

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 23, 1995 in Room 313-S-of the Capitol.

All members were present.

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

Conferees appearing before the committee:
Allie Devine, Secretary of Agriculture

Others attending: See attached list

HB 2223 - Criminal deprivation of property

Representative Pauls made a motion to remove **HB 2223** from being tabled. Representative Ott seconded the motion. The motion carried.

Staff provided the committee with a balloon draft which represented the status of the bill with amendments that the committee recommended before it was tabled. (Attachment 1)

Representative Pauls handed out a balloon amendment which would change the penalty for a first conviction to a person shall be sentenced to not less than 30 days nor more than one year's imprisonment and not fined less than \$100. Upon a subsequent conviction a person shall be sentenced to not less than 60 days nor more than one year's imprisonment and fined not less than \$200. The time served would be done in a county jail. (Attachment 2) She made a motion to adopt the balloon amendment. Representative Ott seconded the motion. The motion carried.

Representative Ott made a motion to report **HB 2223** favorably for passage as amended. Representative Goodwin seconded the motion. The motion carried.

HB 2015 - Private Property Protection Act

Allie Devine, Secretary of Agriculture, appeared before the committee with a balloon. (Attachment 3) She told the committee that the Governor supports the concept of private property rights and asked his cabinet to get together and find a solution that would work. She explained the suggestions in the balloon draft.

Representative Pauls was concerned that the Attorney General would be establishing the guidelines and that no agency would review them to double check that a bad guideline wasn't issued. Secretary Devine commented that the guidelines would be established based upon current case law.

Representative Adkins made a motion to report **HB 2015** favorably for passage. Representative Snowbarger seconded the motion.

Representative Graeber made a substitute motion to adopt the balloon amendments. Representative Adkins seconded the motion. The motion carried.

Some committee members voiced concern that the bill addresses "real and tangible property" and there is a question as to what "tangible property" is.

Representative Heinemann made a motion to have the effective date of the act January 1, 1996. Representative Snowbarger seconded the motion.

The committee was concerned that if the effective date of the bill is January 1, 1996 then there would need to be a different effective date for the Attorney General to establish guidelines.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S-Statehouse, at 3:30 p.m. on February 23, 1995.

Representative Garner made a substitute motion to have section 4 effective date be upon publication in the statute book and the remaining sections become effective January 1, 1996. Representative Snowbarger seconded the motion. The motion carried.

Representative Nichols made a motion to add the word "substantially" on page 3, line 8. Representative Edmonds seconded the motion. The motion carried.

Representative Edmonds made a motion to strike "tangible" on page 2, line 9 so that the bill would apply only to "real property". The motion carried 10-9.

Representative Garner made a motion to change the wording on page 2, line 18 to read "state agency action, authorized by statute or by valid court order, in response to a violation of state law." Representative Rutledge seconded the motion. The motion carried.

Representative Edmonds made a motion to insert Section 10 with the prevailing party collecting attorney fees. Representative Mays seconded the motion. The motion failed.

Representative Grant made a motion to define private property as "any real property, or interest arising from or relating to any real property". Representative Adkins seconded the motion. The motion carried.

Representative Grant made a motion to add on page 1, line 41 "or directives." Representative Graber seconded the motion. The motion carried.

Representative Garner made a motion to report **HB 2015** favorably for passage as amended. Representative Graeber seconded the motion. The motion carried.

The next meeting is scheduled for February 24, 1995.

HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: February 23, 1995

NAME	REPRESENTING
Jisa Mootz	KSC
Jim Clance	KCDAA
Jim RARDAN	Ks Assn of Counties
WALT DARLWB	Ks DIVISION OF BUDGET
Tom Wilder	Kan Dept of Insurance
Jinda DeCorney	KI Insurance Dept
Shirley Brander	KTRA
Cindy Denton	Koch Commission
Mary Fund	Kansas Rural Center
John Strickler	KDWP
KAREN FRANCE	KAR
Heane Willene	KAWG
Mrs Rees	KDOT
Chris McKenzie	League of Ks. Muncip.
Paul Shelby	OJA
Anne Spiess	Ks Assoc of Counties
Debra Spraker	DOB
Sydney Hardman	Ks Action for Children

Session of 1995

HOUSE BILL No. 2223

By Representatives Welshimer, Ballard, Dean, Donovan, Edlund, Gilbert, Goodwin, Helgerson, Long, Ott, Pauls, Reardon, Rutledge, Sawyer, Smith, Standifer, Swenson, Thimesch, Tomlinson and Wells

1-30

11 AN ACT concerning crimes and punishment; relating to criminal depri- relating to evidence of intent to
12 vation of property; amending K.S.A. 1994 Supp. 21-3705 and repealing permanently deprive;
13 the existing section 21-3702 and
14

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

16 Section 1. K.S.A. 1994 Supp. 21-3705 is hereby amended to read as sections
17 follows: 21-3705. (a) Criminal deprivation of property is obtaining or ex-
18 erting unauthorized control over property, with intent to deprive the
19 owner of the temporary use thereof, without the owner's consent but not
20 with the intent of depriving the owner permanently of the possession, use
21 or benefit of such owner's property.

22 (b) *Criminal deprivation of property that is a motor vehicle, as de-*
23 *defined in K.S.A. 8-1437, and amendments thereto, is a severity level 7,*
24 *nonperson felony. ~~In any prosecution under this subsection, proof that~~*
25 *such person was operating such motor vehicle shall be prima facie evi-*
26 *dence that such person knew such motor vehicle was being operated with-*
27 *out such owner's consent.] In addition to any other penalty prescribed by*
28 *law, a person shall be fined not less than \$100 ~~and have such person's~~*
29 *driving privileges suspended for 30 days.]*

30 (c) Criminal deprivation of property other than a motor vehicle, as
31 defined in K.S.A. 8-1437, and amendments thereto, is a class A nonperson
32 misdemeanor.

33 (d) Upon a second or subsequent conviction of this section, a person
34 shall be sentenced to not less than 30 days imprisonment and fined not
35 less than \$100, except that the provisions of this section relating to a
36 second or subsequent conviction shall not apply to any person where such
37 application would result in a manifest injustice.

38 Sec. 2. K.S.A. 1994 Supp. 21-3705 ~~(is)~~ hereby repealed. Insert Sec. 2. See attached
39 are

39 Sec. 3. This act shall take effect and be in force from and after its 21-3702 and
40 publication in the statute book.

(This is section 1 from 1995 HB 2315)

Sec. 2. K.S.A. 21-3702 is hereby amended to read as follows:
21-3702. ~~(1)~~ (a) In any prosecution under this article, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

~~(a)~~ (1) The giving of a false identification or fictitious name, address or place of employment at the time of obtaining control over the property; or

~~(b)~~ (2) the failure of a person who leases or rents personal property to return the same within 10 days after the date set forth in the lease or rental agreement for the return of the property, if notice is given to the person renting or leasing the property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

(3) destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property; or

(4) destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property.

~~(2)~~ (b) In any prosecution for a misdemeanor under K.S.A. 21-3701 and amendments thereto in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.

~~(3)~~ (c) The word "notice" as used herein shall be construed to mean notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person's last known address.

Renumber remaining sections accordingly.

HOUSE BILL No. 2223

By Representatives Welshimer, Ballard, Dean, Donovan, Edlund, Gilbert, Goodwin, Helgerson, Long, Ott, Pauls, Reardon, Rutledge, Sawyer, Smith, Standifer, Swenson, Thimesch, Tomlinson and Wells

21-4704

1-30

House Judiciary
2-23-95
Attachment 2

sections

11 AN ACT concerning crimes and punishment; relating to criminal deprivation of property; amending K.S.A. 1994 Supp. 21-3705 and repealing the existing ~~section~~

14

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

16 Section 1. K.S.A. 1994 Supp. 21-3705 is hereby amended to read as follows: 21-3705. (a) Criminal deprivation of property is obtaining or exerting unauthorized control over property, with intent to deprive the owner of the temporary use thereof, without the owner's consent but not with the intent of depriving the owner permanently of the possession, use or benefit of such owner's property.

22 (b) *Criminal deprivation of property that is a motor vehicle, as defined in K.S.A. 8-1437, and amendments thereto, is a ~~severity level 7,~~ nonperson felony. ~~[In any prosecution under this subsection, proof that such person was operating such motor vehicle shall be prima facie evidence that such person knew such motor vehicle was being operated without such owner's consent. In addition to any other penalty prescribed by law, a person shall be fined not less than \$100 and have such person's driving privileges suspended for 30 days.]~~*

30 (c) Criminal deprivation of property *other than a motor vehicle, as defined in K.S.A. 8-1437, and amendments thereto, is a class A nonperson misdemeanor.*

33 ~~[(d)]~~ Upon a second or subsequent conviction of this ~~section~~, a person shall be sentenced to not less than 30 days imprisonment and fined not less than \$100, except that the provisions of this ~~section~~ relating to a second or subsequent conviction shall not apply to any person where such application would result in a manifest injustice.

subsection

Upon a first conviction of this subsection, a person shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than \$100. Upon a second or subsequent conviction of this subsection, a person shall be sentenced to not less than 60 days nor more than one year's imprisonment and fined not less than \$200. The mandatory provisions of this subsection shall not apply to any person where such application would result in a manifest injustice.

38 Sec. 2. K.S.A. 1994 Supp. 21-3705 ~~is~~ hereby repealed.

Sec. 2. K.S.A. 1994 Supp. 21-4704 attach
and 21-4704 are

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

Sec. 2. K.S.A. 1994 Supp. 21-4704 is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

SENTENCING RANGE - NONDRUG OFFENSES

Category*	A			B			C			D			E			F			G			H			I		
Severity Level †	3 + Person Felonies			2 Person Felonies			1 Person & 1 Nonperson Felonies			1 Person Felony			3 + Nonperson Felonies			2 Nonperson Felonies			1 Nonperson Felony			2 + Misdemeanors			1 Misdemeanor No Record		
I	408	388	370	386	366	346	178	170	161	167	158	150	154	146	138	141	134	127	127	122	115	116	110	104	103	97	92
II	308	292	276	288	274	260	135	128	121	125	119	113	115	109	103	105	100	95	96	91	86	86	82	77	77	73	68
III	206	194	184	190	180	172	89	85	80	83	78	74	77	73	68	69	66	62	64	60	57	59	55	51	51	49	46
IV	172	162	154	162	154	144	75	71	68	69	66	62	64	60	57	59	56	52	52	50	47	48	45	42	43	41	38
V	136	130	122	128	120	114	60	57	53	55	52	50	51	49	46	47	44	41	43	41	38	38	36	34	34	32	31
VI	46	43	40	41	39	37	38	36	34	36	34	32	32	30	28	29	27	25	26	24	22	21	20	19	19	18	17
VII	34	32	30	31	29	27	29	27	25	26	24	22	23	21	19	19	18	17	17	16	15	14	13	12	13	12	11
VIII	23	21	19	20	19	18	19	18	17	17	16	15	15	14	13	13	12	11	11	10	9	11	10	9	9	8	7
IX	17	16	15	15	14	13	13	12	11	13	12	11	11	10	9	10	9	8	9	8	7	8	7	6	7	6	5
X	13	12	11	12	11	10	11	10	9	10	9	8	9	8	7	8	7	6	7	6	5	7	6	5	7	6	5

452

21-4704

CRIMES AND PUNISHMENTS

LEGEND
Presumptive Probation
Presumptive Imprisonment

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid

blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3411, aggravated assault against a law enforcement officer or K.S.A. 21-3415, aggravated battery against a law enforcement officer and amendments thereto which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 7-C, 7-D, 7-E, 7-F, 7-G, 7-H, 7-I, 8-C, 8-D, 8-E, 8-F, 8-G, 8-H, or 8-I, shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567 and subsection (b) of K.S.A. 21-3705, and amendments thereto shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 1994 Supp. 21-4707 and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567 and subsection (b) of K.S.A. 21-3705, and amendments thereto shall not be served in a state facility in the custody of the secretary of corrections.

Denier A

HOUSE BILL No. 2015

By Committee on Judiciary

2-7

House Judiciary
2-23-95
Attachment 3

9 AN ACT creating the private property protection act.

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

11 Section 1. This act shall be known and may be cited as the private
12 property protection act.

13 Sec. 2. It is the public policy of the state of Kansas that state agencies,
14 in planning and carrying out governmental actions, anticipate, be sensitive
15 to and account for the obligations imposed by the fifth and the 14th
16 amendments of the constitution of the United States and section 18 of
17 the bill of rights of the constitution of the state of Kansas. It is the express
18 purpose of this act to reduce the risk of undue or inadvertent burdens on
19 private property rights resulting from certain lawful governmental actions.

20 Sec. 3. As used in this act, unless the context requires otherwise:

21 (a) "Taking" means, due to a governmental action, private property
22 is taken such that compensation to the owner of the property is required
23 by the fifth or 14th amendment of the constitution of the United States
24 or section 18 of the bill of rights of the constitution of the state of Kansas
25 and this act.

26 (b) (1) "Governmental action" means any of the following actions
27 which may give rise to a claim of taking:

28 (A) Proposed legislation by a state agency that if enacted and enforced
29 would limit the use of private property;

30 (B) proposed rules and regulations by a state agency that if adopted
31 and enforced would limit the use of private property;

32 (C) proposed interagency guidelines and procedures concerning the
33 issuance of licenses or permits by a state agency which limit the use of
34 private property; or

35 (D) proposed administrative policies, directives, or memoranda authored
36 or implemented by a state agency which would limit the use of
37 private property; or

38 (E) required dedications or exactions from owners of private property
39 by a state agency.

40 (2) "Governmental action" does not include:

41 (A) Activity in which the power of eminent domain is formally exercised;
42
43

"Take" or

or its use is restricted or limited by a governmental action

by a state agency

would constitute a taking

may

process of

ing

Explanation of Deletion
(1) Terms apply to local units of government. This bill does not apply to local units

Explanation of Deletion
(1) Not in 1994 SB 293
(2) Violates Executive Privilege re: Communications establishment of policies
(3) Inconsistent with Open Records Act
(4) The documents listed have no force and effect of law therefore could not have impact of taking a property interest

1 (B) the repeal of rules and regulations, elimination of governmental
2 programs, or amendment of rules and regulations such that limitations
3 on the use of private property are reduced or removed;

4 (C) ~~Activity representing a valid exercise of the state's police powers,~~
5 ~~including seizure or forfeiture of private property for violations of law or~~
6 ~~as evidence in criminal proceedings; and~~

law enforcement activities involving

7 (D) ~~A state agency action authorized by statute or by valid court order~~
8 ~~in response to a violation of state law.~~

authorized by statute or by valid court order

9 (c) "Private property" means any real or personal property in this
10 state that is protected by the fifth or 14th amendment of the constitution
11 of the United States or section 18 of the bill of rights of the constitution
12 of the state of Kansas.

tangible

13 (d) "State agency" means an officer, department, division or unit of
14 the executive branch of the state of Kansas authorized to propose, adopt
15 or enforce rules and regulations. "State agency" shall not include the
16 legislative or judicial branches of the state of Kansas or any political or
17 taxing subdivision of the state of Kansas.

18 Sec. 4. The attorney general for the state of Kansas shall establish
19 on or before January 1, 1996, and update annually guidelines to assist
20 state agencies in evaluating proposed ~~and existing regulatory or admini-~~
21 ~~strative actions, or both, and to assure that such actions do not have taking~~
22 ~~implications.~~ These guidelines shall be published in the Kansas register.

governmental actions

in determining whether

23 The guidelines shall be based on current law as articulated by the United
24 States supreme court, ~~the supreme court of Kansas and this act.~~

may constitute a taking

25 Sec. 5. The guidelines developed by the attorney general shall be
26 adhered to by state agencies in promulgating rules and regulations pur-
27 suant to K.S.A. 77-415 et seq., and amendments thereto.

and

28 Sec. 6. (a) Before any governmental action ~~which has the effect of~~
29 ~~restricting private property including, but not limited to, those taken on~~
30 ~~the basis of protection of public health or safety,~~ the state agency shall
31 prepare a written report available for public inspection that follows the
32 guidelines established by the attorney general and complies with the fol-
33 lowing:

is initiated, ~~which according to the attorney~~
~~general's guidelines may constitute a taking,~~

34 (1) Clearly and specifically identifies the public health ~~or safety,~~ risk
35 created by the use of the private property;

when applicable

36 (2) describes the manner in which the proposed action will substan-
37 tially advance the purpose of protecting public health ~~and safety,~~ against
38 the specifically identified risk;

or welfare

or welfare

39 (3) sets forth the facts relied upon to establish ~~that the restrictions to~~
~~be imposed on the use of the private property are roughly proportional~~
~~to the extent in which the use of the property gives rise to the need for~~
~~such restriction;~~

and justify the need for

or limitations

43 (4) analyzes the likelihood that the governmental action may result

1 in a taking;
2 (5) identifies the alternatives, if any, to the proposed governmental
3 action that may:

- 4 (A) Fulfill the legal obligations of the state agency;
- 5 (B) reduce the extent of limitation of the use of the private property;
- 6 and

7 (C) reduce the risk to the state that the action will be deemed a
8 taking; and

9 (6) ensure that any conditions imposed on issuing a permit shall relate
10 directly to the purpose for which the permit is to be issued, shall sub-
11 stantially and reasonably advance that purpose and shall be expressly au-
12 thorized by law.

public health, safety, or welfare

Explanation for Deletions

The terms "substantially" and "reasonably" indicate different standards of review. Administration suggests that AG guidelines will establish standard of review based upon current caselaw.

13 (b) If there is an immediate threat to public health and safety that
14 constitutes an emergency requiring immediate action to eliminate the
15 risk, the report required by this section shall be prepared when the emer-
16 gency action is completed, in which case the report shall include a com-
17 plete description of the facts relied upon by the agency in declaring the
18 need for emergency action.

or welfare

19 (c) If a ~~action~~ involves a permit process or any other procedure that
20 will limit or otherwise prohibit the use of private property pending com-
21 pletion of the process or procedure, the duration of the limitation on or
22 prohibited use of the property shall not extend beyond a reasonable pe-
23 riod of time.

governmental

24 (d) Before any state agency implements a governmental action for
25 which a report is required under this section, the state agency shall submit
26 a copy of the report to the governor and the attorney general.

27 (e) Each state agency shall submit with the economic impact state-
28 ment as required by K.S.A. 77-416, and amendments thereto, a copy of
29 the taking assessment as required pursuant to this act.

30 ~~Sec. 7. The state agency shall include in such agency's budget a fund-~~
31 ~~to be used as a source of payment if a taking is determined to have~~
32 ~~occurred.~~

Explanation for Deletion

(1) Was Not in 1994 SB 293

(2) Monies would likely be from the general fund

33 ~~Sec. 8. The process for reviewing existing rules and regulations, in-~~
34 ~~teragency guidelines and procedures, administrative policies, directives~~
35 ~~or memoranda, shall be as follows:~~

7

36 ~~(a) Any individual who is seeking a license or permit or renewal~~
37 ~~thereof, may request the agency to review pertinent existing rules and~~
38 ~~regulations so as to determine whether the rules and regulations consti-~~
39 ~~tute a taking. The agency shall respond to the requestor within 30 days~~
40 ~~of receipt of the request.~~

41 ~~(b) Any individual who has a direct economic or financial interest in~~
42 ~~property that is governed or affected by rules and regulations may seek~~
43 ~~to have the rules and regulations reviewed by the agency. The individual~~

On or before January 1, 1997, each state agency shall:

(a) Review and evaluate all of the agency's existing rules and regulations in accordance with the guidelines issued by the Attorney General pursuant to this act; and,

(b) Prepare and submit to the Governor and the Attorney General a report containing the results of the evaluation.

1 shall submit to the appropriate agency a written request setting out the
 2 governmental action in question and the corresponding rules and regula-
 3 tions to be reviewed and shall provide sufficient information so that the
 4 state agency can determine whether the individual has an actual direct
 5 financial or economic interest, or both. The agency shall respond to the
 6 requestor within 120 days from the receipt of the verified request, or at
 7 least 30 days prior to exercising the governmental action.

8 (c) ~~The state agencies which are impacted by this act may adopt any~~
 9 ~~rules and regulations necessary to implement the provisions of this sec-~~
 10 ~~tion.~~

11 Sec. 9. If a state district or appellate court or state agency pursuant
 12 to this act determines that a governmental action has resulted in a taking,
 13 the effect on the valuation for property tax purposes of such property
 14 shall be taken into account in determining the value of the property as
 15 required pursuant to K.S.A. 79-503a. and amendments therein.

16 ~~Sec. 10. An owner of private property who successfully establishes~~
 17 ~~that a governmental action constitutes a taking of such owner's private~~
 18 ~~property shall be entitled to recover reasonable attorney fees and ex-~~
 19 ~~penses.~~

20 Sec. 11. Nothing in this act shall be construed to limit the scope of
 21 judicial review of an agency action, create a new private cause of action
 22 or limit any right of action pursuant to other statutes or at common law.

23 Sec. 12. If any provision of this act or the application thereof to any
 24 person or circumstance is held invalid, the invalidity does not affect other
 25 provisions or applications of the act which can be given effect without
 26 the invalid provision or application, and to this end the provisions of this
 27 act are severable.

28 Sec. 13. This act shall take effect and be in force from and after its
 29 publication in the statute book.

8



Explanation of Deletion
 We do not support payment
 of attorney fees.

9

10

11