

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on February 22, 2000 in Room 313-S of the Capitol.

All members were present except:
Representative John Edmonds - Excused

Committee staff present:
Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

HB 2876 - common-law marriages

The committee showed no interest in working the bill.

HB 2274 - crimes & punishment, battery against a sports official

The committee showed no interest in working the bill.

HB 2614 - eavesdropping to include videotaping a person under or through their clothes

The Chairman explained that after passing the bill on February 21st it was discussed as to whether the bill would include videotaping someone who was partially clothed or not clothed. Upon further discussion the committee felt that the bill would not protect someone in those instances.

After voting on the prevailing side, Representative Pauls made the motion to reconsider the committee's action on **HB 2614**. Representative Carmody seconded the motion. The motion carried.

Representative Carmody made the motion to include situations where the person is partially clothed or not clothed. Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion to report **HB 2614** favorably for passage, as amended. Representative Pauls seconded the motion. The motion carried.

HB 2372 - retirement system for justices and judges

Representative Carmody made the motion to report **HB 2372** favorably for passage. Representative Lightner seconded the motion.

Representative Powell made a substitute motion to report **HB 2372** adversely because he was opposed to the effective date. Representative Klein seconded the motion.

Representative Powell stated that if the Chairman promised to not change the effective date in conference committee he would withdraw his substitute motion. The Chairman responded that, he being a Chairman, should understand that it was not responsible to promise what one will or won't support in conference committee, but did say the he would uphold the House position. With permission of the second, Representative Powell withdrew his motion.

Representative Klein made the motion to have the bill apply only to the Appellant Courts. Representative Pauls seconded the motion.

Representative Flaharty questioned why have different standards for retirement between judges. Representative Klein answered that the Appellant Judges have a less rigorous job dealing with the speed in which decisions need to be made on cases and that all appellant judges are appointed, whereas, district judges are elected and appointed. Representative Carmody stated that there are judges who have retired but continue to serve and hear cases until they are 80 years-of-age. He felt that if they can help the appellant courts until that age they should be able to retire at a later age than the current statute allows. The motion carried 10-7.

Representative Gregory made the motion to report **HB 2372** favorably for passage, as amended.

Representative Loyd seconded the motion. The motion carried.

HB 2855 - restraint of trade, penalties

Chairman O'Neal commented that the Kansas Livestock Association and the Kansas Farm Bureau have serious concerns with the Attorney General's suggested amendment which would allow them to investigate a company when they believe that a violation of the act "is about to be violated."

Representative Carmody made the motion to report HB 2855 favorably for passage. Representative Loyd seconded the motion.

Representative Pauls made the substitute motion to include a mandatory minimum penalty of \$100 per day. Representative Ruff seconded the motion. The motion carried.

Representative Loyd made the motion to add to the list of things the Attorney General can do including: "propound written questions to be answered under oath;". Representative Carmody seconded the motion. The motion carried.

Representative Loyd made the motion to delete on page 8 the provision that would cause funds to laps if not used. Representative Ruff seconded the motion. The motion carried 8-5.

Representative Loyd made the motion to repeal K.S.A. 50-801 & 75-713 and move them into article 1 of Chapter 50. Representative Carmody seconded the motion. The motion carried

Representative Loyd made the motion to report HB 2855 favorably for passage, as amended. Representative Long seconded the motion. The motion carried.

HB 2879 - Kansas Electronic Signature Act

Representative Carmody made the motion to report HB 2879 favorably for passage. Representative Long seconded the motion.

Representative Crow made the substitute motion to remove section 5 of the bill. Representative Loyd seconded the motion. The motion carried.

Representative Loyd made the motion to conform the definition of "person" with the current statute definition. Representative Howell seconded the motion. The motion carried.

Representative Carmody made the motion to report HB 2879 favorably for passage, as amended. Representative Loyd seconded the motion. The motion carried.

HB 2699 - DUI equipment fee for law enforcement agencies

Chairman O'Neal announced that Representative Hutchins requested an amendment that would not allow counties to consider the money as a source of revenue to be used for normal operating expenses.

Representative Haley made the motion to include the proposed amendment and report HB 2699 favorably for passage. Representative Lloyd seconded the motion. Some members of the committee were concerned that the additional \$100 fine would be hard for those on a fixed and low income to pay. The motion failed 7-8.

HB 2557 - Aggravated battery against a law enforcement officer, use of motor vehicle

Representative Carmody made the motion change subsection (3) to read: "intentionally causing bodily harm to a uniformed or properly identified state, county or city law enforcement officer, with a motor vehicle, while the officer is engaged in the performance of the officer's duty." Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion to report HB 2557 favorably for passage as amended. Representative Ruff seconded the motion.

Representative Haley made the substitute motion to include the criminal provisions of HB 2309 - hate crimes, presumed imprisonment, and report HB 2557 favorably for passage, as amended. Representative Flaharty seconded the motion.

CONTINUATION SHEET

Many committee members felt that hate crime should be recognized but believed that judges should be the ones to determine if it was a hate crime and then depart from the sentencing guidelines. The motion failed 8-8. The motion to report **HB 2557** carried.