

HOUSE BILL No. 2880

AN ACT concerning the courts; amending K.S.A. 20-101, 20-162, 20-318, 20-320, 20-361, 20-3014 and 75-3122 and K.S.A. 2003 Supp. 20-158 and 20-319 and repealing the existing sections; also repealing K.S.A. 20-152, 20-153, 20-154, 20-161, 20-321, 20-322, 20-323 and 20-351a.

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

Section 1. K.S.A. 20-101 is hereby amended to read as follows: 20-101. The supreme court shall be a court of record, and in addition to the original jurisdiction conferred by the constitution, shall have such appellate jurisdiction as may be provided by law; ~~and~~. During the pendency of any appeal, on such terms as may be just, ~~the supreme court~~ may make an order suspending further proceedings in any court below, until the decision of the supreme court. As provided by section 1 of article 3 of the Kansas constitution, the supreme court shall have general administrative authority over all courts in this state; ~~and~~. The supreme court and each justice thereof shall have such specific powers and duties in exercising ~~said~~ *such* administrative authority as may be prescribed by law. The chief justice shall be the ~~spokesman~~ *spokesperson* for the supreme court and shall exercise the court's general administrative authority over all courts of this state. The chief justice shall have the responsibility for executing and implementing the administrative rules and policies of the supreme court, including supervision of the personnel and financial affairs of the court system, and delegate such of this responsibility and authority to personnel in the state judicial department as may be necessary for the effective and efficient administration of the court system.

Sec. 2. K.S.A. 2003 Supp. 20-158 is hereby amended to read as follows: 20-158. The chief justice of the supreme court shall be responsible for the preparation of the budget for the judicial branch of state government, *with the advice and approval of a majority of the supreme court and* with such assistance as the chief justice may require from the judicial administrator, the chief judge of the court of appeals and the chief judge of each judicial district. Each district court and the court of appeals shall submit their budget requests to the chief justice in such form and at such time as the chief justice may require. The chief justice shall submit to the legislature the annual budget request for the judicial branch of state government for inclusion in the annual budget document for appropriations for the judiciary. Such budget shall be prepared and submitted in the manner provided by K.S.A. 75-3716 and 75-3717 and amendments thereto. Such budget shall include the request for expenditures for retired justices and judges performing judicial services or duties under K.S.A. 20-2616 and amendments thereto as a separate item therein.

Sec. 3. K.S.A. 20-162 is hereby amended to read as follows: 20-162. (a) The supreme court shall establish by rule a judicial personnel classification system for all nonjudicial personnel in the state court system and for judicial personnel whose compensation is not otherwise prescribed by law. ~~Said personnel classification system shall take effect on July 1, 1979, and shall prescribe the compensation for all such personnel.~~ No county may supplement the compensation of district court personnel included in the judicial personnel compensation system. Such compensation shall be established so as to be commensurate with the duties and responsibilities of each type and class of personnel. In establishing the compensation for each type and class of personnel, the supreme court shall take into consideration: (1) ~~The compensation of such personnel prior to January 1, 1979;~~ (2) The compensation of personnel in the executive branch of state government who have comparable duties and responsibilities; ~~and~~ ~~(3) and~~ (2) the compensation of similar personnel in the court systems of other states having comparable size, population and characteristics.

(b) The following personnel shall not be included in the judicial personnel classification system:

- (1) County auditors,
- (2) coroners,
- (3) court trustees and personnel in each trustee's office, and
- (4) personnel performing services in adult or juvenile facilities used as a place of detention or for correctional purposes.

The compensation for the above personnel shall be paid by the county as prescribed by law.

(c) The judicial personnel classification system also shall prescribe the powers, duties and functions for each type and class of personnel, which

shall be subject to and not inconsistent with any provisions of law prescribing powers, duties and functions of such personnel.

(d) In conjunction with the judicial personnel classification system, the supreme court shall prescribe a procedure whereby personnel subject to ~~said~~ *such* classification system who are removed from office by their appointing authority will have an opportunity to seek reinstatement.

~~(e) On or before December 1, 1978, the supreme court shall submit to the legislative coordinating council a detailed personnel classification and pay plan for district court employees that are to be included in the judicial personnel classification system. The plan shall detail each individual position by classification, pay grade and pay step as compared to the employee's present salary. In assignment of positions to particular steps within the assigned pay grade, the plan shall place each employee at the step which is the next highest over the employee's current salary. If an employee is earning more than the highest step on a given grade, his or her salary shall remain at the current level.~~

Sec. 4. K.S.A. 20-318 is hereby amended to read as follows: 20-318. ~~There is hereby created within the state of Kansas, a judicial department for the supervision of all courts in the state of Kansas. The supreme court shall divide the state into separate sections, not to exceed six (6) in number, to be known as judicial departments, each of which shall be assigned a designation to distinguish it from the other departments. A justice of the supreme court shall be assigned as departmental justice for each judicial department.~~

There is created hereby the position of judicial administrator of the courts, who shall be appointed by ~~the chief justice~~ *a majority of the justices* of the supreme court to serve at the will of the ~~chief justice~~ *majority*. The judicial administrator shall have a broad knowledge of judicial administration and substantial prior experience in an administrative capacity. No person appointed as judicial administrator shall engage in the practice of law while serving in such capacity. Compensation of the judicial administrator shall be determined by the justices, but shall not exceed the salary authorized by law for the judge of the district court. The judicial administrator shall be responsible to the ~~chief justice of the~~ supreme court of the state of Kansas, and shall implement the policies of the court with respect to the operation and administration of the courts, under the supervision of the chief justice. ~~Said~~ *The* administrator shall perform such other duties as are provided by law or assigned ~~him or her~~ by the supreme court or the chief justice. Expenditures from appropriations for district court operations to be paid by the state shall be made on vouchers approved by the judicial administrator. All claims for salaries, wages or other compensation for district court operations to be paid by the state shall be certified as provided in K.S.A. 75-3731, *and amendments thereto*, by the judicial administrator.

Sec. 5. K.S.A. 2003 Supp. 20-319 is hereby amended to read as follows: 20-319. (a) *There is hereby created within the state of Kansas, a judicial department for the supervision of all courts in the state of Kansas. The supreme court shall divide the state into separate sections, not to exceed six in number, to be known as judicial departments, each of which shall be assigned a designation to distinguish it from the other departments. A justice of the supreme court shall be assigned as departmental justice for each judicial department.*

(b) A justice assigned to each department shall:

(1) With the help and assistance of the judicial administrator, make a survey of the conditions of the dockets and business of the district courts in the justice's department and make a report and recommendations on the conditions and business to the chief justice.

(2) Assemble the judges of the district courts within the justice's department, at least annually, to discuss such recommendations and other business as will benefit the judiciary of the state. When so summoned, the judges of the district courts in the various departments shall attend such conferences at the expense of the state. Such judges shall be entitled to their actual and necessary expenses while attending such conferences and shall be required to attend the conferences unless excused by the departmental justice for good cause.

~~(b)~~ (c) Departmental justices shall have authority within their departments to assign any district judge or district magistrate judge to hear

any proceeding or try any cause, within the judge's jurisdiction, in other district courts. Any departmental justice may request the assistance of any district judge or district magistrate judge from another department.

~~(c)~~ (d) The departmental justices shall supervise all administrative matters relating to the district courts within their departments and require reports periodically, covering such matters and in such form as the supreme court may determine, on any such matter which will aid in promoting the efficiency or the speedy determination of causes now pending. Departmental justices shall have the power to examine the dockets, records and proceedings of any courts under their supervision. All judges and clerks of the several courts of the state shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

(e) In order to properly advise the three branches of government on the operation of the juvenile justice system, each district court shall furnish the judicial administrator such information regarding juveniles coming to the attention of the court pursuant to the Kansas code for care of children as is determined necessary by the secretary of social and rehabilitation services and the director of the statistical analysis center of the Kansas bureau of investigation, on forms approved by the judicial administrator. Such information shall be confidential and shall not be disseminated or publicly disclosed in a manner which enables identification of any individual who is a subject of the information.

(f) The departmental justice shall assign to each chief judge in the justice's department such duties as are necessary to carry out the intent of just, speedy and inexpensive litigation for the litigants of the state.

(g) *The supreme court may adopt rules as are deemed necessary to carry out the provisions of this section.*

Sec. 6. K.S.A. 20-320 is hereby amended to read as follows: 20-320. The chief justice shall analyze ~~and~~ study *and summarize* such reports *and recommendations of the judicial departments* as are submitted to ~~him~~ *the chief justice pursuant to K.S.A. 20-319, and amendments thereto* ~~and promptly submit a summary thereof, and the recommendations of the judicial departments and judicial administrators, and shall cause a~~ a copy of all *reports, summaries and* recommendations ~~to~~ *shall* be filed as public record in the office of the clerk of the supreme court and ~~shall~~, at the beginning of every legislative session, *shall* submit a written report to the governor of the state, and to the judiciary committees of both houses of the legislature.

Sec. 7. K.S.A. 20-361 is hereby amended to read as follows: 20-361. (a) The state shall pay the salaries of all nonjudicial personnel of the district courts of this state, except for personnel enumerated in subsection (b) of K.S.A. 20-162 and amendments thereto, ~~and no~~. A county may *not* supplement the compensation of district court personnel paid by the state. ~~For employees of the district court who were employees of such court on December 31, 1978, a full month's proportion of the employee's annual pay shall be paid for the state payroll period ending on January 17, 1979, notwithstanding that such period is shorter than the normal state payroll period.~~ With regard to judicial and nonjudicial personnel of the district courts whose salary is payable by the state, the state shall provide for unemployment security coverage, employer contributions for retirement, workmen's compensation coverage, health insurance coverage and surety bond coverage.

(b) The supreme court shall establish a formal pay plan for court reporters serving district judges. Within the limits of legislative appropriations therefor, compensation of such court reporters shall be paid by the state in an amount prescribed by the pay plan established by the supreme court and no county may supplement the compensation of such court reporters. The plan shall detail each reporters position by classification, pay grade and pay step.

Sec. 8. K.S.A. 20-3014 is hereby amended to read as follows: 20-3014. Each judge of the court of appeals may appoint a law clerk and ~~also may appoint one~~ ~~(1) a secretary or stenographer~~. The persons so appointed shall serve at the pleasure of the judge appointing them. Subject to the approval of the ~~chief justice of the~~ supreme court, the court of appeals may employ such other clerical personnel as may be necessary to

carry out the duties and functions of the court. The compensation of all persons appointed or employed under this section shall be fixed in accordance with a pay plan adopted by the supreme court. Such pay plan shall contain a schedule of salary and wage ranges and steps designed for such purpose.

Sec. 9. K.S.A. 75-3122 is hereby amended to read as follows: 75-3122. The supreme court is hereby authorized to appoint two bailiffs; ~~each of whom shall receive an annual salary to be fixed by the court.~~ Each justice of the supreme court is hereby authorized to appoint a law research clerk and a secretary ~~who shall each receive an annual salary fixed by the court. The annual salary of each secretary shall be fixed by the supreme court within the limitations of appropriations made therefor.~~ The compensation of all persons appointed under this section shall be fixed by the supreme court ~~in accordance with the pay plan established under K.S.A. 20-161.~~

Sec. 10. K.S.A. 20-101, 20-152, 20-153, 20-154, 20-161, 20-162, 20-318, 20-320, 20-321, 20-322, 20-323, 20-351a, 20-361, 20-3014 and 75-3122 and K.S.A. 2003 Supp. 20-158 and 20-319 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.

Governor Sebelius' Veto Message for House Bill No. 2880

House Bill 2880: Supreme Court Budget

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto House Bill 2880. The current law concerning how the judicial branch is governed has been in place for nearly three decades. Although this law can be changed and improved over time, these changes should only take place after thorough consultation with members of the judicial branch, and particularly with members of the Supreme Court. Changes should reflect the judiciary's views that their own rules no longer serve the Court well. This consultation ensures that the judicial branch has the independence it requires to perform its unique function in our system of government.

Because **HB 2880** would make a fundamental change in how the Supreme Court governs the judicial branch, this consultation is especially important. Since HB 2880 passed the Legislature, I have heard a wide array of views about the bill, from within the judicial branch and elsewhere. From these views, I am not convinced that there is consensus within the judicial branch or on the Supreme Court for this change. Therefore, since I believe we should change the internal workings of the Court only with great caution and after thorough consultation, I veto **HB 2880**.

I appreciate the work legislators put into this bill, and I want all parties to know that I have carefully considered their views. I am willing to entertain a change to this law. To that end, I call on the leaders of the judicial branch to consult more broadly with judges, lawyers and key leaders of the Legislature to reach consensus before the next legislative session to determine whether this sort of change is necessary, and, if so, what form it should take.

Dated: May 17, 2004

KATHLEEN SEBELIUS
Governor