

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. On February 15, 2001 in Room 313-S of the Capitol.

All members were present except:

Representative Geraldine Flaharty - Excused  
Representative Andrew Howell - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department  
Jill Wolters, Revisor of Statutes Office  
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Representative Ward Loyd

Hearings on **HB 2212 - branch banks shall designate an officer as the custodian of records to identify records for evidentiary purposes**, were opened.

Representative Ward Loyd appeared as the sponsor of the proposed bill. He explained that this would change current bank practices by requiring someone employed in and working at the branch to be designated as a custodian of the banking records at that branch. (Attachment 1)

Hearings on **HB 2212** were closed.

**HB 2075 - fingerprinting of juveniles who allegedly commit assaults**

Representative Long made the motion to report HB 2075 favorably for passage. Representative Williams seconded the motion.

Representative Klein made the substitute motion to strike in line 25 "classA & B" and replace with "person" Representative Pauls seconded the motion. The motion failed.

The motion to report HB 2075 carried.

**HB 2083 - criminal procedure relating to arrest; arrest of persons released on appearance bonds**

Representative Loyd made the motion to adopt the balloon amendment. (Attachment 2) Representative Pauls seconded the motion. The motion carried.

Representative Rehorn made the motion to replace the statement with "stating for the reason". Representative Long seconded the motion. The motion carried.

Representative Dillmore made the motion to strike "oral". Representative Swenson seconded the motion. The motion failed.

Representative Loyd made the motion to change "the sworn written or oral request" to "sworn statement, written or oral". Representative Pauls seconded the motion. The motion carried.

Representative Long made the motion to report HB 2083 favorably for passage as amended. Representative Dillmore seconded the motion. The motion carried.

**HB 2176 - crimes & punishment, relating to unlawful sexual relations between SRS employees and patients**

Representative Pauls made the motion to report HB 2176 favorably for passage. Representative Long seconded the motion.

Representative Pauls made the substitute motion to amend in the provisions of **HB 2445 - unlawful sexual relations between teachers and students**. Representative Long seconded the motion. The motion carried.

Representative Shriver made the motion to add the age of 16 or older to the bill. Representative Rehorn seconded the motion. The motion carried.

Representative Long made the motion to add in line 16, page 2, sodomy, not otherwise stated in K.S.A. 3502(a)(1)(c) and anywhere else it needed to be in the bill. Representative Crow seconded the motion. The motion carried.

Representative Pauls made the motion to add in paragraphs 1 & 2 "as a person 16 years or older". Representative Long seconded the motion. The motion carried.

Representative Long made the motion to report **HB 2176** favorably for passage as amended. Representative Dillmore seconded the motion. The motion carried.

#### **HB 2207 - criminal procedure, and abatement of common nuisances**

Representative Loyd made the motion to report **HB 2207** favorably for passage. Representative Newton seconded the motion. The motion carried.

#### **HB 2328 - crimes & punishment, relating to abusing toxic vapors**

Representative Klein made the motion to report **HB 2328** favorably for passage. Representative Lloyd seconded the motion.

Representative Loyd made the substitute motion to change in line 15 "for the purpose of causing" to "with the intent". Representative Klein seconded the motion. The motion carried.

Representative Klein made the motion to report **HB 2328** favorably for passage as amended. Representative Loyd seconded the motion. The motion carried.

The committee meeting adjourned at 5:00 p.m. The next meeting is scheduled for Monday, February 19, 2001.

WARD LOYD

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TOPEKA

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TRANSPORTATION BUDGET  
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JUSTICE OVERSIGHT

TESTIMONY IN SUPPORT OF HB 2212  
SUBMITTED BY WARD LOYD  
FEBRUARY 15, 2001

Chairman O'Neal and Fellow Committee Members:

Recently the City of Garden City discovered that the director of its Local Housing Authority had embezzled funds -- over some period of time, in fact.

When prosecution time rolled around, the City and the County Attorney had the devil's own time getting banking records and testimony of transactions admitted into evidence. Those representatives of the branches of the banks where accounts were maintained which were used in the embezzlement who were called to testify would not (could not) testify that the transactions identified in the records actually occurred.

The reason, they could not be identified as officially recognized "custodians" with regard to the records maintained in the branch of the bank by whom they were employed. This bill is intended to reconcile the changes in current bank practices with long-standing evidentiary rules and due process rights, and to require that if you engage in branch banking, someone employed in and working at the branch must be designated as a "custodian" of the banking records at that branch.

Thank you for your favorable consideration of HB 2212.

# Kansas Statutes Annotated

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## 9-813

### Chapter 9.--BANKS AND BANKING; TRUST COMPANIES Article 8.--BANKING CODE; ORGANIZATION

**9-813. Prohibiting interstate branch banking.** (a) No bank the home office of which is located outside the state of Kansas shall establish or operate a branch bank within the state of Kansas.

(b) For the purpose of this section "branch bank" means any office, agency or other place of business, at which deposits are received, checks paid or money lent.

(c) For the purpose of this section "bank" means an insured bank as defined in section 3(h) of the federal deposit insurance act, 12 U.S.C. 1813(h), and amendments thereto.

**History:** L. 1991, ch. 47, § 3; July 1.

**9-813.**

#### Attorney General's Opinions:

Deposit of public funds; amount of required security; custody receipts. 93-91.

National bank which relocates its main office from Kansas to another state may retain its Kansas branch banking facilities. 94-128.

*Ward-*

*9-1111 refers specifically to "state-chartered" banks.*

*Maybe instead of referring to another statute you could insert this language.*

*Also, what about branches of S&L's; Credit Unions?*

*Chub*

# HOUSE BILL No. 2083

By Committee on Judiciary

1-19

9 AN ACT concerning criminal procedure; relating to arrest; release on  
10 appearance bond; amending K.S.A. 22-2809 and repealing the existing  
11 section.  
12

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

14 Section 1. K.S.A. 22-2809 is hereby amended to read as follows: 22-  
15 2809. Any person who is released on an appearance bond may be arrested  
16 by ~~his~~ such person's surety or any person authorized by such surety and  
17 delivered to a custodial officer of the court in any county in the state in  
18 which ~~he~~ such person is charged ~~and~~. ~~Such person who is arrested as~~  
19 ~~provided in this section shall be~~ brought before any magistrate having  
20 power to commit for the crime charged; ~~and~~ ~~[At the request of the surety,~~  
21 ~~The magistrate shall~~ ~~[may, for good cause~~ commit ~~[the party or~~ ~~[such person~~  
22 ~~who is arrested and~~ shall indorse on the bond, or a certified copy thereof  
23 of such bond, the discharge of such surety; ~~and~~ ~~the~~. Such person so com-  
24 mitted as provided in this section shall be held in custody until released  
25 as provided by law. ~~[If the court finds there is not good cause for the surety~~  
26 ~~to return such person for commitment, the court may require the surety~~  
27 ~~to return some or all of the consideration provided for the issuance of the~~  
28 ~~bond.]~~

29 Sec. 2. K.S.A. 22-2809 is hereby repealed.

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

upon the sworn written or oral  
request of the surety stating  
cause for the discharge. The  
magistrate may commit the party  
who is arrested as provided in  
this section.