

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on February 20, 2003, in Room 123-S of the Capitol.

All members were present.

Committee staff present: Mike Heim, Kansas Legislative Research Department
Lisa Montgomery, Office of the Revisor of Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Tom Whitaker, Kansas Motor Carriers Association
Marc Goodman, Lyon County Attorney
Bill Kennedy, Riley County Attorney
Ann Swegle, Deputy District Attorney-Administration, Sedgwick County (written only)
Ernest H. Richardson, Kiowa County Attorney (written only)
Judy A. Moler, General Counsel/Legislative Services Director, Kansas Association of Counties (written only)

Others attending: see attached list

SB 93 - Traffic diversion agreements

Chairman Vratil opened the hearing on **SB 93**. Conferee Whitaker testified as neutral on behalf of the Kansas Motor Carriers Association. He explained that **SB 93** would standardize requirements for traffic diversion agreements, and that the Federal Motor Carrier Safety Administration issued a final rule that prohibited diversion agreements for disqualifying traffic convictions under the uniform commercial drivers' license act in September 2002. (Attachment 1)

Marc Goodman, Lyon County Attorney, spoke as an opponent of **SB 93**, and provided the Committee with a handout showing items purchased from diversion funds for 2001 through 2003. In addition, he said these funds were used for staff professional training and office operating supplies and equipment. He stated that the diversion funds should be left with the county in order to reduce the need for budget increase requests, and to provide needed support for law enforcement and the community. He concluded that the bill as written, where diversion fees must equal fines, is arbitrary towards lower income persons. (Attachment 2)

Committee discussion followed. Chairman Vratil stated that most counties are following the law and counties will be given a year to correct those not in compliance. He said a post audit may be requested as a follow-up on this subject after a year to make sure the law is being complied with. He stated that it was his intention to not work **SB 93** this year and hold it over till possibly next year in order to give the County and District Attorneys a year to deal with this situation themselves.

Bill Kennedy, Riley County Attorney, testified in opposition of the proposed legislation. He said he thought the amended bill was too restrictive and gave examples of same.

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on February 20, 2003 in Room 123-S of the Capitol.

Ann Swegle, Deputy District Attorney-Administration, submitted written testimony on behalf of the District Attorney, Eighteenth Judicial District, Sedgwick County, in opposition to **SB 93**. (Attachment 3)

Ernest Richardson, Kiowa County Attorney, submitted written testimony in opposition to the proposed bill. (Attachment 4)

Judy Moler submitted written testimony in opposition to **SB 93** on behalf of the Kansas Association of Counties. (Attachment 5)

Chairman Vratil closed the hearing on **SB 93**.

SB 187 - Allows Kansas City, Kansas community college forensic laboratory to charge fees for forensic services

Chairman Vratil opened the hearing on **SB 187**. Christopher Schneider, Assistant Wyandotte County District Attorney, spoke in favor of **SB 187** concerning fees to be taxed against criminal defendants who plead or are found guilty in cases where forensic testing is done by the forensic science laboratory at Kansas City Kansas Community College (KCKCC). He said that in December, most testing was again transferred to the KBI laboratory because the use of the KCKCC laboratory was halted due to the cutting of demand transfers to local government. He stated that this bill gives the criminal justice system in Wyandotte Count a means of recovering its cost of providing the drug testing necessary to prosecuting drug offenses. (Attachment 6)

Committee discussion followed concerning different uses of the two forensic laboratories located at the KCKCC wherein one is operated by the KBI. The Chairman stated that a balloon amendment will be requested for **SB 187** on the fund usage.

Chairman Vratil closed the hearing on **SB 187**.

Final Action on:

SB 61 - Enacting the uniform athlete agents act

Chairman Vratil reviewed **SB 61**, and said it would have a positive fiscal impact of approximately \$5,000 per year.

Committee discussion concerned the reduction of the cost for registration fee.

Senator Oleen moved to amend SB 61 by setting the registration fee at \$500 annually, seconded by Senator Allen, and the motion carried.

The Chairman directed the Committee's attention to two amendments suggested by the Kansas Trial Lawyers Association, and he explained the amendments. (Attachment 7) The first amendment is on page 8 of the bill, new Section 15, line 35, in which they request the striking of the words "and reasonable attorney fees". He said without amendment the bill allows the judge to have discretion as to whether or not to award attorney fees. No motion was made covering the first suggested amendment by KTLA.

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on February 20, 2003 in Room 123-S of the Capitol.

The Chairman explained the second amendment on page 9, lines 5 and 6, where it says any liability of the athlete agent or student-athlete "is several not joint". KTLA requests that the phrase "is several not joint" be stricken because it does not address Kansas law, and replace it with the phrase "shall be subject to K.S.A. 60-258a". He clarified what this change in the terminology meant in conjunction with the referenced statute.

After brief discussion and questions, Senator Oleen moved to amend SB 61 by striking the phrase "is several not joint" and replace it with the phrase "shall be subject to K.S.A. 60-258a". The motion was seconded by Senator Gilstrap, and the motion carried.

Senator Donovan moved to amend the bill and pass it out favorably, seconded by Senator Goodwin, and the motion carried.

The meeting was adjourned at 10:30 a.m. The next scheduled meeting is February 21, 2003.