

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 A.M. on February 3, 2011, in Room 548-S of the Capitol.

All members were present, except Senators Donovan and Haley, who were excused

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Helen Pedigo, Special Counsel to the Chief Justice of the Kansas Supreme Court

Others attending:

See attached list.

Bill Introductions:

Eric Stafford, The Kansas Chamber, requested introduction of two bills, as follows:

- A bill concerning the consumer protection law
- A bill concerning interest on judgments

Ron Hein, Kansas Beverage Association, requested introduction of a bill imposing penalties on certain recyclers.

The Chairman opened the hearings on **SB 60 — Eliminating direct appeals to the supreme court for certain off-grid felonies.**

Helen Pedigo testified in support of **SB 60** (Attachment 1). She stated that many of the novel issues arising out of the enactment of Jessica's Law have been settled and it is no longer necessary for appeals to bypass the Court of Appeals. In addition, the number of Jessica's Law cases delay other important criminal and civil cases designated for initial review by, or cases transferred to, the Supreme Court.

Senator Umbarger asked, "How such appeals are handled in other states?"

Ms. Pedigo responded that she would provide the information after she researched the question.

There was no testimony offered in opposition to **SB 60**.

The Chairman noted that the fiscal note for **SB 60** had not yet been received.

The Chairman closed the hearings on **SB 60**.

The Chairman opened the hearings on **SB 62 — Assessment of court costs under the Kansas standard asset seizure and forfeiture act.**

Helen Pedigo testified in support of **SB 62**, on behalf of Mary E. Kadel, Montgomery County District Court Administrator (Attachment 2). She stated that the bill amends the Asset Seizure and Forfeiture Act and would clarify that an assessment of the court costs, which includes docket fees, may be made when the object of the forfeiture proceeding is cash.

Senator Kelly asked, "What was the fiscal impact of **SB 62**?"

The Chairman noted that the fiscal note for **SB 62** had not yet been received.

There was no testimony offered in opposition to **SB 62**.

The Chairman closed the hearings on **SB 62**.

CONTINUATION SHEET

The minutes of the Judiciary Committee at 10:30 a.m. on February 3, 2011, in Room 548-S of the Capitol.

Committee Action:

The Chairman turned the committee's attention to **SB 35 -- Attorney-client privilege and work-product protection.**

Senator Vratil moved, Senator King seconded, that SB 35 be passed. The motion was adopted without discussion.

The Chairman turned the committee's attention to **SB 38 -- Children; permanency and priority of orders.**

Senator Vratil moved, Senator Umbarger seconded, that SB 38 be passed.

The Chairman stated it is necessary to emphasize the priority of these orders. The Chairman also noted that **SB 38** was introduced to clarify the intent of last year's legislation.

The motion was adopted.

Senator Pilcher-Cook announced that she would be distributing copies of a Florida federal district court opinion in which the federal health care law is declared void.

Meeting adjourned at 10:25 A.M. The next meeting is scheduled for February 4, 2011.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 3 2011

[illegible]



SUPREME COURT OF KANSAS

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TO CHIEF JUSTICE

SENATE JUDICIARY COMMITTEE

Honorable Senator Tim Owens, Chair

Testimony in Support of SB 60 - Appeals

February 3, 2011

Mr. Chairman, and committee members, thank you for the opportunity to testify in support of this bill. This was a request from the Supreme Court. The legislation would ensure that direct appeals on behalf of criminal defendants who are sentenced pursuant to Jessica's Law or departures from Jessica's Law go first to the Court of Appeals rather than the Supreme Court.

More than thirty Jessica's Law cases have been heard so far by the Supreme Court, and many of the novel legal issues that inevitably arise out of new legislation with such far-reaching effect have been settled. Continuing to require that these particular off-grid offenses or departures come to the Supreme Court rather than the Court of Appeals in the first instance is no longer necessary.

In addition, the influx of Jessica's Law cases tends to delay other important cases already designated for initial Supreme Court review. For example, other off-grid criminal offenses, including capital cases; federal certified questions; original actions such as mandamus and quo warranto; and eminent domain matters may be delayed. Decisions in significant civil cases transferred to the Supreme Court also may be delayed, as may decisions in matters accepted for discretionary review after an opinion has been issued by the Court of Appeals. Frequently, these transfer and petition for review cases concern issues in particular need of the final decision the Supreme Court must provide. In short, the requested amendment to K.S.A. 22-3601 will correct the tendency of Jessica's Law cases, which are regrettably numerous, to fill the Supreme Court's docket, even when the legal issues they raise are no longer subject to considerable dispute.

I ask that you consider this bill favorably. Thank you for your time and I'd be happy to answer questions that you may have.

Senate Judiciary
2-3-11
Attachment 1

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Senate Bill 62
Assessment of Court Costs in Asset Forfeiture Cases

TESTIMONY

By: Mary E. Kadel, District Court Administrator
Montgomery County District Court
14th Judicial District

Mr. Chairman and Committee Members:

Thank you for the opportunity to appear before you today on behalf of the Kansas Association of District Court Clerks and Administrators in support of Senate Bill 62.

The Asset Seizure and Forfeiture Act provides in K.S. A. 2009 Supp. 60-4177 that the proceeds of any sale shall be distributed in a prescribed order of priority, and includes "sale and court costs" as an item that may be paid in the second order of priority. While this provision appears to allow the assessment of the docket fee when forfeited assets are actually sold, there appears to be no express authority for the court to assess the docket fee when the object of the forfeiture proceeding is cash and no sale occurs.

During the last calendar year a total of 42 civil forfeiture cases (criminal drug cases) were filed in Montgomery County, Kansas. The total value of these cases is \$81,983.10, including \$12,779.80 in cash and \$69,203.30 in property. In Montgomery County alone, lost revenue to the State of Kansas in docket fees totals \$7,287.00.

KADCCA would like to amend K.S.A. 2009 Supp. 60-4107 and K.S. A. 60-4109 to provide that court costs, which in most cases would include only the docket fee, may be assessed by the court in asset forfeiture cases.

Thank you for your time.

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Senate Judiciary
2-3-11
Attachment 2