

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:16 a.m. on March 15, 2000 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Representative Mary Compton
Paul Morrison, Johnson County District Attorney
Jerry Maag, Prosecutor for Attorney General Stoval
Ron Wurtz, Kansas Bar Association

Others attending: see attached list

HB 2075—concerning the Kansas tort claims act; relating to definition of an employee

Conferee Compton testified on behalf of District Judge Fred Lorentz discussing the issue of probationers working in the community and liability concerns. (attachment 1) Following lengthy discussion regarding whether or not the bill provides for insurance coverage for these workers, the Chair stated he would contact the judge for clarification.

HB 2684—concerning civil procedure; relating to habeas corpus

Conferee Morrison testified in support of **HB 2684**. He provided a brief overview of K.S.A. 60-1507, a bill whereby an inmate may raise the issue of ineffective assistance of counsel “at any time” with no statute of limitations. He discussed the abuse of this law by inmates who are “bored” and so use this law for any purpose and “squander law enforcement and judicial time and resources.” He cited several examples of this abuse by inmates in Johnson County. He stated that the federal government has a similar limitation in its Anti-Terrorism and Effective Death Penalty Act and stated this act has passed constitutional muster. (attachment 2) Discussion followed.

Conferee Maag testified in place of Chris Biggs, Geary County Attorney, who could not be present today. (written testimony submitted by Mr. Biggs - see attachment 3) In response to Committee’s questions during previous discussion he expanded on federal law regarding the issue of time limits for appeals and validated the previous conferee’s claim that **HB 2684** does not violate an inmate’s constitutional rights. (no attachment)

Conferee Wurtz testified on behalf of the KBA in opposition to **HB 2684**. He presented an historical overview of the common law writ of habeas corpus. He discussed the issues of incorrect sentencing and conviction errors citing several cases he was aware of and argued that the statute of limitation works an injustice. Since his comments were similar to Ed Collister’s written testimony, the KBA utilized his letter as the conferee’s written testimony. (attachment 4) Discussion followed regarding a compromise on the statute of limitations being one year as proposed by the bill. The conferee stated if there must be a compromise he would recommend 5-10 years. Following further discussion, Senator Goodwin moved to amend the bill with a 5 year limit and report it out favorably for passage. Senator Vratil seconded. Discussion. Senator Harrington moved to amend the bill with a 3 year limit. Senator Vratil seconded. Discussion. Senator Harrington withdrew her motion and a vote was taken on Senator Goodwin’s motion and Senator Vratil’s second to amend the bill to 5 year limit and pass it out favorably. Motion failed 6-5.

The meeting adjourned at 10:57 a.m. The next scheduled meeting is March 16, 2000.