

Approved April 11, 1986
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Jeanne Hoferer at
Chairperson

10:00 a.m. ~~p.m.~~ on April 7, 1986 in room 519-S of the Capitol.

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

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

Conferees appearing before the committee:

Susan Wolcott, Wichita State University Athletic Department
Jean Sagan, Kansas Board of Regents
Richard Von Ende, University of Kansas
Gary Hunter, Johnson County
Representative Mike O'Neal
Joleen Miller, Kansas Legal Assistants Society
Ron Smith, Kansas Bar Association
Jim Clark, Kansas County and District Attorneys Association

Senate Bill 206 - Sale or resale of admissions to events at state universities.

Susan Wolcott, Wichita State University Athletic Department, appeared on behalf of Lew Perkins, Director of Athletics. A copy of his testimony is attached (See Attachment I). She testified there is a significant amount of revenue which does not reach their hands. When they have a sell-out, scalping is a problem. When they have declining season for ticket sales, they have more tickets available over the counter. People who get their hands on tickets that have already been sold are selling to their walkup trade that they are trying to cater to. The athletic department needs the walkup revenue. They have occasions when all the tickets are sold, and there is no other places the people can go to get these tickets, so they buy from the people outside who have tickets for sale. It is more on a game by game basis. They had problems three years ago when they were totally sold out.

Jean Sagan, Kansas Board of Regents, testified the board does support the bill, and she does not anticipate the board adopting a policy concerning not allowing prices to be artificially raised. The board does not have a policy. The board did review the athletic ticket policies but did not look at scalping practices. She said she feels it is a matter of state law. She recommended, if addressing "for sale for less than," the bill can be amended in line 23 by changing to "a price different than that printed on the ticket."

Richard Von Ende, University of Kansas testified tickets sold at less than face value occurs when students are well organized, and it is operated by a group that operates out of Kansas City. This problem occurs at Royal and Arrowhead Stadiums. The kids stand right by their ticket window and offer a ticket cheaper than what it is at the window. He said children's tickets are marked, but the people who buy them don't know that and sometimes they are embarrassed when they are discovered at the door. They can't get the police to remove these people from the windows. They are asking for help to deal with this problem that they can't handle at the present time. The kinds who are selling these tickets are being exploited and someone is raking off of this operation.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 519-S, Statehouse, at 10:00 a.m./~~p.m.~~ on April 7, 1986.

Senate Bill 206 continued

Gary Hunter, Johnson County, testified there has been a problem with the criminal element attempting to resell and reprint tickets, and this is an element they don't want around the field house. People are becoming tired of kids pestering them at the games to buy tickets. Mr. Von Ende pointed out this bill only covers selling in excess. Mr. Hunter said it should be amended to the point to include any resale. Their only source of revenue is from donors and/or ticket sales, so ticket sales is very important to them. There is a tremendous amount of sales tax being lost. They would like to see a bill to prevent resale at any value. Mr. Hunter said they want these people off their property, as well as not accosting friends on your property, or at your place of business.

House Bill 2216 - Removal limits on who can be present at oral deposition.

Representative Mike O'Neal, sponsor of the bill, explained the bill amends the Code of Civil Procedure regarding depositions. It would allow legal assistants to be present at depositions. He said the bill is very important at least to have the ability of the legal assistants, and this opens up the possibility of having expert witnesses present at taking of depositions. The Kansas rule is far too exclusive of people attending taking of depositions. During committee discussion, he pointed out the House amendment, in line 118, was taken out that concerns videotaping.

Joleen Miller, Kansas Legal Assistants Society, appeared in support of the bill. She stated legal assistants can render valuable support to counsel at depositions by performing several tasks, such as taking notes, making documents readily available, and lending moral support to the client. A copy of her testimony is attached (See Attachment II). During committee discussion, a committee member inquired if there is any difference in legal assistants or para legal people? She answered, no.

Ron Smith, Kansas Bar Association, testified the bar agrees that legal assistants should be able to attend depositions, but they disagree with the best possible way to do it. He recommended the more appropriate approach is to amend existing language beginning at line 230 to include "those necessary to record or videotape a deposition or bonafide employees of counsel" rather than leave the list wide open. A copy of his testimony is attached (See Attachment III).

House Bill 2314 - Mandatory sentence for attempted crime with firearm; exceptions.

Representative Mike O'Neal, sponsor of the bill, explained the bill and recommended the bill be amended back to the form in which it was originally introduced. He asked the committee to re-evaluate the legislative intent.

Jim Clark, Kansas County and District Attorneys Association, testified they oppose the present version of the bill. They would not want to reduce mandatory firearm, because they feel it is a deterrent.

The meeting adjourned.

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

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: April 7, 1986

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
RICHARD KONZEM	Lawrence, KS	KU ATHLETIC DEPT.
William Hanna	Lawrence, KS	: KUAC
Susan Wolcott	Wichita, KS	WSU ATHLETIC ASSN
Jean Sagan	Lawrence KS	KS BD. of REGENTS
Gary Hunter	Prairie Village, KS	KUAC
Anne Jones	Lawrence	
Dave Replikar	Lawrence	Law. Journal World
Terry Stevens	Topeka	Topeka Police Dept.
Gloria Miller	Topeka	KS Legal Assistants Society
Jim Clark	Topeka	KCOAA
Rep. Mike ONeal	Topeka	KS. Leg.
Ron Smith	"	KS Bar Assoc
M. Harvey	"	C.A.O. Journals
Richard von Ende	Lawrence	The University of Kansas

4-7-86



THE WICHITA STATE UNIVERSITY

Department of Intercollegiate Athletics • Campus Box 18 • Wichita, Kansas 67208

Lew Perkins
Athletic Director
(316) 689-3250

April 7, 1986

Dear Committee Members:

On behalf of the Wichita State University Intercollegiate Athletic Association, I would like to register my support for the proposed legislation making ticket re-sale and scalping in Kansas a misdemeanor.

Ticket scalping has been a problem for us over the past several years. Our ticket personnel have witnessed several individuals attempting to resell tickets outside our football stadium and basketball arena. These individuals are a nuisance to our fans and we have numerous complaints from ticket holders asking us to try and stop this kind of harassment.

When we have asked security personnel for assistance, their response has always been that there is "nothing they can do because state laws do not prohibit this kind of activity." We have in the past posted no loitering signs around our facilities and have asked security personnel to keep these people on the move, however, this approach has had only limited success.

We rely on walk-up ticket sales as a significant portion of our ticket revenue. Scalping and ticket re-sale activities outside our facilities have hurt this revenue area.

In summary, we hope that the committee will recommend passage of this legislation. If I can be of further assistance, please feel free to contact me.

Thank you for your consideration.

Sincerely,

Lew Perkins
Director of Athletics

LP/kw

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Attch. I

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KANSAS LEGAL ASSISTANTS SOCIETY



Chairman Frey, Ladies and Gentlemen of the Committee, good afternoon:

My name is Jolene Miller and I am here to testify on behalf of Kansas Legal Assistants Society in favor of HB 2216.

By way of introduction, Kansas Legal Assistants Society incorporated in June 1977 and is the first statewide professional organization to represent legal assistants in Kansas.

Legal assistants are a distinguishable group of persons who assist lawyers in the delivery of legal services. Through formal education, training and experience, legal assistants have knowledge and expertise regarding the legal system and substantive and procedural law which qualify them to assist in the delivery of legal services under the supervision of a licensed attorney. It's the direct supervision of the employing lawyer that constitutes the legal assistant's authority to exercise their skill and expertise in serving client needs.

Legal assistants can render valuable support to counsel at depositions by performing several tasks.

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Attch. II

First, taking notes gives legal assistants and counsel the opportunity to follow-up on testimony elicited at the deposition prior to receiving an actual copy of the deposition from the court reporter--thereby expediting the legal process and providing better service to the client.

Second, the documents necessary for the taking of a deposition are sometimes voluminous and their organization is usually a task assigned to the legal assistant. Because of the legal assistant's familiarity with those documents, she is able to efficiently, and with little effort, make those documents readily available to both parties during the deposition without having to waste valuable time searching for them.

Third, a person's first experience with the legal process can be quite intimidating. It is not altogether uncommon for legal assistants to establish a close, working relationship with the client and help ease their apprehensions. The presence of the legal assistant at depositions lends moral support to the client in a situation where he is, at best, uncomfortable.

Fourth, because the legal assistant has established rapport with those involved, including preparing the witness for the deposition, counsel relies on the presence of the legal assistant at the deposition.

Attch. II

K.S.A. 60-230, in its present form, technically excludes the presence of legal assistants at the taking of depositions and has no parallel in the Federal Rules of Civil Procedure. This statute, in its present form, is an unnecessary restriction upon those attorneys who wish to utilize legal assistants at the taking of depositions.

Consequently, for the reasons I've enumerated, I urge the passage of HB 2216.

Thank you

Atch. II



**KANSAS BAR
ASSOCIATION**

1200 Harrison
P.O. Box 1037
Topeka, Kansas 66601
(913) 234-5696

HB 2216

Senate Judiciary Committee

March 21, 1986

Mr. Chairman. Judiciary Committee Members.

KBA looked at HB 2216 when it was originally introduced. While true that the FRCP 30 does not have a similar subsection (h) found in lines 230 through 235, KBA believes that the more appropriate approach is to amend existing language beginning at line 230 to include "those necessary to record or videotape a deposition or bonafide employees of counsel" rather than leave the list wide open.

Depositions are necessary components to litigation. The value of having a statute set forth the persons who can be present at a deposition is that it is a form of "statutory protective order" that ordinarily doesn't need further judicial interference in order to implement. While true that KSA 60-230(c)(5) allows judges to issue protective orders to limit those who attend a deposition, clients incur time and expense for counsel to obtain such motions, which are usually argued to the judge before he or she rules.

KBA is concerned that parties may unfairly, and without notice, have expert witnesses or other improper persons attending depositions if

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this statute is enacted. Such surprise may cause one or more parties to refuse to allow depositions to be taken, which inconveniences all parties to hear sanction motions or reschedule depositions under a protective court order.

Federal rules basically apply in courts in metropolitan areas where federal magistrates or district judges are available to rule on questions of discovery propriety under FRCP 30, if a dispute as to who can attend a deposition comes up. In rural Kansas district courts, however, judges may not be routinely available to solve pre-deposition disputes, and listing in the statute who can attend appears to be the better alternative.