

House Judiciary Committee Meeting
Thursday, January 24, 1963

The House Judiciary Committee met Thursday, January 24, 1963, in Room 523 at 8:30 A.M. with Chairman Clyde Hill presiding. Fourteen members were present. Members Arthur, Briggs, Davis, Fatzer, Van Cleave and Williams were absent.

Chairman Hill stated that for the time being, the committee would pass any further discussion concerning Section 60-1208, Article 12, of the bill for the revision of the Code of Civil Procedure. Independent research is being done regarding this section.

Section 60-1301. Mr. Hill stated that this leaves a wide latitude to the discretion of the court. Earl Hatcher commented that there had been a little change. Anyone who has had any interest could not be a receiver. Now this is left to the discretion of the court. Mr. Hill asked if there is a provision that you could object to this. Mr. Hatcher stated that there is.

Sections 60-1302 through 60-1304. No questions.

Section 60-1305. Mr. Liebert inquired if there has been any change concerning attorneys for receivers. Mr. Hatcher stated that there were not and that he did not think it even refers to it.

Chairman Hill asked if there were any further questions or comments concerning Article 13. There were none.

Section 60-1403. There were comments by Mr. Hill and Mr. Hatcher concerning this section. A motion was made by Mr. Gardner and seconded by Mr. Euler that Section 60-1403 be amended to provide an eliminative procedure whereby 10 per cent of the eligible voters of the municipality could petition for an election for the change of name of the municipality. Chairman Hill called for any questions or discussion. There were none. Motion carried.

Sections 60-1501 through 60-1503. No questions.

Section 60-1504 (a). There was a great deal of discussion by the committee concerning the suggestion of striking the word "immediately" line 3 after the word "thereto" and inserting the phrase "within twenty-four hours after the writ is served." Mr. Skoog moved that it remain as it is. He stated that it is more desirable with the word "immediately." The motion was seconded by Mr. Liebert. Motion carried unanimously.

Section 60-1505. Mr. Skoog questioned the forty-eight hour time period. Mr. Hatcher explained that this only applies where the State is a party or where it is an infant. Mr. Skoog then asked if the language is clear enough and if it is, shouldn't it be in two separate paragraphs. He stated that it starts out generally and then is specific. Mr. Malone then moved that the last four lines, commencing with the phrase "If the state," Section 60-1505 (d)

House Judiciary Committee Meeting
Thursday, January 24, 1963

The House Judiciary Committee met Thursday, January 24, 1963, in Room 523 at 1:30 P.M. with Chairman Clyde Hill presiding. Thirteen members were present. Members Arthur, Crossan, Fatzer, Griffith, Tillotson, Van Cleave and Williams were absent.

Chairman Hill stated that the committee would start their meeting this afternoon with the consideration of Article 15, Divorce and Alimony, of the bill for the revision of the Code of Civil Procedure. He stated that this study has created much interest and proposed revisions all of which have been channeled to the Judicial Council. It was pointed out that none of the grounds have been changed, but have been separated.

Section 60-1601. No questions.

Section 60-1602. Mr. Skoog wanted to know if number 3 is new. Mr. Hatcher stated that it isn't.

Section 60-1603. Mr. Hatcher pointed out that the Senate Judiciary Committee has made a change in this section. The phrase "or stationed at" was inserted after the word "of" and before the phrase "a United States" line 2 (b).

Chairman Hill asked if there were any questions or discussion concerning Section 60-1603 or 60-1604. There were none.

Section 60-1605. Mr. Edwards raised a question in regard to the filing of a cross-petition. There was a great deal of discussion by the committee concerning this question. It was unanimously decided to enlarge the language of Section 60-1605 by adding "regardless of residence" after the word "maintenance" and before the period, line 3.

Section 60-1606. Section 60-1610 (h) is to be added to this section.

Section 60-1607. There was an inquiry concerning the possibility of subsection (e), Modifying or vacating, being a new provision. It was pointed out that it is not new.

Section 60-1608. Mr. Edwards asked if one had to wait the sixty (60) days. Mr. Hatcher said definitely. There was a great deal of discussion in regard to this. Mr. Liebert then stated that he was curious concerning the possibility of a pre-trial hearing. No one seemed to know just how this would work, but couldn't see just why it wasn't possible.

Mr. Skoog made the motion to strike "filing of the petition" line 2 Section 60-1608 and inserting in lieu thereof "commencement of the action." Mr. Edwards seconded. Motion carried.

Section 60-1609. Mr. Liebert questioned this being a new provision. Mr. Skoog pointed out that it is new in that it now also pertains to the husband.

Section 60-1610. No questions.

Section 60-1611. Chairman Hill read the committee notes from the Kansas Judicial Council Bulletin regarding this section.

Section 60-1701. Mr. Skoog moved to strike the word "for" line 7 following the word "prayed." Mr. Edwards seconded. Motion carried unanimously.

Section 60-1702. No questions.

Section 60-1703. No questions.

Section 60-1801. No questions.

Section 60-1802. Mr. Liebert asked if nuisance is in the present statute. Mr. Hatcher stated that this is the present law. Mr. Liebert suggested they check with the Senate Judiciary Committee and see if they have a good reason for nuisance being in this section.

There was a great deal of discussion by the committee in regard to wrongful death. There were some suggestions which will be brought to the attention of the Senate Judiciary Committee.

Section 60-2001. Mr. Hatcher pointed out that the amount had been raised from fifteen dollars (\$15) to twenty-five dollars (\$25). He explained that this was done because the courts were going to introduce a separate bill and this would cover it. Mr. Skoog pointed out that (c), Additional security for costs, is the same as present.

Section 60-2002. Mr. Skoog asked where (b), Offer of judgment, came from. Mr. Hatcher explained that it is from the federal rule.

Section 60-2003. Mr. Skoog moved that the committee accept the Senate Judiciary Committee's recommendation to strike out (6) "The reasonable cost of certified or exemplified copies, maps, diagrams, surveys, charts, and similar instruments necessarily procured or prepared and admitted as evidence." Mr. Edwards seconded. Motion carried.

It was agreed to change the word "Reporter's" Section 60-2003 (5) to "Stenographic." To correspond with this, it was agreed to change the word "reporter" Section 60-230 (h) line 4 to "stenographer."

House Judiciary Committee Meeting
Thursday, January 24, 1963
Page three

Chairman Hill asked Mr. Hatcher to give the committee a brief resume concerning Article 21, Appeals. Mr. Hatcher pointed out that the amount in Section 60-2102 (4) has been increased to one thousand dollars (\$1,000).

There was a great deal of comment by the committee concerning Section 60-2102. It was agreed to enlarge the language in subsection (4) by the insertion of "for the recovery of money" line 1 after the word "action" and before the phrase "in which."

Section 60-2103. Mr. Hatcher explained what the drafting committee tried to do. It was agreed to enlarge the language in Section 60-2103 (h) by the insertion of "served on him and" line 4 after the word "is" and before the word "filed."

Mr. Skoog suggested they enlarge the language in Section 60-2103 (d) by the insertion of "after notice and hearing" line 20 after the word "fixed" and before the word "at."

Section 60-2104. No questions.

Section 60-2105. No questions.

Section 60-2106. Mr. Hatcher commented on this section briefly and then presented the suggested change in (a) to strike "notes of" line 3 and to strike "either in full or in memorandum form" line 4. He also explained the changes which have been made in (c), Judgment and mandate.

The meeting adjourned at 4:05 P.M. to meet in Room 523 at 8:30 A.M. Friday, January 25, 1963.

Respectfully submitted,
Clyde Hill, Chairman

Minutes approved:

House Judiciary Committee Meeting
Thursday, January 24, 1963
Page two

be stricken. Mr. Gardner seconded. Mr. Hill asked for any further questions or comments. Mr. Liebert commented that if the committee takes this out, they are back to the present situation. Motion carried.

Mr. Hill asked if there were any further questions or discussion concerning Section 60-1505. There were none.

Section 60-1506. There was some comment by the committee regarding this section. Mr. Hatcher then pointed out that it is the present law.

Section 60-1507. There was a great deal of discussion by the committee concerning this section. Mr. Hill then suggested that Mr. Crossan and Mr. Hatcher work on this together.

Section 60-1501. Mr. Crossan moved that the following language, "except when in custody on a criminal charge for which bail is not permitted" Section 60-1501 lines 4 and 5 be stricken. Mr. Edwards seconded. Mr. Hill asked for any further questions or discussion. There were none. Motion carried unanimously.

Mr. Skoog suggested that "engineering" be added to Section 60-1101. There was a great deal of discussion by the committee concerning this suggestion. Mr. Hill then suggested that this be left as is and if they wanted a separate section to work on it.

The meeting adjourned at 9:50 A.M. to meet again the same afternoon, Thursday, January 24, 1963, at 1:30 P.M. in Room 523.

Respectfully submitted,
Clyde Hill, Chairman

Minutes approved: