

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 9, 2012, in Room 548-S of the Capitol.

All members were present except Senator King, who was excused.

### Committee staff present:

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

### Conferees Appearing before the Committee:

Professor Richard Levy, Kansas Judicial Council  
Senator Tom Holland  
Terry Forsyth, Working Kansas Alliance  
Eric Stafford, The Kansas Chamber

### Others attending:

See attached list

The Chairman opened the hearings on **SB 320–Juvenile offender cases; probable cause determinations.**

Mr. Thompson provided an overview of the bill. The bill was introduced in response to the Kansas Supreme Court opinion, *In re D.E.R.*, 290 Kan 306 (2010), in which the Court held a juvenile offender has a constitutional right to have a judicial determination of probable cause before the juvenile's liberty is restrained. He added that the Kansas Court of Appeals had called on the legislature to provide guidance concerning the nature and conduct of proceedings to determine probable cause, *In re H.N.*, 45 Kan App. 2D 1059 (2011).

Professor Richard Levy testified in support of **SB 320**. He stated the bill establishes procedures for making probable cause determinations in juvenile offender proceedings. Determination of probable cause would be made at the detention hearing. (Attachment 1). He noted that juvenile proceedings traditionally have been civil in nature. The bill would amend K.S.A. 38-2354 to require that the rules of evidence be followed at the detention and dispositional hearings.

The Chairman closed the hearings on **SB 320**.

## CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:35 a.m. on February 9, 2012, in Room 548-S of the Capitol.

The Chairman opened the hearings on **SB 285–Mis-classification of employees; penalty.**

Mr. Thompson provided an overview of the bill. The bill would increase the penalty for the second and subsequent violation of the misclassification statute.

Senator Tom Holland testified in support of **SB 285**. He said he introduced the bill to protect honest Kansas businesses, protect workers from wage erosion and stop the loss of state income tax collections. (Attachment 2).

In response to Senator Kelly's concern about imposing penalties on persons who inadvertently violate the law, Senator Holland stated that the first time offender would be given a warning. Senator Holland also requested the Committee to amend the bill so that any person convicted of a third of subsequent violation would be guilty of a severity level 10, nonperson felony and also be subject to a civil fine.

Written testimony in support of **SB 285** was submitted by Terry Forsythe, Steven A. Nienke and Gary Seaton. (Attachments 3, 4 and 5).

Eric Stafford testified in opposition to **SB 285**. He stated if the current law would be enforced there would be no need to increase the penalties. He also expressed concern that the law allows for anonymous claims of misclassifications. (Attachment 6).

Written testimony in opposition to **SB 285** was submitted by Aaron Popelka and joint written testimony in opposition was submitted by Randy Stookey and Leslie Kaufman. (Attachments 7 and 8).

The Chairman closed the hearings on **SB 285**.

The next meeting is scheduled for February 10, 2012.

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