

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 10, 2012, in Room 548-S of the Capitol.

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

Committee staff present:

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

The Chairman turned the Committee's attention to **SB 320–Juvenile offender cases; probable cause determinations.**

Mr. Thompson reminded the Committee that the bill concerned probable cause hearings in juvenile proceedings.

Senator Donovan moved, Senator Schodorf seconded, that SB 320 be passed. Motion was adopted.

The Chairman turned the Committee's attention to **SB 281–Relating to the commission on judicial performance.**

Mr. Thompson reminded the Committee the bill would delete the sunset provision from the statute creating the judicial performance commission.

The Chairman stated it is critical that the performance of the state judiciary be evaluated. He believes the public wants the evaluations despite the cost involved.

Senator Schodorf stated she believes members of the public probably don't know anything about a judge's performance unless they happen to have been in the judge's courtroom.

Senator King stated he favors maintaining a system of legislative monitoring of the process.

Senator King moved, Senator Kelly seconded, to amend the bill to extend the the sunset provision until June 30, 2014.

Senator Vratil said it would take three years to implement fully e-filing and suggested extending the sunset until June 30, 2015.

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:35 a.m. on February 10, 2012, in Room 548-S of the Capitol.

Senator King amended his motion, Senator Kelly (the second) agreed, to amend the bill to extend the sunset provision until January 1, 2015 Motion adopted.

Senator Schodorf moved, Senator Umbarger seconded, that **SB 281** be passed, as amended. Motion adopted.

The Chairman turned the Committee's attention to **SB 307--Jury instructions on lesser included crimes in felony murder cases.**

Mr. Thompson distributed copies of a proposed substitute bill. (Attachment 1). The substitute bill would provide that when giving instructions to a jury, the judge would instruct that there are no lesser included offenses in felony murder.

Senator King moved, Senator Umbarger seconded, that **SB 307** be amended by adoption of the proposed substitute bill.

Senator Bruce stated he did not want to hold up action on the bill, but raised concerns that if a jury is instructed that there is no lesser included offense in felony murder, that it almost becomes a strict liability situation.

In response to Senator Haley's question, Mr. Thompson stated the substitute bill, like the original bill, is retroactive in certain instances. Subsection (e) provides the amendment applies if a person has not yet been convicted.

The Chairman stated he believes the chances of unintended consequences are remote.

Senator Schodorf moved, Senator Kelly seconded, that **SB 307** be passed, as amended. Motion adopted.

Senator Haley voted no.

The next meeting is scheduled for February 13, 2012.

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