

# DRAFT BULLET POINTS FOR PROPOSED LEGISLATION RE: JUSTICE COURT REFORM

AS PRESENTED TO JUDICIAL COUNCIL JULY 22, 2024

## CREATE MAGISTRATE DIVISION / MAGISTRATE JUDGE POSITION WITHIN DISTRICT COURT

- Create legal framework for magistrate division within the current district court statutes (Title 78A, Chapter 5).
- Create “magistrate judge” position as an Art. VIII judge, with cases heard on the record. Positions created in statute (Title 78A, Chapter 1), funded, and filled as work migrates from justice court into magistrate division.
- Determine appropriate revenue distribution where magistrate division assumes responsibility of adjudicating cases (51-9-401 and -402, 78A-2-601, 78A-5-110, 78A-7-120, and 78A-7-122).

## CREATE CONCURRENT JURISDICTION STATUTES

- Create statutes that provide for concurrent jurisdiction between justice court and magistrate division in the district court, with actual jurisdiction of magistrate division activated upon certain triggering events (see below) and appointment of magistrate judge.
- Determine limited subject matter jurisdiction of magistrate division — class B misdemeanor; class C misdemeanor; infraction / local ordinance (only if no justice court with ongoing jurisdiction); small claims.

class A misdemeanors?

## PLAN FOR MIGRATION / CONSOLIDATION

- If a municipal justice court intends to cease operations, the preference should be that cases will (in this order):
  - 1) migrate to the magistrate division of the district court (if available); or
  - 2) if not, transfer to the county justice court / another municipal justice court via interlocal agreement.
- For 3rd and 4th class municipal justice courts: upon judge leaving the bench, entity must justify need to continue operation of the justice court (*note: we would need statutory criteria to establish need*). Continued operation of court must be approved by the Judicial Council or court must consolidate / migrate.
- A county justice court may only close where both of the following occur: 1) the legislature and Judicial Council approve the closure; AND 2) magistrate judge(s) are appointed and available to receive the new caseload.
- Create statutory presumption that a court cannot close if the cases will end up being heard by a district court judge (i.e., closures only happen where cases land with county / interlocal / or magistrate division).

## PERSONNEL

- Upon closure of a municipal justice court that results in transfer of caseload to a county justice court, the judge (with law degree) and staff may, at the discretion of the county, be hired directly by the county without requiring a competitive selection process. *Note: in addition, upon migration of cases from a justice court to the magistrate division, Administrative Office of the Courts will adhere to hiring criteria that prioritizes justice court clerical training / experience when hiring judicial assistants (legislation is not necessary to accomplish this).*

## MIGRATION TRIGGERING EVENTS

- Identify the following as potential migration triggering events (where adequate magistrate judge resources are available):
  - closure of county justice court;
  - closure of municipal justice court (unless consolidation in county justice court is better option);
  - termination of interlocal agreement;
  - justice court judge retirement;
  - after the end of current justice court judge term, plus one additional term.
- Legislature may transfer certain offenses to magistrate division (e.g., DV-related cases a la HB0196), so long as sufficient magistrate judge resources are funded / available

## PHASING IN MAGISTRATE DIVISION (i.e., the legislature’s “pilot”)

- Seek funding for magistrate judges in at least two locations during 2025 session.
  - Authorize Liaison Committee, in conjunction with Board of Justice Court Judges and relevant presiding district court judge(s), to recommend to legislature logical starting locations.
- Decide whether to recommend that jurisdiction be:
  - limited to commercial small claims during pilot (leaving transfer of criminal cases to a more organic consolidation process to take place over a longer period of time); OR
  - inclusive of all case types over which the magistrate division will have subject matter jurisdiction.
- Continue encouraging legislature and local government entities to phase in new locations upon occurrence of triggering event(s).