

Approved March 23, 1987  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Robert S. Wunsch at  
Chairperson

3:30 ~~xxx~~/p.m. on March 16, 1987 in room 313-S of the Capitol.

All members were present except: Representatives Duncan and Vancrum who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department  
Mary Jane Holt, Secretary

Conferees appearing before the committee:

Jim Clark, Kansas County and District Attorneys Association  
Jim Snyder, Executive Director, Kansas Funeral Directors Association  
Jim Maag, Kansas Bankers Association  
Charles Henson, Legal Counsel, Kansas Bankers Association

The minutes of March 2, 3, 4 and 5 were approved.

Discussion and final action on:

H.C.R. 5002-Education and training of persons dealing with sexually abused children

Representative Walker moved and Representative Adam seconded to amend H.C.R. 5002 in line 40 by adding after the word education "through in-service training". The motion passed.

A motion was made by Representative Sebelius to report H.C.R. 5002, as amended, favorably for passage. Representative Kennard seconded the motion. The motion passed.

S.B. 27-Limiting liability of directors and officers of nonprofit organizations

Representative O'Neal moved to amend Section 1(c) of S.B. 27 by adding 501(c)(4), (5) and (6), and to identify by a specific date in reference to 501(c)(3). The motion was seconded by Representative Douville. The motion passed.

A motion was made by Representative Fuller to report S.B. 27, as amended, favorably for passage. Representative Douville seconded and the motion passed.

S.B. 28-Limiting liability of volunteers of nonprofit organizations.

The Chairman distributed a proposed amendment to S.B. 28, (see Attachment I).

Representative Wunsch moved to amend S.B. 28 to strike all of line 24 and 25 after "amended" and to add in line 33 the sentence, "Volunteer" does not include a person who performs direct patient services in a medical care facility as defined by K.S.A. 64-425 and amendments thereto. The motion was seconded by Representative Solbach.

Representative Whiteman made a conceptual motion to change the proposed language in line 33 to reflect that volunteer does not include a person who performs the delivery of health care patient services in a medical care facility. The motion was seconded and the motion passed.

A vote was taken on the amended motion by Representative Wunsch. The motion passed.

Representative O'Neal moved to include 501(c)(4), (5) and (6) in S.B. 28. The motion was seconded by Representative Snowbarger. The motion passed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,

room 313-S, Statehouse, at 3:30 ~~am~~/p.m. on March 16, 1987

A motion was made by Representative Buehler and seconded by Representative Wagnon to report favorably for passage S. B. 28, as amended. The motion passed.

Hearing on S.B.15-Authorized dispositions under juvenile offenders code.

Representative Whiteman explained S.B. 15 provides options for dispositional alternatives in juvenile cases.

Jim Clark testified in support of S.B. 15. He especially supported the amendment, line 55 through 69.

The hearing was closed on S.B. 15.

Hearing on S.B.16-Exemptions from legal process

Jim Snyder proposed an amendment to New Section I on page 2, line 54. "(11) Any funds held in an account or trust established as a prearranged funeral agreement, plan or contract and exempt from process pursuant to New Section 2(d) of S.B. 11, 1987 Session of the Kansas Legislature." (see Attachment II)

Jim Maag testified in opposition to the amendments made to S.B. 16. He submitted proposed amendments to line 69 by inserting "Subject to the qualification in (e)", and in line 89 by inserting, "A judgment creditor may deposit the sum of seven thousand five hundred dollars with the clerk of the court for payment to the defendant, which sum shall be exempt from seizure upon any attachment, execution or other process or order issued from any court in this state, and thereupon such articles shall not be exempt." He recommended S.B. 16 be the topic of a 1987 interim study, (see Attachment III).

The hearing was closed on S.B. 16.

The meeting was adjourned at 5:00 p.m.

The next meeting will be Tuesday, March 17, 1987, at 3:30 p.m. in room 313-S.

GUEST REGISTER

DATE March 16, 1987

HOUSE JUDICIARY

NAME	ORGANIZATION	ADDRESS
<u>Bob Sumner</u>	<u>S.R.S.</u>	<u>TOPEKA</u>
<u>Bob [unclear]</u>	<u>KCCF</u>	<u>"</u>
<u>Bob [unclear]</u>	<u>Ks Assoc P/C Ins. Cos.</u>	<u>"</u>
<u>Bob [unclear]</u>	<u>RTLA</u>	<u>Topeka</u>
<u>D. WAYNE ZIMMERMAN</u>	<u>THE KANSAS CONTRACTORS ASSOC.</u>	<u>TOPEKA</u>
<u>Molly Daniels</u>	<u>Ks Dept on Aging</u>	<u>Topeta</u>
<u>Joe Vacek</u>	<u>KSCPA</u>	<u>Topeta</u>
<u>Anton Rice</u>	<u>Secretary <del>of</del> State</u>	<u>Topeka</u>
<u>Tom Whitaker</u>	<u>Ks Motor Carriers Assn</u>	<u>Topeka</u>
<u>Sally Rockett</u>	<u>St. Francis Med. Center</u>	<u>Wichita</u>
<u>Nancy Perry</u>	<u>United Way of Greater Topeka</u>	<u>Topeka</u>
<u>Marsh [unclear]</u>	<u>Junior League of Topeka</u>	<u>Topeka</u>
<u>Lori Callahan</u>	<u>am. lens. assoc.</u>	<u>Topeka</u>
<u>Tom Bell</u>	<u>Ks. Hosp. Assn.</u>	<u>Topeka</u>

SENATE BILL No. 28

By Special Committee on Tort Reform and Liability Insurance

Re Proposal No. 29

12-15

0017 AN ACT concerning civil procedure; limiting civil liability of  
0018 volunteers of certain nonprofit organizations.

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

0020 Section 1. (a) As used in this section:

0021 (1) "Charitable organization" means those charitable or edu-  
0022 cational organizations exempt from federal income tax pursuant  
0023 to section 501(c)(3) of the Internal Revenue Code of 1954 as  
0024 amended. ~~but does not include medical care facilities as defined~~  
0025 ~~in K.S.A. 65-425 and amendments thereto.~~

0026 (2) "Compensation" does not include actual and necessary  
0027 expenses that are incurred by a volunteer in connection with the  
0028 services that the volunteer performs for a charitable organization  
0029 and that are reimbursed to the volunteer or otherwise paid.

0030 (3) "Volunteer" means an officer, director, trustee or other  
0031 person who performs services for a charitable organization but  
0032 does not receive compensation, either directly or indirectly, for  
0033 those services.

0034 (b) A volunteer is not liable for damages in a civil action for  
0035 acts or omissions as such volunteer unless such conduct consti-  
0036 tutes willful or wanton misconduct or intentionally tortious con-  
0037 duct, but only to the extent the volunteer is not required to be  
0038 insured by law or is not otherwise insured against such acts or  
0039 omissions.

0040 (c) A volunteer is not liable for damages in a civil action for  
0041 the actions or omissions of any of the officers, directors, trustees,  
0042 employees or other volunteers of the charitable organization  
0043 unless the volunteer authorizes, approves, ratifies or otherwise

"Volunteer" does not include a person who performs direct  
patient services in a medical care facility as defined  
by K.S.A. 65-425 and amendments thereto.

REMARKS BY JIM SNYDER  
EXECUTIVE DIRECTOR, KANSAS FUNERAL DIRECTORS ASSOCIATION  
BEFORE THE KANSAS HOUSE JUDICIARY COMMITTEE  
MARCH 16, 1987  
REGARDING SENATE BILL 16

Mr. Chairman, members of the Committee. I am Jim Snyder, Executive Director of the Kansas Funeral Directors Association. I am here to request an amendment to Senate Bill 16 in New Section 1, sub-paragraph (a). I propose to insert in New Section 1 a new subparagraph (a)(11) on line 54 which would read similar to this:

"(11) Any funds held in an account or trust established as a prearranged funeral agreement, plan or contract and exempt from process pursuant to New Section 2(d) of Senate Bill 11, 1987 Session of the Kansas Legislature."

Senate Bill 11 (known as the casket bill) provides also for permissive auditing by the Secretary of State's Office as well as the above subparagraph. This bill passed both the Senate and House and on March 4 was signed into law by Governor Hayden. It will be effective on July 1.

In the interest of not having to come back next year with another bill just to include this new legislation, the Kansas Funeral Profession requests this inclusion in Senate Bill 16 for the protection of Consumer Funds being held in escrow for their future use.

I'll be happy to answer any questions.

### Scope of the Committee's Activity

Conferees appearing before the Committee included a representative of the Kansas Bar Association, an Emporia attorney, two bankruptcy trustees, a representative of the Kansas Bankers Association, and a representative of the Kansas Association of Financial Services.

The Emporia attorney, in a letter to the legislative counsel for the Kansas Bar Association, said the current depressed economic conditions in Kansas and the decreased stigma associated with bankruptcy have brought more focus on bankruptcy exemptions than any time since the 1930s. This focus has revealed a collection of piecemeal exemptions accumulated over the decades. Further, when the new federal bankruptcy code was adopted in 1978, Kansas and a number of other states opted for their own familiar exemptions rather than the new unfamiliar federal exemptions.

The general consensus of the conferees was that a thorough review of statutory exemptions was needed, that there was not sufficient time allotted for a thorough study by the 1986 interim committee due to its workload and that the issue should be assigned to a 1987 interim committee for a thorough review. Several conferees noted Kansas exemptions were scattered in various locations in the statutes and recommended all exemptions be consolidated in one place in the Kansas statutes prior to an in-depth study.

### Committee Conclusions and Recommendations

The Committee concludes that the statutory exemptions issue is too complicated and too important to deal with adequately in the small amount of time the Committee was able to devote to this topic this interim. The Committee therefore recommends that an interim committee be appointed in 1987 to study exclusively the topic of Kansas bankruptcy exemptions. By the 1987

interim, the new Chapter 12 federal farm bankruptcy law will be in effect and should provide an additional facet for the study.

The Committee does recommend that all Kansas statutory exemptions be codified in one location and recommends this legislation for favorable consideration by the 1987 Legislature. S.B. 16 contains this recommendation.

Respectfully submitted,

November 21, 1986

Rep. Dale Sprague, Chair-  
person  
Special Committee on  
Judiciary

Sen. Jeanne Hoferer,  
Vice-Chairperson  
Sen. Roy Ehrlich  
Sen. Nancy Parrish  
Sen. John Strick  
Sen. Wint Winter

Rep. Edwin Bideau  
Rep. Richard Harper  
Rep. Mary Jane Johnson  
Rep. Joan Wagon  
Rep. Thomas Walker

*Handwritten signature*

I move to amend SB 16 by:

On line 69 following the period by inserting "Subject to the qualification in (e),";

and on line 89 following the period by inserting "A judgment creditor may deposit the sum of seven thousand five hundred dollars with the clerk of the court for payment to the defendant, which sum shall be exempt from seizure upon any attachment, execution or other process or order issued from any court in this state, and thereupon such articles shall not be exempt."