

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on Wednesday, January 11, 2006, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Helen Pedigo, Office of Revisor of Statutes
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Patricia Biggs, Executive Director, Kansas Sentencing Commission
Kathy Damron, Damron & Associates
Randy Hearrell, Kansas Judicial Council
Rex Beasley, Deputy Attorney General, Director of Medicaid Fraud Control Unit
Jerry Goodell, Kansas Judicial Council
Pam Moses, Chief Clerk District County for 27th Judicial District

Others attending:

See attached list.

Bill Introductions

Senator Vratil introduced a bill concerning electronic access to district court records. Senator Goodwin moved, Senator Donovan seconded, to have the bill introduced as a committee bill. Motion carried.

Patricia Biggs requested the introduction of two bills. The first would extend the expiration date of K. S. A. 75-5291(a)(3). The second bill requested a statewide, mandatory, standardized risk assessment tool be used for all adult felony offenders as part of the pre-sentence investigation. Senator Bruce moved, Senator O'Connor seconded, to have both bills introduced as committee bills. Motion carried.

Kathy Damron requested a bill that would provide for a filing fee on dissolution of marriages to provide a stable funding source for the operation of the supervised child visitation exchange program. Senator Schmidt moved, seconded by Senator Umbarger, to have the bill introduced as a committee bill. Motion carried.

Randy Hearrell requested the introduction of three bills. The first clarifies the appeal procedure in K. S. A. Chapter 59. The second bill is a technical correction in Chapter 59. The third will remove legal forms from the statute book. Senator Donovan moved, Senator Bruce seconded, to introduce the bills as committee bills. Motion carried.

The hearing on **SB 342 - Obstruction of a Medicaid fraud investigation and forfeiture of proceeds was opened.**

Senator Schmidt briefed the committee on the bill and provided written testimony in favor. The bill is part of a series of bills that arose from the Interim committee this past summer. It is an attempt to slow the rate of erroneous payments within the Medicaid program and to recover funds once convicted. It expands the authority of the Attorney General's office to seek property and asset forfeiture in order to cover judgments after conviction of Medicaid fraud (Attachment 1).

Rex Beasley spoke as a proponent and requested two amendments (Attachment 2). The first in Section 1, to indicate the intended consequences for engaging in the obstruction of an investigation and in Section 2, add Medicaid fraud to the current list of conduct and offenses giving rise to forfeiture of assets which were used in committing fraud, or assets derived from proceeds obtained by fraud.

Discussion followed clarifying limits of forfeiture of property in the bankruptcy laws and distribution of recovered funds. The committee also discussed appropriation of funds for use by the Attorney General.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on January 11, 2006, in Room 123-S of the Capitol.

Chairman Vratil indicated that the intent is to treat the recovered funds the same as other funds in the state treasury.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **SB 326**.

The hearing on **SB 40 - Probate code; notice to surviving spouse; responsibility shifted from court to administrator, executor, petitioner or attorney representing such person** was opened.

Jerry Goodell appeared as a proponent and stated other probate notices are not given by the court and there are no known problems with these notices and giving such notice can be a burden for courts, especially in high volume districts. In addition, he requested a new subsection (b) be added to K.S.A. 59-2233. If the surviving spouse is the administrator, executor, petitioner or affiant, that eliminates the necessity of the surviving spouse sending notice of the elective share to themselves (Attachment 3).

Pam Moses spoke in favor of the bill, stating that the purpose of the bill is to change the responsibility for notification of the surviving spouse of their elective share rights from the court to the administrator, executor, petitioner or attorney (Attachment 4).

There being no further conferees to come before the committee, the Chairman closed the public hearing on **SB 40**.

Senator Bruce moved, Senator Schmidt seconded, to adopt the amendments recommended in the Kansas Judicial Council's balloon to **SB 40**. Motion carried.

Senator O'Connor moved, Senator Bruce seconded, to recommend **SB 40** as amended favorably for passage. Motion carried.

The meeting adjourned at 10:33 a.m. The next meeting is scheduled for January 12, 2006.