



SUPREME COURT OF KANSAS

KANSAS JUDICIAL CENTER

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HOUSE JUDICIARY COMMITTEE

REPRESENTATIVE LANCE KINZER, CHAIR

Testimony In Support Of

HB 2116 Process Service - Electronically Filed Court Cases

February, 4, 2013

Mr. Chairman and committee members, thank you for the opportunity to appear before you today in support of this bill. This bill was recommended by the Supreme Court. This bill would allow each district to work with the sheriff to make a local decision as to how the sheriff receives documents to be served, as well as payment for process service. If the changes are not made, the case filer will be required to make a trip to the courthouse to pay service fees with a check made out to the sheriff even if the case is filed and fees are paid electronically. It is hoped that amending the current procedure, only for electronically filed cases, will encourage use of an electronic filing process.

Existing procedure requires the filer to make the required number of copies of the petition and all supporting documents that will be filed with the court. The filer may use a private process server, or law enforcement to serve papers on the party being sued, so that they know why they are being sued, for example, in a contract dispute, or a debt to be collected. One set of these copied and filed documents is provided to the person or company being sued, along with forms authorizing service that are generated by the court clerk upon filing. When a private process server is used, the process is between the filer and the process server. The court returns the required documents electronically, and the filer pays the process server as agreed upon.

When law enforcement is used to serve process, the paper process requires the documents to be served and the payment to filter through the clerk's office. With electronic filing, the payment may filter through the clerk's office, but also may be paid directly to the sheriff. Requiring the filer to go to the courthouse, bringing a copy of the electronically filed documents and a check for the sheriff may not encourage electronic filing. Requiring the filer to go to the sheriff, bringing a copy of the documents and a check likewise may not encourage use of electronic filing. To encourage electronic filing, a public entity, either the Judicial Branch (where these costs would be paid by the county) or the sheriff (where costs are also paid by the county), may bear the cost for producing the paper copy for service of process, rather than the filer, as has been the case in a paper filing system.

This bill allows local flexibility in determining how this situation will be handled. In the e-filing pilot project that is currently underway, the chief judge located in the pilot county has visited with the local sheriff to discuss the issue. In Leavenworth County, the sheriff has agreed to accept the documents

for service electronically and print them. In Sedgwick County, filers will work directly with the Sheriff's Office. We ask for legislative authority to allow this practice as each county determines is best for that county.

Service of process disbursement would go to the sheriff at least monthly. Reporting monthly allows the clerks to notify law enforcement consistent with their financial reconciliation schedule currently in place.

I'd like to thank the committee for your time today, I urge you to support passage of the bill, and I'd be happy to answer questions.