

## MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson John Barker at 3:30 pm on Wednesday, February 04, 2015, 112-N of the Capitol.

All members were present except:

Representative Randy Powell – Excused  
Representative Jim Ward – Excused  
Representative Annie Kuether – Excused

Committee staff present:

Lauren Douglass, Legislative Research Department  
Robert Allison-Gallimore, Legislative Research Department  
Katherine Goyette, Office of Revisor of Statutes  
Jason Thompson, Office of Revisor of Statutes  
Connie Bahner, Kansas Legislative Committee Assistant

Conferees appearing before the Committee:

Representative Les Mason  
Kathy Lysell  
Sarah Colaw  
David Page, McPherson County Attorney  
Helen Pedigo, Kansas Supreme Court

Others in attendance:

[See Attached List](#)

### **Hearing on: HB2115 — Increasing the penalty for aggravated battery while driving under the influence.**

Chairperson Barker opened the hearing on **HB2115**. Katherine Goyette, Office of Revisor of Statutes, gave an overview of the bill. She noted that this bill is known as the Mija Stockman law.

Representative Les Mason was the first proponent to testify ([Attachment 1](#)). He asked the Chair's permission for Shawn Stockman's testimony to be accepted as written only. He was not able to attend the hearing due to the weather. Chairperson Barker gave that approval. There were no questions asked by the committee of Representative Mason.

Chairperson Barker recognized Kathy Lysell, the mother of Mija Stockman, as a proponent of **HB2115** ([Attachment 2](#)).

Sarah Colaw, a friend of Mija Stockman, then gave testimony as a proponent of this bill ([Attachment 3](#)).

Chairperson Barker then recognized David Page, McPherson County Attorney, as a proponent of **HB2115** ([Attachment 4](#)). Questions were directed to Mr. Page by Chairperson Barker and Representatives John Carmichael, Mark Kahrs, and Dennis Highberger.

## CONTINUATION SHEET

MINUTES of the Committee on Judiciary at 3:30 pm on Wednesday, February 04, 2015, 112-N of the Capitol.

Chairperson Barker directed the committee's attention to the written testimony of Representative Steven Johnson ([Attachment 5](#)), Senator Richard Wilborn ([Attachment 6](#)), and Shawn Stockman, Mija Stockman's husband ([Attachment 7](#)).

The hearing on **HB2115** was closed by Chairperson Barker after noting that there were no opponents or neutrals on the bill.

### **Bill introductions**

Chairperson Barker called for bill introductions. Pat Vogelsberg stated that the Kansas Register of Deeds Association had requested a bill relating to the recording of instruments at the Register of Deeds Office. They would like to withdraw that bill at this time and perhaps come back at a later date. Chairperson Barker allowed the bill to be withdrawn after seeing there were no objections by the committee.

### **Hearing on: HB2160 — Docket fees; electronic filing and management fund.**

Chairperson Barker opened the hearing on **HB2160**. Katherine Goyette, Office of Revisor of Statutes, gave an overview of the bill.

Helen Pedigo testified on behalf of the Kansas Supreme Court as a proponent on the bill ([Attachment 8](#)).

There were no further proponents and no opponents or neutrals on **HB2160**. Chairperson Barker noted that there was written proponent testimony from Joe Molina, Kansas Bar Association ([Attachment 9](#)); Callie Denton, Kansas Association for Justice ([Attachment 10](#)); Mark Katz, Kansas Association of Defense Counsel ([Attachment 11](#)); and the Honorable Dan Creitz, on behalf of the Kansas District Judges Association ([Attachment 12](#)).

Chairperson Barker closed the hearing on **HB2160**.

### **Possible action on bills previously heard**

Chairperson Barker wanted to clarify that his process in working bills will be that he will ask the committee if there is a motion to pass the bill out favorably. He will then look for a second. Upon receiving a second, he will open the matter for discussion. If there are amendments, each amendment will be addressed as offered. At the conclusion, the person who offered the motion will close on it and a vote will be taken.

### **HB2111 --- An act concerning the code of civil procedure; relating to items allowable as costs**

Chairperson Barker asked what the committee's pleasure is on **HB2111**.

CONTINUATION SHEET

MINUTES of the Committee on Judiciary at 3:30 pm on Wednesday, February 04, 2015, 112-N of the Capitol.

Representative Mark Kahrs moved to pass **HB2111** out favorably, seconded by Representative John Whitmer. There was no discussion. **HB2111** was passed favorably.

Chairperson Barker asked Representative Kahrs to carry the bill, which he agreed to do.

**HB2109 -- An act concerning the Kansas probate code; relating to transfer-on-death deeds; lapsing or vesting of ownership in grantee beneficiary.**

Chairperson Barker stated that Vice-Chairperson Macheers had requested that the committee work this bill today. Chairperson Barker asked the Revisor to summarize the bill. This was done by Katherine Goyette, Office of Revisor of Statutes.

Vice-Chairperson Charles Macheers moved to reopen the discussion and to pass **HB2109** out favorably, seconded by Representative James Todd.

Vice-Chairperson Macheers advised that he had reviewed the bill and some of the existing statutes in the Probate Code, as well as the testimony of Tim O'Sullivan. Transfer-on-death deeds began in 1997. There were no issues for almost two decades until a court case came up where there were two beneficiaries named on a transfer-on-death deed. By law, after the last parent dies, the property would go to the two children. One of the children predeceased the last living parent so the issue arose as to what should happen to the deceased child's portion because the statute doesn't say. The issue went to court, but the court had trouble deciding so the Kansas Bar Association met and discussed three options: 1) the deceased beneficiary's interest lapses; 2) anti-lapse provision for the deceased beneficiary's interest; or 3) the entire conveyance to both children fails. The anti-lapse provision was the one chosen. He is concerned that the amendment previously discussed may cause people to have to go through the probate process when it is unnecessary. He thinks the amendment should be not be offered and that the committee should only consider the original bill, as presented to the committee..

Representative Blaine Finch responded by saying he believes everyone wants the same outcome, but the question is how to get there. He raised two concerns with the bill at the meeting yesterday, which have not been addressed by the Vice-Chairperson. The first issue had to do with those people who have already attempted to avoid probate through their estate plan and who utilized the existing law as they understood it then. The committee hasn't had any discussion about changing that.

The other issue is on page 2 regarding intestate succession and six degrees of consanguinity. A situation could arise where the title insurance company may refuse to write a policy because it is unclear as to which relationship is the closer degree of consanguinity and who actually has rightful title. Then you are not going to be able to buy or sell that property with title insurance. In addition, there is no appeal process. If the committee's goal is to keep people out of court and out of probate, it is important to consider amendments and get this bill right. He has met with and will continue to meet with the Kansas Bar Association and the Revisor to get an amendment drafted. He believes it is premature to give a

CONTINUATION SHEET

MINUTES of the Committee on Judiciary at 3:30 pm on Wednesday, February 04, 2015, 112-N of the Capitol.

member of this committee less than 24 hours to attempt to work up an amendment after the discussion that was held yesterday in the committee. He would ask for the committee's deference in delaying this matter until an amendment can be prepared.

Vice-Chairperson Macheers advised that he has no problem with waiting until an amendment can be drafted.

Chairperson Barker withdrew **HB2109**. He advised that he may not run it again. He will wait until the Kansas Bar Association advises him that it is ready.

The meeting was adjourned at 4:27 p.m. The next scheduled meeting will be held on February 5, 2015.