

Approved: March 21, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Emert at 10:12 a.m. on March 19, 1997 in Room 514-S of the Capitol.

All members were present except: Senator Petty (excused)

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Mary Blair, Committee Secretary

Conferees appearing before the committee: Austin Nothorn, Attorney
Representative David Haley

Others attending: See attached list

Minutes of the March 17, 1997 meeting were approved on a motion by Senator Feleciano, seconded by Senator Bond. Motion carried.

Appointment Candidate Devon F. Knoll appeared before committee and briefly described his professional background and experience which would qualify him to sit on the Board of Indigents' Defense. (attachment 1) Senator Bond made a motion to recommend Mr. Knoll to the full Senate favorably, Senator Goodwin seconded. Motion carried.

HB 2308 - Limited Liability companies and limited partnerships; right to withdraw.

Conferee Nothorn appeared before committee as a proponent of **HB 2308**. He called the bill "a technical bill for tax purposes" and stated that "it has to do with valuing for estate and gift tax purposes, limited liability companies (LLC) and limited partnerships (LP)." He described the conflict between current law and the use by the IRS of a provision in the Internal Revenue Code to assess unfair estate valuation. According to Ron Smith, Kansas Bar Association, who provided the written testimony for Conferee Nothorn, **HB 2308** amends the "default" statutes in the current law. (attachment 2) Following discussion, Senator Bond made a motion to pass HB 2308 out favorably and place it on the consent calendar, Senator Pugh seconded. Motion carried.

HB 2055 - Nonprobate transfers of real estate

HB 2056 - Nonprobate transfers of motor vehicles

There was discussion on the proposed amendments on **HB 2056** and **HB 2055**. Senator Emert stated he felt there was a viable amendment on the real estate bill (**HB 2055**) but questioned the viability of the motor vehicle amendment (**HB 2056**). Extensive discussion followed on both bills and Teresa Sittenhauer with the Funeral Directors Association answered committee members questions. Consensus was to revisit **HB 2056** at a later date. No action taken on either bill at this time.

HB 2422 - Transfer of real property on death of owner; relating to an heir who files a notification of interest in title.

Conferee Haley testified before committee in support of **HB 2422**, a bill he introduced which is primarily Wyandotte County specific. He briefed committee members on the history of the bill, stated what the bill allows, how it works and why it is needed. He also stated previous objections to the bill. (attachment 3) Discussion followed. No action was taken at this time.

Senator Emert announced that the committee will meet on Friday, March 21. Senator Schraad announced the logistics of the subcommittee on **HB 2264**.

Meeting adjourned by the chair at 10:50 a.m.

The next scheduled meeting is Wednesday, March 20, 1997.

APPOINTMENTS QUESTIONNAIRE

Office of Governor Bill Graves

Please complete and return this form to the Governor's Appointments Office. Attach additional sheets if necessary.

Name: Devon F. Knoll

Home Address: 7612 Hilldale Road South

City, State, Zip: Ozawie, Kansas 66070

Business Address: N/A

City, State, Zip: N/A

Home Phone: 913-484-2689 Business Phone: N/A

Date of Birth: 6-18-39 Place of Birth: Zurich, Kans

Party Affiliation: Democrat KBI Check: NA In Process Complete

Appointed as: Public member of Board of Indigents' Defense Services

Appointment Date: 2/1/97 Expiration Date: 1/15/00

Term Length: 3 years Statutory Authority: KSA 22-4519

Salary: N/A Predecessor: Harry Perry

Statutory Requirements: none

BACKGROUND

1. List high school, college, or other education institutions attended along with the date attended and degree conferred.

Education Institution	Dates	Degree
<u>VICTORIA HI</u>	<u>1953-1957</u>	<u>Reg.</u>
<u>Ft Hays St</u>	<u>1957-1964</u>	<u>BA</u>
<u>KU</u>	<u>1981</u>	<u>MPA</u>
<u>Wich St</u>	<u>1984</u>	<u>MAJ</u>

2. List memberships in business, trade and professional organizations for the past 10 years.

Organization	Dates
<u>KCA</u>	<u>1984-1994</u>

Senate Judiciary
attachment 1
3-19-97

3. List any public offices you have been elected or appointed to, along with the dates of service.

Office Held	Dates
MEMBER D9 CO COMMUNITY CORRECTIONS BOARD	1992-PRESENT

4. List any positions held with a foreign, federal or local government entity along with the dates of service.

Position	Government Entity	Dates
SOCIAL WORKER	ALLEN CO Bd	1964-1965
PAROLE AGENT/ADMIN.	Ks Dept CORRECTIONS	1965-1994

5. List any lobbying activities you have been involved in during the past five years. This includes activities as a registered lobbyist activities for which you were compensated.

Group	Compensation (yes/no)	Dates
NONE		

6. List experience or interest which qualify you for the position to which you have been appointed.

I have enjoyed WORKING WITH MANY
Public Defenders, AGENCIES & GOVERNMENT
UNITS IN MY CORRECTIONS CAREER.

7. Summarize business and professional experience.

32 YEARS IN CRIMINAL JUSTICE
SYSTEM WORKING WITH CLIENTS,
local & state officials. Two MA degrees.

8. List any service in the United State military. Include dates of service, branch, date and type of discharge.

<i>Branch</i>	<i>Discharge</i>	<i>Dates</i>
<u>NONE</u>		

9. Provide details of any arrest, charge or questioning by a federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance (excluding traffic violations for which a fine of !00 or less was imposed).

NONE

10. List and provide details of any interests that may present a conflict of interest for this position.

NONE

I, Devon F Knoll, declare that this questionnaire is true, correct and complete to the best of my knowledge.

Devon F Knoll
Signature

2-18-97
Date

Return completed questionnaire to Judy Krueger, Secretary of Appointments, State Capitol, Rm 226-S, Topeka, Kansas 66612.
If you have questions, please call 913/296-4052.



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT
STATEMENT OF SUBSTANTIAL INTERESTS FOR INDIVIDUALS WHOSE
APPOINTMENT TO STATE OFFICE IS SUBJECT TO SENATE CONFIRMATION

INSTRUCTIONS. This statement (pages 1 through 4) must be completed by each person whose appointment to a state position is subject to Senate confirmation (K.S.A. 46-247 and 46-248). Failure to complete and return this statement may result in a fine of \$10 per day for each day it remains unfiled. Also, any individual who intentionally fails to file as required by law, or intentionally files a false statement, is subject to prosecution for a class B misdemeanor.

Please read the "Guide" and "Definition" section provided with this form for additional assistance in completing sections "C" through "G". If you have questions or wish assistance, please contact the Commission office at 109 West 9th, Topeka, KS or call 913-296-4219.

A. IDENTIFICATION:

PLEASE TYPE OR PRINT

KWOLL DEVON F

Last Name

First Name

MI

KWOLL JANICE K

Spouse's Name

7612 HILDALE RD S

Number & Street Name, Apartment Number, Rural Route, or P.O. Box Number

OZARKIE KS 66070

City, State, Zip Code

913 ** 484 ** 2689

Home Phone Number

** **

Business Phone Number

B. APPOINTED POSITION SUBJECT TO SENATE CONFIRMATION:

PUBLIC MEMBER

List Name of Agency, Commission or Board

BOARD OF INDIGENTS DEFENSE

Position

* The last four digits of your social security number will aid in identifying you from others with the same name on the computer list. This information is optional.

* 7574

C. **OWNERSHIP INTERESTS:** List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for income in, which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.
 If you have nothing to report in Section "C", check here ____.

BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	HELD BY WHOM	PERCENT OF OWNERSHIP INTERESTS
1. AETNA FINANCIAL SERVICES	MUTUAL FUNDS		<input type="checkbox"/> You <input type="checkbox"/> Spouse <input checked="" type="checkbox"/> Jointly	
2.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
3.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
4.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
5.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
6.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
7.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	

D. **GIFTS OR HONORARIA:** List any person or business from whom you or your spouse either individually or collectively, have received gifts or honoraria having an aggregate value of \$500 or more in the preceding 12 months.
 If you have nothing to report in Section "D", check here ____.

NAME OF PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY:
1. AUNT ANNA KNOLL	BEACH PARK ILL	DEVON
2.		
3.		

E. RECEIPT OF COMPENSATION: List all places of employment in the last calendar year, and any other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered, or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR. IF SAME AS SECTION "B", CHECK HERE ____.
 If you have nothing to report in Section "E"1, check here ____.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	KPERS	Topeka Ks	PENSION
2.			

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.
 If you have nothing to report in Section "E"2, check here ____.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	SRS	Topeka Ks	State
2.	SRS	Topeka Ks	FOSTER PARENT

F. OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS: List any organization or business in which you or your spouse hold a position of officer, director, associate, partner or proprietor at the time of filing, irrespective of the amount of compensation received for holding such position. Please insert additional page if necessary to complete this section.
 If you have nothing to report in Section "F", check here .

	BUSINESS NAME AND ADDRESS	POSITION HELD	HELD BY WHOM
1.			
2.			
3.			
4.			
5.			

G. **RECEIPT OF FEES AND COMMISSIONS:** List each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "G", check here ____.

	NAME OF CLIENT / CUSTOMER	ADDRESS	RECEIVED BY
1.	Aetna FINANCIAL SERVICES	Topeka KS	Janice & Devon
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			

H. **DECLARATION:**

I, Devon F Knoll, declare that this statement of substantial interests (including any accompanying pages and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

2-18-97
Date

Devon F Knoll
Signature of Person Making Statement

NUMBER OF ADDITIONAL PAGES ____.

Return your completed statement to the Secretary of State, State House, Topeka, Kansas 66612.

Devon F. Knoll
7612 Hilldale Road South
Ozawkie, Kansas 66070
Residence: 913-484-2689

OBJECTIVE: At age 55, I will be retiring from government service 8-18-94 on a pension plan and interested in full or part-time employment. I enjoy good health and would like to continue to learn and develop an employment career.

EDUCATION: Wichita State University, Wichita, Kansas. Masters degree in Administration of Justice in 1984. MAJ

University of Kansas, Lawrence, Kansas. Masters degree in Public Administration in 1981. MPA

Fort Hays State, Hays, Kansas. Undergraduate degree in Political Science/Social Studies in 1964. AB

Washburn University and Kansas Department of Corrections. Supervision Practices.

EMPLOYMENT: Kansas Department of Corrections, Topeka, Kansas. Parole Agent/Supervisor 1980-1994. Supervision and investigation of parole clients and some field office administrative functions.

Board of Parole (KAA), Topeka, Kansas. Administrative Director of Parole Board and field staff 1973-1980.

Board of Parole. Interstate Compact Supervisor. Administrative responsibility for the transfer of probation and parole cases from Kansas to other states and cases transferring to Kansas. Supervisor of office staff.

Board of Parole. Parole Agent. Investigation and supervision of cases in Shawnee County, Kansas, 1965-1973.

Board of Social Welfare (SRS), Allen County, Kansas 1964-1965. Financial and social services to eligible clients.

Prior to state service, applicant was employed in the operations of grain elevators, service stations, farming, retail sales, oil fields.

ACTIVITIES AND HONORS: Church activities, Member of the Committee with Douglas County Community Corrections, Honor student in Masters degree programs. 1990 Corrections employee of the year, Family of four and a foster parent.

References are available on request.

SJ 3/19 att#



Legislative Testimony

KANSAS BAR ASSOCIATION

1200 SW Harrison St.
P.O. Box 1037
Topeka, Kansas 66601-1037
Telephone (913) 234-5696
FAX (913) 234-3813
Email: ksbar@ink.org

TO: Members, Senate Judiciary Committee
FROM: Ron Smith, KBA General Counsel
SUBJ: HB 2308
DATE: March 19, 1997

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In 1990, Congress enacted what it termed "estate freeze" provisions in the Internal Revenue Code. Generally, these provisions are designed to restrict the ability of estate planners to utilize certain types of irrevocable trusts and other sophisticated estate planning techniques. Prior to 1990, these techniques had permitted individuals to retain an interest in property while at the same time transferring other interests in such property to family members without the transfer or the growth in value of the property to be fully subject to the federal gift or estate tax.

One provision, Section 2704 of the IRC, permits the IRS for valuation purposes to disregard restrictions on liquidation in business entities if the restriction is more restrictive than the default provisions under applicable state law.

Example: if a partner had a liquidation right which expired at the partner's death, the IRS could ignore that lapse. Consequently, the partnership interest would be valued for estate tax purpose at death as if the interest was liquidated, e.g. at full value. Had the restrictions in the business entity been imposed the value of the partnership interest would be less.

Sometimes LLCs and LP are used to create lawful estate planning devices. Under current LLC and LP laws, the IRS tries to argue that these statutes allow liquidation and thus the value the IRS will place on the withdrawal event would be higher than the value for estate purposes. If so, the use of these estate planning entities to achieve lawful valuation reductions for minority ownership interests would be severely compromised and the estate would pay higher estate taxes than is appropriate.

The proposed statutory changes in HB 2308 make the default provisions in current Kansas law regarding LLCs and limited partnerships so that members of LLCs and LP partners do not have the right to liquidate their partnership interest. *It has no retroactive effect on existing LLCs or LPs.* Many other states are going in this direction on the right of withdrawal from LLCs and LPs.

The inclusion of this default provision would have no adverse affect on anyone wishing to permit a partner or member to unilaterally withdraw from LLCs or LPs that are created for non-estate planning purposes. Other instruments in the business can cover the conditions under which someone can withdraw, and that is the usual situation when the LLC or LP is used for business purposes instead of estate planning. The statutes that are amended in HB 2308 are "default" statutes, that cover situations if they are not separately covered in the business entity documents themselves. Most LLCs and LPs are not created for estate planning purposes, and they normally include provisions precluding automatic unilateral withdrawal rights during the term of the limited partnership or the LLC.

KBA urges passage of HB 2308. Thank you.

*Senate Judiciary
Attachment 2*

3-19-97

S.J. 3/19/97 att # 3

STATE OF KANSAS

OFFICE
STATE CAPITOL BUILDING
ROOM 284-W
TOPEKA, KANSAS 66612-1504
(913) 296-7665
1-800-432-3924



DISTRICT
CIVIC CENTER STATION
POST OFFICE BOX 171110
KANSAS CITY, KANSAS 66117
(913) 321-3210
(913) 321-3110/FAX

THE CAPITOL

HOUSE OF
REPRESENTATIVES

DAVID B. HALEY
DISTRICT 34

HB2422:

GREETINGS

INTRODUCTION

• Legislative History (KS)

The content of HB2422 was debated at length during the '95 session and amended on to two separate Senate Bills from the House Floor. After careful revision, this measure this session has met with bi-partisan support, passing without objection, out of Judiciary and, of course, from House Committee as a whole.

THE BILL

• What it allows

This bill will enable any relative, by blood or marriage, to maintain real property (specifically located in Wyandotte County and valued, by the County Appraiser, at \$15,000 or less) of a deceased family member without penalty of trespass and with a goal towards ownership of said property.

• How it works

When the relative dies interstate (without a valid will), the interested party must file a declaration (see form in HB2422) with the Register of Deeds in Wyandotte County. From that filing date, and for at least three years, the interested party must pay any outstanding liens/mortgages/taxes or other debts against the property and respond to any civil action by a municipality brought against the property. After three years (just as current law provides in a judicial or "sheriff's" sale) the notifying party can apply for a deed to the property from Wyandotte County. However, if another relative emerges within the statutory period of time with a claim to the title, both parties may resolve the matter in Probate Court with no prejudice to either, with a right to an accounting and set off by the original party.

COMMITTEE ASSIGNMENTS
GOVERNMENTAL ORGANIZATIONS & ELECTIONS
HEALTH & HUMAN SERVICES
JUDICIARY

*Senate Judiciary
Attachment 3
3-19-97*

- Why it is needed
Blighted, abandoned properties abound in several House and a few Senate Districts in Wyandotte County. Where the value of the properties are minimal, there currently exists little incentive for an otherwise responsible entity to take on the challenge maintaining a family home especially in the face of expensive legal (probate) proceedings. The result is waste and decay. The larger result is neighborhood and community deterioration.

PREVIOUS OBJECTIONS

- Title Insurers; Overly Optimistic Attorneys
Several concerns raised in '95 caused revisions including lowering the appraised value from \$30,000 to \$15,000; extending the "care period" from one to three years and drafting the attached form which conforms to every aspect of current Kansas law. Title insurers do not like non-probate transfers of real estate including judicial sales. Probate lawyers would recognize no fiscal loss. People simply are not hiring them to go to probate court on these matters.
- Amendment (s)
None in House Judiciary on the House Floor. If this Committee desires, I would not oppose a minimum 5 year moratorium ("sunset") but prefer to see the bill pass favorably from this Committee and the full Senate as it did in the House.

CLOSING/QUESTIONS?