

Approved: 3-14-95  
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 22, 1995 in Room 514-S of the Capitol.

All members were present except:

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:

Carla Stovall, Kansas Attorney General

Others attending: See attached list

Chair Emert called the meeting to order at 10:00 a.m. asking the Committee to continue from yesterday consideration of **SB 3**.

### **SB 3--Civil commitment, evaluation, care and treatment of persons who commit sexually violent offenses.**

Motion made by Senator Vancrum, second by Senator Reynolds to report SB 3 favorably as amended in the balloon by the subcommittee. Motion carried.

### **Subcommittee Reports**

Senator Bond reported on:

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

Motion made by Senator Bond, second by Senator Petty to report SB 307 favorably. Motion carried.

#### **SB 129--CINC cases, placement by secretary of SRS subject to review of the court.**

Motion made by Senator Reynolds, second by Senator Petty to report SB 129 favorably. Motion carried.

#### **SB 305--Concerning abuse, neglect and exploitation of individuals in state hospitals**

Motion made by Senator Bond, second by Senator Petty to report SB 305 favorably. Motion carried.

Senator Parkinson reported on the following bills heard by his subcommittee.(Attachment 1)

#### **SB 282--Civil procedure and civil actions; garnishment; answers to garnishees**

Senator Parkinson stated that the bill as presented made four changes to the law, it is the recommendation of the subcommittee to adopt two of the four changes. The two changes recommended by Senator Parkinson's subcommittee were: 1. Limiting the garnishment on non-wage garnishments to one and a half times the value of the debt. 2. Allowing garnishees to respond to garnishments by facsimile. Opponents to the bill, primarily, the collectors were against the two provision not recommended. The two provisions recommended were not opposed.

Motion made by Senator Parkinson, second by Senator Oleen to report SB 282 favorably as amended by the

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subcommittee. Motion carried.

Chairman, Emert referenced **SB 35** stating that it was referred to the Judiciary Committee from the Senate Committee on Financial Institutions and Insurance, and there had been hearings. This bill also concerns garnishments, and the Chair suggested that it would be considered during the next Committee meeting.

**SB 296--Concerning expanding the jurisdiction of the Capitol area security patrol**

Senator Parkinson explained that there is a technical amendment not appearing in the bill books, requiring the Capitol area security patrol to turn those arrested over to Shawnee County Corrections.

Motion made by Senator Parkinson to move **SB 296** favorably as amended, second by Senator Reynolds. Motion carried.

Senator Harris reported on the bills heard in his subcommittee. (Attachment 2)

**SB 222--Crime victims assistance fund; grants**

Senator Harris reported two recommended changes. The first change would strike the word "child" from lines one and two on page 2 of the bill. The second recommendation was to make this bill effective upon publication by amending page 2, Section 3, line 31 to :

----- ~~publication in the statute book~~ *in the Kansas Register*

Motion was made and seconded to move **SB 222** as amended by the subcommittee. Motion and second rescinded.

Motion was made by Senator Vancrum, second by Senator Bond to move **SB 222** favorably excluding the recommendation from the subcommittee to strike the word "child" but with the subcommittee's recommendation to publish it in the Kansas Register. Motion carried.

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

Senator Harris's subcommittee recommended on page 6, line 20 of **SB 223** to change the percentage credited to the crime victims compensation fund from 22% stated in the bill to 21%.

-----credit ~~19% 22%~~ 21% to the crime victims compensation fund-----

Motion made by Senator Vancrum, second by Senator Martin to pass favorably as amended. Motion carried.

**SB 237--Concerning sex offenders, registration; adjudication as juvenile offender and diversions; records**

Senator Harris reported that **SB 237** expands registration requirements to include people on diversion and adjudicated juveniles. In the case of adjudicated juveniles the registration period is for five years. The subcommittee unanimously recommends that this bill be passed without amendments.

Motion by Senator Feleciano, second by Senator Harris to pass **SB 237** favorably.

Discussion followed involving amending the application of this bill to persons age 14 or more.

Substitute motion made by Senator Bond, second by Senator Petty to amend to delete those persons under the age of fourteen (14)/ Motion carried.

Motion by Senator Bond, second by Senator Bond, second by Martin to pass the bill favorably as amended. Motion carried.

**SB 238--Concerning expungement of records concerning crimes, criminal procedure and punishment**

Senator Harris reported on **SB 238** stating that the only suggested amendment to this bill was requested by the Office of Judicial Administrator, Paul Shelby, would amend the bill on page 3, lines 17 and 18 as by

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m. on February 22, 1995.

striking out federal bureau of investigation and adding a balloon as follows:

----- expungement to ~~the federal bureau of investigation~~, the Kansas bureau of investigation, *which shall notify the federal bureau of investigation*, the secretary of corrections and any other criminal justice-----

**SB 239--Concerning victims of crime; notice and right to be present at parole and probation and juvenile offender proceedings.**

Senator Harris reported on **SB 239** stating that there is a balloon amendment requested by the Attorney General which simply clarifies who is responsible for notifying the victim of the crime, whether it is the city, county or district attorney or municipal court person. With that proposed amendment the subcommittee recommends this bill for passage. (Attachment3)

Motion by Senator Vancrum, second by Feleciano to pass **SB 239** favorably with amendment.. Count of yeas and nays. Motion carried.

**SB 336--Enacting the uniform limited liability company act**

The Chair referred to the hearing of February 21, 1995 on **SB 336**, and stated that with the agreement of the Secretary of State's Office, this bill if passed would be implemented January 1, 1996 for new entities with two additional years for those to decide whether they want to opt in or out.

Motion made by Senator Brady, second by Senator Reynolds to pass the bill favorably with balloon amendments from the Office of the Secretary of State and the stated implementation amendment. Motion carried.

Meeting adjourned 11:05.

The next meeting is scheduled for February 23, 1995.



STATE OF KANSAS

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SENATOR, 23RD DISTRICT  
REPRESENTING GARDNER, OLATHE,  
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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: SB BILLS 282 AND 296

DATE: FEBRUARY 21, 1995

On February 20, 1995, the subcommittee held hearings and took actions on Senate Bills 296 and 282.

After hearing testimony in favor of SB 296, the subcommittee recommended changes and then recommended that the bill be reported favorably to this committee as amended.

After listening to both proponents and opponents to SB 282, the subcommittee recommended that the bill be amended and then recommended to this committee favorable for passage.

*Senate Judiciary*  
*2-22-95*  
*Attach. 1*

# State of Kansas

## Senate

SENATOR MIKE HARRIS

9828 HARVEST CT  
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316-721-4968



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TOPEKA, KANSAS 66612-1504  
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COMMITTEE ASSIGNMENTS  
VICE CHAIRMAN: COMMERCE  
JUDICIARY  
MEMBER: GOVERNMENT ORGANIZATION  
TRANSPORTATION AND UTILITIES

February 17, 1995

### MEMORANDUM

SENATOR TIM EMERT, CHAIRMAN, JUDICIARY COMMITTEE - 143-N

Re: Subcommittee report on Senate Bills, 222, 223, 237, 238 and 239

Mr. Chairman, your judiciary subcommittee on the above referenced bills recommends to the full committee the favorable passage of these bills with the following changes and observations:

1. SB 222 is recommended for passage with two amendments, the first amendment being to amend page 2, line 1, and page 2, line 2, by striking the word "child" in each line, and by amending section 3, page 2, by striking the words, "in the statue book" and inserting, "in the Kansas Register".

2. With respect to SB 223, your subcommittee recommends that the bill be passed favorably, except that it be amended on page 6, line 20, by striking the number "22%" and inserting the number "21%." This amendment would conform the bill to the intentions of the 1994 committee on conference, which intentions were apparently never reduced to final bill form. Mr. Chairman, three of the members of the subcommittee have also expressed concerns with respect to the bill insofar as at page 4, lines 10 through 21, the bill strikes "the financial stress" test which has been heretofore a part of this law. The Attorney General will appear and address this issue again to the full committee if you wish, and Senator Feliciano may be the best member of the subcommittee to express the historical reason for the language which the A.G. proposes to be stricken. In spite of the subcommittee's concern, the bill, as proposed to be amended, was recommended to be favorably passed.

3. With respect to SB237, your subcommittee unanimously recommends to the full committee that this bill be passed without amendments.

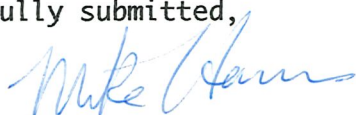
4. With respect to SB 238, your subcommittee recommends to the full committee passage of this bill with the inclusion of an amendment suggested by the office of the Judicial Administrator, which amendment on page 3, line 17, would strike the words "the Federal Bureau of Investigation", and would insert after the word, investigation, on line 18, the words, "which shall

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Attachment 2

notify the Federal Bureau of Investigation". A balloon from Paul Shelby's office is attached which will help you to visualize this change. Mr. Shelby states that this change is necessary because the FBI has designated the KBI as the appropriate agency to receive this information. With this change, the subcommittee recom- mends favorable passage of this bill.

5. With respect to SB 239, your subcommitte unanimously recommends passage of this bill with the inclusion of a balloon amendment requested by the Attorney General, which balloon is attached hereto and hereby reference. This amendment simply clarifies that the city, county or district attorney or municipal court clerk shall notify the victim of the crime concerning the pending hearing.

Respectfully submitted,



Mike Harris  
Chairman, subcommittee

Attachment  
MTH:dr

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Attachment 3

1 *conducted or required.*

2 (c) As used in this section: (1) "Public hearing" means any court pro-  
3 ceeding or administrative hearing which is ~~required to be~~ open to the  
4 public and shall include but not be limited to the:

- 5 (A) Preliminary hearing;
- 6 (B) trial;
- 7 (C) sentencing;
- 8 (D) sentencing modification;
- 9 (E) public comment sessions, pursuant to K.S.A. 22-3717, and
- 10 amendments thereto; ~~and~~
- 11 (F) expungement hearing; *and*
- 12 (G) *granting of probation or parole by a judge.*

13 (2) "Victims' family" means a spouse, surviving spouse, children, par-  
14 ents, legal guardian, siblings, stepparent or grandparents.

15 (3) "Juvenile offender proceedings" means ~~the adjudication hearing~~  
16 ~~and the dispositional hearing; except that juvenile offender proceedings~~  
17 ~~shall not include that part of the dispositional hearing that pertains to the~~  
18 ~~social history of the juvenile offender or the juvenile offender's family as~~  
19 ~~provided in K.S.A. 38-1661 and amendments thereto any hearing con-~~  
20 ~~cerning a juvenile pursuant to the Kansas juvenile offender's code.~~

21 (c) ~~Notification shall be made to~~ any victim of the crime who is alive  
22 and whose address is known to the city, county or district attorney or  
23 municipal court clerk or, if the victim is deceased, to the victim's family  
24 if the family's address is known to such attorney or clerk.

25 (d) Costs of transportation for the victim to appear shall be borne by  
26 the victim unless the appearance is required pursuant to a subpoena or  
27 other order of the court.

28 Sec. 3. K.S.A. 38-1652 and K.S.A. 1994 Supp. 74-7335 are hereby  
29 repealed.

30 Sec. 4. This act shall take effect and be in force from and after its  
31 publication in the statute book.

The city, county, or district attorney,  
or municipal court clerk shall notify



SENATE BILL No. 239

By Committee on Judiciary

2-6

9 AN ACT concerning victims of crime; relating to juvenile offender pro-  
10 ceedings; notice and right to be present at probation and parole pro-  
11 ceedings; amending K.S.A. 38-1652 and K.S.A. 1994 Supp. 74-7335  
12 and repealing the existing sections.  
13

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

15 Section 1. K.S.A. 38-1652 is hereby amended to read as follows: 38-  
16 1652. (a) If the respondent was 16 or more years of age at the time of  
17 the alleged offense, the hearing shall be open to the public.

18 (b) If the respondent was under 16 years of age at the time of the  
19 alleged offense, the court may exclude all persons except the respondent,  
20 the respondent's parents, attorneys for interested parties, officers of the  
21 court, the witness testifying and ~~except as otherwise provided, if the hear-~~  
22 ~~ing is to adjudicate acts done by the respondent which if done by an adult~~  
23 ~~would constitute a felony,~~ the victim, as defined in subsection (b) of K.S.A.  
24 74-7333 and amendments thereto or such members of the victim's family,  
25 as defined in subsection (b)(2) of K.S.A. 74-7335 and amendments  
26 thereto as the court deems appropriate. ~~The victim or the victim's family~~  
27 ~~shall have the right to be present only at the adjudication hearing and the~~  
28 ~~dispositional hearing, except for that part of the dispositional hearing that~~  
29 ~~pertains to the social history of the respondent or the respondent's family~~  
30 ~~as provided in K.S.A. 38-1661 and amendments thereto.~~ Upon agreement  
31 of all interested parties, the court shall allow other persons to attend the  
32 hearing unless the court finds the presence of the persons would be dis-  
33 ruptive to the proceedings.

34 Sec. 2. K.S.A. 1994 Supp. 74-7335 is hereby amended to read as  
35 follows: 74-7335. (a) The victim of a crime or the victims' family shall be  
36 notified of the right to be present at any public hearing or; ~~except as~~  
37 ~~otherwise provided,~~ any juvenile offender proceeding pursuant to K.S.A.  
38 38-1601 et seq. and amendments thereto, ~~where concerning~~ the accused  
39 or the convicted person ~~has the right to appear and be heard or the~~  
40 ~~respondent or the juvenile offender.~~

41 (b) *The victim of a crime or the victim's family shall be notified of the*  
42 *right to be present at any proceeding or hearing where probation or parole*  
43 *is considered or granted by a judge whether or not a public hearing is*

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