

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson John Barker at 3:30 pm on Tuesday, March 17, 2015, 112-N of the Capitol.

All members were present except:

Representative James Todd – 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:

Pam Moses, Kansas Association of District Court Clerks and Administrators

Bob Corkins, Office of Administrative Hearings

Derenda Mitchell, Assistant Attorney General

Nathan Eberline, Kansas Association of Counties

Kim Lynch, Kansas Department of Aging and Disability Services

Tapatha Strickler

Eldon Dillingham

Mike Whalen

Scott Frank, Legislative Post Audit

Senator Forrest Knox

JoVoli Clark

Ronald Nelson

Representative Mark Rhoades

Andrew Brown, Foundation for Government Accountability

Angela Beemer, Lifeline Agency

Kathy Armstrong, Department for Children and Families

Others in attendance:

[See Attached List](#)

Hearing on: SB184 — Civil procedure; judgments for court costs, fees, fines and restitution are never dormant.

Chairperson Barker opened the hearing on **SB184**. An overview of the bill was given by Katherine Goyette, Office of Revisor of Statutes.

Chairperson Barker recognized Pam Moses, Kansas Association of District Court Clerks and Administrators, as a proponent of **SB184** ([Attachment 1](#)).

Seeing that there were no further proponents and no opponents or neutrals to **SB184**, Chairperson Barker closed the hearing.

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*Representative Janice Pauls moved that **SB184** be reported favorably for passage, seconded by Representative Steven Becker. A vote was taken, and **SB184** was favorably passed.*

Chairperson Barker requested that Representative Steven Becker carry **SB184**.

Hearing on: SB149 — Civil commitment of sexually violent predators.

Chairperson Barker opened the hearing on **SB149**. An overview of the bill was provided by Katherine Goyette, Office of Revisor of Statutes.

Chairperson Barker recognized Derenda Mitchell, Assistant Attorney General, as a proponent of **SB149** ([Attachment 2](#)). Questions were directed to Ms. Mitchell by Representatives Steven Becker, Jim Ward, Blaine Finch, John Rubin, and John Carmichael.

Nathan Eberline, Kansas Association of Counties, testified as a proponent of **SB149** ([Attachment 3](#)).

Chairperson Barker then called on Bob Corkins, Director, Office of Administrative Hearings, as a proponent of **SB149** ([Attachment 4](#)). Representative Dennis Highberger had a question.

Kim Lynch, Kansas Department of Aging and Disability Services, testified as a proponent of **SB149** ([Attachment 5](#)). Questioning was conducted by Representatives Leslie Osterman, Jim Ward, Kyle Hoffman, and Craig McPherson.

Chairperson Barker directed the committee's attention to the written proponent testimony of Frank Denning, Kansas Sheriffs Association ([Attachment 6](#)).

Chairperson Barker recognized Tapatha Strickler as an opponent to **SB149** ([Attachment 7](#)). Questions were directed to Ms. Strickler by Representatives John Carmichael and Mark Kahrs.

Eldon Dillingham provided testimony in opposition to **SB149** ([Attachment 8](#)).

Mike Whalen testified as an opponent to **SB149** ([Attachment 9](#)). Representative John Carmichael had a question for Mr. Whalen.

Chairperson Barker then recognized Scott Frank, Legislative Post Audit, as a neutral to **SB149** ([Attachment 10](#)). Questions were asked by Representative Jim Ward, who also asked that the audits that had previously been done of Larned State Hospital be provided. Representative Pam Curtis asked if the audits were online, and he stated that they were.

Chairperson Barker closed the hearing on **SB149**.

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Hearing on: SB157 — Specifying that the child in need of care code does not permit any person to compel a parent to medicate a child if the parent is acting in accordance with medical advice from a physician.

Chairperson Barker stated that he would hold a joint hearing on **SB157** and **SB159** since a number of the conferees were the same. Katherine Goyette, Office of Revisor of Statutes, gave an overview of **SB157**.

Chairperson Barker recognized Senator Forrest Knox. He provided testimony in support of **SB157** ([Attachment 11](#)). He had an attachment for the committee's review ([Attachment 12](#)). Senator Knox then testified as a proponent of **SB159** ([Attachment 13](#)). He referred the committee to the language he proposed in section 8 of **SB159**, as amended by the Senate ([Attachment 13A](#)). Questions were directed to Senator Knox by Representatives Dennis Highberger, Jim Ward, and John Whitmer.

JoVoli Clark testified as a proponent of **SB157** ([Attachment 14](#)) and then as a proponent of **SB159** ([Attachment 15](#)). Questions were asked by Representative John Rubin.

Chairperson Barker called upon Representative Marc Rhoades to testify on behalf of **SB159** ([Attachment 16](#)). He provided the committee members with a flyer about Safe Families ([Attachment 17](#)). Questions were asked by Representative John Rubin, Leslie Osterman, and John Whitmer.

Andrew Brown presented testimony in support of **SB159** on behalf of the Foundation for Government Accountability ([Attachment 18](#)). Questions were asked by Representatives Steven Becker and Dennis Highberger.

Angela Beemer testified on behalf of Lifeline Children's Services of Kansas as a proponent of **SB159** ([Attachment 19](#)).

Chairperson Barker recognized Kathy Armstrong, Department for Children and Families, as a proponent of **SB159** ([Attachment 20](#)). Representative Leslie Osterman questioned Ms. Armstrong.

Chairperson Barker recognized Randy Barth, but told him he would not be able to testify on **SB159** since he had not submitted any written testimony. Chairperson Barker said if he would submit an electronic copy to the committee secretary, it would be made available to each member of the committee.

Chairperson Barker noted that there is written testimony from Trista Jansen in support of **SB157** ([Attachment 21](#)) and Dr. David Anderson in support of **SB159** ([Attachment 22](#)).

Chairperson Barker then recognized Ronald Nelson as an opponent on **SB157** ([Attachment 23](#)) and **SB159** ([Attachment 24](#)). Questions were asked by Representatives Craig McPherson and Jim Ward.

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Chairperson Barker directed the committee's attention to the written neutral testimony of Phyllis Gilmore, Department of Children and Families, on **SB157** ([Attachment 25](#)) and Ed Klumpp, Kansas Sheriffs Association, Chiefs of Police Association, and Kansas Peace Officers Association, on **SB159** ([Attachment 26](#)).

There being no further conferees, Chairperson Barker closed the hearing on **SB157** and **SB159**.

Hearing on: SB159 — Enacting the safe families act; power of attorney for care and custody of a child; also requiring a law enforcement officer to take a child into custody when there is a drug crime occurring in the child's residence and such crime threatens the safety of the child.

The hearing on **SB159** was opened jointly with **SB157**. Katherine Goyette, Office of Revisor of Statutes, gave an overview of the bill. All testimony relating to both bills is downloaded into the minutes for the hearing on **SB157**.

Possible action on bills previously heard

SB34 - Penalties for voting crimes; prosecution of election crimes.

Chairperson Barker asked the committee to open their folders on **SB34**.

Representative Kyle Hoffman moved to report SB34 favorably for passage, seconded by Representative Travis Couture-Lovelady.

Representative Jim Ward made a motion for a conceptual amendment to strike that portion of SB34 that would give the Secretary of State prosecutorial power, seconded by Representative Dennis Highberger.

Representative Jim Ward stated that he supports that portion of the bill that deals with enhancing penalties, but not the Secretary of State having prosecutorial power. Our criminal justice system has checks and balances, and one of those checks and balances is that the people who investigate crimes don't prosecute them. They take them to a district attorney, county attorney, a United States Attorney, or the Attorney General for prosecution. Those lawyers review the investigation and make a determination as to probable cause, reasonable doubt, and witness credibility. They are the ones who take the legal action. That system works to prevent abuses or unintended consequences.

Representative John Rubin stated that he supports the amendment. He sees no need for the Secretary of State to have prosecutorial power.

Representatives Janice Pauls, Randy Powell, and Mark Kahrs expressed their opposition to the amendment. Representative Kahrs also stated that he would oppose any future amendments to **SB34**.

Representative John Carmichael supports the amendment. He is concerned about prosecutorial

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misconduct.

Representatives John Whitmer and Craig McPherson are opposed to the amendment.

Representative Jim Ward closed on the motion to amend **SB34**. A vote was taken, and the Chairperson noted that the amendment failed. Division was called, and the Chairperson asked the members to raise their right hands to vote. There were nine ayes and eleven nays. The amendment to **SB34** failed to pass.

The following representatives asked to have their votes recorded: Those who voted in favor of the amendment were Representatives John Carmichael, Jim Ward, Dennis Highberger, and Pam Curtis. Representative John Whitmer voted against the amendment.

Representative John Carmichael stated he has an amendment designated as **SB34-2** ([Attachment 27](#)). This amendment involves advance ballot applications. On page two, it states that advance voting ballot applications are to be provided to the county election office within two days after such application is signed by the applicant. It excludes weekends, holidays, and other days when the county election office is not accessible. It also requires that the advance ballot application shall be processed even if it is delayed more than two days.

Representative John Carmichael moved to pass his amendment to **SB34**, seconded by Representative Jim Ward.

There were questions by Representative Steven Becker, Dennis Highberger, Charles Macheers, and John Rubin. Responses were given by Katherine Goyette and Representative Carmichael.

Representative John Carmichael closed on his amendment to **SB34**. A vote was taken, and the Chairman noted that the amendment passed. Division was called. Chairperson Barker asked the committee to vote by a raise of hands. There were ten aye votes and nine nay votes. The amendment to **SB34** passed favorably.

Representative John Carmichael stated that he has another amendment, entitled **SB34-9** ([Attachment 28](#)). There has been some dispute as to whether or not an electronic poll book is permissible under the statute. The amendment would allow the use of electronic poll books and authorize the use of an electronic signature pad.

Representative John Carmichael moved to amend **SB34**, as stated above, seconded by Representative Annie Kuether.

Representative John Rubin had a question to which both Representative Carmichael and Katherine Goyette, Office of Revisor of Statutes, responded.

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Representative Mark Kahrs stated that he is opposed to the amendment because this amendment comes under the subject matter of elections and should have been addressed in elections committee. These amendments are bills that could have been proposed earlier in the session. They are being brought forward today to amend **SB34** in this committee. By amending **SB34** in this committee, the bill could go to conference. If it goes into conference, **SB34** will die in the Senate. If this amendment is defeated, he is going to ask for reconsideration of the previous amendment and to vote on that amendment again.

Representative Jim Ward stated he believes the amendments proposed are good amendments and are not political in nature. He disagrees with Representative Kahrs.

Representative Kahrs opposes this amendment and all future amendments.

Representatives Annie Kuether and John Rubin support the amendment to **SB34**.

Representative John Carmichael closed on Amendment 34-9 to **SB34**. A vote was taken, and the Chairperson stated that the nays had it. Division was called. The Chairperson called for a vote by having the members raise their right hands. Nine voted in favor of the amendment and eleven voted in opposition to **SB34**. The amendment to **SB34** failed to pass.

Representative Travis Couture-Lovelady moved for reconsideration of passage of Amendment 34-2 to **SB34**. The Chairperson asked the committee to vote by raising their right hands. There were ten ayes and ten nays. The Chairperson voted in favor of the motion to reconsider.

Chairperson Barker stated that they are back on Amendment 34-2 to **SB34**.

Representative Craig McPherson moved to end debate on Amendment 34-2 to **SB34**. A vote was taken, and the Chair noted that the ayes had it. Division was called. The Chairperson directed the committee to vote by a show of hands. There were eleven aye votes and nine nay votes. The motion to end debate on Amendment 34-2 to **SB34** was passed.

The Chairperson called for a vote on Amendment 34-2 to **SB34**. The Chairperson stated that the amendment passed. Division was called. The Chairperson asked the committee to vote by a show of hands. There were nine ayes and ten nays. Amendment 34-2 to **SB34** failed to pass.

Representative Leslie Osterman moved to end debate on **SB34**. Chairperson Barker acknowledged that the question had been called. A vote was taken, and Chairperson Barker noted that the ayes had it. Division was called. The Chairperson directed the committee to vote by raising their right hands. Twelve voted in favor, eight were opposed. The motion to end debate on **SB34** was passed.

Representative Kyle Hoffman closed on his motion to pass **SB34**. A vote was taken, and the Chairman

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stated that the ayes had it. Division was called. Chairperson Barker asked the committee to vote by raising their right hands. Twelve voted in favor, eight voted against the bill. **SB34** passed favorably.

The following representatives asked to have their nay votes recorded: Representative Jim Ward, Steven Becker, John Carmichael, Dennis Highberger, and Pam Curtis.

The following representatives asked to have their aye votes recorded: Representative Travis Couture-Lovelady, John Rubin, Leslie Osterman, and John Whitmer.

Representative Steven Becker stated that he had wanted to discuss **SB34**, but there was no opportunity since the question was called.

There being no further business, the meeting was adjourned at 6:49 p.m. The next meeting is scheduled for March 18, 2015.