

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson John Barker at 3:30 pm on Tuesday, February 02, 2016, 112-N of the Capitol.

All members were present except:

- Representative Janice Pauls – Excused
- Representative Blaine Finch – Excused
- Representative James Todd – Excused
- Representative Randy Powell – Excused

Committee staff present:

- Robert Gallimore, Legislative Research Department
- Jason Thompson, Office of Revisor of Statutes
- Jenna Seematter, Office of Revisor of Statutes
- Lauren Douglass, Legislative Research Department
- Connie Bahner, Kansas Legislative Committee Assistant

Conferees appearing before the Committee:

- Senator Mary Pilcher Cook
- Phil Cosby, American Family Association of Kansas and Missouri
- Suzanne Wickerd
- Thomas Witt, Equality Kansas

Others in attendance:

[See Attached List](#)

Chairperson Barker stated that the Revisor was handing out a substitute from the Judicial Council on **SB159** ([Attachment 1](#)). He requested that the Committee review this prior to the meeting on Thursday.

Bill introductions

Chairperson Barker called for bill introductions. There were none.

Hearing on: SB56 — Removing affirmative defense to promotion to minors of material harmful to minors for public, private or parochial schools.

Chairperson Barker opened the hearing on **SB56**.

Jason Thompson, Revisor, gave an overview of the bill. Representative Annie Kuether had a question.

Chairperson Barker recognized Senator Mary Pilcher Cook as a proponent of **SB56** ([Attachment 2](#)). Questions were asked by Representatives John Carmichael, Jim Ward, Craig McPherson, Dennis Highberger, Annie Kuether, Mark Kahrs, and Steven Becker.

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Chairperson Barker recognized Phil Cosby, on behalf of the American Family Action of Kansas and Missouri as a proponent ([Attachment 3](#)). Questions were asked by Representatives Jim Ward and John Carmichael.

Suzanne Wickerd was then recognized by Chairperson Barker as a proponent of **SB56** ([Attachment 4](#)).

Additional questions were asked of proponent Phil Cosby by Representatives John Rubin, Charles Macheers, and Jim Ward.

Chairperson Barker called upon Thomas Witt of Equality Kansas who testified as an opponent to **SB56** ([Attachment 5](#)). Questions were asked by Representatives Becky Hutchins and Mark Kahrs.

There were no further opponents appearing to testify. Chairperson Barker noted that there was written testimony in opposition to **SB56** from Nancy McFarlin ([Attachment 6](#)), Representative John Carmichael ([Attachment 7](#)), David Schauner of the KNEA ([Attachment 8](#)), Katie Morris ([Attachment 9](#)), Natasha Wong ([Attachment 10](#)), Dr. Micah Kubic, ACLU Kansas ([Attachment 11](#)), Jean Goodman ([Attachment 12](#)), Elise Higgins, Planned Parenthood Advocates of Kansas and Mid-Missouri ([Attachment 13](#)), Brandi Fisher, MainStream Coalition ([Attachment 14](#)), Denise Sultz, Kansas PTA ([Attachment 15](#)), and Charles Merrifield, Ph.D. ([Attachment 16](#)).

Chairperson Barker closed the hearing on **SB56** after noting that there were no further conferees.

Briefing by staff on: HB2147 — Amending the protection from abuse act and protection from stalking act to establish the protection from stalking and sexual assault act.

Chairperson Barker opened the staff briefing on **HB2147**. Jason Thompson, Revisor, gave a briefing to the committee on the bill and the amendments made therein. There were no questions by the committee.

Chairperson Barker advised the committee to review this bill because it may come up again next week. If they have any amendments they want to propose, they should contact the Revisor about them.

Possible action on bills previously heard

SB17 - Judicial Council membership

Jason Thompson, Revisor, gave an overview of the bill to the committee.

Chairperson Barker asked what the committee's pleasure is on **SB17**.

*Representative Charles Macheers moved to recommend **SB17** favorably for passage, seconded by Representative John Whitmer.*

Representative Craig McPherson advised he has an amendment to **SB17** ([Attachment 17](#)). This

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amendment changes the appointment process for members of the Judicial Council so that it will consist of legislative representatives, gubernatorial representatives, and court representatives.

At Chairperson Barker's request, Jason Thompson, Revisor, explained the details of the amendment. Questions were asked by Representatives John Carmichael, Steve Alford, Mark Kahrs, and John Whitmer.

Representative Craig McPherson moved to amend **SB17**, seconded by Representative Kyle Hoffman.

Chairperson Barker called for discussion. Representative John Carmichael stated that he opposes this amendment because it does something different than the bill. The bill puts additional legislators on the Judicial Council, which makes good sense. It also makes good sense for the Supreme Court to appoint people to the Judicial Council who are knowledgeable lawyers, not political cronies or friends of the Governor. This amendment, however, turns the Judicial Council into political appointees of the Governor.

Representative Annie Kuether also opposes the amendment because it politicizes an organization that should not be politicized.

Representative Dennis Highberger sees no need for the amendment, and he agrees it politicizes another agency of the government.

Chairperson Barker stated that he first served on the Judicial Council in 1989, and it is probably the least political group you will ever meet. They are appointed based upon their expertise in the law in certain areas.

Representative Craig McPherson closed on his motion to amend **SB17**. A vote was taken, and the Chairperson stated that the ayes had it. Division was called by Representative John Carmichael. A vote was taken by a showing of hands. There were eleven in favor of the motion to amend and seven opposed. The amendment to **SB17** passed.

Representative Jim Ward moved to amend **SB17** by adding the ranking minority members of both the Senate and the House Judiciary Committees to the Judicial Council, seconded by Representative Dennis Highberger.

Representatives John Whitmer, Mark Kahrs, Dennis Highberger, and Kyle Hoffman had questions and comments about the proposed amendment.

Chairperson Barker asked if there was further discussion. Seeing none, he advised Representative Jim Ward he could close on the motion.

Representative Jim Ward closed by stating that the amendment does not politicize the bill. It diversifies

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the voices around the table, which produces better work product.

A vote was taken, and Chairperson Barker stated that the nos prevailed. The amendment to **SB17** failed.

Vice-Chairperson Charles Macheers moved to recommend **SB17, as amended**, favorably for passage. seconded by Representative Mark Kahrs. A vote was taken, and it was the opinion of the Chair that the ayes had it. Division was called by Representative John Carmichael. A vote was taken by a show of hands. There were thirteen votes in favor and five votes against the passage of **SB17, as amended**. **SB17, as amended**, was favorably passed.

There being no further business to come before the committee, Chairperson Barker adjourned the meeting at 4:57 p.m.