

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:14 a.m. on January 26, 2000 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Senator Janis Lee
Elwaine Pomeroy, Kansas. Credit Attorneys Association
Jerry Slaughter, Kansas Medical Society and Ks. Medical Mutual Insurance Co.
Susan Bechard, Kansas. County and District Attorneys Association
Christy Molzen, Attorney, KJC Code Advisory Committee
Judge Terry Bullock, KJC Civil Code Advisory Committee
Terry Humphrey, Kansas Trial Lawyers Association
Wayne Stratton, Kansas Association of Defense Counsel
Brad Smoot, Kansas Civil Law Forum

Others attending: see attached list

Bill Introductions:

Senator Lee requested a bill that regards the Crime Victims Restitution Fund (CVRF). She requested that in counties with populations under 10,000 where no tax dollars are used in CVRF, the bill would allow money to be given for restoration of businesses as well as individuals. (no attachment) Senator Bond moved to introduce the bill, Senator Goodwin seconded. Carried.

Conferee Pomeroy requested introduction of a bill to add an amendment to K.S.A. 61-2309 which he stated should have been dealt with but was inadvertently missed during the 1999 legislative session when K.S.A.61-2305 was amended.(attachment 1) Senator Vratil moved to introduce the bill, Senator Bond seconded. Carried.

Conferee Slaughter requested introduction of a bill to amend a current statute regarding licensure of physicians convicted of a felony or class A misdemeanor. (attachment 2) Senator Feleciano moved to introduce the bill, Senator Vratil seconded. Carried.

Conferee Bechard briefly discussed four bills she requested be introduced. The bills would: provide that no felon can own any firearm for ten years; allow preliminary breath tests into evidence; increase the level of penalty for arson crimes; and amend the juvenile code regarding affidavits to be used in revocations hearings. (attachment 3) Senator Goodwin moved to introduce the bills, Senator Vratil seconded. Carried.

Senator Emert discussed a request by Kansas Adjutant General Gardner for an amendment to the statute regarding allocation of forfeited property. The bill would allow the Kansas National Guard which, in 1997, was designated an LEA for the limited purpose of counter drug and drug interdiction operations, to use forfeited property. (attachment 4) Senator Feleciano moved to introduce the bill, Senator Vratil seconded. Carried.

SB 420—an act concerning civil procedure; relating to divorce or separate maintenance actions and interspousal tort actions

Conferee Molzen reviewed the current statute regarding divorce and interspousal tort actions and stated that the purpose of **SB 420** is to “set out the applicable civil procedure where spouses anticipate filing both a divorce action (or action for separate maintenance) and an interspousal tort action.” She discussed whether or not the two types of actions should be tried together or separately, and whether one type of action should

preclude the other. ([attachment 5](#))

SB 422—an act concerning contracts; relating to interest rates

Conferee Bullock testified in support of **SB 422** a bill which he stated would allow for recovery of prejudgment interest at the rate of 10% per year in certain limited cases. He stated that the bill is needed to provide equity for the victim of wrongdoing and it assures efficiency in payment of a judgment because it creates some incentive to settle disputes. ([attachment 6](#)) He provided a record of the rate of interest, date of accrual, and cases allowed in 35 states which allow for prejudgment interest in all civil actions or personal injury and contract cases. ([attachment 7](#))

Conferee Humphreys testified in support of **SB 422**. Her testimony mirrored the previous conferee's testimony. ([attachment 8](#)).

Conferee Slaughter expressed concerns about **SB 422** questioning how the bill will work in actual practice, how appeals will be handled, it's use in the complexity of medical malpractice cases, etc. and offered an amendment. ([attachment 9](#))

Conferee Stratton testified in opposition to **SB 422** because of it's unfairness to the defendant in the case. He noted that the interest penalty as described in the bill is unfair because it may be assessed back to a date before a lawsuit is even filed and before the defendant has had his trial. He discussed judgments where large sums of money are granted for past economic damages as well as future economic damages "permitting a double recovery because the plaintiff would be entitled to interest upon amounts not yet due." He also questioned why the bill assumes a 10% interest rate rather than the normal computed rate in judgments. ([attachment 10](#)). Discussion followed

Conferee Smoot testified in opposition to **SB 422** stating that the bill will not significantly increase settlements or clear dockets as previous conferees have stated because lawyers fees provide incentive to settle protracted litigation. He reiterated the previous conferee's claim regarding the bill's unfairness to defendants. He further discussed how the interest penalty in the bill relates to past, present, future and punitive damages and discussed the problems this generates. ([attachment 11](#)) Discussion followed.

The chair called for a motion on **SB 420**. Senator Oleen moved to pass the bill out favorably, Senator Bond seconded. Carried.

The meeting adjourned at 10:55 a.m. The next scheduled meeting is January 27th.