

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on February 23, 2005, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Kansas Legislative Research Department

Jill Wolters, Office of Revisor of Statutes

Helen Pedigo, Office of Revisor of Statutes

Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Chairman Vratil opened the meeting and asked the Committee to consider **SB 112** for final action.

Final Action:

SB 112 Materialman's liens; priority of claims; property under construction

Chairman Vratil passed out a proposed balloon amendment from the Kansas Bankers Association and Heartland Community Bankers Association. (Attachment 1) The Chair announced that all interested parties were in agreement on the amendment except for the Associated General Contractors who were not in agreement with the amendments. The Chairman stated he believed all the concerns expressed by Committee members at the hearing of the bill were addressed in the amendment. A motion was made to approve the proposed amendment. Senator Umbarger moved, seconded by Senator Bruce, and the motion carried. A motion to recommend the bill favorably as amended was made. Senator Bruce moved, seconded by Senator Umbarger, and the motion carried.

Chairman Vratil asked Senator Bruce to give the Sub-Committee Report on five bills. Senator Bruce stated that the Sub-Committee recommended that **SB 145**, **SB 146**, and **SB 148** be passed out of Committee without amendment. (Attachment 2)

Senator Bruce provided a balloon amendment on **SB 180** which would allow law enforcement to use the preliminary breath tests, and the results would be admissible in the criminal trial of a minor. (Attachment 3) The amendment reflects that there is no waiting period for a preliminary breath test to be given. Currently, law enforcement has to detain a person 15 minutes before administering the test, in order to get a deep lung air alcohol level reading, and not a breath alcohol level reading. Because it is a minor, any alcohol is a crime, whether it is in their lungs or on their breath, and this change is reflected in the amendment. The amendment also would allow the results of the test or the refusal of a person to take the test to be admissible in court in any criminal action.

Senator Bruce provided a balloon amendment on **SB 117**. (Attachment 4) The amendment would require the sheriff to notify a licensed child care facility or any school property of an offender residing within 1,000 feet of such facility. The amendment would allow the sheriff to collect a fee up to \$50, to be paid by the offender, in order for the sheriff to comply with the notification. Additionally, in section (1) the "offender" definition was changed to mean any person who has been convicted of any of the listed acts, no matter the date of occurrence of the crime or the date of conviction. The current law limits offenders registering that were convicted since 1994. Senator Bruce indicated that KBI had records back to 1980 on offenders, and it would not be a problem with that change.

Chairman Vratil asked the Committee to consider final action on **SCR 1606**.

SCR 1606 Constitutional amendment to have the supreme court justices appointments subject to consent by the Senate

Senator Schmidt requested that an amendment to the bill be made. (Attachment 5) The proposed amendment

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would put in place a mechanism that may potentially minimize the selection process to the extent possible. The resolution as written offers that if the Senate declines to consent to a nominee, the nominating commission must reconvene and send up three more names. The proposed amendment would offer that in the event that the Senate turns down an appointee, the governor has the opportunity to send the Senate a second name from the original three appointees. If the governor chooses not to do that, then the commission would reconvene. A motion was made to accept the amendment. Senator Schmidt moved, seconded by Senator Donovan, and the motion carried. A motion was made to recommend the Senate Concurrent Resolution favorably as amended. Senator Schmidt moved, seconded by Senator Donovan, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **SB 145**.

Final Action:

SB 145 Public court records filed on and after July 1, 2005 shall have any references to individual's social security number removed or rendered unreadable

A motion was made to recommend the bill favorably. Senator Journey moved, seconded by Senator Donovan, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **SB 146**.

Final Action:

SB 146 Increasing the compensation paid to chairpersons of medical malpractice screening panels

A motion was made to recommend the bill favorably. Senator Schmidt moved, seconded by Senator Donovan, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **SB 148**.

Final Action:

SB 148 Striking 5-year limitation on increase in repeat DUI penalties

There was a motion made by Senator Journey to strike on page two, lines eight and nine in their entirety, and replace the comma with a period at the end of line seven. There was no second to the motion. A motion was made to recommend the bill favorably. Senator Goodwin moved, seconded by Senator Schmidt, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **SB 180**.

Final Action:

SB 180 Preliminary screening tests for alcohol consumption by minors; admissible into evidence

Chairman Vratil noted that there were some minor technical changes that needed to be made to the amendment. A motion was made to accept the proposed amendment from the Sub-Committee and make the technical changes necessary. Senator Bruce moved, seconded by Senator Donovan, and the motion carried. There was a motion to recommend the bill favorably as amended. Senator Goodwin moved, seconded by Senator O'Connor, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **SB 117**.

Final Action:

SB 117 If an offender resides within 1,000 feet of any licensed child care facility or any school, sheriff shall notify such facility or school

A motion was made to accept the balloon amendment recommended by the Sub-Committee. Senator

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Goodwin moved, seconded by Senator O'Connor, and the motion carried. A second amendment was proposed to change on page 1, lines 17-19, to make the phrase "Offender" means "any person who has been convicted of any of the following acts since 1980". Senator O'Connor moved, seconded by Senator Haley, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator O'Connor moved, seconded by Senator Bruce, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **SB 144**.

SB 144 Dram shop law; liquor licensee liability for minors and incapacitated persons; social host liability for minors

Chairman Vratil handed out a balloon amendment on the bill that removed all the dram shop language, making the bill specifically limited to civil recovery for social hosting, limited to minors consuming alcohol. (Attachment 6) There was a motion to accept the balloon amendment. Senator O'Connor moved, seconded by Senator Donovan, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator O'Connor moved, seconded by Senator Bruce, and the motion carried.

Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for March 1, 2005.