

APPELLATE COURT SYSTEMS SUBCOMMITTEE
OF THE
HOUSE STANDING COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT
AND THE
SENATE STANDING COMMITTEE ON JUDICIARY

Report to the Members of the
Second Session of the Sixty-sixth General Assembly

State of Iowa
1976

F I N A L R E P O R T

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January, 1976

The Appellate Court Systems Subcommittee was established by the Legislative Council at its August 20, 1975 meeting to study the advisability of revising the appellate court system.

Pursuant to Legislative Council direction, the following members of the General Assembly were named to serve as members of the Subcommittee:

Senator Gene W. Glenn
Senator C. Joseph Coleman
Senator Lucas J. DeKoster
Senator Minnette Doderer
Senator Richard R. Ramsey
Representative Norman G. Jesse
Representative John H. Clark
Representative Otto H. Nealson
Representative Scott D. Newhard
Representative Charles N. Poncy

Pursuant to Legislative Council direction Senator Glenn and Representative Jesse were designated to serve as Co-Chairpersons. Staff persons assigned to the Subcommittee were: Mr. Larry W. Burch and Mr. Mark S. Soldat, both of the Legislative Service Bureau, and Mr. Stephen W. Cross, Secretary of the Senate.

At its first meeting on October 24, 1975, the Subcommittee received testimony from members of the judiciary. Persons testifying at this meeting were: The Honorable C. Edwin Moore, Chief Justice, Supreme Court of Iowa; The Honorable David Harris, Associate Justice, Supreme Court of Iowa; The Honorable Harvey Uhlenhopp, Associate Justice, Supreme Court of Iowa; The Honorable Mark McCormick, Associate Justice, Supreme Court of Iowa; The Honorable W. W. Reynoldson, Associate Justice, Supreme Court of Iowa; Mr. William O'Brien, Court Administrator of the Judicial Department; Judge Harold Vietor, Chief Judge, Sixth Judicial District, and Chairman, State Bar Association Committee on Judicial Administration.

Testimony received at the October 24, 1975 meeting indicated that the Supreme Court is having difficulty reducing the backlog of cases on its docket. However, three different approaches to reducing the backlog were suggested by persons testifying:

1. Justice Reynoldson suggested that an interim stop-gap solution is the creation of a commissioner system. Basically, the commissioner system utilizes Court-attached commissioners to write opinions that can be simply endorsed by the Court as resolution to a case brought before it. He further suggested that in lieu of the commissioner system and ultimately an intermediate appellate court system should be established;

2. Justice McCormick, also speaking on behalf of Justice Harris and Justice Uhlenhopp, suggested a solution that primarily involves increasing the efficiency of the Court along with the legislature providing more staff for the Supreme Court. He suggested that four principal elements are involved in increasing the efficiency--improved differentiated case management, improved pre-submission preparation, changes in opinion assignment methods, and a substantial reduction in the proportion of full opinions rendered by the Court; and,

3. Chief Justice Moore, also speaking on behalf of Justice Mason, Justice Rawlings, Justice LeGrand, and Justice Rees, suggested as a solution to reduce the backlog the establishment of an intermediate appellate court system. He noted that there are various techniques for establishing such a court and for providing different jurisdictional review by both an intermediate court and the Supreme Court.

At its second meeting on November 21, 1975, the Subcommittee received testimony from Mr. Francis H. Becker, attorney and former justice of the Supreme Court of Iowa, and Senator James Redmond. Both persons expressed a fear that the establishment of some type of intermediate appellate court was the only way of reducing the backlog of cases on the Supreme Court's docket. Senator Redmond noted that the intermediate appellate court system proposed in Senate File 258, introduced by him in the Sixty-sixth General Assembly, First Session, was a system the Subcommittee may wish to consider. The Subcommittee also discussed different legislative responses to the backlog problem without reaching any conclusion. It did, however, request staff to prepare cost estimates for the various types of intermediate appellate court and commissioner systems which had been proposed to the Subcommittee.

At its third and final meeting on December 22, 1975, the Subcommittee received reports from Chief Justice Moore and staff. The Chief Justice reported that the Supreme Court had almost unanimously resolved not to sit in panels of three. Mr. Burch of staff reported that Senate File 258 would cost, excluding capital expenditures, a minimum of \$1,024,500 to operate annually. Mr. Burch further reported average costs of operating appeal courts in other states. The Subcommittee consequently derived the following minimum estimates: \$330,000 total operating expenses to annually operate a five-member intermediate appellate court; \$220,000 to annually operate a three-member intermediate appellate court; and \$150,000 annually to hire five experienced staff members to serve the Supreme Court in lieu of an intermediate appellate court. Sub-

sequent to its discussion concerning cost estimates, the Subcommittee resolved on its recommendations and instructed staff to place them in bill form for consideration by the appropriate standing committees during session.

Pursuant to due consideration and the charges given to the Subcommittee, the Appellate Court Systems Subcommittee recommends to the Legislative Council and the Sixty-sixth General Assembly convening in its Second Session that the following be implemented by law:

1. That the present nine-member composition of the Supreme Court be maintained;
2. That a five-member intermediate appellate court, sitting at the seat of government, be established at the earliest possible time;
3. That the Supreme Court be delegated authority to determine how original appellate and further appellate jurisdiction is distributed between the intermediate appellate court and the Supreme Court;
4. That all judges of the newly-established court must keep office at the seat of government;
5. That the newly-established court should use the services and facilities of the Supreme Court, although each judge of this court should have access to individual secretarial and law clerk assistance;
6. That if this new court is established, the Supreme Court should not be given additional staffing.