

Approved April 25, 1990  
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

12:15 ~~xxx~~/p.m. on March 1, 1990 in room 527-S of the Capitol.

All members were present except: Senators Feleciano, Gaines, Kerr and Morris who were excused.

Committee staff present:

Mike Heim, Legislative Research Department  
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

NONE

The Chairman called the meeting to order by recognizing Senator Rock to present the reports of the Probate and Civil Procedure Subcommittee. (ATTACHMENT I)

SB 689 - concerning civil procedure; limitations on action for latent disease.

The subcommittee recommended conceptually amending SB 689 by adding language that would allow victims diagnosed prior to July 1, 1990 a one-year window to qualify under this statute also; and to recommend the bill favorably as amended. (ATTACHMENT II)

Senator Rock moved to adopt the subcommittee report to conceptually amend SB 689 and recommend favorable for passage as amended. Senator Yost seconded the motion. The motion carried.

SB 313 - concerning domestic relations; relating to property considered to be marital property.

The subcommittee recommendation was to report the bill favorably and to be placed on the Consent Calendar.

Senator Bond moved to adopt the subcommittee recommendation to report SB 313 favorable for passage and be placed on the Consent Calendar. Senator Martin seconded the motion. The motion carried.

SB 718 - concerning courts; relating to witness fees and mileage.

The subcommittee recommendation was to amend SB 718 on line 22, striking "as determined" and inserting "if authorized"; and to report the bill favorably as amended.

Senator Rock moved to adopt the subcommittee report to amend SB 718 and recommend it favorable for passage as amended. Senator Martin seconded the motion. The motion carried.

SB 719 - concerning marriage; relating to who is an officiating person.

The subcommittee recommendation was to report SB 719 favorable for passage and be placed on the Consent Calendar.

Senator Martin moved to recommend SB 719 favorable for passage and to be placed on the Consent Calendar. Senator Rock seconded the motion. The motion carried.

SB 721 - concerning marriage licenses and marriage officiants' credentials.

The subcommittee recommendation was to conceptually amend SB 721 to require that the photocopied document be marked "DUPLICATE" and be clarified to denote the fact that the photocopy will be prepared after the court official has completed the necessary personal information on the original license being issued; and that the bill be reported favorable for passage as amended. (ATTACHMENT III)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 527-S, Statehouse, at 12:15 ~~xxx~~ p.m. on March 1, 1990.

Senator Rock moved to adopt the subcommittee report to conceptually amend SB 721 and it be recommended favorable for passage as amended. Senator Bond seconded the motion. The motion carried.

SB 722 - concerning the rules of civil procedure.

The subcommittee recommendation was to report SB 722 favorable for passage and to be placed on the Consent Calendar.

Senator Yost moved to recommend SB 722 favorable for passage. Senator Parrish seconded the motion. The motion failed.

Senator Parrish moved to conceptually amend SB 722 to apply to full-time employees only. Senator Martin seconded the motion. The motion carried.

Senator Yost moved to recommend SB 722 favorable for passage as amended. Senator Parrish seconded the motion. The motion carried.

SB 690 -- concerning probate procedure; relating to venue.

The subcommittee recommendation was to conceptually amend for prioritizing venue from first, county where death occurred if property was owned in that county, to county of last residence where property was owned, or county of administrator's choice if both circumstances apply; and to recommend favorable for passage as amended.

Senator Rock moved to adopt the subcommittee report to recommend SB 690 be amended and favorable for passage as amended. Senator Moran seconded the motion. The motion carried.

SB 717 - concerning probate procedure; relating to wills; affidavits.

The subcommittee recommendation was to recommend SB 717 favorable for passage and to be placed on the Consent Calendar.

Senator Bond moved to adopt the subcommittee report on SB 717; to recommend favorable for passage and to be placed on the Consent Calendar. Senator Rock seconded the motion. The motion carried.

SB 724 - concerning crimes and punishment; relating to sentencing.

The subcommittee recommendation was to amend SB 724 on line 22 by striking "shall" and inserting "may", and to report the bill favorable for passage as amended.

Senator Rock moved to adopt the subcommittee report to amend SB 724 and recommend favorable for passage as amended. Senator Bond seconded the motion. The motion carried.

SB 716 - concerning recovery from parents for malicious or willful acts by certain children; increasing the limit of damages obtainable.

The subcommittee made no recommendation regarding SB 716.

SB 723 - concerning domestic relations; relating to enforcement of support; relating to international reciprocity.

The subcommittee recommendation was to recommend SB 723 favorable for passage.

Senator Rock moved to recommend SB 723 favorable for passage and to be placed on the Consent Calendar. Senator Bond seconded the motion.

Senator Martin made a substitute motion to conceptually amend SB 723 to allow for reviewing of all license renewals with the intent of identifying individuals with outstanding child support payments, allowing for nonrenewal of licenses until payments are brought current. Senator Parrish seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 527-S, Statehouse, at 12:15 ~~a.m.~~ p.m. on March 1, 1990.

Senator Martin moved to recommend SB 723 favorable for passage as amended. Senator Parrish seconded the motion. The motion carried.

SB 725 - concerning public health laboratory testing; relating to the validity of tests.

The subcommittee recommendation was to amend SB 725 beginning on line 28 by striking all of the content in (3) and inserting "urinalysis tests for controlled substances performed only for management purposes on inmates, parolees or probationers by personnel of the department of corrections or office of judicial administrations and which shall not be used for revoking or denying parole or probation; or", also striking all of section (5) beginning on line 35; and to report the bill favorable as amended. (ATTACHMENT IV)

Senator Rock moved to adopt the subcommittee report to amend SB 725 as stated and to recommend favorable for passage as amended. Senator Moran seconded the motion. The motion carried.

This concluded the report of the Probate and Civil Procedure Subcommittee.

The meeting was adjourned at 1:50 p.m.

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: March 1, 1990  
Noon

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
<i>Paul Shelley</i>	<i>Topoka</i>	<i>OJA</i>
<i>Ron Schuesser</i>	<i>Topoka</i>	<i>OJA</i>

March 1, 1990 p.m.

PROBATE AND CIVIL PROCEDURE SUBCOMMITTEE

Senator Richard Rock, Chairman

February 28, 1990 - West Lounge - 10:00 a.m.

SB 689 - limitation on action for latent disease. (Bill requested by Senator Johnston)

**PROPOSERS:**

Jerry Palmer, Kansas Trial Lawyers (ATTACHMENT I)  
John W. Campbell, Deputy Attorney General, Litigation Division (ATTACHMENT II)  
John Klamann, International Brotherhood of Boilermakers  
Jim DeHoff, Kansas AFL-CIO (ATTACHMENT III)  
Bert S. Braud, Popham Law Firm (ATTACHMENT IV)

**OPPOSERS:**

None appeared

Subcommittee recommendation: to amend conceptually by adding language that would allow victims diagnosed prior to July 1, 1990 a one-year window to qualify under this statute also; and to recommend the bill favorably for passage as amended.

SB 313 - military retirement as marital property. (Senator Oleen requested hearing)

**PROPOSERS:**

Richard Pinaire, Junction City Attorney (ATTACHMENT IV)

**OPPOSERS:**

None appeared.

Subcommittee recommendation: to recommend favorably and be placed on the Consent Calendar.

SB 718 - providing witness fees and mileage in criminal cases (Bill requested by Senator Oleen)

**PROPOSERS:**

James Clark on behalf of Bill Kennedy, Riley County Attorney (ATTACHMENT V)  
Paul Shelby, Office of Judicial Administration (with amendment)

**OPPOSERS:**

None appeared.

Subcommittee recommendation: to amend on line 22, replacing "as determined" with "if authorized"; recommend favorable with amendment.

SB 719 - allowing municipal court judges to officiate marriage ceremonies. (Bill requested by Senator Ehrlich)

**PROPOSERS:**

Judge Lynn Hall, Russell was listed to appear but did not attend the hearing.

**OPPOSERS:**

None appeared.

Subcommittee recommendation: to recommend favorable and be placed on the Consent Calendar.

SB 721 - marriage licenses and officiants' credentials. (Bill requested by Office of Judicial Administration)

**PROPOSERS:**

Paul Shelby, Office of Judicial Administration  
Carolyn Burns, Clerk of the District Court, Barton County (ATTACHMENT VI)  
Dr. Lorne A. Phillips, State Registrar, Division of Information Systems, Kansas Department of Health and Environment (ATTACHMENT VII)

**OPPOSERS:**

None appeared.

Subcommittee recommendation: to adopt the amendment offered by Dr. Phillips; and to recommend favorable for passage as amended.

February 28, 1990 - Room 522-S - 12:00 noon

SB 722 - depositions; certified shorthand reporters. (Bill requested by Office of Judicial Administration)

**PROPOSERS:**

Paul Shelby, Office of Judicial Administration  
Connie Uphaus, Kansas Shorthand Reporters (ATTACHMENT VIII)

**OPPOSERS:**

None appeared.

Subcommittee recommendation: to recommend favorable for passage and placed on the Consent Calendar.

PROBATE AND CIVIL PROCEDURE SUBCOMMITTEE (continued)

SB 690 - probate proceedings, venue in any county where decedent owned real property.  
(Bill requested by Senator Lee)

**PROPOSERS:**

James L. Bush, Smith Center Attorney (ATTACHMENT IX)

**OPPOSERS:**

None appeared.

Subcommittee recommendation: to conceptually amend for prioritizing venue from county to county where death occurred if property was owned in that county, to county of last residence where property was owned or county of administrator's choice; and to recommend favorable for passage as amended.

SB 717 - probate procedure, attestation, affidavit. (Bill requested by Senator Lee)

**PROPOSERS:**

James L. Bush, Smith Center Attorney (ATTACHMENT X)

**OPPOSERS:**

None appeared.

Subcommittee recommendation: to recommend favorable for passage and placed on the Consent Calendar.

SB 724 - crimes and punishments; transfer of supervision of certain persons. (Bill requested by Office of Judicial Administration)

**PROPOSERS:**

Paul Shelby, Office of Judicial Administration

Cathy Leonhart, Kansas Association of Court Services Officers (ATTACHMENT XI)

**OPPOSERS:**

None appeared.

Subcommittee recommendation: to amend on line 22 changing "shall" to "may"; and to recommend favorable for passage and placed on the Consent Calendar.

February 28, 1990 - Room 522-S - on adjournment (4:45 p.m.)

SB 716 - recovery from parents for malicious or willful acts by children. (Bill requested by the Attorney General)

**PROPOSERS:**

Julene L. Miller, Deputy Attorney General, Civil Division (ATTACHMENT XII)

**OPPOSERS:**

None appeared.

Subcommittee recommendation: none made (motion to recommend favorable died for lack of a second.)

SB 723 - enforcement of support; international reciprocity. (Bill requested by Office of Judicial Administration)

**PROPOSERS:**

Paul Shelby, Office of Judicial Administration

Kay Farley, Child Support Coordinator, Office of Judicial Administration (ATTACHMENT XIII)

Camille A. Nohe, Assistant Attorney General, Civil Division (ATTACHMENT XIV)

**OPPOSERS:**

None appeared.

Subcommittee recommendation: to recommend favorable for passage.

SB 725 - public health laboratory tests; laboratory defined. (Bill requested by Office of Judicial Administration)

**PROPOSERS:**

Paul Shelby, Office of Judicial Administration

Cathy Leonhart, Kansas Association of Court Services Officers (ATTACHMENT XV)

Theresa L. Hodges, Laboratory Improvement Program Office, Kansas Health and Environmental Laboratory - with amendment (ATTACHMENT XVI)

Tony Robinson, Kansas Department of Corrections - with the H&E amendment

**OPPOSERS:**

None appeared

Subcommittee recommendation: to amend as suggested by the Department of Health and Environment; and to recommend favorable for passage as amended.

The Subcommittee concluded its currently assigned business.

(Attachments referred to herein are filed with the Subcommittee Reports and Supplemental Information.)

3-1-90 p.m.  
Attachment I  
Page 2 of 2

SB 689

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~~known of the fact of the injury and its relation to the adverse party's conduct.~~

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

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

Sec. 2. K.S.A. 1989 Supp. 60-513 is hereby repealed.  
Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

The foregoing 10 year limitation though, does not apply to either (i) shorten the time to bring a "product liability claim" as defined by K.S.A. 60-3302 to a lesser period than is described in K.S.A. 60-3303; or (ii) the time to discover a disease which is latent caused by exposure to a harmful material, in which event the action shall be deemed to have accrued when the disease and its cause have been made known to the person or at the point the person should have been aware of the disease and its cause.

(e) Any person whose claim for a latent disease was barred by this section prior to July 1, 1990 shall have until July 1, 1991 to bring such action, provided the injured person was a resident of Kansas at the time of the diagnosis of the latent disease and such disease was diagnosed prior to July 1, 1990. In the event latent disease is diagnosed on or after July 1, 1990 the amended act shall apply. It is the intent of the legislature to revive claims for the victims of latent disease who have been barred by the application of the statute in effect prior to July 1, 1990.

Senate Judiciary Committee  
3-1-90 pm.  
Attachment II page 1 of 1



# State of Kansas

Mike Hayden, Governor

Department of Health and Environment

Division of Information Systems

Stanley C. Grant, Ph.D., Secretary

Landon State Office Bldg., Topeka, KS 66612-1290

(913) 296-1415

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Testimony presented to

Senate Judiciary Subcommittee on Probate and Civil Procedure

by

The Kansas Department of Health and Environment

S.B. 721

S.B. 721 is being introduced to make the marriage license process more efficient and less burdensome for the court officials; however, the Department of Health and Environment would recommend two revisions to the bill as presented:

1. We recommend that the language in K.S.A. 23-107 be revised to require that the photocopied document be marked "DUPLICATE" to eliminate any confusion with the original.
2. That the language in K.S.A. 23-107 be clarified to denote the fact that the photocopy will be prepared after the court official has completed the necessary personal information on the original license being issued. The current language implies that a blank copy will be reproduced and issued.

With the above modifications, we would recommend passage.

Testimony presented by: Dr. Lorne A. Phillips  
State Registrar  
Division of Information Systems  
February 28, 1990

*Senate Judiciary Committee  
3-1-90 p.m.  
Attachment III page 1 of 1*



SENATE BILL No. 725

By Committee on Judiciary

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AN ACT concerning public health laboratory testing; relating to the validity of tests; amending K.S.A. 1989 Supp. 65-1,108 and repealing the existing section.

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

Section 1. K.S.A. 1989 Supp. 65-1,108 is hereby amended to read as follows: 65-1,108. (a) It shall be unlawful for any person or laboratory to perform prenatal serological tests for syphilis, serological tests for human immunodeficiency virus or tests for controlled substances included in schedule I or II of the uniform controlled substances act unless the laboratory in which such tests are performed has been approved by the secretary of health and environment to perform such tests. Any person violating any of the provisions of this section shall be deemed guilty of a class B misdemeanor.

(b) As used in this section and in K.S.A. 1988 1989 Supp. 65-1,107 and amendments thereto, "laboratory" shall not include: (1) The office or clinic of a person licensed to practice medicine and surgery in which laboratory tests are performed as part of and incidental to the examination or treatment of a patient of such person; (2) the Kansas bureau of investigation forensic laboratory; (3) ~~urinalysis tests for controlled substances performed by the department of corrections for institutional management purposes on inmates in the custody of the secretary of corrections and incarcerated in a correctional institution or facility under the jurisdiction of the secretary of corrections;~~ (4) urinalysis tests approved by the secretary of corrections for controlled substances performed by the community corrections programs; ~~or (5) urinalysis tests approved by the Kansas supreme court, office of judicial administration, for controlled substances performed by the court services programs.~~

urinalysis tests for controlled substances performed only for management purposes on inmates, parolees or probationers by personnel of the department of corrections or office of judicial administration and which shall not be used for revoking or denying parole or probation.

or

delete

Sec. 2. K.S.A. 1989 Supp. 65-1,108 is hereby repealed.

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

Senate Judiciary Committee  
3-1-90 p.m.  
Attachment IV page 1 of 1