

Approved

Date: 2-21-02

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Senator Vratil at 9:39 a.m. on February 20, 2002 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:

Senator Jim Barnett  
Marilyn Scafe, Kansas Parole Board (KPB)

Others attending: see attached list

The minutes of the February 19<sup>th</sup>, 2002 meeting were approved on a motion by Senator O'Connor, seconded by Senator Donovan. Carried.

Reconsideration of:

**SB 432--restricting the transportation of nonsibling minor passengers by certain drivers**

Senator Barnett reviewed a statistical report on teenage driver accidents and deaths and stated he had asked for a reconsideration of **SB 432**. Following a lengthy discussion, the Committee decided that the amendment referencing church attendance and church sponsored activities is intended to include religious activities and facilities of all faiths. Senator Haley moved to pass the bill out favorably as amended, Senator O'Connor seconded. Carried 6-5 with Senators Gilstrap, Pugh, Oleen, Goodwin, and Schmidt requesting their nay votes be recorded. (attachment 1)

Final action on:

**SB 491--Kansas tort claims act; re: definitions**

Following the Chair's brief review of **SB 491**, Senator O'Connor made a motion that the bill be passed out favorably and placed on the consent calendar, Senator Donovan seconded. Carried.

**SB 492--relating to the right of aliens to inherit or transmit real property**

Following a review of **SB 492** by the Chair and brief discussion, Senator Adkins moved to pass the bill out favorably, Senator Goodwin seconded. Carried.

**SB 493--concerning railroad employees; re: accidents; drug testing of train crew members**

Senator Adkins reviewed the subcommittee report on **SB 493** (see 2-18-02 minutes) and referenced written testimony from a proponent of the bill.(attachment 2) He discussed problems with the bill which came to his attention following the subcommittee meeting. Since changing the bill to allow testing in the event of an accident is contrary to federal regulations there was general consensus to take no action on it.

**SB 464--furnishing of alcoholic liquor or cereal malt beverage to a minor**

The Chair reviewed **SB 464** and discussed an amendment to the bill which was previously passed by Committee.(see 2-14-02 minutes) Senator Donovan moved to pass the bill out favorably as amended, Senator Adkins seconded. Carried.

**SB 136--civil; re: wage garnishment; assignment of account**

Following a subcommittee report on **SB 136** by Senator Adkins and discussion, Senator Donovan moved to amend the bill to include technical amendments required on a carry over bill and report the bill out favorably as amended, Senator O'Connor seconded. Motion failed.

**SB 174—juvenile offenders; re: detention; responsibility and payment of expenses; juvenile detention fund**

Following a review of **SB 174** by the Chair, a subcommittee report by Senator Adkins, and discussion, Senator Oleen moved to refer the bill and the concept embodied therein for an interim study by the Joint Committee on Corrections and Juvenile Justice, seconded by Senator Goodwin. Carried.

**SB 265—residential landlord/tenant act; notice of termination of tenancy**

Following a review of **SB 265** by Senator Schmidt and discussion, Senator O'Connor moved to amend the bill to make it clear that only one 3 day notice is needed for eviction, Senator Pugh seconded. Carried. (attachment 3) Senator Schmidt moved to pass the bill out favorably as amended, Senator Oleen seconded. Carried. Senator Haley requested his vote be recorded.

**SB 335—re: parole and the Kansas parole board**

The Chair reviewed **SB 335**. No action was taken on the bill.

**SB 339—persons in custody of DOC; re: early medical release**

Senator Schmidt reported that the subcommittee did not consider nor take action on **SB 339**. Conferee Scape, at the request of the Chair, presented a brief summary of the bill and discussed several procedural problems noted by the KPB.(attachment 4) Following discussion, Senator Oleen made a motion to recommend the bill be placed below the line on the calendar, Senator Haley seconded. Following further discussion Senator Oleen withdrew her motion and Senator Haley withdrew his second with the understanding that the DOC's suggested amendments and bill will be looked at after turnaround.

The meeting adjourned at 10:33 a.m. The next scheduled meeting is February 21, 2002.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 20, 2002

NAME	REPRESENTING
Roberta Sue McKenna	SRS
Connie Burns	Whitney B. Dameron, PA
Donna Bates	Farm Bureau State Staff
Mary Ann Stattelmaier	KGFA - KARA
Doug Wareham	KGFA - KARA
Sushin Holstin	Propane Marketers Ass'n
SC Barnett	KCSOV
Banda Harmon	KSC
Bambi Burns	KSC
Colene Seidel	KDOC
Marilyn Sate	KPB
Jean Barou	KADC
Christi Stewart	Ks Motor Carriers Assoc.
Gina Berthier	Sen Jim Barnett
MAX RIBBER	REP. ROCKY NICHOLS
Judy Miller	Ks. Am. of Court
Jeff Botthling	KS Sheriff's Ass'n
Diane Albert	KDOR - DMV
Cathy McNoon	KIAA

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb. 20, 2002

NAME	REPRESENTING
<i>Barbara Duto</i>	<i>K's Choice Alliance</i>
<i>Edward Rowe</i>	<i>League of Women Voters/Ks</i>
<i>Kay Crawford</i>	<i>League of Women Voters/Ks</i>
<i>Marge Mintun</i>	<i>League of Women Voters</i>

*Delia*

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MFS

SENATE BILL No. 432

By Committee on Judiciary

1-24

9 AN ACT regulating traffic; restricting the transportation of nonsibling  
10 minor passengers by certain drivers; exceptions; amending K.S.A. 8-  
11 237, 8-296 and 8-2118 and repealing the existing sections.  
12

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

14 New Section 1. (a) (1) No person who is at least 16 years of age, but  
15 less than 18 years of age, shall operate any motor vehicle with more than  
16 one nonsibling minor passenger, except as provided in paragraph (2).

17 (2) The provisions of paragraph (1), shall not apply if such person is  
18 transporting more than one nonsibling minor passenger to such passen-  
19 gers' school of enrollment for the purposes of school attendance or for  
20 the purposes of participation in school sponsored activities

21 (b) No person issued a restricted license under K.S.A. 8-237, and  
22 amendments thereto, shall operate any motor vehicle with nonsibling mi-  
23 nor passengers.

24 (c) No person issued a farm permit under K.S.A. 8-296, and amend-  
25 ments thereto, shall operate any motor vehicle with nonsibling minor  
26 passengers.

27 (d) Any conviction for violating this section shall be construed as a  
28 moving traffic violation for the purpose of K.S.A. 8-255, and amendments  
29 thereto.

30 (e) This section shall be part of and supplemental to the uniform act  
31 regulating traffic on highways.

32 Sec. 2. K.S.A. 8-237 is hereby amended to read as follows: 8-237.  
33 The division of vehicles shall not issue any driver's license to any person:

34 (a) Who is under the age of 16 years, except that the division may  
35 issue a restricted class C or M license, as provided in this act, to any  
36 person who: (1) Is at least 15 years of age; (2) has successfully completed  
37 an approved course in driver training; (3) has held an instructional permit  
38 issued under the provisions of K.S.A. 8-239, and amendments thereto,  
39 for a period of at least six months and has completed at least 25 hours of  
40 adult supervised driving; and (4) upon the written application of the per-  
41 son's parent or guardian. The required adult supervised driving required  
42 in clause (3) above shall be conducted by an adult who is at least 21 years  
43 of age and is the holder of a valid commercial driver's license, class A, B

1) to such passenger's church  
for the purpose of church  
attendance or for the purpose  
of participation in church  
sponsored activities, or  
while going to or from or in connection  
with such passenger's job, employment or  
farm-related work

# united transportation union

DONALD F. LINDSEY JR.  
DIRECTOR/CHAIRMAN

KANSAS STATE LEGISLATIVE BOARD

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February 13, 2002

The Honorable John Vratil  
State Capitol – Room 120-S  
Topeka, KS 66612

Dear Senator Vratil:

The Senate Sub-Committee chaired by Senator Adkins held hearings on Senate Bill 493 today. The Sub-Committee adopted an amendment, offered by the Kansas Trial Lawyers, which completely changes the intent of the bill.

In Louisiana, similar state statute language, as contained in the KTL amendment, has been challenged in Federal Court. The court found such language to be preempted by the Federal Railroad Safety Act and overturned it.

S.B. 493 was merely an attempt to clarify the federal requirements for accidents at rail/grade crossings. The language in the original bill is based on Title 49, Code of Federal Regulations, Part 219(4)(b). There have been instances where an overzealous law enforcement officer has removed the train crew and insisted on a drug test. This merely leads to undue delay and the blocking of public crossings.

Jim Keele, Legislative Director for the Brotherhood of Locomotive Engineers and I requested the introduction of this bill, believing that an officer could check a state statute more easily than 49 CFR, Part 219(4)(b).

Because of prior commitments earlier this week and the fact that the Senate Calendar, announcing the hearing, was not received in the mail until after the fact, Jim and I were unable to appear as proponents of the bill. We would respectively ask that when the full committee works S.B. 493, the amendment be stricken and the bill be passed as originally introduced. If you should desire more clarification on the intent of the bill or legal precedence please contact either of us. Thank you for your understanding and we apologize for any inconvenience to the committee.

Sincerely,



Don Lindsey  
UTU Legislative Director

James Keele  
BLE Legislative Director

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61-3803. Notice to leave premises.

Before a lawsuit to evict a person pursuant to K.S.A. 2000 Supp. 61-3801 through 61-3808, and amendments thereto, is filed, the party desiring to file such lawsuit shall deliver to the other party a notice to leave the premises for which possession is sought. The notice shall be delivered at least three days before commencing the lawsuit, by leaving a written copy with the other party or by leaving a copy thereof with any person over the age of 12 years residing on the premises described in such notice, or if no such person is found upon the premises, by posting a copy of such notice in a conspicuous place thereon, or by mailing a copy of the notice to the other party at the address of the premises described in the notice. The three day notice period provided for in this section shall be computed as three consecutive 24-hour periods to commence at the time the notice is delivered, posted or mailed. If the notice is mailed, an additional two days from the date of mailing shall be allowed for the person to leave the premises before the lawsuit is filed. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation of the notice period. ***If the lawsuit to be brought is for the purpose of evicting a tenant for the non-payment of rent, a combined notice to terminate the tenancy and of intent to file suit may be given to the tenant, and only one notice to the tenant shall be required in this event.*** The form of ~~the notice~~ ***all notices required or allowed under this section*** shall be substantially in the forms set forth in the rules ***or by order or orders*** of the supreme court of this state.

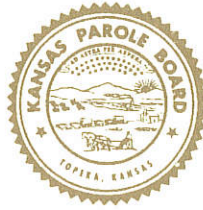
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Marilyn Scafe  
Chairperson

Larry D. Woodward  
Vice Chairperson

Carl Cushinberry  
Member

Ben Burgess  
Member



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Colene Seidel  
Administrator

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## MEMORANDUM

**TO: Senator John Vratil, Chairman  
Senate Judiciary Committee**

**FROM: Marilyn Scafe, Chair  
Kansas Parole Board** *MS*

**DATE: February 20, 2002**

**RE: SB 339**

This bill authorizes the Kansas Parole Board to adopt rules and regulations governing the procedure for early medical release filed by and on behalf of persons convicted of non-person crimes.

In the present form of the bill, applications will be referred to the board, who will examine each case and may grant an early medical release if the board determines that the person is suffering from a terminal disease or condition. It must be established that reasonable probability exists that the person:

- will not live to serve the term to which sentenced.
- will not pose a threat to the public due to the terminal disease or condition.
- will not violate the law or conditions imposed by the board.

The board would be responsible for establishing rules and regulations regarding the procedure to initiate, process, and review criteria for approval of applications for early medical release. The board would respond to requests as they were received and then refer to the Governor's office for final approval.

The board is in support of a process to deal with those inmates who become nonfunctional while incarcerated. There are compassionate reasons, as well as budgetary considerations. However, there are several procedural problems noted with the bill as currently drafted.

- The clemency procedure currently in place can accomplish the same results.

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- The application is limited to non-person felonies or misdemeanor crimes, which would result in very few inmates in the Department of Corrections being eligible.
- Using the category of functional incapacitation is more inclusive of the population needing review and subsequent action.
- There is no provision for the offender granted an early release who will not comply with the conditions of release, who has become functionally restored, or has become a threat to public safety.

The Department of Corrections has proposed changes to the bill which address the above problems. The board is in agreement with that version of the bill which more clearly defines procedures for notification, referral to the board, and the criteria for consideration of early release.