

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on January 12, 2006, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Helen Pedigo, Office of Revisor of Statutes
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Susan Kang, Policy Director, Kansas Department of Health and Environment
Hon. Thomas E. Foster, Judge of the District Court, 10th Judicial District
Ronald W. Nelson
Greg DeBacker
Hon. Thomas H. Graber, Judge of the District Court, 30th Judicial District
Charles F. Harris

Others attending:

See attached list.

Bill Introductions

Susan Kang, Policy Director, Kansas Department of Health and Environment, requested a bill covering environmental compliance audits concerning privilege and immunity from or lessening penalties for violations of environmental laws under certain circumstances. Senator Journey moved, Senator Umbarger seconded, to have the bill introduced as a committee bill. Motion carried.

The hearing on **SB 61-Divorce/child custody: shared residency, child reside with both parents on an equal/near equal basis** was opened.

Chairman Vratil briefed the committee on the history of the bill and handed out a preliminary report by the Judicial Council (Attachment 1). The chairman indicated the Interim Judiciary Committee recommended amendments and authorized the introduction of a new bill which is starting in the House of Representatives.

Judge Foster spoke as a proponent (Attachment 2).

Ronald Nelson appeared as a proponent (Attachment 3). He is in agreement with the recommended language changes proposed by the Interim Committee and that are included in **HB 2571** which focuses attention on the plan that is in the child's best interest rather than on the labels affixed to each parent.

Greg DeBacker spoke in favor of the bill stating that it is fair, equitable, and in the best interests of the children (Attachment 4).

Judge Graber, opponent, stated that the courts should determine residency based on the best interest of the child (Attachment 5). The definition of shared residency adds nothing to what the court may do under the existing statute but it unnecessarily raises issues that will result in controversy between parent both at the time on an initial divorce and in motions for change of the description of residency.

Charles Harris appeared as an opponent stating that **SB 61** would amend K.S.A. 60-1610 to insert a definition of shared residential custody where no definition has previously been included (Attachment 6). Shared residency has existed as an informal option for the district court judges for many years. The definition for shared residential custody contained in **SB 61** is in direct conflict with the definition contained in the Kansas Child Support Guidelines and the effect of the definition contained in **SB 61** is to create a shared residential situation based upon only a small portion of the child's time. **SB 61** would reward limited involvement with a substantial reduction in child support.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on January 12, 2006 in Room 123-S of the Capitol.

The following conferees requested that their written testimony in opposition to **SB 61** be distributed and placed in the committee minutes.

Hon. Steve Leben, Judge of the District Court, 10th Judicial District, Proponent (Attachment 7)
Linda D. Elrod, Distinguished Professor of Law, Washburn University, Opponent (Attachment 8)

There being no further conferees to come before the committee, the Chairman closed the hearing on **SB 61**.

Final action on **SB 326—Concerning civil actions and civil penalties; relating to false and fraudulent claims**
Chairman Vratil opened committee discussion on a previously heard bill, **SB 326**, concerning civil action for false claims against the state. The bill was recommended by the Special Committee on Medicaid Reform and Senator Vratil reminded the committee that Rex Beasley, Assistant Attorney General, testified recommending several balloon amendments on behalf of the Attorney General. A copy of the balloon amendments had previously been distributed to the committee (Attachment 9).

The first proposed amendment dealt with substitution of the word “by” for the word “to” on page 1, line 16.

The second proposed amendment occurred on page 2, line 4, with the insertion of “pursuant to this act had commenced” so that the statement would make sense.

The third amendment, on page 3, at the end of Section 1, would insert a new Section 2 and renumber the existing Section 2 to Section 3. Mr. Beasley provided a brief overview of the new section which would define the knowing misuse of public funds and associated penalties.

The Chairman asked if there were further amendments to be considered. Representative Carlin submitted a proposed amendment and the committee was briefed by Robert Collins. The Chairman noted that it appeared to be an entirely new act with numerous changes and that the committee did not have the time to consider.

Senator Bruce moved, Senator Schmidt seconded, to adopt the amendments recommended in the Attorney General’s balloon to **SB 326** bill including the authority of the Revisor to do any housekeeping amendments. Motion carried.

Senator Journey moved, Senator O’Connor seconded, to amend the new Section 2 amendment of the penalty provision so that they are consistent with existing law. Motion carried.

Senator Bruce moved to amend the last sentence of the new Section 2 to have it apply to officers, employees and contractors of state and local Kansas governments. Senator Goodwin seconded. Motion carried.

Senator O’Connor moved to amend New Section 2 to include employment restrictions on positions held by convicted persons and to limit those to officers, employees and contractors whose duties included the handling of money. Senator Bruce seconded. Motion carried.

Senator Schmidt moved, Senator Bruce seconded to recommend **SB 326**, as amended, favorably for passage. Motion carried.

Senator Schmidt requested that the minutes reflect the intent of the committee is that the changes in **SB 326** are not intended to punish or establish the liability for innocent mistakes.

The meeting was adjourned at 10:35 a.m. The next meeting is scheduled for January 17, 2006.