

HOUSE BILL No. 2062

By Committee on Corrections and Juvenile Justice

1-14

9 AN ACT concerning district attorneys; relating to the creation of the
10 office of district attorney in certain judicial districts; amending K.S.A.
11 22a-106 and K.S.A. 2004 Supp. 22a-105 and 22a-107 and repealing the
12 existing sections.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) An office of district attorney may be established
16 in a judicial district in the following manner.

17 (b) Each county commission in a judicial district may pass a resolution
18 submitting to the qualified electors in each judicial district the proposition
19 of creating the office of district attorney in such judicial district. If all
20 county commissions in each of the counties in the judicial district pass
21 such a resolution, the secretary of state shall place on the ballot at the
22 next election in which all of the qualified electors of the judicial district
23 are entitled to vote the proposition stated in subsection (d).

24 (c) The secretary of state shall place on the ballot at the next election
25 in which all of the qualified electors of the judicial district are entitled to
26 vote the proposition stated in subsection (d), if the secretary of state
27 receives a petition requesting an election on the proposition, signed by
28 not less than 5% of the qualified electors in each of the counties in the
29 judicial district. The following shall appear on the petition:

30 "We request an election to determine whether the present method of
31 selecting county attorneys in this judicial district shall be discontinued
32 and replaced in this judicial district with the office of district attorney,
33 which shall be elected by the voters of this judicial district."

34 (d) The proposition on the ballot at an election held pursuant to this
35 section for the adoption of the office of district attorney in the judicial
36 district shall be as follows:

37 "The present method of selecting county attorneys in this judicial dis-
38 trict shall be discontinued and there is hereby adopted in this judicial
39 district the office of district attorney, which shall be elected by the voters
40 of this judicial district." Provision shall be made for marking the question
41 "Yes" or "No."

42 (e) If a majority of the votes cast and counted in each county in the
43 judicial district on the proposition is in favor of the establishment of the

1 office of district attorney, the provisions of this act shall govern the se-
2 lection of the district attorney in the judicial district. If a majority of the
3 votes cast and counted in any county in the judicial district is against the
4 establishment of the office of district attorney, the offices of the county
5 attorneys shall continue.

6 (f) It shall be the duty of the state board of canvassers to canvass the
7 votes in each judicial district voting on the proposition of the establish-
8 ment of the office of district attorney in the judicial district in the manner
9 prescribed by K.S.A. 25-3206, and amendments thereto. Upon comple-
10 tion of the final canvass and certification of the results, the secretary of
11 state shall transmit a copy of the results to the board of county commis-
12 sioners of each county in such judicial district.

13 New Sec. 2. (a) Whenever the majority of the votes cast and counted
14 in each county in the judicial district on the proposition is in favor of the
15 establishment of the office of district attorney pursuant to section 1, and
16 amendments thereto, there is hereby established the office of district
17 attorney in such judicial district.

18 (b) Commencing with the next general election following the certi-
19 fication date of the election on the office of district attorney, and at the
20 general election every four years thereafter, a district attorney shall be
21 elected in the judicial district for a four-year term, commencing on the
22 second Monday in January next following the election. Upon such date,
23 the offices of county attorney in such judicial district shall be and is hereby
24 abolished.

25 (c) The district attorney authorized by this section is hereby declared
26 to be an executive officer of the judicial district in which such attorney is
27 elected, with the office constituting a separate entity within the district
28 for administrative purposes. In no event shall the district attorney be
29 deemed an officer of any county.

30 (d) Before entering upon the duties of the office, the district attorney
31 shall take the oath of office required by law for public officers and shall
32 execute a good and sufficient surety bond in the manner prescribed by
33 K.S.A. 75-4101 *et seq.*, and amendments thereto.

34 (e) If the office of district attorney is established pursuant to this
35 section, the district attorney, or the district attorney's deputies or assis-
36 tants shall maintain office hours of not less than 60 hours per month in
37 each city which is the county seat of each county in the judicial district.

38 (f) The provisions of K.S.A. 22a-102, 22a-103, 22a-104, 22a-105, 22a-
39 106 and 22a-107, and amendments thereto, shall be applicable to the
40 office of district attorney established pursuant to sections 1 and 2, and
41 amendments thereto.

42 (g) If the office of district attorney is established pursuant to this
43 section, the board of county commissioners of each county of such judicial

1 district shall enter into an interlocal cooperation agreement for the pur-
2 pose of jointly and cooperatively performing any of the services, duties,
3 functions, activities, obligations or responsibilities which are authorized
4 or required by law to be performed by the counties for an office of district
5 attorney. The following conditions shall apply to such interlocal cooper-
6 ation agreements:

7 (1) A district attorney interlocal cooperation agreement shall establish
8 a board of directors which shall be responsible for administering the joint
9 or cooperative undertaking. The agreement shall specify the organization
10 and composition of and manner of appointment to the board of directors.
11 Only members of boards of county commissioners of counties in the ju-
12 dicial district shall be eligible for membership on the board of directors.
13 Each county shall hold equal representation on the board. The terms of
14 office of members of the board of directors shall expire concurrently with
15 their terms as board of county commission members. Vacancies in the
16 membership of the board of directors shall be filled within 30 days from
17 the date of the vacancy in the manner specified in the agreement.

18 (2) Pursuant to K.S.A. 22a-105 and 22a-106, and amendments
19 thereto, a district attorney interlocal cooperation agreement shall provide
20 for payment of salaries, office expenses, office space and dispute
21 resolution.

22 (3) A district attorney interlocal cooperation agreement shall be sub-
23 ject to change or termination by the legislature.

24 (4) The duration of a district attorney interlocal cooperation agree-
25 ment for joint or cooperative action in performing any of the services,
26 duties, functions, activities, obligations or responsibilities which are au-
27 thorized or required by law to be performed by the counties for an office
28 of district attorney, shall be for a term of four years and shall be rene-
29 gotiated and reviewed at the end of such term.

30 (5) The duration of the office of district attorney shall be perpetual
31 unless the voters of the judicial district vote to terminate the office of
32 district attorney in the manner described in section 3, and amendments
33 thereto.

34 (6) The district attorney interlocal cooperation agreement shall spec-
35 ify the method or methods for disposing of the property acquired by the
36 office of district attorney in the event that such office is terminated in the
37 manner described in section 3, and amendments thereto.

38 (h) As used in this section: "District attorney interlocal cooperation
39 agreement" means an agreement which is entered into by the boards of
40 county commissioners of each county within each judicial district which
41 has established the office of district attorney in such judicial district pur-
42 suant to the provisions of this section.

43 New Sec. 3. (a) An office of district attorney may be terminated in

1 a judicial district in the following manner.

2 (b) Each county commission may pass a resolution submitting to the
3 qualified electors in each judicial district the proposition of terminating
4 the office of district attorney in such judicial district. If all county com-
5 missions in each of the counties in the judicial district pass such a reso-
6 lution, the secretary of state shall place on the ballot at the next election
7 in which all of the qualified electors of the judicial district are entitled to
8 vote the proposition stated in subsection (d).

9 (c) The secretary of state shall place on the ballot at the next election
10 in which all of the qualified electors of the judicial district are entitled to
11 vote the proposition stated in subsection (d), if the secretary of state
12 receives a petition requesting an election on the proposition, signed by
13 not less than 5% of the qualified electors in each of the counties in the
14 judicial district. The following shall appear on the petition:

15 “We request an election to determine whether to terminate the office
16 of district attorney in the judicial district and replace it with offices of
17 county attorneys in each county in the judicial district.”

18 (d) The proposition on the ballot at an election held pursuant to this
19 section to terminate the office of district attorney in the judicial district
20 shall be as follows:

21 “The office of district attorney in this judicial district shall be termi-
22 nated and replaced with offices of county attorneys in each county in the
23 judicial district, elected by the voters of each county.” Provision shall be
24 made for marking the question “Yes” or “No.”

25 (e) If a majority of votes cast and counted in each county in the
26 judicial district on the proposition is in favor of terminating the office of
27 district attorney in the judicial district, the counties shall return to electing
28 the offices of county attorney in each county. If the majority of the votes
29 cast and counted in each county in the judicial district is against termi-
30 nating the office of district attorney in the judicial district, the office of
31 district attorney shall continue.

32 (f) It shall be the duty of the state board of canvassers to canvass the
33 votes in each judicial district voting on the proposition of terminating the
34 office of district attorney in the judicial district in the manner prescribed
35 by K.S.A. 25-3206, and amendments thereto. Upon completion of the
36 final canvass and certification of the results, the secretary of state shall
37 transmit a copy of the results to the board of county commissioners of
38 each county in such judicial district.

39 Sec. 4. K.S.A. 2004 Supp. 22a-105 is hereby amended to read as
40 follows: 22a-105. Each of the district attorneys elected ~~under this act in~~
41 *judicial districts 3, 7, 10, 18, 27 and 29* shall receive an annual salary in
42 the amount of no less than the salary provided for district judges in K.S.A.
43 75-3120g, and amendments thereto. *Each of the district attorneys elected*

1 *pursuant to section 2, and amendments thereto, shall receive an annual*
2 *salary in the amount of no less than 80% of the salary provided for district*
3 *judges in K.S.A. 75-3120g, and amendments thereto.* The salary of each
4 district attorney shall be paid by the county *or counties* comprising the
5 judicial district in which the district attorney is elected in equal monthly
6 installments and in the manner ~~county officers and employees are paid~~
7 *as provided in the district attorney interlocal cooperation agreement. The*
8 *counties shall ratably contribute to the district attorney's salary based on*
9 *the population of the county.* The district attorneys and their deputies
10 and assistants shall be reimbursed for their actual travel and subsistence
11 expenses incurred while in the performance of their official duties within
12 or without the district *as provided in the district attorney interlocal co-*
13 *operation agreement.*

14 Sec. 5. K.S.A. 22a-106 is hereby amended to read as follows: 22a-
15 106. (a) Within the limits of appropriations therefor, the district attorney
16 shall appoint such assistant district attorneys, deputy district attorneys and
17 other stenographic, investigative and clerical hire as may be necessary to
18 carry out the functions of the district attorney's office in such judicial
19 district, ~~and he~~ *as provided in the district attorney interlocal cooperation*
20 *agreement. The district attorney shall determine the annual compensation*
21 *of each assistant district attorney and other persons appointed pursuant*
22 *to this subsection. The county commissioners shall determine and allow*
23 *such reasonable sums from funds of the county for the compensation of*
24 *assistants, deputies and other stenographic, investigative and clerical hire*
25 *and for other expenses of such office as may be necessary to carry out*
26 *the function of such office as provided in the district attorney interlocal*
27 *cooperation agreement. The counties shall ratably contribute to such com-*
28 *ensation and other expenses based on the population of the county.*

29 (b) Each assistant and deputy district attorney shall have been regu-
30 larly admitted to practice law within the state of Kansas prior to ~~his~~
31 appointment. Each district attorney and ~~his~~ assistant district attorneys shall
32 devote full time to official duties and shall not engage in the civil practice
33 of law, except as required in performing ~~his~~ official duties while serving
34 as district attorney or assistant district attorney, and shall not refer any
35 client or other person or any matter to any designated attorney or firm
36 of attorneys.

37 (c) The board of county commissioners of each county ~~contained~~ in
38 judicial districts ~~3, 10, 18 and 29~~ *which have an office of district attorney*
39 *shall provide suitable office space within such county for the district at-*
40 *torney, ~~his~~ the district attorney's assistants, deputies, office personnel and*
41 *equipment.*

42 (d) Notwithstanding any of the provisions of this act the district at-
43 torney, *as provided in the district attorney interlocal cooperation agree-*

1 *ment or* with the approval of the board of county commissioners, may
2 appoint and employ special counsel when necessary to assist the district
3 attorney in the discharge of ~~his~~ *the district attorney's* duties, such special
4 counsel not to be subject to the restrictions contained in ~~paragraph sub-~~
5 *section (b) herein.*

6 (e) Any county contained in judicial districts ~~3, 10, 18 or 29~~ *which*
7 *have an office of district attorney* may receive and expend for the oper-
8 ation of the office of district attorney any federal moneys made available
9 therefor.

10 Sec. 6. K.S.A. 2004 Supp. 22a-107 is hereby amended to read as
11 follows: 22a-107. Whenever in any of the statutes of this state the term
12 "county attorney" is used, it shall be construed to include district attor-
13 neys provided for by K.S.A. 22a-101, 22a-108 ~~and~~ K.S.A. 2004 Supp.
14 22a-109 *and section 2*, and amendments thereto, unless the context oth-
15 erwise requires.

16 Sec. 7. K.S.A. 22a-106 and K.S.A. 2004 Supp. 22a-105 and 22a-107
17 are hereby repealed.

18 Sec. 8. This act shall take effect and be in force from and after its
19 publication in the statute book.