

## Policy Considerations on Judicial Allotment

1. **Need for Process.** The Ohio Constitution grants the Ohio General Assembly certain authority to increase, decrease and otherwise adjust the allotment of judges throughout the state. The traditional process for the allotment of judges is informal, imprecise, and unstructured. It would be beneficial to both the legislative and judicial branches of Ohio government to have a formal mechanism in place for the proper and routine determination of such issues. Such determinations should be made upon a careful examination of relevant information.
2. **Data and Statistic Analysis.** Although population shifts can be an indicator of changing need for judicial resources, population shifts are not reliable as a sole indicator and are inferior to other data sources such as caseload and workload. Even examination of other similar jurisdictions might not be determinative if those comparable courts also suffer from excessive workload. The Ohio Supreme Court has adopted *Procedures for the Creation and Consolidation of Judgeships* that are “intended to establish consistent practices in reviewing the statistical and practical implications in the creation, consolidation, and elimination of judgeships.” This procedure is comprehensive and is likely to be the most accurate objective analysis of need.
3. **Recommending Body.** The determination of need for judicial resources necessarily involves the examination of other resources and support such as the availability of local and state funding, facility resources, local legal environment, and other local considerations. This requires the involvement of officials other than judges. Whenever possible, input from local authorities should be encouraged and highly valued by decision makers. Because of the impact on the overall administration of justice throughout the state, the Judicial Conference should have representation on any recommending body, which should be made up primarily of judges in order to preserve the independence of the judicial branch.
4. **Primary Consideration.** While the Ohio General Assembly is the final arbiter of judicial allotment, it should give great deference to the expertise of the judiciary in administering justice and err on the side of caution to give priority to quality over economy. O Const. Art. IV section 4 states the standards of “*the fair, impartial, speedy, and sure administration of justice*” are to be considered in the process of allocating judges of the common pleas courts. The fair and sure administration of the laws is a primary and essential function of government and should not be subordinated to other objectives.
5. **One County-One Judge.** The Ohio Constitution provides for a default of at least one common pleas court judge in every Ohio county without regard to population. This is a reflection of the framers’ commitment to home rule that appears similarly throughout the structure of Ohio government. This provision should not be summarily disregarded in favor of efforts to economize or streamline administration.
6. **Best implemented with Attrition.** Any system designed for the purpose of eliminating judgeships should be implemented through attrition whenever possible. Attrition occurs when a sitting judge dies, resigns, retires, or decides not to seek re-election. The best time

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to consider the continuing need of a judgeship is when it is vacant and due to be filled. The possibility for abuse and violation of judicial independence through selective abolishment in term based on performance of an individual judge or political patronage must be precluded. O Const Art. IV section 15 provides, “*no such change, addition, or diminution shall vacate the office of any judge.*” O Const Art. IV section 17 provides that no judge shall be removed “*except upon complaint*” and by concurrent two thirds resolution of both houses of the general assembly. Sufficient accountability is provided through professional self discipline and the prerogative of the citizen voter according to term elections. Between terms, any elimination of a judgeship should be done by reference to the county, court, and division if any, only. The abolishment should be implemented over a 5 year period, by the abolishment of the last created judgeship in that court and division at the end of the current term.

7. **Equality in effect.** Where the abolishment of a judgeship works a hardship on an individual judge by cutting short that judge’s career through no fault or failed candidacy, the Ohio General Assembly and the Supreme Court of Ohio should provide sufficient security through mandatory early retirement options fashioned to the specific circumstances of the judge and existing budget conditions.
8. **How often to review.** A rolling and routine review will give judicial candidates and incumbent judges as well as local communities the best information regarding career impact and community resource needs. The next best option is to review need whenever a judicial office is or is expected to be vacated by attrition.

Any effort to modify the allotment of Ohio’s judiciary must preserve the necessary elements of judicial independence and provide for a careful and periodic evaluation of judicial resources based on relevant information with adequate opportunity for local considerations and judicial recommendations.