

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

Held in Room 519 S, at the Statehouse at 11:00 a. m. / ~~p. m.~~, on February 2, 19 78.

All members were present except: Senator Gaar

The next meeting of the Committee will be held at 11:00 a. m. / ~~p. m.~~, on February 3, 19 78.

~~The minutes of the meeting held on _____ were considered, corrected and approved.~~


Chairman

The conferees appearing before the Committee were:

- Senator Wes Sowers
- Payne Ratner, Jr. - Kansas Medical Society
- Dr. Dan Roberts - Kansas Medical Society
- Robert Hartsook - Kansas Trial Lawyers Association
- Jerry Levy - Kansas Trial Lawyers Association

Staff present:

- Art Griggs - Revisor of Statutes
- Paul Purcell - Legislative Research Department
- Jerry Stearns - Legislative Research Department

Senate Bill No. 605 - Attorney fees in certain professional liability actions.

Senator Sowers appeared in support of the bill. He explained that this bill and Senate Bill 607 had been introduced at the request of the Health Care Providers Malpractice Study Commission. He explained the reasons why the commission had requested such legislation.

Senate Bill 607 - Health care providers, notice of intent in certain professional liability actions.

Senator Sowers testified in support of this bill, and explained the reasons why the Health Providers Malpractice Study Commission had requested the bill to be introduced. The committee discussed several aspects of the bill with Senator Sowers.

Darb Ratner, of the Kansas Medical Socceity, testified in support of both bills. The committee discussed the bills with Mr. Ratner.

Dr. Dan Roberts testified in support of both bills. He explained his approach to the subject of malpractice claims. He stated the bills would help with the situation where doctors are faced with the dilemma of either paying claimants on the basis of the nuisance value of the law suit, or facing expensive discovery proceedings. The committee discussed the bills with Dr. Roberts.

Bob Hartsook introduced Jerry Levy, who spoke on behalf of the Kansas Trial Lawyers, in opposition to both bills. The committee discussed

SB 607 continued -

the bills with Mr. Levy.

Senate Bill 585 - Liability for rendering emergency care.

Dr. Roberts testified in support of a proposed amendment to the bill.

The chairman distributed copies of the interim report from the Judicial Council as requested by 1977 HCR 5044.

The meeting adjourned.

These minutes were read and approved
by the committee on 2-14-78.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Bob Hartsook	Topeka, Ks	KTLA
Jerry Levy	" "	KTLA
Ed Han	" "	(Kans. Assoc.) Prop & Cas. Ins C
Dan Roberts	Wichita	KMS
Jerry Sauer	TOPEKA	KS. MEDICAL JURY
Dan Retner	RI, Ozarkie	" " "
Jerry White	KAm - Topeka	
Matt Burson	Topeka	



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JUDICIAL MEMBERS
ALFRED G. SCHROEDER, CHAIRMAN,
TOPEKA

J. RICHARD FOTH, TOPEKA
JAMES J. NOONE, WICHITA
HERBERT W. WALTON, OLATHE

LEGISLATIVE MEMBERS
E. RICHARD BREWSTER, TOPEKA
ELWAIN F. POMEROY, TOPEKA

LAWYER MEMBERS
ES D. WAUGH, SECRETARY,
TOPEKA
ROBERT H. COBEAN, WELLINGTON
JACK E. DALTON, DODGE CITY
MARVIN E. THOMPSON, RUSSELL

January 27, 1978

Hon. Ross O. Doyen, Chairman
Legislative Coordinating Council
Statehouse
Topeka, Kansas 66612

Dear Senator Doyen:

Enclosed herewith is the interim report directed by 1977 H.C.R. No. 5044. If there are any questions, or comments, please contact me.

Respectfully submitted,

ALFRED G. SCHROEDER
CHAIRMAN

AGS:ng

Encl.

cc: Hon. Robert F. Bennett
Senator Elwaine F. Pomeroy ✓
Senator John F. Steiner
Representative E. Richard Brewster
Representative John Carlin
Representative Wendell Lady

INTERIM REPORT OF JUDICIAL COUNCIL COMMITTEE
APPOINTED PURSUANT TO 1977 H.C.R. 5044

1977 H.C.R. 5044 requested the Judicial Council to make a survey and study of the appointment of counsel in criminal and all other proceedings constitutionally requiring appointed counsel. The resolution also requested that the Council report to the 1978 legislature on such part of the study that is completed during 1977. This is the interim report.

The Council policy, upon undertaking any assigned task, is to select a committee consisting of persons deemed to have, by way of training or experience, expertness in the area to be studied. Once selected such a committee is chaired by a member of the Council who reports, from time to time, to the Council on the committee's work. At the May 5, 1977 meeting of the Judicial Council a committee was established to make the study requested by H.C.R. No. 5044. The following persons were appointed to the committee:

Jack E. Dalton, Chairman, Dodge City,
Jack Focht, Wichita,
Gerald Goodell, Topeka,
Hon. Morris V. Hoobler, Salina,
Ira Kirkendoll, Kansas City,
Michael Lerner, Kansas City,
Dolores Macke, Overland Park,
Walter Stueckemann, Jetmore, and
Hon. Fred L. Weaver, Baxter Springs.

The committee has met at least monthly since its appointment. In proceeding to carry out the requests contained in the resolution the following are examples of items the committee has considered:

1. Kansas statutes relating to court appointed counsel in all areas including criminal, juvenile, mental illness and similar sections.
2. Public Defender statutes and the statutes which relate to indigency.
3. The operation of the A.I.D. program.
4. Studies of other jurisdictions similar to the one assigned by H.C.R. 5044.
5. Leading court cases in this area.

The committee prepared a questionnaire for the administrative judge of each judicial district on the cost and practices involved in appointing counsel and has received and analyzed the results of those questionnaires.

On October 3, 1977 the committee entered into an agreement with the National Center for Defense Management to conduct a study of the defense services in Kansas, to compare them with other states and to provide a report on their findings, including suggested legislation. The cost of the study will be split between N.C.D.M. and the Judicial Council. N.C.D.M. will provide 87% of the cost of the study through a grant from L.E.A.A. The Judicial Council will pay for 13% of the cost of the study, not to exceed \$2,000, from budgeted funds.

The committee met with Chief Justice Schroeder, the Judicial Administrator and the statistician of the Unified Judicial Department to obtain their opinion in certain areas involved in the study.

The individual committee members have also been assigned relevant topics on which to report to the committee in future meetings. Such reports will require individual study and research on the part of each committee member.

As one can well anticipate, a study such as this requires that the committee members familiarize themselves with the present system, systems offered in comparable jurisdictions and the strengths and weaknesses of each. We see considerable more work ahead before meaningful recommendations can be submitted.

Respectfully submitted,

Jack E. Dalton, Chairman, Judicial
Council Counsel for Indigent Persons
Advisory Committee