

## MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 p.m. on January 27, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Dan Williams- excused

Committee staff present:

Jill Wolters, Revisor of Statutes

Diana Lee, Revisor of Statutes

Jerry Ann Donaldson, Kansas Legislative Research Department

Cindy O'Neal, Secretary

Conferees appearing before the committee:

District Magistrate Judge Ann Dixon, 16<sup>th</sup> Judicial District, Kiowa County

District Magistrate Judge Michael Freelove, 16<sup>th</sup> Judicial District, Clark County

Terry Holdren, Kansas Farm Bureau

Doug Smith, Kansas Legislative Policy Group

The committee minutes from January 14, 20 & 21 were distributed.

The Chairman took requests for bill introductions.

Representative Burgess requested a bill which would amend the Joint Legal Custody statute. Representative Swenson made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Representative Patterson requested a bill which in condemnation cases relocation expenses would be paid within 30 days as they are with appraisers. He moved to have his request introduced as a committee bill. Representative Klein seconded the motion. The motion carried.

Hearings on **HB 2495 - eliminating the requirement of one judge per county, reassignment based on caseload as determined by the Supreme Court**, were opened.

Staff provided the committee with a copy of the Kansas Judicial Districts (Attachment 1), and a chart showing the caseload per Judicial District (Attachment 2).

District Magistrate Judge Ann Dixon, 16<sup>th</sup> Judicial District, Kiowa County, was opposed the bill. She believes that when court unification happened in the 1970's there was a promise that each county would always have a resident judge in it. The proposed bill would break that promise. Currently, judges are available 24 hours a day for search warrants and other emergency orders. Without local access to the court, law enforcement would have to travel substantial distances to obtain search warrants, emergency order for protection from abuse and protection from stalking motions.

Other alternatives exist to address the problem of needing more judges in other districts. The legislature can fully fund the Judiciary, or Judge Hooper suggested that the state could save \$2.5 million dollars a year by changing the ratio to 50% District Judges and 50% District Magistrate Judges. (Attachment 3)

Representative Loyd questioned if there was data available that would indicate what an adequate caseload would be to be determined "busy". Judge Dixon replied that there is no specific data but caseload numbers do not reflect everything that a judge does.

Representative Owens asked if the Judiciary would want to determine how their resources are used. Judge Dixon responded that the Office of Judicial Administration isn't taking a stand because they believe it's a legislative issue.

Chairman O'Neal pointed out that Judge Dixon's suggestion that there must be one judge per county would still apply if there were only ten people living a county, therefore it would not be cost effective to keep a judge

## CONTINUATION SHEET

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residing there. The legislature has only the caseload number to look at in determining where the need is to have judges, and maybe the legislature should consider paying judges based on their caseloads, instead of trying to move them around.

Judge Dixson suggested that maybe a weighted system would be good to determine where judges are needed, since criminal & Child In Need of Care cases take up a lot of time. Chairman O'Neal suggested that it probably doesn't really matter what you look because in the end the same districts would be effected. The larger areas would have more cases.

Representative Goering commented that judges are already traveling to other counties to help out and that leaves their resident county without a judge for that day and the court still manages to get the orders and search warrant signed. He didn't see the proposed bill as being any different.

District Magistrate Judge Michael Freelove, 16<sup>th</sup> Judicial District, Clark County, expressed concerns about certain provisions in the bill such as who would make the assignment for the judges, the Chief Judge of the District or the Supreme Court; would a part-time judge serve in more than one county and therefore be considered a full time judge. He also suggested that caseload should include traffic cases because some of those take up a lot of time to close. ([Attachment 4](#))

The Chairman asked if there was any specific criteria in which the court looks at to determine what counties needs new judges. Kathy Porter, Office of Judicial Administration, responded not really, they do consider the clearance rate, which is the cases that were file and those that were closed and they do consider the caseload.

Chairman O'Neal questioned what should happen if the legislature does not fund the four new judge positions which were asked for in the Judicial Budget. Judge Freelove responded that maybe the legislature should redistrict the districts.

Terry Holdren, Kansas Farm Bureau, strongly supported one judge per county so rural residence would have access to the judicial system. They would probably support part-time judges, but have not discussed it with the Bureau. ([Attachment 5](#))

Doug Smith, Kansas Legislative Policy Group, supported the legislature fully funding the Judiciary and was opposed to less access to the courts. ([Attachment 6](#))

Written testimony in opposition of the bill was provided by:

Sheriff Brad Harris, Clark County ([Attachment 7](#))

Wanda Stewart, MADD ([Attachment 8](#))

Bruce Gatterman, Chief Judge, Twenty-fourth Judicial District ([Attachment 9](#))

Sheriff Janet Harrington, Elk County ([Attachment 10](#))

John Sanders, District Judge, Thirteenth Judicial District ([Attachment 11](#))

David Brace, Elk County District Attorney ([Attachment 12](#))

Marla Foster-Ware, Attorney, Howard, Kansas ([Attachment 13](#))

Gary House, Attorney, Sedan, Kansas ([Attachment 14](#))

Brian Carroll, Marshall County Attorney ([Attachment 15](#))

Jason Brinegar, Attorney, Marysville, Kansas ([Attachment 16](#))

William Elliott, Chief Judge, Seventeenth Judicial District ([Attachment 17](#))

The committee meeting adjourned at 5:45 p.m. The next meeting was scheduled for January 28, 2004.