



Legislative
Services Agency

FINAL REPORT

Judicial District and Judicial Resources Study Committee

January 2004

MEMBERS

Senator Donald Redfern, Cochairperson
Senator Keith Kreiman
Dennis Anderson, Des Moines
Megan Antenucci, Des Moines
Jackie Armstrong, Mason City
Mike Bollard, Pocahontas
Curt Campbell, Fairfield
Judge Stephen Clarke, Waterloo
Virginia Cobb, Dallas Center
Deborah Dice, Ottumwa
Tom Drew, Des Moines
Jay Eaton, Des Moines
Barbara Edmondson, Washington
Shirley Faircloth, Marshalltown
Joe Holland, Iowa city
Fred James, Des Moines

Representative Gene Maddox, Cochairperson
Representative Kurt Swaim
Julie Johnson, Washington
Carmen Loveland, Mason City
John McClintock, Des Moines
Rhonda Millhollin, Corning
Judge John Nahra, Davenport
Randy Osborn, Des Moines
Carolee Philpott, Hampton
Judge David Remley, Cedar Rapids
Elisabeth Reynoldson, Osceola
Marty Ryan, Des Moines
Judge Annette Scieszinski, Albia
H. Richard Smith, Des Moines
Justice Marsha Ternus, Des Moines

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AUTHORIZATION AND APPOINTMENT

In June 2003, the Legislative Council established the Judicial District and Judicial Resources Study Committee pursuant to a request contained in 2003 Iowa Acts, House File 694, (ch. 151), sec. 66. The 31-member study committee was charged to study judicial district and judicial election district redistricting, the allocation of Judicial Branch resources, and various specific elements of these topics listed in the legislation. The legislation provided for various organizations and interests to have membership slots and the Legislative Council provided a process for submission of nominations. The study committee was authorized to hold six meetings for the 2003 interim and met at the Statehouse on October 7, November 12, and December 17.



Judicial District and Judicial Resources Study Committee

I. Public Membership Affiliations.

Sheriff Dennis Anderson, representing Iowa Sheriffs' and Deputies' Association
Megan M. Antenucci, representing Iowa Defense Counsel Association
Jackie Armstrong, representing Iowa Trial Lawyers Association
Mike Bollard, representing Iowa County Recorders Association
Curt Campbell, representing Department of Corrections Judicial Districts
Judge Stephen Clarke, representing Iowa Judges Association
Virginia Cobb, representing Iowa Association of Magistrate Judges
Deborah Dice, representing District Court Administrators
Tom Drew, representing Iowa Trial Lawyers Association
Jay Eaton, representing Iowa State Bar Association
Barbara A. Edmondson, representing Iowa County Attorneys Association
Shirley Faircloth, representing Juvenile Court Officers' Association
Joe Holland, representing Iowa State Bar Association
Fred James, representing Iowa Trial Lawyers Association
Julie Johnson, representing Iowa Clerks of Court Association
Carmen Loveland, representing Iowa Court Reporters Association
John McClintock, representing Iowa Academy of Trial Lawyers
Rhonda Millhollin, representing Iowa County Supervisors Association
Judge John Nahra, representing Iowa Judges Association
Randy Osborn, representing Iowa Clerks of Court Association
Carolee Philpott, representing AFSCME-Iowa
Judge David Remley, representing Supreme Court of Iowa
Elisabeth Reynoldson, representing Iowa State Bar Association
Marty Ryan, representing Iowa Civil Liberties Union
Judge Annette Scieszinski, representing Iowa Judges Association
H. Richard Smith, representing Supreme Court of Iowa
Justice Marsha Ternus, representing Supreme Court of Iowa

II. October 7, 2003, Meeting.

A. Overview. At this initial meeting the Judicial District and Judicial Resources Study Committee organized, heard member viewpoints, and heard presentations regarding the current system and recent studies. Senator Don Redfern and Representative Gene Maddox were elected Cochairpersons.

B. Member Viewpoints. Mr. Joe Holland, representing the Iowa State Bar Association, stated that the 2002 Iowa Supreme Court Advisory Committee on Judicial Branch Redistricting led a significant number of people to question the need for redistricting and that this Committee has the opportunity to allow for more broad-based input on the issues. Justice Marsha Ternus of the Supreme Court wanted the Committee to address the inequitable apportionment of judicial officers among the judicial districts and is open to any ideas. Representative Kurt Swaim believed Iowa has a strong tradition of taking justice to the people as opposed to people going to the justice. Mr. Tom Drew, representing the Iowa Trial Lawyers Association, believed in equal access to the court for



all Iowans. Judge Stephen Clarke of the Iowa Judges Association noted that too few resources are devoted to the Judicial Branch and that he has seen the effects of diminishing resources. Cochairperson Redfern acknowledged that this committee is meeting because the state's revenues have been curtailed during the past few years, causing a strain on the judicial budget. He stated that the inability to add judgeships has created a need to review the allocation of Judicial Branch resources. He suggested the Committee identify the problem, quantify the magnitude, and consider options. Chairperson Maddox stated he supports the court system, but the allocation of Judicial Branch resources in all 99 counties needs to be reviewed.

C. Staff Background Information. Mr. Joe McEniry of LSA Legal Services spoke about the charge of the Committee and House File 694, enacted during the 2003 Legislative Session. He stated the charge of the Committee is broad, which is to review all relevant matters on judicial district and judicial election district redistricting and the allocation of Judicial Branch resources. He further stated that if the Committee does not recommend redistricting, the Committee is charged to report other recommendations, if any, to the General Assembly. Mr. McEniry also outlined House File 694 to the Committee.

The highlights of House File 694 included the following:

- A potential 180-day delay for judicial nominations for budgetary reasons
- A clerk of the district court may serve in four contiguous counties in the same district
- Satellite magistrate offices may be reinstated if the city pays the extra costs incurred by the Judicial Branch
- Judicial district and judicial election district reorganization is to start in 2012 and reoccur every 10 years thereafter
- Transfers of judgeships by attrition
- Voluntary permanent transfers of district court judges

Ms. Jennifer Acton of LSA Fiscal Services reported that the Judicial Branch budget was \$116,623,446 in FY 2000-2001 and is currently estimated to be \$119,877,526 in FY 2003-2004.

D. Judicial Branch Position. Mr. David Boyd, State Court Administrator, stated the 2002 Iowa Supreme Court Advisory Committee on Judicial Branch Redistricting was charged to submit a redistricting plan, and choosing not to redistrict was not an option for the advisory committee. The advisory committee submitted three redistricting plans to the Supreme Court, but the Supreme Court chose not to submit the plans to the General Assembly for consideration until a legislative interim committee studied the issue of redistricting. He further stated that the Supreme Court supports redistricting for the following reasons: 1) the structure of the courts has not changed since 1972; 2) caseloads follow population trends; and 3) there is a clear disparity in the allocation of judicial officer resources. He commented that the voluntary transfer of judges from one



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judicial election district to another judicial election district is not a good option; it is unfair to the people of the district who nominated and elected to retain the judge, and it is unfair to the district that receives the judge because the judge was never nominated or retained by the new district. Ms. Elisabeth Reynoldson, representing the Iowa State Bar Association, noted that Polk County has several judges who reside outside the election district and assist on a rotating basis. Mr. Boyd replied that transferring a judgeship vacancy due to attrition is a more practical option. He noted that a vacant judgeship was recently transferred from district 8A to district 6. He stated that the Judicial Council, which ultimately approves any transfer of a vacant judgeship, will only agree to such a transfer under an equitable allocation formula devised by the Judicial Council. Mr. Boyd acknowledged that a transfer of a vacant judgeship by attrition provides some long-term relief but will not provide immediate or systematic changes. He said that it may take up to five years or more to reallocate the judgeships among the districts through attrition.

E. Discussion of Judicial Branch Positions. Senator Kreiman asked whether the Supreme Court will recommend a redistricting plan to the Committee. Mr. Boyd replied it is not the Supreme Court's intention to provide the Committee with a specific plan. Representative Swaim asked whether judgeship formulas are outdated. Mr. Boyd stated the formulas need to be reviewed, including the formulas for district associate judges and magistrates.

Judge Annette Scieszinski asked what a future judicial district would look like. Mr. Boyd stated most administration of the districts would continue in the future districts, but said some consolidation would occur in the finance and accounting areas. Judge Remley asked whether a vacancy in a district associate judgeship can be transferred under the new law. Mr. Boyd said the Supreme Court has no authority to transfer district associate judges. Cochairperson Redfern commented that many groups disagreed with the methodology used to compute the disparities among the judicial districts; some believe that the National Center for State Courts (NCSC) workload study performed by the Supreme Court did not take into account certain relevant factors.

F. Allocation of Resources. Mr. Drew asked whether the Judges Association supports redistricting. Judge Clarke replied the Judges Association opposes redistricting but supports the reallocation of judicial officer resources. Justice Ternus commented that a perfect formula for calculating caseloads does not exist; it is an imperfect science. She asked the judges on the Committee whether they felt there is a disparity among judicial officer caseloads. Judge Scieszinski said there is a disparity, but there needs to be an honest discussion about best practices for judges. Justice Ternus replied that determining best practices is an ongoing process and should not be a prerequisite to redistricting. Senator Kreiman expressed a concern that Judicial Branch resources may be moved from more efficient districts to less efficient districts. Justice Ternus stated that there will always be anecdotal evidence of efficiency problems; she further stated the best attempt the Committee can make to determine disparity in an objective way is through the NCSC workload study formula. Judge John Nahra commented there also



may be a misallocation of judicial officer resources between district court judges, district associate judges, and magistrates.

G. 2002 Iowa Supreme Court Advisory Committee on Judicial Branch Redistricting.

Judge David Remley, Cochairperson of the Supreme Court Advisory Committee on Judicial Branch Redistricting, acknowledged that many members of the advisory committee did not support redistricting, and that some members felt constrained by the specific charge of the advisory committee. However, given the specific charge by the Supreme Court, the advisory committee proposed three redistricting plans, using a ground up approach. He said commuting patterns and population trends were considered, and that judicial election districts should be determined before the judicial districts. The advisory committee recommended increasing the number of judicial election districts from 14 districts to 16 districts to ensure more small town and rural based lawyers have a chance at a judgeship. Senator Kreiman asked whether the disparity in caseloads could be addressed without redistricting. Judge Remley replied that the disparity needs to be addressed now. Judge Clarke commented that changing the judicial districts impacts *juvenile court officers and the judicial district departments of correctional services* and brings into question whether redistricting is worth it. He further commented that the larger the districts become, the more difficult it becomes for a judge to perform effectively, because the judge has a greater area to cover and the judge becomes less familiar with the communities assigned. Ms. Jackie Armstrong, representing the Iowa Trial Lawyers Association, commented that she had concerns about the NCSC workload study formula because only 49 percent of the judges responded to the survey. She said that if the busiest judges did not have time to respond to the survey, the NCSC workload study relied upon by the advisory committee was flawed.

H. Next Steps. *The Committee concluded that four areas need more examination at the next meeting: 1) what other tools are available which may help address the disparity problem, 2) a review of technological advances and the allocation of Judicial Branch resources, 3) a review of voluntary transfers of district court judges from one judicial district to another, and 4) what methodology should be used to compare judicial caseloads among the eight judicial districts.*

III. November 12, 2003, Meeting.

A. Overview. The Committee discussion focused on alleviating judicial workload disparity between the judicial districts.

B. Jurisdiction of Judges. The Committee discussed whether changing the jurisdiction of magistrates, district associate judges, and associate juvenile judges would solve some of the judicial workload disparity. Judge Nahra of the Iowa Judges Association stated that in some judicial districts, judges need to be assigned more efficiently to areas that are the most overburdened. He also commented that increasing the jurisdiction of limited jurisdiction judges who are overburdened anyway is problematic if their compensation remains the same. The requirement of replacing a vacant district judgeship with another



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district judge should be changed, noted Mr. Holland. He suggested some judicial districts may become more efficient if the district replaced a district judge with four magistrates. Mr. Fred James, representing the Iowa Trial Lawyers Association, said that if the Legislature had fully funded the courts over the past 20 years, this Committee would not be meeting.

C. Voluntary Transfers of Judges. Mr. Boyd presented the results of an anonymous survey asking district court and district associate court judges whether they would be willing to voluntarily transfer districts. The survey specifically asked judges in the 1st, 2nd, 3rd, and 8th districts whether the judge would very likely transfer, would consider transferring, or would not be willing to transfer to either the 4th, 5th, 6th, or 7th district. As of the meeting, a total of 34 district judges responded to the survey, three district judges responded they would very likely be willing to transfer, 10 district judges responded they would consider transferring, and 21 district judges responded they would not be willing to transfer. In district associate court, three district associate judges responded they would very likely transfer, 11 district associate judges responded they would consider transferring, and 14 district associate judges responded they would not be willing to transfer. Mr. Boyd commented that it may be unconstitutional for a judge to be nominated by a judicial district nominating commission of one district, retained by the voters of that district, and then transferred to another district where the voters have not retained that judge. He noted that the constitutional problem may not exist with a district associate judge transferring from one district to another, but that a constitutional problem may still exist if such a transfer occurred.

D. Technology and the Courts. Mr. Boyd spoke about the use and availability of technology to improve communication efforts and its effect on the allocation of Judicial Branch resources. He commented that the Judicial Branch is attempting to move forward with its electronic data management system. The system would digitize all court records, provide electronic filing, and provide for electronic access of court records and files. Mr. Boyd also commented that the court would like to have Iowa Communications Network access in all courthouses. Mr. Jay Eaton of the Iowa State Bar Association asked whether electronic filing would result in financial savings to the Judicial Branch. Mr. Boyd responded that technology has never led to a direct elimination of positions, but has only slowed the growth for additional staff.

E. Redistricting Judicial Districts. The Committee discussed the need to accurately measure judicial workload. Justice Ternus commented that if you compare the statutory formula with the NCSC judicial workload study, the conclusion is the same – there is a judicial workload disparity between districts. Senator Kreiman commented that he is not ready to shift judicial resources until best practices are implemented by each district. Justice Ternus commented that every district thinks their district has implemented best practices. Ms. Rhonda Millhollin, representing the Iowa County Supervisors Association, queried whether redistricting would make the Judicial Branch more efficient. Justice Ternus stated that the goal of redistricting is not to save money, but is to place judges in



areas around the state where the judges are most needed. Mr. Drew questioned how he can support redistricting if no constituency groups support redistricting.

F. Next Steps. The Committee will review: 1) how other states manage judicial workload disparity, 2) the constitutionality of voluntary transfers of district court and district associate judges, and 3) whether the Committee should meet once a year in the future to monitor and evaluate the allocation of Judicial Branch resources.

IV. December 17, 2003, Meeting.

A. Overview. During the third and final 2003 Interim meeting of the Judicial District and Judicial Resources Study Committee, discussion focused on potential recommendations.

B. National Center for State Courts. Cochairperson Redfern noted that NCSC conducted a pilot project in Minnesota, the Minnesota Judicial Workload Assessment Study, which surveyed the court culture in an attempt to assess best practices. Cochairperson Redfern suggested that the Committee invite an NCSC representative to speak to the Committee about the work NCSC has done in other states, including surveying the area of best practices, and discussing how their assessments are performed and how the assessments are evaluated. He also suggested that if a representative of NCSC is present, the Committee can question their methodologies and they can speak about their experience in performing their study for Iowa.

C. Constitutionality of Voluntary Transfer. Committee discussion continued about the constitutionality of voluntary transfers of judicial officers. Mr. H. Richard Smith, representing the Iowa Supreme Court, commented that his law firm has researched the question and concluded that the voluntary transfer of a district court judge is unconstitutional.

D. Recommendations. The Committee discussed and approved inclusion of the recommendations listed in part V of this report.

V. Recommendations.

The Committee made the following recommendations:

A. That authorization be sought from the Legislative Council to meet again in 2004.

B. That the Committee reports that it is not in a position to make a recommendation on redistricting the judicial districts.

C. That the General Assembly proceeds with legislation that would provide the Supreme Court and Judicial Council with the flexibility to move district associate judges and associate juvenile judges between judicial districts as was provided in legislation in the 2003 Legislative Session with respect to district judges.



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D. That the General Assembly moves forward with legislation that would require all newly appointed magistrates to be an attorney; provided, however, current nonlawyer magistrates would not lose their position and would be eligible to apply and be reappointed as a magistrate.

E. That the General Assembly proceeds with legislation that allows a magistrate applicant to apply for a magistrate position in a contiguous county to the applicant's county of residence but does not require the applicant to establish residency in that county. An applicant can also apply for a magistrate position in another county, but if the county is not contiguous to the applicant's county of residence, the applicant must establish residency in the county of appointment or a contiguous county to the county of appointment upon assuming the office of magistrate.

F. That a magistrate be allowed to serve as magistrate in a county contiguous to the magistrate's county of residence.

G. That the Supreme Court examines the issue of a rule change permitting litigants in a civil case to waive the Rules of Civil Procedure and apply small claims rules and procedure in district court.

H. That the Supreme Court examines the feasibility of establishing early dispositional procedures in criminal cases.

VI. Materials Submitted to the Judicial District and Judicial Redistricting Committee and on File With the Legislative Services Agency.

A. Background Statement by Joe McEniry, LSA, Legal Services.

B. Proposal from Judicial Branch on Reallocation.

C. Justice System General Fund Memorandum by Jennifer Acton, LSA, Fiscal Services.

D. Iowa Court System Presentation by Jennifer Acton, LSA, Fiscal Services.

E. Possible Tools to Address Judicial Workload Disparity (for discussion purposes only) by Joe McEniry, LSA, Legal Services.

F. Synopsis of Surrounding States' Judicial Officer Allocation Laws by Jennifer Acton, LSA, Fiscal Services.

G. Chart Summarizing Redistricting of Surrounding States by Jennifer Acton, LSA, Fiscal Services.

H. The Final Report of the Supreme Court Advisory Committee on Judicial Branch Redistricting, dated December 13, 2002.