

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:38 a.m. on Monday, February 23, 2004, in Room 123-S of the Capitol.

All members were present.

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:

Senator Jay Emler
Senator Barbara Allen
Ken North, Security Consultant, Owner of North & Associates, Shawnee Mission, KS
Paul Morrison, John County District Attorney
Dr. Roger Bruning, Family Practice, Shawnee Mission Medical Center
Amy Campbell, Kansas State Ophthalmological Society
Tom Weiler, Sedgwick County Asst. District Attorney
Gary Robbins, Kansas Optometric Association
Jerry Slaughter, Kansas Medical Society

Others attending: See attached list.

Final Action:

SB 343 - Repeals K.S.A. 2003 Supp. 65-441a concerning hospitals

Chairman Vratil directed the Committee's attention to Senator Schmidt's Sub-Committee Report. (Attachment 1) He explained the bill, and called for discussion and final action on **SB 343**. Senator O'Connor made a motion to pass the bill out favorably and place it on the Consent Calendar, seconded by Senator Donovan. The motion carried.

SB 357 - Creating the Kansas notary public act

Chairman Vratil called for discussion and final action on **SB 357**, which was heard in Senator Schmidt's sub-committee. Senator Schmidt commented there were four areas (as noted in the written Committee Report - Attachment 1) the Sub-Committee thought should be considered by the whole Judiciary Committee. Those were: (1) The amount of the surety bond to be required. Current law requires \$7,500, the bill increases that to \$25,000 (page 4, line 13), (2) The education and exam requirements (page 6, lines 27 to 35), (3) The severity of the criminal penalty for violations of the law by the notary and others (page 10, lines 12 to 42), and (4) Whether the law should contain the short form certificate for notarial acts (pages 14 and 15).

Following discussion on the first item, Senator Schmidt made a motion to amend the bill from \$25,000 to \$10,000, seconded by Senator Donovan. The motion carried.

Mike Heim, Legislative Research Department, explained the second item of concern. The proposed legislation asks a notary to do more than is required presently, take more responsibility, and be subject to a criminal penalty. He added that there was also an education requirement which notaries currently do not have, and it basically amounted to the bill requiring more than the law did. Melissa Wangemann, Secretary of State's Office, said her office intended to put a test on the internet to ensure that applicants read the materials.

Senator Schmidt made a motion to strike Section 10 in its entirety, seconded by Senator Goodwin, and the motion carried.

Senator Schmidt commented on page 10, lines 12 through 42. He said the Sub-Committee was concerned about the severity of penalties that would be imposed on notaries if they violated the law. Committee discussion followed. Ms. Wangemann, Secretary of State's Office, explained that the bill followed the

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Model Notary Public Act of 2002, and would modernize the Kansas notary law.

Senator Schmidt made a motion to amend page 10, lines 13, 22, 26, and 34, to be a Class C misdemeanor, the motion was seconded by Senator Goodwin, and the motion carried.

Senator Schmidt moved to recommend SB 357, as amended, favorably for passage, seconded by Senator Goodwin, and the motion carried. Senator Pugh requested his "no" vote be recorded.

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**. He announced there was a balloon amendment that was agreed to by the interested parties. The amendment related to the admissibility into evidence of surveys or inspection reports. Senator Schmidt said he had worked with the parties to arrive at the agreeable language, and would distribute copies to the Committee members. The Chair announced that he would postpone final action on **SB 430** until the next meeting to give members time to study the balloon amendment.

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

Chairman Vratil opened the hearing on **SB 466**. Senator Barbara Allen, sponsor of the proposed bill, conceded her time to Johnson County District Attorney, Paul Morrison, and submitted her testimony as written. (Attachment 2)

Paul Morrison, Johnson County District Attorney, testified in support of **SB 466**. He said that KSA 8-255c allows physicians or optometrists to provide information to the medical advisory board of the Division of Motor Vehicles, when an individual lacks the mental or physical capacity to safely drive an automobile. He explained that the statute in its current form does not address issues of privacy and/or privilege which doctors oftentimes face when they decide whether or not to report a patient. Mr. Morrison stated the proposed bill updates the statute and specifically allows a physician to report these concerns without violating physician patient privilege. It also insures confidentiality of those reports. (Attachment 3)

Brief questions and discussion followed regarding the process of reporting someone, and if the individual knows the physician reported his condition or questionable behavior.

Dr. Roger M. Bruning, Medical Director, Shawnee Mission Medical Center, submitted written testimony in support of **SB 466**. (Attachment 4)

Amy Campbell, Kansas State Ophthalmological Society, submitted written testimony in favor of **SB 466**. (Attachment 5)

Chairman Vratil called the first neutral conferee, Tom Weiler, Sedgwick County District Attorney, who conceded his time, and stated that Sedgwick County supported **SB 466**. (no written testimony submitted)

Gary Robbins, Kansas Optometric Association, testified as neutral on the bill, and requested the deletion in line 34 of "except upon the order of a court of competent jurisdiction." He said his organization was comfortable with the bill, and wanted to emphasize the importance of reporting. He attached to his written testimony a copy of the Vision Form. (Attachment 6)

Chairman Vratil pointed out that the proposed bill actually strengthens the doctors' protection and confidentiality. Committee discussion followed.

Jerry Slaughter, Executive Director, Kansas Medical Society, spoke as a neutral conferee on **SB 466**. He submitted an amendment for the Committee's consideration which should overcome the Health Insurance Portability and Accountability Act of 1996. (Attachment 7)

Committee discussion and questions followed. Martha Bean, Public Service Administrator for Driver

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Review, Kansas Motor Vehicle Department, answered several questions relating to current procedures.

Chairman Vratil closed the hearing on **SB 466**.

SB 388 - Statewide authority for capitol area security

Chairman Vratil opened the hearing on **SB 388**. Senator Jay Emler, sponsor of the bill, introduced Ken North, Security Consultant, and owner of North & Associates, who testified in support of **SB 388**. He stated he had done a security study and threat assessment for the Department of Administration about five to six years ago. He said one of the primary findings of the studies was that there was a significant amount of violence in the workplace. In 1999 his Company strongly recommended the extension of statewide authority to the Capitol Police, and the Department of Administration supported the proposal without any reservation. Mr. North added that 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. (Attachment 8)

Committee discussion followed relating to the training of the Capitol Police. The training is the same as the training for Highway Patrol. Cpl. John Eichkorn, Kansas Highway Patrol, verified that the Capitol Police are certified law enforcement officers just as all other Kansas law enforcement officers.

Chairman Vratil closed the hearing on **SB 388**.

Final Action:

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

Chairman Vratil called for discussion and final action on **SB 461**. Senator Goodwin, sponsor of the bill, distributed a map showing the area that would be taken into the proposed lake project. She reminded the Committee that 110 land owners would be affected by the project. (Attachment 9)

Considerable Committee discussion and questions followed. The Chairman noted that meeting time had elapsed, and announced that final action would continue on **SB 461** at the next meeting.

The meeting was adjourned at 10:34 a.m.

The next scheduled meeting is February 24, 2004.