



STATE OF KANSAS

## *Office of the Attorney General*

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*Curt T. Schneider*  
*Attorney General*

June 17, 1976

ATTORNEY GENERAL OPINION NO. 76-181

Mr. Jay Don Reynolds  
105 Main  
Post Office Box 707  
Cimarron, Kansas 67835

Re: Courts--Judges--Qualifications

Synopsis: A candidate for the position of associate district judge in any county, except those enumerated in subsection 17(b) of 1976 House Bill 2729, in which there is one associate district judge position must possess the same qualifications as the incumbent judge of the court of limited jurisdiction in such county. As to counties with a population of less than 24,000, there is no residence requirement, durational or otherwise, as a qualification for nomination or election. Any person elected to such position must be a resident of the county from and after January 10, 1977, in which the associate district judge position is created.

\* \* \*

Dear Mr. Reynolds:

You inquire concerning residence qualifications applicable to candidates for the position of associate district judge under 1976 House Bill 2729, and in particular, concerning those qualifications applicable to candidates for the position of associate district judge in Ford County in the Sixteenth Judicial District which is created by section 16(b)(16).

Section 14(a) provides in pertinent part thus:

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"From and after January 10, 1977, any person who is elected, retained in office or appointed as a district judge shall:

\* \* \*

(2) be a resident of the judicial district for which he or she is elected or appointed to serve . . . ."

Subsection (b) of this section states further:

"From and after January 10, 1977, any person who is elected, retained in office or appointed as an associate district judge shall have the same qualifications prescribed for a district judge by subsection (a), and in addition shall be a resident of the county in which the associate district judge position is created."

Section 17(b) states thus, in pertinent part:

"In any county except those enumerated in this subsection in which there will be either one district magistrate judge position or one associate district judge position, as provided in subsection (b) of section 16, the judge of the court of limited jurisdiction in such county shall be eligible for election in office in such position at the general election held in November of 1976."

Section 16(b)(16) creates one associate district judge position in Ford County.

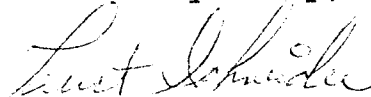
Under section 18(a), a candidate for election to the position of associate district judge of Ford County must possess the same qualifications prescribed by law for the incumbent judge of the court of limited jurisdiction there, who is declared eligible under section 17(b) for election to the associate district judge position. In short, a candidate for election to the associate district judge position must satisfy the same statutory qualifications as the present judge of the probate court of that county.

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K.S.A. 1975 Supp. 59-201 provided for the election of probate judges, and prescribed the qualifications therefor. There is no statutory residence qualification, durational or otherwise, which was applicable to the present incumbent of the court of limited jurisdiction of Ford County, and accordingly, there is no statutory residence requirement applicable to other candidates for the position, as a qualification for nomination or election.

Under section 14(b), quoted above, it is necessary that any person elected to the position be, from and after January 10, 1977, a resident of the county in which the associate district position is created. Thus, any candidate for the position need not be a resident of the county in which the position exists at the time of election, but must, if elected, be a resident of the county on January 10, 1977, in order to qualify for the office.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj

cc: Mr. Philip Winter  
Lyon County Attorney  
Lyon County Courthouse  
Emporia, Kansas 66801