

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:32 A.M. on February 14, 2007, in Room 123-S of the Capitol.

All members were present except:

Dwayne Umbarger arrived, 9:35 A.M.
Barbara Allen arrived, 9:36 A.M.
Les Donovan arrived, 9:36 A.M.
Derek Schmidt arrived, 9:36 A.M.
Terry Bruce arrived, 9:38 A.M.
Phil Journey arrived, 9:39 A.M.
David Haley arrived, 9:42 A.M.

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department
Bruce Kinzie, Office of Revisor of Statutes
Nobuko Folmsbee, Office of Revisor of Statutes
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Sandy Barnett, Executive Director, Kansas Coalition Against Domestic & Sexual Violence
Ronald W. Nelson, Attorney, Nelson & Booth
Senator Roger Reitz
Randall Allen, Executive Director, Kansas Association of Counties
Michael B. Kearns, Chair, Riley County Commissioners
Linden Appel, Chief Legal Counsel, Kansas Department of Corrections
Chris Joseph, General Counsel, Kansas Professional Bail Bond Association, Inc.
Manuel Baraban, Bail Bondsman
Shane Rolf, Bail Bondsman
Hon. Steve Tatum, Chief Judge, 10th Judicial District
Hon. Nancy Parrish, Chief Judge, 3rd Judicial District

Others attending:

See attached list.

Approval of Minutes

Senator Goodwin moved, Senator Betts seconded, to approve the committee minutes of January 25, 2007 and January 29, 2007. Motion carried.

The hearing on **SB 182--Interference with parental custody** was opened.

Sandy Barnett appeared in support, indicating the bill was a response to the Uniform Child Abduction Prevention Act (UCAPA) which passed the Senate (Attachment 1). Ms. Barnett stated **SB 182** would bring the language of K.S.A. 21-3422 and K.S.A. 21-3422(a) in line with UCAPA and UCCJEA (Uniform Child Custody Jurisdiction Act).

Ron Nelson spoke in opposition, stating Kansas has existing laws that provide children protection against abuse (Attachment 2). Enactment of this bill would allow children to be used as pawns in domestic disputes, encourage disrespect for the law and disrespect for the other parents rights.

Written testimony in opposition to **SB 182** was submitted by:

N. Trip Shawver, Attorney (Attachment 3)

There being no further conferees, the hearing on **SB 182** was closed.

The hearing on **SB 184--Paying costs related to sexually violent predators** was opened.

Senator Roger Rietz appeared in support, indicating his opinion that it is unfair for counties to bear the brunt of the cost associated with cases of sexual predator commitment cases (Attachment 4).

Randall Allen testified in support, relating that although counties have no role with initiating the procedure

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for commitment of sexual predators, all of the costs associated with the proceedings are placed upon the county ([Attachment 5](#)). Mr. Allen indicated the unfunded mandate on county governments is burdensome.

Michael Kearns appeared as a proponent, stating that current law places an unreasonable financial burden on counties ([Attachment 6](#)). Mr. Kearns suggested that since these cases are Attorney General driven from start to finish, it is only appropriate that the State be responsible for the cost.

Linden Appel spoke in opposition, indicating the Department of Corrections (DOC) does not support shifting the fiscal burden for the Kansas Sexually Violent Predators Act to the DOC ([Attachment 7](#)). Mr. Appel indicated that the DOC should not be held subject to payment of all cost associated cost with committal proceedings because:

- the DOC does not have the legal relationship with a released offender;
- not every person subject to the Kansas Sexually Violent Predators Act is a convicted criminal; and
- the DOC has absolutely no control over the course of the proceedings once the petition is filed.

There being no further conferees, the hearing on **SB 184** was closed.

The hearing on **SB 203--Release prior to trial, appearance bonds; cash deposit required to equal amount of bond; court administrative fees prohibited** was opened.

Chris Joseph spoke in support, indicating enactment would eliminate a judicially created form of bail and clarify when bonds may be forfeited and revoked creating uniformity across the state ([Attachment 8](#)). Mr. Joseph provided copies of two reports: *Public versus Private Law Enforcement: Evidence from Bail Jumping*, by Eric Helland and Alexander Tabarrok, *The Journal of Law and Economics*, Volume 47 (April 2004), pages 93-122, and *The Effectiveness and Cost of Secured and Unsecured Pretrial Release in California's Large Urban Counties: 1990-2000* by Dr. Michael K. Block, Professor of Economics and Law, University of Arizona, March 2005.

Manual Baraban, appeared in support, providing background on the development of the bail bond system in Kansas ([Attachment 9](#)). Mr. Baraban suggested alternative language for Section 1 (3) that would hold the attorney in fact liable to the State.

Shane Rolf testified in support, providing statistics regarding the efficacy of deposit bonds in Shawnee and Johnson Counties ([Attachment 10](#)). Mr. Rolf indicated studies have consistently shown that a pre-trial system utilizing surety bail bonds produces the lowest rate of failure to appear of all methods of pre-trial release.

Judge Steve Tatum spoke in opposition, stating he believes the court bonding program is a good program ([Attachment 11](#)). The program motivates defendants to appear in court so they will get their money back when the case is resolved. Judge Tatum also indicated judges of a judicial district are in the best position to observe the behavior and conduct of bondsmen in that district.

Judge Nancy Parrish appeared in opposition, providing information on the program in Shawnee County (No written testimony). Judge Parrish indicated income from Own Recognizance-Cash Deposit Bond (ORDC) program helps save money in terms of court costs, restitution, and indigent defenses.

Written testimony in support of **SB 203** was submitted by:

Darrel Manning, Bail Bond Recovery Agent ([Attachment 12](#))

David Stuckman, Bail Bondsman ([Attachment 13](#))

Randall J. Kahler, Bail Bondsman ([Attachment 14](#))

N. Trey Pettlon, III, Attorney ([Attachment 15](#))

Stephen L. Parker, Attorney, ([Attachment 16](#))

There being no further conferees, the hearing on **SB 203** was closed.

The meeting adjourned at 10:31 A.M. The next scheduled meeting is February 15, 2007.