

Approved 6-27-90  
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

10:00 a.m./~~xxx~~ on March 2, 19 90 in room 514-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Mike Heim, Legislative Research Department  
Jerry Donaldson, Legislative Research Department  
Gordon Self, Office of Revisor of Statutes  
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Jan Wade, Kansas Department of Social and Rehabilitation Services

The Chairman called the meeting to order by opening the floor to committee discussion and action on bills previously heard.

SB 562 - concerning community corrections; relating to corrections advisory boards; state purchase of services from grant-receiving county.

Senator Gaines moved to recommend SB 562 favorable for passage. Senator Petty seconded the motion. The motion carried.

SB 563 - concerning the Kansas tort claims act; relating to the definition of employee.

Staff reviewed the testimony presented on the bill, explaining that the intent of the bill is to amend the tort claims act definition to include independent contractors.

Senator Bond moved to report SB 563 "be not passed." Senator Moran seconded the motion. The motion carried.

SB 524 - concerning civil procedure; relating to wrongful death actions; amount of damages.

A proposed amendment was presented to the committee that would allow for a plaintiff to elect to file only for nonpecuniary damages to a maximum of \$250,000. (ATTACHMENT I)

Senator Bond moved to adopt the proposed balloon to SB 524. Senator Kerr seconded the motion. The motion carried.

Senator Bond moved to recommend SB 524 favorable for passage as amended. Senator Feleciano seconded the motion. The motion carried.

SB 701 - concerning driving under the influence; relating to a work release program being part of imprisonment.

Senator Morris moved to conceptually amend SB 701 to clarify that work release would only be available after at least 48 hours has been served in jail. Senator Moran seconded the motion. The motion carried. It was pointed out that guidelines for federal highway safety funds require 48 hours jail time be spent by a convicted repeat DUI.

Senator Rock moved to recommend SB 701 favorable for passage as amended. Senator Morris seconded the motion. The motion carried.

Senator Parrish presented the Child Abuse Subcommittee report on SB 635, SB 640, SB 522 and SB 306. (ATTACHMENT II)

SB 635 - concerning the Kansas code for care of children.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 514-S, Statehouse, at 10:00 a.m./p.m. on March 2, 1990.

Senator Parrish moved to report SB 635 favorable for passage as recommended by the subcommittee. Senator Bond seconded the motion. The motion carried.

SB 640 - concerning guardians and wards; procedure to changes in treatment.

Senator Parrish moved to adopt the subcommittee report to amend SB 640 and recommend favorable for passage as amended. Senator Bond seconded the motion. The motion carried.

SB 522 - concerning child abuse.

Senator Parrish moved to adopt the subcommittee report to amend SB 522. Senator Rock seconded the motion. The motion carried.

Jan Wade, SRS Director of Children in Need of Care Programs, stated that SRS did not see section (3) of SB 522 as a substantive change; cooperation and communication already exists.

Senator Parrish moved to amend SB 522 to allow other agencies involved with the child, as much as possible within federal regulations, to receive information from SRS. Senator Kerr seconded the motion. The motion carried.

Senator Parrish moved to recommend SB 522 favorable for passage as amended. Senator Kerr seconded the motion. The motion carried.

The meeting was adjourned.



SENATE BILL No. 524

By Committee on Judiciary

1-19

AN ACT concerning civil procedure; relating to wrongful death actions; amount of damages; amending K.S.A. 1989 Supp. 60-1903 and repealing the existing section.

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

Section 1. K.S.A. 1989 Supp. 60-1903 is hereby amended to read as follows: 60-1903. (a) ~~In~~ any wrongful death action, the court or jury may award such damages as are found to be fair and just under all the facts and circumstances, but the damages, other than pecuniary loss sustained by an heir at law, cannot exceed in the aggregate the sum of ~~\$100,000~~ ~~\$250,000~~ and costs.

(b) If a wrongful death action is to a jury, the court shall not instruct the jury on the monetary limitation imposed by subsection (a) upon recovery of damages for nonpecuniary loss. If the jury verdict results in an award of damages for nonpecuniary loss which, after deduction of any amounts pursuant to K.S.A. 60-258a and amendments thereto, exceeds the limitation of subsection (a), the court shall enter judgment for damages of ~~\$100,000~~ ~~\$250,000~~ for nonpecuniary loss.

(c) In any wrongful death action, the verdict shall be itemized by the trier of fact to reflect the amounts, if any, awarded for:

- (1) Nonpecuniary damages;
  - (2) expenses for the care of the deceased caused by the injury;
- and
- (3) pecuniary damages other than those itemized under subsection (c)(2).

(d) Where applicable, the amounts required to be itemized pursuant to subsections (c)(1) and (c)(3) shall be further itemized by the trier of fact to reflect those amounts awarded for injuries and losses sustained to date and those awarded for injuries and losses reasonably expected to be sustained in the future.

(e) In any wrongful death action, the trial court shall instruct the jury only on those items of damage upon which there is some evidence to base an award.

Except as otherwise provided in subsection (f), in

\$100,000

(f) In any wrongful death action, the plaintiff may elect at the time of filing of the petition to seek recovery of nonpecuniary damages only. Such election shall be clearly set forth in the petition by reference to subsection (f) of K.S.A. 60-1903. In any action pursuant to this subsection, plaintiff may not seek recovery for any damages otherwise permitted by K.S.A. 1990 Supp. 60-1903(a) or K.S.A. 60-1801 et seq. In any action pursuant to this subsection, the court or jury may award such damages as are found to be fair and just under all the facts and circumstances, but the damages cannot exceed in the aggregate the sum of \$250,000.

*Senate Judiciary Committee*  
3-2-90  
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CHILD ABUSE REPORTING SUBCOMMITTEE

Senator Nancy Parrish, Chairman

February 27, 1990 -- Room 522-S -- 3:30 p.m.

SB 306 - Concerning records and reports of child abuse or neglect.

**PROPOSERS**

Gloria Torrez Corona, Special Agent for Attorney General (ATTACHMENT 1)

**OPPOSERS**

None appeared.

Subcommittee recommendation: to amend SB 306 into SB 522.

SB 522 - concerning child abuse.

**PROPOSERS**

Gloria Torrez Corona, Special Agent for Attorney General (ATTACHMENT 1)

Cynthia Kelly, Kansas Association of School Boards (ATTACHMENT 2)

David Rodeheffer, Kansas Psychological Association (ATTACHMENT 3)

Jan Wade, Director of Children in Need of Care Programs, SRS

Tim Owens, SRS Legal Counsel, Mental Health and Retardation Services

Paul Shelby, Office of Judicial Administration

**OPPOSERS**

None appeared.

Subcommittee recommendation: amendments to SB 522:

on page 2 on line 7 - 9, strike the words "if the person has signed a confidentiality agreement with standards as strict or stricter than the requirements of this code", and by striking sections (h), (i) and (j); on page 3, line 23 by striking "the juvenile offender's foster parents or legal guardian" and insert "a court services officer"; and incorporating SB 306.

Action on SB 522: favorable for passage as amended.

SB 635 -concerning person who may be mentally ill; procedure.

**PROPOSERS**

Tim Owens, SRS Legal Counsel, Mental Health and Retardation Services

**OPPOSERS**

None appeared.

Subcommittee recommendation: to pass favorable.

SB 640 - concerning guardians and wards; procedure to change treatment.

**PROPOSERS**

Tim Owens, SRS Legal Counsel, Mental Health and Retardation Services

**OPPOSERS**

None appeared.

Subcommittee recommendation: amendments to SB 640:

insert on page 2, line 17 the word "licensed" after "in other" and before "treatment facilities", and inserting "guardian or other interested party" on page 2, line 19 after "the ward" and before "shall request";

action on SB 640: favorable for passage as amended.

Additional Subcommittee recommendation: an interim study on the broader issue of confidentiality in all Children In Need Of Care and juvenile offender issues.

This concluded the business of the Subcommittee.

*Senate Judiciary Committee  
3-2-90  
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