

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Jeff King at 10:35am on Thursday, January 14, 2016, 346-S of the Capitol.

All members were present

Committee staff present:

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

Conferees appearing before the Committee:

Nancy Strouse, Executive Director, KS Judicial Council;
Tim Carmody, Kansas Judicial Council, Member, Probate Law Advisory Committee;
Hon. Daniel Creitz, Chief Judge, Thirty-First Judicial District, and on behalf of the KS District Judges Association;
Stephanie Bunten, Budget and Fiscal Officer, Judicial Administration Office;

Others in attendance:

[See Attached List](#)

Bill introductions

Willie Prescott, Special Assistant to the Kansas Attorney General requested two committee bills:

- 1) a bill that would clarify and strengthen the procedural requirement that the attorney general be given notice and an opportunity to appear whenever a statute of this state is challenged as unconstitutional or invalid;
- 2) a conceptual bill that would strengthen the Wayne Owen law, a civil statute enacted in 2013, that grants authority to the attorney general to combat identity theft by using the Consumer Protection Act.

The Chair, seeing no questions or objections, announced the bills would be introduced.

Patrick Vogelsberg, on behalf of the Kansas County and District Attorneys Association (KCDA) requested two committee bills:

- 1) a bill dealing with preliminary examinations and hearsay testimony to be provided at preliminary

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examinations;

2) a bill dealing with the Kansas Criminal Justice Information System (KCJIS) electronic stored information, the use of that electronic stored information, authentication on those records, and then also an amendment to the hearsay statute for use of those electronic records.

The Chair, seeing no questions or objections, announced the bills would be introduced.

There being no additional bill requests or introductions, Chair King opened the hearing on **SB319**.

Hearing on:

SB319 -- Amending article reference for small claims venue.

Jason Thompson presented an overview of the bill, which contains two technical corrections to the article reference for the small claims procedure act of 1973, and amended in 1994.

Nancy Strouse presented oral proponent testimony supporting favorable passage of the bill and stood for questions. ([Attachment 1](#)) There were no questions or comments.

Chair King asked for any other proponent, opponent, or neutral testimony. No further testimony was offered.

The Chair closed the hearing on **SB319**.

Hearing on:

SB321 -- Eliminating conditions upon the protective filing of wills.

Jason Thompson gave an overview of this bill regarding preserving wills for the record for future probate proceedings. This bill eliminates some requirements for the affidavit, it doesn't require calculations or identification of property, which makes the filing process shorter and simpler. Jason stood for questions. There were none.

Tim Carmody presented oral testimony supporting the passage of this bill. He related that the bill would amend K.S.A. 59-618a, which currently requires protective filing of a will within six months of the decedent's death without formally petitioning to admit the will to probate. The proposed changes in the protective filing requirements would make it easier to preserve wills for future probate actions and would eliminate the conditions upon the protective filing of a will, thus allowing more wills to be preserved, regardless of the estate's assets and liabilities, and also preserving the testator's intent. ([Attachment 2](#)) Mr. Carmody stood for questions. There were none.

Chair King recognized Senator Pilcher-Cook and Senator Haley for comments. Both acknowledged Mr. Carmody as a former Kansas State Representative, and welcomed him back to the legislature in his

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appearance before the committee.

The Chair called for any other proponent, opponent or neutral testimony. Seeing none, and there being no other comments, questions or objections, the Chair closed the hearing on **SB321**.

Hearing on:

SB320 -- Repealing the nonseverability clause in 2015 House Bill No. 2005 and providing for the severability of the provisions of such bill, concerning the judicial branch.

Chair King opened the hearing on **SB320**.

Jason Thompson distributed a Memorandum brief from Jill Wolters, First Assistant Revisor, Kansas Office of Revisor of Statutes, which he used in giving an overview and explanation of the provisions of **SB320**. ([Attachment 3](#)) He related that **SB320** only deals with the 2015 nonseverability clause that is still pending litigation, but is stayed until March 15, 2016. Jason also added that an exact duplicate of **SB320** was passed out of the House Appropriations Committee this morning.

Before questions of Jason, Chair King added that after consultation with the Revisors' office and the Attorney General's office through the Revisors' office, everyone thought it prudent to deal with the nonseverability clause separately from the other issues. Therefore, during the third week of session, he intends to consider the items that were in the 2014 law in conjunction with a general consideration of the *Solomon v. State* case and what authority the legislature does or does not have related to those items following the separation of powers ruling in the *Solomon* case.

There being no further questions for Jason Thompson, the Chair recognized the first conferee.

The Honorable Daniel D. Creitz presented testimony in support of **SB320**. He urged the legislature to quickly pass this bill without any cuts to the appropriations which were passed last year to avoid irreparable harm to the citizens of Kansas. ([Attachment 4](#)) Judge Creitz stood for questions. There were none.

Stephanie Bunten presented proponent testimony explaining that the substantial revenue shortfall in the Judicial Branch budget would affect salaries and would clearly require court closures. The concerns raised in this testimony pertained to provisions of 2014 HB2338 that would affect Judicial Branch funding in FY 2016 and future years. ([Attachment 5](#)) Ms. Bunten stood for questions. There were none.

Chair King called for any other proponent, opponent, or neutral testimony. There being none, the hearing on **SB320** was closed.

Chair King continued by asking the committee to work **SB320**. He called for questions, comments, objections or motions.

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Senator Smith moved that **SB320** be recommended favorably for passage and amended his motion to include placement on the Consent Calendar; seconded by Senator Love. The motion passed.

The meeting adjourned at 11:16 am. The next meeting will be Wednesday, January 20, 2016.