

Journal of the Senate

THIRTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 6, 2018, 2:30 p.m.

The Senate was called to order by Vice President Jeff Longbine.

The roll was called with 39 senators present.

Senator Pettey was excused.

Invocation by Reverend Cecil T. Washington:

Heavenly Father, in Genesis 1:26-27, the book of beginnings, You created this world and it's wealth of resources. Then in Your image, You created us with gifts and abilities, to manage those resources.

Please Lord, remind us continuously that along with the responsibility comes accountability. We're accountable to those we serve, but our utmost accountability is in service to You. Let that which You give value to, be reflected in what we prioritize.

In Mark 12:31, You said that no other commandment has greater priority than Love for You and Love for our neighbors. And, we cannot be absolved or pardoned from either one. You have made it clear, that next to You what You treasure, is people. People over programs; people over property. people are Your priority!

So, Lord, while we're here in time and space, and while we're blessed with the ability to serve, guide the decisions we make. Direct us in our choices, that they demonstrate a greater love for You and an impartial love for our neighbors.

And when the day comes for final accountability, we want to hear twelve words from You, "Well done, My good and faithful servant. Come, from labor to reward!"

In the Name of the Creator; In the Name of the One Who sustains us; In the Name of the Lord Jesus, it is in gratefulness that I come. Amen

The Pledge of Allegiance was led by Vice President Longbine.

POINT OF PERSONAL PRIVILEGE

Senator Faust-Goudeau rose on a Point of Personal Privilege to recognize SPEEA Union Members from Wichita, KS. Introduced were Matthew Cannon, Mark Gayer, Earl and Ponolar Washington.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Public Health and Welfare: **SB 436**.

Ways and Means: **Sub HB 2332, Sub HB 2359**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Hilderbrand and Tyson introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1773—

A RESOLUTION congratulating and commending the members of the Fort Scott High School debate team for their performance in the class 4A state debate tournament.

WHEREAS, The Fort Scott High School debate team traveled to Coffeyville, Kansas, for the 4A State Debate Tournament on January 12 and 13; and

WHEREAS, The team was represented in the four-speaker division by the regional championship team of Darby Toth, Rebekah Sweyko, Joe Adams and Isabella Provence, with alternates Kaden Kiwan and Ashtyn Dowell. The team took fourth place to KC Piper, Bishop Miege and Louisburg by one win; and

WHEREAS, In the two-speaker division, the team took four pairs, the maximum number allowed for a school. In order to qualify, the teams earned a win-loss record of 50% or better over four tournaments above the novice level. Fort Scott was represented by the teams of Madison Toth and Mark Adams; Zoe Self and Elizabeth Ngatia; Brooklyn Lyons and Dalton Womeldorff; and Tayton Majors and Sara Al-Shawish; and

WHEREAS, Sixty teams participated in the tournament and all four Fort Scott teams broke to double octofinals. In the double octofinal round, Madison Toth and Mark Adams lost to Nickerson, while Brooklyn Lyons and Dalton Womeldorff lost to Louisburg. Tayton Majors and Sara Al-Shawish made it to the quarterfinals and ended up fourth after losing to Topeka Hayden. The team of Zoe Self, a first-year debater, and Elizabeth Ngatia, a second-year debater, lost in the finals to Wichita Collegiate and brought home the second-place trophy; and

WHEREAS, The Fort Scott High School debate team has been state champion or state runner-up in four of the last five years and is coached by Amber Toth, with assistant coaches Travis Toth and Sarah Bahr: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Fort Scott High School debate team and their coaches for their outstanding performance in the class 4A state debate tournament; and

Be it further resolved: That the Secretary of the Senate shall send enrolled copies of this resolution to Senators Hilderbrand and Tyson, and 18 enrolled copies to Amber Toth.

On emergency motion of Senator Hilderbrand **SR 1773** was adopted unanimously.

The senate honored the students with a standing ovation.

COMMITTEE OF THE WHOLE

On motion of Senator Denning, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Goddard in the chair.

On motion of Senator Goddard the following report was adopted:

HB 2502 be passed.

HB 2470 be amended by motion of Senator Estes; on page 3, in line 41, by striking "statute book" and inserting "Kansas register"

HB 2470 be further amended by motion of Senator McGinn; on page 3, following line 38, by inserting:

"Sec. 2. K.S.A. 2017 Supp. 41-104 is hereby amended to read as follows: 41-104. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, except that nothing contained in this act shall prevent:

(a) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A. 41-407, and amendments thereto, shall be applicable to all persons;

(b) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker, the maker's family, guests and judges at a contest or competition of such beverages, provided, the maker receives no compensation for producing such beverages or for allowing the consumption thereof;

(c) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

(d) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

(e) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

(f) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

(g) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following: (1) The consumer must be at least 21 years of age; (2) the consumer must purchase the wine while physically present on the premises of the wine manufacturer; (3) the wine must be for the consumer's personal consumption and not for resale; and (4) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary;

(h) the serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto; or

(i) the serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event

sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance.

(j) For purposes of subsection (b), ~~the term:~~

(1) "Guest" means a natural person who is known to the host and receives a personal invitation to an event conducted by the host. The term "guest" shall not mean a natural person who receives an invitation to an event conducted by the host when such invitation has been made available to the general public.

(2) "Judge" means a person who receives an invitation to an event conducted by the host when such invitation has been made available to the general public. The director may adopt reasonable rules and regulations governing contests or competitions held pursuant to subsection (b) when invitations to the contest or competition to participate as a judge are made available to the general public."

Also on page 3, in line 39, after "Supp." by inserting "41-104 and"; also in line 39, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the second semicolon by inserting "homebrew competitions;"; in line 2, after "Supp." by inserting "41-104 and"; also in line 3, by striking "section" and inserting "sections"; and **HB 2470** be passed as amended amended.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2042**, as amended by House Committee of the Whole, be amended on page 3, by striking all in lines 3 through 43;

By striking all on pages 4 through 12;

On page 13, by striking all in lines 1 through 38; in line 39, by striking "2016" and inserting "2017"; also in line 39, by striking "21-6302, 21-6302,"; also in line 39, by striking the last comma; in line 40, by striking "75-7c04," and inserting "and"; also in line 40, by striking "and 75-7c20 and 75-7c20";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking "relating to eligibility for a license;"; in line 4, by striking all after the semicolon; by striking line 5; in line 6, by striking "21-6302, 21-6302,"; in line 7, by striking ", 75-7c04., 75-7c04" and inserting "and"; also in line 7, by striking "75-7c20 and"; and the bill be passed as amended.

Also, **HB 2145**, as amended by House Committee of the Whole, be amended on page 1, in line 9, by striking the comma and inserting "or"; also in line 9, by striking "or throwing star"; in line 12, after the comma by inserting "throwing star,";

On page 4, in line 21, after "(i)" by inserting "(1) Subsection (a)(4) shall not apply to or affect any person in possession of a device or attachment designed, used or intended for use in suppressing the report of any firearm, if such device or attachment satisfies the description of a Kansas-made firearm accessory as set forth in K.S.A. 2017 Supp. 50-1204, and amendments thereto.

(2) The provisions of this subsection shall apply to any violation of subsection (a) (4) that occurred on or after April 25, 2013.

(j)";

On page 5, in line 13, by striking "(k)" and inserting "(l)"; in line 14, by striking "(k)" and inserting "(l)";

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

On page 6, in line 7, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 2, after the semicolon by inserting "exempting certain suppressors;"; and the bill be passed as amended.

HB 2498 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Financial Institutions and Insurance** recommends **HB 2469**, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Judiciary** recommends **HB 2454**, as amended by House Committee, be amended on page 4, following line 37, by inserting:

"Sec. 3. K.S.A. 2017 Supp. 38-2391 is hereby amended to read as follows: 38-2391. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2017 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2017 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2017 Supp. 38-2368, and amendments thereto, the court may impose one or more of the sentencing alternatives under K.S.A. 2017 Supp. 38-2361, and amendments thereto, for a period of time pursuant to this section and K.S.A. 2017 Supp. 38-2369, and amendments thereto. The period of time ordered by the court shall not exceed the overall case length limit.

(b) Except as provided in subsection (c), the overall case length limit shall be calculated based on the adjudicated offense and the results of a risk and needs assessment, as follows:

(1) Offenders adjudicated for a misdemeanor may remain under the jurisdiction of the court for up to 12 months;

(2) low-risk and moderate-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 15 months; and

(3) high-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 18 months.

(c) There shall be no overall case length limit for a juvenile adjudicated for a felony which, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(d) When a juvenile is adjudicated for multiple counts, the maximum overall case length shall be calculated based on the most severe adjudicated count or any other adjudicated count at the court's discretion. The court shall not run multiple adjudicated counts consecutively.

(e) When the juvenile is adjudicated for multiple cases simultaneously, the court shall run those cases concurrently.

(f) Upon expiration of the overall case length limit as defined in subsection (b), the court's jurisdiction terminates and shall not be extended.

(g) (1) For the purposes of placing juvenile offenders on probation pursuant to K.S.A. 2017 Supp. 38-2361, and amendments thereto, the court shall establish a specific term of probation as specified in this subsection based on the most serious adjudicated count in combination with the results of a risk and needs assessment, as

follows, except that the term of probation shall not exceed the overall case length limit:

(A) Low-risk and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony may be placed on probation for a term up to six months;

(B) high-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony may be placed on probation for a term up to nine months; and

(C) high-risk offenders adjudicated for a felony may be placed on probation for a term up to 12 months.

(2) The court may extend the term of probation if a juvenile needs time to complete an evidence-based program as determined to be necessary based on the results of a validated risk and needs assessment. The court may also extend the term of probation for good cause shown for one month for low-risk offenders, three months for moderate-risk offenders and six months for high-risk offenders. Prior to extension of the initial probationary term, the court shall find and enter into the written record the criteria permitting extension of probation. Extensions of probation shall only be granted incrementally and shall not exceed the overall case length limit. When the court extends the term of probation for a juvenile offender, the court services officer or community correctional services officer responsible for monitoring such juvenile offender shall record the reason given for extending probation. Court services officers shall report such records to the office of judicial administration, and community correctional services officers shall report such records to the department of corrections. The office of judicial administration and the department of corrections shall report such recorded data to the Kansas juvenile justice oversight committee on a quarterly basis.

(3) The probation term limits do not apply to those offenders adjudicated for an offense which, if committed by an adult, would constitute an off-grid crime, rape as defined in K.S.A. 2017 Supp. 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as defined in K.S.A. 2017 Supp. 21-5504(b)(3), and amendments thereto, or murder in the second degree as defined in K.S.A. 2017 Supp. 21-5403, and amendments thereto. Such offenders may be placed on probation for a term consistent with the overall case length limit.

(4) The probation term limits and overall case length limits provided in this section shall be tolled during any time that the offender has absconded from supervision while on probation, and the time on such limits shall not start to run again until the offender is located and brought back to the jurisdiction.

(h) For the purpose of placing juvenile offenders in detention pursuant to K.S.A. 2017 Supp. 38-2361 and 38-2369, and amendments thereto, the court shall establish a specific term of detention. The term of detention shall not exceed the overall case length limit or the cumulative detention limit. Cumulative detention use shall be limited to a maximum of 45 days over the course of the juvenile offender's case, except that there shall be no limit on cumulative detention for juvenile offenders adjudicated for a felony which, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(i) The provisions of this section shall apply upon disposition or 15 days after adjudication, whichever is sooner, unless the juvenile fails to appear for such juvenile's dispositional hearing. If a juvenile fails to appear at such juvenile's dispositional hearing, the probation term limits and overall case length limits provided in this section shall not apply until the juvenile is brought before the court for disposition in such

juvenile's case.

(j) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

Sec. 4. K.S.A. 2017 Supp. 75-52,161 is hereby amended to read as follows: 75-52,161. (a) There is hereby established the Kansas juvenile justice oversight committee for the purpose of overseeing the implementation of reform measures intended to improve the state's juvenile justice system.

(b) The Kansas juvenile justice oversight committee shall be composed of 21 members including the following individuals:

- (1) The governor or the governor's designee;
- (2) one member of the house of representatives appointed by the speaker of the house of representatives;
- (3) one member of the house of representatives appointed by the minority leader of the house of representatives;
- (4) one member of the senate appointed by the president of the senate;
- (5) one member of the senate appointed by the minority leader of the senate;
- (6) the secretary of corrections or the secretary's designee;
- (7) the secretary for children and families or the secretary's designee;
- (8) the commissioner of education or the commissioner's designee;
- (9) the deputy secretary of juvenile services at the department of corrections or the deputy's designee;
- (10) the director of community-based services at the department of corrections, or the director's designee;
- (11) two district court judges appointed by the chief justice of the supreme court;
- (12) one chief court services officer appointed by the chief justice of the supreme court;
- (13) one member of the office of judicial administration appointed by the chief justice of the supreme court;
- (14) one juvenile defense attorney appointed by the chief justice of the supreme court;
- (15) one juvenile crime victim advocate appointed by the governor;
- (16) one member from a local law enforcement agency appointed by the attorney general;
- (17) one attorney from a prosecuting attorney's office appointed by the attorney general;
- (18) one member from a community corrections agency appointed by the governor;
- (19) one youth member of the Kansas advisory group on juvenile justice and delinquency prevention appointed by the chair of the Kansas advisory group on juvenile justice and delinquency prevention; and
- (20) one director of a juvenile detention facility appointed by the attorney general.

(c) The committee shall be appointed by September 1, 2016, and shall meet within 60 days after appointment and at least quarterly thereafter, upon notice by the chair. The committee shall select a chairperson and vice-chairperson, and 11 members shall be considered a quorum.

(d) The committee shall perform the following duties:

- (1) Guide and evaluate the implementation of the changes in law relating to juvenile justice reform;

- (2) define performance measures and recidivism;
- (3) approve a plan developed by court services and the department of corrections instituting a uniform process for collecting and reviewing performance measures and recidivism, costs and outcomes of programs;
- (4) consider utilizing the Kansas criminal justice information system for data collection and analyses;
- (5) ensure system integration and accountability;
- (6) monitor the fidelity of implementation efforts to programs and training efforts;
- (7) ~~evaluate~~ monitor any state expenditures that have been avoided by reductions in the number of youth placed in out-of-home placements to recommend to the governor and the legislature reinvestment of funds into:
 - (A) Evidence-based practices and programs in the community pursuant to K.S.A. 2017 Supp. 38-2302, and amendments thereto, for use by intake and assessment services, immediate intervention, probation and conditional release;
 - (B) training on evidence-based practices for juvenile justice system staff, including, but not limited to, training in cognitive behavioral therapies, family-centered therapies, substance abuse, sex offender therapy and other services that address a juvenile's risks and needs; and
 - (C) monitor the plan from the department of corrections for the prioritization of funds pursuant to K.S.A. 2017 Supp. 75-52,164(d), and amendments thereto;
- (8) continue to review any additional topics relating to the continued improvement of the juvenile justice system, including:
 - (A) The confidentiality of juvenile records;
 - (B) the reduction of the financial burden placed on families involved in the juvenile justice system;
 - (C) juvenile due process rights, including, but not limited to, the development of rights to a speedy trial and preliminary hearings;
 - (D) the improvement of conditions of confinement for juveniles;
 - (E) the removal from the home of children in need of care for non-abuse or neglect, truancy, running away or additional child behavior problems when there is no court finding of parental abuse or neglect; and
 - (F) the requirement for youth residential facilities to maintain sight and sound separation between children in need of care that have an open juvenile offender case and children in need of care that do not have an open juvenile offender case;
- (9) adhere to the goals of the juvenile justice code as provided in K.S.A. 2017 Supp. 38-2301, and amendments thereto;
- (10) analyze and investigate gaps in the juvenile justice system and explore alternatives to out-of-home placement of juvenile offenders in youth residential facilities;
- (11) identify evidence-based training models, needs and resources and make appropriate recommendations;
- (12) study and create a plan to address the disparate treatment and availability of resources for juveniles with mental health needs in the juvenile justice system; and
- (13) review portions of juvenile justice reform that require the department of corrections and the office of judicial administration to cooperate and make recommendations when there is not consensus between the two agencies.
 - (e) The committee shall issue an annual report to the governor, the president of the

senate, the speaker of the house of representatives and the chief justice of the supreme court on or before November 30 each year starting in 2017. Such report shall include:

(1) An assessment of the progress made in implementation of juvenile justice reform efforts;

(2) a summary of the committee's efforts in fulfilling its duties as set forth in this section;

(3) an analysis of the recidivism data obtained by the committee pursuant to this section;

(4) a summary of the averted costs ~~calculated by the committee determined~~ pursuant to this section and a recommendation for any reinvestment of the averted costs to fund services or programs to expand Kansas' continuum of alternatives for juveniles who would otherwise be placed in out-of-home placements;

(5) an analysis of detention risk-assessment data to determine if any disparate impacts resulted at any stage of the juvenile justice system based on race, sex, national origin or economic status;

(6) recommendations for continued improvements to the juvenile justice system;

(7) data pertaining to the completion of training on evidence-based practices in juvenile justice, including, but not limited to, the number of judges, district and county attorneys and appointed defense attorneys, that participated in training; and

(8) data received from the office of judicial administration and the department of corrections, pursuant to K.S.A. 2017 Supp. 38-2391, and amendments thereto, pertaining to extensions of probation for juvenile offenders and an analysis of such data to identify how probation extensions are being used and conclusions regarding the effectiveness of such extensions.

(f) After initial appointment, members appointed to this committee by the governor, the president of the senate, the speaker of the house of representatives or the chief justice of the supreme court pursuant to subsection (b), shall serve for a term of two years and shall be eligible for reappointment to such position. All members appointed to the committee shall serve until a successor has been duly appointed.

(g) The staff of the Kansas department of corrections shall provide such assistance as may be requested by the committee. To facilitate the organization of the meetings of the committee, the Kansas department of corrections shall provide administrative assistance.";

Also on page 4, in line 38, by striking "and" and inserting a comma; also in line 38, after "38-2360" by inserting ", 38-2391 and 75-52,161";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "hearing" by inserting "; overall case length limits; absconders; Kansas juvenile justice oversight committee"; in line 3, by striking the first "and" and inserting a comma; also in line 3, after "38-2360" by inserting ", 38-2391 and 75-52,161"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 428** be passed.

On motion of Senator Denning, the Senate adjourned until 2:30 p.m., Wednesday, March 7, 2018.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

