

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on Tuesday, February 24, 2004, in Room 123-S of the Capitol.

All members were present except:

- Senator Dwayne Umbarger- arrived 9:39 a.m.
- Senator Edward Pugh- arrived 9:50 a.m.
- Senator Greta Goodwin- arrived 9:38 a.m.
- Senator Les Donovan-arrived 9:40 a.m.

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: None

Others attending: See attached list.

Final Actions:

SB 461 - Limitations on acquisition of land by eminent domain by a port authority and county

Chairman Vratil called for continued discussion and final action on **SB 461**. The Chair explained the bill, and said there were possible amendments. He directed the Committee's attention to language on page 1, line 40, through to page 2, line 4, and questioned whether the language was necessary through the words "land or site". He explained that current law requires legislative approval when a port authority is organized, and current law also indicates legislative approval is necessary when a port authority wants to modify, amend, or extend the authority's official plan. He said he did not know what the language at the top of page 2 added, and thought it could be deleted. Senator Goodwin agreed, and thought it was added as a safeguard for the land owners and citizens of Cowley County. (Attachment 1)

Considerable Committee discussion and questions followed. Senator O'Connor made a motion to adopt the proposed amendment by deleting the wording on page 2 in lines 1, 2, and 3, and the words in line 4 "upon such acquired land or site". The motion was seconded by Senator Donovan. The motion carried. Senator Goodwin requested her "no" vote be recorded.

Senator Schmidt made a motion to recommend **SB 461**, as amended, favorable for passage, seconded by Senator Goodwin, and the motion carried.

SB 430 - Results of a survey or inspection report of an adult care home used only for determining compliance with state law; not admissible as evidence in a civil proceeding

Chairman Vratil called for discussion and final action on **SB 430**. Senator Schmidt said that the Revisor had a balloon amendment to distribute which was proposed by the Kansas Health Care, Inc. He explained the amendment and that it included provision for continuing education for staff of adult care homes. (Attachment 2)

The Chair stated that the Committee would first consider Senator Schmidt's amendments, and then the Kansas Trial Lawyers Association (KTLA) also had a slight modification concerning the admissibility of surveys or inspection reports offered in the form of a clarifying amendment. (Attachment 3)

Senator Schmidt made a motion to adopt the balloon amendment presented, seconded by Senator Donovan, and the motion carried.

Chairman Vratil presented the proposed KTLA amendment relating to language on page 2, to strike the wording "all one or more excerpts from", and the other is to strike the reference language "directly or indirectly refer and or". Senator Schmidt clarified the proposed changes by the strikeouts.

CONTINUATION SHEET

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Senator Umbarger made the motion to adopt KTLA's proposed amendment, and seconded by Senator Betts.

The Chair called for Committee discussion on the motion. Senator Schmidt expressed his concerns about the proposed amendment and its language. He stated if this was a technical amendment, he did not know why the Committee would want to make it.

Chairman Vratil asked if anyone had comments on the wording "directly refer". He suggested that the wording should be, "nothing in this section shall prohibit the use and admissibility in evidence of one or more excerpts from any such survey or inspection report that relate to the allegations asserted by the named plaintiff...". He explained that it would leave in the existing language concerning "one or more excerpts from any survey or inspection report", but then it would substitute language focusing on the allegations made in the complaint rather than the named plaintiff.

Senator Schmidt asked for an explanation of the rationale for removing the "directly" language. The Chairman stated that if "directly" was in there, the KTLA wanted to add in "or indirectly", and his thought was once you get indirectly in there, the door is opened wide. He said rather than add indirectly, KTLA suggested to delete any reference to directly or indirectly and require that it relate to the allegations.

Discussion continued, with Senator Umbarger pointing out that the trial judge will have the final say as to what is admissible or not. Chairman Vratil agreed, and stated that the judge will also make appropriate findings on the record to support his/her decision.

Senator Schmidt conceded that the language the Chair proposed would probably be the best to offer in an amendment.

Chairman Vratil stated that there was a motion on the floor and with the consent of Senator Umbarger, who made the motion, and a second by Senator Betts, he would suggest to modify that motion which would be to further amend the bill by changing the language in Sec. 3, page 2, line 23, to read, "nothing in this section shall prohibit the use and admissibility in evidence of one or more excerpts from any such survey or inspection report that relates to the allegations asserted by the named plaintiff if the court determines on the record...".

The Chairman called for a vote on the modified motion made by Senator Umbarger and seconded by Senator Betts. The motion carried.

Senator Goodwin made a motion to recommend the bill favorably as amended, seconded by Senator Pugh, and the motion carried.

SB 466 - Physicians and optometrists reporting to the division of motor vehicles medical information concerning a patient

Chairman Vratil called for discussion and final action on **SB 466**. He explained the bill related to medical information being reported to Division of Motor Vehicles.

Senator Allen made a motion to amend the bill as recommended by the Kansas Medical Society's proposed balloon amendment presented during the hearing. The motion was seconded by Senator Donovan, and the motion carried. (Attachment 4)

Senator Allen moved that **SB 466** be passed out favorably as amended, seconded by Senator Goodwin, and the motion carried.

SB 469 - Inmate deaths, requiring investigation and report of findings

Chairman Vratil called for discussion and final action on **SB 469**. He asked Senator Schmidt to explain the balloon amendment proposed by the Kansas Bureau of Investigation. Senator Schmidt said that the balloon amendment incorporated all the recommendations the KBI had made with the exception of an agreed upon exclusion of the natural death language and what is and is not investigated. Every death in

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custody would receive KBI review, and based on that review it would be determined if a cursor review is sufficient and it was a natural death or whether further investigation would be necessary. (Attachment 5)

Senator Schmidt made a motion to amend SB 469 in accordance with the proposed KBI balloon amendment, seconded Senator Donovan.

Senator Oleen stated that she wanted the amendment to include facilities contracted through a city or county. The Chair asked Senators Schmidt and Donovan if they were agreeable to modifying their motion and second, and it was agreed to do so. The Chair called for a vote on the motion to amend. The motion carried.

Senator Schmidt moved to pass SB 469 out favorably as amended, seconded by Senator Haley, and the motion carried.

SB 388 - Statewide authority for capitol area security

Chairman Vratil directed the Committee's attention to **SB 388**, and called for discussion and final action. He explained the bill and reminded the Committee that there was a proposed amendment by Ken North of North & Associates. (Attachment 6)

Following Committee discussion, Senator Oleen suggested that in Mr. North's proposed amendment regarding Sub Section (c), the word "Sheriff" should be changed to the "chief law enforcement officer of any county" since some counties in Kansas did not have a Sheriff. The Chairman instructed the Revisor to make that revision in the proposed language.

Senator Oleen made a motion to amend SB 388 as recommended by Ken North with the Revisor having the authority to use the appropriate language to achieve the desired purpose, seconded by Senator Goodwin, and the motion carried.

Senator Pugh moved to pass SB 388 out favorably as amended, seconded by Senator Schmidt, and the motion carried.

SB 321 - Contempt powers of municipal court judges

Chairman Vratil called for discussion and final action on **SB 321**. The Chairman referred to Senator Pugh's Sub-Committee Report covering meeting on February 19 in which **SB 321**, **SB 350**, and **SB 354** were heard. (Attachment 7)

Senator Pugh explained that there was a proposed amendment for **SB 321** on page 2, line 30, inserting wording following: municipal judge in "*contempt findings*,". The Sub-Committee recommended adoption of this added language.

Senator Allen made a motion to adopt the proposed amendment to SB 321, seconded by Senator Goodwin, and the motion carried.

Senator Allen made a motion to pass SB 321 out favorably as amended, seconded by Senator Betts, and the motion carried.

SB 350 - Clarifies length of parole

Chairman Vratil called for final action on **SB 350** which was included in Vice Chairman Pugh's Sub-Committee Report. Following the Sub-Committee hearing on **SB 350**, Senator Pugh said the Sub-Committee recommended the bill for passage.

Senator Donovan moved to pass SB 350 out favorably, seconded on Senator Schmidt, and the motion carried.

SB 354 - Municipal court pre-trial authority to detain

Vice Chairman Pugh explained that the Sub-Committee recommended **SB 354** be amended in accordance

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MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:35 a.m. on Tuesday, February 24, 2004, in Room 123-S of the Capitol.

with the balloon amendment attached to the report. (See Attachment 6)

Senator Allen moved to adopt the balloon amendment, seconded by Senator Betts, and the motion carried.

Senator Allen made a motion to pass SB 354 out favorably as amended, seconded by Senator Schmidt, and the motion carried.

SB 389 - Law enforcement, special deputies, multi-jurisdictional law enforcement groups

Vice Chairman Pugh said the Sub-Committee was unable to have a hearing on this bill, which was sponsored by Senator Emler and recommended by the Special Committee on Kansas Security. He distributed copies of a balloon amendment requested by Senator Emler, and asked if the Committee might be able to give this bill some consideration even though scheduled committee time had expired.

(Attachment 8)

Chairman Vratil stated he was reluctant to take action on a bill that had not had a proper hearing. He suggested the bill be introduced in an exempt committee in order to be heard this session. Senator Emler commented that the bill could be pared down to the one main issue that everybody agreed to, and he would check into getting it introduced in an exempt committee so it could be heard.

Minutes for the February 19, 2004 meeting were presented for approval. Senator Donovan moved to approve the minutes as written, seconded by Senator Goodwin, and the motion carried.

The meeting was adjourned at 10:30 a.m.

The next scheduled meeting for the Senate Judiciary Committee is March 2, 2004.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Tues, Feb. 24, 2004

NAME	REPRESENTING
Andy Jaquet	LKM
Sandy Schoppa	Beas/Busters of Kansas
Tessa Goupil	Kansas ADAPT
Fred Miller	Kansas ADAPT
Ami Hyten	TILRC
Silca Vaughn	TILRC
Sue Christman	Topeka KS television
Steve Richardson	TILRC
Polly Neavelec	KQC
Robert Miller	senator
Jeanne Edmund	TILRC
Jenny Herricks	TILRC
Jennifer HEMMIS	Interu PopWilk
Joyce Jackson	TILRC
Rachael Piewkonis	TILRC
Katherine Wilson	TILRC
Brenda Chamberlain	Healthy Families Intern
MJ Willoughby	OJA
Joe Farned	KWO

SENATE JUDICIARY COMMITTEE GUEST LIST

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DATE: Thurs, Feb. 24, 2004

NAME	REPRESENTING
Gary Robbins	KDOT-ASA
Makaela Sorensen	TILRC
Diane Albert	KDOT
Rhoda Smith	TILRC
Carolyn Hans	TILRC
BRAD HARRELSON	KFB

SENATE BILL No. 461

By Committee on Judiciary

2-5

9 AN ACT concerning eminent domain; relating to acquisition of land for
10 certain purposes by a port authority or county; amending K.S.A. 12-
11 3408 and K.S.A. 2003 Supp. 12-3402, 12-3406 and 19-101a and re-
12 pealing the existing sections.

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

15 Section 1. K.S.A. 2003 Supp. 12-3402 is hereby amended to read as
16 follows: 12-3402. (a) It is the purpose of this act to promote, stimulate
17 and develop the general welfare, economic development and prosperity
18 of the state of Kansas by fostering the growth of intrastate and interstate
19 commerce within the state; to promote the advancement and retention
20 of ports within the state; to encourage and assist in the location of new
21 business and industry in this state and the expansion, relocation or reten-
22 tion of existing business and industry when so doing will help maintain
23 existing levels of commerce within the state or increase the movement of
24 commodities, goods and products produced, manufactured or grown
25 within or without the state through existing ports within the state or lead
26 to the development of new ports within the state; and to promote the
27 economic stability of the state by maintaining and providing employment
28 opportunities, thus promoting the general welfare of the citizens of this
29 state, by authorizing port authorities to be established in each city and in
30 each county of the state.

31 A port authority shall be a public body corporate and politic which if
32 established shall be known as the "port authority" of the city or of the
33 county. Joint port authorities may be created under authority of this act
34 by cooperative agreement executed by the governing bodies of any city
35 or county or cities or counties. Such joint authorities formed by such
36 cooperative agreement shall have all the powers and jurisdiction enu-
37 merated in this act. Such creation shall be by ordinance or resolution.
38 Except for port authorities created prior to April 1, 1981, no port authority
39 shall be created without approval of the legislature by concurrent reso-
40 lution. *No port authority shall modify, amend or extend the port author-
41 ity's official plan as originally adopted by the port authority to change
42 the purpose for which it was created or alter the character of the work to
43 be undertaken, as provided by K.S.A. 12-3406, and amendments thereto,*

Senate Judiciary

2-24-04

Attachment 1

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of cover
Winnicki

1 by the port authority which would allow the use of any land or site ac-
2 quired through the exercise of eminent domain for which at least one of
3 the purposes is a recreational-use purpose or allow private development
4 upon such acquired land or site without subsequent approval of the leg-
5 islature by concurrent resolution. The authority shall not transact any
6 business or exercise powers hereunder, including any business or actions
7 related to such a modification, amendment or extension as provided in
8 this subsection, until the passage of a concurrent resolution by the legis-
9 lature as hereinbefore provided.

10 A cooperative agreement creating a joint port authority may be
11 amended by the governing bodies of the cities and counties which com-
12 prise such port authority. Any amendment to such a cooperative agree-
13 ment, including amendments which allow other cities located within
14 counties which are parties to the original agreement to join in such agree-
15 ment, shall not require approval by the legislature.

16 No member of the authority shall serve as such who owns land, other
17 than a residence, or represents in a fiduciary capacity or as agent any
18 person who owns land surveyed or examined for port locations, except
19 that this prohibition shall not prevent a user of a port facility from serving
20 as a member of the authority.

21 A port authority may sue and be sued, plead and be impleaded, subject
22 to the limitations and other provisions of the Kansas tort claims act. The
23 exercise by such port authority of the powers conferred upon it shall be
24 deemed to be essential governmental functions of the creating city or
25 county.

26 (b) Any city or county creating or participating in the creation of a
27 port authority, before any taxes are levied shall submit the question of
28 whether an annual tax levy may be made on the assessed taxable tangible
29 property of such city, county, or a combination thereof, and the amount
30 thereof to the electors of such city or county comprising such authority.
31 If a majority of those voting on the question vote in favor of such tax levy,
32 the same may be made for such purpose and to pay a portion of the
33 principal and interest on bonds issued under the authority of K.S.A. 12-
34 1774, and amendments thereto, by cities located in the county, and oth-
35 erwise such tax levy shall not be made. If such tax levy is approved, the
36 authority may expend funds not otherwise appropriated to defray the
37 expense of surveys and examinations incidental to the purposes of the
38 port authority and may expend funds for any of the purposes as set forth
39 in K.S.A. 12-3406, and amendments thereto.

40 (c) Subject to making due provisions for payment and performance
41 of its obligations, a port authority may be dissolved by the city or county,
42 or combination thereof, comprising it. If the port authority is dissolved,
43 the properties of the port authority shall be transferred to the subdivision

SENATE BILL No. 430

By Committee on Judiciary

2-3

Proposed amendment
Kansas Health Care Inc.
February 24, 2004, 9:10 a.m.

9 AN ACT concerning adult care homes: relating to results of a survey or
10 inspection reports: amending K.S.A. 39-935 and repealing the existing
11 ~~section~~.

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

13 Section 1. K.S.A. 39-935 is hereby amended to read as follows: 39-
14 935. (a) Inspections shall be made and reported in writing by the au-
15 thorized agents and representatives of the licensing agency and state fire
16 marshal, and of the county, city-county and multicounty health depart-
17 ments as often and in the manner and form prescribed by the rules and
18 regulations promulgated under the provisions of this act. Access shall be
19 given to the premises of any adult care home at any time upon presenting
20 adequate identification to carry out the requirements of this section and
21 the provisions and purposes of this act, and failure to provide such access
22 shall constitute grounds for denial or revocation of license. A copy of any
23 inspection reports required by this section shall be furnished to the ap-
24 plicant, except that a copy of the preliminary inspection report signed
25 jointly by a representative of the adult care home and the inspector shall
26 be left with the applicant when an inspection under this section is com-
27 pleted. This preliminary inspection report shall constitute the final record
28 of deficiencies assessed against the adult care home during the inspection,
29 all deficiencies shall be specifically listed and no additional deficiencies
30 based upon the data developed at that time shall be assessed at a later
31 time. An exit interview shall be conducted in conjunction with the joint
32 signing of the preliminary inspection report.

33 (b) The authorized agents and representatives of the licensing agency
34 shall conduct at least one unannounced inspection of each adult care
35 home within 15 months of any previous inspection for the purpose of
36 determining whether the adult care home is complying with applicable
37 statutes and rules and regulations relating to the health and safety of the
38 residents of the adult care home. The statewide average interval between
39 inspections shall not exceed 12 months.

40 (c) Every adult care home shall post in a conspicuous place a notice
41 indicating that the most recent inspection report and related documents
42 may be examined in the office of the administrator of the adult care home.
43

relating to continuing education for staff of adult care homes;

K.S.A. 2003 Supp. 39-936 and

sections

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2-24-04
Attachment 2

2-2

1 Upon request, every adult care home shall provide to any person a copy
2 of the most recent inspection report and related documents, provided the
3 person requesting such report agrees to pay a reasonable charge to cover
4 copying costs.

5 (d) (1) ~~The results of a survey or inspection report of an adult care~~
6 ~~home that is conducted under article 9 of chapter 39 of the Kansas Statutes~~
7 ~~Annotated, and amendments thereto, or in accordance with the regula-~~
8 ~~tions, guidelines and procedures issued by the United States secretary of~~
9 ~~health and human services under Titles XVIII and XIX of the social se-~~
10 ~~curity act, 42 U.S.C. 301, as amended on the effective date of this act,~~
11 ~~shall be used solely to determine the adult care home's compliance with~~
12 ~~licensure, certification or program participation requirements with state~~
13 ~~law.~~

Except as provided in subparagraph (3),

14 (2) ~~The results of a survey or inspection report of an adult care home~~
15 ~~shall not be used nor be admissible evidence in any civil action or pro-~~
16 ~~ceeding that is pending in any court unless such action or proceeding is~~
17 ~~an appeal of an administrative action involving licensure, certification or~~
18 ~~program participation requirements under state or federal law or is an~~
19 ~~action by any officer, employee or agent of the state to enforce state law.~~
20 ~~Nothing in this section prohibits the results of a survey or inspection~~
21 ~~report of an adult care home from being used in a criminal investigation~~
22 ~~or prosecution.~~

23 (3) ~~For purposes of this subsection, "results of a survey or inspection~~
24 ~~report of an adult care home" shall include any and all documents, in-~~
25 ~~cluding any written report or statement of deficiencies and all findings~~
26 ~~and deficiencies cited in the statement or report, prepared by any officer,~~
27 ~~employee or agent of the state of Kansas during the course of or otherwise~~
28 ~~in connection with any inspection, survey or investigation of any licensed~~
29 ~~adult care home that is conducted to determine compliance with licensure,~~
30 ~~certification or program participation requirements under any provision~~
31 ~~of state or federal law.~~

Nothing in this section shall prohibit the use and admissibility in evidence of one or more excerpts from any such survey or inspection report that directly refer and relate to the named plaintiff, if the court determines on the record, following a hearing outside the presence of the jury, that every such excerpt is otherwise admissible under the rules of evidence of the code of civil procedure.

(4)

32 Sec. 2. ~~K.S.A. 39-935 [a]~~ hereby repealed.
33 Sec. 3. This act shall take effect and be in force from and after its
34 publication in the Kansas register

Sec. 2. K.S.A. 2003 Supp. 39-936 [see attached]
Renumber remaining sections accordingly.

are

K.S.A. 2003 Supp. 39-936 and

Sec. 2. K.S.A. 2003 Supp. 39-936 is hereby amended to read as follows: 39-936. (a) The presence of each resident in an adult care home shall be covered by a statement provided at the time of admission, or prior thereto, setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. Each resident shall be provided with a copy of such statement, with a copy going to any individual responsible for payment of such services and the adult care home shall keep a copy of such statement in the resident's file. No such statement shall be construed to relieve any adult care home of any requirement or obligation imposed upon it by law or by any requirement, standard or rule and regulation adopted pursuant thereto.

(b) A qualified person or persons shall be in attendance at all times upon residents receiving accommodation, board, care, training or treatment in adult care homes. The licensing agency may establish necessary standards and rules and regulations prescribing the number, qualifications, training, standards of conduct and integrity for such qualified person or persons attendant upon the residents.

(c) (1) The licensing agency shall require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to the mentally retarded which has been granted an exception by the secretary of health and environment upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, employed on and after the effective date of this act who provide direct, individual care to residents and who do not administer medications to residents and who have not completed a course of education and training relating to resident care and treatment approved by the secretary of health and environment or are not participating in such a course on the effective date of this act to complete successfully 40 hours of training in basic resident care skills. Any unlicensed person who has not completed 40 hours of training relating to resident care and treatment approved by the secretary of health and environment shall not provide direct, individual care to residents. The 40 hours of training shall be supervised by a registered professional nurse and the content and administration thereof shall comply with rules and regulations adopted by the secretary of health and environment. The 40 hours of training may be prepared and administered by an adult care home or by any other qualified person and may be conducted on the premises of the adult care home. The 40 hours of training required in this section shall be a part of any course of education and training required by the secretary of health and environment under subsection (c)(2).

(2) The licensing agency may require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to the mentally retarded which has been granted an exception by the secretary of health and environment upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, who provide direct, individual care to residents and who do not administer medications to residents after 90 days of employment to successfully complete an approved course of instruction and an examination relating to resident care and treatment as a condition to continued employment by an adult care home. A course of instruction may be prepared and administered by any adult care home or by any other qualified person. A course of instruction prepared and administered by an adult care home may be conducted on the premises of the adult care home which prepared and which will administer the course of instruction. The licensing agency shall not require unlicensed employees of an adult care home who provide direct, individual care to residents and who do not administer medications to residents to enroll in any particular approved course of instruction as a condition to the taking of an examination, but the secretary of health and environment shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction. Unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents may enroll in any approved course of instruction and upon completion of the approved course of instruction shall be eligible to take an examination. The examination shall be prescribed by the secretary of health and environment, shall be reasonably related to the duties performed by unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents and shall be the same examination given by the secretary of health and environment to all unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications.

(3) The secretary of health and environment shall fix, charge and collect a fee to cover all or any part of the costs of the licensing agency under this subsection (c). The fee shall be fixed by rules and regulations of the

secretary of health and environment. The fee shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(4) The secretary of health and environment shall establish a state registry containing information about unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications in compliance with the requirements pursuant to PL 100-203, Subtitle C, as amended November 5, 1990.

(5) No adult care home shall use an individual as an unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

(6) Beginning July 1, 1993, the adult care home must require any unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications and who since passing the examination required under paragraph (2) of this subsection has had a continuous period of 24 consecutive months during none of which the unlicensed employee provided direct, individual care to residents to complete an approved refresher course. The secretary of health and environment shall prepare guidelines for the preparation and administration of refresher courses and shall approve or disapprove courses.

(d) Any person who has been employed as an unlicensed employee of an adult care home in another state may be so employed in this state without an examination if the secretary of health and environment determines that such other state requires training or examination, or both, for such employees at least equal to that required by this state.

(e) All medical care and treatment shall be given under the direction of a physician authorized to practice under the laws of this state and shall be provided promptly as needed.

(f) No adult care home shall require as a condition of admission to or as a condition to continued residence in the adult care home that a person change from a supplier of medication needs of their choice to a supplier of medication selected by the adult care home. Nothing in this subsection (f) shall be construed to abrogate or affect any agreements entered into prior to the effective date of this act between the adult care home and any person seeking admission to or resident of the adult care home.

(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.

(h) No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment.

(i) (1) On and after July 1, 2004:

(A) In addition to the continuing education requirements for a licensee with an active nursing license pursuant to K.S.A. 65-1117, and amendments thereto, such licensee shall earn two additional hours of continuing education, if such licensee is employed by an adult care home and is providing direct, individual care to residents.

(B) In addition to the continuing education requirements for a certified medication aide pursuant to K.S.A. 65-1,121, and amendments thereto, such certified medication aide shall earn two additional hours of continuing education, if such aide is employed by an adult care home and is providing direct, individual care to residents.

(C) In addition to the training requirements and refresher course for an unlicensed employee of an adult care home pursuant to subsection (c), such employee shall earn two additional hours of training, if such employee is providing direct, individual care to residents.

(2) The continuing education or training requirements of this subsection shall:

(A) Conform with the regulations of the centers for medicare/medicaid services concerning enhanced quality measures;

(B) be approved by the quality improvement organization for Kansas; and

(C) be reasonably related to the duties performed by the licensees, aides and employees.

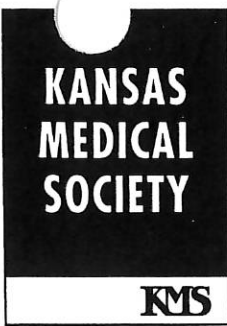
Changes to proposed amendment for SB 430

“; provided, however, that nothing in this section shall prohibit the use and admissibility in evidence of ~~all one or more excerpts from~~ any such document *or portion thereof* that directly or indirectly refer and or relate to the allegations asserted by the named plaintiff(s) if the district court determines on the record, after a hearing outside of the presence of the jury, that every such excerpt(s) is otherwise admissible under the rules of evidence contained in Chapter 60, Article 4 of the Kansas Statutes Annotated and amendments thereto.”


Senate Judiciary

2-24-04

Attachment 3



623 SW 10th Avenue
Topeka KS 66612-1627
785.235.2383
800.332.0156
fax 785.235.5114
kmsonline.org

To: Senate Judiciary Committee
From: Jerry Slaughter
Executive Director 
Date: February 23, 2004
Subject: SB 466; concerning medical information reported to DMV

The Kansas Medical Society appreciates the opportunity to appear today as you consider SB 466, which amends the laws governing the reporting of certain medical information to the Division of Motor Vehicles. The bill is apparently designed to encourage and facilitate the reporting of medical information when a physician has reason to believe that his or her patient is not capable of safely operating a motor vehicle due to a medical condition.

Physicians are often faced with a dilemma – should they report a potentially unsafe driver to the state at the expense of breaching confidentiality and damaging the physician-patient relationship, or should they forgo reporting and risk being liable for potential future injuries to the patient or others? It’s a difficult issue for physicians, because it can transform their role from patient advocate to patient reporter to potential defendant - when they are sued by the patient for making a report, or sued by a third party for not reporting.

Most states, including those surrounding Kansas, encourage, but do not require, reporting of mental or physical conditions which could affect a patient’s ability to safely operate a motor vehicle. Our current law could best be categorized as one that allows such reports, but does not necessarily encourage them. The changes contained in SB 466 would appear to move Kansas into the group of states that encourages such reports. Virtually all states with similar laws provide immunity for good faith reports, as does our law. We strongly support the language in the bill which makes it clear that the change in law does not create a new duty to report.

Finally, there could be an issue relating to the new federal privacy law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA generally prevents physicians and others from releasing protected health information without a proper authorization from the patient. However, if a patient has a medical condition that would cause an “immediate and serious danger” to the public, then reporting such information without patient authorization is allowed. We have provided an amendment that the committee may want to consider, which should overcome the HIPAA threshold for release of information in such situations. We would be happy to respond to questions.

Senate Judiciary
2-24-04
Attachment 4

SENATE BILL No. 466

By Committee on Judiciary

2-6

9 AN ACT concerning driver's licenses; relating to medical information
10 reported to the division; amending K.S.A. 8-255c and repealing the
11 existing section.

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

13 Section 1. K.S.A. 8-255c is hereby amended to read as follows: 8-
14 255c. (a) No person reporting to the division or to the medical advisory
15 board in good faith any information that any such person may have re-
16 lating to the mental or physical condition of an applicant for *or a holder*
17 *of a driver's license shall be subject to a civil action for damages as a result*
18 *of reporting such information. ~~No Nothing in this section shall be con-~~*
19 *strued to create a duty to report, nor shall a physician or optometrist shall*
20 *be required by law to volunteer report information to the division or to*
21 *the medical advisory board as to the mental or physical condition of any*
22 *patient.*

23 (b) *A physician or optometrist may report to the division or to the*
24 *medical advisory board any person diagnosed or assessed as having a*
25 *disorder or condition that ~~may~~ in such physician's or optometrist's pro-*
26 *fessional judgment could prevent such person from safely operating a*
27 *motor vehicle. Such report shall state the diagnosis or assessment and*
28 *whether the condition is likely to be permanent or temporary. The exis-*
29 *tence of a privilege pursuant to K.S.A. 60-427, and amendments thereto,*
30 *shall not prevent a physician or optometrist from making a report. All*
31 *reports made to, and all medical records reviewed and maintained by, the*
32 *division pursuant to this section shall be kept confidential and shall not*
33 *be disclosed except upon the order of a court of competent jurisdiction,*
34 *pursuant to the request of the division or medical advisory board and*
35 *shall not be subject to subpoena, discovery or other demand in any other*
36 *administrative, criminal or civil matter.*

(delete)

or could constitute an immediate and serious danger to the public.

37 Sec. 2. K.S.A. 8-255c is hereby repealed.

38 Sec. 3. This act shall take effect and be in force from and after its
39 publication in the statute book.
40

4-2

SENATE BILL No. 469

By Senators Schmidt and Hensley

Proposed amendment
KBI request
February 22, 2004

Senate Judiciary

2-24-04
Attachment 5

9 AN ACT requiring investigation and report of findings regarding inves-
10 tigation into the circumstances of inmate deaths in department of cor-
11 rections facilities and jails.

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

13 Section 1. Whenever death occurs of an inmate, who is in the cus-
14 tody of the secretary of corrections and who resides in a correctional
15 facility or boot camp operated by or contracted through the secretary, an
16 investigation regarding the circumstances of the death shall be initiated
17 by the Kansas bureau of investigation. ~~The~~ findings of the investigation
18 shall be made available to the chairperson of the senate and house judi-
19 ciary committees of the Kansas legislature and shall be subject to the
20 open records act, K.S.A. 45-215, and amendments thereto.

21
22 Sec. 2. Whenever the death of a prisoner in the custody of a city or
23 county and residing in jail occurs, an investigation regarding the circum-
24 stances of the death shall be initiated by the Kansas bureau of investi-
25 gation. ~~The~~ findings of the investigation shall be made available to the
26 chairperson of the senate and house judiciary committees of the Kansas
27 legislature and shall be subject to the open records act, K.S.A. 45-215,
28 and amendments thereto.

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

or of a juvenile, who is in the custody of the commissioner of juvenile justice and
who resides in an institution operated by or contracted through the commissioner

A report of the

or in a facility contracted through the city or county

A report of the



NORTH & ASSOCIATES

Post Office Box 14745

Shawnee Mission, KS 66285-4745 U.S.A.

Telephone: (913) 599-3600

Facsimile: (913) 599-3434

SB 388

By Senator Jay Emler

Testimony Before The Kansas Senate Judiciary Committee

- Ken North

Senate Bill 388: Capitol Police Authority

A. Proposal Objective:

Under current law the Capitol Police are limited in the exercise of their powers and authority to Shawnee County.

Several years ago, a Kansas cabinet-level Secretary was threatened by a disgruntled former employee. The Governor instructed the Capitol Police to follow the Secretary home to her Lawrence residence for a period of time to assure her safety. Had it been necessary to take enforcement action in Douglas County, the Capitol Police escort would have been completely lacking any semblance of law enforcement authority.

The 1999 North & Associates study of Capitol area security strongly recommended the extension of statewide authority to the Capitol Police and the Department of Administration supported that proposal without any reservation. Given the range of state office locations throughout Kansas, this revision would ensure the potential for more timely responses to emerging security threats at other sites.

B. Proposed Revisions:

K.S.A. 75-4503. Capitol area security patrol; creation, police powers of members; disposition of persons arrested; application of K-GOAL.

(b) Members of the capitol area security patrol shall have *statewide law enforcement powers and authority anywhere within the State irrespective of county lines.*

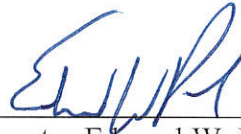
(c) All persons arrested by a member of the capitol area security patrol shall be turned over to the *Sheriff* to be dealt with in the same manner as other persons turned over to such department, except in cases of violation of the ordinances of the city of Topeka, any such person may be turned over to the police department of the city of Topeka to be dealt with by it in the same manner as other persons arrested by police officers of the Topeka police department.

SENATE JUDICIARY SUB-COMMITTEE
Senator Ed Pugh, Chairman

Members Present: Senator Ed Pugh, Chairman
Senator Barbara Allen
Senator Donald Betts

The meeting was called to order by Chairman Pugh at 3:30 P.M., February 19, 2004.

The sub-committee recommends passage of SB 350. The sub-committee also recommends passage of SB 321 and SB 354, as amended.



Senator Edward W. Pugh
Chairman

Senate Judiciary

2-24-04

Attachment 7

SENATE BILL No. 321

By Committee on Judiciary

1-20

AN ACT concerning municipal court judges; relating to contempt powers; amending K.S.A. 12-4106 and K.S.A. 2003 Supp. 22-3609 and repealing the existing sections.

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

Section 1. K.S.A. 12-4106 is hereby amended to read as follows: 12-4106. (a) The municipal judge shall have the power to administer the oaths and enforce all orders, rules and judgments made by such municipal judge, and may fine or imprison for contempt committed in court or for failure to obey process issued by such municipal judge, in the same manner and to the same extent as a judge of the district court.

(b) The municipal judge shall have the power to hear and determine all cases properly brought before such municipal judge to: Grant continuances; sentence those found guilty to a fine or confinement in jail, or both; commit accused persons to jail in default of bond; determine applications for parole; release on probation; grant time in which a fine may be paid; correct a sentence; suspend imposition of a sentence; set aside a judgment; permit time for post trial motions; and discharge accused persons.

(c) The municipal judge shall maintain a docket in which every cause commenced before such municipal judge shall be entered. Such docket shall contain the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.

(d) The municipal judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

(e) The municipal judge shall ensure that information concerning dispositions of city ordinance violations that result in convictions comparable to convictions for class A and B misdemeanors under Kansas criminal statutes is forwarded to the Kansas bureau of investigation central repository. This information shall be transmitted, on a form or in a format

1 approved by the attorney general, within 30 days of final disposition.
 2 Sec. 2. K.S.A. 2003 Supp. 22-3609 is hereby amended to read as
 3 follows: 22-3609. (1) The defendant shall have the right to appeal to the
 4 district court of the county from any judgment of a municipal court which
 5 adjudges the defendant guilty of a violation of the ordinances of any mu-
 6 nicipality of Kansas *or any findings of contempt*. The appeal shall be
 7 assigned by the chief judge to a district judge. The appeal shall stay all
 8 further proceedings upon the judgment appealed from.

9 (2) An appeal to the district court shall be taken by filing, in the
 10 district court of the county in which the municipal court is located, a
 11 notice of appeal and any appearance bond required by the municipal
 12 court. Municipal court clerks are hereby authorized to accept notices of
 13 appeal and appearance bonds under this subsection and shall forward
 14 such notices and bonds to the district court. No appeal shall be taken
 15 more than 10 days after the date of the judgment appealed from.

16 (3) The notice of appeal shall designate the judgment or part of the
 17 judgment appealed from. The defendant shall cause notice of the appeal
 18 to be served upon the city attorney prosecuting the case. The judge whose
 19 judgment is appealed from or the clerk of the court, if there is one, shall
 20 certify the complaint and warrant to the district court of the county, but
 21 failure to do so shall not affect the validity of the appeal.

22 (4) Except as provided herein, the trial of municipal appeal cases shall
 23 be to the court unless a jury trial is requested in writing by the defendant
 24 not later than seven days after first notice of trial assignment is given to
 25 the defendant or such defendant's counsel. The time requirement pro-
 26 vided in this subsection regarding when a jury trial shall be requested
 27 may be waived in the discretion of the court upon a finding that imposing
 28 such time requirement would cause undue hardship or prejudice to the
 29 defendant. A jury in a municipal appeal case shall consist of six members.
 30 All appeals taken by a defendant from a municipal judge in ~~cigarette or~~
 31 tobacco infraction or traffic infraction cases shall be tried by the court.

contempt findings,

32 (5) Notwithstanding the other provisions of this section, appeal from
 33 a conviction rendered pursuant to subsection (b) of K.S.A. 12-4416, and
 34 amendments thereto, shall be conducted only on the record of the stip-
 35 ulation of facts relating to the complaint.

36 Sec. 3. K.S.A. 12-4106 and K.S.A. 2003 Supp. 22-3609 are hereby
 37 repealed.

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

40
 41
 42
 43

SENATE BILL No. 350

By Senator Emler

1-23

9 AN ACT concerning crimes and punishment; relating to parole; amend-
10 ing K.S.A. 12-4511 and repealing the existing section.

11

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

13 Section 1. K.S.A. 12-4511 is hereby amended to read as follows: 12-
14 4511. The municipal judge may parole any person confined to jail as a
15 result of a conviction of a violation of a city ordinance. The judge may set
16 such conditions and restrictions as he or she sees fit to impose for a term
17 not exceeding ~~one year~~ two years and may at any time discharge such
18 person for good cause shown. *The term of parole ordered by the court is*
19 *subject to renewal and extension for additional periods not exceeding an*
20 *additional two years for any misdemeanor case upon the municipal court's*
21 *finding that the defendant has not yet successfully completed the condi-*
22 *tions imposed therein within the original term of such parole.*

23 After notice and hearing, the municipal judge may ~~terminate~~ *revoke*
24 *such* parole for violation of conditions by directing the chief of police to
25 execute the sentence and again confine the accused person to jail for the
26 time specified by the court, which shall not exceed the initial sentence
27 imposed, less the time served.

28 Sec. 2. K.S.A. 12-4511 is hereby repealed.

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

No changes

7-4

SENATE JUDICIARY SUB-COMMITTEE
Senator Ed Pugh, Chairman

Members Present: Senator Ed Pugh, Chairman
Senator Barbara Allen
Senator Donald Betts

The meeting was called to order by Chairman Pugh at 3:30 P.M., February 19, 2004.

The sub-committee recommends passage of SB 350. The sub-committee also recommends passage of SB 321 and SB 354, as amended.

Senator Edward W. Pugh
Chairman

SENATE BILL No. 354

By Committee on Judiciary

1-26

7-6

9 AN ACT concerning municipal court procedure; relating to pre-trial au-
10 thority; amending K.S.A. 12-4203, 12-4209 and 12-4213 and repealing
11 the existing sections.
12

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

14 Section 1. K.S.A. 12-4203 is hereby amended to read as follows: 12-
15 4203. (a) A copy of the complaint shall be served, together with a notice
16 to appear or a warrant, by a law enforcement officer upon the accused
17 person, and forthwith, the complaint shall be filed with the municipal
18 court, except that a complaint may be filed initially with the municipal
19 court, and if so filed, a copy of the complaint shall forthwith be delivered
20 to the city attorney. ~~The city attorney shall cause a notice to appear to be~~
21 ~~issued, unless he or she has good reason to believe that the accused person~~
22 ~~will not appear in response to a notice to appear, in which case the city~~
23 ~~attorney may request that a warrant be issued. Such warrant will be issued~~
24 ~~if the complaint is positively sworn to and the municipal judge has prob-~~
25 ~~able cause to believe that (a) there has been the commission of a violation~~
26 ~~of a municipal ordinance, (b) the accused person committed such viola-~~
27 ~~tion and (c) the accused person will not appear in response to a notice to~~
28 ~~appear.~~

29 (b) If a city attorney fails either to cause a notice to appear or to
30 request a warrant to be issued, on a complaint initially filed with the
31 municipal court, the municipal judge may, upon affidavits filed with him
32 or her alleging the violation of an ordinance, order the city attorney to
33 institute proceedings against any person. Any such municipal judge shall
34 be disqualified from sitting in any case wherein such order was entered
35 and is further prohibited from communicating about such case with the
36 municipal judge pro tem appointed by the municipal judge to preside
37 therein.

38 Sec. 2. K.S.A. 12-4209 is hereby amended to read as follows: 12-
39 4209. ~~A warrant may be issued: (a) When an accused person fails to appear~~
40 ~~as required in a notice to appear after its service.~~

41 ~~(b) In all other cases where a complaint has been filed and the mu-~~
42 ~~nicipal judge determines that a warrant should be issued.~~

43 ~~No warrant shall issue unless the complaint giving rise to its issuance~~

1 ~~is supported by oath or affirmation.~~
2 (a) ~~If the municipal judge finds from the complaint, or from an affi-~~
3 ~~davit or affidavits filed with the complaint or from other evidence that~~
4 ~~there is probable cause to believe both that a crime has been committed~~
5 ~~and that the defendant has committed it, a warrant for the arrest of the~~
6 ~~defendant shall be issued, except that a notice to appear instead of a~~
7 ~~warrant may be issued if: (1) The city attorney so requests; or (2) the~~
8 ~~municipal judge determines that a notice to appear should be issued.~~
9 (b) ~~More than one warrant or notice to appear may be issued on the~~
10 ~~same complaint.~~
11 (c) ~~If a defendant fails to appear in response to a notice to appear, a~~
12 ~~warrant shall be issued.~~
13 (d) ~~Affidavits or sworn testimony in support of the probable cause~~
14 ~~requirements of this section shall not be made available for examination~~
15 ~~without a written order of the municipal judge, except that such affidavits~~
16 ~~or testimony, when requested, shall be made available to the defendant~~
17 ~~or the defendant's counsel for such disposition as either may desire.~~
18 (e) ~~No warrant shall issue for an ordinance traffic infraction or an~~
19 ~~ordinance cigarette or tobacco infraction unless the person charged has~~
20 ~~received service of a notice to appear and has failed to appear for the~~
21 ~~infraction.~~
22 Sec. 3. K.S.A. 12-4213 is hereby amended to read as follows: 12-
23 4213. (a) Any person arrested by a law enforcement officer shall be taken
24 immediately by the law enforcement officer to the police station of the
25 city or the office in the city designated by the municipal judge. At that
26 time, the person shall have the right to post bond for the person's ap-
27 pearance, in accordance with K.S.A. 12-4301 and 12-4302, and amend-
28 ments thereto, ~~except as hereinafter provided. However, if the law en-~~
29 ~~forcement officer has probable cause to believe that such person may~~
30 ~~cause injury to oneself or others, or damage to property, and there is no~~
31 ~~responsible person or institution to which the person might be released,~~
32 ~~the person shall remain in the protective custody of the law enforcement~~
33 ~~officer, in a city or county jail for a period not to exceed six hours, at~~
34 ~~which time such person shall be given an opportunity to post bond for~~
35 ~~the person's appearance. While so held in protective custody, the person~~
36 ~~shall be permitted to consult with counsel or other persons on the per-~~
37 ~~son's behalf. Any person who does not make bond for the person's ap-~~
38 ~~pearance shall be placed in the city or county jail, to remain there until~~
39 ~~the person makes bond for the person's appearance, or appears before~~
40 ~~the municipal court at the earliest practical time, except that the person~~
41 ~~shall be released on the person's personal recognizance to appear at a~~
42 ~~later date if the person has not made bond, has not appeared before the~~
43 ~~municipal court within 18 hours after arrest and if no warrant has been~~

The city attorney shall cause a notice to appear to be issued, except that, if requested by the city attorney, a warrant for the accused shall be issued if

7-7

7-8

1 ~~issued for the person's arrest.~~

2 (b) A law enforcement officer may detain a person arrested for vio-
3 lation of a municipal ordinance in protective custody for a period not to
4 exceed six hours, including custody in a city or county jail, if such officer
5 has probable cause to believe that: (1) Such person may cause injury to
6 oneself or others, or damage to property; and (2) there is no responsible
7 person or institution to which such person might be released. Any person
8 so held in protective custody shall be permitted to consult with counsel
9 or other persons who may act on such person's behalf. Such person held
10 in protective custody for six hours shall be given an opportunity to post
11 bond for such person's appearance in the municipal court.

12 (c) Any person held in custody pursuant to the provisions of this sec-
13 tion, and who has not made bond for such person's appearance, may be
14 held in custody until the earliest practical time for such person's appear-
15 ance in municipal court upon a warrant being issued by the municipal
16 court in accordance with k.S.A. 12-4209, and amendments thereto.

17 (d) Any person who remains in custody for 48 hours pursuant to the
18 provisions of this section after arrest, and who is awaiting a first appear-
19 ance before a municipal judge in the absence of a warrant being issued,
20 shall be released on the person's personal recognizance.

21 Sec. 4. K.S.A. 12-4203, 12-4209 and 12-4213 are hereby repealed.

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

Bond shall be set within 18 hours of the person being placed in custody.

SENATE BILL No. 389

By Senator Emler

1-29

AN ACT relating to law enforcement; concerning special deputies; relating to multijurisdictional law enforcement groups; amending K.S.A. 22-2404 and 74-5608a and K.S.A. 2003 Supp. 19-805a, 19-805b, 19-828 and 21-4201 and repealing the existing sections.

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

Section 1. K.S.A. 2003 Supp. 19-805a is hereby amended to read as follows: 19-805a. In all counties ~~having a population in excess of 100,000,~~ the sheriff shall have authority to appoint so many special deputies as the sheriff deems proper and for whose official acts the sheriff shall be responsible. Before an appointment shall be made the sheriff or marshal of the district court shall have the right to demand an indemnity bond before any commission as special deputy shall be issued. The appointments may be revoked at the pleasure of the appointing officer, except that all appointments made by a sheriff pursuant to this section shall automatically be revoked at the time that such appointing sheriff's service as sheriff concludes. Except as provided by K.S.A. 2003 Supp. 19-827, and amendments thereto, a special deputy appointed under this section shall not receive any payment, for services rendered, from public funds.

Sec. 2. K.S.A. 2003 Supp. 19-805b is hereby amended to read as follows: 19-805b. Except as provided by K.S.A. 2003 Supp. 19-827, and amendments thereto, special deputies appointed pursuant to K.S.A. 19-805a, and amendments thereto, may be limited in their authority to perform the acts of a peace officer in or about certain specified premises or relating thereto or to provide crime prevention or security services on or about any public facility or property when so directed by the sheriff, but shall have a general right in event of riot, sabotage, terroristic attack or serious disturbances or breach of the peace to call upon and depute any other peace officer or private citizen to assist such special deputy in quelling such riot or disturbance events.

Sec. 3. K.S.A. 2003 Supp. 19-828 is hereby amended to read as follows: 19-828. Any county in the state of Kansas which borders another state, with the agreement of the sheriff, may enter into agreement with the political subdivisions in such other state's contiguous county to form a multijurisdictional law enforcement group for the enforcement of drug

RETAIN P. 1, LINES 9-43;
RETAIN P. 2, LINES 1-13;
DELETE P. 2, LINES 14-43;
DELETE PAGES 3, 4, 5, 6.

1 and controlled substances laws *or for the prevention, detection or inves-*
2 *tigation of any terroristic activity.* Such other state's law enforcement
3 officers may be deputized as officers of the counties of this state partic-
4 ipating in such an agreement and shall be deemed to have met all require-
5 ments of law enforcement training and certification required under
6 K.S.A. 74-5601 *et seq.* and amendments thereto if such officers have satis-
7 fied the applicable law enforcement officer training and certification
8 standards in force in such other state. Such other state's law enforcement
9 officers shall have the same powers and immunities as law enforcement
10 officers certified and commissioned in Kansas while conducting investi-
11 gations to enforce drug and controlled substances laws *or engaged in the*
12 *prevention, detection or investigation of terroristic activity* with the mul-
13 tijuisdictional enforcement group.

14 Sec. 4. K.S.A. 2003 Supp. 21-4201 is hereby amended to read as
15 follows: 21-4201. (a) Criminal use of weapons is knowingly:

16 (1) Selling, manufacturing, purchasing, possessing or carrying any
17 bludgeon, sandclub, metal knuckles or throwing star, or any knife, com-
18 monly referred to as a switch-blade, which has a blade that opens auto-
19 matically by hand pressure applied to a button, spring or other device in
20 the handle of the knife, or any knife having a blade that opens or falls or
21 is ejected into position by the force of gravity or by an outward, downward
22 or centrifugal thrust or movement;

23 (2) carrying concealed on one's person, or possessing with intent to
24 use the same unlawfully against another, a dagger, dirk, billy, blackjack,
25 slungshot, dangerous knife, straight-edged razor, stiletto or any other dan-
26 gerous or deadly weapon or instrument of like character, except that an
27 ordinary pocket knife with no blade more than four inches in length shall
28 not be construed to be a dangerous knife, or a dangerous or deadly
29 weapon or instrument;

30 (3) carrying on one's person or in any land, water or air vehicle, with
31 intent to use the same unlawfully, a tear gas or smoke bomb or projector
32 or any object containing a noxious liquid, gas or substance;

33 (4) carrying any pistol, revolver or other firearm concealed on one's
34 person except when on the person's land or in the person's abode or fixed
35 place of business;

36 (5) setting a spring gun;

37 (6) possessing any device or attachment of any kind designed, used
38 or intended for use in suppressing the report of any firearm;

39 (7) selling, manufacturing, purchasing, possessing or carrying a shot-
40 gun with a barrel less than 18 inches in length or any other firearm de-
41 signed to discharge or capable of discharging automatically more than
42 once by a single function of the trigger; or

43 (8) possessing, manufacturing, causing to be manufactured, selling,

1 offering for sale, lending, purchasing or giving away any cartridge which
2 can be fired by a handgun and which has a plastic-coated bullet that has
3 a core of less than 60% lead by weight.

4 (b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect
5 any of the following:

6 (1) Law enforcement officers, or any person summoned by any such
7 officers to assist in making arrests or preserving the peace while actually
8 engaged in assisting such officer;

9 (2) wardens, superintendents, directors, security personnel and keep-
10 ers of prisons, penitentiaries, jails and other institutions for the detention
11 of persons accused or convicted of crime, while acting within the scope
12 of their authority;

13 (3) members of the armed services or reserve forces of the United
14 States or the Kansas national guard while in the performance of their
15 official duty; or

16 (4) manufacture of, transportation to, or sale of weapons to a person
17 authorized under subsections (b)(1), (2) and (3) to possess such weapons.

18 (c) Subsection (a)(4) shall not apply to or affect the following:

19 (1) Watchmen, while actually engaged in the performance of the du-
20 ties of their employment;

21 (2) licensed hunters or fishermen, while engaged in hunting or
22 fishing;

23 (3) private detectives licensed by the state to carry the firearm in-
24 volved, while actually engaged in the duties of their employment;

25 (4) detectives or special agents regularly employed by railroad com-
26 panies or other corporations to perform full-time security or investigative
27 service, while actually engaged in the duties of their employment;

28 (5) the state fire marshal, the state fire marshal's deputies or any
29 member of a fire department authorized to carry a firearm pursuant to
30 K.S.A. 31-157 and amendments thereto, while engaged in an investigation
31 in which such fire marshal, deputy or member is authorized to carry a
32 firearm pursuant to K.S.A. 31-157 and amendments thereto; or

33 (6) special deputy sheriffs described in K.S.A. 2003 Supp. 19-827,
34 and amendments thereto, who have satisfactorily completed the basic
35 course of instruction required for permanent appointment as a part-time
36 law enforcement officer under K.S.A. 74-5607a and amendments
37 thereto; or

38 (7) any person holding a class A law enforcement license issued by
39 the state of Missouri department of public safety, or who has completed
40 not less than 600 hours of instruction in a police academy certified by the
41 Missouri department of public safety, and has completed the course of
42 instruction in criminal investigation conducted by the Kansas City area
43 metropolitan major case unit (metro squad).

1 (d) Subsections (a)(1), (6) and (7) shall not apply to any person who
2 sells, purchases, possesses or carries a firearm, device or attachment
3 which has been rendered unserviceable by steel weld in the chamber and
4 marriage weld of the barrel to the receiver and which has been registered
5 in the national firearms registration and transfer record in compliance
6 with 26 U.S.C. 5841 *et seq.* in the name of such person and, if such person
7 transfers such firearm, device or attachment to another person, has been
8 so registered in the transferee's name by the transferor.

9 (e) Subsection (a)(8) shall not apply to a governmental laboratory or
10 solid plastic bullets.

11 (f) Subsection (a)(6) shall not apply to a law enforcement officer who
12 is:

13 (1) Assigned by the head of such officer's law enforcement agency to
14 a tactical unit which receives specialized, regular training;

15 (2) designated by the head of such officer's law enforcement agency
16 to possess devices described in subsection (a)(6); and

17 (3) in possession of commercially manufactured devices which are:
18 (A) Owned by the law enforcement agency, (B) in such officer's posses-
19 sion only during specific operations; and (C) approved by the bureau of
20 alcohol, tobacco and firearms of the United States department of justice.

21 (g) It shall be a defense that the defendant is within an exemption.

22 (h) Violation of subsections (a)(1) through (a)(5) is a class A nonper-
23 son misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a se-
24 verity level 9, nonperson felony.

25 (i) As used in this section, "throwing star" means any instrument,
26 without handles, consisting of a metal plate having three or more radiating
27 points with one or more sharp edges and designed in the shape of a
28 polygon, trefoil, cross, star, diamond or other geometric shape, manufac-
29 tured for use as a weapon for throwing.

30 Sec. 5. K.S.A. 22-2404 is hereby amended to read as follows: 22-
31 2404. (1) As used in this section:

32 (a) "State" means any state of the United States and the District of
33 Columbia.

34 (b) "Law enforcement officer" means any member of any duly or-
35 ganized state, county or municipal law enforcement organization of an-
36 other state.

37 (c) "Fresh pursuit" means the pursuit without unnecessary delay of
38 a person who has committed a crime, or who is reasonably suspected of
39 having committed a crime.

40 (2) Any law enforcement officer of another state who enters this state
41 in fresh pursuit and continues within this state in fresh pursuit of a person
42 in order to arrest him on the ground that he has committed a crime in
43 the other state has the same authority to arrest and hold such person in

1 custody as law enforcement officers of this state have to arrest and hold
2 a person in custody.

3 (3) If an arrest is made in this state by a law enforcement officer of
4 another state in accordance with the provisions of this section he shall
5 without unnecessary delay take the person arrested before a magistrate
6 of the county in which the arrest is made. Such magistrate shall conduct
7 a hearing for the purpose of determining the lawfulness of the arrest. If
8 the magistrate determines that the arrest was lawful, he shall commit the
9 person arrested to await for a reasonable time the issuance of an extra-
10 dition warrant by the governor of this state, or the waiver thereof, or shall
11 permit such person to go at large upon giving an appearance bond, with
12 or without surety. If the magistrate determines that the arrest was unlaw-
13 ful, he shall order the discharge of the person arrested.

14 (4) *Any law enforcement officer of another state assigned to a regional
15 or metropolitan major case unit engaged in an investigation of a felony
16 committed in this state may, under exigent circumstances, make a felony
17 arrest. Such officer of another state shall be entitled in the same attach-
18 ment of immunities for their official acts as law enforcement officers of
19 this state.*

20 Sec. 6. K.S.A. 74-5608a is hereby amended to read as follows: 74-
21 5608a. (a) The director may, in the exercise of discretion, award a certifi-
22 cate attesting to the satisfactory completion of a basic course of instruc-
23 tion to any person who has been duly certified under the laws of another
24 state or territory if, in the opinion of the director, the requirements for
25 certification in such other jurisdiction equal or exceed the qualifications
26 required to complete satisfactorily the basic course of instruction at the
27 training center.

28 (b) The director may waive any number of the hours or courses re-
29 quired to complete the basic course of instruction at the training center,
30 80 hour part-time school, reciprocity school or for the hours required for
31 annual continuing education for any person who, in the opinion of the
32 director, has received sufficient training or experience that such hours of
33 instruction at the training center would be, unless waived, unduly bur-
34 densome or duplicitous.

35 (c) *Any person issued a class A law enforcement license by the state
36 of Missouri department of public safety, or who has completed not less
37 than 600 hours of instruction at a police academy certified by the Missouri
38 department of public safety, and who has completed a course of instruc-
39 tion in criminal investigation conducted by the Kansas City area metro-
40 politan major case unit (metro squad), may apply to the Kansas law en-
41 forcement training center for a reciprocal certification as a part-time law
42 enforcement officer. The director of the Kansas law enforcement training
43 center shall certify such applicant as a part-time officer upon the appli-*

1 cant's successful completion of a written examination, not to exceed 50
 2 questions in length, on the Kansas criminal code and the Kansas code of
 3 criminal procedure. Such examination shall directly correspond to the
 4 same examination material required by a police academy certified by the
 5 Kansas law enforcement training center. The examination may be taken
 6 at any certified Kansas police academy. Such police academy may assess
 7 reasonable fees to recover the costs of examination preparation, admin-
 8 istration and processing. The police academy shall promptly furnish the
 9 name of an applicant successfully completing this examination, pursuant
 10 to that academy's existing academic standards, to the director of the Kan-
 11 sas law enforcement training center, who shall enter the applicant's name
 12 as a part-time officer in the central registry. Annual training requirements
 13 for such registrants shall be waived, provided that the registrant main-
 14 tains an active law enforcement license with the Missouri department of
 15 public safety and satisfies the continuing training requirements estab-
 16 lished by that department.

17 Sec. 7. K.S.A. 22-2404 and 74-5608a and K.S.A. 2003 Supp. 19-805a,
 18 19-805b, 19-828 and 21-4201 are hereby repealed.

19 Sec. 8. This act shall take effect and be in force from and after its
 20 publication in the statute book.

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