

HOUSE COMMITTEE ON JUDICIARY

Hon. John Barker, Chairman
Hon. Charles Macheers, Vice Chairman
Hon. John Carmichael, R.M. Member

March 18, 2015
3:30 pm
Room 112-N

Chief Judge Merlin Wheeler
Fifth Judicial District, Emporia, Kansas

TESTIMONY IN SUPPORT OF SB 59 AS AMENDED

Thank you, Mr. Chairman and this honorable committee for extending the opportunity to present testimony on SB 59. I am Merlin Wheeler, Chief Judge of the Fifth Judicial District and a member of the Executive Board of the Kansas District Judges Association (KDJA). The amended bill is the product of efforts of both KDJA and the Kansas District Magistrate Judges Association (KDMJA). The KDJA supports the amended bill.

SB 59 clarifies magistrate jurisdiction, which the KDJA and the thirty-one Chief Judges agree must be addressed. The most recent bill to amend magistrate jurisdiction, 2014 HB 2065 (now codified as K.S.A. 20-302b), was recommended by the Blue Ribbon Commission (BRC) in 2012 as part of project Pegasus, the most comprehensive review of the judicial branch in decades. HB 2065 sought to accomplish two BRC goals. The first was to allow magistrates to handle uncontested and less complicated cases with the consent of the parties. Secondly, the bill required all magistrate decisions to be made on the record, abolishing de novo appeals from law trained magistrates to the district court, and providing that those appeals go directly to the Court of Appeals.

However, enactment of 2014 HB 2065 inadvertently caused unnecessary and time consuming administrative problems for those judicial districts that utilize magistrate judges. The bill essentially vacated most magistrate jurisdiction, and then reinstated it in those cases with the written consent of the parties. Thus, beginning July 1, 2014, it became necessary for magistrate judges to obtain the consent of the parties to hear those cases. Without the written consent of all

the parties, the magistrate cannot hear the case and a district judge must hear the case. Many cases have multiple parties, which creates challenges. Additionally the type of case, such as protection from abuse, may mean that obtaining consent from all parties will be problematic.

Although KDJA and KDMJA offered differing drafting solutions to the problem, KDJA agreed to accept the version offered by KDMJA. The Senate vote on the amended bill was 40 to 0. We are pleased to support the bill as it presently exists.

Thank you for this opportunity to testify on behalf of the KDJA and as one of the thirty-one Kansas Chief Judges.

Respectfully submitted,

Merlin Wheeler
Chief Judge, Fifth Judicial District
KDJA Executive Board and Legislative Committee Member