

Approved: April 7, 1995
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on February 22, 1995 in Room 313-S-of the Capitol.

All members were present except:

Representative David Adkins - Excuse
Representative Candy Ruff - Excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfschlegel, Committee Secretary

Conferees appearing before the committee:

Janet Chubb, Office of Secretary of State
Paul Shelby, Office of Judicial Administration
Sherlyn Sampson, Chief of District Court Douglas County
Judge David Mikesic, Wyandotte County
Amy Waddle, Office of Judicial Administration
Judge Larry McClaine, Johnson County
Charlene Stazler, Director of Vital Statistics, Department of Health & Environment
Kyle Smith, Kansas Bureau of Investigation
Jim Clark, Kansas County & District Attorney Association
Representative Doug Mays
David Monical, Executive Assistant to President
Len Richter, Individual

Others attending: See attached list

Hearings on **HB 2298** - Registered limited liability partnerships, fees for applications or renew applications, were opened.

Janet Chubb, Office of Secretary of State, appeared before the committee in support of the bill. She stated that the bill increases the filing fee to \$75 for any limited liability partnership that has no partner who's principal office is in Kansas. (Attachment 1)

Hearings on **HB 2298** were closed.

Representative Mays made a motion to report **HB 2298** favorably for passage. Representative Rutledge seconded the motion. The motion carried.

Hearings on **HB 2023** - Repeals statute that allows wills to be deposited in district court, were opened.

Paul Shelby, Office of Judicial Administration, appeared before the committee as a proponent of the bill. He commented that this bill would repeal the law permitting deposit of wills in the safekeeping of the district court for a filing fee of \$1.00. (Attachment 2)

Sherlyn Sampson, Clerk of District Court, Douglas County, appeared before the committee in support of the proposed bill. She told the committee that this bill would repeal an 1868 law which allows for the deposit of a will with the clerk of the district court for safekeeping. The bill also does away with the requirement of the court to maintain an index of wills deposited. (Attachment 3)

Hearings on **HB 2023** were closed.

Hearings on **HB 2426** - Eliminates options for forming law libraries; all new law libraries will be formed pursuant to statute, were opened.

Paul Shelby, Office of Judicial Administration, appeared before the committee as a proponent of the bill. He presented the committee some historical data on the bill and the issue. (Attachment 4)

Judge David Mikesic appeared before the committee as a proponent of the bill. He told the committee that this bill deals with county law libraries and fees to be charged to attorneys for the use of the library. He offered

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S-Statehouse, at 3:30 p.m. on February 22, 1995.

two ways to amend the bill: an attorney would be required to register in the county where the attorney's principal office is located and where the attorney resides if the principal office is located in another state or have the attorney register in his or her county of residence, but be required to only pay the Law Library fee in the county where his/her principal office is located. (Attachment 5)

Hearings on HB 2426 were closed.

Hearings on HB 2430 - Marriage licenses may be computer generated, were opened.

Amy Waddle, Office of Judicial Administration, appeared before the committee in support of the bill. She commented that the proposed legislation would allow courts that already track marriage license information on the computer to eliminate the unnecessary step of re-typing the same information on a manual form. (Attachment 6)

Judge Larry McClaine appeared before the committee as a proponent of the bill. He stated that the primary benefits of this requested amendment is to reduce the clerk's staff time for handling the additional paper work which is required under the three day waiting period. (Attachment 7)

Charlene Satzler, Kansas Department of Health & Environment, appeared before the committee as a proponent to the bill. She told the committee that this bill would have a positive effect on the Office of Vital Statistics and would improve the timeliness and accuracy of the data furnished via the marriage license form because of edits. (Attachment 8)

Hearings on HB 2430 were closed.

Hearings on HB 2445 - Authorized interception of wire communications; cordless phones to be covered by the warrant requirements for a wiretap, were opened.

Kyle Smith, Kansas Bureau of Investigation, appeared before the committee as a proponent to the bill. He told the committee that this bill simply brings state statute into compliance with a change in the Federal law which removed an exception for cordless radio telephones to the general rule of requiring warrants for electronic surveillance. (Attachment 9)

Jim Clark, Kansas County & District Attorneys Association, appeared before the committee as a proponent to the bill. He stated that this was the result of a compromise between law enforcement and telecommunications agencies. (Attachment 10)

Hearings on HB 2445 were closed.

Hearings on HB 2450 - KBI send notice to FBI of expungement records; criminal history record information, were opened.

Kyle Smith, Kansas Bureau of Investigation, appeared before the committee in support of the bill. He told the committee that this bill addresses the procedural problem of how expungement orders are submitted to the FBI and clears up a problem caused by improved technology in the dissemination of criminal history information. (Attachment 11)

Paul Shelby, Office of Judicial Administration, appeared before the committee in support of the bill. He commented that this could clarify the correct procedure for the courts. (Attachment 12)

Hearings on HB 2450 were closed.

Hearings on HB 2531 - Municipal university police officers, were opened.

David Monical, Executive Assistant to the President Washburn University, appeared before the committee as a proponent of the bill. He stated that crime prevention has been a top concern with the public and that the addition of sworn law enforcement officers would enhance the crime prevention on Washburn University's Campus. (Attachment 13)

Hearings on HB 2531 were closed.

Hearings on HB 2391 - Authority and benefits of certain special deputy sheriffs, were opened.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S-Statehouse, at 3:30 p.m. on February 22, 1995.

Len Richter, Individual, appeared before the committee as a proponent of the bill. He told the committee that properly trained reserve officers are as competent as any other law enforcement officer and therefore, should have the same powers. (Attachment 14)

Hearings on HB 2391 were closed.

HB 2023 - Repeals statute that allows wills to be deposited in district court

Representative Graeber made a motion to report HB 2023 favorably for passage. Representative Nichols seconded the motion. The motion carried.

HB 2430 - Marriage licenses may be computer generated

Representative Garner made a motion to report HB 2430 favorably for passage. Representative Snowbarger seconded the motion.

Representative Nichols made a substitute motion to strike in K.S. A. 23-106 the 3 day waiting period. Representative Garner seconded the motion.

Representative Snowbarger stated that it is getting easier to get married and there should be a little time between the time the license is request and actual given marriage. Representative Pauls commented that the three day waiting period is a good idea because it gives the parties time to reconsider what they were doing. The motion failed.

Representative Mays made a motion to amend in the provisions of HB 2022 - municipal judges authorized to officiate at marriage ceremonies, into HB 2430. Representative Spangler seconded the motion. The motion carried.

Representative Graeber made a motion to report HB 2430 favorably for passage as amended. Representative Pauls seconded the motion. The motion carried.

HB 2445 - Authorized interception of wire communications; cordless phones are now covered by the warrant requirements for a wiretap

Representative Snowbarger made a motion to report HB 2445 favorably for passage. Representative Graeber seconded the motion. The motion carried.

HB 2450 - KBI send notice to FBI of expungement records; criminal history record information

Representative Heinemann made a motion to report HB 2450 favorably for passage. Representative Snowbarger seconded the motion. The motion carried.

HB 2531- Municipal university police officers

Representative Ott made a motion to report HB 2531 favorably for passage. Representative Heinemann seconded the motion. The motion carried.

HB 2391 - Authority and benefits of certain special deputy sheriffs

Representative Pauls made a motion to report HB 2391 favorably for passage. Representative Spangler seconded the motion.

Representative Nichols commented that he was not comfortable with giving full law enforcement powers to special deputies. It has the of potential to go way beyond law enforcement powers.

With permission of the second Representative Pauls withdrew her motion.

HB 2426 - Eliminates options for forming law libraries; all new law libraries will be formed pursuant to statute

Representative Snowbarger made a motion to report HB 2426 favorably for passage. Representative Nichols seconded the motion.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S-Statehouse, at 3:30 p.m. on February 22, 1995.

Representative Spangler made a substitute motion to have the attorney pay the library fee at both where they reside and where the principal office is located. Representative Haley seconded the motion.

Representative Snowbarger commented that it would be unfair because they would be double charged. Those that live in Missouri and practice in Kansas should pay the law library fee as to where their principal office is. It needs to be decided whether "principal office" is the firms office or where the attorney practices. Chairman O'Neal stated that it should be where the attorneys principal office is.

With permission of the second Representative Spangler withdrew his motion.

Representative Garner made a motion that attorneys would be required to register in the county where the attorney's principal office is located, if the attorney is a resident of another state and the principal office of the attorney controls, not the principal office of the attorneys firm. Representative Graeber seconded the motion. The motion carried.

Representative Pugh explained that the Attorney General's staff and other state agencies are exempt from paying these fees and that public defenders should also be included. He made a motion to strike public defenders everywhere it appeared in the bill. Representative Edmonds seconded the motion. The motion failed 8-8.

Representative Pugh made a motion to strike on page 2, lines 21 through 27. Representative Edmonds seconded the motion. The motion carried.

Representative Yoh made a motion to add "solely" on page 2, line 6, after employed. Representative Mays seconded the motion. The motion carried.

Representative Nichols made a motion to strike on page 3, line 7, "govern the conditions under which" and replace with "provide" and strike "shall have" and replace with "reasonable". Representative Rutledge seconded the motion. The motion carried.

Representative Snowbarger made a motion to report **HB 2426** favorably for passage as amended. Representative Spangler seconded the motion. The motion carried.

The next meeting is scheduled for February 23, 1995.

HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: February 23, 1995

| NAME | REPRESENTING |
|------------------|---------------------------------|
| LARRY McCRAIN | |
| David P. Mikesic | 29 th Judicial Dist. |
| Paul Shelby | OJA |
| David G. Monical | Washburn University |
| TC Anderson | KSEPA |
| Jim Clark | KCDAA |
| J. Chubb | SoS |
| Fairy Betty John | Washburn University |
| TC Heavreel | Judicial Council |
| Charles Saksis | Dept of Health + Env. |
| Amy Waddle | OJA |
| Shelby Sampson | Dgls District Court |
| al Singleton | KADCOA |
| Andy Deato | Koch Commission |
| Dave Johnson | Ks A.S. AP. Inc |
| Doug Shwin | OJA |
| Linda DeLaney | Ks Insurance Dept. |
| Tom Wilder | Law Dept of Insurance |
| | |

Ron Thornburgh
Secretary of State



2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

HOUSE JUDICIARY COMMITTEE

Testimony of Secretary of State
on request for technical amendment

HB 2298

February 22, 1995

Mr. Chairman and Members of the Committee:

HB 2298 provides for a \$75 filing fee for any limited liability partnership that has no partner whose principal office is in Kansas.

When the registered limited liability partnership act was passed in the 1994 session, it stated a \$75 fee for each partner whose principal office is in Kansas. This fee provision covered domestic limited liability partnerships and some foreign partnerships but overlooked the foreign partnerships that do not have a partner with a principal office in Kansas. The omission was an oversight.

The Secretary respectfully requests that the committee favorably consider this technical amendment.

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Attachment 1

Corporations (913) 296-4564
FAX (913) 296-4570

Elections (913) 296-4561
Administration (913) 296-2236
FAX (913) 291-3051

UCC (913) 296-3650
FAX (913) 296-3659

House Bill No. 2023
House Judiciary Committee
February 22, 1995

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee we appreciate the opportunity to appear today to discuss House Bill No. 2023 which relates to the deposit of wills in the district court.

This bill repeals a statute which has been in existence in one form or another since 1868, K.S.A. 59-620. Currently the statute permits deposit of wills in the safekeeping of the district court for a filing fee of \$1. The bill also deletes a companion requirement to keep an index of wills on file.

Over the years since 1868 a great many of the wills filed in the courts have accumulated as testators die and the court does not learn of the death. Currently, most will drafters keep the will in their law office, and file the will for probate on the death of the testator so that this service which was fairly successful in the early years of our state is no longer operating as originally envisioned.

Considerable savings will result to county governments which supply space and operating expenses to district courts. The saving will be realized over time as filing space, filing cabinets, and associated indices are no longer needed.

We support this bill and request favorable passage.

HOUSE BILL NO. 2023
House Judiciary Committee
February 22, 1995

Testimony of Sherlyn Sampson
Clerk of District Court, Douglas County
for the Ks Assoc of District Court Clerks & Administrators

Mr. Chairman:

I appreciate the opportunity to appear before you today to discuss House Bill No. 2023. The purpose of this bill, which was requested by the Clerk's Association, is to delete KSA 59-620 which allows wills to be deposited with the Clerk of District Court.

This statute was established in 1939 and last amended in 1977. We feel that in today's mobile society this statute is outdated. This law dates back to a time when the court knew everyone and would call in the family and publicly read a will to them. This is no longer feasible.

Each District Court in Kansas was surveyed and it is estimated there are at least 20,000 wills on deposit with the District Courts of Kansas with some courts having as many as 6200 on file. A lot of the wills on deposit with the court date back to the early 1800's.

Our concern with KSA 59-620 is the disservice the courts are doing to people. People place wills on deposit with the courts expecting the court to handle them with loving care. Instead the will is placed in a sealed envelope, indexed either numerically or alphabetically, filed away, and forgotten forever.

The statute allows a person to deposit a will with the Court in the county where that person currently resides. The court is required to issue a certificate of deposit at the time the will is deposited. Should a family member know the will is deposited with the court and come in to pick it up, they can't have it. The statute requires that during the testator's lifetime, only the person that deposited the will be allowed to pick it up. After the testator's death, if the court is notified of the death, the court shall open the will publicly and retain the same.

Tragically, most family members do not know a will is deposited with the court so they don't notify the court of the death of the testator; therefore, the testator's wishes are never known.

In our mobile society, it is very hard to know where a will was filed unless you had the exact date of the will and knew where the person resided on that date. Therefore, it makes much

more sense for a testator to keep the will with their other important family papers. The attorney that prepared the will should also have a copy in his file.

For the above reasons, we ask that you help us put an end to the disservice we do to a testator by depositing their will with the Court. We ask that you pass this bill and delete KSA 59-620.

Thank you for allowing me to speak to you on behalf of the Clerks in Kansas. I urge your support of this bill.

1995 House Bill No. 2426
House Judiciary Committee
February 22, 1995

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee, we appreciate the opportunity to appear today to discuss House Bill No. 2426 concerning county law libraries.

I wish to commence my remarks by presenting some historical data on this bill and the issue. The 1994 legislature had two bills before them on law libraries regarding increasing registration fees in Sedgwick County. During the process the bills were combined into one, Senate Bill 790 which was approved. The approved bill raised the registration fee in Sedgwick County and exempted Public Defender attorneys from the fees. During the conference committee deliberations it was noted that these set of statutes should be reviewed and recommendations submitted for the 1995 legislature.

We have reviewed those 16 statutes and we are recommending you repeal 9 statutes and keep 7. Our recommendations are in House Bill 2426. We shared our recommendations with the Kansas Bar Association's Bench/Bar committee and also with the Judicial Council.

We have eliminated the multiple options for forming and financing county law libraries. In Section One, we have grandfathered those existing libraries formed under the statutes we suggest be repealed. Any new county law libraries will be formed and governed by the single remaining statute, K.S.A. 1994 Supp. 20-3126.

Also in Section One, (c), we have made the qualifier to register read "All attorneys residing within such county shall register annually with the clerk of the district court." This is a policy issue for the committee, because some thought, including the judicial council that it should read, "all attorneys maintaining a law office in such county." We decided to go

with one fee per lawyer. We still exempt attorneys who are employed as public defenders by the state board of indigents' defense services. We also did not change the current amount of the registration fees.

In Section 2, (a) we have amended K.S.A. 1994 Supp. 20-3127 and have mandated the board of trustees to develop guidelines for public access to the county law libraries. We have not been specific, but wished to address a public perception that filing fee moneys are used, in part, to finance the libraries so that the public which supplies the money should have access. The local trustees can craft guidelines pertinent to their areas.

In Section 2, (b), we repeal K.S.A. 20-3113, but have left the language regarding the board's makeup as it was in that statute. Under (e) we repeal K.S.A. 20-3117, but maintain the current language that all attorneys registered under this act shall not be liable to pay any occupational tax or city license fees levied under the laws of this state by any municipality.

In Section 3, we amended K.S.A. 1994 Supp. 20-3129 and responded to the circumstance that docket fees are not uniform which is an issue with the Judicial Council and specifically to Judge David Knudson, Salina. We established a system whereby District Court filing fees, impacted by changes in law library fees, may only be altered once per calendar year as of July 1. Those filing fee changes must be filed with the Clerk of the Supreme Court in order to be effective. The Supreme Court will order a list of pertinent filing fees to be published annually.

The bill does not repeal the following statutes:

- K.S.A. 20-3128 - Maintenance of library
- K.S.A. 20-3110 - Use and investment of idle funds
- K.S.A. 20-3131 - Establishment of a branch library
- K.S.A. 20-3132 - Establishment of a joint law library

Since the bill repeals so many statutes, and only a few statutes remain, I am providing you a package of the repealed laws for your review.

We request favorable passage of House Bill No. 2426.

February 22, 1995

Rep. Michael O'Neal
Chairman
House Judiciary Committee

RE: HB 2426 Law Library Proposal

Dear Chairman O'Neal and Committee Members:

Thank you for allowing me to speak concerning HB 2426. I am representing the judges of Wyandotte County who are a majority of the trustees on our Law Library Board.

We have no position on HB 2426, however we have a proposed amendment to this bill which in our eyes would make it a better bill and one we would then take a position of support in its passage.

We judges in Wyandotte County feel our situation is unique in that there are a number of lawyers that have their primary law office in our county but reside in Johnson County, Kansas or Jackson County, Missouri. As you are aware, under current law, all lawyers are required to register in the county of their residence. They then are required to pay the Law Library fee in the county of their residence. This policy creates an unfair situation when an attorney lives in Johnson County but has his or her primary office in Wyandotte County. An attorney is more inclined to use the Law Library facilities near their law office than the Law Library near their home.

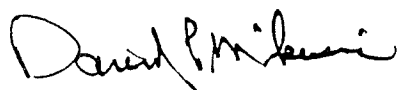
I would like to propose two options for this committee to consider. First, an amendment to HB 2426 that would provide that the attorney would register in both his or her county of residence and in the county where the attorney has their principle office and be required to pay the Law Library fee in both counties. This would make both Law Libraries happy and some attorneys unhappy.

Or, option B, would be to have the attorney register in his or her county of residence, but be required to only pay the Law Library fee in the county where their principle office is located. This would make the attorneys happy but one of the Law Libraries unhappy.

It seems to me, the fairer policy is to have an attorney pay the Library fee where they most likely use the services. Exhibits A & B are attached and they provide the amendments I have suggested.

Thank you for your consideration of our problem. If I can be of any help, please feel free to contact me.

Sincerely,



David P. Mikesic
Division 10

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Attachment 5

HOUSE BILL No. 2426

By Committee on Judiciary

2-7

9 AN ACT concerning county law libraries; amending K.S.A. 1994 Supp.
10 20-3126, 20-3127 and 20-3129 and repealing the existing sections; also
11 repealing K.S.A. 20-3113, 20-3115, 20-3117, 20-3121, 20-3122, 20-
12 3124 and 20-3125 and K.S.A. 1994 Supp. 20-3112 and 20-3123.
13

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

15 Section 1. K.S.A. 1994 Supp. 20-3126 is hereby amended to read as
16 follows: 20-3126. (a) Any county of this state may establish a county law
17 library, under the provisions of and subject to the qualifications of this
18 act. *Any law library in existence on the effective date of this act which*
19 *was established under previously existing statutes or previous versions of*
20 *this statute shall be governed by this statute, and amendments thereto, on*
21 *and after the effective date of this act.*

22 (b) No county law library shall be established under the provisions of
23 this act until a majority of the attorneys residing within such county and
24 admitted to practice before the bar in Kansas elect to do so, except that
25 where a county law library has already been established pursuant to other
26 statutory provisions, such library ~~may~~ shall come under the provisions of
27 this act upon an affirmative vote of the majority of the board of trustees
28 of the library. ~~The results of the voting shall be filed with the county~~
29 ~~commissioners. The clerk of the district court shall at the request of the~~
30 ~~president of the county bar association provide for the mailing of ballots~~
31 ~~to all attorneys residing within the county, and for the tabulation of the~~
32 ~~results of such election. Such election shall be filed with the county com-~~
33 ~~missioners. This provision for the holding of an election shall not be con-~~
34 ~~sidered as precluding any election in any other normally accepted manner.~~

OPTION "A"

35 (c) ~~After such election,~~ All attorneys residing within such county shall
36 register annually with the clerk of the district court in a register kept for
37 that purpose. The clerk shall enter the name, place of residence, em-
38 ployment, location of office and firm connection, if any, of each such
39 attorney. All such attorneys shall register within 30 days after an election
40 has been made to provide for a county law library, and on or before
41 January 15 of each year thereafter. All attorneys required to register,
42 except those employed as public defenders by the state board of indigents'
43 defense services, shall pay to the clerk at the time of registering an annual

AND IN THE COUNTY WHERE
PRINCIPLE OFFICE IS
LOCATED.

OPTION "B"

IN THE COUNTY WHERE THE ATTORNEY'S PRINCIPLE
OFFICE IS LOCATED.

House Judiciary Committee
February 22, 1995

Testimony of Amy Waddle
Office of Judicial Administration

Representative O'Neal and members of the Committee:

Thank you for the opportunity to testify in support of HB 2430, a bill which proposes to amend K.S.A. 1994 Supp. 23-107 to allow the Kansas district courts to computer generate marriage license forms. The proposed amendment states on lines 20-24, "*The secretary may approve the use of an automated system whereby the marriage license form is computer generated. In such instances, the court shall comply with prescribed specifications as set out by the secretary to insure uniformity across the state.*"

I'd like to provide you with some background on the proposed legislation. Currently, the Secretary of Health and Environment provides a pre-printed marriage license form to the district courts. The form must be completed on a typewriter. At a meeting of the OJA urban court computer users group, it was suggested that the process could be streamlined in courts which already enter all required marriage license information in a court computer system. In those courts, the form and the required information could be printed using laser printers. This would eliminate the need for court staff to enter the marriage license information in their computer and then re-type the information on the pre-printed state form.

The Office of Judicial Administration contacted the Office of Vital Statistics to determine if court printing of the marriage license was a viable option. There were several issues that had to be resolved including document format, paper quality, license numbering, audit requirements and required statutory changes. It was also suggested that a pilot court site be selected to work out the implementation details prior to proposing a legislative change. Shawnee County District Court was selected as the pilot site. Representatives from the Office of Judicial Administration, the Office of Vital Statistics and Shawnee County District Court met several times to discuss the issues mentioned above. On September 1, 1994, Shawnee County District Court began to produce the automated marriage

licenses. All of the offices involved have been pleased with the results of the pilot project.

For your information, I'd like to summarize briefly how the implementation issues were resolved:

Document Format - It was important to establish a standard format that would be followed by all district courts using the laser printer produced form. Shawnee County District Court staff developed a printer format that will duplicate the pre-printed form provided by the Office of Vital Statistics.

Paper Quality - Following the general requirements of K.S.A. 75-3517, all computer generated marriage licenses will be printed on acid-free paper having a minimum pH of 7.0 to insure archival quality.

License Numbering/Audit Requirements - The pre-printed forms provided by the Office of Vital Statistics included pre-printed license numbers. Courts that computer generate licenses will insure that the license number is automatically printed on the license and the number will include a 2 letter county code to further identify the site where the license was issued. The computer system will be able to generate an audit report of all licenses issues. This process has been approved by the Municipal Accounting Section of the Department of Administration.

Required Statutory Change - The proposed amendment to K.S.A. 1994 Supp. 23-107, HB 2430, was drafted by the Office of Judicial Administration and reviewed/approved by the Office of Vital Statistics.

The proposed legislation will allow courts that already track marriage license information on the computer to eliminate the unnecessary step of re-typing the same information on a manual form. In the future, this project could be expanded to include the electronic transfer of the marriage license index information directly from the courts to the Office of Vital Statistics. This would eliminate duplicate data entry for that office. On behalf of the Office of Judicial Administration, I urge the Committee to favorably pass HB 2430.



DISTRICT COURT OF KANSAS
TENTH JUDICIAL DISTRICT
JOHNSON COUNTY COURTHOUSE
OLATHE, KANSAS
66061

CHAMBERS OF:
LARRY McCLAIN
DISTRICT JUDGE
COURT NO. 10

SANDRA KING
ADMINISTRATIVE ASSISTANT
(913) 764-8484 x5463

February 16, 1995

House Judiciary Committee

Re: H.B. 2430

Please accept this as my written testimony in support of an amendment to H.B. 2430. The proposed amendment strikes the first sentence of the existing K.S.A. 23-106 and has the effect of eliminating the three day waiting period for the issuance of marriage licenses. The following is in support of this proposed amendment.

1. The original reason for the inclusion of the three day waiting period was primarily to allow time to obtain the results from blood tests which were a required prerequisite for the issuance of a marriage license. The blood test requirement has subsequently been legislatively eliminated.
2. Under the existing three day waiting period, any party desiring to obtain a marriage license is required to make two separate trips to the courthouse (except in those cases where the three day waiting period is waived). This inconvenience to members of the public serves no purpose.
3. By requiring parties to return to the courthouse, the clerk's staff is required to handle the same basic paper work on two separate occasions. This increases the work load of our clerk's staff and unnecessarily complicates the procedure.
4. The elimination of the three day waiting period would eliminate requests for a waiver of the three day waiting period. These requests must be approved by a district judge and the waiver process requires the clerk to handle additional papers as well as taking judge and staff time to process the applications for waiver. As a practical matter in

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Attachment 7

the nearly ten years I have been on the bench I know of no case where the application for a waiver has been denied.

The primary benefits of this requested amendment is to reduce the clerk's staff time for handling the additional paper work which is required under the three day waiting period. The amendment will also reduce inconvenience to those parties requesting a marriage license.

The Executive Board of the Kansas District Judges Association supports this request and I do not believe the Office of Judicial Administration has any opposition to the change.

If I can be of assistance in answering any questions regarding this question, please feel free to contact me.

Respectfully,



Larry McClain
Judge of the District Court

LMc/s



Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

House Judiciary

by

The Kansas Department of Health and Environment

House Bill 2430

Recently the courts have approached the OVS for approval to generate the marriage license, including the form, on a computer. OVS and Office of Information Systems staff from KDHE have been working closely with Judicial Administration and court personnel over the past year to develop an automated system that will make the marriage license registration process much more efficient and at the same time more accurate. The only concern that KDHE has with regard to generating the form pertains to format and data specifications to ensure uniformity across the state and across the United States. This proposed bill addresses this concern.

The automated marriage registration system would have a positive effect on the Office of Vital Statistics and would improve the timeliness and accuracy of the data furnished via the marriage license form because of edits, etc.

We support H.B. 2430.

Testimony presented by:

Charlene Satzler, Director
Office of Vital Statistics
Center for Health and Environmental Statistics
February 22, 1995



LARRY WELCH
DIRECTOR

KANSAS BUREAU OF INVESTIGATION
DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS



CARLA J. STOVALL
ATTORNEY GENERAL

TESTIMONY
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
BEFORE THE HOUSE JUDICIARY
IN SUPPORT OF HOUSE BILL 2445
FEBRUARY 22, 1995

Mr. Chairman and Members of the Committee:

I am Kyle Smith, Assistant Attorney General assigned to the Kansas Bureau of Investigation. I appear today on behalf of Director Larry Welch in support of HB 2445. This is a simple bill which brings our state statutes into compliance with a change in the law. The United States government, in what is commonly referred to as Title III, decided to preempt the field of electronic surveillance, and thus, the states may have statutes authorizing electronic surveillance, but those statutes must be as restrictive as the federal statute.

Last October congress passed the Digital Telephony Act, and as part of the compromise process, it removed an exception that had previously existed for cordless radio telephones to the general rule of requiring warrants for electronic surveillance. By removing that exception, a warrant for electronic surveillance of such phones became mandatory. HB 2445 merely strikes that exception from our statute as was done in the federal law.

Failure to make these changes runs the risk of a local law enforcement agency not being aware of the federally mandated change and continuing to listen to or record cordless telephone conversations based on our statute. I would be happy to stand for questions.

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Testimony in Support of

HOUSE BILL NO. 2445

The Kansas County and District Attorneys Association supports HB 2445, which eliminates the exemption of cordless telephones from the requirement of obtaining a court order to eavesdrop. The bill follows changes in federal law, the Digital Telephony Bill of 1994, which under the doctrine of preemption, governs the activity in this area. The federal law was the result of compromise between law enforcement, telecommunications industry, and privacy advocates which gave law enforcement continued access to telephone communications through efforts of the telephone companies that they would not have had as a result of advances in technology.

KCDAA has sent notice to its members of the change in federal law, and how it overrules the Kansas Supreme Court case of State v. Howard, 235 Kan. 236 (1984). This bill is necessary, however, for two reasons:

- a) not all counties are members of KCDAA; and
- b) not all members read our notices.



LARRY WELCH
DIRECTOR

KANSAS BUREAU OF INVESTIGATION
DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS



CARLA J. STOVALL
ATTORNEY GENERAL

TESTIMONY
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
BEFORE THE HOUSE JUDICIARY COMMITTEE
IN SUPPORT OF HOUSE BILL 2450
FEBRUARY 22, 1995

Mr. Chairman and Members of the Committee:

On behalf of Director Welch and the Kansas Bureau of Investigation, I am pleased to have this opportunity to speak in support of HB 2450. The KBI requested this legislation to address two problems: a procedural problem with how expungement orders are submitted to the FBI, the second is a problem caused by improved technology in the dissemination of criminal history information.

Sections 1 and 2, amend the two expungement statutes; section 1 dealing with municipal expungements; section 2 dealing with district court expungements. The amendment is necessary because the FBI will not accept expungement orders directly from the courts. Amendments contained in section 1 and 2 are relatively simple, and merely provide that the orders of expungement will go first to the KBI, which is the central repository for criminal history record information and then to the FBI to comply with their requirements. As a practical matter this is what is being done now, but only after a delay caused by courts trying to comply with the statute and send the expungement orders directly to the FBI.

The second problem is a little more complex although the solution is to simply strike one sentence from K.S.A. 22-4707(c). As the criminal history data base is computerized and the

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technology involved in running criminal history checks evolves, we have run into a problem with existing statutory language that was designed for a slower process of people speaking directly with other people. As a brief background, let me explain that there are two broad groups of criminal history record information. "Conviction data", which refers to non-expunged criminal convictions where a person has been adjudicated beyond a reasonable doubt guilty of a crime; and everything else, such as mere arrests, which are lumped under the title "non-conviction data". Federal and state statutes and regulations allow access to conviction data upon a showing of need, thus, we have agreements with schools who wish to run potential teachers, or with Health & Environment who checks potential licensees for daycares, to make sure they have not been previously convicted of crimes involving abuse of children.

Non-conviction data, however, is much more strictly controlled and is generally available only for criminal justice purposes. For example, to a court for sentencing or for a law enforcement officer investigating a crime. Also, in this group are convictions which have been expunged. These are even more limited in distribution and can only be made available in those specific instances set out by statute.

When an inquiry comes in from a law enforcement agency for a record check, the officer will be advised as to both conviction and non-conviction data, but not the existence of an expunged record. If a licensing non-criminal justice agency makes inquiry for a record check, they will only be advised of either "no record" or of actual convictions, if they exist. If there are non-conviction or expunged records they will be told there is "no record". Some states such as Florida, have done away with the distinction and make everything but expungements public record.

At this point, approximately 23% of the Kansas criminal history records are

computerized. This leaves us with manpower-intensive hand searches in the cases where a record exists. However, particularly in the licensing area, 90%-95% of the time there is no record and that can be determined almost immediately. Due to the ever increasing demand and problems better left for the Appropriations Committee to address, these labor intensive procedures have resulted in delays in processing record checks. This in turn delays unnecessarily 90%-95% of the decisions being made by licensing and administrative agencies.

We have the capability of setting up remote computer terminals, which have the ability to check by name, date of birth or Social Security Number if a subject exists anywhere in our criminal history records. For most licensing purposes, be they liquor stores or daycare providers, 90% to 95% of those individuals will have no records. These checks can be done almost instantly and the administrative process greatly speeded up as well as the drain on our personnel greatly reduced.

The problem arises in the other 5%-10%, when such a remote terminal is used and a record located. The terminal will not identify the nature of the record, whether it is conviction data, non-conviction data or an expunged record, but only advises the party on the other end of the remote terminal that the record request can not be responded to at this time, but will be referred to the records division. However non-committal, this does, in fact, reveal the existence of a record. A hand search will then be done of the individual identified and if there is conviction data that can be released that will be provided. If there is non-conviction data or expunged records, then it will be reported back to the inquiring agency as there being "no record" for that individual. It does not take a particularly astute person to realize that if they did not get a "no record" on the first try through the remote terminal, then after a review of those records, it is reported back to them there is "no record", that therefore there must be a

non-conviction type record in existence.

Thus, by using these remote terminals we are forced, due to the limitations of our records and equipment at this point in time, to confirm the existence of some form of criminal history record information relating to a person, even though the nature and content of that record is not divulged. But, that is only a problem because of the prohibition against confirming the existence of a record without revealing its content contained in subparagraph (c) of 22-4707. A number of administrative agencies devoutly desire remote terminals. Currently, we only have one in operation with Alcohol Beverage Control of the Department of Revenue, which has a criminal justice division, so non-conviction data being divulged is not a problem. However, SRS, Health & Environment, Board of Education, and I am sure others, would like to streamline their licensing procedures and increase the safety of the public by running record checks on their licensees as soon as practical.

Therefore, we are requesting a policy decision be made and the language which prohibits confirming the existence of a record, even without disclosing the content, be removed from K.S.A. 22-4707. I hope I have made myself clear, but it is likely I need to stand for questions.

HB2450.1

House Bill No. 2450
House Judiciary Committee
February 22, 1995

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

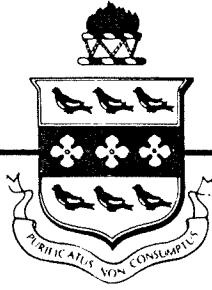
Mr. Chairman and members of the committee, we appreciate the opportunity to discuss House Bill No. 2450 which relates to expungements.

Currently the Clerks' of the District Court sends a certified copy of the order of expungement to the federal bureau of investigation, the Kansas bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the conviction. All pursuant to K.S.A. 12-4516. When the federal bureau of investigation receives this order they return it to the clerk.

Now, the Kansas bureau of investigation has been designated the sole source contributor for expungement information for the federal bureau of investigation.

We support the amendment to K.S.A. 12-4516, Section One (e), page two of the bill, lines 25-27 which would clarify the correct procedure for the Clerks' of the District Court.

We urge the committee to pass the bill favorably.



WASHBURN UNIVERSITY

Topeka, Kansas 66621
Phone 913-231-1010

**Testimony to House Judiciary Committee
House Bill 2531
February 22, 1995
by
David G. Monical
Executive Assistant to the President**

Mr. Chairman, Members of the House Judiciary Committee:

Washburn University of Topeka, in requesting the introduction of this measure, seeks to develop its security/public safety department to the level of those found at the campuses of the state educational institutions under the jurisdiction of the Kansas Board of Regents. Those departments are comprised of police officers and security officers, the former are sworn law enforcement officers while the latter are not.

The University did not come lightly to the conclusion that it should have armed law enforcement officers on its campus as we have had very good relations with a very fine police department, the Topeka Police Department. Nor is the decision to add armed police officers because of activities which have occurred or are occurring on the campus. Rather, the addition of armed law enforcement officers to the University's security force was one of several recommendations made following a comprehensive consultant's study of the University's security/public safety needs.

Crime prevention is one of the Legislature's top concerns and it is one of our top concerns as well. The addition of sworn law enforcement officers to complement our security officers will enhance our crime prevention efforts as well as providing a very quick response time to criminal acts reported on the campus.

We have identified four current statutes to be amended to extend authority to the University to employ law enforcement officers. First, we seek certified law enforcement personnel. We suggest K.S.A. 74-5602(e) be amended in the definition of "police officer" and "law enforcement officer" to include campus police at a municipal university. Similarly, we seek an amendment to K.S.A. 74-5605 to permit municipal university police officers to be admitted to the Law Enforcement Training Center. This would also mean that those municipal university police officers would be required to undergo annual training for continued certification just as law enforcement officers under the jurisdiction of a city, county or the state of Kansas. Next, we seek amendment to K.S.A. 1994 Supp. 22-2401a to grant municipal university police officers the same level of arrest authority as has been granted to university police officers at a state educational institution. That authority is limited to the environs of the campus and the area immediately adjacent to it. Lastly, we seek an amendment to one of the enabling statutes governing Washburn University, K.S.A. 13-13a12, to expressly include authority to employ police officers.

The amendments requested by Washburn University of Topeka will enhance our ability to adequately provide protection of life and property on campus. And, to the extent that employment of sworn law enforcement officers will reduce the dependency of the University on the Topeka Police Department, it will also complement the efforts of the local police to have a presence in this area. We ask your favorable action on this bill.

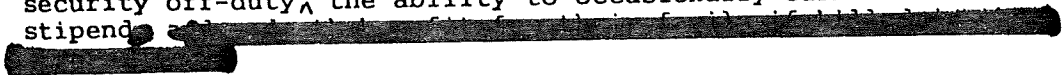
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HOUSE BILL 2391
SESSION OF 1995
JUDICIARY COMMITTEE

To: Judiciary Committee

From: Mr. Len Richter
3609 SW Woodvalley Place
Topeka, KS 66614-3536

Subject: HB2391 - Authority and benefits of certain special deputy sheriffs.

1. The Attorney General Opinion No. 84-104 dated October 8, 1984, stated that reserve officers are not law enforcement officers but rather persons who assist law enforcement officers.
2. Reserve officers in Shawnee County (city or county) are required to complete a course of study equivalent to that required for part-time officers by the Kansas Law Enforcement Training Center (KLETC). In fact, the Topeka Police Department course is a certified part-time officer's course. The part-time and reserve officers are in the same class, take the same classes, the same tests and graduate together. The only difference is that the part-time paid officers are considered law enforcement officers, and the reserve officers are not!
3. Reserve officers in the Shawnee County Sheriff's Department are required to complete 40 hours of certified training annually, the same as regular officers, after completing the basic reserve law enforcement course. They are required to maintain their firearm and self-defense skills the same as regular officers. They wear the same uniforms, are assigned to various divisions of the department, drive the same marked cars and risk their lives the same as regular officers. However, under the current State statute, reserve deputies are not looked upon as law enforcement officers.
4. Presently, reserve officers who fall under state statute are prohibited from being paid while working in uniform because they fall under the "Posse Act" which prohibits persons summoned to assist law enforcement officers from being paid. They do not carry law enforcement powers when not on duty and, if confronted by a known felon, have no powers beyond those of an ordinary citizen to protect themselves or their families. The same is true when witnessing the commission of a felony. Although trained to protect and apprehend, without law enforcement powers and the means to effect an arrest, they are likely to be helpless. This, unfortunately, could result in the possible loss of human life.
5. This law, House Bill No. ²³⁹¹~~2390~~, is designed to correct these inequities. Properly trained reserve officers are as competent as any other law enforcement officer. They are members of the community who work 40 hours at their regular jobs and donate their time to the County. After this Bill is passed, they will continue to donate their time to the County. By sending this Bill on to the full House, you will be providing them equity, security off-duty ^{and} the ability to occasionally earn a small stipend. 
6. In the name of all reserve deputies who risk their lives to protect and serve their communities, I urge you to recommend passage of this Bill.

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