

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on Monday, March 22, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator Barbara Allen (E)
Senator David Haley - Arrived 10:06, Left 10:08, Returned 10:10
Senator Edward Pugh - Arrived 9:43

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jill Wolters, Office of the Revisor Statutes
Helen Pedigo, Office of the Revisor Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list.

Final Actions on:

HB 2693 - Mistreatment of a dependent adult; increasing penalties if value of financial gain is over \$500

Chairman Vratil called for discussion and final action on **HB 2693**. He explained the bed space impact for the bill showed prison admissions would not increase in 2005, and would increase from 0 to 8 by FY 2014. The impact on offender population levels would be no change 2005, and 0 to 10 additional beds by 2014. (Attachment 1)

The Chair said that this bill was made necessary by the Supreme Court's decision in the Maxon case, and that the House made some amendments to the bill.

Committee discussion followed with clarification regarding the penalty level of \$500.

Senator Umbarger moved to pass **HB 2693** out favorably, seconded by Senator Donovan, and the motion carried.

HB 2638 - Amendments to the community corrections act

Chairman Vratil called for discussion and final action on **HB 2638**. The Chair explained the bill. Senator Schmidt suggested amending **Sub SB 275**, relating to private correctional facilities, into **HB 2638** in order to assure that the Senate bill reached a Conference Committee. He said that **SB 275** came out of the Senate Ways and Means Committee, and passed the Senate 26 to 13. In the House, it was referred to House Corrections and Juvenile Justice. (Attachment 2)

Senator Schmidt made a motion to amend the provisions of **Sub SB 275** into **HB 2638**, seconded by Senator Umbarger, and the motion carried.

Senator Schmidt moved to recommend **HB 2638** favorably for passage as amended, seconded by Senator Umbarger, and the motion carried. Senator Betts requested his "no" vote be recorded.

HB 2742 - Child in need of care records, confidentiality

Chairman Vratil called for discussion and final action on **HB 2742**. The Chair explained the bill, and said there was an amendment to delete lines 8 through 22, on page 11, and delete lines 1 through 13 on page 8. There was also discussion regarding the addition of "executive branch" for restrictive purposes to page 7, beginning on line 37 with the following, "any other federal, state or local government *executive branch* entity or any agent of such entity, . . .".

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:30 a.m. on Monday, March 22, 2004, in Room 123-S of the Capitol.

Senator Donovan made a motion to amend HB 2742 as outlined by the Chairman with the two deletions to pages 8 and 11, and one addition to page 7. The motion was seconded by Senator Goodwin, and the motion carried.

Senator Schmidt moved to recommend **HB 2742** favorably for passage as amended, seconded by Senator Goodwin, and the motion carried.

HCR 5033 - Constitutional amendment; state recognizes only marriage between a man and a woman

Chairman Vratil called for discussion and final action on **HCR 5033**. He explained the bill, and asked if there were any proposed amendments.

Considerable Committee discussion followed in regard to line 29, starting with "no relationship..." and attempting to clarify the definition of "relationship" within the context of the law.

As no amendments were offered, the Chairman called for a motion on the bill.

Senator Oleen made a motion to pass **HCR 5033** out of Committee without recommendation, and seconded by Senator Goodwin.

Committee discussion followed.

Senator O'Connor offered a substitute motion to recommend **HCR 5033** favorably, and seconded by Senator Donovan.

The Chairman explained the motions before the Committee.

Senator Oleen explained her motion to pass the bill out without recommendation. She stated that the bill would be debated on the Senate floor. Senator O'Connor stated she would withdraw her substitute motion since the Majority Leader stated that there would be floor debate on **HCR 5033**.

The Chairman asked if the second to the substitute motion agreed to withdraw his second, and Senator Donovan said that he would not do so. He thought the issue was a defining issue, and needed to be handled in a straight forward manner. People need to cast their votes based on their beliefs; therefore, the bill needs to be taken to the floor without the cloud of "no recommendation" over it. Senator Donovan said that he wanted to vote on **HCR 5033** in the Committee meeting, and would not withdraw his second on the substitute motion.

Chairman Vratil explained that since the second refused to consent to withdrawal of the motion, the substitute motion remained before the Committee.

Chairman Vratil called for a vote on the substitute motion to pass **HCR 5033** out favorably. The motion carried. Senators Umbarger and Schmidt requested their votes be recorded at "yes".

Hearing on:

HB 2880 - Duties of the chief justice of the supreme court, justices of the supreme court and the office of judicial administration

Chairman Vratil opened the hearing on **HB 2880**. The Chair explained the bill which concerned procedural aspects of the Supreme Courts and its internal workings. Representative Mike O'Neal submitted written testimony in support of the proposed legislation. He was unable to appear.

(Attachment 3)

Chief Judge Thomas Tuggle, Twelfth Judicial District, submitted a letter of support on **HB 2880** that was distributed to Committee members. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:30 a.m. on Monday, March 22, 2004, in Room 123-S of the Capitol.

Senator Oleen inquired about a letter from the Supreme Court Justices which the Chairman had disseminated to the Committee. (Attachment 5)

Senator Goodwin pointed out the bill caused concern in the House as it passed by only three votes on February 27 with a vote of 64-61.

The Chairman explained that about 10 days previously the Supreme Court held a meeting. The results of that meeting were contained in a letter distributed to members of the Committee, and signed by all seven members of the Supreme Court. The letter stated that the Court unanimously supported the provisions of the bill dealing with the position of judicial administrator and who the administrator reports to. It is unanimous in its opposition to all other provisions of the bill because the Court feels this is a legislative invasion of the Court's prerogative to determine its own internal affairs. The Chair said the letter, dated February 27, was received after the House acted on the bill.

After announcing that **HB 2880** would be up for final action at the next meeting, March 23, 2004, the Chair closed the hearing on **HB 2880**.

The meeting was adjourned at 10:29 a.m. The next scheduled meeting is March 23, 2004.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Mon., March 22, 2004

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NAME	REPRESENTING
TIFFANY MULLER	KUPA
Melley K. Schmidt	Equal Justice Coalition KANSAS NEBRASKA CONV. OF SOUTHERN BAPTISTS
BOB HANSON	
JIM LORD	TRUTH IN LOVE OUTREACH
Kent Vincent	" " ARMY
Bonnie Cuevas	PFLAG Parents Families & Friends of Lesbians & Gays
Pedro Luis (Luis) Gonzalez	Lawyer
Fred Phelps	Westboro Baptist Church
Libby Phelps	Westboro Baptist Church
Tim Phelps	Westboro Baptist Church
Hezekiah Phelps	Westboro Baptist Church
CHRIS R. DAVIS	WESTBORO BAPTIST CHURCH
MICAHIAH PHELPS-DAVIS	WESTBORO BAPTIST CHURCH
Joseph Phelps	Westboro Baptist Church
Jerry Rindoff	grass root citizen
Joy E Bourdess	Concerned Women for America of Kansas
Shar Hoffman	" "
Marianne O'Connell	" "
Judy Smith	CWA of KS

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Mon., March 22, 2004

Pg. 2

NAME	REPRESENTING
SCOTT SCHNEIDER	GBBA
JAMES MORRIS	-
Cynthia Mize	-
Elizabeth Daniels	Self
Margaret Holden	Self
Wanda R. Strahm	CWA of Ws.
JEFF LUSSE	JIA
Nancy Thompson	Self
Larry Hurlbert	Self
Hiram Stockwell	myself
Juha Butur	KSC
Patti Bigge	KSC
Brenda Harmon	KSC
LAURA KELLY	KRPA
Ginny Devote	KAC
Karen Sutcliffe	
Ken Olson	
Ron Chellman	
Stanley J. Clark	Self



KANSAS

KANSAS SENTENCING COMMISSION

Honorable Ernest L. Johnson, Chairman
 District Attorney Paul Morrison, Vice Chairman
 Patricia Ann Biggs, Executive Director

KATHLEEN SEBELIUS, GOVERNOR

MEMORANDUM

To: Rep. Loyd, Rep. Newton, Paul Morrison
From: Patricia Biggs, Executive Director
Date: February 18, 2004
RE: Fiscal Note on Balloon version of HB 2693

SUMMARY OF BILL:

AN ACT concerning crimes and punishment; relating to mistreatment of a dependent adult; amending K.S.A. 21-3437 and repealing the existing section.

This bill may have impact upon the Kansas Sentencing Guidelines Act (KSGA). Mistreatment of a dependent adult by inflicting physical injury, unreasonable confinement or cruel punishment remains a severity level 6, person felony. This bill creates **three** new person felonies and one new misdemeanor offense for any individual who mistreats a dependent adult for financial gain.

- a new severity level 7, person felony if **the total amount of the value of the resources** is \$25,000 or more
- a new severity level 9, person felony if **the total amount of the value of the resources** is at least \$500 but less than \$25,000
- a new class A person misdemeanor **total amount of the value of services** is less than \$500
- **a new severity level 9, person felony if the total amount of the value of the resources is less than \$500 and is committed by a person who as been convicted of mistreatment of a dependent adult tow or more times within five years of the commission of the crime.**

Section 1 (a) Mistreatment of a dependent adult is knowingly and intentionally:

- (1) inflicting physical injury, unreasonable confinement or cruel punishment upon a dependent adult;
 - (2) taking advantage of a dependent adult's physical or financial resources for another persons financial or personal advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a care taker or another person;
 - (3) not providing goods or services that are necessary to maintain physical or mental health of a dependent adult.
- (b) this does not apply to dependent adults who are receiving treatment by spiritual means through prayer instead of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination that the dependent adult is a member or believes in.
- (c) Dependent adult means an individual 18 years or older who is not able to protect their own interests.
 Dependent adult includes:
- (1) any resident of an adult care home including but not limited to facilities defined by K.S.A. 39-923 and amendments thereto;
 - (2) any adult cared for in a private residence.
 - (3) any person in a medical facility;

- (4) any person with mental retardation or a developmental disability receiving services through a facility licensed under K.S.A. 75-3307b and amendments thereto.
- (5) any person with a developmental disability receiving services through a community services provider as provided in the developmental disability reform act.
- (6) any person in a state psychiatric hospital or state institution for the mentally retarded.
- (d) (1) Violation of subsection (a) (1) is a severity level 6, person felony.
- (2) Violation of subsection (a) (2) is a severity level 7, person felony if the **total amount of the value of the resources** is \$25,000 or more.
- (3) Violation of subsection (a) (2) is a severity level 9, person felony if the **total amount of the value of the resources** is at least \$500 but less than \$25,000.
- (4) Violation of subsection (a) (2) is a class A misdemeanor if the **total amount of the value of the resources** is less than \$500.
- (5) Violation of subsection (a) (3) is a class A person misdemeanor.
- (6) Violation of subsection (a) (2) is a severity level 9, person felony if the total total amount of the value of the resources is less than \$500 and the person has been convicted of mistreatment of a dependent adult two or more times within five years of the commission of the crime.**

Section 2 of this bill repeals K.S.A. 21-3437.

Section 3 of this bill sets the effective date as publication in the statute book.

IMPACT ON KANSAS SENTENCING COMMISSION:

Based on the current duties of the Kansas Sentencing Commission, the change proposed in this bill will affect the following:

1. **The current operation or responsibilities of the Commission : Immediately increase journal entry workload by 11 to 22 journal entries per year. This can be absorbed with in-house resources.**
2. The current budget of the Commission.
3. The current staffing and operating expenditure levels of the Commission.
4. The long-range fiscal estimates of the Commission.

IMPACT ON PRISON ADMISSIONS:

- Increase by an estimated: 0 in 2005; 0 to 8 additional admissions in FY 2014**
- Potential to increase but cannot quantify
- Decrease by an estimated:
- Potential to decrease but cannot quantify
- Remain the same

Notes:

Scenario One: It is assumed that 5% of current property theft offenders will be converted to the crime as defined in subsection (a) (2) of this bill with the same financial gain/resource value and severity levels applying.

Prison Admissions

- By 2005, there would be no additional admissions
- By 2014, there would be 0 additional admissions.

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Prison Population Impact of 2004 HB 2477
January 12, 2004 Page 3 of 5

Prison Bed Space.

- By 2005, there would be no change in prison bed space needs.
- By 2014, there would be no change in prison bed space needs.

Scenario Two: It is assumed that:

- a) 3 additional offenders will be convicted of the crime as defined in subsection (a)(2) with a value of \$25,000 or more
- b) 5 additional offenders will be convicted of the crime as defined in the bill subsection (a)(2) with a value between \$500 and \$25,000
- c) **3 additional offenders will be convicted of the crime as defined in subsection (a)(2) with a value of less than \$500 but the person has been convicted of mistreatment of a dependent adult two or more times within five years of the commission of the crime.**

All of these are sentenced to probation. The rate of probation revocation is 31% in a 12 month timeframe.

Prison Admissions

- By 2005, there would be no additional admissions
- By 2014, there would be 4 additional admissions.

Prison Bed Space.

- By 2005, there would be no change in prison bed space needs.
- By 2014, there would be 4 additional prison beds needed.

Scenario Three: It is assumed that:

- a) 5 additional offenders will be convicted of the crime as defined in subsection (a)(2) with a value of \$25,000 or more
- b) 10 additional offenders will be convicted of the crime as defined in the bill subsection (a)(2) with a value between \$500 and \$25,000
- c) **5 additional offenders will be convicted of the crime as defined in subsection (a)(2) with a value of less than \$500 but the person has been convicted of mistreatment of a dependent adult two or more times within five years of the commission of the crime.**

All of these are sentenced to probation. The rate of probation revocation is 31% in a 12 month timeframe.

Prison Admissions

- By 2005, there would be no additional admissions
- By 2014, there would be 8 additional admissions.

Prison Bed Space.

- By 2005, there would be no change in prison bed space needs.
- By 2014, there would be 10 additional prison beds needed.

Presented below is the projected increase in admissions and prison bed space.

Prison Population Impact of 2004 HB 2477
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Prison Admission Impact Assessment

June of Each Year	Scenario #1 5% or 38 Offenders of Property Theft Converted to the Proposed Crime as Defined Above Additional Admission	Scenario #2 3, 5 & 3 probation offenders with 31% revocation rate to prison Additional Admission	Scenario #3 5, 10 & 5 probation offenders with 31% revocation rate to prison Additional Admission
2005	0	0	0
2006	0	3	4
2007	0	4	7
2008	0	4	7
2009	0	4	7
2010	0	4	7
2011	0	4	8
2012	0	4	8
2013	0	4	8
2014	0	4	8

IMPACT ON OFFENDER POPULATION LEVELS:

have impact on offender population as noted below: **no change in beds needed in 2005; 0 to 10 additional beds needed in 2014.**

have the potential to impact offender population as noted below.

have minimal or no impact on offender population.

have impact but cannot be quantified with data available.

Presented below are the assumptions, data findings, and prison bed impact for the changes proposed in this bill.

Key Assumptions:

- The target inmates as defined in this bill include any offenders convicted of the crimes of mistreatment of a dependent adult under K.S.A 21-3437.
- Projected admission to prison is assumed to increase by an annual average of one point five percent. Bed space impacts are in relation to the baseline forecast produced in September 2003 and revised in November 2003 by the Kansas Sentencing Commission.
- Percentage of the target inmate sentences served in prison is assumed to be 85 percent, which is in consistent with the projections released in September and revised in November 2003.
- Mistreatment of a dependent adult as defined in subsection (a)(1) is a severity level 6, person felony. This punishment remains unchanged.
- Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 7, person felony if the value of the financial gain is \$25,000 or more. The average length of underlying prison sentence is assumed to be 21 months.
- Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 9, person felony if the value of the financial gain is at least \$500 but less than \$25,000. The average length of underlying prison sentence is assumed to be 10 months.
- Mistreatment of a dependent adult as defined in subsection (a)(2) is a class A misdemeanor if the value of the financial gain is less than \$500.

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- Mistreatment of a dependent adult as defined in subsection (a)(3) is a class A misdemeanor.
- **Mistreatment of a dependent adult as defined in subsection (a)(2) is severity level 9, person felony if the total value of the financial gain is less than \$500 and the person has been convicted of mistreatment of a dependent adult two or more time within five years of the commission of the crime.**

Findings:

- During FY 2003, only one offender was convicted of the crime of mistreatment of a dependent adult as defined in subsection (a)(1) and received probation sentence. The Commission maintains no misdemeanor sentencing information.
- During FY 2003, 36 offenders were convicted of the crime of property theft with a loss of \$25,000 or more and 715 offenders were convicted of the crime of property theft with a loss of at least \$500 but less than \$25,000.
- The impact of this bill would result in no additional prison admissions by the year 2005 but 4 to 8 additional prison admissions by the year 2014 under scenario #2 and scenario #3.
- The impact of this bill would result in no additional prison beds by the year 2005. It would result in additional 4 to 10 prison beds by the year 2014 under scenario #2 and scenario #3.
- The impact of this bill would immediately increase the workload of the Commission staff by 11 to 20 felony sentencing journal entries each year.

Prison Bed Space Impact Assessment

June of Each Year	Scenario #1 5% or 38 Offenders of Property Theft Converted to the Proposed Crime as Defined Above Additional Beds Needed	Scenario #2 3, 5 & 3 probation offenders with 31% revocation rate to prison Additional Beds Needed	Scenario #3 5, 10 & 5 probation offenders with 31% revocation rate to prison Additional Beds Needed
2005	0	0	0
2006	0	3	4
2007	0	3	5
2008	0	3	7
2009	0	4	8
2010	0	4	5
2011	0	5	7
2012	0	3	8
2013	0	3	8
2014	0	4	10

SUMMARY OF HB 2693 with Balloon IMPACT:

- Admissions: The impact of this bill will result in 0 additional prison admissions in FY 2005 and 0 to 8 additional prison admissions in FY 2014.
- Prison Beds: The impact of this bill will result in the need for 0 additional prison beds by FY 2005 and 0 to 10 additional prison beds by FY 2014.

Substitute for SENATE BILL No. 275

By Committee on Ways and Means

2-20

10 AN ACT concerning correctional facilities; relating to construction by
11 private companies[; amending K.S.A. 2003 Supp. 75-52,129 and
12 repealing the existing section].
13

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

15 [New] Section 1. This act may be referred to as the private contract
16 prison act.

17 [New] Sec. 2. Definitions. As used in the private contract prison act:

18 (a) "Private contract prison" means a correctional facility situated in
19 this state that is not owned by the state of Kansas or any subdivision
20 thereof or by the federal government or any subdivision thereof.

21 (b) "Private owner" means any corporation, partnership, limited lia-
22 bility company, trust, person or other legal entity that engages in, or
23 proposes to engage in, the construction or ownership or both of a private
24 contract prison in this state.

25 (c) "Private operator" means any corporation, partnership, limited
26 liability company, person or other legal entity that engages in, or proposes
27 to engage in, the operation of a private contract prison in this state.

28 (d) "Private contractor" means a private owner or a private operator
29 or both.

30 (e) "Secretary" means the secretary of corrections.

31 (f) "Department" means the department of corrections.

32 (g) "Applicant" means a private contractor making application to the
33 department of corrections for a license as provided by this act.

34 (h) "Licensee" means a private contractor to which a valid license has
35 been issued by the department of corrections as provided by this act.

36 (i) "Private correctional officer" means a correctional officer as de-
37 fined by subsection (f) of K.S.A. 75-5202, and amendments thereto, ex-
38 cept that such officer is not an employee of the state of Kansas or any
39 subdivision thereof.

40 (j) "Non-Kansas inmate" means any inmate in the custody of any
41 jurisdiction other than the state of Kansas or any of its political
42 subdivisions.

43 (k) "Kansas inmate" means any inmate in the custody of the secretary

1 of corrections.

2 [New] Sec. 3. Except as authorized by K.S.A. 75-52,127 or 75-
3 52,133, and amendments thereto, no private contractor shall authorize,
4 construct, own or operate any private contract prison in this state for the
5 placement or confinement of inmates unless such private contractor pos-
6 sesses a valid license as provided by this act.

7 [New] Sec. 4. The secretary is hereby authorized to license, monitor
8 and regulate one or more private contractors meeting the requirements
9 of this act to construct, own or operate one or more private contract
10 prisons in this state.

11 [New] Sec. 5. The secretary shall not approve any application for a
12 license pursuant to this act unless the secretary has, after due diligence,
13 made the following findings:

14 (a) The applicant has the qualifications, experience and management
15 personnel necessary to design, construct, own or operate a private con-
16 tract prison in a manner that satisfies the requirements of this act;

17 (b) the applicant has the ability, if circumstances warrant, to expedite
18 the siting, design and construction of a private contract prison;

19 (c) the applicant has the ability to comply with applicable laws, court
20 orders and state and national correctional standards; and

21 (d) if Kansas inmates are being housed in the private contract prison,
22 the private operator has the ability to provide correctional services to the
23 state of Kansas at a cost that is no more than 90% of the department's
24 average per capita operating cost for the previous fiscal year for compa-
25 rable state correctional facilities and services.

26 [New] Sec. 6. Any license issued pursuant to this act shall require
27 as conditions of such license all of the following:

28 (a) All private correctional officers employed by the licensee must be
29 certified, at the licensee's expense, as having met the minimum qualifi-
30 cations and training requirements established for correctional officers by
31 the secretary;

32 (b) the design for any private contract prison constructed, owned or
33 operated by the licensee shall meet or exceed all requirements of the
34 association responsible for adopting national correctional standards as de-
35 termined by the secretary;

36 (c) the design for any private contract prison, including but not lim-
37 ited to siting, shall meet or exceed any standard established by the
38 secretary;

39 (d) the licensee shall at all times consult the secretary during the
40 design and construction of the private contract prison;

41 (e) the licensee shall indemnify the state and the secretary, including
42 their subdivisions, officials and agents, against any and all liability includ-
43 ing, but not limited to, any civil rights claims. The secretary shall require

Judiciary
3-22-04

ATTACHMENT 2

Date: 3-22-04

JVD COMTE

1 proof of satisfactory insurance, the amount to be determined by the
2 secretary;

3 (f) the licensee shall seek, obtain and maintain accreditation by the
4 association responsible for adopting national correctional standards. In
5 addition, the licensee shall comply with the association's amendments to
6 the accreditation standards upon approval of such amendments by the
7 secretary;

8 (g) the licensee shall agree to abide by operations standards for cor-
9 rectional facilities adopted by the secretary;

10 (h) if Kansas inmates are being housed in the private contract prison,
11 the licensee shall be responsible for the range of dental, medical and
12 psychological services and diet, education and work programs at least
13 equal to those services and programs provided by the secretary at com-
14 parable state correctional facilities. The work and education programs
15 shall be designed to reduce recidivism;

16 (i) the secretary shall monitor all private contract prisons and the
17 secretary shall have unrestricted access to all private contract prisons for
18 that purpose. The licensee shall bear the costs of monitoring the facility;

19 (j) if the department contracts to house Kansas inmates at the li-
20 censee's private contract prison, the licensee shall incarcerate all inmates
21 assigned to the private contract prison by the department and as specified
22 by the contract and may not reject inmates assigned to it by the depart-
23 ment. The department shall have the right of first refusal to any space in
24 the licensee's private contract prison, whether or not such space is oc-
25 cupied by non-Kansas inmates. The department may not exceed the max-
26 imum occupancy designated in the contract for the private contract
27 prison;

28 (k) the licensee may not benefit financially from the labor of inmates
29 except that inmates housed in any private contract prison operated by the
30 licensee in this state may be given job assignments that assist in the op-
31 eration and maintenance of the facility, including but not limited to jan-
32 itorial or food service, or constitute work crews for the state or nearby
33 communities if the inmates have the appropriate custody designation;

34 (l) if the licensee enters into a contract to house non-Kansas inmates,
35 the licensee must require as a condition of that contract that each such
36 inmate to be released from custody must be released in the sending state;

37 (m) whenever any non-Kansas inmate is proposed to be brought into
38 this state for the purpose of being incarcerated at a private contract
39 son, all records regarding each such inmate, including but not limited
40 to custody records, facility history records, disciplinary records, and med-
41 ical and mental health records, shall be reviewed by the department prior
42 to such inmate being transported into this state. The cost of such review
43 shall be borne by the licensee. The department shall determine custody

1 classification levels for each such non-Kansas inmate pursuant to the de-
2 partment's custody classification system. The secretary shall have author-
3 ity to refuse to allow any non-Kansas inmate to be transported to or
4 incarcerated in any private contract prison;

5 (n) the licensee shall be subject to review by the legislative division
6 of post audit; and

7 (o) any other provision the secretary considers necessary and appro-
8 priate for carrying out the purpose of this act.

9 **[New]** Sec. 7. No license issued pursuant to this act shall be con-
10 strued as authorizing, allowing or delegating authority to the licensee to:

11 (a) With regard to Kansas inmates being housed at a private contract
12 prison, reject any inmate appropriately classified by the Kansas custody
13 classification system for the custody level or levels of the private facility;

14 (b) with regard to Kansas inmates who are being housed at a private
15 contract prison, develop or adopt disciplinary rules or penalties that differ
16 from the disciplinary rules and penalties that apply to inmates housed in
17 correctional facilities operated by the secretary. With regard to non-Kan-
18 sas inmates, the licensee may develop or adopt disciplinary rules or pen-
19 alties consistent with the requirements of the sending entity provided that
20 the secretary shall retain authority to approve or reject any such rules or
21 penalties;

22 (c) make a final determination on a disciplinary action that affects the
23 liberty of an inmate. The licensee may remove an inmate from the general
24 prison population during an emergency, before final resolution of a dis-
25 ciplinary hearing in response to an inmate's request for assigned housing
26 in protective custody or when otherwise necessary to maintain order and
27 security of the private contract prison;

28 (d) make a decision that affects the sentence imposed upon or the
29 time served by an inmate, including a decision to award, deny or forfeit
30 earned time;

31 (e) make recommendations to the Kansas parole board with respect
32 to the denial or granting of parole or release except the licensee may
33 submit written reports to the Kansas parole board and shall respond to
34 any written request for information by the Kansas parole board;

35 (f) develop and implement requirements that inmates engage in any
36 type of work not previously authorized in this act, except to the extent
37 that those requirements are accepted by the department; and

38 (g) determine inmate eligibility for any form of release from a cor-
39 rectional facility including any private contract prison.

40 **[New]** Sec. 8. (a) No private contract prison shall house inmates
41 until:

42 (1) The private operator has submitted to the secretary, and the sec-
43 retary has approved, a plan for the secretary to assume temporary control

2-2

1 and operation of the private contract prison in the event the private oper-
2 erator becomes unable to meet the requirements of this act;

3 (2) each private contractor, whether a private owner or a private oper-
4 ator, or both, involved in the private contract prison has submitted to
5 the secretary, and the secretary has approved, a plan for the temporary
6 assumption of operations and purchase of the private contract prison by
7 the secretary in the event of bankruptcy or the financial insolvency of any
8 such private contractor; and

9 (3) the private operator has submitted to the secretary, and the sec-
10 retary has approved, a plan to address emergencies including, but not
11 limited to, inmate disturbances, employee work stoppages, employee
12 strikes, escapes, natural disaster threats, bomb threats, riots, hunger
13 strikes, taking of hostages, fires, explosions, evacuations, hazardous ma-
14 terial spills or other serious events. The plan shall comply with applicable
15 national correctional standards. The plan shall identify how the state shall
16 recover its costs for such assumptions of operation or other interventions.

17 (b) The secretary may from time to time require the private contrac-
18 tor to review, revise or update any plan required by this section. The
19 private contractor shall comply promptly with any request by the secretary
20 pursuant to this subsection, and failure by any private contractor to do so
21 within a reasonable period of time shall constitute cause for suspension
22 of such private contractor's license.

23 (c) Nothing in this section shall be construed to require the state to
24 purchase or lease any private contract prison or to assume responsibility
25 for the operation of any private contract prison or to assume costs asso-
26 ciated with events described in this section.

27 **[New]** Sec. 9. The secretary may suspend or revoke a license for
28 cause, including, but not limited to, failure to obtain or maintain facility
29 accreditation or failure to comply with any requirement of this act, after
30 written notice of material deficiencies and after 60 workdays have been
31 provided to the contractor to correct the material deficiencies.

32 **[New]** Sec. 10. If, as determined by the secretary, an emergency
33 occurs involving the noncompliance with or violation of the requirements
34 of this act and presents a serious threat to the safety, health or security
35 of the inmates, employees or the public, the secretary may, without prior
36 notice, temporarily assume operation and control of the private contract
37 prison. Nothing in this section shall be construed to require the state to
38 assume responsibility for the operation of private contract prisons or for
41 costs associated with events described in this section. If the state chooses,
42 it may assume responsibility upon approval by the legislature through the
43 enactment of legislation.

[New] Sec. 11. If a private owner intends to sell, convey, transfer,
donate, trade, barter or otherwise alienate title to a private contract

1 prison, the private owner shall first give notice of such intent to the sec-
2 retary. The state shall have the right of first refusal to lease or purchase
3 such private contract prison at fair market value, although the state shall
4 not be required to do so. Except as provided in this section, a private
5 contract prison may be transferred only to an entity that is licensed as
6 required by this act.

7 **[New]** Sec. 12. Each private operator shall require applicants for
8 employment at a private contract prison to submit a set of fingerprints to
9 the Kansas bureau of investigation for a criminal background check. The
10 Kansas bureau of investigation may accept fingerprints of individuals who
11 apply for employment at a private contract prison and who shall be subject
12 to background checks. For the purpose of conducting background checks,
13 to the extent provided for by federal law, the Kansas bureau of investi-
14 gation may exchange with the secretary criminal history records, whether
15 state, multi-state or federal, of individuals who apply for employment at
16 a private contract prison.

17 **[New]** Sec. 13. This act shall not apply to the contracts between
18 cities and counties and the secretary under which the city or county agrees
19 to house the backlog of inmates as provided by K.S.A. 75-52,128 and 75-
20 52,129, and amendments thereto, which contracts shall be governed by
21 such.

22 **[New]** Sec. 14. Any private operator licensed under this act shall
23 collect and maintain data with respect to all Kansas and non-Kansas in-
24 mates housed by the private contractor, in a fashion compatible with
25 Kansas department of corrections practices and procedures for inmate
26 data collection and maintenance, as specified by the secretary.

27 **[New]** Sec. 15. (a) Any county that meets the requirements of this
28 section may contract with a private contractor to develop and construct,
29 own or operate a private contract prison in such county.

30 (b) No private contract prison shall be constructed, owned or oper-
31 ated pursuant to this act in any county unless the county commission, by
32 resolution, has first placed on a primary or general election ballot the
33 question in subsection (c) and such question has been approved by a
34 majority of qualified voters who cast ballots in such election.

35 (c) The form of the question described in subsection (b) shall be:
36 "Shall construction and operation of a private contract prison, pursuant
37 to the Private Contract Prison Act, be allowed in _____ County?"

38 (d) If the proposed site for the private contract prison is within one
39 mile of the border of any county that adjoins the county in which the
40 private contract prison would be situated, then such private contract
41 prison shall not be constructed, owned or operated pursuant to this act
42 unless such adjoining county has conducted an election meeting the
43 requirements of subsections (b) and (c).

(e) Except for land donation, no direct incentives, such as property tax abatement, industrial revenue bonds, tax increment financing or utility cost reductions, shall be offered by the county to the private contractor wishing to construct, own or operate a private contract prison in such county.

(f) At the discretion of the parties, the contract may allow for the leasing of the private contract prison by the private owner to the county or to the state.

[New] Sec. 16. No contract for site construction between the county and the private contractor authorized by this act shall enter into force until reviewed and approved by the attorney general, as to form and legal sufficiency, and the secretary, as to determination of the best interests of the state of Kansas. In determining whether to approve or disapprove any such contract, the secretary shall consider whether the addition of the proposed prison space, including the proposed custody designations for the proposed private contract prison, would be beneficial to the management of the state corrections system.

[New] Sec. 17. A contract entered into under this act does not accord third-party beneficiary status to any inmate or to any member of the general public.

[New] Sec. 18. In the event any provision of any contract authorized by this act conflicts with any provision of any license issued pursuant to this act, the provision of the license shall supersede the provision of the contract. In the event any provision of any contract authorized by this act conflicts with any provision of this act, the provision of this act shall supersede the provision of the contract.

[New] Sec. 19. Nothing in this act shall be construed as requiring the department of corrections to place Kansas inmates in any private facility constructed, owned or operated pursuant to this act. Placement of Kansas inmates in such private facility shall be at the discretion of the secretary based on department needs and the best interest of the state and shall only be pursuant to contract between the secretary and the private operator.

[New] Sec. 20. Not later than December 1 of each year, beginning with the 2004 fiscal year, the secretary shall submit a report to the speaker of the house of representatives and the president of the senate concerning the status of contracts in effect and licenses issued, and with respect to completed prisons, the effectiveness of each private contract prison operated pursuant to this act.

[New] Sec. 21. There is hereby created in the state treasury the corrections licensing fee fund. All moneys collected by the secretary from licensing application fees shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto.

Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the corrections licensing fee fund. All the moneys collected and deposited pursuant to this subsection shall be used solely for payment of inspection costs associated with licensing. The secretary shall establish rules and regulations to set license fees, not to exceed \$150,000 per applicant.

[Sec. 22. K.S.A. 2003 Supp. 75-52,129 is hereby amended to read as follows: 75-52,129. (a) *The secretary of corrections is hereby authorized to negotiate and enter into contracts with Kansas cities and counties for the placement of inmates, who are classified as medium custody or any higher custody or security classification, in facilities owned and operated by the cities and counties. If the secretary of corrections proposes to place any inmates classified as medium custody or any higher custody classification for confinement in facilities other than correctional or other institutions or facilities owned and operated by the department of corrections or any other state agency, the secretary of corrections shall give first consideration to entering into contracts with Kansas cities and counties under this section before attempting to place any such inmate for confinement at any private contract prison, as defined in section 2, and amendments thereto, or any location outside the state of Kansas if the facilities to be provided under such contracts are substantially equal to private contract prisons or facilities at locations outside the state of Kansas and if arrangements can be made in a timely manner. Except as provided in subsection (b), the provisions of this section and any contract or preliminary letter of commitment entered into pursuant to this section shall not apply to any minimum custody or community custody status inmates, or any other custody or security classification lower than medium custody, or to any inmate who may be placed in a work release or prerelease program, center or facility by the secretary of corrections, who is eligible for parole or who is placed pursuant to the interstate corrections compact. Contracts entered into pursuant to this section shall not be subject to competitive bid requirements under K.S.A. 75-3739 and amendments thereto.*

[(b) The secretary shall not enter into any contract as provided in subsection (a) with any city or county of this state for the placement of inmates that does not provide that such city or county shall provide and maintain appropriate and recognized standards of safety, health and security.]

[Sec. 23. K.S.A. 2003 Supp. 75-52,129 is hereby repealed.]

Sec. 22 [24]. This act shall take effect and be in force from and after its publication in the statute book.

4-8

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR SENATE BILL NO. 275**

As Amended by Senate Committee of the Whole

Brief*

Sub. for SB 275 can be referred to as the private contract prison act. This bill provides for the authorization, construction, license, and operation of a private prison by a private contractor under the oversight of the Secretary of Corrections. This bill would allow the secretary to authorize, license, monitor, and regulate private contractors who construct, own, or operate one or more private prisons in the state. The secretary may suspend or revoke a license for failure to obtain or maintain accreditation or failure to comply with any requirements of this act. The Department of Corrections is not obligated to house inmates at any private contract prison in the state. The bill would require private prisons in the state to:

- seek, obtain, and maintain accreditation by the association responsible for adopting national correctional standards;
- abide by operations standards for correctional facilities adopted by the secretary;
- be responsible for dental, medical, and psychological services and diet, education, and work programs at least equal to those services and programs provided by the secretary at comparable state correctional activities if Kansas inmates are being housed in the private contract prison; and
- incarcerate all inmates assigned to the private contract prison by the department and may not reject inmates assigned to it by the department.

The private contract prison is not authorized, allowed, or delegated authority to:

- make a decision that affects the sentence imposed upon or the time served by an inmate;
- make recommendations to the Kansas Parole Board with respect to denial or granting of parole or release, except the licensee may submit written reports to the Kansas Parole Board; and
- determine inmate eligibility for any from of release from a correctional facility, including any private contract prison.

The state is not required to purchase or lease any private contract prison or assume responsibility for the operation of any private contract prison or to assume costs in the event the private operator becomes unable to meet the requirements of this act. If the state chooses, it may assume responsibility upon approval by the Legislature.

If the private owner intends to sell, transfer, or otherwise alienate title to a private contract prison, the secretary shall be given first notice and the state shall have the right of first refusal to lease or purchase such private contract prison at fair market value, although the state shall not be required to purchase or lease the private contract prison.

No private contract prison shall be constructed, owned, or operated in any county unless approved on a primary or general election ballot by a majority of qualified voters. If the proposed site for the private contract prison is within one mile of the border of any adjoining county, the adjoining county must also place the question on a primary or general election ballot and be passed by a majority of qualified voters.

The bill also creates in the state treasury the corrections licensing fee fund, for deposit of licensing application fees. The fund would be utilized to pay inspection costs associated with licensing.

The Secretary of Corrections shall give first consideration to Kansas cities and counties when attempting to place any inmate classified as medium or higher custody in facilities other than correctional facilities owned and operated by the Department of Corrections including private contract prisons.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

2-5

Background

Sub. for SB 275 was supported by Senator Schmidt. Also testifying in support of the bill were Kansas Attorney General Phil Kline, representatives of The GEO Group, Inc, and the Sedgwick County District Attorney. Testifying neutral on the bill was the Secretary of Corrections. Those testifying in opposition of the bill included representatives of the Harper County Silver Haired Legislature, AfterCare ACTION Initiative II: Ministry to the Formerly Incarcerated, Criminal Justice and Mercy Ministries, Families Against Mandatory Minimums, and the Kansas Association of Public Employees. Written testimony in opposition was provided by Kansas CURE (Citizens United for Rehabilitation of Errants).

The Senate Committee of the Whole amended Sub. for SB 275 so that if the Secretary of Corrections proposes to place any inmates classified as medium custody or higher classification for confinement in facilities other than correctional facilities owned and operated by the Department of Corrections, or any other state agency, the Secretary of Corrections shall give first consideration to entering into contracts with Kansas cities and counties before attempting to place the inmates for confinement at any private contract prison.

The fiscal note on the original bill prepared by the Division of Budget indicates that any fiscal effect of the bill would be for monitoring and case management personnel. The Department of Corrections would recover those costs from the private prison contractor. If the Department chooses to utilize the private prison for housing a portion of the state's inmate population, additional expenditures from the State General Fund would be required. However, the bill does not require the state to purchase any beds from the contractor.

2.6

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

MICHAEL R. (MIKE) O'NEAL

104TH DISTRICT
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H.B. 2880
Senate Judiciary Committee
March 22, 2004

CHAIRMAN:
JUDICIARY COMMITTEE

MEMBER:
TAX, JUDICIAL, TRANSPORTATION
AND RETIREMENT BUDGET
UNIFORM LAW COMMISSION
KANSAS JUDICIAL COUNCIL

Members of the Committee,

I'm proud of the Legislature's efforts recently in getting out the message that the needs of the Judicial Branch must be addressed. The passage of legislation allowing the Judicial Branch budget to come directly to the Legislature has helped considerably. The expansion of the Court of Appeals is another step forward. The needs of the Judicial Branch are not limited, however, to the Appellate branch. Recently, we've focused additional attention to the needs of our various district courts. The debate over Dist. Mag. Judges, although painful, helped emphasize the role we and the courts have in the allocation of precious judicial resources.

In reviewing the Judicial article in the Kansas Constitution and the various statutes addressing the court system to determine what additional things we might be able to do to improve the system, we've found a need to update some of the statutes and make some of the provisions more consistent. H.B. 2880 is the product of revisor recommendations and specific recommendations concerning the type of information we need to more effectively evaluate the needs of the Judicial branch.

Article 3, Sec. 1 of the Kansas Constitution provides that "...The supreme court shall have general administrative authority over all the courts in this state." K.S.A. 20-101, in Sect. 1 of the bill, provides that "...The supreme court and each justice thereof shall have such specific powers and duties in exercising such administrative authority as may be prescribed by law..."

The current provision regarding the development of the Judicial branch budget, particularly in light of recent legislation allowing that budget to come directly to the

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Senate Judiciary
3-22-04
Attachment 3

Legislature, fails to acknowledge the role of the departmental justices, each of whom have administrative responsibilities with regard to the various judicial districts in the state. It is assumed the budget is developed by the court but the statute is ambiguous in that regard. The proposed language in Sect. 2 of the bill makes clear our intent that the Judicial branch budget will be the product of the supreme court, with such additional assistance from the lower courts and judicial administrator as may be necessary. The new language in the section also clarifies the role of the departmental justices in developing the budgets of the various judicial districts in the state over which they have a supervisory role. (See Sect. 5 (b)(3)).

The changes in Sect. 4(a) of the bill are intended to make consistent the rules regarding appointment of positions by the court. For example, under Art. 3, Sec. 4 of the Kansas Constitution the reporter and clerk of the court are appointed by the “justices of the supreme court”. The appointment of the reporter is codified in K.S.A. 20-201. The amendments in Sect. 4(a) make appointment of the judicial administrator consistent with these provisions and the existing provisions of K.S.A. 20-318 that provide that the judicial administrator “.. shall perform such other duties as are provided by law or assigned... by the supreme court or the chief justice.”

Also, consistent with the provisions in existing law regarding assignments that may by law be given to the judicial administrator, the changes in Sect. 4 (b) of the bill are intended to address our interest in the development of a comprehensive plan for meeting the needs of the various judicial districts, both as to judicial as well as non-judicial personnel, etc.


As explained by our revisor, (see attached memorandum) many of the proposed changes are technical in nature and provide an appropriate updating of the judicial article. Together, the changes outlined in H.B. 2880 will advance our continuing goal to assist the Judicial branch in meeting its needs now and in the future.

I'm pleased that since the passage of the bill in the House the Supreme Court has unanimously endorsed the major provisions in the bill. I understand the Court's concern over Section 4(b)(1) thru 4(c) in that it may appear to micromanage. You may wish to delete that provision or turn the provision into more of a request rather than a mandate. The same may be true of Section 5(b)(3) dealing with departmental justices.

Office of Revisor of Statutes

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MEMORANDUM

To: House Judiciary Committee
From: Jill Ann Wolters, Senior Assistant Revisor 
Date: February 18, 2004
Subject: Review of HB2880

HB 2880 clarifies and updates judicial branch statutes concerning the duties of the supreme court, the chief justice of the supreme court and the justices of the supreme court.

Several statutes are repealed by this bill. They are attached for the Committee's review.

K.S.A. 20-152, 20-153 and 20-154 were originally part of a joint resolution passed in 1973, concerning a study and survey of the court system prior to unification. The section requesting the study and survey, K.S.A. 20-151, was repealed in 1976, effective January 10, 1977, in the court unification bill. The remaining three sections have remained in the statutes since that time.

K.S.A. 20-161 requires the supreme court to establish a pay plan for the nonjudicial personnel of the supreme court and the court of appeals. This plan was to be submitted to the legislature on or before January 15, 1978.

K.S.A. 20-321, 20-322 and 20-323 were a part of the Judicial Department Reform Act of 1965. K.S.A. 20-321 provided that the chief justice and departmental justices shall adopt rules and regulations to carry out the provisions of the article. The rules and regulations provisions have been placed in K.S.A. 20-319(g). [See page 6, lines 1 through 3.]

The final statute repealed is K.S.A. 20-351a, which requires the chief justice to report to the chairpersons of the House and Senate Judiciary Committees, annually on or before December 1, of district judge positions created or eliminated. In the bill, this information would be provided, along with other information, to the Governor and the chairpersons. [See page 4, lines 23 through 31.]

K.S.A. 20-101 is amended in the bill and is merely a clarifying amendment.

Section 2, K.S.A. 20-158, discusses the preparation of the judicial branch budget. Currently, the chief justice is responsible for the judicial branch budget. Pursuant to the amendments, the chief justice would get the advice and approval of a majority of justices for the budget. The bill further provides that the basis for the district court budget request will be the recommendations established in K.S.A. 20-319, explained later in the memo.

The amendments to K.S.A. 20-162 delete language that was included in the statutes following unification of the courts.

K.S.A. 20-318 and 20-319 are rearranged so that 20-318 deals with the judicial administrator and the office of judicial administration (OJA) and 20-319 deals with the departmental justices of the supreme court. The stricken language in K.S.A. 20-318 (page 3, lines 13 through 19) is moved to K.S.A. 20-319 (page 4, lines 33 through 39). The amendments to K.S.A. 20-318 further establish that the judicial administrator will be appointed by the chief justice, with the advice and approval of the justices and serve at the will of the supreme court. The bill also adds language requiring the judicial administrator to prepare and utilize a comprehensive and uniform nonjudicial personnel plan for the district courts based upon minimum levels of personnel necessary to ensure public access to the district courts and to perform the essential and statutory duties of the courts. This plan shall be the basis on which to determine the placement of nonjudicial personnel for each judicial district. The final subsection of the bill requires OJA to annually publish the caseload of each judicial district, including all classifications and types of cases; the judicial personnel and nonjudicial personnel of each judicial district and district court offices, including the clerk's and court services offices; and the caseloads for any special needs programs of an individual judicial district that are allowed by the plan.

K.S.A. 20-319 is amended to reflect the departmental justices and their duties. An additional duty of such justice's is to oversee the development of the budget for each judicial district and make a report and recommendation on the budget requests to the chief justice. Subsection (g) is added for the rules and regulations authority of the justices.

The remaining amendments are an attempt to clarify and update the judicial branch statutes.

wells to prevent pollution of existing water. Any contractor who fails to properly seal any exploratory wells drilled in search of a water supply and abandoned by him shall be subject to the penalties set out in this act.

Sec. 14. Any person who shall willfully violate any lawful rule or regulation of the board relating to water well contracting, or who shall engage in the business of constructing, reconstructing or treating water wells without first having obtained a license as in this act required, or who shall knowingly violate any provisions of this act, shall be guilty of a class B misdemeanor and subject to the penalties therefor as provided by law.

Sec. 15. If any word, phrase, sentence or provision of this act is determined to be invalid, such invalidity shall not affect the other provisions of this act and they shall be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 31, 1973.

RESOLUTIONS

CHAPTER 418

Senate Joint Resolution No. 2

A JOINT RESOLUTION requesting the Kansas supreme court, in cooperation with the judicial council, to make a survey and study of the Kansas court system; authorizing appointment of an advisory committee; providing for clerical and staff assistance; and requiring a report thereon to the judiciary and the legislature.

Be it resolved by the Senate of the State of Kansas, the House of Representatives agreeing thereto:

Section 1. The supreme court, in cooperation with the judicial council, is hereby requested to make a survey and study of the Kansas court system including municipal courts. Such study and survey shall include: (1) Unification and restructuring of the courts; (2) administrative supervision of the courts; (3) selection, tenure, compensation and retirement of judges and court personnel; (4) appellate review; (5) financing of courts; and (6) such other areas assigned to it by the chief justice. The chief justice shall report to the judiciary and the 1974 legislature on such part of the study that is completed during 1973.

Sec. 2. The supreme court may appoint a judicial study advisory committee to assist in conducting the judicial study and survey and to make recommendations to the judiciary and the legislature. The judicial study advisory committee shall be considered a regular committee of the judicial council for the purpose of receiving per diem allowances.

Sec. 3. The judicial council is authorized to procure such supplies and fix compensation of such clerical and other assistance, and enter into contracts for employment of such consulting and technical groups, as may be necessary to carry out the provisions of this resolution. Under direction of the supreme court, the judicial administrator shall participate in the judicial survey and study and shall cooperate with the judicial council in this project. Upon request of the chief justice, the legislative coordinating council may make available such of the council's staff services as may be necessary to assist the chief justice in the preparation of any legislation necessary to implement any recommended statutory changes resulting from the survey and study.

Sec. 4. Any funds appropriated by the legislature to the judicial council or the supreme court may be used to match any moneys available from federal or private sources to assist in the conduct of the judicial survey and study.

Sec. 5. This resolution shall take effect and be in force from and after its publication in the official state paper.

Approved March 17, 1973.

Published in the official state paper March 23, 1973.

CHAPTER 419

Senate Resolution No. 11

A RESOLUTION approving Executive Reorganization Order No. 1, relating to the department of social and rehabilitation services.

Be it resolved by the Senate of the State of Kansas: That Executive Reorganization Order No. 1 is hereby approved.

Be it further resolved: That the secretary of state shall transmit a copy of this resolution to the governor.

Adopted April 4, 1973.

See chapter 367 and governor's message.

CHAPTER 420

House Resolution No. 1037

A RESOLUTION approving Executive Reorganization Order No. 1, relating to the department of social and rehabilitation services.

Be it resolved by the House of Representatives of the State of Kansas: That Executive Reorganization Order No. 1 is hereby approved.

Be it further resolved: That the secretary of state shall transmit a copy of this resolution to the governor.

Adopted April 5, 1973.

See chapter 367 and governor's message.

3-5

Attorney General's Opinions:

Supreme court nominating commission; applicability of title 7; 1964 civil rights act, Americans with disabilities act and Kansas acts against discrimination. 93-69.

CASE ANNOTATIONS

1. Cited; non-lawyer remaining on Supreme Court nominating commission following issuance of temporary permit to practice law examined. State ex rel. Stephan v. Adam. 243 K 619, 622, 760 P.2d 683 (1988).

20-139. Conferences of supreme court justices and certain judges; expenses. From time to time, the chief justice of the Kansas supreme court may order conferences of justices of the supreme court and judges of the district court and court of appeals on matters relating to the administration of justice. The actual and necessary expenses of the justices of the supreme court and judges of the district court and court of appeals incurred in connection with attending such conferences shall be paid, subject to the provisions of K.S.A. 75-3216.

History: L. 1963, ch. 202, § 1; L. 1973, ch. 128, § 1; L. 1976, ch. 146, § 4; Jan. 10, 1977.

Research and Practice Aids:

Judges ← 24.

C.J.S. Judges § 40 et seq.

20-140 to 20-144.

History: L. 1963, ch. 425, §§ 1 to 5; Repealed, L. 1965, ch. 212, § 6; May 1.

20-145.**Revisor's Note:**

Rules of the supreme court relating to the supreme court court of appeals and appellate practice are published by the Supreme Court Reporter, Kansas Judicial Center, 301 West 10th, Topeka, Kansas 66612-1507.

20-146.

History: L. 1965, ch. 212, § 1; Repealed, L. 1975, ch. 178, § 32; Jan. 10, 1977.

20-147.

History: L. 1965, ch. 212, § 2; L. 1967, ch. 169, § 1; Repealed, L. 1975, ch. 178, § 32; Jan. 10, 1977.

20-148.

History: L. 1965, ch. 212, § 3; L. 1972, ch. 95, § 1; Repealed, L. 1975, ch. 178, § 32; Jan. 10, 1977.

20-149, 20-150.

History: L. 1965, ch. 212, §§ 4, 5; Repealed, L. 1975, ch. 178, § 32; Jan. 10, 1977.

20-151.

History: L. 1973, ch. 418, § 1; Repealed, L. 1976, ch. 145, § 246; Jan. 10, 1977.

20-152. Judicial study advisory committee; appointment; expenses. The supreme court may appoint a judicial study advisory committee to assist in conducting the judicial study and survey and to make recommendations to the judiciary and the legislature. The judicial study advisory committee shall be considered a regular committee of the judicial council for the purpose of receiving per diem allowances.

History: L. 1973, ch. 418, § 2; March 23.

20-153. Same; supplies, clerical assistance, contracts; duties of judicial administrator; staff services of coordinating council. The judicial council is authorized to procure such supplies and fix compensation of such clerical and other assistance, and enter into contracts for employment of such consulting and technical groups, as may be necessary to carry out the provisions of this resolution. Under direction of the supreme court, the judicial administrator shall participate in the judicial survey and study and shall cooperate with the judicial council in this project. Upon request of the chief justice, the legislative coordinating council may make available such of the council's staff services as may be necessary to assist the chief justice in the preparation of any legislation necessary to implement any recommended statutory changes resulting from the survey and study.

History: L. 1973, ch. 418, § 3; March 23.

20-154. Same; use of judicial council and supreme court funds for matching purposes for study and survey. Any funds appropriated by the legislature to the judicial council or the supreme court may be used to match any moneys available from federal or private sources to assist in the conduct of the judicial survey and study.

History: L. 1973, ch. 418, § 4; March 23.

20-155. Supreme court law library; law librarian and other personnel. There is hereby established the Kansas supreme court law library, which shall provide law library services to the judicial, legislative and executive branches of state government and to members of the bar under such rules as the supreme court may prescribe. The Kansas supreme court law library shall be under the supervision and control of the Kansas su-

changes in such budget as the director deems necessary and appropriate.

History: L. 1976, ch. 146, § 42; L. 1978, ch. 108, § 5; L. 1979, ch. 290, § 1; L. 1980, ch. 94, § 1; July 1.

20-159. Reproduction and preservation of court records; minimum standards. The supreme court may provide for and authorize any administrative judge of a judicial district, to photograph, microphotograph or reproduce or to have photographed, microphotographed or reproduced on film any of the court records, papers or documents which are by law placed in the courts of that judicial district and to acquire necessary facilities and equipment and to acquire, maintain and use all such appropriate containers and files as shall be necessary to accommodate and preserve the photographs, microphotographs or films so obtained. The photographing, microphotographing or filming may be so authorized for the reproducing of court records, where to do so will promote efficiency in the office, or as a method of preserving old or worn records, papers or documents. The photographic films and prints or reproductions therefrom, shall comply with federal standard no. 125a, dated April 24, 1958, or the latest revision thereof, issued pursuant to the federal property and administrative services act of 1949, and any amendments thereto. The device used to reproduce such records on such film shall be one which accurately reproduces the original thereof in all details.

History: L. 1977, ch. 104, § 1; July 1.

20-160. Court may adopt rules relating to court records. The supreme court may adopt rules to govern the reproduction, preservation, storage and destruction of court records of this state, not inconsistent with this act [°].

History: L. 1977, ch. 104, § 4; July 1.

* "This act," see, also, 19-254, 19-256, 20-159, 20-357 and 60-465a.

Attorney General's Opinions:

Rules of supreme court; reproduction and disposition of court records. 79-296.

20-161. Supreme court to establish pay plan, personnel plan and affirmative action plan for certain nonjudicial personnel; contents of plans; copy submitted to legislature. The supreme court shall establish for the nonjudicial personnel of the supreme court and the court of appeals a formal pay plan, a personnel

plan and an affirmative action plan for the hiring of minority persons. Such pay plan and personnel plan shall include, but not be limited to, job descriptions, qualifications of employees, salary ranges, vacation, sick and other authorized leave policies. A copy of such pay plan, personnel plan and affirmative action plan shall be submitted to the legislature on or before January 15, 1978.

History: L. 1977, ch. 296, § 2; July 1.

20-162. Supreme court to establish judicial personnel classification system; contents; submission to legislative coordinating council. (a) The supreme court shall establish by rule a judicial personnel classification system for all nonjudicial personnel in the state court system and for judicial personnel whose compensation is not otherwise prescribed by law. Said personnel classification system shall take effect on July 1, 1979, and shall prescribe the compensation for all such personnel. No county may supplement the compensation of district court personnel included in the judicial personnel compensation system. Such compensation shall be established so as to be commensurate with the duties and responsibilities of each type and class of personnel. In establishing the compensation for each type and class of personnel, the supreme court shall take into consideration: (1) The compensation of such personnel prior to January 1, 1979; (2) the compensation of personnel in the executive branch of state government who have comparable duties and responsibilities; and (3) the compensation of similar personnel in the court systems of other states having comparable size, population and characteristics.

(b) The following personnel shall not be included in the judicial personnel classification system:

- (1) County auditors,
- (2) coroners,
- (3) court trustees and personnel in each trustee's office, and
- (4) personnel performing services in adult or juvenile facilities used as a place of detention or for correctional purposes.

The compensation for the above personnel shall be paid by the county as prescribed by law.

(c) The judicial personnel classification system also shall prescribe the powers, duties and functions for each type and class of personnel, which shall be subject to and not inconsistent with

(1) With the help and assistance of the judicial administrator, make a survey of the conditions of the dockets and business of the district courts in the justice's department and make a report and recommendations on the conditions and business to the chief justice.

(2) Assemble the judges of the district courts within the justice's department, at least annually, to discuss such recommendations and other business as will benefit the judiciary of the state. When so summoned, the judges of the district courts in the various departments shall attend such conferences at the expense of the state. Such judges shall be entitled to their actual and necessary expenses while attending such conferences and shall be required to attend the conferences unless excused by the departmental justice for good cause.

(b) Departmental justices shall have authority within their departments to assign any district judge or district magistrate judge to hear any proceeding or try any cause, within the judge's jurisdiction, in other district courts. Any departmental justice may request the assistance of any district judge or district magistrate judge from another department.

(c) The departmental justices shall supervise all administrative matters relating to the district courts within their departments and require reports periodically, covering such matters and in such form as the supreme court may determine, on any such matter which will aid in promoting the efficiency or the speedy determination of causes now pending. Departmental justices shall have the power to examine the dockets, records and proceedings of any courts under their supervision. All judges and clerks of the several courts of the state shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

In order to properly advise the three branches of government on the operation of the juvenile justice system, each district court shall furnish the judicial administrator such information regarding juveniles coming to the attention of the court pursuant to the Kansas code for care of children as is determined necessary by the secretary of social and rehabilitation services and the director of the statistical analysis center of the Kansas bureau of investigation, on forms approved by the judicial administrator. Such information shall be confidential and shall not be disseminated or publicly

disclosed in a manner which enables identification of any individual who is a subject of the information.

The departmental justice shall assign to each administrative judge in the justice's department such duties as are necessary to carry out the intent of just, speedy and inexpensive litigation for the litigants of the state.

History: L. 1965, ch. 215, § 2; L. 1976, ch. 146, § 6; L. 1982, ch. 182, § 123; L. 1983, ch. 140, § 4; L. 1986, ch. 115, § 35; Jan. 12, 1987.

Cross References to Related Sections:

Juvenile offender information system, see 38-1617 et seq.

Law Review and Bar Journal References:

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

CASE ANNOTATIONS

1. Cited; whether court had jurisdiction to order pen register and wiretap when component located in adjacent county examined. *State v. Gibson*, 255 K. 474, 482, 874 P.2d 1122 (1994).

20-320. Same; duties of chief justice; records and report. The chief justice shall analyze and study such reports as are submitted to him and promptly submit a summary thereof, and the recommendations of the judicial departments and judicial administrators, and shall cause a copy of all recommendations to be filed as public record in the office of the clerk of the supreme court and shall, at the beginning of every legislative session, submit a written report to the governor of the state, and to the judiciary committees of both houses of the legislature.

History: L. 1965, ch. 215, § 3; June 30.

20-321. Same; rules and regulations; assistants. The chief justice of the supreme court and each judicial department justice shall adopt such rules and regulations as they may deem necessary to carry out the provisions of this article, and shall assign such duties and shall appoint such assistants to the judicial administrator as they deem necessary, to promptly and efficiently carry out the intent of just, speedy, and inexpensive litigation for the litigants of the state.

History: L. 1965, ch. 215, § 4; June 30.

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 254.

20-324.

Revisor's Note:

Rules of the supreme court relating to the supreme court, court of appeals and appellate practice are published by the Supreme Court Reporter, Kansas Judicial Center, 301 West 10th, Topeka, Kansas 66612-1507.

JUDICIAL REAPPORTIONMENT ACT (1968)

Cross References to Related Sections:

Establishment of judicial districts, see 4-202 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 district courts are published by the Supreme Court Reporter, Kansas Judicial Center, 301 West 10th, Topeka, Kansas 66612-1507.

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. Administrative judge; designation by supreme court; duties. In every judicial district, the supreme court shall designate a 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; L. 1986, ch. 115, § 36; Jan. 12, 1987.

Cross References to Related Sections:

Provision of office space for supreme court justices and court of appeals judges, see 20-163.

Law Review and Bar Journal References:

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

Attorney General's Opinions:

Classes of judges of district court. 85-183.

Alcohol and drug safety action program. 89-4.

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 throughout said district possessed by district judges, the same as if each judge was the sole judge of such district, and such powers, rights and authority may be exercised by each of said district judges in the same or different counties in their district at the same time.

History: L. 1968, ch. 385, § 35; L. 1976, ch. 146, § 29; Jan. 10, 1977.

20-331. Residence requirements of judges of the district court. (a) Except as provided in subsection (b), any person who has the qualifications prescribed for a district judge by K.S.A. 20-334 shall be eligible for nomination,

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, except as provided in K.S.A. 74-7336, and amendments thereto.

(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 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. 9-1402 and amendments thereto; (2) United States treasury bills or notes with maturities not to exceed six months; or (3) savings and loan associations located in the county. No investment of more than the amount insured by the federal deposit insurance corporation shall be made in any one savings and loan association. Interest received from the investment of moneys pursuant to this subsection shall be paid 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.

(c) Upon application of a party to an action in which such party claims ownership of moneys held by the district court, the administrative judge may invest such moneys in the same manner as provided by subsection (b). Interest received from the investment of moneys pursuant to this subsection shall become the property of the person found to be the owner of the moneys.

History: L. 1976, ch. 146, § 45; L. 1977, ch. 109, § 16; L. 1978, ch. 108, § 9; L. 1981, ch. 134, § 1; L. 1989, ch. 239, § 2; L. 1990, ch. 94, § 1; July 1.

Revisor's Note:

Section was amended twice in 1989 session, see also 20-350a.

Attorney General's Opinions:

Release prior to trial; local court rule. 94-25.

CASE ANNOTATIONS

1. Clerk of district court and administrative judge bound to pay to state treasurer all fines and forfeitures for violations of county resolutions. Board of Sedgwick County Comm'rs v. Noone, 235 K. 777, 783, 785, 682 P.2d 1303 (1984).

20-350a.

History: L. 1976, ch. 146, § 45; L. 1977, ch. 109, § 16; L. 1978, ch. 108, § 9; L. 1981, ch. 134, § 1; L. 1989, ch. 48, § 82; Repealed, L. 1990, ch. 94, § 3; July 1.

20-351.

History: L. 1976, ch. 146, § 43; L. 1976, ch. 380, § 8; L. 1977, ch. 112, § 4; Repealed, L. 1978, ch. 350, § 17; Jan. 1, 1979.

20-351a. Elimination or addition of judgeships; report to legislature. On or before December 1 of each year, the chief justice of the supreme court shall submit to the chairpersons of the committees on judiciary of the house of representatives and of the senate a report of all district magistrate judge positions created or eliminated, and all district judge positions created, pursuant to K.S.A. 20-352, 20-353, 20-354 or 20-355, and amendments thereto, during the twelve-month period ending the preceding October 1.

History: L. 1982, ch. 130, § 20; L. 1986, ch. 115, § 44; Jan. 12, 1987.

20-352.

History: L. 1976, ch. 146, § 23; Repealed, L. 1983, ch. 105, § 13; April 28.

20-353. Conversion of district magistrate judge positions to new district judge positions; procedure. If, upon the death, resignation, retirement or removal of a district magistrate judge in any judicial district, the supreme court determines that, in order to effectively expedite the business of the district court in the judicial district, the district magistrate judge position should be eliminated and that an additional position of district judge or an additional division of the district court of the judicial district should be created, the supreme court shall certify to the secretary of state the elimination of the district magistrate judge position and the creation of an additional position of district judge or division of the district court. If the position or division is to be created in a judicial district in which the proposition of nonpartisan selection of district court judges has been approved, as provided in K.S.A. 20-2901 and amendments thereto, the certification also shall be made to the chairperson of the district judicial nominating commission of the judicial district. When the certification has been made, the position or division shall be deemed created and the judgeship therefor shall be deemed vacant, to be filled in the manner pro-

TWELFTH JUDICIAL DISTRICT

Cloud, Jewell, Lincoln, Mitchell, Republic and Washington Counties

THOMAS M. TUGGLE
Chief Judge
(785) 243-8125
Fax (785) 243-8128
judget@kscourt.net

Cloud County Courthouse
Post Office Box 423
Concordia, Kansas 66901
www.kscourts.org/dstcts/12dstct

JO ANNE RICE
Administrative Assistant
(785) 243-8131
Fax (785) 243-8128
joanner@kscourt.net

March 19, 2004

Hon. John Vratil, Chair
Senate Judiciary Committee
State Capitol
Room 522-S
Topeka, KS 66601

*Please distribute
to Judic Comm.
members.*

Re: H. B. 2880.

Dear Senator Vratil and Committee Members:

I am writing in support of that portion of H.B. 2880 that provides the judicial administrator will be appointed by the Chief Justice with the advice and consent of the Justices of the Supreme Court and will serve at the will of the Supreme Court.


I have been a chief judge for fifteen years and for approximately ten years I have been a member of the executive committee of the Kansas District Judges' Association. Through this experience I have a good understanding of the governance of the judicial branch.

Under current law the Chief Justice does the hiring and firing of the judicial administrator; the judicial administrator works only for the Chief Justice. As a result the judicial branch is run by two people, the Chief Justice and the judicial administrator.

In my view this arrangement has not served the judicial branch well for at least the last fifteen years.

What the Constitution intended and what I think is preferable is that the judicial branch be governed an oligarchy, that is all of the members of the Supreme Court.

Sincerely,



Thomas M. Tuggle

TMT/jr

Senate Judiciary

3-22-04
Attachment 4



The Supreme Court of Kansas

Kansas Judicial Center

Topeka, Kansas 66612-1507

March 12, 2004

Senator John Vratil
Senate Judiciary Chair
Room 522-S, Statehouse
Topeka, Kansas 66612

Re: 2004 HB 2880

Dear Senator Vratil:

Please be advised as to our unanimous position relative to 2004 HB 2880.

The Court does not object to the provision included in Section 4(a) of the bill regarding the judicial administrator. This provision is consistent with the original version of K.S.A. 20-318, found at L. 1965, Ch. 215, Section 1. However, one minor change in the original language needs to be made to avoid an interpretation that a unanimous vote of the Court is required. We suggest the following language:

There is created hereby the position of judicial administrator of the courts, who shall be appointed by a *majority* of the justices of the supreme court to serve at the will of the *majority*.

This mirrors the original statute, the Judicial Department Reform Act (1965), but clarifies that action depends on a majority of the court. A copy of the original statute is enclosed.

We strongly oppose the balance of 2004 HB 2880. Article 3, Section 1 of the *Constitution of the State of Kansas* provides that "The Supreme Court shall have general

Senate Judiciary

3-22-04

Attachment

5

Senate John Vratil
Senate Judiciary Chair
March 12, 2004
Page 2

administrative authority over all courts in this state." These provisions would intrude upon the constitutional authority of the Kansas Supreme Court to administer the court system and would create serious problems for our branch of government.

We urge your favorable consideration of our position.

Sincerely,



Kay McFarland, Chief Justice



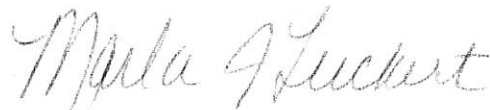
Donald L. Allegrucci, Justice



Robert E. Davis, Justice



Lawton R. Nuss, Justice



Marla J. Luckert, Justice



Robert L. Gernon, Justice



Carol A. Beier, Justice

Enclosure

he district courts may bailiff for each division dicial districts. Any such ppointed shall be vested powers and duties pre-bailiffs, and in addition, ther duties and functions judge or judges so ap-27, ch. 177, § 1; L. 1973,

Aids:

NOTATIONS

o take proper oath and other reversible error. State v. 8, 571, 251 P.2d 225. results, failure to give bailiff Laughlin Motors v. Univer- p., 173 K. 600, 609, 251

sworn; accused not prejudiced e v. Noble, 175 K. 398, 399, 9.

not sworn and instructed as by record. State v. Barnes, 2d 774. is judicial function; should exercised by bailiff. State v. 149 P. 2d 1006.

nsation of bailiffs and uch bailiff or bailiffs shall tion for their services the s (\$15) per day for each rt thereof that such bailiff id upon court, except that f shall receive such addi- as may be prescribed by idicial district, subject to oard of county commis- ty for which he was ap- ompensation shall be paid nd of the county in which be rendered, except that ailiff is appointed for one a judicial district consis- e county, such compensa- y the board of county com- ounty having the greatest district from the general , and such board of county send a statement to the nmissioners of each of the uch district for a propor- h compensation with such ased upon the respective a county within such judi- board of county commis- statement pursuant to this

section shall make payment of the same from the general fund of the county. [L. 1927, ch. 177, § 2; L. 1951, ch. 244, § 1; L. 1965, ch. 216, § 1; L. 1971, ch. 100, § 1; L. 1973, ch. 131, § 2; July 1.]

20-313a. Additional compensation of secretary-bailiffs without regard to budget. The additional compensation authorized by this act [°] for secretary-bailiffs may be paid in the budget year in which this act takes effect, even though the same were not included in the budget of expenditures for such year. [L. 1973, ch. 131, § 5; July 1.]

° "This act," see, also, 20-312, 20-313, 20-314, 20-317.

20-314. Bailiff or secretary-bailiff in certain counties between 45,000 and 75,000; appointment. The judge of the district court in any county having a population of more than forty-five thousand (45,000) and less than seventy-five thousand (75,000) and having an assessed tangible valuation of more than seventy-five million dollars (\$75,000,000), may appoint a bailiff for the county, except that in lieu of appointing a bailiff for such county, a secretary-bailiff may be appointed for such county in accordance with the provisions of K. S. A. 20-312, as amended. [L. 1947, ch. 234, § 1; L. 1973, ch. 131, § 3; July 1.]

20-315. Same; duties; tenure of office. The bailiff, when appointed, shall be authorized to perform all acts imposed upon bailiffs in attending the court and carrying out the orders of the judge. He shall also act as the parole officer for the county for which he is appointed bailiff, and his duties as such parole officer shall be to assist the judge in having the provisions of paroles and probations fully complied with, and to perform such other duties as may be ordered and prescribed by the judge from time to time. When not in the exercise of his duties as bailiff or parole officer, he shall perform all acts imposed upon deputy sheriffs and shall assist the sheriff in the discharge of the general duties of his office. He shall hold his office as bailiff and parole officer at the pleasure of the judge. [L. 1947, ch. 234, § 2; June 30.]

20-316. Same; desk space and supplies. The county shall provide the bailiff such desk space and supplies as in the opinion of the judge shall be necessary. Said space shall be in or immediately adjacent to the court room or offices of the court. [L. 1947, ch. 234, § 3; June 30.]

20-317. Same; salary. The bailiff may receive a salary fixed by the board of county commissioners not exceeding two thousand four hundred dollars (\$2,400), except that a secretary-bailiff shall receive such additional compensation as may be prescribed by said board. [L. 1947, ch. 234, § 4; L. 1953, ch. 171, § 1; L. 1973, ch. 131, § 4; July 1.]

20-317a. Bailiff and parole officer in counties between 60,000 and 100,000; annual salary. The bailiff and parole officer of any county having a population of more than sixty thousand (60,000) and not more than one hundred thousand (100,000) shall receive an annual salary in an amount to be fixed by resolution of the board of county commissioners. [L. 1969, ch. 201, § 10; L. 1972, ch. 153, § 10; L. 1973, ch. 175, § 11; Nov. 1.]

Source or prior law: 28-913.

Revisor's Note:

Section transferred from 28-829.

JUDICIAL DEPARTMENT REFORM ACT (1965)

20-318. Judicial department created; division of state into six sections; departmental justices assigned; position of judicial administrator created; appointment, compensation, authority and duties of administrator. There is hereby created within the state of Kansas, a judicial department for the supervision of all district courts in the state of Kansas. The chief justice, along with the other justices of the supreme court, shall immediately, upon the adoption of this article, divide the state into separate sections, not to exceed six (6) in number, to be known as judicial departments, each of which shall be assigned a designation to distinguish it from the other departments. A justice of the supreme court shall be assigned as departmental justice for each judicial department.

There is created hereby, the position of judicial administrator of the courts, who shall be appointed by the justices of the supreme court to serve at the will of the said justices. Compensation of the judicial administrator shall be determined by the justices, but shall not exceed the salary authorized by law for the judge of the district court, including any other compensation which the judicial administrator may be drawing from the state of Kansas. The judicial administrator shall be responsible to the supreme court of the state of Kansas, and shall perform such duties as are provided by law or assigned him by the supreme court. Expenditures from ap-

appropriations to district court judges and stenographers shall be made on vouchers approved by the judicial administrator. All claims for salaries, wages or other compensation to be paid from appropriations to district court judges and stenographers shall be certified as provided in K. S. A. 75-3731 by the judicial administrator.

It shall be the duty of the judicial administrator to cause clerks of district courts of this state, to submit full reports on all causes pending in each district court in this state, on, or before the first day of January of each year, and the said judicial administrator shall analyze and study such reports and determine what districts courts are in the need of additional judges to assist the said courts, so that the litigants of this state shall receive just, speedy, and inexpensive determination of all causes pending in the respective courts throughout the state. Within a reasonable time thereafter, it shall be the duty of the judicial administrator, under such rules and regulations as shall be promulgated, or adopted by the supreme court, to notify the chief justice in writing, of all causes pending which are at issue and cannot be tried because of accumulation of business, or for other reasons cannot be tried speedily, and such chief justice shall immediately upon receiving said report summon a conference of the justices, and assign such cases to some other judge of a district court or call in for assistance any retired judge of a district court or justice of the supreme court qualified by law to try the said case. [L. 1965, ch. 215, § 1; L. 1973, ch. 132, § 1; July 1.]

Cross References to Related Sections:

Appointment of appraisers by judicial administrator of certain real property to be purchased by state, see 75-3043a.

Law Review and Bar Journal References:

Cited; article concerning delay in the courts, George S. Reynolds, 12 W. L. J. 12, 21, 22 (1972).

CASE ANNOTATIONS

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

2. Act mentioned; written report required by rule No. 126 not filed in contract action. Duffin v. Patrick, 212 K. 772, 773, 512 P. 2d 442.

20-319. Same; powers and duties of departmental justices; reports and information. (a) A justice assigned to each department shall:

(1) With the help and assistance of the judicial administrator make a survey of the conditions of the dockets and business of the

district courts in his department, and make a report and recommendations thereto, to the chief justice.

(2) Assemble the judges of the district courts within his department, at least once yearly, to discuss such recommendations and such other business as will benefit the judiciary of the state, and when so summoned, the judges of the district courts in the various departments shall attend such conferences at the expense of the state. Such judges shall be entitled to their actual and necessary expenses while attending such conferences, and shall be required to attend the conferences unless excused by the departmental justice for good cause.

(b) Departmental justices shall have authority within their said department to assign any district judge, to hear any proceeding or try any cause in other district courts. Any departmental justice may request the assistance of any district judge from another department if such are available to aid in the trying of any case within his department, if no judges are available within his department.

(c) The departmental justices shall supervise all administrative matters relating to the courts within their department, and require such reports periodically, covering such matters and in such form as the supreme court may determine on any such matter which will aid in promoting the efficiency, or the speedy determination of causes now pending, and shall have the power to examine the dockets, records, and proceedings of any courts under their supervision. All judges and clerks of the several district courts of the state, shall promptly make such reports and furnish the information requested by any such justice or judicial administrator, in such manner and form as may be prescribed by rules adopted by the supreme court. In each judicial district presided over by more than one judge, the departmental justice shall assign to the presiding judge such duties as are necessary to carry out the intent of just, speedy and inexpensive litigation for the litigants of the state. [L. 1965, ch. 215, § 2; June 30.]

Law Review and Bar Journal References:

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

20-320. Same; duties of chief justice; records and report. The chief justice shall analyze and study such reports as are submitted to him and promptly submit a summary thereof, and the recommendations of the judicial departments and judicial administrators, and shall cause a copy of all recommen-

dations to be filed in the office of the clerk of the court, at the beginning of the session, submit a report of the state, and of both houses of the legislature, ch. 215, § 3; June 30.]

Law Review and Bar Journal References: Mentioned as combating delay, 12 W. L. J. 12, 22 (1972).

20-321. Same; duties of departmental justices. The chief justice and each departmental justice shall adopt such rules as may be deemed necessary for the efficient performance of their duties and shall cause such rules to be promptly and uniformly enforced. The chief justice shall, in the interest of just, speedy, and inexpensive litigation, the litigants of the state. [L. 1965, ch. 215, § 4; June 30.]

Law Review and Bar Journal References: Mentioned as combating delay, 12 W. L. J. 12, 22 (1972).

20-322. Same; duties of departmental justices. The chief justice shall be known as the chief justice of the judicial department. [L. 1965, ch. 215, § 5; June 30.]

CAS 1. Act does not violate Constitution. State v. Schroeder, 201 K. 811, 823, 443 P. 2d 284.

20-323. Same; duties of departmental justices. The chief justice shall, in the interest of just, speedy and inexpensive litigation, the litigants of the state. [L. 1965, ch. 215, § 4; June 30.]

CAS 1. Act does not violate Constitution. State v. Schroeder, 201 K. 811, 823, 443 P. 2d 284.

20-324. Same; duties of departmental justices. The chief justice shall, in the interest of just, speedy and inexpensive litigation, the litigants of the state. [L. 1965, ch. 215, § 4; June 30.]

Revisor's Note: For rules of the judicial administration, form number, see 60-271.

JUDICIAL REVENUE
Cross References to Establishment of

20-325. Same; duties of departmental justices. The chief justice shall, in the interest of just, speedy and inexpensive litigation, the litigants of the state. [L. 1965, ch. 215, § 4; June 30.]

5-4