

Approved: March 30, 2000

Date

MINUTES OF THE JOINT SENATE & HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 12:40 on March 20, 2000 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Former Governor Robert Bennett, Co-Chairperson of the Kansas Citizens Justice Initiative
Jill Docking, Co-Chairperson of the Kansas Citizens Justice Initiative
John Bremer, District Magistrate Judge, Decatur County
John Todd, Attorney, Wichita
William Davitt, Attorney, Wichita
Sheila Walker, Director, Division of Vehicles,
Lee Davidson, Deputy Sumner County Attorney
Barbara Tombs, Executive Director, Kansas Sentencing Commission,
Charles Simmons, Secretary, Department of Corrections
Randy Allen, Executive Director, Kansas Association of Counties
Kristi Hiebert, Assistant Attorney General, Consumer Protection Division,
Richard Shank, Southwestern Bell Telephone,

SCR 1642 - Resolution providing for nonpartisan selection of district judges

Former Governor Robert Bennett testified as a proponent of **SCR 1642**. He reviewed the structure and function of the Kansas Justice Commission, presented an overview of its report on the selection and evaluation of district court judges in Kansas and discussed its recommendation to adopt a constitutional amendment to provide for a uniform method of non-partisan selection of district court judges statewide. He further discussed several language changes he felt should be made in the proposed amendment. (Attachment 1) On inquiry by the Committee, the conferee detailed the mechanics of the proposed evaluation in the amendment.

Jill Docking testified in support of **SCR 1642**. She stated that she has served, along with Mr. Bennett, as Co-Chairperson of the Kansas Citizens Justice Initiative. She discussed her initial preference for partisan selection of judges because she felt elections promoted accountability but, through personal experience, has learned the value of non-partisan evaluative selection.

John Bremer, District Magistrate Judge, Decatur County, presented the Kansas District Magistrate Judges Association's views on **SCR 1642**. He stated that members of the Association are split on this issue. He discussed several matters of concern and offered language changes in the amendment. (Attachment 2)

William Davitt, Attorney, Wichita, testified as an opponent of **SCR 1642**. He discussed the negative aspects of election of judges and appointment of judges. He alluded to a better way of selecting judges and ceded the podium to John Todd, Attorney, Wichita, to explain.

Mr. Todd testified as an opponent of **SCR 1642** as well as an opponent of the current Kansas Constitution regarding election of judges. He discussed suggestions made by Gerry Spence in several of his publications regarding selection of judges and made reference to his previous testimony before the Senate Judiciary Sub-Committee which call for municipal court reform. (Attachment 3)

The meeting recessed at 1:23 p.m.

Chairman Michael O'Neal reconvened the committee meeting at 3:30 p.m.

Hearing on **SB 429 - DUI suspension of driver's licenses**, was opened.

Sheila Walker, Director, Division of Vehicles, appeared as a proponent of the bill. She informed the members that the bill would delete provisions allowing a driver's license suspension for the length of a diversion agreement for drivers under the age of 21 whose blood alcohol content is .08 or greater. It would also change language from "at least" to "up to" so that drivers affected would serve either a 30 day or one-year suspension. ([Attachment 4](#))

Hearing on **SB 429** was closed.

Hearing on **SB 620- Relevant written statements made under oath shall be considered in juvenile conditional release violation hearings**, was opened.

Lee Davidson, Deputy Sumner County Attorney, requested the bill be introduced so the juvenile offender code for violations of conditional release would mirror the adult hearing procedures. The bill would also preclude the necessity of having a lab professional who performs toxicology screens on blood or urine from having to attend the hearing. ([Attachment 5](#))

Hearing on **SB 620** was closed.

Hearing on **SB 595 - Stalking by electronic means**, was opened.

No conferees appeared to testify.

Hearing on **SB 595** was closed.

Hearing on **SB 491 - Sentencing dispositions, supervision & violators**, was opened.

Barbara Tombs, Executive Director, Kansas Sentencing Commission, estimated that the proposed bill would reduce prison admissions between 1,584 to 1,631 over a ten-year period. If the time was increased to 120 days and served in the county jail it would decrease the population between 450 to 514 over a ten-year period. The mandatory placement of probation violators in community corrections could also decrease the prison population between 291 to 384 for a period of ten-years and those on postrelease supervision would decrease admissions between 750 to 826. ([Attachment 6](#))

Charles Simmons, Secretary, Department of Corrections, appeared in support of the bill. He commented that the Legislature has two options: either build prisons or change the sentencing guidelines to reduce the capacity of those in prison. Currently, prisons are operating at capacity with 8,700 inmates. ([Attachment 7](#))

Randy Allen, Executive Director, Kansas Association of Counties, appeared as an opponent to the bill. He stated that it would cause a hardship on many counties who already have overcrowded jails. He urged the Legislators to look at other ways to ease overcrowding in the prisons. ([Attachment 8](#))

Hearing on **SB 491** was closed.

Hearing on **SB 431 - addition of unwanted charges to telephone bills prohibited**, was opened.

Kristi Hiebert, Assistant Attorney General, Consumer Protection Division, reported that the Attorney General's Office began tracking cramming complaints in April 1998 and they received 121 for that year and in 1999 they received 59 complaints. Southwestern Bell reported that they received an average of 486 complaints in 1998 and an average of 221 for 1999. They attributed the decreases to the prohibition against using sweepstake/prize drop boxes to add telecommunication services. Consumers usually do not have cramming complaints against their own carrier.

Ms. Hiebert stated that they have worked closely with the communications industry to draft the original provisions of **SB 431**. ([Attachment 9](#))

Richard Shank, Southwestern Bell Telephone, appeared as an opponent to the amendment that was placed on in the Senate which would require Southwestern Bell to obtain express authorization for services they sell for their subsidiaries. ([Attachment 10](#))

CONTINUATION SHEET

Hearing on **SB 431** was closed.