

## **Courts and Filling Judicial Vacancies; House Sub. for SB 128**

**House Sub. for SB 128** amends statutes governing municipal courts and filling judicial vacancies.

### ***Municipal Courts***

The bill amends the statutes governing expungement for convictions of city ordinances or state laws, as well as arrests, to provide that when an expungement is ordered for a case appealed from a municipal court, the district court clerk must send a certified copy of the expungement order to the municipal court, which shall order the case expunged once the copy of the order is received. Similarly, the bill amends the statute governing appeals from municipal courts to require the district court to send notice of dismissal, conviction, or acquittal to the municipal court clerk at the end of the case.

### ***Judicial Vacancies***

The bill also amends and enacts law related to the filling of judicial vacancies, including the method used to select the lawyer members of the Supreme Court Nominating Commission and district judicial nominating commissions, the applicability of the Kansas Open Meetings Act (KOMA) and Kansas Open Records Act (KORA) to nominating commissions, and the number of nominees a district judicial nominating commission will be required to nominate.

### ***Selection of Lawyer Members of Nominating Commissions***

The bill requires applicants for admission to practice law to provide the following information: name, place of residence, date of birth, sex, and the last four digits of the person's social security number or the person's full driver's license or nondriver identification card number. A pending applicant must notify the Clerk of the Supreme Court (Clerk) in writing of any change in name or address within ten days of such change. The bill requires any person whose application is pending as of the effective date of the bill to provide the correct information required above to the Clerk within 60 days of the effective date of the bill and requires the Clerk to send notice of this requirement within 30 days of the effective date.

A new section requires the Clerk to maintain a roster of attorneys licensed to practice law in Kansas, including the information required above and the congressional and judicial districts of residence for each person. Similar to requirements for pending applicants, the bill requires any Kansas licensed attorney to notify the Clerk of any change in name or residential address within ten days of such change. Further, the bill requires any Kansas licensed attorney whose information as required above is not correct on the roster as of the effective date of the bill to provide the correct information within 60 days of the effective date of the bill and requires the Clerk to send notice of this requirement within 30 days of the effective date.

To be eligible to nominate or receive and cast ballots for the lawyer members of the Supreme Court Nominating Commission, the bill requires attorneys to be licensed and residing in Kansas (and, for Commission members, the appropriate congressional district) on or before the February 15 prior to the selection of such positions. The same requirement applies with

regard to elections of lawyer members of district judicial nominating commissions, except the relevant date is November 15.

On or before the February 20 preceding the selection of the chairperson or members of the Supreme Court Nominating Commission, the Clerk must transmit a certified copy of the roster of Kansas licensed attorneys to the Secretary of State, containing the voter information set forth above for those residing in Kansas (or within the relevant congressional district for a member election) as of February 15, in a format prescribed by the Secretary of State, who then will append the unique voter identification number for each person listed on the roster having such a number. The same procedure is required on or before the November 20 preceding the election of a lawyer member of a district judicial nominating commission, with the same voter information required for each person residing within the judicial district as of November 15.

The bill amends the statute governing voting procedures to select members of the Supreme Court Nominating Commission to require the Clerk to use the certified roster of attorneys as provided to the Secretary of State and to preserve qualification certificates for five years and then destroy the certificates. Within 14 days after a selection is certified, the Clerk must create a list containing the position and year of the selection and the names and residential addresses of all persons who returned a ballot with a signed certificate. The Clerk then will transmit a certified copy of this list to the Secretary of State, in a format prescribed by the Secretary of State.

The bill provides the names, residential addresses, dates of birth, unique voter identification numbers, and dates of licensure to practice law in Kansas of all persons on the certified rosters; the qualification certificates; and the lists of persons returning a ballot are subject to a KORA request. These provisions apply to all selections of a chairperson or members of the Supreme Court Nominating Commission that have not been canvassed, regardless of whether the selections are scheduled, upcoming, or pending as of the effective date of the bill.

### ***Applicability of KORA and KOMA***

The bill deems the Supreme Court Nominating Commission and district judicial nominating commissions to be public bodies subject to KOMA. Further, the bill prohibits the Supreme Court Nominating Commission and district judicial nominating commissions from recessing for any closed or executive meeting except for the purpose of discussing sensitive financial information contained within the personal financial records or official background check of a judicial nomination candidate. These provisions do not supersede a nominating commission's discretion to close a record or portion of a record pursuant to any applicable KORA exception.

The bill includes the Secretary of State and the Attorney General, or their designees, as the canvassers for any election of the chairperson or members of the Supreme Court Nominating Commission or any election of lawyer members of a district judicial nominating commission, instead of two or more members of the bar residing in Kansas designated by the Chief Justice. The Clerk remains a canvasser.

For elections of lawyer members of a district judicial nominating commission, the bill requires the Clerk to use the certified roster to ascertain eligibility for ballots or membership on

the district judicial nominating commission. In such elections, a ballot not accompanied by the signed certificate of the voter will not be counted. The Clerk is required to preserve the ballots for six months after the results are certified and to preserve the certificates for five years. The bill permits inspection of the ballots only upon order by the Supreme Court and requires the Clerk to destroy the ballots and certificates at the end of the preservation periods. As with the Supreme Court Nominating Commission elections, for such elections, the Clerk must provide the same list of persons returning a ballot with a signed certificate to the Secretary of State, and such lists and certificates are subject to KORA requests.

The bill amends the statute governing the appointment of judges of the Court of Appeals to require the Governor (or the Chief Justice, if making an appointment because the Governor failed to make an appointment) to make each applicant's name and city of residence available to the public once applications are no longer accepted, but not less than ten days before making the appointment.

### ***Number of Nominees***

The bill requires the Supreme Court Nominating Commission to nominate three persons to fill a vacancy in the Supreme Court and certify the names of the nominees to the Governor. For district judicial nominating commissions, the bill changes the number of nominees for each vacancy from two or three to three, four, or five and amends the section governing what occurs if there are not at least two qualified attorneys willing to accept a nomination, to change two to three.