

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:33 A.M. on January 25, 2011, in Room 548-S of the Capitol.

All members were present

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Professor Richard Levy, University of Kansas School of Law, Kansas Judicial Council
Professor Jim Concannon, Washburn University School of Law, Kansas Judicial Council

Others attending:

See attached list.

The Chairman opened the hearings on **SB 23 -- Jury trials for juvenile offenders.**

Tamara Lawrence, Staff Revisor, reviewed the bill. She deferred, to the Kansas Judicial Council, a question by Senator Vratil concerning the differences in the proposed trial procedure for juvenile offenders and the current trial procedure for adult offenders.

Professor Richard Levy testified in support of SB 23 (Attachment 1). He stated that **SB 23** was introduced in response to a Kansas Supreme Court Case, *in re L.M.* 186 P.3d 164 (Kan. 2008) in which the Court held that a juvenile offender has a right to a jury trial.

In response to Senator Vratil's earlier question concerning the differences in the proposed trial procedure for juvenile offenders and the current trial procedure for adult offenders, Professor Levy stated that under current law:

- Adult offenders must request a trial in the case of misdemeanor offenses
- Adult offenders must waive a trial in the case of felony offenses
- Adult offenders have the right to question jurors during voir dire

Professor Levy stated that under **SB 23**:

- Juveniles must request a trial in all cases (once requested, the offender has a right to a trial)
- Juveniles would not have the right to question jurors during voir dire (the offender's attorney would conduct all questioning during voir dire)

Professor Levy stated that all other differences were simply differences in wording. He added that **SB 23** does not address the issue relating to a jury at a juvenile's trial being composed of the juvenile offender's peers.

There was no testimony in opposition to **SB 23**.

The Chairman called the committee's attention to the fiscal note and prison bed impact statement for **SB 23**.

The Chairman closed the hearings on **SB 23**.

The Chairman opened the hearings on **SB 35 -- Attorney-client privilege and work-product protection.**

Tamera Lawrence, Staff Revisor, reviewed the bill.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:33 A.M. on January 25, 2011, in Room 548-S of the Capitol.

Professor Jim Concannon testified in support of **SB 35**. Professor Concannon explained that Section 1 of the bill provides protection against the waiver of the attorney-client and work-product protection in certain circumstances; he provided a detailed explanation of Section 1 in his written testimony (Attachment 2). He also noted that K.S.A. 60-426 and 60-3003 are amended to change the word “lawyer” to “attorney.”

Senator King noted that **SB 35** does not contain a “bright line” rule in relation to reasonable steps to be taken to prevent disclosure.

There was no testimony in opposition to **SB 35**.

The Chairman closed the hearings on **SB 35**.

The Chairman opened the hearings on **SB 38 — Children; permanency and priority of orders**.

Tamera Lawrence, Staff Revisor, reviewed the bill.

Professor Richard Levy testified in support of **SB 38** (Attachment 5). He stated that the bill was necessary to clarify that child in need of care orders and juvenile offender orders would take priority over similar orders in other domestic relations cases. This would ensure that the current practice would be followed in the future.

There was no testimony in opposition to **SB 38**.

The Chairman closed the hearings on **SB 38**.

Committee Action:

The Chairman called the committee’s attention to **SR 1807 -- Urging the Government of Turkey to respect the Ecumenical Patriarchate and to uphold religious rights**.

Senator Umbarger moved, Senator King seconded, that the resolution be amended as follows: In line 2, by striking “case” and inserting “cease”; in line 4, by striking the semicolon and inserting a comma; and the resolution be adopted as amended. The motion was adopted.

Meeting adjourned at 10:25 A.M. The next meeting is scheduled for January 26, 2011.