1999 DRAFTING REQUEST

Bill

Received:	06/21/1999				Received By: nel	sorpl	
Wanted: As time permits				Identical to LRB:			
For: Suza	For: Suzanne Jeskewitz (608) 266-3796				By/Representing: Rebecca Larson		
This file 1	may be shown	to any legislato	r: NO		Drafter: nelsorpl		
May Contact:					Alt. Drafters:		
Subject:	Courts -	• courts/judges			Extra Copies:		
Pre Topi	с:						
No specif	ïc pre topic giv	ven					
Topic:							
Appointm	nent of tempora	ary reserve judg	ges for munic	cipal courts			
Instructi	ons:						
See Attac	hed						
Drafting	History:						
Vers.	Drafted	Reviewed	Typed	Proofed	<u>Submitted</u>	Jacketed	Required
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LRB-3230

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Subject: Courts - courts/judges	Extra Copies:		

Pre Topic:

No specific pre topic given

Topic:

Appointment of temporary reserve judges for municipal courts

Instructions:

See Attached

Drafting History:

Vers.	Drafted	<u>Reviewed</u>	Typed	Proofed	Submitted	Jacketed	Reauired
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Subject:	Courts - courts/judges	Extra Copies:		

Pre Topic:

No specific pre topic given

Topic:

Appointment of temporary reserve judges for municipal courts

Instructions:

See Attached

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Drafting History:

Vers.	Drafted	<u>Reviewed</u>	Typed	Proofed	Submitted	Jacketed	Required
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LEGISLATIVE REFERENCE BUREAU Legal Section, 5th Floor, 700 N. Hamilton St. (608) 266-3561

Use of this **form** is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill. Use this form only for BILL drafts. Attach more pages if necessary.

Legislator or agency requesting this draft: Date of request: 0 V6'' 0 0 Name/phone number of person/submitting request: da Persons to contact for questions about this draft (names and phone numbers please): cca alo ~ \cap Describe the problem, including any helpful examples. How do you want to solve the problem? HIIOW 12 Q If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy. \land Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67): Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? XYES D NO If yes, anyone who asks? 🙀 YES 🗖 NO Any legislator3 YES **CI NO** • ONLY the following persons: Do you consider, this urgent? V XES DO NO 6 If yes, please indicate why: Jon J (m) main Is this request of higher priority than other pending request(s) you have made? YES D NO If yes, please sign your name here:

WISCONSIN MUNICIPAL JUDGES ASSOCIATION 10533 West National Avenue, #200 West Allis, WI 53227

Tel Epixonal 44 154 154 730800

JUN 1 5 1399

June 11, 1999

Board of Directors

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Public **Affiars** Hon. C. Michael Hausman City of **Delafield** Representative Suzanne Jeskewitz P.O. Box 8952 Madison, WI 53708

Dear Suzanne:

I am enclosing a very important priority law to be introduced which affects the ability of Municipal Judges to substitute on a statewide jurisdictional basis the same as Circuit Court Judges instead of a District basis as the current law now provides. ...

Please review the enclosed materials and **draft** of the proposed law and prepare it for introduction at this session.

If you have any questions call me at 359-9779 or call Judge Richard J. Steinberg, President of our association at 78 1-1266.

Sincerely yours Hon. Michael C. Hurt, Leastative Chair

WI Municipal Judges Assn.

03/09/98 13:56

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800.065 (2m) APPOINTING AUTHORITY. The chief judge' of a judicial administrative district may appoint any person who is eligible under sub, (2) to serve as a temporary reserve Judge regardless of where that person resides at the time of the appointment.

SECTION 18. Initial applicability.

(1) The treatment of section 343.305 (9) (a) (intro,), (am) (intro.) and (c) of the statutes first applies to refusals committed on the effective date of this subsection, but does not preclude the counting of previous suspensions, revocations or convictions for **purposes** of determining the period that a person's operating privilege is revoked.

(2) The treatment of section 342.09 (1) **of the** statutes first applies to certificates of **title** for which application is made on the **effective** date of this subsection,

SECTION 19. Effective date.

14 (1) This act takes effect on the first day of the 4th month beginning after15 publication.

(END)

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Under current-la;, the chief judge of a judicial administrative district may appoint a person as a temporary reserve judge to act as a municipal court judge in a municipality in thut district to porform dutice on a day.-lo-day baeis as directed by the chiefjudge. To be eligible to be appointed as a temporary reserve judge, a person must have served 8 or more years as a municipal court judge or sewed 4 or more years as a municipal court judge or sewed 4 or more years as a municipal court judge or sewed 4 or more years as a municipal court judge of a judicial administrative district to appoint any eligible person to act as a temporary reserve judge within that judicial district, regardless of where the person resides at the time of the appointment.

SECTION 15. 800.06 (1) (a) and (b) of the statutes are repeared.

SECTION 16. 800.065 (1) of the statutes is amended to read:

800.065 (1) DEFINITIONS. In this section, "temporary reserve judge" means a person appointed to act as a judge for a municipal court for any municipality within

the judicial administrative district appointed by the chief judge of that the judicial

administrative district in which the municipality is located to perform such specified

duties on a day-by-day basis as the chief judge may direct.

SECTION 17, 800.065 (2m) of the statutes is created to read;

AMENDMENT TO SEC 800.065(1)

THIS AMENDMENT WILL ALLOW THE CHIEF JUDGE OF A JUDICIAL ADMINISTRATIVE DISTRICT TO APPOINT ANY ELIGIBLE PERSON TO ACT AS A TEMPORARY RESERVE JUDGE **WITHIN** THE JUDICIAL DISTRICT, REGARDLESS OF WHERE THE RESERVE JUDGE RESIDES AT THE TIME OF THE APPOINTMENT

FOR EXAMPLE, NOW MILWAUKEE MUNCIPAL COURT MAY APPOINT A CURRENT SITTING JUDGE FROM ANOTHER DISTRICT SUCH AS **WAUKESHA COUNTYTO** SUBSTITUTE IN MILWAUKEE **MUNICIPAL** COURT. HOWEVER, IF THAT SAME JUDGE RETIRES THAT JUDGE NO LONGER **QUALIFIES** TO BE A SUBSTITUTE JUDGE IN MILWAUKEE EVEN THOUGH AS A RETIRED JUDGE HE/SHE IS MORE READILY AVAILABLE AND HAS PRIOR EXPERIENCE FROM BEING A SUBSTITUTE JUDGE IN MILWAUKEE

ANOTHER EXAMPLE IS WHEN A RETIRED MUNICIPAL JUDGE SPENDS A SUMMER PERIOD IN NORTHERN WISCONSIN AND HAS THE OPPORTUNITY TO SUBSTITUTE FOR A MUNICIPAL JUDGE IN THAT LOCATION HE/SHE IS PROHIBITED FROM DOING SO EVEN THOUGH HE/SHE HAS THE **TIME** AND IS READILY AVAILABLE

THIS AMENDMENT **WILL** GIVE MORE **FLEXIBILITY** TO MUNICIPAL JUDGES TO SUBSTITUTE IN LOCATIONS THROUGHOUT THE STATE WHEN REQUESTED ON THEIR RETIREMENT

APRIL 22 RICHARD STEINBERG

MUNICIPAL JUDGE CITY OF BROOKFIELD WI MUNICIPAL JUDGES ASSN LEGISLATIVE CHAIR



MUNICIPAL COURT

2100 North Calhoun Road Brookfield, Wisconsin 53005-5000 (414) **796-6660** FAX (414) 782-8757 RICHARD J. STEINBERG MUNICIPAL JUDGE

E. JOSEPH KERSHEK CITY PROSECUTOR

LAWRENCE B. NELSON CLERK OF COURT

CLAUDIA M. BIERDEMANN NANCY J. PETERS COURT CLERKS

July 22, 1996

Honorable Louis Butler Milwaukee Municipal Court 951 North 7th Street Milwaukee, WI 53233

Dear Judge Butler:

Presently a Municipal Judge **from** one District can be appointed a Reserve Judge within his/her own District.

In my opinion there should be an amendment to Sec. 800.065 to allow a Reserve Judge to serve statewide.

This would allow a Reserve Judge for example who had a summer cottage up North to serve in that area and would allow a Reserve Judge to substitute for a Judge who spends a period of time during the winter months in warmer climates.

The amendment can be accomplished by adding the words "and within the State."

Please consider this for the Wisconsin Municipal Judges Association,

Sincerely yours,

Richard // Steinberg Municipal Judge of Brookfield

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LRB-1683/1 RPN&PEN: http://km/

1999 BILL

the appreciational VIgen AN ACT or repeal 800.03 (4) and 800.06 (1) (a) and (b); to renumber 342.15 (1) 1 (a); to renumber and amend 800.06 (1) (intro.); to amend 66.12 (1) (b), 165.83 2 (2)(e), 342.09(1), 342.34(3m), 343.305(9)(a) (intro.), 343.305 (9) (am) (intro.), 3 4 343:305 (9) (c), 343.305 (ll), 800.05 (3) and 800.065 (1); and to create 342.091 (2m), 342.15.(1) (a) 2. and 800.065 (2m) of the statutes relating to municipal 5 nex providence of a fight of the second 6 a court procedures, municipal] temporary reserve judge and motor certificates of title 7

Analysis by the Legislative Reference Bureau

Currently, a court appearance is required for any person who violates a local ordinance that prohibits a person from operating a motor vehicle while under the influence of an intoxicant or controlled substance or while having an alcohol concentration in his or her blood in excess of the statutory maximum (OWI). If a person fails to appear in court as required, under current law the court issues a warrant for the p&son's arrest. In cases involving violations of other ordinances, if a person fails to appear at the court hearing, the court, upon proof that the person received service of the notice to appear in court, enters a default judgment against the person. This bill removes the requirement that a person who violates a local OWI ordinance must appear in court, thus allowing the court to enter a default judgment against the person if the person has received adequate notice of the requirement to appear in court.

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Under current law, if an operator of a motor vehicle refuses to submit to a test to determine the presence of an intoxicant in the person's breath, blood or urine, the law enforcement officer that requested the test takes possession of the person's driver+ license and gives the person a notice that the person's operating privilege will be revoked if the refusal was improper. The notice also informs the person that he or she may request a hearing before a circuit court to determine if the refusal was proper. If the person requests a hearing within ten days after receipt of the notice, current law requires the circuit court to hold a hearing to determine if the refusal was proper. Currently, if the person does not request a hearing or if the circuit court determines that the refusal was not proper, the court revoke&he person's operating privilege. This bill allows municipal courts to hold refusal hearings and issue revocation orders based on the results of those hearings.

Currently, if a municipal judge is disqualified from hearing a case or if a request is approved for substitution of a municipal judge, the chief justice of the supreme court is required to assign the case to another municipal judge or, if none is available, to the circuit court. If the case is transferred, the matter is heard in the municipal court or circuit court that receives the case. Under this bill, if the case is transferred to a municipal judge, that municipal judge must hold all proceedings regarding that case in the municipal court from which the case was received. If the case is transferred to a circuit court, this bill provides that the prosecutor for the municipality that commenced the action must-prosecute the action in the circuit court.

Current law allows a municipal judge who is temporarily absent, sick or disabled to deliver the court records regarding an action, to the circuit court of the county to handle the matter or, with the approval of the chief judge of the judicial administrative district, the municipal judge may designate another municipal judge to perform his or her duties for a period not to exceed 30 days. If the municipal judge is from the 1st judicial administrative district (Milwaukee County!, current law allows the municipal judge to designate another municipal judge fromanywhere in the state. If the municipal judge is not from the 1st judicial administrative district, under current law the municipal judge may only designate another municipal judge from within the same judicial administrative district. This bill allows the municipal judge to designate another municipal judge from anywhere in the state regardless of where the municipal judge making the designation is located.

Under current law, the chief judge of a judicial administrative district may appoint a person as a temporary reserve judge to act as a municipal court judge in a municipality in that district to perform duties on a day-to-day basis as directed by the chief judge. To be eligible to be appointed as a temporary reserve judge, a person must have served eight or more years as a municipal court judge or served four or more years as a municipal court judge and not been defeated in his or her last judicial office race. This bill allows the chiefjudge of a judicial administrative district to appoint any eligible person to act as a temporary reserve judge within that judicial district, regardless of where the person resides at the time of the appointment.

Current law requires the owner of a vehicle, when transferring an-interest in a vehicle, to record certain information on the vehicle's certificate of title and deliver

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the certificate, the person must promptly complete an application for a new certificate of title and submit the application and the old certificate of title to the department of transportation (DOT). Until DOT receives the completed application and the old certificate of title, DOT's records will continue to show the previous owner as the titled owner of the 'vehicle, regardless of who then possesses the vehicle.

This bill requires DOT to include a form with each certificate of title, which form may be used by an owner who transfers an interest in a vehicle to notify DOT that the owner has transferred an interest in the vehicle to another person. The bill requires DOT to keep records of such transfer notices received from vehicle owners.

For further information see the **state** and **local** fiscal estimate, which will be **printed** as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.12 (1) (b) of the statutes is amended to read:

2 66.12 (1) (b) Local ordinances, except as provided in this paragraph or ss. 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any 3 or all violations under those ordinances, and may designate the manner in which the 4 stipulation is to be made and fix the penalty to be paid. When a person charged with 5 a violation for which stipulation of guilt or no contest is authorized makes a timely 6 stipulation and pays the required penalty and pays the penalty assessment imposed 7 by s. 165.87, the jail assessment imposed by s. 302.46 (1), the crime laboratories and 8 drug law enforcement assessment imposed by s. 165.755 and any applicable 9 domestic abuse assessment imposed by s. 973.Q55 (1) to the designated official, the 10 person need not appear in court and no witness fees or other additional costs may be 11 taxed unless the local ordinance so provides. -A court appearance is required for a 12 violation of a local ordinance in conformity with s. 346.63 (1). The official receiving 13 14 the penalties shall remit all moneys collected to the treasurer of the city, village, town 15 sanitary district or public inland lake protection and rehabilitation **district** in whose

••• 1999 - 2000 Legislature BILL

behalf the sum was paid, except that all jail assessments shall be remitted to the 1 2 county treasurer, within 20 days after its receipt by him or her; and in **case** of any 3 failure in the payment, the treasurer may collect the payment of the officer' by action, 4 in the name of the office, and upon the official bond of the **officer**, with interest at the 5 rate of 12% per year from the time when it should have been paid. In the case of the 6 penalty assessment imposed by s. 165.87, the crime laboratories and drug law 7 enforcement assessment imposed by s. 165.755, the driver improvement surcharge 8 imposed by s. 346.655 (1) and any applicable domestic abuse assessment imposed by 9 s. 973.055 (1), the treasurer of the city, village, town sanitary district or public inland 10 lake protection and rehabilitation district shall remit to the state treasurer the sum 11 required by law to be paid on the **actions** so entered during the preceding month on 12 or before the first day of the next succeeding month. The governing body of the city, 13 village, town sanitary district or public. inland lake protection and rehabilitation district shall by ordinance designate the official to receive the penalties and the 14 15 terms under which the official shall qualify.

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SECTION 2. 165.83 (2) (e) of the statutes is amended to read:

17 165.83 (2) (e) Obtain and file a copy or **detailed** description of each arrest 18 warrant issued in this state for the offenses under par. (a) or s. 800.03 (4) but not 19 served because the whereabouts of the person named on the warrant is unknown or 20 because that person has left the state. All available identifying'-data shall be 21 obtained with the copy of the warrant, including any information indicating that the 22 person named on the warrant may be armed, dangerous or possessed of suicidal 23 tendencies.

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SECTION 3. 342.09 (1) of the statutes is amended to read:

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342.09 (1) The department shall maintain a record of each application for.; 1 2 certificate of title received by it and, when satisfied as to its genuineness and 3 regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue and deliver a certificate to the owner of the vehicle. The department shall 4 5 include with each certificate of title issued under this chanter a copy of the form 6 prescribed under s, 342.15 (1) (a) 2. and instructions as to the form's use. SECTION 4. 342:09 (2m) of the statutes is created to read:... 7 8 342.09 (2m) The 'department shall maintain a record of all notices of transfers of interests provided under's, 342.15 (1) (a) 2. The record shall be maintained in the 9 10 manner provided under sub. (2). 11 **SECTION** 6. 342.15 (1) (a) of the statutes is renumbered 342.15 (1) (a) 1. 12 **SECTION** 6. 342.15 (1) (a) 2. of the statutes is created to read: 13 342.15 (1) (a) 2. If an owner transfers an interest in a vehicle, the owner may, on a form prescribed by the **department**. **notify** the department in writing of the 14 15 transfer. The department shall prescribe a form for use under this subdivision. 16 Notice provided under this subdivision does **not** satisfy the requirement under sub. (2). 17 18 **SECTION** 7. 342.34 (3m) of the statutes is amended to read: 19 342.34 (**3m**) In determining whether a vehicle meets the definition of a junk vehicle for purposes of this section or s. 342.15 (1) (a) $\frac{1}{4}$, the department may 20 promulgate rules specifying the conditions under which a vehicle shall be considered 21 22 incapable of operation or use upon a highway. 23 **SECTION 8.** 343.305 (9) (a) (intro.) of the statutes is **amended** to read: 24 343.305 (9) (a) (intro.) If a person refuses to take a test under sub, (3) (a), the law enforcement officer shall immediately take possession of the person's license and 25

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• ,1999 - 2000 Legislature BILL

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prepare a notice of intent to revoke, by court order under sub. (10), the person's 1 2 operating privilege. If the person was driving or operating a commercial motor vehicle, the officer shall issue an out-of-service order to the person for the 24 hours 3 4 the refusal and notify the department in the manner prescribed by the after 5 department. The officer shall issue a copy of the notice of intent to revoke the 6 privilege to the person and submit or mail a copy with the p&on's license to the circuit court for the county in which the arrest under sub. (3) (a) was made or to the 7 8 municipal court in the municipality in which the arrest was made if the arrest was for a violation of a municipal ordinance under sub. (3) (a) and the municipality has 9 10 <u>a municinal court</u>. The officer shall also mail a copy of the notice of intent to revoke to the attorney for that municipality or to the district attorney for that county, as 11 appropriate, and to the department. The notice of intent to revoke the person's 12 operating privilege shall contain **substantially** all of the following information: 13

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14 **SECTION** 9. 343.305 (9) (am) (intro.) of the statutes is amended to read:

343.305 (9) (am) (intro.) If a **person** driving or operating or on duty time with 15 respect to a commercial motor vehicle **refuses** a test under sub. (3) (am), the law 16 enforcement officer shall immediately take **possession** of the person's license, issue 17 18 an out-of-service order to the person for the 24 hours after the refusal and notify the 19 department in the manner prescribed by the **department**, and prepare a notice of 20 intent to revoke, by court order under sub. (10), the person's operating privilege. The 21 officer shall issue a copy of the notice of intent to revoke the privilege to the person 22 and submit or mail a copy with the person's license to the circuit' **court** for the county 23 in which the refusal is made or to the municipal court in the municipality in which 24 the refusal is made if the person's refusal was in violation of a municipal ordinance and the municipality has a municipal court. The officer shall also mail a copy of the 25

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1	A notice of intent to revoke to the attorney for that municinality or to the district
2	attorney for that county <u>, as appropriate</u> , and <u>to</u> the department. The notice of intent
3	to 'revoke the person's operating privilege shall contain substantially all of the
4	following information:
5	SECTION 10. 343.305 (9) (c) of the statutes is amended to read:
6	343.305 (9) (c) If a law enforcement officer informs the circuit or municipal
7	court that a person has refused to submit to a test under sub, (3) (a) or (am), the court
8	shall be prepared $\dot{t}o$ hold any requested hearing to determine if the refusal was
9	proper. The scope of the hearing shall be limited to the issues outlined in par. (a) 5.
10	or (am) 5. Section 967.055 applies to any hearing under this subsection.
11	SECTION 11. 343.305 (11) of the statutes is amended to read:
12	343.305 (11) RULES. The department shall promulgate rules under ch. 227
13	necessary to administer this section. The rules shall include provisions relating to
14	the expeditious exchange of information under this section between the department
15	and law enforcement agencies, circuit courts, municipal courts and district
16	attorneys. The rules may not affect any provisions relating to court procedure.
17	SECTION 12. 800.03 (4) of the statutes is repealed.
18	SECTION 13. 800.05 (3) of the statutes is amended to read:
19	800.05 (3) In municipal court, upon receipt of the written request, the original
20	judge shall have no further jurisdiction in the case except as provided in sub. (1) and
21	except to determine if the request was made timely and in proper form. If no
22	determination'is made within 7 days, the court shall refer the matter to the chief
23	judge for the determination and reassignment of the action as necessary. If the
24	request is determined to be proper, the case shall be transferred as provided in s.
25	751.03 (2). If the case is transferred to another municipal judge. that municipal

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1	judge shall hold all court proceedings regarding the case in the municipal court from
2	which the case was transferred. If the case is transferred to a circuit court. the
3	prosecutor for the municipality that commenced the action shallprosecute the action
4	in the circuit court. Upon transfer, the municipal judge shall transmit to the
5	appropriate municipal judge or circuit court all the papers in the action and the
б	action shall proceed as i-it-had been commenced in that court
7	SECTION 14. 800.06 (1) (intro.) of the statutes is renumbered 800.06 (1) and
8	amended to read:
9	800.06 (1) If any municipal judge is to be temporarily absent or is sick or
10	disabled, the municipal judge may deliver-the court record and all papers relating
11	to any pending action to the circuit court of the county and the circuit court may try
12	the action and enter judgment as though the action was begun before that court or
13	the municipal judge may by written order, filed in the court and with the approval
14	of the chief judge of the judicial administrative district, de-en- o of the-following:
15	designate another municipal judge from any municipality within the state to
16	perform his or her duties for a period not to exceed 30 davs.
17	SECTION 15. 800.06 (1) (a) and(b) of the statutes are repealed.
18	SECTION 16. 800.065 (1) of the statutes is amended to read:
19	800.065 (1) DEFINITIONS. In this section, "temporary reserve judge" means a
20	person appointed to act as a judge for a municipal court for any multiplicative within
21	the judicial administrative district appointed by the chief judge of that <u>the judicial</u>
22	administrative district in which the municinality is located to perform such specified
23	duties on a day-by-day basis as the chief judge may direct.
24	SECTION 17. 800.065 (2m) of the statutes is created to read:

1999 - 2000 Legislature BILL

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SUBMITTAL FORM

LEGISLATIVE REFERENCE BUREAU Legal Section Telephone: 266-3561 5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 07/28/1999

To: Representative Jeskewitz

Relating to LRB drafting number: LRB-3230

<u>Topic</u>

Appointment of temporary reserve judges for municipal courts

Subject(s)

Courts - courts/judges

1. **JACKET** the draft for introduction $\angle RB - 330$

in the Senate or the Assembly \, (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. REDRAFT. See the changes indicated or attached

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain FISCAL ESTIMATE NOW, prior to introduction

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney Telephone: (608) 267-75 11