

Approved Feb 22, 2000
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:09 a.m. on February 21, 2000 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

None

Others attending: see attached list

The minutes of the February 16th meeting were approved on a motion by Senator Bond, seconded by Senator Vratil. Carried.

Judiciary Subcommittee Chairs reviewed a number of their assigned bills. The following action was taken:

Chair - Senator Vratil

SB 446—Kansas administrative procedure act; abuse, neglect or exploitation of adults; regarding investigation by KDHE

SB 448—concerning docket fees

SB 505—crime victims restitution; regarding compensation

SB 529—concerning corporations; regarding execution of certain documents

SB 446 - Senator Vratil moved to pass the bill out favorably as recommended by subcommittee, Senator Bond seconded. Discussion. Carried with Senator Pugh voting nay.

SB 448 - Senator Vratil moved to pass the bill out favorably as recommended by subcommittee and place it on the consent calendar, Senator Pugh seconded. Discussion. Carried with Senator Feleciano voting nay.

SB 505 - Senator Vratil moved to amend the bill on the recommendation of subcommittee to delete entirely the prohibition from paying such crime victims compensation claims to corporations and other business entities, thus allowing any county to do so and pass it out favorably as amended, Senator Goodwin seconded. Carried

SB 529 - Senator Vratil moved to amend the bill on the recommendation of subcommittee to include a provision that sets a procedure for an existing Kansas corporation to convert to a holding company structure in which the existing Kansas corporation becomes a wholly owned operating subsidiary of a new Kansas holding company and pass the bill out favorably as amended, Senator Goodwin seconded. Carried. (attachment 1)

Chair - Senator Pugh

SB 224—concerning district coroners; notification and investigation of deaths

SB 528—concerning the Chemical Control Act; regarding practitioners

SB 578—concerning courts; regarding collection of debts owed.

SB 585—civil procedure; regarding depositions; preferential pricing of reporting services

SB 488—regarding sentencing in multiple conviction cases

SB 485—nonprobate transfer on death; regarding nontestamentary nature

SB 224 - Senator Pugh moved to pass the bill out favorably as recommended by the subcommittee and place it on the consent calendar, Senator Bond seconded. Carried.

SB 528 - Senator Pugh moved to pass the bill out favorably as recommended by the subcommittee and place it on the consent calendar, Senator Bond seconded. Carried.

SB 578 - Senator Pugh moved to pass the bill, Senator Vratil seconded. Following discussion both senators withdrew their motions and no further action was taken on the bill at this time.

SB 585 - Senator Pugh moved to pass the bill out favorably as recommended by the subcommittee, Senator Donovan seconded. Carried.

SB 488 - Senator Pugh moved to pass the bill out favorably as recommended by the subcommittee, Senator Goodwin seconded. Carried.

SB 485 - Senator Pugh moved to pass the bill out favorably as recommended by the subcommittee, Senator Feleciano seconded. Carried. (attachment 2)

Chair - Senator Emert

SB 559—concerning electronic transfers

SB 559 - Senator Goodwin moved to amend the bill by striking the language on page 2 at line 22 beginning with “The” and all of lines 23 and 24 and beginning on page 8, all of sections 17,18, and 19 as recommended by the subcommittee and pass the bill out favorably as amended, Senator Vratil seconded. Carried. (attachment 3)

Chair - Senator Oleen

SB 370—concerning children; regarding guardians ad litem

SB 461—concerning CINC; regarding permanent guardianship

SB 490—regarding community corrections; placement of offenders

SB 491—regarding probation and suspension of sentence; jail confinement; conditional violators; postrelease supervision

SB 546—regarding placement and conveyance of certain offenders; reception and diagnostic center

SB 583—criminal prosecution of juvenile offenders; regarding traffic offenses

SB 370 - Following discussion on the bill, there was general consensus to take no action at this time.

SB 461 - Senator Oleen moved to amend the bill to include Conferee Judge Graeber’s recommendations and to pass the bill out favorably as recommended by the subcommittee, Senator Vratil seconded. Carried.

SB 490, 491, 546, and 583 - Following discussion Committee decided to revisit these bills on 2-22. (attachment 4)

Chair - Senator Goodwin

SB 386—concerning crime and punishment; regarding inquisitions; subpoenas

SB 384—regarding indecent and aggravated indecent solicitation of a child; creating crime of electronic harassment

SB 386 - Following discussion Senator Goodwin moved to amend the bill to delete “computer crime” and replace it with “any crime involving a computer” as recommended by the subcommittee and pass the bill out favorably, Senator Vratil seconded. Carried with Senators Harrington, Donovan, Pugh, and Petty voting nay.

SB 384 - following discussion, it was the consensus of the Committee to take no action on the bill at this time. (attachment 5)

The meeting adjourned at 10:58. The next scheduled meeting is February 22, 2000.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 21, 2000

NAME	REPRESENTING
John Sotterberg	Western Resources
Jeff Botenberg	KPOA / KSA
Gail Bright	A.G.
Marilyn Jacobson	SKS
John Peterson	Ks Government Consulting
Janene Shubault	Kansas Court Reporters ASS.
Debbie Oakley	Kansas Court Reporters
Kyle Smith	KBI
KEVIN GRAHAM	KSC
Sub Jones	KSC
Tim Madden	KDOC
Nancy Lindberg	AG
Carol Nohr	AG
Shirley Walker	KDOR - DMV
Harry Tiffany	" "
Terry Heidner	KDOT - Planning
Erin Bechard	KCDAA
FARIBA Pouranyan	Sec. of State
Melissa Wagemann	Sec. of State

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REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

ASSISTANT REVISORS

AVIS A. SWARTZMAN, ATTORNEY
DON S. HAYWARD, ATTORNEY
MARY ANN TORRENCE, ATTORNEY
WILLIAM L. EDDS, ATTORNEY
BRUCE W. KINZIE, ATTORNEY
THERESA M. KIERNAN, ATTORNEY
GORDON L. SELF, ATTORNEY
JILL A. WOLTERS, ATTORNEY
ROBERT J. NUGENT, ATTORNEY
MICHAEL K. CORRIGAN, ATTORNEY
RENAE JEFFERIES, ATTORNEY
KENNETH M. WILKE, ATTORNEY
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ATT 1

LEGAL CONSULTATION—
COMMITTEES AND LEGISLATIVE
LEGISLATIVE BILL DRAFTING
SECRETARY—LEGISLATIVE
COORDINATING COUNCIL
SECRETARY—KANSAS COMMISSION
ON INTERSTATE COOPERATION
KANSAS STATUTES ANNOTATED
EDITING AND PUBLICATION
LEGISLATIVE INFORMATION SYSTEM

COMPUTER INFORMATION STAFF
MARY O. CHENG, M.S.
RICHARD M. CHAMPNEY, B.S.

February 21, 2000

Senator Vratil's Judiciary Subcommittee

The Subcommittee met on February 14, 17 and 18, 2000. The Following is a brief summary of the subcommittee's hearings and recommendations.

(1). Senate Bill No. 446: Provides that hearings, findings, evaluations and actions taken by the Kansas Department of Health and Environment regarding reports of abuse, neglect or exploitation of adults in adult care homes and other facilities be conducted in accordance with the Kansas Administrative Procedures act rather than rules and regulations of the secretary of Health and Environment.

Proponents: Bill Rein, KDHE

Opponents: None

Subcommittee Action: Recommendation that the bill be passed favorably by the full committee.

(2). Senate Bill No. 447: Would eliminate certain requirements relating to issuance of subpoenas of business records. Specifically, the notice of issuance of the subpoena to all parties 10 days prior to the issuance of the subpoena and the notice of receipt of the business records by the clerk of the district to the party requesting such records would be eliminated.

Proponents: Marti Spangler, Clerk of the District Court, Sedgwick County,
Robin Becker, County Clerk, Phillips County

Opponents: None

Subcommittee Action: Recommendation that the bill be amended to not delete the notice requirement relating to notice of issuance of subpoena 10 days prior to such issuance but clarify that the notification requirement is the responsibility of the party requesting the subpoena and not the clerk of the district court. The subcommittee recommends the bill be passed favorably as amended by the full committee.

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(3). Senate Bill No. 448: Increase docket fee for actions involving violations of nonmoving traffic regulations from \$45 to \$46. Current law already provides a docket fee of \$46 for actions involving violations of moving traffic violations.

Proponents: Lisa Wilson, Clerk of the District Court, Jackson County

Opponents: None

Subcommittee Action: Recommendation that the bill be passed favorably by the full committee.

(4). Senate Bill No. 483: Changes to law relating to the secretary of state's duties to serve process on business entities. Specifically, the bill provides a uniform standard of service of process whenever the resident agent cannot be located; service may be made on the secretary by certified mail or personal service; inclusion of limited liability companies to service of process statute; and waiver of service of process fee for state agencies.

Proponents: Melissa Wangemann, Secretary of State's Office

Opponents: None

Subcommittee Action: Recommendation that the bill be amended to make technical amendments to better clarify changes in the service of process statute and the limited liability company act related to service of process. The subcommittee recommends the bill be passed favorably as amended by the full committee.

(5). Senate Bill No. 505: Allows claims for crime victims compensation to be paid by local crime victim compensation boards, in counties having a population of less than 10,000 to corporations or other business entities as long as money does not come from a government source. Most of the amendments in the bill are a reconciliation of conflict of law.

Proponents: Bob Crankle, City of Lincoln, Kansas

Harry Cross, City of Lincoln, Kansas

Opponents: None

Subcommittee Action: Recommendation that the bill be amended to delete entirely the prohibition from paying such crime victims compensation claims to corporations and other business entities, thus allowing any county to do so. The subcommittee recommends the bill be passed favorably as amended by the full committee.

(6). Senate Bill No. 529: Eliminates the requirement that corporate documents be acknowledged (notarized) and provides as with other business entities (LL Cos, LP/s and LLP/S) that execution is accomplished by signing such documents under penalty of perjury.

Proponents: Melissa Wangemann, Secretary of State's Office

Larry Irick, Western Resources

Opponents: None

Subcommittee Action: Recommendation that the bill be amended include a provision that sets a procedure for an existing Kansas corporation to convert to a holding company structure in which the existing Kansas corporation becomes a wholly owned operating subsidiary of a new Kansas holding company. The subcommittee recommends the bill be passed favorably as amended by the full committee.

(7). Senate Bill No. 582: Reverses action of the 1999 legislature relating to requiring a review of plats and surveys by a county surveyor or engineer and in the absence of either, the county could contract with a private surveyor to complete the review. This bill would take the law back prior to the 1999 changes.

Proponents: Marilyn Nichols, Register of Deeds, Shawnee County
(opposed to part of bill)

Opponents: Suzanne Sunon, Register of Deeds, Wabaunsee County
Judy Mohler, KS Association of Counties
Ken Campbell, Ford County
Jim Yonally, KS Society of Land Surveyors
Ben Crosland, Topeka

Subcommittee Action: Recommendation that Judy Mohler chair a group of interested parties to come up with a solution to the problem and the subcommittee requests the chairman of the Judiciary Committee to have the bill blessed so that it is not subject to House of Origin deadline.

(8). Senate Bill No. 595: Amends criminal stalking statute to include stalking by electronic means to deal with cyberstalking.

Subcommittee Action: Recommendation that the bill be passed favorably by the full committee in lieu of Section 1 of 2000 Senate Bill No. 384 which creates the crime of electronic harassment.

(9). Senate Bill No. 429: Provides that for drivers under 21 whose blood alcohol content is .08 or greater their period of suspension will be one year like those whose blood alcohol content is between .02 and .0799 rather than some period of suspension less than one year (i.e. the term of a diversion agreement or 30 days as one court did).

Proponents: Sheila Walker, Director of Vehicles

Opponents: None

Subcommittee Action: Recommendation that the bill be passed favorably by the full committee.

(10). Senate Bill No. 629: Eliminates requirement that reconciliation of capital accounts of certain organizations be included on annual report and requires the secretary of state to not disclose the amount of franchise tax paid by a business entity.

Subcommittee Action: Recommendation that the bill be amended to include limited partnerships in the provisions of the bill and delay the effective date until January 1, 2001.

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**SENATOR PUGH'S JUDICIARY SUBCOMMITTEE
(February 14 and February 17)**

1. **SB 224** clarifies the law regarding coroner inquests to provide this bill in the county where the death occurred rather than where the cause of death occurred and requires filing of the coroner's report in the county where the death occurred, if known. Otherwise, where the dead body was found.

Proponents:

Senator Tim Emert
State Registrar of Vital Statistics, see Attachment 1
Representative, State Board of Mortuary Arts, see Attachment 2
Representative, Kansas Funeral Directors and Embalmers Association, see Attachment 3

Opponents: None

Subcommittee Action:

The subcommittee recommends the bill for passage by the full committee.

2. **SB 480** allows counties between 25,000 and 100,000 population to require the county attorney to devote full time to official duties and requires the salary for this office to be not less than 70 percent but not exceed the salary of a district judge.

Proponents:

Vernon McKinzie, Lyon County Commissioner. See Attachments 4 and 5.

Senator Stephens suggested an amendment: to continue current added compensation for taking appeals and to change the effective date to the *Kansas Register*. See Attachment 6.

Mike Patton testified.

David Criswell, Saline County Administration submitted testimony favoring the bill. See Attachment 7.

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Opponents:

Susan Bechard, Kansas County and District Attorneys Association, raised a number of concerns with the bill. See Attachment 8.

Subcommittee Action:

The subcommittee agreed to recommend this bill unfavorably to the full committee.

3. **SB 485** provides that a variety of contractual arrangements including beneficiary designations in individual retirement accounts shall be regarded as nontestamentary in nature.

Proponents:

Roger Viola, Senior Vice President of Security Benefit Life Insurance Company. See Attachment 9.

David Hanson, Kansas Life Association, favored the bill.

Opponents:

None.

Subcommittee Action:

The subcommittee recommended SB 485 for favorable consideration by the full committee.

4. **SB 488** amends the sentencing guidelines law to clarify the law in a multiple conviction case when a defendant has the primary crime conviction reversed on appeal. The bill provides that the second most serious crime becomes the basis for determining the sentence in regard to prior criminal history.

Proponents:

Kevin Graham, Kansas Sentencing Commission. See Attachment 10.

Opponents: None

Subcommittee Action:

The Subcommittee recommended the bill for favorable passage by the full committee.

5. **S.B. 528** makes an amendment to add pharmacists to the definition of "practitioner" in the 1999 Kansas Chemical Control Act.

Proponents:

Bob Alderson, Kansas Pharmacists Association, supported the amendment. See Attachment 11.

Opponents: None

Subcommittee Action:

The Subcommittee recommends the full committee pass the bill favorably and place it on to the consent calendar.

6. **SB 578** transfers the responsibility for collecting unpaid court costs in all criminal, traffic, and juvenile offender cases from the Attorney General's office to the chief judge of each judicial district.

Proponents:

Opponents:

A representative of the Attorney General said the bill was a good idea but this was not the proper time.

Subcommittee Action:

The subcommittee recommends the full committee discuss this bill.

7. **SB 584** permit^s contingency fee arrangements for private detectives and establishes continuing education requirements.

Proponents

Don Boyd, Kansas Private Detective Association, supported the bill. See Attachment 12.

Opponents

John Ellis, Kansas Association of Private Detectives. See Attachment 13.

Subcommittee Action:

The subcommittee agreed to recommend the bill unfavorable to the full committee.

8. **SB 585** amends the code of civil procedure to disqualify persons from taking depositions who are under contract to provide preferential pricing (court) of reporting services to any of the parties, an attorney, counsel, or insurer of any of the parties.

Proponents:

Janene Thibault, Vice President of the Kansas Court Reporters Association and co-owner of a Johnson County court reporting service. See Attachments 14 and 15.

Steve Owens, Manhattan Court Reporter.

Opponents: None

Subcommittee Action:

The subcommittee agreed to recommend this bill for favorable action by the full committee.

Subcommittee Report
SB 559

Chair: Sen. Emert

Members: Sen. Vratil and Sen. Goodwin

Date: February 17

Time: 3:02 p.m.

Following brief discussion Senator Goodwin moved to amend SB 559 by striking the following language: on page 2 at line 22 beginning with the word "The" and all of lines 23 and 24 and beginning on page 8, all of sections 17, 18, and 19, Senator Vratil seconded. Carried.

Senator Goodwin moved to recommend SB 559 to full Committee favorably as amended, Senator Vratil seconded. Carried.

The meeting adjourned at 3:10p.m.

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February 18, 2000

Senator Oleen's Judiciary Subcommittee (February 14, 17, and 18)

- 1. SB 370** would allow the appointment of a guardian ad litem for any child not attending school.

Proponents: None appeared. Recommendation for the bill came from the 1999 SRS Transition Oversight Committee.

Opponents: Judge Thomas H. Graeber

Subcommittee Action: Recommend the bill be killed.

- 2. SB 461** would amend the child in need of care law dealing with the appointment of a permanent guardian to provide the court should have continued jurisdiction to review the placement.

Proponents: Senator Tim Emert
Judge Thomas Graeber
Joyce Allegrucci

Opponents: None appeared.

Subcommittee Action: Be passed as amended to include Judge Graeber's recommendations.

- 3. SB 490** establishes group adult offenders who may be placed in community corrections programs. See Section 1 (a) (2) (A) through (E).

Proponents: Barbara Tombs, Sentencing Commission
Charles Simmons, Department of Corrections
Chris Mechler, Kansas Association of Court Services Officers

Opponents: Kathy Porter, OJA—on behalf of Judge Tuggle, wants bill to be held.
Judge Graeber—concerns with the bill.

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Subcommittee Action: Be passed as amended. The recommendations of DOC and the Sentencing Commission are contained in an attachment.

4. SB 491 amends the law dealing with probation and supervision of sentence to increase the county jail time permitted from 30 to 120 days, permits certain violators of conditions of release to be assigned to community corrections and alters post release supervision periods for certain crime severity levels.

Proponents: Tim Madden for Chuck Simmons, DOC
Barbara Tombs, Kansas Sentencing Commission

Opponents: Judge Tuggle—written comments—concern with the bill.

Subcommittee Action: Be passed as amended. These amendments are contained in the attachments.

5. SB 530 makes certain amends to the child support enforcement law.

Proponents: Marilyn Jacobson—Department of Social and Rehabilitation Services
Kathy Porter—OJA, informational material presented
Amy Waddle—OJA, informational material presented

Opponents: Jim Johnston—joint custodial parent
Joe Ledbetter—opposition and concerns were expressed via a telephone communication with Senator Oleen. Concerns centered on an escalating fee and Internet access.

Subcommittee Action: Be passed as amended to allow for a waiver of payment of the service fee charged to non IV-D parents who are current in their child support payments. A second amendment would allow a judge to let a non IV-D parent who is current in child support payment to not send payments to the central unit.

6. SB 546 amends the law dealing with a sheriff's responsibility to deliver custody of prisoners to the state reception and diagnostic unit.

Proponents: Tim Madden—Department of Corrections

Opponents:

Subcommittee Action: Be passed as amended. The amendments are contained in the attachments.

7. SB 583 clarifies the definition of traffic offense in regard to the prosecution of juveniles violating traffic laws.

Proponents: No conferees appeared.

Opponents: No conferees appeared.

Subcommittee Action: Return the bill to the full Committee.

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Senator Goodwin's Judiciary Subcommittee

(Senators Goodwin, Vratil, and Oleen)

1. SB 386 would add "computer crime" to the list of crimes that the Attorney General or local prosecutors could apply to a district judge to conduct an inquisition.

Conferees

Proponents: None

Opponents: None

Subcommittee Action

Senator Vratil made a motion to delete "computer crime" and replace it with "any crime involving a computer." Senator Goodwin seconded the motion and it carried.

2. SB 384 would create the new crime of electronic harassment and the crimes of indecent solicitation of a child and aggravated indecent solicitation of a child to cover solicitation through a computer and provide more severe penalties for this new aspect of these crimes.

Conferees

Proponents: None

Opponents: None

Subcommittee Action

Senator Vratil moved to recommend that SB 384 be reported unfavorably and that the Committee review SB 595, dealing with stalking by harassing a person by computer. Senator Oleen seconded the motion and it passed.