

Approved: June 22, 2012  
(Date)

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 a.m. on February 8, 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:

Brad Smoot, Coordinator, Kansas Civil Law Forum  
Brady W. Keith, Asst. General Counsel, Credit Management Services, Inc.  
Rex Sharp, Kansas Association for Justice  
Larry Zimmerman, Kansas Credit Attorney's Assn.  
Dr. Pojman, Pathologist for State Child Death Review Board, Coroner, Third Judicial District  
Phyllis Larimore, Safe Kids Kansas

Others in attendance:

See attached list

The Chairman opened the hearings on **SB 359–Interest on judgments in civil actions.**

Jason Thompson, Staff Revisor, reviewed the bill. Mr. Thompson stated the bill concerns prejudgment interest rates and liquidated damages. The bill also amends K.S.A. 16-201, governing the legal rate of interest when none is specified, to apply it to claims based on contract or worthless checks.

Brad Smoot testified in support of **SB 359**. Mr. Smoot stated **SB 359** addresses concerns raised over a similar bill introduced last session (**2011 SB 105**). The bill would specify that interest awards shall be calculated pursuant to K.S.A. 16-204(e)(1), except a court shall not award prejudgment interest on any unliquidated, punitive, exemplary or future damages. The bill would clarify that damages are liquidated upon entry of a jury verdict awarding damages. The bill also would amend K.S.A. 16-201 to make the section applicable to claims based on contract or worthless checks. (Attachment 1).

Brady W. Keith testified in opposition to **SB 359**. Mr. Keith stated the bill would create a conflict between K.S.A. 16-201 and K.S.A. 16-204. In addition, the bill would apply retroactively and would result in accounting issues for courts and judgment creditors. (Attachment 2).

Rex Sharp testified in opposition to **SB 359**. Mr. Sharp stated the bill would not expedite litigation and

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would benefit the party who faces judgment, instead of protecting the party who awaits judgment; it would punish a victorious plaintiff. The floating interest rate proposed by the bill would require greater governmental administration and intrusion. (Attachment 3).

Larry Zimmerman testified in opposition to **SB 359**. He stated he was concerned with the unintended consequences of the bill, which goes beyond the sponsor's intent and, as drafted, captures Chapter 61 limited actions as well as Chapter 60 civil actions and contract claims. (Attachment 4).

The Chairman closed the hearings on **SB 359**.

The Chairman opened the hearings on **SB 360—Relating to the state child death review board**

Jason Thompson, Staff Revisor, reviewed the bill. Mr. Thompson stated the bill would allow the state child death review board to disclose certain information and records preserved for child death reviews for research and public health purposes.

Dr. Pojman presented testimony in support of **SB 360** on behalf of Dr. Sarah Johnston M.D., State Child Death Review Board. He stated that confidentiality can be preserved while providing access to information that may help prevent the death of a child in the future. (Attachment 5).

Phyllis Larimore testified in support of **SB 360**. She stated Safe Kids Kansas and its affiliates rely on accurate and comprehensive data on the state level in order to focus on their efforts on preventing injury to, and death of, Kansas children. The bill would allow data collected by the board to be more broadly utilized. (Attachment 6).

Written testimony in support of **SB 360** was submitted by: Elizabeth Saadi, Ph. D., Bureau of Epidemiology and Public Health Informatics, KDHE; Christy Schunn, LSCSW, Executive Director, SIDS Network of Kansas, Inc.; and Dona Booe, President and CEO Kansas Children's Service League. (Attachments 7, 8 and 9).

The Chairman closed the hearings on **SB 360**.

The next meeting is scheduled for February 9, 2012.

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