

Approved: March 30, 2012

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(Date)

## MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Lance Kinzer at 3:30 p.m. on Monday, January 23, 2012 in Room 346-S of the Capitol.

All members were present.

Committee staff present:

Katherine McBride, Office of Revisor of Statutes  
Jason Thompson, Office of Revisor of Statutes  
Lauren Douglass, Kansas Legislative Research Department  
Robert Allison-Gallimore, Kansas Legislative Research Department  
Nancy Lister, Committee Assistant

Conferees appearing before the Committee:

Representative Marc Rhoades  
Dr. Erik K. Mitchell, M.D., Frontier Forensics, P.A.  
Pam Scott, Kansas Funeral Directors Association

Others in attendance:

See attached list.

Chairman Kinzer requested a bill, on behalf of Representative Proehl, concerning an amendment to K.S.A. 22-3424, dealing with payment of restitution as it relates to court costs. Representative Brookens seconded the request and the bill was accepted without objection. ([Attachment 1](#))

The hearing on **HB 2121-Designating the coroner of a permit to cremate** was opened. Katherine McBride provided an overview of the content of the bill.

Representative Rhoades testified in support of **HB 2121** advising the bill was introduced in the 2011 session after the Harvey County coroner approached him with a situation in which a death took place within his jurisdiction and he believed might have involved foul play. The body was transported to another jurisdiction and cremated before a thorough investigation could take place, eliminating any opportunity for further investigation into the circumstances of the death. **HB 2121** would amend the statute to require the coroner with jurisdiction in the location of the death to give written approval to transport a body to another jurisdiction. ([Attachment 2](#))

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Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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Dr. Erik Mitchell testified in support of **HB 2121**, stating the bill provides a solution to a problem that exists in Kansas for coroner death investigations. As there is no statute addressing how long a period of time is given for an investigation before issuing a cremation permit, any coroner in Kansas may issue a cremation permit, but generally coroners only sign permits in their own jurisdictional area. Dr. Mitchell advised **HB 2121** will make the coroner of the interested jurisdiction in control of the cremation permit. Regarding out of state cremation permits, Dr. Mitchell gave an example where Kansas children who have been abused may often end up at Children's Mercy Hospital in Missouri, and, if they die, a Missouri death certificate is issued. Dr. Mitchell stressed there should be no cremation certificate issued until an investigation is done to determine actual cause of death. Dr. Mitchell offered he would not be against any additional bill language that would help clarify the coroner's authority and hold the coroner accountable for actions regarding cremation permits. Dr. Mitchell advised there needs to be a good faith effort on the part of the out of state coroners to contact the Kansas coroner in whose jurisdiction an investigation might be underway when there is a suspicious death or injury that ended in death. (Attachment 3)

When asked about the jurisdiction of coroners, Dr. Mitchell explained each judicial district has a coroner appointed by the board of the county commission with the most populous county. They answer to the county commission and are appointed for 4 years. They can also appoint deputy coroners in each judicial district within the district. Each jurisdiction sets the policy for its coroners.

Chairman Kinzer inquired whether the statute K.S.A. 65-1707 should be considered for permit to cremate language, as the language states it is unlawful to embalm a body if the embalmer has knowledge of or suspicion of a crime or death of a deceased, and Dr. Mitchell offered it might be helpful, but in practice, it comes down to the conscientious embalmers and the embalmers who just want to get the job done. They depend on the funeral director to make the call. Regarding methods to authorize a permit to cremate, Dr. Mitchell indicated original signatures, facsimile signatures and e-signatures are valid methods commonly used on both permits to cremate and death certificates.

Pam Scott testified as an opponent on **HB 2121**, but pointed out the Funeral Directors Association agrees for deaths occurring in Kansas, the coroner with jurisdiction over the death should sign the cremation permit. Their main concern with the bill is the impact it will have on deaths that occur outside the state of Kansas and the body is brought back to Kansas for cremation. Funeral directors often find it difficult to get an out-of-state coroner to sign a Kansas

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coroner's permit to cremate when the other state does not require coroners to sign a cremation permit. Missouri is such a state, and Kansas has no jurisdiction over out-of-state coroners. Often times a funeral home must go to a Kansas coroner to get the coroner's permit to cremate signed so cremation can take place. Ms. Scott offered the bill would not allow this process to take place anymore and delays in such cases would have an impact on families. The Funeral Directors Association also suggested K.S.A. 22a-231, not K.S.A. 65-2426a, is the primary statute addressing coroner jurisdiction over deaths in Kansas, and any changes concerning coroner jurisdiction, including transfer of jurisdiction, should occur in this statute and not the statute dealing with the permit to cremate. ([Attachment 4](#))

Representative Brookens inquired what might be a reasonable time to hear from an out-of-state coroner. Ms. Scott advised usually it is not until there has been an extremely long delay before a funeral director will go to a Kansas coroner, but something past 48 hours would be considered a long delay. Ms. Scott advised it would be helpful if the bill wording could be modified in cases of an out-of-state death, to provide that when a good faith effort is made to get an out-of-state coroner to sign the cremation permit fails, the funeral director can go to a Kansas coroner to get the creation permit signed. Ms. Scott offered they have an electronic death registration system in place that allows coroners to access the system and sign the cremation permit electronically.

The hearing was closed on **HB 2121**.

Representative Ward introduced a bill dealing with transparency and preseveration of government documents of officials after they leave office. Representative Pauls seconded the request and the bill was accepted without objection. No written document provided.

The meeting was adjourned at 4:16 p.m. The next meeting is scheduled for January 24, 2012.