

Approved: May 23, 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. on February 14, 1994 in Room 313-S of the Capitol.

All members were present except:

Representative Tom Bradley
Representative Rand Rock
Representative Candy Ruff
Representative Joan Wagnon

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfschuhle, Committee Secretary

Conferees appearing before the committee:

Tom Tunnel, Kansas Grain & Feed Association
Paul Shelby, Office of Judicial Administration
Al Singleton, District Court Administrator, Manhattan
Kyle Smith, Kansas Bureau of Investigation

Others attending:

Tom Tunnel, Kansas Grain & Feed Association, appeared before the Committee with a bill request. This would allow, in cases where a railroad line is abandoned and not sold to a shortline, first right to purchase the land would be given to grain elevators along the line. He suggested using the Iowa law for drafting purposes.

Representative Carmody made a motion to have this bill request introduced as a Committee bill.

Representative Scott seconded the motion. The motion carried.

Representative Garner requested a bill that would regulate caller ID technology so that it doesn't allow for unlisted numbers to be displayed. Colorado & California have similar legislation.

Representative Garner made a motion to have this bill request introduced as a Committee bill. Representative Macy seconded the motion. The motion carried.

Representative Carmody requested a bill introduction that would create a positive duty on the estate to take the necessary steps to pay known debts.

Representative Carmody made a motion to have this bill request introduced as a Committee bill.

Representative Wells seconded the motion. The motion carried.

Representative Goodwin requested a Committee bill that anytime there is a fatality accident it would not be necessary to receive permission from any driver that is involved in an accident to draw blood.

Representative Goodwin made a motion to have this bill request introduced as a Committee bill.

Representative Pauls seconded the motion. The motion carried.

Hearings on **HB 2981** - Court fees and fines paid by credit cards, were opened.

Paul Shelby, Office of Judicial Administration, appeared as a proponent of the bill. This would allow the Clerks' and Trustees of the District Court to transact financial matters in the district court by accepting credit card payments for fees, docket fees, child support, maintenance, fines, restitution and collateral for cash bonds, from any valid and unexpired credit card issued by a bank card company approved by their office. They requested an amendment be made in line 22 to read "...clerk's fee, state account...", (see attachment 1). Implementation would be phased in by announcement of the transaction category in which they would accept valid bank card drafts or participate in electronic fund transfers. Legislation proposed in U.S. Congress would allow government agencies to recoup the discount fee by assessing it to the cardholder.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 3:30 p.m. on February 14, 1994.

Representative Garner questioned what the fee is that he's referring to. Mr. Shelby replied that it's a discount fee that the credit card company pays for using the card. Representative Garner asked that if one received a fine and placed it on their credit card, if they declared bankruptcy how would the matter be taken care of. Representative Carmody responded that the credit card company would assume the risk. However, the credit card company would have the argument that the charge was done in contemplation that the bankruptcy would be filed, as long as the bankruptcy was filed within 90-180 days.

Representative Adkins stated that he believes this is a good idea. This allows the citizens to access and conduct business without having to go to the trouble of getting cashier checks.

Chairman O'Neal commented that authorization agreements allow cardholders to authorize someone to debit their account on a periodic basis to make payments. He questioned what happens when you have someone who owes child support and pays by credit card once and then fail to make a payment. Will there be an order to charge the credit card every time the child support is not paid. As long as people have assets there is garnishment but the idea that the courts could garnish a credit limit that hasn't been used could the individual to incur debt that he doesn't necessarily need.

Al Singleton, District Court Administrator, Manhattan, appeared before the Committee as a proponent of the bill. He stated that the technology and equipment is already in the courts to accept the credit cards for filing fees, (see attachment 2).

Testimony from the Kansas Association of Court Services Officers and Office of State Treasurer was given to the Committee and was requested that they be included into the Committee minutes, (see attachment 3).

Hearings on **HB 2981** were closed.

Hearings on **HB 2980** - Identification of informer, includes crime stoppers chapter, were opened.

Kyle Smith, Kansas Bureau of Investigation, appeared before the Committee as a proponent of the bill. He stated that this bill would make it clear that crime stoppers chapters would be covered under the informant's privileges contained in K.S.A. 60-436. The appellate court interpreted this statute to apply to crime stoppers organizations, (see attachment 4).

Chairman O'Neal questioned if crime stoppers need to be identified so that they would be separated from other groups that are doing the same thing. Mr. Smith commented that Crime Stoppers is copyrighted and maybe the language of "any chartered crime stoppers chapter" should be added.

Hearings on **HB 2980** were closed.

HB 2677 - Records of marriage license

Representative Carmody make a motion to report **HB 2677** favorably. Representative Adkins seconded the motion. The motion carried.

HB 2697 - Services of process, time limits

The Landlords Association didn't want any changes in the time limits and the Kansas Collectors Association requested changing the time limits to 30 days. Testimony from the Clerk's office was that they couldn't get the service of process done in 28 days, so 30 days probably wouldn't work either.

Representative Adkins made a motion to change the 40 day time limit to 35 days. Representative Macy seconded the motion. The motion carried.

Jill Wolters requested a technical amendment that would take place in two places adding reference to the "1993 Supplement". Representative Carmody made a motion to add the technical amendments. Representative Adkins seconded the motion. The motion carried.

Representative Adkins made a motion to report **HB 2697** favorably for passage as amended. Representative Carmody seconded the motion. The motion carried.

HB 2599 - Amending who can withdraw blood in a DUI

Representative Wells made a motion to add phlebotomist to the list of those that can draw blood in a DUI case. Representative Pauls seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 3:30 p.m. on February 14, 1994.

Representative Wells made a motion to report **HB 2599** favorably for passage as amended. Representative Macy seconded the motion. The motion carried.

HB 2981 - Court fees and fines paid by credit cards

The Chairman stated that there was a requested amendment from the Office of Judicial Administration which would strike, in line 22, the words "fees, the" and replace it with "fee" and add the word "account" after the word "state".

Representative Adkins made a motion to add this requested amendment into the bill. Representative Macy seconded the motion. The motion carried.

Representative Carmody made a motion to report **HB 2981** favorably for passage as amended. Representative Adkins seconded the motion. Representative Garner commented that he was against encouraging personal debt. The State shouldn't be encouraging people to pay for court fines by credit card. The motion carried 9 - 8.

The Committee meeting adjourned at 5:00 p.m. The next meeting is scheduled for February 15, 1994.

House Bill No. 2981
House Judiciary Committee
February 14, 1994

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Thank you Mr. Chairman and members of the committee for the opportunity to appear today to discuss House Bill No. 2981, which would allow the Clerks' of the District Court and District Court Trustees to transact financial matters in the district court by accepting credit card payments from any valid and unexpired credit card issued by a bank card company approved by our office.

As you know, all Clerk of the District Court offices are presently equipped with credit card machines which have been used to process credit card payments for FAX filings. This bill would expand authorization to allow court officers to accept payment of fees, docket fees, child support, maintenance, fines, restitution and collateral for cash bonds by credit card payments. We are presently under contract with the United Missouri Bank/Commercial National Bank at 2.5% per transaction by a monthly billing. Presently we take the expense of credit discount fees from the Clerk's Fee State Account. (There is a technical drafting error at page 1, line 22, which should be corrected as shown on this "balloon.") It cost approximately \$100 for the 80 new cases filed by FAX in calendar year 1993. We feel as we expand this process the bank will lower its percentage based on increased volume of payments processed.

In New Section 1(b), we are recommending that the credit discount rate continue to be charged against Clerk's Fee State Account for the Clerks' of the District Court. For the payments processed by District Court Trustees, the fee would be deducted from their local operating fund. In this section we are also requesting that the Clerks' of the District Court and District Court Trustees be authorized to receive and issue payments through the medium of electronic fund transfers. Current federal child support regulations require that our courts be capable of electronic funds transfer for income withholding and interstate collections by October 1, 1995. This bill would provide the authorization necessary to comply with those regulations.

Implementation would be phased in by announcement of the transaction category or categories in which they would accept valid bank card drafts or participate in electronic fund transfers. The Supreme Court would make that determination and our office would carry out the policy established by the court by changes in Supreme Court Administrative Order 30, which relates to District Court Accounting policies and procedures.

Currently, Master Card and Visa, by their rules and regulations, will not allow the fee to be charged against the card holder. Discover card does allow the fee to be charged against the card holder. Legislation proposed in the U.S. Congress, 1994 HR 2175, would allow government agencies to recoup the discount fee by assessing it to the cardholder. If the legislation is adopted, the courts' accounting procedures could be changed by Supreme Court order.

On page 3 of the bill, Section 2, (2) we have deleted the approval and procedures of the Division of Vehicles or Superintendent of the Kansas Highway Patrol regarding credit card payments. We have met with both agencies and they support this change.

We urge the committee to favorably pass this bill as amended.

HOUSE BILL No. 2981

By Committee on Judiciary

2-8

8 AN ACT concerning payments of fees and fines to the courts; relating
9 to payment by credit card; amending K.S.A. 1993 Supp. 8-2107
10 and repealing the existing section.
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. (a) Clerks of the district court and court trustees
14 authorized to transact financial matters for a district court, subject
15 to conditions set out in this section, are hereby authorized to accept
16 payment of fees, docket fees, child support, maintenance, fines,
17 restitution and collateral for cash bonds by bank card draft from any
18 valid and unexpired credit card issued by a bank card company
19 approved by the office of judicial administration.

20 (b) If any of the approved bank card issuers redeem the bank
21 card draft at a discounted rate, such discount shall be charged against
22 the portion of the payment allotted to the clerk's fees, ~~the state, or,~~
23 if the payment is in the nature of support the discount shall be paid
24 from the court trustee's operating fund if one has been established
25 in the county. If any cash bond posted by bank card draft is not
26 forfeited, the person posting the bond shall have the person's bank
27 card account credited for the amount posted. Clerks and court trus-
28 tees, subject to conditions set out in this section, may be authorized
29 to either receive or make payments through the medium of electronic
30 fund transfers.

31 (c) Implementation of the foregoing authorizations shall be phased
32 in by announcement of the transaction category or categories in which
33 clerks or court trustees shall accept valid bank card drafts or par-
34 ticipate in electronic fund transfers. The office of judicial adminis-
35 tration shall circulate approved categories as changes to the policy
36 portion of supreme court administrative order No. 30, district court
37 accounting. The judicial administrator is directed to make such
38 changes to the accounting procedures in supreme court order No.
39 30 as are necessary to keep the manual current with changes in state
40 and federal law which may impact any of the authorizations estab-
41 lished in this section.

account

Sec. 2. K.S.A. 1993 Supp. 8-2107 is hereby amended to read as
follows: 8-2107. (a) (1) Notwithstanding any other provisions of the

1-3

House Bill No. 2981
House Judiciary Committee
February 14, 1994

Testimony of Al Singleton
Court Administrator 21st Judicial District
KADCCA Legislative Committee Chair

Thank you Mr. Chairman and members of the committee for allowing me to appear today to discuss House Bill No. 2981 which relates to the use of credit cards by the district courts.

This bill does not intend to let the various courts across the state jump into the credit card business. It does, however, provide the means for the Court to implement the procedure to permit the courts to collect money owed the court by credit card.

This is the age of technology and the equipment is already in place in each district court to use credit cards. Currently cases can be filed by fax and the filing fee paid by credit card.

Every court has an extensive accounts receivables, many of which are because the individual does not have immediate money to pay a fine, court costs, et cetera, at the time of the hearing. Each time an accounts receivable is established a considerable amount of time is needed to set it up and monitor for payments. This is just one example of how collecting by credit card would be beneficial to court staff. It could also be of assistance to members of the public as they would not have to make additional trips to the court to pay the money. Each time an accounts receivable is established we take the risk that the money will never be paid.

The Kansas Association of District Court Clerks and Administrators support this Bill and urge you to favorably pass it from committee.

KANSAS ASSOCIATION OF COURT SERVICES OFFICERS

TESTIMONY REGARDING HB 2981
MONDAY, FEBRUARY 14, 1994

HB 2981, which allows for the payment of fees, restitution, and fines is a long overdue law which will afford the Court with an invaluable tool in our efforts to collect on clients obligations. Not every person under the jurisdiction of the Court holds a credit card but many do. It is likely that many clients would welcome the opportunity to discharge their obligation to the Court in this fashion, thereby satisfying a creditor with the authority to repossess his or her freedom.

Payment by credit cards is also a good option for victims who seek restitution. Clients with restitution orders and credit cards can make full payments to victims when, at the present time, they must make payments to victims over extended period of time. It is clearly preferential that if anyone must wait for payment it should not be the victim. Payment of court ordered obligations is a good idea because few clients are eligible for bank loans. Credit cards allow the client to front their own loan when a bank or relative is unwilling or not capable of doing the same. Any interest, penalties, or late fees can then be the responsibility of the client and not the problem of the victim or the court.

Payment of court obligations by credit card has other advantages. It bypasses the problem of insufficient fund checks being delivered to the court. The risk of mishandling cash is diminished. And it allows for one more record of payment, a critical element for both the client and the Court in disputes over payment records.

It is not our position that clients should endanger their financial health by grossly overextending themselves. Credit card payments, however, would allow a significant number of clients to satisfy judgements and orders in a way not currently available to them. As stated before, many would welcome the opportunity to do so and we strongly urge your support of this bill.

SALLY THOMPSON
STATE TREASURER



OFFICE OF THE STATE TREASURER
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February 14, 1994

House Judiciary Committee
RE: HB 2981

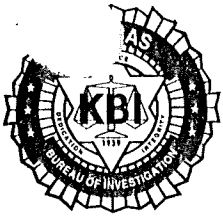
The Office of the State Treasurer appreciates the opportunity to present written testimony in opposition to certain provisions of HB 2981.

We agree with the use of a credit card as one form of payment option for those transacting financial matters with a district court. It is our belief that the current language designates the district court, state, or trustee's operating fund to bear the cost of credit card use. In time that provision could create a fiscal burden for the court system. In our opinion, the cost of the use of a credit card should be borne by the paying party, NOT by the county, state, or the court trustee's operating fund.

We would encourage the committee to use wording similar to that in SB 479 wherein the fee, equal to the charge made for credit card usage, is added to the credit card transaction.

Thank you again for the opportunity to address this matter. Should the committee have further questions please contact: JoLana Pinon, Assistant State Treasurer or Tama Wagner, Special Assistant.

Sally Thompson



ROBERT B. DAVENPORT
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL

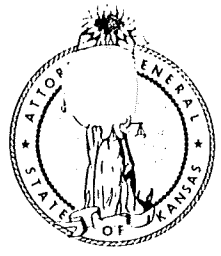
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ROBERT T. STEPHAN
ATTORNEY GENERAL

TESTIMONY

KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
IN SUPPORT OF HB 2980
FEBRUARY 14, 1994

Mr. Chairman and Members of the Committee:

I am pleased to appear today on behalf of the State Crime Stoppers Association and the 31 chapters spread across this state, in support of HB 2980. As you are aware, Crime Stoppers has been a particularly bright chapter in our efforts to blend citizen involvement, media and law enforcement in a combined effort to fight crime. The system of anonymous tips and donated money rewards has resulted in the recovery of hundreds and hundreds of thousands of dollars of stolen property and the arrest and conviction of numerous criminals, from murderers to thieves.

What we are asking in HB 2980 is that the statutory privilege in K.S.A. 60-436 from disclosing the identity of a person, absent particular judicial findings, be clearly applied to Crime Stoppers chapters and in particular clarify that the privilege should apply to any notes or records, not just testimony.

This bill is the outgrowth of our discussions last April at the annual State Crime Stoppers Conference when it was disclosed that some attorneys, in an effort to get around the informant's privilege contained in K.S.A.

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60-436, had tried subpoenaing the records of a chapter's coordinator or treasurer in hopes of attaining information leading to the disclosure of the informant. Basically, an end-run around the intent and language of the statute. We feel that the intent of the legislation is to promote an important public interest by encouraging individuals to report criminal activity that they have knowledge about. Whether they report it to a police department, a police department's employee who is acting as the coordinator for Crime Stoppers, or to a Crime Stoppers member, public interests are served by keeping that information confidential.

I would be happy to stand for any questions. I would note, that at this time the Kansas courts have construed 60-436 to apply to Crime Stoppers.

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