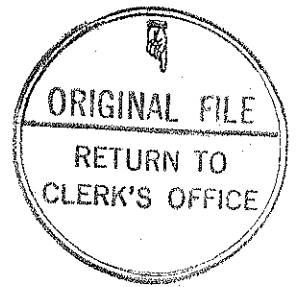


IN THE SUPREME COURT OF THE STATE OF KANSAS

OFFICE OF JUDICIAL ADMINISTRATOR

Re: Judges Pro Tem

Administrative Order No. 4



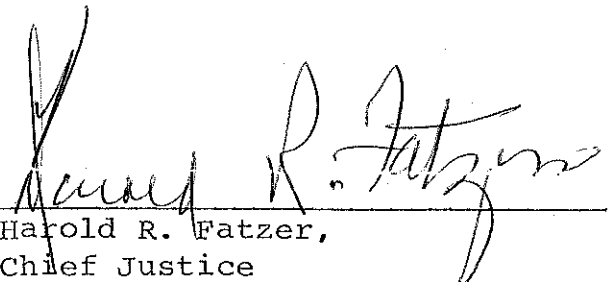
Pursuant to K.S.A. 1976 Supp. 20-310a, as amended by House Bill 2187, 1977 Legislature, the following administrative rules are announced:

1. The administrative judge may appoint judges pro tem to provide emergency judicial coverage whenever judges of the district court are absent from the district for the purpose of attending judicial seminars and conferences convened by the state judiciary.

2. The administrative judge may appoint a judge pro tem in case of the absence, sickness, or disability of a judge of the district court resident in a single-judge county.

3. In all other cases of absence, sickness, or disability of a judge of the district, the administrative judge shall obtain the prior approval of the departmental justice before appointing a judge pro tem.

BY ORDER OF THE COURT this 18<sup>th</sup> day of May, 1977.

  
Harold R. Fatzer,  
Chief Justice

**FILED**

May 18, 1977

LEWIS C. CARTER  
CLERK APPELLATE COURTS

May 11, 1977

To: The Court

Re: Judges Pro Tem

Attached is a proposed administrative order relating to appointment of judges pro tem in case of absence, sickness, etc., of a regular judge.

Also attached is a copy of HB 2187 which was passed this session and took effect upon publication in state paper. It is apparent in Section 1(a) that a judge pro tem may be appointed if the departmental justice has not assigned a judge from another district. This is much too lax in light of JSAC recommendation.

Pro tems should be appointed only after contact is made up here, except in certain instances where the trial courts should be authorized to appoint without consulting the departmental justice. The proposed order covers such occasions.

Vacations should be scheduled to allow regular judges to cover for each other rather than have all leave at the same time.

Courts have specific authority under paragraph (d) to appoint pro tems in small claims cases, and the proposed order does not pertain to that provision.

JRJ

HOUSE BILL No. 2187

AN ACT relating to district courts; concerning the appointment of judges pro tem; amending K.S.A. 1976 Supp. 20-310a and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1976 Supp. 20-310a is hereby amended to read as follows: 20-310a. (a) ~~From and after January 10, 1977,~~ In the absence, sickness or disability of a district judge, associate district judge or district magistrate judge in any judicial district, a judge pro tem may be appointed whenever: ~~(1) Another district judge or associate district judge of such judicial district is unavailable; and (2) the departmental justice for such judicial district is unable to assign~~ *has not assigned* a district judge or associate district judge from another judicial district, as provided in K.S.A. 1976 Supp. 20-319.

(b) Any judge pro tem appointed pursuant to this section shall be a regularly-admitted member of the bar of this state. The appointment of any such judge pro tem shall be made by the administrative judge or, in the absence of the administrative judge, by the departmental justice for the judicial district.

(c) Any judge pro tem appointed pursuant to this section shall have the full power and authority of a district judge with respect to any actions or proceedings before such judge pro tem. ~~Such, except that any judge pro tem appointed pursuant to subsection (d) shall have only such power and authority as provided therein.~~ A judge pro tem shall receive such compensation as is prescribed by the district court, subject to the budget limitations of such district court.

(d) *Subject to the budget limitations of the district court, the administrative judge of any judicial district may appoint one or more judges pro tem for the limited purpose of hearing the original trials of actions filed pursuant to the small claims procedures act. Any such judge pro tem shall have only such judicial power and authority as is necessary to hear such actions.*

(e) *The administrative judge of each judicial district shall report to the judicial administrator of the courts: (1) The dates on which any judge pro tem served in such district, (2) the compensation paid to any judge pro tem, and (3) such other information as the judicial administrator may request with regard to the appointment of judges pro tem. The reports shall be submitted*

HOUSE BILL No. 2187—page 2

*semiannually on or before January 15 and July 15 on forms provided by the judicial administrator.*

Sec. 2. K.S.A. 1976 Supp. 20-310a is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the official state paper.

I hereby certify that the above BILL originated in the HOUSE, and passed that body.

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*

## REPORT OF J.S.A.C.

### G. *Pro Tem Judges*

15. The device of appointing lawyers as judges *pro tem* should not be used to create additional judicial posts. The appointment of lawyers as judges *pro tem* for short periods of time should be closely regulated by the supreme court and limited to occasions of clear necessity, such as the illness or unavoidable absence of the regular judge.

A *pro tem* judge is usually appointed by a regular judge to assist a court for short periods during the temporary absence, illness or disqualification of the regular judge. The committee has learned that virtually full-time *pro tem* judges are serving as additional judges in the probate and juvenile courts of Wyandotte and Sedgwick counties. This practice should not be continued. If there is a need for additional judges, positions should be formally authorized and judges with requisite qualifications selected to fill the new posts in the manner provided for the selection of all other judges. Litigants ought to be served by professional judges selected in the manner provided by law and possessing the requisite legal qualifications.

Further, the use of *pro tems* for clearly temporary assignments should be kept to a minimum. In a unified court system with power to assign judges from one division to another or from one county or district to another, there should be little need for *pro tem* judges. Indeed, the use of *pro tem* judges, other than retired judges, has virtually disappeared in the Kansas District Court in recent years.