



# Blue Ribbon Commission

## June 2017 Status Summary Kansas Supreme Court Blue Ribbon Commission Recommendations

Following are the recommendations made by the Kansas Supreme Court's Blue Ribbon Commission, with a status summary as of June 2017. The complete text of the Blue Ribbon Commission report, [\*Recommendations for Improving the Kansas Judicial System\*](#), is available on the judicial branch website.

### I. Structural Changes

1. The Supreme Court should recommend legislation to end the one-resident-judge-per-county restriction on the placement of judges. (BRC Report, 31.)

Other statutes requiring the placement of judges in specific districts and counties should be eliminated.

2. Judicial districts should not be consolidated. (BRC Report, 45.)

Consolidation or redistricting of judicial districts is not a viable alternative to eliminating the one resident-judge-per-county restriction.

#### *Status:*

As in prior years, the 2017 Kansas Legislature did not propose any legislation to adopt the recommendations described above.

### II. District Magistrate Judges

1. The ratio of district magistrate judges to district judges should be increased. (BRC Report, 49.)

Consistent with the Weighted Caseload Study, this should be achieved by increasing the number of district magistrate judges while reducing (through attrition) the number of district judges.

2. All future district magistrate judges should be lawyers. (BRC Report, 56.)

The selection of lawyers to become district magistrate judges will increase flexibility and public faith in the judicial system.

Existing district magistrate judges who are not lawyers should be able to continue in office and to run for reelection or retention.

Current non-lawyer district magistrate judges who leave the bench should not be eligible to hold future judicial positions unless they become lawyers.

3. The Supreme Court should seek to expand the subject matter jurisdiction of district magistrate judges. (BRC Report, 60.)

District magistrate judges should be permitted to hear uncontested or less complicated matters which they are currently not permitted to hear.

Expanded district magistrate judge subject matter jurisdiction should not include more complex issues, except by consent of the parties involved.

4. There should be no automatic de novo appeal to a district judge from a final order or decision on the record by a lawyer district magistrate judge. (BRC Report, 62.)

Appeals from final decisions of district magistrate judges who are lawyers should follow the normal appeal process to the Court of Appeals or Supreme Court.

All final orders and decisions by any district magistrate judge (lawyer or not) should be on the record.

5. Counties should not be allowed to hire their own district magistrate judges. (BRC Report, 64.)

Counties should continue to be able to hire and pay for lawyers to serve as pro tem judges.

Counties should continue to be able to supplement the pay of district magistrate judges.

*Status:*

The 2017 Kansas Legislature did not propose any legislation to adopt the recommendations described above. Legislation in previous sessions did expand the subject matter jurisdiction of district magistrate judges.

### **III. Electronic Filing**

1. Electronic filing and centralized case and document management systems should be developed and implemented statewide as soon as possible. (BRC Report, 65.)

The costs for the systems should be paid by state funds and user fees.

E-filing should be implemented first.

Modifications to permit statewide accessibility of the case management and document management systems should follow as quickly as possible.

2. Statewide e-filing should be mandatory (with exceptions only for pro se, small claims, and indigent litigants). (BRC Report, 69.)

There should be an e-filing fee for civil cases to supplement state funds for development, maintenance, and enhancement of the e-filing, case management, and document management systems, and to establish a fund for future updating of software and hardware.

3. All e-filers, including pro se litigants, small claims litigants, and indigent litigants who choose to e-file, should be required to pay civil e-filing fees. (BRC Report, 71.)
4. All e-filing fees, without exception, should go to the Judicial Branch. (BRC Report, 71.)
5. The e-filing system should be phased in to eventually cover all counties and judicial districts and the appellate courts. (BRC Report, 72.)

In order to generate e-filing fees quickly, high volume courts should be phased in first, followed by courts with a lower volume of cases, followed by the appellate courts.

6. Statewide implementation of e-filing should be accomplished within three years. (BRC Report, 74.)
7. If leasing would result in quicker statewide implementation, the Supreme Court should consider leasing the e-filing system rather than using a purchase/license payment structure. (BRC Report, 74.)
8. Decisions on hardware acquisitions should be left to the counties. (BRC Report, 75.)

But the Court's Office of Judicial Administration should develop a list of recommended hardware.

9. The Supreme Court should permit e-filing access for pro se and inmate litigants that assure access to justice without abuses or breaches of privacy rights. (BRC Report, 76.)

The Court should consult with the National Center for State Courts for information regarding pro se and inmate use of e-systems.

10. The Supreme Court should develop appropriate rules to allow late filings by litigants who are unable to timely e-file because of the unavailability of e-filing systems due to technical or other problems. (BRC Report, 77.)
11. All court records and documents should be e-accessible statewide. (BRC Report, 78.)

The Supreme Court should establish access standards for both represented parties and pro se litigants.

Before making e-access available to the public and to litigants, the Court should adopt policies and procedures designed to protect privacy rights.

12. The Supreme Court should adopt rules or propose legislation to recognize the courts' electronic version of documents as the official court record. (BRC Report, 79.)

*Status:*

*Electronic Filing.* All district and appellate courts in Kansas accept filings electronically from lawyers in good standing who are licensed in Kansas. The appellate courts and some district courts require electronic filing in some or all case types. Self-represented litigants who are not attorneys must file paper documents in all courts.

*Centralized Case Management System.* The Supreme Court continues to work toward a statewide centralized case management system. In October 2016, the court, through its Office of Judicial Administration, issued a request for proposals from vendors who can provide a centralized case management system platform with judicial tools. Those proposals are under analysis.

#### **IV. Other Technology**

1. The Supreme Court should encourage district courts and counties to use video equipment and strongly encourage them to use audio equipment in order to preserve a record in the event a court reporter is not available in the courtroom. (BRC Report, 80.)

Appellate courts should examine the use of videoconferencing for some appellate arguments.

The Supreme Court should set mandatory standards for audio/visual equipment to be used by counties in their purchasing decisions.

The Office of Judicial Administration should develop for the district courts a list of the types of hearings appropriate for audio/visual use.

The Office of Judicial Administration should explore the possibility of statewide purchasing agreements which would give counties financing options that are not currently available.

2. As recording technology advances, the Supreme Court should review the number and use of court reporters in Kansas. (BRC Report, 83.)
3. The Supreme Court should monitor developments in the use of electronic versions of appellate decisions for official reports as an alternative to the current published

bound volumes of the Kansas Supreme Court Reports and the Kansas Court of Appeals Reports. (BRC Report, 88.)

*Status:*

*Appellate Court Videoconferencing.* A Court of Appeals panel composed of three judges heard its first oral argument by videoconference in a meeting room in the Kansas Judicial Center in Topeka early in 2016. Attorneys from Liberal and Johnson, both in southwest Kansas, appeared for the oral argument by Skype.

On August 25, 2016, a Court of Appeals panel heard its first oral argument by videoconference in its courtroom in Topeka. Attorneys from Hill City — more than 250 miles from Topeka — presented oral arguments from their offices.

The Court of Appeals does and will continue to use videoconferencing as and when appropriate.

*District Court Videoconferencing.* Videoconferencing continues to be used in the district courts.

*Electronic Publication of Official Reports.* The official reporter continues to monitor other states that are beginning to electronically publish official court decisions. Changes to Kansas statutes are required before the official reporter would be able to electronically publish reports, and the reporter will continue to monitor developments in this area to learn from other states' experiences.

## **V. Docket Fees**

1. The Supreme Court should promote legislation to require all docket fees without exception to go to the Judicial Branch. (BRC Report, 90.)
2. The Supreme Court should promote legislation or adopt Court Rules to increase all current docket fees. (BRC Report, 97.)
3. The Supreme Court should promote legislation or adopt Court Rules to assess higher docket fees in civil cases which by their nature impose more costs on the court system by consuming an extraordinary amount of court resources. (BRC Report, 102.)
4. The Supreme Court should promote legislation or adopt Court Rules which require the payment of a docket fee upon filing a civil action (Chapters 59, 60, and 61 only), unless excused due to the filing of a poverty affidavit or an action for protection from abuse or protection from stalking. (BRC Report, 102.)
5. The Supreme Court should use federal poverty guidelines as a model for poverty affidavits used to defer docket fees at the commencement of a case. (BRC Report, 105.)

Any deferral of docket fees should be for an initial term of not more than 60 days after commencement of a case.

If the district court defers payment further, the court should make a final determination on the imposition of docket fees at the end of the case when more information is available regarding the financial resources of the parties.

6. The Supreme Court should promote legislation or adopt Court Rules to assess additional docket fees for the filing of motions that by their nature require an extraordinary amount of court resources. (BRC Report, 109.)

*Status:*

The 2017 Kansas Legislature extended until June 30, 2019, the sunset for judicial surcharges on a number of docket fees.

## **VI. District Court Functions and Procedures**

1. The Supreme Court should encourage district courts to identify and vigorously pursue outstanding collectible court costs, fees, and fines. (BRC Report, 110.)

Collection methods (including debt setoff and the like) should be developed and standardized.

Court personnel should be educated on collection processes.

The Supreme Court's Office of Judicial Administration should seek grant funding and the assistance of the National Center for State Courts to assist with implementation.

2. The issue of court cash surety bonds was presented at a public hearing. While the Commission makes no recommendation at this time, the issue is not without merit and deserves further study and consideration. (BRC Report, 116.)
3. The Supreme Court should seek state funds for translators. (BRC Report, 117.)

The Court should consider regionalizing translator services.

The Office of Judicial Administration should expand its current efforts to develop resources to provide qualified translators and interpreters, including the use of Skype, Google Voice, or other newly developed services.

4. The Supreme Court should review and seek to modify the case types entitled to priority in the district court and the time standards for expedited disposition of such cases. (BRC Report, 126.)
5. The Supreme Court should promote statewide development of district court best practices. (BRC Report, 127.)

In doing so, the Court should consider using the National Center for State Courts' CourTools.

6. The Supreme Court should implement uniformity in court processes and procedures in all judicial districts. (BRC Report, 134.)

The Court should examine local rules that (1) make it difficult for practitioners to function in courts in different districts and (2) may impede the uniform adoption of statewide e-filing.

7. The Supreme Court and its Office of Judicial Administration should continue examining the efficacy of specialty courts, including veterans' courts. (BRC Report, 136.)

*Status:*

*Statewide uniformity.* Implementing Kansas eCourt will require examining district and appellate courts' processes and procedures. A higher degree of statewide uniformity will eventually be needed.

*Debt Collection.* The 2017 Kansas Legislature amended laws related to collecting debts under K.S.A. 20-169. These amendments require the cost of collection be paid by the responsible party as an additional court cost in all cases where the party fails to pay debts owed to court or restitution owed under a restitution order.

In 2017, the Office of Judicial Administration developed a standard debt collection work plan for use in all judicial districts. The work plan provides details regarding conveyance of accounts, collection procedures, and other matters related to collection activities authorized by K.S.A. 20-169.

All 31 judicial districts have entered into a contract with a debt collector.

*Language Access.* Language access remains a priority. In July 2016, the Supreme Court amended Rules 107 and 1701, and adopted new Rules 1702 through 1704. These rules require chief judges to appoint a local language access coordinator for their judicial district and notify the Office of Judicial Administration of the appointment; set forth the responsibilities of a local language access coordinator; establish a code of ethics for spoken language court interpreters; and require spoken language court interpreters to sign an acknowledgment and agreement form that verifies their receipt, review, and agreement to adhere to the Kansas Code of Professional Responsibility for Court Interpreters. The Supreme Court's Language Access Committee continues to systematically evaluate language access goals and identifying effective methods to work toward them. This will allow Kansas to continue to make advances in accessibility to state courts by persons with limited English proficiency.

*Specialty Courts.* In July 2017, the Supreme Court amended Rule 109A and adopted new Rule 109B. These rules address how specialty courts are defined and what standards judicial districts should follow when creating a specialty court. The new standards include having measurable goals and objectives, using evidence-based practices, and having trained, knowledgeable judges overseeing the specialty court.

## VII. Appellate and District Court Functions and Procedures

1. The Supreme Court should examine the timeliness of decisions of the district and appellate courts. (BRC Report, 141.)

The Court should set standards and reevaluate and implement appropriate enforcement mechanisms to assure that decisions and opinions are issued timely.

### *Status:*

The Supreme Court views completing and timely releasing judicial decisions to the people of Kansas as one of its most critical functions. Improvements achieved in the recent past continued through 2016 and into 2017.

As noted last year, in December 2015, the Supreme Court designated a new committee to help review and revise time standards for decisions in district and appellate court cases. Justice Carol A. Beier chairs the committee, which has looked at time standards currently in place in Kansas and examined similar standards used in other state court systems. And Justice Beier (also chair of the District Criminal subcommittee), Randall Hodgkinson (chair of the Appellate subcommittee), and Teresa Watson (chair of the District Civil subcommittee), presented preliminary recommendations to the court in late 2016.

In early 2017, as the time standards committee recommended, the Kansas Supreme Court adopted internal standards for timeliness issuing its decisions. Those standards (with death penalty and attorney discipline cases excepted) are:

25 percent of all decisions released within 90 days of oral argument;  
50 percent released within 180 days; and  
95 percent within 270 days.

The committee deferred any further action, pending the implementation of the *Centralized Case Management System* (see p. 3), because that new system will enable several efficiencies, and new tracking and statistics development.

## VIII. Appellate Court Functions and Procedures

1. Both the Supreme Court and the Court of Appeals should consider the use of mediation at the appellate level. (BRC Report, 141.)

The Supreme Court should examine the types of cases entitled to priority appellate review and the time standards for those reviews. (BRC Report, 143.)

### *Status:*

The Court of Appeals, with help from the director of dispute resolution, continues with its project for mediating civil cases already on appeal. Of the 60 cases assigned for

possible mediation, 43 opted out of the process and 13 agreed to attempt mediation. Of the 13 cases in which the parties attempted mediation, four reached agreement.

## **IX. Office of Judicial Administration**

1. The Office of Judicial Administration should conduct more of its training electronically, through conference calls, GoToMeeting-like processes, and webinars. (BRC Report, 145.)
2. The Supreme Court should examine the efficiencies of its Office of Judicial Administration's operations, including its Information Technology Department. (BRC Report, 147.)

The Court should seek grant funding and the assistance of the National Center for State Courts to accomplish this.

### *Status:*

The Office of Judicial Administration strives to make the best use of limited resources through strategies such as strategic planning, prioritizing projects, process improvements, zero-based budgeting, realigning job responsibilities and structure, recording work process and responsibilities to improve training, and improving communications and project coordination.

The Office of Judicial Administration also continues to examine the purpose, format, and likely participation level of its training opportunities and evaluates whether they would be better offered in person or electronically.

Currently, the Office of Judicial Administration provides web-based training to court employees across the state. The Office of Judicial Administration also utilizes videoconferencing equipment to allow for remote participation in meetings by those in other locations. The Office of Judicial Administration continues to hold meetings via conference call.

## **X. Lawyers**

1. The Supreme Court's Office of Judicial Administration should examine expansion of current programs that permit lawyers to provide limited advice and assistance to pro se litigants. (BRC Report, 149.)
2. The Supreme Court should consider suggesting a number of hours that attorneys are encouraged to voluntarily devote to pro se litigants, the indigent, and general pro bono work. (BRC Report, 151.)

### *Status:*

While the Supreme Court decided not to suggest any specific number of hours for voluntary pro bono work, attorneys and law organizations continued their efforts to provide help to pro se litigants in 2016 and 2017.

Kansas Legal Services reported that in 2016 Kansas attorneys volunteered nearly 1,300 hours (up from nearly 1,100 in 2015) and law students more than 2,200 hours (up from over 1,700 in 2015) helping Kansas Legal Services clients. And three emeritus attorneys sponsored by KLS work in the Johnson County Help Center, providing direct legal services to low-income persons. The Johnson County District Court Help Center reached a milestone in mid-2017, by serving more than 15,000 clients since opening in 2014. Help center staff provide information, forms, and an explanation of court procedures to people who are unable to have an attorney or other legal assistance in Johnson County District Court. In 2015, nearly 4,100 people were helped. In 2016, the center served more than 5,600 in-person visitors. The center now helps more than 20 people each day, and answers 360 phone calls every month.

The Kansas Bar Association reported that one retired attorney and two active attorneys are now working for its Lawyer Referral Service. In 2016, the service helped 750 self-represented people. The KBA also conducts a monthly evening advice and information call-in service that currently draws on the services of six lawyers. In 2016, they helped about 500 people. At least one attorney works on a project for the KBA in Johnson County, allowing people with higher incomes to receive legal advice at a per-minute price.

## **XI. Legislation and Court Rules**

The Supreme Court should promote legislation or adopt court rules to implement the foregoing recommendations. (BRC Report, 154.)

### *Status:*

Legislation was requested or has been enacted, and Supreme Court rules have been developed or amended, to implement several Blue Ribbon Commission various Blue Ribbon recommendations.