

Approved _____
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 February 12, 1987 in room 514-S of the Capitol.

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

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Office of Revisor of Statutes

Conferees appearing before the committee:

Jim Clark, Kansas County and District Attorneys Associations
Tom Bell, Kansas Hospital Association

Jim Clark, Kansas County and District Attorneys Association, requested the introduction of a bill concerning training fund docket fee and a second bill concerning appeals by prosecution. He explained the two proposals to the committee (See Attachments I, II).

Senator Gaines moved to introduce the bill concerning training fund docket fee. Senator Hoferer seconded the motion, and the motion carried.

Senator Gaines moved to introduce the bill concerning appeals by prosecution. Senator Hoferer seconded the motion and the motion carried.

Senate Bill 173 - Communications between patients and personnel of treatment facilities; concerning exceptions to privileged communications.

Tom Bell, Kansas Hospital Association, explained the bill is technical in nature. He stated Senate Bill 549, which was enacted last session, provided for privileged communications in certain treatment facilities, including psychiatric hospitals. Senate Bill 549 would technically prevent a treatment facility from divulging the name of one of its former patients even when that treatment facility is forced to sue the patient for collection of a bill. He said he felt the legislature did not intend that result and have offered this amendment.

Following committee discussion, Senator Feleciano moved to amend the bill in line 81 by striking "legal." Senator Parrish seconded the motion, and the motion carried.

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

Senate Bill 188 - Civil procedure; relating to sale of real property under execution.

Senator Frey explained this bill was requested by one of his constituents. The problem is when judgment is obtained in one county, and the property to be sold is located in another county. The notice of sale should be in the newspaper from county where judgment is granted. The constituent feels the law should allow also for notice

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~xxx~~ on February 12, 1987

Senate Bill 188 continued

be given in county in which property is located. During committee discussion staff reported the law does not specify which county the notice should be given.

Following committee discussion, Senator Steineger made a conceptual motion to amend the bill by providing the notice be published in the paper in the county where the case was decided, and the court may order additional publication in the county where the real estate is located. Senator Parrish seconded the motion, and the motion carried.

Senator Steineger moved to report the bill favorably as amended. Senator Parrish seconded the motion, and the motion carried.

Senator Parrish requested a bill be introduced concerning court service officers performing function of intake. She explained the proposal to the committee. Senator Steineger moved the bill be introduced. Senator Parrish seconded the motion, and the motion carried.

Senator Winter requested a bill be introduced concerning the adoption laws. Following explanation of the proposal, Senator Winter moved the bill be introduced. Senator Gaines seconded the motion, and the motion carried.

The meeting adjourned.

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

2-12-87

OFFICERS

Roger K. Peterson, President
Stephen R. Tatum, Vice-President
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Kansas County & District Attorneys Association

827 S. Topeka Ave., 2nd Floor • Topeka, Kansas 66612 • (913) 357-6351

EXECUTIVE DIRECTOR • JAMES W. CLARK

PROPOSED LEGISLATION

AN ACT concerning docket fees; relating to the amount of the prosecuting attorneys' training fund; amending K.S.A. 28-170 and K.S.A. 28-170a and repealing the existing sections.

Section 1. K.S.A. 28-170 is hereby amended to read as follows: 28-170. Court fees, civil actions; prosecuting attorneys' training fees. (a)

(c) In actions pursuant to the Kansas code for care of children (K.S.A. 38-1501 et seq. and amendments thereto), the Kansas juvenile offenders code (K.S.A. 38-1601 et seq. and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto), or the treatment act for mentally ill person (K.S.A. 59-2901 et seq. and amendments thereto), the clerk shall charge an additional fee of \$.50 \$1.00 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a and amendments thereto.

Section 2. K.S.A. 28-170a is hereby amended to read as follows: 28-170a. Prosecuting attorneys' training fund; fees. (a) There is hereby established a prosecuting attorneys' training fund. The clerk of the district court shall charge a fee of \$.50 \$1.00 in each criminal case, to be deducted from the docket fee as provided in K.S.A. 28-172a and amendments thereto and shall charge a fee of \$.50 \$1.00 in each case pursuant to the Kansas code for care of children or the Kansas juvenile offenders code and each mental illness, drug abuse or alcoholism treatment action as provided by subsection (c) of K.S.A. 28-170 and amendments thereto. The clerk of the district court, at least monthly, shall pay all such fees received to the county treasurer who shall credit the same to the prosecuting attorney' training fund.

Section 3. K.S.A. 28-170a and 28-172a are hereby repealed.

Section 4. This act shall take effect and be in force on January 1, 1988.

*Atch. I
Senate Judiciary*

2-12-87

SENATE BILL No. 595

By Committee on Federal and State Affairs

2-11

0017 AN ACT concerning docket fees; relating to the amount and
0018 disposition thereof; amending K.S.A. 1985 Supp. 8-2107, 20-
0019 362, 28-172a and 32-155b and repealing the existing sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1985 Supp. 8-2107 is hereby amended to
0022 read as follows: 8-2107. (a) (1) Notwithstanding any other provi-
0023 sions of the uniform act regulating traffic on highways, when a
0024 person is stopped by a police officer for any of the offenses
0025 described in subsection (e) and such person is not immediately
0026 taken before a judge of the district court, the police officer may
0027 require the person stopped, subject to the provisions of subsec-
0028 tion (c), to deposit with the officer a valid Kansas driver's license
0029 in exchange for a receipt therefor issued by such police officer,
0030 the form of which shall be approved by the division of vehicles.
0031 Such receipt shall be recognized as a valid temporary Kansas
0032 driver's license authorizing the operation of a motor vehicle by
0033 the person stopped until the date of the hearing stated on the
0034 receipt. The driver's license and a written copy of the notice to
0035 appear shall be delivered by the police officer to the court having
0036 jurisdiction of the offense charged as soon as reasonably possi-
0037 ble. If the hearing on such charge is continued for any reason, the
0038 judge may note on the receipt the date to which such hearing has
0039 been continued and such receipt shall be recognized as a valid
0040 temporary Kansas driver's license until such date, but in no
0041 event shall such receipt be recognized as a valid Kansas driver's
0042 license for a period longer than 30 days from the date set for the
0043 original hearing. Any person who has deposited a driver's li-
0044 cense with a police officer under this subsection (a) shall have
0045 such license returned upon final determination of the charge

0046 against such person.

0047 (2) In the event the person stopped deposits a valid Kansas
0048 driver's license with the police officer and fails to appear in the
0049 district court on the date set for appearance, or any continuance
0050 thereof, and in any event within 30 days from the date set for the
0051 original hearing, the court shall forward such person's driver's
0052 license to the division of vehicles with an appropriate explana-
0053 tion attached thereto. Upon receipt of such person's driver's
0054 license, the division shall suspend such person's privilege to
0055 operate a motor vehicle in this state until such person appears
0056 before the court having jurisdiction of the offense charged, the
0057 court makes a final disposition thereof and notice of such dispo-
0058 sition is given by the court to the division. No new or duplicate
0059 license shall be issued to any such person until such notice of
0060 disposition has been received by the division. The provisions of
0061 K.S.A. 8-256 and amendments thereto, limiting the suspension of
0062 a license to one year, shall not apply to suspensions for failure to
0063 appear as provided in this subsection (a).

0064 (b) No person shall apply for a duplicate or new driver's
0065 license prior to the return of such person's original license which
0066 has been deposited in lieu of bond under this section. Violation
0067 of this subsection (b) is a class C misdemeanor. The division may
0068 suspend such person's driver's license for a period of not to
0069 exceed one year from the date the division receives notice of the
0070 disposition of the person's charge as provided in subsection (a).

0071 (c) (1) In lieu of depositing a valid Kansas driver's license
0072 with the stopping police officer as provided in subsection (a), the
0073 person stopped may elect to give bond in the amount specified in
0074 subsection (e) for the offense for which the person was stopped.
0075 When such person does not have a valid Kansas driver's license,
0076 such person shall give such bond. Such bond shall be subject to
0077 forfeiture if the person stopped does not appear at the court and
0078 at the time specified in the written notice provided for in K.S.A.
0079 8-2106 and amendments thereto.

0080 (2) Such bond may be a cash bond, a bank card draft from any
0081 valid and unexpired credit card approved by the division of
0082 vehicles or a guaranteed arrest bond certificate issued by either a

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0083 surety company authorized to transact such business in this state
 0084 or an automobile club authorized to transact business in this state
 0085 by the commissioner of insurance. If any of the approved bank
 0086 card issuers redeem the bank card draft at a discounted rate, such
 0087 discount shall be charged against the amount designated as the
 0088 fine for the offense. If such bond is not forfeited, the amount of
 0089 the bond less the discount rate shall be reimbursed to the person
 0090 providing the bond by the use of a bank card draft. Any such
 0091 guaranteed arrest bond certificate shall be signed by the person
 0092 to whom it is issued and shall contain a printed statement that
 0093 such surety company or automobile club guarantees the appear-
 0094 ance of such person and will, in the event of failure of such
 0095 person to appear in court at the time of trial, pay any fine or
 0096 forfeiture imposed on such person not to exceed an amount to be
 0097 stated on such certificate.

0098 (3) Such cash bond shall be taken in the following manner:
 0099 The police officer shall furnish the person stopped a stamped
 0100 envelope addressed to the judge or clerk of the court named in
 0101 the written notice to appear and the person shall place in such
 0102 envelope the amount of the bond, and in the presence of the
 0103 police officer shall deposit the same in the United States mail.
 0104 After such cash payment, the person stopped need not sign the
 0105 written notice to appear, but the police officer shall note the
 0106 amount of the bond mailed on the notice to appear form and shall
 0107 give a copy of such form to the person. If the person stopped
 0108 furnishes the police officer with a guaranteed arrest bond certifi-
 0109 cate or bank card draft, the police officer shall give such person a
 0110 receipt therefor and shall note the amount of the bond on the
 0111 notice to appear form and give a copy of such form to the person
 0112 stopped. Such person need not sign the written notice to appear,
 0113 and the police officer shall present the notice to appear and the
 0114 guaranteed arrest bond certificate or bank card draft to the court
 0115 having jurisdiction of the offense charged as soon as reasonably
 0116 possible.

0117 (d) When any motor carrier, truck or truck tractor is stopped
 0118 by an agent or employee of the department of revenue autho-
 0119 rized under K.S.A. 8-1910 or 66-1319, and amendments thereto,

*Attach: I
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0120 to stop such motor carrier, truck or truck tractor for any violations
 0121 described in subsection (e) which relate to the regulation of
 0122 motor carriers, trucks or truck tractors, such agent or employee
 0123 may require the driver of the motor carrier, truck or truck tractor
 0124 so stopped to give a driver's license or bond in the same manner
 0125 and to the same extent as in subsections (a) and (c).

0126 (e) The offenses for which appearance bonds may be re-
 0127 quired as provided in subsection (c) and the amounts thereof
 0128 shall be as follows:

0129	Reckless driving	\$65
0131	Failure to comply with lawful order of officer	40
0133	Registration violation (registered for 12,000 pounds or less)	35
0135	Registration violation (registered for more than 12,000 pounds)	75
0137	No driver's license for the class of vehicle operated or violation of	
0138	restrictions	35
0140	Spilling load on highway	35
0142	Overload:	
0143	Gross weight of vehicle or	
0144	combination of	
0145	vehicles	an amount equal to the fine
0146		plus docket fee
0147		to be imposed if convicted
0148	Gross weight upon any	
0149	axle or tandem, triple	
0150	or quad axles	an amount equal to the fine
0151		plus docket fee
0152		to be imposed if convicted
0153	Failure to obtain proper registration, clearance or to have current	
0154	certification as required by K.S.A. 66-1324 and amendments	
0155	thereto	255
0157	Insufficient liability insurance for motor carriers pursuant to K.S.A.	
0158	66-1,128 or 66-1314, and amendments thereto	105
0160	Failure to obtain interstate motor fuel tax authorization pursuant to	
0161	K.S.A. 79-34,122 and amendments thereto	105
0163	Improper equipment (glass or fire extinguishers)	35
0165	No authority as private, contract or common carrier	105
0167	No current driver's daily log	35
0169	Invalid or no physical examination card	35
0171	Transporting open container of alcoholic liquor or cereal malt bev-	
0172	erage accessible while vehicle in motion	205

0174 (f) In the event of forfeiture of any bond under this section,
 0175 ~~\$25~~ ^{28.50} of the amount forfeited shall be regarded as court costs in
 0176 any court having jurisdiction over the violation of state law.

0177 (g) None of the provisions of this section shall be construed
 0178 to conflict with the provisions of K.S.A. 8-1219 *et seq.*, and
 0179 amendments thereto.

0180 Sec. 2. K.S.A. 1985 Supp. 20-362 is hereby amended to read
 0181 as follows: 20-362. The clerk of the district court shall remit at

0182 least monthly all revenues received from docket fees as follows:

0183 (a) To the county treasurer, for deposit in the county treasury
0184 and credit to the county general fund:

0185 (1) A sum equal to \$10 for each docket fee paid pursuant to
0186 K.S.A. 60-2001 and amendments thereto, during the preceding
0187 calendar month;

0188 (2) a sum equal to \$10 for each \$30 docket fee paid pursuant
0189 to K.S.A. 61-2501 and amendments thereto; and

0190 (3) a sum equal to \$5 for each \$10 docket fee paid pursuant to
0191 K.S.A. 61-2501 or 61-2704, and amendments thereto, during the
0192 preceding calendar month.

0193 (b) To the board of trustees of the county law library fund, for
0194 deposit in the fund, a sum equal to the library fees paid during
0195 the preceding calendar month for cases filed in the county.

0196 (c) To the county treasurer, for deposit in the county treasury
0197 and credit to the prosecuting attorneys' training fund, a sum
0198 equal to ~~\$5~~ for each docket fee paid pursuant to K.S.A. 28-172a *\$1.00*
0199 and amendments thereto during the preceding calendar month
0200 for cases filed in the county and for each fee paid pursuant to
0201 subsection (c) of K.S.A. 28-170 and amendments thereto during
0202 the preceding calendar month for cases filed in the county.

0203 (d) To the state treasurer, for deposit in the state treasury and
0204 credit to the law enforcement training center fund, a sum equal
0205 to ~~\$3~~ \$5 for each docket fee paid pursuant to K.S.A. 28-172a and
0206 amendments thereto during the preceding calendar month.

0207 (e) To the state treasurer, for deposit in the state treasury and
0208 credit to the crime victims reparations fund, a sum equal to \$2 for
0209 each docket fee paid pursuant to K.S.A. 28-172a and amendments
0210 thereto during the preceding calendar month.

0211 (f) To the state treasurer, for deposit in the state treasury and
0212 credit to the state general fund, a sum equal to the balance which
0213 remains from all docket fees paid during the preceding calendar
0214 month after deduction of the amounts specified in subsections
0215 (a), (b), (c), (d) and (e).

0216 Sec. 3. K.S.A. 1985 Supp. 28-172a is hereby amended to read
0217 as follows: 28-172a. (a) Except as otherwise provided in this
0218 section, whenever the prosecuting witness or defendant is ad-

0219 judged to pay the costs in a criminal proceeding in any county, a

0220 docket fee shall be taxed as follows:

0221	Murder or manslaughter	.....	\$146	\$146	148.50
0223	Other felony	.....	116	116	118.50
0225	Misdemeanor	.....	.86	.86	88.50
0227	Forfeited recognizance	.....	246	246	48.50
0229	Appeals from other courts	.....	46	46	48.50

0231 (b) In actions involving the violation of any of the laws of this
0232 state regulating traffic on highways (including those listed in
0233 subsection (c) of K.S.A. 1984 1985 Supp. 8-2118 and amendments
0234 thereto), any act declared a crime pursuant to the statutes con-
0235 tained in chapter 32 of Kansas Statutes Annotated and amend-
0236 ments thereto or any act declared a crime pursuant to the statutes
0237 contained in article 8 of chapter 82a of the Kansas Statutes
0238 Annotated and amendments thereto, whenever the prosecuting
0239 witness or defendant is adjudged to pay the costs in the action, ~~\$~~

0240 docket fee of ~~\$26~~ ~~\$28~~ shall be charged. When an action is *28.50*
0241 disposed of under subsections (a) and (b) of K.S.A. 1984 Supp.
0242 8-2118 and amendments thereto, whether by mail or in person,
0243 the docket fee to be paid as court costs shall be ~~\$26~~ \$28.

0244 (c) If a conviction is on more than one count, the docket fee
0245 shall be the highest one applicable to any one of the counts. The
0246 prosecuting witness or defendant, if assessed the costs, shall pay
0247 only one fee. Multiple defendants shall each pay one fee.

0248 (d) Statutory charges for law library funds, the law enforce-
0249 ment training center fund, the crime victims reparations fund
0250 and the prosecuting attorneys' training fund shall be paid from
0251 the docket fee. All other fees and expenses to be assessed as
0252 additional court costs shall be approved by the court, unless
0253 specifically fixed by statute. Additional fees shall include, but
0254 are not limited to, fees for service of process outside the state,
0255 witness fees, fees for transcripts and depositions, costs from
0256 other courts, doctors' fees and examination and evaluation fees.
0257 No sheriff in this state shall charge any district court of this state
0258 a fee or mileage for serving any paper or process.

0259 (e) In each case charging a violation of the laws relating to
0260 parking of motor vehicles on the statehouse grounds or other
0261 state-owned or operated property in Shawnee county, Kansas, as
0262 specified in K.S.A. 75-4510a and amendments thereto or as

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0263 specified in K.S.A. 75-4508 and amendments thereto, the clerk
 0264 shall tax a fee of \$2 which shall constitute the entire costs in the
 0265 case, except that witness fees, mileage and expenses incurred in
 0266 serving a warrant shall be in addition to the fee. Appearance
 0267 bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and
 0268 amendments thereto, shall be \$3, unless a warrant is issued. The
 0269 judge may order the bond forfeited upon the defendant's failure
 0270 to appear, and \$2 of any bond so forfeited shall be regarded as
 0271 court costs.

0272 Sec. 4. K.S.A. 1985 Supp. 32-155b is hereby amended to read
 0273 as follows: 32-155b. (a) Whenever any person is issued a citation
 0274 by an officer of the Kansas fish and game commission for any of
 0275 the violations described in subsection (b), the officer may re-
 0276 quire such person to give bond in the amount specified in
 0277 subsection (b) for the offense for which the person was charged,
 0278 which bond shall be subject to forfeiture if the person does not
 0279 appear at the court at the time specified in the written citation.
 0280 The bond shall be a cash bond and shall be payable using cash or
 0281 legal tender identified as travelers checks, certified checks,
 0282 cashiers checks and postal money orders. The cash bond shall be
 0283 taken in the following manner: The officer shall furnish the
 0284 person charged with a stamped envelope addressed to the judge
 0285 or clerk of the court named in the written citation and the person
 0286 shall place in such envelope the amount of the bond, and in the
 0287 presence of the officer shall deposit the same in the United
 0288 States mail. After having complied with these requirements, the
 0289 person charged need not sign the citation, but the officer shall
 0290 note the amount of the bond mailed on the citation and shall give
 0291 a copy of such citation to the person.

0292 (b) The offenses for which a cash bond may be required as
 0293 provided in subsection (a) and the amounts thereof shall be as
 0294 follows:

0295	Hunting without a license	\$80
0297	Fishing without a license	55
0299	Operation of motorboat or sailboat without first obtaining a certifi-	
0300	cate of number	30
0302	Failure to properly display the required identification number on	
0303	the bow of a motorboat or sailboat when underway	30
0305	Failure to properly display the required lights on vessel during	
0306	hours of darkness	30

0308	Failure to have on vessel the correct number and type or types of	
0309	personal flotation devices readily accessible or immediately	
0310	available and in good and serviceable condition	30
0312	Operation of a motorboat or vessel in nonboating area	55
0314	Operating a vessel towing a person or persons on water skis or other	
0315	device without a proper observer or a rearview mirror on vessel	30

0317 (c) In the event of forfeiture of any of the bonds set forth in
 0318 this section, then ~~\$25 \$25~~ of the forfeited bond shall be regarded *28.50*
 0319 as court costs.

0320 Sec. 5. K.S.A. 1985 Supp. 8-2107, 20-362, 28-172a and 32-
 0321 155b are hereby repealed.

0322 Sec. 6. This act shall take effect and be in force from and
 0323 after its publication in the statute book.

*Attach. F.
 Senate Judiciary
 2-12-87*

2-12-87

OFF

Roger K. Peterson, President
Stephen R. Tatum, Vice-President
C. Douglas Wright, Sec.-Treasurer
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Kansas County & District Attorneys Association

827 S. Topeka Ave., 2nd Floor • Topeka, Kansas 66612 • (913) 357-6351
EXECUTIVE DIRECTOR • JAMES W. CLARK

AN ACT relating to criminal procedure; concerning appeals by prosecution; amending K.S.A. 22-3602 and repealing the existing section.

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

Section 1. K.S.A. 22-3602.....

(b) Appeals to the supreme court may be taken by the prosecution from cases before a district judge or associate district judge as a matter of right in the following cases, and no others:

- (1) From an order dismissing a complaint, information, or indictment;
- (2) From an order arresting judgment;
- (3) Upon a question reserved by the prosecution, or
- (4) Upon an order granting a new trial.....

Section 2. K.S.A. 22-3602 is hereby repealed.

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

*Attach. II
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2-12-87*