

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on March 2, 2011, in Room 346-S of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Tamera Lawrence, Office of the Revisor of Statutes
Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Professor Jim Concannon, Kansas Judicial Council
Natalie Gibson, Staff Attorney, Kansas Judicial Council
Todd Sheppard, Kansas Bar Association

Others attending:

See attached list.

The Hearing on **SB 35 - Attorney-client privilege and work-product protection** was opened.

Tamera Lawrence, Staff Assistant Revisor, provided an overview for the committee. ([Attachment 1](#))

Professor Jim Concannon, on behalf of the Kansas Judicial Council, addressed the committee in support of the bill, and stated it is based on Federal Rule of Evidence 502, which was enacted on September 19, 2008 and governs whether a disclosure of information protected by the attorney-client privilege or work-product protection results in a waiver of that privilege or protection. He cited several specifics of the bill:

- Limits waiver of the privilege to the communication disclosed and not the entire subject matter of the conversation
- Restricts the scope of any waiver to the information disclosed unless fairness requires further disclosure
- Clarifies that inadvertent disclosure does not result in a waiver when the holder of the privilege “took reasonable steps to rectify the error”
- Addresses the circumstances where the disclosure was first made in a proceeding in another state or at the federal level and is later considered in a Kansas proceeding
- Provides for the controlling effect of a court order or a party agreement

He stated four other states have adopted this in their statutes, Iowa, Arizona, Virginia, and Washington. ([Attachment 2](#))

Chairman Kinzer asked the staff to provide for clarification of jurisdiction within the United States.

There were no opponents.

The Hearing on **SB 35** was closed.

The Hearing on **SB 38 - Children; permanency and priority of orders** was opened.

Tamera Lawrence, Staff Assistant Revisor, provided an overview for the committee. ([Attachment 3](#))

Natalie Gibson, Staff Attorney, Kansas Judicial Council, appeared before the committee in support of the bill. She explained in 2010 **SB 460**, the Kansas Judicial Council Juvenile Offender/Child in Need of Care Advisory Committee (JO/CINC committee) proposed a bill that provided child in need of care orders or juvenile offender orders would take priority over similar orders in other domestic cases such as divorce, paternity, protection from abuse, and guardianship or conservatorship. She stated this had been the practice generally, but it had not been clarified by statute. This bill was passed by the Legislature and

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enacted by the Governor. In August, 2010, it was brought to the JO/CINC committee's attention that the priority language throughout the bill was not consistent as was intended and this was causing some confusion; therefore, this bill was initiated by the JO/CINC Committee to provide clarification and consistency throughout the relevant statutes. (Attachment 4)

There were no opponents.

The hearing on **SB 38** was closed.

The Hearing on **SB 45 - Removing the trust's taxpayer identification number from the certification of trust** was opened.

Matt Sterling, Staff Assistant Revisor, provided an overview for the committee. (Attachment 5)

Todd Sheppard appeared before the committee on behalf of the Kansas Bar Association in support of the bill, which amends K.S.A. 58a-1013 by removing the Tax Identification number. He explained the KBA's position is the TAX ID number or social security number is no longer necessary to identify the trust and should not be in a document that is placed in the public record. (Attachment 6)

There were no opponents.

The hearing on **SB 45** was closed.

The next meeting is scheduled for March 3, 2011.

The meeting was adjourned at 4:10 p.m.