

Approved: 3-17-99
Date

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on February 18, 1999 in Room 313-S of the Capitol.

All members were present except:

Representative David Adkins - Excused
Representative David Haley - Excused

Committee staff present:

Mike Hein, Legislative Research Department
Avis Swartzman, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the committee:

Judy Mitchell, Caring & Sharing Grandparents, Inc.
Roberta Hagemann, Kansas Silverhair Legislator
Mary Kluss, Nickerson
Sue Kern, Grandparents Rights, Kansas

Hearings on **HB 2470 - visitation rights of grandparents**, were opened.

Representative Jan Pauls appeared before the committee to explain each major section of the bill. (Attachment 1)

Judy Mitchell, Caring & Sharing Grandparents, Inc. appeared before the committee in support of the proposed bill. She believes that it is children's rights to see their grandparents. She touched on the section of the bill that would allow grandparents to be granted interested party status in any child abuse case. (Attachment 2)

Roberta Hagemann, Kansas Silverhair Legislator, appeared before the committee as a proponent of the bill. She stated that, if passed, the proposed bill would provide for a stable environment in a child's life when their parents are getting a divorce. (Attachment 3)

Mary Kluss, Nickerson, appeared before the committee as a proponent of the bill. She was concerned that grandparents usually are not granted interested party status when there are questions about the welfare of their grandchildren. (Attachment 4)

Sue Kern, Grandparents Rights, Kansas, appeared before the committee in support of the bill. She said that parents and grandparents need to be flexible and share the children. (Attachment 5)

HB 2210 - childcare; appeal procedure

Representative Lightner made the motion to report HB 2210 favorably. Representative Gregory seconded the motion.

Representative Pauls commented that if the concern was that these types of cases drag on forever, then maybe the bill should be sent to the Judicial Council to study why it takes so long to move through the courts.

The motion carried on a vote of 9-8.

HB 2150 - confidentiality in dispute resolution proceedings

Representative Carmody made the motion to report HB 2150 favorably for passage. Representative Gregory seconded the motion.

Representative Carmody was concerned with the portion of the bill what would require the mediator to report any threat of physical violence. He made a substitute motion to delete on page 2, lines 7 & 8 and on page 3, lines 39 & 40. Representative Loyd seconded the motion. The motion carried.

Representative Klein made a motion to delete the new language in section 1 (1), lines 35-40, which gives the mediator a privilege. Representative Pauls seconded the motion.

Chairman O'Neal commented that added language in this section would clarify that the mediator is not a neutral party. The motion failed on a vote of 5-10.

Representative Carmody made the motion to report HB 2155 favorably for passage, as amended. Representative Powell seconded the motion. The motion carried.

HB 2224 - children & adults, abuse of, reporting requirements, exemptions

Representative Carmody made the motion to report HB 2224 favorably for passage. Representative Long seconded the motion.

Representative Pauls made the substitute motion to amend lines 2, 3 & 4 on page 2 to read "The provisions of subpart (1) do not apply to any person who is specified in subpart (1) if the person is an attorney engaged...." Representative Carmody seconded the motion. The motion carried.

Representative Carmody made the motion to report HB 2224 favorably for passage, as amended. Representative Long seconded the motion. The motion carried.

HB 2276 - limited liability company act

Representative Loyd made the motion to report HB 2276 favorably for passage. Representative Carmody seconded the motion.

Representative Loyd made the substitute motion to amend in the Kansas Bar Associations proposed amendments on page 44 & 45 to address a single member limited liability company taxation for purposes of the annual fee with the secretary of state (Attachment 6). Representative Carmody seconded the motion. The motion carried.

Representative Loyd made the motion to report HB 2276 favorably for passage, as amended. Representative Carmody seconded the motion. The motion carried.

HB 2278 - law enforcement training

Representative Pauls made the motion to report HB 2278 favorably for passage. Representative Long seconded the motion.

Representative Pauls made the substitute motion to adopt a balloon amendment. (Attachment 7) Representative Long seconded the motion. The motion carried.

Representative Pauls made the motion to report HB 2278 favorably for passage, as amended. Representative Carmody seconded the motion. The motion carried.

HB 2471 - district attorney office established in Reno County

Representative Pauls made the motion to report HB 2471 favorably for passage. Representative Loyd seconded the motion. The motion carried.

HB 2081 - crimes & punishment, mistreatment of a dependent adult & HB 2376 - crimes & punishment, abuse of a child

The committee believed that both of the proposed bills had good intentions but were concerned with the wording and that while they would address the examples that were brought before the committee it was believed that the bills could cause more problems than solve.

Representative Carmody made the motion to send HB 2081 & 2376 to the Judicial Council for further study. Representative Long seconded the motion. The motion carried.

HB 2082 - crimes, criminal procedure, punishments, time limitations for prosecution

Representative Carmody made the motion to report HB 2082 favorably for passage. Representative Swenson seconded the motion.

The committee discussed that it was uncomfortable with an across the board 5 year statute of limitation.

Representative Carmody made the substitute motion to reinsert the stricken language on page 2, line 2 and amend in "Provided that if the fact that a crime has been committed is not reasonably ascertainable or reporting of the crime is found to have been delayed as a result of the threat or intimidation then the period of limitation shall not commence until the fact of the crime becomes reasonably ascertainable or in the case of a delay in reporting due to threat or intimidation, until the fact of the crime is otherwise reported. Representative Swenson seconded the motion. The motion carried.

The committee discussed the tolling provisions in sub section (f), line 27 (iv) that referred to psychologically repressed witness' memory. This provision was added several years ago and since then there have been many studies that indicate that this concept is not creditable.

Representative Pauls made the motion to remove the provisions regarding repressed memory syndrom Representative Rehorn seconded the motion.

Members discussed that if this provision was removed that those who have repressed memories would still be able to bring an action under the previous amendment. The motion carried.

Representative Carmody made the motion to add to sub section (f), line 27 (iv) so provisions would apply to the crime as charged in the initial complaint. Representative Swenson seconded the motion.

Committee members discussed that this would leave too much discretion in the prosecutors hands. With consent of the second the motion was withdrawn.

Representative Klein made the motion to adopt the balloon amendment that would apply a five year statute of limitations to voluntary & involuntary manslaughter. (Attachment 8) Representative Rehorn seconded the motion. The motion carried.

Representative Carmody made the motion to report HB 2082 favorably for passage, as amended. Representative Swenson seconded the motion. The motion carried.

HB 2450 - judicial branch of state government, budget

Representative Powell made the motion to report HB 2450 favorably for passage. Representative Carmody seconded the motion.

Representative Powell made the substitute motion to amend in the balloon amendment. (Attachment 9) Representative Carmody seconded the motion. The motion carried.

Representative Powell made the motion to report HB 2450 favorably for passage. Representative Carmody seconded the motion. The motion carried.

The committee meeting adjourned at 5:45 p.m. The next meeting is scheduled for February 19, 1999.

JANICE L. PAULS
REPRESENTATIVE, DISTRICT 102

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER:
BUSINESS, COMMERCE AND LABOR
JOINT SENATE & HOUSE COMMITTEE
ON ADMINISTRATIVE RULES AND
REGULATIONS
MEMBER:
JUDICIARY
TRANSPORTATION
WORKERS COMPENSATION FUND
OVERSIGHT COMMITTEE

Testimony before the House Judiciary Committee
February 18, 1999
Testimony on HB 2470

We in Kansas are being faced with a social phenomenon with which we need to deal sooner and not later.

House Bill 2470 deals with the contact between grandparents and their grandchildren. This addresses a problem that must be dealt with – the problems created by a very mobile society combined with fragmented families.

The bill changes current law by:

(1) Giving grandparents reasonable visitation rights unless the court, after a hearing, finds that the visitation would seriously endanger the child's physical, mental, moral, or emotional health. Currently the law does not require a judge to give visitation.

(2) Allowing stepparents reasonable visitation rights if they have significant emotional ties with the child. (In other cases, the court may allow visiting rights.) Currently no legal right exists for stepparents to have visitation following a divorce or separation.

(3) Making grandparents "interested parties" under the Child in Need of Care code. Under current law, a grandparent is often not notified of a Child in Need of Care case until the case is far advanced, even to the point of the termination of parental rights. A number of grandparents who have been in contact with me or with the grandparents' group organized in Hutchinson, have spent vast amounts of money on attorney fees, attempting to be found to be an "interested party" in a Child of Need of Care case. Often the attempt fails, and the grandparent is unable to participate in the juvenile court case. With changes in the law regarding "permanency placements," keeping grandparents in the loop is even more important.

Other changes in the bill are minor:

(1) The case on grandparents' rights is considered a domestic relations case unless the administrative judge assigns it as a juvenile case. (This is basically a housekeeping provision to decide where cases are docketed and heard.)

(2) The changes on page five of the bill on "educational institution" and "education" are revisor changes.

This bill has 56 sponsors, and would have had more sponsors if the bill had been circulated

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for another day. However, the most important factor for the committee to consider is the public outcry for such relief. The policy of the state is to try to preserve families. However, as parents divorce or have problems caring for their children, the system often fails to use the resource of grandparents to stabilize families.

There is no way to overestimate the strength of this demand for involvement in grandchildren's lives. Last July 4th I was standing on Main Street in Hutchinson watching the parade go by. My attention was caught by the next float in the parade. The front of the float was labeled HB 3003. I was startled to see that the bill I had introduced last year for grandparents' rights had its own float! The float also appeared in other parades last summer.

I ask for your support of this bill. It's truly an idea whose time has come.

Concerning H.B. # 2470
February 18, 1999
Judiciary Committee Hearing

Outline:

- ☺ Statute K.S.A. 38-129 (a) Visitation Rights
- ☺ K.S.A.. 60-1616 Visitation Rights
 - A. Census Bureau figures
 - a. abuse, roots, children's right to see grandparents
- ☺ Statute K.S.A. 38-1541 Interested Party Status
 - B. 4,500 children in foster care.
 - a. Case workers, Judges not realizing importance of grandparents involvement
 - b. drugs, alcohol involvement with adult children
 - c. We must do something positive for our children
- ☺ 14th Amendment of the Constitution of United States
 - C. Our children are not sub-persons.
 - a. It could happen to you, it happened to me.

Thank you for listening to me

Judy Mitchell
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Advocacy & Support

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This is in response to HB # 2470

Re. K.S.A. 38-129 (a) The district court may *shall* grant the grandparents of an unmarried minor child reasonable visitation rights to the child during the child's minority upon a finding that the visitation rights would be in the child's best interests and when a substantial relationship between the child and the grandparent has been established.

(c) *The district court shall grant grandparents reasonable visitation rights unless the court, after a hearing, finds that visitation would seriously endanger the child's physical, mental, moral or emotional health.*

Sec. 4 K.S.A. 1998 Supp. 60-1616 is amended to read as follows: 60-1616. (b) *Grandparents are entitled to reasonable visitation rights unless the court, after a hearing, finds that visitation would seriously endanger the child's physical, mental, moral or emotional health.*

The US Census Bureau figures say grandparents raising grandchildren increased 44% between 1980 and 1990. That figure went up 23% between 1990 and 1997. This means that abuse is on the rise of our precious commodities, our future hope of tomorrow, our children and grandchildren. Today there are over 4 million grandparents raising their grandchildren, some with a parent present in the home and others without a parent in the home. That is a lot of grandparents who are taking on the role of parenting again. There are countless others who for various reasons are not allowed to see their grandchildren mostly because of angry 'adult' children wanting to 'teach' their parents a lesson by disallowing the grandparents the opportunity of seeing their grandchildren. Some of these children are victims of a divorce, a one parent home with little or no parenting skills, children having children, parents addicted to drugs and/or alcohol. A lot of these 'adult' children are abusing their children and they do not want to either be caught or found out and don't want the interference. These grandparents have usually confronted the parents of their grandchildren concerning the abuse they are seeing and because of that have been forced to stay away from their grandchildren. Granted not all grandparents should be given visitation rights of these children but of those I have seen and heard from in the past 3 years, that number is extremely low in comparison with those grandparents who could give these children a lot of hope and some stability in their mixed up lives. These children have a right to know their extended family, their roots so to speak. They have a right to be able to grow up knowing both sets of grandparents unless said grandparents are convicted child abusers, molesters, murderers or who may harm the child. But the burden of proof should not come from the parents just saying 'my parents are interfering with my parenting'.

Re: K.S.A. 38-1541 (e) "Interested party" means the state, the petitioner, the child, any parent, *any grandparent* and any person found to be an interested party pursuant to K.S.A. 38-1541 and amendments thereto.

Some months ago, I read in the paper that there were 4,500 children involved with the SRS system in Kansas. If that is the case there are at least 35,000 grandparents who are or could be attempting to be involved with their grandchildren as an interested party while their grandchildren are involved in the system and a lot are being denied that right because of case workers and Judges not realizing that these children and workers and Judges would benefit greatly with contact with that part of the child's family. The grandparent most generally knows what had been going on with the child before the child was removed from his home. My grandchildren's parents main concern was to save them selves, by denying

what abuse they were inflicting upon the child, and make everyone else look bad. They were refusing to take the responsibility for the abuse and neglect they had inflicted upon the child. (I say they because, even though only one parent was inflicting the abuse, the other parent refused to look at what was happening and take the responsibility to stop it.) If the parent(s) was/were capable of caring for the child, the child would not have been removed from the home in the first place (usually). If the grandparent is allowed to be involved with the child in every way including the case planing, with the interested party status, they can be certain the child has not been given papers to sign because the child 'looks' old enough to read and understand. Perhaps he cannot read! The grandparent can provide much information regarding the grandchild and the parent. Many times much important information is left out of a child's file and much time is lost if the child cannot get the help he needs to grow up to be a productive adult. Then we wonder why the child grows up to kill, steal, get involved in drugs and alcohol and spend much of his life either in treatment or prison.

If the grandparent is found guilty of some crime, and not just caring about and helping the grandchild, the 'interested party status' can be removed. Some Judges have in the past said they 'tried' interested party status once and it didn't work. **This is absurd!** Perhaps they did try it once and it didn't work but that does not mean every grandparent is the same. The grandparents I have met, and that has been many over the past three years, I have not seen or spoken to any that their only interest and concern was not in 'the best interest of the child'.

We must begin to do something positive for our grandchildren. They are our leaders of tomorrow. The abuse we see today with our small children will only get worse unless help is given now. These small children who are going through a 'living hell' need all the help we can give them today, NOW! These children cannot wait until they become adults. These girls who are being molested and beaten today will be the wives of our sons and the mothers of our grandchildren. These boys who are being molested and beaten today will be the husbands of our daughters and the fathers of our grandchildren. This epidemic today of child abuse will not get any better without help, NOW! Nor is this epidemic only happening in low income families. **It happened to my family yesterday and it can happen to your family tomorrow, maybe even today!**

According to the 14th amendment of the Constitution of the United States our Grandchildren have the same rights as every other person. The Constitution states that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; not deny to any person within its jurisdiction the equal protection of the laws." Children are persons not sub-persons and we must stop treating them like they are sub-persons.

Thank you for this opportunity,



"A Caring & Sharing Grandparent Is A Friend Who Listens With The Heart!"

February 18, 1999

Judiciary Committee
House of Representatives
State of Kansas

In regard to House Bill No. 2470, I want to thank you for considering this bill. A similar bill SHL1502, was passed in the 1998 session of the Silver Haired Legislature with an amendment which was made in the Committee on Children and Families. This bill has been introduced to the House of Representatives as House Bill No. 2347.

Under Section 1. (a.) The paragraph was amended to end with "the child's best interests". The words "and when a substantial relationship between the child and the grandparent has been established" were eliminated.

The reason for the elimination of these words was that there are sometimes extenuating circumstances in which a substantial relationship has not been established.

Testimony was given in the Silver Haired Legislature Committee on Children and Families by a grandmother who was denied the right to see her grandchild and who had also not been able to establish a "substantial relationship".

I would ask your committee to amend House bill No. 2470 by ending Section 1. (a) on line 26 with "child's best interests" and by eliminating the words "and when a substantial relationship between the child and the grandparent has been established" which appear on lines 26 and 27.

Thank you for letting me speak on this matter.



Roberta Hagemann, Chair
SHL Committee on Children and Families

JUDICIARY COMMITTEE
STATE CAPITOL
TOPEKA, KS.

RE: H.B. # 2470
Grandparent's rights

Our Grandson was taken out of his home after his Mother moved into her house a CONVICTED CHILD ABUSER who hit his own 4 WEEK OLD BABY and served 3 years in prison and was out on parole for this offense at this time. Our Grandson has been in the system now for 22 months and 3 days.

Although I hope this H.B. passes in it's entirety I wish to talk about the INTERESTED PARTY STATUS FOR GRANDPARENTS. This involves all of us.

The reason I want this status for our Grandchildren and I say for them instead of us is because it will benefit them, not us, if we can oversee that their RIGHTS are being met.

Our Grandchild had been home schooled for 3 years, regressing in all parts of his education. I didn't feel (at the time) that his Mother should be in control of his educational needs. This is where a Grandparent could step in to help out with Interested Party Status to oversee their educational needs.

At the first Case Planning there were 8 professionals present. All will tell you they were there for the BEST INTEREST OF THE CHILD. All parties knew of our Grandson's lack of reading skills. Reading at a 2nd or 3rd grade level at 13 years of age.

Twice I stoped my Grandchild from signing documents at this meeting asking him if he understood what he was signing. "NO" was the answer, they have me signing stuff all the time."

I, his Grandmother was the only person looking out for HIS RIGHTS, stopping the procedure and asking workers in charge to READ the documents to him.

May I ask would you want your 2nd or 3rd grader signing contracts on their own and no one explaining what is in them?

We were not allowed to attend the next Case Planning. In our absence who was looking out for his rights. I have been told that's the job of the Guardian Ad Litem assigned by the court. Some of these G.A.L.'s never see the child they are to be helping and if they do it's 5 min. before court. G.A.L.'s don't sit in on school I.E.P.'s, Case Plannings, ect. Interested Party Status would give the Grandparents the right to attend these meetings.

He was taken for psychological evaluation, which is almost all reading. They did not provide a person to read the questions to him, so he could answer them properly. Children faced with obstacles they can't handle sometimes SHUT DOWN and that is what he did and was later punished for it.

Now we have at last been given Interested Party Status through the court, because our Grandchild now will be coming to live in our home. We have been able to see a few of the documents that were not available to us before.

We found out the NEW GROUP HOME he was at didn't even have the information on his lack of an education. He was there 89 days before we, his Grandparents informed them of this, after getting INTERESTED PARTY STATUS.

We were totally outraged to find out that these papers failed to mention anywhere any abuse suspected or inflicted on our Grandchild. May I remind you of the convicted child abuser that was in his home.

This system had more than enough reason to suspect abuse and investigate. Someone, shomewhere made a conscious decision to IGNORE IT.

Mental abuse, emotional abuse, and physical abuse ignored for some 82 weeks or apx. 577 days. His treatment plan now includes ABUSE THERAPY and at this NEW PLACEMENT HE HAS IMPROVED SOME 75% - 80% in just the few weeks they have implemented this program. Workers have all the information needed to work with him now. IF WE HAD NOT BEEN GIVEN INTERESTED PARTY STATUS THIS WOULD NOT HAVE HAPPENED AND HE MAY HAVE BEEN LOST FOREVER.

Big chunks of his history had been lost, vital information just disappeared or maybe a worker for some strange reason decides it wasn't important and deleted it.

Case worker told us just this last month that they can only work with what was written on the first petition to the court where he was found to be a CHILD IN NEED OF CARE. If this is true, what a narrow minded approach to what is going on with a child and this needs to be changed also.


I have written to many of you throughout this ordeal. I spoke to the OVERSIGHT COMMITTEE last year in September. I can tell you I would rather be doing more enjoyable things with my time and money.

This is our Grandson's life and many other childrens lives are at stake. I have to try and make things better for them. I can not turn my head away anymore.

I leave you with these 3 words about this system that has our childrens lives in their hands. I am ** DISILLUSIONED, CONFUSED AND ANGRY.

Respectfully yours,


Karlton W. Kluss


Mary A. Kluss

How? ?

My name is Sue Kern & I am a grandparent
My grandchild lived in our home from the
time she was 8 months old til last year
and she just turned 5 February 12th

Over the last year I have been in court
many times fighting for her rights to stay
in a safe loving home, But on February 4
this year I lost my rights to protect this
child & we are very bonded - I'm asking
you all to please help me & Alicia have
contact with each other through the Grand-
parents Bill 2470 and all the other
Grandparents across Kansas who couldn't
be here today

God Bless

Sue Kern
Grandparents Rights Kansas
P.O. Box 4
Wilson, KS 67490-0004

House Judiciary
2-18-99
Attachment 5

1 tax purposes, in which case the limited liability company shall be classified
 2 in the same manner as it is classified for federal income tax purposes. For
 3 purposes of any tax imposed by the state of Kansas or any instrumentality,
 4 agency or political subdivision of the state of Kansas, a member or an
 5 assignee of a member of a limited liability company formed under this
 6 act or qualified to do business in the state of Kansas as a foreign limited
 7 liability company shall be treated as either a resident or nonresident part-
 8 ner unless classified otherwise for federal income tax purposes, in which
 9 case the member or assignee of a member shall have the same status as
 10 such member or assignee of a member has for federal income tax
 11 purposes.

14 Sec. 78. (a) Every limited liability company organized under the laws
 15 of this state shall make an annual report in writing to the secretary of
 16 state, stating the prescribed information concerning the limited liability
 17 company at the close of business on the last day of its tax period next
 18 preceding the date of filing. If the limited liability company's tax period
 19 is other than the calendar year, it shall give notice of its different tax
 20 period in writing to the secretary of state prior to December 31 of the
 21 year it commences the different tax period. The annual report shall be
 22 filed at the time prescribed by law for filing the limited liability company's
 23 annual Kansas income tax return. If the limited liability company applies
 24 for an extension of time for filing its annual income tax return under the
 25 internal revenue code, the limited liability company shall also apply, not
 26 more than 90 days after the due date of its annual report, to the secretary
 27 of state for an extension of the time for filing its report and an extension
 28 shall be granted for a period of time corresponding to that granted under
 29 the internal revenue code. The application shall include a copy of the
 30 application to income tax authorities. The annual report shall be made on
 31 a form prescribed by the secretary of state. The report shall contain the
 following information:

(1) The name of the limited liability company;
 (2) a reconciliation of the capital accounts for the preceding taxable
 year as required to be reported on the federal partnership return of in-
 come **or for a one-member LLC taxed as a sole proprietorship, the net book value of
 the LLC as calculated on an income tax basis;** and

(3) a list of the members owning at least 5% of the capital of the
 company, with the post office address of each.

(b) Every foreign limited liability company shall make an annual re-
 port in writing to the secretary of state, stating the prescribed information
 concerning the limited liability company at the close of business on the
 last day of its tax period next preceding the date of filing. If the limited
 liability company's tax period is other than the calendar year, it shall give
 notice in writing of its different tax period to the secretary of state prior
 to December 31 of the year it commences the different tax period. The

*Sec. 78 Comments: This section combines current K.S.A. 17-7647, 17-7648,
 17-7649, and 17-7655 governing annual reports for domestic and foreign LLCs,
 along with forfeiture and reinstatement procedures.*

*The amendment in this section is our proposal to address the issue of the sole
 proprietorship LLC -- the single person LLC -- and how they determine and submit their
 annual report, and the cost of the annual report (the tax). This was inadvertently left out of
 the original document.*

annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company also shall apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

(1) The name of the limited liability company;
 (2) a reconciliation of the capital accounts for the preceding taxable year as required to be reported on the federal partnership return of income *or for a one-member LLC taxed as a sole proprietorship, the net book value of the LLC as calculated on an income tax basis.*

(c) The annual report required by this section shall be signed by a member of the limited liability company and forwarded to the secretary of state. At the time of filing the report, the limited liability company shall pay to the secretary of state an annual franchise tax in an amount equal to \$1 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, *or for a one-member LLC taxed as a sole proprietorship, \$1 for each \$1,000 of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year,* except that no annual tax

shall be less than \$20 or more than \$2,500.

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, shall be applicable to the articles of organization of any domestic limited liability company or to the authority of any foreign limited liability company which fails to file its annual report or pay the franchise tax within 90 days of the time prescribed in this section for filing and paying the same. Whenever the articles of organization of a domestic limited liability company or the authority of any foreign limited liability company are forfeited for failure to file an annual report or to pay the required franchise tax, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees and taxes, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

These Proposed KBA amendments are explained on the previous page.

U-2

HOUSE BILL No. 2278

By Committee on Judiciary

2-4

9 AN ACT concerning law enforcement training; amending K.S.A. 1998
10 Supp. 74-5602, 74-5605, 74-5607a, 74-5616 and 74-5617 and repealing
11 the existing sections.
12

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

14 Section 1. K.S.A. 1998 Supp. 74-5602 is hereby amended to read as
15 follows: 74-5602. As used in the Kansas law enforcement training act:

16 (a) "Training center" means the law enforcement training center
17 within the division of continuing education of the university of Kansas,
18 created by K.S.A. 74-5603 and amendments thereto.

19 (b) "Commission" means the Kansas law enforcement training com-
20 mission, created by K.S.A. 74-5606 and amendments thereto.

21 (c) "Dean" means the dean of the division of continuing education
22 of the university of Kansas.

23 (d) "Director," as created in K.S.A. 74-5603 and amendments
24 thereto, means the director of police training at the law enforcement
25 training center.

26 (e) "Police officer" or "law enforcement officer" means a full-time or
27 part-time ~~salaried~~ officer or employee of the state, a county or a city,
28 whose duties include the prevention or detection of crime and the en-
29 forcement of the criminal or traffic laws of this state or of any municipality
30 thereof. Such terms shall include, but not be limited to, the sheriff, un-
31 dersheriff and full-time or part-time ~~salaried~~ deputies in the sheriff's of-
32 fice in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858
33 and amendments thereto; conservation officers of the Kansas department
34 of wildlife and parks; campus police officers at all state educational insti-
35 tutions or a municipal university; law enforcement agents of the director
36 of alcoholic beverage control; law enforcement agents of the Kansas lot-
37 tery; law enforcement agents of the Kansas racing commission; deputies
38 and assistants of the state fire marshal having law enforcement authority;
39 capitol area security guards, existing under the authority of K.S.A. 75-
40 4503 and amendments thereto. Such terms shall also include railroad
41 policemen appointed pursuant to K.S.A. 66-524 and amendments
42 thereto; and school security officers designated as school law enforcement
43 officers pursuant to K.S.A. 72-8222 and amendments thereto. Such terms

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1 enforcement officer, unless such officer has been awarded a certificate at-
 2 testing to the satisfactory completion of the basic course of not less than
 3 80 hours of accredited instruction in law enforcement at the training
 4 center or at a certified state or local law enforcement training school or
 5 was actively serving as a nonpaid volunteer police officer or law enforce-
 6 ment officer or as a nonpaid reserve police or law enforcement officer
 7 prior to July 1, 1999.

8 (b) Beginning the second year after certification, every full-time po-
 9 lice officer or law enforcement officer shall complete annually 40 hours
 10 of law enforcement education or training in subjects relating directly to
 11 law enforcement. Failure to complete such training shall be grounds for
 12 suspension from work without pay until such training is completed. The
 13 director with the approval of the commission shall adopt rules and reg-
 14 ulations regarding such education or training. Every city, county and state
 15 agency shall annually send to the director certified reports of the com-
 16 pletion of such education or training. *Beginning the second year after*
 17 *certification, every part-time police officer or law enforcement officer shall*
 18 *complete annually 16 hours of law enforcement education or training in*
 19 *subjects relating directly to law enforcement. Failure to complete such*
 20 *training shall be grounds for suspension from work without pay and/or*
 21 *suspension or revocation of certification, until such training is completed.*
 22 *The director with the approval of the commission shall adopt rules and*
 23 *regulations regarding such education or training. Every city, county and*
 24 *state agency shall annually send to the director certified reports of the*
 25 *completion of such education or training.* The director shall maintain a
 26 record of the reports in the central registry.

27 (c) Subject to the provisions of subsection (d):

28 (1) Any person who is appointed or elected as a police officer or law
 29 enforcement officer and who does not hold a certificate as required by
 30 subsection (a) may be elected or appointed as an officer on a provisional
 31 basis for a period of not more than one year. Any person appointed as a
 32 police officer or law enforcement officer on a provisional basis who does
 33 not receive the certificate required under subsection (a) within one year
 34 following the date of the person's original election or appointment shall
 35 forfeit such office or position at the end of such one-year period. Any
 36 person appointed as a police officer or law enforcement officer on a pro-
 37 visional basis who does not receive the certificate required under subsec-
 38 tion (a) within one year following such original appointment shall not be
 39 reappointed as a police officer or law enforcement officer on a provisional
 40 basis within one year following the date on which such person last served
 41 as a police officer or law enforcement officer.

42 (2) Any police officer or law enforcement officer who does not com-
 43 plete the education or training required by subsection (b) by the date

, and whose status as such officer has been certified to the training center, by such officer's agency head and on forms approved by the training center, on or before December 31, 1999.

1 such education or training is required to have been completed shall be
2 subject to revocation or suspension of certification and loss of the officer's
3 office or position.

4 (d) The director may extend the one-year time period for the 320
5 hour basic-reciprocity school or 80 hour part-time school and may extend,
6 waive or modify the annual continuing education requirement, when it is
7 shown that the failure to comply with the requirements of subsection (a)
8 or (b) was not due to the intentional avoidance of the law.

9 Sec. 4. K.S.A. 1998 Supp. 74-5616 is hereby amended to read as
10 follows: 74-5616. (a) To be eligible for permanent appointment as a police
11 officer or law enforcement officer, a person must first be certified to
12 perform the function of law enforcement by the Kansas law enforcement
13 training commission. The commission's certification shall be awarded to
14 persons who:

15 (1) Are at least 21 years of age, have successfully completed or sat-
16 isfied the training requirements specified by subsection (a) of K.S.A. 74-
17 5607a and amendments thereto and meet the requirements of K.S.A. 74-
18 5605 and amendments thereto; (2) received a permanent appointment as
19 a *full-time* police officer or law enforcement officer prior to July 1, 1969,
20 *or was actively serving as a nonpaid volunteer police officer or law en-*
21 *forcement officer or as a nonpaid reserve police officer or law enforcement*
22 *officer prior to July 1, 1999, or (3) hold a permanent appointment as a*
23 *paid or salaried part-time* police officer or law enforcement officer on
24 July 1, 1983.

and whose status as such officer has been certified
to the training center, on or before December 31, 1999;

25 (b) The commission may suspend, revoke or deny the certification of
26 a police officer or law enforcement officer who fails to meet the require-
27 ments of K.S.A. 74-5605 or 74-5607a, and amendments thereto, or has
28 met such requirements by falsifying documents or failing to disclose in-
29 formation required for certification.

30 (c) The commission shall immediately institute proceedings to revoke
31 the certification of any police officer or law enforcement officer convicted
32 of, or on or after July 1, 1995, diverted for a felony under the laws of this
33 state, another state or the United States or of its equivalent under the
34 uniform code of military justice or convicted of or diverted for a misde-
35 meanor crime of domestic violence under the laws of this state, another
36 state or the United States or of its equivalent under the uniform code of
37 military justice, when such misdemeanor crime of domestic violence was
38 committed on or after the effective date of this act.

39 (d) The procedure for the public or private censure, reprimand, pro-
40 bation, suspension, revocation and denial of certification of a person as a
41 police officer or law enforcement officer or an applicant for certification
42 shall be in accordance with the Kansas administrative procedure act.

43 (e) Any action of the commission pursuant to subsection (d) is subject

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1 to review in accordance with the act for judicial review and civil enforce-
2 ment of agency actions. The attorney general shall prosecute or defend
3 any action for review on behalf of the state, but the county or district
4 attorney of the county where the police or law enforcement officer has
5 been employed as such shall appear and prosecute or defend such action
6 upon request of the attorney general.

7 Sec. 5. K.S.A. 1998 Supp. 74-5617 is hereby amended to read as
8 follows: 74-5617. (a) Every candidate for permanent appointment to a
9 position as a police officer or law enforcement officer shall meet the
10 minimum training criteria specified in K.S.A. 74-5605 and amendments
11 thereto and shall have attained 21 years of age.

12 (b) For the purpose of determining the eligibility of an individual for
13 certification under this act, the commission may require the submission
14 of training and education records, and experience history, medical history,
15 medical examination reports and records, and interview appraisal forms.

16 (c) Law enforcement agencies in Kansas shall be responsible for their
17 agency's observance of the hiring requirements of this section.

18 (d) No law enforcement agency head or other appointing authority
19 shall knowingly permit the ~~hiring or appointment~~ of any person in viola-
20 tion of the requirements of this act, or knowingly permit the continued
21 ~~employment~~ *appointment* of any person as a law enforcement officer after
22 receiving written notice from the commission that the person has had
23 such person's certification revoked as provided for under this act. No law
24 enforcement agency head or other appointing authority shall knowingly
25 permit any ~~auxiliary~~ personnel who have been convicted of a felony of-
26 fense under the laws of Kansas or any other jurisdiction access to law
27 enforcement records or communication systems that are restricted under
28 state or federal law or appoint as a reserve officer any person who does
29 not meet the requirements of K.S.A. 74-5605 and amendments thereto.
30 Any violation of the requirements of this act shall be deemed to constitute
31 misconduct in office and shall subject the agency head or appointing
32 authority to:

33 (1) Removal from office pursuant to K.S.A. 60-1205 and amendments
34 thereto; or (2) a civil penalty in a sum set by the court of not to exceed
35 \$500 for each occurrence of noncompliance in an action brought in the
36 district court by the attorney general or by the county or district attorney,
37 which penalty shall be paid to the state treasurer for deposit in the state
38 treasury and credit to the state general fund, if the action is brought by
39 the attorney general, or paid to the county treasurer for deposit in the
40 county treasury and credit to the county general fund, if the action is
41 brought by the county or district attorney.

42 (e) Whenever in the judgment of the commission any person has
43 engaged in any acts or practices which constitute a violation of this act,

initial or permanent appointment

PROPOSED AMENDMENT TO HOUSE BILL NO. 2082

On page 1, by striking all of lines 14 through 43;

On page 2, by striking all of lines 1 through 43;

On page 3, by striking all of lines 1 through 6; following line 6, by inserting the following:

"Section 1. K.S.A. 1998 Supp. 21-3106 is hereby amended to read as follows: 21-3106. (1) A prosecution for murder may be commenced at any time.

(2) Except as provided by subsection ~~(8)~~ (9), a prosecution for any of the following crimes must be commenced within five years after its commission if the victim is less than 16 years of age: (a) Indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto; (b) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto; (c) enticement of a child as defined in K.S.A. 21-3509 and amendments thereto; (d) indecent solicitation of a child as defined in K.S.A. 21-3510 and amendments thereto; (e) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511 and amendments thereto; (f) sexual exploitation of a child as defined in K.S.A. 21-3516 and amendments thereto; or (g) aggravated incest as defined in K.S.A. 21-3603 and amendments thereto.

(3) Except as provided by subsection (9), a prosecution for the crime of voluntary manslaughter, as defined in K.S.A. 21-3403 and amendments thereto, or involuntary manslaughter as defined in K.S.A. 21-3404 and amendments thereto, must be commenced within five years after its commission.

~~(3)~~ (4) Except as provided in subsection ~~(8)~~ (9), a prosecution for any crime must be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.

~~(4)~~ (5) Except as provided by subsection ~~(8)~~ (9), a prosecution for rape, as defined in K.S.A. 21-3502 and amendments thereto, or aggravated criminal sodomy, as defined in K.S.A. 21-3506 and amendments thereto, must be commenced within five years after its commission.

†5† (6) Except as provided in subsection †8† (9), a prosecution for any crime found in the Kansas medicaid fraud control act must be commenced within five years after its commission.

†6† (7) Except as provided by subsection †8† (9), a prosecution for the crime of arson, as defined in K.S.A. 21-3718 and amendments thereto, or aggravated arson, as defined in K.S.A. 21-3719 and amendments thereto, must be commenced within five years after its commission.

†7† (8) Except as provided by subsection †8† (9), a prosecution for any crime not governed by subsections (1), (2), (3), (4), (5) and, (6) and (7) must be commenced within two years after it is committed.

†8† (9) The period within which a prosecution must be commenced shall not include any period in which:

- (a) The accused is absent from the state;
- (b) the accused is concealed within the state so that process cannot be served upon the accused;
- (c) the fact of the crime is concealed;
- (d) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;
- (e) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated which may be discovered as a result thereof regardless of who obtains the order of restraint; or
- (f) whether or not the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present: (i) The victim was a child under 15 years of age at the time of the crime; (ii) the victim was of such age or

intelligence that the victim was unable to determine that the acts constituted a crime; (iii) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and (iv) there is substantially competent expert testimony indicating the victim psychologically repressed such witness' memory of the fact of the crime, and in the expert's professional opinion the recall of such memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in this section later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime. "Parent or other legal authority" shall include but not be limited to natural and stepparents, grandparents, aunts, uncles or siblings.

~~(9)~~ (10) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

~~(10)~~ (11) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.";

HOUSE BILL No. 2450

By Committee on Judiciary

2-10

Proposed Amendments

The 18th of February, 1999

House Judiciary
2-18-99
Attachment 9

9 AN ACT concerning the judicial branch of state government; relating to
10 the budget thereof; amending K.S.A. 20-158 and repealing the exist-
11 ing ~~section~~

[, 75-3718 and 75-3721

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

[sections

14 Section 1. K.S.A. 20-158 is hereby amended to read as follows: 20-
15 158. The chief justice of the supreme court shall be responsible for the
16 preparation of the budget for the judicial branch of state government,
17 with such assistance as the chief justice may require from the judicial
18 administrator, the chief judge of the court of appeals and the administra-
19 tive judge of each judicial district. Each district court and the court of
20 appeals shall submit their budget requests to the chief justice in such
21 form and at such time as the chief justice may require. The chief justice
22 shall submit to the director of the budget the annual budget request for
23 the judicial branch of state government for inclusion in the ~~annual budget~~
24 ~~document~~ for appropriations for the judiciary. Such budget shall be pre-
25 pared and submitted in the manner provided by K.S.A. 75-3716 and 75-
26 3717, and amendments thereto. Such budget shall include the request for
27 expenditures for retired justices and judges performing judicial services
28 or duties under K.S.A. 20-2616, and amendments thereto, as a separate
29 item therein. The director of the budget shall review and may make such
30 recommendations to the legislature for proposed changes in such budget
31 as the director deems necessary and appropriate.

[governor's budget report

[as a budget estimate

[See attached amendatory sections

32 Sec. 2. K.S.A. 20-158 ~~is~~ hereby repealed.

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

[, 75-3718 and 75-3721 are

Sec. 2. K.S.A. 1998 Supp. 75-3718 is hereby amended to read as follows: 75-3718. (a) The director of the budget shall have in continuous process and revision a tentative budget for the coming years, in the light of direct studies of the operations, plans and needs of the state agencies and of the existing and prospective sources of revenue. Except as otherwise provided by this section, after summarizing estimates of funds which may be available and the estimated requirements for the several state agencies, the director shall cause them to be reviewed in relation to the general financial condition and needs of the state and shall cause to be made such further inquiries and investigations, and such revision of the tentative budget, as the director may deem necessary.

(b) Not later than November tenth of each year, the director of the budget shall notify each state agency in writing of any revision of its requests and the agency affected may request a hearing thereon which request may be filed within ten ~~(±0)~~ days after receipt of notice but, in any case, not later than November ~~twentieth~~ 20 of such year. If requested, the secretary of administration shall hold hearings on the tentative budget at which the administrative head of each state agency or the representative of such administrative head shall be entitled to be heard. The hearings provided for herein shall be concluded not later than December 15 of such year.

(c) The director of the budget shall not revise the budget estimate for the judicial branch of state government that is submitted pursuant to K.S.A. 20-158, and amendments thereto.

Sec. 3. K.S.A. 1998 Supp. 75-3721 is hereby amended to read as follows: 75-3721. (a) On or before the eighth calendar day of each regular legislative session, the governor shall submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan for the each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include (i) any proposed

expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either current or new sources of revenue, or (ii) any proposed expenditures of moneys in the ending balance in the state general fund required by K.S.A. 75-6702, and amendments thereto.

(B) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the incoming governor's recommendations thereon. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative measure or measures reflecting the incoming governor's budget for all of the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency

budget estimates regarding programs that provide services for children and their families. Such document shall be provided to ~~the---joint---committee---on---children---and---families,~~ the Kansas commission on children, youth and families, established by the governor's executive order number 91-145; and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the governor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

(f) The budget estimate for the judicial branch as submitted to the director of the budget pursuant to K.S.A. 20-158, and amendments thereto, shall be included in the governor's budget report.