

Journal of the House

FIFTEENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, February 4, 2019, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Finch in the chair.

The roll was called with 121 members present.

Reps. Kuether and Lewis were excused on verified illness.

Reps. Hodge and Whipple were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Gracious and good God,
thank You for a new day and a new week.
As our leaders continue their work,
may the challenges they face not overwhelm them.
And even though some circumstances
may discourage some,
help them to realize that You desire
to give them wisdom and discernment in
making the changes they can.
May they depend upon Your strength
as they wait upon You.
Be their strength and present help
in a time of decision and action.
In Your Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Amberger.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Kessinger are spread upon the Journal:

Last session, we passed legislation to name limestone as the state rock, galena as the state mineral and jelinite as the state gemstone. These designations came about from the research and hard work of fourth grader Casey Friend of Overland Park.

Today, the Kansas Geological Foundation honors Casey for his work in Kansas Geology.

Dennis Hedke, president of the Kansas Geological Foundation is not able to be here this morning. He sends along his congratulations and Casey will receive a plaque that reads: The Foundation is presenting Casey Friend an Outstanding Student Award, 2019, for his interest in geology and his efforts in bringing forth legislation that resulted in the naming of the state rock, state mineral and state gemstone.

Join with me in recognizing Casey Friend for this accomplishment.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2124, AN ACT concerning insurance; relating to health insurance plans; requiring coverage for contraceptives; amending K.S.A. 2018 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Representatives Parker, Benson, Carlin, Clayton, Horn, Kuether, Pittman, Probst, Ruiz, S., Stogsdill, Warfield, Woodard and Xu.

HB 2125, AN ACT concerning drivers' licenses; relating to the operation of a motor vehicle; requiring licensees to promptly deliver driver's license upon demand; amending K.S.A. 8-244 and repealing the existing section, by Committee on Transportation.

HB 2126, AN ACT concerning motor vehicles; relating to electric-assisted scooters; definitions; requirements; penalty; amending K.S.A. 2018 Supp. 8-126, 8-128, 8-197, 8-1486 and 8-2118 and repealing the existing sections, by Committee on Transportation.

HB 2127, AN ACT concerning motor vehicles; relating to trucks and truck tractors; eliminating requirement to mark certain vehicles; amending K.S.A. 2018 Supp. 8-143e and repealing the existing section, by Committee on Transportation.

HB 2128, AN ACT concerning sales and compensating use tax; relating to rates; food and food ingredients; distribution; amending K.S.A. 2018 Supp. 79-3602, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, by Representatives Ward and Hodge.

HB 2129, AN ACT concerning firearms; relating to protective orders; enacting the gun safety red flag act, by Representatives Ward, Gartner and Warfield.

HB 2130, AN ACT concerning the Kansas act against discrimination and acts supplemental thereto; relating to sexual orientation and gender identity or expression; amending K.S.A. 12-16,107, 44-1001, 44-1004, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2018 Supp. 44-1002, 44-1005 and 44-1006 and repealing the existing sections, by Representatives Ruiz, S., Woodard, Alcalá, Ballard, Bishop, Carlin, Carmichael, Clayton, Cox, Curtis, Finney, Gartner, Helgerson, Henderson, Highberger, Holscher, Horn, Kessinger, Kuether, Lusk, Murnan, Neighbor, Ohaebosim, Ousley, Parker, Pittman, Probst, Ruiz, L., Sawyer, Stogsdill, Victors, Ward, Warfield, Weigel, Whipple, Winn, Wolfe Moore and Xu.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committees as indicated:

Veterans and Military: **HB 2123**.

COMMUNICATIONS FROM STATE OFFICERS

From Derek Schmidt, Kansas Attorney General, pursuant to K.S.A.60-4117(d)(1); annual report of the Attorney General's State Medicaid Fraud Forfeiture Fund.

From Derek Schmidt, Kansas Attorney General, pursuant to K.S.A. 50-6,109a; report of the Scrap Metal Theft Reduction Act.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

CONSENT CALENDAR

No objection was made to **HB 2044**, **HB 2063** appearing on the Consent Calendar for the first day.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2034** be amended on page 1, in line 5, before "Section" by inserting "New"; in line 7, before "Sec." by inserting "New";

On page 2, in line 37, before "Sec." by inserting "New";

On page 3, in line 15, before "Sec." by inserting "New"; in line 36, before "Sec." by inserting "New";

On page 4, in line 18, before "Sec." by inserting "New";

Also on page 4, in line 40, before "Sec." by inserting "New";

On page 5, following line 40, by inserting:

"(f) A supporter acting in good faith in accordance with the provisions of this act shall not be liable to either the principal or any third party for any injuries, damages or other losses arising from a decision made by a principal in which the supporter assisted the principal or was otherwise involved.";

Also on page 5, in line 41, before "Sec." by inserting "New";

On page 6, in line 25, before "Sec." by inserting "New"; in line 28, by striking "A person shall not use"; in line 29, by striking "as" and inserting "shall not constitute"; following line 36, by inserting:

"Sec. 10. K.S.A. 2018 Supp. 21-5417 is hereby amended to read as follows: 21-5417. (a) Mistreatment of a dependent adult or an elder person is knowingly committing one or more of the following acts:

(1) Infliction of physical injury, unreasonable confinement or unreasonable punishment upon a dependent adult or an elder person;

(2) taking the personal property or financial resources of a dependent adult or an elder person for the benefit of the defendant or another person by taking control, title, use or management of the personal property or financial resources of a dependent adult or an elder person through:

(A) Undue influence, coercion, harassment, duress, deception, false representation, false pretense or without adequate consideration to such dependent adult or elder person;

(B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et seq., and amendments thereto;

(C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto; ~~or~~

(D) a violation of the act for obtaining a guardian or a conservator, or both, K.S.A.

59-3050 et seq., and amendments thereto; or

(E) a violation of the supported decision-making agreement act, section 1 et seq., and amendments thereto; or

(3) omission or deprivation of treatment, goods or services that are necessary to maintain physical or mental health of such dependent adult or elder person.

(b) Mistreatment of a dependent adult or an elder person as defined in:

(1) Subsection (a)(1) is a severity level 5, person felony;

(2) subsection (a)(2) if the aggregate amount of the value of the personal property or financial resources is:

(A) \$1,000,000 or more is a severity level 2, person felony;

(B) at least \$250,000 but less than \$1,000,000 is a severity level 3, person felony;

(C) at least \$100,000 but less than \$250,000 is a severity level 4, person felony;

(D) at least \$25,000 but less than \$100,000 is a severity level 5, person felony;

(E) at least \$1,500 but less than \$25,000 is a severity level 7, person felony;

(F) less than \$1,500 is a class A person misdemeanor, except as provided in subsection (b)(2)(G); and

(G) less than \$1,500 and committed by a person who has, within five years immediately preceding commission of the crime, been convicted of a violation of this section two or more times is a severity level 7, person felony; and

(3) subsection (a)(3) is a severity level 8, person felony.

(c) It shall be an affirmative defense to any prosecution for mistreatment of a dependent adult or an elder person as described in subsection (a)(2) that:

(1) The personal property or financial resources were given as a gift consistent with a pattern of gift giving to the person that existed before the dependent adult or elder person became vulnerable;

(2) the personal property or financial resources were given as a gift consistent with a pattern of gift giving to a class of individuals that existed before the dependent adult or elder person became vulnerable;

(3) the personal property or financial resources were conferred as a gift by the dependent adult or elder person to the benefit of a person or class of persons, and such gift was reasonable under the circumstances; or

(4) a court approved the transaction before the transaction occurred.

(d) No dependent adult or elder person is considered to be mistreated under subsection (a)(1) or (a)(3) for the sole reason that such dependent adult or elder person relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult or elder person is a member or adherent.

(e) As used in this section:

(1) "Adequate consideration" means the personal property or financial resources were given to the person as payment for bona fide goods or services provided by such person and the payment was at a rate customary for similar goods or services in the community that the dependent adult or elder person resided in at the time of the transaction.

(2) "Dependent adult" means an individual 18 years of age or older who is unable to protect the individual's own interest. Such term shall include, but is not limited to, any:

(A) Resident of an adult care home including, but not limited to, those facilities defined by K.S.A. 39-923, and amendments thereto;

(B) adult cared for in a private residence;

(C) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a medical care facility;

(D) individual with intellectual disability or a developmental disability receiving services through a community facility for people with intellectual disability or residential facility licensed under K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto;

(E) individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or

(F) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a state psychiatric hospital or state institution for people with intellectual disability.

(3) "Elder person" means a person 60 years of age or older.

(f) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2018 Supp. 21-6418, and amendments thereto.

Sec. 11. K.S.A. 2018 Supp. 21-5417 is hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "adults" by inserting "; amending K.S.A. 2018 Supp. 21-5417 and repealing the existing section"; and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2131, AN ACT concerning sales and compensating use tax; relating to exemptions; Kansas enterprise zone; businesses; construction; machinery and equipment; amending K.S.A. 2018 Supp. 79-3606 and repealing the existing section, by Committee on Rural Revitalization.

HB 2132, AN ACT concerning crimes, punishment and criminal procedure; relating to sex offenses; lewd and lascivious behavior penalties; amending K.S.A. 2018 Supp. 21-5513 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

HB 2133, AN ACT concerning alcoholic beverages; relating to delivery of alcoholic liquors; required reporting, penalty, by Committee on Taxation.

HB 2134, AN ACT concerning sales taxation; relating to exemptions; nonprofit integrated community care organizations, definitions; amending K.S.A. 2018 Supp. 79-3602 and 79-3606 and repealing the existing sections, by Committee on Taxation.

COMMITTEE ASSIGNMENT CHANGES

Speaker pro tem Finch announced the appointment of Rep. Alcalá to replace Rep. Kuether on Committee on Corrections and Juvenile Justice on February 4, 2019.

REPORT ON ENROLLED RESOLUTIONS

HR 6006, HR 6007 reported correctly enrolled and properly signed on February 4, 2019.

On motion of Rep. Hawkins, the House adjourned until 11:00 a.m., Tuesday, February 5, 2019.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

