

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on Monday, February 9, 2004, in Room 123-S of the Capitol.

All members were present except:
Senator Donald Betts (E)

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:
Kansas Walker, Business owner, Larned, Ks.
Mayor Ralph C. Arnold, Larned (Letter written in support to Sen. Janis Lee)

Others attending: See attached list.

SB 337 - Repealing the crime of hypnotic exhibition

Chairman Vratil opened the hearing on **SB 337**. Kansas Walker testified in support of **SB 377**, and explained how the hypnotist ban for entertainment purposes affects his business and the economic impact it could have on the state if the outdated law was not repealed. Mr. Walker shared with the Committee his experience with the Sheriff's Department in Pawnee County advising him it was illegal in Kansas to have a hypnotist for entertainment purposes, and that he could be fined \$50 and have a misdemeanor on his record. Mr. Walker had paid \$1,500 down for a comedian/hypnotist show for February 26, 2004, and decided that the \$50 fine was cheaper than forfeiting the down payment for an evening's entertainment. He asked if the law could be overridden temporarily until a final decision was made regarding repeal of this outdated statute. Mr. Walker recommended strongly that the law be repealed in order to bring Kansas up to date in the statute books regarding the subject of hypnotic shows for entertainment purposes only. He hoped that he and others could continue to bring top notch shows to central Kansas, and continue to support his family and the families of his employees plus improve the economy in the State of Kansas. (Attachment 1)

Chairman Vratil explained that there was not a way to override the existing law other than the way Mr. Walker is pursuing, which is legislation to repeal existing law. He added that currently the proposed legislation would not become effective until July 1, 2004, but the Committee could amend the bill to make it effective upon publication in the Kansas Registrar.

Brief Committee questions and discussion followed Mr. Walker's testimony.

Ralph Arnold, Mayor of Larned, submitted a letter in support to Senator Janis Lee of **SB 337**. (Attachment 2)

Per Senator Janis Lee's request, the Kansas Legislative Research Department submitted information regarding the Kansas statutory prohibition against hypnotic exhibitions for entertainment purposes. It was noted that the State Library Reference staff did a search of other state statutes and could not identify another state with the same or similar prohibition as exists in Kansas against using hypnosis for entertainment purposes. (Attachment 3)

The Chair closed the hearing on **SB 337**.

SB 183 - The interstate compact for juveniles

Chairman Vratil opened the hearing on **SB 183**. Senator David Adkins was unable to appear before the Committee to testify as the sponsor and only conferee of this proposed legislation. The Chair closed the hearing on **SB 183**.

Final Action

CONTINUATION SHEET

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SB 141 - Phasing in the use of administrative hearings over years

Chairman Vratil called for discussion and final action on **SB 141**, and explained the proposed legislation. He stated that the Committee had amended the bill to include the amendments recommended by the Kansas Judicial Council.

Senator Donovan questioned whether the Committee had adopted the amendment regarding the Department of Revenue on page 37 in lines 21 and 22. The Chair explained, the motion to amend provides Department of Revenue claimants a choice of using a hearing officer from the Department of Revenue or a hearing officer from the Office of Administrative Hearings to conduct hearings. He stated that the vote for that amendment failed.

The Chairman clarified that the Committee also adopted Senator Umbarger's amendment relating to the Department of Agriculture (DOA), and contained two options for conducting agency hearings. The options would be the choice of the claimant, and would allow for a hearing officer from the DOA or a hearing officer from the Office of Administration Hearings.

Senator Pugh asked if Kansas Department of Health and Environment (KDHE) was included in this amendment, and the Chairman responded that KDHE was already using the options in the amendment.

Senator Schmidt made a motion to pass **SB 141** out favorably as amended with a proviso for the Revisor to make any technical changes as needed. The motion was seconded by Senator Oleen.

Senator Donovan questioned why the Committee was separating out the DOA, and expressed his concern that individual department was singled out to be handled differently from other state agencies. Senator Umbarger explained that during Committee discussion it was determined that in some instances the DOA had the expertise in several areas of the agency to conduct its own hearings.

The Chairman called for a vote on the motion to pass **SB 141** out favorably as amended. The motion carried, with Senator Donovan requesting his no vote be recorded.

SB 299 - Kansas surety recovery agents act

Chairman Vratil called upon Senator Haley to present his proposed amendments to **SB 299**. Senator Haley stated that his first amendment would add language to Section 3, page 1, starting at the end of line 38 as follows: "A surety recovery agent may not enter a residence to recover a principal without first demanding admittance and explaining the purpose for which admittance is desired." (Attachment 4)

Chairman Vratil suggested that he use the word "fugitive" instead of the word "principal", because it fits better with his amendment. Senator Haley agreed.

Following brief discussion, the Chair called for a vote on the proposed amendment. Senator Haley made a motion to amend, seconded by Senator Oleen, and the motion carried. Senator Donovan requested his no vote be recorded.

Senator Haley said his second proposed amendment also added language at the end of line 38 in Section 3, page 1, at the end of the previous amendment as follows: "No security recovery agent shall wear, carry or display any uniform, badge, shield or other insignia or emblems that purport to indicate that such person is an employee, officer or agent of any state, any political subdivision of any state or the United States." (Attachment 5)

Chairman Vratil stated that the Committee previously heard testimony on this subject and that it already was a criminal offense to impersonate an officer so the amendment was not necessary. Senator Haley responded that bounty hunters use this technique to unlawfully enter premises, and this amendment attempts to codify or clearly discern that Kansas does not consider bounty hunters to be law enforcement officers.

Committee discussion continued. Concern was expressed about who the state was protecting, how the

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amendment would add to already existing law, and that Senator Haley was not deleting any current language in the law, but attempting to add new language.

Senator Oleen made a motion to adopt Senator Haley's second amendment, seconded by Senator Donovan, and the motion failed. Senator Schmidt asked to be recorded as abstaining on the vote of this amendment.

Senator Haley offered a third amendment which added additional language to the end of Section 3, page 1, beginning on line 38 following, as follows: "A surety recovery agent may not enter a residence to recover a principal without first demanding admittance and explaining the purpose of which admittance is desired." He explained his reasoning for the requested amendment. (Attachment 6)

Following Committee discussion, Senator Haley made a motion to adopt his amendment, seconded by Senator Oleen for discussion purposes. After brief comments from Committee members, the Chairman called for a vote on the amendment. The motion failed.

Senator Haley explained his fourth amendment relating to required liability insurance as follows: "(a) All surety recovery agents must maintain a policy of liability insurance in an amount not less than \$300,000 protecting persons and property from harm, written by a company approved by the attorney general. (b) The failure to maintain the required insurance invalidates the authority granted by a surety recovery agent license or a provisional surety recovery agent license. (c) Deductibles are not permitted unless the licensee submits a bond to the attorney general for the purpose of serving as a source of recovery for persons who receive judgments against a licensee for amounts less than that covered by insurance. The bond must be in a form and provided by a company acceptable to the attorney general, based upon the likelihood that sufficient assets support the bond." (Attachment 7)

Senator Haley said the Committee received testimony during the hearing that this type of insurance was not available. He checked with the Kansas Insurance Department and found that it was available. Brief Committee discussion followed.

Senator Haley made a motion to adopt his fourth amendment adding new language to the end of Section 3, page 1, line 38. The motion was seconded by Senator Pugh, and the motion failed.

Senator Haley offered a conceptual fifth amendment to remove the restriction against hiring convicted felons as bounty hunters or surety agents. He felt it was unfair because felons, upon release from imprisonment, need to find gainful employment.

Senator Haley made a motion to amend **SB 299** in Section 3, page 1, on line 31 by deleting the words "of a felony". The motion was seconded by Senator Pugh for discussion.

Senator Pugh stated that bounty hunters were held to a higher standards and requirements than school teachers, and for that reason he was not going to support the bill.

Chairman Vratil called for a vote on the proposed amendment. The motion failed on a 4 to 2 vote.

The Chairman announced that **SB 299** would be worked for final action at the next meeting, and no further amendments would be entertained.

The meeting was adjourned at 10:30 a.m. The next scheduled meeting is February 10, 2004.