

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on Thursday, March 4, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator David Haley (A)
Senator Derek Schmidt - Arrived 10:00 a.m.
Senator Dwayne Umbarger (E)
Senator Edward Pugh - Arrived 9:40 a.m.

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:

Rita L. Noll, nominee for Chairperson of Crime Victims Compensation Board
Marilyn Scafe, Chairperson of the Kansas Parole Board
Kyle Smith, Kansas Bureau of Investigation
Randy Hearrell, Kansas Judicial Council
Jim Clark, Kansas Bar Association

Others attending: See attached list.

Confirmation Hearing for Chairperson of the Crime Victims Compensation Board

Chairman Vratil opened the confirmation hearing for Rita Noll as Chairperson of the Crime Victims Compensation Board. Chairman Vratil introduced Ms. Noll to the Committee, and asked members to review the provided information covering the nominee and the subject position. Ms. Noll commented on her career and legal experience. (Attachment 1)

Following brief Committee questions and comments, the Chairman called for discussion and final action on the confirmation of Ms. Noll as Chairperson of the Crime Victims Compensation Board. Senator Goodwin made a motion in favor of confirming Ms. Noll as Chairperson of the Crime Victims Compensation Board, seconded by Senator Donovan, and the motion carried.

SB 528 - Kansas parole board actions

Chairman Vratil opened the hearing on **SB 528**. Marilyn Scafe, Kansas Parole Board, testified in support of the proposed bill. She explained **SB 528** was a technical cleanup bill to KSA 22-3709 which was amended during the 2003 legislative session to reflect the change in the size of the parole board to three members. **SB 528** would clarify that a majority vote is required on all Board decisions. (Attachment 2)

Since there were no Committee questions or other conferees appearing to testify on the proposed bill, the Chairman closed the hearing on **SB 528**.

HB 2542 - Collection of specimens by KBI when convicted of certain crimes

Chairman Vratil opened the hearing on **HB 2542**. Kyle Smith, Kansas Bureau of Investigation (KBI), testified in favor of **HB 2542**, and explained the proposed bill covered an important change needed in the state's DNA data bank statute, KSA 21-2511. He stated that an oversight occurred in the listing of statutes which order a person into custody. The requested change is on line 42 of the proposed legislation. (Attachment 3)

The Chairman closed the hearing on **HB 2542** since there were no other conferees appearing to speak on the bill.

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HB 2554 - Amendments to the Kansas power of attorney act

Chairman Vratil opened the hearing on **HB 2554**. Randy Hearrell, Kansas Judicial Council, spoke in support of the proposed technical cleanup bill relating to language in Sections 1 through 4. He explained the technical corrections and clarifications requested in **HB 2554**. (Attachment 4)

Jim Clark, Kansas Bar Association (KBA), testified in favor of **HB 2554**, and offered a balloon amendment requested by the Standards for Title Examination Committee of the KBA. He explained the Committee was concerned that title insurance companies, particularly in the Wichita area, do not recognize the change proposed in the bill. The Committee requested the reinsertion of the existing language as an alternative to the proposed language. (Attachment 5)

Mr. Clark stated that the KBA Real Estate, Probate and Trust Section had proposed additional language to allow the spousal consent within the power of attorney itself, without having to create a separate document.

Following Committee discussion and questions, the Chair closed the hearing on **HB 2554**.

Final Action on:

SB 432 - Applicants to be law enforcement officers required to disclose criminal records; KLETC allowed to request any expunged records; KLETC central registry include report on terminated officers

Chairman Vratil called for discussion and final action on **SB 432**. The Chair explained that the bill amends the expungement statutes to make an exception and require disclosure of certain arrest, conviction and diversion records for people who apply to be law enforcement officers.

Senator Pugh expressed concern that the terminated officer would not have access to the report. Senator Pugh made a motion to include the terminated officer having access to the report, and seconded by Senator Allen. The Chair requested the Revisor to draft appropriate language covering Senator Pugh's proposed amendment to **SB 432**. The Chair called for a vote on the proposed amendment. The motion carried.

Senator Schmidt made a motion to recommend SB 432 favorably for passage as amended, and seconded by Senator O'Connor, and the motion carried.

HB 2293 - Sheriff's fee for service of process

Chairman Vratil called for discussion and final action on **HB 2293**. He explained that a balloon amendment was submitted by the Kansas Sheriff's Association and Kansas Credit Attorneys Association. The Chair said the balloon reflected the agreement between several interested parties. The balloon changes the fees that could be charged from \$10 in the original bill to \$5, deletes the \$10 for each additional person so the fee would be \$5 no matter how many people were served, and deletes the \$1 fee for return if not found, and deletes the reference to the Sheriff's ability to charge for miles actually and necessarily traveled, indicates that when service is unsuccessful that no fee will be charged for a subsequent attempt, and includes some technical cleanups. (Attachment 6)

Senator Schmidt made a motion to adopt the balloon amendment, seconded by Senator O'Connor, and the motion carried.

Following Committee discussion, Senator Schmidt moved to pass the bill out favorably as amended, seconded by Senator O'Connor, and the motion carried.

HB 2525 - Increasing severity levels on criminal use of explosives

Chairman Vratil called for discussion and final action on **HB 2525**. He explained the bill, and referred Committee members to the Fiscal Note referencing a minimal bed space impact. (Attachment 7)

Senator O'Connor reminded the Committee there was a proposed amendment submitted by the State Fire Marshal's office to clarify other explosive devices that could be constructed which are destructive and dangerous. The language change would incorporate other potential materials used to make explosive

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devices. (Attachment 8)

Senator O'Connor moved to amend **HB 2525** as requested by the State Fire Marshall, seconded by Senator Goodwin, and the motion carried.

Senator Pugh made a motion to pass **HB 2525** out favorably as amended, seconded by Senator Oleen, and the motion carried.

HB 2347 - Kansas uniform securities act

Chairman Vratil called for discussion and final action on **HB 2347**. The Chair explained the bill, and said there were some technical amendments. He clarified that there was a difference of opinion between the Kansas Bar Association (KBA) and the Securities Commission's office. The KBA wanted to amend the bill to take it back to the original language. The result would be to eliminate certain powers of the Securities Commissioner which the Securities Commission does not want to lose. He added that the Kansas Cooperative Council also had a proposed amendment. (Attachment 9)

Rick Fleming, Kansas Securities Commission, stated an agreement had been worked out with the Cooperative Council and the new language as proposed would offer the same protection. The main concern was in Section 6 (8) changing the word cooperative "instruments" to "securities" relating to persons who are not members within the meaning of KSA 17-1606 and amendments thereto.

Senator Schmidt moved to adopt the amendment proposed by the Kansas Cooperative Council, seconded by Senator Goodwin, and the motion carried.

Senator Schmidt made a motion to adopt the technical amendments by the Revisor concerning adding and deleting commas on pages 5 and 8, seconded by Senator Donovan, and the motion carried.

Chairman announced that meeting time had elapsed, and the Committee would continue to work **HB 2347** at the next scheduled meeting. He requested staff to contact John McCabe or Michelle Clayton, Uniform Law Commissioners in Chicago, to get additional information regarding the Statute of Limitations issue.

Chairman Vratil adjourned the meeting at 10:30 a.m. The next scheduled meeting is Monday, March 8, 2004.