

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

10:00 a.m./~~p.m.~~ on January 11, 1989 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Winter, Yost, Moran, Bond, Feleciano, D. Kerr, Martin, Morris, Oleen, Parrish, Petty and Rock

Committee staff present:

- Gordon Self, Office of Revisor of Statutes
- Mike Heim, Legislative Research Department
- Jerry Donaldson, Legislative Research Department
- Jane Tharp, Committee Secretary

Conferees appearing before the committee: None

The chairman welcomed committee members and introduced staff members. He discussed the work of the committee and explained he has appointed two subcommittees with Senator Yost chairman of the Civil Matters Subcommittee, and Senator Moran chairman of Criminal and Victims Rights Subcommittee. The subcommittees will meet only when the workload becomes heavy.

Staff presented a review of interim committee bills relating to Proposal No. 17 concerning State Prosecution Rights, Proposal No. 18 concerning Statute of Limitations, Proposal No. 19 relating to structured Settlements, Proposal No. 20 relating to Durable Power of Attorney, Proposal No. 22 relating to Professional Negligence, and Proposal No. 24 relating to Native American Sovereignty.

A copy of Senate Bill 626 is attached relating to statute of limitations. (See Attachment I).

The meeting adjourned.

Copy of the subcommittees and members is attached (See Attachment II).

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.

SENATE BILL No. 626

By Senators Gaines and D. Kerr

2-10

0016 AN ACT concerning civil procedure; relating to limitations of
0017 actions; amending K.S.A. 1987 Supp. 60-513 and repealing the
0018 existing section.

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

0020 Section 1. K.S.A. 1987 Supp. 60-513 is hereby amended to
0021 read as follows: 60-513. (a) The following actions shall be
0022 brought within two years:

0023 (1) An action for trespass upon real property.

0024 (2) An action for taking, detaining or injuring personal prop-
0025 erty, including actions for the specific recovery thereof.

0026 (3) An action for relief on the ground of fraud, but the cause of
0027 action shall not be deemed to have accrued until the fraud is
0028 discovered.

0029 (4) An action for injury to the rights of another, not arising on
0030 contract, and not herein enumerated.

0031 (5) An action for wrongful death.

0032 (6) An action to recover for an ionizing radiation injury as
0033 provided in K.S.A. 60-513a, 60-513b and 60-513c, and amend-
0034 ments thereto.

0035 (7) An action arising out of the rendering of or failure to
0036 render professional services by a health care provider, not aris-
0037 ing on contract.

0038 (b) ~~Except as provided in subsection (c),~~ The causes of action
0039 listed in subsection (a) shall not be deemed to have accrued until
0040 the act giving rise to the cause of action first causes substantial
0041 injury, or, if the fact of injury is not reasonably ascertainable until
0042 some time after the initial act, then the period of limitation shall
0043 not commence until the fact of injury becomes reasonably ascer-
0044 tainable to the injured party, but in no event shall an action be

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S.J.C

0045 commenced more than 10 years beyond the time of the act giving
0046 rise to the cause of action.

0047 ~~(e) A cause of action arising out of the rendering of or the~~
0048 ~~failure to render professional services by a health care provider~~
0049 ~~shall be deemed to have accrued at the time of the occurrence of~~
0050 ~~the act giving rise to the cause of action, unless the fact of injury~~
0051 ~~is not reasonably ascertainable until some time after the initial~~
0052 ~~act, then the period of limitation shall not commence until the~~
0053 ~~fact of injury becomes reasonably ascertainable to the injured~~
0054 ~~party, but in no event shall such an action be commenced more~~
0055 ~~than four years beyond the time of the act giving rise to the cause~~
0056 ~~of action.~~

0057 ~~(d) (c)~~ The provisions of this section as it was constituted
0058 prior to July 1, 1987, shall continue in force and effect for a
0059 period of two years from that date with respect to any act giving
0060 rise to a cause of action occurring prior to that date.

0061 Sec. 2. K.S.A. 1987 Supp. 60-513 is hereby repealed.

0062 Sec. 3. This act shall take effect and be in force from and
0063 after its publication in the statute book.

SENATE JUDICIARY SUBCOMMITTEES

CRIMINAL AND VICTIMS RIGHTS SUBCOMMITTEE

Senator Moran, Chairman

Members:

Senator Feleciano
Senator Gaines
Senator D. Kerr
Senator Oleen
Senator Petty
Senator Winter*

Meeting Time: 10:00 A.M. - Room 521 (if available)

CIVIL MATTERS SUBCOMMITTEE

Senator Yost, Chairman

Members:

Senator Bond
Senator Martin
Senator Morris
Senator Parrish
Senator Rock
Senator Winter*

Meeting Time: 10:00 - Room 514-S

*by Designation

*Attachment II
Senate Judiciary Committee
1-11-89*