

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

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

All members were present except:

Representative Dan Williams- excused

Committee staff present:

Jill Wolters, Revisor of Statutes

Diana Lee, Revisor of Statutes

Jerry Ann Donaldson, Kansas Legislative Research Department

Cindy O'Neal, Secretary

Conferees appearing before the committee:

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

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

Terry Holdren, Kansas Farm Bureau

Doug Smith, Kansas Legislative Policy Group

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

The Chairman took requests for bill introductions.

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

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

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

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

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

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

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

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

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

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on January 27, 2004 in Room 313-S of the Capitol.

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

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

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

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

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

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

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

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

Written testimony in opposition of the bill was provided by:

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

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

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

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

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

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

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

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

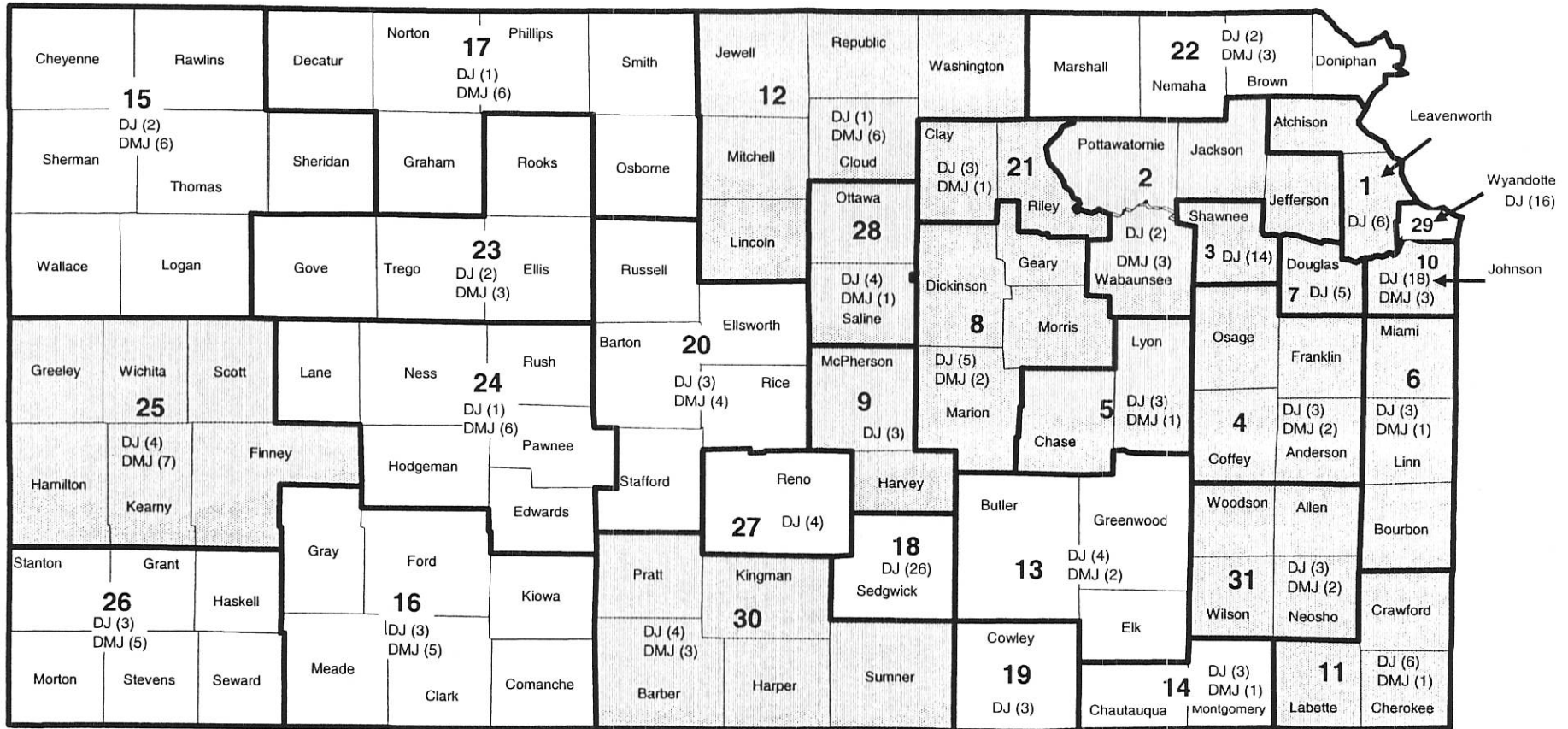
Brian Carroll, Marshall County Attorney ([Attachment 15](#))

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

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

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

# Kansas Judicial Districts (31)



Political Process - 14 districts or 45% (Counties = 53)  
 Merit Selection Process - 17 districts or 55% (Counties = 52)

	Elected Judges	Selected Judges	TOTAL
District Judge	73	87	160
District Magistrate Judge	41	33	74
<b>Total</b>	<b>114</b>	<b>120</b>	<b>234</b>

**KANSAS AVERAGE CASELOAD PER JUDGE COMPARISONS  
DISTRICTS WITH MAGISTRATE JUDGES  
JULY 1, 2002 -- JUNE 30, 2003**

	Total Judges	Total Caseload		Total Less Traffic		Civil and Criminal		District Judges	Chapter 60, Felony, Domestic Relations	
		per judge	rank	per judge	rank	per judge	rank		per judge	rank
District 28	5	2,924	1	1,483	3	1,108	4	4	599	4
District 6	4	2,772	2	1,364	5	1,025	5	3	690	2
District 5	4	2,635	3	1,495	2	1,312	1	3	349	23
District 30	7	2,582	4	721	18	530	18	4	365	21
District 8	7	2,458	5	1,393	4	1,155	3	5	526	10
District 23	5	2,380	6	979	15	773	13	2	549	8
District 2	5	2,357	7	1,141	8	937	8	2	687	3
District 4	5	2,228	8	1,093	9	859	10	3	576	5
District 20	7	2,159	9	987	13	779	12	3	573	6
District 10	21	2,115	10	1,496	1	1,235	2	18	562	7
District 31	5	2,100	11	1,009	12	724	16	3	447	13
District 21	4	2,003	12	1,151	6	952	7	3	429	17
District 13	6	1,868	13	985	14	748	14	4	442	15
District 14	4	1,820	14	1,148	7	914	9	3	420	19
District 16	8	1,672	15	806	17	656	17	3	365	21
District 26	8	1,657	16	882	16	743	15	3	404	20
District 11	7	1,613	17	1,065	11	785	11	6	432	16
District 25	11	1,582	18	1,091	10	980	6	4	427	18
District 15	8	1,539	19	432	20	329	20	2	447	14
District 12	7	1,103	20	389	21	264	22	1	738	1
District 22	5	1,085	21	630	19	452	19	2	492	12
District 24	7	894	22	376	23	262	23	1	525	11
District 17	7	812	23	382	22	273	21	1	528	9
Total Caseload	157	1,883		992		792		83	501	
Statewide Caseload	234	2,185		1,296		1,088		160	504	

**KANSAS AVERAGE CASELOAD PER JUDGE COMPARISONS  
DISTRICTS WITH DISTRICT JUDGES ONLY  
JULY 1, 2002 -- JUNE 30, 2003**

155

	Number of Judges	Total Caseload		Total Less Traffic		Civil and Criminal		Chapter 60, Felony, Domestic Relations	
		per judge	rank	per judge	rank	per judge	rank	per judge	rank
District 3	14	3,847	1	3,015	1	2,835	1	491	3
District 9	3	3,616	2	2,003	2	1,630	2	415	7
District 27	4	3,239	3	1,863	3	1,453	4	605	1
District 18	26	2,744	4	1,735	4	1,522	3	593	2
District 7	5	2,480	5	1,512	7	1,293	7	420	6
District 1	6	2,393	6	1,594	6	1,323	6	480	4
District 29	16	2,128	7	1,615	5	1,428	5	433	5
District 19	3	1,928	8	1,223	8	981	8	386	8
Total Caseload	77	2,800		1,914		1,690		507	
Statewide Caseload	234	2,185		1,296		1,088		504	

TESTIMONY CONCERNING HB2495  
Judge Ann L. Dixon  
January 27, 2004

MR. CHAIRMAN, JUDICIAL COMMITTEE MEMBERS AND GUESTS,

Thank you for the opportunity to speak to you today. I am District Magistrate Judge Ann Dixon from Kiowa County. I am here today on behalf of the Kansas District Magistrate Judges Association as Vice President and Legislative Chairman. I understand that in the past when the "one judge per county" issue has come up for hearing the question has been raised why this room wasn't flooded with District Magistrate Judges opposed to the proposed legislation. They regret they cannot be present today but they place great importance in their commitment to serve their respective courts and the people who elected them. They have given our committee the responsibility of voicing their united view concerning HB2495.

It seems the issue of repeal or amendment of "one judge per county" as provided in KSA 20-301b is raised each year due to the need for Magistrate Judges in the urban areas. KSA 20-301b was created during court unification in the 1970's and provides for equal access to the court in every county of the state for all taxpayers regardless of where they choose to reside. 20-301b states: "*In each county of the state there shall be at least one judge of the district court who is a resident of and has the judge's principal office in that county.*" This promise of a resident judge gave all the citizens of the state confidence they would have a judge in their county

to provide equal and timely access in resolving disputes and acquiring justice

When KSA 20-301b was drafted and continuing to today, this statute is concise and consistent in setting the **minimum** expectation of one judge in each county of the state. HB2495 removes these clear-cut minimums and discriminates against certain counties.

Many services to rural counties such as the local SRS offices have already been abolished and reallocated to more populated areas of the state. The proposed legislation would put many rural counties at an extreme and dangerous disadvantage as compared to their urban counterparts. It is much like requiring a person to donate one or more vital organs while they are still alive. It could mean a better lifestyle for the receiver, but one can only donate so many vital processes without certain death. Rural counties have given all they can possibly sustain.

In her State of the State address, Governor Sebelius placed substantial emphasis on rural development as part of her plans. To remove the resident judge from any county of the state is counter-productive to rural life. The judge is available to offer direction or to advise those who come in or call with a question. Many times, the judge has knowledge of services that are available that may assist citizens with their needs and is able to direct the person in the right direction. The resident judge is also a respected member of their community who serves in other activities and boards outside the courtroom. This benefits the local communities and the state in a multitude of ways. Some of these committees and activities are: the District Juvenile Justice Committee, Wrap-Around Services Board, CASA, DARE, school

activities, Rotary, Lions Club and other service organizations. Many of these meetings are scheduled outside District Court hours, but Magistrate Judges serve on these boards because they consider it part of their judicial responsibility even though it is outside their 'job description'. In urban areas these extra-judicial activities may seem insignificant, but these commitments make a huge impact for the smaller communities and for the rural Judicial Districts.

In the proposed legislation in counties where a judicial position would be eliminated, a judge from another county in the judicial district would be assigned as the part-time judge for that county. The judge would then run for election in both counties. This proposal puts the less populated county at a disadvantage in the electoral process because they would have fewer votes to elect a candidate of their choice. Also, the part-time judge would not reside in that county and that would place citizens and law enforcement at a critical disadvantage.

Currently, resident Judges are available 24 hours a day for search warrants and other emergency orders. Without fulltime local access to the court, law enforcement would have to travel substantial distances to obtain search warrants. This increased burden on law enforcement could cause crucial evidence to be lost while waiting for a search warrant to be obtained. Additionally, expenses paid by counties to law enforcement would also escalate immediately due to prisoners, juvenile offenders, and care and treatment patients being transported for statutory hearings. The additional risk to law enforcement and those they transport also increases with each additional mile that must be traveled. When law enforcement is tied up in



transport time, it means fewer officers available to investigate crimes and protect the public.

Emergency orders for protection from abuse, protection from stalking, or other motions for immediate hearing in emergency situations can be made at any time and the resident judge is available to hear these cases and determine if these orders should be granted. Many times, the person seeking the protective order doesn't have access to a vehicle to drive to another county to have their case heard, and they cannot wait till a judge will hold court in their county. The threat to safety, or even life is very real in these situations. The possibility also exists of the need for emergency orders in Guardianship cases when the disable person has sustained life threatening health conditions and the guardian needs the permission of the court to make those decisions. In my court, we recently had such a request for an emergency hearing on a guardianship case and we had a hearing at 11:00 o'clock one evening when the person became critical.

In recent years, the Supreme Court initiated the program "Elder Law Week". Resident judges planned programs and recruited the local Bar and other agencies to educate the elderly in their communities about the Court and the rights of the elderly in our communities. This segment of our society is one of the least likely to be able to drive to another county for emergency hearings when the services they request need immediate hearing.

**There are solutions available to provide the needed Judges to urban districts without robbing other counties of their fulltime access to the court.** In her 2002 State of the Judiciary report Chief Justice Kay McFarland stated: *"Adding District Magistrate Judges has proved to be a cost-effective way to manage increasing caseloads....the lower salary of a*

*District Magistrate Judge coupled with less support staff makes this a cost effective caseload management tool.”*

District Magistrate Judges are qualified to hear 87% of the cases filed in District Court and receive 47% of the compensation as compared to a District Judge. However, in many judicial districts, predominately in urban areas, District Magistrate Judges are not being utilized to hear these cases. It would appear that the State could save a substantial amount of taxpayer dollars by filling District Judges positions vacated by retirement or death with multiple District Magistrate Judge positions. Thus, the efficiency of the urban Courts would be increased, overall expense to the State would decrease, and equal access to the courts would continue for everyone. Judge Hooper did the calculations on this proposal last year and it has the potential to save the State taxpayers **approximately 2.5 million dollars** a year if the ratio was 50 % district judges and 50 % District Magistrate Judges while increasing the total number of judges statewide.

**HB2495 fails to address these issues!!**

The evaluation by caseload proposed in this legislation does not reflect the impact of the resident judge in the community. As we all know, numbers can be slanted to reflect whatever the desired outcome is. Traffic cases were not included in the caseload evaluation though we know that in most counties, traffic cases bring in a **substantial** amount of income to the state general fund. In my home county for instance, traffic cases brought in over \$300,000 in revenue to the state last year in fines and court costs. If a percentage of this revenue were returned to the Judiciary, there would be no Judicial Branch budget shortages and the positions requested in the urban areas could easily be funded.

Additionally, a growing number of the traffic cases filed are misdemeanor charges such as DUI, driving while suspended, no valid drivers license, and no insurance. In many counties, approximately one-third or more of the traffic cases filed are misdemeanors that have mandatory jail sentences and fines. These cases require a first appearance, arraignment, and sentencing and many also require bond hearings or trials. **If Traffic cases are not considered, it gives an extremely narrow view of the activity of the court.**

As a separate Branch of government, the Judicial Branch should be adequately funded by the Legislature. This should be the goal of every member of this respected committee. You have at your disposal numerous ways of supplying the needed judges without causing grave hardship on the rural counties. I submit to you:

**It is time** to think outside the small box of this proposed legislation!!

**It is time** to adequately fund the Judiciary as a separate Branch of Government by returning a percentage of fines and court costs to the Judicial Branch budget.

**It is time** to consider **all** the taxpayers of this State worthy of equal access to the court no matter where they choose to reside.

**It is time** to be accountable to all the citizens of Kansas as public servants and true statesmen and come together to formulate a **comprehensive plan** that will benefit **all** the residents of our state.

On behalf of the voters who trust us and elect us to serve, the Kansas District Magistrate Judges Association urges this committee not to pass HB2495 out of this committee. Thank you for allowing me to testify. Are there any questions?

January 27, 2004

Mr. Chairman, Members of the Committee, I would like to thank you for the opportunity to address you today.

I am Michael A. Freelove, District Magistrate Judge, 16<sup>th</sup> Judicial District, from Clark County, Kansas.

I am here to voice my opposition to house bill 2495.

I have questions on some of the sections of this bill.

Section 18 (b) is contradictory to section 13 and 16. Section 18 states the chief judge of the district where a position is eliminated and reassigned is given the duty to assign a magistrate judge from another county to cover the position in the county of elimination and reassignment. Section 13 eliminates the requirement for a resident judge in each county. It provides for the chief justice of the supreme court to make assignments to one or more counties in the district. It also states that the judge may be full time or part time. Is the intent of the bill to make the judge assigned to more than one county a part time judge in each county, in reality making this a full time position? Section 16 also provides for the chief justice of the supreme court to make these assignments. Who will make these assignments the chief justice of the supreme court or the chief judge of the district? What will be the criteria for selecting these judges?

Also, section 18 provides for a caseload of 600 cases per judge as a guideline for the elimination or reassignment of a district magistrate judge position. Section (d) excludes traffic. The traffic code has many misdemeanor charges that require court appearances, as well as infractions for commercial drivers that no longer are eligible for diversions. I have personally had three court trials in the last two months for commercial drivers ineligible for diversions.

As we all know the age of technology has provided us with a wealth of information accessed through the Internet. This includes instructions on beating a traffic citation, more especially a speeding ticket. Information is available on discovery motions, instructions for challenging radar, plus a number of other tricks that can be used to drag out proceedings, using up the court's time ruling on endless per trial motions.

More importantly, the traffic code contains the DUI statutes; as well as other alcohol related offences that must have a court appearance. I do agree that many of the traffic infractions are simply "take in the fine and court costs and fill out the disposition". However, those matters that are contested can be very time consuming and taxing on all parties involved.

Section 18(b) states that the caseload shall not exclude the cases pursuant to the Kansas code for the care of children under Article 15, and the Kansas juvenile justice code, under Article 16 of chapter 38, and the probate code in Chapter 59. It makes no mention of the criminal or civil jurisdiction of the district magistrate judge. Will these cases be counted as part of the 600? I believe all cases heard by a district magistrate judge should be included in the 600 case count.

Once again, I feel there is a better way to provide more judges for our courts and stay within acceptable budgetary guidelines. I think this can be accomplished by retaining the resident judge per county and by the use of district magistrate judges in the larger districts. The smaller counties would still have the services of a local judge and I believe these larger districts would be as pleased as Johnson and Finney counties are with the services provided by their district magistrate judges.

Thank you.



# **Kansas Farm Bureau**

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## *PUBLIC POLICY STATEMENT*

### HOUSE JUDICIARY COMMITTEE

Re: HB 2495—Eliminating the requirement of one judge per county.

**January 27, 2004  
Topeka, Kansas**

**Presented by:  
Terry D. Holdren  
Associate State Director  
KFB Governmental Relations**

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Chair O'Neal, Vice Chair Patterson and members of the House Judiciary Committee, thank you for the opportunity to appear today. I am Terry Holdren and I serve as Associate State Director – Governmental Relations for Kansas Farm Bureau (KFB). As you know KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

We stand before you today in opposition to HB 2495. This measure would allow both District and Magistrate level judges to be removed from their current assignments and reassigned to locations where caseloads are higher. While we understand the need for judicial economy in these difficult economic times we would ask that you consider the following.

Our members, representing each of the 105 counties across the state, have adopted policy **strongly supporting the requirement that there be at least one judge in each county.**

Judges in less populated communities play a vital role in the community and provide critical service to local law enforcement and attorneys. Their presence ensures access to the judicial system and facilitates compliance with Kansas law requiring hearings within 48 hours for individuals who have been incarcerated, children who have been removed from their homes, and juveniles who have been detained. They also provide jobs and contribute to the economies of struggling communities.

We appreciate the opportunity to present these comments today. KFB stands ready to assist this committee to ensure that all Kansans have the opportunity to have their concerns addressed by our judicial system.

Thank you.

*Kansas Farm Bureau represents grass roots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.*

**Kansas Legislative Policy Group**  
**Remarks Concerning House Bill No. 2495**  
**House Judiciary Committee**  
**January 27, 2004**

*Chairman O'Neal and Members of the Judiciary Committee:*

Thank you for the opportunity to present remarks regarding House Bill No. 2495. Kansas Legislative Policy Group (KLPG) is the representative voice for County Commissioners from more than 30 Western Kansas Counties.

We appear today as opponents to this measure.

First let us say that we agree with the first section of the Special Committee on Judiciary's conclusions and recommendations to the 2004 Legislature. The courts in this state need to be adequately funded to carry out their constitutional responsibilities and our county commissioners make every effort to carry out that task in their local communities.

Let us also say that we know that counties within our membership are the primary targets of this legislation and we are concerned about the adverse impacts our member counties will experience. We wish we had eloquent remarks to present to you today on the evils of this legislation, but we don't. We do know that there will be impacts to our communities. We know that access to the courts may be delayed in both the courtroom and judge's chamber. Our court's caseloads are expanding due to methamphetamine lab activity and increased filings on juvenile cases and we know that any delay may add to that load. We want you to consider above all things the fairness of this legislation.

Under this legislation if a community has their judge eliminated by the Chief Justice and it is the county's desire to retain them, the county may do so at their own expense. Why is it now the county's responsibility to pay if they lose a position, but a community that receives a new judge has no additional financial obligation? If a community desires to have additional judges why can't they do so as at their own expense, just as you are requiring us to do in order to retain what we currently have.

You are placing a greater burden on counties with dwindling resources and declining populations than on other counties. You will be asking the 27,000+ residents of the 15<sup>th</sup> Judicial District, as an example, to pay for access to justice so that the 170,000 residents in the 3<sup>rd</sup> Judicial District can have better access. Is that fair and equitable?

We believe that there is a sense of frustration throughout our membership and you are the sounding board. Our counties are continually asked to do more with less, or in this instance pay more to maintain the same level of service.

We understand the difficult position you have been placed in and trust that will you fully consider the impacts and respectfully request that you consider our remarks as you work your way through this issue.

Thank you for your time and consideration.

Douglas E. Smith  
For Kansas Legislative Policy Group

House Judiciary Committee  
1-27-04  
Attachment 6



MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to address you today.

I am Brad Harris, Sheriff of Clark County, Kansas. I am here today as a member of the Law Enforcement Community of our Great State to stand in opposition to House Bill 2495.

This bill contains many very disturbing sections that cause a great deal of concern to law enforcement agencies across the State. There also many areas of this particular bill that would enrage the citizens of the State of Kansas if they were to be made public and understood by the general public.

First of all, this bill would eliminate the ability of citizens in a lesser populated county to have a choice in who their judge will be. The requirement of a magistrate judge to follow the election laws of a district judge would allow the larger populated areas of the judicial district, due to the number of votes available, to dictate who would be the judge for the lesser populated counties.

Safety, liability issues and additional funding requirements should be considered when considering this bill. With the elimination of several magistrate judge positions, law enforcement agencies would be forced to constantly transport inmates several miles for court proceedings thus increasing a county's liability and decreasing officer, inmate and public safety. For many sheriffs' offices, this would require the only officer on duty to be out of the county transporting an inmate to court. This will force those counties to hire additional personnel to provide this service and still provide law enforcement coverage in their counties.

Evidence in criminal cases could be jeopardized due to an officer having to drive a two to three (2-3) hour round trip to obtain a search warrant. Again, additional costs to the citizens of that county. Search warrants may be faxed and sworn testimony may be taken over the telephone if that particular judge is willing to swear that he was positive that the officer on the phone was, in fact, who he or she claimed to be.

Emergency protection from abuse orders could be delayed for several hours and possibly victims severely injured while the only officer on duty is attempting to locate a judge that is available and willing to get out of bed and go to the office at 3:00 a.m.

Requirements of K.S.A. 20-310a for magistrate judges will mandate that only licensed attorneys may fill those positions. This will not only eliminate many, many qualified persons from becoming magistrate judges but will also reduce the already inadequate number of attorneys available for court appointments in criminal cases in the rural counties. This requirement will increase the already ridiculous length of time it takes to complete a criminal case. Many of our felony criminal case sentencing hearings are delayed sixty to ninety (60-90) days because the attorneys cannot juggle their calendars

to coincide with the one-half (1/2) day a month that the district judge is in our county. These delays are extremely costly to counties due to additional inmate housing costs.

The proposed method of counting case loads to determine if a magistrate judge is justified, is absurd reasoning and displays a complete lack of common sense and concern for public safety and sentiment. I would certainly hate to be in your position when it comes time to explain to parents who have lost a child because of a drunk driver, why you voted that a person charged with driving while intoxicated, which is a traffic case, is not nearly as important of a case as the case of the person, who committed criminal damage by throwing a rock and breaking someone's window.

There has been a proposal presented to the State that would increase the number of judges and, at the same time, save the State of Kansas several million dollars each year. This proposal would not only save the State of Kansas money, but would save millions of dollars each year at the county level, as well, in inmate transportation and housing costs because there would be more judges to hear cases and shorten the length of time a person was waiting in jail to complete the criminal process.

Allowing a magistrate judge to hear criminal trials through a level 5 felony and sentence any uncontested felony case would assist in eliminating the backlog of criminal cases clogging our court system today. There are other types of cases a magistrate judge should be allowed to hear and rule on as well. After all, we allow a magistrate judge to sever a persons parental rights to their child or children, surely those same judges are capable of imposing a felony sentence by reading and using the sentencing guideline grids. This process would also save the counties millions of dollars in housing costs every year.

Instead of eliminating the jobs of the magistrate judges, we should work on adding additional judges, boosting the economy of the State, streamlining the judicial system, while at the same time saving taxpayers of the State of Kansas millions of dollars each and every year in both state and local taxes. The proposal I am referring to would do just that.

I think you will agree with me when I say that as elected officials, we were all elected to perform the duties of our particular offices in the most cost efficient ways possible.

Thank you for your valuable time and the opportunity to address you concerning this bill.



# MADD

Activism | Victim Services | Education™

Mothers Against Drunk Driving  
KANSAS STATE OFFICE  
3601 SW 29th St., Suite 211  
Topeka, KS 66614  
Phone (785)271-7525  
1-800-228-6233  
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Representative Michael R. O'Neal, Chairman  
House Judiciary Committee  
State Capital, Room 170-W  
300 SW 10<sup>th</sup> Ave.  
Topeka, Kansas 66612

January 23, 2004

Dear Rep. O'Neal and House Judiciary Committee Members,

Kansas Mothers Against Drunk Driving (MADD) will be unable to attend the Judiciary Committee hearing on House Bill 2495 scheduled for January 27, 2004. MADD would like to submit written testimony regarding this bill.

In HB 2495, it is MADD's understanding that those counties presently being served by district magistrate judges would stand to lose those judges whose caseload would fall below 600 cases. It is MADD's understanding that the minimum caseload number required to retain a magistrate does not include misdemeanor cases, which are alcohol-related offenses and other serious traffic offenses. Although some of these cases are handled administratively, many are not. MADD does not understand the basis for eliminating these offenses from the caseload count.

MADD questions whether such legislation will prove to be a money saving effort. It would appear this legislation would allow the Supreme Court to eliminate a district magistrate judge position based on a caseload of 600 and have the ability to transfer the position to another judicial district. Those judges in the district losing a magistrate judge would be required to assume the additional caseload without additional funding.

MADD is concerned over the potential loss of a strong judicial presence in the rural Kansas counties which would most likely be impacted by HB 2495. Although approximately 85% of alcohol-related crashes occur within the 30 most populous counties in Kansas, 56% of alcohol-related crash injuries and 57% of crash fatalities come from the rural counties. Approximately 58% of drunk driving crash victims served by Kansas MADD's statewide victim assistance program come from the rural counties. The rural areas are in as much need of DUI adjudication as the most populous counties. The loss of a district magistrate could create a backlog of cases in some jurisdictions regarding alcohol-related offenses.

MADD has reservations about HB 2495 and cannot support the bill with the present language regarding district magistrate judge caseload quotas.

Thank you for allowing this written testimony to be submitted to the House Judiciary Committee.

Sincerely,

Wanda Stewart  
State Chairperson  
Kansas MADD



**THE STATE OF KANSAS**  
TWENTY-FOURTH JUDICIAL DISTRICT  
Serving  
EDWARDS, HODGEMAN, LANE, NESS, PAWNEE and RUSH COUNTIES

Pawnee County Courthouse  
715 Broadway  
P.O. Box K  
Larned, Kansas 67550  
Facsimile (620) 285-3665

**BRUCE T. GATTERMAN**

Chief Judge  
(620) 285-2247

**CORINE BOMAN**

Chief Clerk  
(620) 285-2188

**PAULA TAMMEN**

SCHEDULING  
Administrative Assistant  
(620) 285-2247

**DEBI HUNTER, C.S.R.**

Official Court Reporter  
(785) 222-3604  
or  
(620) 285-2247

January 26, 2004

TO: Members of the House Judiciary Committee

Thank you for this opportunity to provide written testimony to the House Judiciary Committee in conjunction with your hearing for House Bill 2495.

I am the Chief Judge of the 24<sup>th</sup> Judicial District, which is comprised of six counties. Each county in our District has a District Magistrate Judge. I am the only District Judge in the 24<sup>th</sup>, which geographically measures approximately 110 miles east and west, and 125 miles north and south.

HB 2495 has been promoted as a reallocation of existing judicial resources. The proposed Legislation does not represent cost savings, and in fact would likely result in greater public expenditure due to increase in travel costs for Districts which no longer would have a sitting Judge in each county. (See fiscal note authored by Director of Budget dated February 17, 2003 relating to HB 2307.)

The same fiscal result as that created by HB 2495 could be achieved by assignment of District Magistrate Judges on a rotating basis to those counties demonstrating a need for additional judicial services. Under this proposal, there would be no need to modify or repeal existing law.

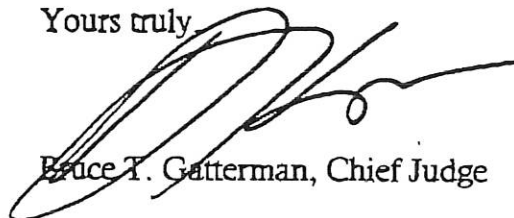
The Special Committee on Judiciary is on record supporting adequate funding of the Judicial Branch in order to allow the judiciary to perform its constitutional duty. I am advised that several Kansas judicial districts have demonstrated a need for creation of a new District Magistrate Judge position in their respective district. These positions should be

funded by the Legislature as it deems appropriate. Conversely, these positions should not be filled by cannibalizing other judicial districts.

Caseload should not be the sole barometer of the need for a judicial position. The need for a Judge is often one of timeliness for public and personal safety, including by way of example, applications for a search warrant; emergency orders for protection from abuse or stalking; protective orders in a child in need of care case; or prompt action in a care and treatment case. Rural Kansans pay the same taxes as their urban neighbors; both are entitled to the timely protection and service provided by a local Judge.

Thank you for your attention to and consideration of these remarks. I urge your rejection of HB 2495 or similar Legislation. If any of you have questions, please feel free to contact me at (620) 285-2247.

Yours truly,



Bruce T. Gatterman, Chief Judge

BTG:pt

# ELK COUNTY SHERIFF'S OFFICE

Sheriff Janet Harrington

100 N. Cedar, Box 127

Howard, Ks. 67349

620-374-2108

FAX # 620-374-3503



**In regard to HB 2495, I would like to only say this:**

Imagine, if you will, that the Elk County Sheriffs Office has arrested you for a crime or a traffic violation. You, as an incarcerated person, have the right to have a complaint filed against you and bond set within 48 hours of your arrest. Please read the statute below about your rights as a prisoner.

22-2901. Appearance before the magistrate.

(1) Except as provided in subsection (7), when an arrest is made in the county where the crime charged is alleged to have been committed, the person arrested shall be taken without unnecessary delay before a magistrate of the court from which the warrant was issued. If the arrest has been made on probable cause, without a warrant, he shall be taken without unnecessary delay before the nearest available magistrate and a complaint shall be filed forthwith.

(2) Except as provided in subsection (7), when an arrest is made in a county other than where the crime charged is alleged to have been committed, the person arrested may be taken directly to the county wherein the crime is alleged to have been committed without unnecessary delay or at the request of the defendant he shall be taken without unnecessary delay before the nearest available magistrate. Such magistrate shall ascertain the nature of the crime charged in the warrant and the amount of the bond, if any, endorsed on the warrant. If no warrant for the arrest of the person is before the magistrate he shall make use of telephonic, telegraphic or radio communication to ascertain the nature of the charge and the substance of any warrant that has been issued. If no warrant has been issued, a complaint shall be filed and a warrant issued in the county where the crime is alleged to have

been committed, and the nature of the charge, the substance of the warrant, and the amount of the bond shall be communicated to the magistrate before whom the defendant is in custody. Upon receipt of such information, the magistrate shall proceed as hereinafter provided.

(3) The magistrate shall fix the terms and conditions of the appearance bond upon which the defendant may be released. If the first appearance is before a magistrate in a county other than where the crime is alleged to have been committed, the magistrate may release the defendant on an appearance bond in an amount not less than that endorsed on the warrant. The defendant shall be required to appear before the magistrate who issued the warrant or a magistrate of a court having jurisdiction on a day certain, not more than 10 days thereafter.

(4) If the defendant is released on an appearance bond to appear before the magistrate in another county, the magistrate who accepts the appearance bond shall forthwith transmit such appearance bond and all other papers relating to the case to the magistrate before whom the defendant is to appear.

(5) If the person arrested cannot provide an appearance bond, or if the crime is not bailable, the magistrate shall commit him to jail pending further proceedings or shall order him delivered to a law enforcement officer of the county where the crime is alleged to have been committed.

(6) The provisions of this section shall not apply to a person who is arrested on a bench warrant. Such persons shall without unnecessary delay be taken before the magistrate who issued the bench warrant.

(7) If a person is arrested on a warrant or arrested on probable cause without a warrant, pursuant to a violation of subsection (a)(1)(C) of K.S.A. 21-3721, and amendments thereto, such person shall not be allowed to post bond pending such person's first appearance in court provided that a first appearance occurs within 48 hours after arrest. The magistrate may fix as a condition of release on the appearance bond that such person report to a court services officer. Nothing in this section shall be construed to be an unnecessary delay as such term is used in this section.

*History: L. 1970, ch. 129, § 22-2901; L. 1996, ch. 211, § 3; July 1.*

During the booking process, you ask when you will see a judge. You are told that it may be at least 30 days, as we do not have a judge in the county

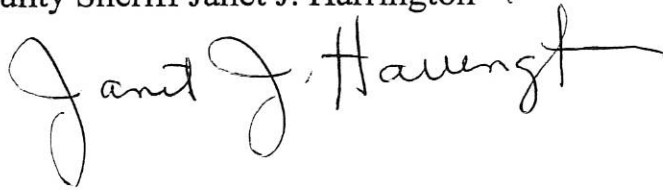
until then. The sheriff has just violated K.S.A. 22-2901 because the legislature has decided to eliminate the one judge per county law.

We as law enforcement officers take into custody adults, juveniles, children in need of care, and everyone single one of these citizens has the right to see a judge as soon as possible. The legislature has put many time restraints on court proceedings such as the 72 hour law that says a Child in Need of Care will be seen in the court by a judge within 72 hours of being taken into custody. Juvenile offenders must be seen with 48 hours.

If you take away the magistrate judge in Elk County, and I am sure this will apply in other rural counties, I would have to put my deputies on the road, traveling to Eureka or to El Dorado, having judges see my prisoners. I only have 2 deputies. I would have to hire deputies to transport, buy more cars, and spend more money. It would not be cost effective for Elk County. Elk County is already stretching their budget dollars about as far as they will stretch.

Please do not take away the one judge per county law. We need our magistrates to make sure that court is held within a timely manner. If we have to wait until a district judge is able to travel from Eureka or El Dorado, we will be violating the rights of the citizens that are under the protection of the county sheriff.

Elk County Sheriff Janet J. Harrington

A handwritten signature in black ink that reads "Janet J. Harrington". The signature is written in a cursive style with a long, sweeping horizontal line at the end.





DISTRICT COURT  
THIRTEENTH JUDICIAL DISTRICT  
STATE OF KANSAS

January 23, 2004

RESIDENT CHAMBERS  
GREENWOOD COUNTY COURTHOUSE  
311 N. MAIN, P.O. BOX 425  
EUREKA, KANSAS 67045

JOHNE E. SANDERS  
DISTRICT JUDGE  
(620) 583-8151  
FAX (620) 583-8152

The House Judiciary Committee  
The Kansas Legislature  
State Capitol  
Topeka, Kansas

RE: House Bill No. 2495

Dear Committee Members:


This letter is to express my personal opposition to House Bill No. 2495 which would eliminate the "one judge per county" law. It has long been my belief that no citizen or law enforcement agency in this state should ever be more than approximately fifteen minutes away from access to a judicial officer in person. I believe this is the very least we owe the citizens of this great state.

I also believe that HB. No. 2495 is a breach of the trust originally made by the Kansas Legislature in the late 1970's with our rural citizens. It is my understanding that during court consolidation negotiations, a deal was struck between urban and rural legislators to trade votes for court reorganization in exchange for a promise to retain judges in every county. I realize that one Legislature cannot bind another, but yet if that was the agreement, we should respect it.

If we simply "shuffle deck chairs", I do not see much hope that tax dollars will be saved in any appreciable amounts or for any significant amount of time. If we need new judicial resources in some areas, by all means let us allocate the money to get it, and quickly. Justice never comes cheaply and should not.

Thank you very much for your kind consideration .

Respectfully,

  
John E. Sanders, District Judge

JES:tfe

House Judiciary Committee

1-27-04

Attachment 11

DAVID A. BRACE  
COUNTY ATTORNEY OF  
ELK COUNTY, KANSAS

Office in Moline  
208 N Main, P.O. Box 307  
Moline, Kansas 67353  
(620) 647-3292  
(620) 647-3293 - Fax

Elk County Courthouse  
Howard, Kansas 67349

January 23, 2004

Kansas State House  
Judiciary Committee  
Topeka, Kansas 66612

Re: Written testimony concerning the relocation of certain Magistrate Judges

Ladies and Gentlemen of the House Judiciary Committee:

It has been my experience as County Attorney in Elk County, Kansas, that the necessity of a full time magistrate judge in each county is increased year by year due to the implementation of various programs which require action by a magistrate judge. For instance, since Juvenile Intake has been established in Elk County, more children are placed in protective custody than prior to Juvenile Intake implementation. In each case, whether or not the children are in need of care or juvenile offenders, certain timelines are established anywhere from 24, 48 or 72 hours pursuant to the juvenile code. It is necessary for the children to be transported for a hearing in the presence of a district judge or a magistrate judge. 13<sup>th</sup> Judicial District district judges are having increasingly heavy caseloads and are scheduled months ahead of time. Without a magistrate available in the county, some deadlines may be missed or guardian ad litem, parents, children and prosecutors find it necessary to travel to an adjoining county District Court for the purpose of completing detention hearings or releasing children from protective custody.

There is increasing use in juvenile offender and CINC cases of the valid court order requiring the child to stay in current placement. Violations of those orders require a preliminary hearing within 24 hours. The same problem exists as with protective custody detentions.

Although search warrants can and have been issued by fax and telephone, appearances before a district judge in an adjoining county in the judicial district it is generally preferred to have the affiant in the presence of the judge at the time the information is presented to the judge for a search warrant.

House Judiciary Committee  
1-27-04  
Attachment 12

House Judiciary Committee  
January 23, 2004  
Page 2 of 2

The one judge per county allows the magistrate to hear the evidence, review affidavits during office hours and, in the case of Elk County, after office hours, as soon as the material is put together by the Sheriff's Office. Much of the time information for search warrants is developed after regular office hours and warrants are issued by the Magistrate Court in Elk County any time of the night. To do so by fax with a district judge in another county seat would require the judge to go to the Courthouse and have available a fax machine to complete the warrant.

In summary, I believe that anything less than a full time magistrate judge in Elk County, Kansas, would be an imposition on the citizens of Elk County, Kansas, as well as an added expense and inconvenience for law enforcement.

Yours very truly,



David A. Brace

DAB:cjr

# Marla Foster Ware

ATTORNEY

Howard, Kansas 67349

OFFICE  
620) 374-2236

FAX  
620) 374-2329

January 22, 2004

## **To the Members of the House Judiciary Committee:**

Dear Members:

Thank you for this opportunity to write you about my concerns on allocation of judiciary resources. I am a practicing attorney, in solo practice, in Elk County, Kansas. Elk County population numbers approximately 3500.

I am aware that your committee is considering a proposal which if passed by the legislature would allow the Kansas Supreme Court to eliminate and reassign District Magistrate Judge positions based largely on the amount of case load for that County. This would alter the current one county-one judge law. The one county-one judge law makes certain that each county maintains a judicial resource and a judicial presence.

I am concerned that the proposed change would remove that resource from Elk County. I am opposed to the measures proposed in Substitute HB 2307. Currently the voters of Elk County chooses the Magistrate Judge. The Judge in our County presides over a variety of issues. For example, the Judge presides over small claims, domestic disputes, neglect of children, probate matters, misdemeanor criminal cases, as well as traffic cases that range from speeding tickets to major drinking and driving infractions. I understand that not all of these cases are "counted" when considering the Judge's case load. Further our Judge is assigned on a weekly basis to preside over cases in other counties in our Judicial District. Are these cases counted as part of her "case load"?

Each day Elk County is assaulted with the erosion of resources. We are losing our local SRS office in March. The decision to close the office was made by someone who is not a "stakeholder" nor has much interest in our County.

I am afraid that placing the power to eliminate a Judge position with the Kansas Supreme Court will again allow a non-resident, non-stakeholder decide for Elk County what services we are permitted. Such decision will be justified by "the changing demographics" of Kansas, or referral to an arbitrary number defined as "case load". Our numbers don't look good and like ratings for T.V. shows, we get the axe.

Please stop and consider the consequences of this bill. Should declining "numbers" even be used to determine adequacy of judicial resources and needs? How much does cutting the resources do in promoting the decline in the numbers? Our Judicial District seems to allocate resources very adequately within the 13<sup>th</sup> Judicial District. A change in the current law seems neither necessary nor appropriate.

Thank you again.

Sincerely Yours,



Marla Foster Ware  
Attorney at Law  
Supreme Court No. 10193

House Judiciary Committee  
1-27-04  
Attachment 13

Gary House  
ATTORNEY AT LAW

119 N. Chautauqua  
P.O. Box 6  
Sedan, Kansas 67361

Area Code 620  
Telephone 725-3129  
Fax#620.725.3120

January 23, 2004

House Judiciary Committee  
State Capital Bldg.  
Topeka, Kansas 66612

Re: House Bill 2495

Gentlemen:

This letter is written in opposition to the proposed House Bill 2495 which would abolish the present law requiring a resident judge in every county.

I have practiced law in Chautauqua County, Kansas, since 1965, and Chautauqua County is now a member of the Fourteenth Judicial District. I also do considerable work in the Thirteenth Judicial District. Both these districts have Magistrate Judges. The Fourteenth Judicial District has one Magistrate Judge setting in Chautauqua County, and the Thirteenth Judicial District has two Magistrate Judges, setting in Elk and Greenwood Counties.

To continue the quality of service from the judicial system which we have, I think a resident judge in each county is required. Our Magistrate Judge in Chautauqua County conducts court on Mondays and Fridays, and we have a District Court Judge which comes on Wednesdays. In Elk County, the Magistrate Judge is available at least three days per week, with District Court Judges at various other times. In both judicial districts, the Magistrate Judge handles all juvenile court matters, all misdemeanor and felony cases through preliminary hearing, all care and treatment cases, probate cases, limited action/civil cases, adoptions, and traffic cases. They actually handle a larger percentage of the case load than the District Court Judges, although the District Court Judges are required to handle the more complex cases.

I think our present system provides quality service to the citizens of Chautauqua and Elk Counties, Kansas. If we eliminate a resident judge, the end result will be that there will be no resident judge in the smaller counties located in these judicial districts, and the availability of a judge in those counties will be diminished.

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Attachment 14

I further believe that if House Bill 2495 is passed, the end result will be to phase out the Magistrate Judges in the smaller counties which will then increase the case load of the District Court Judges. With that increase in case load, additional District Court Judges will need to be added, which would defeat the alleged purpose of House Bill 2495 to solve budget shortages. Adding additional District Court Judges would increase the budget, and requiring non-resident District Court Judges to travel to counties which did not have a judge would increase mileage for them as well as for the court reporters.

For these reasons, I strongly request that the proposed House Bill 2495 not be passed.

Yours truly,



Gary House

GH/mh

**Brian S. Carroll**  
1201 Broadway  
Marysville, Kansas 66508  
(785) 562-3491 - phone  
(785) 562-2971 - fax  
brian@carroll-lawoffice.com

## MARSHALL COUNTY ATTORNEY

January 26, 2004

Kansas Legislature  
Statehouse  
Topeka, Kansas

RE: Retention of District Magistrate Judges

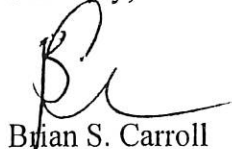
To Whom It May Concern:

The purpose of this letter is to request the 2004 Kansas Legislature to oppose any requests to eliminate certain district magistrate judge positions. As I understand it, there is a proposal to eliminate certain district magistrate positions due to a lack of cases or due to the size of certain counties. I cannot speak for counties other than Marshall County; however, I believe it is imperative to have a district magistrate available as often as possible. Marshall County has a population base of over 10,000 people. Our district magistrate handles criminal cases, traffic cases, child in need of care, small claims, limited actions, probates, and certain temporary orders. Due to the size of our county, our caseload might not seem as high as other counties. Unfortunately, the number of cases does not dictate the workload of the courts. There are times when a methamphetamine manufacturing preliminary hearing may last two days; a child in need of care adjudication might take several days; an attorney might have fifty (50) cites for enforcement of various civil judgments; or, a party may need immediate relief on *ex parte* restraining orders.

By eliminating a judge position, the wheels of justice will be slowed, and the caseload burden will be shifted to someone else. Please consider the effects of eliminating a district magistrate position in smaller counties. Budgets are important, but so is an effective and competent judicial system.

If you have any questions, please feel free to call. Thank you.

Sincerely,



Brian S. Carroll  
Marshall County Attorney

BSC/em

House Judiciary Committee  
1-27-04  
Attachment 15

**GALLOWAY, WIEGERS & HEENEY, P.A.**

**ATTORNEYS AT LAW  
1114 BROADWAY - P.O. BOX 468  
MARYSVILLE, KANSAS 66508  
PHONE 785-562-2375  
FAX 785-562-5348**

**EDWARD F. WIEGERS  
C. THOMAS KIER  
JASON E. BRINEGAR**

**ROBERT F. GALLOWAY (1918-1986)  
RICHARD D. HEENEY  
Retired**

January 26, 2004

To Whom it May Concern:

This firm has been made aware of a legislative bill that would propose to reduce or eliminate Magistrate Judge Positions in certain districts and that this bill could potentially effect jurisprudence in Marshall County. As a firm actively practicing in Marshall County, it appears that nothing could have a more negative impact on the practice of law, the access to justice of the citizenry and the overall viability of the County as a whole.

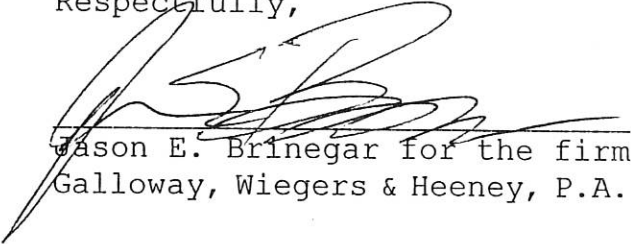
First and foremost this plan would deny Marshall County citizens equal access to justice and force us to pursue many important legal matters in alternative areas or on an entirely new plane. In addition, many matters could not be resolved or completed in the manner that we have deservedly grown accustomed.

Just as citizens of a county deserve to be governed by elected officials in and for their county, so too should these same citizens seek and obtain justice from the appropriate officials in and for that same county.

We can only imagine that each and every county does and should strongly agree that any determination to remove lady justice from the local county courthouses is an wholly erroneous attempt at a solution to this State's budget woes.

In summation, this firm opposes any bill that would call for the removal of Magistrate Judges from individual counties in general and Marshall County in particular.

Respectfully,

  
Jason E. Brinegar for the firm  
Galloway, Wieggers & Heeney, P.A.



Pre-filed Testimony presented to the House Judiciary Committee  
RE: HB 2495  
January 27-28, 2004

Let's cut to the chase. We all know our judiciary is underfunded. At least three judicial districts critically need additional magistrate judge positions. However, those counties may not want to avail themselves of the provisions of K.S.A. 20-301a, the statute used by some counties to employ pro tem judges and to pay for those judges with county funds. As an example, Reno County's Chief Judge recently made some sort of proposal to the Reno County Commission that would allow the Reno County judges to appoint a pro tem. That same proposal would require the Reno County Commission to pay that pro tem judge. Judge Becker's request was rejected. My understanding is that it was rejected because philosophically the Reno County Commission feels it is the state's responsibility to fund the judiciary. On that count, the Reno County Commission is absolutely correct. However, HB 2495 as introduced will potentially force one or more counties in the 17<sup>th</sup> Judicial District, Decatur, Graham, Norton, Phillips, Osborne or Smith Counties, to use local county funds to pay for a district magistrate judge, the very proposal that has already been rejected by the Reno County Commission and probably others. How is that equitable or fair; even beyond that, how will HB 2495 save any money?

Instead of spending valuable committee time in 2003 and 2004 re-visiting the one judge per county issue, why doesn't the legislature move toward an early consideration of the Judicial Branch's proposed FY 2005 budget? Adoption of that budget would be a lot less divisive and contentious than a full consideration of HB 2495 will be. After all, if the proposed FY 2005 budget is adopted and HB 2495 is not, then the 17<sup>th</sup> Judicial District and the other targeted districts will keep their judges and the 8<sup>th</sup>, 9<sup>th</sup> and 27<sup>th</sup> Districts will get new magistrate judge positions. Once more, I don't think anyone can realistically argue that the 8<sup>th</sup>, 9<sup>th</sup> and 27<sup>th</sup> Districts do not need the requested district magistrate positions. I am sure they need those positions just as Decatur, Graham, Norton, Phillips, Osborne or Smith Counties need their magistrate judge positions.

Without question, as proposed, the inherent consequences of HB 2495 will be the enactment of legislation that benefits the influential at the expense of those who are politically vulnerable. For the past couple of years, Kansans have experienced a state financial crisis that has no parallel. Yet, rather than looking for ways to improve the economy and free money needed for vital programs, we, as voters and taxpayers have to track legislation that has little, if any, fiscal impact. What sense does that make? None. At its very roots, this HB 2495 seeks to rob Peter (Decatur, Graham, Norton, Phillips, Osborne or Smith Counties) to pay Paul, and as George Bernard Shaw said, "A government which robs Peter to pay Paul can always depend on the support of Paul."

Hon. William B. Elliott  
Chief Judge of the 17<sup>th</sup> Judicial District

*William B. Elliott*