

Approved April 1, 1986
Date

MINUTES OF THE House COMMITTEE ON Judiciary

The meeting was called to order by Chairman Joe Knopp at
Chairperson

3:30 ~~xxx~~ a.m./p.m. on February 19, 1986 in room 313-S of the Capitol.

All members were present except:

Representatives Adam, Luzzati and Teagarden were excused

Committee staff present:

Jerry Donaldson, Legislative Research Department

Jan Sims, Committee Secretary

Conferees appearing before the committee:

Matt Lynch, Judicial Council

Hon. Pat Caffee, Manhattan Municipal Court

Hon. Jay Emler, Lindsborg Municipal Court, Kansas Municipal Judge's Association

HB 2771 - An act relating to crimes and punishment; concerning traffic infractions and violations of municipal ordinances.

Matt Lynch of the Judicial Council appeared before the committee in support of HB 2771. He said that current law states that the judge shall impose a fine as per the court's fee schedule in the case of pleas entered of guilty or nolo contendere. This should be changed to indicate the imposition of a fine of not more than the fee schedule. This would make the procedures in municipal and state courts uniform. He said the amendments on page 8 are of a technical nature.

Pat Caffee, Judge of the Municipal Court in Manhattan appeared before the committee in support of HB 2771 as it pertains to 8-2115(a) which states that the judge shall sign the abstract of conviction before forwarding it to the Department of Motor Vehicles. He said the clerk is the person dealing with the individual and many times he as judge never sees the defendant. To require the judge to sign every abstract is unnecessary and burdensome.

HB 2684 - An act concerning municipal court procedure; relating to release of persons unable to make bond.

Pat Caffee, Judge of the Municipal Court in Manhattan appeared before the committee asking that time for holding a person unable to make bond in municipal court cases be increased from 12 hours to 24 hours. He pointed out that these cases no longer involve minor traffic infractions but are serious misdemeanor infractions. 12-4501 provides that if a person is in custody they shall appear in municipal court on the earliest date court next convenes. This presents a problem in cases where a breath analysis has been done in that the results are not back from the lab within the 12 hour period. A problem also is created with the 12 hour provision on arrests occurring during the early evening hours making the hearing necessary in the early morning hours. Judge Caffee also requested that the bill be amended to make a hearing required within 14 days of the arrest. A problem exists in jurisdictions where municipal court only convenes once a month as well as in jurisdictions such as his where court is held three days a week. If an arrest is made on a Tuesday evening the prosecutor must have his case ready Wednesday morning.

Jay Emler, Judge of the Municipal Court in Lindsborg, representing the Kansas Municipal Judges Association told the committee that the 12 hour provision is too limiting especially when a judge is unavailable and there is a pro tem presiding. Many times it is impossible to reach the pro tem at 4:00 or 5:00 in the morning.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Judiciary,
room 313-S, Statehouse, at 3:30 ~~xxx~~ a.m./p.m. on February 19, 1986.

HB 2772 - An act concerning juveniles; relating to penalties for traffic offenses.

Jay Emler appeared before the committee stating that the municipal court judges across Kansas have a concern about DUI convictions as they pertain to juveniles. The current procedure leaves the judges with no way of enforcing a juvenile to attend an alcohol or drug rehabilitation program once the juvenile has served 10 days on a third conviction for DUI.

Rep. Douville moved to amend HB 2684 at lines 48 and 49 to change 12 hours to 24 hours. Seconded by Rep. Snowbarger. Rep. Shriver made a substitute motion to recommend HB 2684 favorable for passage. Seconded by Rep. Solbach. Upon discussion Rep. Shriver withdrew his substitute motion. Rep. Solbach made a substitute motion to amend lines 48 and 49 to 18 hours. Seconded by Rep. Roy. The substitute motion failed 6 votes to 7. Rep. Douville's motion carried 10 votes to 5.

Rep. Bideau moved to amend HB 2684 as follows: "12-4501. Plea of not guilty; trial; time; continuance. An accused person entering a plea of not guilty, or for whom the court entered a plea of not guilty, shall be tried on the earliest practical day set by the court, unless trial is continued for good cause: provided, That an accused person in custody shall be tried on the earliest day that the municipal court convenes within 14 days of arrest, unless trial is continued upon motion of either party and for good cause shown." Motion seconded by Rep. Douville. Rep. Solbach made a substitute motion to provide that the accused be tried by the earliest day the municipal court convenes or 15 days, whichever is earliest. Seconded by Rep. Whiteman. The substitute motion failed on a voice vote. Rep. Bideau's motion carried on a voice vote. Rep. Wunsch moved to report HB 2684 as amended favorably. Seconded by Rep. Buehler. Motion carried on a voice vote.

Rep. Walker moved to amend section 8-2115(a) of HB 2771 to allow either the judge or the clerk to sign the abstract of conviction. Motion seconded by Rep. Shriver. Motion carried on a voice vote. Rep. O'Neal moved to report HB 2771 as amended favorably. Motion seconded by Rep. Snowbarger. Motion carried on a voice vote.

Rep. Shriver moved to report HB 2772 favorably. Seconded by Rep. Buehler. Rep. Vancrum made a substitute motion to allow the judge to have the discretion to sentence 16 to 18 year olds to not more than 30 days on the third offense of DUI. Substitute motion seconded by Rep. Walker. The substitute motion failed 6 votes to 8. Rep. Shriver's motion carried on a voice vote.

The Chairman adjourned the meeting at 5:00 P.M.