

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:32 A.M. on February 1, 2007, in Room 123-S of the Capitol.

All members were present except:

Les Donovan arrived, 9:34 A.M.
David Haley arrived, 9:34 A.M.
Julia Lynn arrived, 9:35 A.M.
Barbara Allen arrived, 9:36 A.M.
Greta Goodwin arrived, 9:39 A.M.
Donald Betts- excused

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department
Bruce Kinzie, Office of Revisor of Statutes
Nobuko Folmsbee, Office of Revisor of Statutes
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Kyle Smith, Deputy Director, KBI
Randy Hearrell, Kansas Judicial Council
Elizabeth Gillespie, Director, Shawnee County Department of Corrections
Hon. Daniel Dale Creitz, 31st Judicial District
David E. Pierce, Program Attorney, CASA, 31st Judicial District
Sharolyn Dugger, Co-Chair, Kansas CASA Association Legislative Committee

Others attending:

See attached list.

Approval of Minutes

Senator Bruce moved, Senator Umbarger seconded, to approve the committee minutes of January 18, 2007. Motion carried.

Bill Introductions

Senator Derek Schmidt introduced a bill that will make mandatory extensions of penalties for use of a firearm in the commission of certain felonies. Senator Umbarger moved, Senator Schmidt seconded, to introduce the bill. Motion carried.

Kathy Porter, Office of Judicial Administration, requested the introduction of a bill to amend a provision in the recently revised Kansas Code for Care of Children regarding service by publication. Senator Schmidt moved, Senator Umbarger seconded, to introduce the bill as a committee bill. Motion carried.

The hearing on **SB 63--Small claims; counter claim must be filed not less than two business days prior to the trial date** was opened.

There were no conferees present.

Written testimony in support of **SB 63** was submitted by:

Gorman Stanley (Attachment 1)

The hearing on **SB 63** was closed.

The hearing on **SB 103--Fingerprints and photos of juveniles in custody** was opened.

Kyle Smith appeared in support, providing the committee with a brief description of the current law passed in 2006, in which juvenile offenders are processed upon conviction. Mr. Smith indicated at times positive identification of a juvenile offender can be very difficult. Frequently juveniles do not have identification documents such as a drivers license, juveniles tend to lie about their identity more often than adults, and the potential for a juvenile to be released and disappear is much greater than an adult. Also, the likeliness for

CONTINUATION SHEET

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misidentification is greatly increased, allowing for an innocent child to be wrongly connected to a crime. (Attachment 2).

Randy Hearrell spoke in support, agreeing with the concerns presented by Mr. Smith and urged enactment of the bill (Attachment 3).

Elizabeth Gillespie appeared as a proponent. She suggested adding language that would allow photographing of juveniles upon entrance to juvenile facilities. Ms. Gillespie stated it is in the best interest of the juveniles to provide accurate identification throughout their stay in the facility as well as provide a record of their physical condition upon entrance to the facility. Photographs are not to be disseminated to anyone or agency except to assist in apprehension after an escape (Attachment 4).

Written testimony in support of **SB 103** was submitted by:

Judy Mohler, Legislative Services Director, Kansas Association of Counties (Attachment 5)

There being no further conferees, the hearing on **SB 103** was closed.

The hearing on **SB 118–Children in need of care; CASA reports** was opened.

Randy Hearrell spoke as a proponent, identifying several inconsistencies in the Revised Kansas Code for Care of Children passed by the Legislature in 2006. Mr. Hearrell stated that K.S.A. 38-2249(b) which bars judges from reading, considering or relying on reports not properly admitted according to the rules of evidence was a problem that needed immediate attention. The Juvenile Council Offender/Child in Need of Care Advisory Committee suggested alternative language to **SB 118** which would allow CASA (Court Appointed Special Advocate) reports and other court ordered reports to be read prior to a hearing (Attachment 6).

Judge Daniel Dale Creitz appeared in support, stating judges need to be able to read reports. The law, enacted last year, is beginning to create a huge backup of cases and resulting in undue delays. Judge Creitz does not support the amendment proposed by the Judicial Council believing it will continue to cause delays (Attachment 7).

David Pierce testified in support, indicating that K.S.A. 38-2249 is being interpreted to include reports prepared by the court appointed special advocate (CASA). Mr. Pierce stated allowing judges to read and consider CASA reports are in the best interest of the child (Attachment 8).

The Chairman requested Mr. Pierce and Mr. Hearrell work out a compromise balloon amendment to exempt CASA reports.

Sharolyn Dugger spoke in favor of **SB 118** relating that CASA volunteers ensure children have a voice in the judicial process and urged enactment of the bill (Attachment 9).

Written testimony in support of SB 118 was submitted by:

Hon. Daniel Mitchell, 3rd Judicial District (Attachment 10)

Hon. James Burgess, 18th Judicial District (Attachment 11)

There being no further conferees, the hearing on **SB 118** was closed.

Final action on **SB 57--Repealing K.S.A. 20-351a, report on certain judgeships**.

The Chairman reviewed **SB 57** and indicated no amendments had been proposed during the hearing.

Senator Bruce moved, Senator Goodwin seconded, to pass SB 57 favorably for passage. Motion carried.

The meeting adjourned at 10:31 A.M. The next scheduled meeting is February 5, 2007.