

## HOUSE BILL No. 2016

By Committee on Judiciary

1-16

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1 AN ACT concerning judges of the district court; relating to the  
2 reassignment of positions; amending K.S.A. 20-327, 20-333, 20-336,  
3 20-348, 20-354 and 20-2908 and repealing the existing sections; also  
4 repealing K.S.A. 20-301b, 20-338 and 20-354a.  
5

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

7 Section 1. K.S.A. 20-327 is hereby amended to read as follows: 20-  
8 327. All judges of district courts elected under the provisions of this act  
9 shall be elected for terms of four years and until their successors are  
10 elected and qualified *unless otherwise provided pursuant to K.S.A. 20-354,*  
11 *and amendments thereto.*

12 Sec. 2. K.S.A. 20-333 is hereby amended to read as follows: 20-333.  
13 Whenever under the provisions of this act provision is made for the  
14 abolishment of the office of district judge *or district magistrate judge* in  
15 any judicial district, and the district judge *or district magistrate judge*  
16 holding any such office shall die, resign or retire during the four (4) years  
17 next preceding the date fixed for the abolishment of such office, such  
18 office shall be and is hereby abolished at the time of such death,  
19 resignation or retirement.

20 Sec. 3. K.S.A. 20-336 is hereby amended to read as follows: 20-336.  
21 In any judicial district which has not approved the proposition of  
22 nonpartisan selection of district court judges, election laws applicable to  
23 the election of ~~county officers~~ *district judges* shall govern every election of  
24 district magistrate judges. Each district magistrate judge shall be elected  
25 by the electors of the county where the judge's position is located *and*  
26 *assigned by the chief judge of the judicial district.*

27 Sec. 4. K.S.A. 20-348 is hereby amended to read as follows: 20-348.  
28 Except for expenses required by law to be paid by the state, the board of  
29 county commissioners of each county have an obligation to adequately  
30 fund the operation of the district court in the county and shall be  
31 responsible for all expenses incurred for the operation of the district court  
32 in the county. *Counties from which district magistrate judge positions*  
33 *have been eliminated pursuant to K.S.A. 20-333 or 20-354, and*  
34 *amendments thereto, shall remain responsible for all expenses incurred as*  
35 *that county's share of the operations of the district court within the*  
36 *judicial district, as determined by the chief judge of the judicial district.*

1 Sec. 5. K.S.A. 20-354 is hereby amended to read as follows: 20-354.

2 ~~(a) If, upon the death, resignation, retirement or removal of a district~~  
3 ~~magistrate judge of a county in which there are two or more district~~  
4 ~~magistrate judge positions or in which there also is at least one district~~  
5 ~~judge position,~~ the supreme court determines that the continuation of the  
6 ~~vacant~~ a district magistrate judge position is unnecessary, due to the yearly  
7 *average caseload of the district magistrate judge being less than 600*  
8 *cases and the ability of the remaining judges of the district court in the*  
9 ~~county~~ *judicial district* to assume the entire judicial workload of the  
10 county, the supreme court shall certify the elimination *and reassignment* of  
11 the district magistrate judge position to the secretary of state. Where the  
12 position to be eliminated is in a judicial district in which the proposition of  
13 nonpartisan selection of district court judges has been approved, such  
14 certification also shall be made to the chairperson of the district judicial  
15 nominating commission of the judicial district. *The terms of office of*  
16 *district magistrate judges determined to be unnecessary and reassigned*  
17 *for district magistrate judges holding office in January of the year*  
18 *following the determination, shall expire on the last day of the term for*  
19 *which the district magistrate judge is currently holding office. The*  
20 *supreme court shall designate any district magistrate positions to be*  
21 *abolished no later than one year prior to the end of the term for which the*  
22 *current district magistrate judge is serving.*

23 (b) *In counties where district magistrate judge positions are*  
24 *eliminated, the chief judge of such judicial district shall assign a district*  
25 *magistrate judge from another county in the judicial district to be the*  
26 *district magistrate judge for such county. If a district magistrate judge is*  
27 *assigned to more than one county in a judicial district in which the*  
28 *proposition of nonpartisan selection of district court judges has been*  
29 *approved, the district magistrate judge shall be subject to retention by the*  
30 *electors of the counties to which such district magistrate judge has been*  
31 *assigned. If a district magistrate judge is assigned to more than one*  
32 *county in a judicial district in which the proposition of nonpartisan*  
33 *selection of district court judges has not been approved, the district*  
34 *magistrate judge shall be elected at the next general election held in*  
35 *November by the electors of the counties to which such district magistrate*  
36 *judge has been assigned. The terms of office of district magistrate judges*  
37 *determined to be unnecessary and reassigned for district magistrate*  
38 *judges holding office in January of the year following the determination,*  
39 *shall expire on the last day of the term for which the district magistrate*  
40 *judge is currently holding office. The supreme court shall designate any*  
41 *district magistrate positions to be abolished no later than one year prior*  
42 *to the end of the term for which the current district magistrate judge is*  
43 *serving.*

1       (c) *In counties where district magistrate judge positions are*  
2 *eliminated or from which district magistrate judge positions are*  
3 *reassigned, the county commission may elect to retain the position and pay*  
4 *the salary of the current district magistrate judge. Any such district*  
5 *magistrate judge shall have the same power and authority as a district*  
6 *magistrate judge position established by the supreme court. Such judge*  
7 *shall receive the salary and other compensation set by resolution of the*  
8 *board of county commissioners which shall be paid from the revenues of*  
9 *the county general fund or other fund established for the purpose of*  
10 *financing such position. The chief judge of each judicial district with a*  
11 *district magistrate judge position being funded by a county shall report to*  
12 *the judicial administrator of the courts: (1) The dates on which such judge*  
13 *served in such district; (2) the compensation paid to such judge; and (3)*  
14 *such other information as the judicial administrator may request with*  
15 *regard to the district magistrate judge position being funded by a county.*  
16 *The reports shall be submitted annually on or before January 15 on forms*  
17 *provided by the judicial administrator.*

18       (d) *As used in this section, the yearly average caseload shall not*  
19 *include those cases which are traffic infractions or violations and shall*  
20 *include those cases which are filed pursuant to the revised Kansas code*  
21 *for the care of children, article 22 of chapter 38 of the Kansas Statutes*  
22 *Annotated, and amendments thereto; the revised Kansas juvenile justice*  
23 *code, article 23 of chapter 38 of the Kansas Statutes Annotated, and*  
24 *amendments thereto; and the probate code, chapter 59 of the Kansas*  
25 *Statutes Annotated, and amendments thereto.*

26       Sec. 6. K.S.A. 20-2908 is hereby amended to read as follows: 20-  
27 2908. Following the approval of nonpartisan selection of judges of the  
28 district court in a judicial district as provided in K.S.A. 20-2901, and  
29 amendments thereto, there shall not be an election or reelection of a judge  
30 of the district court at any succeeding general election, but any judge of  
31 the district court in the judicial district whose term of office expires on the  
32 second Monday in January next following any such succeeding general  
33 election shall be eligible for retention in office as provided in this section.  
34 No later than 12:00 noon on the Monday preceding the first Tuesday of  
35 August preceding the expiration of the judge's term of office, the judge  
36 may file in the office of the secretary of state a declaration of candidacy  
37 for retention in office. Such declaration shall be prescribed by the secretary  
38 of state. If a declaration is not so filed, the position held by the judge shall  
39 be vacant upon the expiration of the judge's term of office. If a declaration  
40 is filed, the judge's name shall be submitted at the next general election to  
41 the electors of the judicial district, if the judge is a district judge, or to the  
42 electors of the county, *or counties* if the judge is a district magistrate judge  
43 *and assigned to such counties.* The name shall be submitted on a separate

1 judicial ballot, without party designation, reading substantially as follows:

2 "Shall \_\_\_\_\_

3 (Here insert name of judge.)

4 \_\_\_\_\_

5 (Here insert the title of the court.)

6 be retained in office?"

7 If a majority of those voting on the question vote against retaining the  
8 person in office, the position or office which the person holds shall be  
9 vacant upon the expiration of the person's term of office; otherwise, unless  
10 removed for cause, the person shall remain in office for the regular term of  
11 four years from the second Monday in January following the election. At  
12 the expiration of each term, unless by law the person is compelled to retire,  
13 the person shall be eligible for retention in office by election in the manner  
14 prescribed in this section.

15 Wherever a majority of those voting on the question of retaining any  
16 judge in office vote against retention, the secretary of state, following the  
17 final canvass of votes on the question, shall certify the results to the chief  
18 justice of the supreme court. Any judge who has not been retained in office  
19 pursuant to this section shall not be eligible for nomination or appointment  
20 to the office of judge of the district court in the judicial district prior to the  
21 expiration of four years after the expiration of the judge's term of office.

22 Election laws applicable to the general elections of other state officers  
23 shall apply to elections upon the question of retention of judges of the  
24 district court pursuant to this section, to the extent that they are consistent  
25 with the provisions of this act.

26 New Sec. 7. If the supreme court determines that, in order to  
27 effectively expedite the business of the district court in any judicial  
28 district, the district judge position should be eliminated and that an  
29 additional position or positions of district magistrate judge should be  
30 created in any judicial district, the supreme court shall certify to the  
31 secretary of state the elimination of the district judge position and the  
32 creation of the additional position or positions of district magistrate judge.  
33 If the position or positions are to be created in a judicial district in which  
34 the proposition of nonpartisan selection of district court judges has been  
35 approved, certification also shall be made to the chairperson of the district  
36 judicial nominating commission of the judicial district. When the  
37 certification has been made, the position or division shall be deemed  
38 created and the judgeship therefor shall be deemed vacant, to be filled in  
39 the manner provided by law for filling vacancies in judgeships in the  
40 judicial district. If the position or positions are to be created in a judicial  
41 district in which the proposition of nonpartisan selection of district court  
42 judges has not been approved, the district magistrate judge shall be  
43 selected at the next general election held in November by the electors of

1 the county to which such district magistrate judge has been assigned.

2 Sec. 8. K.S.A. 20-301b, 20-327, 20-333, 20-336, 20-338, 20-348, 20-  
3 354, 20-354a and 20-2908 are hereby repealed.

4 Sec. 9. This act shall take effect and be in force from and after its  
5 publication in the statute book.