

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson John Barker at 3:30 pm on Thursday, February 18, 2016, 112-N of the Capitol.

All members were present except:

Representative Mark Kahrs – 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:

Representative Craig McPherson

Doug Edwards

Rev. Dr. Eric Laverentz

Rev. Kirk Johnston

Rev. Dr. Kent Mathews

Tuck Duncan, Episcopal Diocese of Kansas

David Seely, Great Plains Annual Conference of the United Methodist Church

Bishop Scott Jones, Great Plains Annual Conference of the United Methodist Church

James Gale, Synod of Mid-America

Charles Spencer, Heartland Presbytery

Chad Herring, John Knox Kirk Church

Frank Denning, Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and
Kansas Peace Officers Association

Others in attendance:

[See Attached List](#)

Vice-Chairperson Charles Macheers opened the meeting. He advised that Chairperson Barker would be here soon, but he was in a meeting.

Representative James Todd made a motion to approve the minutes of the meetings of January 26, January 28, February 1, February 2, February 3, February 4, and February 10, 2016, seconded by Representative Leslie Osterman. The minutes were approved.

Hearing on: HB2161 — Relating to disputes involving church congregations.

Vice-Chairperson Charles Macheers opened the hearing on **HB2161**. An overview was given by Jason Thompson, Revisor. A question was asked by Representative Annie Kuether.

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MINUTES of the Committee on Judiciary at 3:30 pm on Thursday, February 18, 2016 in Room 112-N of the Capitol.

Chairperson John Barker entered the room.

Chairperson Barker recognized Representative Craig McPherson as a proponent of **HB2161** ([Attachment 1](#)).

Chairperson Barker then recognized Doug Edwards as a proponent ([Attachment 2](#)).

Rev. Dr. Eric Laverentz provided proponent testimony on **HB2161** ([Attachment 3](#)).

Rev. Kirk Johnston testified as a proponent on **HB2161** ([Attachment 4](#)).

Proponent testimony on **HB2161** was given by Rev. Dr. Kent Mathews ([Attachment 5](#)).

Chairperson Barker then allowed questioning of the proponents by the Committee. Questions were asked by Representative John Whitmer to Representative Craig McPherson, and Representatives John Hoffman, Dennis Highberger, and Steve Becker directed questions to Rev. Dr. Laverentz.

Chairperson Barker then recognized Bishop Scott Jones, of the Great Plains Annual Conference of the United Methodist Church, as an opponent to **HB2161** ([Attachment 6](#)).

David Seeley testified for the Great Plains Annual Conference of the United Methodist Church as an opponent of **HB2161** ([Attachment 7](#)).

James Gale testified on behalf of the Synod of Mid-America as an opponent to **HB2161** ([Attachment 8](#)).

Chairperson Barker recognized Charles Spencer, Heartland Presbytery, as an opponent ([Attachment 9](#)).

Tuck Duncan, testified on behalf of the Episcopal Diocese of Kansas as an opponent of **HB2161** ([Attachment 10](#)).

Chad Herring, Pastor of the Kirk of Kansas City, testified as an opponent to the bill ([Attachment 11](#)).

Chairperson Barker allowed questioning by the Committee of the opponent conferees. Questions were asked by Representatives Leslie Osterman of Bishop Scott Jones; John Rubin of Tuck Duncan and Representative Craig McPherson; John Whitmer and James Todd of David Seeley; and Randy Powell of Bishop Scott Jones and James Gale.

Chairperson Barker noted that there was written opponent testimony from Charlie Smith, of Salina First ([Attachment 12](#)), and Landon Whitsitt, of the Synod of Mid-America ([Attachment 13](#)).

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The hearing on **HB2161** was closed by Chairperson Barker.

Hearing on: HB2678 — Requiring the attorney general to investigate and prosecute cases relating to the death of a person caused by a law enforcement officer.

Chairperson Barker opened the hearing on **HB2678**. An overview was given by Jason Thompson, Revisor. A question was asked by Representative John Whitmer.

Chairperson Barker noted that there are no proponents in attendance.

Chairperson Barker recognized Frank Denning, Johnson County Sheriff, who testified as an opponent to **HB2678** on behalf of the Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and the Kansas Peace Officers Association ([Attachment 14](#)).

Chairperson Barker noted that there is written opponent testimony from Michael Fleming, Chief of Police of Fairway Police Department ([Attachment 15](#)); Chris McMullin, of the Kansas County and District Attorneys Association ([Attachment 16](#)); and Tom Hongslo of the Lenexa Police Department ([Attachment 17](#)). In addition, there is written neutral testimony by Attorney General Derek Schmidt ([Attachment 18](#)).

Chairperson Barker closed the hearing on **HB2678**.

Possible action on bills previously heard

HB2696 - Amending jurisdiction of university of Kansas medical center police officers

*Vice-Chairperson Charles Macheers moved that the Committee recommend **HB2696** favorable for passage, seconded by Representative Blake Carpenter.*

There was no discussion.

*Vice-Chairperson Macheers closed on his motion, a vote was taken, and **HB2696** was favorably passed.*

HB2652 - Increasing the number of district court judge nominees sent to the governor by district judicial nominating commission

*Representative John Rubin moved to recommend **HB2652** favorable for passage, seconded by Representative Blaine Finch.*

Representatives John Carmichael and John Rubin expressed their opposition to **HB2652**.

Chairperson Barker called for a vote and stated that the ayes carried. Division was called by Representative John Carmichael. A vote was taken by a show of hands. There were 15 votes in favor of

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passing **HB2652** and six votes opposing passage. **HB2652** favorably passed.

Representatives John Carmichael, Dennis Highberger, and Jim Ward voted against **HB2652**.

SB128 - An act concerning the Kansas open records act; relating to municipal judges; city attorneys

Representative John Rubin moved that the Committee report **House Substitute for SB128** favorable for passage, seconded by Vice-Chairperson Charles Macheers.

Chairperson Barker advised the Committee that **SB128** is a shell. He wants to put the contents of **HB2652** into this shell and pass it out as a substitute for **SB128**.

Jason Thompson, Revisor, explained that **SB128** originally contained the open records amendment regarding municipal judges and city attorneys, which became part of another bill in conference last year which became law.

Representative Dennis Highberger said that he will vote against this bill either way, but recommends that this be done by emergency action instead of putting the language into a shell for purposes of transparency. Representative Jim Ward explained the process. Chairperson Barker said that he is going to choose to handle it by putting the language into a shell.

Representative John Rubin moved to amend **House Substitute for SB128** by removing all of its contents and adding in the contents of **HB2652**, seconded by Representative Erin Davis.

A vote was taken, and the Chair stated the ayes had it. Representative John Carmichael called division. There were sixteen votes in favor of the amendment, and five no votes. The amendment was adopted.

Representatives John Carmichael, Dennis Highberger, and Jim Ward voted no.

Representative John Rubin moved to pass **House Substitute for SB128**, seconded by Representative Erin Davis.

Representative John Carmichael stated that he opposes this bill because he doesn't think it's a good idea.

A vote was taken, and the Chair stated the ayes had it. Division was called by Representative John Carmichael. There were sixteen votes in favor of **House Substitute for SB128**, and five no votes. **House Substitute for SB128** passed.

Representative John Carmichael voted against the passage of **House Substitute for SB128**.

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HB2502 - Amending court procedures in motion to attack sentence regarding time limitations and findings of manifest injustice

Chairperson Barker called for the Committee's pleasure on **HB2502**.

*Representative Blaine Finch moved to recommend **HB2502** favorably for passage, seconded by Representative Janice Pauls.*

Representative Blaine Finch advised he has an amendment ([Attachment 19](#)). The amendment adds the federal standard for actual innocence. This harmonizes the Kansas law with the federal law. It gives any defendant who has a colorable claim of actual innocence the opportunity to return to court on a 1507 motion after the one-year time period if evidence has changed.

*Representative Blaine Finch moved to amend **HB2502** as stated above, seconded by Representative Janice Pauls.*

There was discussion between Representatives James Todd and Blaine Finch, and Jason Thompson, Revisor.

Representative Finch moved to amend the amendment, seconded by Representative Janice Pauls, in Section (2)(A), to read, "For purposes of finding manifest injustice under this section, the court's inquiry shall be limited to determining why the prisoner failed to file the motion within the one-year time limitation or whether the prisoner makes a colorable claim of actual innocence. . ."

Discussion was held between Representatives John Rubin, Dennis Highberger, Blaine Finch, Leslie Osterman, and John Carmichael, and Jason Thompson, Revisor.

*Representative Blaine Finch closed on his motion to amend **HB2502**. A vote was taken, and the amendment was adopted.*

*Representative Jim Ward moved to amend **HB2502** by increasing the time within which an action under this section can be brought from one year to two years, seconded by Representative John Carmichael.*

Representative Blaine Finch opposes the amendment.

Representative John Carmichael disagrees with Representative Finch and supports the amendment.

Representative Ward closed on his amendment. A vote was taken, and the amendment failed to pass.

Chairperson Barker called for discussion on the bill. Representative John Carmichael opposes **HB2502** due to the one-year time limitation.

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Vice-Chairperson Charles Macheers commented.

*Representative Finch closed on his motion to pass **HB2502, as amended**. A vote was taken and **HB2502, as amended**, was favorably passed.*

There being no further business, the meeting was adjourned at 5:15 p.m.