

Approved: May 22, 2012  
(Date)

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 a.m. on January 30, 2012, in Room 548-S of the Capitol.  
All members were present.

### Committee staff present:

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

### Conferees appearing before the Committee:

Gloria Flentje, Chairperson of Commission on Judicial Performance  
Joe Molina, Kansas Bar Assc.  
Representative Peggy Mast  
John Guandolo, Former Special Agent with the FBI  
Tim Brown, Retired Firefighter for New York City  
Steve Graber  
Kirk Sours

### Others Attending:

See Attached

The Chairman recognized Joe Molina who requested introduction of three bills relating to the probate code, spendthrift trusts and the conversion of a trust into a unitrust.

The Chairman recognized Sarah Johnston who requested introduction of a bill relating to the child death review board.

The Chairman recognized Jeremy Barclay who requested introduction of a bill relating to the transfer of inmates.

The Chairman recognized Helen Pedigo who requested introduction of three bills relating to e-filing, judicial branch surcharge and pro-tem judges.

The Chairman recognized Scott Schultz who requested introduction of two bills relating to drug treatment programs and the expansion of the drug grid border box.

The Chairman opened the hearings on **SB 281–Relating to the commission on judicial performance.**

Jason Thompson, Staff Revisor, reviewed the bill, stating the bill would eliminate the June 30, 2013 sunset provision contained in K.S.A. 20-3201.

Gloria Flentje testified in support of **SB 281 (Attachment 1)**. Ms. Flentje stated the amendment would

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make the judicial performance evaluation program permanent.

Joe Molina testified in support of SB 281 (Attachment 2). He stated the KBA is a long-time advocate of the Commission, which provides a valuable service to lawyers, judges and citizens. He noted the Commission has developed a comprehensive evaluation process modeled after those successfully implemented in other states.

There were no opponents to **SB 281**.

The Chairman closed the hearings on **SB 281**.

The Chairman opened the hearings on **HB 2087 – Concerning the protection of rights granted under the constitution**.

Jason Thompson, Staff Revisor, reviewed the bill. Mr. Thompson stated the bill concerns the protection of rights and privileges granted under the United States Constitution. The bill would make void and unenforceable any (1) ruling based on a foreign law, legal code, or system, (2) contract or contractual provision, if severable, that provides for the choice of a foreign law, legal code, or system to govern disputes between the parties or (3) contract or contractual provision, if severable, that grants in personam jurisdiction for adjudication of disputes if the jurisdiction chosen includes any foreign law, legal code, or system if such ruling or contract does not grant the parties affected the fundamental liberties, rights, and privileges granted by the U.S. and Kansas Constitutions. The bill also would provide for denial of a claim of forum non conveniens or a related claim if a resident, subject to personal jurisdiction in Kansas, seeks to maintain litigation, arbitration, agency, or similarly binding proceedings and granting the claim violates or likely would violate the fundamental liberties, rights, and privileges granted by the U.S. and Kansas Constitutions.

Representative Peggy Mast testified in support of **HB 2087** (Attachment 3). Representative Mast stated the bill was introduced to address concerns that foreign laws and legal doctrines, including principles of Shariah law, are finding their way into U.S. Court cases.

John Guandolo testified in support of **HB 2087** (Attachment 4). Mr. Guandolo stated an investigation of Islamic (Shariah) Law is necessary to determine whether the Muslim Brotherhood's ultimate objective of the implementation of Islamic Law in the United States poses a threat.

Tim Brown testified in support of **HB 2087** (Attachments 5, 6, 7, 8, 9 and 10). Mr. Brown stated the goal of the bill is to make it clear that no U.S. citizen or resident should be denied the liberties, rights, and privileges guaranteed in America. He added the bill is needed especially to protect women and children, identified by international human rights organizations as the primary victims of discriminatory foreign laws.

Steve Graber testified in support of **HB 2087** (Attachment 11). Mr. Graber stated defining an acceptable level of assimilation into the global economic environment, yet maintaining keystones of jurisprudence, economic preferences, social norms and political infrastructure is a complex challenge for any nation.

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Kirk Sours testified in support of **HB 2087** (Attachment 12). Mr. Sours stated the bill is necessary to preserve the integrity of the U.S. and Kansas Constitutions.

Written testimony in support of **HB 2087** was submitted by Krista Morgan (Attachment 13).

No testimony in opposition to **HB 2087** was submitted.

In response to questions raised by Senator Vratil, Mr. Graber stated he was unaware of any Kansas court, tribunal or agency that has applied Muslim law. Mr. Graber stated Kentucky, Tennessee and Louisiana have adopted laws similar to **HB 2087**. Representative Mast added there had been instances in states, other than Kansas, in which religious laws or foreign laws were applied.

In response to questions raised by Senator King, Mr. Graber stated the bill would force the legislature to clarify provisions of law relating to the enforcement of foreign laws.

The Chairman announced the hearings and Committee discussion on **HB 2087** would continue at a later date and that the hearings on **SB 304–Certified batterer intervention program act** would be rescheduled.

The next meeting is scheduled for January 31, 2012.

The meeting was adjourned at 10:30 a.m.