

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 7, 2008 in Room 313-S of the Capitol.

All members were present except:

Annie Kuether- excused  
Marti Crow- excused  
Paul Davis - excused  
Ben Hodge - excused  
Tim Owens- excused  
Kay Wolf - excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research  
Athena Andaya, Kansas Legislative Research  
Jill Wolters, Office of Revisor of Statutes  
Jason Thompson, Office of Revisor of Statutes  
Cindy O'Neal, Committee Assistant

Representative Watkins requested a bill introduction relating to timelines and collection of bonds. Representative Whitham seconded the motion. The motion carried.

Representative Yoder requested a bill introduction to increase court docket fees by 15% to pay for court employee salaries. Representative Watkins seconded the motion. The motion carried.

**HB 2621 - child custody & parenting time; service members provisions; military deployment, mobilization or temporary duty**

Representative Watkins made the motion to report HB 2621 favorably for passage. Representative Goyle seconded the motion.

An amendment was discussed regarding the parental preference doctrine being tied to this type of situation. The committee expressed that this is such a huge change that it would need to be considered in depth.

Representative Pauls made the motion to amend on page 2, line 2, so that any custody order that changes because of deployment expires 10 days after the person serving in the military person returns back from deployment. Representative Garcia seconded the motion. The motion carried.

Representative Ward made the motion to amend on page 2, line 17, by striking "family" and inserting "member or members of the service members family..." Representative O'Neal seconded the motion. The motion carried.

Representative O'Neal pointed out that the courts retaining jurisdiction is consistent to the Uniform Child Custody Act.

Representative O'Neal made the motion to have the bill become effective upon publication on the Kansas Register. Anyone who has a current order can file a motion and trigger the tools of the bill. Also, delete lines 29 & 30 in section (h). Representative Colloton seconded the motion. The motion carried.

It was pointed out that the same child custody issues would apply for individuals who have Permanent Change in Station (PCS) as those who are deployed. It was suggested that a floor amendment would be acceptable so more research can be done as to who the bill would actually need to be apply to.

Representative Watkins made the motion to report HB 2621 favorably for passage as amended. Pauls seconded the motion. The motion carried.

**HB 2701 - laboratory fees for criminal procedures; heart of America regional computer forensics**

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**laboratory**

Representative Colloton made the motion to report **HB 2701** favorably for passage and placed on the consent calendar. Representative Watkins seconded the motion. The motion carried.

**HB 2617 - mandatory implied consent for serious & fatality accidents**

A balloon was provided by staff (Attachment #1)

Committee still had concerns with sub section (d) because it undoes what is done on page 1, mandatory consent.

Ed Klumpp stated that the only way law enforcement can draw blood is if there is probable cause. However, if an individual refuses or withdraws their consent there is currently a penalty for that. The proposed bill would be tied to the test refusal.

The committee amended the balloon page 1, lines 42 & 43 striking the words "to another person" because testing should be done even if it was the operator who was seriously injured.

Representative Kinzer made the motion to adopt the balloon including the above change. Representative Colloton seconded the motion. The motion carried.

Representative Pauls made a motion to add the following language on line 43 after "death"... "except when a law enforcement officer determines prior to the testing that operator actions did not contribute to the action or collision". Representative Garcia.. Committee members commented they had concerns about using the officers opinion in civil actions. Proposed that it might be able to be linked to someone receiving a citation. With permission of the second the motion was withdrawn.

Under current law there are forced blood draws when there is a serious injury or death. This does not happen very often, most will end up giving consent. Law enforcement has to do the restraining, not medical personal.

Representative Watkins made the motion to table **HB 2617**. Representative Roth seconded. The motion failed.

Representative Pauls made the motion to amend on pg 1, line 43, after "person" add "except when a law enforcement officer has reasonable grounds to believe the actions of the operator did not contribute to the accident or collision." Representative Garcia seconded the motion. The motion carried.

Representative Kinzer made the motion to report **HB 2617** favorably for passage, as amended. Representative Watkins seconded the motion. The motion carried.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for February 11, 2008.

CONTINUATION SHEET

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