

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on February 20, 2002 in Room 313-S of the Capitol.

All members were present except:

Representative Judy Morrison - Excused  
Representative Dean Newton - Excused

Committee staff present:

Jerry Ann Donaldson, Department of Legislative Research  
Jill Wolters, Department of Revisor of Statutes  
Sherman Parks, Department of Revisor of Statutes  
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Kathy Olsen, Kansas Bankers Association  
Matthew Goddard, Heartland Community Bankers Association  
Doug Smith, Kansas Credit Attorneys Association

Hearings on **HB 2771 - civil procedure; garnishment; use of fax and e-mail for services of process**, were opened.

Kathy Olsen, Kansas Bankers Association, explained that the proposed bill would require the garnishee to appoint an e-mail address or fax number that all services of process must be directed too. (Attachment 1)

Matthew Goddard, Heartland Community Bankers Association, appeared in support of the bill. So far the fax services has been smooth for HCBA members largely due to the attorneys calling before they fax the garnishment so the garnishee will know it's coming. (Attachment 2)

Doug Smith, Kansas Credit Attorneys Association, suggested an amendment that would add on page 3, line 19 "In addition to other methods listed in this section, the". The proposed amendment was part of the Senate Bill which passed the Senate last year. (Attachment 3)

Hearings on **HB 2771** were closed.

**HB 2771 - civil procedure; garnishment; use of fax and e-mail for services of process**

Representative Shriver made the motion to amend on page 3, line 19 (g) "In addition to other methods listed in this section, the". Representative Lloyd seconded the motion. The motion carried.

Representative Long made the motion to report HB 2771 favorably for passage as amended. Representative Dillmore seconded the motion. Representative Divita expressed her concern with there not being a notice when first class mail is sent. The motion carried.

**HB 2769 - abatement of common nuisances; adding felonies committed by gang members to the list**

Representative Loyd made the motion to report HB 2769 favorably for passage. Representative Lloyd seconded the motion. Representative Pauls was concerned about forfeiture of homes if gang related activities happens there. Representative Loyd responded that the judge in the case would give notice to the landlord to terminate the lease. The motion carried.

**HB 2772 - included in court costs is a fee for forensic services provided by Sedgwick County regional forensic science center**

Representative Dillmore made the motion to report HB 2772 favorably for passage. Representative Howell seconded the motion.

Representative Patterson made a substitute motion to include Johnson County Sheriff's laboratory. Representative Long seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on February 20, 2002 in Room 313-S of the Capitol.

Representative Dillmore made the motion to report **HB 2772** favorably for passage, as amended. Representative Howell seconded the motion. The motion carried.

**HB 2366 - common law marriages; parties must be 18 years of age or older, or have parental or judicial consent.**

Representative Crow made the motion to add in section B “that Kansas shall not recognize a common law contract between two parties of the opposite sex if either is under the age of 18.” Representative Ruff seconded the motion. The motion carried.

Representative Long made the motion to report **HB 2366** favorably for passage, as amended. Representative Swenson seconded the motion.

Representative Klein made the substitute motion to amend the previous motion to strike “opposite sex”. Representative Swenson seconded the motion. The motion carried.

Representative Long made the motion to report **Substitute HB 2366** favorably for passage, as amended. Representative Crow seconded the motion. The motion carried.

**HB 2673 - contributing to the misconduct of a minor**

Representative Long made the motion to adopt the balloon amendment (Attachment 4). Representative Long seconded the motion. The motion carried.

Representative Loyd made the motion to report **Substitute HB 2673** favorably for passage. Representative Owens seconded the motion. The motion carried.

**HB 2078 - if a minor shoplifts, the parents are liable for a civil penalty for up to \$500**

Representative Loyd made the motion to report **HB 2078** favorably for passage. Representative Patterson seconded the motion.

Representative DiVita expressed her concern with parents being responsible for recovery fees when the merchandise has been recovered. She made the substitute motion to have the fee be \$50 plus the ability to receive the merchandise back in retail condition. Representative Lloyd seconded the motion. Representative Crow suggested that her motion would change the penalty for adult shoplifters too and was not in support of that change. With permission of the second, Representative DiVita amended her motion by requesting a new section that would make parents responsible for a juvenile who shoplifts for up to \$50. The motion failed.

Representative DiVita made the motion to have the maximum recovery fee be \$250. Representative Owens seconded the motion. The motion failed 7-9.

Representative Loyd made the motion to amend the bill to apply to juveniles when merchandise is recovered in merchantable condition and allow the store to recover a \$50 civil penalty fee. Representative Crow seconded the motion. Committee discussion touched on the issue that the parents could be liable for the \$50 and the juvenile would still be liable for up to \$350. The motion failed.

Representative Flaharty made the substitute motion to table the bill. Representative DiVita seconded the motion. The motion failed.

Representative Shriver made the motion to report **HB 2078** favorably for passage. Representative Howell seconded the motion. The motion carried.

**HB 2611 - criminal worthless checks, merchant receive a service charge of \$30, notice letter sent by first class**

Representative Lloyd made the motion to report **HB 2611** favorably for passage. Representative DeCastro seconded the motion.

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Representative Lloyd made the substitute motion to strike in line 36 "first class mail". Representative Crow seconded the motion. The motion carried.

Representative DiVita made the motion to report **HB 2611** favorably for passage, as amended. Representative Lloyd seconded the motion. The motion carried.

**HB 2672 - elective share of surviving spouse; waiver of homestead rights**

Representative Loyd made the motion to make the bill prospective. Representative Long seconded the motion. The motion carried.

Representative DiVita expressed her concern that the bill would waive the rights of children which would make it unconstitutional.

Representative Loyd made the motion to report **HB 2672** favorably for passage. Representative Ruff seconded the motion. Representative DiVita continued to express her concerns on the bill. Chairman O'Neal pulled the bill off the table.

**HB 2773 - criminal procedure; adding state security hospital to the definition of criminal justice agency**

Representative Lloyd made the motion to report **HB 2773** favorably for passage. Representative Owens seconded the motion. The motion carried.

Representative Crow made the motion to approve the committee minutes from January 28, 29, February 4 and 5. Representative Long seconded the motion. The motion carried.

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