

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 10:00 a.m. on January 10, 1996 in Room 514-S of the Capitol.

All members were present except: Senator Rock (excused)
Senator Moran (excused)
Senator Oleen (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

Chairman Senator Emert called the meeting to order. The Chair stated that the agenda for this meeting would be staff review of the proposals brought before the Special Committee on Judiciary, and review and consideration of bills pending in the Senate Judiciary Committee.

The Chair introduced Mr. Mike Heim to review the proposals considered by the Interim Committee as printed in *Reports of Special Committees, et al*, developed by the Legislative Research Department.

Mr. Heim related information and conclusions stated in Proposals, 39 through 45 with Ms Donaldson explaining Proposal 43.

In response to the Chair's question, regarding Proposal 40, Mr. Paul Shelby, OJA stated that Senator Tillotson, the Chair of Joint Committee on Children and Families, has written to the Secretary of SRS asking the Secretary to delay in sending out bids to privatize child support collections until the Legislative Post Audit's report is published sometime in February.

Committee discussion followed on Proposal 40 concerning the SRS and privatization of the state's child support collection efforts, the role of the court trustee, and issues of dual collection.

Following Mr. Heim's explanation of Proposal 41 regarding issues relating to the prison population and sentencing guidelines, the Chair commended Director Tombs for the information she provided to the Special Committee. The Chair discussed pending **SB 177** dealing with domestic violence, and stated that there is a great deal of interest in that issue. The Chair stated that **SB 177** will probably be considered next week. A part of that bill is included in the Attorney General's package of legislative proposals.

The Chair reported that it was the consensus of the Special Committee, to increase sentences on some of the non-drug grid crimes, those are reflected in the report. The Chair stated that it was also the consensus of the Special Committee that some of punishments for the drug crimes were more severe than punishment for comparable severity crimes on the non-drug grid. The Special Committee suggested that some of those drug grid crimes should be reduced in severity level.

In Mr. Heim's presentation on Proposal 42, concerning juvenile justice issues, the conferee stated that reports from the Koch Crime Commission and the Kansas Youth Authority were presented to the Special Committee.

The Chair stated that there is a package to be introduced in the House by Representative Akins that incorporates some of the recommendations of both the Koch Crime Commission and the Kansas Youth

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S-S Statehouse, at 10:00 a.m. on January 10, 1996.

Authority.

Addressing an issue of concern of the Special Committee, the Chair stated that intake and assessment was included in the Governor's budget.

Senator Vancrum suggested conducting joint meetings with the House Judiciary for hearings on juvenile justice bills.

Chairman Emert announced that a Statistical Profile of 1995 Offender Population books are available to Committee members upon request to the Secretary of Corrections, Chuck Simmons.

Mr. Heim reviewed a portion of the bills on a list of holdover bills currently in the Senate Judiciary Committee. (Attachment 1)

The Committee discussed issues on several of the holdover bills. The Chair announced that bill introductions will be heard tomorrow and a hearing on **SB 339** will be conducted.

The Chair adjourned the meeting.

The next meeting is scheduled for January 11, 1996.

MEMORANDUM

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January 9, 1996

To: Senate Judiciary Committee
From: Mike Heim, Principal Analyst
Re: Holdover Bills

The following is a brief description of the 1995 holdover bills in the Senate Judiciary Committee:

1. S.B. 7 expands coverage of the law dealing with suspension, termination, or denial of professional licenses by persons who fail to pay child support.
2. S.B. 10 deals with disinterment of dead human bodies and would require a court order for disinterment if any next of kin refuses to consent.
3. S.B. 72 deals with venue in actions against corporations.
4. S.B. 130 makes restitution orders against juvenile offenders a judgment enforceable under the code of civil procedure.
5. S.B. 131 adds sex predators to the list of persons eligible for indigent defense services and authorizes payment of attorneys.
6. S.B. 134 adds a specific time frame *i.e.*, not less than 24 hours, for notices to be given to a minor's parents prior to the minor having an abortion.
7. S.B. 138 amends the law dealing with emergency divorces to allow for a quicker hearing.
8. S.B. 141 enhances the penalty for criminal deprivation of property of a motor vehicle. (This provision was enacted as part of H.B. 2223 in 1995.)
9. S.B. 142 makes restitution orders in adult criminal proceedings civil judgments. (S.B. 222 was enacted and codifies this provision.)
10. S.B. 146 expands the definition of aggravated juvenile delinquency to include false reports made by persons confined at a state youth center of abuse or neglect and

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makes it a class B nonperson misdemeanor for an employee of a youth center not to make a report of suspected child abuse and neglect.

11. S.B. 156 creates the Kansas Youth Correctional Authority. (S.B. 313 was enacted in 1995 and creates the Kansas Youth Authority and Juvenile Justice Authority.)
12. S.B. 161 authorizes school districts to require fingerprinting of all employees and prospective employees and to receive criminal history information from various state agency sources.
13. S.B. 177 enhances the penalties for repeat battery offenses. Third and subsequent offenses within five years are made level 5, person felonies.
14. S.B. 183 establishes an 8-hour minimum course for an alcohol and drug safety action treatment program in regard to DUI offenses and penalties.
15. S.B. 185 would require local prosecutors to notify the State Board of Education of persons placed on diversion for committing certain crimes against persons and certain sex crimes. The bill authorizes the cancellation of teacher certificates by the State Board of Education.
16. S.B. 207 would repeal the statute of limitations regarding adverse possessions of real property. (The 1995 Interim Special Committee on Judiciary recommended no change in this area of the law.)
17. S.B. 213 would prohibit any community based alcohol and drug safety program which conducts evaluation and supervision of persons from providing treatment to such persons either directly or through an affiliate. There is an exemption in districts with less than three programs. (The 1995 Special Committee on Judiciary recommended no change be made in the law.)
18. S.B. 227 would require competitive bids for legal services for certain state agencies.
19. S.B. 230 establishes a juvenile offender community intensive sanctions fund for communities to establish programs for juveniles that are an alternative to commitment of youth to SRS custody.
20. S.B. 231 creates the Kansas Children and Youth Authority. (S.B. 313 was enacted in 1995 and created a Kansas Youth Authority and Juvenile Justice Authority.)
21. S.B. 233 would require mediation before a divorce could be filed.
22. S.B. 238 deals with expungement of criminal records to prohibit expungement of certain sex crimes.
23. S.B. 241 establishes a life sentence without parole for a persistent sex offender and requires a minimum of 25 years confinement.

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24. S.B. 248 expands the crime of maliciously circulating false rumors to cover the municipal investment pool fund.
25. S.B. 250 expands the crime of burglary to cover fenced commercial yards.
26. S.B. 295 authorizes the administrative judge to establish criteria for alcohol and drug safety action programs. (House Sub. for S.B. 127 was enacted in 1995 and authorizes SRS and administrative judges to establish qualifications for these programs.)
27. S.B. 297 authorizes added consumer protection civil penalties against those who act in violation of this law against the elderly or disabled.
28. S.B. 311 authorizes subrogation rights under health insurance policies.
29. S.B. 313 expands the requirement that a consecutive sentence be imposed on a person as a result of a felony adjudication under the juvenile offender code to cover offenses committed by a person while at a youth center or while on probation or while participating in community corrections.
30. S.B. 314 would require SRS to be responsible for the expenses of the care of juveniles committed to youth centers seven days after receiving notice of the commitment from the court.
31. S.B. 330 would require licensure and regulation of courier services and security companies and would create a private security licensure board under the jurisdiction of the Attorney General.
32. S.B. 332 deletes the seven-day requirement for a law enforcement agency to notify the victim compensation coordinator of a reported crime and deletes a provision dealing with county property crime compensation coordinators to work with court services and probation officers to track restitution payments. It provides for annual reports by the county coordinator to the county commission rather than the administrative judge. *no hearings - delete*
33. S.B. 339 creates several new crimes related to railroad property. The crimes deal with trespass, throwing objects at trains, causing derailments, and discharging firearms or weapons at trains or rail-mounted work equipment.
34. S.B. 347 would establish a rebuttable presumption that it is not in a child's best interest to be placed in sole or joint custody of a perpetrator of domestic violence and would require domestic violence perpetrators to participate in a program of intervention for perpetrators as a condition of supervised visitation with a child. The bill provides for the issuance of restraining orders under the Protection From Abuse Act at the request of a parent, (victim), or prosecutor after a divorce action has been filed and a criminal action has been initiated against a perpetrator. All costs associated with domestic violence are to be paid by the perpetrator.

*rebuttal presumption -
currently no presumption*

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35. S.B. 378 reduces the size of the Kansas Sentencing Commission by deleting the Kansas Parole Board Chair and the two members of the general public. It also deletes the four legislative members who serve as its ex officio members.

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The following is a list of House Bills which were held over in the Committee. The description of each bill is very brief since these bills have had Supplemental Notes prepared.

1. H.B. 2012 deals with restitution. (S.B. 222 which passed enacted many of the provisions of H.B. 2012.)
2. H.B. 2013 would make the name of a victim of a sex crime not open to the public.
3. H.B. 2083 expands abortion record keeping requirements to include all medical care facilities. (S.B. 384 was enacted in 1995 and contained this provision.)
4. H.B. 2184 changes Medicaid expenses from a first class claim to a second class claim under the Kansas Probate Code.
5. H.B. 2213 creates an office of Administrative Hearings with the Department of Administration to provide a pool of administrative law judges, to conduct hearings under the Kansas Administrative Procedure Act.
6. H.B. 2219 increases the penalty against a payor, i.e. employer, for failure to pay support money withheld from an employee's paycheck. (S.B. 35 was enacted in 1995 which does this.)
7. H.B. 2270 amends the crime of obstructing legal process or official duty to expand the definition of "official duty" to include stopping a suspect and questioning him under K.S.A. 22-2402.
8. H.B. 2310 requires a \$3 docket fee for inmates filing cases and restricts good time credits when the filing of lawsuits is abused by inmates. (The \$3 docket fee was enacted in 1995 as part of S.B. 222.)
9. H.B. 2311 amends the Kansas Tort Claim Act to provide that a jury shall not be notified of the \$500,000 cap on damages.
10. H.B. 2318 expands the authority under a durable power of attorney to allow a principal's homestead rights to be mortgaged.
11. H.B. 2391 deals with special deputy sheriff's, their compensation and ability to carry concealed weapons.
12. H.B. 2425 raises the penalty for rape to a severity level 1 nondrug grid crime, doubles the sentencing ranges in the top three nondrug grid levels, and makes other changes.
13. H.B. 2586 amends the crime of criminal defamation; authorizes federal law enforcement officers to carry firearms and make arrests and adds them to the

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definition of Kansas Law enforcement officer; and amends the crime of stalking.
(Provisions dealing with defamation and stalking were included in 1995 H.B. 2223
which passed.)

14. H.C.R. 5019 directs the Attorney General to bring an action to enjoin enforcement of the National Voter Registration Act.

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