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Dear Senator Bishop, Senator Daniel, Senator Rabon, Representative Burr, Representative Lewis, and Members of the Joint Select Committee on Judicial Reform and Redistricting:

On behalf of Justice Initiatives, Inc. ("JI"), the JI Board of Directors writes to express our opposition to the recent legislative actions that could politicize and ultimately compromise the integrity of North Carolina's judiciary. We are opposed to any legislation that weakens our state's system of checks and balances among our three branches of government which are mandated by the federal and North Carolina Constitutions.

The JI Board agrees with the North Carolina Commission on the Administration of Law and Justice (NCCALJ)'s Public Trust and Confidence Committee that "[n]othing is more fundamental to our system of justice than having qualified, independent judges to settle disputes." Further, we agree with the Committee's recommendation that "[i]n order to enhance and preserve the highest degree of judicial integrity, fairness, and impartiality . . . the General Assembly [should] take steps to minimize the perceived impact of judicial elections on our system of justice by changing how judges and justices are selected and retained."¹

A state court system that is accessible, time-efficient, focused on fair and impartial outcomes, accountable to the public, engaged in ongoing self-evaluations, and that makes improvements where needed is a court system most likely to enhance the trust and confidence of the public they serve.²

The judicial branch is one of the three cornerstones of our representative democracy. Courts exist to protect our liberties and rights, and to serve justice.

¹ The Public Trust and Confidence Committee Report, Final Report, North Carolina Commission on the Administration of Law & Justice, p. 67 (March 2017; Internal citations and references omitted). https://nccalj.org/wp-content/uploads/2017/pdf/nccalj_public_trust_and_confidence_committee_report.pdf

² The Public Trust and Confidence Committee Report, Final Report, North Carolina Commission on the Administration of Law & Justice, p. 66 (March 2017; Internal citations and references omitted). https://nccalj.org/wp-content/uploads/2017/pdf/nccalj_public_trust_and_confidence_committee_report.pdf

The efficient and effective administration of justice is essential to a healthy and vibrant community. Given the important and compelling role this institution plays in determining our quality of life, every individual has a vested interest in ensuring that the fairness and impartiality of our courts remain steadfast and that they possess the basic resources needed to serve the citizenry.

The [North Carolina] Judicial Branch's courts interpret laws, settle disputes between citizens, and conduct criminal proceedings. Our state's constitution requires that this duty to administer justice be exercised "without favor, denial, or delay." It is vitally important that the Judicial Branch maintain the public's trust and confidence in our court system's ability to provide justice for all. According to Court Review in 1999: "A court that does not have the trust or confidence of the public cannot expect to function for long as an effective resolver of disputes, a respected issuer of punishments, or a valued deliberative body." If the people of North Carolina lose faith in the courts of our state, where else can they turn for impartial and timely justice?³

Legislative Bills and Initiatives Regarding the Judicial Branch

[HB 100] By making all judicial races partisan, the General Assembly seems to be inviting members of the judiciary to insert their personal politics into the personal lives of the judiciary's citizenry, in particular in child custody cases and divorce matters. Personal politics may also extend into abuse/neglect/dependency cases, driving under the influence cases, traffic cases, medical malpractice cases, personal injury cases, and contract disputes. JI is concerned that requiring judges to declare and list a political party affiliation on the ballot may mean that judges will be expected to campaign like partisan legislators in practice even though their rulings are supposed to be nonpartisan. We believe that "judges should be judged on their character and integrity."⁴

[SB 698] Ending all sitting judges' terms in December 2018 and shortening all judges and state Supreme Court justices' terms to two (2) years would make North Carolina the only state in the United States with two-year term limits for Supreme Court justices. Currently, "[a]ll judges and justices in the state serve eight-year terms, except District court judges who serve four-year terms."⁵ The JI Board supports term lengths for judges and justices to insulate them from the political pressures that governors and legislators face and to ensure fulfillment of their responsibilities to the public fairly and independently.

[SB 656] By eliminating judicial primaries, this bill may diminish the transparency of judicial elections. Without judicial primaries, candidates and their platforms are less visible to the public, and citizens do not have an opportunity to get to know candidates and to narrow the field before voting in the general election.

[HB 717] By subdividing larger urban judicial districts, candidates will not run in countywide races anymore even though, once elected, they will serve the entire county. Requiring judges to live in the district they run in may mean a significant reduction in the institutional knowledge on the bench. *For example*, incumbent judges may choose not to run again over running against their peers or moving to a different district. Geographically limiting judicial districts may reduce the diversity on the bench.

³ The Public Trust and Confidence Committee Report, Final Report, North Carolina Commission on the Administration of Law & Justice, p. 65 (March 2017; Internal citations and references omitted). https://nccalj.org/wp-content/uploads/2017/pdf/nccalj_public_trust_and_confidence_committee_report.pdf

⁴ <https://ivp.nawj.org/app/uploads/2016/06/IVP-Card-General.pdf>

⁵ <http://pulse.ncpolicywatch.org/2017/10/17/former-gop-supreme-court-justice-2-year-terms-amendment-continued-effort-intimidate-judiciary/#sthash.6fzcHN5J.dpbs>

The JI Board supports drawing district court judicial districts in ways that ensure that judges are elected by **all** individuals whose matters they may preside over.

There have been discussions that the General Assembly is going to propose a Constitutional Amendment to eliminate judicial elections in favor of a so-called “merit-based” selection of judges. If North Carolina’s system of electing judges is replaced with a legislative appointment system, the General Assembly could be opening the door to numerous and concerning problems.⁶ The JI Board is in favor of a judicial selection system that is not politicized and not subject to legislative dysfunction. A system that avoids nepotism and favoritism. A system that does not undermine judicial independence or enable special interest organizations to directly lobby key legislators to effectively “buy” judicial seats or rulings. A system that is transparent and promotes the highest degree of ethics and professionalism. The JI Board is in favor of a judicial selection system that ensures well-qualified and independent judges as well as judicial accountability.

The JI Board agrees with the North Carolina Commission on the Administration of Law and Justice (NCCALJ)’s Public Trust and Confidence Committee that “[i]n order to enhance and preserve the highest degree of judicial integrity, fairness, and impartiality, the General Assembly should develop a selection process that ensures the highest caliber of judges and justices and minimizes the potential impact of campaigning and fundraising on judicial independence and public accountability.” Having a judiciary of the highest caliber means that North Carolina’s judicial selection process must be done in an equitable manner with input from all stakeholders.

Our leadership would appreciate the opportunity to meet with you to discuss JI’s concerns about the above bills. Please let us know when it is convenient for you to meet by contacting either Mr. Scheer (tscheer@rscmlaw.com) or Alyssa Levine (alyssa.levine@arnoldsmithlaw.com) or call Mr. Scheer at (704) 608-2619 or (704) 704-376-3200.

Thank you for the chance to engage in dialogue about these critical matters.



Anthony G. Scheer, Chair
JI Board of Directors

Alyssa M. Levine, Advocacy & Public Policy Committee
JI Board of Directors

Justice Initiatives, Inc. is a non-profit justice system organization, formed in 2004 by a group of civic leaders, lawyers, business owners and concerned citizens in North Carolina who understand the rule of law is the bedrock of our civilized society, that a healthy court system is critical to safeguarding this foundation and that the effective and efficient administration of justice is essential to a strong, prosperous and vibrant community.

⁶ Douglas Keith, Laila Robbins. “North Carolina’s legislative leaders may soon propose replacing its system of electing judges with a system in which the state legislature selects judges to fill vacancies.” (September 29, 2017) (Internal citations omitted). <https://www.brennancenter.org/analysis/legislative-appointments-judges-lessons-south-carolina-virginia-and-rhode-island>

We develop programming to address the deficits in the public's understanding and appreciation for the rule of law and the role of courts in our republican form of government. We demonstrate the inextricable connection between each individual's and each community's quality of life and the courts' ability to fairly adjudicate legal rights. We seek to ensure that the judicial branch receives the funding it needs to provide timely access to justice for all and defend against policies that undermine the independence, fairness, or integrity of the courts. We raise money to use as seed funding to initiate smarter and innovative judicial programs and services that build public trust and confidence in our courts and we study new ideas about justice and our courts with our academic partners.

Our mission is to educate the community about the court system and to advocate, support and advance its needs and interests. Our vision is a court system that delivers the highest quality justice resulting in community trust and confidence.