

Approved: March 30, 2012

(Date)

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Lance Kinzer at 3:30 PM on Tuesday, January 24, 2012 in 346-S of the Capitol.

All members were present except:

Gene Suellentrop
Joe Patton
Ponka-We Victors

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 Mario Goico
Gregg Burden, Kansas Commission on Veteran's Affairs
Col. Scott Dold, Judge Advocate General, Kansas National Guard

Others in attendance:

See attached list.

Chairman Kinzer requested a bill relating to legislative review of exceptions to disclosure of public records. Representative Pauls seconded the request and the bill was accepted without objection. ([Attachment 1](#))

The hearing on **HB 2406–Prohibiting the injury, intimidation, interference or harassment of any member of the military or an immediate family member of such member of the military; civil cause of action** was opened. Katherine McBride presented an overview of the bill.

Representative Mario Goico testified in support of **HB 2406** advising the bill would apply to members of the Armed Forces, Reserves, or National Guard on active duty and their immediate

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.

Continuation Sheet

Minutes of the HOUSE JUDICIARY Committee at 3:30 PM on Tuesday, January 24, 2012 in 346-S of the Capitol.

families, prohibiting the injury, intimidation, interference, or harassment of any member of the military and their immediate family. Representative Goico advised the bill would encompass threatening the safety of the targeted person or a member of such person's immediate family by following, approaching, or confronting the targeted person or a member of such person's immediate family; appearing in close proximity to or entering the targeted person's residence, place of employment, school, or other place where such person can be found (like a funeral home); or place of employment or school of a member of such person's immediate family. The act would make military members and their families a protected class. The bill would also protect returning veterans from possible civil employment consequences as a result of their active duty. Any violation could result in the filing of a civil action in a district court. Representative Goico offered he would welcome any revisions that would prevent any unintended consequences. ([Attachment 2](#))

Representative Brookens clarified **HB 2406** currently did not apply to a deceased member of the military. Brookens also suggested the bill was not intended to impact a member of the military who was speeding on I-70 and was pulled over by the Highway Patrol. The officer would most likely approach the military personnel with intimidation, and this intimidation should not be thwarted in such a case. Representative Goico concurred it was not the intent of the bill.

Representative Rubin agreed with Representative Brookens as section two, sub-paragraph (a) (5) is written, it can apply to anybody injuring, intimidating, or harassing any family member for non-military reasons and needs some words. Representative Rubin offered that section two, sub-paragraph (a) (1) language includes the words "because of military status," which could be added to sub-paragraph (a) (5) to improve the bill. Representative Rubin suggested when the bill is worked, a new section two, sub-paragraph (a) (5) should reflect "injure, intimidate, interfere, or harass any member of the military or immediate family member of such member of the military because of the military status."

Representative Tietze advised she is from Topeka and has seen a lot of lawsuits filed where the City has lost the lawsuits and had to pay. She questioned whether somewhere in the statutes the words injure, intimidate, interfere, and harass were defined. Chairman Kinzer suggested there may be a vagueness with the way the current bill is drafted and that it might need some work and advised that in the *Snyder v. Phelps* decision, the case was not a challenge of a funeral picketing case narrowly defined, but it was an attempt to use the torts of intentional infliction of emotional distress, intrusion upon seclusion, and civil conspiracy as causes of action.

Gregg Burden testified in support of **HB 2406** and offered his agency greatly appreciated the intent of the bill, which is to provide more support for the military and their families and prevent discrimination with regards to employment. ([Attachment 3](#))

Continuation Sheet

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Colonel Scott Dold testified in support of **HB 2406** and stated Kansan veterans are fortunate because the unemployment rate in Kansas for veterans runs about 2 percent below the unemployment for the entire state. Many are able to return to their previous jobs. However, in the past year, veterans ages 18-24 are coming back from Iraq and Afghanistan, and only about 30 percent are employed nationally. Many come back without the job skills to acquire jobs. It is going to be a difficult road for them. This bill will help them to not be discriminated against. (Attachment 4)

Annie Kuether stated she is a widow of a Vietnam Veteran. She also is the Representative in the district where the Phelps family lives. Representative Kuether shared it is not just military who are being affected, but families that are being hurt by this kind of protesting, and it is a serious concern to her. When her husband died of cancer, Fred Phelps was on the doorstep at the church. She had to explain to her son, age 18, and daughter, age 22, why these protesters were at their father's funeral. Kuether expressed it is important to support the military and the families of the military who would be affected by this bill.

The hearing on **HB 2406** was closed.

The meeting was adjourned at 3:53 p.m. The next meeting is scheduled for January 25, 2012.