

1 **As Amended by House Committee**

2 *Session of 2001*

3
4 **HOUSE BILL No. 2171**

5
6 By Committee on Local Government

7
8 1-25

9
10 AN ACT concerning counties; relating to the enforcement of county res-
11 olutions; amending K.S.A. 2000 Supp. ~~19-101d~~, 19-4707 and 20-310a
12 and repealing the existing sections.

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

15 ~~Section 1.—K.S.A. 2000 Supp. 19-101d is hereby amended to read as~~
16 ~~follows: 19-101d. (a) (1) The board of county commissioners of any county~~
17 ~~shall have the power to enforce all resolutions passed *adopted* pursuant~~
18 ~~to county home rule powers, as designated by K.S.A. 19-101c, and amend-~~
19 ~~ments thereto. Such resolutions may be enforced by enjoining violations~~
20 ~~thereof or by prescribing penalties for violations of such resolutions, ei-~~
21 ~~ther by fine, or by confinement in the county jail, or by both such fine~~
22 ~~and confinement. Unless otherwise provided by the resolution that de-~~
23 ~~finies and makes punishable the violation of such resolution, the penalty~~
24 ~~imposed shall be in accordance with the penalties established by law for~~
25 ~~conviction of a class C misdemeanor. In no event shall the penalty im-~~
26 ~~posed for the violation of a resolution exceed the penalties established by~~
27 ~~law for conviction of a class B misdemeanor.~~

28 ~~—(2) Prosecution for any such violation shall be commenced in the~~
29 ~~district court in the name of the county and, except as provided in sub-~~
30 ~~section (b), shall be conducted in the manner provided by law for the~~
31 ~~prosecution of misdemeanor violations of state laws. Writs and process~~
32 ~~necessary for the prosecution of such violations shall be in the form pre-~~
33 ~~scribed by the judge or judges of the courts vested with jurisdiction of~~
34 ~~such violations by this act, and shall be substantially in the form of writs~~
35 ~~and process issued for the prosecution of misdemeanor violations of state~~
36 ~~laws. Each county shall provide all necessary supplies, forms and records~~
37 ~~at its own expense.~~

38 ~~—(b) (1) In addition to all other procedures authorized for the enforce-~~
39 ~~ment of county codes and resolutions, in any county with a population in~~
40 ~~excess of 150,000, the prosecution for violation of codes and resolutions~~
41 ~~adopted by the board of county commissioners may be commenced in~~
42 ~~the district court in the name of the county and may be conducted, except~~
43 ~~as otherwise provided in this section, in the manner provided for and in~~

1 accordance with the provisions of the code for the enforcement of county
2 codes and resolutions.

3 —(2)—For the purposes of aiding in the enforcement of county codes
4 and resolutions, the board of county commissioners may employ or ap-
5 point code enforcement officers for the county who shall have power to
6 sign, issue and execute notices to appear and uniform citations or uniform
7 complaints and notices to appear, as provided in the appendix of forms
8 of the code contained in this act to enforce violations of county codes and
9 resolutions, but shall have no power to issue warrants or make arrests.
10 All warrants shall be issued and arrests made by law enforcement officers
11 pursuant to and in the manner provided in chapter 21 of the Kansas
12 Statutes Annotated.

13 —(3)—The board of county commissioners may employ or appoint at-
14 torneys for the purpose of prosecuting actions for the enforcement of
15 county codes and resolutions, and. Such attorneys shall have the duties,
16 powers and authorities provided by the board as necessary to prosecute
17 actions under the code.

18 —(4)—All costs for the enforcement and prosecution of violations of
19 county codes and resolutions, except for compensation and expenses of
20 the district court judge, shall be paid from the revenues of the county
21 and, the board of county commissioners may establish a special law en-
22 forcement fund for the purpose of paying for the costs of code enforce-
23 ment within the county. In addition, the board of county commissioners
24 is hereby authorized to levy a tax of not to exceed ½ mill upon all taxable
25 tangible property within such county to pay the costs of code
26 enforcement.

27 —(c)—Notwithstanding the provisions of subsection (b), any action com-
28 menced in the district court for the enforcement of county codes and
29 resolutions, wherein a person may be subject to detention or arrest or
30 wherein an accused person, if found guilty, would or might be deprived
31 of such person's liberty, shall be conducted in the manner provided by
32 law for the prosecution of misdemeanor violations of state laws under the
33 Kansas code of criminal procedure and not under the code for the en-
34 forcement of county codes and resolutions.

35 **Sec. 2. Section 1.** K.S.A. 2000 Supp. 19-4707 is hereby amended to
36 read as follows: 19-4707. (a) Except as provided in subsection (b), no
37 person shall be assessed costs for enforcement and prosecution of viola-
38 tions of county codes and resolutions pursuant to this code, except for
39 witness fees and mileage as set forth in K.S.A. 19-4726, and amendments
40 thereto.

41 (b) The court shall assess as a cost in each case filed for violations of
42 county codes and resolutions, ~~a \$1 assessment~~ *an amount as determined*
43 *by the board of county commissioners in an amount not to exceed \$60.*

1 The judge or clerk of the court shall remit at least monthly to the state
2 treasurer ~~all such assessments received 25% of each such assessment re-~~
3 ~~ceived. The balance of each assessment shall be deposited in the county~~
4 ~~general fund.~~ The state treasurer shall deposit the entire amount of the
5 remittance in the state treasury and credit ~~50% \$.50 of each individual~~
6 ~~court cost to the protection from abuse fund established pursuant to~~
7 ~~K.S.A. 74-7325, and amendments thereto and 50%, and \$.50 of each~~
8 ~~individual court cost to the crime victims assistance fund established pur-~~
9 ~~suant to K.S.A. 74-7334, and amendments thereto. The balance of the~~
10 ~~deposit to the state treasury shall be credited to the judiciary operations~~
11 ~~account of the state general fund. Moneys placed in the judiciary opera-~~
12 ~~tions account of the state general~~ **nonjudicial salary initiative fund.**
13 **Moneys placed in the nonjudicial salary initiative fund pursuant to**
14 **this subsection shall be in addition to any state general fund money and**
15 **shall not be used to offset any state general fund money.**

16 ~~Sec. 3.~~ **Sec. 2** K.S.A. 2000 Supp. 20-310a is hereby amended to read
17 as follows: 20-310a. (a) Upon the application of the chief judge of a judicial
18 district to the departmental justice of that district, for good cause shown,
19 or in the absence, sickness or disability of a district judge or district mag-
20 istrate judge in any judicial district, a judge pro tem may be appointed
21 whenever the departmental justice for such judicial district has not as-
22 signed a district judge from another judicial district, as provided in K.S.A.
23 20-319, and amendments thereto.

24 (b) Any judge pro tem appointed pursuant to this section shall be a
25 regularly admitted member of the bar of this state. The appointment of
26 any such judge pro tem shall be made by the chief judge or, in the absence
27 of the chief judge, by the departmental justice for the judicial district.

28 (c) Any judge pro tem appointed pursuant to this section shall have
29 the full power and authority of a district judge with respect to any actions
30 or proceedings before such judge pro tem, except that any judge pro tem
31 appointed pursuant to subsection (d) or (e) shall have only such power
32 and authority as provided therein. A judge pro tem shall receive such
33 compensation as is prescribed by the district court, subject to the budget
34 limitations of such district court.

35 (d) Subject to the budget limitations of the district court, the chief
36 judge of any judicial district may appoint one or more judges pro tem for
37 the limited purpose of hearing the original trials of actions filed pursuant
38 to the small claims procedures act or other action within the jurisdiction
39 of a district magistrate judge as provided in K.S.A. 20-302b, and amend-
40 ments thereto. Any such judge pro tem shall have only such judicial power
41 and authority as is necessary to hear such actions. Any party aggrieved by
42 any order of a judge pro tem under this subsection may appeal such order
43 ~~and~~. Such appeal shall be heard by a district judge de novo. If the appeal

1 is a small claims action, the appeal shall be under K.S.A. 61-2709, and
2 amendments thereto. If the appeal is an action within the jurisdiction of
3 a district magistrate judge, the appeal shall be under K.S.A. 20-302b, and
4 amendments thereto.

5 (e) Subject to the budget limitations of the district court, the chief
6 judge of any judicial district in which the board of county commissioners
7 ~~is authorized to use the~~ *has adopted* ~~a~~ **is authorized to use the** code for
8 the enforcement of county codes and resolutions as provided in subsec-
9 tion (b) of K.S.A. 19-101d, and amendments thereto, may appoint one or
10 more judges pro tem for the limited purpose of hearing such cases. Any
11 such judge pro tem shall have only such power and authority as is nec-
12 essary to hear such actions, ~~and~~. *In addition, such judge pro tem* shall
13 have the power to:

- 14 (1) Compel appearances before the court, ~~to~~;
- 15 (2) hold persons in contempt for failure to appear, ~~and to~~;
- 16 (3) **from and after July 1, 2002**, *order abatement of nuisances re-*
17 *sulting from a person's failure to comply with county codes or resolutions*
18 *and may order the costs of abatement to be assessed against the parcel of*
19 *property on which the nuisance was located; and*
- 20 (4) issue bench warrants for appearances. Such judge pro tem shall
21 receive the salary and other compensation set by resolution of the board
22 of county commissioners ~~which~~. *Such salary and compensation* shall be
23 paid from the revenues of the county general fund or other fund estab-
24 lished for the purpose of financing code enforcement.

25 (f) The chief judge of each judicial district shall report to the judicial
26 administrator of the courts:

- 27 (1) The dates on which any judge pro tem served in such district;
- 28 (2) the compensation paid to any judge pro tem, ~~and~~; *and*
- 29 (3) such other information as the judicial administrator may request
30 with regard to the appointment of judges pro tem. The reports shall be
31 submitted annually on or before January 15 on forms provided by the
32 judicial administrator.

33 ~~Sec. 4.~~ **Sec. 3.** K.S.A. 2000 Supp. ~~19-101d~~, 19-4707 and 20-310a are
34 hereby repealed.

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

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