

Approved: Feb. 23, 1999
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:11 a.m. on February 22, 1999 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research (excused)
Mary Blair, Secretary

Conferees appearing before the committee:

Elwaine Pomeroy, Kansas Credit Attorneys and Kansas Collectors Association
Ron Smith, Kansas Bar Association
Michael George, Attorney, Juvenile Justice authority
Judge Graber, 30th Judicial District, Sumner County, Wellington, Kansas
Stacy Farmer, Kansas Association of School Boards
Joyce Allegrucci, SRS-CFS-Commissioner

Others attending: see attached list

The minutes of February 17 and 18 were approved on a motion by Senator Bond and seconded by Senator Goodwin, carried.

SB 306—an act concerning civil procedure; relating to foreign judgments

Conferee Pomeroy testified in support of **SB 306**, a bill he had requested be introduced. He stated that the bill updates the Uniform Foreign Money Judgments Recognition Act "to make it easier to register a foreign judgment in Kansas by allowing a certified copy of the judgment to be filed" and "to provide that if, at the time the judgment is filed in Kansas, it is enforceable in the jurisdiction where it was originally rendered, the Kansas statute of limitations on judgments in Kansas shall not apply." He explained the need for each of these updates. (attachment 1) Following brief discussion Senator Bond moved to pass the bill out favorably, Senator Goodwin seconded, carried.

SB 311—an act concerning corporations; relating to filing of certain documents; recording with register of deeds

Conferee Smith testified in support of **SB 311** which he stated is "clean up" of "over a dozen statutes in the corporation code to reflect that we no longer record corporation documents with Registers of Deeds offices." (attachment 2) Senator Bond moved to pass the bill out favorably and place it on the consent calendar, Senator Goodwin seconded, carried.

SB 103—an act concerning juvenile offenders; relating to juvenile intake and assessment; prosecution; discharge; definitions; and extension of committee

Conferee George referred Committee to his previous testimony in support of **SB 103** and stated that he believed the compromise language in Section 1 of the bill is good. (See testimony February 9, 1999 minutes)

Conferee Graber testified in support of **SB 103** with suggested amendments. He discussed substitute language for the bill, in section 1 and K.S.A. 38-1604(d), to address the placement and dual adjudication issue with regard to juvenile offenders and to clarify the responsibilities of SRS and JJA. (attachment 3) He further requested what he stated are "clean up" amendments as follows: on page 9 line 27 he requested insertion of the language "excluding Saturday, Sunday and Holidays" after "48 hours..."; a definition of Intake and Assessment worker; and on page 24 line 35-36, take specific language "a juvenile detention facility pursuant to K.S.A. 38-1640 and amendments thereto" and move it to the end of the paragraph to clarify any ambiguity. Following discussion on the first "clean up" amendment Senator Donovan moved to include the language, "excluding Saturdays, Sundays, and Holidays" at line 27, page 9, Senator Harrington seconded, carried.

Conferee Allegrucci, at the invitation of the chair during discussion, emphasized certain elements of Conferee Graber's testimony and, in response to a question by Committee regarding contracts with independent contractors, stated that the contracts would be amended so there would be no conflict with language in **SB 103**. (no attachment)

Conferee Farmer testified in support of **SB 103** with one amendment on page 22 line 40 relating to control over local school boards. She requested language change that would establish a juvenile intake and assessment system in each judicial district and, for the purpose of truancy reporting, define the term "a significant part of the day." (attachment 4) Following discussion, Senator Vratil moved to delete language defining "significant part of a school day" (page 22, line 40), Senator Goodwin seconded, carried.

A motion was made by Senator Bond to adopt the substitute language recommended by Conferee Graber in his handout (see attachment 3), Senator Vratil seconded. Carried.

There was discussion regarding amendments to Section E (5) and Section 4 which are, according to Conferee George, opposed by the Juvenile Justice Authority. Conferee Graber stated he felt the language in Section E (5) should remain. No action was taken on either of these.

Following a lengthy discussion on the amendment language in the bill relating to Intake and Assessment workers, Senator Goodwin moved to strike language in the bill allowing Intake and Assessment workers authority to take custody and deliver juveniles to a detention facility, Senator Vratil seconded, carried After further discussion Senator Goodwin moved to pass **SB 103** out favorably as amended, Senator Bond seconded, carried.

The meeting adjourned at 10:55 a.m. The next scheduled meeting is Tuesday, February 23, 1999.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 22, 1999

NAME	REPRESENTING
Stacy Farmer	KS Assoc of School Boards
Fariba Pouraryan	Sec. of State
Luca Allegrucci	SRS-CFS-Commissioner
James Rybicki	Attorney General
Michael Dwyer	Juvenile Justice Authority
Sharon Reddy	OJA
Melissa Wahgemann	Sec. of State
Anthony Ellis	SRS-CFS
Mark Gleeson	OJA
Kathy Porter	OJA
Kathy Olsen	KS Bankers Assn.
JAMES CHARE	KC DAA
Harold Puddie	Puddie + Associates
Bill Speed	KPOA / KSA
John Smith	KS Bar Assoc

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REMARKS CONCERNING SENATE BILL 306

SENATE JUDICIARY COMMITTEE

FEBRUARY 22, 1999

Thank you for giving me the opportunity to appear before you on behalf of the Kansas Credit Attorneys Association, which is a group of Kansas attorneys who do considerable practice in Chapter 61 proceedings and related collection work, and Kansas Collectors Association, Inc., which is an association of collection agencies in Kansas. The organizations I represent appreciate your committee introducing this bill at our request.

This bill amends K.S.A. 60-3002, which is part of the Uniform Foreign Money Judgments Recognition Act, which was promulgated by the National Conference Of Commissioners On Uniform State Laws in 1962. I have been privileged to have served as one of the commissioners from Kansas since 1979. During my service in the Conference, I have seen many instances where the Conference determined that it was necessary to revise and update earlier uniform acts that had been promulgated. I am currently serving as a member of the Drafting Committee to revise the Uniform Parentage Act which was promulgated in 1973.

The groups that I represent feel that it is necessary to update this statute in order to accomplish two things:

1. Make it easier to register a foreign judgment in Kansas by allowing a certified copy of the judgment to be filed.

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2. Provide that if at the time the judgment is filed in Kansas, it is enforceable in the jurisdiction where it was originally rendered, the Kansas statute of limitations on judgments in Kansas shall not apply.

Current law requires that the judgment be authenticated. Some jurisdictions do not have a procedure to authenticate a judgment, but do provide a method for certification of judgments.

The part dealing with the statute of limitations would in effect overrule Johnson Bros. Wholesale Liquor Co. v. Clemmons, 661 P. 2d 1242, 233 Kan. 405 (Kan. 1983) and other cases following it. These cases have held that the Kansas statute of limitations on a foreign judgment begins to run when the judgment is originally rendered in the foreign jurisdiction, rather than looking to the statute of limitations of the state where it was rendered.

It is not at all uncommon for a Kansas attorney to be hired to register a foreign judgment in Kansas many years after the judgment was originally rendered in the foreign jurisdiction. Usually the judgment creditor has lost track of the judgment debtor and only recently discovered that the debtor has moved to Kansas. The current statute would allow, for instance, a Colorado resident to escape liability on an otherwise valid obligation by moving to Kansas after the Kansas statute had run on a Colorado judgment, even if under Colorado law it were still enforceable in Colorado.

If the foreign judgment is otherwise valid in the jurisdiction where it was originally rendered, a creditor should be allowed to enforce that judgment in Kansas if the debtor has moved to Kansas. The proposed amendment will make that possible.

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

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**KANSAS BAR
ASSOCIATION**

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Legislative Testimony
by the
Kansas Bar Association

TO: Members, Senate Judiciary Committee

**FROM: Ron Smith, General Counsel
Kansas Bar Association**

SUBJ: SB 311

DATE: February 22, 1999

In 1998, this committee got the ball rolling on ending the dual filing requirement of corporation papers with both the Secretary of State and county Registers of Deeds offices. Two bills were enacted last year, SB 472 and HB 2422. Melissa Wangemann found more statutes that needed cleaning up. We worked on it this summer. SB 311 is the result. It simply cleans up over a dozen statutes in the corporation code to reflect that we no longer record corporation documents with Registers of Deeds offices.

We hope it is the last bill of this nature we need to bring to you.

Note one item in the title of the bill. Instead of amending KSA 17-7401, we simply outright repeal it. That section states the following:

17-7401. Improperly recorded certificates or documents; effect. In case any certificate or other document of any kind required by any of the provisions of this act to be recorded in the office of any of the registers of deeds of the several counties of this state shall have heretofore been, or shall hereafter be, recorded in the office of the register of deeds of a county of this state other than the county in which the certificate or other document is required to be recorded, the subsequent recording of the document in the office of the register of deeds in which the certificate or other document should have been recorded shall validate and confirm all acts done under or pursuant to the certificate or document, with like force and effect as if the certificate or document had been originally recorded as required by the provisions of this act.

This is 1972 standalone law. It is not referenced elsewhere in the statutes. You'll recall in SB 472, last year, we grandfathered all corporation filings which had been improperly recorded with the registers of deeds, and that grandfather language is now found in KSA 1998 Supp. 17-6003(d). Melissa and I think that 17-7401 is now superfluous.

Thank you.

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SUBSTITUTE LANGUAGE FOR SENATE BILL 103 SECTION ONE
AND
K.S.A. 38-1604(d)

(d) If a juvenile offender, at the time of sentencing, is in an out of home placement in the custody of the Secretary of Social and Rehabilitation Services under the Child in Need of Care Code, the sentencing court may order the continued placement of the juvenile as a child in need of care unless the offender was adjudicated for a felony or a second, or subsequent, misdemeanor. If the adjudication was for a felony or a second, or subsequent misdemeanor, the continued placement cannot be ordered unless the court finds there are compelling circumstances which require, in the best interest of the juvenile, that the placement should be continued. In considering whether compelling circumstances exist, the court shall consider the reports and recommendations of the foster placement, the contract provider, the Secretary of Social and Rehabilitation Services, the presentence investigation and all other relevant factors. If the foster placement refuses to continue the juvenile in the foster placement the court shall not order continued placement as a child in need of care.

If a placement with the Secretary of Social and Rehabilitation Services is continued after sentencing, the secretary shall not be responsible for any costs of sanctions imposed under this code.

If such a juvenile offender is placed in the custody of the Juvenile Justice Authority, the Secretary of Social and Rehabilitation Services shall not be responsible for furnishing services ordered in the child in need of care proceeding during the time of the placement pursuant to the Kansas juvenile justice code. Nothing in this subsection shall preclude such juvenile offender from accessing services provided by the department of social and rehabilitation services or any other state agency if such juvenile is eligible for such services.

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KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
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TO: Senate Judiciary Committee
FROM: Stacey Farmer, Governmental Relations Specialist
DATE: February 22, 1999

Re: Testimony on S.B. 103

Mr. Chairman, Members of the Committee:

KASB appreciates the opportunity to testify on S.B. 103, which would establish a juvenile intake and assessment system in each judicial district. This bill would also, for the purpose of truancy reporting, define the term "a significant part of the day."

KASB opposes this section of the bill because it represents a state mandate. We believe that, school boards acting on behalf of their community, should determine school policies based on their local curriculum needs and circumstances.

School districts are committed to the safety and academic success of their students, and have already adopted policies to define this term in the way that serves their local children and community best. Please allow them to continue to do so.

Thank you for your consideration.

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