

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

CHARLESTON

EXECUTIVE ORDER NO. 6-09

By the Governor

WHEREAS, following the establishment of the Supreme Court of Appeals and the State's first courts of limited jurisdiction in 1863, the State's judicial system remained largely unchanged for over a century; and

WHEREAS, in 1967, a committee of concerned citizens met in Charleston, West Virginia, to formulate a plan for the establishment of a modern court system; and

WHEREAS, the committee's efforts led to a constitutional amendment, known as the Judicial Reorganization Amendment of 1974, that established the current framework of our judiciary; and

WHEREAS, aside from the adoption of a constitutional amendment, known as the Unified Family Court Amendment, that created a family court system in 2000, the fundamental elements of West Virginia's judicial system, including the popular election of judges and current appellate practices, have changed little since 1974; and

WHEREAS, a comprehensive review of our State's court system may bolster public trust and confidence in the judiciary; and

WHEREAS, one of the fundamental principles of our representative democracy is the

sanctity of the separation of powers among the three separate and coequal branches of government;

and

WHEREAS, although the Constitution vests the judicial power of this State solely in our

Supreme Court of Appeals and its inferior courts, the Constitution also contemplates the

participation of the legislative and executive branches in matters touching upon the judicial sphere;

including the establishment of intermediate appellate courts, W. Va. Const. Art. VIII, § 1; the

decision to conduct the election of justices on a partisan or nonpartisan basis, W. Va. Const. Art.

VIII, § 2; the scope of the jurisdictional powers of the Supreme Court of Appeals, W. Va. Const. Art.

VIII, § 3; and the establishment of judicial circuits within the State and the number of judges within

any particular circuit, W. Va. Const. Art. VIII, § 5; and

WHEREAS, the establishment of an independent commission composed of former jurists,

attorneys, academics and other professionals to examine the State's court system may result, as it did

in 1974, in the adoption of systemic reforms that will modernize and improve West Virginia's

judiciary; and

WHEREAS, the success of a commission on judicial reform will depend upon the

cooperation and leadership of all three branches of State government.

NOW, THEREFORE, I, JOE MANCHIN III, pursuant to the authority vested in me as

the Governor of West Virginia, do hereby **ORDER** the following:

1. The Independent Commission on Judicial Reform (hereinafter "the Commission")

is hereby established.

2. The Commission shall evaluate and recommend proposals for judicial reform in West

Virginia.

3. The Commission shall be composed of nine persons. The Dean of the West Virginia University College of Law and the President of the West Virginia State Bar shall serve as *ex officio* members of the Commission. The remaining members of the Commission shall be appointed by the Governor and shall serve at his will and pleasure. Of the persons the Governor may appoint to serve as at-will members of the Commission, two persons shall be attorneys licensed to practice law in this State, two persons shall be qualified legal academics, two persons shall be former jurists and one person shall be appointed by the Governor to serve as Chair of the Commission.

4. The Governor may appoint a person of special expertise to serve as Honorary Chair of the Commission.

5. As soon as practicable after the effective date of this Order, the Commission shall convene to study the need for broad systemic judicial reforms including, but not limited to, adopting a merit-based system of judicial selection, enacting judicial campaign finance reforms or reporting requirements, creating an intermediate court of appeals, proposing constitutional amendments or establishing a court of chancery.

6. The Commission shall meet at times and locations to be determined by the Chair in consultation with the Commission members.

7. The Commission shall consult with the public and receive comment on the need for

judicial reform in West Virginia. To this end, the Commission may conduct studies or surveys, within the limits of funds allocated by the Office of the Governor for such purposes, and may hold public hearings. The Commission is also encouraged to consult members of the judiciary, including the Justices of the Supreme Court of Appeals, circuit court judges, family court judges and magistrate judges; members of the State Legislature, including the Chair of the West Virginia Senate Committee on the Judiciary and the Chair of the West Virginia House of Delegates Committee on the Judiciary; the West Virginia State Bar; the West Virginia Chamber of Commerce; or voluntary associations of judicial or legal professionals, including the National Center for State Courts, the American Bar Association, the West Virginia Judicial Association, the West Virginia Association for Justice and the Defense Trial Counsel of West Virginia.

8. Members of the Commission shall receive no compensation.

9. A majority of members present at a meeting shall constitute a quorum.
10. The Commission shall submit a detailed report of its findings and recommendations, along with any proposed legislation or constitutional amendments, to the Governor by November 15, 2009. With respect to recommendations the Commission may make for the establishment of a new court or new courts of record in this State, the Commission shall set forth in its report detailed plans for such court or courts including, but not limited to, jurisdiction, composition, judicial selection and potential funding sources. Copies of the report shall be provided to the Chief Justice of the Supreme Court of Appeals, the President of the Senate and the Speaker of the House of Delegates.
11. Expenses necessary to transact the business of the Commission may be paid by the Office of the Governor with moneys allocated from the Office of the Governor's discretionary fund, provided that this Order may not be interpreted as requiring the Office of the Governor to allocate moneys for Commission expenses.
12. Executive branch agencies shall cooperate to provide the Commission with any support staff or office services it requires to perform its duties.
13. The Commission shall adjourn upon the completion of its report, but may be reconvened at the request of the Governor to conduct further studies and evaluations of West Virginia's judicial system. If reconvened in accordance with this paragraph, the Commission shall be composed of the *ex officio* members set forth in paragraph three of this Order and the Governor may reappoint, remove or appoint at-will members in accordance with the qualifications requirements for such members set forth in paragraph three of this Order.
14. The Governor may remove or replace at-will members of the Commission at his discretion.

IN WITNESS WHEREOF, I have herunto set my hand and caused the Great Seal of the

State of West Virginia to be affixed.

DONE at the Capitol, in the City of Charleston, State of West Virginia, this third day of April, in the year of our Lord, Two Thousand Nine, and in the One Hundred Forty-Sixth year of the State.

Jeff Beahm
GOVERNOR



By the Governor

Nicole E. Symons
SECRETARY OF STATE