

NEBRASKA SUPREME COURT

STEPHANIE F. STACY
JUDGE



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December 13, 2022

Senator Mike Hilgers
Speaker of the Nebraska State Legislature
P.O. Box 94604
State Capitol Bldg., Rm. 2103
Lincoln, NE 68509

The Honorable Pete Ricketts
Governor of the State of Nebraska
1445 K Street
Lincoln, NE 68509

The Honorable Chief Justice Michael Heavican
State Capitol Bldg., Room 2214
Lincoln, NE 68509

Re: Judicial Resources Commission Annual Hearing

Dear Speaker Hilgers, Governor Ricketts, and Chief Justice Heavican:

On December 9, 2022, the Judicial Resources Commission held its Annual Hearing pursuant to Neb. Rev. Stat. § 24-1205 (Reissue 2016). Advance notice of the time, place, and agenda was published on November 23, 2022. The Annual Hearing was conducted in Room 1510 of the State Capitol Building, and included the option of virtual conferencing via WebEx for members of the Commission and the public. This letter will serve as the Commission's written report on the 2022 Annual Hearing.

2022 Annual Hearing

All Commission members were present for the Annual Hearing and participated either in-person or via WebEx. The Commission was briefed on the FY2022 Annual Caseload Reports and Weighted Caseload Reports, and examined historical caseload trends in Nebraska's district, county, and separate juvenile courts. The Commission also reviewed and discussed other factors impacting judicial resources, including: (1) the significant increase in self-represented

litigants, (2) the growing number of Nebraska counties with no practicing attorneys, (3) the increasing need for language interpretation in court proceedings and probation services, (4) the impact of local and statewide population changes, (5) the increase in problem solving court participants and the decline in the number of judges presiding over such courts, and (6) the judicial retirement forecast for the next five years. The Commission was also briefed on improvements in courthouse bandwidth across the state, and statewide technology upgrades in every Nebraska courtroom.

The Commission received and considered testimony on judicial resources from: The Honorable Michael G. Heavican, Chief Justice of the Nebraska Supreme Court; Amy Prenda, Deputy State Court Administrator for Court Services; Dr. Liz Neeley, Nebraska State Bar Association Executive Director; The Honorable Jodi Nelson, District Court Judge in the 3rd Judicial District; The Honorable Jeffrey Lux, District Court Judge in the 4th Judicial District; The Honorable Alfred Corey, County Court Judge in the 9th Judicial District; Ray Aguilar, State Senator, District 35; Marty Klein, Hall County Attorney; Attorney Jan Reeves; and Attorney John Icenogle.

Pursuant to § 24-1205(1), the Commission took up whether a new judgeship is appropriate in any judicial district. Two specific requests were presented and considered:

- (1) The county court judges in the 9th Judicial District submitted a written request to recommend the addition of a county court judgeship with a primary office location in Hall County, to address the increased juvenile caseload in Hall County. After considering testimony and caseload data on the juvenile docket in Hall County, the Commission voted unanimously to recommend adding a new county court judgeship in the 9th Judicial District, with a primary office location in Hall County.
- (2) The district court judges in the 4th Judicial District submitted a written request to recommend the addition of a district court judgeship with a primary office location in Douglas County. After considering testimony and caseload data on the district court in Douglas County, a motion to recommend adding a 19th district court judge in the 4th Judicial District failed to receive sufficient votes.

Pursuant to § 24-1205(1), the Commission also took up whether a reduction in judgeships is appropriate in any judicial district. No specific requests were received in this regard, and no motion was made to recommend reducing a judgeship in any judicial district.

Pursuant to § 24-1205(2), the Commission also took up whether to recommend changes to any judicial district boundary or to the number of judicial districts. No specific redistricting proposals were received, and no motion was made to recommend any specific changes to the number or configuration of judicial districts at this time. Over the course of the next year, the Commission will continue to encourage the submission of specific redistricting proposals for future consideration.

Finally, pursuant to § 24-1205, the Commission took up whether to make any other recommendations for the more balanced use of existing judicial resources. The Commission voted unanimously to call the Legislature's attention to the potential impact of population growth on the current statutory framework governing the mandatory number of separate juvenile court judges in counties that have established such a court. More specifically, Neb. Rev. Stat. § 43-2119(1) (Reissue 2016) states there shall be:

- (a) Two judges in counties having seventy-five thousand inhabitants but less than two hundred thousand inhabitants;
- (b) Four judges in counties having at least two hundred thousand inhabitants but less than four hundred thousand inhabitants;
and
- (c) Six judges in counties having four hundred thousand inhabitants or more.

Currently, Sarpy County has two separate juvenile court judges, Lancaster County has four such judges, and Douglas County has six. Because the populations in Sarpy County and Lancaster County are approaching statutory thresholds that would require adding two more separate juvenile court judges in each county, the Commission determined it is appropriate to inform the Legislature that neither the FY2022 Weighted Caseload Reports, nor the historical caseload data, suggest a need for additional judges in any of Nebraska's existing separate juvenile courts.

Judicial Vacancy

The Commission also took up whether a vacancy exists due to the retirement of Judge Robert R. Otte from the district court bench in the 3rd Judicial District, effective at midnight, November 27, 2022. After considering the statutory factors and the testimony received, the Commission unanimously determined that a judicial vacancy exists in the office of the district court in the 3rd Judicial District. After the vacancy was declared, the Nebraska Supreme Court met in special consultation and determined the primary office location of such vacancy should be in Lincoln, Lancaster County, Nebraska. The judicial nominating process will begin on this vacancy, as provided by law.

Summary of 2022 Annual Hearing Recommendations

In summary, the Commission unanimously recommends that the Legislature: (1) consider adding a new county court judgeship in the 9th Judicial District, with a primary office location in Hall County, and (2) consider the potential impact of population growth on the current statutory framework governing the mandatory number of separate juvenile court judges in counties that have established such a court.

Respectfully,



Stephanie F. Stacy
Nebraska Supreme Court
Chair, Judicial Resources Commission

SFS/dm

pc Chief Justice Michael G. Heavican
Corey R. Steel, State Court Administrator
Wendy Wussow, Clerk, Nebraska Supreme Court
Members of the Judicial Resources Commission