

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:37 A.M. on February 12, 2007, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen arrived, 9:40 A.M.
Phil Journey arrived, 9:55 A.M.
Julia Lynn arrived, 9:39 A.M.
David Haley arrived, 10:05 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

Others attending:

See attached list.

Approval of Minutes:

Senator Bruce moved, Senator Umbarger seconded, to approve the committee minutes of January 24, 2007. Motion carried.

Final action on **SB 52--Regulating traffic; speed limit violations, open record.**

The Chairman reviewed the bill and referred to an amendment proposed by Kathy Porter, Office of Judicial Administration, regarding concerns of the committee following the hearing on January 23 (Attachment 1).

Senator Bruce moved, Senator Schmidt seconded, to adopt the proposed amendment. Motion carried.

Senator Goodwin moved, Senator Bruce seconded, to recommend SB 52 as amended favorably for passage. Motion carried.

Final action on **SB 53--Civil procedure; release of dormant judgments.**

Chairman Vratil reviewed the bill. Senator Bruce moved, Senator Umbarger seconded, to recommend SB 53 favorably for passage and placed on the consent calendar. Motion carried.

Final action on **SB 55--Department of Corrections, disposition of inmate compensation.**

The Chairman reviewed the bill. Following discussion, Senator Bruce moved, Senator Goodwin seconded, to recommend SB 55 favorably for passage. Motion carried. Senator Betts voted "no" and requested his vote recorded.

Final action on **SB 56--Increasing fees for county law libraries.**

Senator Vratil reviewed the bill heard on January 24. Senator Allen provided a balloon amendment (Attachment 2) indicating her preference to not reduce other funds currently distributed through docket fees. Following discussion the bill will be put on hold until a later date to rework the amendment.

Final action on **SB 118--Children in need of care; CASA reports**

The Chairman reviewed the bill and called attention to a proposed amendment by Mark Gleeson, Office of

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:37 A.M. on February 12, 2007, in Room 123-S of the Capitol.

Judicial Administration representing support of all interested parties that testified during the hearing on February 1 (Attachment 3). Senator Schmidt moved, Senator Goodwin seconded, to adopt the proposed amendment. Motion carried.

Senator Schmidt moved, Senator Umbarger seconded, to recommend **SB 118** as amended favorably for passage. Motion carried.

Final action on **SB 139–Civil actions prevailing party recovers reasonable attorney fees; exceptions.**

Chairman Vratil reviewed the bill and referred to a proposed amendment by Kevin Tubbesing presented during his testimony on February 6 (Attachment 4). There was no motion on the balloon amendment or on the bill. Following discussion, Senator Goodwin moved, Senator Journey seconded, to table **SB 139**. Motion carried.

Final action on **SB 166–Clarifying amendments to hard 40 sentence for sex crimes and sexual exploitation of a child.**

The Chairman reviewed the bill and distributed a proposed balloon amendment (Attachment 5). Senator Vratil indicated he had received communication from the Attorney General's office to amend page 3, line 23, changing "that is comparable to an offense defined" to "which is substantially the same as to a crime listed" and after conferring with the revisor they had been assured that the "Romeo & Juliet" issue was not a problem with the language in this bill. The amendment also includes language requested by Senator Journey to address the "Romeo & Juliet" issue. Following discussion, Senator Bruce moved, Senator Journey seconded, to adopt the proposed amendment with the change to delete the first two words "Except that" in the second part of the balloon. Motion carried.

Senator Journey moved, Senator Goodwin seconded, to recommend **SB 166** as amended favorably for passage. Motion carried.

Final action on **SB 204–Requirements for persons required to register pursuant to Kansas offender registration act.**

Chairman Vratil reviewed the bill indicating there were two proposed amendments by Kyle Smith, Kansas Bureau of Investigation, provided during testimony on February 8. Senator Goodwin moved, Senator Lynn seconded, to adopt the proposed amendments. Motion carried.

Senator Donovan moved, Senator Lynn seconded, to recommend **SB 204** as amended favorably for passage. Motion carried.

Final action on **SCR 1601–School finance; amount of funding and distribution thereof determined by the legislature.**

The Chairman reviewed the resolution. Senator Journey moved, Senator Lynn seconded, to recommend **SCR 1601** favorably for passage.

Senator Goodwin made a substitute motion to table **SCR 1601**, Senator Haley seconded. Motion failed.

Chairman Vratil indicated the committee was back on the original motion. Following discussion, the motion failed.

The meeting adjourned at 10:31 A.M. The next scheduled meeting is February 13, 2007.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/12/07

NAME	REPRESENTING
Stan Jones	John Peterson
John D. Berberich	Professional Smokers Assoc.
Derrick Sontag	NFIB
Cindy Gregersen	ESU Student
TK Shively	KLS
RS McKenna	SPS
Helen Pedigo	KSC
Brenda Harmon	KSC
Michael Hooper	Kearney & Assoc.
MARY P. MATHE	VIA CHRISTI HEALTH SYSTEM
Kyle G. Smith	KBI
Kim Bar	Kfmc



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

January 29, 2007

Senator John Vratil
Chairman, Senate Judiciary Committee
Room 281-E, Statehouse
Topeka, Kansas 66612

Dear Senator Vratil:

Following last week's hearing on SB 52, it was apparent that the committee had some unresolved issues regarding this bill. With your permission, the following information is submitted in an attempt to clarify those issues.

At the hearing on SB 52, representatives of the Department of Revenue expressed concerns that the bill would require them to report confidential speeding tickets to insurance companies. While we do not agree with that interpretation of the bill's language, the attached balloon amendment should remove any doubt. The amendment states that the Department of Revenue ("the division," meaning the Division of Motor Vehicles) shall not report confidential violations.

Under current law, no one reports confidential violations to insurance companies. The amendment requested by the Kansas Association of District Court Clerks and Administrators (KADCCA) does not require anyone to assume that duty. The requested amendment is intended to address one question and one question only: If a ticket has two violations, one of which is confidential and one of which is not, does the Legislature want the public to view that ticket or not?

The committee correctly stated that this issue has been around for many years. It is correct that we are currently addressing the issue, but we also know that it is not addressed uniformly across the state. We have located no legal authority or precedent to provide guidance on this issue. The request is that the Legislature decide whether the one confidential charge/one non-confidential charge ticket as a whole is confidential or not. While the option presented in the bill is that the ticket be an open public record, we have no objection to making the whole ticket confidential if it contains a confidential charge. However, the requested amendment was chosen based on the fact that a single ticket could include a confidential speeding charge and a more serious charge, such as driving under the influence. It was assumed that the Legislature would want the more serious charge to be open and available to the public. In either case, that information would still be available to law enforcement officials.

Senate Judiciary

2-12-07
Attachment 1

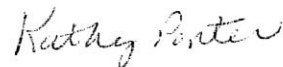
Senator John Vratil
January 29, 2007
Page 2

The case management system used by most counties is set up to enter cases, rather than separate charges. We do not know of a commercially available case management system that handles this issue in a different manner. Cases may have many charges, and separating out each charge serves no case management purpose. Now is an opportune time for resolution of this issue because of the convenient public access to district court records offered through public computer terminals or through the Internet.

Again, the issue is, does the Legislature want the public to view these tickets or not?

Thank you for your consideration of this information.

Sincerely,



Kathy Porter
Executive Assistant to Judicial Administrator

KP:mr
Attachment

SENATE BILL No. 52

By Committee on Judiciary

1-10

9 AN ACT regulating traffic; relating to certain violations of maximum
10 speed limits; amending K.S.A. 8-1560d and repealing the existing
11 section.
12

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

14 Section 1. K.S.A. 8-1560d is hereby amended to read as follows: 8-
15 1560d. ~~(a)~~ Convictions for violating a maximum posted speed limit of 55
16 miles per hour or more but not exceeding 70 miles per hour, by not more
17 than 10 miles per hour in excess of such maximum speed limit, ~~shall not~~
18 ~~be a part of the public record and shall not be considered by any insurance~~
19 company in determining the rate charged for any automobile liability
20 insurance policy or whether to cancel any such policy under the provisions
21 of subsection (4)(c)(7) of K.S.A. 40-277, and amendments thereto.

22 Sec. 2. K.S.A. 8-1560d is hereby repealed.

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

shall not be
reported by the
division and

SENATE BILL No. 56

By Committee on Judiciary

1-10

Senate Judiciary
2-12-07
Attachment 2

9 AN ACT concerning law libraries; relating to fees; amending K.S.A. 2006
10 Supp. 20-3129 and repealing the existing section.

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

12 Section 1. K.S.A. 2006 Supp. 20-3129 is hereby amended to read as
13 follows: 20-3129. (a) Subject to the limitations contained in this section,
14 the clerks of the district courts shall tax a library fee in an amount deter-
15 mined by the trustees of the law library in each county for the benefit
16 and account of the law library in each county. Such library fee shall be
17 not less than \$2 nor more than ~~\$10~~ ~~\$15~~ in all cases commenced pursuant
18 to chapter 60 of the Kansas Statutes Annotated and in all felony criminal
19 cases and shall be not less than ~~\$.50~~ nor more than ~~\$7~~ ~~\$10~~ in all other
20 cases. The trustee of the law library in each county may increase law
21 library fees under this subsection once per calendar year as of July 1.
22 Changed law library fees shall be effective as of that date and when filed
23 with the clerk of the supreme court. The trustees of the law library in
24 each county shall file with the respective clerks the fees to be charged in
25 that court.

26 (b) The fees provided for by subsection (a) shall be deducted from
27 the docket fee.

28 (c) In criminal cases where the case is dismissed by the state, the
29 county shall be liable for the library fee. Where appeals from conviction
30 in the municipal court are dismissed for want of prosecution, or by the
31 defendant, the state or city shall collect the library fee. Upon failure of
32 the state or city to do so within 90 days after the dismissal, the county
33 from which the appeal is taken shall be liable therefor.

34 Sec. 2. K.S.A. 2006 Supp. 20-3129 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its
36 publication in the statute book.
37

\$10

\$7

(b) The clerks of the district courts may tax an additional fee in an amount determined by the trustees of the law library in each county for the benefit and account of the law library in each such county. Such additional library fee shall not be more than \$4 in all cases.
(c)

section

(d)

The fees provided for by subsection (b) shall be in addition to the docket fees established by law.

(e)

(f) The additional library fee under subsection (b) shall be considered a docket fee for purposes of K.S.A. 60-2001 et seq., and amendments thereto.



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

February 8, 2007

Senator John Vratil
300 SW 10th Avenue
Room 281-E
Topeka, KS 66612

Dear Senator Vratil:

On February 1, 2007, the Senate Judiciary Committee heard testimony on Senate Bill 118 regarding CASA reports and restricting the ability of judges to read reports prior to the report being admitted into evidence. Attached is a balloon amendment crafted by persons who testified on the bill. This version has been approved by Judge Creitz and Professor Pierce who testified in support of SB 118 as well as Judge Mitchell, 3rd Judicial District, and Judges Burgess, Henderson, Flaigle, and Brooks, 18th Judicial District, who wrote letters opposing the Judicial Council's proposed amendment to SB 118. This version has also received support from Sue McKenna, Department of Social and Rehabilitation Services, and by persons representing CASA programs across the state.

Randy Hearrell, Kansas Judicial Council, participated throughout the process but the committee responsible for the new CINC code has not met to formally review this proposal. Individual members of the committee, however, have reviewed these amendments and have voiced their support for the attached amendments.

This amendment raised a number of interesting issues. Please note that it was necessary to amend 2006 Supp. K.S.A. 38-2219 as well as 2006 Supp. K.S.A. 38-2249 in order to protect the due process rights of parents and children, insure reports prepared by persons not represented by an attorney were introduced as evidence, allow judges to read reports in a timely manner, and to create consistency between the two statutes. Proposed changes to K.S.A. 38-2219 are included as new language in the attached amendment to SB 118.

Please let me know if you have questions or desire additional work on the bill.

Sincerely,

A handwritten signature in cursive script that reads "Mark Gleeson".

Mark Gleeson
Family and Children Program Coordinator

MG:mr
Attachment

Senate Judiciary

2-12-07

Attachment 3

SENATE BILL No. 118

By Committee on Judiciary

1-18

9 AN ACT concerning children and minors; relating to children in need of
10 care; amending K.S.A. 2006 Supp. 38-2249 and repealing the existing
11 section.

12

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

14 Section 1. K.S.A. 2006 Supp. 38-2249 is hereby amended to read as
15 follows: 38-2249. (a) In all proceedings under this code, the rules of ev-
16 idence of the code of civil procedure shall apply, except that no evidence
17 relating to the condition of a child shall be excluded solely on the ground
18 that the matter is or may be the subject of a physician-patient privilege,
19 psychologist-client privilege or social worker-client privilege.

20 (b) The judge presiding at all hearings under this code shall not con-
21 sider, read or rely upon any report not properly admitted according to
22 the rules of evidence, except ~~as this requirement shall not apply to.~~

23 ~~(1) Any report prepared by a court-appointed special advocate; and~~

24 ~~(2) any report provided by K.S.A. 2006 Supp. 38-2219, and amend-~~
25 ~~ments thereto.~~

26 (c) In any proceeding in which a child less than 13 years of age is
27 alleged to have been physically, mentally or emotionally abused or ne-
28 glected or sexually abused, a recording of an oral statement of the child,
29 or of any witness less than 13 years of age, made before the proceeding
30 began, is admissible in evidence if:

31 (1) The court determines that the time, content and circumstances
32 of the statement provide sufficient indicia of reliability;

33 (2) no attorney for any party or interested party is present when the
34 statement is made;

35 (3) the recording is both visual and aural and is recorded on film,
36 videotape or by other electronic means;

37 (4) the recording equipment is capable of making an accurate re-
38 cording, the operator of the equipment is competent and the recording
39 is accurate and has not been altered;

40 (5) the statement is not made in response to questioning calculated
41 to lead the child to make a particular statement or is clearly shown to be
42 the child's statement and not made solely as a result of a leading or sug-
43 gestive question;

as provided by
K.S.A. 2006 Supp.
38-2219, and
amendments thereto.

- 1 (6) every voice on the recording is identified;
- 2 (7) the person conducting the interview of the child in the recording
3 is present at the proceeding and is available to testify or be cross-examined
4 by any party or interested party; and
- 5 (8) each party or interested party to the proceeding is afforded an
6 opportunity to view the recording before it is offered into evidence.
- 7 (d) On motion of any party to a proceeding pursuant to the code in
8 which a child less than 13 years of age is alleged to have been physically,
9 mentally or emotionally abused or neglected or sexually abused, the court
10 may order that the testimony of the child, or of any witness less than 13
11 years of age, be taken:
- 12 (1) In a room other than the courtroom and be televised by closed-
13 circuit equipment in the courtroom to be viewed by the court and the
14 parties and interested parties to the proceeding; or
- 15 (2) outside the courtroom and be recorded for showing in the court-
16 room before the court and the parties and interested parties to the pro-
17 ceeding if:
- 18 (A) The recording is both visual and aural and is recorded on film,
19 videotape or by other electronic means;
- 20 (B) the recording equipment is capable of making an accurate re-
21 cording, the operator of the equipment is competent and the recording
22 is accurate and has not been altered;
- 23 (C) every voice on the recording is identified; and
- 24 (D) each party and interested party to the proceeding is afforded an
25 opportunity to view the recording before it is shown in the courtroom.
- 26 (e) At the taking of testimony under subsection (d):
- 27 (1) Only an attorney for each party, interested party, the guardian *ad*
28 *litem* for the child or other person whose presence would contribute to
29 the welfare and well-being of the child and persons necessary to operate
30 the recording or closed-circuit equipment may be present in the room
31 with the child during the child's testimony;
- 32 (2) only the attorneys for the parties may question the child; and
- 33 (3) the persons operating the recording or closed-circuit equipment
34 shall be confined to an adjacent room or behind a screen or mirror that
35 permits such person to see and hear the child during the child's testimony,
36 but does not permit the child to see or hear such person.
- 37 (f) If the testimony of a child is taken as provided by subsection (d),
38 the child shall not be compelled to testify in court during the proceeding.
- 39 (g)(1) Any objection to a recording under subsection (d)(2) that such
40 proceeding is inadmissible must be made by written motion filed with
41 the court at least seven days before the commencement of the adjudi-
42 catory hearing. An objection under this subsection shall specify the por-
43 tion of the recording which is objectionable and the reasons for the ob-

1 jection. Failure to file an objection within the time provided by this
2 subsection shall constitute waiver of the right to object to the admissibility
3 of the recording unless the court, in its discretion, determines otherwise.

4 (2) The provisions of this subsection shall not apply to any objection
5 to admissibility for the reason that the recording has been materially
6 altered.

7 Sec. 2. K.S.A. 2006 Supp. 38-2249 is hereby repealed.

8 Sec. 3. This act shall take effect and be in force from and after its
9 publication in the Kansas register.

38-2219

Chapter 38.--MINORS

Article 22.--REVISED KANSAS CODE FOR CARE OF CHILDREN

38-2219. Evaluation of development or needs of child. (a) *Of the child.* (1)

Psychological or emotional. During proceedings under this code, the court, on its own motion or the motion of the guardian *ad litem* for the child, a party or interested party, may order an evaluation and written report of the psychological or emotional development or needs of a child who is the subject of the proceedings. The court may refer the child to a state institution for the evaluation if the secretary advises the court that the facility is a suitable place to care for, treat or evaluate the child and that space is available. The expenses of transportation to and from the state facility may be paid as a part of the expenses of temporary care and custody. The child may be referred to a mental health center or qualified professional for evaluation and the expenses of the evaluation may be considered as expenses of the proceedings and assessed as provided in this code. If the court orders an evaluation as provided in this section, a parent of the child shall have the right to obtain an independent evaluation at the expense of the parent.

(2) *Medical.* During proceedings under this code, the court may order an examination and report of the medical condition and needs of a child who is the subject of the proceedings. The court may also order a report from any physician who has been attending the child stating the diagnosis, condition and treatment afforded the child.

(3) *Educational.* During proceedings under this code, the court may order the chief administrative officer of the school which the child attends or attended to provide to the court information that is readily available which the school officials believe would properly indicate the educational needs of the child. The order may direct that the school conduct an educational needs assessment of the child and send a report of the assessment to the court. The educational needs assessment may include a meeting involving any of the following: The child's parents; the child's teachers; the school psychologist; a school special services representative; a representative of the secretary; the child's court-appointed special advocate; the child's foster parents, legal guardian and permanent custodian; a court services officer; and other persons that the chief administrative officer of the school or the officer's designee considers appropriate.

(b) *Physical, psychological or emotional status of parent or custodian.* During proceedings under this code, the court may order: (1) An examination, evaluation and report of the physical, mental or emotional status or needs of a parent, a person residing with a parent or any person being considered as one to whom the court may grant custody; and

(2) written reports from any qualified person concerning the parenting skills or ability to provide for the physical, mental or emotional needs and future development of a child by a parent or any person being considered as one to whom the court may grant custody.

~~(c) *Court consideration.* Written reports and other materials relating to the examinations and evaluations under subsections (a) and (b) may be considered by the court after an adjudication or entry of an order of informal supervision, if introduced as evidence. If requested by any party or interested party in attendance, the court shall require the person preparing the report or other material to appear and testify.~~

(dc) *Confidentiality of reports.* (1) *Reports of court ordered examination or evaluation.* No confidential relationship of physician and patient, psychologist and client or social worker and client shall arise from an examination or evaluation ordered by the court.

(2) *Report from private physician, psychologist or therapist.* When any interested party or party to proceedings under this code wishes the court to have the benefit of information or opinion from a physician, psychologist, registered marriage and family therapist or social

worker with whom there is a confidential relationship, the party or interested party may waive the confidential relationship but restrict the information to be furnished or testimony to be given to those matters material to the issues before the court. If requested, the court may make an *in camera* examination of the proposed witness or the file of the proposed witness and excise any matters that are not material to the issues before the court.

(d) Reports prepared by a court-appointed special advocate or by the secretary. All reports prepared by a court-appointed special advocate or by the secretary shall be filed with the court and shall be made available as provided in subsection (e).

(e) Availability of reports. (1) All reports provided for in this section shall be filed with the court and shall be made available to counsel for all parties prior to any scheduled hearing on any matter addressed by the report. If a party is not represented by counsel, the report shall be made available to that party.

(2) All reports provided for in this section may be read by the court at any stage of a proceeding under this code, but no fact or conclusion derived from a report shall be used as the basis for an order of the court unless the information has been admitted into evidence following an opportunity for the parties to examine, under oath, the person who prepared the report. If the court is in possession of a report that has not been offered into evidence, the court shall inquire whether there is an objection to admitting the report into evidence. If there is no objection, the court may admit the report into evidence.

History: L. 2006, ch. 200, § 14; Jan. 1, 2007.

SENATE BILL No. 139

By Committee on Judiciary

1-22

9 AN ACT concerning civil procedure; relating to attorney fees; amending
10 K.S.A. 60-2003 and repealing the existing section; also repealing K.S.A.
11 60-2006.

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

14 New Section 1. (a) Notwithstanding any other provision of law to the
15 contrary and subject to the provisions of this section, in any civil action
16 ~~of any nature~~ commenced or appealed in any court in this state, the court
17 shall award reasonable attorney fees to the prevailing party as part of the
18 courts judgment and taxed as part of the costs of the action in addition
19 to any costs otherwise assessed pursuant to K.S.A. 60-2003, and amend-
20 ments thereto. Such costs and fees shall be paid by the nonprevailing
21 party or parties. If more than one party is responsible for costs and fees,
22 such costs and fees shall be equitably apportioned by the court among
23 the responsible parties.

24 (b) As used in this section:

25 (1) "Civil action" shall not include a personal injury action.
26 (2) "Personal injury action" means any action seeking damages for
27 personal injury or death.

28 (c) The provisions of this section shall apply to civil actions based on
29 causes of action accruing on or after July 1, 2007.

30 Sec. 2. K.S.A. 60-2003 is hereby amended to read as follows: 60-
31 2003. Items which may be included in the taxation of costs are:

32 (1) The docket fee as provided for by K.S.A. 60-2001, and amend-
33 ments thereto.

34 (2) The mileage, fees, and other allowable expenses of the sheriff,
35 other officer or private process server incurred in the service of process
36 or in effecting any of the provisional remedies authorized by this chapter.

37 (3) Publisher's charges in effecting any publication of notices author-
38 ized by law.

39 (4) Statutory fees and mileage of witnesses attending court or the
40 taking of depositions used as evidence.

41 (5) Reporter's or stenographic charges for the taking of depositions
42 used as evidence.

43 (6) The postage fees incurred pursuant to K.S.A. 60-303 or subsec-

, where all parties are for-profit business
entities and the civil action is

(1) "Business entity" means any company, or person doing
business as a company, including individuals who file a
schedule C (profit or loss from business) with their federal
income tax return and shall also include the following for-profit
entities:

- (A) Corporation, as described in K.S.A. 17-6001, and amendments thereto;
- (B) foreign corporation, as described in K.S.A. 17-7301, and amendments thereto;
- (C) professional corporation, as described in K.S.A. 17-2707, and amendments thereto;
- (D) limited liability company, as described in K.S.A. 2006 Supp. 17-7663, and amendments thereto;
- (E) business trust, as described in K.S.A. 17-2028, and amendments thereto;
- (F) limited partnership, as described in K.S.A. 56-1a101, and amendments thereto;
- (G) limited liability partnership, as described in K.S.A. 56a-101, and amendments thereto; and
- (H) partnership, as described in K.S.A. 56a-101, and amendments thereto.

And by renumbering the remaining subsections accordingly

or an eminent domain action

Senate Judiciary
2-12-07
Attachment H

1 tion (e) of K.S.A. 60-308, and amendments thereto.

2 (7) Alternative dispute resolution fees shall include fees, expenses
3 and other costs arising from mediation, conciliation, arbitration, settle-
4 ment conferences or other alternative dispute resolution means, whether
5 or not such means were successful in resolving the matter or matters in
6 dispute, which the court shall have ordered or to which the parties have
7 agreed.

8 (8) Such other charges as are by statute authorized to be taxed as
9 costs.

10 (9) *Reasonable attorney fees awarded to the prevailing party pursu-*
11 *ant to section 1, and amendments thereto.*

12 Sec. 3. K.S.A. 60-2003 and 60-2006 are hereby repealed.

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

H-2

1 ments thereto, if the prostitute is less than 14 years of age;
 2 (F) sexual exploitation of a child, as defined in subsection (a)(5) or
 3 (a)(6) of K.S.A. 21-3516, and amendments thereto; and

4 (G) an attempt, conspiracy or criminal solicitation, as defined in
 5 K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an of-
 6 fense defined in paragraphs (A) through (F).

7 (2) The provision of paragraph (1) requiring a mandatory minimum
 8 term of imprisonment of not less than 25 years shall not apply if the court
 9 finds:

10 (A) The defendant is an aggravated habitual sex offender and sen-
 11 tenced pursuant to K.S.A. 2006 Supp. 21-4642, and amendments thereto;
 12 or

13 (B) the defendant, because of the defendant's criminal history clas-
 14 sification, is subject to presumptive imprisonment pursuant to the sen-
 15 tencing guidelines grid for nondrug crimes and the sentencing range ex-
 16 ceeds 300 months. In such case, the defendant is required to serve a
 17 mandatory minimum term equal to the sentence established pursuant to
 18 the sentencing range.

19 (b) (1) On and after July 1, 2006, if a defendant who is 18 years of
 20 age or older is convicted of a crime listed in subsection (a)(1) and such
 21 defendant has previously been convicted of a crime listed in subsection
 22 (a)(1), *a crime in effect at any time prior to the effective date of this act*
 23 *that is comparable to an offense defined in subsection (a)(1) or a crime*
 24 *under a law of another jurisdiction which is substantially the same as such*
 25 *crime a crime listed in subsection (a)(1), the court shall sentence the*
 26 *defendant to a term of imprisonment for life with a mandatory minimum*
 27 *term of imprisonment of not less than 40 years.*

28 (2) The provision of paragraph (1) requiring a mandatory minimum
 29 term of imprisonment of not less than 40 years shall not apply if the court
 30 finds:

31 (A) The defendant is an aggravated habitual sex offender and sen-
 32 tenced pursuant to K.S.A. 2006 Supp. 21-4642, and amendments thereto;
 33 or

34 (B) the defendant, because of the defendant's criminal history clas-
 35 sification, is subject to presumptive imprisonment pursuant to the sen-
 36 tencing guidelines grid for nondrug crimes and the sentencing range ex-
 37 ceeds 480 months. In such case, the defendant is required to serve a
 38 mandatory minimum term equal to the sentence established pursuant to
 39 the sentencing range.

40 (c) When a person is sentenced pursuant to subsection (a) or (b),
 41 such person shall be sentenced to a mandatory minimum term of im-
 42 prisonment of not less than 25 years, 40 years or be sentenced as deter-
 43 mined in subsection (a)(2) or subsection (b)(2), whichever is applicable,

which is substantially the same as to a crime listed

Except that the provisions of this paragraph shall not apply to a crime committed under K.S.A. 2006 Supp. 21-3522, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A. 2006 Supp. 21-3522, and amendments thereto.