

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:37 a.m. on February 27, 2001 in Room 123-S of the Capitol.

All members were present except: Senator O'Connor (excused)
Senator Oleen (excused)
Senator Gilstrap (excused)

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Randy Hearrell, Kansas Judicial Council (KJC)
Rebecca Wempe, Security Benefit Life Insurance Company (SBLIC)
Judge Marla Luckert, KJC
Jane Rhys, Kansas Council Developmental Disabilities (KCDD)
Paula Sue Salazar, Crime Victims Compensation Board
Laura Howard, Assistant Secretary of Health Care Policy, SRS
Jim Germer, Kansas Advocacy and Protective Services (KAPS)
Elizabeth Adams, National Alliance on Mental Illness, (NAMI)

Others attending: see attached list

Minutes of the February 19th and 20th meetings were approved on a motion by Senator Adkins, seconded by Senator Haley. Carried.

HB 2082—concerning nonprobate transfer on death; re: nontestamentary nature

Conferee Hearrell testified in support of **HB 2082**. He presented a brief history of the bill (**2000 SB 485**) as it was studied by the KJC at the request of the 2000 House Judiciary Committee and he discussed KJC's work with SBLIC to resolve problems in the bill and to meet SBLIC's needs by clearly stating that certain contractual arrangements are nontestamentary in nature. (attachment 1)

Conferee Wempe testified in support of **HB 2082**. She briefly discussed financial services offered by SBLIC and defined and discussed the purpose of the bill as: "a modified version of Section 101 of the Uniform Nonprobate Transfers on Death Act...which would provide that a variety of contractual arrangements, including beneficiary designations in individual retirement accounts, be regarded as nontestamentary in nature." (attachment 2)

HB 2084—concerning criminal procedure; re: competency to stand trial

Conferee Luckert testified in support of **HB 2084**. She discussed the issue of dealing with individuals who allegedly commit crimes but are incompetent to stand trial and not likely to become competent due to mental retardation or organic brain disease. She stated that these individuals cannot be involuntarily committed under the mental illness code because these disorders are excluded from the definition of "mentally ill person subject to involuntary commitment for care and treatment." This bill would amend the Criminal Procedure Code expanding the definition of mentally ill persons and would remedy the problem. (attachment 3)

Conferee Rhys testified in opposition to **HB 2084**. She discussed the following concerns: lack of expertise by psychiatric hospital staff to deal persons who have conditions unrelated to mental illness; increased costs of providing community based services to people with disabilities; and unfair treatment of persons depending upon the circumstances that resulted in the filing of the petition. She recommended an interim committee study this issue and that involuntary commitment proceedings should only be used in severe crime cases. (attachment 4)

The Chair recessed the hearing to conduct a confirmation hearing on the reappointment of Paula S. Salazar to the Crime Victims Compensation Board. Conferee Salazar answered inquiries as they were addressed to her by Committee Members.

The Chair resumed the hearing on **HB 2084**.

Conferee Howard testified in opposition to **HB 2084**. She reviewed current civil and criminal law covering the issue of an alleged criminal's incompetency to stand trial due to mental retardation, organic brain disease, etc. and discussed the following concerns: the bill is not limited to certain types of crimes; no treatment or services provided in psychiatric hospitals specific to the needs of certain disabled persons; increased "use" of state hospitals as "placements" for persons who fall through the cracks of other systems; and questionable constitutionality of the bill. ([attachment 5](#)) Discussion followed relating to public safety issues, victims rights, and recommended solutions.

Conferee Germer testified in opposition to **HB 2084**. He recommended an interim committee study concerns surrounding this issue for the following reasons: information available that indicates individuals with mental retardation (MR) are usually competent to stand trial; recommended use of diversion and Individual Justice Plans (IJP); need to study actual incidence rates; constitutionality of the bill; lack of appropriate services to non-mentally ill persons; questionable cost and efficacy of treatment; procedural disparities between the bill and civil commitment; and the inappropriate use of appointed guardians. ([attachment 6](#)) Following brief discussion the conferee agreed to provide Committee with a representative sample of and IJP.

Conferee Adams testified in opposition to **HB 2084**. She reviewed the written testimony of the Chair of the National Alliance for the Mentally Ill of Kansas, Dr. Stephen Feinstein, discussing how the bill would: negate mental health reform; violate people's liberty; require costly specialized state hospital treatment units; and drain limited resources. She further discussed the formation of a task force and alternatives it should consider. ([attachment 7](#))

At the Chair's request Conferee Luckert responded to the opponents testimony on **HB 2084**. She agreed with opponents that there are gaps in the law that need programmatic solutions. At the Chair's request she stated she would provide Committee with a written response to Dr. Feinstein's written testimony.

Written testimony was submitted in opposition to **HB 2084** by: Sharon Huffman, KDHR; ([attachment 8](#)) Ellen Piekalkiewicz, CMHC; ([attachment 9](#)) Dan Hermes, KADSPA; ([attachment 10](#)) Kathy Lobb, SACK; ([attachment 11](#)) and Mike Oxford, ILRC. ([attachment 12](#))

The Chair informed the remaining scheduled conferees and anyone else who wished to present testimony on **HB 2084** that they could do so tomorrow if they so chose or could present written testimony.

The meeting adjourned at 10:32 a.m. The next meeting is February 28, 2001.