

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 2, 2005 in Room 313-S of the Capitol.

All members were present except:  
Michael Peterson- excused

Committee staff present:  
Jerry Ann Donaldson, Kansas Legislative Research  
Jill Wolters, Office of Revisor of Statutes  
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:  
Jim Clark, Kansas Bar Association  
Representative Sydney Carlin  
Ed Cross, Kansas Independent Oil & Gas Association  
Lee Allison, Kansas Energy Council  
Kathy Olsen, Kansas Bankers Association

The hearing on **HB 2112 - in divorce, if joint legal custody is not granted, findings of fact shall be supported by sufficient evidence presented at hearing**, was opened.

Representative Sydney Carlin requested the proposed bill on behalf of a constituent, Mr. Cliff Conrad, who was unable to appear before the committee today due to an illness. While Representative Carlin wasn't fully aware of his entire case she believed that he was concerned that courts can award sole custody without justifying why. She believed that he went to the custody hearing but his wife did not and she was still awarded sole custody. He's repeatedly asked the court what the reasons were for awarding sole custody and has not received an answer.

(Attachments 1 & 2)

Chairman O'Neal explained that statute sets out language that requires the courts to make specific findings of fact when ordering sole custody of children. If the court has violated that, then there are grounds for appeal.

Upon further discussion, the committee believed that the spouse was probably awarded temporary sole custody and then at a later hearing Mr. Conrad was award primary custody.

Chairman O'Neal closed the hearing on **HB 2112** but would allow the committee to receive more detailed information.

Jim Clark, Kansas Bar Association, appeared before the committee to request a bill introduction which would make changes to the Uniform Trust Code. (Attachment 3) Representative Jack made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Representative Kiegerl requested a bill be introduced:

- amending 38-1541 allowing foster care parents to be an interested party unless the court determines on the record it is not in the best interest of the child
- amending 38-1563 allowing the court to review and change any placement of SRS of a CINC case
- adding a section that makes a person who knowingly & willfully makes a false report may be reported to SRS for a criminal investigation and could be found guilty of a misdemeanor
- adding a section that if the court determines an accusation of child abuse or neglect is falsely made, the court may impose a fine not to exceed \$5,000.

Representative Jack made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 2, 2005 in Room 313-S of the Capitol.

Chairman O'Neal requested a bill be introduced dealing with central registry for nursing staff. Representative Jack made the motion to have the request introduced as a committee bill. Representative Owens seconded the motion. The motion carried.

The hearing on **HB 2104 - UCC securities interest in oil & gas production**, was opened.

Ed Cross, Kansas Independent Oil & Gas Association, appeared before the committee as the sponsor of the proposed bill which corrects an oversight which occurred when Article 9 of the UCC was amended during the 2000 Legislative Session. Before 84-9-319 was repealed it provided a security interest in favor of interest owners to secure the obligations of the first purchaser of oil and gas productions to pay the purchase price. The statute established that a signed writing giving the interest owner a right under real estate laws operated as a security agreement created under Article 9. Therefore creating a lost priority, going from a secured position to an unsecured one. (Attachment 4)

Lee Allison, Kansas Energy Council, recommended five pieces of legislation for the 2005 Session, this being one of them. (Attachment 5)

Kathy Olsen, Kansas Bankers Association, raised the question that if the proposed bill is adopted it would have an effect on existing security interests and other sections dealing with oil and gas as "as-extracted collateral" should be stricken. (Attachment 6)

Chairman O'Neal suggested that the Kansas Bankers Association & KIOGA get together and find compromise language.

Written testimony, in support of the bill, from Southwest Kansas Royalty Owners Association was distributed. (Attachment 7)

The hearing on **HB 2104** was closed.

**HB 2016 - Arbitration; validity of agreement; can apply to employer employee contracts and tort claims**

Chairman O'Neal asked the committee if there were any further questions on the proposed bill. The committee responded that they did not need further discussion and would be ready to work the bill.

**HB 2113 - municipal court collecting fines and court costs**

Representative Yoder made the motion to report HB 2113 favorably for passage. Representative Garcia seconded the motion.

Representative Davis was concerned with municipal courts being able to collect the costs of hiring someone to collect the fines.

Representative Watkins made a substitute motion to limit the provisions of the bill to "cities of the 1<sup>st</sup> class". Representative Pauls seconded the motion. The motion failed 6-7.

Representative Yoder made the motion to adopt the Office of Judicial Administration proposed amendments. Representative Jack seconded the motion. The motion carried.

Representative Jack made the motion to adopt the City of Wichita's proposed amendments, with the exception of "cities of the 1<sup>st</sup> class" and anywhere else it appears. Representative Yoder seconded the motion. The motion carried.

Representative Davis made the motion to report Substitute for HB 2113 favorably for passage. Representative Yoder seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 2, 2005 in Room 313-S of the Capitol.

**HB 2152 - master settlement agreement for tobacco; appeal bond limitations apply to affiliates of signatory**

Representative Jack made the motion to report HB 2152 favorably for passage. Representative Colloton seconded the motion.

Representative Ward made a substitute motion to adopt the Kansas Trial Lawyers Association proposed amendments. Representative Garcia seconded the motion. Kathy Damron, Phillip Morris, commented that while the proposed amendment is not exactly what they would like they will continue to work on it as it goes through the process. The motion carried.

Representative Davis made the motion to report HB 2152 favorably for passage, as amended. Representative Colloton seconded the motion. The motion carried.

Chairman O'Neal requested a bill be drafted regarding Article 1, 2 & 2a of the Uniform Commercial Code. Representative Jack made the motion to have the request introduced as a committee bill. Representative Watkins seconded the motion. The motion carried.

Representative Colloton requested a bill be introduce amending the social host law. She made the motion to have the request introduced as a committee bill. Representative Jack seconded the motion. The motion carried.

Representative Hutchins made the request to have a bill introduced regarding Children Internet Protection Act. She made the motion to have the request introduced as a committee bill. Representative Jack seconded the motion. The motion carried.

Committee minutes from January 25, 26, and February 1 were distributed via e-mail with the notification that if no changes were requested by February 1, 2005 they would stand approved.

The committee meeting adjourned at 5:00 p.m. The next meeting is scheduled for February 3, 2005 at 3:30 p.m. in room 313-S.