

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on Friday, February 20, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator Edward Pugh -arrived 9:45 a.m., left 10:08 a.m.
Senator Lana Oleen (E)

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jill Wolters, Office of the Revisor Statutes
Helen Pedigo, Office of the Revisor Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Kyle Smith, Kansas Bureau of Investigation
Alonzo Washington, Omega Seven, Inc.
Rev. Ronald Lassiter, Faith Temple Church of God in Christ
Chaplin Jean Sullivan, MO/KS Coalition for Prison Reform
Cathy Thomas, Bias Busters of Kansas and mother of deceased inmate, Anthony Stapleton-Shawnee County
Rev. Angela Waters, MO/KS Coalition for Prison Reform
Elizabeth Gillispie, Shawnee County Department of Corrections
Sharon Vaughn, mother of deceased inmate, William Vaughn, Shawnee County
Jennifer Guydos, best friend of Anthony Stapleton
Pat Stapleton, nephew was Anthony Stapleton
Betty Stapleton, grandmother of Anthony Stapleton
Danielle Smith, sister to Anthony Stapleton
Sherra Stapleton, cousin to Anthony Stapleton
John Taylor, friend of Anthony Stapleton
Kevin Drain, concerned Topeka citizen

Others attending: See attached list.

Final Action:

SB 424 - Transfer of property into a trust; affect of insurance coverage, homestead exemption, redemption rights and due on sale clause

Chairman Vratil called for discussion and final action on **SB 424**. He stated there was a balloon amendment offered by the Kansas Bar Association to address some of the concerns expressed by Columbia National Title Insurance Company and other title companies during the hearing on this bill. He explained the amendment requires that the transfer of property be by warranty deed into an *inter vivos* trust in which one of the assets is the homestead of the beneficiary of the trust and the beneficiary of that trust is also an occupant of that homestead. Under those circumstances, the title insurance policy would remain in effect and provide coverage to the trustee of the trust so as to avoid the need for a new title insurance policy and a new title insurance policy premium. (Attachment 1)

Senator Schmidt made a motion to adopt the amendment, seconded by Senator Donovan, and the motion carried.

Senator Schmidt made a motion to pass **SB 424** out favorably as amended, seconded by Senator Umbarger, and the motion carried.

SB 183 - The interstate compact for juveniles

Chairman Vratil called for discussion and final action on **SB 183**. The Chairman explained the bill and its history. Senator Goodwin stated it was imperative that Kansas become a part of the interstate compact on juveniles for the same reason Kansas passed the adult compact. She said she thought there were juveniles falling through the cracks, nobody giving them treatment, nobody monitoring them, or nobody doing anything with the juveniles once they crossed the state line. She encouraged the Committee members to

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:35 a.m. on Friday, February 20, 2004, in Room 123-S of the Capitol.

pass this proposed legislation.

Senator Haley made a motion to pass **SB 183** favorably as recommended, seconded by Senator O'Connor, and the motion carried.

SB 437 - Raising small claims limitation to \$5,000, with an increase every 3 years based on the consumer price index

Chairman Vratil called for discussion and final action on **SB 437**. The Chair explained the bill proposed to increase the threshold for claims filed in small claims court from \$1,800 to \$5,000 and includes a cost of living escalator for an increase every 3 years. Copies of Fiscal Note for **SB 437** were distributed to members. (Attachment 2)

Senator O'Connor made a motion for an amendment to change the date on line 20 from January to July, amend the CPI to round to the nearest \$100 instead of odd cents, and delete the Small Claims Petition and Defendant's Claim forms from the Statute since it is in a book of forms. The motion was seconded by Senator Donovan, and the motion carried.

Senator O'Connor made a motion to recommend **SB 437** favorably as amended, and seconded by Senator Haley. Following brief Committee discussion, the Chair called for a vote on the amended bill. The motion carried.

SB 429 - Worthless checks; more than once within a seven-day period

Chairman Vratil called for discussion and final action on **SB 429**. The Chair explained the bill, and said he did not know of any proposed amendments regarding the proposed bill. Senator Umbarger stated that he was not speaking in opposition to the bill, but handed out some information on bills the Legislature has passed regarding worthless checks. Following brief discussion, Senator Haley made a motion to table the bill. Motion carried. (Attachment 3)

SB 438 - Automated teller machine robbery; aggravated automated teller machine robbery

Chairman Vratil called for discussion and final action on **SB 438**. He explained the bill, and stated no amendments had been submitted or requested. Following Committee discussion, Senator Goodwin made a motion to table the bill to a date uncertain. Motion carried.

SB 469 - Inmate deaths, requiring investigation and report of findings

Chairman Vratil opened the hearing on **SB 469**. Kyle Smith, Kansas Bureau of Investigation, testified in support of the bill, and explained it would require the KBI to conduct investigations of in-custody deaths. He said currently the KBI is called upon by most agencies to investigate questionable in-custody deaths as a means of ensuring public confidence by having an outside agency conduct the investigation. He suggested the following points be made into amendments and presented them in balloon format attached to his written testimony: (1) inserting in line 16 after the comma, "or of a juvenile who is in the custody of and resides in a facility operated by a juvenile justice administration, (2) in place of the word "The", line 18, beginning the sentence, "A report of the...", (3) on line 23, following the word "jail" insert "or in a facility contracted through the county", (4) on line 25 replace "The" with "a report of the....", and on replacing Section 3 with: "The provisions of this act requiring an investigation by the Kansas Bureau of Investigation shall not apply if the apparent cause of death is from natural causes and an autopsy conducted by the coroner or other qualified pathologist confirms the conclusion that the death was from natural causes." (Attachment 4)

Reverend Ronald Lassiter, Faith Temple Church of God in Christ, spoke in favor of **SB 469**. (Attachment 5)

Chaplin Jean Sullivan, MO/KS Coalition for Prison Reform, testified in support of **SB 469**. She explained that she was a volunteer Chaplin with the Department of Corrections for the State of Missouri for 12 years, and has been retired for two years. She said she was brought out of retirement because of some very suspicious deaths that occurred in the Missouri Department of Corrections. The Chaplin stated that the Missouri deaths have been kept very quiet, and that she has long supported bills like **SB 469** because of the need for accountability. She told the Committee that Missouri is currently under federal

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:35 a.m. on Friday, February 20, 2004, in Room 123-S of the Capitol.

investigation by the Department of Justice in Washington, D.C., Civil Rights Division, Special Litigation Section. She shared with the Committee the various happenings within the Missouri Department of Corrections, and strongly urged the Committee to put in place a check and balance system to protect the citizens of Kansas from what Missouri is experiencing. (no written testimony submitted)

Cathy Thomas, Bias Busters of Kansas and mother of deceased inmate, Anthony Stapleton, Shawnee County, testified in support of having outside mandatory investigations when a person dies in government custody. She related her son's medical history, and the problems she experienced with trying to get him medical attention because of his mental state. She expressed concern for the number of deaths at the Shawnee County Jail in Topeka, and stated that children's deaths require mandatory investigation when in parental custodial care. She concluded by saying suicides are preventable with the right programs and policies in place and utilized. (Attachment 6)

Reverend Angela Waters, MO/KS Coalition for Prison Reform, spoke in favor of **SB 469**. (Attachment 7)

Elizabeth Gillespie, Director of the Shawnee County Department of Corrections, testified in support of **SB 469**. She explained that Shawnee County is unique because the Shawnee County Department of Corrections manages the adult detention center as well as the juvenile detention center, and is a separate agency from the Shawnee County Sheriff's Office. Ms. Gillespie stated that this bill would bring efficiency and consistency to the process of inmate death investigations by having one agency responsible for conducting the necessary investigations. (Attachment 8)

The following conferees submitted written testimony in support of **SB 469**:

Sharon Vaughn, mother of Shawnee County deceased inmate, William Vaughn, (Attachment 9)
Jennifer Guydos, best friend of Anthony Stapleton (Attachment 10)
Pat Stapleton, aunt to deceased inmate, Anthony Stapleton (Attachment 11)
Betty Stapleton, grandmother of Anthony Stapleton (Attachment 12)
Danielle Smith, sister to Anthony Stapleton (Attachment 13)
Sherra Stapleton, cousin to Anthony Stapleton (Attachment 14)
John Taylor, friend of Anthony Stapleton (Attachment 15)
Kevin Drain, concerned Topeka citizen (Attachment 16)

Roger Werholtz, Secretary, Kansas Department of Corrections, testified as a neutral conferee on **SB 469**. He explained that the proposed legislation creates a new requirement that the KBI initiate an investigation into any inmate death that occurs in a facility under the jurisdiction of the Department of Corrections; or a city or county jail. He said that this bill does not make a distinction between the causes of death, i.e. natural cause, suicide, homicide, or accidental. He added that circumstance of any death involves privacy issues, and that those privacy interests of both the deceased and the surviving family should be considered. (Attachment 17)

Jo Rene Kerns, Executive Vice President, Correct Care Solutions, submitted written testimony as a neutral conferee on **SB 469**. (Attachment 18)

Senator Anthony Hensley, co-sponsor of the bill, spoke briefly in support of the balloon amendment submitted by the KBI.

Following discussion and questions, the Chairman closed the hearing on **SB 469**.

Copies of the Judiciary Sub-Committee Report, chaired by Senator Schmidt, were distributed and Chairman Vratil asked the members to review the report in advance of the next meeting as action would be taken at that time. (Attachment 19)

The next scheduled meeting is Monday, February 23, 2004.

Chairman Vratil adjourned the meeting at 10:30 a.m.

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:35 a.m. on Friday, February 20, 2004, in Room 123-S of the Capitol.