

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on Monday, March 22, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator Barbara Allen (E)
Senator David Haley - Arrived 10:06, Left 10:08, Returned 10:10
Senator Edward Pugh - Arrived 9:43

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jill Wolters, Office of the Revisor Statutes
Helen Pedigo, Office of the Revisor Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list.

Final Actions on:

HB 2693 - Mistreatment of a dependent adult; increasing penalties if value of financial gain is over \$500

Chairman Vratil called for discussion and final action on **HB 2693**. He explained the bed space impact for the bill showed prison admissions would not increase in 2005, and would increase from 0 to 8 by FY 2014. The impact on offender population levels would be no change 2005, and 0 to 10 additional beds by 2014. (Attachment 1)

The Chair said that this bill was made necessary by the Supreme Court's decision in the Maxon case, and that the House made some amendments to the bill.

Committee discussion followed with clarification regarding the penalty level of \$500.

Senator Umbarger moved to pass **HB 2693** out favorably, seconded by Senator Donovan, and the motion carried.

HB 2638 - Amendments to the community corrections act

Chairman Vratil called for discussion and final action on **HB 2638**. The Chair explained the bill. Senator Schmidt suggested amending **Sub SB 275**, relating to private correctional facilities, into **HB 2638** in order to assure that the Senate bill reached a Conference Committee. He said that **SB 275** came out of the Senate Ways and Means Committee, and passed the Senate 26 to 13. In the House, it was referred to House Corrections and Juvenile Justice. (Attachment 2)

Senator Schmidt made a motion to amend the provisions of **Sub SB 275** into **HB 2638**, seconded by Senator Umbarger, and the motion carried.

Senator Schmidt moved to recommend **HB 2638** favorably for passage as amended, seconded by Senator Umbarger, and the motion carried. Senator Betts requested his "no" vote be recorded.

HB 2742 - Child in need of care records, confidentiality

Chairman Vratil called for discussion and final action on **HB 2742**. The Chair explained the bill, and said there was an amendment to delete lines 8 through 22, on page 11, and delete lines 1 through 13 on page 8. There was also discussion regarding the addition of "executive branch" for restrictive purposes to page 7, beginning on line 37 with the following, "any other federal, state or local government *executive branch* entity or any agent of such entity, . . .".

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:30 a.m. on Monday, March 22, 2004, in Room 123-S of the Capitol.

Senator Donovan made a motion to amend HB 2742 as outlined by the Chairman with the two deletions to pages 8 and 11, and one addition to page 7. The motion was seconded by Senator Goodwin, and the motion carried.

Senator Schmidt moved to recommend HB 2742 favorably for passage as amended, seconded by Senator Goodwin, and the motion carried.

HCR 5033 - Constitutional amendment; state recognizes only marriage between a man and a woman

Chairman Vratil called for discussion and final action on **HCR 5033**. He explained the bill, and asked if there were any proposed amendments.

Considerable Committee discussion followed in regard to line 29, starting with “no relationship...” and attempting to clarify the definition of “relationship” within the context of the law.

As no amendments were offered, the Chairman called for a motion on the bill.

Senator Oleen made a motion to pass HCR 5033 out of Committee without recommendation, and seconded by Senator Goodwin.

Committee discussion followed.

Senator O’Connor offered a substitute motion to recommend HCR 5033 favorably, and seconded by Senator Donovan.

The Chairman explained the motions before the Committee.

Senator Oleen explained her motion to pass the bill out without recommendation. She stated that the bill would be debated on the Senate floor. Senator O’Connor stated she would withdraw her substitute motion since the Majority Leader stated that there would be floor debate on **HCR 5033**.

The Chairman asked if the second to the substitute motion agreed to withdraw his second, and Senator Donovan said that he would not do so. He thought the issue was a defining issue, and needed to be handled in a straight forward manner. People need to cast their votes based on their beliefs; therefore, the bill needs to be taken to the floor without the cloud of “no recommendation” over it. Senator Donovan said that he wanted to vote on **HCR 5033** in the Committee meeting, and would not withdraw his second on the substitute motion.

Chairman Vratil explained that since the second refused to consent to withdrawal of the motion, the substitute motion remained before the Committee.

Chairman Vratil called for a vote on the substitute motion to pass HCR 5033 out favorably. The motion carried. Senators Umbarger and Schmidt requested their votes be recorded at “yes”.

Hearing on:

HB 2880 - Duties of the chief justice of the supreme court, justices of the supreme court and the office of judicial administration

Chairman Vratil opened the hearing on **HB 2880**. The Chair explained the bill which concerned procedural aspects of the Supreme Courts and its internal workings. Representative Mike O’Neal submitted written testimony in support of the proposed legislation. He was unable to appear. (Attachment 3)

Chief Judge Thomas Tuggle, Twelfth Judicial District, submitted a letter of support on **HB 2880** that was distributed to Committee members. (Attachment 4)

Senator Oleen inquired about a letter from the Supreme Court Justices which the Chairman had

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:30 a.m. on Monday, March 22, 2004, in Room 123-S of the Capitol.

disseminated to the Committee. (Attachment 5)

Senator Goodwin pointed out the bill caused concern in the House as it passed by only three votes on February 27 with a vote of 64-61.

The Chairman explained that about 10 days previously the Supreme Court held a meeting. The results of that meeting were contained in a letter distributed to members of the Committee, and signed by all seven members of the Supreme Court. The letter stated that the Court unanimously supported the provisions of the bill dealing with the position of judicial administrator and who the administrator reports to. It is unanimous in its opposition to all other provisions of the bill because the Court feels this is a legislative invasion of the Court's prerogative to determine its own internal affairs. The Chair said the letter, dated February 27, was received after the House acted on the bill.

After announcing that **HB 2880** would be up for final action at the next meeting, March 23, 2004, the Chair closed the hearing on **HB 2880**.

The meeting was adjourned at 10:29 a.m. The next scheduled meeting is March 23, 2004.