

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Vice Chairman Lance Kinzer at 3:30 P.M. on March 8, 2007 in Room 313-S of the Capitol.

All members were present except:

Jason Watkins- excused
Kevin Yoder- excused
Mike O'Neal- excused

Committee staff present:

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

Conferees appearing before the committee:

Eric Fish, National Conference on Uniform State Law
Linda Elrod, Professor, Washburn School of Law
Ron Nelson, Johnson County
Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence
Kathy Olsen, Kansas Bankers Association

The hearing on **SB 18 - uniform child abduction prevention act**, was opened.

Eric Fish, National Conference on Uniform State Law, testified that the act is a valuable tool for deterring both domestic and international child abduction. The U.S. Department of Justice reports over 200,000 instances yearly of a child being taken in violation of a custody agreement by a family member. At least 1,000 children are abducted from the U.S. and taken to a foreign country each year. The act is intended to provide courts and parties with tools to prevent an unlawful abduction from occurring in the first place. (Attachment 1)

Linda Elrod, Professor, Washburn School of Law, explained that the proposed bill provides for the following:

- guidance regarding the warning signs and risk factors of a potential child abduction, such as abandonment of a job, liquidation of assets, or obtaining travel documents
- address problems which arise by international child abduction, such as differentiating between nations that are signatories to international child abduction conventions and those that are not
- gives the court effective measures to use, such as imposition of travel restrictions

Ron Nelson, Attorney from Johnson County, practices in the area of domestic relations, where a large number of clients have conflict child-custody issues. The proposed bill addresses the issue where interstate and international child abduction by parents happen because they want to use the child as a pawn in their dispute. Studies suggested that in 1999, 53% of family abducted children were gone less than one week and 21% were gone one month or more. (Attachment 2)

Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence, expressed her concern that the act would be used by perpetrators of domestic violence to keep the protective parent from fleeing to a shelter in order to protect her and the children. However, the Uniform Law Commission has assured the group that "fleeing to escape domestic violence" is not wrongful under the act. (Attachment 3)

The hearing on **SB 18** was closed.

The hearing on **SB 183 - uniform commercial code, article 1, general provisions**, was opened.

Eric Fish, National Conference on Uniform State Law, appeared before the committee in support of the bill. He explained that it improves old Article 1 in the following ways:

- The UCC has entirely been amended or revised between 1985 and 2003. Most states have enacted these revisions and amendments. The proposed bill would bring Article 1 up-to-date with the rest of the UCC.

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- Reduces interpretation problems and opportunities for litigation.
- The courts will have more complete evidence on the meaning of contracts and the intent of the parties to them.
- General writing and signature requirements are deleted to make way for the specific provisions for the electronic records and signatures that are contained in the substantive UCC articles.
(Attachment 4)

Kathy Olsen, Kansas Bankers Association, appeared as a proponent to the bill, which reinstates current law with regard to choice of law rules. She believes that the choice of law is better because all transactions should be governed by the laws of a state where there is a reasonable relation. (Attachment 5)

The hearing on **SB 183** was closed.

The hearing on **SB 308 - uniform commercial code, article 7, revisions**, was opened.

Eric Fish, National Conference on Uniform State Law, appeared as a proponent to the bill. He explained that the proposed bill would:

- Extend the statute of fraud requirements to include electronic records and signatures by creating new definitions of “record” and “sign”. The new definitions recognize information is stored in electronic format and electronic symbols.
- It permits the conversion of electronic documents to tangible documents and vice versa.
- Would clarify that a person had “control” of a document of title for Article 7 purposes if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred. (Attachment 6)

The hearing on **SB 308** was closed.

The committee meeting adjourned. The next meeting was scheduled for March 12, 2007.