

## MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on January 30, 2008 in Room 313-S of the Capitol.

All members were present except:

- Representative Ben Hodge - Excused
- Representative Annie Kuether - Excused
- Representative Kevin Yoder - Excused

Committee staff present:

- Jerry Ann Donaldson, Kansas Legislative Research
- Athena Andaya, Kansas Legislative Research
- Jill Wolters, Office of Revisor of Statutes
- Jason Thompson, Office of Revisor of Statutes
- Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:

- Marlee Carpenter, Kansas Chamber of Commerce
- Randy Hearrell, Kansas Judicial Council
- Chief Judge Merlin Wheeler, 5<sup>th</sup> Judicial District, Emporia
- Retired Judge Sam Bruner, Chair, of the Guardian & Conservator Advisory Committee, Kansas Judicial Council
- Jane Rhys, Kansas Council on Developmental Disabilities
- Tom Laing, InterHab
- Rocky Nichols, Disability Rights Center of Kansas

Marlee Carpenter, Kansas Chamber, requested two bill introductions regarding expert evidence reform and collateral source rule reform. Representative Watkins made the motion to have the request introduced as committee bills. Representative Roth seconded the motion. The motion carried.

Ron Hein, Midwest Transplant Network, requested a bill that would allow federally-authorized procurement facilities to be recipients of dead bodies. Representative Watkins made the motion to have the request introduced as a committee bill. Representative Davis seconded the motion. The motion carried.

Representative Davis requested four bills:

1. Compensation for families of law enforcement officers killed in the line of duty or seriously injured
2. Consumption of alcohol and micro-breweries minors
3. Exemption for life insurance policies

He made the motion to have his requests introduced as committee bills. Representative Watkins seconded the motion. The motion carried.

Chairman Michael O'Neal requested a bill on behalf of Deputy Randy Combs, DARE Instructor from Lakin, Kansas. It would amend the statute that allows for suspension of driving licenses or privilege upon certain school safety violations. Representative Watkins made the motion to have the request introduced as a committee bill. Representative Kinzer seconded the motion. The motion carried.

The hearing on **HB 2642 - commission on judicial performance; access to court records; immunity from liability**, was opened.

Randy Hearrell, Kansas Judicial Council, appeared before the committee as a proponent of the bill. The proposed bill would allow the Commission to access court records for the purpose of obtaining individual addresses. If a record is closed that information is not available to them.

He explained that the bill would also provide immunity from liability for any civil action related to any act, error, or omission occurring within the scope of their official duties related to the Commission. Because the Commission was created by statute, it was the opinion of the Judicial Performance Committee that immunity should be statutory and not by court rule.

Mr. Hearrell requested an amendment, on page 1, line 19-22, that would give the Commission more

## CONTINUATION SHEET

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flexibility. There was concern from some judges that if the evaluations are not conducted precisely as the statute contemplates, they could be subject to a challenge. ([Attachment #1](#))

Chief Judge Merlin Wheeler appeared before the committee in support of the concept of the proposed bill but had concerns with it granting immunity. He requested “agents” be deleted from the bill. The definition for “agents” is extremely broad. It does not seem to be correct to extend immunity to agents when the state does not extend immunity to those it contracts with. He did support immunity for the Commission and staff and suggested that the Kansas Judicial Council be included. ([Attachment #2](#))

The hearing on **HB 2642** was closed.

The hearing on **HB 2644 - revises sections of the guardianship & conservator act concerning the procedure for appointing a guardian or conservator**, was opened.

Retired Judge Sam Bruner appeared in support of the proposed bill. The Judicial Council studied the issue of restricting judicial discretion. They decided that additional protections relating to conflicts of interest could be implemented in a less restrictive manner. The bill includes education and training of guardians and conservators; requires reporting when a conflict of interest arises at the time or after the appointment; and strengthens pleading requirements to include the age, date of birth, gender and place of employment for the proposed guardian or conservator. ([Attachment #3](#))

Jane Rhys, Kansas Council on Developmental Disabilities, appeared as a proponent of the bill. She expressed pleasure that the Judicial Council studied the issue in depth and feels the recommendations are appropriate. ([Attachment #4](#))

Tom Laing, InterHab, urged the passage of the bill. He stated that the bill is enforceable, keeps the rights of individuals at the forefront and builds on current protections. ([Attachment #5](#))

Rocky Nichols, Disability Rights Center of Kansas, applauded the work of the Council and the outcome of the bill. He urged continued work to address other conflicts of interest which leaves people with disabilities vulnerable to exploitation. ([Attachment #6](#)) Mr. Nichols requested an amendment for clarification to make certain judges have the details they need, not just in the abstract.

Written testimony in support of the bill was provided by the Kansas Guardianship Program. ([Attachment #7](#))

Written testimony in opposition of the bill was provided by Southeast Kansas Independent Living ([Attachment #8](#))

The hearing on **HB 2644** was closed.

The hearing on **HB 2643 - resolving a conflict between two statutes concerning service of process for garnishment on insurance companies**, was opened.

Randy Hearrell, Kansas Judicial Council, explained that the bill would address conflicts between K.S.A. 40-218 and K.S.A. 60-736. It involves the amount of response time available to insurance companies when they are served with garnishment papers. 40-218 requires an answer within 40 days and 60-736 has the answer within 10 days. It’s simply a cross-reference. ([Attachment #9](#))

The hearing on **HB 2643** was closed.

The committee meeting adjourned at 5:00p.m. The next meeting was scheduled for January 31, 2008.