

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on Thursday, January 22, 2004, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Lisa Montgomery, Office of the Revisor Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Senator David Corbin
Jim Clark, Kansas Bar Association

Others attending:

See Attached List.

Chairman Vratil called for bill introductions. Senator Corbin requested the introduction of a conceptual bill that would amend K.S.A. 60-6543, the state statute regarding childhood sexual abuse. The bill would change the existing statute so that when a child turns 18 years old, the child has three years after that date to accuse someone of sexual abuse during their childhood. Senator Donovan moved to introduce the conceptual bill, seconded by Senator O'Connor, and the motion carried.

Jim Clark, Kansas Bar Association (KBA), requested on behalf of the KBA Section on Real Estate, Probate and Trusts, a bill that would continue the statutory exemptions and insurance coverage on property transferred into a trust. Senator Pugh moved to introduce the bill, seconded by Senator Donovan, and the motion carried.

Final Action:

SB 299 - Concerning Kansas surety agents

Chairman Vratil called for final action on **SB 299**. Kyle Smith, Kansas Bureau of Investigation, submitted a proposed amendment, agreed to by Detective Dave Anderson, Doug Smith representing Kansas Professional Sureties, and the KBI, to Section 2 that reads as follows: "Nothing in this section shall prevent a surety from lawfully taking custody of a client who has been surrendered to said surety or when a surety has inadvertent contact with a client and the surety is aware that a court order is currently active for the apprehension of that client." (Attachment 2)

After brief clarification by the Chair, Senator O'Connor made a motion to adopt the amendment, seconded by Senator Oleen, and the motion carried.

Chairman Vratil called the Committee's attention to another proposed amendment relating to the definition of "surety". He suggested replacing the wording, "has the same meaning as K.S.A. 40-1102 and amendments thereto" in Section 1, line 12, of the bill with the wording, "means a person or commercial surety, other than the defendant in a criminal proceeding, that guarantees the appearance of the defendant in a criminal proceeding by executing an appearance bond". (Attachment 3) Senator Goodwin made a motion to adopt the amendment as offered, seconded by Senator O'Connor, and the motion carried.

Following brief Committee discussion regarding other possible amendments, the Revisor offered an amendment to be added at the end of Section 2, line 9, stating "Nothing in this section shall prevent a surety from lawfully taking custody of a client who has been surrendered to said surety or when a surety has inadvertent contact with a client and the surety is aware that a court order is currently active for the apprehension of that client". This proposed amendment will be taken up at the time the bill is worked.

Senator Haley offered four (4) amendments to **SB 299** pertaining to Section 3, and asked the Committee's consideration of the four amendments. (Attachment 5) Chairman Vratil stated that after reading the amendments he felt the Committee needed time to hear these amendments as they were extensive. He

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announced that Senator Haley's suggested amendments would be scheduled for an additional hearing at a later date, thus suspending final action at this time.

SB 291 - Motor vehicles; limitation on definition of moving violation

Chairman Vratil called for final action on **SB 291**, a bill proposed by the Joint Committee on Rules and Regulations in cooperation with the Department of Motor Vehicles. He briefly reviewed the bill and indicated that the bill was intended to provide in the statutes the definition of a moving violation. Currently, moving violation is defined through Rules and Regulations. Senator Umbarger, who sits on the Joint Committee of Rules and Regulations, provided a short overview of the Joint Committee's purpose for proposing **SB 291**.

The Division of Motor Vehicles submitted proposed amendments. The amendments were commented on in a memo from Carmen Alldritt, Director of Motor Vehicles, submitted during the hearing on the bill. (Attachment 6) Chairman Vratil explained that the amendment adds additional statutes reflecting moving violations. Senator Pugh and Senator Oleen each requested a narrative description of the moving violations that are part of the statute. They wanted the list itemized in layman's language rather than referencing the statutes by appropriate statute number. Marcy Ralston, Driver Control Bureau Chief, explained that the requested changes were cleanup measures previously worked on two years ago with Rules and Regulations in an effort to update the statutes. Ms. Ralston said that the Kansas Motor Carriers requested K.S.A. 8-1910 be withdrawn. It relates to weights.

Following discussion and clarifications, Chairman Vratil stated that final action on **SB 291** would be suspended. He requested the Motor Vehicle Department provide Committee members with further explanations and a complete list of the moving violations included in the bill, including the balloon. He said the description could be paraphrased.

SB 297 - Permanent docket fee to fund the Judicial Council

Chairman Vratil called for final action on **SB 297**, and referred to the proposed balloon amendment by Randy Hearrell and the Kansas Judicial Council. The Chair asked Mr. Hearrell to explain the balloon. (Attachment 7) The Chair emphasized that the balloon amendment was intended to ensure that other recipients of the proportionate docket fee are held harmless, as well as the Kansas Judicial Council.

Senator Goodwin made a motion to amend SB 297 in accordance with the balloon submitted, seconded by Senator Schmidt, and the motion carried.

Senator Oleen expressed a concern regarding the increased number of requests from legislators for the Judicial Council to look at special issues. Judicial Council responses carry a lot of weight and are considered by the legislators. She inquired as to what effect the requests have on Kansas Judicial Council's (KJC) staff and what guidelines staff used in responding to who gets their requests answered. Mr. Hearrell responded that there is a proviso which allows only standing committee chairmen to make a request, usually for Judiciary or Ways and Means. He added that KJC has never turned a legislative request down, but if it got to be too much for KJC to handle then the proviso might have to be enforced. Senator Oleen said it would be helpful if the Committee could have a list of the legislative requests that KJC handles. Chairman Vratil agreed, and requested Mr. Hearrell to furnish a list of projects KJC has worked on in the last year and the projects ongoing.

Senator Oleen asked Mr. Hearrell about the topic of the death penalty which was requested from KJC and Legislative Post Audit. The Senator wanted to know if there was some coordination in the different perspectives of the individual reports. Mr. Hearrell replied that Senator Morris made the request, and he visited with Senator Morris on the subject. He said they were able to collaborate with experienced death penalty lawyers and defense people and study what other states have done. Mr. Hearrell stated that KJC and Legislative Post Audit communicated, and actually complimented each other in pulling the information together.

Senator Pugh commented that the Judicial Branch was underfunded, and felt that docket fees should go into the Judiciary to help fund this budget. He referred to information provided by staff

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relating to the distribution of docket fees. (Attachment 8)

Chairman Vratil stated that if this issue wasn't pursued this session, that he would request an interim study be done on the distribution of docket fees. An interim study would allow more time to be spent on finding out where the docket fees go, and why they go to so many different areas.

The Chairman called for a motion on approving the amended bill. Senator Goodwin made a motion to pass SB 297 out favorably as amended. The motion was seconded by Senator Schmidt, and the motion carried.

Minutes of the January 13, 2004 meeting were presented for approval. Senator O'Connor made a motion to approve the minutes, seconded by Senator Haley, and the motion carried.

The next scheduled meeting of Senate Judiciary is January 26, 2004