

**MINUTES OF THE ANNUAL PUBLIC HEARING
OF
THE NEBRASKA JUDICIAL RESOURCES COMMISSION
December 9, 2022**

The annual public hearing of the Nebraska Judicial Resources Commission was held on the 9th day of December, 2022, in Room 1510 of the State Capitol Building in Lincoln, Nebraska. The Chair called the meeting to order at 1 p.m. The meeting included a WebEx videoconferencing option for Commission members and for the public.

Roll call showed a quorum of the following members:

PRESENT

Justice Stephanie Stacy, Chair
Judge Matthew Kahler
Judge Travis O’Gorman*
Judge Anne Paine
Timothy Engler (Vice Chair)
Taylor Gage
Cyd Hall
Kenneth Hartman
Roxanne Kracl*
Nancy McCabe
Michael McCarthy*
Brian Phares*
Meagan Spomer*
Darlene Starman
Ron Temple*
Jacqueline Tessendorf*
Maria Whitmore

ABSENT

***Participating by WebEx**

The Chair introduced and welcomed new commission members Taylor Gage, Cyd Hall, and the Honorable Travis O’Gorman.

The Chair confirmed that all Commission members had received and reviewed the minutes from the last quarterly meeting on September 9, 2022. On an oral vote, the minutes of September 9, 2022 were accepted.

The Chair identified and received the following exhibits for consideration during the hearing:

Exhibit 1 –Agenda

Exhibit 2 –Minutes of meeting of September 9, 2022
Exhibit 3 –2022 NSBA report to the Judicial Resources Commission
Exhibit 4 – Letter from 9th Judicial District, County Court Judges
Exhibit 4a – Letter from Harouff Law Firm
Exhibit 4b – Letter from Goding Law Firm
Exhibit 4c – Letter from Rowley Law Firm
Exhibit 4d – Letter from Bradley Law Firm
Exhibit 5 – Letter from Judge Alioth asking added judge to DC, 4th
Exhibit 6 – Judge Robert Otte retirement letter
Exhibit 7 – FY-0222 District Court Weighted Caseload Report

All commissioners in attendance confirmed they had received and reviewed the exhibits listed above; all such exhibits are attached to these minutes, with the exception of the Weighted Caseload Report which is archived on the Nebraska Supreme Court website.

The Chair presented the 2022 Report of Judicial Caseloads, Trends and Resources. Supportive data was shared via a PowerPoint presentation, a copy of which is attached to these minutes.

The Commission received and considered public testimony from the following individuals: 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; Jodi Nelson, District Court Judge in the 3rd Judicial District; Jeffrey Lux, District Court Judge in the 4th Judicial District; Alfred Corey, County Court Judge in the 9th Judicial District; Ray Aguilar, State Senator, District 35; Attorney Jan Reeves; Attorney John Icenogle; and Marty Klein, Hall County Attorney.

The Commission took up the judicial retirement in the 3rd Judicial District; it was moved by Timothy Engler and seconded by Darlene Starman that the Commission declare a judicial vacancy exists in the 3rd Judicial District due to the retirement of Judge Robert R. Otte from the district court bench, and recommend the primary office location of such vacancy be in Lincoln, Lancaster County, Nebraska. On a roll call vote, the motion passed unanimously.

The Commission took up whether it is appropriate to recommend adding a judgeship 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 (Exhibit 4) to consider recommending the addition of a county court judgeship with a primary office location in Hall County. It was moved by Timothy Engler and seconded by Judge Anne Paine to

recommend adding a new county court judgeship in the 9th Judicial District, with a primary office location in Hall County. On a roll call vote, the motion passed unanimously.

- (2) The district court judges in the 4th Judicial District submitted a written request (Exhibit 5) to consider recommending the addition of a district court judgeship with a primary office location in Douglas County. It was moved by Judge Matthew Kahler and seconded by Ken Hartman that the Commission recommend the addition of a 19th district court judge in the 4th Judicial District. On a roll call vote, the motion failed on a vote of 2 to 13, with 2 members absent during the vote.

The Commission took up whether it is appropriate to recommend reducing a judgeship in any judicial district. No specific requests were received and no motion was made to recommend reducing a judgeship in any judicial district.

The Commission took up whether to recommend changes to any judicial district boundary or to the number of judicial districts. It was observed that although the new Judicial District Mapping Tool has been distributed to all judges, to the NSBA's Judicial Resources Committee, and to all Commission members, the Commission has not yet received any specific redistricting proposals. 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 proposals for possible discussion at the next annual meeting.

The Commission took up whether to make any other recommendations for the more balanced use of existing judicial resources. It was moved by Timothy Engler and seconded by Darlene Starman that the Commission's Annual Report to the Legislature should call attention to the potential impact of population growth on the current statutory framework governing the number of separate juvenile court judges in counties that have established such a court. More specifically, Neb. Rev. Stat. § 43-2119 (Reissue 2016) states there shall be "Two judges in counties having seventy-five thousand inhabitants but less than two hundred thousand inhabitants" and there shall be "Four judges in counties having at least two hundred thousand inhabitants but less than four hundred thousand inhabitants" and "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 judges in each county, the Judicial Resources Commission determined it is appropriate to inform the Legislature that neither the Weighted Caseload Reports, nor the historical caseload

data, suggest a need for additional judges in any of Nebraska's separate juvenile courts. On a roll call vote, the motion passed unanimously.

The Chair addressed the current vacancy in the office of Secretary. In June 2022, the Honorable John Samson was elected to a 2-year term as Secretary, and in September 2022 he resigned such position, creating a vacancy. Rule 001.05 of the Judicial Resources Commission Rules provides that in the event of a vacancy in the office of either Vice-Chair or Secretary, the Chair shall appoint a member to serve the balance of the original term. Any Commission members interested in being considered for appointment to serve as Secretary through June 2024, should contact the Chair directly.

The Chair advised Commissioners of the following tentative quarterly meeting dates for 2023:

- February 17, 2023 at 10 a.m.
- June 16, 2023 at 10 a.m.
- September 15, 2023 at 10 a.m.
- December 14, 2023 at 1 p.m.

It is anticipated that, in 2023, all quarterly meetings will be held in-person at the Nebraska State Capitol and will include the option of videoconferencing via WebEx.

There being no other matters brought before the Commission, the Chair asked whether there was any objection to adjourning. There being none, the Commissioners were thanked for their preparation and participation and the meeting was adjourned.

Respectfully submitted:

Stephanie F. Stacy, Chair