

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on February 3, 2011, in Room 346-S of the Capitol.

All members were present except:  
Representative Ryckman  
Representative Holmes

Committee staff present:  
Jill Wolters, Office of the Revisor of Statutes  
Matt Sterling, Office of the Revisor of Statutes  
Tamera Lawrence, Office of the Revisor of Statutes  
Lauren Douglass, Kansas Legislative Research Department  
Robert Allison-Gallimore, Kansas Legislative Research Department  
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:  
Representative Bill Otto, Ninth District, Leroy, Kansas  
Sara Arif, Director of Public Affairs, Kansas Department of Aging  
Trudy Aron, Executive Director, American Institute of Architects in Kansas  
Mark Gleeson, Director of Trial Court Programs, Office of Judicial Administration  
Tom Day, Kansas Corporation Commission (KCC)  
Whitney Damron, City of Topeka  
Ed Klumpp, Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and, Kansas Peace Officers Association  
Bill Sneed, Lobbyist

Others Attending:  
See attached list.

Chairman Kinzer proposed the Committee adopt the following requests for bill introductions without objection unless a specific request for a motion/vote is made:

Representative Colloton requested a bill to extend the one year fix, that was made to allow the post release supervision to stay with the local jail instead of going back to community corrections after third time DUI's. This bill was offered in the event **SB 7 - Driving under the influence**, does not progress through the system.

Whitney Damron, on behalf of the City of Topeka, introduced a bill request for enhanced penalties for metal theft and regulation of scrap metal dealers.

Ed Klumpp, Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association, requested a bill concerning racial and other profiling.

Bill Sneed, Lobbyist, requested a bill concerning the Kansas code of civil procedure; relating to private rights of action; certain restrictions, enforcement and penalties.

Tom Day, Kansas Corporation Commission (KCC), addressed the committee in response to questions that arose during the hearing on **HB 2027 - Rules and regulations filing act**, covering rules and regulations. He assured the committee the requirements being set forth in this bill would not be an issue for the KCC. He stated all orders issued by the KCC are already available on their website, usually within an hour, and they have been publishing like that since 1997. As information, he also stated it is possible to do a word search of the orders on the published website.

The Hearing on **HB 2036 - Interpretation of federal statutes, regulations and national codes**, was opened.

Matt Sterling, Assistant Staff Revisor, provided an overview of the bill. (Attachment 1)

Representative Bill Otto, spoke before the committee as a proponent of the bill, stating the people

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of Kansas should live under as little regulation as possible and that any regulation over and above the minimum must be approved by an elected body, and that state agencies should not make the rules. ([Attachment 2](#))

### Opponents:

Sara Arif, Director of Public Affairs for the Kansas Department of Aging appeared before the committee in opposition of the bill, stating it would require state agencies in Kansas to interpret federal laws, federal regulations, and national building codes with reference to their interpretation by other states, and gave examples of problem areas this would create. ([Attachment 3](#))

Trudy Aron, Executive Director, American Institute of Architects in Kansas, also spoke to the committee in opposition of this bill. She explained the widely adopted International Codes (I-Codes), provide a complete set of comprehensive coordinated building safety and fire prevention codes. She further explained how communities, cities, and the State use the IBC 2006 codes, and then once adopted, they can make amendments to the code that is best for their citizens. If this bill were adopted, an architect would have no idea what amendments or interpretation other states have, making it impossible for an architect or engineer to design a project and feel confident with the code they were using. ([Attachment 4](#))

John A. Metzler, Chairman, on behalf of Kansas Water Environment Association (KWEA), provided written testimony in opposition of the bill. ([Attachment 5](#))

The hearing on **HB 2036** was closed.

The Hearing on **HB 2073 - Concerning the assessment of an order of support of a child** was opened.

No proponents appeared to support this bill. Chairman Kinzer explained a perceived lack of clear language caused the constituent to believe the issue wasn't currently covered by law. He stated to the committee, with going forward, to consider if the language could be changed to make it more transparent.

Mark Gleeson, Director of Trial Court Programs, Office of Judicial Administration, appeared before the committee in opposition to this bill. He explained the Kansas Supreme Court's Child Support Guidelines Advisory Committee, is made up of judges, attorneys, legislators, an accountant, and an economist. This committee is responsible for reviewing the Kansas Child Support Guidelines at least every four years. He also stated the committee has reviewed this bill and they voted unanimously to oppose it as the Kansas Child Support Guidelines already incorporate all nine elements referenced in this bill, including the living expenses of both parents. ([Attachment 6](#))

Representative Pauls requested Mr. Gleeson provide one copy of the Child Support Guidelines (a sixty to seventy page document) for staff/committee to have available for their review.

The hearing on **HB 2073** was closed.

### **HB 2030 - Continuation of certain exceptions to disclosure under the open records act.**

Staff Revisor, Jill Wolters, presented an overview of the bill, along with a balloon requested by Chairman Kinzer, that provides clarification and was recommended by the Special Committee on Judiciary. The balloon effects [KSA 12-2819](#), concerning the Metropolitan Transit Authority Act, and [KSA 12-5611](#), [12-5711](#) and [12-5811](#), concerning riverfront authorities. ([Attachment 7](#))

Representative Brookens made the motion to report **HB 2030** favorably for passage. Representative Osterman seconded the motion. Motion carried.

Representative Patton made the substitute motion to amend the bill to accept the balloon as presented. Representative Kuether seconded the motion. Motion carried.

Representative Brookens made the motion to report **HB 2030** favorably for passage as amended. Representative Kelly seconded the motion. Motion carried.

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### **HB 2028 - Uniform trust code; insurable interest of trustee**

Staff Revisor, Jill Wolters, presented an overview of the bill and stated the bill was requested by the Judicial Council to address whether a trust could have an insurable interest regarding the trustees. She also provided an overview of an amendment requested by the Judicial Council to clarify that it is intended to be a part of and supplemental to the Kansas Uniform Trust Code.

Representative Brookens made the motion to report **HB 2028** favorably for passage. Representative Kuether seconded the motion. Motion carried.

Representative Pauls made a substitute motion to amend the bill to accept the amendment proposed by the Judicial Council as presented. (Attachment 8)

Representative Brookens made the motion to add to the amendment, to change Line 30 of the proposed amendment to expand “stepchildren of the insured” to “stepchildren or the children of the insured's stepchild, either by blood or by law.” Representative Kuether seconded the motion. Motion carried.

Representative Brookens made the motion to report **HB 2028** favorably for passage as amended. Representative Kelly seconded the motion. Motion carried.

### **HB 2027 - Rules and regulations filing act**

The committee members were provided copies of a memo dated January 27, 2011, from Judge Steve Leben, on behalf of the Judicial Council Administrative Procedure Advisory Committee, in response to questions that arose during the hearing of this bill, regarding 1) agency orders in adjudications, and, 2) the meaning of “readily available to the public”. Also included with the response, was a balloon the Advisory Committee offered to clarify the issues. (Attachment 9)

Staff Revisor, Jill Wolters, provided an overview of the bill.

Representative Colloton made the motion to report **HB 2027** favorably for passage. Representative Brookens seconded the motion.

Representative Patton made a substitute motion to change Line 22, by inserting a period after the word “affected” and strike the rest of the sentence. Representative Brookens seconded the motion.

After much discussion, Chairman Kinzer suggested the committee suspend deliberation of the bill and requested the Research Staff to contact the Judicial Council for clarification of the following issues:

- 1) What is the existing law with respect to the precedential value of orders issued in adjudications that are described in Section 1 (b) (2)(A)?
- 2) Is it the intent of this section to give notice that the order could be used against a third party or to give the order precedential value?
- 3) Is it the Judicial Council's intent that any order published be on the agency's website or just those going to be used as precedent?
- 4) Does “order in an adjudication pursuant to procedures provided by law” refer to agency action under KAPA or orders promulgated in another fashion?

With the permission of the second, Representative Patton withdrew his motion.

The next meeting is scheduled for February 7, 2011.

The meeting was adjourned at 5:08 p.m.