

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on March 2, 2000 in Room 313-S of the Capitol.

All members were present except:

Representative John Edmonds - Excused
Representative Phill Kline - Excused
Representative Kathe Lloyd - Excused
Representative Tony Powell - Excused
Representative Rick Rehorn - Excused
Representative Clark Shultz - Excused

Committee staff present:

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

HB 2697 - Recodification of Chapter 61, civil procedure for limited action

Representative Carmody made the motion to amend the bill to allow the plaintiff to request personal service or residence service so it mirrors the changes in SB 2905. Representative Gregory seconded the motion. The motion carried.

Representative Carmody made the motion to require the plaintiff to release the garnishment in the event a employee terminates or was never employed. Representative Lightner seconded the motion. The motion carried.

Representative Carmody made the motion to require the plaintiff to send the notice to the debtor. The language would conform to current statutory language. Representative Gregory seconded the motion. The motion carried.

Representative Gregory made the motion to have garnishee protection for paying directly to creditor without the benefit of a court order. Representative Loyd seconded the motion.

Representative Carmody made the substitute motion to amend in hold harmless language so a copy of the answer also goes to the clerk of the court. Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion to remove the provisions allowing Chapter 61 judgements to become liens against real estate. Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion to require that the pre-trial conference not be scheduled any sooner than 10 days after the appearance date. Representative Gregory seconded the motion. The motion carried.

Representative Carmody made the motion to strike all reference to small claims provisions. Representative Swenson seconded the motion. The motion carried.

Representative Carmody made the motion to eliminate the mandatory answer from the defendant. Representative Gregory seconded the motion. The motion carried.

Representative Carmody made the motion to eliminate the ability of judges to enter judgement against a defendant if the judge believes that judgement would be entered against the defendant if the matter were to proceed to trial. Representative Long seconded the motion. The motion carried.

Representative Carmody made the motion to strike "under penalty of perjury" on page 3, line 34 & page 4, line 4. Representative Gregory seconded the motion. The motion carried.

CONTINUATION SHEET

Representative Gregory made the motion to replace Section (a), (b), and (c) of New Section 8 with K.S.A. 61-1703. Representative Ruff seconded the motion. The motion carried.

Representative Carmody made the motion to delete the words “at the hearing” on page 28, line 2 and insert “in the filing of the contempt citation and the hearing thereon”. Representative Gregory seconded the motion. The motion carried.

Representative Pauls made the motion to require that trials shall be conducted within the county. Representative Klein seconded the motion. The motion carried.

Representative Carmody made a conceptual motion that while an answer is not required, if one is filed then it shall include the following: Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion to strike in New Section 17 (a) “by plaintiff” and “by defendant”. Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion to delete the second comma on page 10, line 5. Representative Gregory seconded the motion. The motion carried.

Representative Klein made the motion to have New Section 21 confirm with current statute as to who can serve process. Representative Carmody seconded the motion. The motion carried.

Representative Carmody made the motion to amend Section 31 (c) so the court may dismiss upon terms & conditions that the court may require. Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion that a request for a jury trial must be made no later than the pre-trial conference. Representative Loyd seconded the motion. The motion carried.

Representative Carmody made the motion to the reference of “bankruptcy act” to the Federal Bankruptcy Act. Representative Loyd seconded the motion. The motion carried.

Representative Loyd made the motion that a notice must be sent to the courts, defendant & garnishee when the debtor has paid all the garnishments. Representative Carmody seconded the motion. The motion carried.

Representative Loyd made the motion to amend the bill so a debtor could be served at work but that the employer can not impeded the service of process. Representative Gregory seconded the motion. The motion carried.

Chairman O’Neal announced that the Committee would wait to report the bill until the Revisors Office provided the a balloon amendment for them to consider.

Committee minutes from February 9, 10, 16, 17, 21, & 22 were distributed.

The committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for March 6, 2000.