

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on February 17, 2003 in Room 313-S of the Capitol.

All members were present except:

Representative Dean Newton - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Jill Wolters, Revisor of Statutes

Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Gerald Schultz, Garden City

Judge Robert Fairchild, 7<sup>th</sup> Judicial District, Lawrence

Judge Tom Tuggle, 12<sup>th</sup> Judicial District, Concordia

District Magistrate Judge Keith Hooper, 17<sup>th</sup> Judicial District, Smith Center

Judge Michael Freelove, 16<sup>th</sup> Judicial District, Ashland

Kathy Porter, Office of Judicial Administration

Representative Paul Davis

Judge Stephen Hill, 6<sup>th</sup> Judicial District, Paola

Judge David Mikesic, 29<sup>th</sup> Judicial District, Kansas City

Chairman announced that the hearing on **HB 2142 - nonpartisan selection of district court judges** was cancelled.

The hearing on **HB 2291 - district magistrate judges do not have jurisdiction over petitions to terminate parental rights**, was opened.

Gerald Schultz, Garden City, appeared as a proponent of the bill, which addresses instances when there are two trials in cases determining termination of parental rights. In Western Kansas many CINC cases are usually heard by a magistrate judge. If the magistrate hears the termination case, there is an automatic appeal to the District Judge, therefore causing the issue of termination to be tried twice. The proposed bill would have such motions heard by only the District Judge ([Attachment 1](#)).

The hearing on **HB 2291** was closed.

The hearing on **HB 2307 - elimination or reassignment of district magistrate judges positions upon vacancy**, was opened.

Judge Robert Fairchild, 7<sup>th</sup> Judicial District, supported the ability of the Chief Justice to move magistrate judges and eliminate positions if need be. In a time of budget crisis using resources in the most effective way seems like a logical option.

CONTINUATION SHEET

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Judge Tom Tuggle appeared in support of the proposed bill. The public will still have access to the courts and their resources, counties just won't have a full time district magistrate judges. Chief judges are in the best position to determine what the needs are for their district. He has six district magistrate judges and could manage the workload with only three. The bill attempts to address the fact that some districts have too much work and others not enough (Attachment 2).

Judge Keith Hooper sees the bill as a way to repeal the one judge per county law which entitles every person justice without delay (Attachment 3).

Judge Michael Freelove was concerned that jury selection and venue would become district wide instead of being local. (Attachment 4)

Kathy Porter, Office of Judicial Administration, took a neutral position on the bill, but suggested a two amendments:

- provisions governing venue need to be amended so the chief judge has the discretion to assign cases for hearings and trial anywhere within the judicial district and address that the filing of cases are to be filed in the county where the cause of action arises
- provisions regarding juries should be amended to all juries to be pulled from the county in which the cause of action arose (Attachment 5)

Hearing on **HB 2307** was closed.

The hearings on **HB 2341 - judicial performance evaluation process,& HB 2342 - district court & magistrate judges who are elected will not have party affiliations** was opened.

Representative Paul Davis appeared as the sponsor of the proposed bills. He explained that **HB 2341** would establish a judicial performance evaluation process as a way to assist voters in evaluating the performance of judges that are up for re-election. Currently, four states have adopted the same type of legislation. **HB 2342** would simply remove the party affiliation from judicial candidates which should lead to better candidates being selected by the voters. (Attachment 6)

Judge Stephen Hill supported the idea of **HB 2341** but was concerned with who would make up the evaluation commission and how the voters would receive this information in a timely manner (Attachment 7).

Judge David Mikesic appeared in opposition of the bill. He believes that non-partisan elections will drive up the costs of elections by mandating that the top two primary vote getters would advance to the general. (Attachment 8)

The hearings on **HB 2341** & **HB 2342** remained open.