

**REPORT AND RECOMMENDATIONS
ON
ORGANIZATION OF THE COURTS**

**NEW JERSEY LAW REVISION COMMISSION
15 Washington Street
Newark, New Jersey 07102
(201)648-4575
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INTRODUCTION

The current statutes on the organization of the courts are found in Title 2A, Chapters 1, 1A, 2, 3, 6, 11, and part of Chapter 4. Since the time that material was codified in 1953, the court structure in New Jersey has undergone major change. As a result, many of the statutory sections are obsolete. Some have been superseded but not repealed. E.g. N.J.S. 2A:1-1. Some are specific to courts which no longer exist. E.g. N.J.S. 2A:3-14. Some reflect conditions which no longer exist. E.g. N.J.S. 2A: 11-30. In addition, many of the sections would benefit from clarification and consolidation.

In total, the statutory material on organization of the courts now comprises 189 sections. The Commission's proposal comprises 34 sections. That proposal deals with all the subject matters of the current sections and attempts to do so clearly and comprehensively.

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CHAPTER 1 - GENERAL

2B:1-1. Seals

The Supreme Court shall prescribe the form of its seal and the seals of the Superior Court and Tax Court. Each municipal court shall prescribe the form of its seal with the approval of the Supreme Court.

Source: 2A:6-7, 2A:11-1

COMMENT

The section is a simplified version of the source sections, and is revised to reflect changes in the courts in existence.

2B:1-2. Preservation of court records

The Supreme Court may adopt regulations governing the retention, copying and disposal of records and files of any court or court support office.

Source: 2A:6-45, 2A:6-46, 2A:11-48 through 2A:11-53.3

COMMENT

The source provisions specify methods of duplicating court records and time periods during which certain records must be retained. This section abandons those detailed provisions in favor of a more flexible rule-making authority. Pursuant to C.47:3-17 to 20, a rule providing for destruction of records would involve the Bureau of Archives and Records Preservation.

2B:1-3. Criminal history record information

The Supreme Court is authorized to receive criminal history record information from the Federal Bureau of Investigation for use in licensing and disciplining attorneys-at-law of this State.

Source: 2A:1-12

COMMENT

The section is essentially identical to its source, 2A:1-12. As set forth in the Introductory Statement to L.1979, c.370, federal law requires that a state governmental unit have express statutory authority in order to receive this information. See 28 U.S.C. §534(a)(4), and regulations promulgated under the authority of the statute, 28 C.F.R. §20.33 (a)(3).

CHAPTER 2 - JUDGES

2B:2-1. Number of judges - See memo for options

- a. The Superior Court shall consist of 359 judges.
- b. 1) The Superior Court shall at all times consist of the following number of judges, who at the time of their appointment and reappointment were residents of each county:

Atlantic	10
Bergen	24
Burlington	5
Camden	14
Cape May	4
Cumberland	6
Essex	28
Gloucester	8
Hudson	22
Hunterdon	3
Mercer	8
Middlesex	20
Monmouth	16
Morris	13
Ocean	14
Passaic	14
Salem	2
Somerset	6
Sussex	3
Union	16
Warren	3

2) Additionally, the following number of those judges of the Superior Court satisfying the residency requirements set forth above shall at all times sit in the county in which they reside:

Atlantic	4
Bergen	12
Burlington	4
Camden	8
Cape May	2
Cumberland	4
Essex	14
Gloucester	6
Hudson	6
Hunterdon	2
Mercer	6
Middlesex	8
Monmouth	4
Morris	6
Ocean	8
Passaic	6
Salem	2
Somerset	4
Sussex	2
Union	6
Warren	2

Source: 2A:2-1

COMMENT

The section is essentially identical to its source, 2A:2-1. While its substance is unchanged, the form of subsection b.(2) differs from its source. The source subsection only makes reference to the number of judges of the county court authorized for each county on December 6, 1978. In the interest of clarity, subsection b.(2) of this proposal includes a chart specifying the number of judges on that date.

The requirement of subsection b. is derived from the New Jersey Constitution, Art. 6, ¶3, but is not identical to it. The statute requires that the judges who must sit where they reside be among those satisfying the residency requirement at appointment. That restriction is not found in the Constitution. Subsection b.(1) varies more widely from its cognate Constitutional provision. See N.J. Const. Art. 6, ¶3, ¶1 which requires only that there be two resident judges in each county. The sensitivity of this issue is such, however, that the Commission felt that it was not its role to vary the requirements of this section.

2B:2-2. Assignment of Superior Court judges

A judge of the Superior Court may be assigned temporarily by the Chief Justice to any court established by statute and exercise all the powers of that court.

Source: 2A:3-7, 2A:6-11, 2A:3A-21, 2A:8-11

COMMENT

This section authorizes the Chief Justice to assign Superior Court judges to courts of limited jurisdiction that may be established from time to time by the Legislature. At present, the only statutory courts are the Tax Court and the municipal courts. There is no provision now which is precisely equivalent to that proposed. 2A:3-7 and 2A:6-11 give Superior Court judges the powers of judges of the former county and county district courts. 2A:8-11 makes county court judges ex officio judges of the municipal court. 2A:3A-21 gives the Chief Justice the power to assign judges of the Superior Court to the Tax Court. It appeared appropriate, in place of all of these provisions, to empower the Chief Justice to assign judges of the Superior Court temporarily to any statutory court.

The authority of the Chief Justice to assign judges to constitutional courts is constitutionally-based and thus no statutory provision is needed concerning such assignments. See N.J. Const. Art. VI, ¶7, ¶2 and Art. VI, ¶2, ¶1.

2B:2-3. Judge seeking elective office

A justice or judge of any court of this state, other than a surrogate who is a candidate for reelection, who becomes a candidate for an elective public office, thereby forfeits judicial office.

Source: 2A:11-2

COMMENT

The section is similar to its source, 2A:11-2. The word "justice" has been added to bring the section into harmony with the constitutional provision from which it derives, N.J. Const. Art. VI, ¶7, ¶7. The section also differs from its source in its treatment of surrogates. The source, 2A:11-2, allows a surrogate to be a candidate for any office; this section would allow a surrogate to be a candidate only for reelection. The added restriction reflects current practice; surrogates are limited in their political activity by Court Rule 1:17-1(g). Moreover, since surrogates are judicial officers, it seems appropriate that their political involvement be minimized. See, Clark v. De Fino, 80 N.J. 539, 546-548 (1979).

2B:2-4. Judicial salaries

Annual salaries of justices and judges shall be:

Chief Justice of the Supreme Court
\$95,000

Associate Justice of the Supreme Court	93,000
Judge of the Superior Court, Appellate Division	90,000
Judge of the Superior Court, Assignment Judge	88,000
Judge of the Superior Court; Judge of the Tax Court	85,000

Source: 2A:1A-6

COMMENT

The section is nearly identical in substance to its source, 2A:1A-6. The only change is the addition of judges of the Tax Court

2B:2-5. Responsibility for judicial salaries

The State shall be responsible for the cost of the salaries of the justices of the Supreme Court, judges of the Superior Court and judges of the Tax Court, except that where the number of Superior Court judges restricted as to residence or assignment by N.J.S. 2B:2-lb. or c. is increased, the county shall be responsible for funding 100% of the cost of the salary of any judge who has been assigned in the first year following the date of increase; 75% in the second year; 50% in the third year; 25% in the fourth year; and in the fifth year, the State shall be responsible for the entire cost of the salary of any judge so assigned.

Source: 2A:2-1.3b.

COMMENT

The section is a substantial reenactment of its source, subsection b. of 2A:2-1.3.

CHAPTER 3 - CLERKS

2B:3-1. Appointment of court clerks

a. The Supreme Court shall appoint to serve at its pleasure, and shall fix the salary of, the Clerk and a Deputy Clerk of the Supreme Court, neither of whom shall be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes.

b. The Supreme Court shall appoint to serve at its pleasure, and shall fix the salaries of, the Clerk and Deputy Clerks of the Superior Court and the Clerk and Deputy Clerks of the Appellate Division of the Superior Court, none of whom shall be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes unless the Supreme Court directs otherwise.

c. The clerks of the Supreme Court, the Superior Court, and the Appellate Division of the Superior Court shall select and employ other necessary assistants in accordance with the provisions of Title 11A, Civil Service, of the New Jersey Statutes.

Source: 2A:1-2, 2A:1-6, 2A:2-3, 2A:2-7, 2A:6-23

COMMENT

Subsection a. is a substantial reenactment of the amalgam of 2A:1-2 and 2A:1-6. Subsection b. is derived from 2A:2-3 and 2A:2-7, but flexibility is given in the number of deputy clerks and in the

applicability of Civil Service law. Subsection c. is based on 2A:6-23 which related to the clerks of the county district courts. While there is no analogous provision applicable to the Supreme Court or Superior Court, the principle is clearly implied in current law. See, e.g., 2A:1-5, 2A:2-6.

2B:3-2. Clerks, offices and duties

a. The offices of the Clerk of the Supreme Court, the Clerk of the Superior Court, and the Clerk of the Appellate Division of the Superior Court shall be in the City of Trenton. The offices of the Deputy Clerks of the Superior Court shall be in places selected by the Supreme Court as convenient for performance of the deputy clerks' duties except that any office of any deputy clerk subject to Title 11A, Civil Service, shall be in the county in which the deputy clerk previously served unless the deputy clerk consents to transfer.

b. The clerk of each court shall be the custodian of the property, records and seal of that court.

c. Any duties performed by a county clerk for any court shall be in the capacity of Deputy Clerk of the Superior Court as provided by the Constitution.

Source: 2A:1-4, 2A:2-5, 2A:6-20, 2A:11-1

COMMENT

The section pertaining to siting of the clerks' offices is a substantial reenactment of 2A:1-4 and 2A:2-5, except that the reference to the offices of deputy clerks of the Superior Court is new. Subsection b., in its reference to property and records, is a generalization of 2A:6-20. The reference to seals is a substantial reenactment of the provisions of 2A:11-1 on that subject. Subsection c. is new. It reflects the Constitutional duties of county clerks pursuant to N.J. Const. Art. XI, °VI.

2B:3-3. Instruments executed by Clerk of the Superior Court in connection with property held by Superior Court; signatures

All drafts, checks and other instruments executed in connection with any property held by the Superior Court shall be signed by the Clerk of the Superior Court and countersigned by an official designated by the Chief Justice of the Supreme Court by order in writing.

Source: 2A:2-10, 2A:2-11

COMMENT

The section is substantially based on 2A:2-11. Language changes have been made to reinforce the generality of the provision so that it can serve to replace both 2A:2-10 and 2-11. The section has also been changed to reflect the practice of allowing countersigning by an official other than a Superior Court judge.

2B:3-4. Clerk of Superior Court as named party

The Superior Court of New Jersey may be sued by naming the Clerk of the Superior Court as the representative of the court. The Clerk shall not be individually liable for any costs or fees, nor subject to a personal judgment.

Source: 2A:2-9

COMMENT

The section is substantially identical to its source, 2A:2-9.

CHAPTER 4 - OTHER EMPLOYEES

2B:4-1. Special counsel

a. In any action involving the constitutionality or validity of a statute providing for the expenditure of public moneys by the State or any instrumentality thereof, where the legal issues concerning the constitutionality or validity thereof are genuine, and a question arises as to whether the interests of the parties may not be truly adverse, and the issues are of public importance, and an adjudication thereof is in the public interest, the Chief Justice of the Supreme Court, or the Supreme Court *en banc*, may appoint counsel specially to represent any party or interest as may be deemed necessary and appropriate to assure the full presentation of adversary positions and interests with respect to the issues.

b. The Supreme Court, upon petition of special counsel, shall allow such fees and expenses as the Court deems adequate and reasonable. Such allowances shall be paid from any available funds by the chief financial officer of the governmental agency involved in such action. Where more than one governmental body or agency is involved, the Court may direct the allocation of the allowable fees and expenses between such bodies or agencies in such proportionate amounts as it considers appropriate.

Source: 2A:1-10, 2A:1-11

COMMENT

The section is identical to its source sections.

2B:4-2. Appointment of additional employees

The Supreme Court may appoint subordinate officers and employees necessary for the convenient performance of the duties of the Supreme Court and the Superior Courts.

Source: 2A:11-31

COMMENT

The section is a substantial reenactment of 2A:11-31. The appointment power provided is broad enough that sections such as 2A:1-7 (standing masters), which allowed specific appointments, are unnecessary.

2B:4-3. Appointment of staff of justices and judges

A justice of the Supreme Court or a judge of the Superior Court may appoint secretaries, law clerks and other assistants to staff positions approved by

the Supreme Court. These employees shall serve at the pleasure of the appointing justice or judge.

Source: 2A:11-6, 2A:11-7, 2A:11-9

COMMENT

This section deals with secretarial and legal staffs of individual judges and justices. An appointment to these positions is made by the particular justice or judge served; creation of a position requires the approval of the Supreme Court. The section is based on the three source sections, but while those sections created particular positions, this section is more flexible.

CHAPTER 5 - PAYMENT OF SALARIES AND OTHER COSTS; PROVISION OF SERVICES

2B:5-1. Secretarial and legal staff of justices and judges

a. The State shall be responsible for the cost of secretarial and legal staff employees appointed by justices of the Supreme Court, judges of the Appellate Division, and judges of the Chancery Division other than the Family Part.

b. The counties shall be responsible for the cost of secretarial and legal staff employees appointed by judges of the Law Division and of the Family Part of the Chancery Division. For the purpose of determining their compensation, these employees shall be considered to be county employees.

Source: 2A:11-8, 2A:11-10

COMMENT

The section provides for payment of the salaries of secretarial and legal staff of individual justices and judges. This is one of four sections which allocate certain costs of the court system between the State and the counties. See also 2B:2-5, 2B:5-2 and 2B:6-1. The Commission did not deem it appropriate to recommend a change in the allocation of costs and, in these four sections, is attempting to reflect current law and practice. The underlying principle of the proposed sections is that the counties are responsible for the cost of the Law Division and the Family Part of the Chancery Division, while the State is responsible for all other parts of the Superior Court and for the Supreme Court. While some deviations from this principle now occur, it constitutes the overwhelming percentage of current practice.

The legal basis for current practice is less clear. The statutes on costs tend to divide based on divisions of the Superior Court with the Appellate and Chancery Division costs given to the State and the Law Division given to the counties. In addition, the cost of the old Juvenile and Domestic Relations Court was always a county charge. See, e.g., 2A:11-33.

The Juvenile and Domestic Relations Court was replaced by the Family Court by L.1982, c.78. The Family Court was also given matrimonial cases. That change was part of a package: L.1982, c.77 enacted the Juvenile Code; L.1982, c.79 dealt with disclosure of the names of juveniles; L.1982, c.80 dealt with juvenile/family crisis intervention units and L.1982, c.81 dealt with court intake services. Together, these acts were compiled as Chapter 4A of Title 2A. There was a provision for payment of costs in the Juvenile Code, L.1982, c.77: "All expenses incurred in complying with the provisions of this chapter shall be a county charge." The question is whether that section was intended to place the costs of the whole package on the counties, or just the costs resulting from the adoption of the Juvenile Code. The use of the word "chapter" within the section could refer to the chapter of the session law, but more likely refers to Chapter 4A of Title 2A. The situation is confused by the fact that this section was compiled in Chapter 4 as 2A:4-41, rather than where it appeared in the Act following 2A:4A-59. If 2A:4-41 is

intended to provide for all of the Family Court, then the Family Part of the Chancery Division, which is a direct descendant of the Family Court, should be a county charge, as 2A:4-41 was not repealed when the other law relating to the Family Court was repealed.

This discussion not only gives some justification for the current practice in regard to the division of costs, but underlines the need for clarification of the law in this regard. It is the purpose of sections 2B:5-1, 2B:5-2 and 2B:6-1 to provide clear rules on this subject.

2B:5-2. Administrative staff for Superior Court

a. The State shall be responsible for the cost of employees necessary for the operation, management and recordkeeping of the Supreme Court, the Appellate Division, the Chancery Division other than the Family Part, and the Office of the Clerk of the Superior Court.

b. Each county shall provide employees necessary for the operation, management and recordkeeping of the Law Division and Family Part of the Chancery Division of the Superior Court assigned to cases from that county. These employees shall be appointed and shall perform their duties in the manner established by the Chief Justice. For the purpose of determining their compensation, these employees shall be considered to be county employees. Employees performing other than clerical functions shall serve at the pleasure of the appointing authority.

Source: 2A:11-10, 2A:11-31, 2A:4-41

COMMENT

The section embodies the division of the responsibility for costs between the county and the State. On this subject, see comment to section 2B:5-1.

This section deals with the staffs of the courts rather than the staffs of individual judges. Most employees performing these functions in the Law Division and Family Part of the Chancery Division are those who performed those functions for the County, District and Juvenile and Domestic Relations Courts prior to consolidation. See section 2B:9-1. These employees are now under the supervision of the trial court administrator and the assignment judge. See Matter of Judges of Passaic County, 100 N.J. 352, 358-9 and 366 (1985). The reference to the performance of duties "in the manner established by the Chief Justice" is new; the purpose is to make it clear that while the employees are paid by the counties and for that purpose are county employees, they work under the supervision of the judiciary.

The current practice on hiring these employees is not consistent. In some counties, additional employees are provided by the county clerk or other county official. In other counties, they are hired by their supervisor within the constraints of the county judicial budget. As it seems preferable not to divide hiring from supervision, the section chooses the latter practice.

2B:5-3. Compensation of employees administering trust fund

The Clerk of the Superior Court shall pay to the State Treasurer, out of the income of the Superior Court Trust Fund, an amount equal to all payments made from the State Treasury as compensation for salaries, services and supplies furnished for administration of the fund.

Source: 2A:2-8

COMMENT

This section is a substantial reenactment of the source section.

CHAPTER 6 - EQUIPMENT AND SERVICES; EXPENSES

2B:6-1. Courtrooms and equipment; security

a. Suitable courtrooms, chambers, equipment and supplies for the Supreme Court, the Appellate Division of the Superior Court and the Chancery Division, other than the Family Part of the Chancery Division, of the Superior Court shall be provided at the expense of the State by the Administrative Director in cooperation with the Director of the Division of Purchase and Property in the Department of Treasury. These courtrooms and chambers shall be located in a courthouse or other public building so far as practicable.

b. Each county shall provide suitable courtrooms, chambers, equipment and supplies necessary for the processing and decision of cases from that county in the Law Division and the Family Part of the Chancery Division.

c. A flag of the United States shall be displayed in an appropriate place in each courtroom during all sessions of the court.

d. The sheriff of each county shall provide for security for the Law and Chancery Divisions of the Superior Court sitting in that county in the manner established by the assignment judge in that county.

Source: 2A:3-22, 2A:4-41, 2A: 11-3, 2A:11-4

COMMENT

Subsections a. and b. embody the division of costs between the county and the State. On this subject, see comment to section 2B:5-1. Subsection c. is a substantial reenactment of its source, 2A:11-3. Subsection d. is loosely based on 2A:11-32 (see also N.J.S. 40A: 9-117.6). It codifies the sheriff's role in providing courthouse security.

2B:6-2. Rental of chambers

Any justice of the Supreme Court may rent convenient and appropriate chambers for use as a study and library and for other official needs, subject to approval by the Chief Justice. If a lease is required, it may be entered into by the Director of the Division of Purchase and Property in the Department of Treasury or by the justice with the Director's written approval. The rental of the chambers shall be certified by the Director and paid by the State Treasurer.

Source: 2A:1-9

COMMENT

The section is substantially identical to its source, 2A:1-9.

2B:6-3. Service of process

a. The sheriff shall be responsible for service, or execution and return of process, orders, warrants and judgments directed to the sheriff, and shall be entitled to the compensation provided for by law and subject to the regulations and penalties pertaining to this service, execution and return.

b. In counties where there are officers of the Special Civil Part of the Law Division of the Superior Court, those officers shall be responsible for any personal service or execution and return of process, orders, warrants and judgments of the Special Civil Part as provided by Court Rule and shall be entitled to the compensation provided by law for so doing. Where no Special Civil Part officers are available, these services shall be performed by the sheriff as provided by subsection (a) of this section. The sheriff shall receive the same compensation for performing these services as is provided by law for Special Civil Part Officers.

Source: 2A:3-22, 2A:3-24, 2A:6-15, 2A:6-25, 2A:6-29

COMMENT

Subsection a. is similar in substance to the source sections, 2A:3-22 and 2A:3-24 which applied to the county court. The persons serving process are now called Sheriff's Officers. See N.J.S. 40A:9-117.6. Subsection b. embodies the principle of the remaining source sections that the primary responsibility for service of process and related functions is borne by the Special Civil Part officers (formerly, constables) where those exist.

2B:6-4. Multi-county vicinage; apportionment of costs

Where a judge of the Law Division or of the Family Part of the Chancery Division is assigned to cases from a vicinage including more than one county, the salary of that judge and of any employee of that judge and any expenses related to that judge shall be apportioned between the counties composing the vicinage in the manner determined by the assignment judge for that vicinage.

Source: 2A:11-10

COMMENT

The section is necessary given county responsibility for costs of parts of a statewide court. The source section, 2A:11-10, deals only with the costs of secretaries, but the problem is broader, and so this section deals with all costs. This new section is in accordance with current practice.

2B:6-5. Expenses incurred by order of Supreme Court

Expenses incurred by order of the Supreme Court in the execution of its duties, the payment of which is not otherwise provided by law, shall be paid by the State Treasurer, from any appropriation available to the Court, when directed by the order of the Court, which order shall be attested by the justice presiding in the Court at the time the order is made.

Source: 2A:1-8

COMMENT

The section is identical to its source, 2A:1-8.

CHAPTER 7 - REPORTING OF COURT PROCEEDINGS

2B:7-1. Reporting of court proceedings; court reporters

a. The Supreme Court shall provide for the reporting of all proceedings in the Superior Court and any other proceedings it directs by the use of court reporters or any other means it directs. Court reporters shall be appointed by the Administrative Director of the Courts.

b. Except as provided by N.J.S. 2B:7-3, official court reporters appointed shall be certified shorthand reporters holding certificates issued by the State Board of Shorthand Reporting.

Source: 2A:11-11, 2A:11-12

COMMENT

Subsection a. of this section is based on language in 2A:11-11, but has been broadened to reflect the long-standing practice that some proceedings are recorded stenographically and some by tape recording equipment. Subsection b. is substantially similar to the relevant portion of 2A:11-11, except that the section reflects practice that appointments are made by the Administrative Director. Subsection c. is a substantial reenactment of 2A:11-12.

2B:7-2. Assignment; designation of supervisors

a. A reporter shall be assigned by the Administrative Director of the Courts with the approval of the Chief Justice, to report proceedings as the Supreme Court may direct. Such an assignment may be changed from time to time as occasion may require.

b. With the approval of the Chief Justice, the Director may designate, from among the reporters, supervisors and assistant supervisors for specified districts as may be necessary in maintaining efficient reporting service, and particularly in arranging, subject to the control of the Director, for the temporary transfer of one or more reporters to meet special requirements in any court or part thereof, and in employing and assigning reporters for temporary service either on a full-time or part-time basis. A reporter designated as a supervisor or assistant supervisor shall perform these services in addition to regular duties, and for these additional services, shall be compensated in an amount fixed by the Supreme Court, which amount shall be added to and become part of the reporter's annual salary and paid as such.

Source: 2A:11-13

COMMENT

The section is a substantial reenactment of its source, 2A:11-13.

2B:7-3. Temporary service

The Administrative Director of the Courts may appoint and assign reporters for temporary service on a full-time or part-time basis, not to exceed 6 consecutive months at any one time, whenever the need may appear. These temporary appointments shall be subject to the approval of the Chief Justice. If a certified shorthand reporter, as defined by law, is not available for such purpose, then a reporter otherwise qualified may be so appointed until a certified shorthand reporter is available.

Source: 2A:11-14

COMMENT

The section is a substantial reenactment of its source, 2A:11-14, but the term of a temporary appointment has been lengthened to 6 months for administrative convenience.

2B:7-4. Transcript; fees

a. When a transcript of a stenographic record or other recording in any court or in any other proceeding recorded at the direction of the Supreme Court is made, at the request of any person, the original and copies thereof shall be prepared in the manner prescribed by Administrative Office of the Courts regulations and paid for at the rate of \$1.50 for each page of the original and \$0.50 for each of the copies. If the transcript is furnished to a judge of the court, by court order, the reporter shall be paid at the same rates, and in the same manner and from the same sources as the reporter's salary or per diem fees are paid.

b. Except as to transcripts that are to be paid for by the State or county, the person preparing the transcripts may require any person requesting a transcript to prepay the estimated fee therefor in advance of delivery of the transcript.

Source: 2A:11-15

COMMENT

The section is substantially similar to 2A:11-15, but contains a few changes. First, the section provides that the same fees for transcripts shall apply whether the recordation was done stenographically or by tape recording equipment. Second, the rate for transcript is expressed in terms of pages rather than folios. While "folio" is a defined term, R.S. 1:1-2, a folio of transcript seldom contains the 100 words required by the definition. In practice, transcript is priced by the page, and the charge, if expressed in terms of folios, is based on a conversion of 2 1/2 folios equalling one page. The real definition of a page is not in terms of the exact number of words on it, but in that it contains the number of lines per page, characters per line, and arrangement of text specified by the Administrative Office of the Courts in its regulations. The last change introduced by the proposed section is the explicit provision for those regulations.

It should be noted that this section deals only with the cost of transcript purchased from reporters and transcribers. The cost of copies of public records is controlled by C. 47:1A-2. In addition, the courts have authority to control the cost of records needed for litigation.

2B:7-5. Employment of court reporters

a. Except as provided in this section, court reporters appointed to serve on a full-time basis pursuant to this chapter shall receive an annual salary to be fixed from time to time by the Supreme Court.

b. In lieu of an annual salary, a reporter employed on a part-time or temporary basis as provided in this chapter may be paid such a per diem fee rate as may be fixed from time to time by the Supreme Court. Such per diem fees shall be paid by the State upon certification of the Administrative Director of the Courts.

c. In addition to salary or per diem fees, a reporter may, upon the certification of the Director, be reimbursed for necessary travel and other expenses when assigned to serve in a county other than the one in which the reporter resides.

d. Each county shall pay annually to the State Treasurer, in equal quarterly installments, as its share of reporter expenses for the State fiscal year an amount equal to the net cost to such county for such expenses for each preceding fiscal year. Such net cost shall include only the amount paid for salaries and expenses of court reporters in the fiscal year ending June 30, 1948, transcripts furnished to a judge pursuant to N.J.S. 2B:7-4 and employer's contribution to the Public Employees' Retirement System and social security paid in the fiscal year ending June 30, 1967, which net cost shall be certified by the Director.

e. Every reporter shall be entitled to retain the fees collected for transcripts. All transcript supplies and equipment shall be furnished by the reporter at his or her own expense.

f. Reporters appointed to serve on a full-time basis shall be deemed to be State employees eligible for membership in the Public Employees' Retirement System; except, however, that reporters who prior to July 1, 1966,

were members of any county employees' retirement system pursuant to P.L.1943, c.160 (C. 43:10-18.1, 43:10-18.25) shall continue therein as county employees for the purposes of that enactment.

Source: 2A:11-16

COMMENT

The section is a substantial reenactment subsections a., c., e., f., and g. of 2A:11-16. Subsection b. of the source section was deleted as no longer necessary. Subsection d. was rewritten to reflect the interpretation of the source subsection following an opinion of the Attorney General dated May 9, 1978.

2B:7-6. Records and reports

The Administrative Director of the Courts, subject to the approval of the Chief Justice, shall prescribe records which shall be maintained and reports to be filed by the reporter. These records shall be open to inspection by the Supreme Court, the Chief Justice and the Director, and may include records showing (1) the quantity of transcripts prepared, (2) the fees charged and the fees collected for transcripts, (3) any expenses incurred by the reporter in connection with transcripts, (4) the amount of time the reporter is in attendance upon the court for the purpose of recording proceedings, and (5) other information as the Director may determine.

Source: 2A:11-17

COMMENT

The section is a substantial reenactment of subsection b. of 2A:11-17; subsection a. of that source section was deleted as unnecessary.

CHAPTER 8 - INTERPRETERS AND TRANSLATORS

2B:8-1. INTERPRETERS (Option A)

Each county shall provide interpreting services necessary for cases from that county in the Law Division and the Family Part of the Chancery Division. A county may provide interpreting services through the use of persons hired for that purpose. If interpreters are employed, they shall be appointed and shall perform their duties in the manner established by the Chief Justice, and shall

serve at the pleasure of the appointing authority. For the purpose of determining their compensation, these employees shall be considered county employees.

Source: 2A:11-28 to 30

COMMENT

The form of this section is significantly different from that of its sources. While those sections provide for the employment of particular types of interpreters in particular classes of counties, this section gives general authority to hire those interpreters needed. Following the pattern of proposed °2B:5-1 and 5-2, this section makes explicit provision for the administrative relation of these employees to the courts and for the division of costs between the State and the counties. See the Comments to those sections.

2B:8-1. INTERPRETERS AND TRANSLATORS (Option B)

a. To assist in the performance of its duties as provided in [*the bill now pending as A2089 of the 1988 term*], the Administrative Office of the Courts may employ qualified interpreters and translators.

b. An interpreter or translator employed on a full-time basis shall receive an annual salary to be fixed from time to time by the Supreme Court. An interpreter or translator employed on a part-time or temporary basis may be paid a per diem fee rate as may be fixed from time to time by the Supreme Court.

c. An interpreter or translator shall be assigned as appropriate by the Administrative Director of the Courts with the approval of the Chief Justice. These assignments may be changed from time to time as required.

d. The salaries, fees and related expenses of interpreters and translators, whether for interpreters and translators employed by the Administrative Office of the Courts or appointed in any proceeding of any court, surrogate, arm of the judiciary, court support service, or court ordered evaluation or examination, shall be paid by the Administrative Office of the Courts.

COMMENT

While this section is new, it replaces a number of current provisions on court translators. See, N.J.S. 2A:11-28 to 30. The section was drafted to reflect new comprehensive provisions on interpreting services now pending in the Legislature as A2089 of the 1988 term. That bill would place the responsibility for the provision of interpreting services for all courts, including municipal courts, and for all agencies of the judiciary on the Administrative Office of the Courts. See °19 of A2089. Most of these services would be provided as they are now by full-time interpreters. The interpreting service would be organized in roughly the same manner as the court-reporting service now is. While A2089 seems to contemplate such an approach, see °12(b), 14, and 15, it lacks a specific provision for it. As a result it seemed appropriate to draft the provisions found in subsections (a), (b), and (c) of the proposed section. These subsections are based on the provisions relating to court reporters.

Subsection (d) was added to codify the legislative intent that the cost of all interpreting services be borne by the State rather than by the counties and municipalities. An explicit provision for reimbursement of local governments for the costs incurred in connection with administrative agencies is found in °12(c) of A2089. Unfortunately, the parallel provision on the courts is less explicit and might not be clear unless read in connection with the appropriation section, °19. In keeping with the policy of providing clear rules for the division of costs, it seemed desirable to add subsection (d) of the proposed section.

CHAPTER 9 - ABOLITION OF COURTS AND TRANSFER OF CASES

2B:9-1. Effect of abolition of particular courts

a. Where any court has been or is abolished:

1. Its property shall be the property of the court succeeding to its jurisdiction;

2. Its pending cases shall be cases of the court succeeding to its jurisdiction and thereafter shall be treated in the same manner as if originally brought in the court to which they are transferred;

3. Its records shall be disposed of in the manner determined by the Supreme Court.

b. A judgment of a court which has been abolished may be enforced in the court to which its jurisdiction has been transferred, but no abolition of any court or transfer to another court shall change the effect of a judgment of that court in any way.

c. No abolition of any court or any transfer of operations, management, or recordkeeping duties shall affect the position, title, compensation or rights under applicable Civil Service laws of any employee of the courts or of any other government employee whose position included performance of work for the courts. To the extent compatible with efficient administration of the courts, employees who performed work for abolished courts shall be transferred to perform equivalent functions in existing courts.

d. Any reference in a statute, ordinance or regulation to a court which has been abolished shall be given effect as if the reference were to the court to which the jurisdiction of the abolished court has been transferred.

Source: 2A:2-16, 2A:2-17, 2A:2-18, 2A:4-3b, 2A:4-3c, 2A:4-3d, 2A:6-1a, 2A:6-3.7, 2A:11-57, 2A:11-58

COMMENT

In the past, separate transfer sections were enacted on the abolition of each particular court. The sets of these transfer provisions were not usually as complete as the proposed section, and each was slightly different. These particular transfer provisions remained codified in the statutes long after they served any purpose.

To prevent this problem and to provide for the implications of the abolition of past and future courts, the proposed provision attempts to codify all of the implications of the abolition of a court. The basic rule is that cases, property, judgments and references pertaining to an abolished court should be transferred to the court succeeding that court's jurisdiction; the records of the abolished court should be dealt with as determined by the Supreme Court, and no employee who performed work for an abolished court should be affected in any substantial way by that abolition. Pursuant to C.47:3-17 to 20, an order providing for destruction of records would involve the Bureau of Archives and Records Preservation.

STATUTES TO BE COMPILED SEPARATELY

2A:8-24.1. Municipal housing courts[AMENDED SECTION]

Municipal housing courts in municipalities in counties of the first class that have established full-time municipal housing courts shall have exclusive jurisdiction over actions for eviction involving property in those municipalities transferred to the municipal housing court by the special civil part of the Superior Court [pursuant to the provisions of subsection b. of N.J.S. 2A:6-34;] and shall have concurrent jurisdiction to appoint receivers pursuant to section 6 of P.L.1966, c. 168 (C. 2A:42-79) and to enforce the provisions of P.L.1971, c. 224 (C. 2A:42-85 et seq.).

COMMENT

The proposed amendment removes the reference to N.J.S. 2A:6-34. Almost all of the relevant part of that section duplicates the content of this section. The one provision in N.J.S. 2A:6-34 which might be considered not fairly implied by this section is that which is proposed as an addition to this section.

2A:4A- . Court intake service[RECOMPILED SECTION]

There shall be established in each county a court intake service, which shall have among its responsibilities the screening of juvenile delinquency complaints and juvenile-family crisis referrals. The intake service shall operate in compliance with standards established by the Supreme Court, but in no instance shall the standards for personnel employed as counselors hired after the effective date of this act be less than a master's degree from an accredited institution in mental health or social or behavioral science discipline including degrees in social work, counseling, counseling psychology, mental health counseling or education. Equivalent experience is acceptable when it consists of a minimum of an associate's degree with a concentration in one of the behavioral sciences and a minimum of five years' experience working with troubled youth and their families or a bachelor's degree in one of the behavioral sciences and two years' experience working with troubled youth and their families. Intake personnel should also receive training in drug and alcohol abuse.

Source: 2A:2-20b.

COMMENT

The section is identical to the source subsection. It should be compiled within Title 2A, Chapter 4A to which it relates.

22A: Filing fees in Family Part [NEW SECTION]

No filing fees shall be imposed for any action in the Superior Court, Chancery Division, Family Part, except for actions for divorce, separate maintenance, annulment, and adoption.

Source: 2A:4-3e

COMMENT

This section embodies the substance of the relevant part of 2A:4-3e. The Commission proposes it as an amendment to Title 22A - Fees.

ALTERNATE PROVISIONS ASSUMING STATE TAKEOVER OF COSTS

2B:2-5. Responsibility for salaries

The State shall be responsible for the cost of the salaries of the justices of the Supreme Court, judges of the Superior Court and judges of the Tax Court.

Source: 2A:2-1.3

COMMENT

This version of 2B:2-5 together with the versions of 2B:5-1, 5-2, 6-1, and 7-5 which follow were drafted in light of current proposals which would place the financial responsibility for the courts on the State. These sections provide that the State pay all costs of the court system. The only county responsibility would be to provide courtrooms, chambers and other necessary space for the Law Division and for the Family Part of the Chancery Division of the Superior Court. See 2B:6-1(c). The Commission does not believe that it is appropriate to take a position as to whether the counties should be responsible for any part of the cost of the court system. For this reason, it presents these two sets of provisions in the alternative.

2B:5-1. Secretarial and legal staff of justices and judges

The State shall be responsible for the cost of secretarial and legal staff employees appointed by justices of the Supreme Court and judges of the Superior Court. Compensation of these employees shall be in accordance with Title 11A, Civil Service, of the New Jersey Statutes, but these employees shall serve at the pleasure of the judge.

Source: 2A:11-6, 2A:11-7, 2A:11-8

2B:5-2. Administrative staff for Superior Court

The State shall be responsible for the cost of employees necessary for the operation, management and recordkeeping of the Superior Court. These employees shall be appointed and perform their duties in the manner provided by the Chief Justice. Compensation of these employees shall be in accordance with Title 11A, Civil Service, of the New Jersey Statutes, but any employees performing other than clerical functions shall serve at the pleasure of the appointing authority.

Source: 2A:11-10, 2A:11-31, 2A:4-41

2B:6-1. Courtrooms and equipment; security

a. Necessary equipment and supplies for the Superior Court shall be provided at the expense of the state by the Administrative Director of the Courts in cooperation with the Director of the Division of Purchase and Property in the Department of Treasury.

b. Suitable courtrooms, chambers and offices shall be provided for the Supreme Court, Appellate Division of the Superior Court and the Chancery Division, other than the Family Part of the Chancery Division of the Superior Court, at the expense of the State by

the Administrative Director of the Courts in cooperation with the Department of Treasury. Such courtrooms and chambers shall be located in a courthouse or other public building so far as practicable.

c. Each county shall provide suitable courtrooms, chambers and offices necessary for the processing and decision of cases from that county in the Law Division and the Family Part of the Chancery Division.

d. A flag of the United States shall be displayed in an appropriate place in each courtroom during all sessions of court.

e. The sheriff of each county shall provide for security for the Law and Chancery Divisions of the Superior Court sitting in that county in the manner established by the assignment judge in that county.

Source: 2A:3-22, 2A:3-24, 2A:4-41, 2A:11-3, 2A:11-4

2B:7-5. Employment of court reporters

a. Except as provided in this section, court reporters appointed to serve on a full-time basis pursuant to this chapter shall receive an annual salary to be fixed from time to time by the Supreme Court.

b. In lieu of an annual salary, a reporter employed on a part-time or temporary basis as provided in this chapter may be paid such a per diem fee rate as may be fixed from time to time by the Supreme Court. Such per diem fees shall be paid by the State upon certification of the Administrative Director of the Courts.

c. In addition to salary or per diem fees, a reporter may, upon the certification of the Director, be reimbursed for necessary travel and other expenses when assigned to serve in a county other than the one in which the reporter resides.

d. Every reporter shall be entitled to retain the fees collected for transcripts. All transcript supplies and equipment shall be furnished by the reporter at his or her own expense.

e. Reporters appointed to serve on a full-time basis shall be deemed to be State employees eligible for membership in the Public Employees' Retirement System; except, however, that reporters who prior to July 1, 1966, were members of any county employees' retirement system pursuant to P.L.1943, c.160 (C. 43:10-18.1, 43:10-18.25) shall continue therein as county employees for the purposes of that enactment.

Source: 2A:11-16

TABLE OF DISPOSITIONS

<u>Sec.</u>	<u>Disp.</u>	<u>Comments</u>
2A:1-1	deleted	Superseded by 2A:1A-6; continued as 2B:2-4
2A:1-2	2B:3-1a	Substantial reenactment
2A:1-3	deleted	See note on this section
2A:1-4	2B:3-2a	Substantial reenactment
2A:1-5	deleted	See note on this section
2A:1-6	2B:3-1	Substantial reenactment
2A:1-7	deleted	See note on this section
2A:1-8	2B:6-5	Substantial reenactment
2A:1-9	2B:6-2	Substantial reenactment
2A:1-10	2B:4-1a	Substantial reenactment
2A:1-11	2B:4-1b	Substantial reenactment
2A:1-12	2B:1-3	Substantial reenactment
2A:1A-6	2B:2-4	Substantial reenactment
2A:1A-7	deleted	See note on this section
2A:1A-8	deleted	See note on this section
2A:1B-1 to 11	continued	No recommendation is made as to this chapter
2A:2-1	2B:2-1	Substantial reenactment
2A:2-1.1	deleted	See note on this section.
2A:2-1.2	deleted	See note to 2A:2-1.1, Judicial Vacancies
2A:2-1.3	2B:2-5	Substantial reenactment of subsection b.; other subsections have no continuing effect
2A:2-2	deleted	See note to 2A:1-7, Standing Masters
2A:2-3	2B:3-1b	Substantial reenactment
2A:2-4	deleted	See note to 2A:1-3, Bonds
2A:2-5	2B:3-2	Substantial reenactment
2A:2-6	deleted	See note to 2A:1-5
2A:2-7	2B:3-1b and c	Substantial reenactment
2A:2-8	2B:5-3	Substantial reenactment
2A:2-9	2B:3-4	Substantial reenactment
2A:2-10	deleted	Subsumed in 2B:3-3
2A:2-11	2B:3-3	Substantial reenactment
2A:2-12	deleted	See note on this section
2A:2-13	deleted	Unnecessary; controlled by Court Rules 3:14 and 4:3
2A:2-14	2B:9-1b	Generalized
2A:2-15	deleted	Unnecessary; see 2B:9-1
2A:2-16	2B:9-1a3	Generalized
2A:2-17	2B:9-1a2	Generalized
2A:2-18	2B:9-1a2	Generalized
2A:2-19	deleted	Specific provision unnecessary; see note to 2A:2-12
2A:2-20	New section to be compiled in Chapter 4A (statutes relating to Family Part) of Title 2A	Subsection b. substantially reenacted; subsection a. deleted as unnecessary
2A:3-1	deleted	Unnecessary; specific to county court
2A:3-2	deleted	Unnecessary; specific to county court; the role of surrogates is provided by <u>N.J. Const.</u> , Art. 11, §6
2A:3-3	deleted	See note on this section
2A:3-4	deleted	See note to 2A:3-3, Jurisdiction
2A:3-5	deleted	See note to 2A:3-3, Jurisdiction
2A:3-6	deleted	See note to 2A:3-3, Jurisdiction
2A:3-7	2B:2-2	Generalized
2A:3-8	deleted	See note on this section
2A:3-9	deleted	Unnecessary; specific to county court
2A:3-10	deleted	Unnecessary; specific to county court
2A:3-11	deleted	Unnecessary; specific to county court

2A:3-12	deleted	Unnecessary; specific to county court
2A:3-13.5	2B:9-1c	Generalized
2A:3-13.11	2B:9-1c	Generalized
2A:3-14	deleted	Unnecessary; specific to county court
2A:3-15	deleted	Unnecessary; specific to county court
2A:3-16	deleted	Unnecessary; specific to county court
2A:3-17	deleted	Superseded by 2A:1A-6, continued as 2B:2-4
2A:3-18	deleted	Superseded by 2A:1A-6, continued as 2B:2-4
2A:3-18.1	deleted	Superseded by 2A:1A-6, continued as 2B:2-4
2A:3-18.2	deleted	Superseded by 2A:1A-6, continued as 2B:2-4
2A:3-18.3	deleted	Superseded by 2A:1A-6, continued as 2B:2-4
2A:3-19	deleted	Unnecessary; specific to county court
2A:3-19.1	deleted	Unnecessary; specific to county court
2A:3-20	deleted	Unnecessary; specific to county court
2A:3-21	deleted	Unnecessary; specific to county court
2A:3-21.1	deleted	Unnecessary; specific to county court
2A:3-22	2B:6-3a	Substantial reenactment; see also <u>N.J.S.</u> 40A:9-117.6
2A:3-23	deleted	Unnecessary; see <u>N.J.S.</u> 40A:9-117.6
2A:3-24	2B:6-3a	Substantial reenactment
2A:3-25	deleted	Unnecessary; specific to county court
2A:3-26	deleted	Unnecessary; specific to county court; see also note to 2A:2-12
2A:3-27	deleted	Unnecessary; see 2A:61-3
2A:3A-1 to 29	continued	No recommendation is made as to this chapter
2A:4-3a	deleted	Unnecessary; see also note to 2B:9-1
2A:4-3b	deleted	Unnecessary; see <u>N.J. Const.</u> , Art. 6, ¶6, ¶1; see also 2B:9-1a as to references to abolished courts.
2A:4-3c	2B:9-1a	Generalized; see comment to 2B:9-1
2A:4-3d	2B:9-1d	Substantial reenactment
2A:4-3e	New section to be compiled in Title 22A	See dispositions of sections preserved temporarily. Last clause substantially reenacted. See also note on 2A:3-3, Jurisdiction.
2A:4-10	2B:5-1b and 5-2b	Generalized
2A:4-11	deleted	Unnecessary; specific to Juvenile and Domestic Relations Court
2A:4-30.24 through 2A:4-30.64	continued	No recommendation is made in regard to these sections
2A:4-41	2A:5-1, 5-2, 6-1a	See comment to 2B:5-1
2A:4-68	deleted	Compilation of repealer unnecessary
2A:4A-20 to 91	continued	No recommendation is made in regard to this chapter
2A:5-1 to 25	continued	No recommendation is made in regard to this chapter
2A:6-1	deleted	Unnecessary; specific to district court
2A:6-1a	2B:9-1	See also dispositions of sections preserved temporarily
2A:6-2	deleted	Unnecessary; specific to district court
2A:6-3	deleted	Unnecessary; specific to district court
2A:6-3.7	2B:9-1c	Generalized
2A:6-4	deleted	Unnecessary; specific to district court
2A:6-5	deleted	Unnecessary; specific to district court
2A:6-6	deleted	Unnecessary; specific to district court
2A:6-7	2B:1-1	Generalized
2A:6-8	deleted	Unnecessary; specific to district court
2A:6-8.1	deleted	Unnecessary; specific to district court
2A:6-9	deleted	Unnecessary; specific to district court
2A:6-10	deleted	Unnecessary; specific to district court
2A:6-11	2B:2-2	Generalized as to power to assign judges. Other provisions unnecessary; specific to district court
2A:6-12	deleted	Unnecessary; specific to district court
2A:6-13	deleted	Unnecessary; specific to district court

2A:6-15	2B:6-3b	Duties of special civil part officers and existing positions preserved by two recommended sections
2A:6-16	2B:9-1c	Existing positions preserved
2A:6-17	deleted	Unnecessary; specific to district court
2A:6-18	deleted	Unnecessary; specific to district court
2A:6-19	deleted	See note to 2A:1-3, Bonds
2A:6-20	2B:3-2b	Generalized
2A:6-21	deleted	Unnecessary; specific to district court
2A:6-22	deleted	Unnecessary; specific to district court
2A:6-23	deleted	Unnecessary; specific to district court, but see 2B:9-1c
2A:6-24	deleted	Unnecessary; specific to district court
2A:6-25	deleted	Unnecessary; specific to district court, but see 2B:9-1c
2A:6-26	deleted	Unnecessary; specific to district court, but see 2B:9-1c
2A:6-27	deleted	Unnecessary; specific to district court
2A:6-28	deleted	Unnecessary; specific to district court, but see 2B:9-1c
2A:6-29	2B:6-3b	Substantial reenactment
2A:6-30	deleted	Unnecessary; specific to district court
2A:6-31	2B:6-1b	Generalized
2A:6-31.1	deleted	Unnecessary; specific to district court
2A:6-32	deleted	Unnecessary; specific to district court
2A:6-33	deleted	Unnecessary; specific to district court
2A:6-33.1	deleted	Unnecessary; specific to district court
2A:6-34	deleted	See note on this section
2A:6-34.1	deleted	See note to 2A:6-34, Special Civil Part
2A:6-35	deleted	See note to 2A:6-34, Special Civil Part
2A:6-36	deleted	See note to 2A:6-34, Special Civil Part
2A:6-37	deleted	Unnecessary; see note on 2A:3-3, Jurisdiction
2A:6-38	deleted	Unnecessary; specific to district court
2A:6-39	deleted	Conflicts with <u>N.J.S.</u> 2C:46-4b which appears to control
2A:6-40	deleted	Unnecessary; specific to district court
2A:6-41	deleted	See note to 2A:6-34, Special Civil Part
2A:6-42	deleted	Unnecessary; specific to district court
2A:6-43	deleted	See note to 2A:6-34, Special Civil Part
2A:6-44	deleted	See note to 2A:6-34, Special Civil Part
2A:6-45	2B:1-2	Generalized
2A:6-46	2B:1-2	Generalized
2A:10-1 to 8	Continued	No recommendation is made in regard to this chapter
2A:11-1	2B:1-1	Substantial reenactment
2A:11-2	2B:2-3	Substantial reenactment
2A:11-3	2B:6-1c	Substantial reenactment
2A:11-4	2B:6-1a and b	Substantial reenactment
2A:11-5	deleted	Unnecessary; see note on 2A:3-3, Jurisdiction
2A:11-5.1	deleted	See note on this section
2A:11-5.2	deleted	See note to 2A:11-5.1, Reimbursement for Cases
2A:11-6	2B:4-3	Substantial reenactment
2A:11-7	2B:4-3	Substantial reenactment
2A:11-8	deleted	See 2B:4-3
2A:11-9	deleted	See 2B:4-3
2A:11-10	2B:4-3	Salary provision subsumed into more general 2B:4-3; apportionment of costs provision generalized as 2B:6-4
	2B:6-4	
2A:11-10.1	deleted	Unnecessary; no continuing effect
2A:11-11	2B:7-1 a and b	Substantial reenactment
2A:11-12	2B:7-1c	Certificate requirement substantially reenacted; oath provision deleted as unnecessary.
2A:11-13	2B:7-2	Substantial reenactment
2A:11-14	2B:7-3	Substantial reenactment
2A:11-15	2B:7-4	Substantial reenactment

2A:11-16	2B:7-5	Substantial reenactment
2A:11-17	2B:7-6	Subsection a. deleted as subsumed in 2B:5-2; subsection b. substantially reenacted
2A:11-19	deleted	Unnecessary, general authority is provided by 2B:4-2 and 4-3. <u>See also N.J.S.</u> 40A:9-117.6
2A:11-20	deleted	See 2B:6-1d and 2B:9-1c
2A:11-21	deleted	See 2B:4-3
2A:11-22	deleted	See 2B:4-3
2A:11-23	deleted	See 2B:4-3
2A:11-24	deleted	See 2B:4-3
2A:11-25	deleted	See 2B:4-3
2A:11-26	deleted	See 2B:4-3
2A:11-27	deleted	See 2B:4-3
2A:11-28	2B:8-1 et seq., 2B:4-2	Generalized
2A:11-29	2B:8-1 et seq., 2B:4-2	Generalized
2A:11-30	2B:8-1 et seq., 2B:4-2	Generalized
2A:11-31	2B:4-2	Substantial reenactment
2A:11-32	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-33	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-34	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-35	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-36	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-36.1	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-36.2	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-36.3	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-37	deleted	See 2B:5-2
2A:11-38	deleted	See 2B:6-1d
2A:11-45	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-46	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-47	deleted	Superseded by <u>N.J.S.</u> 40A:9-117.6
2A:11-48	2B:1-2	Generalized
2A:11-50	2B:1-2	Generalized
2A:11-51	2B:1-2	Generalized
2A:11-52	deleted	Unnecessary, <u>see N.J. Evid.R.</u> 63(17)
2A:11-53	2B:1-2	Generalized
2A:11-53.1	2B:1-2	Generalized
	2B:9-1a3	
2A:11-53.2	2B:1-2	Generalized
	2B:9-1a3	
2A:11-53.3	2B:1-2	Generalized
2A:11-55	deleted	Unnecessary, <u>see N.J. Evid. R.</u> 63(17)
2A:11-56	2B:9-1a	Generalized
2A:11-57	2B:9-1a	Generalized
2A:11-58	2B:9-1a	Generalized

NOTES

2A:1-3 Bonds

The statutes require the bonding of a number of court officials. However, bonds are not purchased for any of those officials. Instead, the State now purchases a general insurance policy covering whole classes of employees. In light of this change, these sections appear to serve no purpose and the Commission recommends their deletion.

2A:1-5 Acting Clerks

This section and 2A:2-6 allow the designation of persons to exercise the duties of the Clerk of the Supreme Court and of Clerk of the Superior Court in the clerk's absence. With the statutory establishment of offices of deputy clerk (see, e.g., 2A:1-6 continued as 2B:3-1a), these sections lose function. The Commission recommends their deletion.

2A:1-7 Standing Masters

This section and 2A:2-2 provide for the appointment of standing masters. At present, there are no standing masters of either the Supreme Court or the Superior Court. If it becomes desirable to reestablish these offices in the future, the general power found in proposed 2B:4-2 (now 2A:11-31) will provide authority to do so. As a result, 2A:1-7 and 2A:2-2 are unnecessary and the Commission recommends their deletion.

2A:1A-7

This section provides for the unclassified Civil Service titles of Administrative Director of the Courts and the Standing Master of the Supreme Court. The Administrative Director is provided for in Art. 6, §7, A1 of the Constitution and by N.J.S. 2A:12-1. At present, there is no Standing Master. See note to 2A:1-7, Standing Masters. As a result, this section is unnecessary and the Commission recommends its deletion.

2A:1A-8

This section was held unconstitutional in Vreeland v. Byrne, 72 N.J. 292 (1977). The Commission recommends its deletion.

2A:2-1.1 Judicial Vacancies

Two sections provide mechanisms for notification to the legislature of judicial vacancies. The part of N.J.S. 2A:2-1.1 requires the Governor to specify with each judicial nomination the particular vacancy which the nomination would fill. N.J.S. 2A:2-1.2 with permanent effect requires notification by the Administrative Office of the Courts at the time that a vacancy occurs.

The theory of both notification provisions is that there is a residence or service restriction applicable to particular judgeships rather than a requirement that a particular number of judges, whoever they may be at a particular time, must satisfy the requirements. That theory is open to question. See N.J. Const. Art. 6, §3, A1 and A3.

Given the controversial nature of the issue, the Commission has decided to delete the notice requirements. This decision recognizes that the Legislature is able to require,

on an informal basis, any information which it deems necessary to the fulfillment of its role in judicial selection. Continuation of an informal accommodation among the branches of government seems a more appropriate solution to this problem than enactment of statutory notice requirements.

2A:2-12 Clerk's Records

This section requires the maintenance of particular docket books by the Clerk of the Superior Court. It is clear that the Supreme Court has the authority to specify the kinds of records which must be kept by clerk's offices, as well as the form of those records. See, e.g., N.J. Const., Art. 6, ¶6, A17, as well as proposed 2B:1-2. It seems unwise to mandate particular records by statute. The Commission recommends the deletion of this section.

2A:3-3 Jurisdiction

At present, there are many sections like 2A:3-3 granting jurisdiction over particular classes of cases to particular courts. These sections served a purpose in regard to the County Courts, since their jurisdiction could be affected by law. See N.J. Const., Art. 6, ¶4, A1 (repealed Nov. 7, 1978). The jurisdictional sections also served an important function in regard to courts of limited jurisdiction such as the district courts, which have only the jurisdiction granted by statute. N.J. Const., Art. 6, ¶1, A1.

Statutes granting jurisdiction to the Superior Court, however, are not necessary. The Superior Court has general jurisdiction in all causes. N.J. Const., Art. 6, ¶3, A2. The allocation of classes of cases to the various divisions and parts of the Superior Court is done by Supreme Court Rule and is not subject to statute. N.J. Const., Art. 6, ¶3, A3.

For that reason, the Commission recommends deletion of sections granting subject-matter jurisdiction to the Superior Court or to its divisions. Any references to the division or part of the Superior Court having cognizance of a kind of particular action have been included only in the interest of clarity.

2A:3-8

This section provides for the Board of Chosen Freeholders to make appointments where the judges of the County Courts are empowered but fail to make the appointment. The successors to the judges of the County Courts for this purpose are the Assignment Judges of the Superior Court. N.J.S. 2A:4-3d. Any such appointments would now seem to be within the judicial system and appointment by the Boards of Chosen Freeholders would seem inappropriate. The Commission recommends deletion of this section.

2A:6-34 Special Civil Part

Sections 2A:6-32, 2A:6-34.1, 2A:6-35, 2A:6-36, 2A:6-43 and 2A:6-44 provide for the ordinary civil jurisdiction and the small claims jurisdiction of the former County District Courts. That jurisdiction is now exercised by the Special Civil Part of the Superior Court, Law Division. Pressler, Current Court Rules, Part VI, "Rules Governing Practice in the County District Court." These sections are no longer necessary as grants of jurisdiction. See note to 2A:3-3, Jurisdiction. Whether the Special Civil Part continues to exist at all and the kinds of cases cognizable in it are matters left to Court Rule. N.J. Const., Art. 6, ¶3, A3.

While cases in the Special Civil Part are subject to the special provisions regarding fees and the effect of judgments which were formerly applicable to the District Courts, the appropriate method of providing for that applicability is by correcting the

references in the relevant sections. See also the amendment proposed to N.J.S. 2A:8-24.1.

2A:11-5.1 Reimbursement for Cases

N.J.S. 2A:11-5.1 and 5.2 provide a mechanism for reimbursement by one county to another for the costs resulting from the wholesale transfer of cases from one county to another. However, those sections provide a fixed price per case which is unrelated to the actual costs involved. These sections seem never to have been used. If, in the future, it is necessary because of backlogs to transfer cases from one county to another, there is ample authority for the Court to order payment within the guidelines of 2B:5-2 and 6-1. As a result, there seems no need to continue 2A:11-5.1 and 5.2.