

MINUTES OF THE SENATE JUDICIARY COMMITTEE

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

All members were present except:  
Senator Donald Betts (E)

Committee staff present:  
Mike Heim, Kansas Legislative Research Department  
Jill Wolters, Office of the Revisor Statutes  
Helen Pedigo, Office of the Revisor Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:  
Kansas Walker, Business owner, Larned, Ks.  
Mayor Ralph C. Arnold, Larned (Letter written in support to Sen. Janis Lee)

Others attending: See attached list.

**SB 337 - Repealing the crime of hypnotic exhibition**

Chairman Vratil opened the hearing on **SB 337**. Kansas Walker testified in support of **SB 337**, and explained how the hypnotist ban for entertainment purposes affects his business and the economic impact it could have on the state if the outdated law was not repealed. Mr. Walker shared with the Committee his experience with the Sheriff's Department in Pawnee County advising him it was illegal in Kansas to have a hypnotist for entertainment purposes, and that he could be fined \$50 and have a misdemeanor on his record. Mr. Walker had paid \$1,500 down for a comedian/hypnotist show for February 26, 2004, and decided that the \$50 fine was cheaper than forfeiting the down payment for an evening's entertainment. He asked if the law could be overridden temporarily until a final decision was made regarding repeal of this outdated statute. Mr. Walker recommended strongly that the law be repealed in order to bring Kansas up to date in the statute books regarding the subject of hypnotic shows for entertainment purposes only. He hoped that he and others could continue to bring top notch shows to central Kansas, and continue to support his family and the families of his employees plus improve the economy in the State of Kansas. (Attachment 1)

Chairman Vratil explained that there was not a way to override the existing law other than the way Mr. Walker is pursuing, which is legislation to repeal existing law. He added that currently the proposed legislation would not become effective until July 1, 2004, but the Committee could amend the bill to make it effective upon publication in the Kansas Registrar.

Brief Committee questions and discussion followed Mr. Walker's testimony.

Ralph Arnold, Mayor of Larned, submitted a letter in support to Senator Janis Lee of **SB 337**. (Attachment 2)

Per Senator Janis Lee's request, the Kansas Legislative Research Department submitted information regarding the Kansas statutory prohibition against hypnotic exhibitions for entertainment purposes. It was noted that the State Library Reference staff did a search of other state statutes and could not identify another state with the same or similar prohibition as exists in Kansas against using hypnosis for entertainment purposes. (Attachment 3)

The Chair closed the hearing on **SB 337**.

**SB 183 - The interstate compact for juveniles**

Chairman Vratil opened the hearing on **SB 183**. Senator David Adkins was unable to appear before the Committee to testify as the sponsor and only conferee of this proposed legislation. The Chair closed the hearing on **SB 183**.

CONTINUATION SHEET

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

**Final Action**

**SB 141 - Phasing in the use of administrative hearings over years**

Chairman Vratil called for discussion and final action on **SB 141**, and explained the proposed legislation. He stated that the Committee had amended the bill to include the amendments recommended by the Kansas Judicial Council.

Senator Donovan questioned whether the Committee had adopted the amendment regarding the Department of Revenue on page 37 in lines 21 and 22. The Chair explained, the motion to amend provides Department of Revenue claimants a choice of using a hearing officer from the Department of Revenue or a hearing officer from the Office of Administrative Hearings to conduct hearings. He stated that the vote for that amendment failed.

The Chairman clarified that the Committee also adopted Senator Umbarger's amendment relating to the Department of Agriculture (DOA), and contained two options for conducting agency hearings. The options would be the choice of the claimant, and would allow for a hearing officer from the DOA or a hearing officer from the Office of Administration Hearings.

Senator Pugh asked if Kansas Department of Health and Environment (KDHE) was included in this amendment, and the Chairman responded that KDHE was already using the options in the amendment.

Senator Schmidt made a motion to pass SB 141 out favorably as amended with a proviso for the Revisor to make any technical changes as needed. The motion was seconded by Senator Oleen.

Senator Donovan questioned why the Committee was separating out the DOA, and expressed his concern that individual department was singled out to be handled differently from other state agencies. Senator Umbarger explained that during Committee discussion it was determined that in some instances the DOA had the expertise in several areas of the agency to conduct its own hearings.

The Chairman called for a vote on the motion to pass **SB 141** out favorably as amended. The motion carried, with Senator Donovan requesting his no vote be recorded.

**SB 299 - Kansas surety recovery agents act**

Chairman Vratil called upon Senator Haley to present his proposed amendments to **SB 299**. Senator Haley stated that his first amendment would add language to Section 3, page 1, starting at the end of line 38 as follows: "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." (Attachment 4)

Chairman Vratil suggested that he use the word "fugitive" instead of the word "principal", because it fits better with his amendment. Senator Haley agreed.

Following brief discussion, the Chair called for a vote on the proposed amendment. Senator Haley made a motion to amend, seconded by Senator Oleen, and the motion carried. Senator Donovan requested his no vote be recorded.

Senator Haley said his second proposed amendment also added language at the end of line 38 in Section 3, page 1, at the end of the previous amendment as follows: "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 5)

Chairman Vratil stated that the Committee previously heard testimony on this subject and that it already was a criminal offense to impersonate an officer so the amendment was not necessary. Senator Haley responded that bounty hunters use this technique to unlawfully enter premises, and this amendment attempts to codify or clearly discern that Kansas does not consider bounty hunters to be law enforcement officers.

CONTINUATION SHEET

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

Committee discussion continued. Concern was expressed about who the state was protecting, how the amendment would add to already existing law, and that Senator Haley was not deleting any current language in the law, but attempting to add new language.

Senator Oleen made a motion to adopt Senator Haley's second amendment, seconded by Senator Donovan, and the motion failed. Senator Schmidt asked to be recorded as abstaining on the vote of this amendment.

Senator Haley offered a third amendment which added additional language to the end of Section 3, page 1, beginning on line 38 following, as follows: "A surety recovery agent may not enter a residence to recover a principal without first demanding admittance and explaining the purpose of which admittance is desired." He explained his reasoning for the requested amendment. (Attachment 6)

Following Committee discussion, Senator Haley made a motion to adopt his amendment, seconded by Senator Oleen for discussion purposes. After brief comments from Committee members, the Chairman called for a vote on the amendment. The motion failed.

Senator Haley explained his fourth amendment relating to required liability insurance as follows: "(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." (Attachment 7)

Senator Haley said the Committee received testimony during the hearing that this type of insurance was not available. He checked with the Kansas Insurance Department and found that it was available. Brief Committee discussion followed.

Senator Haley made a motion to adopt his fourth amendment adding new language to the end of Section 3, page 1, line 38. The motion was seconded by Senator Pugh, and the motion failed.

Senator Haley offered a conceptual fifth amendment to remove the restriction against hiring convicted felons as bounty hunters or surety agents. He felt it was unfair because felons, upon release from imprisonment, need to find gainful employment.

Senator Haley made a motion to amend SB 299 in Section 3, page 1, on line 31 by deleting the words "of a felony". The motion was seconded by Senator Pugh for discussion.

Senator Pugh stated that bounty hunters were held to a higher standards and requirements than school teachers, and for that reason he was not going to support the bill.

Chairman Vratil called for a vote on the proposed amendment. The motion failed on a 4 to 2 vote.

The Chairman announced that **SB 299** would be worked for final action at the next meeting, and no further amendments would be entertained.

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

## SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Monday, Feb. 9, 2004

NAME	REPRESENTING
Anne Bos	KCC
Matt Braun	DoA OAH
Wendy M. Harrell	KS Jud Council
Carolyn Maddendy	KS St No Assn
Christine Breece	JJA
Christine Gieber	Federico Consulting
TERRY HODGREN	KS Farm Bureau
Eric Collins	KS Govt Consulting
Patricia Biggs	KS Sent Comm
Brenda Harmon	KS Sent Comm
Jeff Bofenk	KS Sheriffs Assn
LARRY MABILL	KAIN
Audrey Shaw	Kearney + Associates Inc.
Lay Wille	KDOR / DefV
Diane Albert	"
Carole Jordan	KDA
Robin Walker	Walkers Steakhouse
Kansas Walker	Walkers Steakhouse

**TESTIMONY**  
**BY : KANSAS WALKER**  
**ON SB337**

- 1) INTRODUCTION OF SELF AND BUSINESS IN LARNED, KS.
- 2) CITY ORDINANCE YOU MAY NOT KNOW OF IN TOPEKA.
- 3) HYPNOTIST SHOW IN LARNED.
- 4) AFFECT OF HYPNOTIST BAN ON MY BUSINESS AND ECONOMIC IMPACT IT COULD HAVE ON THE STATE IF NOT REPEALED.
- 5) DISCUSSION I HAD WITH JIMMY "JJ" WALKER IN VEGAS.
- 6) AT THIS POINT KANSAS IS A LAUGHING STOCK TO HIGH PROFILE COMEDIANS NATIONWIDE.
- 7) MY STRONG RECOMMENDATION TO HAVE THIS LAW REPEALED SO THAT I MAY CONTINUE TO BRING TOP NOTCH SHOWS TO CENTRAL KANSAS.
- 8) THIS IS HOW I SUPPORT MY FAMILY AND THE FAMILIES OF MY EMPLOYEES.
- 9) NEXT SHOW WAS SCHEDULED FOR 2-26-2004, CITY WON'T ALLOW THE SHOW, CAN THIS LAW BE OVERRIDDEN UNTIL A FINAL DECISION CAN BE MADE?
- 10) THANK YOU TO SENATOR JANIS LEE FOR KEEPING HER PROMISE TO ME AND THE PEOPLE IN HER DISTRICT.
- 11) THANK YOU ALL FOR TAKING THE TIME TO REALIZE THAT A LAW SO STUPID REALLY DOES AFFECT THE COMMON WORKING MAN AND HIS FAMILY.

Senate Judiciary

2-9-04

Attachment   1

# CITY OF LARNED

P.O. Box 70 • 417 BROADWAY • LARNED, KANSAS 67550

(620) 285-8500 • FAX (620) 285-8544

"Cities Are What People Make Them"

January 16, 2004

The Honorable Janis Lee  
State Capitol – Room 402S  
300 SW 10<sup>th</sup>  
Topeka, KS 66612-1504

Dear Senator Lee,

It is my understanding that you are willing to introduce a bill to repeal the state statute which regulates hypnotism used for entertainment. I believe that your efforts are justified and have enclosed some background information which you may find helpful.

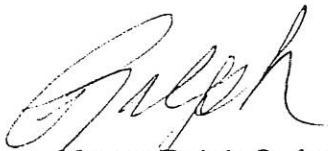
As you know, the local law enforcement agencies in Pawnee County took quite a beating in the press for the way in which the issue was handled for Kansas Walker and his show. As have other law enforcement agencies who have been faced with the same issue, the statute left no choice but for local law enforcement to take action. It is our understanding that a hypnotism show was banned from the State Fair and that Garden City has enforced the law just recently.

The issue of hypnotism for entertainment purposes will continue to be an issue here in Larned. Mr. Kansas Walker will not give up on the issue. Accordingly, in light of the lack of support from the KBI and from the Kansas Attorney General's Office on this issue, I would be in favor of action on the part of the State Legislature.

As you complete your research, you will most likely discover the intent of the original law which prohibits the use of hypnotism for entertainment. There is some unique danger in this type of entertainment, but to outlaw it in its entirety may not be justified. Please see the report from London regarding their investigation into the issue and their decision to allow the use of hypnotism as entertainment as long as certain guidelines are in place.

If I can be of any further assistance, please do not hesitate to call me.

Sincerely,



Mayor Ralph C. Arnold  
RCA/jlb



**HOME OFFICE**  
Constitutional & Community Policy Directorate  
Liquor, Gambling and Data Protection Unit  
Room 1178, 50 Queen Anne's Gate,  
London SW1H 9AT

Direct Line 0171-273 3668  
Facsimile 0171-273 3205

Your reference:

Our reference: ENT/96 469/2/9

5 August 1996

The Chief Executive of District Councils in England  
The Chief Executive of County & County Borough Councils in Wales  
The Chief Executive of London Borough Councils  
The Chief Executive of the Isle of Wight Council  
The Town Clerk of the City of London  
The Chief Officer of Police in England and Wales

**HOME OFFICE CIRCULAR NO: 39/1996**  
**STAGE HYPNOTISM: REVIEW OF THE HYPNOTISM ACT 1952**

This circular advises local authorities of the outcome of the Home Office's review of the Hypnotism Act 1952 and sets out revised model conditions which authorities are encouraged to attach to licences for public performances of stage hypnotism.

**Background**

2. On 12 December 1994 the House of Commons held an adjournment debate to discuss public and parliamentary concern about alleged harm suffered by some participants in public performances of stage hypnotism. This followed a period when several cases of alleged harm had received considerable media attention. The cases concerned both physical and psychological effects. At the end of the debate the then Home Office Minister, Mr Michael Forsyth, announced that a review was to be undertaken into the workings of the Hypnotism Act 1952. The review would examine evidence of possible harm to people taking part in public entertainments involving hypnotism and consider the appropriateness of the present regime of control that the Act provides, including existing arrangements for enforcement.

3. The review of medical evidence and available research literature was carried out by a panel of experts who were nominated by the British Psychological Society and the Royal College of Psychiatrists. The panel members were not experts in hypnosis but were appointed on the strength of their professional expertise in the evaluation of clinical evidence and research literature.

**MODEL CONDITIONS TO BE ATTACHED TO LICENCES FOR THE PERFORMANCE OF STAGE HYPNOTISM**

**Consents**

1. Any exhibition, demonstration or performance (hereafter referred to as a "performance") of hypnotism (as defined in the Hypnotism Act 1952) on any person requires the express written consent of the licensing authority and must comply with any attached conditions. The authority may consent either under the terms of a public entertainments licence or under the provisions of the Hypnotism Act 1952.

**Applications**

2. An application for consent under condition 1 shall be in writing and signed by the applicant or his agent and shall normally be made not less than 28 days in advance of the performance concerned. This period may be reduced in the case of a hypnotist who has performed at the same venue within the last three years without any problems occurring. The authority will normally respond within 7-14 days; less where the hypnotist has previously performed at the same venue. The applicant must at the same time forward a copy of the application to the chief officer of police; and the authority may also copy it to the local fire authority if it considers this necessary.
3. The application shall contain the following;
  - (a) the name (both real and stage, if different) and address of the person who will give the performance (hereafter referred to as the "hypnotist"), along with details of their last three performances (where and when); and
  - (b) a statement as to whether, and if so giving full details thereof, the hypnotist has been previously refused, or had withdrawn, a consent by any licensing authority or been convicted of an offence under the Hypnotism Act 1952 or of an offence involving the breach of a condition regulating or prohibiting the giving of a performance of hypnotism on any person at a place licensed for public entertainment. (Refusal of consent by another authority does not necessarily indicate that the particular hypnotist is unacceptable and will not of itself prejudice the application.)



be in normal physical and mental health and I must ask that no-one volunteers if they have a history of mental illness, are under the influence of alcohol or other drugs or are pregnant."

- (g) ~~no form of coercion shall~~ be used to persuade members of the audience to participate in the performance. In particular, hypnotists shall not use selection techniques which seek to identify and coerce onto the stage the most suggestible members of the audience without their prior knowledge of what is intended. Any use of such selection techniques (eg, asking members of the audience to clasp their hands together and asking those who cannot free them again to come onto the stage) should only be used when the audience is fully aware of what is intended and that participation is entirely voluntary at every stage;
- (h) if volunteers are to remain hypnotised during an interval in the performance, a reasonable number of attendants as agreed with the licensing authority shall be in attendance throughout to ensure their safety;

#### Prohibited actions

- (i) the performance shall be so conducted as not to be likely to cause offence to any person in the audience or any hypnotised subject;
- (j) the performance shall be so conducted as not to be likely to cause harm, anxiety or distress to any person in the audience or any hypnotised subject. In particular, the performance shall not include:
- (i) any suggestion involving the age regression of a subject (ie, asking the subject to revert to an earlier age in their life; this does not prohibit the hypnotist from asking subjects to act as if they were a child etc);
  - (ii) any suggestion that the subject has lost something (eg, a body part) which, if it really occurred, could cause considerable distress;
  - (iii) any demonstration in which the subject is suspended between supports (so-called "catalepsy");
  - (iv) the consumption of any harmful or noxious substance;
  - (v) any demonstration of the power of hypnosis to block pain (eg, pushing a needle through the skin);
- (k) the performance shall not include giving hypnotherapy or any other form of treatment;

Chapter 21.--CRIMES AND PUNISHMENTS

PART II.--PROHIBITED CONDUCT

Part 2.--Prohibited Conduct

Article 40.--CRIMES INVOLVING VIOLATIONS OF PERSONAL RIGHTS

21-4007. Hypnotic exhibition. (1) Hypnotic exhibition is:

Giving for entertainment any instruction, exhibition, demonstration or performance in which hypnosis is used or attempted; or Permitting oneself to be exhibited for entertainment while in a state of hypnosis.

Hypnosis," as used herein, means a condition of altered attention, frequently involving a condition of increased selective suggestibility brought about by an individual through the use of certain physical or psychological manipulations of one person by another.

Hypnotic exhibition is a misdemeanor punishable by a fine of not to exceed fifty dollars (\$50).

History: L. 1969, ch. 180, § 21-4007; L. 1978, ch. 125, § 1; July 1.

-----Original Message-----

**From:** Don Gaeddert [mailto:larned1@cityoflarned.kscoxmail.com]

**Sent:** Thursday, December 18, 2003 1:04 PM

**To:** APMHA@sbcglobal.net

**Subject:** hypnosis for entertainment

Although the publicity may not have reached you concerning a standoff between local law enforcement and a local restaurant owner over the enforcement of a state law in Kansas which prohibits the use of hypnotism for entertainment, our local police and sheriff departments are taking a lot of heat for enforcing the statute. Even the County Attorney has taken the position that it presents no harm to the community and will probably refuse to file charges – he also owns the local paper which has lambasted local law enforcement and the City Manager and City Attorney.

The law was passed in 1969 and has a very clear prohibition against using hypnotism for entertainment. Local law enforcement is not about to question or challenge the Legislature's reason and intent for the law, and believes that the Kansas State Legislature must have had good reasons for enacting the law. Unfortunately, that information has not been accessible to us which is why I am writing your association.

Is a law prohibiting the use of hypnotism for entertainment purposes a good law? Is there a danger or potential harm from such practice which would justify such a law?

We could really use some information along these lines to help us know how to respond to the negative publicity we've been receiving for enforcing the state law.

If your association believes that the law is unjustified, we also want to know that.

Thank you for this consideration,  
Don Gaeddert, City Manager, Larned, KS

12/18/2003

on Gaeddert

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**From:** AIH (R.A. Neves, Ph.D.) [aih@ix.netcom.com]  
**Sent:** Monday, December 22, 2003 6:00 PM  
**To:** larned1@cityoflarned.kscoxmail.com  
**Subject:** Stage Hypnosis

December 22, 2003

Dear Mr. Gaeddert:

Your e-mail to American Pacific University has been forwarded to the American Board of Hypnotherapy (ABH) for response. The ABH is one of the largest organizations for hypnosis in the United States. It has members throughout the world. Some of our members use hypnosis for entertainment purposes.

Your question about whether a law prohibiting the use of hypnotism for entertainment purposes is a good law is a subjective question the ABH cannot answer. Laws are neither good nor bad per se. We can however address the issue of danger or potential harm.

People who have not studied hypnosis have many misconceptions about it. **Hypnosis is a naturally occurring state of mind.** People are not put into hypnosis; they allow themselves to go into hypnosis. A person in a hypnotic state, although suggestible, cannot be forced to do something that is against their will or moral beliefs. We each go into and out of hypnosis every day. A person in hypnosis does not present any harm to the community or themselves. On that basis, the law cannot be justified.

Any type of staged entertainment has some element of risk. Each year many entertainers are injured falling off the stage, tripping over cords and being hit by props. When you have audience participation, this risk is increased. We do not believe that this risk is significantly higher in a hypnosis show than in any other type of audience participation show. From a danger standpoint, we do not believe the law can be justified.

We do not have any information that tells us what prompted this Kansas law. In the few other jurisdictions that have such laws, we have generally found that such laws were created because a person did slip or trip while on stage and blamed hypnosis. We have also been told by our members, that the jurisdictions that have such laws, often ignore them. Each week, there are literally hundreds of hypnosis shows performed before thousands of audience members. We receive virtually no reports of problems from these shows.

We certainly understand the difficult position you are in. The law is what it is. The ABH does not believe the law is justified, but that does not change your responsibilities, or the existence of the statute.

Although this letter is not the response you were seeking, I hope we have shed some light on the subject.

Sincerely,

R.A. Neves, Ph.D.  
ABH President

1/13/2004

# Florida Hypnosis Law

Over the last four years, twelve hypnotists/hypnotherapists in Florida have been served with cease and desist orders. Twelve may seem a small number considering the number of practitioners, but as President of the International Association of Counselors and Therapists, my attitude is that even one incident is too many.

Many people who practice hypnosis in Florida completed their training out-of-state. Their instructors probably didn't teach the Florida law because it didn't apply to that locality. Florida is unique because we have a law that specifically addresses therapeutic hypnosis.

In all other states you can neither diagnose nor practice medicine or mental health counseling without proper licensing. Florida has a law that makes this very clear. The law reads:

485.002 Legislative intent.

(1) It is recognized that hypnosis has attained a significant place as another technique in the treatment of human injury, disease, and illness, both mental and physical; that the utilization of hypnotic techniques for therapeutic purposes should be restricted to certain practitioners of the healing arts who are qualified by professional training to fulfill the necessary criteria required for diagnosis and treatment of human illness, disease, or injury within the scope of their own particular field of competence; or that such hypnotic techniques should be employed by qualified individuals who work under the direction, supervision, or prescription of such practitioners.

Hypnosis, practitioner of the healing arts, and qualified individuals are terms defined in the law:

(3) "Practitioner of the healing arts" shall mean a person licensed under the laws of the state to practice medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic medicine, naturopathy, podiatric medicine, chiropody, psychology, clinical social work, marriage and family therapy, mental health counseling, or optometry within the scope of his or her professional training and competence and within the purview of the statutes applicable to his or her respective profession, and who may refer a patient for treatment by a qualified person, who shall employ hypnotic techniques under the supervision, direction, prescription, and responsibility of such referring practitioner.

To read the complete law go to [www.floridalawonline.net](http://www.floridalawonline.net) and select the Statutes section.

This law has served as a protection for us to do therapeutic work here. It is our exemption to the psychology law FS 491. I recommend that you have an attorney-at-law inquire about any city or county laws regarding obtaining an occupational license. We do not have a state license, but you are required to have a business license.

Some local city/county laws require: 1) a referral letter from a medical practitioner or a mental health practitioner, or 2) you to present yourself before the board of commissioners, or 3) the signing of an affidavit pledging that you will not do stage hypnosis.

I am not an attorney-at-law. I cannot interpret, advise, nor counsel on legal issues. I am a certified hypnotherapist who has been complying to this law for the last 15 years. I do offer a 90-minute cassette tape on professional standards and two of the Florida laws. If you would like to contact me, call (239) 498-9710.

Jillian R. LaVelle is a certified stress management consultant and a clinical hypnotherapist and a member of IMDHA. She holds a BA in psychology from the University of South Florida, and is CEO of the International Association of Counselors and Therapists (IACT). In 1999 she was the recipient of the Outstanding Clinical Contribution award by the National Association of Transpersonal Hypnotherapists. In 2001 she was selected to receive the Counseling and Therapy Award of the Year by the International Hypnosis Federation.

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Rm. 100N—Statehouse, 300 SW 10th Ave.  
Topeka, Kansas 66612-1504  
(785) 296-3181 ♦ FAX (785) 296-3824

kslegres@klrd.state.ks.us

http://www.kslegislature.org/klrd

January 13, 2004

**To:** Senator Janis Lee

**Office No.:** 402-S

**From:** William G. Wolff, Associate Director *(WGW)*

**Re:** Hypnotic Exhibitions

I am pleased to respond to your request for information regarding the Kansas statutory prohibition against hypnotic exhibitions for entertainment purposes.

In 1903, the Legislature enacted a law that made it a misdemeanor offense for any person "to induce or permit a child under the age of eighteen years of age to practice or assist or become a subject in giving public, open exhibitions, seances, or shows of hypnotism, mesmerism, animal magnetism, or so-called psychical forces." On conviction, the penalty was a fine of not less than \$10 nor more than \$100, or imprisonment in the county jail for not less than ten days nor more than three months, or both the fine and imprisonment. (Codified at R.S. 38-703.)

In 1965, the Legislature enacted a new law making it "unlawful to give for entertainment, any instruction, exhibition, demonstration, or performance in which hypnosis is used or attempted and it shall be unlawful to permit oneself to be so exhibited while in a state of hypnosis." Conviction of a violation of the statute, KSA 21-2471, *et seq.*, was a misdemeanor punishable by a fine of not more than \$100 or by imprisonment of not more than 30 days, or by both the fine and imprisonment.

The printed title of the legislation, HB 611, read in part: "An act relating to hypnosis as therein defined; to protect the public from the irresponsible use of hypnosis . . . ."

In 1969, KSA 21-2471, *et seq.*, was repealed, and a new statute enacted as a part of a massive revision of Chapter 21 — the Kansas Criminal Code. The new law, KSA 21-4007, kept the same definition of hypnosis and made "hypnotic exhibition" a class C misdemeanor. Hypnotic exhibition was defined nearly in the same terms as the previous statute, *i.e.*, giving for entertainment any instruction, exhibition, demonstration or performance in which hypnosis is used or attempted; or permitting oneself to be exhibited while in a state of hypnosis. In a 1978 amendment, the law was clarified by adding the words "for entertainment" to the prohibition of a person permitting themselves to be exhibited while in a state of hypnosis, and the meaning of a class C misdemeanor was spelled out — a fine of not to exceed \$50.

The 1969 law, as amended in 1978, remains the law in Kansas in 2004.

The State Library Reference staff did a search of other state statutes and could not identify another state with the same or similar prohibition as exists in Kansas against using hypnosis for entertainment purposes.

39197(1/13/4{9:45AM})

Senate Judiciary

2-9-04

Attachment 3

Sen. Haley's 1<sup>st</sup>  
Amendment

Session of 2004

**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.

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

Senate Judiciary  
2-9-04  
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.

4-2

~~Sec. 20~~ (a) 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.



Sen. Haley's 2<sup>nd</sup>  
Amendment

Session of 2004

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

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

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

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

Senate Judiciary

2-9-04

Attachment 5

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;

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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  
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21 similar authority from any other state, shall inform law enforcement au-  
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24 surety or agent of a surety shall present to the local law enforcement  
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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.

~~Sec. 92~~ 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.

Sen. Haley's 3rd  
Amendment

Session of 2004

## 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  
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22 thorities in the city or county in which such surety or agent of a surety  
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29 Sec. 3. [No commercial surety or person acting as an authorized agent  
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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,  
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 may not enter a residence to recover a principal without first demanding admittance and explaining the purpose for which admittance is desired.

Senate Judiciary

2-9-04

Attachment 6

## 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  
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14 (b) "agent of a surety" means a person not performing the duties of  
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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.

~~Sec. 20~~ 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.

6-2

Sen. Halcy's 4<sup>th</sup>  
Amendment

Session of 2004

## 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  
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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.

Senate Judiciary  
2-9-04  
Attachment 7

# 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;

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43 publication in the statute book.

~~Sec. 13.~~ (a) All surety recovery agents must maintain a policy of lia-  
bility 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) (d) The failure to maintain the required insurance invalidates the au-  
thority granted by a surety recovery agent license or a provisional surety  
recovery agent license.

(c) (e) 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 likeli-  
hood that sufficient assets support the bond.

7-2