

## MINUTES

### SPECIAL COMMITTEE ON JUDICIARY

November 24, 2003  
Room 241-N—Statehouse

#### Members Present

Senator John Vratil, Chairperson  
Representative Michael R. O'Neal, Vice Chairperson  
Senator Barbara Allen  
Senator Derek Schmidt  
Representative Donald Betts  
Representative Marti Crow  
Representative Peggy Long-Mast  
Representative Bill Mason  
Representative Rick Rehorn  
Representative Daniel Williams

#### Staff Present

Mike Heim, Kansas Legislative Research Department  
Russell Mills, Kansas Legislative Research Department  
Theresa Kiernan, Kansas Revisor of Statutes Office  
Lisa Montgomery, Kansas Revisor of Statutes Office  
Cindy O'Neal, Committee Secretary

#### Conferees

Detective David Anderson, Lawrence Police Department  
Kyle Smith, Kansas Bureau of Investigation

#### Morning Session

#### Topic—Kansas Surety Recovery Agents Act

Detective David Anderson, Lawrence Police Department, explained to the Committee the relationship between bounty hunters and bail bondsmen. Bounty hunters are hired to bring in someone who jumps bail. Bondsmen are the ones who contract with the criminal defendants so the defendants can get out of jail while awaiting trial. Sometimes a bail bondsman will act as his own bounty hunter. Detective Anderson relayed several stories where bounty hunters and bail bondsmen

took the "law" into their own hands in order to apprehend defendants and other cases where the bounty hunters had criminal records.

He suggested amendments to SB 248 which would place regulations and restrictions on bounty hunters. The amendments would create a much simpler procedure and would be less costly. Persons convicted of a felony and certain misdemeanor crimes would not be allowed to act as a bounty hunter ([Attachment 1](#)).

Kyle Smith, Kansas Bureau of Investigation, reported that there are two major provisions in the proposed amendments to SB 248: all bounty hunters would be required to check in with local law enforcement before apprehending a defendant and a person could not act as a bounty hunter if they had a prior felony conviction or certain misdemeanor convictions ([Attachment 2](#)).

Twenty-three states currently require bounty hunters to have a license, some states follow common law, and others place statutory restrictions on bounty hunters.

Manny Barbaran, Mannies Bonding Company, provided written testimony in opposition to SB 248, but endorsed the proposed changes to SB 248 by Mr. Anderson and Mr. Smith ([Attachment 3](#)).

### **Topic—Kansas Uniform Securities Act**

Chairperson Vratil reminded the Committee that most of the provisions in the proposed bill were non-controversial except the variable annuity issue.

Representative O'Neal suggested that the Committee consider passing the Uniform Securities Act without the variable annuities being included in the definition of "security," with the understanding that the Insurance Commissioner and the Securities Commissioner cooperate to come up with a set of suitability standards which have teeth. He said that the Legislature should continue to observe the situation and determine if it is functioning properly.

Several Committee members felt strongly that variable annuities should be included in the definition of a security. However, the Committee agreed to support Representative O'Neal's suggested recommendation as a Committee recommendation for the Committee report.

### **Topic—Kansas Liquor Control Act**

Russell Mills reviewed the recommended Committee report for the liquor topic. Theresa Kiernan provided the Committee with a draft of the bill which mirrored the Committee recommendations ([Attachment 4](#)).

The Committee agreed to amend the bill draft in Section 15, page 10, dealing with townships with a population of 5,000 or more which has territory annexed by city, which contains a retail liquor store. The store could continue to operate for 90 days or until their license expires, whichever is sooner.

The Committee turned its attention to Sunday sales and whether those cities who already have adopted a Sunday sale ordinance should be allowed to continue such sales. It was noted that if cities which have Sunday sales were grandfathered in, this provision would make the bill non-uniform in its application to cities.

Staff was instructed to redraft the bill allowing cities with Sunday sales to continue if the county first adopts a resolution allowing it and then the city would have to adopt their own ordinance.

Upon further discussion, there was the concern that a county might not adopt the resolution and then the city which already has Sunday sales would not be able to continue doing so, and directed staff to not redraft the bill.

The Committee directed staff to redraft the bill so a city by its own action could authorize Sunday sales, subject to a protest petition and election.

The Committee recessed for lunch.

### **Afternoon Session**

The Committee resumed discussion of Sunday sales. It was pointed out that there were only two options: authorize all cities to have Sunday sales and those who do not want it would need to opt-out, or have all cities, even those which currently have it, opt-in. Some members felt it was better to have the opt-out provision so as not to affect existing businesses.

The bill, as currently drafted, contained a 60 day window for opting out. Chairman Vratil suggested that cities should be allowed to opt-out at anytime and that the cities should give the ABC notice that they are opting out and all licenses would expire. Members felt that 60 days was too short for those smaller cities where their governing bodies only meet once a month and directed the draft be changed to 90 days. This would allow any city to opt-out in 90 days but still allow retail stores to apply for a license during that 90 days. The ABC could issue licenses and renewals during that time but if the city opts-out, the ABC could then withdraw that license.

Representative O'Neal said the Committee amendments should not be construed as an indication the Legislature believed the current law was non-uniform in regard to cities.

Representative Mason said that he supported the effort to clarify that the Liquor Control Act was uniform, but that he did not support the Sunday sales provision in the suggested bill.

### **Topic—Allocation of Judicial Resources**

Chairperson Vratil suggested adding to the previous Committee recommendations that if the Supreme Court considers reassignment of judges it should base this decision on caseloads and any other factors which would impact the efficiency of the Judiciary.

Representative O'Neal wanted the recommendation to be more specific as to what the court looked at and Representative Crow wanted it to be more open. Representative O'Neal suggested that if the Committee supported a more open provision it would cause legislators not to vote for the bill because they would not know which districts would be impacted. He said the House had worked on the reassignment of judges based on caseload minus traffic and this would have impacted four judicial districts.

The Committee recommended that legislation be drafted so that where caseloads per judge were less than 600, the Supreme Court would be allowed to reassign judges. Caseload would be defined as total cases minus traffic.

Senator Schmidt said he appreciated the work of the Committee on this issue, but he did not agree with the Committee recommendation. He said the Legislature should not defer to the Judicial Branch on this topic.

Representative Long-Mast was concerned with the economic and population decline in rural areas, and felt it was very important to have one judge per county.

Representative O'Neal reminded the Committee that there are actually two options; the Legislature can adequately fund the Judiciary, that would mean funding the new positions the court keeps asking for, or allowing the courts to reassign judges to better meet their needs. All Committee members agreed the Judicial Branch needed more money to operate.

### **Topic—Docket Fees**

The Committee by consensus agreed to allow sheriffs to collect a \$10 fee for service of process and for a new \$5 fee to be imposed for garnishments.

### **Topic—Kansas Surety Recovery Agents Act**

Committee members said they supported SB 248 but due to budget constraints, they agreed to recommend the alternative provisions which were brought to the Committee by Kyle Smith and Detective Anderson.

The Committee agreed that there was a need to regulate bounty hunters. The open-ended power of bounty hunters no longer reflects Kansas values in the 21<sup>st</sup> Century. The Committee also recommended including the definitions from SB 248 into the new bill.

Chairperson Vratil announced that all of the Committee reports would be mailed to members and would be considered approved after a certain date if no changes were requested.

The Committee meeting adjourned.

Prepared by Cindy O'Neal  
Edited by Mike Heim

Approved by Committee on:

January 29, 2004  
(date)