

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Vratil at 9:35 a.m. on January 23, 2003 in Room 123-S of the Capitol.

All members were present except: Senator Oleen (E)
Senator Pugh (E)
Senator Schmidt (E)
Senator Umbarger (E)

Committee staff present: Jerry Ann Donaldson, Kansas Legislative Research Department
Lisa Montgomery, Office of the Revisor of Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Charley Laman, General Counsel, Kickapoo Tribe
Ron Hein, Prairie Band Potawatomi Nation
Terry Scott, Police Chief, Prairie Band Potawatomi Nation
Whitney Damron, Kickapoo Tribe and Sac & Fox Nation
Representative Becky Hutchins
Daina Durham, Jackson County Sheriff (written testimony)
Ronald Kautz, Whiting, KS (written testimony)
Martha Dorsey, Legislative Research Department
Stuart Little, Kansas Community Corrections Association
Denise Everhart, Acting Commissioner, Juvenile Justice Authority (written testimony)
John Peterson, Kansas Assn. Of Homes & Services for the Aging
Marla Rhoden, KDHE, Bureau of Health Facilities, Health Occupations Credentialing
Ed Jaskinia, Associated Landlords of Kansas

Others attending: see attached list

The minutes for the January 22 meeting were approved on a motion by Senator Donovan, seconded by Senator Goodwin, and motion carried.

The Chair noted that the Committee members had been furnished with copies of three fiscal notes covering **SB 11**, **SB 14**, and **SB 15**. (Attachment 1)

SB 9 - Bill by Joint Comm. on State-Tribal Relations; Native American tribal law enforcement officers; jurisdiction

Chairman Vratil opened the hearing on **SB 9**. Conferee Laman testified in support of SB 9. He explained that this bill amends K.S.A. 22-2401a (commonly referred to as the "Campus Police" law) to include Tribal law enforcement officers. He stated that the bill promotes safety for the citizens of Kansas, as well as inter-cooperation between law enforcement. He said the passage of this law would allow Tribal officers to arrest persons utilizing the Kansas Criminal Codes, file the case with the Sheriff, and the County Attorney would then prosecute the cases. He urged the Committee to pass this proposed

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amendment. He pointed out that some adjustments should be made to Section 8(e) of **SB 9** which limits the application of this law to the areas designated in the Kansas' Tribes Gaming Compacts. He suggested that the same be addressed by including not only the Indian Reservations as defined in the gaming compacts, but also each Tribe's trust lands. (Attachment 2)

Conferee Hein testified in support of **SB 9** on behalf of the Prairie Band Potawatomi Nation. He told the Committee that this bill provides for tribal law enforcement officers to have statutory recognition as law enforcement officers on the reservation or when other circumstances exist. He stated that in light of new efforts to improve communication and cooperation between all law enforcement agencies as evidenced by the increased emphasis on Homeland Security, they believed this legislation was important and warranted to improve law enforcement for all Kansans. (Attachment 3)

Conferee Scott appeared before the Committee in support of **SB 9**, and gave some examples of the problems that currently exist which this proposed bill addresses and resolves. (Attachment 4)

The Chair asked Mr. Scott if the Potawatomi Nation have any concern about the definition of "reservation" in this bill, and Mr. Scott responded in the negative.

Conferee Damron testified in support of the proposed legislation on behalf of the Sac and Fox Nation, but expressed concern with some of the language since it was amended by the Joint Committee on State-Tribal Affairs to exclude "Indian Country". He explained that their concerns lie in the fact that most of their real property is not located within the recognized borders of their reservation as defined in their gaming compact with the State of Kansas. He suggested that the definition of "Indian Country" be written in language applicable to Reserve, Kansas. (Attachment 5)

Chairman Vratil shared with the Committee that the Joint Committee on State-Tribal Affairs considered this bill over the summer, and recommended it for introduction as it appears in the bill books. He reviewed how the bill was originally drafted to define reservation by referring to the federal definition of "Indian Country", and the Jt. Committee rejected that definition upon recommendation of Natalie Haag and Juliene Miller because of problems that it created in using that federal definition. He said that Mr. Damron has proposed an addition to the definition that appears in the Senate bill.

Representative Becky Hutchins briefly spoke to the Committee on **SB 9**. She submitted written testimony from two constituents who are in opposition to **SB 9**, but were unable to attend today's hearing. The first testimony was from Daina Durham, Jackson County Sheriff. Ms. Durham expressed concern as to whether the State was accepting liability for the wrongful acts of Tribal law enforcement officers, what redress citizens might have if civil rights have been violated, and the cost of likely increased dockets for the 1st and 2nd Judicial Districts. (Attachment 6)

Representative Hutchins explained the second written testimony she was submitting was from Ronald Kautz in the form of an email sent to her. The testimony related an incident he had with a Tribal officer on a state highway which occurred on January 20, in which the officer ticketed him for speeding. Mr. Kautz felt that the officer did not have jurisdiction to issue such tickets. (Attachment 7)

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There being no Committee questions, the Chair closed the hearing on **SB 9**.

SB 11 - Bill by Joint Committee on Corrections & Juvenile Justice creating community advisory committee to participate in annual budget planning process of juvenile justice authority

Chairman Vratil opened the hearing on **SB 11**. Martha Dorsey, Legislative Research Department, gave a presentation on the Community Advisory Committee which **SB 11** creates in order to allow participation by community prevention and graduated sanctions service providers to participate in the Juvenile Justice Authority (JJA) annual budget planning process. She said the purpose also was in identifying new or enhanced community graduated sanctions and prevention programs. Ms. Dorsey outlined the membership requirements, annual report, and duties. (Attachment 8)

Conferee Little testified in support of **SB 11** on behalf of the Kansas Community Corrections Association (KCCA). He stated that the proposed bill establishes very specific and valued duties articulated in Section 1 (d). He said that KCCA sees value in committing the state to establish a means to receive comment, inform, and participation from community partners in the budget and policy process in two key areas: prevention programs and graduated sanctions. He added that nothing the Community Advisory Board will do infringes on the ultimate authority and responsibilities of the JJA to make final funding and program decisions. (Attachment 9)

Committee questions and discussion regarded establishment without statutory law, concerns of continuity with the recent change of administration within the JJA, and whether committee participants are compensated which they are not.

Conferee Everhart spoke briefly to the Committee in support of **SB 11**, and submitted written testimony. (Attachment 10)

Chairman Vratil closed the hearing on **SB 11**.

SB 14 -Criteria for employment in adult care homes and by home health agencies

Chairman Vratil opened the hearing on **SB 14**. Conferee Peterson submitted written testimony on behalf of the Kansas Association of Homes & Services for the Aging in support of **SB 14**. Mr. Peterson explained the purpose of the bill which adds non-felony theft to the list of prohibited offenses, in order to protect vulnerable persons who reside in adult care homes or receive home health care. (Attachment 11)

Conferee Rhoden testified as neutral on **SB 14**, and stated that the Kansas Department of Health and Environment (KDHE) is fulfilling the very requirements specified by this proposed legislation. She said KDHE currently provides the adult criminal history to the requesting adult care home or home health agency, along with notification as to whether or not the individual is prohibited from employment. Ms. Rhoden pointed out that this bill as written would not prohibit an individual with a conviction for theft from employment in an adult care home or home health agency, and it also makes no changes to the current procedures for criminal record checks. (Attachment 12)

The Chair closed the hearing on **SB 14**.

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SB 15 - Warning to tenants relating to termination notices with new conditions not contained in rental agreement

Chairman Vratil opened the hearing on **SB 15**. The Chair reviewed the proposed bill requested by Senator Schmidt. There were no proponents to speak in support of the bill, and the Chair announced that due to Senator Schmidt's absence, he would allow him to speak on the bill at a later date.

Conferee Jaskinia testified in opposition to **SB 15** on behalf of The Associated Landlords of Kansas (TALK). He stated that this was a cleanup bill, and that the law already exists to cover these issues. He said that this bill is just explanation of what the law already is, but it does give a breakdown of expenses that the tenant will incur. Mr. Jaskinia explained that the Kansas Landlord/Tenant law was probably the best in the country, and it came from the federal government in 1975. He also said that TALK's position is to not open this law unless it is extremely important. He testified that the changes in the notice appeared to be mostly reminders and clarification of responsibility. He also pointed out that a notice of termination does not have to be signed by the recipient, and that a tenant signature on the notice of termination with additional provisions should bind them to all of the new agreement. He said it was a voluntary addendum to the rental agreement.

After brief Committee discussion and questions, Chairman Vratil closed the hearing on **SB 15**.

The Chair announced that due to time restraints, the Committee would consider potential amendments to the "No-Call" Act in the near future.

The meeting was adjourned at 10:30 a.m. The next scheduled meeting is January 27, 2003.