

# Journal of the Senate

THIRTY-FIRST DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, February 21, 2023, 2:30 p.m.

The Senate was called to order by President Ty Masterson.  
The roll was called with 38 senators present.  
Senators Holscher and Olson were excused.  
Invocation by Reverend Cecil T. Washington:

Love Your Neighbor  
1John 4:16, Luke 10:27-37

Heavenly Father, thank You for the blessing of another day and for the blessings You have for us in this day. It's because of Your grace, mercy and love toward us, that we are being given opportunities to show the same toward our neighbors.

Your Word says in 1John 4:16 that YOU are LOVE, that Your very nature is love. And even when You display Your anger, it's righteous anger because love has been violated.

Lord, You say that we are to live continually in love, while You remain continually in us. You have created us to be visible expressions of love toward our neighbors. And Lord, You made it clear in Luke 10:27-37, in the lesson of the Good Samaritan, that it doesn't matter, if a person lives, works or does life around us, they are our neighbor. And like that "Good Samaritan," we are to walk with them in God-like love. Like a model walking the runway and displaying the impressive crafts of the designer, enable us to walk the runway of life modeling Your tremendous love.

And let this love consistently be seen by our neighbors. Thank You again for Your grace, mercy and love. I pray In the Name of Jesus, Who loved us to death. Amen

The Pledge of Allegiance was led by President Masterson.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 270**, AN ACT concerning crimes, punishment and criminal procedure; relating to robbery and aggravated robbery; including in such crimes acts that occur in the course of the taking of property; amending K.S.A. 2022 Supp. 21-5420 and repealing the existing section, by Committee on Federal and State Affairs.

**SB 271**, AN ACT concerning trains; relating to branch and mainline length; providing for minimum distance for storage of rolling stock, by Committee on Federal and State Affairs.

**SB 272**, AN ACT concerning public use general aviation airports; increasing the transfer from the state highway fund to the public use general aviation airport development fund; amending K.S.A. 2022 Supp. 75-5061 and repealing the existing section, by Committee on Ways and Means.

**SB 273**, AN ACT concerning planning and zoning; relating to planning and zoning by a city; eliminating the authority of a city to adopt planning and zoning regulations for land located outside of such city; amending K.S.A. 12-749 and repealing the existing section; also repealing K.S.A. 12-715b, 12-715c and 12-715d, by Committee on Assessment and Taxation.

**SB 274**, AN ACT concerning property taxation; relating to valuation; requiring the use of the cost approach for special purpose property, by Committee on Assessment and Taxation.

#### **REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to Committees as indicated:

Education: **SCR 1608**.

Federal and State Affairs: **SB 268, SB 269**.

#### **MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2089, HB 2090, HB 2284, HB 2285**.

#### **INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2089, HB 2090, HB 2284, HB 2285** were thereupon introduced and read by title.

On motion of Senator Alley, the Senate recessed until the sound of the gavel.

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The Senate met pursuant to recess with President Masterson in the chair.

#### **COMMITTEE OF THE WHOLE**

On motion of Senator Alley, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Dietrich in the chair.

On motion of Senator Dietrich the following report was adopted:

**SB 66, SB 85, SB 115, SB 132, SB 144, SB 189** be passed.

**SB 194** be passed over and retain a place on the calendar.

Vice President Wilborn assumed the chair.

#### **REPORTS OF STANDING COMMITTEES**

The Committee on **Assessment and Taxation** recommends **SB 80** be amended on page 1, in line 32, by striking all after the period; by striking all in line 33;

On page 2, in line 3, by striking "\$350,000" and inserting "\$595,000"; in line 10, after the period by inserting "In the case of all base years commencing after December 31, 2021, the upper limit appraised value threshold amount prescribed in this subsection shall be increased each year to reflect the average percentage change in statewide residential valuation of existing residential real property for the preceding 10 years."; in

line 18, after "(f)" by inserting "The household income and appraised value amendments made to this section by this act shall apply retroactively, and the deadline to file claims for tax year 2022 shall be extended to on or before April 15, 2024.

(g)";

On page 1, in the title, in line 4, after the semicolon by inserting "increasing the appraised value threshold for eligibility;"; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 114** be amended on page 2, in line 33, by striking the colon; in line 34, by striking "(1)"; in line 36, by striking all after "care"; in line 37, by striking all before the period;

On page 5, in line 27, after "fuel" by inserting "are not recycled products"; and the bill be passed as amended.

Committee on **Education** recommends **SB 83, SB 123** be passed.

Committee on **Federal and State Affairs** recommends **SB 209, SB 210** be passed.

Also, **SB 208** be amended on page 1, in line 36, by striking all after the period;

On page 2, by striking all in lines 1 and 2; and the bill be passed as amended.

**SB 221** be amended on page 2, in line 3, by striking all after "not"; in line 4, by striking all before the first "the" and inserting "earlier than 30 days prior to and not later than 21 days prior to"; by striking all in lines 12 through 22;

On page 4, in line 5, by striking "25-2116,";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, by striking "25-2116,"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 24, SB 27, SB 28, SB 119** be passed.

Also, **SB 104** be amended on page 1, following line 7, by inserting:

"New Section 1. (a) No person or retailer doing business in Kansas in any sales, service or lease transaction with a consumer may impose a surcharge on a consumer who elects to use a credit card as payment unless such person or retailer complies with the following requirements:

(1) A notice shall be posted that explains the imposition of the surcharge, the amount of the surcharge and which credit cards are subject to the surcharge;

(2) such notice shall be clearly and conspicuously posted at the point of entry and the point of sale;

(3) if the sales, service or lease transaction is processed through a website or mobile device, the person or retailer shall post such notice on the home page and the point of sale webpage; and

(4) the notice required by this section shall be prominently and conspicuously posted at the required locations in a minimum size of 16-point font.

(b) All persons or entities accepting credit cards for payment shall be subject to the notice requirements of subsection (a). No such person or entity may impose a surcharge on a person or card holder who elects to use a credit card as payment unless such person or entity complies with such requirements.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 2, after the second semicolon by inserting "requiring notification to consumers of such surcharge;"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **SB 217** be amended on page 3, following line 35, by inserting:

"Sec. 2. K.S.A. 2022 Supp. 23-2224 is hereby amended to read as follows: 23-2224. (a) The court, without requiring bond, may make and enforce orders which:

(1) Restrain the parties from molesting or interfering with the privacy or rights of each other, including, but not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement or travel patterns;

(2) confirm the existing de facto custody of the child subject to further order of the court, if the court has jurisdiction under 2022 Supp. K.S.A. 23-37,101 et seq., and amendments thereto;

(3) appoint an expert to conduct genetic tests for determination of paternity as provided in K.S.A. 2022 Supp. 23-2212, and amendments thereto;

(4) order the mother and child and alleged father to contact the court appointed expert and provide tissue samples for testing within 30 days after service of the order;

(5) order the payment of temporary child support pursuant to subsection (c); or

(6) the court deems appropriate under the provisions of article 22 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto.

(b) (1) Interlocutory orders authorized by this section that relate to genetic testing may be issued ex parte, if:

(A) The appointed expert is a paternity laboratory accredited by the American association of blood banks; and

(B) the order does not require an adverse party to make advance payment toward the cost of the test.

(2) If such ex parte orders are issued, and if an adverse party requests modification thereof, the court will conduct a hearing within 10 days of such request.

(c) After notice and hearing, the court shall enter an order for child support during the pendency of the action as provided in this subsection. The order shall be entered if the pleadings and the motion for temporary support, if separate from the pleadings, indicate there is only one presumed father and if probable paternity by the presumed father is indicated by clear and convincing evidence. For purposes of this subsection, "clear and convincing evidence" may be presented in any form, including, but not limited to, an uncontested allegation in the pleadings, an uncontested affidavit or an agreement between the parties. For purposes of this subsection, "clear and convincing evidence" means:

(1) The presumed father does not deny paternity;

(2) the mother and the presumed father were married to each other, regardless of whether the marriage was void or voidable, at any time between 300 days before the child's birth and the child's birth;

(3) a voluntary acknowledgment of paternity was completed by the mother and the presumed father more than 60 days before the motion was filed and no request to revoke the voluntary acknowledgment has been filed; or

(4) results of genetic tests show the probability of paternity by the presumed father is equal to or greater than 97% and the report was received more than 20 days before the motion was filed, unless written notice of intent to challenge the validity of the report has been timely given.";

On page 4, in line 5, after "other" by inserting ", including, but not limited to,

utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement or travel patterns";

On page 17, in line 19, by striking "or";

On page 19, in line 6, after "privacy" by inserting "rights"; in line 10, after the first comma by inserting "23-2224,";

And by renumbering sections accordingly;

On page 1, in the title, in line 10, after the first comma by inserting "23-2224,"; and the bill be passed as amended.

Also, **SB 228** be amended on page 1, in line 20, after the period by inserting "(a)"; in line 21, by striking "(a)" and inserting "(1)"; in line 23, by striking "the sexes"; in line 24, before the semicolon by inserting "each sex, female and male"; following line 26, by inserting:

"(b) As used in this section, "sex" means the biological state of being female or male based on the individual's organs, chromosomes and endogenous hormone profiles.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 5, in line 15, by striking "in custody"; also in line 15, after "(1)" by inserting "who is in the custody of an arresting agency"; in line 24, after "(3)" by inserting "Except as provided in K.S.A. 22-4612 and 22-4613, and amendments thereto, the prisoner shall remain in the custody of the arresting agency during the examination required under paragraph (2) and"; and the bill be passed as amended.

**SB 238** be amended on page 1, following line 12, by inserting:

"Section 1. K.S.A. 2022 Supp. 21-5601 is hereby amended to read as follows: 21-5601. (a) Endangering a child is knowingly and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health may be endangered.

(b) Aggravated endangering a child is:

(1) Recklessly causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health is endangered;

(2) causing or permitting such child to be in an environment where the person knows or reasonably should know that any person is distributing, possessing with intent to distribute, manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or any fentanyl-related controlled substance;~~ or

(3) causing or permitting such child to be in an environment where the person knows or reasonably should know that drug paraphernalia or volatile, toxic or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or any fentanyl-related controlled substance.~~

(c) (1) Endangering a child is a class A person misdemeanor.

(2) Aggravated endangering a child is a severity level 9, person felony. The sentence for a violation of aggravated endangering a child shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(d) Nothing in subsection (a) shall be construed to mean a child is endangered for

the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(e) As used in this section:

~~(1) "Manufacture" means the same as in K.S.A. 2022 Supp. 21-5701, and amendments thereto; and~~

~~(2) "drug paraphernalia" means "fentanyl-related controlled substance" and "manufacture" mean the same as defined in K.S.A. 2022 Supp. 21-5701, and amendments thereto.";~~

On page 14, in line 23, after "Supp." by inserting "21-5601,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "to" by inserting "aggravated endangering a child; increasing the criminal penalties in certain environments where any person is distributing, possessing with intent to distribute, manufacturing or attempting to manufacture fentanyl-related controlled substances; relating to"; in line 9, after "Supp." by inserting "21-5601,"; and the bill be passed as amended.

**SB 243** be amended on page 1, in line 6, before "Section" inserting "New";

On page 3, in line 2, after "(d)" by inserting "(1)"; in line 6, by striking "(1)" and inserting "(A)"; following line 9, by inserting:

"(2) Upon the minor's or account holder's death, the balance of such account shall be paid to the payable on death beneficiary in accordance with K.S.A. 9-1215, and amendments thereto, or, in the absence of a named payable on death beneficiary, in accordance with the provisions of the Kansas probate code.";

Also on page 3, following line 28, by inserting:

"(3) A financial institution who in good faith opens a restricted savings or other restricted investment account at the direction of the minor or the minor's representatives who entered into a settlement agreement shall not be liable to the minor or the minor's representatives for any claims arising from the use of such funds.";

Also on page 3, following line 33, by inserting:

"(h) Nothing in this section shall prevent the minor or any person acting on behalf of the minor from filing in an appropriate district court and requesting the district court to approve the settlement agreement, the affidavit or verified statement of the person entering into the settlement agreement, the terms and disposition of the settlement proceeds or any other matter or agreement relating to or arising from the claims encompassed by the settlement agreement. The district court shall award any docket fees required to file the action to the minor or person acting on behalf of the minor.

Sec. 2. K.S.A. 38-1707 is hereby amended to read as follows: 38-1707. (a) Subject to subsection (c), a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to K.S.A. 38-1710, and amendments thereto, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(b) Subject to subsection (c), a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to K.S.A. 38-1710, and amendments thereto.

(c) A transfer under subsection (a) or (b) may be made only if ~~(i)~~:

(1) The personal representative, trustee; or conservator considers the transfer to be

in the best interest of the minor; ~~(ii);~~

(2) the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement; or other governing instrument; and ~~(iii)~~

(3) the transfer is authorized by the court if ~~it~~ such transfer exceeds ~~\$10,000~~ \$25,000 in value.

Sec. 3. K.S.A. 59-3053 is hereby amended to read as follows: 59-3053. (a) A natural guardian shall have the right to the custody of the natural guardian's minor child and the right to exercise control over the person of the natural guardian's minor child as provided by law, unless a guardian has been appointed for the minor. The natural guardian of such minor has the right and responsibility to hold in trust and manage such person's estate for such person's benefit all of the personal and real property vested in such minor when the total of such property does not exceed ~~\$10,000~~ \$25,000 in value, unless a guardian or conservator has been appointed for the minor.

(b) Nothing in this act shall be construed to relieve a natural guardian of any obligation imposed by law for the support, maintenance, care, treatment, habilitation or education of that natural guardian's minor child.

Sec. 4. K.S.A. 59-3055 is hereby amended to read as follows: 59-3055. (a) Any court having either control over or possession of any amount of money not exceeding \$100,000, the right to which is vested in a minor, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, and notwithstanding the authority of a natural guardian as provided for in K.S.A. 59-3053, and amendments thereto, the deposit of the money in a savings account of a bank, credit union, savings and loan association or any other investment account that the court may authorize, payable either to a conservator, if one shall be appointed for the minor, or to the minor upon attaining ~~the age of~~ 18 years of age.

(b) Any court having either control over or possession of any amount of money not exceeding ~~\$10,000~~ \$25,000, the right to which is vested in a minor, shall have the discretion to order the payment of the money to any person, including the natural guardian of the minor, or the minor. If the person is the conservator for the minor, the court may waive or recommend the waiver of the requirement of a bond. If the person is anyone other than the minor, the court shall order that person to hold in trust and manage such person's estate for such person's benefit.

(c) Any court having either control over or possession of any amount of money not exceeding ~~\$10,000~~ \$25,000, the right to which is vested in a person for whom a guardian has been appointed, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, the deposit of the money in a savings account of a bank, credit union or savings and loan association, payable to the guardian for the benefit of the ward if authorized pursuant to ~~subsection (c)(8) of~~ subsection (e)(8) of K.S.A. 59-3075 ~~(e)(8)~~, and amendments thereto, payable to a conservator, if one shall be appointed for the person, or payable to the ward on restoration to capacity.

Sec. 5. K.S.A. 38-1707, 59-3053 and 59-3055 are hereby repealed.";

And by redesignating sections, subsections, paragraphs, subparagraphs and clauses accordingly;

On page 1, in the title, in line 3, after the second "minor" by inserting "increasing certain related dollar amounts in the Kansas uniform transfers to minors act and the act for obtaining a guardian or a conservator, or both; amending K.S.A. 38-1707, 59-3053 and 59-3055 and repealing the existing sections"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 5, SB 6** be passed.

Also, **SB 112** be amended on page 1, in line 27, after "qualifications" by inserting ", except that such registered nurse anesthetist shall not perform surgery for the purposes of implantation of medication reservoirs for drug delivery devices";

Following line 35, by inserting:

"(c) A registered nurse anesthetist engaging in independent practice shall not perform, induce or prescribe, procure or administer drugs for an abortion.";

Also on page 1, in the title, in line 3, after the semicolon by inserting "prohibiting the performance or prescribing of drugs for an abortion;"; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 229** be passed.

On motion of Senator Alley, the Senate adjourned until 10:30 a.m., Wednesday, February 22, 2023.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

