

Journal of the Senate

FORTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 21, 2014, 8:00 a.m.

The Senate was called to order by Vice President Jeff King.

The roll was called with 28 senators present.

Senators Donovan, Faust-Goudeau, Haley, Holland, Longbine, Love, Lynn, O'Donnell, Pettey, Shultz, Wagle, Wolf were excused.

Invocation by Father Don Davidson:

Dear Lord, today help us to remember someone that was exceptionally important in our lives, someone who has finished their course on earth and has joined you in life eternal. In our private reflection, help us to consider if our actions and our words meet with their teaching, mentorship and the standards they gave to us. Help us to look at their faces present always in our memories, and see their affirmation of the person we have become. We thank you, Lord, for those who have helped us become who we are today. Give us, O Lord, your grace to remember. In your holy name we pray. Amen

The Pledge of Allegiance was led by Vice President Jeff King.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2642**.

Federal and State Affairs: **SB 446, SB 447; Sub HB 2681**.

Financial Institutions and Insurance: **HB 2744**.

Public Health and Welfare: **SB 448**.

CHANGE OF REFERENCE

Under the authority of the President, Senator Smith withdrew **SB 448** from the Committee on **Public Health and Welfare**, and referred the bill to the Committee on **Federal and State Affairs**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2744; SB 308**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2744 was thereupon introduced and read by title.

Under the authority of the President, Senator Smith referred **HB 2744** to the Committee on **Financial Institutions and Insurance**.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **Sub HB 2430** be amended on page 2, in line 37, after the stricken material by inserting "and ending December 31, 2014,";

On page 3, in line 2, after the stricken material by inserting "and ending December 31, 2014,"; in line 19, after the stricken material by inserting "and ending December 31, 2014,";

On page 4, in line 42, by striking "(A) Except as provided in subparagraph (B),"; in line 43, by striking "authorized or granted to" and inserting "received by";

On page 5, in line 3, by striking "and"; in line 4, by striking "any" and inserting "the"; also in line 4, by striking "or after"; also in line 4, after "2012" by inserting ", \$12,000,000 in the fiscal year commencing on July 1, 2013, \$18,000,000 in the fiscal year commencing on July 1, 2014, \$24,000,000 in the fiscal year commencing on July 1, 2015, \$30,000,000 in the fiscal year commencing on July 1, 2016, \$36,000,000 in the fiscal year commencing on July 1, 2017, and \$42,000,000 in any fiscal year commencing on or after July 1, 2018"; by striking all in lines 5 through 25; following line 33, by inserting:

"Sec. 3. K.S.A. 2013 Supp. 74-50,219 is hereby amended to read as follows: 74-50,219. No person who was a member of the legislature on or after the effective date of this act may avail themselves of the benefits under the provisions of K.S.A. 2013 Supp. 74-50,210 through 74-50,216, and amendments thereto, until after July 1, ~~2015~~ 2020.";

And by renumbering sections accordingly;

Also on page 5, in line 34, by striking "and" and inserting a comma; also in line 34, after "74-50,213" by inserting "and 74-50,219";

On page 1, in the title, in line 2, by striking the first "and" and inserting a comma; also in line 2, after "74-50,213" by inserting "and 74-50,219"; and the bill be passed as amended.

Also, **Sub Sub HB 2721** be amended on page 3, in line 27, by striking all after "(b)"; by striking all in lines 28 through 43;

On page 4, by striking all in lines 1 through 17; and in line 18, by striking "(c)";

On page 5, in line 12, by striking all after "(b)"; by striking all in lines 13 through 27; in line 28, by striking "(c)";

On page 6, in line 10, by striking all after "(b)"; by striking all in lines 11 through 26; in line 27, by striking "(c)";

On page 7, in line 9, by striking all after "(b)"; by striking all in lines 10 and 11; in line 12, by striking "(c) "; in line 13, by striking all after "7."; by striking all in lines 14 through 26; in line 27, by striking "(d)";

On page 14, in line 28, after "fee" by inserting "if authorized by law, as provided by section 10, and amendments thereto,";

On page 15, in line 5, after "fee" by inserting "if authorized by law, as provided by section 10, and amendments thereto,"; in line 13, after "fee" by inserting "if authorized by law, as provided by section 10, and amendments thereto,"; in line 29, after "fee" by inserting "if authorized by law, as provided by section 10, and amendments thereto,";

On page 16, in line 2, after "fee" by inserting "if authorized by law, as provided by section 10, and amendments thereto,"; in line 18, after "fee" by inserting "if authorized by law, as provided by section 10, and amendments thereto,";

On page 17, in line 17, by striking "the fee required by this act," and inserting "a fee if authorized by law, as provided by section 10, and amendments thereto,";

On page 19, in line 39, by striking "the fee required by this act" and inserting "a fee if authorized by law, as provided by section 10, and amendments thereto";

On page 20, in line 18, by striking "the fee required by"; in line 19, by striking "this act" and inserting "a fee if authorized by law, as provided by section 10, and amendments thereto,"; in line 34, by striking "the fee"; in line 35, by striking "required by this act" and inserting "a fee if authorized by law, as provided by section 10, and amendments thereto,";

On page 21, in line 18, by striking "the fee required"; in line 19, by striking "by this act" and inserting "a fee if authorized by law, as provided by section 10, and amendments thereto"; in line 23, by striking "the fee required by this act" and inserting "a fee if authorized by law, as provided by section 10, and amendments thereto,";

On page 30, in line 12, by striking "17-76,136,"; in line 14, by striking "56-1a605,"; in line 15, by striking "17-7506,";

On page 1, in the title, in line 8, by striking "17-76,136,"; in line 10, by striking "56-1a605,"; in line 11, by striking "17-7506,"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2298** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2298," as follows:

"Senate Substitute for HOUSE BILL NO. 2298

By Committee on Judiciary

"AN ACT concerning the uniform controlled substances act; relating to substances included in schedules I, III and IV; amending K.S.A. 2013 Supp. 65-4105, 65-4109 and 65-4111 and repealing the existing sections.";

And the substitute bill be passed.

Also, **HB 2448** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2448," as follows:

"Senate Substitute for HOUSE BILL NO. 2448

By Committee on Judiciary

"AN ACT concerning crimes, punishment and criminal procedure; relating to interference with judicial process; Kansas racketeer influenced and corrupt organization act; sentencing; probation and postrelease supervision; amending K.S.A. 2013 Supp. 21-5905, 21-6328, 21-6329, 21-6604, 21-6608 and 22-3716 and repealing the existing sections.";

And the substitute bill be passed.

HB 2588, as amended by House Committee, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2588," as follows:

"Senate Substitute for HOUSE BILL NO. 2588

By Committee on Judiciary

"AN ACT concerning children and minors; relating to the revised Kansas juvenile justice code; revised Kansas code for care of children; placement in juvenile detention facilities; permanent custodians; juvenile offenders; alternative adjudication; youth residential centers and services; risk assessment; sentencing; good time credits; amending K.S.A. 2013 Supp. 21-6607, 38-2268, 38-2360, 38-2369, 38-2370 and 38-2372 and repealing the existing sections.";

And the substitute bill be passed.

HB 2463, as amended by House Committee, be amended on page 3, in line 13, after "apprehension" by inserting ", except that the provisions of this subparagraph do not apply to any transaction between an individual and that individual's counsel necessary

to preserve that individual's right to representation, as guaranteed by section 10 of the bill of rights of the constitution of the state of Kansas and by the sixth amendment to the United States constitution"; and the bill be passed as amended.

HB 2490, as amended by House Committee, be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2013 Supp. 21-2511 is hereby amended to read as follows: 21-2511. (a) ~~On and after May 2, 1991, any person convicted as an offender pursuant to K.S.A. 22-4901, and amendments thereto, any adult arrested or charged or adjudicated as a juvenile offender because of placed in custody for or charged with the commission of any felony; a violation of the following offenses, regardless of the sentence imposed, shall be required to submit biological samples authorized by and given to the Kansas bureau of investigation in accordance with the provisions of this section:~~

(1) ~~Any felony;~~

(2) ~~subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;~~

(3) ~~a violation of K.S.A. 21-3508, prior to its repeal, or K.S.A. 2013 Supp. 21-5513, and amendments thereto, when committed in the presence of a person 16 or more years of age;~~

(4) ~~a violation of K.S.A. 21-4310, prior to its repeal, or K.S.A. 2013 Supp. 21-6412, and amendments thereto;~~

(5) ~~a violation of K.S.A. 21-3424, prior to its repeal, or K.S.A. 2013 Supp. 21-5411, and amendments thereto, when the victim is less than 18 years of age;~~

(6) ~~a violation of K.S.A. 21-3507, prior to its repeal, or K.S.A. 2013 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;~~

(7) ~~a violation of subsection (b)(1) of K.S.A. 21-3513, prior to its repeal, or subsection (b)(1)(A) of K.S.A. 2013 Supp. 21-6420, and amendments thereto, when one of the parties involved is less than 18 years of age;~~

(8) ~~a violation of K.S.A. 21-3515, prior to its repeal, or K.S.A. 2013 Supp. 21-6421, and amendments thereto, when one of the parties involved is less than 18 years of age; or~~

(9) ~~a violation of K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5505, and amendments thereto; or~~

(10) ~~including an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2013 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such offenses provided in this subsection, regardless of the sentence imposed, shall be required to submit specimens of blood or an oral or other biological sample authorized by the Kansas bureau of investigation to the Kansas bureau of investigation in accordance with the provisions of this act, if such person is:~~

(1) ~~Convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act;~~

(2) ~~ordered institutionalized as a result of being convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act; or~~

~~(3) convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in this subsection before the effective date of this act and is presently confined as a result of such conviction or adjudication in any state correctional facility or county jail or is presently serving a sentence under K.S.A. 21-4603, 21-4603d, 22-3717 or K.S.A. 2012 Supp. 38-2361, and amendments thereto.~~

~~(b) Notwithstanding any other provision of law, the Kansas bureau of investigation is authorized to obtain fingerprints and other identifiers for all persons, whether juveniles or adults, covered by required to submit a sample under the provisions of this act section.~~

~~(c) Any person required by paragraphs (a)(1) and (a)(2) to provide such specimen or sample shall be ordered by the court to have such specimen or sample collected within 10 days after sentencing or adjudication:~~

~~(1) If placed directly on probation, that person must provide such specimen or sample, at a collection site designated by the Kansas bureau of investigation. Collection of specimens shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation. Failure to cooperate with the collection of the specimens and any deliberate act by that person intended to impede, delay or stop the collection of the specimens shall be punishable as contempt of court and constitute grounds to revoke probation;~~

~~(2) if sentenced to the secretary of corrections, such specimen or sample will be obtained as soon as practical upon arrival at the correctional facility; or~~

~~(3) if a juvenile offender is placed in the custody of the commissioner of juvenile justice, in a youth residential facility or in a juvenile correctional facility, such specimen or sample will be obtained as soon as practical upon arrival.~~

Persons required to submit a sample pursuant to subsection (a) shall be required to submit such sample at the same time such person is fingerprinted pursuant to the booking procedure.

~~(d) Any person required by paragraph (a)(3) convicted as an adult and who was incarcerated on May 2, 1991, for a crime committed prior to May 2, 1991, shall be required to provide such specimen or submit a sample shall be required to provide such samples prior to final discharge or conditional release at a collection site designated by the Kansas bureau of investigation. Collection of specimens shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation.~~

~~(e) (1) On and after January 1, 2007 through June 30, 2008, any adult arrested or charged or juvenile placed in custody for or charged with the commission or attempted commission of any person felony or drug severity level 1 or 2 felony shall be required to submit such specimen or sample at the same time such person is fingerprinted pursuant to the booking procedure.~~

~~(2) On and after July 1, 2008, except as provided further, any adult arrested or charged or juvenile placed in custody for or charged with the commission or attempted commission of any felony; a violation of subsection (a)(1) of K.S.A. 21-3505; a violation of K.S.A. 21-3508; a violation of K.S.A. 21-4310; a violation of K.S.A. 21-3424, and amendments thereto, when the victim is less than 18 years of age; a violation of K.S.A. 21-3507, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of subsection (b)(1) of K.S.A. 21-3513, and amendments thereto, when one of the parties involved is less than 18 years of age; a~~

violation of K.S.A. 21-3515, and amendments thereto, when one of the parties involved is less than 18 years of age; or a violation of K.S.A. 21-3517, and amendments thereto; shall be required to submit such specimen or sample at the same time such person is fingerprinted pursuant to the booking procedure.

~~(3)(c)~~ Prior to taking such samples, the arresting, charging or custodial law enforcement or juvenile justice agency shall search the Kansas criminal history files through the Kansas criminal justice information system to determine if such person's sample is currently on file with the Kansas bureau of investigation. In the event that it cannot reasonably be established that a DNA sample for such person is on file at the Kansas bureau of investigation, the arresting, charging or custodial law enforcement or juvenile justice agency shall cause a sample to be collected. If such person's sample is on file with the Kansas bureau of investigation, the law enforcement or juvenile justice agency is shall not be required to take the sample.

~~(4)(f)(1)~~ If a court later determines that there was not probable cause for the arrest, charge or placement in custody or the charges are otherwise dismissed, and the case is not appealed, the Kansas bureau of investigation, upon petition by such person, shall expunge both the DNA sample and the profile record of such person.

~~(5)(2)~~ If a conviction against a person; who is required to submit such ~~specimen or~~ sample; is expunged or a verdict of acquittal with regard to such person is returned, the Kansas bureau of investigation shall, upon petition by such person, expunge both the DNA sample and the profile record of such person.

~~(f)~~ All persons required to register as offenders pursuant to K.S.A. 22-4901 et seq., and amendments thereto, shall be required to submit specimens of blood or an oral or other biological sample authorized by the Kansas bureau of investigation to the Kansas bureau of investigation in accordance with the provisions of this act.

~~(g)~~ The Kansas bureau of investigation shall provide all ~~specimen vials, mailing tubes, labels kits, supplies~~ and instructions necessary for the collection of blood, ~~oral or other~~ biological samples. The collection of samples shall be performed in a medically approved manner. No person ~~authorized by this section to withdraw blood, and no person~~ assisting in the collection of these samples pursuant to the provisions of this section shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices. ~~The withdrawal of blood for purposes of this act may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician including, but not limited to, an emergency medical technician-intermediate, mobile intensive care technician, advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, and amendments thereto; or a phlebotomist. The Such samples shall thereafter be forwarded to the Kansas bureau of investigation; and the bureau shall analyze the such samples to the extent allowed by funding available for this purpose.~~

~~(h)(1)~~ The DNA (deoxyribonucleic acid) records and DNA samples shall be maintained by the Kansas bureau of investigation. The Kansas bureau of investigation shall establish, implement and maintain a statewide automated DNA databank and DNA database capable of, but not limited to, searching, matching and storing DNA records. The DNA database ~~as established by this act~~ section shall be compatible with the procedures specified by the federal bureau of investigation's combined DNA index

system—(CODIS). The Kansas bureau of investigation shall participate in the ~~CODIS~~ federal bureau of investigation's combined DNA index system program by sharing data and utilizing compatible test procedures, laboratory equipment, supplies and computer software.

~~(2)~~ The DNA records obtained pursuant to this ~~aet-section~~ shall be confidential and shall be released only to authorized criminal justice agencies. The Such DNA records shall be used only for law enforcement identification purposes or to assist in the recovery or identification of human remains from disasters or for other humanitarian identification purposes, including, but not limited to, identification of missing persons.

~~(1)(3)~~ The Kansas bureau of investigation shall be the state central repository for all DNA records and DNA samples obtained pursuant to this ~~aet-section~~. No DNA records shall be accepted for admission or comparison unless obtained in substantial compliance with the provisions of this section by an accredited forensic laboratory meeting the national DNA index guidelines established by the federal bureau of investigation.

(i) (1) The Kansas bureau of investigation shall promulgate rules and regulations for:

(A) The form and manner of the collection and maintenance of DNA samples;

(B) a procedure which allows ~~the defendant~~ defendants to petition to expunge and destroy the DNA samples and profile record in the event of a dismissal of charges, expungement or acquittal at trial; and

(C) any other procedures for the operation of this ~~aet-section~~.

(2) ~~These Such rules and regulations also shall require compliance with national quality assurance standards to ensure that ~~the such~~ DNA records satisfy standards of acceptance of such records into the national DNA identification index.~~

(3) The provisions of the Kansas administrative procedure act shall apply to all actions taken ~~under the~~ pursuant to such rules and regulations ~~so promulgated~~.

~~(j)~~ The Kansas bureau of investigation is authorized to contract with third parties for the purposes of implementing this section. Any other party contracting to carry out the functions of this section shall be subject to the same restrictions and requirements of this section, insofar as applicable, as the bureau, as well as any additional restrictions or requirements imposed by the bureau.

~~(k)~~ In the event that a person's DNA sample is lost, was not properly obtained pursuant to the provisions of this section or is not adequate for any reason, the person shall provide another sample for analysis.

(l) A sample, or any evidence based upon or derived from such sample, collected by a law enforcement agency or a juvenile justice agency in substantial compliance with the provisions of this section, shall not be excluded as evidence in any criminal proceeding on the basis that such sample was not validly obtained.

(m) Any person who is subject to the requirements of this section, and who, after receiving notification of the requirement to provide a DNA specimen, knowingly refuses to provide such DNA specimen, shall be guilty of a class A nonperson misdemeanor.

(n) As used in this section:

(1) "DNA" means deoxyribonucleic acid; and

(2) "profile record" means the identifying information of the laboratory performing the examination, case numbers, laboratory personnel and the specimen identification

number related to a DNA profile.";

And by renumbering sections accordingly;

On page 7, in line 24, by striking "is" and inserting "and K.S.A. 2013 Supp. 21-2511 are";

On page 1, in the title, in line 1, after "concerning" by inserting "crimes, punishment and"; also in line 1, after "to" by inserting "DNA evidence;" in line 2, after "22-3420" by inserting "and K.S.A. 2013 Supp. 21-2511"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2555, as amended by House Committee of the Whole, be amended on page 1, in line 21, by striking "open to the"; by striking all in lines 22 and 23; in line 24, by striking "be public court records after such execution" and inserting "made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire"; by striking all in lines 25 through 34;

On page 2, by striking all in lines 1 through 19 and inserting:

"(c) Affidavits or sworn testimony in support of the probable cause requirement of this section shall be open to the public, as provided in this subsection, upon completion of the preliminary hearing and arraignment in felony matters and after arraignment in misdemeanor matters. Any request for such affidavits or testimony shall be made to the court in writing. Any requester shall also provide proper notice, in writing, to the prosecuting attorney. Prior to release of any such affidavits or testimony, the prosecuting attorney, the defense and the court shall be allowed to review the request. The court shall determine if good cause exists to either deny the request in its entirety or redact certain sections of such affidavits or testimony pursuant to the criteria specified in subsection (f) of K.S.A. 22-2502, and amendments thereto.";

On page 3, in line 37, by striking "subsection" and inserting "subsections"; also in line 37, after "(d)(2)" by inserting "and (d)(3)"; in line 38, by striking "Except as provided in subsections (e) and (f)."; in line 42, by striking "(A)"; in line 43, by striking the semicolon and inserting "."; following line 43, by inserting:

"(3) The affidavits or testimony, redacted in accordance with the criteria specified in subsection (f), shall be made available to:";

On page 4, in line 1, by striking "(B)" and inserting "(A)"; also in line 1, by striking "30 days after"; in line 2, by striking "the warrant has been" and inserting "when the warrant is"; in line 3, by striking "(C)" and inserting "(B)"; in line 4, by striking "30 days after the"; in line 5, by striking "warrant has been" and inserting "when the warrant is"; by striking all in lines 6 through 36 and inserting:

"(e) Any person may file a written request with the clerk of the court to disclose affidavits or sworn testimony in support of the probable cause requirement of this section at least 14 days after execution of the warrant using the following procedure:

(1) The clerk of the court shall provide written notice of the request to the law enforcement agency who executed the warrant and the prosecuting attorney of the county where the warrant was executed. The law enforcement agency and the prosecuting attorney shall have seven days after receiving such notice to file any objection with the court.

(2) The magistrate who signed the warrant shall review the disclosure request.

(3) If the prosecuting attorney or the law enforcement agency objects to the disclosure, the court shall allow the prosecuting attorney or the law enforcement agency

to present the reasons for such objection to the court for an in camera review.

(4) If the court finds it is more probably true than not that disclosure would violate one or more of the criteria listed in subsection (f), the court may: (A) Deny disclosure and advise the requester of such decision in writing; or (B) permit disclosure of affidavits or testimony redacted in accordance with the criteria specified in subsection (f).

(f) The court may deny disclosure of the affidavits or sworn testimony in support of the probable cause requirement of this section, or permit disclosure of redacted affidavits or testimony, if disclosure of such affidavits or testimony would:

(1) Endanger the life, jeopardize the safety, cause emotional and psychological distress or public humiliation of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(2) reveal information obtained from a court-ordered wiretap;

(3) reveal any pending or prospective law enforcement action, criminal investigation or prosecution;

(4) reveal confidential investigative techniques or procedures not known to the general public;

(5) endanger the life, physical safety or cause emotional and psychological distress or public humiliation of any person;

(6) reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense as described in article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(7) reveal the name of any minor; or

(8) reveal any personal telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information.";

Also on page 4, in line 37, by striking "(f)" and inserting "(g)";

On page 5, in line 7, by striking "(g)" and inserting "(h)"; and the bill be passed as amended.

HB 2568, as amended by House Committee, be amended on page 5, following line 22, by inserting:

"Sec. 3. K.S.A. 2013 Supp. 23-2215 is hereby amended to read as follows: 23-2215. (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes, but if any person necessary to determine the existence of a father and child relationship for all purposes has not been joined as a party, a determination of the paternity of the child shall have only the force and effect of a finding of fact necessary to determine a party's duty of support.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued, but only if any man named as the father on the birth certificate is a party to the action.

(c) Upon adjudging that a party is the parent of a minor child, the court shall make provision for support and education of the child including under article 30 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto. The court may order the payment of all or a portion of the necessary medical expenses incident to the child's birth of the child. The court may order the support and education expenses to be paid by either or both parents for the minor child. ~~When the child reaches 18 years of age, the~~

support shall terminate unless: (1) The parent or parents agree, by written agreement approved by the court, to pay support beyond that time; (2) the child reaches 18 years of age before completing the child's high school education in which case the support shall not automatically terminate, unless otherwise ordered by the court, until June 30 of the school year during which the child became 18 years of age if the child is still attending high school; or (3) the child is still a bona fide high school student after June 30 of the school year during which the child became 18 years of age, in which case the court, on motion, may order support to continue through the school year during which the child becomes 19 years of age so long as the child is a bona fide high school student and the parents jointly participated or knowingly acquiesced in the decision which delayed the child's completion of high school. The court, in extending support pursuant to subsection (c)(3), may impose such conditions as are appropriate and shall set the child support utilizing the guideline table category for 16-year through 18-year old children. Provision for payment of support and educational expenses of a child after reaching 18 years of age if still attending high school shall apply to any child subject to the jurisdiction of the court, including those whose support was ordered prior to July 1, 1992. If an agreement approved by the court prior to July 1, 1988, provides for termination of support before the date provided by subsection (c)(2), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (c)(2). If an agreement approved by the court prior to July 1, 1992, provides for termination of support before the date provided by subsection (c)(3), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (c)(3). For purposes of this section, "bona fide high school student" means a student who is enrolled in full accordance with the policy of the accredited high school in which the student is pursuing a high school diploma or a graduate equivalency diploma (GED). The judgment may require the party to provide a bond with sureties to secure payment. The court may at any time during the minority of the child modify or change the order of support, including any order issued in a title IV-D case, within three years of the date of the original order or a modification order, as required by the best interest of the child. If more than three years has passed since the date of the original order or modification order, a requirement that such order is in the best interest of the child need not be shown. The court may make a modification of support retroactive to a date at least one month after the date that the motion to modify was filed with the court. Any increase in support ordered effective prior to the date the court's judgment is filed shall not become a lien on real property pursuant to K.S.A. 60-2202, and amendments thereto.

(d) If both parents are parties to the action, the court shall enter such orders regarding for legal custody, residency and parenting time as the court considers to be in the best interest of the child under article 32 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto.

If the parties have an agreed parenting plan it shall be presumed the agreed parenting plan is in the best interest of the child. This presumption may be overcome and the court may make a different order if the court makes specific findings of fact stating why the agreed parenting plan is not in the best interest of the child. If the parties are not in agreement on a parenting plan, each party shall submit a proposed parenting plan to the court for consideration at such time before the final hearing as may be directed by the

court.

~~(e) If during the proceedings the court determines that there is probable cause to believe that the child is a child in need of care, as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of K.S.A. 2013 Supp. 38-2202, and amendments thereto, or that neither parent is fit to have residency, the court may award temporary residency of the child to a grandparent, aunt, uncle or adult sibling, or another person or agency if the court finds by written order that: (1) (A) The child is likely to sustain harm if not immediately removed from the home; (B) allowing the child to remain in home is contrary to the welfare of the child; or (C) immediate placement of the child is in the best interest of the child; and (2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety of the child. In making such a residency order, the court shall give preference, to the extent that the court finds it is in the best interests of the child, first to awarding such residency to a relative of the child by blood, marriage or adoption and second to awarding such residency to another person with whom the child has close emotional ties. The court may make temporary orders for care, support, education and visitation that it considers appropriate. Temporary residency orders are to be entered in lieu of temporary orders provided for in K.S.A. 2013 Supp. 38-2243 and 38-2244, and amendments thereto, and shall remain in effect until there is a final determination under the revised Kansas code for care of children. An award of temporary residency under this paragraph shall not terminate parental rights nor give the court the authority to consent to the adoption of the child. When the court enters orders awarding temporary residency of the child to an agency or a person other than the parent, the court shall refer a transcript of the proceedings to the county or district attorney. The county or district attorney shall file a petition as provided in K.S.A. 2013 Supp. 38-2234, and amendments thereto, and may request termination of parental rights pursuant to K.S.A. 2013 Supp. 38-2266, and amendments thereto. The costs of the proceedings shall be paid from the general fund of the county. If a final determination is made that the child is not a child in need of care, the county or district attorney shall notify the court in writing and the court, after a hearing, shall enter appropriate custody orders pursuant to this section. If the same judge presides over both proceedings, the notice is not required. Any order pursuant to the revised Kansas code for care of children shall take precedence over any similar order under this section.~~

~~(f) (e) (1) In entering an original order for support of a child under this section, the court may award an additional judgment to reimburse the expenses of the mother or any other party who made expenditures for support and education of the child from the date of birth to the date the order is entered. If the determination of paternity is based upon a presumption arising under K.S.A. 2013 Supp. 23-2208, and amendments thereto, the court shall award an additional judgment to reimburse all or part of the expenses of support and education of the child from at least the date the presumption first arose to the date the order is entered, except that no additional judgment need be awarded for amounts accrued under a previous order for the child's support.~~

~~(2) The court may consider any affirmative defenses pled and proved in making an award under this subsection.~~

~~(3) The amount of any award made under this subsection shall be determined by application of the Kansas child support guidelines. For any period occurring five years or less before or after commencement of the action, there is a rebuttable presumption~~

that such child support guidelines amount reflects the actual expenditures made on the child's behalf during that period. For any period occurring more than five years before commencement of the action, the person seeking the award has the burden of proving that the total amount requested for that period does not exceed expenditures actually made on the child's behalf during that period.

~~(g) In determining the amount to be ordered in payment and duration of such payments, a court enforcing the obligation of support shall consider all relevant facts including, but not limited to, the following:~~

- ~~(1) The needs of the child.~~
- ~~(2) The standards of living and circumstances of the parents.~~
- ~~(3) The relative financial means of the parents.~~
- ~~(4) The earning ability of the parents.~~
- ~~(5) The need and capacity of the child for education.~~
- ~~(6) The age of the child.~~
- ~~(7) The financial resources and the earning ability of the child.~~
- ~~(8) The responsibility of the parents for the support of others.~~
- ~~(9) The value of services contributed by both parents.~~
- ~~(h) The provisions of K.S.A. 2013 Supp. 23-3103, and amendments thereto, shall apply to all orders of support issued under this section.~~

~~(i) An order granting parenting time pursuant to this section may be enforced in accordance with K.S.A. 2013 Supp. 23-3401, and amendments thereto, or under the uniform child custody jurisdiction and enforcement act.;~~

And by renumbering sections accordingly;

On page 11, in line 18, before "23-2216," by inserting "23-2215,";

On page 1, in the title, in line 3, before "23-2216," by inserting "23-2215,"; and the bill be passed as amended.

HB 2613, as amended by House Committee, be amended on page 2, following line 11, by inserting:

"(d) This section shall be part of and supplemental to the uniform vital statistics act, K.S.A. 65-2401 et seq., and amendments thereto.";

Also on page 2, by striking all in lines 29 through 35 and inserting:

"(d) "Unborn child" means a living individual organism of the species homo sapiens, in utero, irrespective of the duration of the pregnancy.

(e) "Stillbirth" means the death of a child in utero after the 20th week of gestation, and which is not an induced termination of pregnancy.

(f) "Unborn child's death" means an unborn child who dies in utero, whether by stillbirth or by miscarriage.

(g) "Miscarriage" means the death of an unborn child in utero before the 20th week of gestation, and which is not an induced termination of pregnancy.";

And by relettering subsections accordingly;

Also on page 2, in line 40, after the second "body" by inserting ", including a lifeless unborn child,";

On page 3, in line 1, by striking "stillborn child or"; in line 6, before "or" by inserting ", including an unborn child's death certificate"; in line 9, before the first "the" by inserting "dead"; in line 10, before "or" by inserting ", including an unborn child's death certificate"; in line 17, after "(b)" by inserting "A stillbirth certificate or unborn child's death certificate shall not be filed for induced terminations of pregnancy required to be

reported by K.S.A. 65-445, and amendments thereto.

(c) When an unborn child's death or stillbirth occurs in an institution, the person in charge of the institution or the person's designated representative shall obtain the personal data, prepare the unborn child's death certificate or stillbirth certificate, secure the signatures required by such certificate and file the certificate with the state registrar. The physician in attendance or, in the absence of the physician, the person in charge of the institution or that person's designated representative shall certify to the facts of the unborn child's death prior to removal of such unborn child from the state.

(d) When an unborn child's death or stillbirth occurs outside an institution, the unborn child's death certificate or stillbirth certificate shall be prepared by the physician in attendance at or immediately after the unborn child's death or stillbirth.

(e) ";

And by relettering subsections accordingly;

Also on page 3, following line 38, by inserting:

"(h) For purposes of public health reporting and tracking, an unborn child's death or stillbirth at any gestational age, where the confirmation of the pregnancy was determined by a licensed health care provider, shall be reported to the secretary of health and environment.";

Also on page 3, in line 40, by striking "(f)" and inserting "(i)";

On page 1, in the title, in line 2, by striking "certificate of birth resulting in"; also in line 2, after "stillbirth" by inserting "and unborn child's death certificates"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2118** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2118," as follows:

"Senate Substitute for HOUSE BILL NO. 2118

By Committee on Natural Resources

"AN ACT concerning the nongame and endangered species conservation act; amending K.S.A. 2013 Supp. 32-988, 32-1002 and 77-415 and repealing the existing sections; also repealing K.S.A. 32-957, 32-958, 32-959, 32-960, 32-960a, 32-960b, 32-961, 32-962, 32-963, 32-1010, 32-1011, 32-1012 and 32-1033 and K.S.A. 2013 Supp. 32-1009 and 79-32,203.";

And the substitute bill be passed.

Committee on **Transportation** recommends **HB 2693** as amended by House Committee of the Whole be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2693," as follows:

"Senate Substitute for HOUSE BILL NO. 2693

By Committee on Transportation

"AN ACT concerning motor vehicles; relating to driver's licenses; commercial vehicles, skills test; examiners; amending K.S.A. 74-2015 and K.S.A. 2013 Supp. 8-2,133 and repealing the existing sections.";

And the substitute bill be passed.

Committee on **Utilities** recommends **HB 2636** be passed.

Also, **HB 2014**, as amended by House Committee, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2014," as follows:

"Senate Substitute for HOUSE BILL NO. 2014

By Committee on Utilities

"AN ACT concerning energy; repealing the renewable energy standards act; amending K.S.A. 2013 Supp. 66-104d, 66-1,184, 66-1264, 66-1269 and 66-1282 and repealing existing sections; also repealing K.S.A. 2013 Supp. 66-1256, 66-1257, 66-1258, 66-1259, 66-1260, 66-1261, 66-1262 and 66-1271.";

And the substitute bill be passed.

HB 2482, as amended by House Committee, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2482," as follows:

"Senate Substitute for HOUSE BILL NO. 2482

By Committee on Utilities

"AN ACT creating the energy efficiency investment act.";

And the substitute bill be passed.

HB 2480, as amended by House Committee, be amended on page 1, in line 7, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2487, as amended by House Committee, be amended on page 1, following line 6, by inserting:

"Section 1. K.S.A. 66-106 is hereby amended to read as follows: 66-106. (a) The state corporation commission shall have power to adopt reasonable and proper rules and regulations to govern its proceedings, including the assessment and taxation of costs on any complaint provided for in K.S.A. 66-133, and amendments thereto, and to regulate the mode and manner of all investigations, tests, audits, inspections and hearings not specifically provided for herein, except that no person desiring to be present at any investigation or hearing by the commission shall be denied admission.

(b) The state corporation commission may:

(1) Confer with officers of other states and officers of the United States on any matter pertaining to the state corporation commission's official duties; ~~and~~

(2) (A) enter into and establish fair and equitable cooperative agreements or contracts with or act as an agent or licensee for the United States, or any official, agency or instrumentality thereof, or any railroad, public utility or similar commission of another state, for the purpose of carrying out the state corporation commission's duties; (B) to that end receive and disburse any contributions, grants or other financial assistance as a result of or pursuant to such agreements or contracts; and (C) make joint investigations, hold joint hearings within or outside the state and issue joint or concurrent orders in conjunction or concurrence with such official, agency, instrumentality or commission; ~~and~~

(3) on its own, or in association with others with similar interests, intervene or otherwise participate in other state or federal proceedings on any matter the state corporation commission reasonably believes pertains to the commission's official duties. Upon conferral with the attorney general, the commission has discretion to file amicus briefs with any court within the state or federal government.

(c) The attorney general, when requested, shall give the state corporation commission or the attorney for the commission such counsel and advice as the commission or the attorney for the commission may from time to time require. It is hereby made the duty of the attorney general to aid and assist the commission and the attorney for the commission in all hearings, suits and proceedings in which the commission or attorney for the commission requests the attorney general's assistance.";

On page 2, in line 19, after "K.S.A." by inserting "66-106 and K.S.A."; also in line

19, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "utilities; relating to"; in line 2, after "the" by inserting "powers and duties thereof;"; in line 3, after "amending" by inserting "K.S.A. 66-106 and"; in line 4, by striking "section" and inserting "sections"; and the bill be passed as amended.

On motion of Senator Bruce, the Senate recessed until the sound of the gavel.

The senate met pursuant to recess with Senator Smith in the chair.

REPORT ON ENROLLED BILLS

SB 248, SB 284 reported correctly enrolled, properly signed and presented to the Governor on March 21, 2014.

SR 1798, SR 1799 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 21, 2014.

TRIBUTES

The Committee on **Organization, Calendar and Rules** authorizes the following tributes for the week of March 17-21, 2014:

Senator Bowers: congratulating Drs. Driver and Clark on receiving the 2013 Most Improved Business Award from the Minneapolis Area Chamber of Commerce, congratulating Wayne Reed on receiving the Legacy Award from the Minneapolis Area Chamber of Commerce, congratulating Jim Gillett on receiving the 2013 Bankers Association Soil Conservation Award, congratulating Art and Phyllis Wyrick on receiving the 2013 Bankers Association Soil Conservation Award, congratulating the Carlgren family on receiving the 2013 Jewell County Conservation District Grassland Award, congratulating Wayne and Joan Broeckelman on receiving the 2013 Jewell County Buffer Award;

Senator Faust-Goudeau: congratulating Ryan McFarland for participating in the Cross-Examination Debate Association National Tournament, congratulating Casey Donnell for participating in the Cross-Examination Debate Association National Tournament, congratulating Olivia Sullivan for participating in the Cross-Examination Debate Association National Tournament;

Senator Haley: congratulating Henrietta Hopkins Walker her 100th Birthday;

Senator Holland: congratulating Ethan Perrins on winning the 61st Annual Regional Spelling Bee;

Senator Kelly: congratulating Clarence and Mary Lou Irwin on their 67th Wedding Anniversary; and

Senator Tyson: recognizing Anne Emerson for organizing the Symbols of Sacrifice event.

On motion of Senator Bruce, the Senate adjourned until 10:00 a.m., Monday, March 24, 2014.

MARCH 21, 2014

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ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*
COREY CARNAHAN, *Secretary of the Senate.*

