

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:39 a.m. on February 6, 2001 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Lesla Roberts, Director of Health Occupations Credentialing, KDHE

Others attending: see attached list

Minutes of the February 5, 2001 regular meeting were approved on a motion by Senator Donovan and seconded by Senator Adkins. Carried.

The Chair assigned subcommittees and distributed a list of chairs, members and bills to be heard. (attachment 1) He further distributed information regarding amendments to holiday proclamation statutes compiled and written at the request of the Chair by Intern Mike Book (attachment 2)

SB 103—re: home health agencies; concerning employment of persons by such providers

SB 104—re: adult care homes; concerning employment of persons by such providers

Conferee Roberts testified in support of **SB 103** and **SB 104**, bills which she stated were introduced to accomplish several improvements to the Criminal Background Check programs for adult care (AC) homes and home health care (HHC) agencies. **SB 103** relates to AC home operators and **SB 104** relates to HHC agencies operators. She detailed five improvements recommended by a task force which met this summer to discuss industry needs. (attachment 3) Following in-depth discussion by Committee and apparent confusion regarding intent of or necessity for the bills, the Chair assigned both bills to a subcommittee chaired by Senator Schmidt.

SB 66—concerning CINC; technical amendment

The Chair reviewed **SB 66**. Senator Pugh moved the bill be passed out favorably and placed on the consent calendar, Senator Haley seconded. Carried.

SB 67—DUI alcohol or drugs; concerning penalties

The Chair reviewed **SB 67**. Following in-depth discussion by Committee and uncertainty relating to several issues concerning the bill including the wording of a similar un-passed bill addressing this issue last year, Senator Pugh offered to write an explanation of the current statute and report back to Committee.

SB 97—concerning signing of certain documents issued or made by the governor

The Chair reviewed **SB 97**. Following discussion, Senator Adkins moved to amend the bill to read at line 17 signed by the governor “or in the absence of the governor, the lieutenant governor, or in the absence of both, a person designated by the governor in writing” and deleting the remainder of the paragraph, Senator Haley seconded. Carried. Senator Oleen moved to pass the bill out favorably as amended, Senator Goodwin seconded. Carried.

SB 98—concerning publication of proclamations issued by the governor

The Chair reviewed the bill. After brief discussion Senator Oleen moved to pass the bill out favorably, Senator Goodwin seconded. Carried.

The meeting adjourned at 10:30 a.m. The next meeting is February 7, 2001.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: February 6, 2001

NAME	REPRESENTING
Josh Keese	KDHE
Steve Juvin	KDHE
Lesa Roberts	KDHE
DWE Sm	KBI
Kyle Smith	KBI
Walter Thornburgh	KDOT
Frank Blumhagen	Felicio
Verna Weber	SRS
Jodi Hessel	Budget
Kerrie Ruhlman	Ks. Adult Care Executives
Uniki Allen	Ks Center for Assisted Living
Ernest C. Fogge	AARP
Patricia Semman	KIDA
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Joe Herold	KSC
Bruce Dimmitt	Independent + KFL
Robert Collins	Kearney Law Office
Ami Hyten	Office of Judicial Admin

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2-6-11

SENATE JUDICIARY SUBCOMMITTEE

Senator Pugh, Chair
Senator Donovan
Senator Goodwin

SB 131--Driving under the influence by minors; test refusal and penalties
SB 206--Penalties for driving under influence; convictions
SB 208--DUI of an inhalant
SB 215--DUI of alcohol or drugs; criminal and administrative penalties; administrative procedures

Senator Oleen, Chair
Senator Haley
Senator Adkins

SB 14--concerning mediation; re: disputes which may be ordered to mediation; re: certain costs of mediation

Senator Adkins, Chair
Senator Haley
Senator Umbarger

SB 141--Insurance; fraudulent acts.
SB 173--Grounds for divorce or separate maintenance.

Senator Schmidt, Chair
Senator Gilstrap
Senator O'Connor

SB 175--Consumer Protection Act; sequestration orders
SB 207--Reports by law enforcement officer on traffic violations by person claiming diplomatic immunity.

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2-6-01

Memorandum

To: Sen. John Vratil

From: Mike Book

Date: February 1, 2001

Re: Amendments to Holiday proclamation statutes

Among the statutes requiring a proclamation by the Governor, five involve annual holidays. They are Mother's Day, Kan. Stat. Ann. § 35-202, General Pulaski's Memorial Day, id. § 35-203, Arbor Day, id. § 35-204, Flag Day, id. § 73-705, and White Cane Safety Day, id. § 39-1104. With the exception of White Cane Safety Day, these statutes require the Governor to issue proclamations calling upon state officials to raise the United States flag. These four statutes can be amended such that a proclamation by the Governor is not required. Instead, the state officials would be automatically called upon to raise the U.S. flag by the statute itself. An example of such "automatic" statutes can be found at Kan. Stat. Ann. §§ 35-206 and 35-207.

The White Cane Safety Day statute, however, requires the Governor to issue a proclamation that essentially reminds citizens about the importance of respect for disabled persons. This is the type of statute intended to be addressed by SB98. SB98 would allow the Governor to fulfill his duty under this statute without incurring the publication expenses normally commensurate with proclamations.

As for General Pulaski, he was the "Father of the American Cavalry." Born in Poland in 1747, he became a hero of the American War for Independence when he helped secure a victory for American forces in the Battle of Savannah. During the battle, he was mortally wounded and died on October 11, 1779. He has become a hero to all Americans, but particularly to Polish-Americans. I have attached a copy of a short biography.

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Stanislaw Batowski, "Pulaski at Savannah" or "The Death of General Casimir Pulaski" 1933
Original in Polish Museum of America, Chicago

Casimir Pulaski 1747 - 1779: A Short Biography

| [Introduction](#) | [Commonwealth](#) | [Exile](#) | [American Revolutionary War](#) | [Honor Pulaski](#) |

The following article on Casimir Pulaski was written by John J. Kulczycki (UIC), published by the Polish Museum of America, and is reprinted here with their permission. Chicago Public Library's staff at the HWLC Foreign Language Information Center and the Portage-Cragin Polish Language Collection work closely with the Polish Museum of America.

Introduction

Casimir Pulaski belongs to that select group of heroes, including the Marquis de Lafayette, Thomas Paine, Giuseppe Garibaldi, and Pulaski's fellow countryman, Thaddeus Kosciuszko, who opposed tyranny not only in their homelands, but wherever they found it. We especially honor Pulaski because he paid the ultimate price, having sustained a mortal wound while fighting for American independence at the battle of Savannah in 1779. Today he remains a symbol of the ideal of valiant resistance to oppression everywhere in the world.

The Polish-Lithuanian Commonwealth

Pulaski was born on March 4, 1747, in Winiary, some 40 miles outside of Warsaw. His family belonged to the minor Polish nobility, and his ancestors fought with King Jan Sobieski against the Turks at the siege of Vienna in 1683. His father Jozef successfully built up the family fortune and deeply involved himself in politics. But the vast Polish-Lithuanian Commonwealth had fallen on hard times. No longer the military power of Sobieski's day, it came increasingly under the domination of its aggressive neighbors, particularly Tsarist Russia.

Russia demonstrated its influence over the Commonwealth's affairs when in 1764 Empress Catherine the Great imposed her candidate Stanislaus Poniatowski, as the Commonwealth's next elected monarch. Poniatowski sought to carry out much needed reforms, but aroused the suspicion of the nobility who feared the establishment of a royal despotism. Moreover, the Russian ambassador regularly interfered in the Commonwealth's domestic affairs, in 1767, even using Russian

troops to coerce its parliament into passing legislation that ended the privileged position of the Catholic Church.

In these circumstances, in 1768, Jozef Pulaski joined with others in initiating an insurrection known as the Confederation of Bar, a town in the Ukraine, where it was formed. Under the motto, "For Faith and Freedom," the elder Pulaski assumed the military leadership of the confederation, and Casimir on his 21st birthday took command of a detachment of partisans. For the next 3 1/2 years, in military campaigns against Russian forces that sought to put down the rebellion, the young commander proved his valor and genuine military talent in more than a dozen major action and numerous skirmishes.

Exile

In October 1771, Pulaski undertook one last major expedition as part of a plot to abduct the king. The plot misfired, but it led to the young Casimir being unjustly accused of attempted regicide and later, after he left the country, to a death sentence. When in 1772, Russia, Prussia, and Austria began negotiations to partition the Commonwealth, he and the other confederates saw the futility of continuing the struggle. In the face of the charges against him, he was forced to flee his homeland, never to see it again. Within months of his departure, the Commonwealth's aggressive neighbors agreed to divide over a quarter of its territory among themselves. The effort to defend the Commonwealth had failed, but the heroism of Pulaski and other confederates would inspire future generations of their countrymen.

Meanwhile, Pulaski faced a difficult exile. After two years in western Europe, he again joined battle against Russia, this time, on the side of the Turks. Their defeat forced him to return to France where, in the summer of 1776, he learned of America's war for independence and sought permission from the Americans to join their forces. Most American colonists were not yet enthusiastic in the support of the war, and George Washington, a commander-in-chief, needed battle-tested officers like Pulaski. Finally, in May 1777, Pulaski received a letter of recommendation from Benjamin Franklin, the American commissioner in Paris, and left for America, landing near Boston in July. In August, he reported to Washington's headquarters near Philadelphia.

The American Revolutionary War

On Washington's recommendation, the Continental Congress appointed Pulaski general of the cavalry on September 15, 1777. But even before his formal appointment, he demonstrated his value. At the battle of Brandywine Creek, where Washington's forces suffered a defeat, Pulaski led a counterattack that covered the retreat of the Americans and helped prevent a military disaster.

Pulaski spent the winter of 1777 training his soldiers at Trenton, not far from Washington's headquarters at Valley Forge. He introduced new battle drills in an effort to transform them into a highly mobile force. But, realizing that the Americans did not share his conception of the cavalry as a separate combat force, Pulaski asked to be relieved of his position and allowed to form a special infantry and cavalry unit capable of more independent action. With Washington's support, Pulaski gained the consent of Congress on March 28, 1778.

It took Pulaski, regarded as "the father of the American cavalry," another five months to form his legion at his headquarters in Baltimore, where he recruited Americans, Frenchmen, Poles, Irishmen, and especially Germans; mainly deserters from the Hessian mercenaries employed by the British. But for some

time the American command could not find a suitable role for Pulaski's legion, leading him again to request reassignment. Finally, on February 2, 1779, he received orders to proceed to South Carolina to reinforce the southern American forces under British attack.

Now Pulaski began his most active period of service in the war with the front line combat he sought. At the head of a troop of some 600, Pulaski arrived in Charleston in May 1779, just in time to contribute to its successful defense against a much larger British force, which after occupying Georgia was steadily advancing northward. This victory proved pivotal in the war in the South as it broke the British momentum and boosted American morale.

What remained was to win back the territory that the British had occupied. Savannah became the fateful goal. Newly arrived French forces under Admiral Charles Henri d'Estaing together with the Americans planned a risky all out assault on the heavily fortified town. The siege began on October 9. The mission of the Pulaski Legion was to follow in behind the French infantry and break down the enemy's line of defense. But the French got caught in a cross fire, and d'Estaing himself was wounded. Awaiting the proper moment for his cavalry to enter the battle, Pulaski could see the infantry breaking ranks under heavy fire. To try to save the situation, he charged forward into the battle only to be grievously wounded himself. Carried from the battlefield, he was put on a ship to be taken back to Charleston, but never regained consciousness. On October 11, 1779, the 32 year old Polish commander died at sea, where he was buried.

In Honor of Pulaski

Americans have always recognized Pulaski's heroism and the price he paid for their freedom. Shortly after his death a solemn memorial service was held in Charleston, and, before the end of 1779, the Continental Congress resolved that a monument should be erected in his honor, though a statue was not put into place in Washington, D.C., until 1910.

Over the years Americans have kept alive his memory naming many countries, towns, streets, parks, and squares after him. Among those of Polish descent, his fame rivals that of Kosciuszko, who, after his service in the American Revolutionary War, returned to his homeland, where, in 1794, he led an insurrection against the same Russian domination that Pulaski had fought before coming to America.

In his first letter to Washington, after arriving in America, Pulaski wrote, "I came here, where freedom is being defended, to serve it, and to live or die for it." He proved true to his word. For this, we honor him as a soldier of Liberty for all.

Source: Casimir Pulaski 1747-1779: A Short Biography
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KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

**Testimony on
Senate Bill No. 103/ 104**

**Presented to the
Senate Judiciary Committee**

by

**Lesla Roberts, Director of Health Occupations Credentialing
Kansas Department of Health and Environment**

February 6, 2001

Chairperson Vratil, I am pleased to appear before the Senate Judiciary Committee to discuss the provisions of Senate Bill 103 and 104. The department asked for the introduction of these bills to accomplish several improvements to the Criminal Background Check program for adult care homes and home health agencies. Senate Bill 103 is related to operators of home health agencies while Senate Bill 104 is a sister bill applicable to operators of adult care homes. The department brought together a task force this past summer to discuss the needs of the industry and the improvements recommended for the criminal background checks program. Representatives of the adult care home and home health industry met with program staff in an attempt to identify the most critical concerns for efficiencies and protecting the frail and elderly. The department offers Senate Bills 103 and 104 in consideration of these discussions.

These improvements include:

- ▶ Expansion of the information reported by KDHE to prospective employers
- ▶ Adding procedures to collect conviction data from contiguous states
- ▶ Adding a registry of non-certified employees similar to the Kansas Nurse Aide Registry, thereby reducing industry costs by reducing duplicate or unnecessary background checks
- ▶ Require a report of background check status to requesters within 10 business days of receipt of KBI information
- ▶ Addition of the offenses of attempt to commit, conspiracy to commit or criminal solicitation to commit any of the offenses which currently prohibit employment.

Establishing a deadline for when a criminal background check request must be submitted provides clear direction to operators and enforcement officials.

The department has explored the issue of providing notice to inquirers when there is no criminal history information on file. Staff is in final testing of a computer program to extract this data from the results reported by the KBI. Final programming will allow these types of results to be produced and reported to operators and staffing agencies on a regular basis.

The department has also acted upon issuing the date of the last criminal background check when employers call the Kansas Nurse Aide Registry to confirm that resource information for compliance with other regulatory requirements. The industry has communicated appreciation for this "one-stop" information resource. However, the data base is currently limited to the certified employees (certified nurse aides, medication aides, and home health aides). The addition of another registry for other types of employees will further expedite information between the department and the industries and afford efficiencies and savings for employers.

Those who submit requests for employees will be required to do so timely. The overall cost to taxpayers is nil. The customer cost for services is related to the type of service being delivered, and, as such, customers are paying for a mandate of more information within a particular time frame.

This bill moves toward greater legal clarification of responsibilities under the law. The enhancement in type of prohibitions could result in currently employed persons being prohibited even after their previous record was acceptable. Those with records of "attempt," "conspiracy," and "criminal solicitation" of prohibited crimes would now be prohibited. Questions may arise from these individuals or employers when persons who have been working are now prohibited.

We respectfully request that SB 103 and 104 be favorably passed out of committee.

Thank you again for the opportunity to comment on Senate Bill 103 and 104. I would gladly respond to any questions you may have.