

MINUTES OF THE SENATE COMMITTEE ON JUDICIARYThe meeting was called to order by Senator Robert Frey at
Chairperson10:00 a.m./~~p.m.~~ on February 20, 1985 in room 514-S of the Capitol.~~All~~ members ~~were~~ present ~~except~~: Senators Frey, Hoferer, Feleciano, Gaines, Langworthy, Parrish, Steineger, Winter and Yost.

Committee staff present:

Mary Torrence, Office of Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Donna Voth, Senator Johnston's Administrative Assistant
Ron Calvert, United Transportation Union
Marjorie Van Buren, Office of Judicial Administrator
Commissioner Robert Barnum, Social and Rehabilitation Services

Senator Feleciano presented a request for a committee bill concerning duties and responsibilities of administrative judges of the district courts. Following the explanation, Senator Feleciano moved to introduce the bill. Senator Gaines seconded the motion. The motion carried.

Senator Frey presented a request for a committee bill concerning aggravated burglary. Following the explanation, Senator Yost moved to introduce the bill. Senator Parrish seconded the motion. The motion carried.

Senate Bill 185 - An act concerning juries; prohibiting certain acts with respect to persons summoned for jury service and providing penalties for violations.

Donna Voth, Senator Johnston's Administrative Assistant, appeared on behalf of Senator Johnston to present his testimony in support of the bill. His testimony stated the Kansas law provides that the public policy of this state is that jury service is the obligation of all qualified citizens and that excuses from the discharge of this responsibility should be granted only for reasons of compelling personal hardship or because requiring service would be contrary to the public welfare, health or safety. A copy of Senator Johnston's testimony is attached (See Attachment I). A committee member suggested eliminating the criminal penalty and making it a monetary penalty. She replied she thought that would be fine. The committee member inquired if specific notice time should be provided? She responded, sometimes jurors are summoned on very short notice. Another committee member discussed whether to provide employers pay for jurors or state the pay for them. A committee member responded small businesses don't pay for employees when they serve on juries.

Ron Calvert, United Transportation Union, testified there are union contracts that are supplemented for attending jury duty. In smaller businesses they don't have to take off the whole day for jury duty like they do with Boeing. Small industry have the privilege of coming and going, and the employees can go back to work. He stated they would appreciate the committee's support of the bill.

The hearings on Senate Bill 185 were concluded.

Senate Bill 69 - An act concerning adoption; relating to procedures thereof; amending K.S.A. 59-2278 and repealing the existing section.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 20, 1985

Senate Bill 69 continued

Marjorie Van Buren, Office of Judicial Administrator, handed out ballooned copies of the bill indicating proposed amendments by SRS and court administrator's office (See Attachment II). Commissioner Robert Barnum, Social and Rehabilitation Services, explained the proposed amendments to the committee. Following discussion, Senator Gaines moved to delete lines 65 through 69. Senator Steineger seconded the motion. The motion carried. Senator Gaines moved to amend the bill by adopting the amendments proposed by SRS. Senator Hoferer seconded the motion. The motion carried. During committee discussion, it was pointed out the amendment was not needed because this action had been taken at a previous committee meeting. The motion was withdrawn. Senator Parrish moved to report the bill favorably as amended. Senator Hoferer seconded the motion. The motion carried.

Senate Bill 71 - Interstate Compact on adoption and medical assistance.

Following committee discussion, Senator Feleciano moved to report the bill favorably. Senator Hoferer seconded the motion. The motion carried.

Senate Bill 73 - Restrictions on adoption by nonresidents; amending K.S.A. 59-2101 and 59-2203 and repealing the existing sections.

Committee discussion was held on the bill.

The meeting adjourned.

Copy of the guest list is attached (See Attachment III).

Copies of handouts of Senator Feleciano concerning his bill request is attached (See Attachment IV).

Copies of handouts of Senator Frey concerning his bill request is attached (See Attachment V).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-20-85

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Donna Vofa	Rm 347 N	Sen. Johnston
Trine Jorgensen	Wichita	Wichita Northwest
Lisette Cullinane	Wichita	Northwest High School
Mike Stotsky	Lawrence	Eastern So Branch
Lois Julio	Topeka	Ks Action for Children
Anna Bierman	Wichita	Close-up Kansas
Bryan Kramer	Wichita	Close-up Kansas
Betty Jansson	Wichita	Close-up KS
John Mayes	Wichita	Close-Up Kansas
Ron Albert	NEWTON	U.J.U
Marjorie Van Buren	Topeka	QJA
Burtha Milbank	Wichita	usula
Marie Rhodes	Wichita	usula
Kathleen Wedel	Minneapolis	Kans Med Soc Aux
Mary Belle Boyd	Wichita	Kans. Med Soc. Aux
Don Mayes	Wichita	Visitors KMSA
Bob Pan	TOPEKA	SRS
Charles L. Simpson	Independence	Physician
Cecilia White	SRS	Topeka
Gayle Skiff	Ruby Avenue	K.M.S. Auxiliary
Karen Tetzlaff	4520 W65. P.V	KMS Aux
Caryl Bichelmeier	9971 Normlark Dr	OP 661212
Marion Culp	7106 Lafayette St. KC.	Ks. 66109 KMS Aux
Chris Ebner	Topeka	Tavern League

2/20/85
Attch. III

State of Kansas

MICHAEL L. JOHNSTON
SENATOR, FOURTEENTH DISTRICT
LABETTE COUNTY AND PARTS OF
CRAWFORD, MONTGOMERY AND
NEOSHO COUNTIES
STATE CAPITOL BLDG., ROOM 347-NORTH
TOPEKA, KANSAS 66612
(913) 296-3245



Topeka

Senate Chamber
Office of Minority Leader

COMMITTEE ASSIGNMENTS
MEMBER: ELECTIONS
GOVERNMENTAL ORGANIZATION
INTERSTATE COOPERATION
LEGISLATIVE BUDGET
LEGISLATIVE AND CONGRESSIONAL
APPORTIONMENT
LEGISLATIVE COORDINATING COUNCIL
WAYS AND MEANS

TESTIMONY ON SENATE BILL 185 -- Prohibiting certain acts
against persons summoned for jury duty.

Presented to Senate Judiciary Committee
February 20, 1985

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I am Donna Voth, Senator Johnston's Administrative Assistant. I am appearing on behalf of Senator Johnston to present his testimony in support of SB 185. Senator Johnston regrets he cannot be here today. He is in Washington, D.C., attending a NCSL leadership conference.

SB 185 is patterned after a Nebraska law and was introduced at the request of one of Senator Johnston's constituents. This bill simply ensures that an employee will not be penalized by losing pay or leave time while absent from employment by reason of jury duty. It requires an employer to allow an employee time off work to perform jury duty without any loss of pay, sick leave, or vacation leave.

Kansas law provides that the public policy of this state is that jury service is the obligation of all qualified citizens and that excuses from the discharge of this responsibility

2/20/85
Attach. I

should be granted only for reasons of compelling personal hardship or because requiring service would be contrary to the public welfare, health or safety. (K.S.A. 43-155). Current law also provides that a juror be paid only \$10.00 per day of service plus mileage (K.S.A. 43-171). Many of our hard working citizens are reluctant to serve on jury duty because they are required by their employers to either take vacation leave, or, at best, leave without pay. In order to avoid these losses, many people, summoned for jury duty, ask to be excused which, if granted, results in a shortage of potential jurors and, if denied, results in feelings of resentment.

SB 185 is needed to ensure that an employed person will not suffer any loss of wages or benefits while carrying out the public policy of this state regarding jury service. I urge your support of SB 185.

SENATE BILL No. 69

By Committee on Judiciary

1-23

0017 AN ACT concerning adoption; relating to procedures therefor;
0018 amending K.S.A. 59-2278 and repealing the existing section.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 59-2278 is hereby amended to read as fol-
0021 lows: 59-2278. (a) The written consents to adoption which are
0022 required by K.S.A. 59-2102 and amendments thereto *and, if*
0023 *applicable, the information required by section 2* shall be filed
0024 with the petition for adoption *of a minor child*. Upon the filing of
0025 the petition, the court shall fix the time and place for the hearing
0026 thereon. The time fixed for the hearing may be any time not more
0027 than 60 days from the date the petition is filed if (1) consents ~~and~~,
0028 waivers of notice of each living parent *and, if required by section*
0029 *2, the child's genetic and medical history and birth verification*
0030 are filed; (2) the court does not require the petitioner to obtain
0031 an assessment by a person licensed to practice social work in
0032 Kansas *or by a licensed child-placing agency* to determine the
0033 advisability of the adoption; and (3) there are no interested
0034 parties other than the petitioner and the consenting parties. In all
0035 other cases, the time fixed by the court shall be not less than 30
0036 days or more than 60 days from the date of the filing of the
0037 petition. The time fixed for the hearing may be extended by the
0038 court for cause.

0039 (b) Notice of the hearing shall be given to all interested
0040 parties. Pending the hearing the court may make an appropriate
0041 order for the care and custody of the child.

0042 (c) Promptly upon the filing of the petition by a petitioner
0043 who is not a stepparent, the court ~~may~~ shall require the peti-
0044 tioner to obtain an assessment by a court designated social
0045 worker licensed to practice social work in Kansas *or by a licensed*

Attach. II

Atch. II
2/20/85

Attch. II

0046 child-placing agency of the advisability of the adoption, ~~and file~~
 0047 ~~a report of such assessment.~~ The petitioner shall file with the
 0048 court, not less than 10 days before the hearing on the petition, a
 0049 report of the assessment and, if applicable, the information filed
 0050 under section 2. If there is no licensed social worker or licensed
 0051 child-placing agency available to make the social assessment and
 0052 report to the court, the court may use the department of social
 0053 and rehabilitation services for that purpose. The costs ~~for making~~
 0054 ~~the social~~ of making the assessment and report may be assessed
 0055 as court costs in the case as provided in article 20 of chapter 60 of
 0056 the Kansas Statutes Annotated and ~~acts amendatory of the provi-~~
 0057 ~~sions thereof or supplemental amendments~~ thereto. In making
 0058 the assessment, the ~~licensed social worker or the social worker,~~
 0059 child-placing agency or department of social and rehabilitation
 0060 services is authorized to observe the child and to contact the
 0061 agency or individuals consenting to the adoption and ~~obtain any~~
 0062 ~~voluntarily given genetic information about the child confirm~~
 0063 ~~and, if necessary, clarify any genetic and medical history filed~~
 0064 ~~with the petition.~~ This information shall be made a part of the
 0065 report to the court. The ~~licensed social worker's report or the~~
 0066 ~~report of the social worker, child-placing agency or department~~
 0067 of social and rehabilitation services ~~to the court may inquire~~
 0068 ~~whether the consents to the adoption were freely and voluntar-~~
 0069 ~~ily made. The report to the court by the social worker, child-~~
 0070 ~~placing agency or department of social and rehabilitation ser-~~
 0071 ~~vices shall include the results of investigation of the adopting~~
 0072 ~~parents, their home and their ability to care for the child.~~
 0073 (d) Upon the hearing of the petition, the court shall consider
 0074 the ~~social~~ assessment and all evidence offered by any interested
 0075 party. If the court is of the opinion that the adoption should be
 0076 made, it shall make a final order of adoption and shall deliver the
 0077 child to the petitioner, if that has not already been done. In any
 0078 event, the costs of the adoption proceedings shall be paid by the
 0079 petitioner.

provide a copy of the final order of adoption

a copy of the

granted

of a minor,

0080 (e) The clerk of each district court shall ~~transfer all legal~~
 0081 ~~documents and social assessments~~ pertaining to any adoption
 0082 ~~except stepparent adoptions,~~ finalized on or after July 1, 1983,

Attach. II

0083 and prior to the effective date of this act, to the secretary of social
0084 and rehabilitation services on or before January 1, 1986, ~~or 30~~
0085 ~~days after the report is filed, whichever is later.~~ The transferred
0086 reports shall be maintained by the secretary and shall be subject
0087 to disclosure to the same extent as reports and other records of
0088 investigations made by the secretary pursuant to this section.

0089 New Sec. 2. (a) Unless the petitioner is a stepparent, the
0090 following information shall be filed with the petition for adop-
0091 tion of a minor child:

0092 (1) A complete written genetic, medical and social history of
0093 the child;

0094 (2) the names, addresses and telephone numbers of each of
0095 the child's biological parents, if known;

0096 (3) any hospital records pertaining to the child or a properly
0097 executed authorization for release of those records; and

0098 (4) the child's birth verification, which shall include the date,
0099 time and place of birth and the name of the attending physician.

0100 (b) The secretary of social and rehabilitation services shall
0101 adopt rules and regulations specifying what should be contained
0102 in the genetic, medical and social history required by this sec-
0103 tion, which shall include but not be limited to genetic and
0104 medical information concerning each of the child's biological
0105 parents, if known; and the date of birth and sex of any of the
0106 child's siblings who are known at the time of filing the petition.

0107 (c) The secretary of social and rehabilitation services shall
0108 adopt rules and regulations establishing procedures for updating
0109 a child's genetic, medical and social history if new information
0110 becomes known at a later date. The secretary or the child-placing
0111 agency, whichever conducts the investigation under K.S.A. 59-
0112 2278 and amendments thereto, shall advise in writing each of the
0113 child's biological parents, if known, of those procedures.

0114 (d) Within 30 days after the final order of adoption is entered,
0115 the clerk of the court shall ~~send to~~ the secretary of social and
0116 rehabilitation services a copy of any information filed pursuant to
0117 this section by anyone other than the secretary, ~~together with any~~
0118 ~~clarification or modification of that information contained in a~~
0119 ~~report~~ filed pursuant to K.S.A. 59-2278 and amendments thereto

provide

a copy of the social assessment

and a copy of the final order of adoption.

0120 by anyone other than the secretary. Such information shall be
0121 subject to disclosure to the same extent as similar information
0122 concerning children relinquished to the department of social and
0123 rehabilitation services pursuant to K.S.A. 38-125 and amend-
0124 ments thereto.

0125 (e) Any employee or agent of the department of social and
0126 rehabilitation services, a child-placing agency or a district court
0127 who intentionally destroys any information required to be filed
0128 under this section is guilty of a class C misdemeanor.

0129 (f) If any information required to be filed under this section is
0130 not available, an affidavit explaining the reasons why it is not
0131 available and signed by each party whose consent to the adop-
0132 tion is required shall be filed with the petition for adoption.

0133 (g) As used in this section and K.S.A. 59-2278 and amend-
0134 ments thereto, "child-placing agency" means any corporation
0135 organized under the laws of this state and authorized by law to
0136 care for and surrender children for adoption as provided in
0137 K.S.A. 38-112 *et seq.*, and amendments thereto.

0138 Sec. 3. K.S.A. 59-2278 is hereby repealed.

0139 Sec. 4. This act shall take effect and be in force from and
0140 after its publication in the statute book.

Attach. II

2-20-85

STATE OF KANSAS

SENATOR
PAUL FELECIANO, JR.
SENATE ASSISTANT MINORITY LEADER
STATE SENATOR 28TH DISTRICT
SEDGWICK COUNTY
815 BARBARA
WICHITA KANSAS 67217

COMMITTEE ASSIGNMENTS
MEMBER: WAYS AND MEANS
LABOR, INDUSTRY AND SMALL
BUSINESS
ENERGY AND NATURAL RESOURCES
JUDICIARY
INTERSTATE COOPERATION

TOPEKA

SENATE CHAMBER

February 12, 1985


Judge Donald L. Allegrucci
District Court, Eleventh Judicial District
Division One, Judicial Center
P. O. Box 1348
Pittsburg, Kansas 66762

Dear Judge Allegrucci:

I appreciate your recommendations on the changes needed to clarify the duties and authority of the administrative judge. I have given a copy of your letter to the revisor asking her to draft a proposed bill with the changes that you desire. I will talk with you prior to asking the committee for a committee bill.

Look forward to seeing you on February 22nd.

Respectfully yours,



Paul Feleciano, Jr., Senator
Assistant Minority Leader

PF:sag

2/20/85
Atch. IV

Copy of letter
Judge's letter
taken to Mary
Lawrence
2/13/85
sag

DISTRICT COURT
ELEVENTH JUDICIAL DISTRICT

DIVISION ONE, JUDICIAL CENTER

P. O. BOX 1348

PITTSBURG, KANSAS 66762

CHAMBERS OF
DONALD L. ALLEGRUCCI
JUDGE

February 4, 1985

Senator Paul Feleciano, Jr.
Room No. 126-S
State Capitol Building
Topeka, Kansas 66612

Dear Paul:

As you requested, I have enclosed photocopies of Supreme Court Rule No. 107 and K.S.A. 20-329, 20-345 and 20-349. The last two statutes, in my opinion, need to be changed to clarify the duties and authority of the administrative judge.

You will note that K.S.A. 20-349 provides that the administrative judge prepare a separate budget for each county in a multi-county judicial district and that the district judges in each of those counties must then approve that budget. What happens if the administrative judge draws up the required budgets and one of two district judges in a particular county refuses to approve the budget for that county? It happened in this district and resulted in a confrontation between the district judge and administrative judge; and the ramifications of that are still affecting this judicial district.

You will further note, pursuant to K.S.A. 20-345, that the administrative judge can only appoint or hire non-judicial employees if a majority of the other district court judges agree. What happens if you have 100 applicants for a particular position? The administrative judge and judicial administrator personally interview those persons and, based upon the applications and personal interviews, decide to hire one particular applicant. Obviously, a meeting of all the judges must be called or telephone conference between all of the judges must be held to determine if the majority of all the judges approve of hiring that particular person. Let us further suppose that a majority of the judges do not agree with the appointment of that particular person. What happens then? It seems painfully obvious to me that both of these statutes need to be amended to specifically spell out the duties of the administrative judge and then grant the authority to carry out those duties.

Attch. IV

Senator Paul Feleciano, Jr.
February 4, 1985
Page Two

I will suggest that K.S.A. 20-349 be amended by striking the part which I have bracketed and underlined. This would give the administrative judge total authority to carry out the mandate of submitting and preparing the budget for each county in a multi-county judicial district. A sentence could be inserted to require that the administrative judge consult with every district court judge in preparation of the budget.

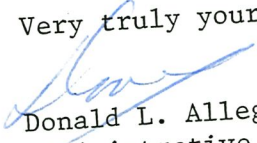
I further suggest that K.S.A. 20-345 be amended by striking the bracketed sentence. This again would allow for the administrative judge to appoint or hire all non-judicial personnel. I would further suggest that the last paragraph, which I have underlined, be amended to include only those non-judicial employees who would be working under the direct supervision of the judge, rather than a division of the court in which the judge presides. This should include the bailiff, court reporter and personal secretaries. If that is not done, then I would strongly suggest that you give each district judge the authority to hire those non-judicial employees in his or her division, rather than the administrative judge. I do not know of any private or public corporation which does not give the person designated to run the corporation the authority to do so. We either have a unified judicial district or we do not.

Any additional changes should be made by the Supreme Court by rule. Obviously, it is the Court's prerogative to make or not make any changes.

One final comment. As a member of the Judicial Council Court Unification Advisory Committee, you are aware that these statutory changes have been discussed and, although they will probably be recommended by the Committee, no formal recommendation will be made until later this year. You may want to give some thought to waiting until such time the Committee make a formal recommendation before trying to amend the statutes referred to above. As you know, there are those who are not very receptive to changes of this kind.

I hope the session is going well for you. I look forward to seeing you at the Committee Meeting on February 22nd.

Very truly yours,


Donald L. Allegrucci
Administrative Judge
Eleventh Judicial District

DLA:cl

Attch. III

Law Review and Bar Journal References:

Mentioned as combating delay, George S. Reynolds, 12 W.L.J. 12, 22 (1972).

20-322. Same; name of act; citation. This act shall be known and may be cited as the "judicial department reform act of 1965."

History: L. 1965, ch. 215, § 5; June 30.

CASE ANNOTATIONS

1. Act does not violate any provision of Kansas Constitution. *State v. Schroeder*, 201 K. 811, 823, 443 P.2d 284.

20-323. Same; act supplemental to existing laws. This act shall be construed as supplemental to existing statutes pertaining to the selection or appointment of a judge pro tem of the district court.

History: L. 1965, ch. 215, § 6; June 30.

CASE ANNOTATIONS

1. Act does not violate any provision of Kansas Constitution. *State v. Schroeder*, 201 K. 811, 823, 443 P.2d 284.

20-324.

Revisor's Note:

For rules of the supreme court relating to judicial administration, formerly appearing under this section number, see 60-2701.

JUDICIAL REAPPORTIONMENT ACT (1968)

Cross References to Related Sections:

Establishment of judicial districts, see 4-201 et seq.

20-325. Terms of court fixed by supreme court. The terms of the district courts of the judicial districts created by this act [°] shall be held in the counties of the districts at such times as shall be determined and fixed by the supreme court.

History: L. 1968, ch. 385, § 31; March 30.

* "This act," see, also, 4-201 to 4-230, 20-327 to 20-333.

20-326.

Revisor's Note:

Rules of the supreme court relating to terms of district courts were formerly published under this section. Supreme court rules relating to terms of district courts are now published under K.S.A. 60-2702a (Rules No. 101 and 102).

20-327. Terms of judges. All judges of district courts elected under the provisions of this act [°] shall be elected for terms of four years and until their successors are elected and qualified.

History: L. 1968, ch. 385, § 32; March 30.

* "This act," see, also, 4-201 to 4-230, 20-325, 20-328 to 20-333.

20-328. Pending actions and proceedings. All actions and proceedings pending in the district court of any county at the time any judicial district is abolished and a new district established under the provisions of this act [°], whether the issues are joined or not, shall proceed in the district court of the judicial district in which said county is placed by the provisions of this act in the same manner as if said actions and proceedings had been commenced in said district, except when an action or proceeding pending in such a district court has been tried by the judge of said court, and by him taken under advisement, and is still undecided at the time the judicial district is established, then it shall be the duty of the judge who tried said cause to make and render his findings and judgment thereon, and to determine all motions therein in all respects as though said county had not been placed in such judicial district.

History: L. 1968, ch. 385, § 33; March 30.

* "This act," see, also, 4-201 to 4-230, 20-325, 20-327, 20-329 to 20-333.

20-329. Designation of administrative judge by supreme court; administrative judges' duties. In every judicial district, the supreme court shall designate a district judge or associate district judge as administrative judge who shall have general control over the assignment of cases within the district, subject to supervision by the supreme court. Within guidelines established by statute, rule of the 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.

History: L. 1968, ch. 385, § 34; L. 1976, ch. 146, § 28; L. 1980, ch. 94, § 5; July 1.

Law Review and Bar Journal References:

Mentioned as combating delay, George S. Reynolds, 12 W.L.J. 12, 22 (1972).

"Practicing Law in a Unified Kansas Court System," Linda Diane Henry Elrod, 16 W.L.J. 260 (1977).

20-330. Powers, rights and authority of district judges in districts with more than one district judge. Each of the district judges in judicial districts having more than one district judge shall have all the rights,

powers and authority possessed by a district judge as if each judge were a judge of the district, and such authority may be exercised by any one of the district judges in any of the counties in their respective districts.

History: L. 1965, ch. 146, § 29; January 1, 1966.

20-331. Resignation of judges of the district courts. A judge of the district courts provided in subsection (a) of this section has the qualifications for the office of judge of the district court, and is eligible for nomination, election or appointment to the office of judge of the district court, shall be eligible for nomination, election or appointment to the office of judge of the district court. A person shall establish a judicial district before the expiration of his term and shall maintain the office.

(b) No person shall be eligible for nomination, election or appointment to the office of judge of the district court unless he is a resident of the district in which he is to hold office at the time of his nomination, election or appointment.

History: L. 1965, ch. 145, § 85; L. 1966, ch. 94, § 6; L. 1967, ch. 146, § 29.

20-332.

History: L. 1976, ch. 146, § 28; L. 1977, ch. 146, § 29.

20-333.

When a judge of the district courts dies, resigns or retires, the powers and authority of the judge shall continue until the date of the election or appointment of a successor judge. The powers and authority of the judge shall terminate upon the death, resignation or retirement of the judge.

History: L. 1976, ch. 146, § 29; L. 1977, ch. 146, § 29.

* "This act," see, also, 4-201 to 4-230, 20-325, 20-328 to 20-333.

Attach. IV

which had accrued to those officers and employees prior to July 1, 1979, and the service of each officer and employee so appointed and transferred shall be deemed to have been continuous.

History: L. 1978, ch. 120, § 14; July 1.

20-347. Location of courthouses; administrative judge's duties. From and after January 10, 1977, the administrative judge in each judicial district, with the approval of the supreme court, may provide for holding court in locations within such judicial district, other than in the courthouses of the several counties within such district, whenever suitable facilities are available therefor.

History: L. 1976, ch. 146, § 39; April 19.

20-348. County commissioners responsible for certain expenses of district court operations. Except for expenses required by law to be paid by the state, from and after January 10, 1977, the board of county commissioners of each county shall be responsible for all expenses incurred for the operation of the district court in the county.

History: L. 1976, ch. 146, § 41; April 19.

20-349. Budget for district court expenses payable by counties, preparation; approval of budget, limitations. The administrative judge in each judicial district shall be responsible for the preparation of the budget to be submitted to the board of county commissioners of each county. The board of county commissioners shall then have final authority to determine and approve the budget for district court operations payable by their county. The judicial administrator of the courts shall prescribe the form upon which such budgets shall be submitted. The budget shall include all expenditures payable by the county for operations of the district court in such county. A separate budget shall be prepared for each county within the district and the judges of the district court shall approve the budget for the county in which said judges are regularly assigned prior to submission of said budget to the board of county commissioners. The compensation to be paid to district court personnel excluded from the judicial personnel classification system pursuant to subsection (b) of K.S.A. 20-162 shall be listed in the budget as a separate item for each job position. After the amount of said

district court budget is established, the expenditures under said budget, other than expenditures for job positions contained in the budget, shall be under the control and supervision of the administrative judge, subject to supreme court rules relating thereto, and the board of county commissioners shall approve all claims submitted by the administrative judge within the limits of said district court budget. No board of county commissioners shall decrease such budget for district court operations to a level below the amount of the 1978 calendar year budget approved by the board of county commissioners less the amount of compensation and fringe benefits provided in such budget for judges and other personnel positions which are assumed by the state pursuant to this act. The financial affairs of the district court in each county shall be subject to audit pursuant to the provisions of K.S.A. 1978 Supp. 75-1122.

(b) The provisions of this subsection (b), as constituted immediately prior to the effective date of this act shall continue to be applicable to counties until January 1, 1979.

History: L. 1976, ch. 146, § 44; L. 1977, ch. 110, § 4; L. 1978, ch. 108, § 8; July 1.

20-350. Disposition of money received by clerk; investment of moneys held; disposition of interest. (a) Except for fines and penalties authorized to be paid to counties pursuant to K.S.A. 19-101c, all moneys received by the clerk of the district court from the payment of fines, penalties and forfeitures shall be remitted to the state treasurer, in the manner provided by K.S.A. 20-2801 and amendments thereto, and the state treasurer shall deposit the same in the state treasury to the credit of the state general fund.

(b) The administrative judge may invest any moneys on deposit in the district court account if the moneys are not immediately required for the purposes for which they were collected or received. Such moneys may be invested in: (1) Time deposits, open account or certificates of deposit, for periods not to exceed six months, or savings deposits, in commercial banks or trust companies located in the county, except that amounts invested which are not insured by the United States government shall be secured in the manner and amounts provided by K.S.A. 1980 Supp. 9-1402; (2) United States

treasury bills of exceed six mo associations b investment of m by the federal corporation sh ings and loan from the inve this subsection treasurer in th 20-2801 and a state treasurer state treasury eral fund.

(c) Upon action in whi ship of money administrati moneys in th subsection (b) investment of section shall person found

History: L. ch. 109, § 16; ch. 134, § 1;

20-351.

History: L. ch. 380, § 8; L. 1978, ch.

20-352.

judge positio cation by sup sitions. (a) O on or before thereafter, th the need fo judges and a in each judi preme court effectively c trict court i state, the ne ciate distric ciate distric the supreme secretary of such additi judicial dist nonpartisan has been ap 20-2901, su made to the cial nomina district.

Edwards county, position two in Hodgeman county, position three in Lane county, position four in Ness county, position five in Pawnee county and position six in Rush county.

(25) In the 25th judicial district, there shall be five district magistrate judge positions in the district, with position one in Greeley county, position two in Hamilton county, position three in Kearny county, position four in Scott county and position five in Wichita county. There shall be two associate district judge positions in Finney county.

(26) In the 26th judicial district, there shall be one associate district judge position in Seward county. There shall be five district magistrate judge positions in the district, with position one in Grant county, position two in Haskell county, position three in Morton county, position four in Stanton county and position five in Stevens county.

(27) In the 27th judicial district, there shall be two associate district judge positions in Reno county.

(28) In the 28th judicial district, there shall be one district magistrate judge position in Ottawa county and two associate district judge positions in Saline county.

(29) In the 29th judicial district, there shall be eight associate district judge positions in Wyandotte county.

(30) In the 30th judicial district, there shall be three associate district judge positions, with positions one and two in Sumner county and position three in Barber, Harper, Kingman or Pratt county. There shall be four district magistrate judge positions, with position one in Barber county, position two in Harper county, position three in Kingman county and position four in Pratt county.

(31) In the 31st judicial district, there shall be one associate district judge position. There shall be two district magistrate judge positions in the district, with position one in Allen county and position two in Woodson county.

History: L. 1976, ch. 146, § 16; L. 1977, ch. 112, § 3; L. 1982, ch. 130, §§ 14, 15; L. 1982, ch. 129, §§ 7, 8, 9; L. 1983, ch. 105, § 6; L. 1983, ch. 105, § 7; July 1.

20-342.

Cross References to Related Sections:

20-345. Appointment of nonjudicial personnel for district courts; qualifications; compensation; duties; approval of appointment by certain judges, when. Within staffing limits prescribed by the supreme court and appropriations therefor, the administrative judge of each judicial district, with the approval of a majority of the other district judges and associate district judges of such judicial district, shall appoint such bailiffs, court reporters, secretaries, court services officers and other clerical and nonjudicial personnel as necessary to perform the judicial and administrative functions of the district court. Persons appointed pursuant to this section shall have qualifications prescribed by law or rule of the supreme court. Except as otherwise provided by law, such persons shall receive compensation prescribed by the judicial personnel classification system. Such persons shall perform the duties and functions prescribed by law, designated in the personnel classification system or assigned by the administrative judge, subject to rule of the supreme court. Personnel whose salary is payable by counties shall receive compensation in the amounts provided in the district court budget approved by the board of county commissioners. Whenever any person is employed or assigned to work under direct supervision of any judge or in a division of court in which a judge presides, the employment or assignment of the person shall be subject to the approval of that judge.

History: L. 1976, ch. 146, § 33; L. 1977, ch. 110, § 3; L. 1978, ch. 108, § 7; L. 1984, ch. 112, § 1; July 1.

20-346a. Parole and court services officers; retention of benefits. (a) The department of corrections shall have the functions and duties provided by law with regard to providing parole officers for felons placed on parole by the Kansas adult authority but shall not provide parole officers for the supervision of misdemeanants placed on parole by the district courts of this state. The department of corrections shall provide the visitation, supervision and other services regarding probationers and parolees which are required under the uniform act for out-of-state parolee supervision.

(b) All court services officers supervising adults and juveniles placed on probation by the district courts of this state shall

meanants placed on parole by the district courts of this state shall be provided by the supreme court shall prescribe the qualifications required of persons performing such services officers of the department of corrections. The compensation of court services officers of the district courts shall be determined either in accordance with the uniform act adopted by the supreme court or may be otherwise specified by law.

(c) Any probation officer appointed by the department of corrections who is terminated from service shall be eligible for reemployment by the department of corrections in any position and who were previously employed as court services officers of the department of corrections pursuant to this subsection and who are entitled to retirement benefits and who are otherwise eligible and compatible with the requirements of the judicial personnel system shall be eligible for these appointments shall be eligible for transfers with all rights and benefits which had accrued to them as employees prior to the termination of service of each officer and who have been continuously employed by the department of corrections.

History: L. 1978, ch. 112, § 2; July 1.

20-351a. Elimination of judgeships; report to the governor before December 1 of each year by the justice of the supreme court and the chairpersons of the judiciary committee of the senate a report on the number of judges and district magistrates created or eliminated during the period 20-353, 20-354 or 20-355 for a twelve-month period ending on October 1.

History: L. 1982, ch. 112, § 2; July 1.

20-352.

History: L. 1976, ch. 112, § 2; July 1.

20-353. Conversion of judgeships to

SENATE BILL NO. _____

By Committee on Judiciary

AN ACT concerning district courts; relating to duties and responsibilities of administrative judges; amending K.S.A. 20-349 and K.S.A. 1984 Supp. 20-345 and repealing the existing sections.

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

Section 1. K.S.A. 1984 Supp. 20-345 is hereby amended to read as follows: 20-345. Within staffing limits prescribed by the supreme court and appropriations therefor, the administrative judge of each judicial district, ~~with the approval of a majority of the other district judges and associate district judges of such judicial district,~~ shall appoint such bailiffs, court reporters, secretaries, court services officers and other clerical and nonjudicial personnel as necessary to perform the judicial and administrative functions of the district court. Persons appointed pursuant to this section shall have qualifications prescribed by law or rule of the supreme court. Except as otherwise provided by law, such persons shall receive compensation prescribed by the judicial personnel classification system. Such persons shall perform the duties and functions prescribed by law, designated in the personnel classification system or assigned by the administrative judge, subject to rule of the supreme court. Personnel whose salary is payable by counties shall receive compensation in the amounts provided in the district court budget approved by the board of county commissioners. Whenever any person is employed or assigned to work under direct supervision of any judge ~~or in a division of court in which a judge presides~~ as bailiff, court reporter or personal secretary, the employment or assignment of the person shall be subject to the approval of that judge.

Attch. IV

Sec. 2. K.S.A. 20-349 is hereby amended to read as follows:
20-349. The administrative judge in each judicial district shall be responsible for the preparation of the budget to be submitted to the board of county commissioners of each county. The board of county commissioners shall then have final authority to determine and approve the budget for district court operations payable by their county. The judicial administrator of the courts shall prescribe the form upon which such budgets shall be submitted. The budget shall include all expenditures payable by the county for operations of the district court in such county. A separate budget shall be prepared for each county within the district ~~and--the-judges-of-the-district-court-shall-approve-the~~ ~~budget-for-the-county-in-which-said-judges-are-regularly-assigned~~ ~~prior-to-submission--of--said--budget--to--the--board--of--county~~ ~~commissioners.~~ The compensation to be paid to district court personnel excluded from the judicial personnel classification system pursuant to subsection (b) of K.S.A. 20-162 and amendments thereto shall be listed in the budget as a separate item for each job position. After the amount of ~~said~~ the district court budget is established, the expenditures under ~~said~~ the budget, other than expenditures for job positions contained in the budget, shall be under the control and supervision of the administrative judge, subject to supreme court rules relating thereto, and the board of county commissioners shall approve all claims submitted by the administrative judge within the limits of ~~said~~ the district court budget. No board of county commissioners shall decrease such budget for district court operations to a level below the amount of the 1978 calendar year budget approved by the board of county commissioners less the amount of compensation and fringe benefits provided in such budget for judges and other personnel positions which are assumed by the state pursuant to this act. The financial affairs of the district court in each county shall be subject to audit pursuant to the provisions of K.S.A. 1978-Supp. 75-1122 and amendments thereto.

~~(b)--The-provisions-of-this-subsection-(b),--as--constituted~~

Attch. IV

~~immediately--prior--to--the--effective--date--of--this--act--shall
continue--to--be--applicable--to--counties--until--January--1--1979.~~

Sec. 3. K.S.A. 20-349 and K.S.A. 1984 Supp. 20-345 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

CITY OF SALINA



*Bill request
made early in day
2-20-85*

113

CHIEF OF POLICE

JOHN WOODY
AREA CODE 913-825-0571

SALINA POLICE DEPARTMENT

255 N. 10th STREET
P.O. BOX 1086 SALINA, KANSAS 67402-1086

February 8, 1985

Ben E. Vidricksen
Senator, District 24
Senate Chamber
Topeka, Kansas 66612

*Talk to
Bud Poy*

Dear Senator Vidricksen:

As per our telephone conversation on February 6, 1985, I am requesting that you look into the possibility of an amendment to KSA 21-3715, Burglary and KSA 21-3716 Aggravated Burglary. As you will note in reading the enclosed P.I.K. (Pattern Instructions for Kansas), in order to prove the charge of burglary or aggravated burglary you need to show that the crime was committed "with the intent to commit (theft) (____); a felony) therein."

It has been shown in Salina and many other cities across Kansas that there are a large number of burglaries being committed that do not fall under these guidelines. For example, in Salina, we had a suspect breaking into homes and committing a simple assault on female occupants. The suspect did not commit a theft nor a felony, therefore could not be charged with the crime of aggravated burglary. We, in law enforcement, believe this to be a fallacy in the law and the statute should be changed to read, "had the intent to commit any crime therein." This would make it a burglary to break and enter any building even if the crime was only trespass.

I would also point out that on January 31, 1985, there was a joint meeting in Topeka of law enforcement representatives, including the Kansas Sheriffs Association, the Kansas Association of Chiefs of Police and the Kansas Peace Officers Association. These groups all unanimously approved the idea of a change to these two statutes.

If you have any questions concerning this matter or any other matter of mutual concern, feel free to contact me at anytime.

Sincerely

John Woody
John Woody
Chief of Police

Jimmy D. Huff
Jimmy D. Huff, Chairman
KPOA Legislative Committee

JH:sb
Enclosures

2/20/85

Attach. II

59.18 AGGRAVATED BURGLARY

The defendant is charged with the crime of aggravated burglary. The defendant pleads not guilty.

To establish this charge, each of the following claims must be proved:

1. That the defendant knowingly (entered) (remained in) _____;
2. That the defendant did so without authority;
3. That the defendant had the intent to commit (theft) (_____, a felony), therein;
4. That at the time there was a human being in _____; and
5. That this act occurred on or about the ____ day of _____, 19____, in _____ County, Kansas.

Notes on Use

For authority, see K.S.A. 21-3716. Aggravated burglary is a class C felony. As used in K.S.A. 21-3716, the phrases "entering into" and "remaining within" refer to distinct factual situations. This instruction should employ only the phrase which is descriptive of the factual situation where the evidence is clear. If it is not, an instruction in the alternative is proper. *State v. Brown*, 6 Kan. App.2d 556, 630 P.2d 731 (1981). When a person enters the premises after the burglary has commenced but before the defendant has left the premises, the offense constitutes aggravated burglary.

Comment

It should be noted that the legislature did not make "breaking" an element of this crime.

Merger doctrine is not applicable to prevent prosecution for felony murder where underlying felony is aggravated burglary based on the aggravated assault on the victim. *State v. Rupe*, 226 Kan. 474, 601 P.2d 675 (1979).

PATTERN INSTRUCTIONS FOR KANSAS

59.17 BURGLARY

The defendant is charged with the crime of burglary.
The defendant pleads not guilty.

To establish this charge, each of the following claims
must be proved:

1. That the defendant knowingly (entered) (remained
in) _____;
2. That the defendant did so without authority;
3. That the defendant had the intent to commit (theft)
(_____, a felony) therein; and
4. That this act occurred on or about the ____ day of
_____, 19____, in _____ County, Kansas.

Notes on Use

For authority, see K.S.A. 21-3715. Burglary is a class D felony.

The phrases "entering into" and "remaining within" refer to distinct factual
situations. This instruction should employ only the alternative phrase which is
descriptive of the factual situation where the evidence is clear. If it is not, an
instruction in the alternative is proper. See PIK 2d 59.18, Aggravated Burglary,
Notes on Use.

Comment

It should be noted that the legislature did not make "breaking" an element of
this crime.