

Approved: April 28, 1995  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael R. O'Neal at 12:30 on March 17, 1995 in Room 313-S-of the Capitol.

All members were present except:

Representative David Adkins - Excused  
Representative Clyde Graeber - Excused  
Representative Belva Ott - Excused  
Representative Vince Snowbarger - Excused

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

**SB 184** - Sexual exploitation of a child to include computer technology

Representative Mays made a motion to report **SB 184** favorably for passage. Representative Nichols seconded the motion.

Representative Mays made a substitute motion to change the age back to 18. Representative Spangler seconded the motion. The motion carried.

Representative Nichols made a motion to amend in **SB 128** - crime of abuse of a child to include shaking, into **SB 184**. Representative Rutledge seconded the motion. The motion carried.

Representative Garner made a motion to include in **SB 128** "causing great bodily harm by". Representative Heinemann seconded the motion. The motion carried.

Representative Rutledge made a motion to report **SB 184** favorably for passage as amended. Representative Nichols seconded the motion. The motion carried.

**HB 2030** - Crime of official misconduct

Representative Heinemann made a motion to report **HB 2030** favorably for passage. Representative Grant seconded the motion.

Representative Heinemann made a substitute motion to adopt the sub-committee report (see balloon amendment, Attachment 1). Representative Yoh seconded the motion. The motion carried.

Representative Heinemann made a motion to amend **HB 2030** into **House Substitute for SB 128**. Representative Pauls seconded the motion. The motion carried.

Representative Heinemann made a motion to report **House Substitute for SB 128** favorably for passage. Representative Yoh seconded the motion. The motion carried.

**SB 35** - Garnishment of funds held by a financial institution

Chairman O'Neal commented that the bill does not address the probate question as to what happens when joint tenancy is severed with an intervening death. With the committees permission, he would request that the Judicial Council study the issue.

Representative Nichols made a motion to report **SB 35** favorably for passage. Representative Pugh seconded the motion.

Representative Nichols made a substitute motion to amend on page 2, line 17, to read "The answer shall further include information that such account is owned in joint tenancy with one or more individuals who are not subject to the garnishment, if applicable." Representative Heinemann seconded the motion. The motion carried.

Representative Pugh made a motion to change the fee to \$20.00. Representative Nichols seconded the motion.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S-Statehouse, at 3:30 p.m. on March 17, 1995.

Representative Pauls made a substitute motion to table the bill. Representative Garner seconded the motion. The motion failed 7-8.

Representative Pugh's motion carried.

Representative Nichols made a motion to report **SB 35** favorably for passage as amended. Representative Yoh seconded the motion. The motion carried 9-7.

**SB 360** - Placement of inmates in Labette correctional conservation camp; reduction of sentence; supervised release

Representative Pauls made a motion to report **SB 360** favorably for passage. Representative Spangler seconded the motion.

Representative Pauls made a substitute motion to have the bill effective upon printing in Kansas Register. Representative Spangler seconded the motion. The motion carried.

Representative Pauls made a motion to report **SB 360** favorably for passage as amended. Representative Spangler seconded the motion. The motion carried.

**SB 16** - Definition and application of term "preborn human being" to certain criminal code sections

Representative Rutledge made a motion to report **SB 16** favorably for passage. Representative Pauls seconded the motion.

The committee discussed the possibility that there would be cases where a pregnancy could be terminated by an act which would not be a felony. There was a suggestion that if the crime was a misdemeanor it would result in a severity level 5.

Representative Edmonds made a substitute motion to include that a injury to a pregnant woman while in the commission of a misdemeanor is a severity level 5, person felony. Representative Rutledge seconded the motion. The motion failed.

The motion to report **SB 16** favorably carried.

**SB 307** - Local citizen review boards duties concerning juvenile offenders

Representative Pauls made a motion to report **SB 307** favorably for passage. Representative Garner seconded the motion.

Representative Nichols made a substitute motion to amend in **SB 329** - creating a new Kansas parole board. Upon discussion by the committee it was determined that the subject matter in **SB 329** was not germane to the bill.

The motion to report **SB 307** favorably carried. Representative Edmonds requested that he be recorded as voting no.

**SB 223** - Victims of crime; compensation; administration of protection from abuse fund.

Representative Garner made a motion to report **SB 223** favorably for passage. Representative Spangler seconded the motion.

Representative Nichols made a substitute motion to reinsert the 22%. Representative Grant seconded the motion. The motion carried.

Representative Grant made a motion to reinsert the lanugage on page 4, lines 11-22 which would require evidence of economic status. Representative Rutledge seconded the motion. The motion carried.

Representative Spangler made a motion to report **SB 223** favorably for passage as amended. Representative Nichols seconded the motion. The motion carried.

The committee meeting adjourned at 2:30 p.m. The next meeting is scheduled for March 20, 1995.

Substitute for Senate  
HOUSE BILL No. ~~2030~~ 128

Committee on Judiciary  
By Representatives Haulmark and Yoh

9 AN ACT concerning crimes and punishments; amending K.S.A. 21-2505  
10 and K.S.A. 1994 Supp. 21-3902 and 21-3910 and repealing the existing  
11 sections; also repealing K.S.A. ~~75-3202.~~ 8-307 and  
12

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

14 Section 1. K.S.A. 21-2505 is hereby amended to read as follows: 21-

15 2505. ~~for~~ Neglect or refusal of the officers herein mentioned any officer  
16 to furnish the information herein required or to do or perform any other  
17 act or duty on his part to be done or performed shall constitute a mis-  
18 demenor, and such officer shall, upon conviction thereof, be punished  
19 by a fine of not less than five dollars (\$5) nor more than twenty-five dollars  
20 (\$25); or by imprisonment in the county jail for a period not exceeding  
21 thirty (30) days; or by both such fine and imprisonment, at the discretion  
22 of the court. Such neglect or refusal shall also constitute nonfeasance in  
23 office and subject the officer to removal from office required of the officer  
24 under K.S.A. 21-2501, 21-2501a, 21-2502, 21-2503 or 21-2504, and  
25 amendments thereto, is a class A nonperson misdemeanor and, upon con-  
26 viction thereof, the officer shall forfeit the officer's office.

27 Sec. 2. K.S.A. 1994 Supp. 21-3902 is hereby amended to read as  
28 follows: 21-3902. (a) Official misconduct is any of the following acts com-  
29 mitted by a public officer or employee in the officer or employee's public  
30 capacity or under color of the officer or employee's office or employment:

31 (a) Intentionally and maliciously committing an act of misconduct or  
32 abuse of authority; or

33 (b) Intentionally demanding or receiving any fee or reward, knowing  
34 that same is illegal, for the execution of any official act or the performance  
35 of a duty imposed by law or the terms of the officer or employee's em-  
36 ployment:

37 (1) Using or authorizing the use of any ~~force or property~~  
38 officer's or employee's control or direction, or in the officer's or employee's  
39 custody, for the private benefit or gain of the officer or employee or an-  
40 other.

aircraft, as defined by K.S.A. 3-201, and  
amendments thereto, vehicle, as defined by K.S.A.  
8-1485, and amendments thereto, or vessel, as  
defined by K.S.A. 32-1102, and amendments thereto,

41 (2) Knowingly and willfully failing to serve civil process when re- **exclusively**  
42 quired by law.

43 (3) Using confidential information, acquired in the course of the offi-

1 cer's or employee's office or employment for the private benefit or gain of  
 2 the officer or employee or another or to maliciously cause harm to another. *←*  
 3 (4) Except as authorized by law, knowingly, willfully and with the  
 4 intent to reduce or eliminate competition among bidders or prospective  
 5 bidders on any contract or proposed contract. (A) Disclosing confidential  
 6 information regarding proposals or communications from bidders or pro-  
 7 spective bidders on any contract or proposed contract; (B) accepting any  
 8 bid or proposal on a contract or proposed contract after the deadline for  
 9 acceptance of such bid or proposal; or (C) altering any bid or proposal  
 10 submitted by a bidder on a contract or proposed contract.  
 11 (5) Except as authorized by law, knowingly destroying, tampering  
 12 with or concealing evidence of a crime.  
 13 (6) Knowingly and willfully submitting to a governmental entity a  
 14 claim for expenses which is false ~~or exceeds expenses actually incurred~~ or  
 15 duplicates expenses for which a claim is submitted to another govern-  
 16 mental or private entity.  
 17 (b) The provisions of subsection (a)(1) shall not apply to any use of  
 18 persons or property which:  
 19 (1) At the time of the use, is authorized by law or by formal written  
 20 policy of the governmental entity; or  
 21 (2) constitutes misuse of public funds, as defined in K.S.A. 21-3910  
 22 and amendments thereto.  
 23 (c) (1) Official misconduct as defined in subsections (a)(1) through  
 24 (a)(4) is a class A nonperson misdemeanor.  
 25 (2) Official misconduct as defined in subsection (a)(5) is: (A) A sever-  
 26 ity level 8, nonperson felony if the evidence is evidence of a crime which  
 27 is a felony; and (B) a class A nonperson misdemeanor if the evidence is  
 28 evidence of a crime which is a misdemeanor.  
 29 (3) Official misconduct as defined in subsection (a)(6) is: (A) A sever-  
 30 ity level 7, nonperson felony if the claim is for \$25,000 or more; (B) a  
 31 severity level 9, nonperson felony if the claim is for at least \$500 but less  
 32 than \$25,000; and (C) a class A nonperson misdemeanor for a claim of  
 33 less than \$500.  
 34 (4) Upon conviction of official misconduct a public officer or em-  
 35 ployee shall forfeit such officer or employee's office or employment.  
 36 Sec. 3. K.S.A. 1994 Supp. 21-3910 is hereby amended to read as  
 37 follows: 21-3910. (a) Misuse of public funds is using, lending or permitting  
 38 another to use, public money in a manner not authorized by law, by a  
 39 custodian or other person having control of public money by virtue of  
 40 such person's official position.  
 41 (b) As used in this section, "public money," means any money or  
 42 negotiable instrument which belongs to the state of Kansas or any political  
 43 subdivision thereof.

As used in this section, "confidential"  
 means any information that is N  
 not subject to mandatory  
 disclosure pursuant to KSA 45-221,

1 (c) Misuse of public funds is a severity level 8, nonperson felony.  
2 *Upon conviction of misuse of public funds, the convicted person shall*  
3 *forfeit the person's official position.*

8-307,

4 Sec. 4. K.S.A. 21-2505 and 75-3202 and K.S.A. 1994 Supp. 21-3902  
5 and 21-3910 are hereby repealed.

6 Sec. 5. This act shall take effect and be in force from and after its  
7 publication in the Kansas register.

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