

Approved: 2-5-93
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The joint meeting of the Senate and House Judiciary Committees was called to order by Chairman Michael R. O'Neal of the House Judiciary Committee at 3:15 p.m. on January 20, 1993 in Room 313-S of the Capitol.

All members were present except: Senators Feleciano, Martin and Rock (excused)

Committee staff present: Michael Heim, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Sue Krische, Committee Secretary

Conferees appearing before the committee:
Robert Stephan, Attorney General
Kyle Smith, Assistant Attorney General

The Committee met jointly with the House Judiciary Committee to receive a briefing on the *Report of the Attorney General's Task Force on Asset Forfeiture*.

Bob Stephan, Attorney General, stated that in June 1992 he appointed a task force to review the Kansas statutes on forfeiture, and that Kyle Smith would brief the committee on their report (Attachment 1).

Kyle Smith, Assistant Attorney General, summarized the *Report of the Attorney General's Task Force on Asset Forfeiture*, which includes a specific draft proposal of a uniform forfeiture law. (The report is on file in the Legislative Research Department.)

In response to a question by Chairman O'Neal, Smith stated that if we adopt the task force proposal we would be repealing reference to forfeiture everywhere else in our statutes. It would be a self-contained act at that point.

The meeting was adjourned at 4:45 p.m. The next Committee meeting is January 21, 1993 at 10:00 a.m. in room 514-S.



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TESTIMONY
ROBERT T. STEPHAN, ATTORNEY GENERAL
BEFORE THE JOINT HOUSE AND SENATE JUDICIARY COMMITTEES
REGARDING THE ATTORNEY GENERAL'S TASK FORCE
ON ASSET FORFEITURE
JANUARY 20, 1993

Messrs. Chairmen and Members of the Committee:

I am pleased to appear here today to present the report of my Task Force on Asset Forfeiture.

When used properly, asset forfeiture can be a powerful and effective tool to remove not just the profits from illegal enterprises, but to seize the very property and equipment used by criminals to conduct their criminal activities. The deterrent is not just to that criminal or other potential criminals, but to our youth who can so easily be corrupted by the material wealth brandished about by drug dealers and other criminals. Further, forfeiture destroys the ability of an illegal enterprise to compete against and to corrupt legitimate commerce. Finally, proceeds from such forfeitures can be turned into badly needed resources for law enforcement agencies faced with the growing sophistication and wealth of these criminal enterprises.

However, because asset forfeiture is such a powerful tool, there is a concern that such power could be mishandled. In a number of cases from other jurisdictions the media has reported abuses in the asset forfeiture process. Practitioners in Kansas have also discovered faults in our existing statutes.

In June, 1992, I appointed a task force to review the Kansas statutes and the experiences of other jurisdictions. In particular, I asked the task force:

First, to ensure due process rights of individual property owners and legitimate commercial lien holders.

Second, whether there could be a clarification of existing statutes to provide better guidance for courts and counsel throughout the state, including the possible consolidation of the several existing forfeiture acts.

SJ

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Attachment 1

Third, I asked that they review the statutes of other states as well as the federal asset forfeiture laws to see whether there are better procedures that could help us promote the remedial purposes of asset forfeiture while improving the protection of legitimate claimants and commerce.

I am pleased today to deliver to you copies of the report the task force provided me, which I believe addresses these concerns in a fair and thorough manner. I would like to recognize the members of this committee who worked very hard donating their own time producing this report: Kyle G. Smith, Assistant Attorney General, Kansas Bureau of Investigation, Chairperson; Debra A. Vermillion, Assistant Johnson County District Attorney, designee of Paul Morrison the Johnson County District Attorney, co-Chairperson; Clifford Hacker, Sheriff, Lyon County, Kansas; Lt. Jack Blow, Kansas Highway Patrol; Kevin Fletcher, Assistant Reno County Attorney, designee of Tim Chambers, Reno County Attorney; Douglas R. Roth, Assistant District Attorney, designee of Nola Foulston, Sedgwick County District Attorney; Colin Wood, Special Agent, Kansas Bureau of Investigation; and Tom R. Smith, Attorney who was in private practice in Liberal, has recently been appointed to the bench.

Kyle Smith, Chairperson of the task force, is here today to give you a more thorough rundown of the contents of this report, but I did want to take this opportunity to urge you to carefully consider this proposal as I believe it can be a major improvement in our existing forfeiture laws. It can take an already powerful tool and make it more powerful and safer to use.