

Approved: Carl Dean Holmes
Date 2-14-94

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on February 8, 1994 in Room 526-S of the Capitol.

All members were present except: Representative Gatlin - Excused
Representative Alldritt - Excused
Representative Myers - Excused
Representative Charlton - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Paul Shelby, Office of Judicial Administration
Sherylan Sampson, Clerk of 7th District Court

Others attending: See attached list

Chairperson Holmes opened the meeting inviting Representative Hendrix to proceed with his bill request .

Representative Hendrix moved to draft a bill regarding the Waste Tire Act. Representative Shore seconded. Motion carried.

Hearing on HB 2797: Opponents

Paul Shelby. (See Attachment #1) While the apparent aim of **HB 2797** is to punish violators of fish and game laws and to raise money for a wildlife and parks penalty assessment fund is laudable, Mr. Shelby maintains the mechanism for accomplishing these goals puts an onerous burden on the criminal justice system. He added the bill puts a burden on a judge to arrive at a fair verdict. He reported that FY 1993 the court system disposed of 3,790 fish and game cases, citing one jury trial, 82 tried before a judge, 140 were bond forfeitures and 2,720 were please of guilty. Mr. Shelby said it would be more effective and less of a burden to borrow from the presumptive sentencing guidelines example set by last year's Legislature setting out mandatory minimum fines and the circumstances in which the fines should be set.

Mr. Shelby alleges this bill would have a substantial impact on the Clerks of the District Court. He said they would request that rather than 100 clerks' offices submitting special assessment to a special fund, that Wildlife and Parks follow the example of the Attorney General's victim funds, accepting a percentage of fines levied matching the anticipated revenue from mandatory minimum fines.

In closing Mr. Shelby although opposing this bill as written, the Judicial Administration does not oppose more severe penalties for fish and game violations, or a fund to help repair damage to our wildlife environment.

Sheryln Sampson. (See Attachment #2) Ms. Sampson stated the accounting system of the Court is presently cumbersome as all monies collected have to be broken down into several categories for proper distribution. She maintains **HB 2797** will add another category. (Ms. Shelby provided a list of the categories the Court now use and a copy of the court receipts journal.)

She said this bill would have substantial impact on the 105 District Courts by requiring them to revise their accounting systems and expand clerical workload. In addition, it would require each court to change their forms and/or modify their computer applications. She contends an accounting system change would cost approximately \$18,000 for programming mainframe computers, and approximately \$225.00 for new manuals, which costs would be to the County General Funds. A program has just recently begun installing microcomputers for the purpose of maintaining records of child support collections. (This same program is presently being enhanced to add accounting functions for the entire court.) Ms. Sampson said if an accounting category for the penalty assessment fund is to be added, it would set back the progress made for the state courts of Kansas. In addition, she spoke of the extra cost involved to modify such an application (with the program being funded with the court system's state budget.) She also mentioned the additional clerical time involved and costs to change the forms, computers, manuals, etc.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on February 8, 1994.

As the bill is currently written, Ms. Sampson said it establishes the worst possible way to collect fees for the penalty assessment fund. She asked the Committee to amend **HB 2797** stipulating that the court collects the fine and sends it to the State Treasurer with all other of their fines. The State Treasurer would deduct a percentage of the total fines paid and place that amount in a special account for wildlife and parks, saving costs as aforementioned. Ms. Sampson provided a report showing the fees paid by Douglas County to the State Treasurer for November 1993, which form also indicates what percentage of each fee the State Treasurer pays to various agencies.

It was stated they would have difficulty with compliance of Section 4 (b) of the bill. She explained at the end of each month they prepare a fee report in which all fees collected are added and then submitted to the proper agencies. For information to be calculated within 10 days would require many clerks to manually figure the amount from their receipts journal. The receipt journal categories are maxed out now, so unless the form is revised, the funds collected would be entered under "other," and clerks would have to scan all entries to receive a total. She maintains if all funds were sent to the State Treasurer, a determination could easily be made of the amount collected for the fund.

Section 16 of **HB 2797** requires the clerk to provide a written report of dispositions of wildlife and parks tickets to the Department. The original remains in the Court's files and upon disposition the copy is filled out and given to the officer/author of the ticket. In order to comply with this Section, Wildlife and Parks would have to provide an additional copy of the ticket to the Courts. In addition, this, too, would require program modifications so the information could be submitted to the Department via computer/automated means.

Mr. Darrel Montai, Kansas Wildlife and Parks, attended the meeting and has agreed to meet with Mr. Shelby to resolve any issues they determine to be incompatible, and will then submit a balloon of the proposed changes.

Representative Charlton briefed the Committee regarding her tour to Glen Elder and Wilson State Parks on February 7. She reported she and fellow members of the Subcommittee of the Appropriations Committee met with Parks personnel, local citizens, park visitors, and individuals who operate some of the bait shops, etc. in and near the park areas. In discussions with these various individuals, it was learned that many are interested in seeing the restoration of the parks and with the recent flood damage that perhaps this would be the best time to begin an active effort to this end.

Reporting that there was approximately \$5 million flood damage in 1993 to the state parks and with the Governor's proposed funds to begin repairs, it will take at least five years to realize an appreciable repair of all the damages. She said there is the suggestion that senior citizens may wish to help with the repairs, even if there is an increase in funds (the majority of users of the park facilities are senior citizens, and they currently do not pay for park facilities). Also she said in discussions with the general public it was known that there are those who come into the parks and leave at times when they will not have to pay a fee. Representative Charlton said if the increases within **HB 2797** can be retained and ways can be worked out to include additional fees (and resolve the issue of collecting from visitors to the parks who avoid paying) she could support such a measure.

With both Glen Elder and Wilson State Parks being in Representative McClure's district, she announced that she appreciates the efforts from Wildlife and Parks setting up a Task Force to determine the best avenues to begin repair on Glen Elder Lake. She said they are to be commended for putting a plan together.

Chairperson Holmes told the Committee it is his intent to work a group of 8-10 bills on February 17 (one of which will be **HB 2797**).

Upon completion of its business, the meeting adjourned at 4:20 p.m.

The next meeting is scheduled for February 9, 1994.



Date: 2/8/94

[illegible]

House Bill No. 2797
House Energy and Natural Resources Committee
February 8, 1993

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Thank you, Mr. Holmes and members of the committee, for the opportunity to discuss House Bill No. 2797 which was introduced through your committee. This bill establishes a penalty assessment for any person convicted of or pleading guilty or nolo contendere to any violation of the wildlife and parks laws of this state. The penalty assessment is to be not less than 25% nor more than 75% of the fine and court costs imposed by the court. This assessment is to be paid in addition to the fine and court costs assessed. This penalty is to be collected by the court and sent to the State Treasurer who shall credit it to the wildlife and parks penalty assessment fund.

So the apparent aim of this bill is twofold, 1) to punish violators of fish and game laws in proportion to the crime a violator has committed, and 2) to raise money for a wildlife and parks penalty assessment fund to be used to enhance wildlife resources for the state of Kansas.

These are both laudable objectives. However, the mechanism for accomplishing these goals puts an onerous burden on the criminal justice system.

The "court" depends on adversaries to arrive at the truth of a matter. That is, in a trial both sides submit evidence -- in fish and game trial the harm to the environment, the value of the game all the things this bill wants considered would be in evidence with countering evidence if warranted. But whenever a guilty plea is entered or a bond forfeited, there is no equivalent apparatus to determine these facts.

This bill puts a burden on a judge to arrive at verdict which is fair to violators and to the people; a requirement to exercise a great deal of discretion but with no way to elicit reliable facts, without a hearing, even in the cases of guilty pleas. In FY 1993 our records show that the court system disposed of 3,790 fish and game cases. One of these was trial to a jury, 82 were tried before a judge, 140 were bond forfeitures, and 2,720 were pleas of guilty.

It would be a great deal more effective and a good deal less burdensome on judges, if Wildlife and Parks borrowed from the presumptive sentencing guidelines example set by last years Legislature and set out mandatory minimum fines and the circumstances in which the fines should be set.

*Energy & Natural Resources
Attachment #1
2/8/94*

This bill in its present form would have a substantial impact on the Clerks of the District Court by requiring them to revise their accounting systems and probably expand clerical workload. It would require each court to change their forms and /or modify their computer programs. We would also request that rather than 110 clerks offices submitting special assessments to a special fund, that Wildlife and Parks follow the example of the Attorney General's victim funds and accept a percentage of fines levied which would match the anticipated revenue from mandatory minimum fines. Our office would be pleased to assist Wildlife and Parks in this endeavor.

To summarize, the office of Judicial Administration opposes this bill as written, but does not oppose more severe penalties for fish and game violations, or a fund to help repair damage to our wildlife environment. Thank you for your attention.

ERR
Attachment 1-2.

House Bill No. 2797
Committee on Energy and Natural Resources
February 8, 1994

Testimony of Sherlyn Sampson
Clerk of District Court
7th Judicial District

I appreciate the opportunity to appear today to discuss House Bill No. 2797 which establishes a penalty assessment for any person convicted of or pleading guilty or nolo contendere to any violation of the wildlife and parks laws of this state. The penalty assessment is to be not less than 25% nor more than 75% of the fine and court costs imposed by the court. This assessment is to be paid in addition to the fine and court costs assessed. This penalty is to be collected by the court and sent to the State Treasurer who shall credit it to the wildlife and parks penalty assessment fund.

It would be impossible to figure a percentage on every fine that we collect. In order for us to know how much money was collected for this assessment we would have to establish a special category for just this assessment.

The accounting system of the Court is cumbersome now as nearly all monies collected have to be broken down into several categories for proper distribution. This bill would add another category. We presently are required to keep separate and maintain more than twelve different funds. Attached is a list of the categories we now use and a copy of the court receipts journal to help you understand the system. There are more categories on the list than you see columns on the receipts journal. Because of the lack of space on the journal, several of these categories are put under "other".

This bill in its present form would have a substantial impact on the 105 District Courts of the State by requiring them to revise their accounting systems and probably expand clerical workload. It would require each court to change their forms and/or modify their computer programs.

An accounting system change of this sort would cost approximately \$18,000 for programming mainframe computers, and approximately \$225.00 for new manuals. These costs would be to the County General Funds.

All courts, with the exception of those that have mainframe computers, have microcomputers for the purpose of maintaining records of child support collections. It took us a long time to get all courts on a uniform child support program. Now that this is accomplished, the program is being enhanced to add accounting

*Energy & Natural Resources
Attachment #2
2/8/94*

functions for the entire court, not just child support. This program is just beginning to be installed in various counties. If we have to change those programs to add an accounting category for the penalty assessment fund, it would greatly set back any progress being made on a uniform accounting system for the State Courts of Kansas. There would also be additional cost to modify the program which would have to come from the court system's state budget.

Because of the accounting problems this bill would cause; the costs of making the necessary changes to forms, computer programs and manuals; the clerical time involved in posting the additional transactions; we would like to see this bill killed. At a time when we are short staffed because of budget cuts, we don't need additional problems to solve or an increase in workload such as the ones this bill could cause.

We feel the bill as it is currently written establishes the worst possible way to collect fees for the penalty assessment fund. If you wish to pass this bill, then we would ask that it be amended so that the court collects the fine and sends it to the State Treasurer with all of our other fines. The state Treasurer would deduct a percentage of the total fines paid and place that amount in a special account for wildlife and parks. This amendment would save some of the costs for accounting and clerical time because only one computer and/or form change would be necessary instead of 105. This procedure is currently being followed for all other money that we collect that goes to the state for various funds. If more money is needed, perhaps the penalties for violations could be raised instead of adding a special fee to keep track of. I have attached a sheet that shows the fees paid by Douglas County to the State Treasurer for November. This form also indicates what percentage of each fee the State Treasurer pays to various agencies.

We would also have trouble complying with Sec 4(b). This section would be very difficult to follow even if we were monitoring this fund as proposed by this bill. At the end of each month, we prepare a fee report in which all fees collected are added and then submitted to the proper agencies. To give information requested within 10 days would require many clerks to manually figure this amount from their receipts journal. Many courts give fish & game and traffic consecutive numbers so the only way they could gather this information is to calculate it at the time a receipt was written and post it on a special place on the receipts journal. The receipt journal categories are maxed out now, so unless the form is revised, the funds collected would be entered under "other" and clerks would have to scan all entries to come up with a total. If all funds were sent to the state treasurer as previously suggested, she could easily determine the amount collected for this fund.

Section 16 requires the clerk to report all dispositions of wildlife and park tickets to the department in writing. We do

the ticket. The original stays in our file and upon disposition the copy is filled out and given to the officer that wrote the ticket. To comply with this section, wildlife and parks would have to provide the courts with an additional copy of the ticket. It would also require program modifications for the automated courts and for the wildlife and parks department so this information could be gathered automatically and submitted to the department via computer tape or some other automated means.

Thank you for your consideration of this matter.

CURRENT CATEGORIES NOW BEING USED FOR DISTRIBUTION OF MONIES COLLECTED BY DISTRICT COURTS IN KANSAS

CLERK FEES STATE	KBI FEE
PROBATION FEE	
XEROX FEE	
JUROR FEES	
MARRIAGE LICENSE FEES	
CLERK FEES COUNTY	
FINES, PENALTIES & FORFEITURES	
INTEREST	
RESTITUTION	
JUDGMENTS	
URINALYSIS	
PUBLICATION FEE	
CHILD SUPPORT	
INDIGENT DEFENSE SERVICE FUND (IDS)	
LAW ENFORCEMENT TRAINING CENTER FUND (LETC)	
ALCOHOL & DRUG SAFETY ACTION PROGRAM (ASAP)	
WITNESS FEES	
DEFENSE FEES - Felony	
GUARDIAN AD LITEM FEES	
APPRAISERS FEES	
ABSTRACTER FEES	
DEFENSE FEES - Misdemeanor	
RESINSTATEMENT FEES	
APPEARANCE BONDS	
ESCROW ACCOUNT (Hold)	
REIMBURSEMENTS, OVERPAYMENTS	
PROSECUTING ATTORNEY TRAINING FUND (PATF)	
LAW LIBRARY	

Current Categories on Cash Receipt Journal

5.

at Halt
 epts. Journal

CASH RECEIPTS JOURNAL
 FORM JA-106

A=CASH
 B=CHECK

2-6

DATE	Case Number	RECEIVED FROM	DESCRIPTION	RECEIPT NUMBER	PREPARED BY	A		AMOUNT	ACCOUNTS RECEIVABLE							
						D			RESTITUTION	FINES		Other				
																F
																1
																2
																3
																4
																5
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																25
TODAY'S TOTALS																
ADJUSTMENTS																
ADJUSTED TOTALS																
									8	9	10	11	12	13	14	15

DEPOSIT CONTROL	
CHANGE FUND AT START OF DAY	\$
PLUS TODAY'S RECEIPTS AND REDEPOSITS	\$
MINUS CHANGE FUND WITHHELD FROM DEPOSITS	\$
PLUS OVER	\$
MINUS SHORT	\$
EQUALS TODAY'S DEPOSIT	\$

ACCOUNTS RECEIVABLE FORMULA	
BEGINNING A/R BALANCE	\$
PLUS TODAY'S ADDITIONS	\$
MINUS TODAY'S DISBURSES	\$
EQUALS ENDING BALANCE	\$

Please remit to:
 Sally Thompson
 State Treasurer
 900 SW Jackson Suite 201
 Topeka KS 66612-1235

REPORT AND PAYMENT OF DISTRICT COURT REVENUE AS
 REQUIRED BY K.S.A. 8-2110 as amended by Section 6
 of 1991 SB 345, K.S.A. 20-350, 20-362 as amended
 by 1990 HB 3021 and 1992 HB 2832, 20-2801, 21-4610a,
 23-108b, 28-170, 28-172a, 28-172b and 59-104

A. FINES, PENALTIES AND FORFEITURES:	
19% Crime Victims Compensation Fund	
4% Crime Victims Assistance Fund	
77% State General Fund	\$ 14,530.07
B. INTEREST ON INVESTMENT OF IDLE FUNDS: \$	
C. CLERKS'S FEES:	
5.12% Juvenile Detention Facilities Fund	
3.93% Judicial Branch Education Fund	
2.95% Emergency Medical Services Operating Fund	
5.66% Judiciary Technology Fund	
82.34% State General Fund	\$ 21,493.45
PROBATION FEE	525.00
D. LAW ENFORCEMENT TRAINING CENTER FUND:	\$ 1,797.20
E. INDIGENT DEFENSE SERVICE FUND	
DEDUCTIONS FROM DOCKET FEES:	\$ 179.50
F. MARRIAGE LICENSE FEES:	
57.5% Protection From Abuse Fund	
22.4% Family and Childrens' Trust Fund	
20.1% State General Fund	\$ 1,720.00
G. DRIVERS LICENSE REINSTATEMENT FEES: (\$50)	
50.0% Vehicles Operating Fund	
37.5% Community Alcoholism and Intoxications Programs Fund	
12.5% Juvenile Detention Facilities Capital Improvements Fund	\$ 757.00
TOTAL REMITTANCE	\$ 41,002.22

I hereby certify the above to be a true, complete and accurate report and payment of district court revenue as required to be remitted to the State Treasurer by K.S.A. 8-2110 as amended by Section 6 of 1991 SB 345, K.S.A. 20-350, 20-362 as amended by 1990 HB 3021 & 1992 HB 2832, 20-2801, 21-4610a, 23-108b, 28-170, 28-172a, 28-172b and 59-104

For the Month of NOVEMBER

District Court of DOUGLAS

Treasurer's Use Only

Authorized Signature _____

Check # _____

Date: 12-2-93

Date _____