

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 A.M. on February 5, 2008, in Room 123-S of the Capitol.

All members were present except:

Greta Goodwin- excused
David Haley- excused

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Bruce Kinzie, Office of Revisor of Statutes
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Sernator Pat Apple
Dorthy Stucky Halley, Victim Services Director, Office of Attorney General
Tom Bartee, Kansas Association of Criminal Defense Lawyers
Justin Edwards, Sedgwick County District Attorney Office
Scott Martinson, Attorney, Blackwell Sanders Law Firm, Kansas City
Whitney Damron, Kansas Bar Association
Caryl Craft, Kansas Bankers Association, Trust Division

Others attending:

See attached list.

Senator Pat Apple requested introduction of a bill regarding child care health coverage. Senator Donovan moved, Senator Journey seconded, to introduce the bill. Motion carried.

Senator Vratil requested introduction of a bill regarding oil and gas surface damages. Senator Umberger moved, Senator Donovan seconded, to introduce the bill. Motion carried.

Senator Bruce requested introduction of a bill regarding background checks of temporary employees of the Kansas State Fair. Senator Bruce moved, Senator Donovan seconded, to introduce the bill. Motion carried.

The Chairman opened the hearing on **SB 427–No statute of limitations for certain sex offenses.**

Senator Pat Apple testified in support, indicating in recent years the Kansas Legislature has increased penalties for serious sex crimes such as the passage of “Jessica’s Law” (Attachment 1). There is no statute of limitations for murder, this not the case with serious sex crimes that carry severe penalties. Senator Apple feels it is time to bring the statute of limitations in line with other serious crimes.

Dorthy Stucky Halley appeared in support, indicating **SB 427** allows prosecutors to use their discretion to file cases where evidence of a sex crime exists even after many years (Attachment 2). Such action has the potential of improving judicial response for crimes that have been committed and would be a powerful tool to prevent additional sex crimes.

Tom Bartee spoke in opposition, stating the statute of limitations serve as important functions against overly stale accusations, prompt investigation of accusations, and reduces the likelihood of blackmail (Attachment 3). **SB 427** may require a person to defend themselves against allegations of actions so old that exculpatory evidence has been lost and create an indefensible anomaly. Mr. Bartee feels the bill is unnecessary K.S.A. 21-3106(3)(a) establishes a special limitations period for violent sex offenses resolved by DNA technology.

Written testimony in support of **SB 427** was submitted by:

Ed Klumpp, Kansas Association of Chiefs of Police (Attachment 4)
Barry Wilkerson, Riley County Attorney (Attachment 5)
Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence (Attachment 6)

There being no further conferees, the hearing on **SB 427** was closed.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:35 A.M. on February 5, 2008, in Room 123-S of the Capitol.

The hearing on **SB 477–Offender registration, electronic** solicitation was opened.

Justin Edwards testified as a proponent, stating **SB 477** will add electronic solicitation of a minor to the list of sexually violent crimes requiring convicted offenders to register with the KBI as a sex offender (**Attachment 7**). Enactment will help protect the children of Kansas.

Written testimony in support of **SB 477** was submitted by:

Ed Klumpp, Kansas Association of Chiefs of Police (**Attachment 8**)

There being no further conferees, the hearing on **SB 477** was closed.

Chairman Vratil opened the hearing on **SB 478–Trusts, discretionary acceleration of remainder interest.**

Scott Martinson appeared in support, stating **SB 478** will provide flexibility to the trustees of Kansas trusts to deal with circumstances that are substantially different now from those that existed when the trusts were created (**Attachment 9**). The proposed legislation would allow a trustee to apply the holding of the Supreme Court of Kansas in *Estate of Somers* to trusts that meet the criteria set forth in the statute without the expense and delay of court proceedings.

Whitney Damron appeared in opposition, indicating several concerns of the Executive Committee of the Kansas Bar Association with the proposed legislation (**Attachment 10**). Although the committee is still in the process of analyzing **SB 478**, several objections have been identified including ambiguous and flawed language. The bill appears to create a singular exception to the normal procedure and is not good public policy. Mr. Damron also noted that any changes to the Uniform Trust Code should not be made without the approval of the Probate Advisory Committee to the Judicial Council.

Daryl Craft testified in opposition, stating two concerns with **SB 478** (**Attachment 11**). The first being that the circumstances of this bill are so uncommon that a change to the Uniform Trust statute is not warranted. The second concern is that the bill would grant the Trustee the sole authority to make a change to the remainder interest. Most trusts in Kansas are administered by non-professionals and the ramifications of changing the remainder interest of a trust could be substantial.

There being no further conferees, the hearing on **SB 478** was closed.

The Chairman called for final action on **SB 432–Uniform transfer on death security registration act; security accounts.** Senator Vratil reviewed the bill.

Senator Schmidt moved, Senator Donovan seconded, to recommend SB 432 favorably for passage. Motion carried.

The Chairman called for final action on **SB 431–Probate, small estates, increasing allowances for spouses and minor children.** Senator Vratil reviewed the bill.

Senator Bruce moved, Senator Lynn seconded, to recommend SB 431 favorably for passage. Motion carried.

The Chairman called for final action on **SB 430–Aggravated criminal threat, penalty.** Senator Vratil reviewed the bill.

Senator Schmidt moved, Senator Lynn seconded, to recommend SB 430 favorably for passage. Motion carried.

The meeting was adjourned at 10:30 A.M. The next scheduled meeting is February 6, 2008.