

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 20, 1984 in room 514-S of the Capitol.

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

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

Conferees appearing before the committee:

John Wine, Office of Secretary of State
Robert Johnson, United States Corporation Company
Senator August Bogina
Marjorie Van Buren, Office of the Judicial Administrator
Senator Mike Johnston

Senate Bill 717 - Foreign corporation's application to do business and name used.

John Wine testified the office of the Secretary of State would like to encourage the committee to adopt the bill for two reasons. They believe the bill will help to prevent noncompliance with their registration laws, and they believe it will reduce the administrative burden that their office faces. It will also reduce the burden that the applicants now have. He explained the three substantive changes in the bill.

Robert Johnson stated he would be available to answer questions. His office serves as resident agent for many corporations in Kansas, and they process hundreds of these corporations per year. This bill would facilitate the applications.

This concluded the hearing on Senate Bill 717.

Senator August Bogina presented a request for the introduction of a bill that would amend the Consumer Credit Act. He explained it is another way to control cults. A copy of the proposal is attached (See Attachment No. 1). Senator Werts moved to introduce the proposed bill. Senator Hess seconded the motion, and the motion carried.

Senate Bill 719 - Garnishment form for limited actions updated.

Marjorie Van Buren explained her office had requested the bill, and it is clean up language concerning garnishments. The chairman suggested adding the words "if applicable" in line 28 of the bill.

Senate Bill 720 - Assignment of duties to retired district magistrate judges.

Marjorie Van Buren explained her office had requested the bill. She pointed out one of her handouts indicates the fiscal note of the bill would be minimal (See Attachment No. 2). The proposed amendment to the bill is attached (See Attachment No. 3).

This concluded the hearings on Senate Bill 719 and 720.

Senator Mike Johnston presented a request for the introduction of a bill concerning property damage in a cemetery. A copy of the proposal is attached (See Attachment No. 4). Following his explanation, Senator Burke moved that the bill be introduced; Senator Steineger 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. ~~pm~~ on February 20, 1984.

Senate Bill 719 - Garnishment form for limited actions updated.

Senator Steineger moved to amend the bill by including the words "if applicable".
Senator Burke seconded the motion. Following committee discussion, the motion
carried. Senator Steineger moved to report the bill favorably as amended. Senator
Burke seconded the motion. The motion carried.

The chairman noted the Kansas Supreme Court ruled on the road block that had been established in Topeka; there are suggested guidelines by statute or by the attorney general's guidelines. Staff explained the attorney general's guidelines. Following committee discussion, the consensus of the committee was the attorney general's guidelines were satisfactory, and a bill would not be introduced.

The chairman presented another request for introduction of a bill. He explained, if record was made of the proceedings by the magistrate judge, and if the case is appealed, the appeal should be tried on the record.

The chairman presented a bill request to prohibit firing someone for cooperating with an investigation concerning child abuse. Following committee discussion, Senator Hess moved that the bill be introduced; Senator Werts seconded the motion,
and the motion carried.

The chairman explained a bill request from a judge in Sedgwick County concerning service in a juvenile proceedings, when a parent is confined in Larned or in a prison, to designate an agent to receive the mail. Staff explained it would define "restricted mail" to conform with post office practices. Senator Steineger
moved that the bill be introduced; Senator Burke seconded the motion, and the mo-
tion carried.

The chairman had distributed copies of the Judicial Council report on HB 2114, the distinction between assistant district judges and district judges. Following his explanation of the proposal, Senator Hess moved to introduce the bill;
Senator Steineger seconded the motion, and the motion carried.

The chairman reviewed the two memoranda prepared by the Legislative Research Department concerning domestic violence and child abuse. Following his review, Senator Hess moved a bill be introduced to permit law enforcement officers to
take into custody and hold runaway children for 24 hours. Senator Werts seconded
the motion, and the motion carried. Senator Burke moved a bill be introduced to
establish a central repository in the Kansas Bureau of Investigation on missing
persons and unidentified deceased persons. Senator Werts seconded the motion, and
the motion carried.

The meeting adjourned.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
John Vine	2nd Fl.	Sec. of State.
Walt Frost	Topeka	Assoc Credit Bus.
Robert J. Johnson	Topeka	United States Corp. Co.
Tom Fruttyler	Lawrence	Sen. Hess
Jerry Sloan	Topeka	Off. of Jud. Admin
Maynard Van Buren	"	" "
Ed Mullins	"	BUDGET
McLellan	Yancey	Sen. McInnes
W. Hawes	Topeka	Chgo. Journal
Senator Gus Dozier		
Sen. Brock Johnson		
Walt Frost		Walt Frost

AN ACT amending the Kansas consumer credit act; making certain solicitations by certain organizations subject to the act; amending K.S.A. 50-624 and repealing the existing section.

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

Section 1. K.S.A. 50-624 is hereby amended to read as follows: 50-624. As used in this act:

(a) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing or manufacture of agricultural products by a natural person who cultivates, plants, propagates or nurtures the agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(b) "Consumer" means an individual who seeks or acquires:

(1) Property or services for personal, family, household, business or agricultural purposes; or

(2) membership or participation in an organization that engages in any deceptive or unconscionable act described by K.S.A. 50-626 or 50-627, and amendments thereto, in return for money or anything of value, whether given to the organization or to some other person.

(c) "Consumer transaction" means a any:

(1) Sale, lease, assignment or other disposition for value of property or services within this state (except insurance contracts regulated under state law) to a consumer or a solicitation by a supplier with respect to any of these dispositions; or

(2) solicitation of money or anything of value from a consumer in return for membership or participation in an organization that engages in any deceptive or unconscionable act described by K.S.A. 50-626 or 50-627, and amendments thereto, whether the money or thing of value is given to the organization or to some other person.

(d) "Final judgment" means a judgment, including any supporting opinion, that determines the rights of the parties and concerning which appellate remedies have been exhausted or the time for appeal has expired.

(e) "Merchantable" means, in addition to the qualities prescribed in K.S.A. 84-2-314 and amendments thereto, in conformity in all material respects with applicable state and federal statutes and regulations establishing standards of quality and safety.

(f) "Person" means any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, cooperative or other legal entity.

(g) "Property" includes real estate, goods and intangible personal property.

(h) "Services" includes:

(1) Work, labor and other personal services;

(2) privileges with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals and cemetery accommodations; and

(3) any other act performed for a consumer by a supplier.

(i) "Supplier" means a manufacturer, distributor, dealer, seller, lessor, assignor, or other person who, in the ordinary course of business, solicits, engages in or enforces consumer transactions, whether or not dealing directly with the consumer.

Sec. 2. K.S.A. 50-624 is hereby repealed.

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



2-20-84
Cottick # 2

State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612

(913) 296-2256

February 20, 1984

To: Lynn Muchmore, Director of the Budget
From: Jerry Sloan, Budget and Fiscal Officer
Re: Senate Bill No. 720

This bill would allow retired district magistrate judges who hold certificates of qualification to be designated and assigned to perform judicial service.

Currently the Supreme Court can assign retired Supreme Court justices, Court of Appeals judges, district judges, and associate district judges to perform judicial service as required. This bill would allow the Supreme Court to also utilize retired district magistrate judges when needed. These retired district magistrate judges would be compensated at a daily rate derived from the annual district magistrate judge salary.

Current retired judges eligible to perform judicial service, receive compensation and per diem similar to that of legislators, which is currently \$97.00 per day. At the current salary of district magistrate judges, a retired district magistrate judge would receive a daily compensation of \$81.33. It is impossible to determine what fiscal impact this might have, but it would appear to be minimal. This bill would allow greater use of judicial resources in the State of Kansas to assist in case backlog.

JS:dh

Atch. 2

0044 eighteen-month period. Any person who fails to successfully
 0045 complete the examination within the prescribed time shall be
 0046 ineligible for election or appointment as a district magistrate
 0047 judge, unless such person subsequently meets all the qualifica-
 0048 tions for a district magistrate as prescribed by subsection (e)(3)
 0049 of K.S.A. 20-334 and amendments thereto.

0050 Any person who successfully completes the examination ad-
 0051 ministered under this section shall be certified by the supreme
 0052 court as qualified to hold such office. Any district magistrate
 0053 judge who has been so certified shall be eligible for reelection or
 0054 retention in office as provided in this act. *Upon retirement, a*
 0055 *district magistrate judge who holds a certificate of qualification*
 0056 *shall be eligible to be designated and assigned to perform such*
 0057 *judicial service and duties as the judge is willing to undertake.*
 0058 *Each retired district magistrate judge shall receive compensa-*
 0059 *tion for this performance at a daily rate derived from the annual*
 0060 *rate in effect under K.S.A. 1983 Supp. 75-3120k and 75-3120l,*
 0061 *and amendments thereto.*

0062 The supreme court shall prepare a manual which shall contain
 0063 containing the substantive and procedural rules of law and
 0064 principles of judicial conduct which are deemed necessary to be
 0065 understood and practiced by a district magistrate judge. Such
 0066 manual shall be given to each district magistrate judge who is
 0067 required to be examined under this section subsequent to the
 0068 time of such judge's election or appointment. From time to time,
 0069 as the necessity arises, such manual shall be amended and
 0070 supplemented to reflect changes in the law or code of judicial
 0071 conduct.

0072 Sec. 2. K.S.A. 20-337 is hereby repealed.

0073 Sec. 3. This act shall take effect and be in force from and
 0074 after its publication in the statute book.

2-20-84

m.v.

Attach # 3

(1) per diem compensation at the rate of per diem compensation in effect under K.S.A. 46-137a, or amendments thereto, (2) a per diem subsistence allowance in effect under K.S.A. 46-137a, or amendments thereto, and (3) a mileage allowance at the rate fixed under K.S.A. 75-3203a, or amendments thereto.

Atch. 3

Attach. # 4

SENATE BILL NO. _____

By

AN ACT concerning crimes and punishments; defining the crime of desecrating a cemetery and providing penalties therefor; amending K.S.A. 21-4115 and repealing the existing section.

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

Section 1. K.S.A. 21-4115 is hereby amended to read as follows: 21-4115. Desecrating a cemetery is knowingly and without authorization of law:

(a) Destroying, cutting, mutilating, effacing, or otherwise injuring, tearing down or removing any tomb, monument, memorial or marker in a cemetery, or any gate, door, fence, wall, post or railing, or any inclosure for the protection of a cemetery or any property in a cemetery;

(b) obliterating any grave, vault, niche or crypt; or

(c) destroying, cutting, breaking or injuring any building, statuary, ornamentation, tree, shrub or plant within the limits of a cemetery. ~~Desecrating a cemetery is a class C misdemeanor.~~

(d) Desecrating a cemetery is a class E felony if the cemetery property is damaged to the extent of \$100 or more. Desecrating a cemetery is a class A misdemeanor if the damage to the cemetery property is less than \$100.

Sec. 2. K.S.A. 21-4115 is hereby repealed.

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

Attch. 4