

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Jeff King at 10:40am on Tuesday, February 03, 2015, 346-S of the Capitol.

All members were present

Committee staff present:

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

Conferees appearing before the Committee:

Loren Snell, KS Deputy Attorney General;  
Mitzi McFatrach, Executive Director, Kansas Advocates for Better Care;  
Rachel Monger, Director of Governmental Affairs, LeadingAge, Kansas;  
Helen Pedigo, Special Counsel to the Chief Justice, Judicial Branch;  
Ronald W. Nelson, Kansas Judicial Council;  
Trisha Thomas, Director of Child Support Services, KS Dept. for Children and Families;

Others in attendance:

[See Attached List](#)

### **Bill introductions**

The Chair opened the meeting and called for bill introductions.

Senator Tom Arpke introduced a measure creating the community defense act.

Senator Holmes introduced five measures:

- Defining the civil hold process for sexual predators who are arrested while they are in the sexual predator program to make the department for aging and disability services continue to pay for their medications, room and board while they are in the county jail;
- Adjusting the criminal penalties for people who commit new crimes while in the sexual predator treatment program, taking away presumptive probation and stiffening some other sentences;
- Adding penalties and responsibility in the ignition interlock program for those who allow an offender in the program to use his/her vehicle, which subsequently leads to another accident or DUI against the offender;
- Defining the impeachment process and how the Kansas House and Senate would organize to try such an action;
- Creating a statutory definition for the cause of impeachment.

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Willie Prescott on behalf of (o/b/o) the Attorney General, introduced a measure concerning civil commitment of sexually violent predators.

Helen Pedigo o/b/o the courts' collections committee, introduced a measure that would create a consistent procedure for enforcing bond forfeitures.

Senator Mary Pilcher-Cook introduced a measure regarding the safe families act and foster care in Kansas.

Chair King asked for any further bill introductions, and reminded the committee and audience that Thursday, February 5, 2015, would be the last day our committee would meet before the deadline for submitting bill introductions. He asked for any questions or objections to the introductions. Seeing none, he announced all the bills would be introduced.

The Chair then turned the committee's attention to **SB57**.

### **Overview and Hearing on SB57 — Kansas power of attorney act.**

Chair King opened the hearing on **SB57** and asked Jason Thompson to give an overview of the bill.

Loren Snell provided testimony supporting **SB57**, relating that it proposes changes that will result in more awareness and guidance in the use of the durable power of attorney. It would require notice provisions be included for both the principal and the attorney of fact explaining the expectations and requirements while preserving the personal nature and ease of using the instrument. ([Attachment 1](#))

Mitzi McFatrach presented proponent testimony. She related that her organization is in favor of the changes because it not only gives notice and warning as to the scope and action authorized by the Durable Power of Attorney (DPOA) to the person executing the document, but also provides additional knowledge, notice, and protections to individuals who designate a power of attorney (POA) and for those agreeing to serve under a DPOA. ([Attachment 2](#))

Rachel Monger testified in support of **SB57** and its amendments to the DPOA act. She related that financial exploitation of the elderly, and especially fiduciary abuse, is the fastest growing crime against the elderly. For too long financial abuse has been dismissed as a private family matter or an issue for the civil courts. The former lack of oversight or accountability for DPOAs has made the detection of this crime difficult. ([Attachment 3](#)).

Christy Molzen provided written-only proponent testimony giving some of the background and study

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that resulted in the drafting of **SB57**, and how that bill differs from *2014 SB355*. ([Attachment 4](#))

There being no questions, comments, or any other testimony at this time, the Chair closed the hearing on **SB57**.

Chair King turned the committee's attention to **SB74**.

### **Overview and Hearing on SB74 — Relating to drivers' license reinstatement fees.**

Chair King opened the hearing on **SB74** and asked Jason Thompson to give an overview of the bill.

Helen Pedigo testified in support of this bill on behalf of the Judicial Branch. She related that they would prefer that the sunset be lifted because there is an ongoing need for the funding, however they are appreciative of this source of funding to the Judicial Branch. She urged the committee to recommend the bill favorable for passage. ([Attachment 5](#))

Ms. Pedigo answered questions from the members relating to what the funds are used for, how and to whom they are distributed, and what the breakdown on the distribution is.

There being no further questions, and no other testimony submitted, the hearing on **SB74** was closed.

The Chair turned the committee's attention to **SB105**.

### **Overview and Hearing on SB105 — Enacting updates to the uniform interstate family support act (UIFSA 2008).**

Chair King opened the hearing on **SB105** and asked Jason Thompson for an overview. Jason explained that this bill is an update to the Uniform Interstate Family Support Act (UIFSA), and it is a federal mandate that all states pass the 2008 amendments to bring Kansas law into compliance with federal statutes.

Ronald Nelson urged support and favorable passage of these federally mandated changes. He related that failure to pass the 2008 changes would result in loss of federal support enforcement funds. The majority of the changes are found in Sec. 57 through Sec. 69 of the act, which relate to foreign support orders and enforcement of American child support orders abroad. ([Attachment 6](#))

Trisha Thomas spoke in support of **SB105**. She told the committee that passing this bill would update Kansas law from the 1996 version to the 2008 version. Failure to pass the federally mandated version verbatim in the current session may result in loss of child support funds and the block grant for the Temporary Assistance for Needy Families (TANF) program. She stressed the urgency of passing the bill in this session. ([Attachment 7](#))

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Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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Joe Molina submitted written only testimony in support of this bill. ([Attachment 8](#))

There being no other testimony submitted or presented, the hearing on **SB105** was closed.

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

Chair King turned the committee's attention to working bills, beginning with the continuation of working **SB16**. He asked Jason Thompson to give the committee a refresher on the prior action. Mr. Thompson reminded the committee that before adjournment on January 27, 2015, they had been given for review and consideration, two balloon amendments, one by Senator Knox ([Attachment 9](#)), who had moved his motion and it had been seconded by Senator Pettey; and another by Chair King ([Attachment 10](#)), which had been offered, but on which no action had yet been taken. Additionally, on January 29, the committee had been given a copy of the 2006 *Report of the Judicial Council Civil Code Advisory Committee on K.S.A. 40-256 and K.S.A. 40-908*, which was referred to and copies were requested as part of the discussion on **SB16** on January 27, 2015.

The Chair recognized Senator Knox to continue the discussion on his proposed amendment to **SB16**. Senator Knox referred to the 2006 study report, which is now nine years old. He related that the Judicial Council (Council) dealt with K.S.A. 40-256 and 40-908, which is the exact subject of his amendment. The Council had not found any conflict in those two statutes, that no amendment was necessary, and that the Kansas Appellate Court decisions were consistent with the statute. Senator Knox further reported that even the Chairperson's concerns were satisfied, because the statutes talk about type of coverage and not type of loss.

*Senator Knox moved to table **SB16** and ask for Judicial Council review and update; seconded by Senator Haley. The motion was passed.*

Chair King next turned the committee's attention to action on **SB11**. Jason Thompson distributed a technical correction amendment for items on pages 20, 29, and 30. ([Attachment 11](#)) *Chair King moved that the technical correction amendment be adopted; Senator Haley seconded; the motion was passed.*

Senator Bruce offered another technical correction amendment for **SB11** items on pages 26 and 28. Copies were distributed by Jason Thompson. ([Attachment 12](#)) *Senator Bruce moved that the Bruce amendment be adopted; Senator Mike Petersen seconded; the motion was passed.*

Chair King offered another balloon amendment to **SB11**, which changed the severity to a level six nonperson felony and also inserts a special sentencing rule, so if an offender had a prior nonperson felony, instead of being a border box, the sentence now would be presumed imprisonment. Copies of the amendment were distributed while the Chair explained the amendment. ([Attachment 13](#)) He related that inserting the special sentencing provision would help to track the level six nonperson felonies and

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to ensure after two offenses, the sentence would be imprisonment. After questions and discussion, the Chair moved that the King amendment be adopted; Senator Knox seconded; the motion was passed.

Jason Thompson distributed and explained a proposed fourth amendment to **SB11** recommended by the Kansas Cable Telecommunications Association (KCTA) which would add a couple of new terms on page eight. (Attachment 14) Senator Pilcher-Cook moved for passage of the KCTA amendment; seconded by Senator Petersen; the motion was passed.

Senator McGinn moved that **SB11**, as amended, be recommended favorably for passage; seconded by Senator Petersen; the motion was passed.

Asking Jason Thompson to give a brief reminder, Chair King turned the committee's attention to working **SB19**.

Senator Bruce moved that the bill be recommended favorably for passage; seconded by Senator Pettey. The motion was passed.

The Chair announced that the meeting scheduled for Wednesday, February 4, 2015, is cancelled, but the committee will meet on Thursday, February 5, 2015, as scheduled, and will be working bills after the conclusion of the informational court reporting demonstration.

The meeting was adjourned at 11:50 a.m.