

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on Thursday, January 29, 2004, in Room 123-S of the Capitol.

All members were present except:  
Senator Greta Goodwin (E)

Committee staff present:  
Mike Heim, Kansas Legislative Research Department  
Lisa Montgomery, Office of the Revisor Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:  
Kathy Porter, Office of Judicial Administration  
Wayne White, Kansas Legal Services  
Doug Smith, Kansas Credit Attorney association  
Jim Clark, Kansas Bar Association  
Manny Barbaran, Mannies Bonding Company  
Shane Rolf, Shane's Bonding Company

Others attending:  
See attached List.

Chairman Vratil called for bill introductions, and there were none.

**SB 298 - Creation of docket fees for garnishments**

Chairman Vratil opened the hearing on **SB 298**, and asked Mike Heim, Legislative Research Department, to brief the Committee on the proposed bill. Mr. Heim explained that **SB 298** was a recommendation from the Interim Committee, and it establishes a \$5 docket fee for garnishment actions. He stated there should be a technical amendment on the bill, and believed this would be the first permanent docket fee for garnishments.

Kathy Porter, Office of Judicial Administration, testified as neutral, and offered technical amendments necessary to carry out the intentions of **SB 298**. The first amendment would remove from lines 18 and 19 providing that "no case shall be docketed or filed" and insert "garnishment shall be issued". The change would mean that the \$5 fee would be charged only when a garnishment actually occurs.

Ms. Porter's second amendment would clarify that K.S.A. 2003 supp. 60-729 addresses garnishments by amending K.S.A. 2003 Supp. 61-3502.

The third amendment occurred in line 21. Ms. Porter explained that payment of the fee to the State Treasurer would be an option, but believed the intent was to make payment to the Clerk of the District Court, for remittance to the State Treasurer.

Ms. Porter's final proposed amendment addressed lines 21 and 22 requiring the State Treasurer to deposit and credit the fees to the State General Fund. She explained that the mechanism present in current law, having the clerk remit the fees to the State Treasurer pursuant to K.S.A. 2003 supp. 20-362, for distribution pursuant to K.S.A. 2003 Supp. 20-367, would allow the clerks to handle this fee in the same manner as other docket fees. Ms. Porter said if this option is chosen, the percentages included in K.S.A. 2003 20-367 would need to be amended so that each fund receiving a portion of the docket fees is held harmless, with the estimated increase credited as this committee desires. She added she would provide those amended percentages if the Committee selects this option. (Attachment 1)

Discussion and questions followed regarding how the Interim Committee arrived at the \$5 amount, who would be paying the \$5 fee, clarification of the garnishment process, statutory limits for garnishments, how the percentages used are determined when docket fees are divided up when you don't know how much money is coming in from docket fees, and how many garnishments occur during the year in Kansas.

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:35 a.m. on Thursday, January 29, 2004, in Room 123-S of the Capitol.

Wayne White, Kansas Legal Services, testified in support of **SB 298**. He proposed that the revenue generated be placed in the Access to Justice Fund administered by the Office of Judicial Administration and used to provide legal assistance in debt collection and related consumer debt legal issues. (Attachment 2)

Doug Smith, testified on behalf of the Kansas Credit Attorneys Association and Kansas Collectors Association, as neutral on **SB 298**. He stated that if the Committee determines that adequate funding of the court system will not happen and that adoption of the proposed bill is necessary, four specific issues were being offered for consideration: (1) In order for the State to collect the maximum revenue for the courts under this legislation, Chapter 61 filings should also be included, (2) Would this provision be more appropriate in Article 20 of Chapter 60 instead of Article 7 or even Chapter 20 instead of Chapter, (3) Define the new garnishment docket as an assessed court cost, so that when expenses are recovered from a party against whom they have been assessed, the garnishment docket shall be included in the amount of the recovery; and (4) If this is designed to provide funding for the Courts, this Committee may want to consider adjusting the distribution percentages in K.S.A. 20-367.

Mr. Smith stated that a request for the introduction of legislation was being prepared, and will be to strike the statutory prohibition against the use of garnishment on assigned accounts, which is contained in K.S.A. 60-2310(d). He said the bill would be identical to SB 126 from the 2001 Legislative Session. He concluded that removing this prohibition would increase the potential for revenue collections under this new docket fee, and should be considered at the same time as **SB 298**. (Attachment 3)

James W. Clark, on behalf of the Kansas Bar Association, submitted written testimony in opposition to **SB 298** as it detracts from uniform docket fees. (Attachment 4)

The Chair called for questions and discussion on the proposed bill. Having no questions, Chairman Vratil closed the hearing on **SB 298**.

**SB 299 - Concerning Kansas surety agents**

Chairman Vratil reopened the hearing on **SB 299**. He instructed Committee members he was reopening the hearing in order to hear from both proponents and opponents regarding the four amendments offered by Senator Haley.

Manny Barbaran, Mannies Bonding Company, expressed concerns regarding two of the amendments relating to forcibly entering a residence, and one relating to the requirement that surety agents must carry \$300,000 liability insurance. He explained his reasons for not supporting the amendments, and stated that getting that type of insurance for this type of business is extremely difficult if not impossible. Mr. Barbaran spoke briefly on Senator Haley's second amendment regarding "no security recovery agent shall wear, carry or display any uniform, badge, shield or other insignia or emblems that purport to indicate that such person is an employee, officer or agent of any state, ....". He stated that the amendments were not necessary.

Brief questions and discussion followed Mr. Barbaran's testimony.

Senator Haley reviewed and explained his amendments for the Committee. The first inserted at the end of Section 3, line 38, "A surety recovery agent may not enter a residence to recover a principal without first demanding admittance and explaining the purpose for which admittance is desired". Brief discussion followed Senator Haley's comments on the requested amendment. (Attachment 5)

The second amendment also added language to Section 3, line 38, "No security recovery agent shall wear, carry or display any uniform, badge, shield or other insignia or emblems that purport to indicate that such person is an employee, officer or agent of any state, any political subdivision of any state or the United States". (Attachment 6) Mr. Barbaran clarified his comments on this particular amendment upon Senator Haley's request.

Senator Haley's third amendment would also add language to Section 3, as follows: "(a) All surety

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:35 a.m. on Thursday, January 29, 2004, in Room 123-S of the Capitol.

recovery agents must maintain a policy of liability insurance in an amount not less than \$300,000 protecting persons and property from harm, written by a company approved by the attorney general. (b) The failure to maintain the required insurance invalidates the authority granted by a surety recovery agent license or a provisional surety recovery agent license. (c) Deductibles are not permitted unless the licensee submits a bond to the attorney general for the purpose of serving as a source of recovery for persons who receive judgments against a licensee for amounts less than that covered by insurance. The bond must be in a form and provided by a company acceptable to the attorney general, based upon the likelihood that sufficient assets support the bond.” (Attachment 7) He commented that as the bill is written now, it would not stop the outrageous acts inflicted on Kansans by unqualified and unregulated bounty hunters. He explained that this amendment was an attempt to hold the owner’s of the surety companies liable in order to ensure these lawless acts.

The fourth amendment offered would add additional language to Section 3, as follows: “A surety recovery agent forcibly entering a residence shall insure the residence is secured before leaving the scene of the apprehension”. Mr. Barbaran explained that this could be a very dangerous situation, and waiting around until the proper repairs could be made would put the officers in additional peril and in a threatening situation as well as the person apprehended. (Attachment 8)

Shane Rolf, Shane’s Bonding Company, added additional comments regarding the inability to obtain insurance involves mostly issues that cause claims for crimes or intentional torts. He said there tends to be a public policy issue against insuring against intentional torts, and is one of the main reasons insurance is not available. He added as far as securing a residence and the badge insignia that there is no allowance for extreme situations. There are dangerous situations where you need to get the person out of there immediately, and not have them sit in the car while the agent takes time to nail the door shut.

Senator Pugh asked staff to distribute information he had requested Mr. Heim to furnish the Committee members relating to certification requirements for teachers for comparison purposes against the requirements for surety agents. (Attachment 9)

Chairman Vratil closed the hearing on SB 299.

**Final Action:**

**SB 324 - Concerning appellate jurisdiction of the supreme court**

Chairman Vratil called for discussion and final action on SB 324. Seeing none, the Chair called for a motion on the proposed bill. Senator Schmidt made a motion to report SB 324 favorably, seconded by Senator Umbarger, and the motion carried.

The meeting was adjourned at 10:30 a.m. The next scheduled meeting is February 2, 2004.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Thursday, Jan. 29, 2004

NAME	REPRESENTING
Deanna Mast	Legislature
Janice White	
Michael White	guest chaplain
Ray Wilk	KDOR/DofV
Emily K. Walden	Sen. Barbara Allen
Kathy Porter	Judicial Branch
Wayne A. White	Ks Legal Services
Terry Bruce	House Majority Leader
HELEN SMITH	USD 501
Kyle Smith	KPOA/KBI
Jeff Bottenberg	Kansas Sports Ass'n
Rob KAHNER	Bail Bonds
SHANE ROLF	SHANE'S BAIL BONDS
Maury Rauten	MANUEC BONDING CO
PATRICIA BIGGS	KS Sent Comm
BRENDA HARMON	"
JULIA BUTLER	"
Wes Ashton	Overland Park Chamber of Com.
Mark Schweiber	Westar Energy





State of Kansas

**Office of Judicial Administration**

Kansas Judicial Center

301 SW 10<sup>th</sup>

Topeka, Kansas 66612-1507

(785) 296-2256

January 29, 2004

**Senate Judiciary Committee**

Testimony on Senate Bill 298

Kathy Porter

There are a few technical amendments that would appear necessary to carry out the intentions of SB 298.

The language in lines 18 and 19 providing that "no case shall be docketed or filed" without payment of the docket fee would require payment at the filing of each Chapter 60 case, regardless of whether a garnishment will ultimately issue out of the case or not. Replacing that language with the phrase, "no garnishment shall be issued," would mean that the \$5 fee would be charged only when a garnishment actually occurs.

Although K.S.A. 2003 Supp. 61-3501 states that the provisions of Article 7 of Chapter 60 relating to attachment shall govern the attachment proceedings pursuant to the Code of Civil Procedure for Limited Actions, K.S.A. 2003 Supp. 61-3502, "Nature of garnishment," is identical to K.S.A. 2003 Supp. 60-729. A technical amendment would make the same amendment in the Chapter 61 provision as in the Chapter 60 provision, removing any doubt as to whether the provisions of this bill apply to Chapter 61 garnishments, which is indeed the chapter under which the bulk of garnishments are filed.

In line 21, payment of the fee to the State Treasurer would be an option, but I believe the intent was that payment be made to the Clerk of the District Court, for remittance to the State Treasurer.

In lines 21 and 22, requiring the State Treasurer to deposit and credit the fees to the State General Fund would require more work from the clerks of the district court, if the clerks are to collect the fees. The mechanism present in current law, having the clerk remit the fees to the State Treasurer pursuant to K.S.A. 2003 Supp. 20-362, for distribution pursuant to K.S.A. 2003 Supp. 20-367, would allow the clerks to handle this fee in the same manner as other docket fees. If this option is chosen, the percentages included in K.S.A. 2003 20-367 would need to be amended so that each fund receiving a portion of the docket fees is held harmless, with the estimated increase credited as this committee desires. I would provide those amended percentages if the Committee selects this option.

Thank you for your consideration of this issue.

Senate Judiciary

1-29-04

Attachment 1

SENATE BILL No. 298

By Special Committee on Judiciary

1-9

AN ACT concerning civil procedure; relating to docket fees; amending K.S.A. 2003 Supp. 60-729 and repealing the existing section.

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

Section 1. K.S.A. 2003 Supp. 60-729 is hereby amended to read as follows: 60-729. (a) Garnishment is a procedure whereby the wages, money or intangible property of a person can be seized or attached pursuant to an order of garnishment issued by the court under the conditions set forth in the order.

*(b) Except as otherwise provided by law, no case shall be filed or docketed garnishment shall be issued under article 7 of Chapter 60 of the Kansas Statutes Annotated and amendments thereto, without payment of the appropriate docket fee of \$5. The docket fee shall be paid to the clerk of the district court, for remittance to the state treasurer pursuant to K.S.A. 20-363 and amendments thereto, for deposit in the state treasury and distribution according to K.S.A. 20-367 and amendments thereto.*

New Section 2. K.S.A. 2003 Supp. 61-3502 is hereby amended to read as follows: 61-3502. (a) Garnishment is a procedure whereby the wages, money or intangible property of a person can be seized or attached pursuant to an order of garnishment issued by the court under the conditions set forth in the order.

*(b) Except as otherwise provided by law, no case shall be filed or docketed garnishment shall be issued under article 35 of Chapter 61 of the Kansas Statutes Annotated and amendments thereto, without payment of the appropriate docket fee of \$5. The docket fee shall be paid to the clerk of the district court, for remittance to the state treasurer pursuant to K.S.A. 20-363 and amendments thereto, for deposit in the state treasury and distribution according to K.S.A. 20-367 and amendments thereto.*

Sec. 3. K.S.A. 2003 Supp. 60-729 and 61-3502 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 298

By Special Committee on Judiciary

1-9

9 AN ACT concerning civil procedure; relating to docket fees; amending  
10 K.S.A. 2003 Supp. 60-729 and repealing the existing section

and 61-3502

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

sections

13 Section 1. K.S.A. 2003 Supp. 60-729 is hereby amended to read as  
14 follows: 60-729. (a) Garnishment is a procedure whereby the wages,  
15 money or intangible property of a person can be seized or attached pur-  
16 suant to an order of garnishment issued by the court under the conditions  
17 set forth in the order.

18 (b) *Except as otherwise provided by law, no case shall be filed or*  
19 *docketed under article 7 of Chapter 60 of the Kansas Statutes Annotated,*  
20 *and amendments thereto, without payment of the appropriate docket fee*  
21 *of \$5. The docket fee shall be paid to the state treasurer. The state trea-*  
22 *surer shall deposit and credit the fees to the state general fund.*

garnishment shall be issued

the clerk of the district court for remittance to

23 Sec. 2. K.S.A. 2003 Supp. 60-729 is hereby repealed.

see attached

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

renumber section accordingly

and 61-3502 are



Sec. 2 . K.S.A. 2003 Supp. 61-3502 is hereby amended to read as follows: 61-3502. Garnishment is a procedure whereby the wages, money or intangible property of a person can be seized or attached pursuant to an order of garnishment issued by the court under the conditions set forth in the order.

(b) Except as otherwise provided by law, no garnishment shall be issued under article 35 of chapter 61 of the Kansas Statutes Annotated, and amendments thereto, without payment of the appropriate docket fee of \$5. The docket fee shall be paid to the clerk of the district court for remittance to the state treasurer. The state treasurer shall deposit and credit the fees to the state general fund.

**TESTIMONY OF WAYNE A. WHITE  
KANSAS LEGAL SERVICES, INC.**

**(785) 233-2068**

**Thursday, January 22, 2004**

**Hearing Before the  
SENATE JUDICIARY COMMITTEE  
Chairman: Senator John L. Vratil  
Statehouse Room 123-S**

I appreciate the opportunity to testify before you this morning regarding Senate Bill 298. I understand that in its current form this bill would create a five dollar filing fee on garnishments. This new fee is estimated to generate approximately \$500,000 per year and would be credited to the State General Fund.

I am in favor of Senate Bill 298 and propose that the revenue generated be placed in the Access to Justice Fund administered by the Office of Judicial Administration and used to provide legal assistance in debt collection and related consumer debt legal issues. Legal assistance with debt collection and related issues is an area of great unmet need among low income Kansans.

Senate Judiciary

1-29-04

Attachment 2

## REMARKS CONCERNING SENATE BILL NO. 298

### SENATE JUDICIARY COMMITTEE

JANUARY 15, 2004

Thank you for giving me the opportunity to present remarks on Senate Bill No. 298 on behalf of the Kansas Credit Attorneys Association and Kansas Collectors Association, Inc. The Kansas Credit Attorneys Association is a statewide organization of attorneys, representing approximately 60 law firms, whose practice includes considerable collection work, and Kansas Collectors Association, Inc., which is an association of collection agencies in Kansas. Our members represent the interests of retail merchants of all sizes and other small businesses in collection and legal matters resulting from an unpaid or past due payment for goods or services.

This issue contained in Senate bill No. 298 came up during Special Committee on Judiciary's review and discussion of House Bill No. 2293.

While we agree with the Interim Committee's conclusion that states "the State Legislature has a responsibility to adequately fund the state judicial system and generally disfavors increasing docket fees because it believes this has a negative effect on access to justice." We also understand the realities of the process and acknowledge that the state's ability to financial commitments has been severely limited in recent years.

Therefore, we will leave it up to the judgment of this Committee to determine the fairness and need for this new docket fee.

Should you determine that adequate funding of the court system will not happen and that adoption of Senate Bill No. 298 is necessary, we have four specific issues for you to consider.

- We believe that in order for the State to collect the maximum revenue for the courts under this legislation, Chapter 61 filings should also be included. (Line 19 of the Bill.)
- Would this provision be more appropriate in Article 20 of Chapter 60 instead of Article 7 or even Chapter 20 instead of Chapter 60?
- Define the new garnishment docket as an assessed court cost, so that when expenses are recovered from a party against whom they have been assessed, the garnishment docket shall be included in the amount of the recovery.
- If this is designed to provide funding for the Courts, this Committee may want to consider adjusting the distribution percentages in KSA 20-367. Permitting the Court to keep for their use the entire amount collected from this garnishment docket fee.

Senate Judiciary

1-29-04

Attachment 3

Additionally, we are preparing for this Committee, a request for the introduction of legislation. This request will be to strike the statutory prohibition against the use of garnishment on assigned accounts, which is contained in KSA 60-2310(d). The request will be identical to Senate Bill No. 136, from the 2001 Legislative Session. Removing this prohibition would increase the potential for revenue collections under this new docket fee and should be considered at the same time as Senate Bill No. 298.

Thank you again for your time and consideration this morning.

Douglas E. Smith  
For Kansas Collectors Association, Inc.  
And Kansas Credit Attorneys Association



**KANSAS BAR  
ASSOCIATION**

1200 SW Harrison St.  
P.O. Box 1037  
Topeka, Kansas 66601-1037  
Telephone (785) 234-5696  
FAX (785) 234-3813  
www.ksbar.org

January 15, 2004

Members of the Senate Judiciary Committee  
State Capitol  
Topeka, Kansas

The Kansas Bar Association is acutely aware of the inadequate funding of most governmental agencies and institutions, and it is especially conscious of the lack of funding for the court system. Not only is an adequately funded court system more efficacious to lawyers and litigants, it also ensures the right of a meaningful access to the courts by all citizens of Kansas. However, the Kansas Bar Association remains steadfast in its opposition to legislative measures that detract from uniform docket fees.

Specifically, the KBA is opposed to ~~HB 2293~~ because it not only detracts from uniformity, but targets those litigants who require service of process by the county sheriff by imposing an additional \$10 docket fee.

The KBA also is opposed to SB 298, which imposes an additional \$5 docket fee on those litigants who, having successfully obtained a judgment from a court, must resort to additional efforts to collect on that judgment.

Unlike an across-the-board \$5 surcharge on all cases, both bills make a uniform docket fee non-uniform, and both bills unfairly discriminate against certain classes of litigants.

Respectfully,

James W. Clark  
KBA Legislative Counsel

Senate Judiciary

1-29-04

Attachment 4

**SENATE BILL No. 299**

By Special Committee on Judiciary

1-9

9 AN ACT concerning surety agents.

10  
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. As used in this act: (a) "Surety" has the same meaning as  
13 K.S.A. 40-1102 and amendments thereto;

14 (b) "agent of a surety" means a person not performing the duties of  
15 a law enforcement officer who tracks down, captures and surrenders to  
16 the custody of a court a fugitive who has violated a surety or bail bond  
17 agreement.

18 Sec. 2. Any surety or authorized agent of a surety, commonly re-  
19 ferred to as a bounty hunter, who intends to apprehend any person in  
20 this state pursuant to K.S.A. 22-2809 and amendments thereto, or under  
21 similar authority from any other state, shall inform law enforcement au-  
22 thorities in the city or county in which such surety or agent of a surety  
23 intends such apprehension, before attempting such apprehension. The  
24 surety or agent of a surety shall present to the local law enforcement  
25 authorities a certified copy of the bond, a valid government-issued photo  
26 identification, written appointment of agency, if not the actual surety, and  
27 all other appropriate paperwork identifying the principal and the person  
28 to be apprehended. Local law enforcement may accompany the agent.

29 Sec. 3. [No commercial surety or person acting as an authorized agent  
30 of a commercial surety or bounty hunter shall have been convicted in this  
31 or any other jurisdiction, of a felony, a violation of this section, or within  
32 ten years immediately prior to the date of the intended apprehension,  
33 been convicted of any crime involving moral turpitude, dishonesty, ve-  
34 hicular homicide, assault, battery, domestic battery, assault of a law en-  
35 forcement officer, misdemeanor battery against a law enforcement offi-  
36 cer, criminal restraint, sexual battery, endangering a child, intimidation  
37 of a witness or victim or illegally using, carrying or possessing a dangerous  
38 weapon.]

39 Sec. 4. Violation of this act shall be a class A nonperson misdemeanor  
40 for the first violation and a level 9 nonperson felony upon a second and  
41 subsequent violation.

42 Sec. 5. This act shall take effect and be in force from and after its  
43 publication in the statute book.

*Senator Haley*

A surety recovery agent may not enter a residence to recover a principal without first demanding admittance and explaining the purpose for which admittance is desired.

Senate Judiciary  
1-29-04  
Attachment 5

#2

SENATE BILL No. 299

By Special Committee on Judiciary

1-9

Senator Haley

Senate Judiciary  
1-29-04  
Attachment 6

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17 agreement.

18 Sec. 2. Any surety or authorized agent of a surety, commonly re-  
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20 this state pursuant to K.S.A. 22-2809 and amendments thereto, or under  
21 similar authority from any other state, shall inform law enforcement au-  
22 thorities in the city or county in which such surety or agent of a surety  
23 intends such apprehension, before attempting such apprehension. The  
24 surety or agent of a surety shall present to the local law enforcement  
25 authorities a certified copy of the bond, a valid government-issued photo  
26 identification, written appointment of agency, if not the actual surety, and  
27 all other appropriate paperwork identifying the principal and the person  
28 to be apprehended. Local law enforcement may accompany the agent.

29 Sec. 3. [No commercial surety or person acting as an authorized agent  
30 of a commercial surety or bounty hunter shall have been convicted in this  
31 or any other jurisdiction, of a felony, a violation of this section, or within  
32 ten years immediately prior to the date of the intended apprehension,  
33 been convicted of any crime involving moral turpitude, dishonesty, ve-  
34 hicular homicide, assault, battery, domestic battery, assault of a law en-  
35 forcement officer, misdemeanor battery against a law enforcement offi-  
36 cer, criminal restraint, sexual battery, endangering a child, intimidation  
37 of a witness or victim or illegally using, carrying or possessing a dangerous  
38 weapon.]

39 Sec. 4. Violation of this act shall be a class A nonperson misdemeanor  
40 for the first violation and a level 9 nonperson felony upon a second and  
41 subsequent violation.

42 Sec. 5. This act shall take effect and be in force from and after its  
43 publication in the statute book.

No security recovery agent shall wear, carry or display any uniform, badge, shield or other insignia or emblems that purport to indicate that such person is an employee, officer or agent of any state, any political subdivision of any state or the United States.

#3

# SENATE BILL No. 299

By Special Committee on Judiciary

1-9

*Senator Haley*

Senate Judiciary  
1-29-04  
Attachment 7

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17  
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21 similar authority from any other state, shall inform law enforcement au-  
22 thorities in the city or county in which such surety or agent of a surety  
23 intends such apprehension, before attempting such apprehension. The  
24 surety or agent of a surety shall present to the local law enforcement  
25 authorities a certified copy of the bond, a valid government-issued photo  
26 identification, written appointment of agency, if not the actual surety, and  
27 all other appropriate paperwork identifying the principal and the person  
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31 or any other jurisdiction, of a felony, a violation of this section, or within  
32 ten years immediately prior to the date of the intended apprehension,  
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34 hicular homicide, assault, battery, domestic battery, assault of a law en-  
35 forcement officer, misdemeanor battery against a law enforcement offi-  
36 cer, criminal restraint, sexual battery, endangering a child, intimidation  
37 of a witness or victim or illegally using, carrying or possessing a dangerous  
38 weapon.

39 Sec. 4. Violation of this act shall be a class A nonperson misdemeanor  
40 for the first violation and a level 9 nonperson felony upon a second and  
41 subsequent violation.

42 Sec. 5. This act shall take effect and be in force from and after its  
43 publication in the statute book.

(a) All surety recovery agents must maintain a policy of liability insurance in an amount not less than \$300,000 protecting persons and property from harm, written by a company approved by the attorney general.  
(b) The failure to maintain the required insurance invalidates the authority granted by a surety recovery agent license or a provisional surety recovery agent license.  
(c) Deductibles are not permitted unless the licensee submits a bond to the attorney general for the purpose of serving as a source of recovery for persons who receive judgments against a licensee for amounts less than that covered by insurance. The bond must be in a form and provided by a company acceptable to the attorney general, based upon the likelihood that sufficient assets support the bond.



#4

Senator Haley

SENATE BILL No. 299

By Special Committee on Judiciary

1-9

Senate Judiciary  
1-29-04  
Attachment 8

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33 been convicted of any crime involving moral turpitude, dishonesty, ve-  
34 hicular homicide, assault, battery, domestic battery, assault of a law en-  
35 forcement officer, misdemeanor battery against a law enforcement offi-  
36 cer, criminal restraint, sexual battery, endangering a child, intimidation  
37 of a witness or victim or illegally using, carrying or possessing a dangerous  
38 weapon.]

39 Sec. 4. Violation of this act shall be a class A nonperson misdemeanor  
40 for the first violation and a level 9 nonperson felony upon a second and  
41 subsequent violation.

42 Sec. 5. This act shall take effect and be in force from and after its  
43 publication in the statute book.

A surety recovery agent forcibly entering a residence shall insure the residence is secured before leaving the scene of the apprehension.

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*Mr. Hein*

**72-1397**

**Chapter 72.--SCHOOLS**

**Article 13.--TEACHERS' CERTIFICATES**

**72-1397. Restrictions on issuance and renewal of certificates; hearings upon denial; reports required of county and district attorneys.** (a) The state board of education shall not knowingly issue a certificate to or renew the certificate of any person who has been convicted of any offense or attempt to commit any offense specified in subsection (c) of K.S.A. 21-4619 and amendments thereto.

(b) Except as provided in subsection (c), the state board of education shall not knowingly issue a certificate to or renew the certificate of any person who:

(1) Has been convicted of a felony under the uniform controlled substances act; (2) has been convicted of a felony described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated or an act described in K.S.A. 21-3412 or K.S.A. 2002 Supp. 21-3412a, and amendments thereto, if the victim is a minor or student; (3) has been convicted of a felony described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, other than an act specified in subsection (c) of K.S.A. 21-4619 and amendments thereto, or has been convicted of an act described in K.S.A. 21-3517 and amendments thereto, if the victim is a minor or student; (4) has been convicted of any act described in any section of article 36 of chapter 21 of the Kansas Statutes Annotated, other than an act specified in subsection (c) of K.S.A. 21-4619 and amendments thereto; (5) has been convicted of a felony described in article 37 of chapter 21 of the Kansas Statutes Annotated; (6) has been convicted of an attempt under K.S.A. 21-3301, and amendments thereto, to commit any act specified in this subsection; (7) has been convicted of any act which is described in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments thereto; (8) has been convicted in another state or by the federal government of an act similar to any act described in this subsection; or (9) has entered into a criminal diversion agreement after having been charged with any offense described in this subsection.

(c) The state board of education may issue a certificate to or renew the certificate of a person who has been convicted of committing an offense or act described in subsection (b) or who has entered into a criminal diversion agreement after having been charged with an offense or act described in subsection (b) if the state board determines, following a hearing, that the person has been rehabilitated for a period of at least five years from the date of conviction of the offense or commission of the act or, in the case of a person who has entered into a criminal diversion agreement, that the person has satisfied the terms and conditions of the agreement. The state board of education may consider factors including, but not limited to, the following in determining whether to grant a certificate:

- (1) The nature and seriousness of the offense or act;
- (2) the conduct of the person subsequent to commission of the offense or act;
- (3) the time elapsed since the commission of the offense or act;
- (4) the age of the person at the time of the offense or act;
- (5) whether the offense or act was an isolated or recurring incident; and
- (6) discharge from probation, pardon or expungement.

(d) Before any certificate is denied by the state board of education for any of the offenses or acts specified in subsections (a) and (b), the person shall be given notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(e) The county or district attorney shall file a report with the state board of education indicating the name, address and social security number of any person who has been determined to have committed any offense or act specified in subsection (a) or (b) or to have entered into a criminal diversion agreement after having been charged with any offense or act specified in subsection (b). Such report shall be filed within 30 days of the date of the determination that the person has committed any such act or entered into any such diversion agreement.

(f) The state board of education shall not be liable for civil damages to any person refused issuance or renewal of a certificate by reason of the state board's compliance, in good faith, with the provisions of this section.

**History:** L. 1998, ch. 171, § 1; L. 2001, ch. 177, § 11; July 1.

Senate Judiciary

1-29-04

Attachment 9