

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Elwaine F. Pomeroy at  
Chairperson

10:00 a.m. ~~pm~~ on January 25, 1983 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaar, Gaines, Hein, Hess, Mulich, Steineger and Werts.

Committee staff present: Mary Torrence, Revisor of Statutes  
Mike Heim, Legislative Research Department  
Mark Burghart, Legislative Research Department

Conferees appearing before the committee:

Jim Clark, Kansas County and District Attorneys Association  
Ron Todd, Assistant Commissioner of Insurance  
Marjorie Van Buren, Office of Judicial Administrator

Senator Feleciano moved that the minutes of January 24, 1983, be approved; Senator Mulich seconded the motion, and the motion carried.

Jim Clark presented a proposal concerning parole; requiring notification of the county or district attorney when parole is granted (See Attachment #1). Following his explanation, Senator Burke moved that the bill be introduced; Senator Mulich seconded the motion. Following committee discussion, the motion carried.

Jim Clark Explained the next proposal which concerns the crime of aggravated trespassing, and penalty is a class E felony (See Attachment #2). Following committee discussion, the chairman asked Mr. Clark to bring the proposal back to the committee for further consideration.

Jim Clark presented a proposal that concerns the offense of giving a worthless check (See Attachment #3). He explained the proposal to the committee. Committee discussion with him followed. No motion was made.

Jim Clark presented a proposal that concerns uniform controlled substances (See Attachment #4). He explained the proposal would amend the statute that deals with cocaine to conform with other statutes on drugs. Following committee discussion, Senator Winter moved that the bill be introduced; Senator Gaines seconded the motion, and the motion carried.

Jim Clark explained the next proposal concerns the offenses of vehicular homicide and involuntary manslaughter (See Attachment #5); it would raise the penalty for vehicular homicide and involuntary manslaughter. Staff reported that the third section should be a different bill. Senator Burke moved to introduce the first two sections as a bill; Senator Gaines seconded the motion, and the motion carried. Senator Winter then moved to introduce a bill as presented in the third section on page two of Mr. Clark's proposal; Senator Mulich seconded the motion, and the motion carried.

Jim Clark explained a proposal concerning crimes and punishments; presentence investigations and reports (See Attachment #6). Following his explanation, Senator Mulich moved that the bill be introduced; Senator Werts seconded the motion, and the motion carried.

Ron Todd presented a proposal to be considered as a committee bill relating to health care providers (See Attachment #7). He explained it was introduced as Senate Bill 333 in the 1981 Session; it had a hearing in 1982, and was not passed out of the House Judiciary Committee. This would give the trier of fact the opportunity to allow evidence as collateral sources. He pointed out the changes in lines 4 and 13 they are requesting. Senator Gaines moved that the bill be introduced as a committee bill; Senator Werts seconded the motion, and the motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on January 25, 1983

Marjorie Van Buren presented a proposal to be considered as a committee bill and explained it concerns setting bonds for appeals from the municipal court (See Attachment #8). Following her explanation, Senator Steineger moved that the bill be introduced as a committee bill; Senator Hess seconded the motion, and the motion carried.

Marjorie Van Buren presented a proposal that concerns drivers license lists (See Attachment #9). Following her explanation, Senator Steineger moved that the bill be introduced; Senator Burke seconded the motion. Following committee discussion, the motion carried.

Marjorie Van Buren explained the next proposal would allow the computer to print the word "seal" on documents (See Attachment #10). Senator Steineger moved that the bill be introduced; Senator Hess seconded the motion, and the motion carried.

Marjorie Van Buren explained a proposal that clarifies that coroners are not part of the court employees (See Attachment #11). Senator Hess moved that the bill be introduced; Senator Winter seconded the motion. Following committee discussion, the motion carried.

Marjorie Van Buren explained her next proposal that would clarify the status and role of the clerk of the district court in three different statutes and their deputies (See Attachment #12). Senator Steineger moved that the bill be introduced; Senator Mulich seconded the motion, and the motion carried.

Marjorie Van Buren explained her next proposal is one that was presented last year concerning civil action scheduled for jury and cancelled out at the last minute (See Attachment #13). Committee discussion followed. No motion was made.

Marjorie Van Buren presented a proposal that is purely technical that would remove statutory references to dockets and minute books no longer kept by district courts (See Attachment #14). Senator Burke moved that the bill be introduced; Senator Hein seconded the motion, and the motion carried.

Marjorie Van Buren presented a proposal that concerns peremptory challenges (See Attachment #15). Following her explanation, Senator Winter moved that the bill be introduced; Senator Steineger seconded the motion, and the motion carried.

Marjorie Van Buren explained a proposal was requested by the clerk of the appellate court that concerns transmitting certified copy either by hand or by registered mail (See Attachment #16). Senator Gaines moved that the bill be introduced; Senator Winter seconded the motion, and the motion carried.

Marjorie Van Buren explained the next proposal concerns compensation of certain district court personnel to be paid by state (See Attachment #17). Committee discussion followed. No motion was made.

Marjorie Van Buren presented a proposal concerning disposition of docket fees (See Attachment #18). Following her explanation, Senator Gaines moved that the bill be introduced; Senator Winter seconded the motion. Following committee discussion, the motion carried.

A committee member discussed recinding the policy decision to send more of the money from docket fees to the counties to help meet fiscal pressures.

The chairman announced the hearing on Senate Bill 28 tomorrow has been postponed upon request of the sponsor of the bill. The committee will work on bills previously heard.

The meeting adjourned.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

Carol Beard  
Lamy Humes

Topeka

Sec of State  
Steiniger

Marjorie VanBuren

OJA

Bob GRANT

TOPEKA

KACI

Sam Mace

"

KBA

Ron Todd

"

Insurance Dept.

Tom Josselyn

"

Sec of State

David Ross

MISSION, KS.

FARMERS INS. GROUP

JIM WRIGHT

TOPEKA

KS ASSN OF DEFENSE COUNSEL

Ed [unclear]

"

Kansas [unclear] Corp

Mark [unclear]

Topeka

# 1A

Bob Reesert

"

Women's Political Caucus

Denise Kuteni

Topeka

OJA

John [unclear]

Maize

KGFA

1-25-83  
#1

SENATE BILL NO. \_\_\_\_\_

AN ACT concerning parole; requiring notification of the county or district attorney when parole is granted; amending K.S.A. 22-3717 and repealing the existing sections.

Section 1. K.S.A. 22-3717 is hereby amended to read as follows:

(h) Whenever the Kansas Adult Authority orders the parole of an inmate, the authority shall notify the county or district attorney of the county in which the inmate was sentenced, in writing, within ten days of the date of the Adult Authority's decision.

Section 2. This act shall take effect and be in force from and after its publication in the statute book.

Atch. 1

1-25-83

# 2

SENATE BILL NO. \_\_\_\_\_

AN ACT concerning crimes; relating to the crime of aggravated trespassing.

New Section 1. (1) Aggravated criminal trespass is knowingly and intentionally entering into or remaining within any dwelling in which there is a human being.

(2) Aggravated trespassing is a class E felony.

Atch. 2

AN ACT concerning crime; concerning the offense of giving a worthless check; amending K.S.A. 21-3707, 21-3708 and repealing the existing sections.

Section 1. K.S.A. 21-3707 is hereby amended as follows: (1) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

(2) In any prosecution against the maker or drawer of a check, order or draft payment, of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the drawee unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding \$3 \$10 for each check, within seven days after notice has been given to the maker or drawer that such check, draft or order has not been paid by the drawee. As used in this section, "notice" includes oral or written notice to the person entitled thereto. Written

notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order.

(3) It shall be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(a) Was postdated, or

(b) was given to a payee who had knowledge or had been informed, when the payee accepted such check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation.

(4) Giving a worthless check is a class ~~E~~ D felony if the check, draft or order is drawn for \$100 ~~\$50~~ or more. Giving a worthless check is a class A misdemeanor if the check, draft or order is drawn for less than ~~\$50~~ \$100.

Section 2. K.S.A. 21-3708 is hereby amended as follows: 21-3708. Habitually giving worthless checks. (1) Habitually giving worthless checks is:

(a) Giving a worthless check, as defined by section 21-3707, as amended, drawn for less than ~~fifty~~ one hundred dollars, by a person who has within two (2) years immediately preceding the giving of such worthless check, been twice convicted of giving worthless checks; or

(b) Giving two (2) or more worthless checks, as defined by section 21-3707, as amended, each drawn for less than ~~fifty~~ one hundred dollars ~~(\$50)~~ (\$100), where the total amount for which such worthless checks are drawn is ~~fifty~~ one hundred dollars ~~(\$50)~~ (\$100) or more and each of such checks was given on the same day.

(2) A complaint, information or indictment charging a violation of subsection (1) (a) shall allege specifically that the defendant has twice been convicted of giving a worthless check and shall allege the dates and places of such convictions and that both of them occurred within a period of two (2) years immediately preceding the crime charged. For the purpose of subsection (1) (b) worthless checks bearing the same date shall be presumed to have been given the same day. Any complaint, information or indictment charging a violation of this section shall allege that the defendant feloniously committed the crime.

(3) Habitually giving worthless checks is a class D felony.



1-25-83

# 4

SENATE BILL NO. \_\_\_\_\_

AN ACT concerning the uniform controlled substances act; amending  
K.S.A. 65-4127a and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-4127a is hereby amended to read as follows: 4127a. (a) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to manufacture, possess, have under ~~his~~ such person's control, ~~possess with intent to sell, sell,~~ prescribe, administer, deliver, distribute, dispense or compound any opiates, opium or narcotic drugs. Any person who violates this section shall be guilty of a class ~~-E-~~ D felony, except that upon conviction for the second offense, such person shall be guilty of a class ~~-B-~~ C felony, and upon a conviction for a third or subsequent offense, such person shall be guilty of a class ~~-A-~~ B felony, ~~and the punishment shall be life imprisonment.~~

New Section 2. (b) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to sell, offer for sale or have in such person's possession with the intent to sell any opiates, opium or narcotic drugs. Any person who violates this section shall be guilty of a class C felony, except that upon conviction for the second offense, such person shall be guilty of a class B felony, and upon conviction for a third or subsequent offense, such person shall be guilty of a class A felony.

This act shall take effect and be in force from and after its publication in the statute book.

Atch. 4

1-25-83  
#5

SENATE BILL NO. \_\_\_\_\_

AN ACT concerning the offenses of vehicular homicide, and involuntary manslaughter. Amending K.S.A. 21-3404, 21-3405, 74-7301(e) and repealing the existing sections.

Section 1. K.S.A. 21-3404 is hereby amended to read as follows:

21-3404. Involuntary Manslaughter. Involuntary manslaughter is the unlawful killing of a human being, without malice, which is done unintentionally in the wanton commission of an unlawful act not amounting to felony, or in the commissions of a lawful act in an unlawful or wanton manner. As used in this section, an "unlawful act" is any act which is prohibited by a statute of the United States or the state of Kansas or an ordinance of any city within the state which statute or ordinance is enacted for the protection of human life or safety.

Involuntary manslaughter is a class ~~B~~ D felony.

Section 2. K.S.A. 21-3405 is hereby amended to read as follows:

21-3405. Vehicular homicide. (1) Vehicular homicide is the killing of a human being by the operation of an automobile, airplane, motor boat or other motor vehicle in a manner which creates an unreasonable risk of injury to the person or property of another and which constitutes a material deviation from the standard of care which a reasonable person would observe under the same circumstances.

(2) This section shall be applicable only when the death of the injured person ensues within one (1) year as the proximate result of the operation of a vehicle in the manner described in subsection (1) of this section.

(3) Vehicular homicide is a class ~~A-misdemeanor~~ E felony.

Atch. 5

Section 3. K.S.A. 74-7301(e) is hereby amended to read as follows:

(e) "Criminally injurious conduct" means conduct that (1) occurs or is attempted in this state, (2) poses a substantial threat or personal injury or death and (3) either is punishable by fine, imprisonment or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state.  ~~, but such term shall not include conduct arising out of the ownership, maintenance or use of a motor vehicle, except when such conduct was intended to cause personal injury or death.~~

Section 4. This act shall take effect and be in force from and after July 1, 1984.

1-25-87  
# 6

SENATE BILL NO. \_\_\_\_\_

AN ACT concerning crimes and punishments; presentence investigations and reports; requiring a victim impact statement; amending K.S.A. 21-4604(3) and repealing the existing section.

Section 1. K.S.A. 21-4604(3) is hereby amended to read as follows:

(3) Presentence investigation reports shall be in the form and contain the information prescribed by rule of the Supreme Court, and shall contain such other information as may be prescribed by the district court, including a verified statement assessing the financial, social, psychological and medical impact upon the victim of the crime.

Section 2. K.S.A. 21-4604(3) is hereby repealed.

Section 3. This act shall take effect and be in force from and after its publication in the statute book.

Atch. 6

LEGISLATIVE PROPOSAL NO. 18

AN ACT relating to the admissibility of evidence of payments or services received by an injured party from sources collateral to the wrongdoers in certain professional liability actions; amending K.S.A. 60-471 and repealing the existing section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

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Section 1. K.S.A. 60-471 is hereby amended to read as follows: 60-471. (a) In any action for damages for personal injuries or death arising out of the rendering of or the failure to render professional services by any health care provider, evidence of any reimbursement or indemnification received or receivable in the future by a party for damages sustained from such injury or death, excluding payments from insurance paid for in whole or in part by such party or his or her employer, and services provided by a health maintenance organization to treat any such injury, excluding services paid for in whole or in part by such party or his or her employer, shall be admissible for consideration by the trier of fact subject to the provisions of subsection (b). Such evidence shall be accorded such weight as the trier of fact shall choose to ascribe to that evidence in determining the amount of damages to be awarded to such party.

(b) As a condition precedent to presenting evidence of reimbursement or indemnification received or receivable in the future by a party for damages sustained from such injury or death or services provided by a health maintenance organization, the party against whom claim is made in any such action shall make disclosure of such evidence at a pretrial conference on such action. Upon such disclosure, the claimant shall be allowed an opportunity to show that an obligation exists to reimburse the person making the initial reimbursement or indemnification or providing the services from any damages awarded in such action. The claimant shall specify in such showing the amount of any such obligation. Upon such showing by the claimant, the court shall include in its order that any evidence of such reimbursement or indemnification or the providing of such services, to the extent that the same is an obligation on the claimant, shall not be admissible into evidence at the trial of the action.

(c) As used in this section: (1) "Health care provider" means a person licensed to practice the healing arts or engaged in a post-graduate training program approved by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts, licensed medical care facility, health maintenance organization, licensed dentist, licensed professional nurse, licensed practical nurse, licensed optometrist, registered podiatrist, registered pharmacist, professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, registered physical therapist or an officer, employee or agent thereof acting in the course and scope of his or her employment or agency; and (2) "professional services" means those services which require licensure, registration or certification by agencies of the state for the performance thereof.

Sec. 2. K.S.A. 60-471 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after publication in the statute book.

#8

**22-3609. Appeals from municipal courts.** (1) The defendant shall have the right to appeal to the district court of the county from any judgment of a municipal court which adjudges the defendant guilty of a violation of the ordinances of any municipality of Kansas. The appeal shall be assigned by the administrative judge to a district judge or associate district judge. The appeal shall stay all further proceedings upon the judgment appealed from.

(2) An appeal to the district court shall be taken by filing a notice of appeal and any ~~required~~ appearance bond in the district court of the county in which the municipal court is located. No appeal shall be taken more than 10 days after the date of the judgment appealed from.

required by the municipal court
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(3) The notice of appeal shall designate the judgment or part of the judgment appealed from. The defendant shall cause notice of the appeal to be served upon the city attorney prosecuting the case. The judge whose judgment is appealed from or the clerk of the court, if there is one, shall certify the complaint and warrant to the district court of the county, but failure to do so shall not affect the validity of the appeal.

(4) Hearing on the appeal shall be to the court unless a jury trial is requested in writing by the defendant not later than 48 hours prior to the trial. A jury in an appeal from a municipal court judgment shall consist of six members.

(5) Notwithstanding the other provisions of this section, appeal from a conviction rendered pursuant to subsection (b) of K.S.A. 12-4416 shall be conducted only on the record of the stipulation of facts relating to the complaint.

History: L. 1970, ch. 129, § 22-3609; L. 1971, ch. 114, § 10; L. 1975, ch. 202, § 1; L. 1976, ch. 163, § 21; L. 1977, ch. 112, § 10; L. 1981, ch. 154, § 3; L. 1982, ch. 149, § 1; L. 1982, ch. 144, § 18; July 1.

**CASE ANNOTATIONS**

10. Considered in construing 21-4603 as permitting court to retain jurisdiction and act on timely motion for probation or sentence reduction after 120-day period. State ex rel. Owens v. Hodge. 230 K. 804, 808, 641 P.2d 399 (1982).

Atch. 8

# 9

Sec.1 K.S.A. 43-162 is hereby amended to read as follows:

**43-162. Jury service; preparation of jury lists.** All jury lists shall be prepared in accordance with the provisions of this act. Jury commissioners shall cause to be prepared under their supervision a list of persons qualified as jurors in each county. Jury lists shall be prepared from voter registration records or enumeration or census records of the county <sup>in accordance with the intent and purposes of this act.</sup> Jury lists prepared from multiple sources may be used if one or more of the foregoing records is used as a material source in preparing the list. The commissioners shall cause the jury list of each county to be revised and updated by adding names of qualified jurors and removing names of those who have died, removed from the county, or who have otherwise become disqualified. For the purposes of preparation and revision of jury lists, commissioners shall have access to the voter registration records <sup>or enumeration or</sup> census records of each county.

or lists of licensed drivers

and

and records of the division of vehicles pertaining to licensed drivers.

Atch. 9

**74-2012.** Division of vehicles records open for public inspection; confidentiality of certain records; furnishing requested information to certain parties; fees, approval; rules and regulations. All records of the division of vehicles pertaining to title, registration, licenses, dealers, drivers' licenses and accident reports shall be public records and open to inspection by the public. Other records relating to the physical or mental condition of any person shall be confidential. Copies of information contained in public records relating to any person shall be provided by the division to such person upon request. Copies of such information shall be provided to any person, firm, corporation, partnership or association either upon the written authorization of the person to whom such information relates or upon the requesting party's written certification that:

(a) The requesting party has a security interest in a motor vehicle owned by such person, or such person has offered to pledge such motor vehicle to the requesting party as security for a loan; or

(b) the requesting party is an employer or prospective employer of such person who, as a condition of such employment, will be engaged in the operation of motor vehicles owned by the requesting party; or

(c) the information relates to an application for or renewal or cancellation of a casualty insurance policy issued by the requesting party or through its authorized agent, and that the requesting party and any such agent is fully licensed by the Kansas insurance department.

<sup>A</sup>In addition, the director of vehicles may furnish information in any of its public records to a requesting party who submits proof satisfactory to the director that the information requested is to be used by the requesting party for the purpose of providing information to a manufacturer of motor vehicles registered in this state. A fee in an amount fixed by the secretary of revenue and approved by the director of accounts and reports under K.S.A. 45-204, for each request for information in the public records of the division concerning any vehicle or licensed driver shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized or required to furnish information under this section and such fee shall not be less than the cost of production or reproduction of any information requested.

The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

**History:** L. 1929, ch. 81, § 4; L. 1945, ch. 88, § 2; L. 1957, ch. 425, § 1; L. 1961, ch. 381, § 1; L. 1972, ch. 286, § 1; L. 1975, ch. 400, § 1; L. 1978, ch. 347, § 16; L. 1981, ch. 301, § 1; July 1.

Sec. 2 of K.S.A. 1981 Supp. 74-2012 is hereby amended to read as follows:

(d) the information will be used for jury source list purposes pursuant to K.S.A. 43-162 and amendments thereto.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas Register.



Article 2.—STATUTORY CONSTRUCTION

77-201. Rules of construction. In the construction of the statutes of this state the

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Fourteenth. Where the seal of a court or public office or officer may be required by law to be affixed to any paper, the word "seal" shall include an impression of such seal upon the paper alone, as well as upon wax or a wafer affixed thereto, and such term also shall include a rubber stamp seal to be used with permanent ink, so that such seal may be legibly reproduced by photographic process.

both

and the word "seal" printed on court documents produced by computer systems,

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**19-1014. Return of inquest.** The coroner shall then return to the clerk of the district court the inquisition, the written evidence, and a list of the witnesses who testify to material matters.

district or county attorney

1-25-83

# 11

**19-1028. Same; travel allowances and expenses; fees, expenses and compensation, how paid; deputy coroners, compensation.** Deputy district coroners shall receive thirty-five dollars (\$35) for each dead body examined, except in counties having a population of more than one hundred forty thousand (140,000) and less than two hundred twenty thousand (220,000), the first deputy district coroner shall receive an annual salary of one thousand seven hundred fifty-seven dollars (\$1,757), and all other deputies serving in such counties shall receive a fee of thirty-five dollars (\$35) for each body examined; and except in counties having a population of more than two hundred twenty thousand (220,000) and not more than three hundred thousand (300,000) all deputy district coroners shall receive such compensation as shall be prescribed by resolution of the board of county commissioners of the county comprising such judicial district; and except in counties having a population of more than three hundred thousand (300,000), two (2) deputy coroners shall each be paid a salary of one thousand seven hundred fifty-seven dollars (\$1,757) per annum, and all other deputies serving in such counties shall receive a fee of thirty-five dollars (\$35) for each body examined. Each coroner and deputy coroner shall be allowed and paid the allowance prescribed under the provisions of K.S.A. 75-3203a, and amendments thereto, for each mile necessarily and actually traveled in the service of his office, except in counties having a population of more than one hundred forty thousand (140,000) and not more than two hundred twenty thousand (220,000), the district coroner may receive a car allowance of fifty dollars (\$50) per month for the operation of his car and the first deputy may receive a like amount; and except that in counties having a population of more than two hundred twenty thousand (220,000) and not more than three hundred thousand (300,000) each coroner and deputy coroner may receive a car allowance of seven hundred fifty dollars (\$750) annually; and except in counties having a population of more than three hundred thousand (300,000) the district coroner may receive a car allowance of one hundred dollars (\$100) per month for the operation of his car and each of the two salaried deputies may receive a car allowance of fifty dollars (\$50) per month for the operation of his car. The annual salary provided for the district coroner in K.S.A. 19-1027 and the annual salary provided for certain deputy district coroners herein shall be paid by each of the counties in the judi-

Comment

This bill is primarily for clarification of K.S.A. 20-162 which states that coroners are not employees of the district court. Some county commissions persist in charging coroner salaries and expenses to the district court county operating budget prescribed by K.S.A. 20-349. Section 2 addresses this concern of court system administrators by providing language indicating that coroners' salaries, fees and expenses are not to be charged to district court county operating budgets. Sections 1, 3 and 4 provide that inquests shall be returned to the district or county attorney and that coroner records shall be filed in that office. The prosecutor is the person in the criminal justice system who should be satisfied that unattended deaths have been investigated, not the district court. District courts cannot act if a crime has been committed independently of the prosecutor. Therefore, the inquests and the records should first be made available to the prosecutor.

Atch. 11

cial district in the proportion that the population of each such county bears to the total population of the district. The board of county commissioners of the county having the largest population of the counties contained in such judicial district shall provide for the payment of any such salary from a fund to be set aside by said board of county commissioners and to which each county in the district shall contribute its share of such salary payments on or before the first day of each month. Fees, expenses and compensation provided for in this section, other than annual salaries, shall be paid by the board of county commissioners of the county in which the death occurred and to which such fees and expenses relate.

**19-1032. Same; duties of coroner after notice; report.** Upon receipt of such notice, the coroner shall take charge of the dead body, make inquiries regarding the cause of death, and reduce the findings to a report in writing. Such report shall be filed with the clerk of the district court of the county in which death occurred.

**19-1031. Same; records of coroner as evidence; forms.** The records of the coroner filed with the clerk of the district court and other public records of the coroner made by the coroners or by anyone under the direction or supervision and transcripts certified by the coroner shall be received in any court or administrative body in the state as competent evidence of the matters and facts therein contained. All records filed under this section shall be on a form approved by the director of the Kansas bureau of investigation. The records which shall be admissible under this section shall be records of the results of views and examinations of or autopsies upon the bodies of deceased persons by such coroner or by anyone under such coroner's direct supervision or control, and shall not include statements made by witnesses or other persons.

Fees, expenses and compensation provided for by this section and annual salaries provided by K.S.A. 19-1027 shall not be part of or charged to the annual budget for district court operating expenditures prescribed by K.S.A. 20-3

district or county attorney

district or county attorney

**19-1305. Oaths, affirmations and acknowledgments.** The clerks of the district courts shall have authority to administer oaths and affirmations in all cases in which an oath or affirmation may be required, and may take acknowledgments of deeds, mortgages, and other instruments of writing, in this state.

and their lawful deputies

**History:** G.S. 1868, ch. 25, § 151; Oct. 31; R.S. 1923, 19-1305.

**Source or prior law:**

L. 1861, ch. 24, § 5.

**Research and Practice Aids:**

Order of attachment, service of documents, Kansas Practice Methods § 1421.

**CASE ANNOTATIONS**

1. Deputy may administer oath. *Ferguson v. Smith & Dunham*, 10 K. 396.
2. Indictment for perjury; allegations as to administration of oath held sufficient. *State v. Osborne*, 172 K. 596, 598, 241 P.2d 506.

**19-1326. Clerks and deputies of district court; prohibited conduct.** It shall be unlawful for clerks of the district court or any of their deputies to write any petition or answer or other pleadings in any proceedings, or perform any service as an attorney or counselor at law in any case or cases pending in the court in which they are either clerk or deputy, or be interested in any profits or emoluments arising out of any practice in the courts of which they are either clerk or deputy, except costs.

that providing advice and assistance to litigants using the small claims procedure act either before or after judgment and for no fee shall not be considered as performing service as an attorney or counselor at law.

**History:** L. 1975, ch. 195, § 1; July 1.

**60-2603. Deputies.** Any duty enjoined by this chapter upon a ministerial officer, and any act permitted to be done by such officer, may be performed by his or her lawful deputy as provided by K.S.A. 60-304. [L. 1963, ch. 303, 60-2603, Jan. 1, 1964.]

the officer's

**Source or prior law:** G. S. 1868, ch. 80, § 720; L. 1909, ch. 182, § 745; R. S. 1923, 60-3817.

**Revisor's Note:**

Reference to "60-304" evidently erroneous as it provides no such authority (see 60-303).

**Cross References to Related Sections:**

Service of process, see 60-303.

**Research and Practice Aids:**

Officers 105; Sheriffs and Constables 17.  
Hatcher's Digest, Clerks of Court § 9; Sheriffs § 4.  
C. J. S. Officers § 151; Sheriffs and Constables §§ 117, 121.  
Gard's Kansas C. C. P. 60-2603.  
Vernon's Kansas C. C. P. — Fowkes, Harvey & Thomas, 60-2603.

Comment:  
  
Changes submitted for clarification of the role of clerks of the court and their deputies, which are often called into question because these statutes are somewhat ambiguous.

**CASE ANNOTATIONS**

Prior law cases, see G. S. 1949, 60-3817 and the 1961 Supp. thereto.

Sec. 1. (a) The party demanding a jury trial of a civil action in accordance with K.S.A. 60-238 except persons filing by poverty affidavit shall post a refundable \$200 jury cancellation bond with the demand.

(b) The jury cancellation bond shall be refunded to the party posting it if the jury trial is conducted as scheduled or if the court is notified 72 hours in advance of the scheduled trial date that the case has been settled. The jury cancellation bond shall be declared forfeited and paid to county general fund as reimbursement for summoning a jury panel which is not needed whenever the court does not receive notice of cancellation of the trial 72 hours in advance of the scheduled jury trial.

Sec. 2. (a) The party demanding a jury trial in accordance with K.S.A. 1981 Supp. 61-1716 except persons filing by poverty affidavit shall post a refundable \$120 jury cancellation bond with the demand.

(b) The jury cancellation bond shall be refunded to the party posting it if the jury trial is conducted as scheduled or if the court is notified 72 hours in advance of the scheduled trial date that the case has been settled. The jury cancellation bond shall be declared forfeited and paid to county general fund as reimbursement for summoning a jury panel which is not needed whenever the court does not receive notice of cancellation of the trial 72 hours in advance of the scheduled jury trial.

#14

0017 AN ACT relating to civil procedure; concerning executions and  
0018 redemption of real property; amending K.S.A. 60-2401 and  
0019 K.S.A. 1981 Supp. 60-2414 and repealing the existing sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 60-2401 is hereby amended to read as fol-  
0022 lows: 60-2401. (a) *Definitions.* A general execution is a direction  
0023 to an officer to seize any non-exempt property of a judgment  
0024 debtor and cause the same to be sold in satisfaction of the  
0025 judgment. A special execution or order of sale is a direction to an  
0026 officer to effect some action as to some specified property in such  
0027 manner as the court shall have determined ~~determine~~ necessary in  
0028 adjudicating the rights of parties to an action.

0029 (b) *By whom issued.* Executions and orders of sale shall be  
0030 issued by the clerk at the request of any interested person and  
0031 directed to the appropriate officers of the counties where they are  
0032 to be levied.

0033 (c) *When returnable.* The officer to whom any execution or  
0034 order of sale shall be directed shall return the same to the court  
0035 out of from which it is issued within sixty ~~(60)~~ 60 days from the  
0036 date thereof.

0037 (d) *Executions to another county.* When an execution or order  
0038 of sale is issued to an officer of any county other than that in  
0039 which the judgment was rendered, the officer, after endorsing the  
0040 date of its reception thereon, shall deliver the same to the clerk of  
0041 the district court of his or her county, who shall thereupon enter  
0042 the same in the execution docket in the same manner as if it had  
0043 issued from the court of which he or she is clerk; and before the  
0044 officer shall return any such execution or order, such officer shall  
0045 cause his or her return to be entered in like manner.

0046 (e) (d) *Manner of levy.* A general execution shall be levied  
0047 upon any non-exempt property, *either real or personal*, of the  
0048 judgment debtor; ~~either real or personal~~, in the same manner and  
0049 with like effect as is provided for the service and execution of  
0050 orders of attachment under K.S.A. 60-706 to 60-710 and amend-  
0051 ments thereto, inclusive. Oil and gas leaseholds shall, for the  
0052 purposes of this article, be treated as real property. Special  
0053 executions or orders of sale shall be levied and executed in such  
0054 manner as the court shall have determined ~~determine~~.

0055 Sec. 2. K.S.A. 1981 Supp. 60-2414 is hereby amended to read  
0056 as follows: 60-2414. (a) *Right of redemption by defendant owner.*  
0057 Except as stated in paragraph (q) and as otherwise provided by  
0058 law, the defendant owner may redeem any real property sold  
0059 under execution, special execution; or order of sale; at the amount  
0060 sold for, together with interest, costs and taxes, at any time within  
0061 ~~twelve (12)~~ 12 months from the day of sale, for the amount paid  
0062 by the then holder of the certificate of purchase together with  
0063 interest, costs and taxes to the date of redemption; and shall in the  
0064 meantime be entitled to the possession of the property; but where  
0065 when the court or judge shall find that the lands and tenements

Comment  
Submitted as 1982 SB 811. This is a purely technical bill to remove statutory references to dockets and minute books no longer kept by district courts. In 1982, this bill became associated with another bill which did propose a substantive change and both bills were tabled.

Atch. 14

0066 have been abandoned, or are not occupied in good faith, the  
0067 period of redemption for the defendant owner shall be six (6)  
0068 months from the date of sale. The right of redemption shall not  
0069 apply to oil and gas leaseholds. Any corporation, general part-  
0070 nership or limited partnership organized under the laws of the  
0071 United States, the District of Columbia or any state of the United  
0072 States, may, as mortgagor, agree in the mortgage instrument to a  
0073 shorter period of redemption than ~~twelve (12)~~ 12 months; or may  
0074 wholly waive the period of redemption as against ~~said the~~ mort-  
0075 gator and all persons receiving title from ~~said the~~ mortgagor. Any  
0076 person may, as mortgagor, agree in any mortgage instrument to a  
0077 shorter period of redemption than ~~twelve (12)~~ 12 months; or may  
0078 wholly waive the period of redemption as against ~~said the~~ mort-  
0079 gator and all persons receiving title from ~~said the~~ mortgagor,  
0080 except in a mortgage instrument against a dwelling or dwellings  
0081 for occupancy by not more than two (2) families or agricultural  
0082 land.

0083 (b) *Redemption by lien creditor.* For the first three (3) months  
0084 after ~~such~~ sale, the right of the defendant owner to redeem is  
0085 exclusive; but if no redemption is made by the defendant owner  
0086 by the end of that time, any creditor of the defendant and owner  
0087 whose demand is a lien upon ~~such the~~ real estate may redeem the  
0088 same at any time within six (6) months from the date of sale. All  
0089 redemption periods and rights of lien creditors set forth in sub-  
0090 sections (b), (c), (d), (e), (f), (g), (h), (o) and (q) of this section shall  
0091 commence on the date of judgment or date of judicial sale, if any  
0092 be ordered, and expire three (3) months thereafter, if the judgment  
0093 of foreclosure finds no redemption for the defendant owner by  
0094 reason of a valid waiver under subsection (a) of this section. The  
0095 first creditor redeeming need only pay the amount sold for,  
0096 together with interest, costs and taxes to the date of redemption.  
0097 All other redemptions, with the exception of that of the defendant  
0098 owner or his or her transferee, shall be made under the terms of  
0099 subsections (d), (e) and (f) of this section. ~~Where~~ When the  
0100 defendant owner or his or her transferee ~~of the owner~~ redeems  
0101 subsequent to redemption by a creditor so entitled ~~he or she the~~  
0102 ~~owner or transferee~~ shall pay the amount paid by the then holder  
0103 of the certificate of purchase together with interest, costs and  
0104 taxes to the date of redemption.

0105 (c) *Creditors who may redeem.* Any creditor whose claim is or  
0106 becomes a lien prior to the expiration of the time allowed by law  
0107 for the redemption by creditors may redeem. A mortgagee may  
0108 redeem upon the terms hereinafter prescribed before or after the  
0109 debt secured by the mortgage falls due.

0110 (d) *Terms of redemption, rights of parties.* During the period  
0111 allowed for the redemption of real property from sale under  
0112 execution, special execution or order of sale, the holder of the  
0113 certificate of purchase may pay the taxes on the lands sold,  
0114 insurance premiums on the buildings thereon; and interest or  
0115 sums due, upon any prior lien or encumbrance thereon. Upon the  
0116 redemption of the premises from ~~such~~ sale the holder of the  
0117 certificate shall be entitled to repayment of all sums thus paid by  
0118 ~~him or her the~~ holder, together with interest thereon. The terms of

0119 redemption shall be, in all cases of redemption by creditors, the  
 0120 reimbursement of the amount paid by the then holder of the  
 0121 certificate of purchase by redemption added to his or her the  
 0122 holder's own claim, and including all sums paid by him or her the  
 0123 holder for taxes, insurance premiums; and interest or sums due, as  
 0124 shown by receipts or vouchers to be filed in the office of the clerk  
 0125 of the district court, with interest and costs, subject to the ex-  
 0126 emption contained in the next subsection. But where When a  
 0127 mortgagee or other lienholder; whose claim is not yet due, is the  
 0128 person from whom redemption is to be made, he or she the  
 0129 mortgagee or lienholder shall receive in payment the full amount  
 0130 by him or her together with interest that the mortgagee or lien-  
 0131 holder paid, as stated in the certificate of redemption, together  
 0132 with interest; together with the amount of his or her the mort-  
 0133 gagee or lienholder's claim at the date of redemption, including  
 0134 principal and accrued interest.

0135 (e) Senior creditor redeeming from junior creditor. When a  
 0136 senior creditor redeems from a junior creditor, the senior creditor  
 0137 shall only be required to pay only the amount of those liens, with  
 0138 interest and costs, which are paramount to his or her own; and  
 0139 with interest and costs appertaining to the same the senior credi-  
 0140 tor's, but a junior creditor may prevent redemption by the senior  
 0141 creditor or the holder of the paramount lien by paying off the lien,  
 0142 or depositing with the clerk of the district court beforehand the  
 0143 amount necessary to remove said the lien.

0144 (f) Junior creditor may redeem from senior creditor. A junior  
 0145 creditor may redeem from a senior creditor by paying to the clerk  
 0146 of the district court the full sum, with interest and costs, due said  
 0147 the senior creditor; with interest and costs; and shall become  
 0148 thereby vested with full title to the redeemed judgment so re-  
 0149 deemed from, and to all liens of such the judgment.

0150 (g) Time in which creditors may redeem from each other. After  
 0151 the expiration of six (6) months from the date of sale, the creditors  
 0152 can no longer redeem from each other; but the defendant owner  
 0153 may still redeem at any time before the end of the twelve (12)  
 0154 months as aforesaid provided in subsection (a) of this section.

0155 (h) Effect of failure of debtor to redeem, deficiency. If the  
 0156 defendant or holder of the legal title fails to redeem as herein  
 0157 provided in this section, the purchaser or the creditor who has last  
 0158 redeemed prior to the expiration of the six (6) months aforesaid  
 0159 will hold the property absolutely. In case If it is thus held by a  
 0160 redeeming creditor, his or her the lien and the claim out of which  
 0161 it arose will be held to be extinguished, unless he or she being the  
 0162 redeeming creditor is unwilling to hold the property and credit  
 0163 the defendant owner therefor of the property with the full amount  
 0164 of his or her the redeeming creditor's lien, does, within ten (10) 10  
 0165 days after the six (6) months aforesaid as provided in this section,  
 0166 file with the clerk of the district court a statement of the amount  
 0167 that he or she the redeeming creditor is willing to credit on his or  
 0168 her the claim; and. In order to redeem said the real estate within  
 0169 twelve (12) 12 months, the defendant shall only be bound to pay  
 0170 only the amount so stated.



0171 (i) *Mode of redemption.* The party redeeming shall pay the  
0172 money into the office of the clerk of the district court for the use  
0173 of the persons ~~thereunto~~ entitled to it. The person so redeeming,  
0174 if not the defendant owner in execution or order of sale, must also  
0175 file an affidavit or that of his or her the agent or attorney of that  
0176 person, stating as nearly as practicable the amount still unpaid  
0177 due on his or her the claim of that person. The clerk shall give a  
0178 receipt for the money, stating the purpose for which it is paid.  
0179 The clerk must also enter the same upon a book kept for that  
0180 purpose, with a minute of such redemption; transaction on the  
0181 appearance docket of the case showing the amount paid; and the  
0182 amount of the lien of the last redemption or as sworn to by him or  
0183 her the clerk.

0184 (j) *Redemption of property sold in parcels, or undivided por-*  
0185 *tions.* Whenever the property has been sold in parcels, any dis-  
0186 tinct portion thereof of that property may be redeemed by itself  
0187 and. If creditors other than the original purchaser have redeemed,  
0188 the amount of their claim shall be added to each parcel pro rata in  
0189 proportion to the amount for which the same was originally sold.  
0190 When the interests of several tenants in common have been sold  
0191 on execution the undivided portion of any or either of them may  
0192 be redeemed separately.

0193 (k) *Transfer of right of redemption.* The rights of the defend-  
0194 ant owner in relation to redemption may be assigned or trans-  
0195 ferred, and the purchaser or assignee thereof shall have the same  
0196 right of redemption as the defendant owner; but the right of  
0197 redemption shall not be subject to levy or sale on execution.

0198 (l) *Holder of legal title.* The holder of the legal title at the time  
0199 of issuance of execution or order of sale shall have the same right  
0200 of redemption upon the same terms and conditions as the de-  
0201 fendant in execution, and also shall be entitled to the possession  
0202 of the property the same as the defendant in execution.

0203 (m) *Deed at end of redemption period.* If the defendant or  
0204 assigns of defendant in execution or order of sale, or his or her  
0205 assigns; or the owner of said the legal title; fail to redeem, the  
0206 sheriff shall, at the end of the redemption period, execute a deed  
0207 to the then owner of the certificate of purchase.

0208 (n) *Injury or waste after sale.* The purchaser or party entitled  
0209 to a deed under sale, as hereinbefore provided; in this section  
0210 may, after the deed is made to him or her the purchaser or party  
0211 by the sheriff, recover damages for any injury or waste permitted  
0212 upon the property purchased after the sale and before possession  
0213 is delivered under the conveyance.

0214 (o) *Second sale not permitted.* Real estate once sold upon  
0215 order of sale, special execution or general execution shall not  
0216 again be liable for sale for any balance due upon the judgment or  
0217 decree under which the same is sold, or any judgment or lien  
0218 inferior thereto, including unadjudicated junior liens filed after  
0219 the date of judgment in the district court to foreclose the senior  
0220 lien against said the real estate.

0221 (p) *Injunction or receiver to protect property.* The holder of  
0222 the certificate of purchase shall be entitled to prevent any waste  
0223 or destruction of the premises purchased, and for that purpose the  
0224 court, on proper showing, may issue an injunction, or, when  
0225 required to protect ~~said~~ the premises against waste, appoint and  
0226 ~~place in charge thereof~~ a receiver; who shall hold ~~said~~ the prem-  
0227 ises until ~~such time as~~ the purchaser is entitled to a deed; and  
0228 shall be entitled to. *The receiver may rent, control and manage*  
0229 *the same; premises* but the income during ~~said~~ that time, except

0230 *what the amount that is necessary to keep up repairs and, prevent*  
0231 *waste, and the amount necessary to, pay real estate taxes and*  
0232 *insurance premiums; shall go to the person who otherwise would*  
0233 *be entitled to possession during the period of redemption.*

0234 (q) *Reduced owners redemption period.* Whenever a default  
0235 shall be made in the conditions of the mortgage or instrument  
0236 giving ~~such~~ the lien before ~~one-third (1/3)~~  $\frac{1}{2}$  of the original  
0237 indebtedness secured by ~~said~~ the mortgage shall ~~have~~ has been  
0238 paid; and such lien is foreclosed ~~and~~, the real estate sold; and the  
0239 ~~same shall~~ is not be redeemed by the defendant owner or junior  
0240 creditors from the judgment by the payment of all principal and  
0241 interest due upon ~~such~~ the lien and costs of ~~such~~ foreclosure  
0242 within six (6) months from the date of ~~such~~ the sale, such sale  
0243 shall become absolute; and the purchaser at ~~such~~ the foreclosure  
0244 sale shall be immediately entitled to a deed to the real estate  
0245 purchased; however, the court may, in ordering a sale of the real  
0246 estate, conduct a hearing to establish the market value of the  
0247 property; and as a condition to the confirmation allow ~~twelve (12)~~  
0248 12 months redemption as ~~hereinbefore~~ provided in this section, if  
0249 the amount of the indebtedness is less than ~~one-third (1/3)~~  $\frac{1}{2}$  of the  
0250 market value of the property.

0251 Sec. 3. K.S.A. 60-2401 and K.S.A. 1982 Supp. 60-2414 are  
0252 hereby repealed.

0253 Sec. 4. This act shall take effect and be in force from and after  
0254 its publication in the statute book.

Be it enacted by the Legislature of the State of Kansas:

Sec. 1. K.S.A. 22-3412 is hereby amended to read as follows:

#15

(1) Peremptory challenges shall be allowed as follows:

(a) Each defendant charged with a class A felony shall be allowed 12 peremptory challenges.

(b) Each defendant charged with a class B felony shall be allowed eight peremptory challenges.

(c) Each defendant charged with a felony other than class A or class B felony shall be allowed six peremptory challenges.

(d) Each defendant charged with a misdemeanor shall be allowed ~~four~~ peremptory challenges.

two

(e) Additional peremptory challenges shall not be allowed on account of separate counts charged in the complaint, information or indictment.

(f) The prosecution shall be allowed the same number of peremptory challenges as all the defendants.

(2) After the parties have interposed all of their challenges to jurors, or have waived further challenges, the jury shall be sworn to try the case.

(3) Immediately after the jury is empaneled and sworn, a trial judge may empanel one or more alternate or additional jurors whenever, in the judge's discretion, the judge believes it advisable to have such jurors available to replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable to perform their duties. Such jurors shall be selected in the same manner, have the same qualifications, and be subject to the same examination and challenges and take the same oath and have the same functions, powers and privileges as the regular jurors. Each party shall be entitled to one peremptory challenge to such alternate jurors. Such alternate jurors shall be seated near the other jurors, with equal power and facilities for seeing and hearing the proceedings in the case, and they must attend at all times upon

the trial of the cause in company with the other jurors. They shall obey the orders of and be bound by the admonition of the court upon each adjournment, but if the regular jurors are ordered to be kept in custody during the trial of the cause, such alternate jurors also shall be kept in confinement with the other jurors. Upon final submission of the case to the jury, the alternate jurors may be discharged or they may be retained separately and not discharged until the final decision of the jury. If the alternate jurors are not discharged on final submission of the case and if any regular juror shall be discharged from jury service in any such action prior to the jury reaching its verdict, the court shall draw the name of an alternate juror who shall replace the juror so discharged and be subject to the same rules and regulations as though such juror had been selected as one of the original jurors.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Atch. 15

**66-118e. Same; venue; time; procedure.** Within thirty (30) days after the application for a rehearing is denied, or if the application is granted, then within thirty (30) days after the rendition of the decision on rehearing, the applicant may apply for a court review of such order or decision. Venue for proceedings for review by a district court shall be in any district court of a county in which the order or decision of the commission is to become effective. The application for review shall be filed in the office of the clerk of the court in which the review is sought and shall specifically state the grounds for review upon which the applicant relies and shall designate the order or decision sought to be reviewed. The clerk of the court shall immediately serve a certified copy of said application upon the state corporation commission by transmitting a certified copy thereof by registered mail to the secretary of the state corporation commission at the secretary's office in Topeka. The secretary shall immediately notify all parties who appeared in the proceedings before the commission by registered mail, that such application for review has been filed.

History: L. 1929, ch. 220, § 3; L. 1978, ch. 265, § 2; July 1.

either by hand or

Sec. 1

~~20-361. Compensation of certain district court personnel to be paid by state; pay plan for court reporters. (a) On and after January 1, 1979, the state shall pay the salaries of all nonjudicial personnel of the district courts of this state, except for personnel enumerated in subsection (b) of K.S.A. 20-162, and no county may supplement the compensation of district court personnel paid by the state. Except as otherwise provided in this act, from January 1, 1979, to June 30, 1979, inclusive, the state shall pay such personnel monthly compensation in accordance with appropriation acts of the legislature in an amount equal to one month's portion of the annual compensation provided for the person's job position as contained in the 1978 calendar year budget originally approved by the board of county commissioners pursuant to K.S.A. 20-310 plus any monthly merit raise originally budgeted for such position for calendar year 1978. For employees of the district court who were employees of such court on December 31, 1978, a full month's proportion of the employee's annual pay shall be paid for the payroll period ending on January 17, 1979, notwithstanding that such period is shorter than the normal payroll period; however, when any such employee terminates his or her employment with the court such employee's termination compensation shall be reduced by an amount determined by subtracting the amount of compensation actually earned by such employee for service during the period commencing on January 1, 1979, and ending on January 17, 1979, from the actual amount of compensation received by such employee from the state for the payroll period ending on January 17, 1979. With regard to judicial and nonjudicial personnel of the district courts whose salary is payable by the state, the state shall provide for unemployment security coverage, employer contributions for retirement, workmen's compensation coverage, health insurance coverage and surety bond coverage.~~

Sec. 2 K.S.A. 20-361 and K.S.A. 1982 Supp. 75-3120j are hereby repealed.

Sec. 3 This act shall take effect and be in force from and after its publication in the statute book.

# 18

Sec. 1

**20-362. Disposition of docket fees.**

The clerk of the district court shall remit at least monthly all revenues received from docket fees as follows:

(a) To the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and amendments thereto, during the preceding calendar month;

(2) a sum equal to \$10 for each \$30 docket fee paid pursuant to K.S.A. 61-2501 and amendments thereto; and

(3) a sum equal to \$5 for each \$10 docket fee paid pursuant to K.S.A. 61-2501 or 61-2704, and amendments thereto, during the preceding calendar month.

(b) To the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) To the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to \$.50 for each docket fee paid pursuant to K.S.A. 28-172a and amendments thereto during the preceding calendar month for cases filed in the county and for each fee paid pursuant to subsection (c) of K.S.A. 28-170 and amendments thereto during the preceding calendar month for cases filed in the county.

~~(d) To the state treasurer, for deposit in the state treasury and credit to the law enforcement training center fund, a sum equal to \$3 for each docket fee paid pursuant to K.S.A. 28-172a and amendments thereto during the preceding calendar month.~~

~~(e) To the state treasurer, for deposit in the state treasury and credit to the crime victims reparations fund, a sum equal to \$1 for each docket fee paid pursuant to K.S.A. 28-172a and amendments thereto during the preceding calendar month.~~

(d) To the state treasurer, for deposit in the state treasury and credit to the state general fund, a sum equal to the balance which remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified in subsections (a), (b), and (c).

Atch. 18

**28-172a.** Same; criminal actions; certain sheriff's charges prohibited. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

Murder or manslaughter .....	\$144
Other felony .....	114
Misdemeanor .....	84
Forfeited recognizance .....	44
Appeals from other courts .....	44

(b) In actions involving the violation of any of the laws of this state regulating traffic on highways, the violation of any act declared a crime pursuant to chapter 32 of Kansas Statutes Annotated or the violation of any act declared a crime pursuant to article 8 of chapter 82a of the Kansas Statutes Annotated, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of \$19 shall be charged.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the crime victims reparations fund and the prosecuting attorneys' training fund shall be paid from the docket fee. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a or as specified in K.S.A. 75-4508, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

(f) Upon receipt of any docket fees paid pursuant to this section, court costs collected pursuant to K.S.A. Supp. 8-2107 and amendments thereto, or court costs collected pursuant to K.S.A. 32-155b and amendments thereto, the state treasurer shall deposit the entire amount in the state treasury and shall credit:

- (1) to the law enforcement training fund, a sum equal to \$3 for each fee paid; and
- (2) to the crime victims reparations fund, a sum equal to \$1 for each such fee paid.

**History:** L. 1974, ch. 168, § 9; L. 1975, ch. 218, § 2; L. 1976, ch. 163, § 28; L. 1977, ch. 145, § 2; L. 1982, ch. 167, § 2; L. 1982, ch. 116, § 7; July 1.

## Sec. 3

**20-2801. Disposition of fines, penalties and forfeitures.** (a) At least monthly the clerk of the district court shall remit all moneys payable to the state treasurer from fines, penalties and forfeitures to the state treasurer, and the state treasurer shall deposit the same in the state treasury to the credit of the state general fund.

(b) The director of accounts and reports or the state treasurer, whenever it is deemed necessary by either of said officers in order to determine the amount available under this section, may request of clerks of the district court or any one or more of them the information indicated herein. Within ten (10) days of the receipt of any such request, each clerk receiving the same shall certify the amount of moneys collected to which this section applies to the director of accounts and reports and the state treasurer.

(c) This section shall not apply to municipal courts.

**History:** L. 1973, ch. 106, § 1; L. 1976, ch. 311, § 2; L. 1977, ch. 112, § 5; L. 1978, ch. 108, § 13; Jan. 1, 1979.

**Source or prior law:**

72-2401 et seq.

**Law Review and Bar Journal References:**

"Open Meetings Profile: The Prosecutor's View," Bradley J. Smoot and Louis M. Clothier, 20 W.L.J. 241, 255 (1981).

The clerk's monthly remittance shall be accompanied by a form designed by the state treasurer with the concurrence of the judicial administrator of the courts which shall supply the state treasurer with all the information necessary for the treasurer to comply with this section and K.S.A. 28-172a and amendments thereto.

Sec. 4 This act shall take effect and be in force from and after its publication in the statute book.