

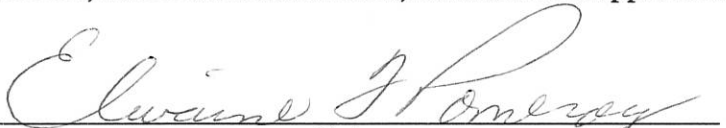
MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

Held in Room 519 S, at the Statehouse at 11:00 a. m. ~~p.m.~~, on February 23, 19 78.

All members were present except: Senators Gaines and Hein

The next meeting of the Committee will be held at 11:00 a. m. ~~p.m.~~, on February 24, 19 78.

~~These minutes of the meeting held on XXX were considered, consented and approved~~


Chairman

The conferees appearing before the Committee were:

Ben Neill - Kansas Department of Revenue

Staff present:

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

Senate Bill 907 - Married persons property rights. Mr. Ben Neill appeared at the request of the committee to explain what the bill would do. Copies of proposed amendments to the bill were distributed. Following committee discussion, Senator Burke moved to amend the bill by providing for an amendment to K.S.A. 23-201 to replace the existing section 1 of the bill. Senator Parrish seconded the motion, and the motion carried. Senator Gaar moved to report the bill favorably as amended; Senator Hess seconded the motion, and the motion carried.

Senate Bill 861 - Crimes, mandatory incarceration of certain defendants convicted of a second felony. Following committee discussion, it was the consensus of the committee that no action be taken on the bill. During the discussion, it was pointed out that there would be a house bill coming over which would deal with the subject, although the house bill might be assigned to Federal and State Affairs instead of Judiciary. During the discussion, it was also pointed out that the representative from the governor's office who appeared on the bill had not read the interim committee reports concerning sentencing and the report of the interim committee on corrections; discussion was also had concerning the governor's veto of the 30 year mandatory sentence in the 1977 session.

Senate Bill 912 - Kansas securities act, orders of commissioner. Senator Gaar explained that the bill was designed to give the Kansas Securities Commissioner some authority to move into a situation where the Commissioner feels there is immediate danger

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the Senate Committee on Judiciary February 23, 1978.SB 912 continued

to the public. He suggested that the committee consider the alternative language to section 3 which had been presented to the committee earlier. Senator Steineger moved to amend the bill with the suggested amendments for section 3; Senator Hess seconded the motion, and the motion carried. Senator Steineger moved to report the bill favorably as amended; Senator Hess seconded the motion, and the motion carried.

Senate Bill 601 - Unlawful sale of a child. Following committee discussion, and a review of the amendments previously made to the bill by the committee, Senator Hein moved to report the bill favorably as amended. Senator Hess seconded the motion; following further committee discussion, the motion failed on a vote of four to five. Senator Hein moved to report the bill adversely; Senator Hess seconded the motion, and the motion carried.

Senate Bill 841 - Divorce, modification of alimony payments. Following committee discussion, Senator Steineger moved to report the bill favorably; Senator Parrish seconded the motion. The motion failed on a vote of three to six. Senator Gaar moved to report the bill adversely; Senator Simpson seconded the motion, and the motion carried, with Senators Parrish and Mulich being recorded as voting "No."

Senate Bill 297 - Natural death act. Following committee discussion, Senator Steineger moved to report the bill adversely; Senator Mulich seconded the motion. Senator Simpson indicated that he had proposed amendments to offer to the bill, and he agreed that it needed to be cleaned up some. Following further committee discussion, the motion carried on a vote of five to four.

Senate Bill 910 - Aggravated kidnapping. Senator Everett explained the purpose of the bill. Following committee discussion, Senator Steineger moved to report the bill adversely; Senator Hess seconded the motion, and the motion carried.

The meeting adjourned. y 24

These minutes were read and approved
by the committee on 4-24-78.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Bill Henry	Topeka	Governor's Office
Susan Lueger	"	St. Planning + Research
John Wis	Salina	Salina High School South
Linda Larson	Salina	Salina South High
Cheryl Reid	Salina	"
Rick Harselman	"	"
Ashley Nully	Salina	Salina High School South
Ken W. Chamberlain	Salina	" " " "
Auntie Updegraff	Topeka	Kans Bar Assoc
Ruth Groves	Topeka	O A W W
Tom Bogart	Salina	Salina High School South
Ben Neill	Topeka	Ks Dept of Revenue
Kevin Fern	Stawnee	
Barbara Meidinger	Topeka	Op. League of Topeka

that such parents have subsequent to the birth of the child lawfully intermarried.

History: K.S.A. 23-126; L. 1976, ch. 145, § 127; Jan. 10, 1977.

23-127. Same; evidence of marriage and of birth of children; finding; jurat; duties of judge; case file not to be open. The judge of the district court shall require the parents to exhibit or file with the court evidence of their lawful marriage. The judge of the district court shall require the parents to exhibit or file with the court evidence of the birth of said child or children. If said judge finds that the birth of said child or children has been registered in the state of Kansas as illegitimate and the parents of said child or children subsequently have become lawfully married to each other he or she then shall affix such jurat to each affidavit and forward both affidavits to the state registrar of vital statistics. Further, said judge shall return all other evidence and exhibits to the parents of said child or children. No fee shall be charged for the performance of this service. No case file will be opened in the district court, nor will any record be made by the court of the performance of this act.

History: K.S.A. 23-127; L. 1976, ch. 145, § 128; Jan. 10, 1977.

23-130. Artificial insemination; consent executed and filed; file not open to public. The consent provided for in this act shall be executed and acknowledged by both the husband and wife and the person who is to perform the technique, and an original thereof may be filed under the same rules as adoption papers in the district court of the county in which such husband and wife reside. The written consent so filed shall not be open to the general public, and the information contained therein may be released only to the persons executing such consent, or to persons having a legitimate interest therein as evidenced by a specific court order.

History: K.S.A. 23-130; L. 1976, ch. 145, § 129; Jan. 10, 1977.

Article 2.—MARRIED PERSONS

23-201. Separate property of married person. The property, real and personal, which any person in this state may own at the time of his or her marriage, and the rents,

issues, profits or proceeds thereof, and any real, personal or mixed property which shall come to him or her by descent, devise or bequest, or the gift of any person except his or her spouse, shall remain his or her sole and separate property, notwithstanding the marriage, and not be subject to the disposal of his or her spouse or liable for the spouse's debts.

History: K.S.A. 23-201; L. 1976, ch. 172, § 1; July 1.

Law Review and Bar Journal References:

Discussed in "Women Under the Law: The Pedestal or the Cage?", Louise A. Wheeler, 43 J.B.A.K. 25, 26 (1974) (Incorrectly cited as 23-210).

23-202. Conveyances and contracts concerning property. A married person, while the marriage relation subsists, may bargain, sell and convey his or her real and personal property and enter into any contract.

History: K.S.A. 23-202; L. 1976, ch. 172, § 2; July 1.

23-203. Sue and be sued. A person may, while married, sue and be sued in the same manner as if he or she were unmarried.

History: K.S.A. 23-203; L. 1976, ch. 172, § 3; July 1.

23-204. Married person may carry on trade or business; earnings. Any married person may carry on any trade or business, and perform any labor or services, on his or her sole and separate account; and the earnings of any married person from his or her trade, business, labor or services shall be his or her sole and separate property, and may be used and invested by him or her in his or her own name.

History: K.S.A. 23-204; L. 1976, ch. 172, § 4; July 1.

23-205. Loss or impairment of services; right of action. Where, through the wrong of another, a married person shall sustain personal injuries causing the loss or impairment of his or her ability to perform services, the right of action to recover damages for such loss or impairment shall vest solely in such person, and any recovery therefor, so far as it is based upon the loss or impairment of his or her ability to perform services in the household and in the discharge of his or her domestic duties, shall be for the benefit of such person's spouse so far

as he or she shall be ing herein shall in any the spouse to reco wrongful death of hi

History: K.S.A. 23-205; § 5; July 1.

Law Review and Bar Journal

Cited in note concerning 14 W.L.J. 309, 318 (1975)

Mentioned in "Women or the Cage?", Louise A. Wheeler

CASE AND

20. Plaintiffs right to sue barred by former provision limiting right to sue to Mann v. Golden, 428 F.2d 1000 (1970)

21. Applied; malpractice have separate cause of settlement amount against ton v. Torbey, 548 F.2d 1000 (1977)

23-206. Rights of state. Any person married out of this state afterward becomes enjoy all the rights and or she may have acquired other state, territory or she may have acquired marriage contract or this state.

History: K.S.A. 23-206; § 6; July 1.

23-207.

CASE AND

7. Antenuptial contract; void; unenforceable and K. 428, 548 P.2d 734.

Article 3.—
EXAMINATION

23-301. Certificate of test before marriage; consent; charge. Before any person shall issue a marriage certificate therefor shall file a certificate signed by a physician under the laws of the state of the applicant certificates shall state been given an examination standard serological test for syphilis, made not later than prior to the date of marriage and stating whether

23-201. Separate property of married person. The property, real and personal, which any person in this state may own at the time of his or her marriage, and the rents,

(a)

issues, profits or proceeds thereof, and any real, personal or mixed property which shall come to him or her by descent, devise or bequest, or the gift of any person except his or her spouse, shall remain his or her sole and separate property, notwithstanding the marriage, and not be subject to the disposal of his or her spouse or liable for the spouse's debts.

History: K.S.A. 23-201; L. 1976, ch. 172, § 1, L.L.C. 1

(b) Property, other than property described in subsection (a) or property excluded by a valid written agreement by the parties, acquired by either spouse after marriage and before commencement of an action for divorce, separate maintenance, or annulment, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy or tenancy in common, shall be "marital property." Each spouse has a common ownership in "marital property" which vests not later than the time of commencement by one spouse against the other of an action in which a final decree is entered for divorce, separate maintenance, or annulment, the extent of the vested interest to be determined and finalized by the Court pursuant to K.S.A. 60-1610.