

Approved: May 23, 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael O'Neal at 3:00 p.m. on March 15, 1994 in Room 313-S of the Capitol.

All members were present except:

Representative Tom Bradley - Excused
Representative Denise Everhart - Excused
Representative Carlos Mayans - Excused
Representative Elaine Wells - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Others attending: See attached list

HB 2582 - Enacting the families in the court partnership act

Representative Heinemann explained that the balloon that was handed out was the sub-committees recommendation, (see attachment 1). The primary concern of the sub-committee was the separation of powers. This draft doesn't mandate that the courts develop a family court, it would simply allow the family court to develop a centralized intake system with cooperation of other agencies. Currently the courts have the power to enact a family court system, however, they don't have the funds to do it. Additional language was added that would provide a funding mechanism which would be an increase in certain criminal docket fees. The major increase would be that the courts may charge up to a \$65.00 fee on any post-judgement motions filed with the court. The additional fees would be placed into a partnership fund to be distributed to the pilot programs.

Representative Heinemann made a motion to adopt the sub-committee report. Representative Wagon seconded the motion. The motion carried.

Representative Macy stated that she had some concerns with the bill. Current law allows the courts to set up a family court, however, they don't have the funding to set up a family court. Conferees testified that it would take in excess of \$2 million for three pilot programs. The funding that was proposed in the balloon draft would raise \$1 million for maybe only one pilot program. Her concern was that in trying to raise that \$1 million the bill suggested escalating docket fees and post-judgement motion fees. During the last 10 years docket fees have been raised 8 times, usually raising them about \$1-\$3.

Representative Adkins commented that he opposed the bill. While it was well intended, the focus should be on the priorities in the court system. The State has not been funding the courts appropriately, and to add this would add another obligation for them without giving them the expenditures to make the program work. The courts have been requesting additional money to fund more positions to handle the caseloads that they currently have. In Shawnee & Johnson County, if a citizen wants to access the court clerks office one had better get there before 4:00 p.m. or they are closed. Until the court system can maintain regular business hours in clerks offices, the State shouldn't be extracting any additional resources from any part of the judicial system. The judicial branch is a co-equal branch of government who is always underfunded. If the Committee is going to fund a family court system, it should be done right, and the general fund should be used to pay for judicial function just as much as it is used for legislative or executive branch functions.

Representative Wagon spoke in support of the sub-committees report. This bill gives the legislature an opportunity to place general fund dollars towards the family courts. She was not opposed to the post-judgement filing fee. The money would never be available to enact the family court system if this bill was not advanced.

Representative Plummer questioned what the \$65 post-judgement fee would apply to. Representative Heinemann commented that this would apply to Chapter 60 cases.

Chairman O'Neal questioned if new section 7 would overlap with **SB 629**. Jill Wolters replied that the \$1.50 increase on docket fees for criminal cases would raise \$45 thousand, and effect the Kansas Law Enforcement Training funding.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 3:30 p.m. on March 15, 1994.

Chairman O'Neal made a motion to delete the increase in docket fees in new section 7, so they don't overlap with Kansas Law Enforcement Training funding. Representative Carmody seconded the motion. The motion carried.

Representative Pauls stated that this bill would raise docket fees across the State but the fees would only go to those counties that have the family court pilot programs.

Representative Heinemann made a motion to report **HB 2582** favorably for passage as amended. Representative Wagnon seconded the motion. Representative Heinemann commented that the State needs to have a vision as to where it wants to go with regards to family courts. It provides a funding mechanism to show what can be done in Kansas. The motion failed.

The Committee meeting adjourned at 4:00. The next committee meeting is scheduled for March 16, 1994.

GUEST LIST

HOUSE JUDICIARY COMMITTEE

DATE 15 MARCH 94

[illegible]

HOUSE BILL No. 2582

By Joint Committee on Children and Families

1-10

House Judiciary
Attachment 1
3-15-94

8 AN ACT concerning courts; enacting the families in the court part-
9 nership act; relating to the development and operation of family
10 departments of district courts; creating the families in the court
11 partnership fund; relating to the establishment of an advisory
12 committee on family departments;

; amending K.S.A. 38-1511 and 38-1613 and
K.S.A. 1993 Supp. 20-367, 28-172a, 59-
104 and 60-2001 and repealing the exist
ing sections

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. This act shall be known and may be cited as the
16 families in the court partnership act.

17 Sec. 2. (a) There is hereby created in the state treasury the
18 families in the court partnership fund. Moneys shall be credited to
19 the fund as provided by law.

20 (b) The moneys in the families in the court partnership fund shall
21 be expended for the purpose of establishing and operating family
22 departments of district courts pursuant to this act. Subject to and
23 in accordance with the provisions of appropriation acts, the supreme
24 court ~~shall~~ establish not more than three pilot project family de- may
25 partments of district courts to improve the delivery of court services
26 to families by offering a less adversarial forum in which to resolve
27 family conflicts and a more coordinated and comprehensive approach
28 to providing services required by children and their families involved
29 in the court system. At least one pilot project family department
30 shall be in a single county judicial district and at least one pilot
31 project family department shall be in a multiple county judicial
32 district. The supreme court shall provide for an independent eval-
33 uation of the effectiveness of the pilot project family departments
34 established and operated pursuant to this act.

35 (c) Expenditures from the families in the court partnership fund
36 shall be made in accordance with appropriation acts upon warrants
37 of the director of accounts and reports issued pursuant to vouchers
38 approved by the chief justice of the supreme court or by a person
39 or persons designated by the chief justice.

40 (d) The chief justice may apply for, receive and accept money
41 from any source for the purposes for which money in the families
42 in the court partnership fund may be expended. Upon receiving any
43 such money, the chief justice shall remit the entire amount at least

1 monthly to the state treasurer who shall deposit such money in the
2 state treasury and credit such money to the families in the court
3 partnership fund.

4 Sec. 3. (a) A family department of the district court may be
5 assigned and have primary responsibility for, but not be limited to,
6 the following cases:

- 7 (1) Marital dissolution and annulment;
- 8 (2) custody, visitation, support and related matters;
- 9 (3) paternity;
- 10 (4) adoption, termination of parental rights and related matters;
- 11 (5) juvenile offenders and juvenile traffic offenses;
- 12 (6) child in need of care;
- 13 (7) protection from abuse and domestic violence;
- 14 (8) alcohol- and drug-related matters; and
- 15 (9) conservatorship, guardianship and mental health matters for
16 juveniles and adults.

17 (b) The family department shall develop ~~and operate~~ a centralized
18 and integrated intake and dispositional system. ~~In such development,~~
19 ~~the family department shall clarify intake responsibilities for indi-~~
20 ~~vidual agencies and officials such as law enforcement, court services,~~
21 ~~the department of social and rehabilitation services, mental health~~
22 ~~and counsel in domestic relations matters.~~

23 (c) The family department shall develop a management infor-
24 mation system.

25 Sec. 4. Pursuant to the provisions of K.S.A. 20-101 and amend-
26 ments thereto, the supreme court shall promulgate rules encouraging
27 the development and operation of family departments as specialized
28 departments of district courts. The goals and standards of a family
29 department may include:

- 30 (a) Protection and assistance for children and families in Kansas;
- 31 (b) fair, prompt and uniform resolution of family disputes;
- 32 (c) examination of the principle of one judge, one staff, one fam-
33 ily;
- 34 (d) nonadversarial resolution approaches to solving children and
35 family problems;
- 36 (e) prompt dissolutions and terminations when appropriate;
- 37 (f) appointment and assistance of legal counsel;
- 38 (g) sound management;
- 39 (h) effective recordkeeping;
- 40 (i) use of local family department advisory committees;
- 41 (j) education of judges and department employees; and
- 42 (k) community mobilization.

43 Sec. 5. The supreme court may establish an advisory committee

shall

in cooperation with

1 on family departments.

2 Sec. 6. This act shall take effect and be in force from and after

3 its publication in the statute book.

Insert attached sections.

1-3

Sec. 6. K.S.A. 1993 Supp. 20-367 is hereby amended to read as follows: 20-367. Of the remittance of the balance of docket fees received monthly by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the juvenile detention facilities fund, a sum equal to 5.12% of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to 3.93% of the remittances of docket fees; to the emergency medical services operating fund, the state treasurer shall deposit and credit a sum equal to 2.95% of the remittances of docket fees; and to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to 5.66% of the remittances of docket fees; and to the families in the court partnership fund, the state treasurer shall deposit and credit a sum equal to 11.56% of the remittances of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

Sec. 7. K.S.A. 1993 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

Murder or manslaughter	\$153-50	\$155
Other felony	123-50	125
Misdemeanor	93-50	95
Forfeited recognizance	53-50	55
Appeals from other courts	53-50	55

(b) In actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of \$37 shall be charged. When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be \$37.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for service of process outside the state, witness fees, fees for transcripts and

depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

Sec. 8. K.S.A. 38-1511 is hereby amended to read as follows: 38-1511. (a) Docket fee. The docket fee for proceedings under this code, if one is assessed as provided in this section, shall be ~~\$16-50~~ \$25. Only one docket fee shall be assessed in each case.

(b) Expenses. The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) Assessment of docket fee and expenses. (1) Docket fee. The docket fee may be assessed or waived by the court conducting the initial dispositional hearing and may be assessed against the complaining witness or person initiating the proceedings or an interested party, other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) Expenses. Expenses may be assessed against the complaining witness or person initiating the proceedings or an interested party, other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery. If it appears to the court in any proceedings under this code that expenses were unreasonably incurred at the request of any party the court may assess that portion of the expenses against the party.

(d) Cases in which venue is transferred. If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending

county shall not be an obligation of the receiving county except to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

Sec. 9. K.S.A. 38-1613 is hereby amended to read as follows: 38-1613. (a) Docket fee. The docket fee for proceedings under this code, if one is assessed as provided by this section, shall be ~~\$16.50~~ \$25. Only one docket fee shall be assessed in each case.

(b) Expenses. The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) Assessment of docket fee and expenses. (1) Docket fee. The docket fee may be assessed or waived by the court conducting the initial dispositional hearing and may be assessed against the complaining witness, the person initiating the prosecution, the juvenile offender or the parent of the juvenile offender. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) Waiver and assessment. Expenses may be waived or assessed against the complaining witness, the person initiating the prosecution, the juvenile offender or a parent of the juvenile offender. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery.

(3) Prohibited assessment. Docket fees or expenses shall not be assessed against the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state.

(d) Cases in which venue is transferred. If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

Sec. 10. K.S.A. 1993 Supp. 59-104 is hereby amended to read as follows: 59-104. (a) Docket fee. Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated without payment of an appropriate docket fee as follows:

Treatment of mentally ill.....	\$21.50
Treatment of alcoholism or drug abuse.....	21.50

Determination of descent of property.....	36.50
Termination of life estate.....	36.50
Termination of joint tenancy.....	36.50
Refusal to grant letters of administration.....	36.50
Adoption.....	36.50 50.00
Filing a will and affidavit under K.S.A. 59-618a....	36.50
Guardianship.....	56.50
Conservatorship.....	56.50
Trusteeship.....	56.50
Combined guardianship and conservatorship.....	56.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto.....	11.50
Decrees in probate from another state.....	96.50
Probate of an estate or of a will.....	96.50

(b) Poverty affidavit in lieu of docket fee and exemptions. The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) Disposition of docket fee. Statutory charges for the law library and for the prosecuting attorneys' training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) Additional court costs. Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 11. K.S.A. 1993 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) Docket fee. Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of ~~\$61.50~~ \$65 to the clerk of the district court.

(b) Poverty affidavit in lieu of docket fee. (1) Effect. In any case where a plaintiff by reason of poverty is unable to pay

a docket fee, and an affidavit so stating is filed, no fee will be required.

(2) Form of affidavit. The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, _____ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) Disposition of docket fee. The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) Additional court costs. Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraisers' fees, fees for service of process outside the state, fees for depositions, alternative dispute resolution fees, transcripts and publication, ~~attorneys'~~ attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

(e) Postjudgment motions. The court may assess ^{not more than} a \$65 fee to be considered as court costs on any postjudgment motion filed with the court. The fee collected pursuant to this subsection shall be credited to the families in the court partnership fund, created in section 2.

Sec. 12. K.S.A. 38-1511 and 38-1613 and K.S.A. 1993 Supp. 20-367, 28-172a, 59-104 and 60-2001 are hereby repealed.