

By Mr. O'Brien (by request), a petition (accompanied by bill, Senate, No. 915) of Mark Brown for legislation relative to reforming the judicial system. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT TO REFORM THE JUDICIAL SYSTEM.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Notwithstanding any special or general law to the contrary,  
2 transcripts of all civil trials shall be available to parties to a case  
3 for no charge or at most for a maximum of ten cents per page.  
4 Further, all tape recordings of a trial shall be made available to  
5 parties to the case for no more than the price of the tape media.  
6 Still further, docket sheets, shall be available free of charge and,  
7 upon request by either party by phone, a copy shall be sent to the  
8 requesting party. Still further, appellate courts shall be required to  
9 write a decision of at least two pages in Single Justice session and  
10 at least five pages when the Full Bench has reviewed the case.  
11 Said decision shall refer to the briefs entered into the case. Still  
12 further, the state Judicial Conduct Commission shall publish a  
13 report available to the public annually. Said report shall detail the  
14 workload, numbers of cases filed, numbers of cases closed,  
15 backlog of cases, categories of misconduct alleged by com-  
16 plainants, numbers of judges reprimanded, numbers of judges sus-  
17 pended, numbers of judges fined and the average fine levied,  
18 number of judges recommended to be removed from office,  
19 number of judges referred to the Attorney General for prosecu-  
20 tion. The executive director of the Judicial Conduct Commission  
21 shall be fined cumulatively for each month this annual report is  
22 late. Still further, the state Judicial Conduct Commission shall  
23 have broad latitude to examine the decisions of judges to establish  
24 whether said decisions are consistent with the high levels of

25 reason and adherence to law and evidence which must be required  
26 for a judge to remain on the state bench. Still further, judges  
27 holding bench trials shall never take longer than 30 days  
28 following the end of trial to render a decision in a case. Still fur-  
29 ther, prior complaints against a judge shall be made public. Still  
30 further, the laws of the commonwealth shall be available in  
31 CD-ROM form to citizens of the commonwealth, in at least their  
32 unannotated state, for no more than \$30, in the state house book-  
33 store. House Counsel shall be forbidden from negotiating con-  
34 tracts with West Publishing Company or other such legal  
35 publishers which in any way cede ownership over the written  
36 form of the laws of the commonwealth to any such company. In  
37 addition, the appellate case law of the commonwealth shall be  
38 contained on the same CD-ROM, at least in unannotated form.  
39 Still further, there shall be a computerized cross reference of all  
40 cases in which a particular judge participated for the past 5 years.  
41 The names of all attorneys who participated in the case shall also  
42 be part of this computerized list. This list shall be available to  
43 everyone in the state and should state what particular item of work  
44 the judge performed in the case, whether it be writing a decision  
45 or a motion ruled upon. Still further, the composition of the  
46 Judicial Conduct Commission shall be changed to include the  
47 following members: two judges, two lawyers, and five lay people.  
48 None of the lay people may work for any firms with business in  
49 the legal industry, state agencies or have run for some other office  
50 or be in the process of running for some other office. In addition,  
51 the judges and lawyers on this commission shall be retired and  
52 definitely not practicing currently in the legal industry. Still fur-  
53 ther, the staff of the Judicial Conduct Commission shall be led by  
54 an Executive Director/Special Prosecutor who is appointed by the  
55 governor of the state, in consultation with the Attorney General.  
56 He shall not be approved by nor be in any way beholden to com-  
57 missioners of the Judicial Conduct Commission, nor the Supreme  
58 Judicial Court nor any other Judicial and/or non-elected body. Still  
59 further, the emphasis of the Judicial Conduct Commission shall be  
60 on monitoring the actions judges commit while wielding the  
61 power of the judiciary. The Judicial Conduct Commission staff  
62 shall spend a majority of its time and efforts reading appellant  
63 briefs at the appellate courts of the state, reading appellant briefs

64 and creating a database of suspicious judges for investigation and  
65 interview. The executive director shall have the authority to sub-  
66 poena a judge who fails to issue decisions in a form other than a  
67 perfunctory "denied" or "allowed". Still further, juries in cases  
68 where there is diversity between the races of the parties to the  
69 case shall be racially integrated. For the purpose of this provision,  
70 "integrated" shall be defined as at least a third of the jury shall be  
71 of the race of the minority parties to the case. Still further, any  
72 order a judge issues must be rendered with specificity with the  
73 clerk and entered on the docket sheet. Still further, the Judicial  
74 Nominating Committee shall not give any more weight to recom-  
75 mendations from corporate/business interests than that given to  
76 recommendations from average citizens. The Judicial Nominating  
77 Council shall emphasize: a) the written decisions of the judge with  
78 reference to facts and evidence and the logic of the decisions  
79 weighing 60% and the erudition in referencing previous appellate  
80 court decisions and state and federal law and court rules weighing  
81 5%, b) demeanor and reason demonstrated by a judge on the  
82 bench while dealing with parties to a case, whether attorneys or  
83 pro se weighing 20%, c) demeanor of the judge in personal life  
84 weighing 5%, d) recommendations of criticisms of those who  
85 have directly witnessed the performance of the judge in court but  
86 who have not been beneficiaries of the decisions of the judge  
87 weighing 5%, e) recommendations and criticisms of those who  
88 know the judge personally weighing 5%. Still further, it shall be a  
89 felony for a judge of the commonwealth to knowingly render deci-  
90 sions which are clearly erroneous on the facts and/or law. Such a  
91 felony shall be punishable by a sentence in a jail or house of cor-  
92 rection for not less than 2 years and not more than 10 years and/or  
93 a fine of up to \$500,000. Still further, copies of billing invoices  
94 submitted to the court by court-appointed attorneys shall be sent  
95 to the claimed client for whom the court-appointed attorney  
96 claims to have performed the work. The schedule of invoice sub-  
97 mission shall be such that the client shall receive this invoice copy  
98 within 2 weeks of the services being performed. Invoices shall be  
99 filed weekly. Still further, the Judicial Conduct Commission shall  
100 have final say on the punishment meted out to a bad judge. The  
101 Supreme Judicial Court shall be removed completely from this  
102 role. Still further, the secrecy associated with the proceedings of

103 the Judicial Conduct Commission shall be removed. Complaints  
104 filed against judges shall be made publicly available. Hearings at  
105 which votes of the commissioners are taken shall be open to the  
106 public and scheduled at least two weeks in advance. Still further, a  
107 study shall be conducted to answer the question of who wastes  
108 more of the court's time, attorneys or pro se litigants. Said study  
109 shall include a) a count of motions filed per case, b) a count of  
110 hearings requested per case, c) a count of interrogatories and  
111 requests for production of documents submitted to the opposing  
112 parties and d) a count of requests for continuance/expansion of  
113 time.