

MINUTES OF THE SENATE COMMITTEE ON JUDICIARYThe meeting was called to order by Senator Elwaine F. Pomeroy at
Chairperson10:00 a.m./p.m. on February 28, 19 83 in room 514-S of the Capitol.~~All~~ members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaines, Hein, Hess, Mulich, Steineger and Werts.Committee staff present: Mike Heim, Legislative Research Department
Mark Burghart, Legislative Research Department

Conferees appearing before the committee:

Marjorie Van Buren, Office of Judicial Administrator
Senator Norma Daniels
Walter N. Scott, Jr., Credit Bureau of Topeka, Inc.Senate Bill 347 - Peremptory challenges of jurors in misdemeanor cases.Marjorie Van Buren appeared before the committee in support of the bill. She explained the bill is a follow-up to earlier legislation reducing the number of jurors required to conduct a misdemeanor trial from twelve to six. A copy of her explanation is attached (See Attachment #1).Senate Bill 348 - Powers of deputy district court clerks.Marjorie Van Buren appeared in support of the bill. She explained this bill clarifies the role of the clerks of the court and their deputies, which is sometimes called into question because the statutes are now somewhat ambiguous. A copy of her explanation is attached (See Attachment #2).Senate Bill 349 - Sub for SB 349, Compensation and expenses of district and deputy district coroners.Marjorie Van Buren appeared in support of the bill. She explained the primary purpose of the bill is to amplify K.S.A. 20-162(b) which states that coroners are not employees of the district court. A copy of her explanation is attached (See Attachment #3). Committee discussion with her followed.

Senator Daniels testified she has worked in a coroner's office for many years. She stated the coroner's office is in support of Section 2 of the bill concerning the fees, expenses and compensations being paid by the county. The coroner's office is opposed to Sections 1, 3 and 4 concerning the records to be filed with the district or county attorney, because the coroner's office operates as an independent agent. She explained the office keeps the records available for 20 years, and they object to the change that the records are filed by the county or district attorney. Senator Daniels referred to Section 2, concerning salaries specified by the statute, and she inquired if that still provides that by county home rule it can be changed as needed. A staff member replied, it would apply if they are considered county officers. Committee discussion followed. A committee member inquired of Marjorie Van Buren if it wasn't a major policy change by changing the filing of the coroner's report. She replied, they are still referred to as public records by the coroner; she didn't realize it would make any major change. The committee member asked Jim Clark if this wasn't a major change, and Mr. Clark replied, it probably was. Committee discussion followed.

Senate Bill 324 - Disposition of docket fees.

Marjorie Van Buren appeared in support of the bill. She explained the bill is to simplify the accounting procedure required for that portion of the docket fees which the clerk of the district court sends to the state treasurer. A copy of her

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 28, 1983

Senate Bill 324 continued

explanation is attached (See Attachment #4). During discussion, a committee member inquired how much it would complicate court procedure if an additional docket fee were added in the divorce cases. He suggested adding a \$10 docket fee each time a court order is requested. She answered she was not aware of the number of times that happens. During the discussion of docket fees, Marjorie Van Buren said she thinks clearly it would be more work.

Senator Gaines moved to approve the minutes of February 15, 1983; Senator Hein seconded the motion, and the motion carried.

Senate Bill 347 - Peremptory challenges of jurors in misdemeanor cases.

Following committee discussion, Senator Werts moved to report the bill favorably; Senator Hein seconded the motion, and the motion carried.

Senate Bill 348 - Powers of deputy district court clerks.

Following committee discussion, Senator Gaines moved to report the bill favorably; Senator Hess seconded the motion, and the motion carried.

Senate Bill 349 - Compensation and expenses of district and deputy district coroners.

Following discussion of the bill, Senator Feleciano made a conceptional motion to strike everything in reference to changing of the records and retain the language that pertains to Section 2; Senator Gaines seconded the motion, and the motion carried. Following further committee discussion, Senator Hess moved conceptionally to eliminate the statutory reference to the salaries; that local units have the authority to set the salaries. Senator Mulich seconded the motion, and the motion carried. Senator Gaines moved to report the bill favorably as amended; Senator Burke seconded the motion, and the motion carried.

Senate Bill 324 - Disposition of docket fees.

Committee discussion was had concerning the proposal by a committee member to add a \$10 docket fee each time a court order is requested in divorce cases, and other post-judgment matters. The chairman recognized Walt Scott and asked him to respond to the committee amending the bill to provide for an additional docket fee for post-judgment matters. Mr. Scott said it will probably eliminate aid of execution. His clients cannot afford putting up additional funds each time they need a court order. Committee discussion with him followed.

Marjorie Van Buren reported she would get information on the caseload for court orders to the committee. The chairman appointed a subcommittee of Senator Hess, Senator Gaines and himself to study the information.

The meeting adjourned.

2-28-8

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Mayorie VanBuren	Topeka	OJA
Andy Kenkel	Topeka, MO 66605	KCSL
Helen Johnson	Topeka, MO	KC. ASAP's
Jim Corle	"	KC DAA
Charlotte Puffield	Overland Park	
Walt Scott	Topeka	Assoc. Gen. Bus.

TESTIMONY ON

SENATE BILL 347

Marjorie Van Buren
Office of Judicial Administration
Unified Court System

This bill amends Section 1 of K.S.A. 22-3412 relating to peremptory challenges. The number of peremptory challenges is reduced from four to two in jury cases where a defendant is charged with a misdemeanor.

The bill is a follow-up to earlier legislation (L. 1981, ch. 154) reducing from twelve to six the number of jurors required to conduct a misdemeanor trial. The same legislation reduced the number of persons required to be summoned to twelve. However, the number of peremptory challenges was not changed. The result is a logical conflict, since if each side were to use its four peremptory changes the remaining four jurors would not be adequate to form a jury.

2-28-83
#2

TESTIMONY ON

SENATE BILL 348

Marjorie Van Buren
Office of Judicial Administration
Unified Court System

This bill amends K.S.A. 19-1305, 19-1326, and 60-2603, clarifying the role of the clerks of the court and their deputies, which are sometimes called into question because the statutes are now somewhat ambiguous.

Section 1 amends K.S.A. 19-1305 to specify that both clerks of the district court and their lawful deputies have authority to administer oaths and affirmations and to take acknowledgments.

Section 2 amends 19-1326 to affirm that a clerk's assisting persons involved in small claims litigation with the necessary forms and procedures, either before or after judgment, does not violate the prohibition against performing service as an attorney or counselor at law.

Section 3 offers two technical changes. The first amends K.S.A. 60-2603 by substituting the words "the officers" for "his or her." In a second technical change, the evidently erroneous reference to "60-304" is deleted, as that statute does not provide any authority regarding this matter.

Atch. 2

2-28-83
3

TESTIMONY ON

SENATE BILL 349

Marjorie Van Buren
Office of Judicial Administration
Unified Court System

The primary purpose of this bill is to amplify K.S.A. 20-162(b) which states that coroners are not employees of the district court. Some county commissions continue to charge coroner salaries and expenses to the district court operating budget prescribed by K.S.A. 20-349.

Section 2 of the bill addresses this concern of court system administrators by providing language specifying that coroner's 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, not the district court, is the person in the criminal justice system who must be satisfied that unattended deaths have been investigated. District courts cannot act independently of the prosecutor when a crime has been committed. Therefore, it appears that inquests and the records should logically be first made available to the prosecutor.

Atch. 3

TESTIMONY ON

SENATE BILL 324

Marjorie Van Buren
Office of Judicial Administration
Unified Court System

This bill may be considered a technical follow-up to the docket fee changes made by the 1982 legislature. It amends K.S.A. 20-362 and 120-2801 to simplify the accounting procedure required for that portion of the docket fees which the clerk of the district court sends to the state treasurer.

The proposed amendment directs the clerk to transfer monthly to the state treasurer the balance remaining after deducting the amounts allocated to the county treasurer and county law library fund. The state treasurer, rather than the clerk, is given responsibility for separating the state portion of the fees into the various required categories.

This bill would save one step in accounting for each of the many thousands of cases for which a docket fee is collected.

It also adds specific statutory authorization for crediting a portion of the court costs collected in traffic and fish and game cases to the law enforcement training center fund and the crime victims reparations fund.