

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 522, at the Statehouse at 3:30 a.m./p. m., on January 16, 1978.

All members were present except: Representatives Hurley and Lorentz, who were excused.

The next meeting of the Committee will be held at 3:30 ~~a.m.~~ p. m., on January 17, 19 78.

These minutes of the meeting held on _____, 19____ were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

The meeting was called to order by the Chairman who called attention to the list of bills which had previously been distributed. He stated that he hoped not to have hearings on the bills which had been heard at the last session, and urged members who were interested in others to advise if they wished hearings scheduled.

The Chairman noted that Senator Pomeroy's interim committee had dealt with the subject matter in HB 2001, with an interim bill. Rep. Martin asked that the bill be held until such time it could be determined if the interim proposal would be well received.

The Chairman noted that House Bills 2002 and 2003 had been referred to Energy and Natural Resources. He called attention to HB 2005, an administrative procedures act which came from the previous interim study. He stated that hearings had been held last year, and that while there was some discussion among agencies about making procedures uniform, there seems to be little ardor for this bill. It was moved by Rep. Roth and seconded by Rep. Matlack that the bill be reported adversely. Motion carried unanimously.

The Chairman directed attention to HB 2007, explaining that the matter had been studied last year, and explained it is a modification of the comparative negligence statute, but that there are two other bills which will be introduced soon on this subject. It was moved by Rep. Ferguson and seconded by Rep. Baker that the bill be reported adversely. Motion carried by a majority.

Rep. Hayes told the committee that HB 2021 has now become unnecessary, and moved that the bill be reported adversely. Motion was seconded by Rep. Augustine and carried without dissent.

It was pointed out that HB 2040 had been requested by the Department of Corrections and that the Governor's office had some interest in it. Also, the Department of Corrections has

some suggested amendments. Rep. Martin stated that he felt this matter is addressed in an interim bill but that he would have no objection to holding the bill for a period of time.

It was moved by Rep. Stites and seconded by Rep. Baker that HB 2043 be reported adversely. Rep. Hoagland suggested that it shouldn't be acted on at this time; that he feels there is some merit in the provisions; and that he believes to kill it would result in a number of frivolous lawsuits. Upon vote, the motion carried by a majority.

The Chairman suggested that since Rep. Lorentz was absent any action be postponed on HB 2056.

The Chairman noted that because of a bill which came out of the interim, HB 2059 is no longer necessary. Rep. Whitaker suggested that just because the committee came up with one lien bill that the other bills are un-necessary. He suggested that the bill be held until the large bill is considered. The Chairman pointed out that the interim committee had looked at all of the bills and developed a compromise. Mr. Whitaker asked that it be held for awhile, and it was agreed to do so.

The Chairman called attention to HB 2065 and noted that the former Chief Justice had opposed the bill. Rep. Martin observed that there was a problem in Rep. Anderson's district, and Rep. Hays stated that the Judicial Commissioner had told him that the make up of the commission is now changed and the problem should be resolved. The Chairman suggested that it be held until the sponsor advises that it is satisfactory to act.

Rep. Frey stated that Rep. Lorentz is no longer interested in HB 2087, and that even though he was absent the bill could be killed. He moved that the bill be reported adversely, which motion was seconded by Rep. Baker. Upon vote, motion carried.

Rep. Ferguson requested that HB 2100 receive consideration at a later date. The Chairman agreed that it would be looked at along with the large juvenile bill.

Rep. Whitaker noted that the interim committee had recommended that HB 2107 be killed, and moved that it be reported adversely. Motion was seconded by Rep. Roth and upon vote, carried.

Rep. Frey noted that HB 2114 was a new concept and would be a large policy decision. The Chairman suggested that it should be set for hearing. Rep. Hayes stated that if other states haven't done something similar, it might put Kansas out of step with a majority of the states in uniform acts.

Rep. Matlack stated that although she liked the concept in HB 2123, she would move to report it adversely. Motion was seconded by Rep. Hayes, and carried.

Rep. Ferguson stated that HB 2147 was discussed in the interim but that he would like a hearing.

The Chairman stated that he had promised individuals they could be heard on HB 2154, and that it would be scheduled for hearing.

It was moved by Rep. Frey and seconded by Rep. Baker that House Bill 2186 be reported adversely. Motion carried.

The Chairman noted that HB 2203 was not incorporated into any interim bill by Judiciary B. He explained that it seems to be an alternate to capital punishment, and called attention to the fact that the speaker had announced that HB 2863 would be referred to the committee of the whole and debated on Wednesday, and that he doubted if this bill is necessary. It was moved by Rep. Stites and seconded by Rep. Mills that the bill be reported adversely. Motion carried, with Rep. Baker voting in opposition to the motion.

Rep. Frey stated that he felt Professor Ryan might be interested in HB 2212. The Chairman agreed that the bill would be held and scheduled later.

The Chairman suggested that while the bills are being reviewed, members might consider any which could be transferred to Federal and State Affairs.

The Chairman called attention to the fact that there are individuals interested in HB 2219, and that hearings will be scheduled at a later date.

The Chairman asked for consideration of HB 2235, stating that he felt the interim report deals with this subject. It was moved by Rep. Stites and seconded by Rep. Martin that the bill be reported adversely. Motion carried.

The Chairman suggested that HB 2236 be held. Rep. Baker asked that HB 2240 be held also, explaining that while they expect to introduce another bill, it is possible that they will need a vehicle and this bill could be used.

The Chairman announced that Rep. Glover had requested that HB 2243 be held for awhile, and that the committee did not hold hearings on HB 2266, and that a hearing would be set. The Chairman stated that hearings were not held on HB 2279, and Rep. Hayes noted that the sub-committee had invited people in for hearings. Rep. Baker stated there is an interim bill on this subject, but asked that it be held.

It was moved by Rep. Stites and seconded by Rep. Augustine that HB 2284 be reported adversely. Rep. Frey noted that Rep. Farrar had not had a chance to appear, and the motion was withdrawn.

Mr. Griggs stated that Judge Allen's court had called him and that it is about to rule on the subject matter in HB 2290, and that will have an influence on what action the committee might want to take. The Chairman agreed to hold the bill.

The Chairman noted that Rep. Glover has asked for a hearing on HB 2291, and that this might be a bill which could be transferred to Federal and State Affairs. He further noted that HB 2294 has been taken care of. It was moved by Rep. Roth and seconded by Rep. Mills that the bill be reported adversely. Motion carried.

The Chairman stated that Rep. Dyck has an interest in House Bill 2297, and would be set for hearing. He reminded members that hearings had been held on HB 2299 last year and he felt there was no need for further hearings. It was moved by Rep. Baker and seconded by Rep. Frey that the bill be reported favorably. Rep. Stites expressed opposition to the bill and explained that he felt it will place the legal profession in ill repute. Rep. Hayes stated he felt there is a need for more information; that courts should be surveyed to see how many hung juries there have been in recent years, and that he doubts there have been more than five in the past five years. The Chairman stated that the district judges, as a group, are in favor of this in civil cases. Upon vote, motion carried, with Representatives Hayes, Stites, Mills, Gillmore and Roth voting in opposition.

The Chairman noted that the provisions of HB 2317 have been incorporated into an interim bill, and asked for reactions also to HB 2310. Rep. Whitaker suggested holding them both until the committee can look at the interim bill.

Rep. Martin asked that the committee hold HB 2326 until he could discuss it with someone in the Attorney General's office. Also, he asked that the committee postpone action on HB 2327.

The Chairman asked members to consider HB 2370, pointing out that the interim committee had studied the juvenile code and had rejected lowering the age of juveniles. He explained that the major change in the code is in a Senate bill lowering the age of juveniles except for the dependent and neglected. Rep. Martin stated he though Rep. Fararr wanted to introduce a bill in this regard, and if this is held it could be a vehicle if necessary. Rep. Matlack noted that Federal and State Affairs has Rep. Garret's bill on this subject. The Chairman stated it would receive consideration at a later date.

The Chairman stated that Rep. Buzzi has not been invited to appear on HB 2378, and that he should be given a chance to comment.

The Chairman advised the committee that Rep. Duncan had incorporated his HB 2388 into a Senate bill and that it was no longer needed. It was moved by Rep. Augustine and seconded by Rep. Gastl that the bill be reported adversely. Motion carried.

Rep. Foster suggested that HB 2393 could be sent to Federal and State Affairs because licensure bills seem more appropriate in that committee. The Chairman expressed no objection.

The Chairman noted there is an interim bill which addresses the subject matter in HB 2397, and that a hearing would be scheduled for the two at an appropriate time.

Rep. Martin noted that Rep. Jarchow is the sponsor of House Bill 2400, and has not had a chance to be heard. The Chairman stated this, as well as HB 2411 would be held until the committee can look at the interim bill.

It was moved by Rep. Foster and seconded by Rep. Augustine that House Bills 2413 and 2414 be reported adversely. Motion carried.

It was moved by Rep. Mills and seconded by Rep. Roth that HB 2424 be reported adversely. Motion carried.

The Chairman suggested he would like to hold House Bills 2460, which was studied in the interim, as well as 2462 and 2464. He noted that HB 2467 has been handled by an interim bill. It was moved by Rep. Foster and seconded by Rep. Martin that the bill be reported adversely. Motion carried.

The Chairman called attention to HB 2468, a bill by Rep. Jones, which authorizes the court to order restitution. He stated that the same concept was incorporated into the interim bill on the juvenile code which is now in the Senate. He explained that Judge Honeyman had asked for this provision because of an LEAA grant to develop work programs for this type concept. He suggested holding the bill until it can be determined what will happen to the interim bill.

It was moved by Rep. Hayes and seconded by Rep. Stites that HB 2477 be reported adversely. Rep. Whitaker protested that the bill should not be dismissed without discussion. Rep. Foster stated that the bar association is in the process of coming up with a program on their own and such legislation would be premature. Upon vote, motion carried, with Rep. Whitaker voting no.

The Chairman stated that HB 2485 would be held until the interim bill is worked. He suggested since hearings were not had on HB 2506, Rep. Hohman should have an opportunity to be heard, and that can be looked at when consideration is given to HB 2523 which is a committee bill, and the interim bill which all deal with the same subject.

The Chairman stated that HB 2525 had been requested by the Attorney General's office and should be held until they advise what they want done with it.

It was moved by Rep. Augustine and seconded by Rep. Roth that HB 2526 be reported adversely. Motion carried.

The Chairman suggested that House Bills 2596, 2598 and 2601 be scheduled for hearing at a later date, and that House Bills 2612 and 2613 be held. Rep. Hayes stated that he thought Charles Laird was interested in these matters, and that law enforcement people have generally appeared.

The Chairman stated that he had been requested to set House Bill 2633 for the next Wednesday. He noted that HB 2639 was heard last year and that there seemed to be some problem insofar as the Sheriffs' Association is concerned. Rep. Ferguson said he would like to offer an amendment, and the Chairman suggested he discuss it with Rep. Hurley.

Rep. Whitaker stated that the interim committee recommended that HB 2641 not be passed. Rep. Roth stated he had an interest in attachment and garnishment laws. The Chairman suggested he look it over and be prepared to take some action later.

Rep. Hayes noted that the interim committee recommended against passage of HB 2648, and moved that it be reported adversely. Motion was seconded by Rep. Baker and carried.

The Chairman reminded members that there had been discussion on S.B. 71. Rep. Hoagland explained he had problems with the bill because of filings in trial matters. He moved that the bill be reported adversely, which motion was seconded by Rep. Baker. The motion carried.

The Chairman stated that SB 85 changes the age on traffic offenses and that this was accomplished in an interim bill which is now in the Senate. It was moved by Rep. Hoagland and seconded by Rep. Hayes that the bill be reported adversely. Motion carried by a majority.

The Chairman noted that the provisions of SB 106 are incorporated into another bill which is still in conference committee. It was moved by Rep. Foster and seconded by Rep. Stites that the bill be reported adversely. Motion carried.

The Chairman suggested that since it is not yet clear what the interim committee did in the area, that SB 113 be held for awhile. He called attention to SB 124, and stated he had a letter during the summer which suggested reducing the time period. Rep. Frey reminded members that the bill had been tabled. It was moved by Rep. Hoagland and seconded by Rep. Baker that it be removed from the table. Motion carried by a majority. The Chairman agreed to invite the Senator over to discuss the bill, as well as Senator Hein.

The Chairman suggested holding SB 158. He mentioned that consideration had been given to SB 201, and the testimony at least from the larger counties was that they do not want public defenders to come under statutory control. It was moved by Rep. Frey and seconded by Rep. Baker that the bill be reported adversely. Motion carried.

It was moved by Rep. Hayes and seconded by Rep. Foster that SB 255 be reported adversely. Motion carried.

The Chairman suggested holding Senate Bill 302 and see what Senator Hess wants to do with it. Also, he suggested holding Senate Bills 309 and 310 unless Federal and State Affairs would like to have them. Further, he recommended holding SB 347 until the interim bill can be reviewed. Hearings have been requested on SB 350, even though previous hearings have been had, and it was suggested that it be held for awhile.

Senate Bill 351 is tabled, and it was suggested that it remain there. The Chairman noted that he had misread SB 362 last year, although no hearings were held. He stated he would ask former Senator Story for a brief on the bill.

With regard to SB 366, Mr. Griggs stated that Section 1 had already been enacted into law, and that Section 2 had been sent to Ways and Means. It was moved by Rep. Mills and seconded by Rep. Baker that the bill be reported adversely. Motion carried.

The Chairman stated he had heard from Col. Rush concerning SB 381, and that the highway patrol has strong objection to the bill. It was moved by Rep. Ferguson and seconded by Rep. Stites that the bill be reported adversely. Motion carried by a majority.

It was noted that SB 406 had been tabled. Rep. Augustine moved that it be taken off the table. Motion was seconded by Rep. Matlack, and carried. The Chairman announced that he would schedule it for committee review because the interim had made some amendments.

Mr. Mills moved to remove SB 431 from the table. Motion was seconded by Rep. Hoagland, and carried. It was then moved by Rep. Mills and seconded by Rep. Baker that the bill be reported adversely. Motion carried by a majority.

The Chairman stated that SB 468 will be held for awhile. He further stated that he had asked and received permission for the committee to meet on Fridays at 11:00 A.M.

Rep. Martin told the committee he had asked the Revisor's office to draft a bill declaring juveniles who have been adjudged delinquent, from inheriting from their parents. He asked if the committee would introduce it as a committee bill. There was no objection.

The meeting was adjourned.