

{As Amended by House Committee of the Whole}

Session of 2014

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) **{(A) On and after July 1, 2014, through June 30, 2017,}**
9 whenever a vacancy occurs in the office of judge of the district court in
10 any judicial district, or whenever a vacancy will occur in such office on a
11 specified future date, the chief justice of the supreme court ~~promptly~~ shall
12 give notice of such vacancy to the chairperson of the district judicial
13 nominating commission of such judicial district *not later than 120 days*
14 *following the date the vacancy occurs or will occur.*

15 **{(B) On and after July 1, 2017, whenever a vacancy occurs in the**
16 **office of judge of the district court in any judicial district, or whenever**
17 **a vacancy will occur in such office on a specified future date, the chief**
18 **justice of the supreme court promptly shall give notice of such**
19 **vacancy to the chairperson of the district judicial nominating**
20 **commission of such judicial district.}**

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

1 conditions prescribed by subsection (b) of K.S.A. 20-2907, and
2 amendments thereto.

3 (3) In order that a vacancy in the office of judge of the district court
4 does not exist for an inordinate length of time, the commission shall
5 conduct the business of selecting nominees for appointment to such office
6 and certifying the same to the governor as promptly and expeditiously as
7 possible, having due regard for the importance of selecting the best
8 possible nominees. In no event shall the commission submit its
9 nominations to the governor more than 45 days after the date the chief
10 justice has notified the nominating commission that a vacancy is to be
11 filled, unless the chief justice permits an extension of such time period.

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

22 Sec. 2. K.S.A. 20-2911 is hereby amended to read as follows: 20-
23 2911. (a) **{(1) On and after July 1, 2014, through June 30, 2017,}**
24 whenever a district judicial nominating commission has submitted to the
25 governor the required number of nominations for appointment to fill a
26 vacancy in the office of judge of the district court, it shall be the duty of
27 the governor to make such appointment within ~~thirty (30)~~ 60 days after
28 such nominations are submitted or resubmitted to ~~him or her~~ the governor.
29 If the governor fails to make the appointment within ~~said thirty (30)~~ 60
30 days, the chief justice of the supreme court shall make the appointment
31 from among such nominees; ~~but~~ *except* whenever any change in the
32 nominations is made pursuant to K.S.A. 20-2910, ~~said thirty-day and~~
33 *amendments thereto, such 60-day* period commences on the day the
34 nominations are resubmitted.

35 **{(2) On and after July 1, 2017, whenever a district judicial**
36 **nominating commission has submitted to the governor the required**
37 **number of nominations for appointment to fill a vacancy in the office**
38 **of judge of the district court, it shall be the duty of the governor to**
39 **make such appointment within 30 days after such nominations are**
40 **submitted or resubmitted to the governor. If the governor fails to**
41 **make the appointment within 30 days, the chief justice of the supreme**
42 **court shall make the appointment from among such nominees, except**
43 **whenever any change in the nominations is made pursuant to K.S.A.**

1 **20-2910, and amendments thereto, such 30-day period commences on**
2 **the day the nominations are resubmitted.}**

3 (b) Whenever a vacancy in the office of judge of the district court
4 exists at the time the appointment to fill such vacancy is made pursuant to
5 this section, the appointment shall be effective at the time it is made, but
6 where an appointment is made pursuant to this section to fill a vacancy
7 which will occur at a future date, such appointment shall not take effect
8 until ~~said~~ *such future date*.

9 Sec. 3. K.S.A. 20-2914 is hereby amended to read as follows: 20-
10 2914. (a) **{(1) (A) On and after July 1, 2014, through June 30, 2017,}**
11 whenever a vacancy shall occur in the office of district magistrate judge in
12 any judicial district which has approved the proposition of nonpartisan
13 selection of district court judges, or whenever a vacancy will occur in such
14 office on a specified future date, the chief justice of the supreme court
15 ~~promptly~~ shall give notice of such vacancy to the chairperson of the
16 district judicial nominating commission of such judicial district *not later*
17 *than 120 days following the date the vacancy occurs or will occur*.

18 **{(B) On and after July 1, 2017, whenever a vacancy shall occur in**
19 **the office of district magistrate judge in any judicial district which has**
20 **approved the proposition of nonpartisan selection of district court**
21 **judges, or whenever a vacancy will occur in such office on a specified**
22 **future date, the chief justice of the supreme court promptly shall give**
23 **notice of such vacancy to the chairperson of the district judicial**
24 **nominating commission of such judicial district.}**

25 (2) }The chairperson, in consultation with members of the commission,
26 within five days after receipt of such notice, shall set a schedule for
27 accepting nominations and ~~conduction~~ **{conducting}** interviews for the
28 purpose of selecting a person to fill such vacancy. Any person so selected
29 shall have the qualifications prescribed by subsection (c) of K.S.A. 20-
30 334, *and amendments thereto*, and in order to obtain the best qualified
31 person as a district magistrate judge, the commission shall not limit its
32 consideration of potential appointees to those persons whose names have
33 been submitted to the commission or who have expressed a willingness to
34 serve. The commission may authorize one or more members of the
35 commission to tender an appointment to any qualified person in order to
36 ascertain such person's willingness to serve if appointed. Any such tender
37 of appointment shall be subject to final action of the commission under the
38 conditions prescribed by subsection (b) of K.S.A. 20-2907, and
39 amendments thereto.

40 (b) Any appointment made pursuant to subsection (a) shall be
41 contingent upon the acceptance of such appointment by the person so
42 appointed and, if such person is not regularly admitted to practice law in
43 Kansas, the appointment shall be made on a temporary basis until such

1 person has been certified by the supreme court as qualified to hold such
2 office, in the manner provided by K.S.A. 20-337, and amendments thereto.

3 Sec. 4. K.S.A. 25-312a is hereby amended to read as follows: 25-
4 312a. **{(a) On and after July 1, 2014, through June 30, 2017,}** except
5 as otherwise provided in K.S.A. 20-2903 through 20-2913, and
6 amendments thereto, whenever a vacancy occurs in the office of judge of
7 the district court, it shall be filled by appointment by the governor
8 *following receipt of notice from the clerk of the supreme court, which shall*
9 *be given not later than 120 days following the date the vacancy occurs or*
10 *will occur.* If the vacancy occurs on or after May 1 of the second year of
11 the term, the person so appointed shall serve for the remainder of the
12 unexpired term and until a successor is elected and qualified. If the
13 vacancy occurs before May 1 of the second year of the term, the person
14 appointed to fill the vacancy shall serve until a successor is elected and
15 qualified at the next general election to serve the remainder of the
16 unexpired term. Any appointment made by the governor as required by
17 this section shall be made within ~~60 days after the vacancy occurs~~ *90 days*
18 *following receipt of notice from the clerk of the supreme court.*

19 **{(b) On and after July 1, 2017, except as otherwise provided in**
20 **K.S.A. 20-2903 through 20-2913, and amendments thereto, whenever a**
21 **vacancy occurs in the office of judge of the district court, it shall be**
22 **filled by appointment by the governor. If the vacancy occurs on or**
23 **after May 1 of the second year of the term, the person so appointed**
24 **shall serve for the remainder of the unexpired term and until a**
25 **successor is elected and qualified. If the vacancy occurs before May 1**
26 **of the second year of the term, the person appointed to fill the vacancy**
27 **shall serve until a successor is elected and qualified at the next general**
28 **election to serve the remainder of the unexpired term. Any**
29 **appointment made by the governor as required by this section shall be**
30 **made within 6}{0 days after the vacancy occurs.}**

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

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