

Approved: 3/31/09  
Date

## MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on March 12, 2009, in Room 143-N of the Capitol.

All members were present except:

Representative Bob Brookens- excused  
Representative Raj Goyle- excused  
Representative Jason Watkins- excused  
Representative Kevin Yoder- excused

Committee staff present:

Melissa Doebelin, Office of the Revisor of Statutes  
Matt Sterling, Office of the Revisor of Statutes  
Jill Wolters, Office of the Revisor of Statutes  
Athena Andaya, Kansas Legislative Research Department  
Jerry Donaldson, Kansas Legislative Research Department  
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Thomas R. Stanton, Kansas County and District Attorneys Association  
Kathy Porter, Executive Assistant to the Judicial Association  
Roger Werholtz, Secretary-Department of Corrections  
Jeff Cowger, Deputy General Counsel-Juvenile Justice Authority  
Ray Dalton, Deputy Secretary of Disability and Behavioral Health Services  
Chuck Simmons, Deputy Secretary-Department of Corrections

Others attending:

See attached list.

The hearing on **SB 68 - Docket fees; prosecuting attorneys' training fund** was opened.

Thomas R. Stanton, President, Kansas County and District Attorneys Association (KCDAA) appeared as a proponent of this bill. He explained that currently a portion of the docket fee paid in certain cases is placed into a prosecutor's training fund pursuant to K.S.A. 20-362 and K.S.A. 28-172a for the training of prosecutors throughout the State of Kansas. The elected prosecutor in each county may use the funds available from that docket fee for continuing legal education of the attorneys in his or her office. Members of the KCDAA assign a portion of those funds to the training corporation affiliated with the KCDAA to provide training for prosecutors across the State. The KCDAA presents this training via two conferences per year. The pooling of these funds allows for the high quality education for Kansas prosecutors; centralization of training allows for consistent, state-specific education of issues of interest to all Kansas prosecutors, including newly enacted legislation. Since 1987, the docket fee paid to the prosecutor's training fund has been one dollar per case. The cost of providing the training has risen significantly in the years since and the amount of training funds available through the one dollar docket fee is now insufficient to keep up with the cost. This bill will increase the one dollar to two dollars per case. This would double the amount of training funds available. The additional dollar would be added to the court costs of those convicted of violating the law and therefore not increase any current tax from any source. (Attachment 1)

Kathy Porter, Executive Assistant to the Judicial Association appeared as an opponent to the bill as written. She explained as the bill was originally drafted, the additional dollar increase was taken "off the top" of the current amount paid for each specified docket fee and the docket fee itself was not increased and would have had the effect of short-changing every fund specified in K.S.A. 2008 Sup-367, and attached supporting documentation. She urged the Committee to retain the Senate floor amendment so that the PATF is not enriched to the detriment of the other funds, including the State General Fund. In addition she presented a balloon amendment to make this bill effective upon publication in the statute book on July 1, rather than upon publication in the Kansas Register. She further provided information that addresses the issue if docket fees are appropriate funding for a majority of the Funds. She also offered a suggestion of another source of revenue for the funding of PATF under K.S.A. 22-2902. (Attachment 2)

The hearing was closed on **SB 68**.

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The hearing on **SB 61 - Prison-made goods act; additional authorization to contract for certain work projects** was opened.

Roger Werholtz, Secretary-Department of Corrections spoke as a proponent to this bill. He explained this bill would allow the secretary to contract with private landlords to repair their rental property damaged by tenants under the department's release supervision. Allowing inmate work crews to repair property that was damaged by released offenders will provide much needed incentives for landlords to rent to offenders and also allow the inmate to use skills that could help them enter the workforce. (Attachment 3)

Ashley Jones, Local Initiatives Support Corporation (LISC), provided written testimony in support of the bill. (Attachment 4)

There were no opponents.

The hearing on **SB 61** was closed.

The hearing on **SB 95 - Trafficking in contraband in a correctional institution or treatment care facility** was opened.

Jeff Cowger, Deputy General Counsel-Juvenile Justice Authority appeared as a proponent. He explained contraband in correctional institutions, which includes drugs, weapons, and other items, creates a dangerous environment for officers and residents alike. Currently K.S.A. 21-3826 provides that it is a Level 5 nonperson felony to, introduce or attempt to introduce, into or upon, the grounds of a juvenile correctional facility, firearms, ammunition, explosives or certain controlled substances. Traffic in all other items of contraband is a Level 6 nonperson felony. JJA seeks this bill to provide that traffic in contraband, as defined by rules and regulations of the commissioner, by an employee of a juvenile correctional facility would be a Level 5 nonperson felony. This change would bring juvenile correctional facility employees in line with adult correctional facility employees. (Attachment 5)

Ray Dalton, Deputy Secretary of Disability and Behavioral Health Services spoke as a proponent and supports the intent of this bill that will enhance and support patient and staff safety and security. He further explained why it is important to make a distinction between a correctional institution and a care and treatment facility. This bill then allows for the Secretary of Corrections to determine what contraband is for each facility because the nature of medical treatment facilities is much different than in correctional facilities. (Attachment 6)

Chuck Simmons, Deputy Secretary -Department of Corrections appeared in support of the bill as proposed by the attached balloon. The proposed amendment was provided to their department by the National Rifle Association. He explained that **SB 95** as amended by the Senate excludes facility parking lots from the facility contraband statute and would not include the introduction of drugs, cell phones, tobacco and other items of contraband left outside of a secured vehicle in a facility parking lot. Parking lots are locations conducive to the delivery of contraband. Excluding parking lots from the coverage of the facility contraband statute for all items of contraband would adversely impact the overall security of correctional facilities. The Departments urges amendment of this bill in conformity with the NRA's proposal. (Attachment 7)

There were no opponents.

The hearing on **SB 95** was closed.

### **SB 85 - Secretary of State; return of filings.**

Representative Pauls made the motion to report SB85 favorably for passage. Representative King seconded the motion.

Representative Pauls made a motion to amend the bill to correct the striking of the word "certified" in a previous amendment by the Senate Judiciary Committee. The Secretary of State testified many of their customers rely on the certification and requested the certification be added back into the bill. The amendment also includes some technical changes to accommodate enhanced changes from "original signed instrument" to "electronic" type of wording. The amendment will also make the effective date July 1, 2010 in order to

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allow time to complete design and implementation of a new filing process.

Representative Kuethers seconded the motion. (Attachment 8)

Motion carried.

Representative Pauls made the motion to pass **SB 85** as amended. Representative Kuether seconded the motion. Motion passed as amended.

**SB 156 - Close corporations; increasing the limit on the number of stockholders in a close corporation.**

Representative Whitham made the motion to report **SB 156** Be Passed and Placed on Consent Calendar.

Representative Talia seconded the motion. Motion carried.

**HB 2082 - Musical performing groups; advertising; restrictions.**

Representative Pauls made the motion to report **HB 2082** favorably for passage. Representative Ward seconded the motion.

Representative Pauls made the substitute motion to amend the bill, identified as Balloon 1. (Attachment 9)

This balloon provides the following:

- 1) Section 1 adds “This act shall be part of and supplemental to the Kansas Consumer Protection Act”
- 2) Section 4c removes “of not less than \$5000 nor more than \$15,000 per violation” and adds “as provided in subsection (a) of K.S.A. 50-636, and amendments thereto”.
- 3) Section 5 adds “It shall be an affirmative defense to a violation of this act if the person described in Section 3, and amendments thereto, has a written contract with the performing or recording group, that states that:  
(a) The performing group is an authorized registrant pursuant to subsection (a) of Section 3, and amendments thereto; or (b) at least one member of the performing group was a member of the recording group pursuant to subsection (b) of Section 3, and amendments thereto.

Representative Ward seconded the motion. Motion carried.

Representative Pauls made the motion to report **HB 2082** favorably for passage as amended.

Representative Ward seconded. Motion carried.

**SB 66 - Change of venue in care and treatment cases; transmittal of documents.**

Melissa Doeblin, Staff Revisor gave an overview of the bill.

Representative Ward made the motion to report **SB 66** favorably for passage. Representative King seconded the motion.

Representative Ward made a substitute motion to amend the bill to unstrike lines 27 thru 31 and give the option to either fax, send electronic copy and option to mail. Representative King seconded the motion. Motion failed.

Representative Pauls made a motion to amend the bill to read “ Upon request of the receiving district court or upon an order of the district transferring venue, the transferring district court shall send to the receiving district court the entire original file of the case by mail”. Representative Colloton seconded the motion. Motion carried.

Representative Whitham made the motion to report **SB 66** favorably for passage as amended.

Representative Colloton seconded. Motion carried.

**SB 159 - Enforcement of tobacco settlement.**

Representative King made the motion to report **SB 159** favorably for passage. Representative Colloton seconded the motion.

Representative King made a substitute motion to amend the bill to accept changes requested by the Attorney

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General, as identified in Balloon 1. (Attachment 10)

Representative Colloton seconded the motion. Motion carried.

Representative Whitham made the motion to report **SB 159** favorably for passage as amended. Representative Kuether seconded the motion. Motion carried.

The next meeting is scheduled for March 16, 2009.

The meeting was adjourned at 4:40 p.m.