

Approved: April 28, 2000
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on March 8, 2000 in Room 313-S of the Capitol.

All members were present except:

Representative John Edmonds - Excused
Representative Phill Kline - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Randy Hearrell, Kansas Judicial Council
Honorable Marla Luckert, Judge Shawnee County
Terra Morehead, Wyandotte County District Attorneys Office
Professor Robert Casad, Member Kansas Judicial Council Civil Code Advisory Committee
Robin Becker, Clerk of the District Court, Phillips County
Kathy Olsen, Kansas Bankers Association
Elwaine Pomeroy, Kansas Collectors & Credit Attorneys Association
Roger Viola, General Counsel, Security Benefit Life Insurance Company

Hearings on **SB 424 - admissibility of child victim hearsay statements at preliminary examinations**, were opened.

Honorable Marla Luckert, Judge Shawnee County, stated that the intent of the bill was to change the statutes regarding the admissibility of hearsay statements of a child victim of less than 13 years of age at a preliminary examination. ([Attachment 1](#))

Terra Morehead, Wyandotte County District Attorneys Office, appeared in opposition to the bill. She believes that it does not protect children from unnecessary stress and emotional strain. It would subject the child to a preliminary hearing with the defendant present, be cross-examined by defense counsel and be called as a witness by the defense. ([Attachment 2](#))

Hearings on **SB 424** were closed.

Hearings on **SB 420 - rules of civil procedure relating to interspousal tort actions**, were opened.

Randy Hearrell, Kansas Judicial Council, explained that the purpose of the bill was to set out the applicable civil procedures where spouses anticipate filing both a divorce action and an interspousal tort action. ([Attachment 3](#))

Hearings on **SB 420** were closed.

Hearings on **SB 425 - filing and status of foreign judgements**, were opened.

Professor Robert Casad, Member Kansas Judicial Council Civil Code Advisory Committee, commented that the proposed bill would delete provision added in 1999 to the Uniform Enforcement of Foreign Judgements Act which allows a foreign judgement from another state to be enforced in a Kansas court even if the statute of limitations would be a defense if it were a Kansas judgement as long as the judgement could still be enforced in the state where the judgement originated. This change made Kansas the only state to treat foreign judgements more favorably than its own. ([Attachment 4](#))

Hearings on **SB 425** were closed.

Hearings on **SB 447 - notice requirements related to subpoenas of business records**, were opened.

CONTINUATION SHEET

Robin Becker, Clerk of the District Court, Phillips County, commented that the bill would delete the requirement that the clerk of the district court, upon receipt of the business records, to notify the party causing the subpoena to be issued. It would also require the party requesting the business records to pay the costs of copying the records including staff time. (Attachment 5)

Kathy Olsen, Kansas Bankers Association, requested an amendment that would include in the costs the time it took to research the records. The language would be consistent with language found in the Kansas Open Records Act, K.S.A. 45-219. (Attachment 6)

Elwaine Pomeroy, Kansas Collectors & Credit Attorneys Association, requested an amendment which would allow items (copying) to be taxed as a costs. (Attachment 7)

Randy Hearrell, Kansas Judicial Council, requested an amendment to clarify section (e) by adding "intent to request." (Attachment 8)

Hearings on **SB 447** were closed.

Hearings on **SB 485 - nonprobate transfer on death as nontestamentary**, were opened.

Randy Hearrell, Kansas Judicial Council, commented that the statute would provide that a variety of contractual arrangements, including beneficiary designations in individual retirement accounts, be regarded as nontestamentary in nature. (Attachment 9)

Hearings on **SB 485** were closed.

Representative Carmody made the motion to approve the committee minutes from February 9, 10, 16, 17, 21 & 22. Representative Haley seconded the motion. The motion carried.

The committee meeting adjourned at 5:30 p.m. The next meeting was scheduled for March 9, 2000.