

Approved: June 22, 2012
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 12:00 p.m. on February 17, 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
Theresa Kiernan, Committee Assistant

Conferees Appearing before the Committee:

Judge James Fleetwood, 18th Judicial District
Helen Pedigo, Special Counsel to the Chief Justice of the Kansas Supreme Court

Others in Attendance:

See Attached List

The Chairman turned the Committee's attention to **SB 304 –Certified batterer intervention program.**

Mr. Thompson distributed copies of balloon amendments for **SB 304**. The balloon amendments would: Add licensing requirements; clarify qualifications of applicants; clarify related criminal statutes; adjust civil penalty recovery procedure; and remove the Behavioral Sciences Regulatory Board from the list of agencies whose records are available for review by the unit. (Attachments 1, 2 and 3).

Senator Vratil moved, Senator Kelly seconded, to amend **SB 304** by adoption of the balloon amendment labeled sb304_ag_balloon. Motion adopted.

Senator Vratil moved, Senator Kelly seconded, to further amend **SB 304** by including the suggested amendments to K.S.A. 21-5414 and 21-6604. Motion adopted.

Senator Vratil moved, Senator Kelly seconded, to further amend **SB 304** by adoption of the balloon amendment labeled sb304_bsr_balloon. Motion adopted.

Senator Vratil moved, Senator Kelly seconded, that the revisor be authorized to make necessary technical amendments and the bill be passed, as amended. Motion adopted.

The Chairman turned the Committee's attention to **SB 282–Forfeiture, fleeing or eluding law enforcement.**

Mr. Thompson distributed copies of a proposed **Substitute SB 282** (12rs2257). He explained the substitute bill would provide descriptions of the offenses for which forfeiture is a penalty (in addition to the statutory references of the offenses). (Attachment 4).

Senator Vratil moved, Senator Schodorf seconded, that **SB 282** be amended by adoption of the proposed

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substitute bill and **SB 282** be passed, as amended.

Senator Haley noted the bill did not specify a distance that a vehicle must travel in order for a violation to give rise to forfeiture.

Mr. Thompson noted that only felony violations of K.S.A. 8-1568 would give rise to forfeiture and the proceeds of the forfeiture sale are deposited into the Crime Victims Assistance Fund.

The motion was renewed and was adopted.

Senator Haley voted no.

The Chairman turned the Committee's attention to **SB 283–Sheriffs, civil process fees**.

Copies of written information submitted by Cynthia Smith and Brady Smith was distributed to the Committee. (Attachments 8 and 9).

Mr. Thompson distributed copies of a proposed **Substitute SB 283**, under which the amount of the fee would increase over the next three years first to \$15, then to \$25 and finally to \$30. (Attachment 5).

Senator King moved, Senator Pilcher-Cook seconded, that **SB 283** be amended as proposed in the Substitute Bill.

Concern was raised over the amount of the proposed increase.

Senators King and Pilcher-Cook withdrew the motion and the second.

Senator King moved, Senator Donovan seconded, that **SB 283** be amended as proposed in the Substitute Bill, except that the amount of the increase of the fee be a flat \$15. Motion adopted.

Senator Donovan moved, Senator King seconded, that **SB 283** be passed, as amended. Motion adopted.

The Chairman turned the Committee's attention to **SB 322–Court fees and costs; judicial branch surcharge fund**.

Senator Vratil moved, Senator Kelly seconded, that the bill be amended by adding the amendment to K.S.A. 32-1049a to impose a surcharge wildlife and parks license reinstatements. Motion adopted.

Senator Vratil moved, Senator Kelly seconded, that **SB 322** be passed, as amended.

The Chairman turned the Committee's attention to **SB 424–Kansas law enforcement training act; Kansas commission on peace officers' standards and training**.

Mr. Thompson distributed copies of proposed technical amendments in a balloon labeled sb424_technical_balloon. (Attachment 6).

Senator Vratil moved, Senator Kelly seconded, that **SB 424** be amended, on page 6, in line 7, by striking all of the new language following the semicolon. Motion adopted.

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Senator Haley raised concern with the language on page 5, in line 30, relating to “good moral character” and the fact that the bill does not define the phrase. A representative of C-POST suggested there was guidance provided by case law. In addition, section 9 of the bill gives the Commission the authority to adopt rules and regulations defining unprofessional conduct.

Senator Vratil moved, Senator Umbarger seconded, that the revisor be authorized to make the necessary technical amendments to the bill. Motion adopted.

*Senator Vratil moved, Senator Umbarger seconded, that **SB 424** be passed, as amended. Motion adopted.*

The Chairman turned the Committee's attention to **SB 230–Relating to malpractice liability screening panels**.

*Senator Schodorf moved, Senator King seconded, that **SB 230** be passed. Motion adopted.*

Action on **SB 360–Relating to the state child death review board** was postponed at the request of Senator Pilcher-Cook, who distributed copies of **Substitute for 2011 HB 2242–Vital Statistics; concerning death and unborn child death certificates** and stated it was her intent to offer it as an amendment to **SB 360** when the Committee took action to the bill. (Attachment 7).

The Chairman turned the Committee's attention to **SB 394–Relating to transfer or discharge of certain offenders**.

*Senator Kelly moved, Senator Umbarger seconded, that **SB 394** be passed. Motion adopted.*

The Chairman turned the Committee's attention to **SB 425–Court fees and costs; establishing, operating and maintaining electronic document filing, storage and management for the Kansas court system**.

Mr. Thompson reviewed the bill and stated the bill provides that the Supreme Court would set the amount of the fee.

In response to questions regarding the Legislature setting the fees, Senator Vratil stated the Legislature does not have the time nor the expertise necessary to determine the amount of the fees. He added the legislature could step in if it determines the Court has set fees in excessive amounts.

Senator King, who had served as the Chairman of the finance committee of the BRC, stated the fees should be set at a level that insures that the users of the court system, not the taxpayers, pay for the

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system.

Senator Bruce expressed concern that the bill may constitute an unlawful delegation of legislative authority since the bill does not contain guidelines or parameters for setting the amount of the fees.

Senator Vratil moved, Senator Kelly seconded, that the bill be amended so that the fee shall not exceed \$10 per document for filing and \$0.10 per page for access. Motion adopted.

Senator Bruce moved, Senator Lynn seconded, that the authority to set the fee sunset on June 30, 2013. Motion adopted.

Senator Vratil moved, Senator Kelly seconded, that the bill be further amended by adding the amendment to K.S.A. 32-1049a to impose a surcharge wildlife and parks license reinstatements. Motion adopted.

Senator Bruce moved, Senator King seconded, that **SB 425** be passed, as amended. Motion adopted.

The next meeting is scheduled for February 20, 2012.

The meeting was adjourned at 1:30 p.m.