

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

10:00 a.m./p.m. on February 2, 1983 in room 514-S of the Capitol.

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

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

Conferees appearing before the committee:

Representative Jack Shriver
Ron Miles, State Board of Indigent Defendants
Marjorie Van Buren, Office of Judicial Administrator
Phil Magathan, Kansas Association of Court Service Officers

Senate Bill 83 - Reimbursement of aid to indigents fund as condition of probation or suspended sentence.

The chairman explained the bill was introduced at the request of Representative Jack Shriver. Representative Shriver stated he requested the bill as an attempt to recoup money from people who can pay for assigned counsel fees.

Ron Miles explained a primary focus of the new board will be for recoupment of state funds. He explained the recoupment guidelines and procedures and the reimbursement from defendants and how it will be collected. Mr. Miles said he feels if it is mandatory, it would not only provide constitutional safeguards, it would bring in more than what is collected now. He reported they have collected \$3200 for the first six months of this year. He has polled seven judges and two CSOs, and they support the mandatory provision.

The chairman inquired if there might be confusion in the minds of the judges as to whether we are setting different standards in subsections (a) and (b) on page 3; would there be any problem in making the language similar? Mr. Miles said he did not see that as a problem; it might be less confusing if the language were similar.

Following committee discussion, Representative Shriver said whatever the committee decides to do on subsection (a) makes no difference to him but he would like the language left as it is in subsection (b).

A committee member inquired how immediate family was defined. Mr. Miles answered, immediate family would be brother, sister, father, or mother; the burden is on the judge to decide in each case. He said the board would have to develop rules and regulations to address that.

The chairman inquired if he contemplated any reimbursement if public defender were used. Mr. Miles replied that this includes those districts.

A committee member inquired about the language on page 3 in subsections (a) (b). Mr. Miles explained the constitutional safeguards that are built in are in subsection (b). The bill takes away the discretion of the judge and makes it mandatory.

A committee member inquired if there were any uniform reporting within the state with regard to the financial capabilities of the defendants. Mr. Miles replied there are differences; the board sent an affidavit that is recommended for use.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~PM~~ on February 2, 1983

Senate Bill 83 continued

Mr. Miles explained the AID had been under the judicial branch, and it was recreated in July under the name of the State Board of Indigent Defendants Services which is not part of the judicial branch. He explained the function of the board, and that there are nine members, five of which are lawyers and four are non-lawyers.

Marjorie Van Buren said she had one point to make regarding the question that came up on subsection (a) on page 3; she suggested there could be other circumstances other than financial circumstances to make restitution unworkable.

Phil Magathan suggested leaving subsection (a) as worded; if the wording is subsection (b) is included, the defense attorneys will be petitioning the court. He said there are other compelling circumstances other than financial; if a person is in a treatment program, for instance.

Following committee discussion, Senator Gaines moved that the bill be reported favorably; Senator Werts seconded the motion, and the motion carried.

Senate Bill 7 - Filing of security interests in farm products.

The chairman explained the consensus of the committee was to endorse the concept of central filing, and that Senator Winter had a motion that would require dual filing. Following committee discussion, Senator Winter withdrew his motion. Following further discussion, Senator Gaar moved to report the bill favorably; Senator Gaines seconded the motion. The chairman explained the suggestion of Professor Meyer that transition language be put in a separate section. Senator Gaar withdrew his motion, and then made the motion suggested by Professor Meyer; Senator Gaines seconded the motion. Following committee discussion, the motion carried.

Senate Bill 37 - Requirements for recovery of certain damages under automobile injury reparations act.

The chairman reminded the committee there will be other bills introduced that will amend the same section that this bill amends; that the insurance department has requested such a bill. Senator Werts moved that the bill be reported favorably; Senator Gaines seconded the motion. The chairman reviewed the testimony given on the bill. Following committee discussion, Senator Werts withdrew his motion.

Senator Gaines made the motion to approve the minutes of January 31, 1983; Senator Feleciano seconded the motion, and the motion carried.

The chairman requested staff to get with the secretary of state's office to discuss their suggested changes to Senate Bill 7.

The meeting adjourned.

2-2-83

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Ron Niles	Topeka	State Bd of Ind. Def.
Mary Gallyen	Topeka	KLRD
Larry Hines	Staff	Sen. Feineger
Lance Ross	Statehouse	KSN TV
Marilyn VanBuren	Topeka	GJO
Pat Maguire	" "	K.A.C.S.O.
M. Hawron	"	Capital Journal
Steve Brackens		Kan Bar Assoc