

MINUTES OF THE PUBLIC HEARING
OF
THE NEBRASKA JUDICIAL RESOURCES COMMISSION
September 9, 2022

Pursuant to the press release issued August 19, 2022, a public hearing of the Nebraska Judicial Resources Commission was held on the 9th day of September, 2022, in Room 1510, State Capitol Building, in Lincoln, Nebraska.

AGENDA ITEM I: The Chair called the proceedings to order at approximately 10 a.m. The proceedings included a WebEx videoconferencing option for Commission members and for members of the public. Roll call by the Secretary:

PRESENT (*denotes WebEx attendance)

Justice Stephanie Stacy, Chair
Judge Matthew Kahler*
Judge John Samson
Timothy Engler
Kenneth Hartman
Nancy McCabe
Michael McCarthy
Brian Phares*
Meagan Spomer
Darlene Starman*
Ron Temple*
Jacqueline Tessendorf*
Maria Whitmore

EXCUSED

Judge Anne Paine
Roxanne Kracl

AGENDA ITEM II: The Chair confirmed that all Commission members had received and reviewed the minutes from the hearing on June 3, 2022. On an oral vote, commissioners accepted the minutes of June 3, 2022.

AGENDA ITEM III: The following exhibits were examined and considered by the Commission, and are attached to these minutes:

- Exhibit 1: Hearing Agenda
- Exhibit 2: Minutes of the hearing of June 3, 2022
- Exhibit 3: Judge Russell Harford's retirement letter
- Exhibit 4: Judge Kenneth Vampola's resignation letter
- Exhibit 5: Letter from Nebraska State Bar Association
- Exhibit 6: Letter from Judge Harford
- Exhibit 7: Letter from Terry Curtiss
- Exhibit 8: Email from Maren Chaloupka
- Exhibit 9: Email from Rae Ann Schmitz

Exhibit 10. Letter from Crites Shaffer law firm

Exhibit 11: FY-2022-County-Court-Weighted-Caseload-Report

PUBLIC TESTIMONY: The Commission received and considered public testimony from: Nebraska State Court Administrator Corey Steel; Nebraska State Bar Association President William Mueller; Scotts Bluff County Bar Association President Kyle Long; Attorney Audrey Long. All those testifying expressed support for declaring vacancies due to the retirement of Judge Harford and the resignation of Judge Vampola. No testimony was received in opposition to declaring a vacancy for any judicial position on the agenda for consideration.

AGENDA ITEM IV: It was moved by Meagan Spomer and seconded by Michael McCarthy that the Commission declare a judicial vacancy exists in the 12th Judicial District due to the retirement of Judge Russell W. Harford from the county court bench, and recommend the primary office location of such vacancy be in Chadron, Dawes, Nebraska. On a roll call vote, the motion passed unanimously.

AGENDA ITEM V: It was moved by Michael McCarthy and seconded by Meagan Spomer that the Commission declare a judicial vacancy exists in the 6th Judicial District due to the resignation of Judge Kenneth J. Vampola from the county court bench, and recommend the primary office location of such vacancy be in Fremont, Dodge County, Nebraska. On a roll call vote, the motion passed unanimously.

AGENDA ITEM VI: The Chair reminded commissioners that during our 2021 annual meeting last December, we discussed the fact that the number of judicial districts has remained unchanged for the past 30 years, and the configuration of those districts has changed only slightly. The Commission voted unanimously to begin a comprehensive study of the optimal number and configuration of judicial districts, and asked the Administrative Office of the Courts and Probation (AOCB) to compile and provide specific data to support such a study.

In response to that data request, the AOCB developed an interactive mapping tool with the requested data embedded. *Hazel Delgado, Director of Research and Data* for the judicial branch, designed the tool and was present during the meeting to demonstrate the tool and to answer questions. The tool will be made available to all members of the JRC via a public link, and all commissioners were encouraged to become familiar with the tool and begin using it to brainstorm judicial district configurations that optimize existing judicial resources and maximize access to the courts in all 93 counties. The mapping tool has been previewed by the Executive Committee of the Nebraska State Bar Association, and was very well-received. The plan is to make the mapping tool widely available to members of the bench and bar over the next few months, and encourage all stakeholders to use the tool to explore different judicial district configurations. By doing so, the commission hopes to increase both the quantity and quality of recommendations received during the

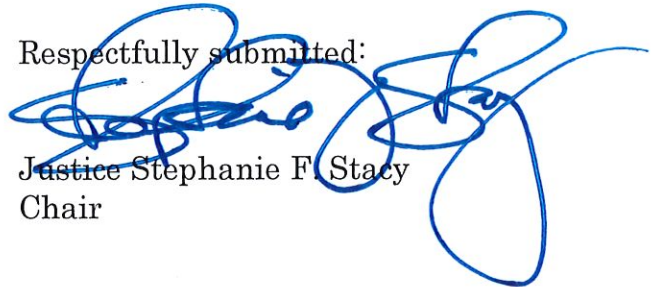
Annual Hearing on December 9, 2022, regarding the statutory requirement to “determine whether . . . the judicial district boundaries or the number of judicial districts should be changed for the district or county courts.” See Neb. Rev. Stat. § 24-1205(2).

OTHER ITEMS The Chair reminded Commissioners to keep their calendars clear for the annual hearing on Friday, December 9, 2022 beginning at 1 p.m.

Judge Samson announced to commissioners that after today’s meeting he plans to resign from the Judicial Resources Commission. A formal letter of resignation will follow and will be reflected in future minutes. The Chair and all commission members in attendance reflected on Judge Samson’s dedication and significant contributions to the Judicial Resources Commission over the past 12 years, and thanked him for his continuing service to the judicial branch and the citizens of Nebraska.

There being no other matters brought before the Commission, the Chair asked whether there was any objection to adjourning. There being none, the meeting was adjourned.

Respectfully submitted:



Justice Stephanie F. Stacy
Chair

HEARING AGENDA
JUDICIAL RESOURCES COMMISSION
September 9, 2022 – 10 a.m. CST
Room 1510, State Capitol, Lincoln, Nebraska
Proceedings include virtual conferencing VIA WEBEX

- I. Call hearing to order; roll call of members by secretary
- II. Approve minutes from last hearing held June 3, 2022
- III. Identify/receive exhibits to be considered by Commission
- IV. Whether a judicial vacancy exists in the County Court of the 12th Judicial District, due to the retirement of Judge Russell W. Harford effective August 31, 2022, and if so whether to recommend a primary office location
- V. Whether a judicial vacancy exists in the County Court of the 6th Judicial District, due to the resignation of Judge Kenneth J. Vampola effective September 2, 2022, and if so whether to recommend a primary office location
- VII. AOC presentation of mapping tool and discussion of judicial district configuration
- VII. Other items
- IX. Adjournment



**MINUTES OF THE PUBLIC HEARING
OF
THE NEBRASKA JUDICIAL RESOURCES COMMISSION
June 3, 2022**

Pursuant to the press release issued May 23, 2022, a public hearing of the Nebraska Judicial Resources Commission was held on the 3rd day of June, 2022, in Room 1510, State Capitol Building, in Lincoln, Nebraska.

AGENDA ITEM I: The Chair called the proceedings to order at 10 a.m. The proceedings included a WebEx videoconferencing option for Commission members and for members of the public. Roll call by the Secretary:

PRESENT (*denotes WebEx attendance)

Justice Stephanie Stacy, Chair
Judge Matthew Kahler
Judge Anne Paine*
Judge John Samson
Timothy Engler
Roxanne Kracl*
Nancy McCabe*
Brian Phares*
Lori Scherer*
Darlene Starman
Ron Temple*
Jacqueline Tessendorf*
Maria Whitmore*

EXCUSED

Kenneth Hartman
Michael McCarthy
Christopher Nielsen

ABSENT

Meagan Spomer

Member Ken Hartman reports that he was able to listen to portions of the WebEx but had a weak internet connection and was unable to vote.

AGENDA ITEM II: The Chair confirmed that all Commission members had received and reviewed the minutes from the hearing on February 18, 2022. On an oral vote, commissioners accepted the minutes of February 18, 2022, as modified to reflect that member Maria Whitmore was able to join the Webex conference on February 18 before the hearing was called to order, but thereafter lost the connection and was unable to participate.

AGENDA ITEM III: The following exhibits were examined and considered by the Commission:

- Exhibit 1: Hearing Agenda
- Exhibit 2: Minutes of the hearing of February 18, 2022
- Exhibit 3: Judge Robert Wester's resignation letter
- Exhibit 3a: Letter from Judge Tricia Freeman—County Court, 2nd



- Exhibit 4: Judge Frank Skorupa retirement letter
- Exhibit 4a: Letter from Judge Lange-- County Court, 5th
- Exhibit 4b: Letter from Saunders County Bar – County Court, 5th
- Exhibit 4c: Letter from Judge Petersen – County Court, 5th
- Exhibit 4d: Letter from Colfax County Attorney – County Court, 5th
- Exhibit 4e: Letter from Platte County Attorney – County Court, 5th
- Exhibit 4f: Letter from Saunders County Attorney – County Court, 5th
- Exhibit 4g: Letter from Attorney Kurtenbach – County Court, 5th
- Exhibit 4h: Letter from Attorney Reiter – County Court, 5th
- Exhibit 4i: Letter from Attorney Wollmer – County Court, 5th
- Exhibit 4j: Letter from Sipple, Hansen Law Firm – County Court, 5th
- Exhibit 4k: Letter from Deputy Platte County Attorney – County Court, 5th
- Exhibit 4l: Letter from Karel & Seckman Law Firm – County Court, 5th
- Exhibit 5: Judge Curtis Maschman retirement letter
- Exhibit 5a: Letter from Judge Bauer and Judge Gaertig – County Court, 1st
- Exhibit 6: Judge Richard Birch retirement letter
- Exhibit 7: Judge Robert O'Neal retirement letter
- Exhibit 8: Letter from Nebraska State Bar Association
- Exhibit 9: Weighted Caseload Report County Court CY2021
- Exhibit 10: Weighted Caseload Report District Court CY2021
- Exhibit 11: Weighted Caseload Report Sep. Juvenile Court CY2021

All exhibits listed above are attached to these minutes.

PUBLIC TESTIMONY: The Commission received and considered public testimony from Nebraska State Court Administrator Corey Steel, Nebraska State Bar Association Executive Director Liz Neeley, Judge Todd Hutton, Judge Michael Piccolo, Judge C. Jo Petersen, Judge Jonathon Crosby, and Attorney Catrina Harris. All those testifying expressed support for declaring vacancies due to the resignation/retirements of Judge Wester, Judge Skorupa, Judge Maschman, Judge Birch and Judge O'Neal. No testimony was received in opposition to declaring a vacancy for any judicial position on the agenda for consideration.

AGENDA ITEM IV: It was moved by Judge Matthew Kahler and seconded by Timothy Engler that the Commission declare a judicial vacancy exists in the 2nd Judicial District due to the resignation of Judge Robert C. Wester from the county court bench, and recommend the primary office location of such vacancy be in Papillion, Sarpy County, Nebraska. On a roll call vote, the motion passed unanimously.

AGENDA ITEM V: It was moved by Timothy Engler and seconded by Judge Matthew Kahler that the Commission declare a judicial vacancy exists in the 5th Judicial District due to the retirement of Judge Frank J. Skorupa from the county court bench, and recommend the primary office location of such vacancy be in

Columbus, Platte County, Nebraska. On a roll call vote, the motion passed unanimously.

AGENDA ITEM VI: It was moved by Judge Matthew Kahler and seconded by Darlene Starman that the Commission declare a judicial vacancy exists in the 1st Judicial District due to the retirement of Judge Curtis L. Maschman from the county court bench, and recommend the primary office location of such vacancy be in either (1) Falls City, Richardson County, Nebraska; (2) Auburn, Nemaha County, Nebraska; or (3) Pawnee City, Pawnee County, Nebraska, as determined by the Supreme Court after consultation with the judge appointed to the position. On a roll call vote, the motion passed unanimously.

AGENDA ITEM VII: It was moved by Brian Phares and seconded by Judge Anne Paine that the Commission declare a judicial vacancy exists in the 11th Judicial District due to the retirement of Judge Richard A. Birch from the district court bench, and recommend the primary office location of such vacancy be in North Platte, Lincoln County, Nebraska. On a roll call vote, the motion passed unanimously.

AGENDA ITEM VIII: It was moved by Judge Matthew Kahler and seconded by Maria Whitmore that the Commission declare a judicial vacancy exists in the Separate Juvenile Court, Sarpy County due to the retirement of Judge Robert B. O'Neal. On a roll call vote, the motion passed unanimously.

AGENDA ITEM IX: The Commission took up election for positions of Secretary and Vice Chair. The Chair nominated Judge John Samson to continue in the roll of Secretary, and Timothy Engler to serve as Vice Chair. Additional nominations were invited from the floor and none were received. Given the number of members participating via WebEx, the Commission voted to suspend the requirement of voting by secret ballot and instead use an anonymous voice vote to record votes. Judge John Samson was elected Secretary by a unanimous voice vote; Timothy Engler was elected Vice Chair by a unanimous voice vote.

AGENDA ITEM X: The Chair reported on the status of the Commission's request for the AOCF to provide data to support discussion of judicial district configuration. During the 2021 Annual Hearing the Commission discussed the history of the number of Judicial Districts for the trial courts, and the fact that it has remained unchanged for several decades. The Commission voted unanimously to study the optimal number and configuration of judicial districts during 2022, and to ask the Administrative Office of the Courts and Probation to compile and provide specific data to support such a study.

The AOCF has been working on that data request and has developed an interactive mapping tool with data embedded. Judge Stacy has previewed the mapping tool and thinks it will be helpful as the Commission studies configuration

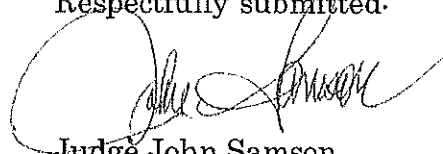
options. Unless intervening retirements require changing the agenda, the plan is to make presentation and discussion of the mapping tool the primary agenda item for the September 9th Commission hearing.

OTHER ITEMS: The Chair reminded Commissioners to keep their calendars clear for the remaining quarterly meetings on:

- Friday, September 9, 2022 at 10 a.m.
- Friday, December 9, 2022 at 1 p.m.

There being no other matters brought before the Commission, the Chair asked whether there was any objection to adjourning. There being none, the meeting was adjourned.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "John Samson", written over a large, light-colored circular mark.

Judge John Samson
Secretary

Nebraska County Courts

Twelfth Judicial District

COUNTY JUDGE
RUSSELL HARFORD
CLERK MAGISTRATE
JONI R. ROBERTS

SCOTTS BLUFF, BANNER, BOX BUTTE,
CHEYENNE, DAWES, DEUEL, GARDEN, GRANT,
KIMBALL, MORRILL, SHERIDAN and
SIOUX COUNTIES

COUNTY COURTS OF DAWES
COUNTY AND SIOUX
COUNTY
DAWES COUNTY
COURTHOUSE
451 MAIN STREET, SUITE D
CHADRON, NEBRASKA 69337
PHONE 308-432-0116
FAX 308-432-0118

July 18, 2022

Governor Pete Ricketts
Nebraska State Capitol
P.O. Box 94848
Lincoln, Nebraska 68509-4848

RECEIVED

JUL 21 2022

Clerk of the Chief Justice

Re: Retirement

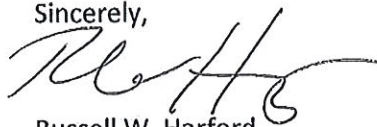
Dear Governor Ricketts,

This letter is to inform you that I am retiring as a county court judge effective at the close of business on August 31, 2022.

It has been both a privilege and pleasure to serve in this capacity for the past 13 years. I was fortunate to have served with other dedicated judges and court staff in each of the counties in the 12th Judicial District and across the state.

I started my work career in public service in Nebraska as a Nebraska State Patrol trooper in 1975 and am ending my public service career as a county court judge.

Sincerely,



Russell W. Harford

cc: Chief Justice Michael Heavican, Nebraska Supreme Court
Corey Steel, State Court Administrator, Administrative Office of Courts/Probation



DODGE COUNTY COURT
SIXTH JUDICIAL DISTRICT

Kenneth J. Vampola
County Judge

Lisa K. Stover
Clerk Magistrate

August 5, 2022

RECEIVED

AUG 5 2022

Office of the Chief Justice

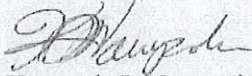
The Honorable Michael G. Heavican
Chief Justice of the Nebraska Supreme Court
Nebraska State Capitol
Lincoln, Nebraska 68509

RE: Judge Kenneth Vampola Resignation.

Dear Chief Justice Heavican:

Please be advised that I resign my appointment as County Judge of the Sixth Judicial District effective September 2, 2022. It has been an honor and privilege to serve.

Respectfully,



Kenneth J. Vampola




Nebraska State Bar Association
"Helping lawyers help people"

August 31, 2022

The Honorable Stephanie F. Stacy
Nebraska Supreme Court Justice
State Capitol, #2219
Lincoln, NE 68509

Dear Justice Stacy:

On behalf of the NSBA Judicial Resources Committee ("the Committee"), I wish to convey to the members of the Judicial Resources Commission our recommendations regarding the vacancies in the County Court of the 6th Judicial District, due to the resignation of Judge Kenneth J. Vampola and the County Court of the 12th Judicial District, due to the retirement of Judge Russell W. Harford.

The Committee met on August 31st and weighed a number of factors including caseload, case types and most importantly, access to the trial courts for Nebraska citizens. The members of the Committee also had available the Judicial Weighted Caseload Reports ("Judicial Workload Assessment") which included statistics through 2021. Following discussion, the committee concluded that the State's justice system will not have adequate judicial resources available unless the current vacancies are filled expeditiously.

Therefore, the Committee recommends that the current vacancies in the County Court of the 6th Judicial District be filled, with the principle office in Chadron. The Committee also recommends that the current vacancy in the County Court of the 12th Judicial District be filled, with the principle office in Fremont.

Thank you for your consideration of the recommendations set forth herein. Please include this letter with the materials provided to the members of the Judicial Resources Commission ahead of your September 9th meeting.

Sincerely,

William J. Mueller
NSBA President

Cc: Corey Steel
Liz Neeley
Jason Doele



August 29, 2022

Justice Stephanie Stacy and Members of the Judicial Resources Commission:

I am writing to urge you to fill the County Court Judge vacancy that now exists because of my retirement. Having been a county judge in the 12th Judicial District since September 2009, I am familiar with the judicial needs of the county courts in the 12th Judicial District.

Judge Charles Plantz, whose primary office was located in Rushville, Sheridan County, Nebraska retired on December 31, 2011. He and I were the county judges that covered the 5 counties in the Northern panhandle of the 12th Judicial District. I was responsible for all cases in Dawes and Sioux County, and he was responsible for all cases in Sheridan and Grant County. We each covered ½ of the cases in Box Butte County.

After Judge Plantz retired, there was some effort to move his vacancy to another judicial district, leaving just 4 county court judges in this judicial district. The "plan" was to move Sheridan County to the 8th Judicial District and have me cover the other 4 counties. For 15 months, Judge Plantz's vacancy remained unfilled. Judge Orr, from Valentine, drove over 225 miles round trip from Valentine to Rushville several days each week to hear cases in Sheridan County. He was only in court in Rushville for approximately 4 hours each time he was there because he spent the other 4 hours traveling. There were some court days he was not able to be in Rushville because of inclement weather.

I tried, without success, in adequately covering the other 4 counties. I kept track of the mileage in traveling from Chadron to the other counties I was covering. For that 15- month period, before Judge Wess started on the county court bench on April 1, 2013, I traveled a total of 18,753 miles, an average each month of 1,250 miles. I spent most of the time in court hearing cases, and very seldom had the opportunity to be in my office to do legal research or written decisions that were required in some of the cases. County Court judges in most rural areas of the state do not have the luxury of having court bailiffs, judicial assistants or law clerks that could have assisted with some of the administrative and judicial duties that are required. There were many nights and weekends that I worked to try and keep up. I worked through my lunch hour on many occasions.

Fortunately, this Commission determined that there was a still a need for a 5th county court judge in the 12th Judicial District and Judge Wess has been serving in that capacity, with his primary office location in Alliance, since April 1, 2013. At present, Judge Wess is responsible for all cases in Morrill, Box Butte and Grant County. I have been responsible for all cases in Sioux, Dawes and Sheridan County.

I appreciate this Commission making the determination that the 12th district needed 5 county court judges then and suggest that the need for 5 judges still exists.

The recent Judicial Workload Study supports filling my vacancy. I have attached a copy of the article that appeared in the January/February 2022 addition of *The Nebraska Lawyer*. The article was written by Tim Engler, a member of this Commission and by Liz Neeley of the Nebraska Bar Association.

The article does an excellent job of summarizing the results of the workload study by judicial district. As you will note on page 35 of the article, the workload factor of the 5 county court judges in



the 12th District as of 2020 is .87 which is in the acceptable range. I would suspect if the study was done again, it would also be consistent with the results in 2020.

The study provides that if the workload per judge is greater than 1.15, there is a need for an additional judge in that district. If the workload per judge is less than .60, then in that event that judicial district has more judges than it needs. The 12th Judicial District at .87 falls approximately half-way in between and clearly supports continuing to have 5 county court judges in the 12th Judicial District.

This Commission recently approved filling a county court judge vacancy in the 5th Judicial District which had a workload per judge factor of .82. The workload factor per judge in the 12th is slightly higher than the 5th and supports filling my vacancy if the Commission is going to be consistent and accept the reliability of the Judicial Workload Study.

In addition, as part of your current meeting, you must consider whether a county court judge should be replaced in the 6th Judicial District because of the recent resignation of Judge Vampola. The 6th Judicial District had a workload per judge factor of .83, which is also less than the 12th district. While I am not advocating specifically for the 6th judicial district, I would suggest that "what is good for the goose is good for the gander", and both districts should have their vacancies filled.

I have heard recently that the court may be able to "make do" with less judges because of the virtual possibilities. While, Zoom/Webex have assisted the courts in maintaining functions during the COVID pandemic, and still could be and are used in some situations, it is not a substitute to in-person court appearances.

I believe the judges on this Commission will agree with me that litigants don't take court as seriously as they should if they can appear virtually in their pajamas from the comforts of their home, or while smoking a cigarette at their kitchen table or while driving down the road. If appearing virtually, judges are unable to observe a litigants' body language or non-verbal behavior. In addition, some of the counties I cover, do not have adequate cell phone or internet service or other infrastructure to allow for reliable virtual hearings.

I have always been an advocate of having attorneys in rural areas of the state. One of the factors in recruiting and retaining attorneys to practice in rural areas directly relates to their ability to have access to judges in those areas. It is less likely that an attorney will locate or stay in a rural area if they don't have regular access to judges to hear their cases, or if they have to drive a considerable distance for their hearings, which also adds to the expense their client may incur.

I apologize for not appearing in person. It is 435 miles from Chadron to Lincoln. I would have attended via Webex if I could have testified on that platform. Because it was not allowed, probably for some of the same reasons I've said, I am sending this written testimony. My absence should not be construed that I am ambivalent about whether I should be replaced. As you did in 2013, I would respectfully request that you fill the county judge vacancy created by my retirement in the 12th Judicial District.

Respectfully submitted,



County Judge

The Allocation of Judicial Resources in Nebraska

by Tim R. Engler and Elizabeth Neeley

Ensuring adequate judicial resources is an important component of providing meaningful access to justice. When courts do not have the resources available to handle their caseloads, backlogs and delays are inevitable, and as the saying goes, "justice delayed is justice denied." We have a responsibility to ensure that the judiciary functions under conditions that allow for the fair, impartial, and effective administration of justice. This article discusses Nebraska's system of ensuring adequate judicial resources.

The Judicial Resources Commission

In Nebraska, the Legislative Branch controls the allocation and reallocation of trial court judges. For example, legislation must be introduced and passed before the number of judges is increased or decreased, a judge is moved from one judicial district to another judicial district, or the number of judicial districts or judicial district boundaries can be changed. Recommendations for such legislative change are usually made by the Judicial Resources Commission (JRC), a statutorily cre-

ated body whose membership includes: four judges appointed by the Supreme Court to represent the courts (district, county, separate juvenile, and supreme); six members of the NSBA appointed by the NSBA's Executive Council to represent each of the six Supreme Court judicial districts; seven public citizens representing the six Supreme Court judicial districts; and one at large public member all appointed by the Governor.

When a vacancy occurs in a judicial district because a judge dies, retires, resigns, or is removed, the JRC first holds a public hearing. The JRC then determines whether a new judge should be appointed in the same judicial district where the vacancy occurred or whether the judge's position should be moved and filled in another judicial district. If the JRC determines that the vacancy should be filled in the same judicial district where the vacancy occurred, the JRC notifies the appropriate Judicial Nominating Commission of its determination through the Clerk of the Supreme Court.

If the JRC determines that the vacancy should be filled in a judicial district other than where it occurred, the JRC reports

Tim R. Engler



Tim Engler is an attorney with Rembolt Lutdke LLP in Lincoln. He has served as a member on the Judicial Resources Commission since 2013. Tim served as NSBA President 2017-2018.

Liz Neeley, Ph.D.



Liz Neeley, Ph.D., has served as the Executive Director of the Nebraska State Bar Association since 2013. She received her Doctorate in Sociology from the University of Nebraska in 2004. She serves as Co-Chair of the Nebraska Supreme Court's Access to Justice Commission.

THE ALLOCATION OF JUDICIAL RESOURCES IN NEBRASKA

Members of the Judicial Resources Commission

Hon. Stephanie Stacy, Lincoln, Nebraska Supreme Court (Chair)

Hon. John Samson, Blair, District Court

Hon. Anne Paine, McCook, County Court

Hon. Matthew Kahler, Omaha, Juvenile Court

Timothy Engler, attorney member, Lincoln, 1st District

Kenneth Hartman, attorney member, Omaha, 2nd District

Ron Temple, attorney members, Norfolk, 3rd District

Megan Spomer, attorney member, Omaha, 4th District

Jacqueline Tessoroff, attorney member, Columbus, 5th District

Mike McCarthy, attorney member, North Platte, 6th District

Darlene Starman, lay member, Lincoln, 1st District

Nancy McCabe, lay member, Omaha, 2nd District

Lori Scherer, lay member, Beemer, 3rd District

Christopher Nielsen, lay member, Omaha, 4th District

Maria Whitmore, lay member, Shelby, 5th District

Brian Phares, lay member, North Platte, 6th District

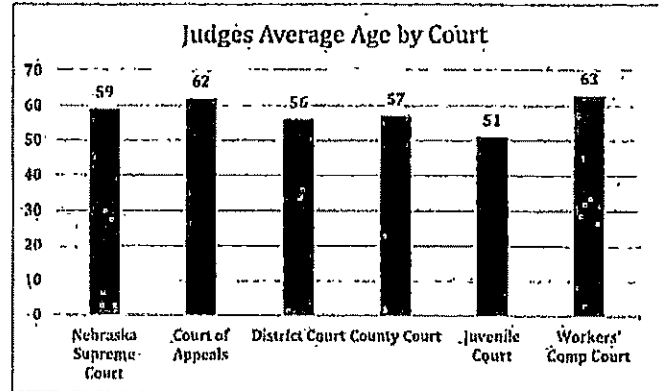
Roxanne Rae Kracl, lay member, Fremont, At Large

its determination in the form of a recommendation to the Legislature. The vacancy will remain unfilled until legislation is passed statutorily moving the position from one judicial district to the recommended judicial district. Once the legislation goes into effect, the appropriate Judicial Nominating Commission is notified.

The JRC is also responsible for making recommendations to the Legislature as to whether there should be an increase or decrease in the number of judgeships or whether the current number of judicial districts or judicial district boundaries should be changed. These recommendations are formulated after holding a public hearing and are based upon 1) an analysis of judicial workload statistics, 2) whether litigants in the judicial district have adequate access to the courts, 3) the population of the judicial district, 4) other judicial duties and travel time involved within the judicial district, and 5) other factors determined by the Supreme Court to be necessary to assure efficiency and maximum service. A legislative history of judicial resources is presented below.

There has been an increased number of judicial retirements in recent years. With many members of the judiciary representing the baby boomer generation, this trend is expected to continue (see chart below provided by the Administrative Office

of the Courts and Probation (AOCP)). In response, the JRC has set a quarterly hearing schedule. Notice of JRC hearings is provided by the Nebraska Judicial Branch.



Judicial Workload Assessment

A clear measure of court workload is central to determining how many judicial officers are needed to resolve all cases coming before the court. Adequate resources are essential if the Nebraska judiciary is to effectively manage and resolve court business without delay while also delivering quality service to the public. Meeting these challenges involves assessing objectively the number of judicial officers required to handle the caseload and whether judicial resources are being allocated and used prudently. In 1995, the Legislature enacted Neb. Rev. Stat. § 24-1007, which requires the State Court Administrator to "compile uniform and accurate statistics which will assist in the evaluation of judicial workloads." It further requires:

The judicial workload statistics shall be based on caseload numbers weighted by category of case. The judicial workload statistics shall be compiled annually for each district, county, and separate juvenile court judicial district in the state.

Shortly after Neb. Rev. Stat. § 24-1007 was enacted, the State Court Administrator contracted with the National Center for State Courts (NCSC) to perform a statewide judicial time study so case weights could be developed for each category of case. That 1995-96 time study served as the framework for Nebraska's weighted caseload standards for the next several decades. In 2006, the NCSC updated the case weights through a new time study, but no significant changes were made to the framework of Nebraska's weighted caseload standards or the categories of cases being tracked.

Updating the Assessment

In 2019, the Nebraska Supreme Court authorized the Nebraska Administrative Office of the Courts and Probation (AOCP) to contract with the NCSC to perform an entirely new Judicial Needs Assessment. As part of that 15-month

THE ALLOCATION OF JUDICIAL RESOURCES IN NEBRASKA

process, the following has occurred from August 2019 through August 2020:

- In August of 2019, the “Judicial Needs Assessment Committee” (recognized right) met in person for a full day to discuss concerns with prior weighted caseload standards and to help the NCSC team develop the framework for an entirely new judicial time study that more accurately reflects current caseloads and judicial practices.
 - In September 2019, NCSC developed a new online time study tool specific to Nebraska. During the fall judges meetings, all judges were trained on how to use the time study tool. Additional online training for judges was also provided, and a helpdesk was established by the NCSC team.
 - From mid-October to mid-November 2019, Nebraska judges tracked and reported their time using the online time study tool. Study participation during all four weeks of the time study was excellent, with 100% of the separate juvenile court judges participating, 98% of the county court judges participating, and 96% of the district court judges participating.
 - In February 2020, NCSC conducted an online “Sufficiency of Time” study. While the time study produced quantitative data, the sufficiency of time survey compiled qualitative data around whether judges in the county, district, and separate juvenile courts feel they have sufficient time to effectively handle each case type in a regular eight-hour workday.
 - In April through June 2020, the NCSC compiled the data and shared preliminary case weights and concerns with the AOCPP team. Multiple WebEx meetings were held to discuss the preliminary data and to identify and resolve concerns around accurate data collection and case counts.
 - On August 4, 6, and 7, 2020, in a series of two-hour WebEx meetings, the Judicial Needs Assessment Committee met with the entire NCSC team and AOCPP team. During these meetings the NCSC team presented the formal study results and shared its recommended case weights for the district courts, the county courts, and the separate juvenile courts.
 - In October of 2020, the NCSC provided the Nebraska Supreme Court with its report titled: “Nebraska Judicial Workload Assessment, Final Report, October 2020.” Before acting on the report, the Supreme Court elected to put the full report out for public comment for a period of 30 days.
 - Following the comment period, the Supreme Court made appropriate adjustments and formally adopted the new tool.
- The comprehensive update made numerous improvements to the prior tool. Among other things, the update included:
- Updated case weights that reflect changes in the handling of 1) felony cases, particularly with the passage of LB 605, which

Judicial Needs Assessment Committee

Hon. Stephanie Stacy, Nebraska Supreme Court (Chair)
Hon. Matthew Acton, County Court, 3rd Judicial District
Eric Asboe, AOCPP
Hon. Chad Brown, Separate Juvenile Court, 4th Judicial District
Hon. Kale Burdick, County Court, 8th Judicial District
Liz Neeley, NSBA
Hon. Jodi Nelson, District Court, 3rd Judicial District
Hon. Travis O’Gorman, District Court, 12th Judicial District
Hon. Anne Paine, County Court, 11th Judicial District
Hon. C Jo Petersen, County Court, 5th Judicial District
Hon. Linda Porter, Separate Juvenile Court, 3rd Judicial District
Amy Prenda, AOCPP
Hon. John Samson, District Court, 6th Judicial District
Hon. Julie Smith, District Court, 1st Judicial District
Corey Steel, AOCPP
Hon. Robert Steinke, District Court, 5th Judicial District
Hon. Shelly Stratman, District Court, 4th Judicial District
Jane Sutherland, AOCPP
Hon. Donna Taylor, County Court, 7th Judicial District
Hon. Derek Vaughn, County Court, 4th Judicial District

requires post-release supervision for low level felony offenses and a corresponding significant number of post-release hearings; 2) problem solving courts, which require longer court hearings and staffing meetings; 3) domestic relations cases, which are subject to continuous modification complaints requiring additional hearings and trials; 4) civil cases, which are requiring an increasing number of hearings on discovery disputes, dispositive motions, and pretrial matters; 5) stricter case progression standards, requiring an increased amount of status and management hearings; and 6) a change in travel practices as a result of technology in the courtrooms;

- Different “judge year values” for each judicial district based on the unique travel time reported in each district;
- The recommendation to count children instead of cases for a more accurate weighting of the juvenile 3(a) cases;
- The recommendation to compile caseloads statistics using a rolling three-year average that is updated at least annually (our



THE ALLOCATION OF JUDICIAL RESOURCES IN NEBRASKA

current practice is to use a rolling one-year average updated every six months); and

- The recommendation to use a “rounding rule” when evaluating data showing the need for a fraction of a judge in a particular district.

Weighted caseload reports are updated every six months. Reports are publicly available on the Nebraska Judicial Branch’s website.

Based on the weighted caseload data, the Judicial Resources Commission recommended adding an additional District Court Judge to Douglas County in December of 2021. In January of 2022, LB 922 was introduced by Senator Lathrop, which would add an additional District Court Judge to Douglas County, increasing the total number of District Court Judges in Douglas County to 18. The NSBA supports LB 922.

Current Picture of Judicial Workload Across Nebraska

Applying the final weighted caseload model to current case filing allows you to determine if the current number of judges is appropriate to handle the existing judicial workload.

Nebraska District Courts

The chart below presents the need for district court judges in a district versus the actual number of district court judges in a district for July 1, 2020, through June 30, 2021. Current data indicate that except for the Fourth Judicial District, the Nebraska District Courts currently have adequate judicial resources. The study indicates that the Fourth Judicial District needs 20.05 judges but only has 16. Please note, that in 2019, the NSBA worked to support LB 309, which added an addi-

| | Judicial Need | Actual # |
|---------------|---------------|----------|
| 1st District | 3.15 | 3 |
| 2nd District | 4.33 | 4 |
| 3rd District | 7.81 | 8 |
| 4th District | 20.04 | 16 |
| 5th District | 3.39 | 4 |
| 6th District | 2.46 | 3 |
| 7th District | 2.18 | 2 |
| 8th District | 1.39 | 2 |
| 9th District | 3.85 | 4 |
| 10th District | 2.20 | 2 |
| 11th District | 4.13 | 4 |
| 12th District | 3.59 | 4 |

tional district court judge to Douglas County on July 1, 2021, increasing the number of judges to 17.

Another measure considered by the JRC is the workload per judge. Below is the current workload per judge by district. The NCSC recommends a rounding rule to determine when resources in a district should be further examined. The main purpose of the rounding rule is to provide a uniform way to identify the threshold. In other words, the rounding rule provides a consistent method to guide the decision of when to round up or down to a whole judicial position and thereby determine the appropriate number of authorized judicial positions in each circuit and district.

According to the rounding convention, when workload per judge is greater than or equal to 1.15 Full Time Equivalent (FTE), there is a need for one or more additional judicial positions; where workload per judge falls below .6 FTE, there is a need for fewer positions.

- 1st Judicial District: 1.05
- 2nd Judicial District: 1.08
- 3rd Judicial District: .98
- 4th Judicial District: 1.17 (including the 17th judge)
- 5th Judicial District: .85
- 6th Judicial District: .82
- 7th Judicial District: 1.09
- 8th Judicial District: .69
- 9th Judicial District: .96
- 10th Judicial District: 1.10
- 11th Judicial District: 1.03
- 12th Judicial District: .90

| | Judicial Need | Actual # |
|---------------|---------------|----------|
| 1st District | 2.67 | 3 |
| 2nd District | 3.34 | 4 |
| 3rd District | 6.55 | 7 |
| 4th District | 12.35 | 12 |
| 5th District | 4.12 | 5 |
| 6th District | 3.33 | 4 |
| 7th District | 2.73 | 3 |
| 8th District | 2.04 | 3 |
| 9th District | 4.50 | 4 |
| 10th District | 2.94 | 3 |
| 11th District | 5.19 | 5 |
| 12th District | 4.34 | 5 |

THE ALLOCATION OF JUDICIAL RESOURCES IN NEBRASKA

Nebraska County Courts

The chart on the previous page presents the need for county court judges versus the actual number of county court judges in a district. Currently, each district has adequate county court judicial resources.

The workload per county court judge by judicial district is presented below. Currently, all districts are within an acceptable range (0.6-1.15 FTE).

- 1st Judicial District: .89
- 2nd Judicial District: .84
- 3rd Judicial District: .94
- 4th Judicial District: 1.03
- 5th Judicial District: .82
- 6th Judicial District: .83
- 7th Judicial District: .91
- 8th Judicial District: .68
- 9th Judicial District: 1.12
- 10th Judicial District: .98
- 11th Judicial District: 1.04
- 12th Judicial District: .87

Juvenile Courts

The chart below presents the need for separate juvenile court judges versus the actual number of separate juvenile court judges in a district. Currently, each separate juvenile court has adequate judicial resources.

Weighted Caseload Report Separate Juvenile Courts


| Judicial Needs Metrics | Sarpy | Lancaster | Douglas | Total |
|---------------------------------|-------|-----------|---------|-------|
| Juvenile court need for judges: | 1.73 | 2.85 | 5.57 | 10.15 |
| Current number of judges: | 2 | 4 | 6 | 12 |
| Workload per judge: | 0.87 | 0.71 | 0.93 | 0.85 |

The NSBA's Judicial Resources Committee

Providing adequate judicial resources is important. It impacts residents' access to the justice system and impacts the practice of law in local communities. The NSBA advocates for adequate judicial resources and participates in each of the Judicial Resource Commission hearings. The NSBA's position on judicial resources is established by the NSBA's Judicial Resources Committee.

Pursuant to the NSBA's Bylaws, the NSBA's Judicial Resources Committee consists of the NSBA President, the immediate past-President, the President-Elect, the Chair of the House of Delegates, and 12 members of the House of Delegates (two representatives from each Supreme Court District) as selected by the Chair.

Prior to each hearing of the state's Judicial Resources Commission, the NSBA's Committee convenes via email or conference call to review current statistics from the Judicial Workload Assessment and hear directly from local members of the legal profession and/or judiciary on matters pertaining to the creation, elimination, or movement of judicial positions across Nebraska's courts. The Committee establishes the NSBA's official position on judicial vacancies and conveys that position to the Judicial Resources Commission in writing and through testimony at the Commission's public hearing. The NSBA's Committee is also responsible for proposing, considering, and commenting upon legislation, which creates, abolishes, moves, or otherwise changes judicial positions or vacancies.

Any member of the NSBA should feel welcome to comment on issues related to the allocation of judicial resources. If a vacancy is forthcoming in your judicial district, please feel free to contact the NSBA about weighing in on the need to maintain or move the judgeship. NSBA Judicial Resources Commission hearings notices will be published in Ecounsel (the NSBA's electronic newsletter) to encourage effective notice. 

NSBA's Judicial Resources Committee Members

- | | |
|---|---|
| Chair, Jason Doele, Norfolk | District 3: Robert Hillis, Fremont |
| NSBA President, William Mueller, Lincoln | District 3: Ashley Boettcher, O'Neill |
| NSBA President-Elect Jason Grams, Omaha | District 4: Lindsay Belmont, Omaha |
| Immediate Past President: Jill Robb Ackerman, Omaha | District 4: Michelle Pernicek, Omaha |
| District 1: Stephen Gealy, Lincoln | District 5: Julie Bear, Plattsmouth |
| District 1: Amie Martinez, Lincoln | District 5: Timothy Matas, Columbus |
| District 2: Joel Carney, Omaha | District 6: Timothy Brouillette, North Platte |
| District 2: Ryan Watson, Bellevue | District 6: Luke Simpson, Kearney |

THE ALLOCATION OF JUDICIAL RESOURCES IN NEBRASKA

A Legislative History of Judicial Resources in Nebraska

Provided Courtesy of Mueller Robak LLC

1911 - 1962

18 judicial districts in state.

1962

22 judicial districts in state.

1963

20 judicial districts in state.

1965

21 judicial districts in state.

1972

Combine county courts, justice of peace courts and police magistrate courts.

Create 21 county court districts.

Elect county judges to serve a four-year term.

1974

Provide that county court judges be appointed by Governor.

1975

Move Grant County from 13th to 16th Judicial District (Sheridan, Grant, Dawes, Box Butte, and Sioux).

1980

Add district judge in 16th District (Sheridan, Grant, Dawes, Box Butte, and Sioux).

Add district judge in 21st District (Boone, Platte, Colfax, Nance, and Merrick).

1983

Add district court judge in Lancaster County.

Add county court judge in 11th District (Hall and Howard).

1984

Merge municipal courts in Douglas and Lancaster County into county court system.

1985

Move Morrill County from 17th to 16th District Court District.

Move Garden County from 17th to 19th District Court District.

Scottsbluff County only county in 17th District Court District.

County Court District 16: Sheridan, Grant, Dawes, Box Butte, and Sioux Counties.

County Court District 17: Scottsbluff, Morrill, and Garden Counties.

County Court District 19: Banner, Kimball, Cheyenne, and Deuel Counties.

1986

Judicial Resources Commission created by the Legislature. The legislation provided that in the event of the death, retirement, resignation, or removal of a judge; the failure of a judge to be retained in office; or an increase in the number of district or county judgeships authorized by law the Supreme Court shall, after a public hearing, determine whether a judicial vacancy exists. After a determination that a judicial vacancy exists, the declaration of the location of the vacancy shall be made by the Judicial Resources Commission. LB 516 (1986).

1987

Move Thurston County from County Court District 6 to County Court District 8.

County Court District 6: Burt, Dodge, and Washington.

County court District 8: Dakota, Dixon, and Cedar.

1990

Constitutional amendment authorizing the creation of the Court of Appeals approved by Nebraska voters in November of 1990.

1991

Nebraska Supreme Court granted a temporary restraining order finding a substantial question as the constitutionality of the creation of the Judicial Resources Commission and the process thereunder. *State ex rel. Robak v. Judicial Resources Commission*, No. 91-314.

On January 1, 1993, divide state into two district court judicial districts: (1) Johnson, Pawnee, Nemaha, and Richardson, and (2) all other counties.

Add two judges to the Fourth District, Douglas County District Court.

Eliminate the Judicial Resources Commission. LB 181 (1991).

Six judge Court of Appeals created. LB 732 (1991).

1992

Reduce the number of district court judicial districts from 21 to 12.

Reenact an amended Judicial Resources Commission. In the event of the death, retirement, resignation, or removal of any district or county judge; the failure of a district or county judge

THE ALLOCATION OF JUDICIAL RESOURCES IN NEBRASKA

A Legislative History of Judicial Resources in Nebraska

Provided Courtesy of Mueller Robak LLC

to be retained in office; or a need for a change in boundaries or the number of district or county court judicial districts or in the number of district or county judgeships authorized by law, the Judicial Resources Commission, after holding a public hearing, shall determine whether a judicial vacancy exists and the location of that vacancy; whether the boundaries or the number of districts should be changed; whether the number of judges should be increased, decreased, or remain the same. After making a determination, the Commission shall make a recommendation to the Legislature. If no changes in existing law are recommended by the Commission, no legislative action shall be necessary to fill any vacancy resulting from the death, retirement, resignation, or removal of a judge. The State Court Administrator, with advice from the district and county court judges associations, shall develop a uniform and accurate system of measuring judicial workloads which shall be the principal criterion used by the Supreme Court when designating a primary office of a judge. LB 1059 (1992).

1993
Reduce the number of county court judicial district from 21 to 12.
Move Grant County from 11th to the 12th District Court Judicial District. LB 306 (1993).

1995
Add district court judge in Lancaster County.
Add juvenile court judge in Sarpy County.
Add juvenile court judge in Douglas County.
Add district court judge in District Two (Sarpy, Cass, and Otoe).
Charge Supreme Court Administrator with compiling uniform and accurate statistics on an annual basis which will assist in the evaluation of judicial workloads.

1998
Add district court judge in Douglas County.
Add county court judge in Douglas County.
Add juvenile court judge in Lancaster County.

2001
Add district court judge in the 11th Judicial District (Hooker, Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson, Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and Furnas).
Add juvenile court judge in Lancaster County.
Add juvenile court judge in Douglas County.

2004
Move the counties of Clay and Nuckolls from District 10 to District One.

2007
Moved a vacant county court judgeship in the 12th County Court Judicial District (Sioux, Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne, Grant and Deuel) to the Lancaster County Juvenile Court.
Moved a vacant district court judgeship in the 12th District Court Judicial District (Sioux, Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne, Grant and Deuel) to the Ninth District Court Judicial District (Buffalo and Hall Counties).

2009
Add district court judge in Lancaster County on July 1, 2011. LB 35 (2009).

2011
Add District court judge in Lancaster County. LB 35 (2009).

2012
Move a vacant county court judgeship in the Fifth County Court Judicial District (Merrick, Platte, Colfax, Boone, Nance, Hamilton, Polk, York, Butler, Seward, and Saunders Counties) to the County Court of Lancaster County. LB 790 (2012).

2017
Add juvenile court judge in Douglas County. LB 10 (2017).

2018
Change judicial district boundaries of the First, Second, and 10th Judicial Districts for the district court only by moving Otoe County from the Second into the First Judicial District and by moving Clay and Nuckolls counties from the First into the 10th judicial district. LB 697 (2018).

2019
Added district court judge in Douglas County on July 1, 2021. LB 309 (2019).

CURTISS, MORAVEK & CURTISS, PC, LLO
ATTORNEYS AT LAW

A. JAMES MORAVEK
RETIRED

TERRY CURTISS

416 NIOBRARA AVENUE
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308.762.1710
FAX: 308.762.1712
Email: tc3@manyhatslaw.com

ALAN CURTISS
(1931 — 2000)

MARISSA L. CURTISS

September 2, 2022

VIA EMAIL: dawn.mussmann@nebraska.gov
Ms. Dawn Mussman
Administrative Office of the Courts
1211 State Capitol
1445 K Street / P.O. Box 98910
Lincoln, NE 68509

Re: County Court Judgeship
12th Judicial District

Dear Ms. Mussmann:

I write to support replacing retired Judge Russ Harford of Dawes, Sheridan and Sioux County Courts in the 12th Judicial District. I have practiced for 41 years in Alliance. I have witnessed first hand the effect of consolidation of Judges to Eastern Nebraska on this area. Our judges have less and less time to serve the citizens of the district due to increasing workload, increasing time travel for fewer judges and increasing difficulties in scheduling. The waiting time for trial scheduling is increasing, the number of times litigants leave their county for hearings in other counties is increasing, while the available time for the Judge to decide matters once heard is decreasing. All this will be compounded if Judge Harford is not replaced.

There is no way one judge can address the case load for the five (5) norther Panhandle Counties and Grant County. More and more Juvenile proceedings are being filed. The time requirements of these proceedings have increased exponentially and will not decline. Grant County, a Sandhills County which has utilized Alliance attorneys as County Attorney since 1958, is experiencing an increase in its County Court requirements due to drug trafficking of methamphetamine through the County. So are other counties in which I practice. As the Box Butte County Attorney and Grant County Attorney I see the ripple effect of this problem increasing other crimes as well. Box Butte County requires two full days each week for criminal pretrial matters. That alone prevents adequately serving Dawes and Sheridan County, without greatly lengthening delays in the Civil Docket.

I respectfully request that the Judicial Resources Commission recommend replacement of Judge Harford as the sitting Judge for Dawes, Sheridan and Sioux County, Nebraska.

Sincerely,



Terry Curtiss

tc/tsm



Mussmann, Dawn

From: Maren Chaloupka <mlc@chaloupkalaw.net>
Sent: Wednesday, September 7, 2022 2:00 PM
To: Mussmann, Dawn
Subject: Judicial Resources Commission - 12th Judicial District

I am writing regarding the vacancy created by the retirement of Hon. Russ Harford. I was unaware of the previous press release regarding the Commission's upcoming hearing, and was just notified this morning that the Commission will consider correspondence received today on this vacancy: I apologize for sending this correspondence in the form of email instead of a formal letter.

I have lived in Scotts Bluff County for most of my life, and have practiced here full-time since 1998. My work often takes me to the north Panhandle, in both civil and criminal matters. From this experience, I can say that to lose the judgeship now held by Judge Harford would be significant. It would hurt the north Panhandle communities more to lose this judgeship, I dare say, than it would hurt Lincoln or Omaha to lose a county judgeship – because out here, judgeships matter not just for caseload management, but for allowing the community to be part of the local justice system.

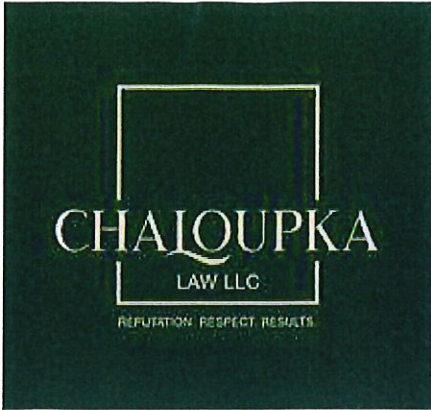
I hope that the Commission is not viewing the importance of this judgeship only in terms of number of cases per county, and comparing that to cases in Lincoln and Omaha. A local judge matters to his or her community. When families are pulled into stressful juvenile matters, they need to see a real person on the bench – not a judge who is in our district but exhausted from having to drive 100 miles to get to court, and definitely not a stranger on a screen hundreds of miles away with no commitment to, or understanding of, the community. This is also true in matters of guardianships and conservatorships for vulnerable individuals, which can become emotional and difficult. Of course it also helps in the handling of local business disputes at the county-court level and misdemeanors. But the overriding theme here is allowing our communities to be stakeholders in the justice system, instead of having it put upon them from Lincoln and Omaha.

The principle often invoked is that it's important to not just do justice, but to present the appearance of doing justice. That should apply to how we allocate judgeships. When the rural judicial districts are at risk of losing our judgeships, we may be told "you'll get justice, it'll be okay." But the appearance of doing justice would be quite different if our communities are told that either we have to make do with fewer local judges who have to literally drive themselves to exhaustion and lesser effectiveness, or else get used to video appearances from stranger judges elsewhere in the state.

In that vein, I respectfully ask this Commission to declare that a vacancy exists, and to allow us to fill the judgeship that was honorably held by Judge Harford for the 12th Judicial District.

Maren Lynn Chaloupka
Attorney at Law
1906 Broadway
PO Box 1724





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www.chaloupkalaw.net

CRITES SHAFFER

Amy L. Patras | Matthew R. Watson | Andrew M. Pope
Attorneys at Law

201 E. Third St., | PO Box 1070 | Chadron, Nebraska 69337 | Tel (308) 432-3339 | Fax (308) 432-2960

September 7, 2022

Judicial Resources Commission
State Capital Building
PO Box 98910
Lincoln, NE 68509

Dear Justice Stephanie Stacy and Members of the Judicial Resources Commission:

We are writing to respectfully request that the County Court Judge vacancy existing due to the retirement of the Honorable Russell Harford be filled. As practicing lawyers in the 12th Judicial District we are intimately familiar with the judicial needs of the county courts in the 12th Judicial District.

Back in 2011, Judge Charles Plantz, whose primary office was located in Rushville, Sheridan County, Nebraska retired. At that time there was a preliminary plan to move Sheridan County to the 8th Judicial District. The Judges, lawyers, and litigants attempted to work “the plan” however, in our opinion, it was a disaster. Between the changing time zones, distance between the courthouses, and inclement weather both lawyers and litigants were deprived of the same “justice” and “access to justice” our colleagues regularly have in the East.

Fortunately, after approximately 15 months this Commission graciously determined that there was still a need for a 5th county court judge in the 12th Judicial District. We were blessed with the appointment of Judge Wess since April 1, 2013. In our opinion, the need for a 5th county court judge continues to exist.

In fact, the Judicial Workload Study completed in 2020 supports our opinion. According to the study, the workload factor of the county court judges in the 12th District is .87. It is only when the workload per judge falls to .60 or below that a need no longer exists. Clearly the objective data supports re-filling this vacancy.

Likewise, this Commission recently approved filling a county court judge vacancy in the 5th Judicial District which had a workload per judge factor of .82. The workload factor per judge in the 12th is slightly higher than the 5th district. If the Commission’s objective is to be consistent, then we would ask for the same determination as has been given in the 5th district.

Finally, eliminating a county court judge in the 12th judicial district simply adds to our growing problem of lack of access to justice for rural people. The Nebraska Bar Association, UNL College of Law, Chadron State College, Wayne State College, and the University Nebraska-Kearney have made significant efforts to develop programs to address the decline of lawyers in rural areas. As everyone on this Commission recognizes, the decline of lawyers in rural areas

Albert W. (A.W.) Crites (1848 – 1915)
Fredrick Crites (1885 – 1941)
Edwin D. Crites (1884 – 1953)
Albert (Wally) Crites (1915 – 1985)

Gordon W. Shaffer Jr. (1924 – 1991)
George D. Watson Jr. (1949 – 2010)
Patrick M. Connealy (Retired)



directly leads to a lack of access to justice for rural people. Eliminating a judicial position potentially undermines the tremendous efforts made by the above organizations. We respectfully request this Commission strive toward preserving our access to justice in rural areas as opposed to exacerbating the issue.

Please consider this letter our written testimony. We understand we cannot testify unless we appear live in Lincoln, Nebraska. It is approximately 450 miles from Chadron to Lincoln which makes it extremely difficult for us to appear in person. We have a busy law practice and it is difficult to take the (at least) two days out of our schedule to travel to Lincoln, testify, and then travel home. The distance is what prevents our community members from having the opportunity to travel to tell the Commission in person the difficulties created by an unfilled judicial position.

We would respectfully request that you fill the county judge vacancy created by the retirement of the Honorable Russell Harford.

Respectfully submitted,

/s/ Amy L. Patras

Amy L. Patras, NSBA #22463

/s/ Matthew R. Watson

Matthew R. Watson, NSBA #24735

/s/ Andrew M. Pope

Andrew M. Pope, NSBA #25956

Mussmann, Dawn

From: Rae Ann Schmitz <eaglelaw1212@gmail.com>
Sent: Wednesday, September 7, 2022 4:20 PM
To: Mussmann, Dawn
Subject: 12th Judicial District Vacancy

I was a Legal Aid lawyer and a public defender and a mediator for nearly 30 years, living in Scottsbluff and traveling throughout the panhandle. The northern counties of Dawes, Sheridan and Box Butte have more than their share of business in the courts. Access to a county judge means access to justice and the preservation of a sense of law and order in the "Wild West." I can't quote the statistics but I know that domestic violence and child abuse and neglect as well as violence and drug abuse are problematic. What will happen in the absence of the face of both justice and mercy in these cases?

Please declare a vacancy in the 12th judicial district.

Rae Ann Schmitz
NSBA 15467
2121 1st Avenue
Scottsbluff, Nebraska 69361
308-631-3775



NEBRASKA JUDICIAL BRANCH

County Courts

Weighted Caseload Report



Fiscal Year 2022

July 1, 2021 to
June 30, 2022



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Weighted Caseload Report

Nebraska County Courts Weighted Caseload Report

Nebraska has a county court in each of its 93 counties, organized into 12 Judicial Districts. Pursuant to Neb. Rev. Stat. § 24-503, the Legislature determines the number of county court judges who serve in each judicial district, and the geographic boundaries of each judicial district. An objective assessment of judicial workload allows informed decisions about district boundaries and the number of judges needed to timely resolve the cases in each judicial district.

To assist in evaluating judicial workloads, Neb. Rev. Stat. § 24-1007(1) requires the Nebraska Administrative Office of the Courts and Probation (AOC) to compile judicial workload statistics based on caseload numbers weighted by category of case. These weighted caseload statistics are used by the Judicial Branch, the Judicial Resources Commission, and the Legislature to evaluate judicial need, and guide decisions and recommendations on how best to allocate judicial resources across the state.

To ensure the validity, uniformity and accuracy of the AOC's judicial workload statistics, a statewide judicial time study was conducted in 2019-2020 under the direction and leadership of the National Center for State Courts. For a full description of the judicial time study and the recommended weighting methodology and standards, see *Nebraska Judicial Workload Assessment Final Report* (October 2020) on the Nebraska Supreme Court Website. Because this Weighted Caseload Report utilizes the methodology and standards from the 2020 workload assessment, direct comparison to archived reports is not recommended.

No quantitative judicial workload assessment method, including the weighted caseload method, can determine the exact number of judges needed within each judicial district. But weighted caseload statistics can approximate the number of judges needed to handle the current caseload in each judicial district. When weighted caseload statistics are examined in conjunction with other important influencing factors it provides an objective and standardized way to assess judicial need and to fairly allocate judicial resources among judicial districts.



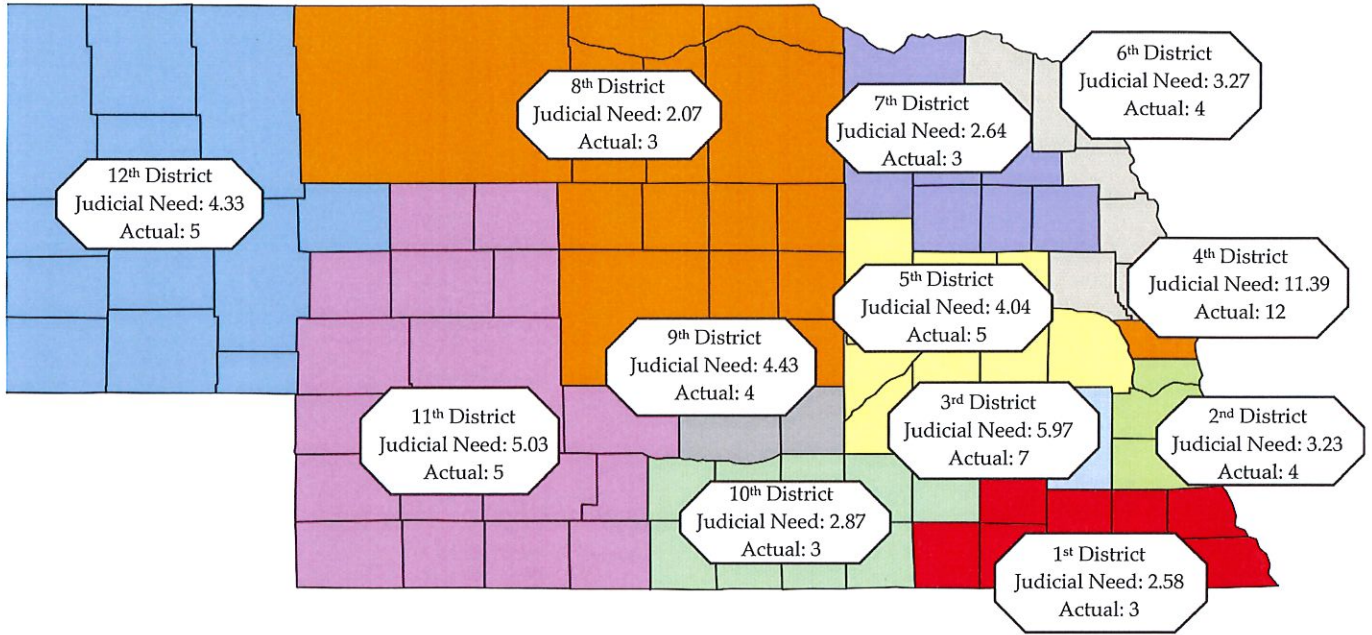
Corey R. Steel | Nebraska State Court Administrator
Nebraska Supreme Court
Administrative Office of the Courts & Probation

Rm. 1211 State Capitol | P.O. Box 98910 | Lincoln, NE 68509
T 402.471.3730 | F 402.471.2197
www.supremecourt.ne.gov

Weighted Caseload Report

Nebraska County Court Judicial Needs

Fiscal Year 2022 (July 1, 2021 – June 30, 2022)



Differences between the total District Court Need for Judges and the sum of individual counties is due to rounding to the nearest one-hundredth.

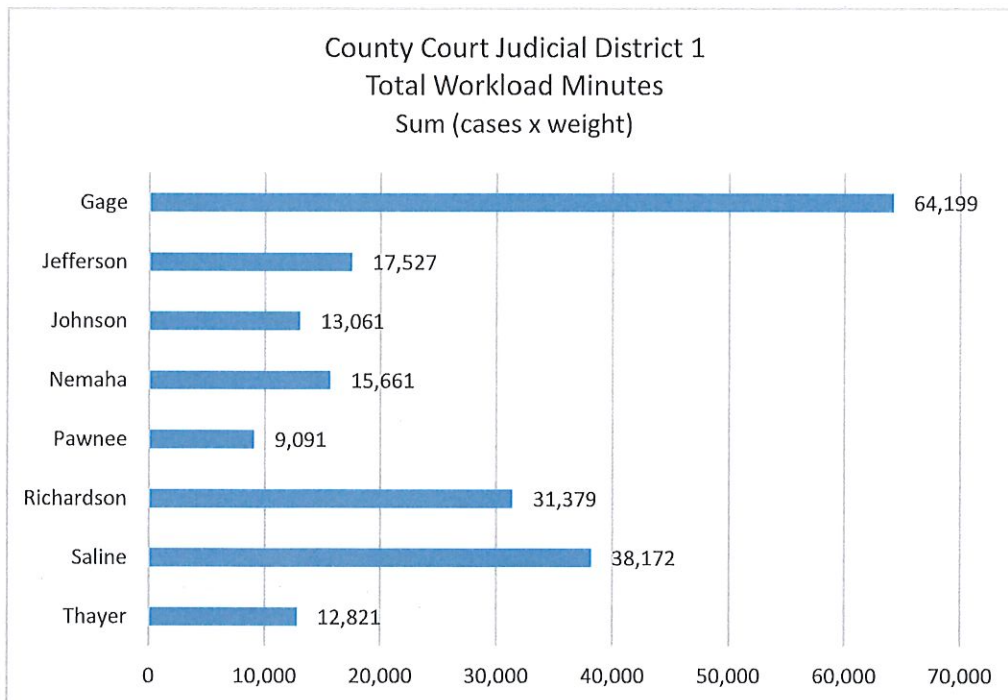
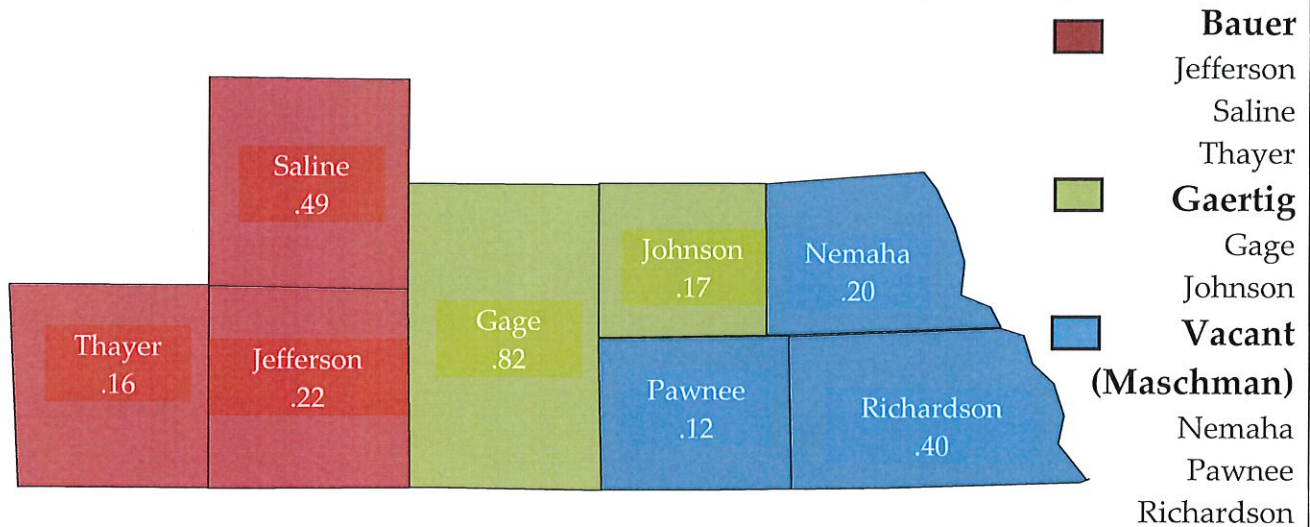
Weighted Caseload Report

1st Judicial District – County Court

County court need for judges: 2.58
 Current number of judges: 3
 Workload per judge: 0.86

Predicted judicial resources need by county

Judges Serving the 1st District

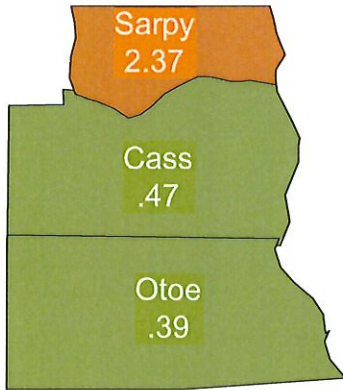


Weighted Caseload Report

2nd Judicial District – County Court

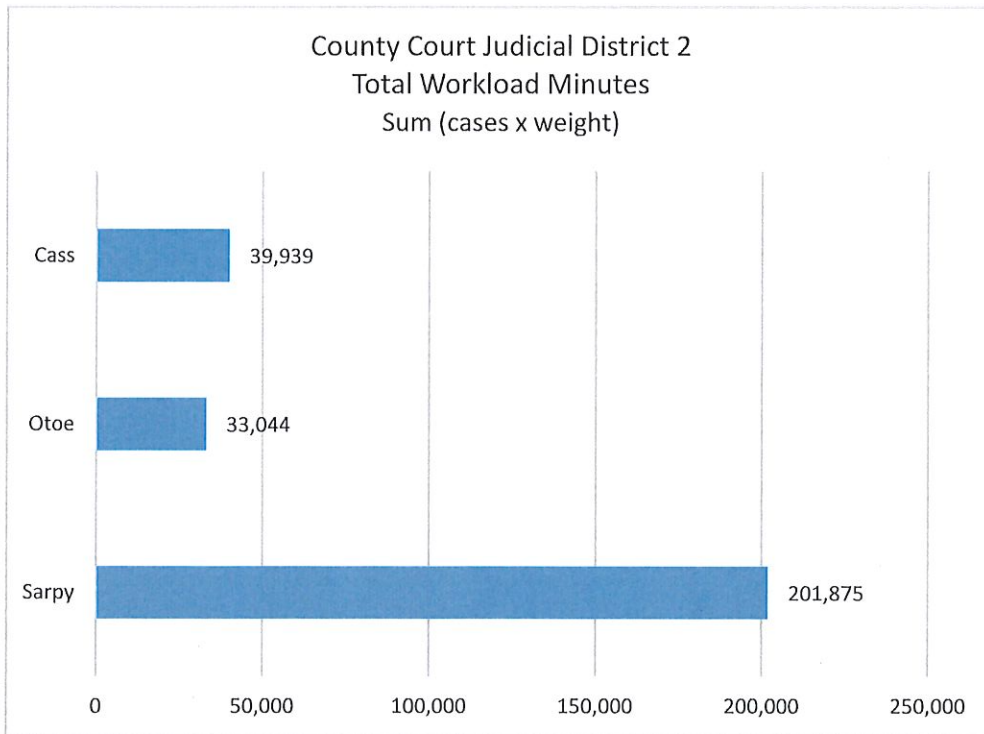
County court need for judges: 3.23
 Current number of judges: 4
 Workload per judge: 0.81

Predicted judicial resources need by county



Judges Serving the 2nd District

- Freeman**
Sarpy
- Hutton**
Sarpy
- Partsch**
Cass
Otoe
- Vacant (Wester)**
Sarpy

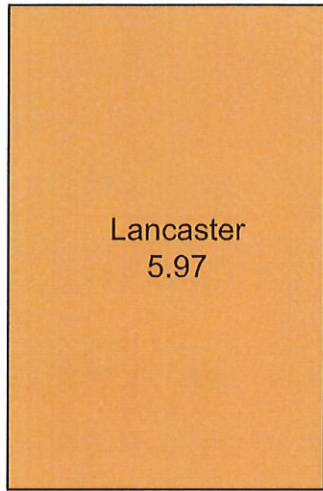


Weighted Caseload Report

3rd Judicial District –County Court

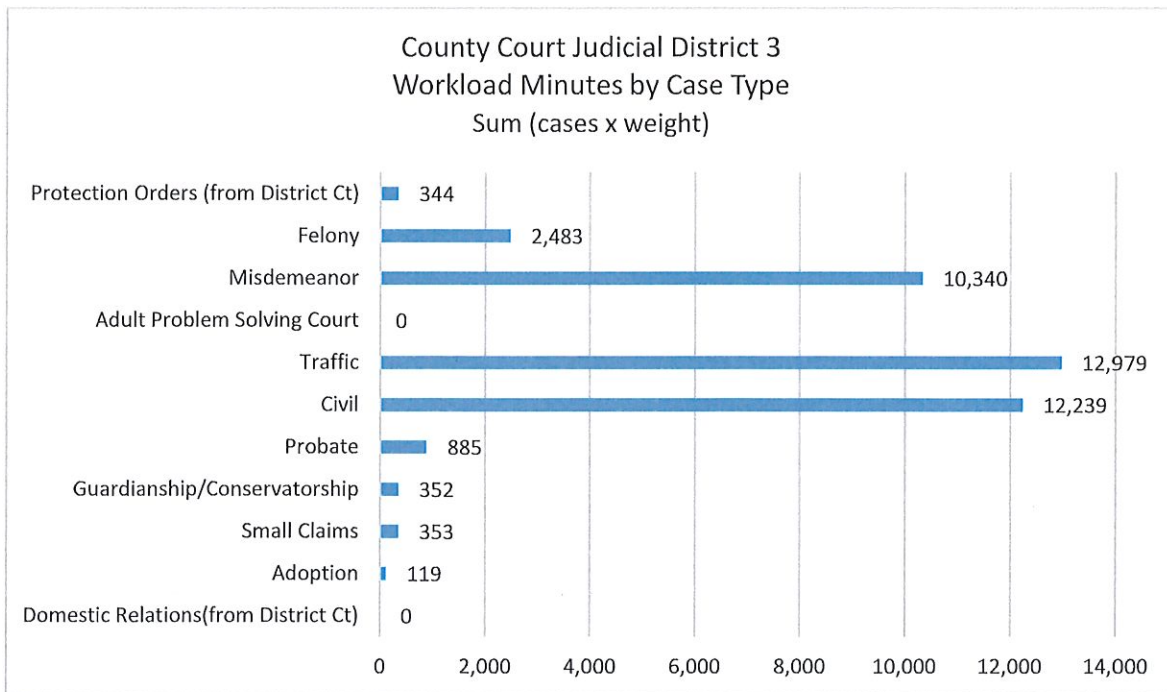
County court need for judges: 5.97
 Current number of judges: 7
 Workload per judge: 0.85

Predicted judicial resources need by county



Judges Serving the 3rd District

- Acton
- Dalton
- Parsley
- Phillips
- Reuter
- Yardley
- Zimmerman

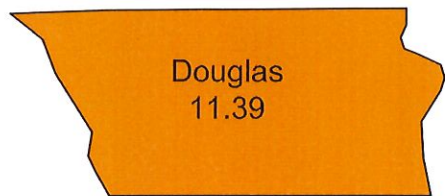


Weighted Caseload Report

4th Judicial District –County Court

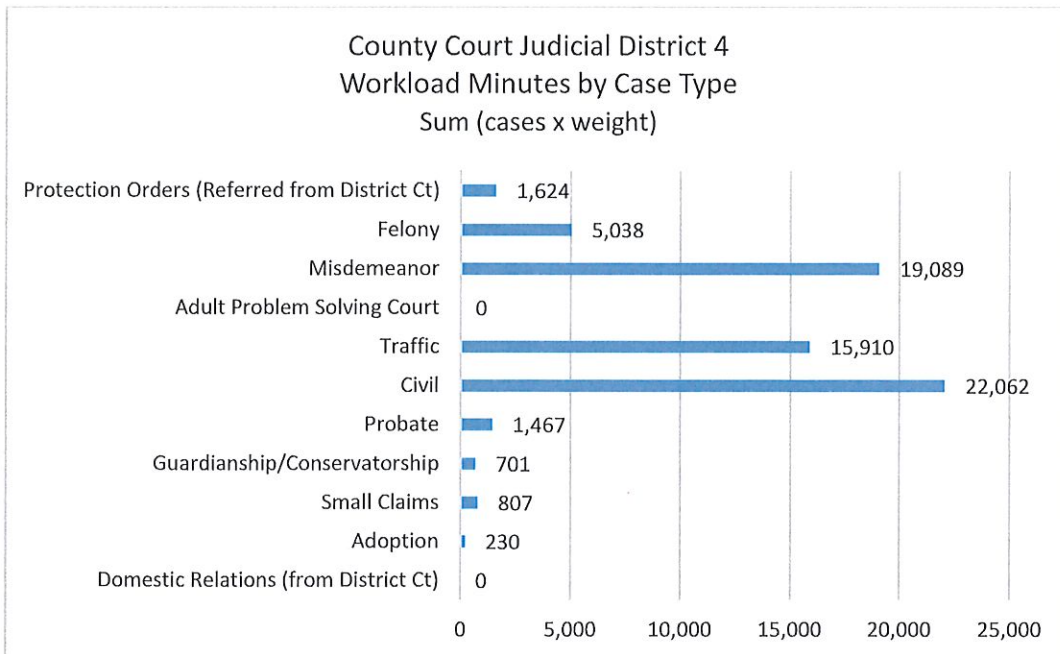
County court need for judges: 11.39
 Current number of judges: 12
 Workload per judge: .95

Predicted judicial resources need by county



Judges Serving the 4th District

- Forsberg
- Hansen
- Harmon
- Hendrix
- Huber
- Keim
- Lohaus
- Lowe
- Marcuzzo
- McDermott
- Shearer
- Vaughn

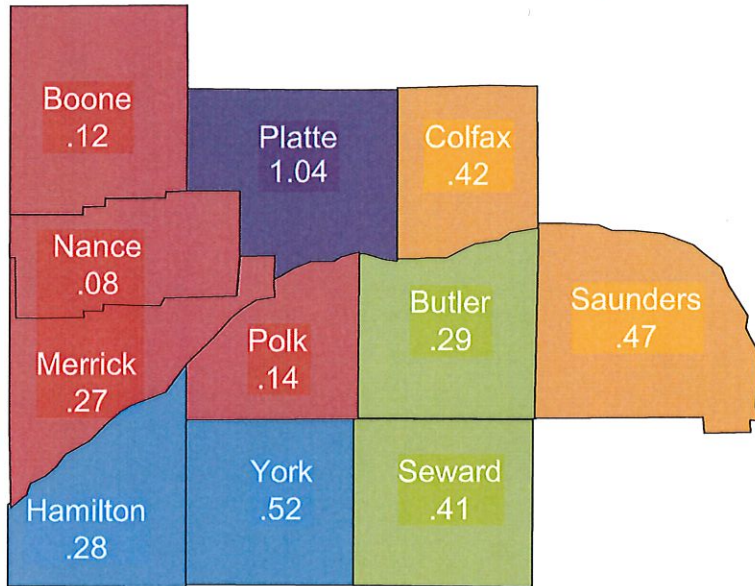


Weighted Caseload Report

5th Judicial District - County Court

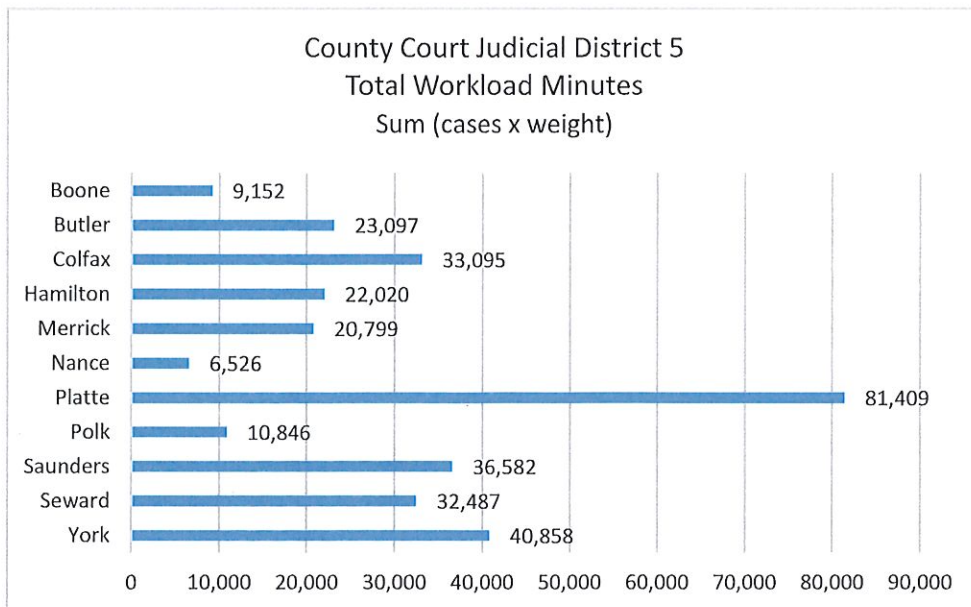
County court need for judges: 4.04
 Current number of judges: 5
 Workload per judge: .81

Predicted judicial resources need by county



Judges Serving the 5th District

- **Homolka**
- Hamilton
- York
- **Lange**
- Colfax
- Saunders
- **Petersen**
- Butler
- Seward
- Conflict Cases in Saunders
- **Vacant (Skorupa)**
- Platte
- **Twiss**
- Boone
- Merrick
- Nance
- Polk

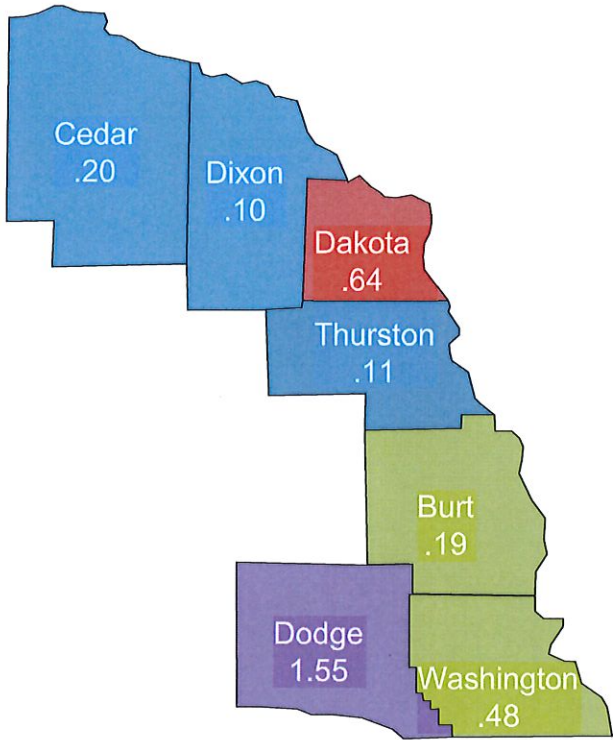


Weighted Caseload Report

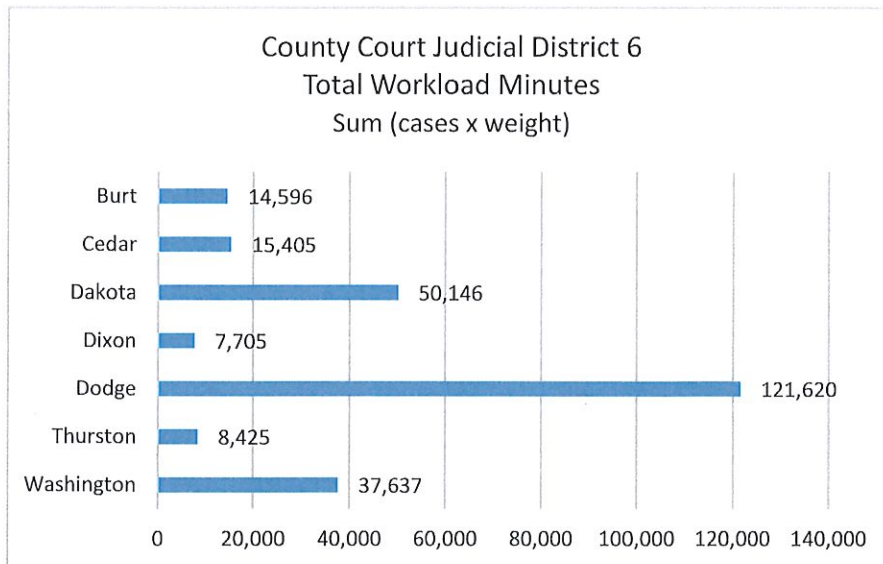
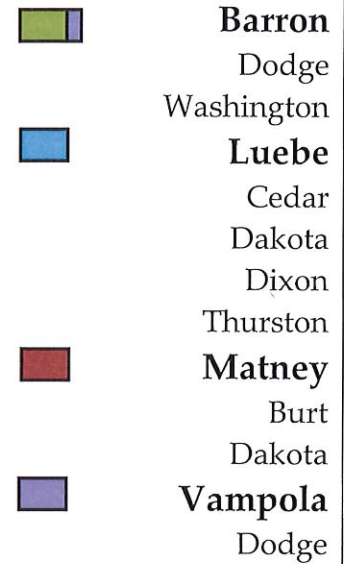
6th Judicial District – County Court

County court need for judges: 3.27
 Current number of judges: 4
 Workload per judge: 0.81

Predicted judicial resources need by county



Judges Serving the 6th District

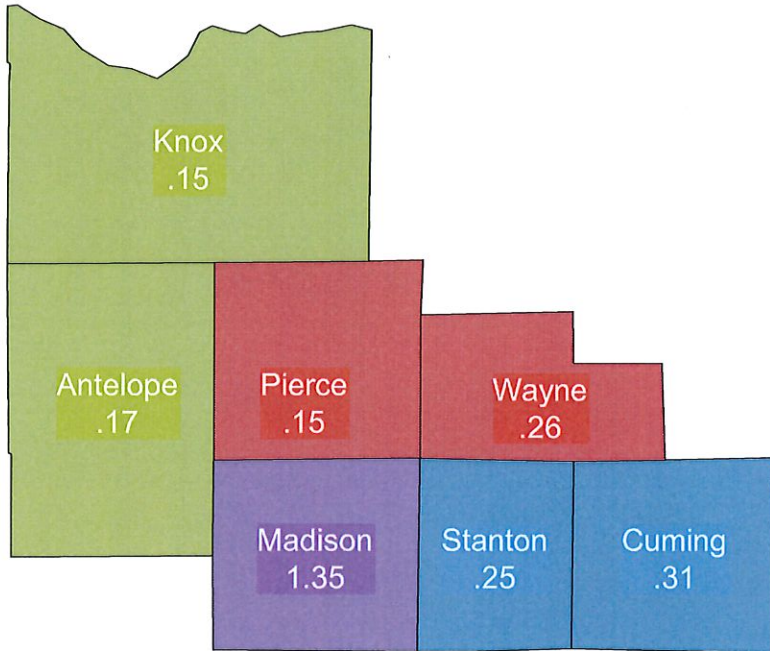


Weighted Caseload Report

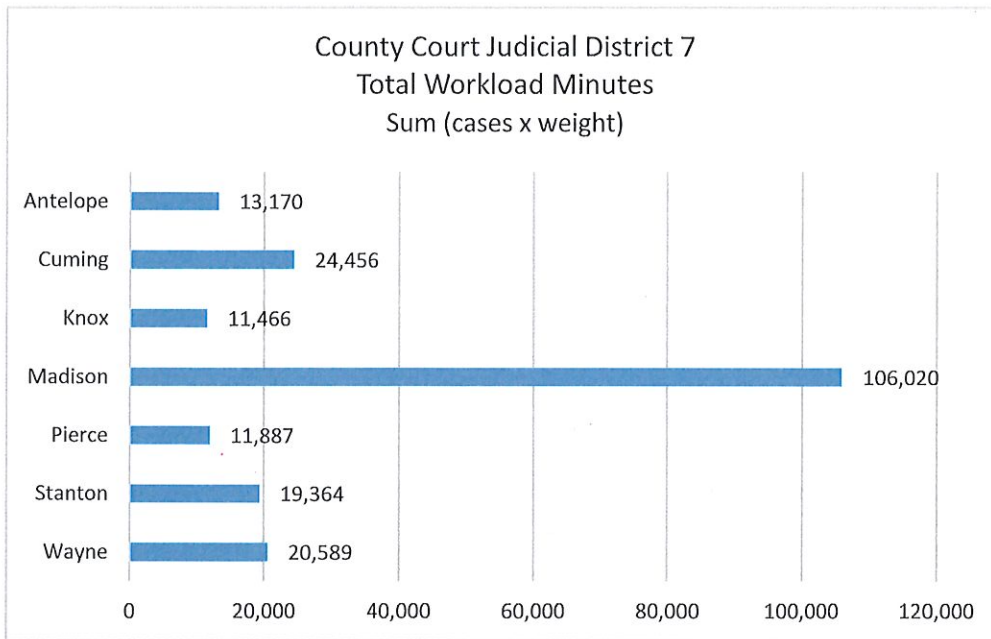
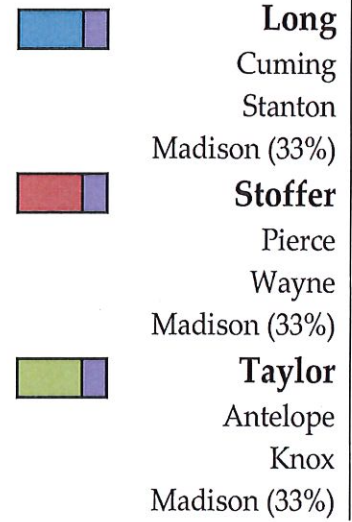
7th Judicial District – County Court

County court need for judges: 2.64
 Current number of judges: 3
 Workload per judge: 0.88

Predicted judicial resources need by county



Judges Serving the 7th District



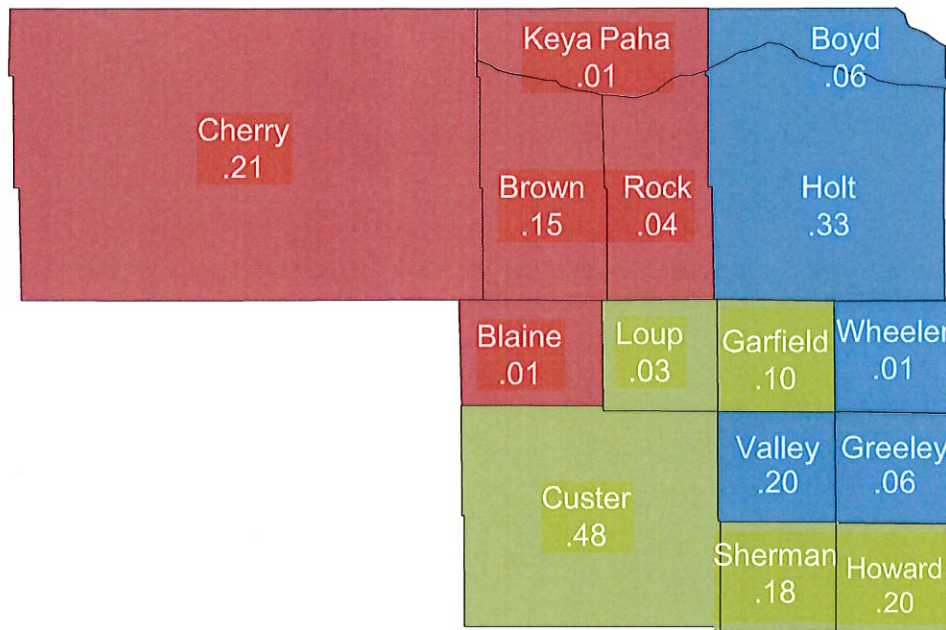
Weighted Caseload Report

8th Judicial District – County Court

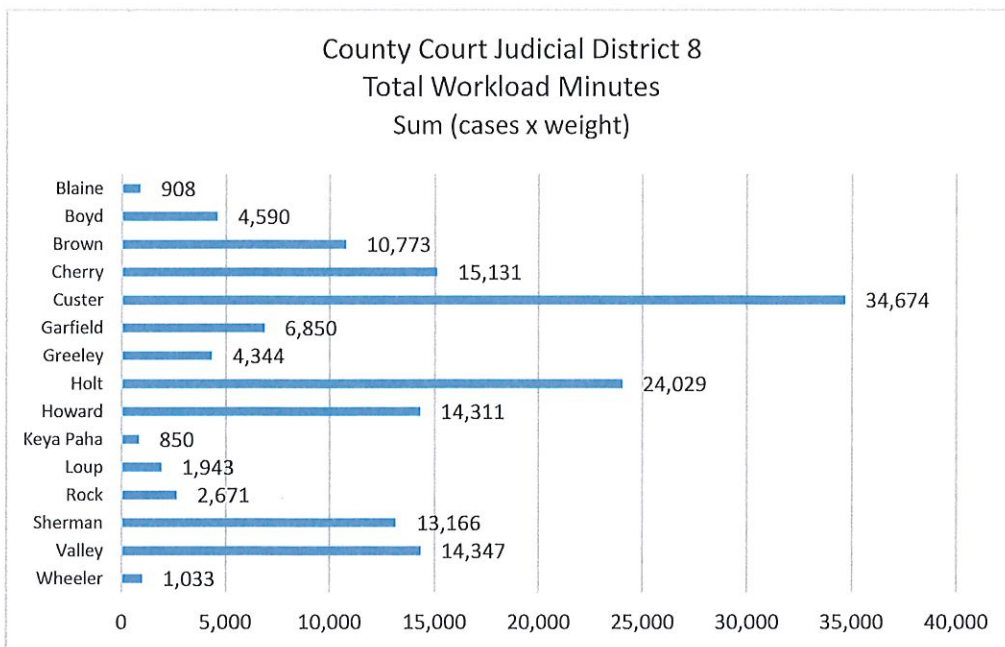
County court need for judges: 2.07
 Current number of judges: 3
 Workload per judge: 0.69

Predicted judicial resources need by county

Judges Serving the 8th District



- **Burdick**
- Boyd
- Greeley
- Holt
- Valley
- Wheeler
- **Orr**
- Blaine
- Brown
- Cherry
- Keya Paha
- Loup
- Rock
- **Schendt**
- Custer
- Garfield
- Howard
- Loup
- Sherman

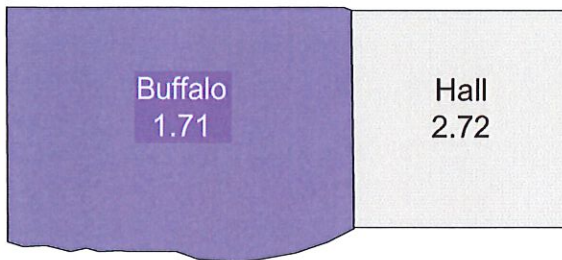


Weighted Caseload Report

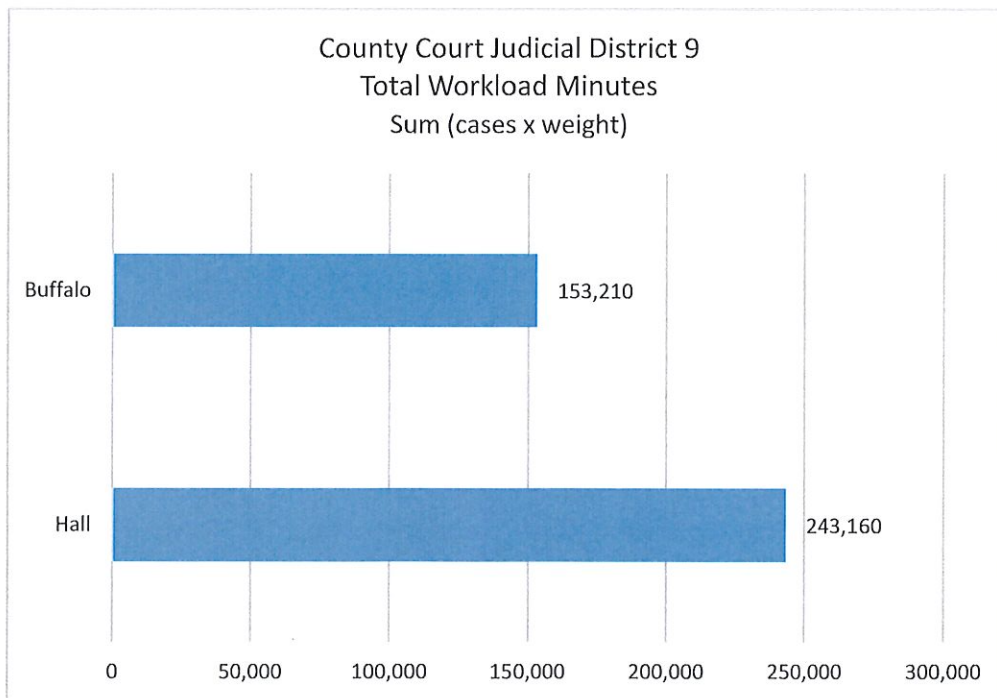
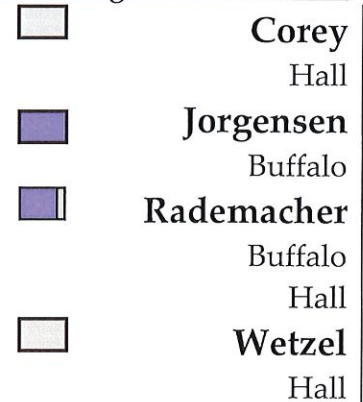
9th Judicial District – County Court

County court need for judges: 4.43
 Current number of judges: 4
 Workload per judge: 1.11

Predicted judicial resources need by county



Judges Serving the 9th District

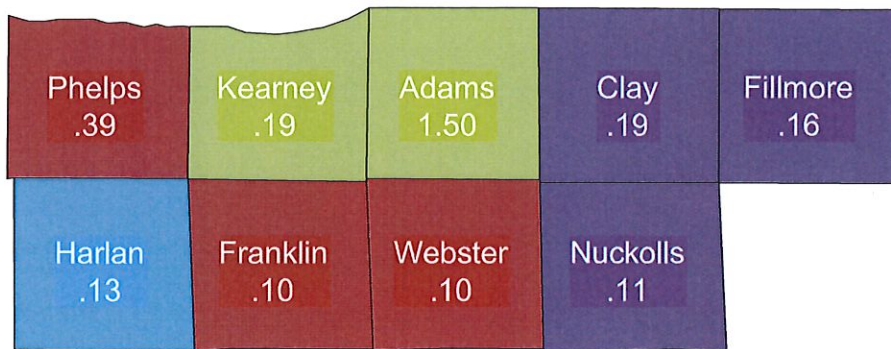


Weighted Caseload Report

10th Judicial District – County Court

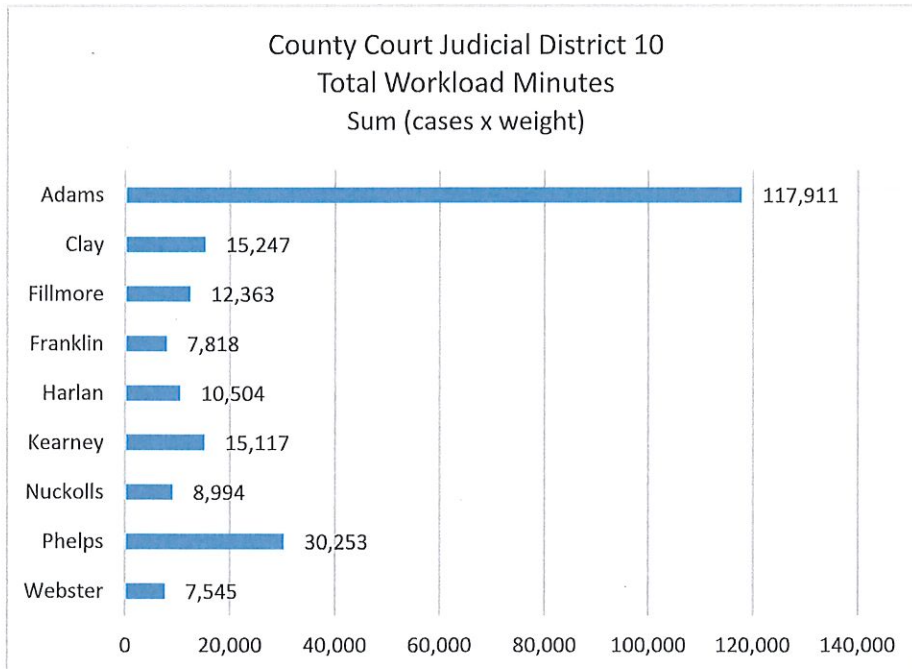
County court need for judges: 2.87
 Current number of judges: 3
 Workload per judge: 0.96

Predicted judicial resources need by county



Judges Serving the 10th District

- Burns**
 - Adams (38%)
 - Clay (90%)
 - Fillmore (90%)
 - Nuckolls (86%)
- Hoelt**
 - Adams (24%)
 - Franklin (50%)
 - Harlan (100%)
 - Kearney (54%)
 - Phelps (75%)
 - Webster (48%)
- Mead**
 - Adams (38%)
 - Clay (10%)
 - Fillmore (10%)
 - Franklin (50%)
 - Kearney (46%)
 - Nuckolls (14%)
 - Phelps (25%)
 - Webster (52%)

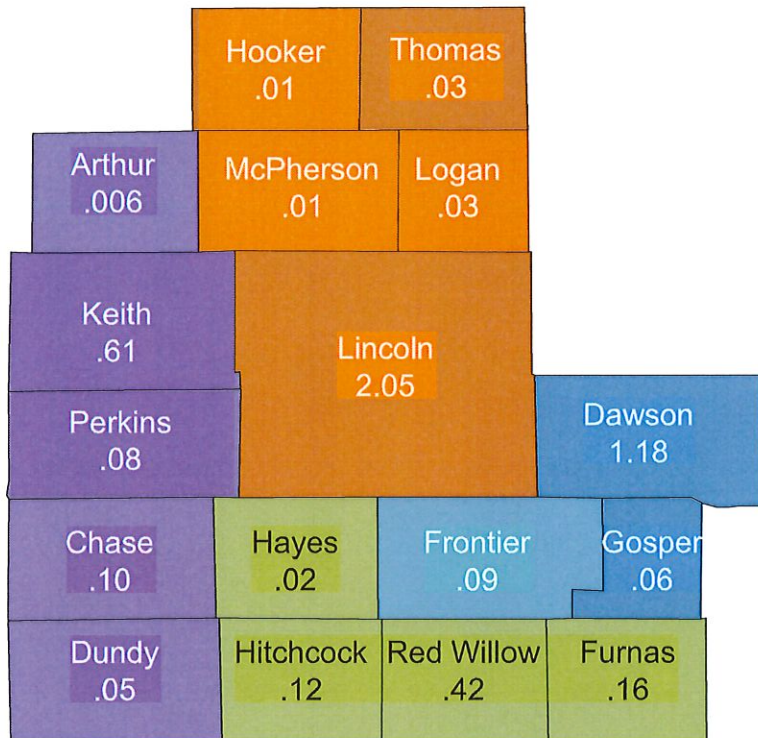


Weighted Caseload Report

11th Judicial District – County Court

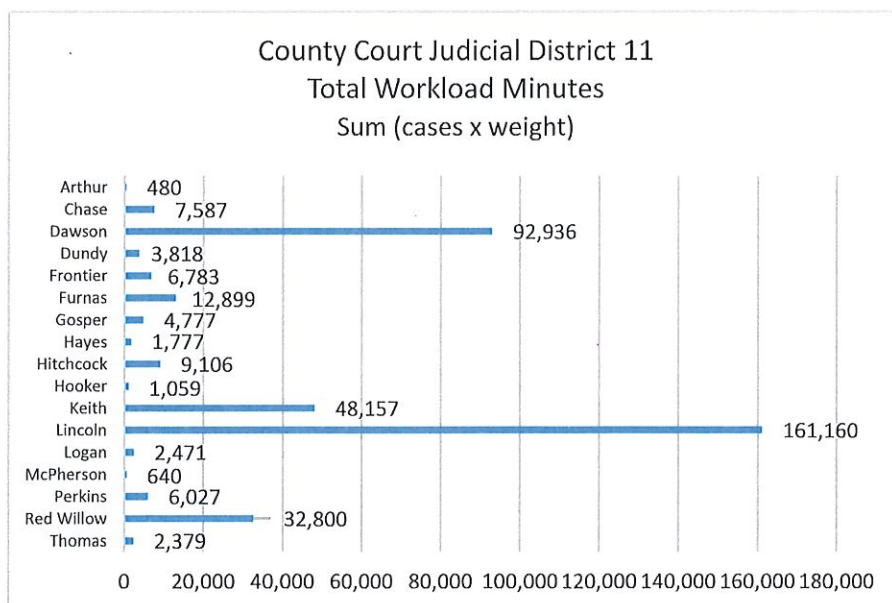
County court need for judges: 5.03
 Current number of judges: 5
 Workload per judge: 1.01

Predicted judicial resources need by county



Judges Serving the 11th District

- Jay
- Hooker
- Lincoln
- Logan
- McPherson
- Thomas
- Conflict Cases in Keith
- Paine
- Furnas
- Hayes
- Hitchcock
- Red Willow
- Conflict Cases in Dawson
- Roberts-Connick
- Frontier
- Lincoln
- Conflict Cases in Dawson
- Dawson
- Steenburg
- Arthur
- Chase
- Dundy
- Keith
- Perkins
- Wightman
- Dawson
- Gosper

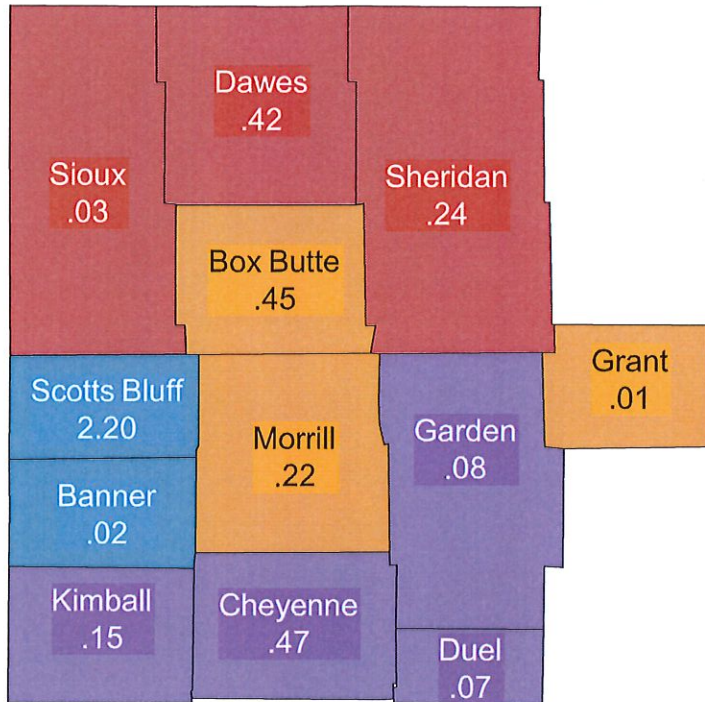


Weighted Caseload Report

12th Judicial District – County Court

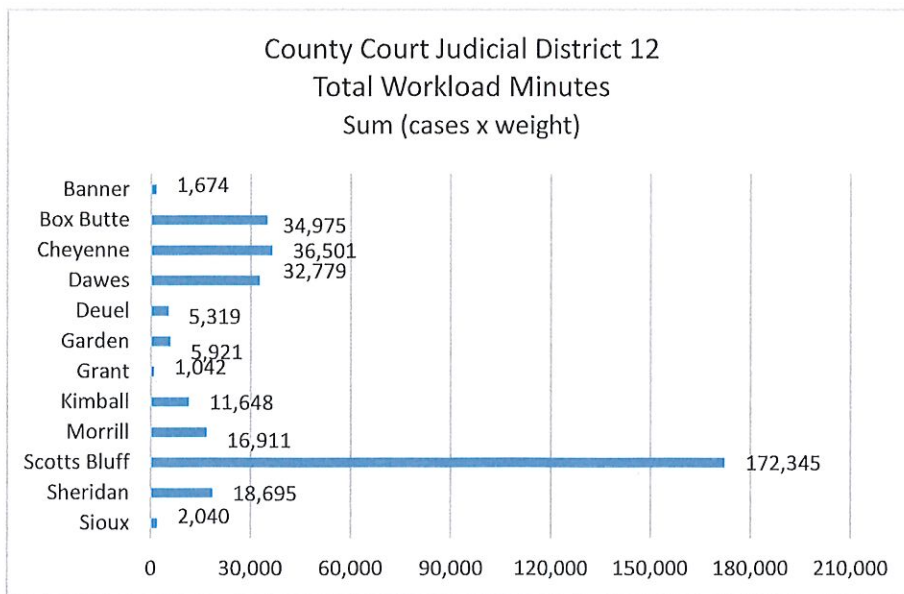
County court need for judges: 4.36
 Current number of judges: 5
 Workload per judge: 0.87

Predicted judicial resources need by county



Judges Serving the 12th District

- **Harford**
Dawes
Sioux
Sheridan
- **Mickey**
Banner
Scotts Bluff
- **Roland**
Cheyenne
Deuel
Garden
Kimball
- **Wess**
Box Butte
Grant
Morrill
- **Worden**
Banner
Scotts Bluff



Weighted Caseload Report

Court Case Type Categories and Weights – Appendix

| District Court Case Types | 2021 Case Weight (minutes) |
|---|-------------------------------|
| Problem Solving Court Cases | 683 |
| Protection Orders | 32 |
| Civil | 219 |
| Class I Felony | 367 |
| Other Criminal | 149 |
| Domestic Relations | 97 |
| Appeals | 343 |
| Administrative Appeals | 540 |
| County Court Case Types | 2021 Case Weight (minutes) |
| Protection Orders | 32 |
| Felony | 26 |
| Misdemeanor | 23 |
| District Court: Adult Problem-Solving Court | 683 |
| Traffic | 1 |
| Civil | 8 |
| Probate | 61 |
| Guardianship/Conservatorship | 133 |
| Small Claims | 30 |
| Adoption | 92 |
| Domestic Relations | 97 |
| Juvenile: 3A Children | 487 |
| Juvenile: Delinquency | 100 |
| Juvenile: Status Offender 3B | 37 |
| Juvenile: Mentally Ill and Dangerous 3C | 265 |
| Juvenile: Bridge to Independence (B21) | 58 |
| Juvenile: Interstate Compact Hearings/Filings | 2 |
| Juvenile: Problem-Solving Court Cases | 654 |
| Separate Juvenile Court Case Types | 2021 Case Weight (minutes) |
| Adoption | 49 |
| Domestic Relations | 26 |
| Juvenile: 3A Children | 487 |
| Delinquency | 136 |
| Status Offender 3B | 54 |
| Mentally Ill and Dangerous 3C | 265 |
| Bridge to Independence B21 | 36 |
| Interstate Compact Hearing/Filings | 2 |
| Problem Solving Court Cases | 654 |



Research and Data

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