

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 March 14, 1983 in room 514-S of the Capitol.~~All~~ members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaines, Hein, 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:

Representative Robert Frey  
Brenda Hoyt, Office of Attorney General  
Jim Clark, Kansas County and District Attorneys Association  
Elizabeth Taylor, Kansas Association of Domestic Violence ProgramsHouse Bill 2009 - Intimidation of witnesses and victims-civil and criminal matters.

The chairman explained this bill is a result of an interim committee study chaired by Representative Frey.

Representative Robert Frey explained the idea for the bill originated from a publication of the American Bar Association, and as a result, he requested the bill be drafted. He testified he is in full support of the bill. It is a clarification of intimidation of a witness. During committee discussion, a committee member inquired if this ever prevents intimidation of a witness; should it always be a felony? Representative Frey answered, he didn't believe it merits a felony, and that is why the bill didn't pass last year. Making it more strict, it would less likely be implemented and used. The chairman inquired how many states have this type of legislation? Representative Frey replied, he didn't know. The chairman asked how the legislation worked in most of the states who have it. Representative Frey answered, this is fairly new. The chairman inquired what is involved in intimidation? Representative Frey answered, first of all you have to know whether it was done maliciously or knowingly. A committee member commented this should be the job of the disciplinary board. Representative Frey answered, the strong point in the bill is the preventive measures that are authorized in this law that can be implemented if you sense a problem. He related the problem of families fighting with one another, if a person is killed in a bar, the members of that family try to go after the person who did it.

Brenda Hoyt appeared in support of the bill, and she feels there is a need for it. She pointed out the language at the top of page 2 of the bill, and commented, when someone's license is on the line, it tends to be intimidating. The chairman inquired how often intimidation of witnesses would be occurring? She said she felt a lot of it is occurring. Her office gets calls from constituents on criminal matters. The chairman inquired where they draw the line. She answered, there is always the standard of what is reasonable or what is malicious dissuasion. Considerable committee discussion with her followed concerning what is intimidating.

Jim Clark testified concerning the bill. He testified it is not a prosecutor's bill; it is not an attorney's bill, it is a victim's bill. He pointed out in the definition, it includes not only giving testimony, it includes making reports. If the court finds certain circumstances of intimidation, law enforcement can be ordered to provide protection; don't have any apparatus to do that now. He stated it is especially helpful in the small communities. Mr. Clark referred to Section 7 of the bill, the pretrial release, and stated the pretrial release

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 14, 1983.

House Bill 2009 continued

statute really doesn't say that now. He is concerned with the matter of interference with cross examination. He thinks in defense cases, this statute is helpful. The present statute just deals with the case after the case has been filed. The chairman inquired what is credible hearsay? Mr. Clark answered, it is an ex parte proceeding. Representative Frey explained it is the waiver of the exclusionary rule. The chairman asked Mr. Clark to work with staff to come up with proper language. A committee member inquired if New Section 4 is surplusage language? Representative Frey answered, it is really a matter of clarification. Committee discussion followed.

Elizabeth Taylor testified she looked at this bill from a different viewpoint, and they do support it as a victim's bill. When a domestic problem does occur, this may prevent the wife from being persuaded not to file the charges.

House Bill 2096 - Child custody investigations in domestic relations cases.

The chairman asked the committee to read a copy of a letter from Marjorie Van Buren pertaining to this bill (See Attachment #1). He then reviewed the hearing that was held on the bill last Thursday.

The meeting adjourned.

3-14-83

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Lamy Humes	Lawrence	Steingors staff
Courtney Clark	Lawrence Kent Terrace <sup>1734</sup>	
Kelley Hickman	" 1734 Kent Terrace Lawrence, Kan	
Scott Hickman	" 1734 Kent terrace, Lawrence Kan	
Jim C. Kyle	Law Topeka	KC DAA
Brenda Hoyt	Topeka	AG office
Cathy Behan	"	AP
GARY L. SANDY	Topeka	W.U.
M. Hawver	"	Capitol - 1040491
Elizabeth Taylor	TOPEKA	Ks. Assn. Domestic Violence Program
Kathleen Salsbery	" KTCR	
Bar Frey	Released	House -



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State of Kansas

## Office of Judicial Administration

Kansas Judicial Center  
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Topeka, Kansas 66612

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March 10, 1983

Hon. Elwaine Pomeroy,  
Chairman  
Senate Judiciary Committee  
Statehouse, Room 143-N  
Topeka, Kansas 66612

Dear Senator Pomeroy:

Re: House Bill 2096

I am enclosing a copy of a letter (dated February 14) from Judge Robert L. Bishop, President of the District Judges' Association, to Representative Marvin Littlejohn, Chairman of the House Public Health and Welfare Committee.

Judge Bishop's letter explains briefly the reasons for the Association's opposition to HB 2096 as originally drafted. I believe the amendments made by the House committee remove the greatest cause for concern, although I fail to see any real advantages to the bill even in its present form.

Although we would not support HB 2096 (even as amended by the House committee), we would no longer strongly oppose it since it appears to allow investigations to be assigned to SRS as needed.

Sincerely,

A handwritten signature in cursive script that reads "Marjorie J. Van Buren".

Marjorie J. Van Buren  
Executive Assistant to the  
Judicial Administrator

MJVB:dm  
Enc.

cc: Members of Senate Judiciary Committee

Atch. 1