

Approved: August 25, 2011  
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

Chairman Tim Owens called the meeting to order at 9:37 A. M. on March 3, 2011, in Room 548–S of the Capitol.

All members were present, except Senator Donovan, who was excused

Committee staff present:

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

Conferees appearing before the committee:

Edward Larson, Kansas Supreme Court Justice (Ret.), Kansas Judicial Council  
Steve Leben, Kansas Court of Appeals Judge, Kansas Judicial Council

Others attending:

See attached list.

The Chairman recognized Sarah Fertig, Executive Director, Kansas Sentencing Commission, to review the revised prison bed impact statement for **HB 2008 -- Making identity theft a person felony** (Attachment 1).

The hearings on **HB 2028 -- Uniform trust code; insurable interest of trustee** were opened.

Jason Thompson, Staff Revisor, reviewed the bill.

Edward Larson, testified, on behalf of the Kansas Judicial Council, in support of **HB 2028** (Attachment 2). He stated that the bill was introduced in response to a Fourth Circuit federal court opinion in which the court held that a trust did not have an insurable interest in the life of the insured who was the settlor and the creator of a trust.

Senator King asked, in regard to language on page 1, in line 18, "What is the meaning of the phrase, engendered by loved and affection? Would this phrase add to the potential for litigation?"

Justice Larson said he would provide an answer after checking the comments to the Uniform Trust Code (UTC).

Senator Kelly expressed her concern that the language of the bill conflicted with the provisions of law relating to powers of attorney for health care decisions.

No testimony in opposition to **HB 2028** was offered.

The Chairman called the committee's attention to the fiscal note for **HB 2028**.

The Chairman closed the hearings on **HB 2028**.

The Chairman opened the hearings on **HB 2027 -- Rules and regulations filing act**.

Jason Thompson, Staff Revisor, reviewed the bill.

Steve Leben testified, on behalf of the Kansas Judicial Council, in support of **HB 2027** (Attachment 3). He stated that the bill clarifies when an agency must follow the formal procedures for public notice and comment before adopting rules and regulations. The bill also establishes a new process for agencies to inform the public of the agency's present interpretation of the statutes administered by the agency.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:37 A.M. on March 3, 2011, in Room 548-S of the Capitol.

Senator King expressed concern that exempt rules and regulations adopted prior to the effective date of **HB 2027** under the current provisions of K.S.A. 77-421a could be construed to be invalid. Senator King suggested language similar to the following should be added to the bill: “Any rule and regulation which was adopted validly under the law in effect on the date of its adoption remains valid until amended or revoked under the provisions of this act.

Judge Leben asked for time to respond to Senator King’s concern and suggested amendment.

No testimony in opposition to **HB 2027** was offered.

The Chairman called the committee’s attention to the fiscal note for **HB 2027**.

The Chairman closed the hearings on **HB 2027**.

The Chairman opened the hearings on **HB 2030 -- Continuation of certain exceptions to disclosure under the open records act.**

Jason Thompson, Staff Revisor, reviewed the bill. Mr. Thompson also reviewed a memorandum concerning K.S.A. 45-229, which requires legislative review of exceptions to the Kansas Open Records Act (KORA) (Attachment 4).

No testimony in support of, or opposition to, **HB 2030** was offered.

The Chairman called the committee’s attention to the fiscal note for **HB 2030**.

The Chairman closed the hearings on **HB 2030**.

**Committee Action:**

The Chairman called the committee’s attention to **HB 2023 -- Amending the drug schedule by adding additional unlawful substances.**

Senator Vratil moved, Senator Schodorf seconded, that **HB 2023** be passed. The motion was adopted.

The Chairman called the committee’s attention to **HB 2027 -- Rules and regulations filing act.**

Senator Kelly moved, Senator Vratil seconded, that the bill be amended so that guidance documents are not required to be filed with the Joint Committee on Administrative Rules and Regulations, but that such documents are provided to the Joint Committee upon request thereof. The motion was adopted.

Senator Kelly moved, Senator Vratil seconded, that the bill be passed as amended.

The Chairman called the committee’s attention to **HB 2028 -- Uniform trust code; insurable interest of trustee.**

Senator King asked that action on **HB 2028** be delayed in order to have time to prepare amendments.

The Chairman turned the committee’s attention to **HB 2030 -- Continuation of certain exceptions to disclosure under the open records act.**

Senator Vratil moved, Senator King seconded, that **HB 2030** be passed. The motion was adopted.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for March 4, 2011.