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House Judiciary Committee
Monday, February 11, 2013

Alice Adams
Geary County Clerk of the District Court

Neutral Testimony Regarding HB 2164

Thank you for the opportunity to testify on 2013 HB 2164. The bill would require any jury commissioner who receives information from a prospective juror or court of this state that disqualifies or potentially disqualifies such prospective juror from jury service pursuant to K.S.A. 43-156, and amendments thereto, to submit that information to the Secretary of State in a form and manner approved by the Secretary of State.

K.S.A. 43-157 defines “jury commissioner” as the judge or judges of the district court in each county, or a person appointed to serve as jury commissioner by a district court. For all practical purposes, the jury commissioner is the clerk of the district court. K.S.A. 43-156 requires that “[e]very juror, grand and petit, shall be a citizen of the state, resident of the county and possess the qualifications of an elector as now, or in the future established.”

Pursuant to K.S.A. 43-162, jury lists shall be prepared from:

1. voter registration records of the county,
2. lists of licensed drivers residing in the county, or
3. enumeration or census records for the county, in accordance with the intent and purposes of this act.

The bill appears to contemplate that, if a clerk of the district court becomes aware, either through a jury questionnaire or a phone call from someone who has been summoned for jury service, that the person is not a citizen of the state or resident of the county, the clerk is to notify the Secretary of State. As the bill is drafted, it poses several questions:

- Does the bill anticipate that clerks will review jury questionnaires for this purpose? If so, a significant amount of time will be required of staff in offices of the clerk of the district court statewide, many of which are already understaffed. This would create a fiscal impact on the Judicial Branch.
- Potential jurors may provide information about state citizenship or county residence for the first time on *voir dire*, at which point the clerk will not be present in the courtroom. Would the duty to report

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fall to someone else then present in the courtroom, who would then have to go to the clerk to report that person?

- Does the bill, as drafted, require clerks to report to the Secretary of State persons who are called for jury service who are not residents of that county?

The last scenario is of significant concern. Periodically, the Office of Judicial Administration obtains Department of Revenue drivers' license lists, which are sorted by zip code, and distributes them to clerks of the district court in each county for the purpose of establishing a list of potential jurors. Because some zip codes cross county lines, clerks of the district court sometimes summon for jury service persons who actually reside in a neighboring county. Those persons are not "residents of the county" as required by K.S.A. 43-156, and they therefore are disqualified from jury service in the county to which they have been summoned. As the bill is drafted, it would appear that those persons would have to be reported to the Secretary of State. (Please note that the Office of Judicial Administration has been working with the Department of Revenue to try to have the county of residence placed on the drivers' license lists, but that revision has not yet occurred.)

In addition, the bill does not specify the manner of reporting. If the expectation is that the information be reported electronically, additional expense would be incurred.

Not knowing the intent of this bill, we are unable to suggest a balloon amendment that would resolve these issues. If the bill progresses through the legislative process, we would be happy to work to resolve these issues.

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