

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Vice Chairperson Ward Loyd at 3:30 p.m. on February 4, 2002 in Room 313-S of the Capitol.

All members were present except:

Representative Judy Morrison - Excused
Representative Michael O'Neal - Excused

Committee staff present:

Jerry Ann Donaldson, Department of Legislative Research
Jill Wolters, Department of Revisor of Statutes
Sherman Parks, Department of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Bob Claus, Deputy Attorney General, Criminal Division Office of Attorney General
Chris Biggs, Geary County Attorney
Jerry Borman, Assistant District Attorney, Wyandotte County
Ed Collister, Kansas Bar Association
Martha Coffman, Self, Topeka, Kansas
Representative Lana Gordon
Michelle Smith, Jayhawk Pharmacy
Walker Hendrix, Citizens Utility Ratepayer Board
John Reinhart, AARP
Mike Murray, Sprint
Lisa Creighton-Hendricks - Senior Attorney, Sprint Corporation
Colleen Harrell, Attorney, Kansas Corporation Commission

Bob Claus, Deputy Attorney General, appeared before the committee to request an anti-terrorism bill. (Attachment 1)

Representative Long made the motion to have the request introduced as a committee bill. Representative Owens seconded the motion. The motion carried.

Representative Owens requested a bill that would clarify venue in adoption cases. He made the motion to have the request introduced as a committee bill. Representative Long seconded the motion. The motion carried.

Hearings on **HB 2138 -One year time limitation on writs of habeas corpus**, were opened.

Chris Biggs, Geary County Attorney, appeared as a proponent of the bill. He stated that it would not interfere with any direct appeal rights but would limit the time following a direct appeal to challenge a conviction by a separate lawsuit. His written testimony provided the committee with some examples of 60-1507's that have been filed. The influx of 60-1507 filings have been attributed to sentencing guidelines but they are not the ones that are actually cause the problems. Those are cases that are years old and many of the witnesses can not be located and paperwork is no longer available to review. (Attachment 2)

Jerry Borman, Assistant District Attorney, Wyandotte County, told the committee about a case that started in 1977 and the perpetrators filed a 60-1507 in 1997. All the victims were deceased and the records in the case were destroyed by water that had gotten into the courthouse.

Donna Heintze did not appear before the committee but requested that her written testimony in support of the bill be included in the minutes. (Attachment 3)

Ed Collister, Kansas Bar Association, appeared in opposition to limiting the time an appeal can be filed because of the fear that courts would rush into judgements without serious consideration of the appeal. He believes that the workload of the courts will rise and that anytime there is a change in criminal law there are more 1507's filed. He stated that Supreme Court Rule 183 directs the judges on how to handle 1507 cases and give them the ability to decide if there is something to the appeal and helps limit frivolous appeals. (Attachment 4)

CONTINUATION SHEET

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Martha Coffman, Self, Topeka, Kansas, informed the committee that the increase in 1507's are directly related to sentencing guidelines and ineffective assistance of counsel claims. ([Attachment 5](#))

Judge Steve Leben did not appear before the committee but provided written testimony in opposition to the bill. ([Attachment 6](#))

Hearings on **HB 2138** were closed.

Hearings on **HB 2606 - Telecommunications service abuse**, were opened.

Representative Lana Gordon appeared as the sponsor of the bill which would limit the liability of the consumer/business to \$50 per occurrence of fraudulent use of phone lines. ([Attachment 7](#))

Michelle Smith, Jayhawk Pharmacy, relayed her story as to how the Jayhawk Pharmacy was a victim of a phone scam in which they were billed \$2768.00. She had contacted Sprint Corporate Offices and went thru the chain of command to try and get that amount withdraw from their phone bill. While the pharmacy wanted the total amount of the bill removed, Sprint offered to write-off 50 percent of the charges to which the pharmacy declined to accept. ([Attachment 8](#))

Walker Hendrix, Citizens Utility Ratepayer Board, likened telecommunications fraud to credit card fraud. He suggested that if the credit card industry can protect their customers against fraud and only require them to be responsible for a small dollar amount then other companies should be able to do the same. ([Attachment 9](#))

John Reinhart, AARP, appeared in support of the proposed legislation. He requested two amendments: placing limits on liability to \$50 dollars to the consumer; removal of the 90-day reporting period. ([Attachment 10](#))

Written testimony in support of the bill was provided by Super Chief Credit Union and Jayhawk Pharmacy. ([Attachments 11 & 12](#))

Mike Murray, Sprint Corporation, commented that they are also a victim by suffering financial harm. However, phone scams represents a multi-million dollar loss annually. He explained that Sprint monitors their international fiber optic network for abnormalities in international callings and makes sure to contact the customer if something does not appear normal. ([Attachment 13](#))

Lisa Creighton-Hendricks, Senior Attorney, Sprint Corporation, stated that the Federal Corporation Commission (FCC) has exclusive jurisdiction in regulating the intrastate and foreign telephone calls. Therefore it is inappropriate for the state to pass such legislation. The FCC has ruled that the liability rests with the party that was in the best position to prevent the scam.

Committee members were concerned if the FCC regulations & rules were exclusive. Colleen Harrell, Attorney, Kansas Corporation Commission, responded that Kansas would not have any jurisdiction over such calls and doesn't believe they could develop rules and regulations since they would not have jurisdiction.

Hearings on **HB 2606** were closed.

The committee meeting adjourned at 6:10 p.m. The next meeting was scheduled for February 5, 2002.