

Approved: 2/8/94  
Date

## MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Jerry Moran at 10:00 a.m. on February 1, 1994 in Room 514-S of the Capitol.

All members were present.

Committee staff present: Mike Heim, Legislative Research Department  
Jerry Donaldson, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Darlene Thomas, Committee Secretary

Conferees appearing before the committee:

Senator Marian Reynolds  
Gene Johnson, Sunflower Alcohol Safety  
Ann Smith, Kansas Association of Counties  
John Peterson, Kansas Association of Professional Psychologists  
Alan Cobb, Attorney for Wichita Hospitals  
Jerry Slaughter, Kansas Medical Society  
Robert Stephen, Kansas Attorney General  
John Bork, Kansas Attorney General's Office

Others attending: See attached list

Senator Marian Reynolds appeared before the Committee to request introduction of a bill regarding "hate crimes" modeled after Wisconsin law. A motion was made by Senator Vancrum, seconded by Senator Martin to introduce the bill. The motion carried.

Jerry Slaughter, Kansas Medical Society requested the Committee introduce a bill to amend 60-3802 and 60-3806 of Article 38 of the statutes (Attachment No. 1). A motion was made by Senator Bond, seconded by Senator Emert to introduce the bill. The motion carried.

Alan Cobb, Wichita Hospitals requested the Committee introduce a Senate version of HB 2474 which eliminates the \$5,000 cap on liens for hospitals services (Attachment No. 2). A motion was made by Senator Oleen, seconded by Senator Emert to introduce the bill. The motion carried.

John Peterson, Kansas Association of Professional Psychologists requested the Committee introduce a bill to amend the guardianship and conservatorship statute (Attachment No. 3). A motion was made by Senator Bond, seconded by Senator Ranson to introduce the bill. The motion carried.

Ann Smith, Kansas Association of Counties appeared on behalf of the County Clerks to request amendment of K.S.A. 21-3914 (Attachment No. 4). A motion was made by Senator Bond, seconded by Senator Emert to introduce the bill. The motion carried.

Ann Smith, Kansas Association of Counties requested the Committee introduce a bill to amend K.S.A. 79-4803 to clarify juvenile detention expenditures from state gaming revenues (Attachment No. 5). A motion was made by Senator Ranson, seconded by Senator Emert to introduce the bill. The motion carried.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m. on February 1, 1994.

Gene Johnson, Sunflower Alcohol Safety requested the Committee introduce a bill to amend the "open container" statute relating to certain offenses. A motion was made by Senator Harris, seconded by Senator Brady to introduce the bill. The motion carried.

Gene Johnson, Sunflower Alcohol Safety requested the Committee introduce a bill to amend the alcohol and drug education statute. A motion was made by Senator Emert, seconded by Senator Harris to introduce the bill. The motion carried.

Gene Johnson, Sunflower Alcohol Safety requested the Committee introduce a bill to amend the habitual violator statute to eliminate paperwork and court time by instituting administrative hearings. A motion was made by Senator Brady, seconded by Senator Rock to introduce the bill. The motion carried.

A motion was made by Senator Petty, seconded by Senator Emert to introduce a bill to clarify the durable power of attorney statute to make it consistent with notary form. The motion carried.

A motion was made by Senator Parkinson, seconded by Senator Emert to introduce a bill to allow district attorneys state wide to assess a fine of up to \$25 for cost of collecting bad checks. The motion carried.

A motion was made by Senator Petty, seconded by Senator Brady to introduce a bill to extend the statute of limitations for IUD litigation. The motion carried.

Robert Stephen, Kansas Attorney General, addressed the Committee in regard to juvenile issues. He congratulated the Committee on the job they were doing. In response to questions from the Committee the Attorney General said the following: 1) boot camps did not serve much of a purpose for the long term unless there was adequate follow-up. He stated he did not have much information about Labette Correctional Conservation Camp; 2) he does not visualize any constitutional problems in regard to registration or making the registration public upon demand of sexual predators and habitual sexual offenders. Public notice served another purpose in that the employer may better place the sexual predator in the work place to decrease the danger. He said as long as legislation was civil in nature, at the conclusion of incarceration if psychiatric evaluation determined the offender was a danger to the public or self, the sex offender would be committed to a mental institution until which time that finding has changed. He stated he found no problem with notification of the sex offender employer. The Attorney General was uncertain whether or not notification of employer to employees was constitutional; 3) He stated in regard to the death penalty that he could not foresee there would be enough appeals to set up an appellate division. He said there have only been 24 executed in the history of Kansas.

SB 608--gang activity.

John Bork, Office of Attorney General testified on SB 608. He stated concern that New Sec. 2 "...and who willfully promotes, furthers or assists in any criminal conduct by gang member, shall be guilty of a class A person misdemeanor", conflicts with the statute on aiding and abetting (K.S.A. 21-3405). Mr. Bork stated another problem was with making membership in an association or a gang a crime.

Senator Feleciano said it was his understanding when the Senate Judiciary Committee adjourned last week that Kyle Smith, Kansas Bureau of Investigation, Nola Faulston, District Attorney, Sedgwick County and other district attorneys were to address the issues in question in SB 608 and bring amendments back to the Committee. He stated Nola Faulston had sighted two or three specific areas that could be amended to correct the constitutional problem with the bill. It was requested that language be drafted and brought back to the Committee as soon as possible that would be constitutionally correct in regard to New Sec. 2, Line 30-31. Chairman Moran requested John Bork, Kyle Smith, Jim Clark and Nola Faulston to provide language changes. Kyle Smith stated he was in the process of obtaining those changes.

SB 513--prosecuting 16 and 17 year olds as adults

A motion was made by Senator Ranson, seconded by Senator Vancrum to amend SB 513 by striking the term "misdemeanor". The motion carried.

## CONTINUATION SHEET

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on February 1, 1994.

A motion was made by Senator Petty, seconded by Senator Bond to amend SB 513 to read "the judge shall review each 16 and 17 year old individually who commits a person felony to determine, at the discretion of the judge, whether they be tried as an adult or juvenile." A division was requested, 6 yes; 5 no. The motion carried.

A motion was made by Senator Feleciano, seconded by Senator Rock to report SB 513 favorably as amended. A division requested, 7 yes, 5 no. The motion carried.

The meeting adjourned at 11:00 a.m.

The next meeting is scheduled for February 2, 1994.