Thus, on January 1, 1994, bargaining units would probably be known, and the AOC should be well into the process of the job classification and pay study of the 8,500 positions to be included in the judicial personnel system. On January 1, 1995, the AOC should be ready to bring to the bargaining table its classification and pay recommendations to be discussed with whatever unit(s) have been certified as bargaining representative(s). It appears, therefore, that there is a

\(^{15}\) This agreement must be honored until it terminates, as must all contracts presently in force.
two-year "window" (1993 and 1994) during which the AOC should vigorously pursue the classification and pay analysis for state-funded court employees.

This undertaking is a significant one and will require the engagement of expert consulting services to perform the study. It would be wise to supplement the external consultant group with internal help from the AOC and TCA locations. It appears that possibly one position from the Human Resources Division can be devoted to the study effort. At the TCA staff level, some help may also be obtained to assist the consulting group. A review of TCA staff levels indicates that there may be between 13-21 positions currently engaged in personnel activities. These positions or a portion of them (depending on background) could be temporarily assigned to assist the study effort, which would provide staff training and continuity in implementing the system once it is developed.

In undertaking this study, it would be prudent to perform the classification analysis first of those county employees who are newly state funded (7,234), then the positions that are currently state funded (1,273) should be addressed. Proceeding in this manner will allow the positions requiring the most attention to be addressed first.

**Estimated Costs and Time Frames**

Proposed amendments to the enabling legislation allow for an appropriation of $250,000 to enable the Chief Justice to retain consultants, if necessary, and to establish and support an advisory committee. This amount of money would be adequate only to support a consulting effort which would address a portion of those trial court employees that would be brought on the state payroll.

For the purpose of estimating both the amount of money required and the time necessary to complete the study for various groups of employees, the following guideline should be used:

<table>
<thead>
<tr>
<th>No. of employees</th>
<th>Employee groups</th>
<th>Consulting cost</th>
<th>*Time for completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>4,828</td>
<td>Trial court employees</td>
<td>$250,000 est.</td>
<td>9 months, Jan 93 - Sept 93</td>
</tr>
<tr>
<td>2,406</td>
<td>Probation employees</td>
<td>88,000</td>
<td>5 months, Oct 93 - Feb 94</td>
</tr>
<tr>
<td>1,273</td>
<td>All other state-funded employees</td>
<td>73,000</td>
<td>3 months, Mar 94 - June 94</td>
</tr>
</tbody>
</table>
|                  |                                        | $411,000 est.   | *Note: this schedule allows for 6 months slippage in study time frames. January 1995 is outside date for completion of the study.
Classification Appeals. Estimating costs and time frames for employee classification appeals is difficult, because it is hard to determine how "appeal oriented" the employees might be. The following estimates, however, are a good place to start.

<table>
<thead>
<tr>
<th>No. of Appeals</th>
<th>Employee Groups</th>
<th>Consulting Costs</th>
<th>Time for Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 (250)</td>
<td>Trial court employees</td>
<td>$28,000</td>
<td>Aug-Dec 1994</td>
</tr>
<tr>
<td>250 (125)</td>
<td>Probation employees</td>
<td>15,000</td>
<td>Aug-Dec 1994</td>
</tr>
<tr>
<td>130 (65)</td>
<td>All other state funded employees</td>
<td>8,000</td>
<td>Aug-Dec 1994</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$51,000 est.</td>
<td></td>
</tr>
</tbody>
</table>

Note figures in parenthesis () indicate appeals which may require substantial attention.

Lower Cost Alternative

If reduced levels of funding for the classification study are encountered it may be possible to secure the services of classification analysts on a loan basis from the State Department of Personnel to assist the AOC in the study effort. If this alternative is selected, it is recommended that at least nine analysts would be required for the effort.

One County Pilot Study Unnecessary

During the on-site visit by the study team, it was suggested by one AOC management staff member that it might be preferable to do a pilot classification and pay study in one county only. The study team disagrees with this suggestion, because it feels that the effort required should be part of the overall study process. To single out one county might make the study results subject to possible scrutiny by employee organizations prior to the conduct of the complete study. Further, one county probably would not be representative of the other 20 counties. Past efforts at conducting these types of studies in other judicial systems that have undergone state funding have shown that it is far better for management to undertake the study as a whole rather than on a piecemeal basis. In this manner, employee expectations are focused and union curiosity minimized.

Labor Relations Issues

Section 8 of the enabling legislation states that the transfer of employees from the county to the state payroll shall not affect any existing contract agreements. No contract agreements with these employees shall be negotiated after the effective date of the Act without the approval of the Administrative Office of the Courts.

There is one clerical union contract that expires in December 1994. This is the most lengthy contract and is the outside date for all the 63 current union contracts negotiated by the AOC. Ongoing contracts which require renegotiation (including grievance provisions) between the effective date of the enabling legislation (July 1993) and December 1994 should be
negotiated for no more than one year at a time so that the term of the agreement does not extend beyond December 1994. According to the labor relations attorney in the AOC, who has examined the issue, the timeliness of petitions for certification of a public employee representative is governed for the most part by the Public Employee Relations Commission's Rule 19:11-2.8(c).16

Also, under rules adopted by PERC, the Administrative Office of the Courts as a public employer may file a petition for certification of public employee representative where there is a good faith doubt concerning the majority status of the representatives of its employees (see PERC rules 19:11-1.4 and 19:11-1.5). After investigating the petition, PERC may hold a hearing and then issue a decision directing an election in an appropriate unit if it appears that there is a reasonable cause to believe that a valid question concerning representation exists in an appropriate unit. (See PERC rule 19:11-2.6.)

Since most of the collective bargaining agreements expire in 1993 or 1994, it is likely that PERC would recognize those agreements as bars to any petitions filed immediately after the passage of the Constitutional Amendment, as well as a bar to any petition filed on or shortly after July 1, 1993, for those agreements which end on December 31, 1994. However, timely petitions could be filed as various times in 1992 and 1993 for unrecognized employees or where recognized organizations have not reached agreements after 12 months or where such agreements have expired.

Given the AOC's preference for statewide units, the following approach is recommended:

1) Any petitions filed in 1992, 1993, or before April 5, 1994, would be opposed by the Judiciary as inappropriate since statewide bargaining units are the most appropriate units, and contracts for some of the employees in the appropriate units should bar consideration of such petitions.

2) The Judiciary would file for statewide units during the open period of April 5, 1994, to May 4, 1994, whereafter intervening unions with a 10% showing of interest per proposed unit would intervene in one, several or all of the proposed units.

The advantages of this approach, in addition to adherence to PERC rules and Judiciary goals, is that it will give all of 1993 and early 1994 to attend to classification study issues, as well as most of 1994 to schedule and conduct elections and resolve objections thereto.

16 19:11-2.8 Timeliness of petitions
(c) During the period of an existing written agreement containing substantive terms and conditions of employment and having a term of three years or less, a petition for certification of public employee representative or a petition for decertification of public employee representative normally will not be considered timely filed unless:

1. In a case involving employees of the State of New Jersey, any agency thereof, or any state authority, commission or board, the petition is filed not less than 240 days and not more than 270 days before the expiration or renewal date of such agreement.
Management Rights

The AOC will want to ensure that, whatever bargaining units and union representation are decided upon, there is a strong management rights clause written into the collective bargaining agreement. A recent draft agreement (1991-1992) between the judges of the Superior Court of the County of Passaic and the Passaic County Probation Officer's Association is illustrative on this point. The agreement states:

ARTICLE IV - Management Rights and Responsibilities

Section 1

In order to effectively administer the affairs of the Probation Department and to properly serve the public, the Court hereby reserves and retains unto itself, as employer, all the powers, rights, authority, duties and responsibilities conferred upon and vested in it by law prior to the signing of this Agreement. Without limitation of the foregoing, management's prerogatives include the following rights:

1. To manage and administer the affairs and operations of the Probation Department in accordance with Court Rule 1:34-4;

2. To direct its working forces and operations;

3. To hire, promote and assign Officers;

4. To demote, suspend, discharge or otherwise take disciplinary action for just cause.

Section 2

The Courts' use and enjoyment of its powers, rights, authority, duties and responsibilities, the adoption of its policies and practices or the promulgation of rules and regulations in furtherance thereto, shall be limited only by the terms of this Agreement and to the extent same conform to the Court Rules and Laws of New Jersey and of the United States.17

Management rights and responsibilities are addressed in American Bar Association, Standards Relating to Court Organization, 1990 Edition. Section 142.5(d)(ii) provides:

Management rights. As administrative head of the judicial system, the Chief Justice should reserve on its behalf management

rights, power, and authority, such as the assignment, management, control, and direction of the workforce; determination of technology applications; and related matters as permitted by state law applying to public employees, including those in the judicial branch, subject to the ultimate authority of the supreme court.18

Staffing Needs and Tasks

There are a number of tasks which will require the commitment of AOC Human Resources staff, if the constitutional amendment passes. The study team has tried to identify these tasks as well as permanent assignments which may become the province of the Human Resources staff once the judicial branch personnel system is implemented. The study team has obtained some comparative human resource staffing data for other state-funded judicial personnel systems, so that the AOC can begin to estimate its staffing needs in this area of operations.

One-Time Central Staff Tasks

These tasks should be undertaken immediately upon passage of the constitutional amendment.

Obtain Payroll Information from Counties. The Administrative Office, with help from the TCA's, should obtain payroll information from the counties in each vicinage. No doubt such data can be obtained on computer disk or tape, which can be read and converted to the uniform data base in use in the AOC for payroll purposes.

In addition to basic payroll information the AOC should have each employee complete a data sheet which contains the following information:

- Home address, date of birth, marital status, social security number, spouse's name and employer, number and name of dependents, education including schools attended and degrees awarded.
- Authorizations for payroll deductions or withholdings, child support deduction orders and garnishments.

In addition to the above, it would be advisable for the TCA office to maintain at the vicinage level the following individual personnel records, some of which may be transferred from existing county personnel files:

- Resume, employment references, results of background checks, including reports about character, credit, and work habits.

• Attendance and leave records.
• Results of preemployment physical examinations.
• Performance evaluations, letters of commendation and merit awards.
• Changes in employment status such as promotions, transfers, and layoffs or discharges.
• Occupational health and medical records, safety records including accident reports, disability, and insurance claims records.
• Government provided training and education records.
• Test information, including test scores used for selection and promotion.
• Disciplinary records, such as warning notices.
• Grievance records including arbitration awards.

Review County Audit Reports. It would be desirable for the Human Resource and Management Services Divisions to review the most recent county audit reports to identify any problems that might present a potential liability to the AOC once judicial employees are state funded. Information of this nature will also provide the AOC with some knowledge of overall county capability in fiscal and personnel matters.

Payroll/Dry Run. In the process of absorbing approximately 7,200 new positions on the state payroll, it is especially important to ensure that the first payroll run is as accurate as possible. Based on past experience in other states, an error rate of 4-5 per cent is acceptable; to achieve even this error rate it is recommended that at least two dry payroll runs be made three to four months prior to the actual first payroll. In this manner, the bugs can be worked out of the system and eliminate any embarrassment for the AOC that could accompany the transition of county employees to the state payroll. Also the AOC should assume responsibility for preparing the payroll, at least in the first few months of state funding. It should assume this responsibility to ensure that the payroll is as accurate as possible.

Potential Pension and Health Insurance Problems. Interviews conducted by the study team with AOC staff indicated that there should be very few pension problems, because virtually all county employees are in the state retirement system already. With regard to health insurance, the most recent amendment to the enabling legislation suggested by the AOC states that transferred county employees who become judicial employees will receive all health and medical benefits immediately upon becoming state employees. Therefore, a lapse in coverage will not occur. Also, it should be noted that health benefits are not negotiated in union contracts.

Health Benefits Differentiation. Although county employees will not suffer a lapse in coverage upon transfer to the state payroll, there may be instances where some employees will
have less generous health benefits with the state than they enjoyed with the county. These variances should be identified early so that potential employee discontent can be dealt with.

**Existing Promotional Lists.** County personnel departments may have promotional lists that contain the names of trial court employees who will be transferred to the state-funded judicial personnel system. Human Resources staff, along with legal research help, should explore the legal status of such lists and the legal rights of court employees who may be on such lists. It is possible that, in the past, some other county functions and staff may have been absorbed by the state and there may be precedent or attorney general opinions addressing this issue. The Department of Personnel or other state agencies may also have information on this issue.

**Transitional/Interim Salary Adjustments.** Under the suggested schedule for completing the job classification and pay study, there will be a period of time during which judicial employees will be on the state payroll but not yet under a uniform judicial personnel plan.

The enabling legislation is silent on the issue of transitional/interim salary adjustments; and unless the legislature, in some future draft, covers this matter, the entire area of interim salary adjustments will have to be addressed by special salary administration rules issued by the Administrative Office under authority of the Supreme Court.

At the county level, salary increases may be granted at different times, depending on the county fiscal year. County fiscal years and the timing of salary increases should be researched by the Human Resource Division. For instance, some counties may grant a salary increase on January 1, 1993. On July 1, 1993, all judicial employees will become state employees, subsequently, state employees may receive a salary increase in the fall of 1993 in an amount yet to be determined.

On July 1, 1993, then the state should begin to pay the base salary plus whatever increase that a particular county has granted or negotiated. For those employees receiving no county increase or negotiated increase prior to July 1, 1993, such employees should receive whatever state salary increase is applicable. In other words, judicial employees on July 1, 1993, should not receive two salary increases. They would either continue to receive the county-granted or negotiated increase (to be paid by the state) or the general state salary increase.

If the state grants salary increases of varying percentages, this should be reflected in the salary administration rules promulgated by the AOC.

In 1994, it is most likely that another round of state salary increases would affect nonunion judicial employees. At that time, these employees should receive the standard state increase or such varying percentages as may be applicable under the state career service. Again, this salary adjustment should be governed by rules of transitional salary administration.
Ongoing Human Resources Staff Tasks Under State Funding

In addition to the "one time" tasks attendant to state funding that have been mentioned in the previous section, there are a number of other ongoing tasks that should be undertaken by central Human Resources staff including:

Reclassification Activities. Once the classification plan is developed and implemented, there may be requests for reclassification of positions. These requests may arise because of changes in job duties, reorganization, addition of new programs, or merely the desire to use the process as a way of obtaining a salary increase. To obtain uniformity in handling these requests and for the purpose of monitoring budget impact, these requests should be handled centrally and be reviewed by Human Resources and Management Services staff.

When the judicial branch personnel system is created, review of reclassification appeals will also encompass those trial court classified employees who are not under union contracts. This increase in the number and variety of employees who will have access to the reclassification appeal process strongly suggests the need for a reclassification appeal board.

First, the Assistant Director for Human Resources should not sit on the board, because that division is responsible for conducting the desk audits upon which the reclassification denial is based. The board should have no appearance of interest conflict. Consequently, the reclassification appeals board for nontrial court employees should include the deputy director, an assistant director from a division other than the one where the employee works who is bringing the appeal, and a neutral third party. The study team suggests that this neutral party be from the state department of personnel.

For appeals from classified trial court employees, the board should comprise the deputy director or an assistant director (other than from the Human Resources Division), a TCA (other than from the vicinage where the employee works who is bringing the appeal), and a neutral party (State Personnel Department).

Position Control. Position control is closely tied to the budget monitoring function. In essence, it means that once positions in the system are classified, they should be identified with unique position numbers, so that positions are not created or recast arbitrarily without the approval of high level personnel and budget staff. The paperwork that requests personnel changes should funnel through both the Human Resource and Management Services Divisions, with a view toward exercising position control.

Recruitment, Testing Process, Verification, Test Locations, Merit and Fitness Dictates. Once the judicial branch personnel system is in place, the Human Resources Division will become involved in the recruitment, screening, and testing process. Job vacancy announcements should be prepared centrally and posted in routine locations around the state, including those that meet Equal Employment Opportunity/Affirmative Action outreach recruitment requirements. Testing would include both written tests for lower- and mid-level clerical jobs and oral boards for supervisory, managerial, and professional positions. It may be possible to use the executive branch testing service for a fee for the more routine clerical positions to avoid duplicating testing.
media and locations. The issue of testing locations should be explored by the Assistant Director of Human Resources. If the state executive branch has decentralized testing locations for its civil service system, perhaps these locations can be used for judicial system candidates as well to avoid the expense of setting up separate testing facilities.

Research has been done by AOC legal staff on the subject of the dictates of merit and fitness. The New Jersey constitution, Art. VII, Sec. I, Para 2 provides that appointment and promotions to positions in the civil service be made on the basis of merit and fitness to be ascertained, as far as practicable, by competitive examination except that with regard to appointments, veterans may be given preference if provided by law.

The research indicates that the New Jersey Supreme Court has dealt with many cases that have sought to define the term "merit and fitness." The following is a summary of the cases and related research performed by AOC legal staff:

Merit and fitness have most often been determined via competitive examination which may include written, oral, and performance testing, as well as evaluation of education and experience.

A three-step process has been established by the U.S. Ninth Circuit Court of Appeals and adopted by the New Jersey Supreme Court. The steps are:

1) Tests must specify the trait or characteristic that the selection device is being used to identify or measure.

2) The employer is required to establish that the particular trait or characteristic is an important element of work behavior.

3) The employer must reasonably demonstrate by professionally acceptable methods that the selection device is predictive of or significantly correlated with the element of work behavior identified in the second step.

The court has rejected the notion that merit and fitness must always be determined by competitive examination, because some positions in the state and municipal service are not in the classified service and therefore not subject to appointment or promotion via competitive examination.

For unclassified positions, the employer may base hiring and promotion decisions on assessments of job qualifications that are not susceptible to measurement by competitive examination. The employer's authority is bolstered where the job criteria also include specific, measurable qualifications relating to fitness, such as seniority and years of job-specific experience.

Although the cases disclose the strong preference to assign job titles in the classified service to the greatest extent possible, the Appellate Division recognized that a position meeting the following criteria may be suitable for inclusion in the unclassified service:
1) the position involves a confidential relationship directly accountable to the head of the organization;
2) the work involved is important, complex in nature, and unique; and
3) the position is sensitive because it requires the development of recommendations on all important matters coming before the organization.

In addition to the guidance found in the cases, N.J.S.A. 11A:3-4 sets forth the statutory employment categories which constitute the unclassified civil service. These include, inter alia, gubernatorial appointees; department heads and members of boards and commissions authorized by law; one secretary and one confidential assistant to each department head, board, principal executive officer and commission; student assistants; and all other titles as provided by law as to Merit System Board may determine.

The dictates of merit and fitness as decided in court cases then contemplate that there be documentation for selection decisions and validation of testing procedures. All of this means increased work for the Human Resources Division.

Performance Evaluation, Training, Federal Law Compliance, Technical Assistance, Overall Administration, and Staff Ratios. Although performance evaluation will actually be done by the supervisors and managers who are closest to the work being performed, central human resources staff will be involved in forms design and preparation of guidelines for carrying out this activity. In addition, central records on performance should be maintained and some type of automated "tickler" system developed to remind supervisors and managers to carry out such evaluations near the anniversary date of each employee.

Training in performance evaluation techniques should be a responsibility of central Human Resources staff, as well as the design of training programs and material (video, cassettes, etc.), provision of training staff (outside consultants and courses), and assistance to the vicinage as requested.

There are a number of federal laws affecting human resource administration that central staff is most likely involved in now; the application of these laws will be expanded to a larger workforce under a state-funded judicial personnel system.

Equal Employment Opportunity/Affirmative Action, the Americans with Disabilities Act, and the Fair Labor Standards Act all present requirements that must be addressed for field personnel. In addition, the findings of the Gender Bias Task Force and the Task Force on Minority Concerns will have to be addressed.19

Human resource staff will be engaged in the maintenance of personnel records and the promulgation and maintenance of personnel rules and will also continue liaison activities with staff in the counties. Staff should be available for.

The work on staffing ratios in the civil, criminal, and family divisions is proceeding well in data collection by work functions within each division. (See previous comment.) As these data are analyzed and further refined, central human resources staff and management services staff should become more involved in the application of optimum staffing ratios particularly as to position control under the state-funded judicial branch personnel system.

Central Human Resource Staff Needs. Under state funding, the array of tasks to be performed by the central Human Resources staff is formidable. Currently, the staff is responsible for personnel administration for 1,200 employees, 1,000 Rule 1:33 employees in the counties and 400 judges. The division is responsible for classification and compensation, position control, recruitment, payroll, timekeeping, and benefits administration. Training, employee relations, and EEO/AA activities are also carried out for all state and county court employees (8500).

The FTE staffing breakdown shows:

<table>
<thead>
<tr>
<th>Department</th>
<th>FTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Director and Staff</td>
<td>3.00</td>
</tr>
<tr>
<td>Personnel</td>
<td>16.60</td>
</tr>
<tr>
<td>Training</td>
<td>5.00</td>
</tr>
<tr>
<td>Employee Relations</td>
<td>3.00</td>
</tr>
<tr>
<td>EEO/AA</td>
<td>3.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>30.60</strong></td>
</tr>
</tbody>
</table>

For purposes of comparison, the following staffing data are presented for personnel administration/labor relations/training from some other states with state-funded judicial systems, (but data are not clear on the comparability of responsibilities):
**State**  | **Personnel/Labor Relations and Training Staff** | **Total Non Judicial Employees**
---|---|---
Connecticut | 24 | 2,000
Massachusetts | 8 | 4,600
North Carolina | 10 | 2,904
New York | 67 | 13,000

*Source: NCSC AOC Staffing Data, 1987 and 1991*

Field Staff Tasks. Field staff in the TCA offices could assist in a number of tasks associated with the transition to state-funded judicial branch personnel system. It is estimated, based on reported TCA office staffing levels by vicinage, that there are 13-21 positions involved in personnel activities and another 21 positions involved in financial activities. The study team suggests that some of these positions, under the direction of TCAs and in coordination with the Assistant Director for Human Resources, might gather information in certain levels of personnel and financial activity now taking place at the county level. An examination of such activity will allow the AOC to estimate better the transaction levels that need to be addressed when such functions pass from the county to the AOC.

Personnel And Fiscal Transactions. Facilities Duties. The personnel and fiscal transaction activity that is currently performed by TCA staff for the county should be identified. Also, the transaction levels currently performed by county staff for each TCA office should be researched and documented to help the AOC determine the anticipated workload that may shift from the county to the state or from the county to the TCA staff. For instance, personnel transactions might include hiring, reclassifications, terminations, pay or benefits changes, transfers and related informational matters.

TCA staff involved in facilities functions and responsibilities or other county staff who are involved in facilities functions and responsibilities for the courts should be identified and the tasks documented.

An inventory of court facilities and related offices has been developed by the TCAs to identify locations by city and specific address. This information will be valuable to the Human Resources Division as the judicial personnel system is developed.

Inventory Of Equipment, Vehicles, Use of Bar Coding, Bulk Purchasing. TCA staff should be involved, under the direction of the Management Services Division, in the identification and listing by county and vicinage of the equipment (furnishings, office equipment, and vehicles) that will become the property of the state upon the transfer to state funding.
It is suggested that bar coding technology be used to identify furnishings, equipment, and vehicles which will become state property. No doubt there are 21 different county systems for forward looking stance of the AOC. While most purchasing will be handled at the vicinage level, there are some advantages to be achieved through bulk purchasing at the state level, such as forms, supplies and similar items. Consideration should also be given to a statewide contract for copy machines awarded by competitive bid. The New York Court system did this in the late 1970s and achieved an annual saving of $600,000 (in 1978 dollars).

**County Staff Ratios For Personnel, Fiscal, Purchasing, And Property Control.** There are functions currently being performed by county staff that will be transferred to the state level either in whole or in part. County and state systems for personnel, fiscal activities, purchasing, and property control may not be mirror images, but the number of county staff performing such functions for the TCA in each county should be identified as an F.T.E. (full-time equivalent) figure. This will enable the AOC to predict with greater accuracy the staffing requirements in relation to transaction levels for these functions.

Similarly, there may be a mix of TCA staff and general county staff performing these functions for the trial courts. If this is the case, they, too, should be identified as an F.T.E. figure.

**Comparable State Agency Staffing Review**

As another comparison for estimating AOC human resource and financial staffing requirements dictated by state funding, it is suggested that the staffing arrangements for personnel, purchasing, property control, and fiscal functions in other decentralized state agencies by reviewed. An examination of the State Department of Transportation and the State Public Defender operation with reference to central personnel and fiscal staff may give some idea of the acceptable levels of staffing for these functions in New Jersey state government.
APPENDIX B

[FIRST REPRINT]

SENATE CONCURRENT RESOLUTION No. 53

STATE OF NEW JERSEY

INTRODUCED MAY 21, 1992

By Senators CORMLEY, DiFRANCESCO, Lynch, Bassano, Kocen. O’Connor, Zane, Girgenti, Cafiero, Brown, Dimon and Bennett

A CONCURRENT RESOLUTION proposing to add a new section VIII to Article VI of the Constitution of the State of New Jersey.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The following proposed amendment to the Constitution of the State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

a. Amend Article VI by adding a new section VIII as follows:

Section VIII

1. a. On or before July 1, 1997:

(1) The State shall be required to pay for certain judicial and probation costs;

(2) All judicial employees and probation employees shall be employees of the State; and

(3) Any judicial fees and probation fees collected shall be paid to the State Treasury.

b. As used in this section:

(1) “County judicial employees” means the employees of the surrogate’s office and the sheriff’s office who perform judicial functions; “Judicial facility costs” means any costs borne by the counties prior to July 1, 1993 with regard to the operation and maintenance of facilities used by the courts or judicial employees;

(2) “County judicial costs” means any costs incurred by county judicial employees in performing judicial functions; “Probation facility costs” means any costs borne by the counties prior to July 1, 1993 with regard to the operation and maintenance of facilities used by probation employees;

(3) “Judicial costs” means the costs incurred by the county for funding the judicial system, including but not limited to the following costs: salaries, health benefits and pension payments of all judicial employees, juror fees and library material costs, except that judicial costs shall not include costs incurred by employees of the surrogate’s office or judicial facility costs;

(4) “Judicial employees” means any person employed by the county prior to July 1, 1993 to perform judicial functions.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

1 Senate S20 committee amendments adopted June 6, 1992.
functions, including but not limited to employees working for the courts, the law library and employees of the sheriff's office who act as court aides, except that employees of the surrogate's office and probation employees shall not be construed to be judicial employees;

(5) "Judicial fees" means any fees or fines collected by the judiciary but shall not include sheriff's or surrogate's fees or municipal court fees or fines;

(6) "Judicial functions" means any duties and responsibilities performed in providing any services and direct support necessary for the effective operation of the judicial system;

(7) "Probation costs" means any costs incurred by the county for the operation of the county probation department, including but not limited to the costs of salaries, health benefits, and pension payments of probation employees but shall not include probation facility costs;

(8) "Probation employees" means the officers and employees of a county's probation department any person employed by a county probation department prior to July 1, 1993;

(9) "Probation fees" means any fees or fines collected in connection with the probation of any persons.

2. When this proposed amendment to the Constitution is finally agreed to pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate, the Speaker of the General Assembly and the Secretary of State, not less than three months prior to the general election.

3. This proposed amendment to the Constitution shall be submitted to the people at that election in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question, as follows:

If you favor the proposition printed below make a cross (x), plus (+) or check (✓) in the square opposite the word "Yes." If you are opposed thereto make a cross (x), plus (+) or check (✓) in the square opposite the word "No."

b. In every municipality the following question:
<table>
<thead>
<tr>
<th></th>
<th>CONSTITUTIONAL AMENDMENT TO REQUIRE STATE FUNDING OF THE JUDICIAL SYSTEM</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES.</td>
<td>Shall the amendment to Article VI, agreed to by the Legislature requiring the State to assume by July 1, 1997 certain costs now borne by the counties through the county property tax levy in connection with the judicial system, be adopted?</td>
</tr>
<tr>
<td>NO.</td>
<td>Adoption of this amendment would require the State to assume by July 1, 1997 certain costs now borne by county taxpayers in connection with the judicial system. County employees employed by the court system and all employees of county probation departments would become State employees by that date. The State would be responsible for their salaries, health benefits and pension payments. As of that date, all judicial fees and probation fees would be paid to the State Treasury.</td>
</tr>
</tbody>
</table>

Provides for the transfer of certain judicial and probation costs from the county to the State by July 1, 1997.
AN ACT concerning the transfer of county judicial costs and fees
to the State and revising various sections of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the
State of New Jersey:
1. (New section) Sections 1 through 9 of this act shall be
known and may be cited as the "State Judicial Unification Act."
2. (New section) The Legislature finds and declares that:
a. The current method of financing the State's judicial system
has created undue hardship for both the counties and the courts.
b. The counties have had to balance the financial needs of the
judicial system with the need to provide essential county services
and have been denied any oversight over court operations.
c. As a result of the differing funding bases among the
counties, the courts have varying levels of resources available in
order to fulfill their responsibilities.
d. These differing bases and varying levels of available
resources have significantly hindered the development and
implementation of a unified administrative system for the courts.
e. If the State were to assume the administrative costs of the
judicial system, resources would be provided on a more equitable
basis and a central management system could be established by
the Chief Justice of the Supreme Court.
f. Furthermore, significant property tax relief would be
afforded to the citizens of this State since the counties would no
longer need to generate tax revenues currently required to
finance the judicial system.
g. It is, therefore, altogether fitting and proper for the State
to assume the cost of the judicial system in order to unify the
administrative system and to provide property tax relief.
3. (New section) As used in this act:
a. "County judicial employees" means the employees of the
surrogate's office and the sheriff's office who perform judicial
functions;
b. "County judicial costs" means any costs incurred by county
judicial employees in performing judicial functions;
c. "Director" means the Director of the Division of Local
Government Services in the Department of Community Affairs;
d. "Judicial costs" means the costs incurred by the county for
funding the judicial system, including but not limited to the
following: salaries, health benefits and pension payments of all
judicial employees, juror fees and library material costs.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above still is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
e. "Judicial employee" means any person employed by the county prior to July 1, 1993 to perform judicial functions, including but not limited to employees working for the courts and the law library, except that county judicial employees and probation employees shall not be construed to be judicial employees;

f. "Judicial fees" means any fees or fines collected by the judiciary but shall not include sheriff's or surrogate's fees or municipal court fees or fines;

g. "Judicial functions" means any duties and responsibilities performed in providing any services and direct support necessary for the effective operation of the judicial system;

h. "Probation costs" means any costs incurred by the county for the operation of the county probation department, including but not limited to the costs of salaries, health benefits, and pension payments of probation employees;

i. "Probation employees" means the officers and employees of the county probation department;

j. "Probation fees" means any fees or fines collected in connection with the probation of any person.

4. (New section) On and after July 1, 1993:

a. The State is required to pay for judicial costs and probation costs which shall not be construed to include county judicial costs;

b. All judicial and probation employees shall be employees of the State; and.

c. Any judicial fees or probation fees collected shall be paid to the State Treasury.

5. (New section) On or before July 31, 1993, the chief financial officer of each county shall certify to the director how much was appropriated for judicial costs and how much was collected in judicial fees during the 1992 local fiscal year. The director shall review and approve or disapprove the costs and fees so certified and, upon approval, shall determine a net judicial cost for each county by subtracting judicial fees from judicial costs. The director shall notify the county of his determinations by September 1, 1993. The director may require any additional information from the chief financial officer of the county that he may deem necessary and shall approve or disapprove the certified costs and fees, in whole or in part, if he determines that the costs and fees are accurate calculations. The chief financial officer of the county may request a reconsideration of any disapproval and may supply additional information to the director. The director may reconsider his determinations subject to the approval provisions of this section and shall notify the county of his determinations by October 1, 1993.

6. (New section) a. In local fiscal years 1993, 1994, 1995, 1996 and 1997, each county shall pay a share of its 1992 net judicial costs as determined by the director based on the following schedule:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>50%</td>
</tr>
<tr>
<td>1994</td>
<td>37.5%</td>
</tr>
<tr>
<td>1995</td>
<td>62.5%</td>
</tr>
<tr>
<td>1996</td>
<td>37.5%</td>
</tr>
<tr>
<td>1997</td>
<td>12.5%</td>
</tr>
</tbody>
</table>
b. Each county shall pay the respective amounts established in subsection a. to the State Treasurer on the following schedule:

(1) 1993........ On October 15, 50.0% of 1992 net judicial costs.

(2) 1994........ On May 15, 50.0% of 1992 net judicial costs, and on September 15, 37.5% of 1992 net judicial costs.

(3) 1995........ On May 15, 31.0% of 1992 net judicial costs, and on September 15, 31.5% of 1992 net judicial costs.

(4) 1996........ On May 15, 18.5% of 1992 net judicial costs, and on September 15, 19.0% of 1992 net judicial costs.

(5) 1997........ On May 15, 12.5% of 1992 net judicial costs.

c. In local budget year 1998 and thereafter, no county shall be required to pay judicial costs.

7. (New section) By April 1, 1993, a list shall be jointly developed by the Administrative Office of the Courts and the governing body of each county of the furnishings and office equipment currently used by the courts which shall become the property of the State on July 1, 1992.

8. (New section) a. Consistent with the purposes of this act, it is the intention of this act to ensure that until July 1, 1994, the level of salaries and accumulated benefits of all judicial employees shall not be affected by the transfers of these employees to the State and, therefore, during the 1992 local budget year, the percentage increase in the salaries and benefits of judicial employees shall be commensurate with the percentage increase in the salaries and benefits of county employees: except that this section shall not affect any existing contract agreements. No contract agreements with these employees shall be negotiated after the effective date of this act without the approval of the Administrative Office of the Courts.

b. No judicial employee who becomes a State employee pursuant to the provisions of this act shall receive a reduction in salary, accumulated benefits, or terms and conditions of employment, except that future collective bargaining agreements may provide for a modification in benefits so long as benefits are not modified below the level of benefits provided to State employees and salaries are simultaneously increased to be at least equivalent to the salaries of State employees in similar titles with similar duties.

c. Any changes in the collective bargaining units to which judicial employees belong, including elections to establish new collective bargaining units, shall be accomplished through the Administrative Office of the Court in accordance with the rules and procedures of the New Jersey Public Employment Relations Commission.

d. Upon expiration of existing collective bargaining agreements, salaries and benefits of judicial employees shall be
negotiated between employee representatives and the
Administrative Office of the Courts with the objective that by
local budget year 1996 salaries and benefits of these employees
shall be at least equivalent to the salaries and benefits of other
State employees in similar titles and with similar duties.

9. (New section) For the purposes of determining the county
tax levy upon which a county shall calculate its permissible tax
pursuant to P.L.1976, c.68 (C.40A:4-45.1 et seq.), the county
shall deduct from its tax levy an amount equal to 12.5%, 25%,
25%, 25%, and 12.5%, respectively, of the 1992 net judicial costs
as determined by the director pursuant to section 5 of this act.

10. N.J.S.22A:2-6 is amended to read as follows:

22A:2-6. a. Upon the filing or entering of the first paper or
proceeding in any action or proceeding in the Law Division of the
Superior Court, the plaintiff shall pay to the clerk $135.00 for the
first paper filed by him, which shall cover all fees payable therein
down to, and including entry of final judgment, taxation of costs,
copy of costs and the issuance and recording of final process,
except such as may be otherwise provided herein, or provided by
law, or the rules of court. Of the $135.00 paid to the clerk,
$40.00 shall be paid over by him to the treasurer of the county in
which venue is laid for the use of the county. Any person filing an
answer setting forth a counterclaim or a third party claim in such
case shall pay to the clerk $135.00 for the first paper filed by
him. Any person other than the plaintiff filing any other paper in
any such case shall pay to the clerk $80.00 for the first paper
filed by him.

b. [From July 1, 1991 to] Until June 30, 1992, the $80.00 fee
set forth in subsection a. for the filing of a paper by a person
other than the plaintiff shall be paid to the clerk, for use by the
State. [After June 30, 1992.] From July 1, 1992 to June 30, 1993,
of the $80.00 paid to the clerk, $25.00 shall be paid over by him
to the treasurer of the county in which venue is laid for the use
of the county. After June 30, 1993, the $80.00 fee set forth in
subsection a. for the filing of a paper by a person other than the
plaintiff shall be paid to the clerk, for use by the State.

c. Any person filing a motion in any action or proceeding shall
pay to the clerk $15.00. [From July 1, 1991, to] Until June 30,
1992, the $15.00 motion fee shall be paid to the clerk, for use by
the State. [After June 30, 1992.] From July 1, 1992 to June 30,
1993, the $15.00 motion fee shall be paid over to the treasurer of
the county in which venue is laid for the use of the county. After
June 30, 1993, the $15.00 motion fee shall be paid to the clerk,
for use by the State.

d. When a jury trial is requested in a civil action or proceeding
in the Law Division, the party requesting the jury trial shall pay
an additional jury fee of $50.00 to the clerk for use by the State.

(cf: P.L. 1991, c.177, s.6)

11. N.J.S.22A:2-27 is amended to read as follows:

22A:2-27. In cases appealed to the Law Division of the Superior Court from any inferior court or tribunal, criminal or civil, the clerk of the division shall charge a fee of $75.00 for filing a notice of appeal, appeal papers and proceedings, including judgment in the Superior Court or order of dismissal. The clerk shall pay this $75.00 to the treasurer of the county in which the appeal is taken for the use by the county. After July 1, 1993, this $75.00 fee shall be paid to the clerk, for use by the State.

(cf: P.L.1991, c.177, s.13)

12. Section 14 of P.L.1991, c.177 (C.22A:2-37.1) is amended to read as follows:

14. a. In all civil actions and proceedings in the Special Civil Part of the Superior Court, only the following fees shall be charged by the clerk and no service shall be performed until the specified fee has been paid:

! (1) Filing of small claim, one defendant........................................ $12.00
2 Each additional defendant................................................... $ 2.00
3 (2) Filing of complaint in tenancy, one defendant............................... $15.00
4 Each additional defendant................................................... $ 2.00
5 (3)(a) Filing of complaint, counterclaim, cross-claim, or third party complaint
6 in all other civil actions, whether commenced without process or by summons, capias, replevin or attachment where the amount exceeds $1,000.00............. $38.00
7 Each additional defendant................................................... $ 2.00
8 (b) Filing of complaint, counterclaim, cross-claim or third party complaint
9 in all other civil actions, whether commenced without process or by summons, capias, replevin or attachment where the amount does not exceed $1,000.00..................... $22.00
10 Each additional defendant................................................... $ 2.00
11 (4) Filing of answer in all matters except small claims.................. $ 7.00
12 (5) Service of Process:
13 Summons by mail, each defendant........................................ $ 3.00
14 Summons by mail, each defendant at place of business or employment with postal instructions to deliver to addressee only, additional fee............. $ 3.00
15 Reservice of summons by mail, each defendant......................... $ 3.00
16 Reservice of summons or other original process by court officer, one defendant plus mileage
17 Each additional defendant................................................... $ 2.00
18 plus mileage
19 Substituted service of process by the clerk upon the Director of the Division of Motor Vehicles........................................ $10.00
(6) Mileage of court officer in serving or executing any
process, writ, order, execution, notice, or warrant, the distance
to be computed by counting the number of miles in or out, by the
most direct route from the place where process is issued, at the
same rate per mile set by the county governing body for other
county employees and the total mileage fee rounded upward to
the nearest dollar.

(7) Jury of six persons................................. $0.00

(8) Warrant for possession in tenancy........... $15.00

(9) Warrant to arrest, commitment or writ
of capias ad respondendum, each
defendant........................................... $15.00

(10) Writ of execution or an order in the
nature of execution, writs of replevin
and attachment issued subsequent to
summons............................................ $5.00

(11) For advertising property under execution
or any order........................................ $10.00

(12) For selling property under execution or
any order............................................ $10.00

(13) Exemplified copy of judgment (two pages) $5.00
each additional page.............................. $1.00

b. Except as provided in subsection c., the clerk shall pay over
to the treasurer of the county in which the action is filed all fees
collected pursuant to this section. After June 30, 1993, the clerk
shall pay over to the State all fees collected pursuant to this
section, including the entire fee collected pursuant to paragraph
(3) of subsection a.

c. From July 1, 1991 to June 30, 1993, the clerk shall pay over
to the treasurer of the county in which the action is filed $12.00
of each fee paid to the clerk pursuant to paragraph 3 of
subsection a., with the balance made available for use by the
State.

(cf: P.L.1991, c.177, s.14)

13. N.J.S.2C:36A-1 is amended to read as follows:

2C:36A-1. Conditional discharge for certain first offenses;
expunging of records. a. Whenever any person who has not
previously been convicted of any offense under section 20 of
P.L.1970, c.226 (C.24:21-20), or a disorderly persons or petty
disorderly persons offense defined in chapter 35 or 36 of this title
or, subsequent to the effective date of this title, under any law of
the United States, this State or any other state relating to
marijuana, or stimulant, depressant, or hallucinogenic drugs, is
charged with or convicted of any disorderly persons offense or
petty disorderly persons offense under chapter 35 or 36 of this
title, the court upon notice to the prosecutor and subject to
subsection c. of this section, may on motion of the defendant or
the court:

(1) suspend further proceedings and with the consent of the
person after reference to the State Bureau of Identification
criminal history record information files, place him under
supervisory treatment upon such reasonable terms and conditions
as it may require; or

(2) After plea of guilty or finding of guilty, and without
entering a judgment of conviction, and with the consent of the
person after proper reference to the State Bureau of
Identification criminal history record information files, place
him on supervisory treatment upon reasonable terms and
conditions as it may require, or as otherwise provided by law.

b. In no event shall the court require as a term or condition
of supervisory treatment under this section, referral to any
residential treatment facility for a period exceeding the
maximum period of confinement prescribed by law for the
offense for which the individual has been charged or
convicted, nor shall any term of supervisory treatment
imposed under this subsection exceed a period of three years.

If a person is placed under supervisory treatment under this
section after a plea of guilty or finding of guilt, the court as a
term and condition of supervisory treatment shall suspend the
person’s driving privileges for a period to be fixed by the
court at not less than six months or more than two years. In
the case of a person who at the time of placement under
supervisory treatment under this section is less than 17 years
of age, the period of suspension of driving privileges
authorized herein, including a suspension of the privilege of
operating a motorized bicycle, shall commence on the day the
person is placed on supervisory treatment and shall run for a
period as fixed by the court of not less than six months or
more than two years after the day the person reaches the age
of 17 years.

If the driving privilege of a person is under revocation,
suspension, or postponement for a violation of this title or
Title 39 of the Revised Statutes at the time of the person’s
placement on supervisory treatment under this section, the
revocation, suspension or postponement period imposed herein
shall commence as of the date of the termination of the
existing revocation, suspension or postponement. The court
which places a person on supervisory treatment under this
section shall collect and forward the person’s driver’s license
to the Division of Motor Vehicles and file an appropriate
report with the division in accordance with the procedure set
forth in N.J.S.2C:35-16. The court shall also inform the
person of the penalties for operating a motor vehicle during
the period of license suspension or postponement as required
in N.J.S.2C:35-16.

Upon violation of a term or condition of supervisory
treatment the court may enter a judgment of conviction and
proceed as otherwise provided, or where there has been no
plea of guilty or finding of guilty, resume proceedings. Upon
fulfillment of the terms and conditions of supervisory
treatment the court shall terminate the supervisory treatment
and dismiss the proceedings against him. Termination of
supervisory treatment and dismissal under this section shall be
without court adjudication of guilt and shall not be deemed a
conviction for purposes of disqualifications or disabilities, if
any, imposed by law upon conviction of a crime or disorderly
persons offense but shall be reported by the clerk of the court
to the State Bureau of Identification criminal history record
information files. Termination of supervisory treatment and
dismissal under this section may occur only once with respect
to any person. Imposition of supervisory treatment under this
section shall not be deemed a conviction for the purposes of
determining whether a second or subsequent offense has
occurred under section 29 of P.L.1970, c.226 (C.24:21-29),
chapter 35 or 36 of this title or any law of this State.

c. Proceedings under this section shall not be available to
any defendant unless the court in its discretion concludes that:
(1) The defendant’s continued presence in the community,
or in a civil treatment center or program, will not pose a
danger to the community; or
(2) That the terms and conditions of supervisory treatment
will be adequate to protect the public and will benefit the
defendant by serving to correct any dependence on or use of
controlled substances which he may manifest; and
(3) The person has not previously received supervisory
N.J.S.2C:43-12, or the provisions of this chapter.
d. A person seeking conditional discharge pursuant to this
section shall pay to the court a fee of $45.00 $75.00. The
court shall forward all money collected under this subsection
to the treasurer of the county in which the court is located.
This money shall be used to defray the cost of juror
compensation within that county. A person may apply for a
waiver of this fee, by reason of poverty, pursuant to the Rules
Governing the Courts of the State of New Jersey.

(c.f. P.L.1988, c.44, s.12)

14. N.J.S.2C:43-13 is amended to read as follows:
2C:43-13. Supervisory Treatment Procedure
a. Agreement. The terms and duration of the supervisory
treatment shall be set forth in writing, signed by the
prosecutor and agreed to and signed by the participant.
Payment of the assessment required by section 2 of P.L.1970,
c.396 (C.2C:43-3.1) shall be included as a term of the
agreement. If the participant is represented by counsel,
defense counsel shall also sign the agreement. Each order of
supervisory treatment shall be filed with the county clerk.
b. Charges. During a period of supervisory treatment the
charge or charges on which the participant is undergoing
supervisory treatment shall be held in an inactive status
pending termination of the supervisory treatment pursuant to
subsection d. or c. of this section.
c. Period of treatment. Supervisory treatment may be for
such period, as determined by the designated judge or the
assignment judge, not to exceed three years, provided,
however, that the period of supervisory treatment may be
shortened or terminated as the program director may
determine with the consent of the prosecutor and the approval
of the court.
d. Dismissal. Upon completion of supervisory treatment,
and with the consent of the prosecutor, the complaint,
indictment or accusation against the participant may be
dismissed with prejudice.
e. Violation of conditions. Upon violation of the conditions of supervisory treatment, the court shall determine, after summary hearing, whether said violation warrants the participant's dismissal from the supervisory treatment program or modification of the conditions of continued participation in that or another supervisory treatment program. Upon dismissal of participant from the supervisory treatment program, the charges against the participant may be reactivated and the prosecutor may proceed as though no supervisory treatment had been commenced.

f. Evidence. No statement or other disclosure by a participant undergoing supervisory treatment made or disclosed to the person designated to provide such supervisory treatment shall be disclosed, at any time, to the prosecutor in connection with the charge or charges against the participant, nor shall any such statement or disclosure be admitted as evidence in any civil or criminal proceeding against the participant. Nothing provided herein, however, shall prevent the person providing supervisory treatment from informing the prosecutor, or the court, upon request or otherwise as to whether or not the participant is satisfactorily responding to supervisory treatment.

g. Delay. No participant agreeing to undergo supervisory treatment shall be permitted to complain of a lack of speedy trial for any delay caused by the commencement of supervisory treatment.

A person applying for admission to a program of supervisory treatment shall pay to the court a fee of $75.00. The court shall forward all money collected under this subsection to the treasurer of the county in which the court is located. This money shall be used to defray the cost of juror compensation within that county. A person may apply for a waiver of this fee, by reason of poverty, pursuant to the Rules Governing the Courts of the State of New Jersey.

(ef: P.L.1991, c.329, s.5)

15. N.J.S.2C:43-1 is amended to read as follows:

2C:43-1. Conditions of Suspension or Probation. a. When the court suspends the imposition of sentence on a person who has been convicted of an offense or sentences him to be placed on probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law-abiding life or is likely to assist him to do so. These conditions may be set forth in a set of standardized conditions promulgated by the county probation department and approved by the court.

b. The court, as a condition of its order, may require the defendant:

(1) To support his dependents and meet his family responsibilities;
(2) To find and continue in gainful employment;
(3) To undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;
(4) To pursue a prescribed secular course of study or
(5) To attend or reside in a facility established for the instruction, recreation or residence of persons on probation;

(6) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;

(7) Not to have in his possession any firearm or other dangerous weapon unless granted written permission;


(9) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment;

(10) To report as directed to the court or the probation officer, to permit the officer to visit his home, and to answer all reasonable inquiries by the probation officer;

(11) To pay a fine;

(12) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience;

(13) To require the performance of community-related service.

c. The court, as a condition of its order, shall require the defendant to pay any assessments required by section 2 of P.L.1979, c.396 (C.2C:43-3.1) and shall, consistent with the applicable provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or section 1 of P.L. 1983, c.411 (C.2C:43-2.1) require the defendant to make restitution.

d. In addition to any condition imposed pursuant to subsection b. or c., the court shall order a person placed on probation to pay a fee, not exceeding $15.00 per month for the probationary term, to the county providing probation services. This fee may be waived in cases of indigency upon application by the chief probation officer to the sentencing court.

[d.] e. When the court sentences a person who has been convicted of a crime to be placed on probation, it may require him to serve a term of imprisonment not exceeding 364 days as an additional condition of its order. When the court sentences a person convicted of a disorderly persons offense to be placed on probation, it may require him to serve a term of imprisonment not exceeding 90 days as an additional condition of its order. In imposing a term of imprisonment pursuant to this subsection, the sentencing court shall specifically place on the record the reasons which justify the sentence imposed. The term of imprisonment imposed hereunder shall be treated as part of the sentence, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall be credited toward service of such subsequent sentence. A term of imprisonment imposed under this section shall be governed by the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

Whenever a person is serving a term of parole as a result of a sentence of incarceration imposed as a condition of
probation, supervision over that person shall be maintained pursuant to the provisions of the law governing parole. Upon termination of the period of parole supervision provided by law, the county probation department shall assume responsibility for supervision of the person under sentence of probation. Nothing contained in this section shall prevent the sentencing court from at any time proceeding under the provisions of this chapter against any person for a violation of probation.

[c.] The defendant shall be given a copy of the terms of his probation or suspension of sentence and any requirements imposed pursuant to this section, stated with sufficient specificity to enable him to guide himself accordingly. The defendant shall acknowledge, in writing, his receipt of these documents and his consent to their terms.

(cf: P.L. 1991, c.329, s.8)

16. N.J.S.2C:46-2 is amended to read as follows:

2C:46-2. Consequences of Nonpayment; Summary Collection.

a. When a defendant sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, fine or to make restitution defaults in the payment thereof or of any installment, upon the motion of the person authorized by law to collect the payment, the motion of the prosecutor, the motion of the victim entitled to payment of restitution, the motion of the Violent Crimes Compensation Board, the motion of the State or county Office of Victim and Witness Advocacy or upon its own motion, the court shall recall him, or issue a summons or a warrant of arrest for his appearance. The court shall afford the person notice and an opportunity to be heard on the issue of default. Failure to make any payment when due shall be considered a default. The standard of proof shall be by a preponderance of the evidence, and the burden of establishing good cause for a default shall be on the person who has defaulted.

(1) If the court finds that the person has defaulted without good cause, the court shall:

(a) Order the suspension of the driver’s license or the nonresident reciprocity driving privilege of the person; and

(b) Prohibit the person from obtaining a driver’s license or exercising reciprocity driving privileges until the person has made all past due payments; and

(c) Notify the Director of the Division of Motor Vehicles of the action taken.

(2) If the court finds that the person defaulted on payment of a fine without good cause and finds that the default was willful, the court may, in addition to the action required by paragraph a. (1) of this section, impose a term of imprisonment to achieve the objective of the fine. The term of imprisonment in such case shall be specified in the order of commitment. It need not be equated with any particular dollar amount but it shall not exceed one day for each $20.00 of the fine nor 40 days if the fine was imposed upon
conviction of a disorderly persons offense nor 25 days for a petty disorderly persons offense nor one year in any other case, whichever is the shorter period. In no case shall the total period of imprisonment in the case of a disorderly persons offense for both the sentence of imprisonment and for failure to pay a fine exceed six months.

(3) Except where incarceration is ordered pursuant to paragraph a. (2) of this section, if the court finds that the person has defaulted the court shall take appropriate action to modify or establish a reasonable schedule for payment, and, in the case of a fine, if the court finds that the circumstances that warranted the fine have changed or that it would be unjust to require payment, the court may revoke or suspend the fine or the unpaid portion of the fine.

(4) When failure to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee or restitution is determined to be willful, the failure to do so shall be considered to be contumacious.

(5) When a fine, assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution is imposed on a corporation, it is the duty of the person or persons authorized to make disbursements from the assets of the corporation or association to pay it from such assets and their failure so to do may be held to be contumacious.

b. Upon any default in the payment of a fine, assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, restitution, or any installment thereof, execution may be levied and such other measures may be taken for collection of it or the unpaid balance thereof as are authorized for the collection of an unpaid civil judgment entered against the defendant in an action on a debt.

c. Upon any default in the payment of restitution or any installment thereof, the victim entitled to the payment may institute summary collection proceedings authorized by subsection b. of this section.

d. Upon any default in the payment of an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or any installment thereof, the Violent Crimes Compensation Board or the party responsible for collection may institute summary collection proceedings authorized by subsection b. of this section.

(6) Section 8 of P.L. 1989, c. 296 is amended to read as follows:

8. This act shall take effect [upon the enactment into law of P.L. 1991, c. 329, (now pending before the Legislature as either Senate Bill 1620 of 1988 or Assembly Bill 2419 of 1988] July 1, 1993.

18. Section 16 of P.L.1991, c.177 (C.2B:6-1.1) is hereby repealed.

19. Sections 1 through 9 shall take effect immediately but shall remain inoperative until a concurrent resolution proposing an amendment to the Constitution transferring
COUNTY judicial costs and fees to the State shall become part of the Constitution; sections 10 through 16 of this act shall take effect on January 1, 1993; sections 17 and 18 of this act shall take effect on July 1, 1993.

STATEMENT

This bill provides for the transfer of judicial and probation costs presently borne by the counties to the State beginning on July 1, 1993. After the transfer, all judicial and probation employees would be employees of the State; any county judicial or probation costs would be paid by the State, and judicial and probation fees currently collected by the counties would be paid to the State. The bill provides for mandated payments from the counties to the State for the first four years of the State’s takeover of the costs. These payments would decrease over the five year period with the last payment due in 1997. This will allow for the State to phase in the fiscal impact of the additional costs.

In order to help to offset the costs which the State will incur, the bill would establish a fee for requests for jury trials. The bill would also impose a monthly fee on persons on probation and raise the fees charged to those seeking admission to a pre-trial intervention or conditional discharge program.

Provides for the transfer of judicial and probation employees and costs from the counties to the State.
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 888

STATE OF NEW JERSEY

By Senator Cormley

AN ACT concerning the transfer of county judicial costs and fees to the State; revising various sections of the statutory law and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. (New section) Sections 1 through 9 of this act shall be known and may be cited as the "State Judicial Unification Act."
2. (New section) The Legislature finds and declares that:
   a. The current method of financing the State's judicial system has created undue hardship for both the counties and the courts.
   b. The counties have had to balance the financial needs of the judicial system with the need to provide essential county services and have been denied any oversight over court operations.
   c. As a result of the differing funding bases among the counties, the courts have varying levels of resources available in order to fulfill their responsibilities.
   d. Those differing bases and varying levels of available resources have significantly hindered the development and implementation of a unified administrative system for the courts.
   e. If the State were to assume the administrative costs of the judicial system, resources would be provided on a more equitable basis and a central management system could be established by the Chief Justice of the Supreme Court.
   f. Furthermore, significant property tax relief would be afforded to the citizens of this State since the counties would no longer need to generate tax revenues currently required to finance the judicial system.
   g. It is, therefore, altogether fitting and proper for the State to assume the cost of the judicial system in order to unify the administrative system and to provide property tax relief.
3. (New section) As used in this act:
   a. "Judicial facility costs" means any costs borne by the counties prior to July 1, 1993 with regard to the operation and maintenance of facilities used by the courts or judicial employees;
   b. "Probation facility costs" means any costs borne by the counties prior to July 1, 1993 with regard to the operation and maintenance of facilities used by probation employees;
   c. "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs;
d. "Judicial costs" means the costs incurred by the county for funding the judicial system, including but not limited to the following: salaries, health benefits and pension payments of all judicial employees, juror fees and library material costs, except that judicial costs shall not include costs incurred by employees of the surrogate's office or include judicial facility costs:

e. "Judicial employee" means any person employed by the county prior to July 1, 1993 to perform judicial functions, including but not limited to employees working for the courts and the law library and employees of the sheriff's office who act as court aides, except that employees of the surrogate's office and probation employees shall not be construed to be judicial employees;

f. "Judicial fees" means any fees or fines collected by the judiciary but shall not include sheriff's or surrogate's fees or municipal court fees or fines;

g. "Judicial functions" means any duties and responsibilities performed in providing any services and direct support necessary for the effective operation of the judicial system;

h. "Probation costs" means any costs incurred by the county for the operation of the county probation department, including but not limited to the costs of salaries, health benefits, and pension payments of probation employees but does not include probation facility costs;

i. "Probation employees" means any person employed by a county probation department prior to July 1, 1993;

j. "Probation fees" means any fees or fines collected in connection with the probation of any person.

4. (New section) On and after July 1, 1993:

a. The State is required to pay for judicial costs and probation costs;

b. All judicial and probation employees shall be employees of the State; and;

c. Any judicial fees or probation fees collected shall be paid to the State Treasury.

5. (New section) On or before July 31, 1993, the chief financial officer of each county shall certify to the director how much was appropriated for judicial costs and probation costs and how much was collected in judicial fees and probation fees during the 1992 local fiscal year. The director shall review and approve or disapprove the costs and fees so certified and, upon approval, shall determine a net judicial cost and a net probation cost for each county by subtracting judicial fees from judicial costs and probation fees from probation costs. The director shall notify the county of his determinations by September 1, 1993. The director may require any additional information from the chief financial officer of the county that he may deem necessary and shall approve of the certified costs and fees, in whole or in part, if he determines that the
costs and fees are accurate calculations. The chief financial officer of the county may request a reconsideration of any disapproval and may supply additional information to the director. The director may reconsider his determinations subject to the approval provisions of this section and shall notify the county of his determinations by October 1, 1993.

6. (New section) a. In local fiscal years 1993, 1994, 1995, 1996 and 1997, each county shall pay a share of its 1992 net judicial costs and net probation costs as determined by the director based on the following schedule:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage of 1992 Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>50%</td>
</tr>
<tr>
<td>1994</td>
<td>87.5%</td>
</tr>
<tr>
<td>1995</td>
<td>62.5%</td>
</tr>
<tr>
<td>1996</td>
<td>37.5%</td>
</tr>
<tr>
<td>1997</td>
<td>12.5%</td>
</tr>
</tbody>
</table>

b. Each county shall pay the respective amounts established in subsection a. to the State Treasurer on the following schedule:

<table>
<thead>
<tr>
<th>Year</th>
<th>Payment Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>On October 15. 50.0%</td>
</tr>
<tr>
<td>1994</td>
<td>On May 15. 50.0% and on September 15. 37.5%</td>
</tr>
<tr>
<td>1995</td>
<td>On May 15. 31.0% and on September 15. 31.5%</td>
</tr>
<tr>
<td>1996</td>
<td>On May 15. 18.5% and on September 15. 19.0%</td>
</tr>
<tr>
<td>1997</td>
<td>On May 15. 12.5%</td>
</tr>
</tbody>
</table>

c. In local budget year 1998 and thereafter, no county shall be required to pay judicial costs or probation costs.

7. (New section) By April 1, 1993, a list shall be jointly developed by the Administrative Office of the Courts and the governing body of each county of the furnishings and office equipment currently used by the courts which shall become the property of the State on July 1, 1993.
8. (New section) a. No judicial or probation employee who becomes a State judicial employee pursuant to the provisions of this act shall receive a reduction in salary including longevity awards, graduate educational or certification stipends or bi-lingual awards.

b. Judicial and probation employees who become State judicial employees shall receive all health and medical benefits State judicial employees receive immediately upon becoming State employees. There shall be no waiting period prior to the implementation of such health and medical benefits for the employees.

c. Judicial employees and probation employees who become State judicial employees shall receive State credit for years of employment service from the initial date of continuous employment as a judicial employee under the county-funded system. Accumulated vacation leave, sick leave and administrative leave of judicial employees shall be transferred and credited to their State service immediately upon their becoming State employees. Compensatory time shall not be transferable to State service and shall be paid out by the counties consistent with their policies and contractual obligations. Computation of years of service for Supplemental Compensation on Retirement (SCOR) shall be from the initial date of continuous employment as a county-funded employee.

d. Any change in the collective negotiations unit to which judicial or probation employees belong, including elections to establish new collective negotiating units, shall be accomplished through the Administrative Office of the Court in accordance with the rules and procedures of the New Jersey Public Employment Relations Commission.

e. Upon the expiration of existing collective negotiation agreement, terms and conditions of employment of State judicial employees shall be negotiated between employee representatives and the Administrative Office of the Courts with the objective that by State fiscal year 1996 compensation classifications of these employees shall be made by the Administrative Office of the Courts in accordance with their procedures and practices.

f. Judicial and probation employees shall be employees of the Judiciary, except that the Administrative Office of the Courts shall provide that classified employees be accorded rights, privileges and protections in regard to hiring, firing, layoffs, transfers, promotions and disciplinary actions which are accorded employees in the career service of State service.

9. (New section) For the purposes of determining the county tax levy upon which a county shall calculate its permissible tax levy for the 1994, 1995, 1996, 1997 and 1998 local fiscal years pursuant to P.L.1976, c.68 (C.40A:4-48.1 et seq.), the county shall deduct from its tax levy an amount equal to 12.5%, 25%, 25%, 25%, and 12.5%, respectively, of the 1992 net judicial costs and probation costs as determined by the director pursuant to section 5 of this act.
10. (New Section) There is created in the Department of the Public Advocate the “Indigent Defense Fund,” hereinafter referred to as the “fund.” The fund shall be a separate, nonlapsing, revolving account and shall be administered by the Office of the Public Defender in the Department of the Public Advocate. All moneys deposited in the fund pursuant to subsection d. of N.J.S.22A:2-6 shall be used solely for the expenses of pool attorneys hired by the Office of the Public Defender for the representation of indigent clients.

11. N.J.S.22A:2-6 is amended to read as follows:

22A:2-6. a. Upon the filing or entering of the first paper or proceeding in any action or proceeding in the Law Division of the Superior Court, the plaintiff shall pay to the clerk $135.00 for the first paper filed by him, which shall cover all fees payable therein down to, and including entry of final judgment, taxation of costs, copy of costs and the issuance and recording of final process, except such as may be otherwise provided herein, or provided by law, or the rules of court. Of the $135.00 paid to the clerk, $40.00 shall be paid over by him to the treasurer of the county in which venue is laid for the use of the county. Any person filing an answer setting forth a counterclaim or a third party claim in such cause shall pay to the clerk $135.00 for the first paper filed by him. Any person other than the plaintiff filing any other paper in any such cause shall pay to the clerk $80.00 for the first paper filed by him.

b. [From July 1, 1991 to June 30, 1992] until December 31, 1992, the $80.00 fee set forth in subsection a. for the filing of a paper by a person other than the plaintiff shall be paid to the clerk, for use by the State. [After June 30, 1992.] From January 1, 1993 to June 30, 1993, of the $80.00 paid to the clerk, $25.00 shall be paid over by him to the treasurer of the county in which venue is laid for the use of the county. After June 30, 1993, the $80.00 fee set forth in subsection a. for the filing of a paper by a person other than the plaintiff shall be paid to the clerk, for use by the State.

c. Any person filing a motion in any action or proceeding shall pay to the clerk $15.00. [From July 1, 1991, to Until December 31, 1992, the $15.00 motion fee shall be paid to the clerk, for use by the State. [After June 30, 1992.] From January 1, 1993 to June 30, 1993, the $15.00 motion fee shall be paid over to the treasurer of the county in which venue is laid for the use of the county. After June 30, 1993, the $15.00 motion fee shall be paid to the clerk, for use by the State.

d. When a jury trial is requested in a civil action or proceeding in the Law Division, the party requesting the jury trial shall pay an additional jury fee of $60.00 to the clerk. Of the $60.00 collected by the clerk, $30.00 shall be deposited in the General Fund for use by the State. The remaining $30.00 shall be deposited in the “Indigent Defense Fund” created by section 10 of P.L. c. (C. now pending before the Legislature as section 10 of this bill).

(cf: P.L. 1991, c.177, s.6)
12. N.J.S.22A:2-27 is amended to read as follows:

22A:2-27. In cases appealed to the Law Division of the Superior Court from any inferior court or tribunal, criminal or civil, the clerk of the division shall charge a fee of $75.00 for filing a notice of appeal, appeal papers and proceedings, including judgment in the Superior Court or order of dismissal. The clerk shall pay this $75.00 to the treasurer of the county in which the appeal is taken for the use by the county. On and after July 1, 1993, this $75.00 fee shall be paid to the clerk, for use by the State.

(cf: P.L.1991, c.177, s.13)

13. Section 14 of P.L.1991, c.177 (C.22A:2-37.1) is amended to read as follows:

14. a. In all civil actions and proceedings in the Special Civil Part of the Superior Court, Law Division, only the following fees shall be charged by the clerk and no service shall be performed until the specified fee has been paid:

(1) Filing of small claim, one defendant........ $12.00
   Each additional defendant.................. $2.00
(2) Filing of complaint in tenancy, one
defendant.......................... $15.00
   Each additional defendant............... $2.00
(3)(a) Filing of complaint, counterclaim,
cross-claim or third party complaint
in all other civil actions, whether
commenced without process or by summons,
capias, replevin or attachment where
the amount exceeds $1,000.00.......... $38.00
   Each additional defendant............... $2.00
(b) Filing of complaint, counterclaim,
cross-claim or third party complaint
in all other civil actions, whether
commenced without process or by
summons, capias, replevin or
attachment where the amount does not
exceed $1,000.00.......................... $22.00
   Each additional defendant............... $2.00
(4) Filing of answer in all matters except
small claims.............................. $7.00
(5) Service of Process:
   Summons by mail, each defendant......... $3.00
   Summons by mail, each defendant at
place of business or employment with
postal instructions to deliver to
addressee only, additional fee............ $3.00
   Reservice of summons by mail, each defendant. $3.00
   Reservice of summons or other original
process by court officer, one defendant
plus mileage
   Each additional defendant............... $2.00
   plus mileage
   Substituted service of process by the clerk
upon the Director of the Division of
Motor Vehicles.......................... $10.00
(6) Mileage of court officer in serving or executing any
process, writ, order, execution, notice, or warrant, the distance
to be computed by counting the number of
miles in or out, by the most direct route from the place where process is issued, at the same rate per mile set by the county governing body for other county employees and the total mileage fee rounded upward to the nearest dollar.  

(7) Jury of six persons.......................... $50.00  
(8) Warrant for possession in tenancy....... $15.00  
(9) Warrant to arrest, commitment or writ of capias ad respondendum, each defendant.......................... $15.00  
(10) Writ of execution or an order in the nature of execution, writs of replevin and attachment issued subsequent to summons.......................... $5.00  
(11) For advertising property under execution or any order.......................... $10.00  
(12) For selling property under execution or any order.......................... $10.00  
(13) Exemplified copy of judgment (two pages) $5.00  
each additional page.......................... $1.00

b. Except as provided in subsection c., the clerk shall pay over to the treasurer of the county in which the action is filed all fees collected pursuant to this section. On and after July 1, 1993, the clerk shall pay over to the State all fees collected pursuant to this section, including the entire fee collected pursuant to paragraph (3) of subsection a.

c. From July 1, 1991 to June 30, 1993, the clerk shall pay over to the treasurer of the county in which the action is filed $12.00 of each fee paid to the clerk pursuant to paragraph 3 of subsection a., with the balance made available for use by the State.

(cf: P.L.1991. c.177. s.14)

14. N.J.S.2C:36A-1 is amended to read as follows:

2C:36A-1. Conditional discharge for certain first offenses; expunging of records. a. Whenever any person who has not previously been convicted of any offense under section 20 of P.L.1970, c.226 (C.24:21-20), or a disorderly persons or petty disorderly persons offense defined in chapter 35 or 36 of this title or, subsequent to the effective date of this title, under any law of the United States, this State or any other state relating to marijuana, or stimulant, depressant, or hallucinogenic drugs, is charged with or convicted of any disorderly persons offense or petty disorderly persons offense under chapter 35 or 36 of this title, the court upon notice to the prosecutor and subject to subsection c. of this section, may on motion of the defendant or the court:

(1) Suspend further proceedings and with the consent of the person after reference to the State Bureau of Identification criminal history record information files, place him under supervisory treatment upon such reasonable terms and conditions as it may require; or

(2) After plea of guilty or finding of guilty, and without entering a judgment of conviction, and with the consent of the person after proper reference to the State Bureau of Identification criminal history record information files, place him on supervisory treatment upon reasonable terms and conditions as it may require, or as otherwise provided by law.
b. In no event shall the court require as a term or condition of supervisory treatment under this section, referral to any residential treatment facility for a period exceeding the maximum period of confinement prescribed by law for the offense for which the individual has been charged or convicted, nor shall any term of supervisory treatment imposed under this subsection exceed a period of three years. If a person is placed under supervisory treatment under this section after a plea of guilty or finding of guilt, the court as a term and condition of supervisory treatment shall suspend the person's driving privileges for a period to be fixed by the court at not less than six months or more than two years. In the case of a person who at the time of placement under supervisory treatment under this section is less than 17 years of age, the period of suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the person is placed on supervisory treatment and shall run for a period as fixed by the court at not less than six months or more than two years after the day the person reaches the age of 17 years.

If the driving privilege of a person is under revocation, suspension, or postponement for a violation of this title or Title 39 of the Revised Statutes at the time of the person's placement on supervisory treatment under this section, the revocation, suspension or postponement period imposed herein shall commence as of the date of the termination of the existing revocation, suspension or postponement. The court which places a person on supervisory treatment under this section shall collect and forward the person's driver's license to the Division of Motor Vehicles and file an appropriate report with the division in accordance with the procedure set forth in N.J.S.2C:35-16. The court shall also inform the person of the penalties for operating a motor vehicle during the period of license suspension or postponement as required in N.J.S.2C:35-16.

Upon violation of a term or condition of supervisory treatment the court may enter a judgment of conviction and proceed as otherwise provided, or where there has been no plea of guilty or finding of guilty, resume proceedings. Upon fulfillment of the terms and conditions of supervisory treatment the court shall terminate the supervisory treatment and dismiss the proceedings against him. Termination of supervisory treatment and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities, if any, imposed by law upon conviction of a crime or disorderly persons offense but shall be reported by the clerk of the court to the State Bureau of Identification criminal history record information files. Termination of supervisory treatment and dismissal under this section may occur only once with respect to any person. Imposition of supervisory treatment under this
section shall not be deemed a conviction for the purposes of
determining whether a second or subsequent offense has occurred
under section 29 of P.L.1970, c.226 (C.24:21-29), chapter 35 or 36
of this title or any law of this State.

c. Proceedings under this section shall not be available to any
defendant unless the court in its discretion concludes that:
(1) The defendant’s continued presence in the community, or
in a civil treatment center or program, will not pose a danger to
the community; or

(2) That the terms and conditions of supervisory treatment will
be adequate to protect the public and will benefit the defendant
by serving to correct any dependence on or use of controlled
substances which he may manifest; and

(3) The person has not previously received supervisory
N.J.S.2C:43-12, or the provisions of this chapter.

d. A person seeking conditional discharge pursuant to this
section shall pay to the court a fee of $45.00 or $75.00. The court
shall forward all money collected under this subsection to the
treasurer of the county in which the court is located. This money
shall be used to defray the cost of juror compensation within that
county. A person may apply for a waiver of this fee, by reason of
poverty, pursuant to the Rules Governing the Courts of the State
of New Jersey.

(cf: P.L.1988, c.44, s.12)

15. N.J.S.2C:43-13 is amended to read as follows:

The terms and duration of the supervisory treatment shall be set
forth in writing, signed by the prosecutor and agreed to and
signed by the participant. Payment of the assessment required by
section 2 of P.L.1979, c.396 (C.2C:43-3.1) shall be included as a
term of the agreement. If the participant is represented by
counsel, defense counsel shall also sign the agreement. Each
order of supervisory treatment shall be filed with the county
clerk.

b. Charges. During a period of supervisory treatment the
cost or charges on which the participant is undergoing
supervisory treatment shall be held in an inactive status pending
termination of the supervisory treatment pursuant to subsection
d. or e. of this section.

c. Period of treatment. Supervisory treatment may be for
such period, as determined by the designated judge or the
assignment judge, not to exceed three years, provided, however,
that the period of supervisory treatment may be shortened or
terminated as the program director may determine with the
consent of the prosecutor and the approval of the court.

d. Dismissal. Upon completion of supervisory treatment, and
with the consent of the prosecutor, the complaint, indictment or
accusation against the participant may be dismissed with
prejudice.
e. Violation of conditions. Upon violation of the conditions of supervisory treatment, the court shall determine, after summary hearing, whether said violation warrants the participant's dismissal from the supervisory treatment program or modification of the conditions of continued participation in that or another supervisory treatment program. Upon dismissal of participant from the supervisory treatment program, the charges against the participant may be reactivated and the prosecutor may proceed as though no supervisory treatment had been commenced.

f. Evidence. No statement or other disclosure by a participant undergoing supervisory treatment made or disclosed to the person designated to provide such supervisory treatment shall be disclosed, at any time, to the prosecutor in connection with the charge or charges against the participant, nor shall any such statement or disclosure be admitted as evidence in any civil or criminal proceeding against the participant. Nothing provided herein, however, shall prevent the person providing supervisory treatment from informing the prosecutor, or the court, upon request or otherwise as to whether or not the participant is satisfactorily responding to supervisory treatment.

g. Delay. No participant agreeing to undergo supervisory treatment shall be permitted to complain of a lack of speedy trial for any delay caused by the commencement of supervisory treatment.

A person applying for admission to a program of supervisory treatment shall pay to the court a fee of $50.00. The court shall forward all money collected under this subsection to the treasurer of the county in which the court is located. This money shall be used to defray the cost of juror compensation within that county. A person may apply for a waiver of this fee, by reason of poverty, pursuant to the Rules Governing the Courts of the State of New Jersey.

(c.f: P.L.1991, c.329, s.5)

16. N.J.S. 2C:45-1 is amended to read as follows:

2C:45-1. Conditions of Suspension or Probation. a. When the court suspends the imposition of sentence on a person who has been convicted of an offense or sentences him to be placed on probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law-abiding life or is likely to assist him to do so. These conditions may be set forth in a set of standardized conditions promulgated by the county probation department and approved by the court.

b. The court, as a condition of its order, may require the defendant:

(1) To support his dependents and meet his family responsibilities;
(2) To find and continue in gainful employment;
(3) To undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;
(4) To pursue a prescribed secular course of study or vocational training;
(5) To attend or reside in a facility established for the instruction, recreation or residence of persons on probation;
(6) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;
(7) Not to have in his possession any firearm or other dangerous weapon unless granted written permission;
(8) [Deleted by amendment, P.L.1991, c.329] [Deleted by amendment, P.L.1991, c.329]
(9) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment;
(10) To report as directed to the court or the probation officer, to permit the officer to visit his home, and to answer all reasonable inquiries by the probation officer;
(11) To pay a fine;
(12) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience;
(13) To require the performance of community-related service.

b. The court, as a condition of its order, shall require the defendant to pay any assessments required by section 2 of P.L.1979, c.396 (C.2C:43-3.1) and shall, consistent with the applicable provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or section 1 of P.L. 1983, c.411[C.2C:43-2.1] require the defendant to make restitution.

c. In addition to any condition imposed pursuant to subsection b. or c., the court shall order a person placed on probation to pay a fee, not exceeding $15.00 per month for the probationary term, to the county providing probation services. This fee may be waived in cases of indigency upon application by the chief probation officer to the sentencing court.

d. When the court sentences a person who has been convicted of a crime to be placed on probation, it may require him to serve a term of imprisonment not exceeding 364 days as an additional condition of its order. When the court sentences a person convicted of a disorderly persons offense to be placed on probation, it may require him to serve a term of imprisonment not exceeding 90 days as an additional condition of its order. In imposing a term of imprisonment pursuant to this subsection, the sentencing court shall specifically place on the record the reasons which justify the sentence imposed. The term of imprisonment imposed hereunder shall be treated as part of the sentence, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall be credited toward service of such subsequent sentence. A term of imprisonment imposed under this section shall be governed by the "Parole Act of 1979," P.L.1979, c.441 (C.39:4-123.45 et seq.).
Whenever a person is serving a term of parole as a result of a sentence of incarceration imposed as a condition of probation, supervision over that person shall be maintained pursuant to the provisions of the law governing parole. Upon termination of the period of parole supervision provided by law, the county probation department shall assume responsibility for supervision of the person under sentence of probation. Nothing contained in this section shall prevent the sentencing court from at any time proceeding under the provisions of this chapter against any person for a violation of probation.

(e) The defendant shall be given a copy of the terms of his probation or suspension of sentence and any requirements imposed pursuant to this section, stated with sufficient specificity to enable him to guide himself accordingly. The defendant shall acknowledge, in writing, his receipt of these documents and his consent to their terms.

(cf: P.L.1991, c.329, s.8)

17. N.J.S.2C:46-2 is amended to read as follows:

2C:46-2. Consequences of Nonpayment; Summary Collection.

a. When a defendant sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, fine or to make restitution defaults in the payment thereof or of any installment, upon the motion of the person authorized by law to collect the payment, the motion of the prosecutor, the motion of the victim entitled to payment of restitution, the motion of the Violent Crimes Compensation Board, the motion of the State or county Office of Victim and Witness Advocacy or upon its own motion, the court shall recall him, or issue a summons or a warrant of arrest for his appearance. The court shall afford the person notice and an opportunity to be heard on the issue of default. Failure to make any payment when due shall be considered a default. The standard of proof shall be by a preponderance of the evidence, and the burden of establishing good cause for a default shall be on the person who has defaulted.

(1) If the court finds that the person has defaulted without good cause, the court shall:

(a) Order the suspension of the driver's license or the nonresident reciprocity driving privilege of the person; and

(b) Prohibit the person from obtaining a driver’s license or exercising reciprocity driving privileges until the person has made all past due payments; and

(c) Notify the Director of the Division of Motor Vehicles of the action taken.

(2) If the court finds that the person defaulted on payment of a fine without good cause and finds that the default was willful, the court may, in addition to the action required by paragraph a. (1) of this section, impose a term of imprisonment to achieve the objective of the fine. The term of imprisonment in such case shall be
specified in the order of commitment. It need not be equated with any particular dollar amount but it shall not exceed one day for each $20.00 of the fine nor 40 days if the fine was imposed upon conviction of a disorderly persons offense nor 25 days for a petty disorderly persons offense nor one year in any other case, whichever is the shorter period. In no case shall the total period of imprisonment in the case of a disorderly persons offense for both the sentence of imprisonment and for failure to pay a fine exceed six months.

(3) Except where incarceration is ordered pursuant to paragraph a. (2) of this section, if the court finds that the person has defaulted the court shall take appropriate action to modify or establish a reasonable schedule for payment, and, in the case of a fine, if the court finds that the circumstances that warranted the fine have changed or that it would be unjust to require payment, the court may revoke or suspend the fine or the unpaid portion of the fine.

(4) When failure to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee or restitution is determined to be willful, the failure to do so shall be considered to be contumacious.

(5) When a fine, assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution is imposed on a corporation, it is the duty of the person or persons authorized to make disbursements from the assets of the corporation or association to pay it from such assets and their failure so to do may be held to be contumacious.

b. Upon any default in the payment of a fine, assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, restitution, or any installment thereof, execution may be levied and such other measures may be taken for collection of it or the unpaid balance thereof as are authorized for the collection of an unpaid civil judgment entered against the defendant in an action on a debt.

c. Upon any default in the payment of restitution or any installment thereof, the victim entitled to the payment may institute summary collection proceedings authorized by subsection b. of this section.

d. Upon any default in the payment of an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or any installment thereof, the Violent Crimes Compensation Board or the party responsible for collection may institute summary collection proceedings authorized by subsection b. of this section. (cf: P.L.1991, c.329, s.11.)

18. Section 8 of P.L. 1989, c. 296 is amended to read as follows:

8. This act shall take effect upon the enactment into law of P.L. (now pending before the Legislature as either Senate Bill 1820 of 1988 or Assembly Bill 2419 of 1988) July 1, 1993.
19. Section 16 of P.L.1991, c.177 (C.2B:8-1.1) is hereby repealed.

20. There is hereby appropriated $100,000 to the Administrative Office of the Courts to design and implement a judicial personnel merit system consistent with the provisions of this act.

21. Sections 1 through 9 and sections 18 and 19 shall take effect on July 1, 1993. Sections 10 through 17 and section 20 of this act shall take effect on January 1, 1993.

Provides for the transfer of judicial and probation employees and costs from the counties to the State.
Peer Review May Keep You Out of Court

While many managers initially react with skepticism and distrust to the idea of giving peers a majority vote, their concerns usually disappear once they become familiar with the system's mechanics and safeguards. First, the jurisdiction of the panel is limited, typically to those complaints that would be open to the grievance and arbitration procedures spelled out in a collective bargaining agreement. Each company decides for itself what the panel will be able to rule on and what areas are off limits. In most cases, such issues as discipline and discharge, overtime assignments, upgrades and promotions are all grist for the mill; pay rates, work rules, benefits, company policies and performance appraisal ratings are verboten.

A useful analogy is to think of peer panels as juries, not as legislatures—management still makes the policies; panels simply decide whether management has played by its own rules. And peer panels are never turned loose with merely a charter to right management's wrongs. In virtually every organization using peer review, employees volunteer to serve and complete an intensive training program before becoming eligible.

Peer review, begun as a union avoidance technique, since an impartial grievance procedure is about the only benefit left that an organizer can promise and actually deliver. But once installed, companies discovered additional benefits. The system produces quick, efficient and inexpensive results: Only a few weeks pass from the time a problem arises until it is resolved; there are no complicated rules, no courtroom trappings and no lawyers; panel meetings are businesslike and take at most a few hours; and salary and travel costs, if any, are the only expenses.

Peer review also ensures greater compliance with personnel policies. A Midland resources manager faced with a recalcitrant supervisor who's about to make a questionable call can ask: "How do you think your decision will play out if he takes it to a jury of his peers?" Peer review encourages supervisors to make better decisions and to solve problems as soon as they arise.

But peer review's biggest benefit may turn out to be its ability to keep problems out of court. An employee whose complaint has been heard and rejected by his peers is less likely to call a lawyer. And if an employee does seek legal redress after his peers turn thumbs down, his chances of prevailing are slim.

"We just had a huge victory in a wrongful termination suit," said Richard L. Kellogg, director of employee relations for Adolph Coors Co. "A guy filed a multimillion dollar suit against us after he had appealed his termination to a panel and was turned down. The Jefferson County District Court gave our process equal standing with outside binding arbitration and decided the case in our favor. We've now had seven major wrongful discharge cases," Mr. Kellogg continued. "We've not lost one."

According to Atlanta lawyer James Wimberly, in addition to increasing the odds that verdicts reached by peer panels will be upheld in court, several recent cases suggest that companies may be able to require employees to use their informal grievance procedure before turning to the courts. In the Missouri and Maryland cases mentioned above, the courts upheld the company's self-protection rules.

Several can increase the odds that courts uphold your mandating Internal Review if an employee can seek external:
- Include a system in the employee handbook.
- Stipulate in the handbook that no one shall resubmit suits until Internal remedies are exhausted.
- Have an agreement that the panel's decision will be final.
- Publicize the system widely and ensure fair and impartial processes.

While utilization of peer review involves many subtle issues, managemental concerns about providing peer pits with a majority vote are groundless. Employees have demonstrated they are as concerned with making decisions as managers are. With courts requiring that internal dispute resolution procedures be exhausted, mediation can begin. Interest in fast peer review is likely to flourish.

Mr. Givens, the president of the Dallas consulting firm, bears his name.