

Approved: February 4, 1999
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 2:55 p.m. on February 2, 1999 at the rail outside Senate chambers of the Capitol.

All members were present except: Senator Feleciano (excused)
Senator Vratil (excused)
Senator Bond (excused)
Senator Oleen (excused)

Committee staff present:

Mary Blair, Secretary

Conferees appearing before the committee:

None

Others attending: no list

The Chair introduced the following bills: Kansas Credit Attorneys Association and the Kansas Collectors Association, Inc. request to amend KSA 60-3002 dealing with foreign judgements (attachment 1) Senator Petty moved to introduce the bill, Senator Pugh seconded. Carried; an amendment to the Uniform Commercial Code which would align Article 9 of the Kansas Code with the re-write by the Uniform Laws Commission (no attachment) Senator Pugh moved to introduce the bill, Senator Donovan seconded. Carried; David P. Calvert request for three bills: change of location (not venue) to provide for accessible courtrooms; providing a private remedy for persons with disabilities aggrieved by a violation of the Kansas Accessibility Standards for Public Buildings(KASPB); and providing that funds expended for implementation of the KASPB be outside the tax lid. (attachment 2) Senator Goodwin moved to introduce the bill, Senator Petty seconded. Carried; a bill to implement juvenile dispositional orders (attachment 3) Senator Gilstrap moved to introduce the bill, Senator Goodwin seconded. Carried.

Senator Petty requested introduction of a bill which would expand inclusion of members into Kansas Police and Fire .(no attachment) Senator Petty moved to introduce the bill, Senator Goodwin seconded. Carried

Senator Pugh requested introduction of a bill to lower the age for prosecution as an adult from 18 to 16 years of age. (no attachment) Senator Pugh moved to introduce the bill, Senator Donovan seconded. Carried. Senator Pugh requested introduction of a bill to modify teacher due process hearings procedure with ultimate determination resting with local school board (no attachment) Senator Pugh moved to introduce the bill, Senator Donovan seconded. Carried.

The meeting adjourned at 3:00 p.m. The next scheduled meeting is Thursday, February 4, 1999.

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SENATE JUDICIARY COMMITTEE

REQUEST FOR AMENDMENT TO K.S.A. 3002

On behalf of the Kansas Credit Attorneys Association and the Kansas Collectors Association, Inc., I respectfully request the Senate Judiciary Committee to introduce a bill amending K.S.A. 60-3002, dealing with foreign judgments. Our requested amendment would provide that a foreign judgment could be either authenticated or certified in accordance with the statutes of the state in which the judgment was rendered. The present statute only permits authentication, and this has caused problems in some instances because some states do not provide for authentication, but are happy to furnish certified copies.

The second part of the amendment would provide that if at the time of filing a foreign judgment in Kansas, the judgment is enforceable in the state or jurisdiction where it was originally rendered, our Kansas statutes of limitation would not be a bar to enforcing the judgment in Kansas.

A copy of the proposed amended statute is attached.

Elwaine F. Pomeroy
Kansas Credit Attorneys Association
Kansas Collectors Association, Inc.

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60-3002. Filing and status of foreign judgments.

A copy of any foreign judgment authenticated in accordance with the act of congress or the statutes of this state, or certified in accordance with the statutes of the state in which the judgment was rendered, may be filed in the office of the clerk of any district court of this state. Such copy must be filed by an attorney licensed to practice law in the state of Kansas. The clerk of the district court shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings as a judgment of a district court of this state and may be enforced or satisfied in like manner, except that if, at the time of filing of the foreign judgment in this state, the judgment is enforceable in the state or jurisdiction where it was originally rendered, the statutes of limitations contained in Article 5 of Chapter 60 shall not be a defense to the judgment or the filing of same in this state.

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DAVID P. CALVERT, P.A.
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Wichita, Kansas 67214-3514
Telephone: (316) 269-9055

Senator Tim Emert
Room 356-E, Statehouse
Topeka, Kansas 66612

Dear Senator Emert
and Senate Judiciary Committee Members:

I respectfully request the introduction of the three bills summarized below. I have enclosed draft copies of the bills.

Please call me if any additional information would be helpful to you.

**Change of location (not venue)
to provide for accessible courtrooms**

The requested bill would provide for changing the location of a hearing or trial without changing venue as follows:

Section 1. K.S.A. 60-612 is hereby amended to read as follows: 60-612. (a) Without changing venue, a judge may conduct any hearing or nonjury trial in any county agreed upon by all parties who are not in default.

(b) *If the Court finds, on application of any party, that the county where an action was filed does not have a courtroom which conforms to Section 11¹ of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) adopted by 28 CFR 36.406 and incorporated in Appendix A thereto, and amendments thereto, and that such failure to conform would prohibit or limit the participation of a person material to the proceeding, the judge shall, without changing venue, conduct any hearing or trial in any county with an accessible courtroom.*

(c) *If the Court finds, on application of any person at least 20 days before the hearing or trial, that the county where an action was filed does not have a courtroom which conforms to Section 11 of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) adopted by 28 CFR 36.406 and incorporated in Appendix A thereto, and amendments thereto, and that such failure to conform would prohibit or limit the attendance of any person, the judge may, without*

¹ Section 11 of ADAAG is proposed by the U. S. Access Board. That portion of Section

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changing venue, conduct the hearing or trial in any county with an accessible courtroom. Notice of the change of the location shall be given to the parties at least 10 days prior to the date of the first proceeding at the alternate location.

Providing a private remedy for persons with disabilities aggrieved by a violation of the Kansas Accessibility Standards for Public Buildings.

Section 1. Private remedies.

(a) As it relates to a violation of K.S.A. 58-1301 et seq. by a governmental entity:

(1) A person with a disability aggrieved by a violation of K.S.A. 58-1301 through K.S.A. 58-1309 may file a complaint with the person designated to coordinate the Americans with Disabilities Act pursuant to 28 C.F.R. §35.107. If the violation is alleged against a city the complaint shall be filed with the city ADA coordinator. If the violation is alleged against a county the complaint shall be filed with the county ADA coordinator. If the governmental entity has not appointed an ADA coordinator, the complaint shall be filed with the state attorney general.

(2) Within 30 days from the date the complaint is filed, the ADA coordinator or attorney general shall investigate the facts in the complaint. In the event the ADA coordinator or attorney general is unable to resolve the complaint to the satisfaction of the complainant, the matter shall be referred within 90 days from the date the complaint is filed to a mediator knowledgeable about the ADA who shall conduct a mediation within 90 days of the date the complaint was received by the mediator.

(3) If the complaint is not resolved with the assistance of a mediator, and if the alleged violation is a substantial violation, a person with a disability may bring an action for an injunction or a mandatory injunction and for either actual damages (including emotional distress) or a civil penalty in a sum of not more than \$10,000 for each violation, whichever is greater.

(4) If the complainant prevails the court shall award reasonable attorney fees, including those on appeal, expenses of litigation, and costs.

(b) As it relates to a substantial violation of K.S.A. 58-1301 et seq. by a public entity:

(1) A person with a disability may bring an action for an injunction or a mandatory injunction and for either actual damages (including emotional distress) or a civil penalty in a sum of not more than \$10,000 for each violation, whichever is greater.

(2) In any such action, the court shall require a settlement conference to be held not less than 30 days before trial.

(3) The settlement conference shall be conducted by the trial judge or the trial judge's designee who shall be knowledgeable about the ADA. The attorneys who will conduct the trial, all parties and all persons with authority to settle the claim shall attend the settlement conference unless excused by the court for good cause.

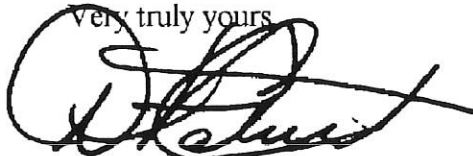
(4) Offers, admissions and statements made in conjunction with or during the settlement conference shall not be admissible at trial or in any subsequent action.

(5) If the complainant prevails, the court shall award reasonable attorney fees, including those on appeal, expenses of litigation, and costs.

Providing that funds expended for implementation of the Kansas Accessibility Standards for Public Buildings be outside the tax lid.

The requested bill would amend K.S.A. 79-5028 by adding a provision exempting expenditures for the purpose of implementing the Kansas Accessibility Standards for Public Buildings from the aggregate tax levy provisions of K.S.A. 79-5201 to 75-5036.

Very truly yours

A handwritten signature in black ink, appearing to read 'D. Calvert', written over the typed name below.

David P. Calvert

DPC:dkw

An act concerning taxes; exempting certain expenses for American with Disabilities Act compliance from the provisions of K.S.A. 79-5021 through K.S.A. 79-5036; amending K.S.A. 79-5208 and repealing the existing section.

6 *Be it enacted by the Legislature of the State of Kansas:*
7

8 Section 1. K.S.A. 79-5208 is hereby amended to read as follows:
9

10 79-5028. The provisions of K.S.A. 79-5021 to 79-5036, inclusive, and amendments
11 thereto, shall not apply to or limit the levy of taxes for the payment of:
12

13 (a) Principal and interest upon state infrastructure loans, bonds, temporary notes, no-
14 fund warrants and payments made to a public building commission;
15

16 (b) judgments, settlements and expenses for protection against liability to the extent
17 such expenses are authorized by article 61 of chapter 75 of the Kansas Statutes
18 Annotated and amendments thereto;
19

20 (c) employer contributions for social security, workers compensation, unemployment
21 insurance, health care costs, employee benefit plans, and employee retirement and
22 pension programs;
23

24 (d) expenses incurred by counties for district court operations under the provisions of
25 K.S.A. 20-348 or 20-349, and amendments thereto, and expenses incurred by
26 counties for the detention of juveniles;
27

28 (e) expenses incurred by counties for payment of out-district tuition to community
29 colleges pursuant to K.S.A. 71-301, and amendments thereto, and expenses incurred
30 by counties and townships for payment of out-district tuition to municipal universities
31 pursuant to K.S.A. 13-13a26, and amendments thereto;
32

33 (f) expenses incurred for the first time on and after January 1, 1996, by cities in
34 effectuating programs specifically enacted and administered for the purpose of
35 preventing juvenile delinquency and crime;
36

37 (g) expenses incurred by any taxing subdivision for rebates to owners of property in
38 connection with a neighborhood revitalization program instituted in accordance with
39 K.S.A. 1997 Supp. 12-17,114 et seq., and amendments thereto; ~~or~~
40

41 (h) expenses incurred by any taxing subdivision necessary to interface with the state
42 criminal justice information system; ~~or~~
43

44 *(i) expenses incurred by cities, counties, or any other taxing subdivision necessary for*
45 *compliance with the Americans with Disabilities Act.*
46

1 The provisions of K.S.A. 79-5021 to 79-5036, inclusive, and amendments
2 thereto, do not apply to the tax levies authorized or required under K.S.A. 19-4004, 19-
3 4011, 65-212 and 65-215 and amendments thereto.

4
5 Amounts produced from any taxes levied for purposes specified in this section
6 shall not be used in computing any aggregate limitation under the provisions of this
7 act. In addition, amounts needed to be produced from the levy of taxes by a taxing
8 subdivision to replace the difference between the amount of revenue estimated to be
9 received by such taxing subdivision pursuant to K.S.A. 79-5101 et seq., and
10 amendments thereto, in 1990, and the amount of such revenue estimated to be
11 received by such taxing subdivision in each year thereafter shall not be used in
12 computing any aggregate limitation under the provisions of this act. On or before June
13 1 of each year, information necessary to make such computation shall be provided to
14 each taxing subdivision by the appropriate county treasurer.

15
16 Section 2. K.S.A. 79-5208 is hereby repealed.

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AN ACT concerning the implementation of juvenile dispositional orders; amending K.S.A. 38-1563.

38-1563b, In the carrying out of the terms of the dispositional hearing, the Secretary of S.R.S. or designee shall be responsible for knowing the particulars of the judge's order. The interpreting, directing, and monitoring of the dispositional orders shall rest with the Secretary. The implementation of dispositional orders shall rest with the Secretary who may delegate to a private contractor.

If the dispositional order is to be carried out by a private contractor; the Secretary or designee shall remain responsible for each child in his/her custody and thus remain involved in the implementation of the dispositional order in the role of monitoring to the extent of having sufficient knowledge to be able to report to the courts as to the extent and effectiveness of the private contractor in the implementation of the dispositional orders. The Secretary or designee shall be the prime reporting party to the judge; the contract worker shall be present in the court as a resource to the Secretary or designee.

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