

## MINUTES

## SPECIAL COMMITTEE ON JUDICIARY - A

May 27, 1977  
Room 514, State House

Members Present

Senator Elwaine Pomeroy, Chairman  
Representative Eugene Gastl, Vice-Chairman  
Senator Don Allegrucci  
Senator Jim Francisco  
Senator Paul Burke  
Representative Doug Baker  
Representative Ward Ferguson  
Representative Robert Frey  
Representative Joe Hoagland  
Representative Neal Whitaker

Staff Present

Art Griggs, Revisor of Statutes' Office  
Walt Smiley, Kansas Legislative Research Department  
Phill Jones, Kansas Legislative Research Department

Morning Session

Chairman Pomeroy called the meeting to order at 9:00 a.m., and directed the Committee's attention to Proposal No. 30.

Proposal No. 30 - Delegation of Legislative Authority

Staff reviewed a memorandum which lists statutes authorizing various state officials, boards and commissions to designate which acts may be punishable as crimes. Copies of the memo are in Committee notebooks.

Staff then distributed copies of a memorandum concerning the constitutionality of criminal penalties for violating administrative rules and regulations. Copies of this memo are in Committee notebooks.

Following Committee discussion, staff was directed to check with the Motor Vehicle Division concerning the violation of drivers' licensing regulations; with the Highway Patrol concerning motor vehicle inspection station regulations; with the Board of Agriculture concerning aerial sprayers and pesticide regulations; and with the Alcoholic Beverage Control Board concerning liquor store regulations. It was also suggested that the staff survey administrative agencies to determine whether violations of agency-created crimes frequently occur, and to contact the Kansas County and District Attorneys' Association in case county prosecutors want to comment on the subject.

Proposal No. 31 - Overview of Mental Illness Statutes

Staff reviewed a memorandum concerning constitutional questions regarding persons found not guilty by reason of insanity. A copy of this memo is in the Committee notebooks.

A question was raised concerning 1977 S.B. 98. Staff agreed to review the bill to determine whether the chief medical officer must notify law enforcement officers and obtain a court decision prior to releasing a patient.

A question was raised concerning transfers from Kansas State Penitentiary at Lansing to Topeka State Hospital. Staff noted that no statute provides for such transfers, and agreed to pursue the matter.

The Committee directed staff to contact the following groups to be heard on this topic: Kansas County and District Attorney Association, Department of Corrections, Department of Social and Rehabilitation Services, Social Workers' Association, the Special Court Judges Association, Representative Crowell, and groups representing the mentally retarded and the aides at Topeka State Hospital.

Proposal No. 32 - Department of Justice

Staff reviewed 1977 S.B. 223. Following brief Committee discussion, it was agreed that the Attorney General, the Governor, the Law Enforcement Assistance Administration, Senator Steineger, and several attorneys for state agencies should be contacted. In addition, it was suggested that the total cost of operating the present Attorney General's office (including the cost of office space) should be calculated and compared to similar costs under S.B. 223.

A Committee member raised a question concerning the practice of other states with respect to a Department of Justice. Staff noted that the National Association of Attorneys General has published a report which may be useful to this study.

Proposal No. 36 - Initiative and Referendum

Staff reviewed S.C.R. 1615 and S.C.R. 1617, and discussed the provisions of several states. Copies of the bills and a state-by-state comparison are in Committee notebooks. Staff noted that S.C.R. 1615 allows the Legislature to override the initiative.

Problem areas for the Committee to consider during the interim include frequency and successfulness of the initiative and referendum in other states, a procedure for verification of signatures on the initiative petition, the feasibility of regulating commercial signature takers, limiting campaign expenditures in an initiative, and restricting the Legislature's ability to amend initiative laws.

Groups to contact in connection with Proposal No. 36 include the League of Women Voters, Common Cause, the Secretary of State, Kansas Farm Bureau, and political party officials.

Proposal No. 34 - Uniform Exemptions Act

Staff reviewed a memorandum concerning the act. Copies of the memo are in Committee notebooks. It was noted that few amendments have been made to the Chapter 60 exemption provisions since 1963, and the Committee wondered if there was need for substantial amendments at this time.

Proposal No. 35 - Uniform Simplification of Land Transfers Act

Staff reviewed a memorandum on the Act. Copies of the memos are in Committee notebooks. The Committee directed the Staff to invite Glee Smith, Representative John Hayes, or Dick Hite (who are members of the National Conference of Commissioners on Uniform State Laws) to speak on Proposals No. 34 and 35.

Afternoon Session

Proposal No. 29 - Products Liability

The Chairman introduced Mr. Ron Todd, Assistant Commissioner of Insurance. Mr. Todd noted that information concerning products liability insurance will soon be available from three sources. One source is the products liability insurance availability plan described by Insurance Department bulletin 1977-11. (A copy is in Committee notebooks.) Since this plan was put into effect in late April, Mr. Todd indicated that about 15 risks have been referred to the underwriting committee of the advisory group.

The reporting requirements of H.B. 2410 provide a second source of information, according to Mr. Todd. However, due to deadlines imposed by the bill, information will not be available until at least March 1978.

The third source of information will result from Insurance Department bulletin 1977-6. (A copy is included in Committee notebooks.) This bulletin required all insurance companies writing products liability insurance in Kansas to maintain and report separately the products liability premium and loss information. Information gathered under this bulletin will not be available until early 1978.

Following Mr. Todd's discussion, staff reviewed the action of the 1977 Legislature on products liability, and S.B. 176.

Proposal No. 33 - Court Costs

Staff reviewed a memorandum concerning the subject. A copy of the memo is in Committee notebooks. A standard fee in probate cases and certain procedures were discussed. Committee directed staff to contact the District Court Clerks Association, the County Commissioners Association, the Kansas Sheriffs Association, and the Kansas Judicial Council.

Following further Committee discussion, it was agreed to take up the following Proposals at the June 27-28 meeting: Department of Justice, Court Costs, Uniform Acts (depending on whether a conferee can be obtained), and Initiative and Referendum.

The Committee discussed future meeting dates and agreed to change the October meeting to October 17-18. Thus, future meetings of the Committee are as follows:

June 27-28  
July 28-29  
August 25-26  
September 22-23  
October 17-18

The Chairman adjourned the meeting at 4:00 p.m.

Prepared by Walt Smiley

Approved by Committee on:

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Date