

HOUSE BILL No. 2612

By Committee on Judiciary

2-11

1 AN ACT concerning judges; relating to vacancies in the office of judge of
2 the district court and the office of district magistrate judge; amending
3 K.S.A. 20-2909, 20-2911, 20-2914 and 25-312a and repealing the
4 existing sections.
5

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

7 Section 1. K.S.A. 20-2909 is hereby amended to read as follows: 20-
8 2909. (a) (1) Whenever a vacancy occurs in the office of judge of the
9 district court in any judicial district, or whenever a vacancy will occur in
10 such office on a specified future date, the chief justice of the supreme court
11 ~~promptly~~ shall give notice of such vacancy to the chairperson of the
12 district judicial nominating commission of such judicial district *not later*
13 *than 120 days following the date the vacancy occurs or will occur.*

14 (2) The chairperson, in consultation with members of the
15 commission, within five days after receipt of such notice, shall set a
16 schedule for accepting nominations and conducting interviews for the
17 purpose of nominating persons for appointment to such office. It shall be
18 the duty of the commission to nominate not less than two nor more than
19 three persons for each office which is vacant, and shall submit the names of
20 the persons so nominated to the governor. Any person nominated shall
21 have the qualifications prescribed by subsection (b) of K.S.A. 20-2903,
22 and amendments thereto, and in order to obtain the best qualified persons
23 as nominees, the commission shall not limit its consideration of potential
24 nominees to those persons whose names have been submitted to the
25 commission or who have expressed a willingness to serve. The
26 commission may authorize one or more members of the commission to
27 tender a nomination to any qualified person in order to ascertain the
28 person's willingness to serve if nominated, but any such tender of
29 nomination shall be subject to final action of the commission under the
30 conditions prescribed by subsection (b) of K.S.A. 20-2907, and
31 amendments thereto.

32 (3) In order that a vacancy in the office of judge of the district court
33 does not exist for an inordinate length of time, the commission shall
34 conduct the business of selecting nominees for appointment to such office
35 and certifying the same to the governor as promptly and expeditiously as
36 possible, having due regard for the importance of selecting the best

1 possible nominees. In no event shall the commission submit its
2 nominations to the governor more than 45 days after the date the chief
3 justice has notified the nominating commission that a vacancy is to be
4 filled, unless the chief justice permits an extension of such time period.

5 (b) If there are not at least two attorneys deemed qualified by the
6 district judicial nominating commission who reside in the judicial district
7 and who are willing to accept the nomination to fill a vacancy in a district
8 judge position, the nominating commission need not limit its consideration
9 of nominees to attorneys residing in the judicial district. In cases where
10 there is one such attorney, such attorney shall be one of the nominees
11 submitted to the governor. If an appointee is not a resident of the judicial
12 district at the time of appointment to a district judge position, the
13 appointee shall establish residency in the judicial district before taking
14 office and shall maintain such residency while holding such office.

15 Sec. 2. K.S.A. 20-2911 is hereby amended to read as follows: 20-
16 2911. (a) Whenever a district judicial nominating commission has
17 submitted to the governor the required number of nominations for
18 appointment to fill a vacancy in the office of judge of the district court, it
19 shall be the duty of the governor to make such appointment within ~~thirty~~
20 ~~(30)~~ 60 days after such nominations are submitted or resubmitted to ~~him or~~
21 ~~her~~ the governor. If the governor fails to make the appointment within
22 ~~said thirty (30)~~ 60 days, the chief justice of the supreme court shall make
23 the appointment from among such nominees; ~~but, except~~ whenever any
24 change in the nominations is made pursuant to K.S.A. 20-2910, ~~said thirty-~~
25 ~~day and amendments thereto,~~ such 60-day period commences on the day
26 the nominations are resubmitted.

27 (b) Whenever a vacancy in the office of judge of the district court
28 exists at the time the appointment to fill such vacancy is made pursuant to
29 this section, the appointment shall be effective at the time it is made, but
30 where an appointment is made pursuant to this section to fill a vacancy
31 which will occur at a future date, such appointment shall not take effect
32 until ~~said~~ such future date.

33 Sec. 3. K.S.A. 20-2914 is hereby amended to read as follows: 20-
34 2914. (a) Whenever a vacancy shall occur in the office of district
35 magistrate judge in any judicial district which has approved the
36 proposition of nonpartisan selection of district court judges, or whenever a
37 vacancy will occur in such office on a specified future date, the chief
38 justice of the supreme court ~~promptly~~ shall give notice of such vacancy to
39 the chairperson of the district judicial nominating commission of such
40 judicial district *not later than 120 days following the date the vacancy*
41 *occurs or will occur*. The chairperson, in consultation with members of the
42 commission, within five days after receipt of such notice, shall set a
43 schedule for accepting nominations and conduction[conducting]

1 interviews for the purpose of selecting a person to fill such vacancy. Any
2 person so selected shall have the qualifications prescribed by subsection
3 (c) of K.S.A. 20-334, *and amendments thereto*, and in order to obtain the
4 best qualified person as a district magistrate judge, the commission shall
5 not limit its consideration of potential appointees to those persons whose
6 names have been submitted to the commission or who have expressed a
7 willingness to serve. The commission may authorize one or more members
8 of the commission to tender an appointment to any qualified person in
9 order to ascertain such person's willingness to serve if appointed. Any such
10 tender of appointment shall be subject to final action of the commission
11 under the conditions prescribed by subsection (b) of K.S.A. 20-2907, and
12 amendments thereto.

13 (b) Any appointment made pursuant to subsection (a) shall be
14 contingent upon the acceptance of such appointment by the person so
15 appointed and, if such person is not regularly admitted to practice law in
16 Kansas, the appointment shall be made on a temporary basis until such
17 person has been certified by the supreme court as qualified to hold such
18 office, in the manner provided by K.S.A. 20-337, and amendments thereto.

19 Sec. 4. K.S.A. 25-312a is hereby amended to read as follows: 25-
20 312a. Except as otherwise provided in K.S.A. 20-2903 through 20-2913,
21 and amendments thereto, whenever a vacancy occurs in the office of judge
22 of the district court, it shall be filled by appointment by the governor
23 *following receipt of notice from the clerk of the supreme court, which shall*
24 *be given not later than 120 days following the date the vacancy occurs or*
25 *will occur*. If the vacancy occurs on or after May 1 of the second year of
26 the term, the person so appointed shall serve for the remainder of the
27 unexpired term and until a successor is elected and qualified. If the
28 vacancy occurs before May 1 of the second year of the term, the person
29 appointed to fill the vacancy shall serve until a successor is elected and
30 qualified at the next general election to serve the remainder of the
31 unexpired term. Any appointment made by the governor as required by
32 this section shall be made within ~~60 days after the vacancy occurs~~ *90 days*
33 *following receipt of notice from the clerk of the supreme court*.

34 Sec. 5. K.S.A. 20-2909, 20-2911, 20-2914 and 25-312a are hereby
35 repealed.

36 Sec. 6. This act shall take effect and be in force from and after its
37 publication in the statute book.