

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:32 A.M. on January 22, 2007, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen arrived, 9:38 A.M.

Donald Betts arrived, 9:38 A.M.

Derek Schmidt- excused

David Haley- excused

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:

Bill McKean

Kathy Porter, Office of Judicial Administration

Others attending:

See attached list.

Bill Introductions

Jim Clark, Kansas Bar Association, requested the introduction of a bill regarding corporations and the elimination of return receipt notifications. Senator Umbarger moved, Senator Donovan seconded, to introduce the bill. Motion carried.

Senator Vratil introduced two bills. The first concerns criminal procedure relating to appearance bonds. The second bill concerns civil procedure relating to attorney's fees which would require a judge to award attorney's fees to the prevailing party in all civil actions and appeals except personal injury actions. Senator Vratil moved, Senator Goodwin seconded, to introduce the bills.

The hearing on **SB 32--Health care; medical assistance repayment; discretionary trusts** was opened.

There were no conferees listed or present to testify on the bill. Senator Vratil gave a brief description of the bill and indicated Senator Emler had brought forth the bill. Senator Goodwin requested the hearing be continued at a later date. The Chairman continued the hearing until a later date.

The hearing on **SB 41--Negligence; ordinary care required when gun possession at issue in personal injury or wrongful death action** was opened.

Senator Journey testified as author of the bill, indicating the act is intended to overturn the holding in the Kansas Supreme Court case, Wood v. Groh, 269 Kan. 420 (Attachment 1). Senator Journey provided background on the case and urged adoption of the bill.

There being no other conferees, the hearing on **SB 41** was closed.

The Chairman opened the hearing on **SB 45--Chief judge of the judicial district elected by district judges, not designated by the supreme court.**

Senator Journey spoke in support, indicating this legislation would put selection of the Chief Judge at the local district court level (Attachment 2).

Bill McKean appeared in support, stating the most effective and responsive leaders for any organization are chosen from a pool of willing candidates in a democratic vote (Attachment 3).

Kathy Porter testified in opposition, stating **SB 45** would create procedural difficulties such as tie votes in

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districts with an even number of judges (Attachment 4). Ms. Porter also voiced concern that the bill appears to conflict with the provisions of Article 3, Section 1, of the *Constitution of the State of Kansas*. There was also concern that popularly elected judges could encounter conflict between administrative duties as prescribed by the Supreme Court and what would be pleasing to judges in his district. The current system has worked well for decades.

Written testimony in support of **SB 45** was submitted by:

Hon. Jeffrey E. Goering, Hon. Anthony Powell, Hon. Robb Rumsey, and Hon. Eric Yost,
District Judges, 18th Judicial District (Attachment 5)

There being no further conferees, the hearing on **SB 45** was closed.

Approval of Minutes

Senator Umbarger moved, Senator Bruce seconded, to approve the committee minutes of January 10, 2007 and January 11, 2007. Motion carried.

Chairman Vratil stated that **SB 37--Concerning the crime of smoking in indoor areas** was scheduled for final action next week and urged the committee members to consider any amendments they may wish to may and work with the revisors to have balloons ready.

The meeting adjourned at 10:27 A.M. The next scheduled meeting is January 23, 2007.