

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on Thursday, January 15, 2004 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jerry Ann Donaldson, Kansas Legislative Research Department
Lisa Montgomery, Office of the Revisor Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Detective David Anderson, Lawrence Police Dept.
Manny Barbaran, Representing Kansas Professional Sureties and Manny's Bonding Co.
Shane Rolf, Shane's Bonding Co.
Kyle Smith, KBI

Others attending:

See Attached List.

SB 299 - Concerning Kansas surety agents

Chairman Vratil opened the hearing on **SB 299**, and distributed copies of a proposed balloon amendment to Committee members clarifying the meaning of "Surety" within **SB 299**. (Attachment 1)

Detective David Anderson, Lawrence Police Department, testified in support of **SB 299**. He said the problem of bail bondsmen and their agents commonly referred to as bounty hunters or recovery agents, committing irresponsible and sometimes even violent acts, while "doing their jobs", has existed for a long time. He gave background information on how the power that bounty hunters claim was derived, and stated that they have more power and jurisdiction than a trained, certified law enforcement officer possesses. He added that bounty hunters are often untrained, unqualified, and unrestricted.

Detective Anderson shared with the Committee actual outrageous acts inflicted on Kansans by unqualified, unregulated bounty hunters, and detailed same in his submitted written testimony. He said that some of the perpetrators of these acts were prosecuted criminally for their conduct, but under current Kansas law they can go right back to being "Surety Recovery Agents". He explained that civil lawsuits are not the solution as few of these "thugs" have any assets, and the bonding companies claim that the bounty hunters are independent contractors and not employees. He concluded by stating that **SB 299** would take great strides in regulating and restricting bounty hunters. The legislation would help ensure the safety and constitutional guarantees of all Kansans. (Attachment 2)

Senator Pugh inquired as to how the proposed legislation would stop the outrageous actions of bounty hunters. Detective Anderson replied that the power given to these individuals was derived from an 1872 U.S. Supreme Court decision, and a few states have been successful in trying to regulate what bounty hunters do. He said his department's hope and concern as a first step is to first regulate individuals who are doing this type of work. He explained that many of the bounty hunters are actually criminals or convicted felons themselves. Detective Anderson stated that implementing this legislation would prevent convicted felons or individuals found guilty of certain charges from being bounty hunters, and increase the level of professionalism in the industry. The second part of the proposal is that before a bounty hunter goes out to apprehend a wanted person, the bounty hunter is required to check with the appropriate law enforcement authorities. The main purpose of this provision is so law enforcement knows who exactly is going out and exercising authority as a bounty hunter, thereby giving the law enforcement time to do a records check on these individuals to make sure they are in compliance with this legislation.

Manny Barbaran, Mannies Bonding Company, testified in support of **SB 299**, and on behalf of the Kansas Professional Sureties (KPS) submitted written remarks in support of this proposed bill. (Attachment 3) He explained that the KPS members were property or "pocket" bondsman, which means they use their own assets, either real estate or other cash assets, to secure the bonds their companies guarantee. He

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stated that he has been in business 35 years and has only had one incident in that time where a family in Kansas City, KS., claimed one of his employees maced the family's children. He said a lawsuit and court case ensued, and the employee was found not guilty because of a weak prosecution case.

Mr. Barbaran testified that in its current form, **SB 299**, is a sound and affordable alternative to the language offered in **SB 248**. He stated that requiring communication between surety recovery agents and local law enforcement prior to an attempt to apprehend a bail or bond violator would be beneficial to all parties. Mr. Barbaran added that cooperation with local law enforcement is vital to the ability to conduct business. He said they also endorsed the proposed language in Section 3 prohibiting convicted felons from serving as surety recovery agents.

Mr. Barbaran requested an amendment be made to the proposed bill requiring a bondsman to be a resident of the State of Kansas for at least two years. He explained that the amendment would help eliminate the problem with Missouri bondsman coming into Kansas and paying \$50 through an insurance company and legally becoming a Kansas bondsman. He said Missouri has a law that if he wanted to go there he would have to put up \$25,000 to be a bondsman in Missouri.

Senator Haley inquired if Mr. Barbaran does background checks on individuals before hiring them, and Mr. Barbaran said his company checks them out and would not hire a convicted felon. Senator Haley asked if he knew of any other company that has hired convicted felons, and Mr. Barbaran responded that he knew Wyandotte County had two convicted felons, but did not know of any others.

Shane Rolf, Shane's Bonding Co., testified that he has been in the bail bond business in Johnson County since 1986. He stated he supported the intent of the proposed bill, although he felt that it needed a small amount of tweaking to clarify and avoid any potential problems in unusual circumstances. He explained that the bill calls for informing local law enforcement of any intended apprehension, however, there are instances where advance notification of law enforcement is not practical or perhaps even possible. He added in most instances this would involve the surety directly rather than a bounty hunter.

Mr. Rolf requested an amendment clarifying the language at the end of the sentence in Line 23 by inserting the phrase "except in exigent circumstances". He explained that by inserting this phrase the surety would retain the ability to immediately apprehend or detain his client in those circumstances where advance notification is impossible or impractical. Mr. Rolf said he supported the notion that convicted criminals should not be involved in the commercial bail bond business. He questioned the wording in Section 3 and the use of "involving", plus the use of the ten year time frame "immediately prior to the date of the intended apprehension".

Mr. Rolf proposed that Section 3 be rewritten and limited as follows: "No commercial surety or person acting as an authorized agent of a commercial surety or bounty hunter shall have been convicted in this, or any other jurisdiction, of a felony or a crime involving moral turpitude or dishonesty."

Senator Pugh inquired if there are provisions in the State of Kansas for the hiring of other people, i.e. doctors, social workers, or government employees. He said he was attempting to determine if Kansas was being consistent with other hiring areas.

Kyle Smith, Kansas Bureau of Investigation (KBI), injected that the language was taken from the Private Investigators Act and explained how the wording was derived. Committee questions and discussion continued regarding the language in this proposed legislation. Ernest Popovich, Geary County Sheriff's Department, Manny Barbaran and Randal Kahler (bounty hunter) of Mannies Bonding Co., offered comments regarding the proposed bill.

Chairman Vratil questioned Mr. Rolf in regard to his requested amendment in Line 23 involving the phrase "exigent circumstances". He asked if it wouldn't be prudent for the bonding companies to notify the Police Department as soon as they had any indication that a person was about to flee or violate their bond. The bonding company wouldn't have to wait until the last minute. Mr. Rolf responded that they would simply be giving law enforcement a laundry list of people who failed to make an appearance and that we might be getting them back. He stated he thought the police were more interested in having

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specific knowledge about specific cases so they could be aware of something that might occur.

Due to time restraints, Kyle Smith, KBI, briefly summarized what **SB 299** does. He said that he and Detective Anderson took a look at **SB 248** and decided a good portion of the problem could be addressed in a more streamlined and simplified manner, so **SB 299** was drafted. He explained that **SB 299** has two main parts which should fix most of the abuses that occur by the few bad bondsmen and bounty hunters that violate innocent citizens and damage the reputation of the profession. Mr. Smith stated that by requiring a prior check by law enforcement of their authority and by eliminating those persons from participating in the criminal justice system who have serious criminal history of their own, most of the abuses can be stopped. (Attachment 5)

Following brief discussion and questions, Senator Vratil closed the hearing on **SB 299**.

The Chair announced that hearings on **SB 298** and **HB 2293** would be rescheduled for another time, and expressed his apologies to the conferees who were present to testify on those two bills.

The Chair adjourned the meeting at 10:30 a.m. The next scheduled meeting is January 20, 2004.