

Approved March 17, 1986
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m. ~~p.m.~~ on March 5, 1986 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Steineger, Talkington and Yost.

Committee staff present:

Mary Hack, Revisor of Statutes
Mike Heim, Legislative Research Department

Conferees appearing before the committee:

Professor David Ryan, Washburn University School of Law
Matt Lynch, Kansas Judicial Council

Senate Bill 478 - Technical amendments to Administrative Procedure Act.

The chairman requested Professor David Ryan, Washburn University School of Law, attend the meeting to discuss Senate Bill 478 and Senate Bill 479 with the committee.

Matt Lynch, Kansas Judicial Council, explained the recommendations by the Administrative Procedure Advisory Committee (See Attachment I). Following his explanation, Senator Gaines moved to amend the bill in Section 4 by inserting "by counsel or" and adding the requirement for personal appearance. Senator Parrish seconded the motion, and the motion carried. Senator Gaines moved to report the bill favorably as amended. Senator Parrish seconded the motion, and the motion carried. A committee member requested the minutes reflect the subject of ability of an agency to adopt a rule to counsel personal attendants of parties is preserved and the agencies wouldn't be precluded from adopting such a rule.

Senate Bill 479 - Application of Administrative Procedure Act to all state agencies.

Matt Lynch explained the recommendations in Section 3, subsection (c) that are listed on page 3 of his handout (See Attachment I). Committee discussion was held with Professor Ryan and Charles Hamm, Kansas Department of Health and Environment. Senator Gaines moved to amend the bill in Section 3, subsection (c) as recommended by Judicial Council. Senator Talkington seconded the motion, and the motion carried. Senator Gaines moved to amend the bill by adopting the recommendations made by SRS that are listed on page 4 of the handout. Senator Hoferer seconded the motion, and the motion carried. Senator Gaines moved to amend the bill in Section 6 of the bill that a determination by the Civil Rights Commission of "no probable cause" is not subject to judicial review. Senator Parrish seconded the motion. The motion carried.

Professor Ryan stated the Board of Regents had recommendations that were adopted by the advisory committee, and he had invited her to attend the meeting to redefine the exemptions. A copy of a letter presented by the Board of Regents is attached (See Attachment II). It was the consensus of the committee Professor Ryan and Jean Sagan, Board of Regents, will work with staff to consolidate the wording of their proposal to a single paragraph. Senator Talkington moved to adopt in concept the proposals by the Board of Regents that will be incorporated in as simple language as possible. 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 March 5, 1986.

Senate Bill 479 continued

Senator Gaines moved to report the bill favorably as amended. Senator Feleciano seconded the motion, and the motion carried.

Senate Bill 587 - Civil and criminal remedies for hazing.

Senator Burke explained his proposed amendment (See Attachment III). Senator Burke moved to amend the bill as it appears on the ballon copy. Senator Gaines seconded the motion, and the motion carried. Senator Gaines then moved to amend the bill by striking subsection (c). Senator Burke seconded the motion, and the motion carried. Senator Burke moved to report the bill favorably as amended. Senator Gaines seconded the motion, and the motion carried.

Senate Bill 604 - Privileged communications; certified public accountants.

Senator Yost moved to report the bill adversely. Senator Burke seconded the motion. Following committee discussion, the motion carried.

Senate Bill 605 - Appeals by prosecution in criminal cases.

Senator Gaines moved to report the bill adversely. Senator Yost seconded the motion. Following committee discussion, the motion carried.

The meeting adjourned.

A copy of the guest list is attached (See Attachment IV).

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JUDICIAL MEMBERS
 JUSTICE DAVID PRAGER, CHAIRMAN,
 TOPEKA
 JUDGE MARY BECK BRISCOE, TOPEKA
 JUDGE WILLIAM D. CLEMENT, JUNCTION CITY
 JUDGE HERBERT W. WALTON, OLATHE
 LEGISLATIVE MEMBERS
 SENATOR ROBERT G. FREY, LIBERAL
 REPRESENTATIVE JOSEPH A. KNOPP, MANHATTAN
 LAWYER MEMBERS
 JAMES D. WAUGH, SECRETARY,
 TOPEKA
 ROBERT H. COBEAN, WELLINGTON
 JACK E. DALTON, DODGE CITY
 MARVIN E. THOMPSON, RUSSELL

KANSAS JUDICIAL COUNCIL

KANSAS JUDICIAL CENTER
 301 West Tenth Street
 Topeka, Kansas 66612-1507

COUNCIL STAFF
 RANDY M. HEARRELL
 RESEARCH DIRECTOR
 MATTHEW B. LYNCH
 RESEARCH ASSOCIATE
 NELL ANN GAUNT
 FISCAL OFFICER &
 ADMINISTRATIVE ASSISTANT

(913) 296-2498

March 4, 1986

Honorable Robert G. Frey, Chairman
 Senate Judiciary Committee
 State Capitol Building
 Topeka, Kansas 66612

Dear Senator Frey:

Representatives of a number of state agencies appeared before the Senate Judiciary Committee on Monday, February 10 to express concerns with the provisions of 1986 Senate Bills 478 and 479. The Administrative Procedure Advisory Committee to the Judicial Council met with these agency representatives on Thursday, February 20 to discuss the issues raised in their testimony before the Judiciary Committee. The Advisory Committee met again on Tuesday, February 25 for the purpose of formulating recommendations based on the discussions with agency representatives. These recommendations are contained below.

1986 Senate Bill 478

Senate Bill 478 makes "technical" amendments to the administrative procedure act. The administrative procedure act was adopted during the 1984 legislative session and became effective on July 1, 1985. The only issues raised in regard to Senate Bill 478 were contained in the testimony of the Kansas Corporation Commission and relate to sections four and seven. (However, four amendments suggested by SRS in testimony on S. B. 479 are technical in nature and would be appropriate amendments to S. B. 478. These amendments were approved by the advisory committee and appear on pages four through six of this letter.)

Section four amends K.S.A. 1985 Supp. 77-515 which provides that a corporation or other artificial person may participate in an adjudicative proceeding "by a duly authorized representative" and that a party may be represented "by counsel or, if permitted by law, other representative." According to the Corporation Commission, the complexity of matters before the commission has

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resulted in the commission's adoption of a rule requiring that corporations be represented by counsel. The commission is concerned that 77-515 would override this rule. To answer the concerns of the commission, the advisory committee recommends the addition of the following subsection to 77-515:

"(c) A state agency may require a corporation or other artificial person to participate by counsel."

Section 7 amends K.S.A. 1985 Supp. 77-525 which prohibits certain ex parte communications with a presiding officer in an adjudicative proceeding. The amendments to section 7 would add additional language from the model state administrative procedure act concerning ex parte communications. The Corporation Commission is opposed to being subject to 77-525, both in its current form and as amended by Senate Bill 478. The commission contends that it cannot operate under 77-527 due to limited staff, time constraints, the complexity of matters before the commission, and the fact that numerous parties are often involved in matters before the commission. In particular, it is the opinion of the commission that the restrictions on communications with staff assistants would deprive the commission of the technical information and expert advice necessary to reach timely, well-reasoned decisions. Since the KCC is not presently under the administrative procedure act, the advisory committee does not recommend any amendments to section seven of Senate Bill 478. However, a majority of the advisory committee members present at its recent meetings have been persuaded by the KCC that the trailer bill to Senate Bill 479 should exempt the commission from the provisions of 77-525. The KCC has expressed an initial willingness to have its own rule on ex parte communications (KAR 82-1-207) codified in the trailer bill to Senate Bill 479.

1986 SENATE BILL 479

Most of the concerns raised before the Senate Judiciary Committee related to Senate Bill 479, which purports to expand the administrative procedure act (APA) to other state agencies. Senate Bill 479 has an effective date of July 1, 1987. The expansion of the APA is limited by language in section two which indicates that the APA governs "except to the extent that other statutes expressly provide" procedures for the formulation and issuance of orders. If consistent with the wishes of the legislature, it is the intent of the Administrative Procedure Advisory Committee to complete an extensive trailer bill prior to the 1987 legislative session which will correlate the APA with specific agency statutes in order to clarify when an adjudicative proceeding under the APA is or is not required.

Most of the advisory committee's discussions with agency representatives centered on proposed subsection (c) of section 3, which amends K.S.A. 1985 Supp. 77-508. Subsection (c) sets out agency actions, whether or not they are orders, which do not require an adjudicative proceeding under the APA. Following discussions with agency representatives, the advisory committee

is convinced that subsection (c) should identify, as far as possible, general exemptions which apply to a number of agencies. Conversely, exemptions which relate to a specific function of a particular agency should generally be dealt with in the trailer bill. Accordingly, the advisory committee recommends that subsection (c) read as follows:

"(c) The following state agency actions, whether or not included within the definition of order, shall not require an adjudicative proceeding under this act:

(1) A decision to issue or not to issue a complaint, summons or similar accusation or a determination as to whether or not probable cause exists for crediting a complaint;

(2) a decision to initiate or not to initiate an investigation, prosecution or other proceeding before the state agency, another agency or a court;

(3) a decision under K.S.A. 1985 Supp. 77-510 and amendments thereto not to conduct an adjudicative proceeding;

(4) decisions pertaining to contracts, obtaining materials or services, or awarding grants;

(5) management decisions pertaining to internal agency policy and procedure, personnel matters other than orders of the state civil service board, or the budget process;

(6) decisions pursuant to K.S.A. 1985 Supp. 45-215 et seq., and amendments thereto, pertaining to disclosure or copying of public records;

(7) decisions pursuant to K.S.A. 75-4317 et seq., and amendments thereto, pertaining to access to meetings of public bodies;

(8) approval of plans, specifications or other matters preliminary to the granting of a license or permit;

(9) decisions regarding management, discipline or release of persons in the custody of the secretary of corrections or committed to a state youth center;

(10) decisions relating to parole or revocation of parole;

(11) decisions relating to the admission, treatment, conditional release, or discharge of persons at state psychiatric hospitals or state institutions for the mentally retarded;

(12) decisions regarding public improvement need, design or location;

(13) decisions as to the specifications governing the nature and quality of materials to be used in any public improvement project or the plans and specifications governing the design of any such project prior to the time the contract for any such project is awarded;

(14) decisions pertaining to the grades, disciplinary status, or admission of students to state educational institutions; and

(15) other agency actions exempted by statute.

This new subsection (c) represents a combination of some items, some additional items [(11) through (15)] and the deletion of specific references to probable cause determinations by the Civil Rights Commission and the granting or denial of benefits under the employment security law. The advisory committee agrees that the two matters deleted should be exempted from a hearing under the APA, but believes that this should be accomplished in the trailer bill. The Committee also agrees that items suggested by SRS, the Board of Indigents' Defense Services, and the Department of Administration should be exempted and will so recommend in the trailer bill.

The Committee also recommends the following amendments suggested by SRS:

(1) At the end of line 146 add "or (7) the request for an adjudicative proceeding solely concerns the validity of a federal or state law or regulation."

(2) Add a new section amending section 6 of K.S.A. 1985 Supp. 77-516 as follows:

The presiding officer designated to conduct the hearing may conduct a prehearing conference. If the conference is conducted:

(a) The state agency may assign a presiding officer for the prehearing conference, exercising the same discretion as is provided by K.S.A. 1985 Supp. 77-514 concerning the selection of a presiding officer for a hearing.

(b) The presiding officer for the prehearing conference shall set the time and place of the conference and give reasonable notice to all parties and to all persons who have filed written petitions to intervene in the matter.

(c) The notice shall include:

(1) The names and mailing addresses of all parties and other persons to whom notice is being given by the presiding officer;

(2) the name, official title, mailing ad-

dress and telephone number of any counsel or employee who has been designated to appear for the state agency;

(3) the official file or other reference number, the name of the proceeding and a general description of the subject matter;

(4) a statement of the time, place and nature of the prehearing conference;

(5) a statement of the legal authority and jurisdiction under which the prehearing conference and the hearing are to be held;

(6) the name, official title, mailing address and telephone number of the presiding officer for the prehearing conference;

(7) a statement that at the prehearing conference the proceeding, without further notice, may be converted into a conference adjudicative hearing or a summary adjudicative proceeding for disposition of the matter as provided by this act; and

(8) a statement that a party who fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding may be held in default under this act.

(d) The notice may include any other matters that the presiding officer considers desirable to expedite the proceedings.

and may have its application for an adjudicative proceeding dismissed

(3) Add a new section amending section 7 of K.S.A. 1985 Supp. 77-520 as follows:

(a) If a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds.

(b) Within 7 days after service of a proposed default order, the party against whom it was issued may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of the party against whom a proposed default order was issued, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(c) The presiding officer shall either issue or vacate the default order promptly after expiration of the time within which the party may file a written motion under subsection (b).

(d) After issuing a default order, the presiding officer shall conduct any further proceedings necessary to complete the adjudication without the participation of the party in default and shall determine all issues in the adjudication, including those affecting the defaulting party.

The presiding officer in lieu of determining the issues affecting the defaulting party may, unless otherwise prohibited by law, dismiss such party's application for an adjudicative proceeding.

(4) Add a new section amending section 10 of K.S.A. 1985 Supp. 77-527 as follows:

(a) The agency head, upon its own motion may, and upon petition by any party or when required by law shall, review an initial order, except to the extent that:

(1) A provision of law precludes or limits state agency review of the initial order; or

(2) the agency head (A) determines to review some but not all issues, or not to exercise any review, (B) delegates its authority to review the initial order to one or more persons, or (C) authorizes one or more persons to review the initial order, subject to further review by the agency head.

(b) A petition for review of an initial order must be filed with the agency head, or with any person designated for this purpose by rule and regulation of the state agency, within 15 days after service of the initial order. If the agency head on its own motion decides to review an initial order, the agency head shall give written notice of its intention to review the initial order within 15 days after its service.

(c) The petition for review shall state its basis. If the agency head on its own motion gives notice of its intent to review an initial order, the agency head shall identify the issues that it intends to review.

(d) In reviewing an initial order, the agency head shall exercise all the decision-making power that the agency head would have had to render a final order had the agency head presided over the hearing, except to the extent that the issues subject to review are limited by a provision of law or by the agency head upon notice to all parties.

(e) The agency head shall afford each party an opportunity to present briefs and may afford each party an opportunity to present oral argument.

(f) The agency head may render a final order disposing of the proceeding or may remand the matter for further proceedings with instructions to the person who rendered the initial order. Upon remanding a matter, the agency head may order such temporary relief as is authorized and appropriate.

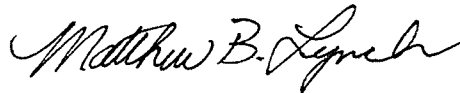
(g) A final order or an order remanding the matter for further proceedings shall be rendered in writing and served within 30 days after receipt of briefs and oral argument unless that period is waived or extended with the written consent of all parties or for good cause shown.

(h) A final order or an order remanding the matter for further proceedings under this section shall identify any difference between this order and the initial order and shall include, or incorporate by express reference to the initial order, all the matters required by subsection (c) of K.S.A. 1985 Supp. 77-526.

(i) The agency head shall cause copies of the final order or order remanding the matter for further proceedings to be served on each party in the manner prescribed by K.S.A. 1985 Supp. 77-531.

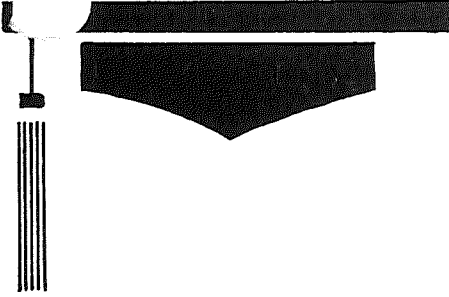
The advisory committee also recommends deletion of the reference to K.S.A. 1985 Supp. 44-1044 in lines 19 and 20 and in the repealer contained in section 6. 44-1044 was enacted during the 1985 session and codified the result obtained in Bush v. City of Wichita, 223 Kan. 651 (1978) that a determination by the Civil Rights Commission of "no probable cause" is not subject to judicial review. It was never the intention of the advisory committee that this section be repealed.

Sincerely,



Matthew B. Lynch

MBL:ng



KANSAS BOARD OF REGENTS

Suite 609 Capitol Tower 400 S.W. Eighth
Topeka, Kansas 66603 Telephone (913) 296-3421

March 5, 1986

The Honorable Robert G. Frey
Senator, State of Kansas
Chairman, Senate Judiciary Committee
Room 128-S - State Capitol
Topeka, Kansas 66612

RE: Senate Bills 479 and 478

Dear Mr. Chairman:

The Board of Regents and its institutions appreciated the opportunity to be heard with respect to the proposed expansion of the Administrative Procedures Act when that legislation was discussed by this committee earlier this session, and likewise appreciates the opportunity to work with the Judicial Council in explaining the needs of our system as it relates to the Act. We spent a good deal of productive time discussing those needs with the Council on February 20, and at their suggestion are providing more detailed explanations as to those decisions within our agencies which we believe should be exempt from the Act. Because of time considerations, I am providing this information to you directly so that you may have reference to it during this week's committee deliberations, and am providing a copy of the same material to Matt Lynch for the Council's use and benefit. We will, of course, be happy to continue working with both the Committee and the Judicial Council in refining our request.

Initially, I should reiterate that it remains the consensus of the legal counsel within the Regents system that the best solution is to exempt state educational institutions from the provisions of the Administrative Procedures Act except as they might be involved in granting licenses. Because the universities act on a semester by semester basis, many of the decisions must be made and finalized before appeal could be obtained through the Administrative Procedures Act. In addition, as you might suspect, there are numerous day-to-day situations in which the institutions must make immediate decisions in order to protect persons or property. For example, a decision to remove someone from a residence hall or classroom short of having the individual arrested. Each of our campuses currently has several appeals procedures in place, contained in student, faculty and staff handbooks of the institutions where they can be easily found and referred to by affected individuals. The hearing procedures now in place on each campus are designed to provide speedy resolutions to fit

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both the issue at hand and the time constraints inherent in the university setting, while at the same time providing all parties with an opportunity to have their points of view heard and considered by the decisionmaker. The Administrative Procedures Act process would prolong each of these decisions and would literally cripple the effective functioning of the institutions within the academic calendar. This is especially so when one considers the number of decisions each institutions must make each semester; for example, the University of Kansas alone makes approximately 300 residency determinations per semester.

In the draft of the bill before the Committee today, the Judicial Council has added a specific exemption for decisions pertaining to the grades, disciplinary status, or admission of students to state educational institutions. While we appreciate this inclusion, which is in language provided by Board counsel, the discussions with the Council and further analysis of the Act and its requirements reinforces the belief that additional exemptions will need to be allowed to accommodate the realistic functioning of our state educational institutions.

The current exemptions provided in Section 2 of Senate Bill 479 evidence certain policy decisions which are applicable to the exemptions which we propose. Virtually all decisions relating to employees of a state agency are exempted under Section 2.c.5. Decisions concerning the management of persons in the custody of the Secretary of Corrections are also exempted. From these two exemptions one can conclude that there is no intention of apply the Administrative Procedures process to those decisions of the state agency which relate to individuals "within the state agency." Employees and persons in custody retain all their rights to seek judicial review of decisions. In line with that rationale, we believe that the wording we have previously provided should be expanded to include areas not covered in that language. These areas include admission of students to courses or programs, the status of students who reside in the housing system at our universities, residency decisions, financial aid decisions, participation in extracurricular activities including intercollegiate athletics, and decisions concerning student organizations.

Section 1.a. of S.B. 479 excludes from the definition of state agency political subdivisions of the state. Police functions are one of the primary functions of political subdivisions of the state and to the extent that state educational institutions share that function, decisions of their law enforcement officers should be exempt from provisions of the Act.

Parking and traffic regulations are presently covered by a complex set of rules and regulations which allow for a full adversary hearing before an on-campus panel or hearing officer and which decisions may be appealed to the district court directly. At the University of Kansas alone thousands of decisions concerning parking fees and fines

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are made every year. While there are particular statutory provisions to be followed if the University intends to use set-off to collect the fines, if each institution had to apply the Administrative Procedures Act to the appeal of every parking ticket which is now processed through its traffic court system on campus, the entire system would collapse.

An additional concern also arises with respect to decisions affecting patients at the Kansas University Medical Center and decisions concerning contracts other than those exempted under Section 2.c.7. That section exempts decisions concerning the letting of contracts and the purchase of materials or services but does not specifically exempt decisions concerning termination of contracts. These concerns are not unique to state educational institutions, however.

As you can see from the foregoing, there are numerous decisions made within the educational setting which ought to be exempt from the Act. If similar necessary exemptions are made for each affected agency within the state, the Act may exclude more than it includes and it may not make sense to attempt to cover as many agencies and as many circumstances as the Act now proposes.

In the event that the state higher educational system is brought within the purview of Senate Bill 479, concerns arise about the specific procedure established in Senate Bill 478. While it is arguable that if the state educational institutions already have procedures for handling various types of grievances, they can simply conform those procedures to the requirements of Senate Bill 478, the fact of the matter is just not that simple. The time constraints alone would be devastating for decisions such as the assignment of grades or removal from a residence hall. The procedures that currently exist in state educational institutions have been developed over a long period of time to most appropriately address specific concerns and issues. While it may be that decisions to expel persons from the institution or to suspend them for some period of time can take several semesters, for reviews of many of the other decisions which we make the process is much quicker. The procedure established in Senate Bill 478, on the other hand, is complex and very time consuming. If the two bills are passed concurrently as proposed, I see no alternative but to employ several hearing officers to operate the system. Because Section 7 of Senate Bill 478 provides that a presiding officer in an adjudicative proceeding may not communicate directly or indirectly regarding any issue in the proceeding with any party or participant or any person who has direct or indirect interest in the outcome of the proceeding, we certainly could not use current staff members to operate the process. There is no one who is currently employed by the institution who has no indirect interest in the outcome of the proceedings within the institution, and this would necessitate the addition of seven unclassified administrators (who by the Act must be attorneys) at a fiscal note in the vicinity of one-quarter of a million dollars per

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year. At a time when our state cannot fully fund the educational aspects of its higher educational institutions, I question whether this is an appropriate burden to impose upon the coffers of Kansas since a system already exists to effectively handle the same subject matter.

As an additional concern, it appears that the discovery allowed under Senate Bill 478 conflicts with the provisions of the Federal Family Educational Rights and Privacy Act and it is confusing as to whether the Administrative Procedures Act or K.S.A. 72-6214 would prevail. Violation of the Family Educational Rights and Privacy Act can result in the loss of federal funds to our institutions.

Given the high volume of decisions which must constantly be made within the academic setting within a short period of time and which relate to such a broad spectrum of legal interests, total exemption of state educational institutions remains to me the most practical solution. In order to achieve this, a broad exception could be included within Section 3.c. of Senate Bill 479. The simplest language would be *decisions of state educational institutions other than those relating to the granting of licenses*. In the alternative, if the Committee wishes to include more specific exemptions, the following language is suggested:

Decisions of state educational institutions pertaining to persons applying for or within the institution;

decisions concerning the parking and traffic regulations at the state educational institutions;

awarding of student financial aid;

decisions relating to the law enforcement function of campus police to the extent provided in [S.B. 415];

decisions affecting patients at the Kansas University Medical Center;

decisions of state educational institutions concerning student organizations and activities;

decisions of state educational institutions pertaining to resident status for fee purposes.

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Thank you for your consideration.

Very truly yours,



Jean S. Sagan
Associate General Counsel

JSS:bf

A-III

SENATE BILL No. 587

By Committee on Judiciary

2-10

0017 AN ACT concerning hazing; prohibiting certain acts and pro-
0018 viding civil and criminal remedies therefor.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. (a) No person shall recklessly participate in the
0021 hazing of another.

0022 (b) As used in this section, "hazing" means doing any act or
0023 coercing another, including the victim, to do any act of initiation
0024 into any student organization or other organization that causes or
0025 creates a substantial risk of causing mental or physical harm to
0026 any person.

(b) As used in this section, "hazing" means doing any act that creates a substantial risk of causing mental or physical harm to any person in connection with the activities of a student organization.

0027 (c) Violation of this section is a class A misdemeanor.

0028 (d) This section shall be part of and supplemental to the
0029 Kansas criminal code.

0030 Sec. 2. (a) Any person subjected to hazing, as defined by
0031 section 1, may commence a civil action for injury or damages,
0032 including mental and physical pain and suffering, that result
0033 from the hazing.

0034 (b) An action pursuant to this section may be brought against:

0035 (1) Any participants in the hazing;

0036 (2) any local organization whose directors, trustees or officers
0037 authorized, requested, commanded or tolerated the hazing; and

0038 (3) any local director, trustee or officer of the organization
0039 who authorized, requested, commanded or tolerated the hazing.

(2) any local organization whose directors, trustees or officers authorized, requested or commanded the hazing; and

(3) any person who authorized, requested or commanded the hazing.

0040 (c) The negligence or consent of the plaintiff or any assump-
0041 tion of the risk by the plaintiff is not a defense to an action
0042 brought under this section.

0043 Sec. 3. This act shall take effect and be in force from and
0044 after its publication in the statute book.

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