

SENATE BILL No. 59

By Committee on Judiciary

1-22

Proposed Amendments to SB 59
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Office of Revisor of Statutes
February 18, 2015

1 AN ACT concerning district magistrate judges; relating to jurisdiction;
2 appeals; amending K.S.A. 2014 Supp. 20-302b and repealing the
3 existing section.
4

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

6 Section 1. K.S.A. 2014 Supp. 20-302b is hereby amended to read as
7 follows: 20-302b.(a) Subject to assignment pursuant to K.S.A. 20-329, and
8 amendments thereto, a district magistrate judge shall have the jurisdiction
9 and power, in any case in which a violation of the laws of the state is
10 changed, to conduct the trial of traffic infractions, *wildlife and parks*
11 *violations*, cigarette or tobacco infractions or misdemeanor charges, to
12 conduct felony first appearance hearings and the preliminary examination
13 of felony charges and to hear misdemeanor or felony arraignments. Except
14 as otherwise *specifically* provided in *this section*, in civil cases, a district
15 magistrate judge shall have jurisdiction over actions filed under the code
16 of civil procedure for limited actions. K.S.A. 61-2801 et seq., and
17 amendments thereto, and concurrent jurisdiction, powers and duties with a
18 district judge. Except as otherwise specifically provided in this section
19 ~~and subsection (b) section~~, in all other civil cases, a district magistrate
20 judge shall have jurisdiction over any civil action not filed under the code
21 of civil procedure for limited actions only with the consent of the parties.
22 A district magistrate judge shall have jurisdiction over uncontested actions
23 for divorce. Except with consent of the parties, or as otherwise specifically
24 provided in this section, a district magistrate judge shall not have
25 jurisdiction or cognizance over the following actions:

26 (1) Any action, other than an action seeking judgment for an
27 unsecured debt not sounding in tort and arising out of a contract for the
28 provision of goods, services or money, in which the amount in controversy,
29 exclusive of interests and costs, exceeds \$10,000. The provisions of this
30 subsection shall not apply to actions filed under the code of civil
31 procedure for limited actions, K.S.A. 61-2801 et seq., and amendments
32 thereto. In actions of replevin, the affidavit in replevin or the verified
33 petition fixing the value of the property shall govern the jurisdiction.
34 Nothing in this paragraph shall be construed as limiting the power of a
35 district magistrate judge to hear any action pursuant to the Kansas
36 probate code or to issue support orders as provided by subsection (a)(6);

Strike

A district magistrate judge shall
have jurisdiction over uncontested
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Strike

in
lines
18-23

all other civil cases, and shall have

(2) actions against any officers of the state, or any subdivisions thereof, for misconduct in office;

(3) actions for specific performance of contracts for real estate;

(4) actions in which title to real estate is sought to be recovered or in which an interest in real estate, either legal or equitable, is sought to be established. Nothing in this paragraph shall be construed as limiting the right to bring an action for forcible detainer as provided in the acts contained in K.S.A. 61-3801 through 61-3808, and amendments thereto. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code;

(5) actions to foreclose real estate mortgages or to establish and foreclose liens on real estate as provided in the acts contained in article 11 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto;

(6) contested actions for divorce, separate maintenance or custody of minor children. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to: (A) Except as provided in subsection (e), hear any action pursuant to the Kansas code for care of children or the revised Kansas juvenile justice code; (B) establish, modify or enforce orders of support, including, but not limited to, orders of support pursuant to the Kansas parentage act, K.S.A. 2014 Supp. 23-2201 et seq., and amendments thereto, the uniform interstate family support act, K.S.A. 2014 Supp. 23-36,101 et seq., and amendments thereto, articles 29 or 30 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 39-709, 39-718b or 39-755 or K.S.A. 2014 Supp. 23-3101 through 23-3113, 38-2348, 38-2349 or 38-2350, and amendments thereto; or (C) enforce orders granting visitation rights or parenting time;

(7) habeas corpus;

(8) receiverships;

(9) declaratory judgments;

(10) mandamus and quo warranto;

(11) injunctions;

(12) class actions; and

(13) actions pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

(b) Notwithstanding the provisions of subsection (a), in the absence, disability or disqualification of a district judge, a district magistrate judge may:

(1) Grant a restraining order, as provided in K.S.A. 60-902, and amendments thereto;

(2) appoint a receiver, as provided in K.S.A. 60-1301, and amendments thereto; and

(3) make any order authorized by K.S.A. 23-2707, and amendments

thereto.

(c) (1) ~~All actions or proceedings~~ Every action or proceeding before a district magistrate judge regularly admitted to practice law in Kansas shall be on the record if such ~~actions or proceedings~~ action or proceeding would be on the record before a district judge.

(2) In accordance with the limitations and procedures prescribed by law, and subject to any rules of the supreme court relating thereto, any appeal permitted to be taken from an order or final decision of a district magistrate judge: (A) who is not regularly admitted to practice law in Kansas shall be tried and determined de novo by a district judge, except that in civil cases where a record was made of the action or proceeding before the district magistrate judge, the appeal shall be tried and determined on the record by a district judge; and (B) who is regularly admitted to practice law in Kansas shall be to the court of appeals.

(d) Except as provided in subsection (e), upon motion of a party, the chief judge may reassign an action from a district magistrate judge to a district judge.

(e) Upon motion of a party, for a petition or motion filed under the Kansas code for care of children requesting termination of parental rights pursuant to K.S.A. 2014 Supp. 38-2264 through 38-2367, 38-2266 and 38-2267, and amendments thereto, the chief judge shall reassign such action from a district magistrate judge to a district judge.

(f) *This section shall apply to every action or proceeding on or after July 1, 2014, regardless of the date such action or proceeding was filed or commenced.*

Sec. 2. K.S.A. 2014 Supp. 20-302b is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

, the chief judge shall reassign

Strike "filed ... children" in lines 18-19

Strike "the ... action" in line 21

Note: To match language in K.S.A. 38-2267 "Upon motion of a party, the chief judge shall reassign a petition or motion requesting termination of parental rights from a district magistrate judge to a district judge pursuant to subsection (e) of K.S.A. 20-302b, and amendments thereto."