

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE.

The meeting was called to order by Chairperson Ward Loyd at 1:30 p.m. on February 24, 2003, in Room 526-S of the Capitol.

All members were present except:

Vice Chairperson Tim Owens - excused
Representative Dale Swenson - excused

Committee staff present:

Jill Wolters - Revisor of Statutes
Mitch Rice - Revisor of Statutes
Jerry Ann Donaldson - Legislative Research Department
Martha Dorsey - Legislative Research Department
Nicoletta Buonasera - Legislative Research Department
Bev Renner - Committee Secretary

HB 2035 - Children in need of care; right to counsel.

Representative Janice Pauls made a motion to move HB 2035 out favorable for passage. Representative Betts seconded the motion.

Representative Kassebaum would like language for "second attorney" removed.

Representative Pauls withdrew her motion with agreement from Representative Betts.

Representative Kassebaum made a motion to delete language regarding a second attorney in HB 2035. The motion was seconded by Representative Jeff Goering. The motion carried.

Representative Yoder made a motion to report HB 2035 be passed favorably as amended. Representative Dillmore seconded the motion. The motion carried.

HB 2375 - Criminal procedure; preliminary examination, evidence, chain of custody.

Representative Pauls made a motion that HB 2375 be amended as provided in testimony by Representative Pauls and District Attorney Keith Schroeder. Representative Marti Crow seconded the motion. The motion carried.

Representative Pauls made a motion that HB 2375 be amended further to strike "for which there exists an" and replaced with "with a completed". Representative Goering seconded the motion. The motion carried.

Representative Pauls made a motion to move HB 2375 favorable for passage as amended. Representative Dillmore seconded the motion. The motion carried.

HB 2138 - Criminal procedure; preliminary examination, evidence, chain of custody.

Representative Pauls made a motion to pass HB 2138 favorably. Representative Kassebaum seconded the motion. The motion carried.

HB 2121 - Application fee imposed on defendant entitled to indigent defense services.

Representative Kassebaum made a motion to move HB 2121 favorable for passage. Representative Carter seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE at 1:30 p.m. on February 24, 2003, in Room 526-S of the Capitol.

HB 2319 - Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverages.

Representative Kassebaum made a motion to amend HB 2319 to add "knowingly" on line 22 after or. Representative O'Malley seconded the motion.

Discussion from the committee considered the liability placed upon the home owner in every day circumstances.

Representative O'Malley withdrew his second to the motion. The motion was withdrawn.

Ranking Minority Member Ward made a motion to table HB 2319. Representative Carter seconded the motion. The motion was carried with a vote of 8 for and 6 against.

HB 2070 - Littering, penalties.

Representative Dillmore made a motion to adopt the balloon for HB 2070. Representative Carlin seconded the motion.

Chairperson Loyd, in responding to discussion at the hearing, asked for a balloon to make littering a traffic offense with a uniform citation procedure and payment of fines as opposed to an arrest warrant for a misdemeanor offense.

The motion carried.

Representative Carter moved to amend HB 2070 new section 2 to strike "or allow litter to be thrown, placed or dropped". The motion was seconded by Representative Yoder. The motion carried.

Representative Carter moved to amend HB 2070 by inserting "moving" in new section 2 prior to motor vehicle and also in lines 4 and 5. Representative Dillmore seconded the motion. The motion carried.

Representative Dillmore moved that HB 2070 be moved favorable for passage as amended. Representative Carter seconded the motion.

Representative Goering and Representative Kassebaum voiced concern that the fee schedule seems to elevate the crime of littering above more important offenses.

Representative Kassebaum made a motion to table HB 2070. Representative Horst seconded the motion. The motion carried.

(Attachment 1)

HB 2132 - Increasing fee charged to inmates on work release from county jail.

Ranking Minority Member Ward made a motion to pass HB 2132 favorably. Representative Betts seconded the motion. The Motion carried. Representatives Dillmore and Goering asked that their favorable votes be recorded.

HB 2057 - Identity theft, defrauding for any benefit, not just economic.

Representative Pauls made a motion to pass HB 2057 favorably. Representative Carlin seconded the motion. The motion carried.

HB 2088 - Inmate assistance upon release from incarceration; certain inmates required to pay public transportation costs.

Representative Carlin made a motion to pass HB 2088 favorably. Representative Goering seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE at 1:30 p.m. on February 24, 2003, in Room 526-S of the Capitol.

Representative Dillmore made a motion to accept committee meeting minutes for January 15, 16, 22, 27, 28, and 29 as submitted. Representative Goering seconded the motion. The motion carried.

The meeting was adjourned at 3:22 p.m. The next meeting is scheduled for February 25, 2003.

HOUSE BILL No. 2070

By Representatives Feuerborn and Vickrey

1-27

H Corr. & J.J.
2-24-03
Attachment 1

9 AN ACT relating to ~~crimes and punishments, concerning~~ littering; sections
10 amending K.S.A. ~~21-3722~~ and repealing the existing ~~Section~~ 8-2118 and
11

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

13 Section 1. K.S.A. 21-3722 is hereby amended to read as follows: 21- Except as provided in section 2, and amendments thereto, criminal
14 3722. (a) ~~Littering~~ is intentionally or recklessly depositing or causing to littering
15 be deposited any object or substance into, upon or about:

16 (a) (1) Any public street, highway, alley, road, right-of-way, park or
17 other public place, or any lake, stream, watercourse, or other body of
18 water, except by direction of some public officer or employee authorized
19 by law to direct or permit such acts; or

20 (b) (2) Any private property without the consent of the owner or Criminal littering
21 occupant of such property.

22 (b) ~~Littering~~ is a class G unclassified misdemeanor punishable:

23 (1) Upon a first conviction by a fine of not less than \$250 nor more
24 than \$1,000;

25 (2) upon a second conviction by a fine of not less than \$1,000 nor
26 more than \$2,000; and

27 (3) upon a third or subsequent conviction by a fine of not less than
28 \$2,000 nor more than \$4,000.

29 (c) In addition to the fines in subsection (b), a person convicted of
30 littering shall be required to pick up litter at a time prescribed by and a
31 place within the jurisdiction of the court:

32 (1) Upon a first conviction for not less than eight hours;

33 (2) upon a second conviction for not less than 16 hours; and

34 (3) upon a third or subsequent conviction for not less than 32 hours. See Attached Sections 2 and 3

4. 35 Sec. ~~2~~, K.S.A. ~~21-3722~~ hereby repealed.

5. 36 Sec. ~~3~~. This act shall take effect and be in force from and after its 8-2118 and 21-3722 are
37 publication in the statute book.

New Sec. 2. (a) No person shall throw, place or drop litter or allow litter to be thrown, placed or dropped from a motor vehicle onto or upon any highway, road or street. The driver of the vehicle may be cited for any litter thrown, placed or dropped from the motor vehicle, unless any other person in the motor vehicle admits to or is identified as having committed the act.

(b) "Litter" means rubbish, refuse, waste material, garbage, trash or debris of whatever kind or description and includes improperly discarded paper, metal, plastic or glass.

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

or permit

Sec. 3. K.S.A. 8-2118 is hereby amended to read as follows:
 8-2118. (a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.

(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made by mail or in person and may be by personal check. The traffic citation shall not have been complied with if a check is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest, the payment shall be deemed such an appearance, waiver of right to trial and plea of no contest.

(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine which may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense contained in the following uniform fine schedule is for reference only and is not a legal definition.

| <u>Description of Offense</u> | <u>Statute</u> | <u>Fine</u> |
|---|--|--|
| Refusal to submit to a preliminary breath test | 8-1012 | \$90 |
| Unsafe speed for prevailing conditions | 8-1557 | \$60 |
| Exceeding maximum speed limit; or speeding in zone posted by the state department of transportation; or speeding in locally posted zone | 8-1558 8-1560 8-1560a 8-1560b | 1-10 mph over the limit, to \$30 11-20 mph over the limit, \$30 plus \$6 per mph over 10 mph over the limit; |

21-30 mph over the limit,
\$90 plus \$9 per mph over
20 mph over the limit;

31 and more mph over
the limit, \$180 plus \$15 per
mph over 30 mph over
the limit;

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| Disobeying traffic control device | 8-1507 | \$60 |
| Violating traffic control signal | 8-1508 | \$60 |
| Violating pedestrian control signal | 8-1509 | \$30 |
| Violating flashing traffic signals | 8-1510 | \$60 |
| Violating lane-control signal | 8-1511 | \$60 |
| Unauthorized sign, signal, marking or device | 8-1512 | \$30 |
| Driving on left side of roadway | 8-1514 | \$60 |
| Failure to keep right to pass oncoming vehicle | 8-1515 | \$60 |
| Improper passing; increasing speed when passed | 8-1516 | \$60 |
| Improper passing on right | 8-1517 | \$60 |
| Passing on left with insufficient clearance | 8-1518 | \$60 |
| Driving on left side where curve, grade, intersection, railroad crossing, or obstructed view | 8-1519 | \$60 |
| Driving on left in no-passing zone | 8-1520 | \$60 |
| Unlawful passing of stopped emergency vehicle | 8-1520a | \$60 |
| Driving wrong direction on one-way road | 8-1521 | \$60 |
| Improper driving on laned roadway | 8-1522 | \$60 |
| Following too close | 8-1523 | \$60 |
| Improper crossover on divided highway | 8-1524 | \$30 |
| Failure to yield right-of-way at uncontrolled intersection | 8-1526 | \$60 |
| Failure to yield to approaching vehicle when turning left | 8-1527 | \$60 |
| Failure to yield at stop or yield sign | 8-1528 | \$60 |

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| Failure to yield from private road or driveway | 8-1529 | \$60 |
| Failure to yield to emergency vehicle | 8-1530 | \$180 |
| Failure to yield to pedestrian or vehicle working on roadway | 8-1531 | \$30 |
| Failure to comply with restrictions in road construction zone | 8-1531a | \$30 |
| Disobeying pedestrian traffic control device | 8-1532 | \$30 |
| Failure to yield to pedestrian in crosswalk; pedestrian suddenly entering roadway; passing vehicle stopped for pedestrian at crosswalk | 8-1533 | \$60 |
| Improper pedestrian crossing | 8-1534 | \$30 |
| Failure to exercise due care in regard to pedestrian | 8-1535 | \$30 |
| Improper pedestrian movement in crosswalk | 8-1536 | \$30 |
| Improper use of roadway by pedestrian | 8-1537 | \$30 |
| Soliciting ride or business on roadway | 8-1538 | \$30 |
| Driving through safety zone | 8-1539 | \$30 |
| Failure to yield to pedestrian on sidewalk | 8-1540 | \$30 |
| Failure of pedestrian to yield to emergency vehicle | 8-1541 | \$30 |
| Failure to yield to blind pedestrian | 8-1542 | \$30 |
| Pedestrian disobeying bridge or railroad signal | 8-1544 | \$30 |
| Improper turn or approach | 8-1545 | \$60 |
| Improper "U" turn | 8-1546 | \$60 |
| Unsafe starting of stopped vehicle | 8-1547 | \$30 |
| Unsafe turning or stopping, failure to give proper signal; using turn signal unlawfully | 8-1548 | \$60 |
| Improper method of giving notice of intention to turn | 8-1549 | \$30 |
| Improper hand signal | 8-1550 | \$30 |
| Failure to stop or obey railroad crossing signal | 8-1551 | \$180 |

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| Failure to stop at railroad crossing stop sign | 8-1552 | \$120 |
| Certain hazardous vehicles failure to stop at railroad crossing | 8-1553 | \$180 |
| Improper moving of heavy equipment at railroad crossing | 8-1554 | \$60 |
| Vehicle emerging from alley, private roadway, building or driveway | 8-1555 | \$60 |
| Improper passing of school bus; improper use of school bus signals | 8-1556 | \$300 |
| Improper passing of church or day-care bus; improper use of signals | 8-1556a | \$180 |
| Impeding normal traffic by slow speed | 8-1561 | \$30 |
| Speeding on motor-driven cycle | 8-1562 | \$60 |
| Speeding in certain vehicles or on posted bridge | 8-1563 | \$30 |
| Improper stopping, standing or parking on roadway | 8-1569 | \$30 |
| Parking, standing or stopping in prohibited area | 8-1571 | \$30 |
| Improper parking | 8-1572 | \$30 |
| Unattended vehicle | 8-1573 | \$30 |
| Improper backing | 8-1574 | \$30 |
| Driving on sidewalk | 8-1575 | \$30 |
| Driving with view or driving mechanism obstructed | 8-1576 | \$30 |
| Unsafe opening of vehicle door | 8-1577 | \$30 |
| Riding in house trailer | 8-1578 | \$30 |
| Improper driving in defiles, canyons, or on grades | 8-1579 | \$30 |
| Coasting | 8-1580 | \$30 |
| Following fire apparatus too closely | 8-1581 | \$60 |
| Driving over fire hose | 8-1582 | \$30 |
| Putting glass, etc., on highway | 8-1583 | \$90 |
| Driving into intersection, crosswalk, or crossing without sufficient space on other side | 8-1584 | \$30 |

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| Improper operation of snowmobile on highway | 8-1585 | \$30 |
| Parental responsibility of child riding bicycle | 8-1586 | \$30 |
| Not riding on bicycle seat; too many persons on bicycle | 8-1588 | \$30 |
| Clinging to other vehicle | 8-1589 | \$30 |
| Improper riding of bicycle on roadway | 8-1590 | \$30 |
| Carrying articles on bicycle; one hand on handlebars | 8-1591 | \$30 |
| Improper bicycle lamps, brakes or reflectors | 8-1592 | \$30 |
| Improper operation of motorcycle; seats; passengers, bundles | 8-1594 | \$30 |
| Improper operation of motorcycle on laned roadway | 8-1595 | \$60 |
| Motorcycle clinging to other vehicle | 8-1596 | \$30 |
| Improper motorcycle handlebars or passenger equipment | 8-1597 | \$60 |
| Motorcycle helmet and eye-protection requirements | 8-1598 | \$30 |
| Unlawful riding on vehicle | 8-1578a | \$60 |
| Unlawful operation of all-terrain vehicle | 8-15,100 | \$60 |
| Unlawful operation of low-speed vehicle | 8-15,101 | \$60 |
| <u>Littering</u> | <u>Section 1</u> | <u>\$50</u> |
| Equipment offenses that are not misdemeanors | 8-1701 | \$60 |
| Driving without lights when needed | 8-1703 | \$30 |
| Defective headlamps | 8-1705 | \$30 |
| Defective tail lamps | 8-1706 | \$30 |
| Defective reflector | 8-1707 | \$30 |
| Improper stop lamp or turn signal | 8-1708 | \$30 |
| Improper lighting equipment on certain vehicles | 8-1710 | \$30 |
| Improper lamp color on certain vehicles | 8-1711 | \$30 |
| Improper mounting of reflectors and lamps on certain vehicles | 8-1712 | \$30 |

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| Improper visibility of reflectors and lamps on certain vehicles | 8-1713 | \$30 |
| No lamp or flag on projecting load | 8-1715 | \$60 |
| Improper lamps on parked vehicle | 8-1716 | \$30 |
| Improper lights, lamps, reflectors and emblems on farm tractors or slow-moving vehicles | 8-1717 | \$30 |
| Improper lamps and equipment on implements of husbandry, road machinery or animal-drawn vehicles | 8-1718 | \$30 |
| Unlawful use of spot, fog, or auxiliary lamp | 8-1719 | \$30 |
| Improper lamps or lights on emergency vehicle | 8-1720 | \$30 |
| Improper stop or turn signal | 8-1721 | \$30 |
| Improper vehicular hazard warning lamp | 8-1722 | \$30 |
| Unauthorized additional lighting equipment | 8-1723 | \$30 |
| Improper multiple-beam lights | 8-1724 | \$30 |
| Failure to dim headlights | 8-1725 | \$60 |
| Improper single-beam headlights | 8-1726 | \$30 |
| Improper speed with alternate lighting | 8-1727 | \$30 |
| Improper number of driving lamps | 8-1728 | \$30 |
| Unauthorized lights and signals | 8-1729 | \$30 |
| Improper school bus lighting equipment and warning devices | 8-1730 | \$30 |
| Unauthorized lights and devices on church or day-care bus | 8-1730a | \$30 |
| Improper lights on highway construction or maintenance vehicles | 8-1731 | \$30 |
| Defective brakes | 8-1734 | \$30 |
| Defective or improper use of horn or warning device | 8-1738 | \$30 |
| Defective muffler | 8-1739 | \$30 |
| Defective mirror | 8-1740 | \$30 |

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| Defective wipers; obstructed windshield or windows | 8-1741 | \$30 |
| Improper tires | 8-1742 | \$30 |
| Improper flares or warning devices | 8-1744 | \$30 |
| Improper use of vehicular hazard warning lamps and devices | 8-1745 | \$30 |
| Improper air-conditioning equipment | 8-1747 | \$30 |
| TV screen visible to driver | 8-1748 | \$30 |
| Improper safety belt or shoulder harness | 8-1749 | \$30 |
| Improper wide-based single tires | 8-1742b | \$60 |
| Defective motorcycle headlamp | 8-1801 | \$30 |
| Defective motorcycle tail lamp | 8-1802 | \$30 |
| Defective motorcycle reflector | 8-1803 | \$30 |
| Defective motorcycle stop lamps and turn signals | 8-1804 | \$30 |
| Defective multiple-beam lighting | 8-1805 | \$30 |
| Improper road-lighting equipment on motor-driven cycles | 8-1806 | \$30 |
| Defective motorcycle or motor-driven cycle brakes | 8-1807 | \$30 |
| Improper performance ability of brakes | 8-1808 | \$30 |
| Operating motorcycle with disapproved braking system | 8-1809 | \$30 |
| Defective horn, muffler, mirrors or tires | 8-1810 | \$30 |
| Unlawful statehouse parking | 75-4510a | \$15 |

(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).

(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.