

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 p.m. on February 4, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Dan Williams- excused

Committee staff present:

Jill Wolters, Revisor of Statutes

Diana Lee, Revisor of Statutes

Jerry Ann Donaldson, Kansas Legislative Research Department

Cindy O'Neal, Secretary

Conferees appearing before the committee:

Loren Snell, Office of Attorney General, Medicaid Fraud Division

Kevin Steck, Federal Bureau of Investigation, Chief Legal Council, Kansas City

Marlee Carpenter, Kansas Chamber of Commerce and Industry

Rick Fleming, Office of Securities Commissioner

Whitney Damron, Kansas Bar Association

The Chairman entertained request for bill introductions.

Loren Snell, Office of Attorney General, Medicaid Fraud Division, requested three bills (Attachment 1):

- Amend K.S.A. 21-3437, Mistreatment of Dependent Adult Statute, to make a violation of subsection (a)(2) consistent with the theft statute and make a violation of subsection (a)(3) a felony
- Enact a civil medicaid false claims act, and amend the state asset seizure and forfeiture act to include medicaid offenses
- Amend K.S.A. 60-460 to provide a hearsay exception allowing for admission of videotaped statements of victims who are elderly and/or dependent adults who become unavailable at trial due to death or disability

Representative Patterson made the motion to have the requests number two & three introduced as committee bills. Representative Owens seconded the motion. The motion carried.

Chairman O'Neal explained that **HB 2693** deals with the same subject matter as bill request number one and was scheduled for a hearing in House Criminal & Juvenile Justice the following week and suggested that Mr. Snell look at the bill and see if it was substantially different. Representative Patterson made the motion to have a bill be drafted if it was substantially different that **HB 2693**. Representative Jack seconded the motion. The motion carried. (After the committee meeting Mr. Snell compared **HB 2693** and the Attorney General's proposed language and believes the language is substantially similar and withdrew his request via e-mail).

Kevin Steck, Federal Bureau of Investigation, Chief Legal Council, Kansas City, requested a bill which would provide civil liability protection for agents of the FBI. (Attachment 2) Representative Patterson made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Marlee Carpenter, Kansas Chamber of Commerce and Industry, requested a bill be drafted after model legislation which has been endorsed by the Council of State Governments, called the Jury Patriotism Act. (Attachment 3) Representative Patterson made the motion to have the request introduced as a committee bill. Representative Owens seconded the motion. The motion carried.

Representative Swenson requested a bill which would subject business to the same penalty as workers when they file a false claim. Representative Patterson made the motion to have the request introduced as a committee bill. Representative Ward seconded the motion. The motion carried.

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Representative Jack appeared before the committee with three bill requests:

- punitive damage amendments
- contracts sampling of crops
- amount of time a juvenile offenders can stay in a level 6 facility without being transferred to a level 5

He made the motion to have the requests introduced as committee bills. Representative Patterson seconded the motion. The motion carried.

Representative Newton requested amendments to chapter 23, civil rules of procedure. He made the motion to have it introduced as a committee bill. Representative Long-Mast seconded the motion. The motion carried.

Representative Patterson requested two bills:

- expand Star Bond redevelopment
- allow cities to reduce code standards for redevelopment

He made the motion to have his requests introduced as committee bills. Representative Loyd seconded the motion. The motion carried. Representative Patterson later withdrew his request for a bill introduction on allowing cities to reduce code standards for redevelopment.

Representative O'Neal requested four bills for introductions:

- Draft the Uniform Law Commission bill for Interstate Family Support Act
- Consent in health care decisions
- regular update of Judicial Branch information
- prohibition against using provisos to take money from fee funds

Representative Loyd made the motion to have the requests introduced as committee bills. Representative Long-Mast seconded the motion. The motion carried.

Hearings on **HB 2564 - establishing a time frame for tenants to recover property following a forcible detainer action**, were opened.

Representative Jim Ward appeared as a proponent of the bill, which address the question of whether a landlord who has lawfully obtained possession of a tenant's personal property is guilty of conversion by refusing to deliver possessions to the tenant without the tenant first paying the landlords expenses and past-due rent.

The proposed bill would give the tenant 120 hours to 14 days to remove personal property if a forcible detainer action is brought.(Attachment 4)

Hearings on **HB 2564** were closed.

Hearings on **HB 2565 - clarifying amendments to the civil liability worthless check statute**, were opened.

There were no conferees which appeared in support of the proposed bill, however, Jon Craig, Attorney, Garden City and Doug Smith, Kansas Credit Attorneys Association and Kansas Collectors Association, did provide written testimony. (Attachments 5 & 6)

Staff agreed that clarifying changes were needed in the bill. The 2000 Legislature changed the language to allow for a written demand be sent by 1st class mail, but missed changing the language on page 2 & 3.

Hearings on **HB 2564** were closed.

HB 2347 - Uniform Securities Act

Representative Long-Mast made the motion to adopt the balloon amendments from the Special Committee on Judiciary Interim (Attachment 7). Representative Patterson seconded the motion. The motion carried.

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Representative Long-Mast made the motion to adopt the Kansas Bankers proposed amendment to add the words "or trust company" on page 2, line 10. Representative Loyd seconded the motion. The motion carried.

The Kansas Cooperative Council was concerned that some of the exemptions they have under current Act they would not have under the new Act. While neither the Kansas Cooperative Council or the Office of the Kansas Securities Commissioner knew what the fix would be they agreed to work on it and try to address the concerns in the Senate.

The committee considered the proposed amendments from the Kansas Bar Association. No interest was shown for including 1, 2, 3, 5 & 6 in the proposed bill (Attachment 8). Whitney Damron & Rick Fleming both agreed that the proposed amendments remain unresolved between the two groups but they would work together to see if agreements could be reached on any of the issues.

Representative Crow made the motion to adopt proposal #5 to change the civil statute of limitations from one year to two. Representative Rehorn seconded the motion. The motion carried.

Rick Fleming, Office of Securities Commissioner, asked the committee to change apply tolling provisions to the criminal statute of limitations. Representative Long-Mast made the motion. Representative Ward seconded the motion. The motion carried.

Representative Long-Mast made the motion to report **HB 2347** favorably for passage, as amended. Representative Jack seconded the motion. The motion carried.

The committee meeting adjourned at 5:30 p.m. The next meeting is scheduled for February 9, 2004.