

1889 INSTITUTE

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Reforms Needed to Tame Oklahoma's Overreaching Courts *12 actions the Oklahoma Legislature take immediately*

OKLAHOMA CITY, OK (October 23, 2019) – A new 1889 Institute publication, “Taming Judicial Overreach: 12 Actions the Legislature Can Take Immediately” fulfills a promise from Ben Lepak, 1889 Institute’s Legal Fellow, to publish a list of statutory court reform recommendations. That promise was made in a previous report, “Legislators in Black Robes: Unelected Lawmaking by the Oklahoma Supreme Court,” a study that showed how the court often acts as an unelected legislature.

Although four specific recommendations were included in the previous paper, with one that would require amending the constitution, other statutory reforms are possible. These are explained in detail in the new paper; these reforms include:

1. Eliminate the Judicial Nominating Commission’s (JNC) role in filling vacancies for all courts below the Supreme Court.
2. Remove the Oklahoma Bar Association (OBA) from the process of selecting JNC members.
3. Re-organize the Court of Civil Appeals to create a true intermediate appellate court.
4. Make the JNC subject to the Open Meetings Act.
5. Ban lobbying of the Legislature by members of the Supreme Court and employees of the Administrative Office of the Courts.
6. Limit Public Interest Standing.
7. Establish rules for recusal of justices from cases, and prescribe procedures for appointing special (substitute) justices.
8. Add “improperly exercising the powers of the legislative branch” as a ground for impeachment of a Supreme Court justice.
9. Implement a term limit for Supreme Court justices.
10. Require additional information to be reported by the judicial branch annually for purposes of oversight.
11. Make the Supreme Court subject to the Open Records Act.
12. Require the Supreme Court to Maintain a More Easily Accessible Docket.

In explaining his reason for proposing these reforms Ben Lepak said, “The Oklahoma Legislature need not sit idly as the Supreme Court whittles away at the Legislature’s legitimate constitutional authority, but can take immediate action without having to go to the voters to amend the constitution.” Lepak went on to say, “The Legislature, as the people’s legitimate representatives in government not only can take these actions, but owe it to their constituents to do so, and must if they are to uphold the Rule of Law.”

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About the 1889 Institute

The 1889 Institute is an independent Oklahoma think tank committed to state policy fostering limited and responsible government, free enterprise and a robust civil society. The publication, “Taming Judicial Overreach: 12 Actions the Legislature Can Take Immediately” can be found on the nonprofit’s website at <https://1889institute.org/govt-profiteering>.