

M I N U T E S

SPECIAL COMMITTEE ON JUDICIARY - HOUSE

November 24, 1975

Members Present

Representative John F. Hayes, Chairman
Representative David Heinemann, Vice-Chairman
Representative Dick Brewster
Representative Albert Campbell
Representative William Cather
Representative Donn J. Everett
Representative Ben Foster
Representative Robert G. Frey
Representative Eugene Gastl
Representative Michael Glover
Representative Ronald Hein
Representative Joseph Hoagland
Representative Patrick J. Hurley
Representative Fred Lorentz
Representative David Mikesic
Representative Randall Palmer
Representative Ted Templar
Representative Richard Walker
Representative Neal D. Whitaker

Staff Present

Art Griggs, Revisor of Statutes Office
Walt Smiley, Legislative Research Department

Conferees

Mr. Gerald Kuban, PAS
Mr. Stuart Steinberg, PAS
Mr. Jim James, Judicial Administrator

Morning Session

Proposal No. 25 - Judicial Reform

Mr. Gerald Kuban and Mr. Stuart Steinberg were introduced and reported on the PAS study of the court system. A report was distributed to the Committee and reviewed by Mr. Kuban. A copy of this report is appended as Attachment I.

Mr. Kuban stated there are 1,300 court employees with 460 additional people employed in adult and juvenile probation and 435 part-time people employed by the municipal courts. The latter group represents about 150 full-time equivalent positions. This indicates 70 percent of the employees are in district court functions, 24 percent are employed in the probation area, and seven percent are employed by municipal courts.

The Committee's attention was directed to Exhibit 10 of the report, and considerable discussion followed.

Mr. Kuban noted the need for additional personnel in the major metropolitan areas and in the office of the judicial administrator, if full court implication is adopted.

Mr. Kuban noted that the present 369 municipal court locations could be reduced to 120 locations most of which would be in county seats. He said 60 percent of the municipal courts are now located in cities under 1,500 population, and most of the courts are within 20 miles of the county seat.

The Committee was advised it would be the end of December before a completed copy of the report was available. It was the request of the Committee that Mr. Kuban supply a rough draft as soon as possible.

Judge Mary Schoengardt presented the Committee with a letter concerning Proposal No. 24 - Mental Patients Rights, which the Chairman asked to have attached to these minutes. (See Attachment II.)

Copies of a draft bill updating 1975 S.B. 284 were distributed. Mr. Jim James, Judicial Administrator, stated that the major issue facing the legislature is whether county courts should be consolidated. He then referred to section 30 on page 30 of the new draft, suggesting that each district court judge be allowed to choose the people employed in his court. His proposed language for this provision was as follows: "Within guidelines established by statute, rule of supreme court, or the district court, the administrative judge of each district court shall be responsible for and have general supervisory authority over the clerical and administrative functions of such court."

Mr. James advised the Committee that at the time of the JSAC study, it was felt a savings would be realized on personnel. However, Mr. James said juvenile cases have increased 50 percent

and civil cases have increased 45 percent, which makes the possibility of reducing staff size doubtful. Increased efficiency might lead to economies, he noted.

Mr. James suggested that the Committee might want to consider inserting a provision for retaining present court personnel. He noted that some court staff personnel are apprehensive about unification because it injects uncertainty into their jobs. Reference was made to section 1, page 3, line 3 of the new draft. Mr. James' proposed language would spell out the Chief Justice's role as supreme court spokesman and that he would exercise the court's general administrative authority over all the courts of this state. The Chief Justice would have the responsibility for executing and implementing this authority.

Mr. James advised the Committee of a possible error regarding the terms for the district court judgeship created in the 1975 session. He pointed out that this error should be corrected so the judge does not stand for retention at a time other than the regular election.

The Committee's attention was directed to section 2 and the phrase "judge of a court of record." As all courts will be courts of record under court unification, it was the consensus of the Committee to change this phrase to "court in this state".

The age requirement in sections 2 and 16 was noted and discussed. The Committee directed the staff to delete any reference to age in these sections.

The Committee also agreed to require five years of experience for district court and associate district court judges.

In New Section 16, Subsection (c), the Committee agreed to remove the requirement of 25 years of age.

The staff was instructed to change New Section 15(a4) so that the district magistrate judges would be allowed to conduct probate proceedings.

Staff distributed copies of an amendment which would specify that the transfer of records from courts of limited jurisdiction and municipal courts would not create any liens on property by virtue of such transfer. The Committee agreed to include this language. (See Attachment III.)

Regarding New Section 15 staff was instructed to add language to clarify so as not to prohibit the district magistrate judge from hearing anything under the juvenile code.

Staff requested permission to draft and send to the Committee amendments to chapters 60 and 61, so these chapters would coincide with court unification, and to prepare a bill of miscellaneous statutes which refer to courts abolished by court unification. The Committee agreed to give staff this authority.

Mr. James referred to New Section 36, which he believed to be inconsistent with Section 9(d). Section 38 was also noted by Mr. James. The Committee agreed to delete the last sentence in New Section 36. Mr. James stated his belief that a provision should be made for the district magistrate judge pro tem in Section 38. The Committee agreed to making this change.

Afternoon Session

Mr. James again referred to page 3 of the draft at line 3, and suggested an amendment concerning the Chief Justice's authority. After a brief discussion, the Committee agreed to this change.

Mr. James referred to the first paragraph on page 5 and requested that all expenditures and appropriations be made on vouchers approved by the judicial administrator. The Committee agreed to this change. (See Attachment IV for language proposed as amendments by Mr. James.)

Mr. James again referred to section 30 on page 30 and the already-requested amendment. The Committee agreed to this amendment.

In lines 3 and 4 of New section 37, Mr. James asked that "after consultation with" be stricken and "with approval of" be inserted. This would require Supreme Court approval of specialized divisions of the district court. The majority of the Committee agreed to this change, although Representative Mikesic disagreed.

Mr. James requested a provision be inserted to allow each judge to hire the personnel of his court. In ensuing Committee discussion, it was suggested that a judge be allowed to appoint his own secretary, bailiff, parole officer, and court reporter. However, it was noted that judges in smaller counties may not need such personnel.

Representative Cather distributed an amendment providing for a separate juvenile and probate division in the four largest counties of the state. A copy of this amendment is appended as Attachment V. Representative Cather moved for insertion of his amendment essentially as drafted. The motion received a second, and failed by a vote of 8 to 7.

A Committee member then moved for the adoption of the same amendment for Sedgwick county only. Following a second, the motion failed by a vote of 7 to 4.

Concerning the term of office for the newly-created district court judge, it was decided a separate bill was required to correct the problem. This draft will be prepared and submitted to the Committee at the beginning of the 1976 Session.

Staff asked for and was granted authorization to include in the repealer section the statutes relating to the disposition of fees and costs which conflict with the provisions of the court unification bill.

Staff noted that the Committee had taken no action regarding the equipment of the courts which will be abolished by court unification. No action was taken at this time.

A Committee member moved that Section 35 of the draft be amended to allow each district judge to appoint his own secretary, court reporter, parole officer, and bailiff. This motion was seconded, but after Committee discussion, the motion and second were withdrawn.

A Committee member moved to adopt the amendment suggested earlier pertaining to the judge's authority to approve all employees that may be assigned to such judge. Motion received a second, and passed on a voice vote.

A motion was made to provide for the election of associate district judges in Wyandotte and Shawnee counties. Following a second, motion carried on a vote of 8 to 5.

A Committee member pointed out that the county bar associations in Cowley and Sumner counties had agreed on an amendment to New Section 18 of the draft, pertaining to the 19th judicial district. A motion was made to change the number of district magistrate judge positions from 6 to 5, deleting "positions two and three in Cowley county", placing position 2 in Harper county, position 3 in Kingman county, position 4 in Pratt county and position 5 in Sumner county. The amendment included a change in the total number of associate district judge positions from 2 to 5, with positions 1, 2 and 3 in Cowley county and position 4 and 5 in Sumner county. The motion was seconded, and carried on a voice vote.

A Committee member moved to amend New Section 18(b)(1), so that Leavenworth county would have two associate district judges rather than one district magistrate judge and one associate district judge. This motion received a second.

The Chairman suggested that all members check with people in their districts prior to the 1976 session and make recommendations for judgeship changes at that time. The last motion and second were withdrawn.

A Committee member moved that the draft bill be introduced as amended for referral to the House Judiciary Committee. The motion was seconded, and passed on a voice vote. Representatives Cather and Frey voted against the motion.

Staff then distributed copies of a draft bill relating to the prosecution of city ordinance violations. Subsequent to staff review of the draft, a Committee member moved to introduce

this draft bill with the request that it be referred to the House Judiciary Committee. This motion was seconded, and carried on a voice vote.

Staff distributed copies of a draft bill relating to proceedings now in the probate court. It was explained that this draft is necessary to shift probate proceedings to the district court, since the probate court will be abolished under court unification.

During brief discussion, Mr. James advised the Committee that the Judicial Study Advisory Committee had considered requiring all judges to be attorneys and had decided this would not be feasible. Further discussion touched on the matter of docket fees for probate proceedings, and staff agreed to check other states which have unified court structure.

A Committee member moved to introduce this draft bill and to request that it be referred to the House Judiciary Committee. Motion received a second, which carried on a voice vote.

A proposed draft of amendments to the Kansas Criminal Code was distributed to the Committee. Following brief discussion, a Committee member moved to introduce this draft and to request it be referred to the House Judiciary Committee. Following a second, this motion carried on a voice vote.

Staff distributed copies of a proposed draft regarding juvenile court proceedings. Staff reviewed the bill, and noted that sections 38-804b and 38-804c were being repealed but no alternative means of funding had been provided in this draft.

A Committee member moved to have appropriate language drawn to require the state to be responsible for operation and maintenance of the juvenile detention facilities. It was noted that this would only affect facilities in Shawnee, Wyandotte, and Sedgwick counties. Motion received a second, but failed on a vote of 9 to 6.

A Committee member moved to have a proposal drafted which would require funding for these centers to be provided in the same manner as at present. This motion failed for lack of a second.

The Committee agreed to hold the draft on juvenile court proceedings until the 1976 session.

Proposal No. 24 - Mental
Patients' Rights

Staff distributed copies of a proposed Committee report on this proposal. Following a review of the report, a

Committee member moved to adopt the Committee report as written. Motion was seconded, and carried on a voice vote.

Staff was directed to mail the Committee report on Proposal No. 25 to the Committee for their approval.

The Chairman directed the staff to show the minutes of the previous meeting approved.

The Chairman thanked Committee members for their attendance, and adjourned the meeting.

Prepared by Walt Smiley

Approved by Committee on:

Date

SCHEDULE OF EXHIBITS

ATTACHMENT I

- Exhibit
- 1 DISTRICT COURTS AND COURTS OF LIMITED JURISDICTION REVENUES
 - 2 SOURCE AND DISTRIBUTION OF REVENUES-ALL COURTS
 - 3 STATE COURT SYSTEM EXPENDITURES BY OBJECT
 - 4 DISTRICT COURTS AND COURTS OF LIMITED JURISDICTION
SELECTED OPERATING EXPENDITURES BY TYPE OF COURT
 - 5 MUNICIPAL COURT REVENUES BY SOURCE
 - 6 MUNICIPAL COURT REVENUES BY POPULATION SIZE GROUP
 - 7 MUNICIPAL COURT EXPENDITURES BY OBJECT
 - 8 MUNICIPAL COURT SELECTED EXPENDITURES BY POPULATION SIZE GROUP
 - 9 MUNICIPAL COURT REVENUE AND EXPENDITURES FOR LARGEST CITIES
 - 10 PRELIMINARY ALTERNATIVES TO STATE FUNDING OF KANSAS COURTS
 - 11 ADDITIONAL JUDICIAL ADMINISTRATIVE STAFFING REQUIREMENTS
 - 12 STATE COURT SYSTEM SALARY EXPENDITURES BY FUNCTION

Exhibit 1
DISTRICT COURTS AND COURTS OF LIMITED JURISDICTION
REVENUES

County	Popu- lation Group	Number of Counties	Revenue	1974 Costs, Fees, and		Total
			FYE 6/30/75 Fines & Forfeitures	District Court	All Other Courts	
Sedgwick			\$275,453	\$ 300,000E	\$ 350,000E	\$ 925,453
Johnson			153,528	124,900	145,953	424,381
Wyandotte			106,122	129,801	229,801	465,724
Shawnee			175,606	168,225	226,602	570,433
Reno			105,902	40,000E	140,000E	285,902
Douglas			83,073	35,000	127,141	245,214
Leavenworth			70,146	21,033	109,560	200,739
Saline			89,631	32,887	81,586	204,104
Montgomery			54,059	28,158	31,941	114,158
Riley			70,233	14,539	47,266	132,038
Butler			133,352	21,672	55,000	210,024
Crawford			41,359	25,000E	50,099	116,458
Cowley			50,506	16,859	76,372	143,437
Barton			53,876	60,061	58,374	172,311
Lyon			106,571	25,000E	50,000E	181,571
Counties	21-30,000	(13)	852,716	188,609	612,583	1,653,908
Counties	11-20,000	(15)	512,965	79,782	341,587	934,334
Counties	6-10,000	(30)	842,148	97,926	510,535	1,450,609
Counties	2- 5,000	(32)	453,612	52,060	244,229	749,901
TOTALS			<u>\$4,230,858</u>	<u>\$1,461,512</u>	<u>\$3,488,629</u>	<u>\$9,180,999</u>

E = Estimated

Exhibit 2

SOURCE OF REVENUES-ALL COURTS

1974 AND 1975

Revenue Source	State Court System Courts		Municipal Courts	Total
	District Court	Cts. of Limited Jurisd. Combined		
Fines and Forfeitures		\$ 4,230,858	\$ 4,975,975	\$ 9,206,833
Costs, Fees, and Other Revenues	\$ 1,461,512	\$ 3,488,629	220,865	5,171,006
TOTALS	\$ <u>1,461,512</u>	\$ <u>3,488,629</u>	\$ <u>5,196,840</u>	\$ <u>14,377,839</u>

Exhibit

DISTRIBUTION OF REVENUES-ALL COURTS

1974 AND 1975

Distribution of Revenues:	Revenue Amount
To State School Equalization Fund	\$ 4,230,858
To County General Funds	4,950,141
To Municipal General Funds	5,196,840
TOTAL	\$ <u>14,377,839</u>

Exhibit 3

STATE COURT SYSTEM EXPENDITURES BY OBJECT

FISCAL YEAR 1974

<u>Object of Expenditure</u>	<u>Per Cent</u>	<u>Paid by by State</u>	<u>Paid by by Counties</u>	<u>Total Expenditures</u>
Salaries (July 1, 1975)	64.8	\$3,759,963	\$9,745,127	\$13,505,090
Fringe Benefits (18.8% of Sal)	12.2	760,158	1,773,390	2,533,548
Aid to Indigent Defendants	5.2	1,004,099	82,637	1,086,736
Witness and Jury Fees	8.8		1,840,254	1,840,254
Contractual Services	4.6	585,488	375,043	960,531
Commodities	2.6	28,363	509,474	537,837
Equipment, Furniture, and Furnishings	1.8	91,319	286,050	377,369
TOTALS	<u>100.0</u>	<u>\$6,229,390</u>	<u>\$14,611,975</u>	<u>\$20,841,365</u>

Exhibit 4

DISTRICT COURTS AND COURTS OF LIMITED JURISDICTION
 SELECTED OPERATING EXPENDITURES BY TYPE OF COURT FOR FISCAL YEAR ENDING 1974

County	Pop. Group	No. of Counties	District Court	Probate Court	Juvenile Court	City, Magistrate, or Cm. Pleas Court	Probate/ Juvenile Court	Probate/ Juvenile/ County Court	Juvenile Detention	Juvenile Probation	Adult Misdem. Probation	Other		Total
												Name	Amount	
Bedford			361,908	58,616	140,926	107,648			139,517					808,615
Johnson			140,134	12,361	46,381	21,428						Ct. Trustee	10,994	231,298
Landolt			130,283	12,244	34,400	15,366			38,805		4,430			235,528
Lawrence			100,135	12,810	43,510	18,673			84,604			Unif. Ct. Svcs.	38,856	298,588
Lincoln			25,000E			10,000E	15,000E			3,000E				53,000
Madison			21,313					33,436	402	3,316	931			59,398
Marion			33,427			9,100	9,723							52,250
Meigs			20,749			9,755	32,963							63,467
Montgomery			18,559			5,015	11,954							35,528
Murray			24,970					34,260						59,230
Nelson			24,554											24,554
Rawl			24,000E			8,000E	12,810		82,672	3,000E				130,482
Rowley			10,889			1,424	9,813							22,126
Union			27,583					23,576						51,159
Counties 21-30,000	13		105,100			3,456	2,449	348,240	900	62,849	1,185			524,179
Counties 11-20,000	15		71,235					50,013	4,821	9,881	38			135,988
Counties 6-10,000	30		93,425					100,800		2,400				196,625
Counties 2- 5,000	32		54,405					52,378	1,472		135	Ct. Trustee	3,053	111,443
TOTAL			1,287,669	96,031	265,217	209,865	94,712	642,703	353,193	84,446	6,719		52,903	3,093,458
PER CENT			41.6	3.1	8.8	6.8	3.1	20.8	11.4	2.7	.2		1.7	100

E = Estimated

Exhibit 5
MUNICIPAL COURT REVENUES BY SOURCE
FISCAL YEAR 1974

<u>Revenue Source</u>	<u>Per Cent</u>	<u>Revenue Amount</u>
Costs and Fees	4.0	\$ 206,834
Fines-Total	90.0	4,681,314
Parking Meter Fines	8.4	\$ 439,575
Illegal Parking Fines	3.4	179,294
Non-Parking Fines ^{1/}	78.2	4,062,444
Bond Forfeitures	5.7	294,661
Other Miscellaneous Revenues	.3	14,031
TOTALS	<u>100.0</u>	\$ <u>5,196,840</u>

^{1/}Non-Parking Fines, for these purposes, include moving traffic violations and non-traffic ordinance violations.

Exhibit 6
MUNICIPAL COURT REVENUES BY POPULATION SIZE GROUP
FISCAL YEAR 1974

<u>Municipal Size Group</u>	<u>Number of Courts</u>	<u>Per Cent Response</u>	<u>Average Revenue</u>	<u>Per Cent of Total Revenue</u>	<u>Revenue Amount</u>
Over 15,000	21	95.2	\$ 169,521	68.4	\$ 3,559,940
10,000 to 15,000	13	92.3	44,745	11.2	581,684
5,500 to 9,999	14	85.7	16,356	4.4	228,991
3,500 to 5,499	25	80.0	10,561	5.1	264,015
2,500 to 3,499	23	82.6	4,919	2.2	113,128
1,500 to 2,499	55	78.2	3,899	4.1	214,449
500 to 1,499	129	54.3	1,474	3.7	190,177
Under 500	89	37.1	500	.9	44,456
TOTALS	<u>369</u>	<u>62.3</u>	\$ <u>14,084</u>	<u>100.0</u>	\$ <u>5,196,840</u>

Exhibit 7

MUNICIPAL COURT EXPENDITURES BY OBJECT

<u>Object of Expenditure</u>	<u>Expenditure Amount</u>
Salaries (563 employees, 155.5 fulltime equivalent employees)	\$ 1,310,667
Fringe Benefits (17.3 % of salaries)	226,597
Retirement \$ 95,679	
Social Security 69,456	
Health & Hosp. 57,530	
Workmens' Compensation 3,932	
Other Selected Expenditures (12.2 % of salaries)	160,069
Telephone and Postage 23,791	
Stationery and Supplies 40,322	
Court-Appointed Counsel 20,684	
Witness Fees 13,864	
Equip., Furnit., & Furnishings 31,088	
Other Miscellaneous 30,320	
TOTAL	\$ <u>1,697,333</u>

Exhibit 8

MUNICIPAL COURT SELECTED EXPENDITURES BY POPULATION SIZE GROUP

FISCAL YEAR 1974

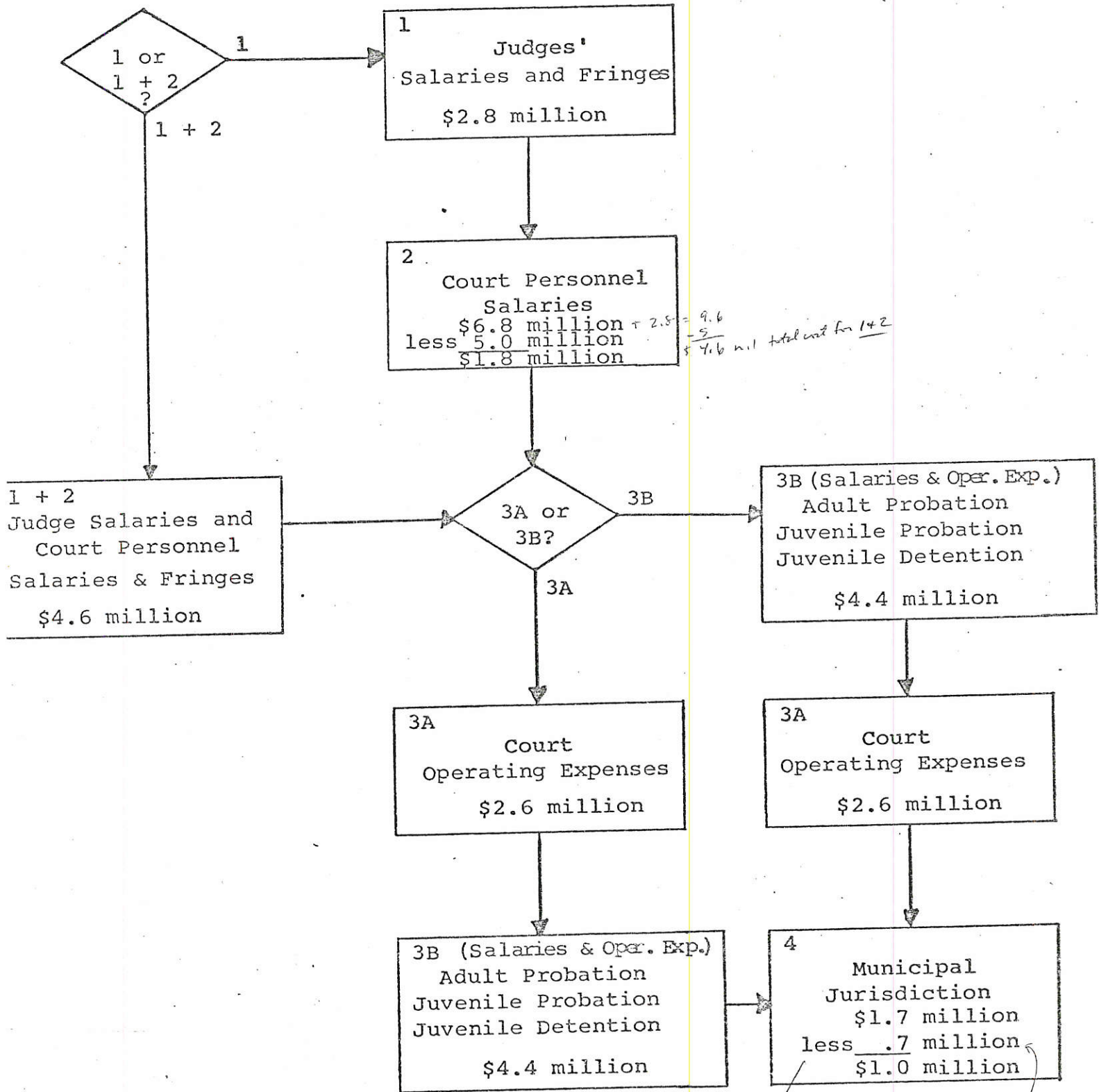
<u>Municipal Size Group</u>	<u>Per Cent of Total Expend.</u>	<u>Average Expenditures</u>	<u>Expenditure Amount</u>
Over 15,000	71.9	\$ 5,481	\$ 115,098
10,000 to 15,000	1.7	214	2,777
5,500 to 9,999	3.9	447	6,257
3,500 to 5,499	6.9	439	10,971
2,500 to 3,499	6.5	454	10,449
1,500 to 2,499	5.2	151	8,315
500 to 1,499	3.3	41	5,232
Under 500	<u>.6</u>	<u>11</u>	<u>970</u>
TOTALS	<u>100.0</u>	<u>434</u>	\$ <u>160,069</u>

Exhibit 7
MUNICIPAL COURT REVENUE AND EXPENDITURES
FOR LARGEST CITIES

Municipality	Population	Total Revenues	Total Expenditures	Salaries	Fringe Benefits	Other Expenditures	Revenue/Expenditure Ratio	Expenditure to Revenues
Wichita	261851	1170035	416232	317798	54977	43455	2.8	36%
Kansas City	178566	486067	262944	197883	34234	30827	1.8	54%
Topeka	140831	331911	73833	59118	10115	4600	4.5	22%
Overland Park	82368	239231	101743	75465	13055	13223	2.4	43%
Subtotals-4 Cities	663616	2227244	854752	650264	112383	92105	2.6	38%
All 365 Other Courts	1650863	2969596	842581	660403	114214	67964	3.5	28%
TOTALS-ALL COURTS	2314479	5196840	1697333	1310667	226597	160069	3.1	33%
Percent 4 Cities to All Courts	28.7%	42.9%	50.4%	50.4%	49.6%	42.5%		

Exhibit 10

Preliminary Alternatives to State Funding of Kansas Courts



*9.6
- 5
= 4.6 will total cost for 1+2*

Salaries & expenses identifiable expenses

Exhibit 11
 ADDITIONAL JUDICIAL ADMINISTRATIVE STAFFING REQUIREMENTS

			<u>Salaries</u>
1	Judges' Salaries	1 Research and Statistics Analyst (Planning & Development)	\$18,000
2	Court Personnel Salaries	1 Management Analyst 1 Personnel Technician 1 Personnel Clerk $\frac{1}{2}$ Payroll Clerk 1 Clerk-Typist	14,000 14,000 8,000 4,000 6,000
3A	Court Operating Expenses	1 Senior Budget and Fiscal Analyst $\frac{1}{2}$ Accounting Clerk	18,000 4,000
3B	Probation and Detention (or Juvenile Probation)	1 Probation Services Specialist 1 Clerk-Typist	18,000 6,000
4	Municipal Court Salaries and Operating Expenses	1 Budget and Fiscal Analyst	14,000
	TOTAL	10	\$124,000
		Fringe	<u>25,000</u>
			\$150,000

Exhibit 12

STATE COURT SYSTEM SALARIES BY FUNCTION

<u>Function</u>	<u>FTE</u>	<u>Salary Amount</u>
SUPREME COURT AND ADMINISTRATIVE:		
Supreme Court	45.7	\$ 842,967
Judicial Administration and Support	<u>6.5</u>	<u>105,356</u>
TOTALS	<u>52.2</u>	\$ <u>948,323</u>
DISTRICT COURT:		
District Court (105 Counties) TOTALS	<u>485.5</u>	<u>\$5,081,383</u>
COURTS OF LIMITED JURISDICTION:		
Probate Court (4 largest counties)	39.2	\$ 394,616
Juvenile Court (4 largest counties)	48.7	415,419
Probate/Juv. Ct. (8 large counties)	28.7	262,134
Prob./Juv./County Ct. (93 counties)	264.6	1,933,336
Magistrate, City, or Common Pleas Court (12 largest counties)	142.4	1,312,574
Municipal Court (footnote <u>1/</u>)	.5	8,304
TOTALS	<u>543.9</u>	<u>\$4,473,296</u>
COURT-RELATED SERVICES:		
Juvenile Detention	200.4	\$1,328,074
Juvenile Probation	108.0	907,950
Adult/Juvenile Probation	44.5	342,674
Adult Probation	45.9	423,390
TOTALS	<u>418.6</u>	<u>\$3,002,088</u>
GRAND TOTALS	<u>1,480.4</u>	<u>\$13,505,090</u>

1/Two State Court System Judges who share duties with municipal courts.

Attachment II

PROBATE COURT OF SHAWNEE
COUNTY, KANSAS
Shawnee County Courthouse
200 East Seventh St.
Topeka, Kansas 66603

JUDGE:
Mary Schowengerdt

Area Code: 913
357-1241, Ext. 451

CHIEF CLERK:
Lillian R. Underwood

DEPUTY CLERK:
Jeanne H. Bellows

November 24, 1975

The Special Committee on the Judiciary-House
The Honorable John Hayes, Chairman
State Capitol Building
Topeka, Kansas 66612

Re: Interim Study on Senate Bill 26

Gentlemen:

I am taking this opportunity to comment briefly on the present status of Senate Bill 26 from my perspective of ten months as a Probate Court Judge carrying a heavy load of hearings on involuntary commitment.

This subject has been held in abeyance for some time and I would welcome the passage of a great deal of the content of the Bill. However, I also urge that the changes made in our present code be as quantitative as possible.

I do have serious misgivings that if passed substantially as the Bill exists, there would be a considerable disturbing effect upon the balanced due process system established in the Care and Treatment Act of 1966. For example, if our state adopts the definition which requires proof of present dangerousness (omitting the provision for probability of dangerousness) and further statutorily requires proof of mental illness beyond a reasonable doubt, it is feared that the balance be tipped in the direction of making commitments virtually impossible. Is this really the public policy Kansas desires to espouse?

I am equally concerned about the fact that a number of the most consequential deficiencies in the present law are not addressed at all by Senate Bill 26. For example, the care and treatment law in its present form provides for "voluntary commitment" of a minor or incapacitated person by a parent or guardian, procedure which is probably unconstitutional under the present status of case law. (See Bartley v. Kremens, 44 U.S.L.W. 2064) (E.D. Pa., August 12, 1975)

(2)

These references are merely illustrative and time and space do not permit an in depth analysis herein. However, we are aware of several groups having special interest and expertise in the involuntary commitment process whose input we feel would be valuable. These would be such groups as attorneys representing proposed patients on a regular basis, District Attorneys, whose offices are obligated by law to represent petitioners, and the special court judges of the state who have amassed considerable experience in applying the present law.

Also, the organized bar, both at federal and local levels, has just recently developed special resources in the field. The Topeka Bar Association has this year for the first time established a Mental Health Committee and I am sure it would be helpful to your committee to hear its views.

It would be my suggestion that a hearing be scheduled early in the 1976 session and groups such as those named be given an opportunity to present their views at that time.

Sincerely yours,



Mary Schowengerdt
Probate Court Judge, Shawnee County

MS:sb

PROPOSED AMENDMENT TO MAIN COURT UNIFICATION BILL
RELATING TO JUDGMENT LIENS ON REAL PROPERTY

Addition to be inserted at the end of subsection (b) of section 17:

Any judgment of a court designated in subsection (a) shall not become a lien on real property by virtue of the transfer of documents pursuant to this subsection unless the court rendering such judgment was a court of record immediately prior to January 10, 1977. Nothing herein shall preclude a party in whose favor a judgment is rendered by a court designated in subsection (a) from filing a transcript of such judgment with the clerk of the district court in the manner provided in K. S. A. 60-2418, and in such event such judgment shall become a lien on real property as provided in K. S. A. 60-2418.

Addition to follow section 43:

Any judgment of a municipal court transferred pursuant to this section shall not become a lien on real property by virtue of such transfer.

60-2202. Judgment liens on real estate. Judgments of courts of record of this state, and of courts of the United States rendered within this state, shall be liens on the real estate of the debtor within the county in which the judgment is rendered. The lien shall be effective from the time at which the petition stating the claim against the judgment debtor was filed but not to exceed four (4) months prior to the entry of the judgment. An attested copy of the journal entry of any judgment, together with a statement of the costs taxed against the debtor in the case, may be filed in the office of the clerk of the district court of any county, and such judgment shall be a lien on the real estate of the debtor within that county from the date of filing such copy. The clerk shall enter such judgment on the appearance and judgment dockets in the same manner as if rendered in the court of which he is clerk. Executions shall be issued only from the court in which the judgment is rendered. [L. 1963, ch. 303, 60-2202; Jan. 1, 1964.]

35
Add to Sec. 65:

Whenever any person shall be employed or assigned to work under direct supervision of any judge or in a division of court in which he presides, the employment or assignment of such person shall be subject to the approval of such judge.

36
Sec. 66

The district court shall continue the employment of all full-time personnel presently serving the district court and courts of limited jurisdiction designated in subsection (a) of section 47. Dismissal of any court employee shall be for cause and in accordance with procedures prescribed by rules and regulations governing judicial personnel.

S.B. 284

²⁰
Sec. 60

(substitute for last sentence, first para.)

Within guidelines established by statute, rule of supreme court, or the district court, the administrative judge of each district court shall be responsible for and have general supervisory authority over the clerical and administrative functions of such court.

³³
Sec. 63

Change line 11 to read: "district court shall employ such deputies, assistants and"

Sec. 5

Page 5, Line 10, 11, 12

"the supreme court. Expenditures from appropriations for district court operations shall be made on vouchers approved by the judicial administrator. All claims for . . ."

line 14, 15, 16

"tions for district court operations shall be certified as provided in K.S.A. 75-3731 by the judicial administrator."

PROPOSED AMENDMENTS
TO THE MAIN COURT UNIFICATION BILL,
AS SUCH BILL WAS REINTRODUCED
BY THE HOUSE JUDICIARY COMMITTEE

New Sec. 33. At the general election held in November of 1970, there shall not be elected a clerk of the district court in any county, and from and after January 10, 1977-, the administrative judge of each judicial district shall appoint a chief clerk of the district court of such judicial district. In judicial districts consisting of more than one county, the administrative judge also shall appoint a clerk of the district court in each of the counties within such district. The administrative judge also shall appoint such deputies, assistants and other clerical personnel as may be necessary to perform the duties of the office of clerk of the district court in each county within the judicial district, except as otherwise provided in subsection (b) of section 35. The chief clerk and other clerks of the district court and such deputies, assistants and other clerical personnel shall have such qualifications as are prescribed for such offices in the judicial personnel classification system established by the supreme court, and such persons shall receive the compensation prescribed for their respective positions in such personnel classification system. Such clerks, deputies, assistants and other personnel shall have such powers, duties and functions as are prescribed by law, designated in the judicial personnel classification system or assigned by the administrative judge.

New Sec. 34. (a) From and after January 10, 1977, in the third, tenth, eighteenth and twenty-ninth judicial districts, the administrative judge of each such judicial district, with the approval of the other district judges thereof, shall appoint a court administrator. The position of court administrator in such judicial district shall be in addition to the position of chief clerk of the district court. Under the supervision and direction of the administrative judge, such court administrator shall supervise and coordinate the administrative functions and oper-

ations of the district court, supervise and direct the activities of nonjudicial personnel of such court, other than the nonjudicial personnel appointed pursuant to subsection (b) of section 35, and perform such other duties as are assigned by the administrative judge, prescribed by law or required by the judicial personnel classification system established by the supreme court.

New Sec. 35. (a) From and after January 10, 1977, each District Judge shall appoint his own bailiff, court reporter, secretary and parole officer; the ~~administrative~~ judge of each judicial district, with ~~the approval~~ of a majority of the other district judges of such judicial district, shall appoint ~~such bailiffs, court reporters, secretaries, parole and probation officers~~ and other clerical and nonjudicial personnel as are necessary to perform the judicial and administrative functions of the district court, except as otherwise provided in subsection (b).

(b) The judges of the district court assigned to the specialized divisions of the district court established pursuant to subsection (b) of section 37 shall appoint his or her own chief clerk of the specialized division, court reporter, secretary and chief parole officer of the specialized division. Such appointed personnel shall serve at the pleasure of the appointing judge.

(c) Persons appointed pursuant to this section shall have qualifications prescribed by law or the judicial personnel classification system established by the supreme court, and such persons shall receive the compensation prescribed by such personnel classification system. Such persons shall perform such duties and functions as are: (1) prescribed by law; or (2) designated in said personnel classification system; or (3) assigned by the administrative judge or, in the case of personnel appointed pursuant to subsection (b), as are assigned by the appointing judge.

Sec. 37. (a) From and after January 10, 1977, whenever the judges of the district court deem it necessary for the efficient and effective administration of justice, and after consultation with the supreme court, such judges may establish specialized divisions of such district court. Such divisions may be established for, but not limited to, the following purposes: Probate

atters, traffic cases, juvenile matters, domestic cases or any combination thereof. The administrative judge, with the approval of the other judges of the district court, shall provide for the assignment and reassignment of judges to any specialized division established hereunder, and the administrative judge shall provide for the assignment of cases to any such division. The administrative judge also may assign a clerk of the district court, or an assistant or deputy district court clerk, to any such division to serve as chief clerk of such division. Such other personnel of the district court as are necessary for the operation thereof may be assigned to any such specialized division by the administrative judge.

(b) From and after January 10, 1977, there shall be established in judicial districts 3, 10, 18 and 29 two specialized divisions of the district court to be designated as the probate division and the juvenile division. The (present) Juvenile and Probate Judges shall be assigned to such specialized divisions.