

Approved: 3-15-95
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 10:00 a.m. on February 17, 1995 in Room 514-S of the Capitol.

All members were present except: Senator Vancrum (excused)
Senator Rock (excused)
Senator Harris (excused)

Committee staff present: Michael Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Janice Brasher, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chair Emert called the meeting to order noting that several bills, previously heard would be considered for action.

SB 160--State board of education, applicants for issuance or renewal of certificates information relating to criminal offenses.

SB 185--State board of education adopt guidelines to deny or cancel teachers' certificate if convicted of or granted division for violating certain crimes.

The Chair called the Committee's attention to a handout on **SB 160** and noted that there are a number of balloons to it. This bill is the combination of bill requests. Dr. McClure from Shawnee Heights had a request resulting in **SB 185** involving the responsibility of county and district attorneys to report to the state board of education certain convictions. Then **SB 160**, Senator Bogina's bill prohibited the state board of education from knowingly issuing a teaching certificate or renewing a teaching certificate of any person convicted of certain crimes as listed in the bill.

The Chair noted that Kevin Ireland and Rod Bieker, State Board of Education were present to address questions.

The Chair stated that **SB 185** was merged into **SB 160**. Discussing what is not in the bill, the Chair stated that fingerprinting was not included due to two reasons. The state board of education has the authority to do fingerprinting if they so choose. The KBI and state are not ready to face the problems of cost and volume.

The Chair referred to the handout on **SB 160** stating that the bill provides that the state board shall not issue certificates to persons who have committed offenses specified under K.S.A. 21-4619 (c). That is a list of those sexual crimes that cannot be expunged. This bill provides that persons committing those crimes shall never be issued a teaching certificate. On other felonies they shall not issue certificates within five years of convictions. On the last page of the balloon, the reporting part (g) requires reporting when convictions or diversions occur. (Attachment 1)

Responding to questions regarding liability, Mr. Rod Bieker addressed the Committee. Chairman Emert referred to the last page of the bill and stated that according to the bill there is no civil liability if everyone has acted in good faith. Questions regarding SRS involvement in reporting of crimes was discussed. Senator Oleen recommended removing references to SRS in this bill--page 1, line 25, page 1, line 28, page 2, line 6--a motion should include taking SRS out where ever it is referred to.

Motion made by Senator Oleen, second by Senator Bond to amend by striking all references to SRS, their determinations in the registry and reporting that to the state board of education. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S-S Statehouse, at 10:00 a.m. on February 17, 1995.

Motion made by Bond, second by Reynolds to move the bill as amended. Motion carried.

Senator Parkinson referred to subcommittee report, reporting on four bill considered in his subcommittee. (Attachment 2)

SB 16--Creating the crimes of injury to a pregnant woman and injury to a pregnant woman by vehicle and prescribing penalties therefor

Senator Parkinson related that this bill creates a crime for the felonious cause of a miscarriage. Senator Parkinson stated there were two days of hearings and a partial day. The language developed was a result of changes made in subcommittee. The concerns expressed in the initial hearing were eliminated. Section 1 would involve the felonious causing of a miscarriage in an intentional type act. Senator Parkinson stated, "after some difficulty in determining where to place this, we placed in on grid level 4." Section 2 deals with the acts of automobile accident situation that Senator Sallee's bill originally discussed. If the person is intoxicated it would be a level 5, if not intoxicated, but resulted in a miscarriage and was determined the unlawful operation of a motor vehicle that would be a level 7. The act of causing a miscarriage must be by a person other than the woman, herself and it must be an unlawful act or felonious act. The interest groups on both sides of the abortion issue appear to support this bill.

Motion made by Senator Parkinson, second by Senator Reynolds to move the bill favorably as amended. Motion carried.

SB 128-Crime of abuse of a child to include shaking

Senator Parkinson reporting on **SB 128**, stated that the current statute is not broad enough to include "shaking" which in a child could cause damage.(Attachment 3) The subcommittee recommended restrictions to the language to involve shaking that causes great bodily harm. Motion by Senator Parkinson, second by Senator Moran to recommend favorably as amended. Motion carried.

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

Senator Parkinson reported on **SB 184** discussing the two changes to current law proposed in this bill. This bill expands the definition of what constitutes a film, photograph, etc. to include the language that would include any photo copy, video laser disc, video tape. The second change suggests that the age be raised to 18. The subcommittee recommended that the age remain at 16 as currently stated in the bill. Motion by Senator Parkinson, second by Senator Bond. Motion and second withdrawn until Senator Harris is present.

SB 250--Burglary of a commercial yard

Subcommittee report recommended no action.

Senator Bond reported on the activity of his subcommittee.

SB 183--Requirements for alcohol and drug education programs attended

Senator Bond reported that this bill would increase drug alcohol and safety programs from four hours to eight hours. The subcommittee did not find compelling evidence to increase the program to eight hours. The bill rests.

SB 198--Nonprobate transfers of real property

Senator Bond explained that this bill relates to nonprobate transfers of real property. Senator Bond made a motion, second by Feleciano to authorize Senator Emert to refer SB 198 to the Judicial Council for their consideration and review and recommendations back to the legislature. Motion carried.

SB 207--Repealing adverse possession of real property

Senator Bond explained that this bill repeals all statutory references to real property--Senator Bogina is obtaining more information. The bill rests.

SB 233--Requiring mediation in divorces

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S-S Statehouse, at 10:00 a.m. on February 17, 1995.

Senator Bond stated that this bill requires that there be at least three mediation sessions before a divorce is filed. Several problems were pointed out. Subcommittee recommends the bill rests.

SB 141--Criminal deprivation of property that is a motor vehicle, joyriding; enhanced penalties and proof

Chairman Emert directed the Committee's attention to **SB 141**. The Chair stated that after discussion with the Revisor, Gordon Self, it seems that if this bill is considered, lines 22---25 should be deleted. There were no objections from the Conferees at the hearing to deleting those lines.

Motion made and seconded to delete line 22 through line 25.

Discussion followed regarding the sentencing guidelines and concerns were expressed on increasing penalties for property crimes. Senator Parkinson suggested that increasing penalties for property crimes is voting on de facto basis to reduce the time for violent offenders. Other issues were discussed regarding the effects of this bill. No action was taken on this bill.

SB 140--Amendments to rules of civil procedure

Chairman Emert explained amendments were developed addressing the objections of the bill's opponent, Jerry Palmer, with input from the judicial council. An amendment addressing concerns of Senator Parkinson were discussed, as well as some technical amendments. (Attachment 4)

Senator Brady made a motion, second by Senator Petty to move SB 140 favorably as amended. Motion carried.

Meeting adjourned

The next meeting is scheduled for February 21, 1995.

SENATE BILL No. 160

By Senator Bogina

1-31

Attach 1

Senate Judiciary
2-17-95
Attachment 1

9 AN ACT concerning the state board of education; relating to persons
10 applying for issuance or renewal of certificates; authorizing the state
11 board to receive certain information.

has been convicted of any offense or attempt to commit any
offense specified in K.S.A. 1994 Supp. 21-4619(c), and
amendments thereto.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) The state board of education shall not knowingly issue
15 a certificate to or renew the certificate of any person who-

(b) Except as provided in subsection (e), the state board
of education shall not knowingly issue a certificate to or
renew the certificate of any person who, within the five
year period preceding the date of filing an application
for a certificate:

16 (1) (A) Has been convicted of an inherently dangerous felony as de-
17 fined in K.S.A. 1994 Supp. 21-3436, and amendments thereto, (B) has
18 been convicted of a felony under the uniform controlled substances act,
19 (C) has been convicted of any act which is described in articles 34, 35 or
20 36 of chapter 21 of Kansas Statutes Annotated or has been convicted of
21 an attempt under K.S.A. 21-3301, and amendments thereto, to commit
22 any such act, ~~or~~ (D) has been convicted of any act which is described in
23 K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments thereto, or sim-
24 ilar statutes of other states or the federal government;

other than an act specified in K.S.A. 1994 Supp.
21-4619(c), and amendments thereto,

25 (2) has committed an act of physical, mental or emotional abuse or
26 neglect or sexual abuse of a child as validated by the department of social
27 and rehabilitation services pursuant to K.S.A. 38-1523, and amendments
28 thereto, and (A) the person has failed to successfully complete a corrective
29 action plan which had been deemed appropriate and approved by the
30 department of social and rehabilitation services, or (B) the record has not
31 been expunged pursuant to rules and regulations adopted by the secretary
32 of social and rehabilitation services; or

, or (E) has entered into a criminal diversion agreement
after having been charged with any offense described in
this subsection

33 (3) has had parental rights terminated pursuant to the Kansas code
34 for care of children or a similar code of any other state.

(c)

35 ~~(b)~~ For the purpose of complying with the provisions of ~~subsection~~
36 ~~(a)~~, the state board of education may:

subsections (a) and (b)

37 (1) ~~Require fingerprinting of all persons applying for issuance or re-~~
38 ~~newal of a certificate and submit such fingerprints to the Kansas bureau~~
39 ~~of investigation and to the federal bureau of investigation for the purposes~~
40 ~~of verifying the identity of such persons and obtaining records of criminal~~
41 ~~convictions of such persons;~~

42 (2) ~~receive from the Kansas bureau of investigation or the state de-~~
43 ~~partment of corrections or other criminal justice agencies criminal history~~

1-2

1 ~~record information, criminal intelligence information and information re-~~
2 ~~lating to criminal and background investigations insofar as such infor-~~
3 ~~mation pertains to persons applying for issuance or renewal of a certifi-~~
4 ~~cate, and~~
5 (2) make written request of and receive from the district courts and
6 the department of social and rehabilitation services information relating
7 to proceedings against persons applying for issuance or renewal of a cer-
8 tificate insofar as such proceedings pertain to any of the offenses specified
9 in subsection (a). (d)
10 (e) Information, other than ~~conviction data~~, received by the state
11 board of education pursuant to the provisions of subsection (b) shall be
12 confidential. Any disclosure of such confidential information by a member
13 of the state board shall be subject to any civil or criminal penalties im-
14 posed by law for violations of the duty of confidentiality imposed upon
15 the agencies from which the information was received and shall constitute
16 grounds for removal from office. (c)

, at no cost,
who currently hold a certificate or who are
or acts
subsections (a) or (b)
(d)
records of criminal convictions and adjudications of abuse
or neglect and termination of parental rights
(c)

17 (d) ~~The state board of education, in accordance with K.S.A. 75-4319,~~
18 ~~and amendments thereto, may recess for a closed or executive meeting~~
19 ~~to receive and discuss information specified in subsection (b) and to ne-~~
20 ~~gotiate with persons applying for issuance or renewal of a certificate re-~~
21 ~~garding any such information.~~

22 (e) The state board of education shall not be liable for civil damages
23 to any person refused issuance or renewal of a certificate by reason of the
24 state board's compliance, in good faith, with the provisions of this section.
25 Sec. 2. This act shall take effect and be in force from and after its
26 publication in the statute book.

(e) The state board of education may issue a certificate to or renew the certificate of a person who has been denied a certificate under the provisions of subsection (b) if the state board determines, following a hearing, that the person has been rehabilitated for a period of at least five years from the date of denial of the previous application for a certificate. The state board of education may consider factors including, but not limited to, the following in determining whether to grant a certificate:

- (1) The nature and seriousness of the original conduct resulting in denial of a certificate;
- (2) the conduct of the person subsequent to the denial;
- (3) the time elapsed since the denial;
- (4) the age of the person at time of the conduct resulting in the denial;
- (5) whether the conduct was an isolated or reoccurring incident; and
- (6) discharge from probation, pardon or expungement.

(f) Before any certificate is denied by the state board of education for any of the offenses or acts specified in subsections (a) and (b), the person shall be given notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(g) On and after July 1, 1995, the county or district attorney or the department of social and rehabilitation services shall file a written report with the state board of education indicating the name, address and social security number of any person who has been determined to have committed any offense or act specified in subsection (a) or (b). Such report shall be filed within 30 days of the date of the determination that the person has committed any such act.

(h)

Attach 2

STATE OF KANSAS

MARK PARKINSON
SENATOR, 23RD DISTRICT
REPRESENTING GARDNER, OLATHE,
OVERLAND PARK, SPRING HILL
15587 S. GREENWOOD
OLATHE, KANSAS 66062
913-829-5044



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
CHAIRMAN: LOCAL GOVERNMENT
VICE CHAIRMAN: JUDICIARY
VICE CHAIRMAN: JOINT COMMITTEE ON
SPECIAL CLAIMS
AGAINST THE STATE
MEMBER: FEDERAL AND STATE AFFAIRS
ELECTIONS

TO: SENATE JUDICIARY COMMITTEE
FROM: SENATOR MARK PARKINSON, CHAIRPERSON
JUDICIARY SUBCOMMITTEE
RE: SENATE BILLS 16, 128, 184 & 250
DATE: FEBRUARY 17, 1995

Your subcommittee from the Judiciary Committee met on SB 16 on three occasions. We met on January 23, 1995, January 30, 1995, and February 14, 1995. During the first two meetings, the subcommittee took testimony from proponents and opponents of the bill. Ultimately, the subcommittee made amendments to the bill, then on February 14, 1995, recommended that the bill be passed as amended by the subcommittee.

The subcommittee met on Senate Bills 128, 184 and 250 on February 14, 1995. After hearing from proponents and opponents to all three bills, the following actions were taken. With respect to SB 128, the subcommittee recommended that it be passed as amended by the subcommittee. With respect to SB 184, the subcommittee recommended that it be passed as amended by the subcommittee. With respect to SB 250, the subcommittee felt that further study was needed on that bill.

*Senate Judiciary
2-17-95
Attachment 2*

Attach 4

Attach 4

SENATE BILL No. 128

By Committee on Judiciary

1-26

9 AN ACT concerning crimes and punishment; relating to abuse of a child;
10 amending K.S.A. 1994 Supp. 21-3609 and repealing the existing
11 section.

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

13 Section 1. K.S.A. 1994 Supp. 21-3609 is hereby amended to read as
14 follows: 21-3609. Abuse of a child is intentionally torturing, cruelly beat-
15 ing, ~~shaking~~ or inflicting cruel and inhuman corporal punishment upon
16 any child under the age of 18 years.

causing great bodily harm by

17 Abuse of a child is a severity level 5, person felony.

18 Sec. 2. K.S.A. 1994 Supp. 21-3609 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.
21

Senate Judiciary
Attachments 3

|

KSA 1994 Supp. 21-4619(c) :

- F 1. Rape - level 2 person felony
- F 2. indecent liberties w/ a child - severity level 5 person felony
- F 3. aggravated indecent liberties w/ a child - level 3 person ~~to~~ felony
- F 4. criminal sodomy - level 3, person felony
- F 5. aggravated criminal sodomy - level 2, person felony
- F 6. indecent solicitation child - level 7, person felony
- F 7. aggravated indecent solicitation of a child level 6, person felony
- F 8. sexual exploitation of a child - level 5, person felony
- F 9. aggravated incest - level 5, person felony
level 7, person felony
- A misd, 10. endangering a child - class A person misdemeanor
- F 11. abuse of a child - level 5, person felony

Sec. 3. K.S.A. 60-206 is hereby amended to read as follows: 60-206.

The following provisions shall govern the computation and extension of time:

(a) *Computation; legal holiday defined.* In computing any period of time prescribed or allowed by this chapter, by the local rules of any district court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the district court inaccessible, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday one of the forementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any day designated as a holiday by the congress of the United States, or by the legislature of this state. When an act is to be performed within any prescribed time under any law of this state, or any rule or regulation lawfully promulgated thereunder, and the method for computing such time is not otherwise specifically provided, the method prescribed herein shall apply.

(b) *Enlargement.* When by this chapter or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the judge for cause shown may at any time in the judge's discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under subsection (e) of K.S.A. 60-250, subsection (b) of K.S.A. 60-252, subsections (b), (e) and (f) of K.S.A. 60-259 and subsection (b) of K.S.A. 60-260, and amendments thereto, except to the extent and under the conditions stated in them.

(c) *Unaffected by expiration of term.* The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the continued existence or expiration of a term of court. The continued existence or expiration of a term of court in no way affects the power of a court to do any act or take any proceeding in any civil action pending before it.

(d) *For motions—affidavits.* A written motion, other than one which may be heard *ex parte*, and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the judge. Such an order may for cause shown be made on *ex parte* application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and except as otherwise provided in subsection (d) of K.S.A. 60-259, and amendments thereto, opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at the time of hearing.

(e) *Additional time after service by mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon such party and the notice or paper is served upon such party by mail, three days shall be added to the prescribed period.

(b)

Senate Judiciary
2-17-95
Attachment 4

Sec. 5. K.S.A. 60-211 is hereby amended to read as follows: 60-211.

26 (a) Every pleading, motion and other paper ~~provided for by this article~~
27 of a party represented by an attorney shall be signed by at least one
28 attorney of record in the attorney's individual name, and the attorney's
29 address and telephone number shall be stated. A pleading, motion or
30 other paper ~~provided for by this article~~ of a party who is not represented
31 by an attorney shall be signed by the party and shall state the party's
32 address. Except when otherwise specifically provided by rule or statute,
33 pleadings need not be verified or accompanied by an affidavit.

34 (b) The signature of a person constitutes a certificate by the person
35 that the person has read the pleading, *motion or other paper and* that to
36 the best of the person's knowledge, information and belief formed after
37 ~~reasonable an inquiry it is well grounded in fact and is warranted by~~
38 ~~existing law or a good faith argument for the extension, modification or~~
39 ~~reversal of existing law; and that it is not imposed for any improper pur-~~
40 ~~pose, such as to harass or to cause unnecessary delay or needless increase~~
41 ~~in the cost of litigation reasonable under the circumstances:~~

42 (1) *It is not being presented for any improper purpose, such as to*
43 *harass or to cause unnecessary delay or needless increase in the cost of*
1 *litigation;*

2 (2) *the claims, defenses and other legal contentions therein are war-*
3 *ranted by existing law or by a nonfrivolous argument for the extension,*
4 *modification or reversal of existing law or the establishment of new law;*

5 (3) *the allegations and other factual contentions have evidentiary sup-*
6 *port or, if specifically so identified, are likely to have evidentiary support*
7 *after a reasonable opportunity for further investigation or discovery; and*

8 (4) *the denials of factual contentions are warranted on the evidence*
9 *or, if specifically so identified, are reasonably based on a lack of infor-*
10 *mation or belief.*

11 (c) If a pleading, motion or other paper ~~provided for by this article~~
12 is not signed it shall be stricken unless it is signed promptly after the
13 omission is called to the attention of the pleader or movant. If a pleading,
14 motion or other paper ~~provided for by this article~~ is signed in violation of
15 this section, the court, upon motion or upon its own initiative upon notice
16 and after opportunity to be heard, shall impose upon the person who
17 signed it or a represented party, or both, an appropriate sanction, which
18 may include an order to pay to the other party or parties the amount of
19 the reasonable expenses incurred because of the filing of the pleading,
20 motion or other paper, including reasonable attorney fees. *A motion for*
21 *sanctions under this section may be served and filed at any time during*
22 *the pendency of the action but not later than 10 days after the entry of*
23 *judgment.*

24 (d) *Subsections (a) through (c) do not apply to disclosures and dis-*
25 *covery requests, responses, objections and motions that are subject to the*
26 *provisions of K.S.A. 60-226 through 60-237 and amendments thereto.*

27 (e) *The state of Kansas, or any agency thereof, and all political sub-*
28 *divisions of the state shall be subject to the provisions of this section in*
29 *the same manner as any other party.*

(f) If the court imposes monetary sanctions on an inmate in the custody of the secretary of corrections, the secretary of the department of corrections is hereby authorized to disburse any money in the inmate's account to pay such sanctions.

60-262. Stay of proceedings to enforce judgment. (a) Automatic stay; exceptions -injunctions and receiverships. Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of ten (10) days after its entry. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action, shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. The provisions of subsection (c) of this section govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

(b) Stay on motion for new trial or for judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to K.S.A. 60-259, or of a motion for relief from a judgment or order made pursuant to K.S.A. 60-260, or of a motion for judgment ~~in accordance with a motion for a directed verdict~~ as a matter of law made pursuant to K.S.A. 60-250, or of a motion for amendment to the findings or for additional findings made pursuant to K.S.A. 60-252(b).

(c) Injunction pending appeal. When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the judge in said judge's discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

(d) Stay upon appeal. When an appeal is taken the appellant by giving a supersedeas bond may obtain a stay subject to the exceptions contained in subsection (a) of this section. The bond may be given at or after the time of filing the notice of appeal. The stay is effective when the supersedeas bond is approved by the court.

(e) Stay in favor of the state or agency thereof when an appeal is taken by the state or an officer or agency thereof or by direction of any department of the state and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

(f) Power of appellate court not limited. The provisions in this section do not limit any power of the appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of and appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered

(g) Stay of judgment upon multiple claims. When a court has ordered a final judgment on some but not all of the claims presented in the action under the conditions stated in K.S.A. 60-254 (b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

60-2103. Appellate procedure. (a) When and how taken. When an appeal is permitted by law from a district court to an appellate court, the time within which an appeal may be taken shall be 30 days from the entry of the judgment, as provided by K.S.A. 60-258, and amendments thereto, except that upon a showing of excusable neglect based on a failure of a

party to learn of the entry of judgment the district court in any action may extend the time for appeal not exceeding 30 days from the expiration of the original time herein prescribed. The running of the time for appeal is terminated by a timely motion made pursuant to any of the rules hereinafter enumerated, and the full time for appeal fixed in this subsection commences to run and is to be computed from the entry of any of the following orders made upon a timely motion under such rules: Granting or denying a motion for judgment under subsection (e) (b) of K.S.A. 60-250, and amendments thereto; or granting or denying a motion under subsection (b) of K.S.A. 60-252, and amendments thereto, to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; or granting or denying a motion under K.S.A. 60-259, and amendments thereto, to alter or amend the judgment; or denying a motion for new trial under K.S.A. 60-259, and amendments thereto.

A party may appeal from a judgment by filing with the clerk of the district court a notice of appeal. Failure of the appellant to take any of the further steps to secure the review of the judgment appealed from does not affect the validity of the appeal, but is ground only for such remedies as are specified in this chapter, or when no remedy is specified, for such action as the appellate court having jurisdiction over the appeal deems appropriate, which may include dismissal of the appeal. If the record on appeal has not been filed with the appellate court, the parties, with the approval of the district court, may dismiss the appeal by stipulation filed in the district court, or that court may dismiss the appeal upon motion and notice by the appellant.

(b) Notice of appeal. The notice of appeal shall specify the parties taking the appeal; shall designate the judgment or part thereof appealed from, and shall name the appellate court to which the appeal is taken. The appealing party shall cause notice of the appeal to be served upon all other parties to the judgment as provided in K.S.A. 60-205, and amendments thereto, but such party's failure so to do does not affect the validity of the appeal.

(c) Security for costs. Security for the costs on appeal shall be given in such sum and manner as shall be prescribed by a general rule of the supreme court unless the appellate court shall make a different order applicable to a particular case.

(d) Supersedeas bond. Whenever an appellant entitled thereto desires a stay on appeal, such appellant may present to the district court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. The bond shall be conditioned for the satisfaction of the judgment in full together with costs, interest, and damages for delay, if for any reason the appeal is dismissed, or if the judgment is affirmed, and to satisfy in full such modification of the judgment such costs, interest, and damages as the appellate court may adjudge and award. When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, interest, and damages for delay, unless the court after notice and hearing and for good cause shown fixes a different amount or orders security other than the bond. When the judgment determines the disposition of the property in controversy as in real actions, replevin, and actions to foreclose mortgages or when such property is in the custody of the sheriff or when the proceeds of such property or a bond for its value is in the custody or control of the court, the amount of the supersedeas bond shall be fixed after notice and hearing at such sum only as will secure the amount recovered for the use and detention of the property, the costs of the action, costs on appeal, interest, and damages for delay. When an order is made discharging, vacating, or modifying a provisional remedy, or modifying or dissolving an injunction, a party aggrieved thereby shall be entitled, upon application to the judge, to have the operation of such order suspended for a period of not to exceed 10 days on

condition that within such period of 10 days such party shall file a notice of appeal and obtain the approval of such supersedeas bond as is required under this section.

(e) Failure to file or insufficiency of bond. If a supersedeas bond is not filed within the time specified, or if the bond filed is found insufficient, and if the action is not yet docketed with the appellate court, a bond may be filed at such time before the action is so docketed as may be fixed by the district court. After the action is so docketed, application for leave to file a bond may be made only in the appellate court.

(f) Judgment against surety. By entering into a supersedeas bond given pursuant to subsections (c) and (d) of this section, the surety submits such surety's self to the jurisdiction of the court and irrevocably appoints the clerk of the court as such surety's agent upon whom any papers affecting such surety's liability on the bond may be served. Such surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the judge prescribes may be served on the clerk of the court who shall forthwith mail copies to the surety if such surety's address is known.

(g) Docketing record on appeal. The record on appeal shall be filed and docketed with the appellate court at such time as the supreme court may prescribe by rule.

(h) Cross-appeal. When notice of appeal has been served in a case and the appellee desires to have a review of rulings and decisions of which such appellee complains, the appellee shall, within 20 days after the notice of appeal has been served upon such appellee and filed with the clerk of the trial court, give notice of such appellee's cross-appeal.

(i) Intermediate rulings. When an appeal or cross-appeal has been timely perfected, the fact that some ruling of which the appealing or cross-appealing party complains was made more than 30 days before filing of the notice of appeal shall not prevent a review of the ruling.

61-1710. Depositions. Any party to an action pursuant to this chapter may take the testimony of any person, including a party, either within or without the state, by deposition upon oral examination or written questions but only for use as evidence in the action. Unless the court orders otherwise, the parties may by written stipulation provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions. The taking of such depositions shall be governed by the provisions of K.S.A. 60-228, subsections (b) through, (h), inclusive, of K.S.A. 60-230, K.S.A. 60-231 and subsection ~~(d)~~ (e) of K.S.A. 60-232, except that any party desiring to take a deposition shall first file with the court, and serve on all other parties to the action, a motion that the taking of such deposition be allowed due to the existence of at least one (1) of the conditions prescribed in K.S.A. 61-1711 for the use, of depositions as evidence. Within five (5) days after any such motion has been made, any other party to the action may file an objection to, such motion, and in such event, the court shall hold a hearing within five (5) days thereof to determine the issue. No deposition shall be taken unless and until the court shall have granted the motion requesting permission therefor.

75-3079. Costs of frivolous claim or action assessed against state agency; report; payment, (a) If costs are assessed against the state or any agency of the state pursuant to K.S.A. ~~60-2007~~ 60-211 and amendments thereto, the head of the state agency which conducted the litigation shall report the assessment, its amount and the reason for it to the speaker and the

minority leader of the Kansas house of representatives and to the president and the minority leader of the Kansas senate within 30 days after entry of the order assessing the costs against the state or state agency.

(b) Payment of costs assessed against the state or a state agency pursuant to K.S.A. ~~60-2007~~ 60-211 and amendments thereto shall be made from the operating budget of the state agency which conducted the litigation.