

Approved: June 22, 2012
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 a.m. on March 15, 2012, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes
Katherine McBride, Office of the Revisor of Statutes
Lauren Douglass, Kansas Legislative Research Department
Bob Allison-Gallimore, Kansas Legislative Research Department
Theresa Kiernan, Committee Assistant

Conferees Appearing before the Committee:

Carl "Bill" Ossman, Chief Litigation Attorney, SRS
Dr. Austin T. DesLauriers, Ph. D., Larned State Hospital
Kathy Taylor, Kansas Bankers Assn.
Representative John Rubin
Karin Brownlee, Secretary of Department of Labor
John M. Ostrowski, Kansas AFL-CIO
Jeff K. Cooper, Kansas Assn. for Justice

Others in Attendance:

See Attached List

The Chairman opened the hearings on **HB 2313—Exhaustion of administrative remedies for patients in the custody of secretary of social and rehabilitation services.**

Mr. Thompson reviewed the bill. He stated the bill would require sexually violent predators civilly committed to the custody of the Secretary of SRS to exhaust all administrative remedies prior to filing any civil action that names as the defendant the State of Kansas, any political subdivision of the state, any public official, the Secretary of SRS, or any SRS employee, and to include proof of exhaustion with the petition.

Bill Ossman testified in support of **HB 2313**. He said the bill was proposed to deal with baseless, repetitive and frivolous lawsuits by patients at the sexual predator treatment program. (Attachment 1).

Written testimony in support of **HB 2313** was submitted by Representative Mitch Holmes, Judge Bruce T. Gatterman and Austin DesLauriers. (Attachments 2, 3 and 4).

The Chairman closed the hearings on **HB 2313**.

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The Chairman opened the hearings on **HB 2621—Relating to secured transactions.**

Mr. Thompson reviewed the bill. He stated the bill would amend the Uniform Commercial Code Article 9, relating to secured transactions, based upon recommendations of the Uniform Law Commissioners.

Kathleen Taylor testified in support of **HB 2621**. She stated it was of importance to the banking industry that a financing statement provide, with clarity, the name of an individual debtor. The bill would adopt the UCC's drafting committee's Alternative A ("Only If Approach") relating to the names of individual debtors. Alternative A requires that a financing statement provide the name indicated on the individual's unexpired driver's license or identification card issued by the state of the debtor's residence. (Attachment 5).

Written testimony in support of **HB 2621** was submitted by Kathy Sachs. (Attachment 6).

The Chairman closed the hearings on **HB 2621**.

The Chairman opened the hearings on **HB 2655—Relating to interference with the judicial process.**

Mr. Thompson reviewed the bill. He stated the bill would expand the crime of interference with the judicial process to include withholding or unreasonably delaying the production of evidence; inducing a witness or informant to withhold or unreasonably delay producing evidence; and altering, damaging, removing, or destroying evidence with the required intent to prevent its use; creating false evidence with the required intent to mislead.

Representative Rubin testified in support of **HB 2655**. He stated the bill would strengthen the current obstruction of justice laws by clearly defining and adequately penalizing obstruction actions involving destruction or falsification of documents subpoenaed or required to be produced as evidence in criminal proceedings or investigations. (Attachment 7).

The Chairman closed the hearings on **HB 2655**.

The Chairman opened the hearings on **HB 2558—Workers compensation; State workers compensation self insurance fund, State workplace health and safety program, time limitation on filing.**

Mr. Thompson reviewed the bill. He stated the bill would clean up provisions relating to the administration of the State Workers Compensation Self-Insurance Fund. The bill also would: Revise the appeals process by which administrative law judges may be changed due to a conflict of interest; clarify that an injured worker may seek compensation from the Workers Compensation Fund when an employer has an insufficiently funded letter of credit; delete the requirement that proceedings for compensation

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must start within one year after the death of the employee or within 200 days after the accident, medical, or disability payment; and change administrative responsibilities of The State Workplace Health and Safety Program.

Karin Brownlee testified in support of **HB 2558**. She stated the bill is largely a clean up measure, but that it also amends provisions of the Workers Compensation and the Industrial Safety and Health Laws. Her testimony contained a detailed section-by-section explanation of the bill. (Attachment 8).

John Ostrowski testified in opposition to **HB 2558**. He stated his opposition concerned the provisions relating to the recusal procedure of administrative law judges. He stated this is a judicial function and should not be controlled by a political appointee nor by an administrative officer. He added that if the decision is appealed to the Court of Appeals, the Court would have no record upon which to make its decision because an ALJ is not required to make a record and the Director is not required to base the initial decision on findings. (Attachment 9).

Jeff Cooper testified in opposition to **HB 2558**. He stated his opposition concerned the provisions relating to the recusal procedure of administrative law judges. He stated the current law is fair and effective and no changes are necessary. (Attachment 10).

In response to a question raised by Senator King, Mr. Cooper stated that under current law, a party could appeal a District Court decision to the Court of Appeals

The Chairman closed the hearings on **HB 2558**.

The next meeting is scheduled for Noon today, March 15, 2012.

The meeting was adjourned at 10:30 a.m.