

Approved: 3-25-98
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 3:30 p.m. on February 19, 1998 in Room 313--S of the Capitol.

All members were present except: Representative Adkins (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Jill Wolters, Revisor of Statutes
Jan Brasher, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

The Chair called the meeting to order and stated that written testimony on HB 2606 from LewJene Schneider, Director of Research and Legal Affairs had been placed into the Committee members' folders. (Attachment 1)

The Chair referred to Representative Powell for the Criminal Law Subcommittee report.

HB 2744 Fleeing or attempting to elude a police officer in a willful manner with disregard for the safety of others, severity level 9, person felony.

HB 2563 Fleeing or eluding police officer; penalty

Representative Powell reported that there were some parts of SB 2744 that the Subcommittee members liked and that the Subcommittee's report amends certain provisions of HB 2563 into HB 2744. Representative Powell stated that the additional language on the balloon was requested by Representative Shriver. The language would amend the bill by requiring that the division of vehicles shall promote public awareness of the provisions of this bill when persons apply for or renew such person's driver's license. (Attachment 2)

A motion was made by Representative Powell, second by Representative Howell to adopt the subcommittee report. The motion carries.

The Committee members discussed issues concerning the level 9 severity level and the definition and conditions contained in Section 1 (d). The Committee members and staff reviewed the reckless driving statute. The Committee members discussed several situations which will or will not apply if this bill is passed.

A motion was made by Representative Wilk, second by Representative Mays to recommend HB 2744 for passage as amended. The motion carries.

HB 2726 Cigarette or tobacco products; infractions, classifications and trials; records of sales; criminal offenses; civil penalties; juveniles

Representative Powell discussed the Subcommittee's amendments to HB 2726. (Attachment 3)

Representative Powell made a motion, second by Representative Shriver to adopt the Subcommittee report. The motion carries.

The Committee members discussed the floor amendment made last session to SB 87 and the Governor's reason for vetoing that bill.

A motion was made by Representative Powell, second by Representative Gilmore to recommend HB 2726 favorably as amended for passage. The motion carries.

HB 2625 Liability of parents of children who shoplift

Representative Powell reported that the Subcommittee amended HB 2625 by including a provision stating that Subsection (b) shall only apply to unemancipated minor who has been adjudicated a juvenile offender pursuant to the Kansas juvenile justice code for such shoplifting. Representative Powell stated that the amendment was made so that a factual determination would be made, before action against the parents could

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 3:30 p.m. on February 19, 1998.

be taken. The second change made by the Subcommittee was requested by the insurance industry and would make a claim or judgment under the provision of this bill not an obligation or liability against any insurer or third-party payor. (Attachment 4)

Discussion by Committee members regarding the purpose and intent of the proposed changes followed.

A motion was made by Representative Powell, second by Representative Gilmore to adopt the subcommittee report. The motion carries.

The Committee members discussed whether under the provisions of this bill, there could be double reimbursement for damages by the juvenile and by the parents. The Committee members discussed the policy issue of creating a degree of liability on the parents that does not exist now.

Representative Swenson suggested that a bill by Representative Klein, HB 2717 be amended into HB 2625.

The Chair requested that Representative Klein's amendment be considered after the completion of discussion on HB 2625.

The Committee discussed the content of the balloon offered by the Subcommittee on page one.

Representative Mays made a motion to remove the balloon on page one Representative Powell second the motion. The motion fails.

Representative Garner suggested that language be added to include diversion; "or placed on diversion" after the word adjudicated in the balloon on page one. The Chair stated that Representative Garner's suggestion would make it necessary that the juvenile was either adjudicated or placed on diversion as a pre-condition for bringing a civil suit against the parents.

A motion was made by Representative Garner, second by Representative Mays to insert the language, "or placed on diversion" after the word "adjudicated" in the balloon on page one. The motion carries.

The Committee members discussed a recommendation made in Subcommittee to remove the guardian language in the bill.

A motion was made by Representative Mays, second by Representative Powell, to take out the liability of the guardians in this bill. The motion carries.

Representative Swenson made a motion, second by Representative Klein to amend balloon version of HB 2717 into HB 2625.

After extensive discussion on HB 2717, the Chair ruled the motion out of order.

The committee members discussed provisions in HB 2625 concerning the intent to shoplift.

Representative Haley made a motion to strike language on page 2, lines 23 through 29. No second. The motion fails.

Representative Haley discussed placing a conceptual provision for amortizing the amount of damages.

Representative Kirk made a motion, second by Representative Garner that would conceptually restrict a merchants right to sue the parents for damages if restitution was made by the juvenile. The motion carries with a vote of nine to eight.

Representative Presta made a motion to remove the balloon amendment as amended (on page one) and return the bill to its original form. Representative Powell second the motion. The motion carries ten to eight.

A motion was made by Representative Klein to strike subsection (c) removing lines 29 and 30 on page one of the bill, thereby, terminating the merchant's right to assign a claim. Representative Garner second the motion.

Substitute motion was made by Representative Powell, second by Representative Wilk to pass HB 2625 as amended. The substitute motion carries.

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HB 2233 **Allowing counties and cities to establish a detention facilities processing fee.**

Representative Powell stated that this issue was brought forward by the Sheriff of Sedgwick County to remedy a situation that occurs in many counties. This bill concerns the cost of processing detainees and ways to offset that cost. This bill would allow counties and cities the option to assess the defendant for the cost of that processing, thus putting the cost on the defendant incurring that cost instead of on the taxpayers. (Attachment 5)

Representative Powell reported that the only amendments made were technical and one to change the fee amount.

Representative Powell made a motion, second by Representative Dahl to adopt the Subcommittee report. The motion carries.

Representative Powell made a motion, second by Representative Dahl to recommend HB 2233 favorably for passage as amended. The motion carries.

SB 269 **Collection of fingerprints and criminal history for persons applying for admission to practice law.**

Representative Powell stated that the subcommittee reports this bill favorably without amendments. This bill would provide for the fingerprinting and criminal history background check for persons who seek admission to the bar, particularly out of state applicants who might have a criminal history.

The committee members discussed reasons for supporting and reasons for not supporting the bill.

Representative Powell stated that this bill was drafted to prevent those from out of state with criminal histories to be admitted to the bar, as well as, deter the practice of someone taking the exam for another person. Representative Powell stated along with other members of the committee stated that attorneys often have fiduciary responsibilities and that the public should be protected from those who have a criminal history. Some of the Committee members voiced objections to this bill because it would set a precedent for fingerprinting other groups.

Representative Garner distributed an amendment to SB 269 that would add the language in Section one, "if reasonable suspicion exists to warrant the fingerprinting" The amendment would also add a new subsection (c) regarding what information can be requested and setting a time limit for keeping of that information. (Attachment 6)

Representative Garner made a motion to adopt the balloon language concerning reasonable suspicion in section one. Representative Pauls second the motion. The motion carries with a vote of twelve to five.

Representative Garner made a motion to adopt the balloon language adding a new subsection (c) in Section one (1). The motion carries.

Representative Krehbiel made a motion, second by Representative Swenson to report the amended SB 269 unfavorably.

Representative Mays made a motion, second by Representative Wilk to table SB 269 as amended. The motion carries.

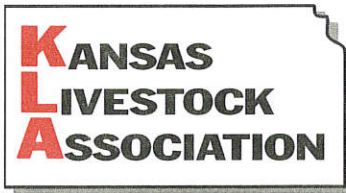
HB 2711 **Sentencing; offender's criminal history classification to include prior violations of municipal ordinances and county resolutions.**

Representative Powell stated that Representative Shultz was one of the many sponsor's of this bill. Representative Powell explained the background and purpose for drafting HB 2711.

Representative Powell made a motion to recommend HB 2711 favorably for passage. Representative Shriver second the motion. The motion carries.

The Chair discussed the Committee's agenda for the upcoming week. The Chair adjourned the meeting at 5:35 p.m

The next meeting is scheduled for February 23, 1998.



Since 1894

Testimony

presented by

LewJene Schneider,
Director of Research and Legal Affairs

regarding

House Bill 2606

before the

House Judiciary Committee

February 9, 1998

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 7,300 members on legislative and regulatory issues. KLA members are involved in all segments of the livestock industry, including cow-calf, feedlot, seedstock, swine, dairy and sheep. In 1996 cash receipts from agriculture products totaled over \$7.5 billion, with sixty percent of that coming from the sale of livestock. Cattle represent the largest share of cash receipts, representing ninety percent of the livestock and poultry marketings.

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Attachment 1*

Chairperson Carmody and members of the House Judiciary Committee, thank you for the opportunity to testify today. My name is LewJene Schneider. I am the Director of Research and Legal Affairs for the Kansas Livestock Association.

KLA urges you vote against House Bill 2606. We are not convinced anything is broken, so why fix it? Additionally, as an attorney I know the challenge in educating attorneys regarding changes in the law. I believe educating the general public, who has been using and relying on statutory liens for years, would be difficult at best. My concern is for those who are unaware of the law's change and are left with no remedy.

I might also share with the Committee that I know of no agricultural or livestock groups who were asked to participate or work with the Kansas Judicial Council's Civil Code Advisory Committee proposing the legislation. I would ask they allow KLA to be part of any additional meetings and recommendations.

The proposed legislation would change the filing of statutory or common-law liens that attach to goods for services and materials provided by a person in the ordinary course of her business that have priority over competing security interest (even prior perfected ones), K.S.A. 84-9-310. This exception is justified because the lienholder's services add to or maintain the collateral's value. A common example of such a statutory lien is the mechanic's lien that arises when a person repairs or improves equipment, vehicles, or other personal property.

Most of these liens take priority over even previously perfected security interests under the U.C.C. Even though the priority would not change, I am concerned KLA members could lose their priority due to the change in the law and filing procedure. It also appears to be additionally burdensome and more costly. It is not clear where the lien will be filed. Currently, many of our members file their own liens, without the assistance of legal counsel.

Many state legislatures created statutory liens to give special protection to individuals and economic groups involved in the production or financing of agriculture products. Statutory liens are not consensual and do not depend upon judicial action by the creditor. A lien can be imposed unilaterally by the mechanic or artisan upon the furnishing of services or material at the request or with the consent of the owner of the personal property. A security interest, on the other hand, must be specifically created by the owner of the property to repay a present or future debt.

While the distinction may seem minor, the imposition of a lien involves different formalities and procedures than a security interest. The interaction with the U.C.C. is such that some of the statutory liens take priority over a competing security interest in the same collateral while others do not.

Kansas provides for a number of liens for agriculture--livery keepers, threshers, veterinarians, and agisters who care for animals and harvest crops. Generally a lien perfected under the various provisions of K.S.A. 58-201, et seq., permits a supplier of feed, labor, medicine or pasture and a harvester of crops to unilaterally impose a lien on farm products to secure payment for the services or feed provided.

K.S.A. 58-207 provides that those engaged in the feeding of livestock have a lien upon the livestock for the feed and care provided. The lien is possessory only and there is no provision for filing a lien statement. Perfection is possession. This bill would require filing of a form at either the office of the register of deeds or secretary of state--or worse yet, both.

An agister's lien is perfected by possession or by filing a lien statement. The lien statement must be verified, but no specific form or contents are required by statute. By analogy to other lien statements, an agister's lien statement should set out: name of the owner of livestock; a description of and the number of the livestock; a description of the location of the leased pasture; the unpaid rent amount provided in the lease; the date(s) of the lease; and the name of the claimant.

Credit plays a large role in agricultural operations. Credit is essential to America's business world and very important in agricultural operations, even non-real estate farm debt. If a debtor fails to pay for goods purchased on credit, the unsecured creditor must file a lawsuit against the debtor, obtain a civil judgment and collect the judgment by seizing and selling non-exempt property. This is a slow, expensive, and inefficient process. The secured creditor, however, contracts for an interest in specific property of the debtor and can often obtain the collateral without the expense of a lawsuit.

An interesting recent case, not from Kansas, involved a claim of a security interest in embryos that were arguably subject to a prior security interest claimed by a bank. The court granted the entity in possession of the embryos a common-law artisan's lien that was superior to the bank's lien, even though it had earlier ruled that the bank had superior priority in order to allow the farmer to get operational financing during the bankruptcy. The court's rationale was that to hold otherwise would be "fundamentally unfair." *Matter of Stookey Holsteins Inc.*, 112 Bankr. 942 (Bankr. N.D. Ind. 1990)

I understand the intent of the Council was to establish a uniform means of creating all liens, but to whose advantage--urban attorneys? It also allows up to 90 days for filing. Time does not appear to have been a problem, unless the cattle are in the meat by then.

I am concerned time will be a problem when a pen of cattle are sold out of a feed yard Friday afternoon about 4:30 p.m., and must be delivered to the packing plant by Monday morning at 7 a.m. Pursuant to Federal Law, the packing plant must have payment to the customer by the close of Tuesday, which is interpreted to mean 5 p.m. Just when will there be time to file the correct form at the correct place, yet to be determined, to perfect the statutory lien? Furthermore, if the customer receives the check by 5 p.m. on Tuesday, he could be on his way to the Bahamas while the feed yard has a feed bill for many thousands of dollars and has 90 days to file.

KLA does not believe this legislation is in the best interest of its members. It appears cumbersome and burdensome. Again, KLA would urge you to vote against House Bill 2606. I will be happy to answer questions. Thank you for your time and consideration.

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Attachment 2

HOUSE BILL No. 2744

By Representative Huff

1-29

9 AN ACT concerning crimes and punishment; relating to fleeing or elud-
10 ing a police officer; amending K.S.A. 1997 Supp. 8-1568 and repealing
11 the existing section.
12

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

14 Section 1. K.S.A. 1997 Supp. 8-1568 is hereby amended to read as
15 follows: 8-1568. (a) Any driver of a motor vehicle who willfully fails or
16 refuses to bring such driver's vehicle to a stop, or who otherwise flees or
17 attempts to elude a pursuing police vehicle or police bicycle, when given
18 visual or audible signal to bring the vehicle to a stop, shall be guilty as
19 provided by subsection (b) ~~or (c)~~. The signal given by the police officer
20 may be by hand, voice, emergency light or siren. The officer giving such
21 signal shall be in uniform, prominently displaying such officer's badge of
22 office, and the officer's vehicle or bicycle shall be appropriately marked
23 showing it to be an official police vehicle or police bicycle.

24 (b) (1) Every person convicted of violating subsection (a), upon a first
25 conviction, shall be guilty of a class B nonperson misdemeanor.

26 (2) Every person convicted of violating subsection (a), upon a second
27 conviction of such subsection, shall be guilty of a class A nonperson mis-
28 demeanor.

29 (3) Every person convicted of violating subsection (a), upon a third
30 or subsequent conviction of such subsection, shall be guilty of a severity
31 level 9, person felony.

32 ~~(4) (c) Any driver of a motor vehicle who flees or attempts to elude a~~
33 ~~pursuing police officer in violation of subsection (a) and the pursued mo-~~
34 ~~tor vehicle is driven in a willful and wanton disregard for the safety of~~
35 ~~persons or property, the person driving the motor vehicle, upon conviction~~
36 ~~shall be guilty of a severity level 9, person felony. For purposes of this~~
37 ~~subsection, a willful or wanton disregard for the safety of persons or prop-~~
38 ~~erty includes, but is not limited to, driving while fleeing or attempting to~~
39 ~~elude a pursuing police officer during which time either three or more~~
40 ~~traffic infractions occur, or damage to property occurs.]~~

41 (d) For the purpose of this section "conviction" means a final con-
42 viction without regard whether sentence was suspended or probation
43 granted after such conviction. Forfeiture of bail, bond or collateral de-

or violating subsection (c)

who violates the provision of subsection (a)
and who:

(1) Commits any of the following during
police pursuit: (A) Exceeds posted speed limit
by more than 20 miles per hour; (B) fails to
stop for a police roadblock; (C) drives around
tire deflating devices placed by police
officer; (D) engages in reckless driving as
defined by K.S.A. 8-1566, and amendments
thereto; (E) is involved in any motor vehicle
accident or causes any intentional property
damage; or (F) commits three or more traffic
infractions; or

(2) is attempting to elude capture for the
commission of any felony, shall be guilty as
provided in subsection (b)(3).

1 posited to secure a defendant's appearance in court, which forfeiture has
2 not been vacated, shall be equivalent to a conviction.

3 ~~Sec. 2. K.S.A. 1997 Supp. 8-1568 is hereby repealed.~~

4 Sec. 3. This act shall take effect and be in force from and after its
5 publication in the statute book.

(e) The division of vehicles of the department of revenue shall promote public awareness of the provisions of this section when persons apply for or renew such person's driver's license.

2-2

#3

HOUSE BILL No. 2726

By Committee on Judiciary

1-27

9 AN ACT concerning cigarettes and tobacco products; relating to cigarette
10 or tobacco infractions; penalties therefor; certain records of sales;
11 amending K.S.A. 79-3316, 79-3322, 79-3391 and 79-3393 and K.S.A.
12 1997 Supp. 12-4214, 12-4305, 21-3105, 21-4503a, 22-3404, 22-3409,
13 22-3412 and 22-3609a and repealing the existing sections.

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

15 Section 1. K.S.A. 1997 Supp. 12-4214 is hereby amended to read as
16 follows: 12-4214. (a) *Except as provided further*, when a person is charged
17 with an ordinance traffic infraction or an ordinance cigarette or tobacco
18 infraction, the notice to appear shall provide a place where the person
19 may make a written entry of appearance, waive the right to a trial and
20 plead guilty or no contest. The notice to appear shall provide a space in
21 which the law enforcement officer, except as provided in subsection (b),
22 shall enter the appropriate fine specified in the fine schedule established
23 by the municipal judge in accordance with K.S.A. 12-4305 and amend-
24 ments thereto, in the case of a traffic infraction, or a fine of \$25 as es-
25 tablished in subsection (d), in the case of an ordinance cigarette or tobacco
26 infraction. Either the notice to appear or a separate form provided to the
27 person by the law enforcement officer shall provide an explanation: (1)
28 Of the person's right to appear and right to trial and the person's right to
29 pay the appropriate fine prior to the appearance date; (2) that failure to
30 either pay such fine or appear at the specified time may result in issuance
31 of a warrant for the person's arrest; and (3) in the case of a traffic infrac-
32 tion, that failure to either pay such fine or appear at the specified time
33 may result in the suspension of the person's driver's license. The law
34 enforcement officer shall provide the person with the telephone number
35 and address of the municipal court to which the written entry of appear-
36 ance, waiver of trial, plea of guilty or no contest and payment of fine shall
37 be mailed.

38
39 (b) In lieu of the law enforcement officer entering the appropriate
40 fine for an ordinance traffic infraction, the officer may direct the person
41 charged with an ordinance traffic infraction to contact the clerk of the
municipal court to determine the applicable fine or provide the person
with a copy of the fine schedule established by the municipal judge in

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declaration, conforming to K.S.A. 53-601 and amendments thereto, that the person was 18 or more years of age.

3 (4) ~~Notwithstanding any other provision of law to the contrary,~~ for
4 purposes of this subsection the person who violates this subsection shall
5 be the individual directly selling, furnishing or distributing the cigarettes
6 or tobacco products to any person under 18 years of age ~~and the licensed~~
7 ~~retail dealer shall not have violated this subsection unless such dealer was~~
8 ~~the person directly selling, furnishing or distributing such cigarettes or~~
9 ~~tobacco products or had actual knowledge of such selling, furnishing or~~
10 ~~distributing by such dealer's employee.~~

or the retail dealer who has

11 (c) Violation of subsection (m) or (n) of K.S.A. 79-3321 and amend-
12 ments thereto is a cigarette or tobacco infraction for which the fine is \$25
13 for a first conviction, \$50 for a second conviction and \$150 for a third or
14 subsequent conviction. In addition, the judge may require the juvenile to
15 appear in court with a parent or legal guardian and further may require
16 the juvenile to complete, at the juvenile's own expense, an educational
17 program, which shall consist of a minimum of two hours, focusing on the
18 dangers associated with the use of cigarettes or tobacco products.

individual or both

19 (d) Any agent, employees or others who aid, abet or otherwise partici-
20 pate in any way in the violation of this act or in any of the offenses
21 hereunder punishable shall be guilty and punished as principals to the
22 same extent as any person violating this act.

23 Sec. 11. K.S.A. 79-3391 is hereby amended to read as follows: 79-
24 3391. (a) In addition to or in lieu of any other civil or criminal penalty
25 provided by law, the secretary of revenue or the secretary's designee,
26 upon a finding that a licensee under this act has violated any provision of
27 this act or any provision of any rule and regulation of the secretary of
28 revenue adopted pursuant to this act shall impose on such licensee a civil
29 fine not exceeding \$1,000 for each violation.

30 (b) It shall be unlawful for any person, directly or indirectly, to: (1)
31 Sell, give or furnish any cigarettes or tobacco products to any person
32 under 18 years of age; or (2) buy any cigarettes or tobacco products for
33 any person under 18 years of age. In determining the fine to be imposed
34 under this section for a violation of subsection (b) of K.S.A. 79-3323 and
35 amendments thereto by a licensed retail dealer whose employee sold,
36 furnished or distributed the cigarettes or tobacco products, the secretary
37 of revenue or the secretary's designee shall consider it to be a mitigating
38 circumstance if the employee had completed a training program, ap-
39 proved by the secretary of revenue or the secretary's designee, in avoiding
40 sale, furnishing or distributing of cigarettes and tobacco products to per-
41 sons under 18 years of age.

42 (b)(c) No fine shall be imposed pursuant to this section except upon
43 the written order of the secretary of revenue or the secretary's designee

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2-19-98
Attachment 4

HOUSE BILL No. 2625

By Committee on Judiciary

1-15

9 AN ACT concerning civil procedure; relating to civil penalties against
10 shoplifters; amending K.S.A. 60-3331 and repealing the existing
11 section.

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

13 Section 1. K.S.A. 60-3331 is hereby amended to read as follows:
14 60-3331. (a) Except as otherwise provided, a merchant may file a civil
15 action to receive a civil penalty against any adult or emancipated minor
16 who shoplifts from that merchant. If the merchant does not recover the
17 merchandise in merchantable condition, the merchant shall be entitled
18 to a civil penalty for an amount equal to twice the retail cost of the mer-
19 chandise, or \$50, whichever is greater, but in no case shall such civil
20 penalty be more than \$500. If the merchant recovers the merchandise in
21 merchantable condition, the merchant shall be entitled to a civil penalty
22 of \$50 or 50% of the retail cost of the merchandise, whichever is greater,
23 but in no case shall such civil penalty be more than \$350.

24 (b) *If an unemancipated minor shoplifts, the parent or guardian of*
25 *such minor shall be civilly liable in an amount of the civil penalty as*
26 *prescribed in subsection (a), except that the provisions of this subsection*
27 *shall not apply in cases where the guardian is a state agency.*

28 (c) *A merchant may assign a claim arising under subsection (a) or*
29 *(b).*

30 (d) Unless the action is brought pursuant to the Kansas small claims
31 act and a final judgment is rendered in small claims court, the prevailing
32 party in such action brought pursuant to this section shall be entitled to
33 reasonable attorney fees and costs. If the action is brought in small claims
34 court and the judgment is appealed to district court pursuant to chapter
35 60 of the Kansas Statutes Annotated or K.S.A. 61-2709 and amendments
36 thereto, the prevailing party on appeal shall be entitled to reasonable
37 attorney fees and costs.

38 (e) (e) A conviction or a plea of guilty to the offense of theft of the
39 merchandise is not a prerequisite to the filing of a civil action under this
40 section.

41 (f) (f) Prior to filing a civil action under this section, a merchant
42 damaged by shoplifting may demand that an individual alleged to be civilly
43

Strike guardian
when family refuses

The provisions of this subsection shall only apply to an unemancipated minor who has been adjudicated a juvenile offender pursuant to the Kansas juvenile justice code for such shoplifting.

or placed on diversion

1 liable under this act reimburse such merchant in an amount of the civil
 2 penalty as prescribed in subsection (a). Such demand, if made, shall be
 3 in writing and may be offered in consideration for the merchant's agree-
 4 ment not to commence a civil action under this section. Such demand
 5 shall not contain a threat of criminal prosecution against such individual.
 6 Any merchant who makes a demand with a threat of criminal prosecution
 7 against such individual shall be precluded from filing a civil action under
 8 this section and pursuing any other remedy at law or equity. A demand
 9 pursuant to this subsection is not a prerequisite to filing a civil action
 10 under this section, but no demand may be made which does not comply
 11 with this subsection.

12 (e) (g) Nothing contained in this act shall be construed to preclude a
 13 merchant from pursuing any other remedy at law or equity prior to filing
 14 an action under this act.

15 (f) (h) For purposes of this act, "shoplift" means any one or more of
 16 the following acts committed by a person without the consent of the
 17 merchant and with the intent of appropriating merchandise to that per-
 18 son's or another's own use without payment, obtaining merchandise at
 19 less than its stated sales price or otherwise depriving a merchant of all or
 20 any part of the value or use of merchandise:

- 21 (1) Removing any merchandise from the premises of the merchant's
- 22 establishment;
- 23 (2) concealing any merchandise with intent to leave the premises with
- 24 the merchandise;
- 25 (3) substituting, altering, removing or disfiguring any label or price
- 26 tag;
- 27 (4) transferring any merchandise from a container in which that mer-
- 28 chandise is displayed or packaged to any other container; or
- 29 (5) disarming any alarm tag attached to any merchandise.

30 Sec. 2. K.S.A. 60-3331 is hereby repealed.

31 Sec. 3. This act shall take effect and be in force from and after its
 32 publication in the statute book.

(i) A claim or judgment under the provisions of this section shall not constitute an obligation or liability against any insurer or third-party payor. (Suggested by Representative Clark Shultz)

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2-19-98
Attachment 5

Session of 1997

HOUSE BILL No. 2233

By Committee on Judiciary

2-5

9 AN ACT concerning criminal procedure; relating to costs thereof; amend-
10 ing K.S.A. ~~1996~~ Supp. 12-4112 and 28-172d and repealing the existing
11 sections; also repealing K.S.A. ~~1996~~ Supp. 28-172a.

1997

1997

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

14 New Section 1. (a) Any person convicted or diverted, or adjudicated
15 or diverted under a preadjudication program, pursuant to K.S.A. 22-2906
16 *et seq.*, 36-1635 *et seq.*, or 12-4414 *et seq.*, and amendments thereto, of
17 a misdemeanor or felony contained in chapters 8, 21, 41 or 65 of the
18 Kansas Statutes Annotated, and amendments thereto, where fingerprints
19 are required pursuant to K.S.A. 21-2501, and amendments thereto, shall
20 pay a separate court cost ~~as determined by~~ the board of county commis-
21 sioners or by the governing body of a city, where a city operates a deten-
22 tion facility, ~~as a booking or processing fee for each complaint.~~

if

votes to adopt such a fee

23 (b) Such fee shall be in addition to and not in substitution for any
24 and all fines and penalties otherwise provided for by law for such offense.

25 (c) Disbursements of these fees shall be to the general fund of the
26 governing body responsible for the funding of the sheriff, police depart-
27 ment or countywide law enforcement agency that obtains the fingerprints.

28 (d) Such fee shall not exceed ~~the reasonable cost of processing per-
sons into the detention facility as determined by the governing body.~~

\$45

30 Sec. 2. K.S.A. ~~1996~~ Supp. 12-4112 is hereby amended to read as
31 follows: 12-4112. No person shall be assessed costs for the administration
32 of justice in any municipal court case, except for witness fees and mileage
33 as set forth in K.S.A. 12-4411, and amendments thereto; ~~and~~ for the
34 assessment required by K.S.A. ~~1996~~ Supp. 20-1a11, ~~and amendments~~
35 ~~thereto~~; for the judicial branch education fund ~~and~~ for the assessment
36 required by K.S.A. ~~1996~~ Supp. 12-4117 and amendments thereto for the
37 law enforcement training center fund established pursuant to K.S.A. 74-
38 5619 and amendments thereto, the local law enforcement training re-
39 imbursement fund established pursuant to K.S.A. 74-5620, ~~and amend-
40 ments thereto~~, and the juvenile detention facilities fund as provided in
41 K.S.A. ~~1996~~ Supp. 12-4117, ~~and amendments thereto~~; ~~and for the assess-
42 ment required by section 1, and amendments thereto, for the detention
43 facility processing fee.~~

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1 Sec. 3. K.S.A. ~~[1996]~~ Supp. 28-172d is hereby amended to read as
2 follows: 28-172d. (a) Except as otherwise provided in this section, when-
3 ever the prosecuting witness or defendant is adjudged to pay the costs in
4 a criminal proceeding in any county, a docket fee shall be taxed as follows:

5 On and after July 1, 1996:

6 Murder or manslaughter.....	\$164.50
7 Other felony.....	134.50
8 Misdemeanor.....	102.50
9 Forfeited recognizance.....	62.50
10 Appeals from other courts.....	62.50

11 (b) In actions involving the violation of any of the laws of this state
12 regulating traffic on highways (including those listed in subsection (c) of
13 K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infrac-
14 tion, any act declared a crime pursuant to the statutes contained in chap-
15 ter 32 of Kansas Statutes Annotated and amendments thereto or any act
16 declared a crime pursuant to the statutes contained in article 8 of chapter
17 82a of the Kansas Statutes Annotated, and amendments thereto, when-
18 ever the prosecuting witness or defendant is adjudged to pay the costs in
19 the action, a docket fee of \$45. When an action is disposed of under
20 subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. ~~[1996]~~
21 ~~Supp~~ 79-3393, and amendments thereto, whether by mail or in person,
22 the docket fee to be paid as court costs shall be \$45.

23 (c) If a conviction is on more than one count, the docket fee shall be
24 the highest one applicable to any one of the counts. The prosecuting
25 witness or defendant, if assessed the costs, shall pay only one fee. Multiple
26 defendants shall each pay one fee.

27 (d) Statutory charges for law library funds, the law enforcement train-
28 ing center fund, the prosecuting attorneys' training fund, the juvenile
29 detention facilities fund, the judicial branch education fund, the emer-
30 gency medical services operating fund and the judiciary technology fund
31 shall be paid from the docket fee; the family violence and child abuse and
32 neglect assistance and prevention fund fee shall be paid from criminal
33 proceedings docket fees. All other fees and expenses to be assessed as
34 additional court costs shall be approved by the court, unless specifically
35 fixed by statute. Additional fees shall include, but are not limited to, fees
36 for Kansas bureau of investigation forensic or laboratory analyses, fees for
37 detention facility processing pursuant to section 1, and amendments
38 thereto, fees for the sexual assault evidence collection kit, fees for con-
39 ducting an examination of a sexual assault victim, fees for service of proc-
40 ess outside the state, witness fees, fees for transcripts and depositions,
41 costs from other courts, doctors' fees and examination and evaluation fees.
42 Sheriff in this state shall charge any district court of this state a fee or
43 charge for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

Sec. 4. K.S.A. ~~1996~~ Supp. 12-4112, 28-172a and 28-172d are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

1997

5-3

House Judiciary
2-19-98
Attachment 6

SENATE BILL No. 269

By Committee on Judiciary

2-11

10 AN ACT concerning attorneys; relating to admission to practice law;
11 requirements; fingerprints and criminal history.

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

14 Section 1. (a) The supreme court may require ~~all~~ applicants for reg-
15 ular admission to practice law in this state to be fingerprinted. *[with the*
16 *costs to be borne by the applicant.]* The fingerprints shall be used to
17 identify the applicant and to determine whether the applicant has a record
18 of criminal arrests and convictions in this state or other jurisdictions. The
19 supreme court and the state board of law examiners are authorized to
20 submit the fingerprints to the Kansas bureau of investigation and to the
21 federal bureau of investigation for a state and national criminal history
22 record check. The state board of law examiners and the supreme court
23 may use the information obtained from fingerprinting and the criminal
24 history only for purposes of identification of any applicant and in the
25 official determination of character and fitness of the applicant for regular
26 admission to practice law in this state.

27 (b) Local and state law enforcement officers and agencies shall assist
28 the supreme court in the taking and processing of fingerprints of appli-
29 cants seeking admission to practice law in this state and shall release all
30 records of an applicant's arrests and convictions to the supreme court and
31 the state board of law examiners.

32 Sec. 2. This act shall take effect and be in force from and after its
33 publication in the statute book.

If reasonable suspicion exists to warrant the fingerprinting,

(c) Such fingerprints shall only be used for criminal background checks and shall not be kept on file by any federal, state or local governmental agency. Such fingerprints shall be returned to the applicant.