

## Notice of the Supreme People's Court on Issuing the Opinions on Strengthening the Work of Judicial Proposals

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Notice of the Supreme People's Court on Issuing the Opinions on Strengthening the Work of Judicial Proposals

最高人民法院印发《关于加强司法建议工作的意见》的通知

(No. 74 [2012] of the Supreme People's Court)

(法〔2012〕74号)

The higher people's courts of all provinces, autonomous regions and municipalities directly under the Central Government; the Military Court of the People's Liberation Army; and the Production and Construction Corps Branch of the Higher People's Court of Xinjiang Uygur Autonomous Region:

各省、自治区、直辖市高级人民法院，解放军军事法院，新疆维吾尔自治区高级人民法院生产建设兵团分院：

We hereby issue the Opinion of the Supreme People's Court on Strengthening the Work of Judicial Proposals to you for your conscientious compliance and implementation in light of the actual work circumstances.

现将最高人民法院《关于加强司法建议工作的意见》印发给你们，请结合工作实际，认真贯彻执行。

March 15, 2012

二〇一二年三月十五日

Opinions of the Supreme People's Court on Strengthening  
the Work of Judicial Proposals

关于加强司法建议工作的意见

For purposes of bringing the adjudicative function of the people's courts into full play, adhering to taking initiative in the judicial work, thoroughly promoting three major tasks, and providing more forceful judicial guarantee for the economic and social development in a comprehensive, coordinated, and sustainable manner and the social harmony and stability, we put forward the following opinions on strengthening and regulating the work of judicial proposals according to the provisions of the relevant laws and in light of the actual work circumstances of people's courts:

为充分发挥人民法院审判职能作用，坚持能动司法，深入推进三项重点工作，为经济社会全面协调可持续发展与社会和谐稳定提供更加有力的司法保障，根据有关法律规定，结合人民法院工作实际，现就加强和规范司法建议工作，提出以下意见：

I. Having a clear understanding of the situation, enhancing the awareness, and further strengthening the consciousness of the work of judicial proposals

一、认清形势，提高认识，进一步增强司法建议工作的自觉性

1. It is a major duty of a people's court vested by law to put forward judicial proposals, an important part of the work of a people's court, and a key means for bringing the adjudicative function into full play. The people's courts at all levels shall accurately take new changes and new characteristics of the situations at home and abroad into consideration, firmly adhere to the theme of scientific development, insist on the main line of accelerating the shifting of economic development mode, and persist in serving the primary work of law enforcement and case handling. At the same time, the people's courts at all levels shall perform their duties of putting forward judicial proposals in accordance with law, positively promote the scientific decision-making, management improvement, elimination of hidden troubles, work improvement, and regulation of behaviors of the relevant entities, continually improve the scientific management, and prevent and reduce social conflicts and disputes.

2. It is an important approach of a people's court to put forward judicial proposals for adhering to taking initiative in the judicial work and extending the adjudicative function in accordance with law. China is now at an important stage of strategic opportunities for economic and social development and prominent social conflicts. When standing at a new starting point and facing new situations, a people's court shall bring its adjudicative function into full play, and at the same time, pay more attention to the application of judicial proposals, positively put the work theme of "serving the overall objectives and judicial administration for the people" into practice by means of extending the adjudicative function, promote the economic and social development, and effectively maintain social harmony and stability.

1. 司法建议是法律赋予人民法院的重要职责，是人民法院工作的重要组成部分，是充分发挥审判职能作用的重要方式。各级人民法院要准确把握国内外形势的新变化、新特点，牢牢抓住科学发展这个主题，紧紧围绕加快转变经济发展方式这条主线，在狠抓执法办案第一要务的同时，依法履行好司法建议职责，积极促进有关单位科学决策、完善管理、消除隐患、改进工作、规范行为，不断提高科学管理水平，预防和减少社会矛盾纠纷。

2. 司法建议是人民法院坚持能动司法，依法延伸审判职能的重要途径。我国正处于经济社会发展的重要战略机遇期和社会矛盾凸显期，站在新起点，面对新形势，人民法院在充分发挥审判职能作用的同时，应当更加重视运用司法建议，通过延伸审判职能，积极践行“为大局服务，为人民司法”工作主题，促进经济社会发展，切实维护社会和谐稳定。

3. It is an important means of a people's court to put forward judicial proposals for thoroughly promoting three major tasks and enhancing judicial capacity and judicial credibility. A people's court shall attach great importance to and fully apply judicial proposals to expand trial effects, treat judicial proposals as an important breakthrough point and effective measure for eliminating social conflicts and innovating social management, maximize the important role of judicial proposals in maintaining social harmony and stability and promoting social construction, continually improve the capability and level of a people's court in eliminating social conflicts and participating in social management innovation, strive to maintain judicial authority, and enhance judicial credibility.

II. Innovating mechanisms, strengthening regulations, and effectively improving the work level of judicial proposals

4. The work of judicial proposals shall be brought in the overall work arrangements of a people's court. A people's court shall innovate the formats of proposals, standardize the procedures for proposals, guarantee the quality of proposals, enhance the effects of proposals, promote the orderly implementation of the work of judicial proposals, and strive to achieve the organic unity of legal effects and social effects of the work of judicial proposals.

3.司法建议是人民法院深入推进三项重点工作，提升司法能力和司法公信力的重要手段。要高度重视和充分运用司法建议来扩展审判效果，以司法建议作为化解社会矛盾、创新社会管理的重要切入点和有效方法，充分发挥司法建议在维护社会和谐稳定、推动社会建设中的重要作用，不断提升人民法院化解社会矛盾和参与社会管理创新的能力和水平，努力维护司法权威，提高司法公信力。

二、创新机制，加强规范，切实提升司法建议工作水平

4.司法建议工作应当纳入人民法院的整体工作部署，要创新建议形式，规范建议程序，确保建议质量，增强建议效果，推动司法建议工作依法有序开展，努力实现司法建议工作的法律效果和社会效果的有机统一。

5. A people's court shall properly handle the relationship between the work of judicial proposals and the work of adjudication and enforcement, adhere to effectively conducting the work of adjudication and enforcement as the starting point, and concurrently maximize the role of judicial proposals in extending the adjudicative function. When discovering any problem such as work omission, institutional deficiency, and hidden troubles and risks commonly existing in the relevant entities, a people's court shall put forward judicial proposals in a timely manner.

6. Judicial proposals shall be put forward by following the principle of necessity, pertinence, standardization and effectiveness so as to achieve the goal that problems are accurately grasped and thoroughly analyzed on sufficient grounds and justifiable arguments, proposals are objective and reasonable, plans are feasible, the manner of writing is thorough and standardized, and quality of proposals is guaranteed and complies with the provisions on confidentiality.

7. For any of the following problems discovered in the work of adjudication and enforcement, a people's court may put forward judicial proposals to the relevant party and government organs, enterprises and public institutions, social groups and other social organizations and when necessary, may send a copy to the organ or competent department at the next higher level:

5.正确处理司法建议工作与审判执行工作的关系，坚持以做好审判执行工作为出发点，同时充分发挥司法建议延伸审判职能的作用。审判执行工作中发现有关单位普遍存在的工作疏漏、制度缺失和隐患风险等问题，人民法院应当及时提出司法建议。

6.提出司法建议要坚持必要性、针对性、规范性和实效性原则，做到把握问题准确，分析问题透彻，依据充足，说理充分，建议客观合理，方案切实可行，行文严谨规范，确保建议质量，符合保密规定。

7.对审判执行工作中发现的下列问题，人民法院可以向相关党政机关、企事业单位、社会团体及其他社会组织提出司法建议，必要时可以抄送该单位的上级机关或者主管部门：

(1) 涉及经济社会发展重大问题需要相关方面积极加以应对的；

(1) a major issue involving economic and social development, which requires the positive response of the relevant parties;

(2) 相关行业或者部门工作中存在的普遍性问题，需要有关单位采取措施的；

(2) a common problem existing in the work of the relevant industry or department, which requires the relevant entities to take measures;

(3) 相关单位的规章制度、工作管理中存在严重漏洞或者重大风险的；

(3) a serious loophole or significant risk in the rules and regulations, and work management of the relevant entities;

(4) 国家利益、社会公共利益受到损害或者威胁，需要有关单位采取措施的；

(5) 涉及劳动者权益、消费者权益保护等民生问题，需要有关单位采取措施的；

(4) the state interest or public interest is damaged or threatened, which requires the relevant entity to take measures ;

(6) 法律规定的有义务协助调查、执行的单位拒绝或者妨碍人民法院调查、执行，需要有关单位对其依法进行处理的；

(7) 拒不履行人民法院生效的判决、裁定，需要有关单位对其依法进行处理的；

(8) 发现违法犯罪行为，需要有关单位对其依法进行处理的；

(9) 诉讼程序结束后，当事人之间的纠纷尚未彻底解决，或者有其他问题需要有关部门继续关注的；

(5) a livelihood issue, such as the protection of the rights and interests of employees or consumers, which requires the relevant entities to take measures;

(10) 其他确有必要提出司法建议的情形。

(6) the entity that is responsible for assisting in investigation or enforcement as prescribed by law refuses or impedes a people's court's investigation or enforcement, which requires the handling of the relevant entities in accordance with law;

8. 人民法院提出司法建议，应当制作司法建议书。

(7) where a party refuses to perform the effective judgment or ruling rendered by a people's court, which requires the relevant entities to handle it in accordance with law;

司法建议书包括以下类型：

(1) 针对个案中反映的具体问题制作的个案司法建议书；

(2) 针对某一类案件中反映的普遍性问题制作的类案司法建议书；

(8) where any criminal act is discovered, which requires the relevant entities to handle it in accordance with law;

(3) 针对一定时期经济社会发展中存在的普遍性、系统性问题制作的综合司法建议书。根据实际需要，综合司法建议书可以附相关调研报告、审判工作报告（白皮书）等材料。

(9) after the procedures are ended, the disputes between parties are not completely settled or there are other problems that require the relevant department to pay continued attention; or

9. 司法建议书应当按照统一的格式制作，一般包括首部、主文和尾部三部分。

首部包括：法院名称、司法建议书、司法建议书编号、主送单位（被建议单位）名称。

(10) other circumstances where it is necessary to put forward judicial proposals.

主文包括：在审理和执行案件中或者相关调研中发现的需要重视和解决的问题，对问题产生原因的分析，依据法律法规及政策提出的具体建议，以及其他需要说明的事项。

尾部包括：院印和日期。如需抄送被建议单位的上级机关、主管部门或其他有关部门的，应当列明抄送单位全称。

8. When putting forward a judicial proposal, a people's court shall prepare a written judicial proposal.

Written judicial proposals are classified into the following categories:

(1) a written judicial proposal for an individual case, which is prepared against specific problems reflected in the individual case;

10. 个案、类案司法建议书由所涉案件审判业务部门负责起草，综合司法建议书可以由有关综合性部门或者审判业务部门负责起草。司法建议书起草完成后，交司法建议工作日常管理机构审核，报分管院领导签发。向党政机关发送的重要司法建议书或者审判委员会决定发送的司法建议书，由院长签发。

(2) a written judicial proposal for a category of cases, which is prepared against common problems reflected in a certain category of cases; or

11. 院长、庭长在履行审判监督指导职责、审判监督部门和审判管理部门在开展案件质量评查等活动、上级人民法院对下级人民法院的案件进行监督评查时，发现需要向有关部门提出司法建议的，应当建议提出司法建议。

(3) a written comprehensive judicial proposal, which is prepared against common and systematic problems existing in the economic and social development of a certain period of time. A written comprehensive judicial proposal may, according to the actual needs, be annexed with the relevant survey report, adjudication work report (white paper), and other materials.

12. 个案司法建议书一般应当在所涉案件裁判文书生效后或者执行、涉诉信访案件办结后，及时发送。

13. 司法建议书应当以人民法院的名义发送，不得以法院内设机构或者个人名义发送。拟向上级党委、人大、政府及其部门提出的司法建议书，必要时可以提请上级人民法院发送。



9. A written judicial proposal shall be prepared according to the uniform format and generally include the header, body, and tail.

The header includes: the name of the court, the written judicial proposal, the number of the judicial proposal, and the name of the primary recipient (the proposed entity).

The body includes: the problems requiring attention and solution that are discovered in the adjudication and enforcement of cases or the relevant investigation, the analysis on the causes for such problems, the specific proposals that are put forward according to laws, regulations, and policies, and other matters that need to be specified.

The tail includes the seal of the court and the date. If the written judicial proposal needs to be copied to the organ at the higher level of the proposed entity, the competent department, or other relevant department, the full name of the entity to be copied shall be specified.

14. 司法建议书应当及时送达被建议单位。必要时，人民法院可以将相关材料一并送达被建议单位。

15. 司法建议起草部门应当及时将司法建议书、被建议单位反馈意见及相关材料整理立卷，移送档案管理部门集中归档。

16. 司法建议应当纳入司法统计范围，为分析和指导司法建议工作提供数据支持。利用信息技术，建立司法建议信息库，充分整合、利用司法建议信息资源，打造司法建议信息平台。

10. The written judicial proposal for individual cases or a category of cases shall be drafted by the adjudication department for the involved cases, and the written comprehensive judicial proposal may be drafted by the relevant comprehensive department or the adjudication department. After being drafted, a written judicial proposal shall be submitted to the routine administrative body for the work of judicial proposals for review and reported to the leader in charge of the court for signature and issuance. The important written judicial proposals that are issued to the party and government organs or the written judicial proposals that are decided to be issued by the judicial committee shall be signed and issued by the chief justice.

### 三、加强领导，科学管理，为司法建议工作提供切实保障

11. Where it is discovered that a judicial proposal is necessary to be put forward to the relevant department when the chief justice or presiding judge performs duties of supervision and guidance of adjudication, the department for the supervision of adjudication and the department for the management of adjudication conduct the assessment of case quality, or the people's court at the higher level conducts supervision and assessment of cases decided by the people's court at the lower level, a judicial proposal shall be proposed to be put forward.

17. 各级人民法院应当高度重视司法建议工作，切实加强司法建议工作的组织领导和统筹协调。上级人民法院应当加强对本辖区内人民法院司法建议工作的指导，使司法建议工作更加规范，注重实效。

12. A written judicial proposal for individual cases shall be issued in a timely manner generally after the judgment for the involved case takes effect or the cases of enforcement or written and in-person complaints are closed.

13. A written judicial proposal shall be issued in the name of a people's court rather than in the name of an internal body of a people's court or an individual. The written judicial proposal that is to be put forward to the party committee, people's congress or government at a higher level or their department may, when necessary, be issued upon request to the people's court at a higher level.

14. A written judicial proposal shall be served upon the proposed entity in a timely manner. When necessary, a people's court may serve the relevant materials together with the written judicial proposal upon the proposed entity.

15. The drafting department of a judicial proposal shall sort and archive the written judicial proposal, the feedback of the proposed entity, and the relevant materials, and transfer the above-mentioned materials to the archival management department for centralized archival.

18. 确定司法建议工作日常管理机构，建立司法建议工作归口管理制度。司法建议工作日常管理机构应当严格把关，确保司法建议质量，认真履行以下工作职责：

(1) 负责本院司法建议书的审核工作；

(2) 负责司法建议工作情况通报、总结工作；

(3) 负责司法建议培训、经验交流等工作。

19. 加强司法建议情况通报和总结工作，司法建议工作日常管理机构应当定期制作司法建议情况通报和年度司法建议总结报告。

16. Judicial proposals shall be brought into the scope of judicial statistics to provide data support for the analysis and guidance of the work of judicial proposals. An information base of judicial proposals shall be established by utilizing information technologies so as to fully integrate and utilize information resources of judicial proposals and create an information platform of judicial proposals.

III. Strengthening leadership, conducting scientific management, and providing effective guarantee for the work of judicial proposals

17. The people's courts at all levels shall attach great importance to the work of judicial proposals and effectively strengthen the organization and leadership, unified planning and overall coordination of the work of judicial proposals. The people's court at a higher level shall strengthen the guidance on the work of judicial proposals by a people's court within its jurisdiction so as to make the work of judicial proposals more standardized and pay attention to efficacy.

18. A routine administrative body for the work of judicial proposals shall be determined and a centralized management system on the work of judicial proposals shall be established. The routine administrative body for the work of judicial proposals shall conduct strict control, guarantee the quality of judicial proposals, and conscientiously perform the following duties:

20.加强司法建议工作培训、经验交流等工作。各高级人民法院要开展司法建议专项培训，增强法官司法建议工作能力，提升司法建议书制作水平。组织司法建议经验交流活动，推荐优秀司法建议书，推广工作经验和方法，努力提高司法建议工作水平。

21.积极争取党委、人大和政府对司法建议工作的支持，推动将司法建议工作纳入当地社会治安综合治理工作体系。

22.加强与新闻媒体等社会各个方面的合作，通过多种渠道和形式加大司法建议宣传力度，不断扩大社会影响，努力赢得社会各界对司法建议工作的理解、尊重和支持，为司法建议工作营造良好的工作环境。

附：司法建议文书样式

××法建（20××）××号

×××人民法院

(1) be responsible for the review of written judicial proposals

Is made by the court to which it belongs;

司法建议书

××××（主送单位名称）：

(2) be responsible for the announcement and summarization of the work of judicial proposals; and

我院在审判（执行）工作（或写明××个案，或写明××案件类型，或写明调研工作）中，发现……（写明有关单位存在的重要问题和提出建议的理由）。为此，特建议：……（写明建议的具体事项，内容多的可分项书写）。

以上建议请予以考虑，如有反馈意见，望及时函告我院。

(3) be responsible for the training and experience exchange of judicial proposals.

附：相关××判决书或裁定书×份及其他相关材料

（院印）

19. The announcement and summarization of the circumstances of judicial proposals shall be strengthened. A routine administrative body for the work of judicial proposals shall, on a periodical basis, prepare the announcement on the circumstances of judicial proposals and the annual report on the summarization of judicial proposals.

抄送：××××（抄送单位名称）

(20) The training and experience exchange for the work of judicial proposals shall be strengthened. The higher people's courts at all levels shall conduct special training for judicial proposals, enhance the judges' work capacities of judicial proposals, and improve the drafting level of written judicial proposals. The higher people's courts at all levels shall organize the experience exchange of judicial proposals, recommend excellent written judicial proposals, popularize work experience and methods, and strive to improve the work of judicial proposals.

21. The support of the party committee, people's congress and government to the work of judicial proposals shall be positively sought and the work of judicial proposals shall be promoted for its inclusion into the work system for comprehensive control of local social security.

22. The cooperation with all sectors in the society such as the news media shall be strengthened. The publicity on judicial proposals shall be intensified through various channels and means to continually expand social influence, strive to win the understanding, respect, and support of all sectors in the society to the work of judicial proposals, and create a good environment for the work of judicial proposals.

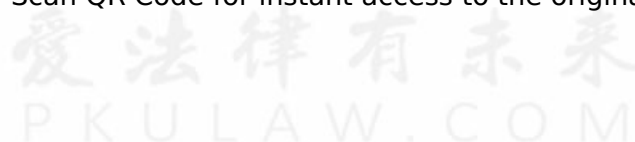
Annex: Format of a written judicial proposal (omitted)

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