

Approved: 2-11-93
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Jerry Moran at 10:05 a.m. on January 28, 1993 in Room 514-S of the Capitol.

All members were present except: All present.

Committee staff present: Michael Heim, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Sue Krische, Committee Secretary

Conferees appearing before the committee:

Jay Bafort, Kansas Department of Revenue
Kevin Robertson, Executive Director, Kansas Lodging Association
Sherman Parks, Kansas Parole Board
Larry Erne, State Board of Indigents' Defense Services
Harry Perry, State Board of Indigents' Defense Services

Others attending: See attached list

Jay Bafort, Kansas Department of Revenue, requested introduction of a bill that would amend the Code of Civil Procedure to allow the Department 60 days to file an answer in a foreclosure action, to afford more timely notice of foreclosure action, and to authorize the Department to sell the state's redemption rights in real estate (Attachment 1). Senator Bond moved introduction of the bill as outlined in Attachment 1. Senator Emert seconded. Motion carried.

Kevin Robertson, Executive Director, Kansas Lodging Association, requested introduction of a bill to allow innkeepers to refuse or deny accommodations to individuals and to eject them under certain circumstances (Attachment 2). In response to a question, Mr. Robertson stated that most establishments are operating under the practices specified in this proposal, but there have been some instances where lawsuits have been filed as a result of these ejections. Senator Brady moved introduction of the bill. Senator Martin seconded. Motion carried.

Senator Parkinson requested introduction of two bills. The first proposal would amend K.S.A. 60-3703 regarding filing an amended pleading claiming punitive damages based on affidavits presenting a question of fact on the claim (Attachment 3). Senator Parkinson moved introduction of the bill. Senator Bond seconded. Motion carried. The second bill would raise the jurisdiction in small claims court from the current level of \$1,000 to \$2,500. Senator Parkinson moved introduction of the bill. Senator Vancrum seconded. Motion carried.

CONFIRMATION HEARINGS

Sherman A. Parks, Jr. appeared before the Committee for a confirmation hearing on his appointment to the State Parole Board effective May 19, 1992 for a four-year term to expire May 18, 1996. Mr. Parks, a Topeka attorney, reviewed his work experience for the Committee. Chairman Moran recognized Lieutenant Governor James Francisco, Don Mainey and Micah Ross of the Parole Board who attended the hearing. In response to a question, Mr. Parks stated his opinion that the work of the Parole Board will not be affected for 2-5 years by the implementation of the sentencing guidelines unless the guidelines are made retroactive. Senator Ranson moved that Mr. Parks appointment to the Parole Board be recommended favorably to the Senate for confirmation. Senator Feleciano seconded. Motion carried.

State Board of Indigents' Defense Services Advisory Board appointees Larry Erne, nominated for appointment to a three-year term to expire July 1, 1995, and Harry Perry, nominated for appointment to a three-year term ending July 1, 1994, appeared before the Committee. Each provided a brief review of his work experience and background. It was noted the Board of Indigents' Defense Services is charged with

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:05 a.m. on January 28, 1993.

providing felony defense services for indigent defendants. Statute requires that four of the nine members of the Board be non-attorneys and from different congressional districts. Ron Miles, Director of the State Board of Indigents' Defense Services, stated the Board meets approximately eight times per year. Chairman Moran announced the Committee would take action on these appointments at a future meeting.

The meeting was adjourned at 11:00 a.m. The next meeting is scheduled for January 29, 1993.

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 1-28-93

[illegible]

STATE OF KANSAS

Mark A. Burghart, General Counsel
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1588



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Department of Revenue
Legal Services Bureau

MEMORANDUM

To: The Honorable Jerry Moran, Chairman
Senate Committee on Judiciary

From: Mark A. Burghart, General Counsel
Kansas Department of Revenue

Date: January 26, 1993

RE: Proposed Legislation

The Department of Revenue respectfully requests the introduction of a bill which would make several amendments to the Code of Civil Procedure. The amendments would assist in the collections efforts by the Department. The proposed amendments are as follows:

1. Amend K.S.A. 60-212 to allow the Department 60 days to file an answer in a foreclosure action;
2. Amend K.S.A. 60-304(d) to provide that a copy of notice of a foreclosure action be provided directly to the Department of Revenue; and
3. Amend K.S.A. 60-2414 to authorize the Department to sell or transfer the state's redemption rights in real estate.

The proposed legislation would allow the Department to better respond to actions involving unpaid state taxes by affording the Department more timely notice and additional response time in foreclosure actions. Due to budget reductions, the Department is experiencing increased difficulty in responding to actions in which the State of Kansas may have an interest. The Internal Revenue Service is afforded similar notice and response times. The third proposed amendment simply allows the Department to sell the state's redemption rights and thus expedite the collection of past due taxes. A bill draft with the necessary amendatory language has previously been provided to the Office of the Revisor of Statutes.

Please feel free to contact my office if you have any questions.

SJ
1-28-93
Attachment 1



Date: January 28, 1993
To: Senate Committee on Judiciary
From: Kevin Robertson
Executive Director
Re: Request for Bill Introduction - Innkeeper Rights

The proposed bill would allow innkeepers to refuse or deny lodging establishment accommodations to individuals and eject individuals from lodging establishment premises under certain circumstances. The circumstances for denial or ejection of a guest are as follows:

1. Any person unwilling or unable to pay for accommodation or services.
2. Any person visibly intoxicated, or is disorderly so as to create a public nuisance.
3. Any person whom the innkeeper reasonably believes is seeking accommodation for unlawful purpose.
4. Any person the innkeeper reasonably believes is bringing on premise a dangerous item or substance.
5. Any person when the lodging establishment shall also have the right to limit the number of persons who occupy a guest room.
6. Any person who has violated any posted rule of the lodging establishment.

Minors may be denied lodging accommodation unless a parent or legal guardian accepts in writing all liability for room charges, services, furnishings, etc. of minor; and either gives a credit card at registration or pays all charges and a deposit at the time of check in. The deposit is refundable at check-out.

Additionally, an innkeeper may require a valid drivers license or other identification to verify age, name, etc. of guest at check-in. This Act shall be posted, along with lodging establishment rules and regulation in a visible location at or near registration desk and in all guest rooms.

Finally, under no circumstance shall an innkeeper have the right to deny guest lodging accommodation or privileges on the basis of a person's race, religion, color, sex, disability, origin, or ancestry.

SJ
1-28-92
Attachment 2



DISTRICT COURT OF KANSAS

TENTH JUDICIAL DISTRICT
JOHNSON COUNTY COURTHOUSE
OLATHE, KANSAS
66061

CHAMBERS OF:
LARRY McCLAIN
DISTRICT JUDGE
COURT NO. 10

SANDRA KING
ADMINISTRATIVE ASSISTANT
(913) 764-8484 x5463

December 14, 1992

Mark Parkinson, Attorney at Law
13628 West 95th Street
Lenexa, Kansas 66215

Re: K.S.A. 60-3703

Dear Mark:

I am assuming you will be a member of the Senate Judiciary this year. I have enclosed an change I would like to see in K.S.A. 60-3703. I have included a brief comment on why I believe the statute should be changed. I can tell you that the trial bench struggles with this statute and as a practical matter applies a standard consistent with this proposal.

Please feel free to give me a call if you need to discuss this matter further. I am also forwarding a copy of this correspondence to Paul Shelby of the Office of Judicial Administration and John White who is Chairman of the Kansas District Judges Association Legislative Committee.

Thanks for your help on the matter.

Respectfully,


Larry McClain
Judge of the District Court

LMc/s
enclosure
cc - Paul Shelby
John White

SJ
1-28-93
Attachment 3

60-3703. Filing an amended pleading to claim punitive damages.
No tort claim for punitive damages shall be included in a petition or other pleading unless the court enters an order allowing an amended pleading that includes a claim for punitive damages to be filed. The court may allow the filing of an amended pleading claiming punitive damages on a motion by the party seeking the amended pleading and on the basis of the supporting and opposing affidavits presented, ~~that--the plaintiff has established that there is a probability that the plaintiff will prevail on the claim pursuant to K.S.A. 60-209, and--amendments--thereto.~~ provided the affidavits present a question of fact on the claim for punitive damages. The court shall not grant a motion allowing the filing of an amended pleading that includes a claim for punitive damages if the motion for such an order is not filed on or before the date of the pretrial conference held in the matter.

(Comment: The present standard of "a probability" is vague and arguably denies a party the right to a trial on a punitive claim. This statute should not be a substitute for the existing summary judgment procedure. "K.S.A. 60-209" is stricken because it is unnecessary surplusage.)