

Journal of the Senate

THIRTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 11, 2016, 8:00 a.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 29 senators present.

Senators Abrams, Baumgardner, Denning, Faust-Goudeau, Holmes, Longbine, Love, Lynn, Melcher, O'Donnell and Pilcher-Cook were excused.

Invocation by Reverend Cecil Washington, Jr.:

Lord, we got a text from You... a group text, saying we should love, honor and respect one another... 1 Corinthians 13. You also sent us one in Romans 13:9 saying we should love and honor others as much as we love ourselves. But it seems like some of us didn't get it... or we act like we didn't read it. Sometimes Your Words seem really difficult and we don't want to read them or we even delete them. Teach us to daily check our inbox to see what You have to say and help us see the difference between the life-saving value of Your messages versus the irrelevant, life wasting spam that daily bombards us. Show us the messages You want us to retrieve... to learn from, to meditate on and to put into practice. Finally, Lord, show us the Words You'd have us forward or repost to share with others. Thank You for seeing and meeting our need for Your guidance. I come to You in the precious name of Jesus, Amen.

The Pledge of Allegiance was led by President Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 508, AN ACT concerning income taxation; relating to determination of income; limiting certain modifications to business income; amending K.S.A. 2015 Supp. 79-32,117 and repealing the existing section, by Committee on Assessment and Taxation.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **HB 2447**, as amended by House Committee, be amended on page 3, following line 36, by inserting:

"Sec. 2. K.S.A. 2015 Supp. 75-5217 is hereby amended to read as follows: 75-5217. (a) At any time during release on parole, conditional release or postrelease supervision, the secretary of corrections may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release, or a notice to appear to answer to a charge of violation. Such notice shall be served personally upon the released inmate. The warrant shall authorize any law enforcement officer to arrest and deliver the released inmate to a place as provided by subsection (g). Any parole officer may

arrest such released inmate without a warrant, or may deputize any other officer with power of arrest to do so by giving such officer a written or verbal arrest and detain order setting forth that the released inmate, in the judgment of the parole officer, has violated the conditions of the inmate's release. A written arrest and detain order delivered to the official in charge of the institution or place to which the released inmate is brought for detention shall be sufficient warrant for detaining the inmate. After making an arrest the parole officer shall present to the detaining authorities a similar arrest and detain order and statement of the circumstances of violation. Pending a hearing, as provided in this section, upon any charge of violation the released inmate shall remain incarcerated in the institution or place to which the inmate is taken for detention.

(b) Upon such arrest and detention, the parole officer shall notify the secretary of corrections, or the secretary's designee, within five days and shall submit in writing a report showing in what manner the released inmate had violated the conditions of release. After such notification is given to the secretary of corrections, or upon an arrest by warrant as herein provided and the finding of probable cause pursuant to procedures established by the secretary of a violation of the released inmate's conditions of release, the secretary or the secretary's designee may cause the released inmate to be brought before the prisoner review board, its designee or designees, for a hearing on the violation charged, under such rules and regulations as the board may adopt, or may dismiss the charges that the released inmate has violated the conditions of release and order the released inmate to remain on parole, conditional release or post release supervision. A dismissal of charges may be conditioned on the released inmate agreeing to the withholding of credit for the period of time from the date of the issuance of the secretary's warrant and the offender's arrest or return to Kansas as provided by subsection (f). It is within the discretion of the board whether such hearing requires the released inmate to appear personally before the board when such inmate's violation results from a conviction for a new felony or misdemeanor. An offender under determinative sentencing whose violation does not result from a conviction of a new felony or misdemeanor may waive the right to a final revocation hearing before the board under such conditions and terms as may be prescribed by rules and regulations promulgated by the secretary of corrections. Relevant written statements made under oath shall be admitted and considered by the board, its designee or designees, along with other evidence presented at the hearing. If the violation is established to the satisfaction of the board, the board may continue or revoke the parole or conditional release, or enter such other order as the board may see fit. The revocation of release of inmates who are on a specified period of postrelease supervision shall be for a six-month period of confinement from the date of the revocation hearing before the board or the effective date of waiver of such hearing by the offender pursuant to rules and regulations promulgated by the board, if the violation does not result from a conviction for a new felony or misdemeanor. Such period of confinement may be reduced by not more than three months based on the inmate's conduct, work and program participation during the incarceration period. The reduction in the incarceration period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(c) If the violation results from a conviction for a new felony, upon revocation, the inmate shall serve a period of confinement, to be determined by the prisoner review board, which shall not exceed the remaining balance of the period of postrelease supervision, even if the new conviction did not result in the imposition of a new term of

imprisonment.

(d) If the violation results from a conviction for a new misdemeanor, upon revocation, the inmate shall serve a period of confinement, to be determined by the prisoner review board, which shall not exceed the remaining balance of the period of postrelease supervision.

(e) In the event the released inmate reaches conditional release date as provided by K.S.A. 22-3718, and amendments thereto, after a finding of probable cause, pursuant to procedures established by the secretary of corrections of a violation of the released inmate's conditions of release, but prior to a hearing before the prisoner review board, the secretary of corrections shall be authorized to detain the inmate until the hearing by the board. The secretary shall then enforce the order issued by the board.

(f) If the secretary of corrections issues a warrant for the arrest of a released inmate for violation of any of the conditions of release and the released inmate is subsequently arrested in the state of Kansas, either pursuant to the warrant issued by the secretary of corrections or for any other reason, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest, except as provided by subsection (i).

If a released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state, and the released inmate has been authorized as a condition of such inmate's release to reside in or travel to the state in which the released inmate was arrested, and the released inmate has not absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant to the date of the released inmate's arrest, except as provided by subsection (i). If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of the conditions of release is subsequently arrested in another state for reasons other than the secretary's warrant and the released inmate does not have authorization to be in the other state or if authorized to be in the other state has been charged by the secretary with having absconded from supervision, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the warrant by the secretary to the date the released inmate is first available to be returned to the state of Kansas, except as provided by subsection (i). If the released inmate for whom a warrant has been issued by the secretary of corrections for violation of a condition of release is subsequently arrested in another state pursuant only to the secretary's warrant, the released inmate's sentence shall not be credited with the period of time from the date of the issuance of the secretary's warrant to the date of the released inmate's arrest, regardless of whether the released inmate's presence in the other state was authorized or the released inmate had absconded from supervision, except as provided by subsection (i).

The secretary may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release and may direct that all reasonable means to serve the warrant and detain such released inmate be employed including, but not limited to, notifying the federal bureau of investigation of such violation and issuance of warrant and requesting from the federal bureau of investigation any pertinent information it may possess concerning the whereabouts of the released inmate.

(g) Law enforcement officers shall execute warrants issued by the secretary of corrections, and shall deliver the inmate named in the warrant to the jail used by the

county where the inmate is arrested unless some other place is designated by the secretary, in the same manner as for the execution of any arrest warrant.

(h) For the purposes of this section, an inmate or released inmate is an individual under the supervision of the secretary of corrections, including, but not limited to, an individual on parole, conditional release, postrelease supervision, probation granted by another state or an individual supervised under any interstate compact in accordance with the provisions of the uniform act for out-of-state parolee supervision, K.S.A. 22-4101 et seq., and amendments thereto.

(i) Time not credited to the released inmate's sentence pursuant to subsection (f) shall be credited if the violation charges are dismissed without an agreement providing otherwise or the violations are not established to the satisfaction of the board.;

Also on page 3, in line 37, by striking "is" and inserting "and 75-5217 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the second semicolon by inserting "delinquent time lost on parole;"; in line 3, after "21-6821" by inserting "and 75-5217"; also in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Also, **HB 2462**, as amended by House Committee, be amended on page 1, in line 25, by striking "\$2,000" and inserting "\$1,250"; in line 28, by striking "\$2,000" and inserting "\$1,250"; in line 31, by striking "\$2,000" and inserting "\$1,250"; in line 36, by striking "\$250" and inserting "\$50"; also in line 36, by striking "\$2,000" and inserting "\$1,250";

On page 2, in line 1, after "has" by inserting ", within five years immediately preceding commission of the crime, excluding any period of imprisonment,"; and the bill be passed as amended.

HB 2501, as amended by House Committee of the Whole, be amended on page 2, in line 21, by striking "or permitting the dissemination of"; in line 23, by striking "in a state of undress" and inserting "engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten or intimidate such identifiable person,"; and the bill be passed as amended.

HB 2545, as amended by House Committee of the Whole, be amended on page 2, in line 5, after "family" by inserting ", as defined in K.S.A. 74-7335, and amendments thereto"; in line 37, by striking "or"; in line 41, after "information" by inserting "; or

(J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the arrest warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public";

On page 6, in line 7, by striking "or"; in line 11, after "information" by inserting "; or

(J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the search warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public";

On page 7, in line 7, after "family" by inserting ", as defined in K.S.A. 74-7335, and

amendments thereto"; and the bill be passed as amended.

The Committee on **Judiciary** recommends **HB 2112**, as amended by House Committee, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2112," as follows:

"Senate Substitute for HOUSE BILL NO. 2112

By Committee on Judiciary

"AN ACT concerning children and families; enacting the host families act; relating to temporary care for children.";

And the substitute bill be passed.

Also, **SB 439** be amended on page 1, in line 7, by striking all after "court"; by striking all in lines 8 and 9; in line 10, by striking all before "shall" and inserting ", other high crimes and misdemeanors"; in line 12, by striking "treason;"; in line 13, by striking all before the semicolon and inserting "offenses which bear on the justice's fitness for the duties such justice holds, which such justice is bound by oath or affirmation to perform"; in line 23, by striking "or judge"; in line 31, by striking all after "impeachment"; by striking all in line 32; in line 33, by striking all before the period;

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 1, following line 33, by inserting:

"Sec. 2. For the purposes of sections 27 and 28 of article 2 of the constitution of the state of Kansas, in an impeachment proceeding against a constitutional officer of the executive department, other high crimes and misdemeanors shall include, but not be limited to, any one or more of the following:

- (a) Commission of offenses which bear on the officer's fitness for the duties such officer holds, which such officer is bound by oath or affirmation to perform;
- (b) commission of other indictable criminal offenses;
- (c) commission of a breach of the public trust;
- (d) failure to perform adequately the duties of office;
- (e) attempting to subvert fundamental laws and introduce arbitrary power;
- (f) attempting to usurp the power of the legislative or judicial branch of government;
- (g) exhibiting discourteous conduct toward persons with whom the officer deals in an official capacity;
- (h) exhibiting wanton or reckless conduct;
- (i) exhibiting personal misbehavior or misconduct;
- (j) failure to properly supervise, administer or discipline executive branch personnel; or
- (k) such other actions which in accordance with section 28 of article 2 of the constitution of the state of Kansas may constitute grounds for impeachment.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, by striking "relating to grounds for impeachment of" and inserting "concerning impeachment; relating to other high crimes and misdemeanors;"; in line 2, by striking "certain judges of the district court" and inserting "constitutional officers of the executive department"; and the bill be passed as amended.

Sub HB 2151 be amended on page 3, in line 39, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Sub HB 2289 be amended on page 1, in line 25, before "(D)" by inserting "and"; in line 26, by striking all after "officer"; by striking all in lines 27 through 30; in line 31, by striking all before the period;

On page 2, in line 5, before "(D)" by inserting "and"; in line 6, by striking all after "breath"; by striking all in lines 7 through 11; in line 12, by striking "seizures";

On page 3, in line 7, by striking "are"; by striking all in lines 8 and 9; in line 10, by striking all before the semicolon and inserting "cannot be decided at the administrative hearing, but may be preserved and raised in a petition for review of the hearing as provided in K.S.A. 8-1020(o) and (p), and amendments thereto";

On page 8, in line 40, by striking all after the period; by striking all in line 41; in line 42, by striking all before the period and inserting "Notwithstanding K.S.A. 77-617, and amendments thereto, the court: (1) May also consider and determine any constitutional issue, including, but not limited to, the lawfulness of the law enforcement encounter, even if such issue was not raised before the agency; and (2) shall also consider and determine any constitutional issue, including, but not limited to, the lawfulness of the law enforcement encounter, if such issue is raised by the petitioner in the petition for review, even if such issue was not raised before the agency";

On page 9, in line 1, by striking all before the second "the"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 437** be amended on page 1, in line 5, by striking the quotation mark; in line 6, by striking the quotation mark; in line 7, after "(b)" by inserting "As used in this section:

(1) Procedures, food, medication or nutrition are "life-sustaining" if, in reasonable medical judgment, the withdrawal or withholding of such procedures, food, medication or nutrition would result in or hasten the death of the patient.

(2) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(c)";

Also on page 1, in line 10, by striking all after "life-sustaining"; in line 11, after "treatment" by inserting ", including any policies related to healthcare deemed futile, inappropriate or non-beneficial,"; following line 21, by inserting:

"(f) Permission previously given under subsection (d) or (e) may be revoked in writing by the legal guardian or either parent of the patient. If the parents are unable to agree to withhold life-sustaining procedures, food, medication, nutrition or resuscitation, either parent may petition a district court of the county in which the patient resides or in which the patient is receiving treatment to resolve the conflict based on a presumption in favor of the provision of life-sustaining procedures, food, medication, nutrition and resuscitation, unless there is clear and convincing evidence that such provision is contrary to the best interests of the child. Upon receiving such a petition, the district court shall issue an order fixing the date, time and place of the trial on the petition and order that notice of the trial shall be given to such persons as the court shall direct. The trial may be held forthwith and without notice if the court determines that holding a trial forthwith and without notice is in the best interests of the petitioner. In the court's discretion, a trial may be conducted in a courtroom, a treatment

facility or at some other suitable place. Pending the final outcome of such proceedings, including any appeals, no permission under subsection (d) or (e) may be implemented.

(g) Subject to subsection (h), the requirements for written permission in subsections (d) and (e) shall not apply if providing resuscitation or food, medication or nutrition would be:

(1) Futile because, in reasonable medical judgment, withholding resuscitation or food, medication or nutrition would not cause or hasten the death of the patient; or

(2) medically inappropriate because, in reasonable medical judgment, providing resuscitation or food, medication or nutrition would create a greater risk of causing or hastening the death of the patient than withholding resuscitation or food, medication or nutrition.

(h) Subsection (g) may be implemented, so long as a reasonably diligent effort has been made to contact at least one parent or legal guardian who, if contacted, has been informed of the planned withholding of food, medication or nutrition or do-not-resuscitate order, and the healthcare provider has cooperated with the parent or legal guardian's efforts to obtain other medical opinions or a transfer of the patient to a provider selected by the parent or guardian, if so requested.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 1, in the title, in line 1, by striking "dealing with" and inserting "relating to"; in line 2, by striking "of certain persons" and inserting "from patients under 18 years of age; permission requirements and exceptions; dispute resolution"; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

SB 423 reported correctly enrolled, properly signed and presented to the Governor on March 11, 2016.

SR 1773, SR 1774, SR 1775, SR 1776 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 11, 2016.

TRIBUTES

The Committee on **Organization, Calendar and Rules** authorizes the following tributes for the week of March 7 through March 11 2016:

Senator Arpke: congratulating Nikkin Chamberlain on being named a 2016 Master Teacher;

Senator Bowers: congratulating Brennan Eilert on receiving the 2016 Student Council Advisor of the Year Award, congratulating Caroline Scoville on receiving the 2016 Outstanding Training Officer of the Year Award, congratulating Richard and Brenda Peterson on receiving the 2016 Community Leadership Award, congratulating Jack and Kathie Crispin on receiving the 2016 Chamber Member of the Year Award, congratulating Kathy Coleman on receiving the 2016 Service Director Award;

Senator Francisco: recognizing Jazmyne McNair on being named the 2016 Boys and Girls Club's Youth of the Year;

Senator Hawk: congratulating Cooper Lohman on receiving the Prudential Spirit of Community Award;

Senator Love: recognizing Raistlin Welker on achieving the rank of Eagle Scout;

Senator Pyle: congratulating Ethan McPherson on receiving the Prudential Spirit of Community Award, recognizing Emma Brase on receiving the Girl Scout Gold Award, recognizing Breana Brooks on receiving the Girl Scout Gold Award, recognizing Elisha Wilcock on receiving the Girl Scout Gold Award, recognizing Madison Williams on receiving the Girl Scout Gold Award; and

Senator Tyson: recognizing the City of Fort Scott and Fort Scott residents for their support of wounded veterans.

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

