

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Vice Chairman Terry Bruce at 9:38 A.M. on January 23, 2007, in Room 123-S of the Capitol.

All members were present except:

Les Donovan arrived, 9:41 A.M.

John Vratil arrived, 9:44 A.M.

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department

Bruce Kinzie, Office of Revisor of Statutes

Nobuko Folmsbee, Office of Revisor of Statutes

Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Alice Adams, Clerk of the District Court, Geary County

Marcie Ralston, Department of Revenue, Division of Vehicles

Pam Moses, Chief Clerk, 27th Judicial District

Jane Hrabik, Clerk of the District Court, Rice County

Others attending:

See attached list.

Bill Introductions

Senator Derek Schmidt described a bill regarding determination of penalties for controlled substances based on prior convictions. Senator Schmidt moved, Senator Umbarger seconded, to introduce the bill. Motion carried.

Melissa Wangeman requested the introduction of a bill regarding business entity clarification. Senator Haley moved, Senator Umbarger seconded, to introduce the bill as a committee bill. Motion carried.

The hearing on **SB 52--Regulating traffic; speed limit violations, open record** was opened.

Alice Adams appeared as a proponent, stating current law allows some speeding violations to be omitted from the public record. Additionally, insurance companies may not consider the violations in the determination of policy rates. Ms. Adams suggested removing the wording "shall not be a part of the public record and" from the statute. She indicated that the Department of Motor Vehicles already excludes confidential convictions from the records (Attachment 1).

Marcie Ralston gave neutral testimony, providing current statistics regarding convictions which fall into the confidential category and voiced concern for the increased workload that would be placed on the Driver Control Bureau (Attachment 2).

There being no further conferees, the hearing on **SB 52** was closed.

The hearing on **SB 53--Civil procedure; release of dormant judgments** was opened.

Pam Moses spoke as a proponent, indicating current law requires clerks of the court to release dormant judgements when requested. Clerks are then placed in the position of determining the outcome of release. Ms. Moses expressed concern that judges should make the legal determination and sign the release (Attachment 3).

There being no further conferees, the hearing on **SB 53** was closed.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:38 on January 23, 2007, in Room 123-S of the Capitol.

The hearing on **SB 54--Criminal procedure; signing of arrest warrant** was opened.

Jane Hrabik appeared in support, indicating issuance of a warrant requires the determination of probable cause before it is signed. Ms. Hrabik requested passage of **SB 54** which would provide consistency with other statutes regarding warrants and require the signature of a judge (Attachment 4).

Final action on **SB 14--Offender registration; convictions for manufacture of controlled substance, possession of certain drugs with intent to manufacture controlled substance required to register.**

Senator Schmidt provided an overview of the bill and recommended the amendment proposed by Kyle Smith of the Kansas Bureau of Investigation. Chairman Vratil reviewed the proposed amendment and recommended clarifying language. Senator Bruce suggested changing the language to indicate monies collected are to be used solely for law enforcement & criminal prosecution. Senator Schmidt moved, Senator Umbarger seconded to adopt the amendment proposed by Kyle Smith to amend K.S.A. 22-4904, with the following change: on the last line strike "meet normal operating expenses of" and replace with the phrase "reduce the amount of funding otherwise made available to the sheriff's office". Motion carried.

Senator Schmidt moved, Senator Umbarger, to recommend SB 14 as amended favorably for passage. Motion carried.

Final action on **SB 18--Uniform child abduction prevention act.** Chairman Vratil reviewed the bill that was heard on January 16. Senator Vratil noted that he had requested the proposed amendments by Sandy Barnett be presented in separate bill form as they involve statutes that are separate and distinct from this bill and will maintain the uniformity of this law. Senator Goodwin moved, Senator Donovan seconded, that SB 18 be passed. Motion carried.

The meeting adjourned at 10:20 A.M. The next scheduled meeting is January 24, 2007.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1/23/07

NAME	REPRESENTING
Ellen House	KADCCA
Lisa Wilson	OJA
Donna Osgood	KADCCA
John Pickett	Johnson Co. Co-op Library
Jim Clark	KJA
Casey Spencer	TFI Family Services
Priscilla Asthuser	Pat Hurley & Co.
Carol Crane	KOTHE
LISA BENLON	AMER. CANCER Soc.
M. J. Kellum	TFKC
Linda DeCourcey	Am. Heart Assn.
Tom Whitaker	KS Motor Carriers Assn
Tom Palace	PMAA of KS
Kevin Barae	C & H LLC-LLC

Jane E. ... , President
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101 W Commercial
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Donna Oswald, President
Atchison County
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Senate Bill 52
PUBLIC RECORDS VS. CONFIDENTIAL RECORDS
K.S.A. 8-1560d

TESTIMONY

By: Alice Adams, Clerk of the District Court
Geary County District Court
8th Judicial District

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today on behalf of the Kansas Association of District Court Clerks and Administrators regarding Senate Bill 52.

K.S.A. 8-1560d currently requires, "Convictions for violating a maximum posted speed limit of 55 miles per hour or more but not exceeding 70 miles per hour, by not more than 10 miles per hour in excess of such maximum speed limit, shall not be a part of the public record and shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(c)(7) of K.S.A 40-277, and amendments thereto."

Insurance companies are receiving driving records, excluding these confidential convictions, from the Department of Motor Vehicles (DMV). The portion of that statute that states the conviction shall not be a part of the public record creates a problem in the courts when the defendant is convicted of other charges that are not confidential. A single ticket may contain multiple charges. The court clerks don't have a way to keep one conviction closed and leave the other convictions part of the public record. There is no way to allow someone to view one part of a ticket.

We would like to have the words "shall not be a part of the public record and" removed from the statute. The Department of Motor Vehicles already excludes these confidential convictions from the records they accept from the courts, so deleting this language from the statute won't change the records made available to DMV. It will relieve the courts of attempting to keep one conviction out of two or more confidential.

Attach: copy of ticket

Phil Fielder, Secretary
Ellis County
PO Box 8, 1204 Fort Street
Hays, Ks. 67601
785-628-9415

Ann McNett, Treasurer
Barber County
118 E. Washington
Medicine Lodge, Ks. 67104
620-886-5639

Shae Watkins, Immed. Past Pres.
Elk County
PO Box 306
Howard, Ks. 67349
620-374-2370

Senate Judiciary
1-23-07
Attachment 1

2703273 UNIFORM NOTICE TO APPEAR AND COMPLAINT 2703274
 KANSAS HIGHWAY PATROL

Case No. 06TR2987 Station No. _____
 State of Kansas GE ss. 1 and 1 of _____
 County of GE Number Charges
 In the District Court of _____ County
 the Undersigned, Being Duly Sworn, Upon Their Oath, Deposits and Says
 on the 24th day of Nov, 2006 at 1340
 (Time)

Name: [Redacted]

[Redacted] (Initial)

Street Address: [Redacted]

City: [Redacted]

Birth Date: [Redacted] 07/15/1965
 Race Sex Ht Wt

Driv. Lic. State KS No. [Redacted]

Dist. Upon Public Highway No. I-70 At Milepost 155

(or other location) 95 Co. of SE

Unlawfully Operate a Yr. 07 Make DODGE Type C

Year 07 State KS License No. [Redacted]

And did then and there commit the following M.C. Id. No. _____

<input checked="" type="checkbox"/> Radar	<input type="checkbox"/> VASCAR - LIDAR - Stopwatch - Pace - A/C		
Alleged Speed <u>75</u> mph	Legal Speed <u>60</u> mph ID# _____		
<input type="checkbox"/> Fail to Yield	<input type="checkbox"/> Log Book	<input type="checkbox"/> Left of Center	
<input type="checkbox"/> Seat Belt	<input type="checkbox"/> Driver's License	<input type="checkbox"/> Child Restraint	
<input type="checkbox"/> Registration	<input type="checkbox"/> Equipment	<input type="checkbox"/> Liability Ins.	
<input type="checkbox"/> D.U.I. Accident	<input type="checkbox"/> Commercial Vehicle	<input type="checkbox"/> Hazardous Material	<input type="checkbox"/> Const. Zone
Other Violations: <u>Speed 25</u> <u>Seat Belt</u>			
1 Section No. <u>8-08</u>	<input checked="" type="checkbox"/> Infraction	<input type="checkbox"/> Misdemeanor	<input type="checkbox"/> Felony
K.A.R. No. _____	M.C. Id. No. _____		
2 Section No. <u>8-253</u>	<input type="checkbox"/> Infraction	<input type="checkbox"/> Misdemeanor	<input type="checkbox"/> Felony
K.A.R. No. _____	M.C. Id. No. _____		

Officer's Signature: [Signature] No. 29131 Co. _____

Appear before District Court At Chanover City (City)

on the 24th day of DEC, 2006 at 0900AM (Time)

I promise to appear in said Court at said time and place above for arraignment.

Signature: [Signature]

Bond Posted Cash DL Bond Card No. _____

Amount \$ _____ Location _____

I, the above officer, served a copy of the infraction citation upon the defendant.

Name: [Redacted] 2703273
 [Redacted] 2703274

KANSAS
DEPARTMENT OF REVENUE

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

TO: Senator John Vratil, Chairman
Member of the Senate Judiciary Committee

FROM: Carmen Aldritt
Director, Division of Vehicles

DATE: January 23, 2007

RE: Senate Bill 52

Thank you Mr. Chairman and Members of the Committee. My name is Carmen Alldritt and I serve as the Director of the Division of Vehicles, Department of Revenue. We appreciate the opportunity to speak in regard to this bill.

The Division of Vehicles receives, and records on driving records, approximately 150, 000 speeding convictions per year. Current law does not require the division to record a conviction of 10 m.p.h. or less in a 55 to 70 m.p.h. zone on a person's driving record. We do not have any specific statistics on the number of convictions throughout the state that would fall in this category. However, through the electronic submission process, we found 700 convictions of this type were received within a recent two week time period from only 82 district/county courts. With over 300 municipal courts, plus the 105 district/county courts, we would anticipate a volume of convictions that would definitely increase not only the number of convictions to be recorded, but as a result of those convictions, an increase in license suspension action for habitual violator reasons and, of course, customer inquiries. The Division of Vehicles remains neutral on this bill, however, we would like the committee to be aware that the increase of work that could be realized with passage of this bill is beyond the point our Driver Control Bureau could administer with existing resources, which we've addressed in our fiscal note.

Thank you for your time and I stand to answer any questions.

Jane E. Labik, President
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Courthouse, 3rd Floor
Lyons, Ks. 67554
620-257-2383



Donna Oswald, President-Elect
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PO Box 408
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913-367-7400

Senate Judicial Committee
January 23, 2007

Pam Moses
Kansas Association of District Court Clerks and Administrators
Testimony in Support of Senate Bill 53

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to speak on behalf of the Kansas Association of District Court Clerks and Administrators concerning Senate Bill 53 relating to Dormant Judgments Release of Record in K.S.A. 60-2403.

Our purpose is to modify how the judgment is released. Currently, the statute requires releasing the judgment by the clerk of the court when requested to do so. There are three areas listed in the statute that addresses this issue. They are: K.S.A. 60-2403a (1); K.S.A. 60-2403b (1); and K.S.A. 60-2403d.

In order to release the judgment the clerk must research the case and make a legal determination as to whether the judgment should be released. This places the Clerk of the District Court in the capacity of determining the outcome of the release. We believe the judge should make the legal determination and sign the release.

Again, thank you for allowing us the opportunity to appear before you today on this bill. I will be glad to answer any questions you may have.

Pam Moses
Chief Clerk of District Court
Twenty-seventh Judicial District
Reno County, Kansas

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PO Box 8, 1204 Fort St
Hays, Ks. 67601
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Shae Watkins, Immed. Past Pres.
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Senate Judiciary
1-23-07
Attachment 3

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913-367-7400

**Senate Judiciary Committee
January 13, 2007**

**Jane Hrabik, President
Kansas Association of District Court Clerks and Administrators
Testimony in Support of Senate Bill 54**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to speak on behalf of the Kansas Association of District Court Clerks and Administrators regarding Senate Bill 54.

Currently K.S.A. 22-2303(2)(1) states, "The warrant may be signed by the **clerk of the court**, but shall be in the same form, executed and returned in the same manner as other warrants." We are requesting that this statute be changed to read, "The warrant shall be signed by the **judge** and be in the same form, executed and returned in the same manner as other warrants."

The issuance of a warrant requires the determination of probable cause before it is signed. As clerks of court, we do not want to be placed in the position of determining probable cause and then placing our signature on a warrant for the arrest of an individual. Since other statutes require a judge to determine probable cause and to sign the warrant we would request that this statute be amended to reflect the same practice.

The Clerks of the District Court appreciate your assistance in helping maintain consistency with this procedure.

Thank you for your time and allowing us to appear before you today. If you have any questions, I would be happy to answer them.

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Senate Judiciary
1-23-07
Attachment 4