

House Judiciary Committee Meeting
Wednesday, January 30, 1963

The House Judiciary Committee met Wednesday, January 30, 1963, in Room 523 at 8:55 A.M. with Chairman Clyde Hill presiding. Thirteen members were present. Members Arthur, Crossan, Davis, Fatzer, Gastl, Van Cleave and Williams were absent.

Earl Hatcher pointed out one change in Article 2, Rules of Civil Procedure, Section 60-214 of the bill for revision of the Code of Civil Procedure. He stated that according to federal rule, you have to get permission from the judge to bring in a third party defendant. He stated that they have left this out.

Sections 60-215 and 60-216. No questions.

Mr. Liebert asked how Section 60-217 (c) Infants or incompetent persons works. Mr. Hatcher stated that there hasn't been any material change in this.

There was a great deal of discussion by the committee members in regard to the judges' using this code when it goes through.

Mr. Briggs inquired about Judge Gard's brief being available. It was thought it would be available for use later.

Mr. Edwards raised a question in regard to the taking of depositions. Mr. Hatcher stated that this follows federal rules fairly closely.

Section 60-235. Mr. Skoog mentioned that he thought there should be some discussion by the committee in regard to physical and mental examination of person and order for examination. Mr. Liebert asked who picks the doctor. Mr. Skoog stated that he thinks the other side picks out the doctor. Chairman Hill read the committee notes from the Kansas Judicial Council Bulletin concerning this section. There was a great deal of discussion by the committee members in regard to this and to its position in regard to an expert's opinion. Chairman Hill suggested that Mr. Hatcher bring this matter to the attention of the Senate Judiciary Committee and see if they think it should be amended or enlarged.

Mr. Smith raised a question in regard to hospital records being made available without the consent of the doctor. He was told that it is in here now.

Section 60-237 (2). Mr. Skoog asked how and where this applies to having to submit to an examination in a criminal case. Mr. Hatcher explained that this doesn't apply here, but does to evidence.

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Section 60-237 (b). Mr. Edwards inquired if you go to the judge where the deposition is being taken or where the case is pending. Mr. Hatcher explained that you can go to either judge.

Section 60-238. Mr. Hatcher stated that there has really been no change in this section.

Section 60-241. There was a great deal of discussion concerning the dismissal of actions. Mr. Liebert asked if this includes garnishment procedures. Mr. Hatcher couldn't answer this question, but will check into the possibility.

Section 60-242. Mr. Skoog questioned if this changes the present law. Mr. Hill stated that (b) Separate trials has been added.

Section 60-243. Mr. Liebert asked if you can serve your own subpoena. Mr. Skoog said you can.

Sections 60-244 through 60-246. No questions.

Section 60-247. Mr. Skoog asked if "shall" is still in as a change. Mr. Hatcher said that it is.

Section 60-248. No questions.

Section 60-249 (a). Mr. Hatcher informed the committee members that the Senate Judiciary Committee is studying this now. They want to be certain the judge can not comment on the evidence there.

Mr. Skoog pointed out to the committee that the Senate Judiciary Committee was practically unanimously in favor of striking out "and shall" line 2 of Section 60-249 (b).

Chairman Hill said they would pick up on special questions when the committee meets at 8:30 A.M. Thursday, January 31, 1963, in Room 523. The meeting adjourned at 9:55 A.M.

Mr. Hatcher invited the committee members to a cocktail hour and dinner given by the drafting committee Wednesday, February 6, 1963.

Respectfully submitted,
Clyde Hill, Chairman

Minutes approved: