

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 28, 2007 in Room 313-S of the Capitol.

All members were present except:  
Delia Garcia- excused

Committee staff present:  
Jerry Ann Donaldson, Kansas Legislative Research  
Athena Andaya, Kansas Legislative Research  
Jill Wolters, Office of Revisor of Statutes  
Duston Slinkard, Office of Revisor of Statutes  
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:  
Senator John Vratil  
Tammy Williams, City of Overland Park  
Sandy Jacquot, League of Kansas Municipalities  
Ed Klumpp, Kansas Association of Chiefs of Police  
Representative Jeff King  
Stuart Little, Johnson County  
Senator Phil Journey  
Jim Clark, Kansas Bar Association  
Pete Bodyk, Kansas Department of Transportation  
Pam Moses, Chief Clerk 27<sup>th</sup> Judicial District, Reno County  
Jeanne Turner, Chief Clerk 5<sup>th</sup> Judicial District, Chase & Lyon Counties  
Pat Scalia, Board of Indigents Defense

The hearing on **SB 57 - repealing K.S.A. 20-351a report on certain judgeships**, was opened.

Senator John Vratil appeared as the sponsor of the proposed bill which would repeal the requirement of the Chief Justice providing an annual report of district magistrate judge positions created or eliminated to the House & Senate Judiciary Committees. ([Attachment 1](#))

The hearing on **SB 57** was closed.

The hearing on **SB 31 - jurisdiction of municipal courts**, was opened.

Tammy Williams, City of Overland Park, appeared as a proponent to the bill. She explained that it would clarify that municipal courts would have jurisdiction to hear and determine cases involving violations of city ordinances and certain other violations that could be charged as a felony in district court. The proposed bill addresses a current Kansas Supreme Court decision, State v. Elliott, which held that municipalities do not have jurisdiction over those types of violations. ([Attachment 2](#))

Sandy Jacquot, League of Kansas Municipalities, appeared in support of the bill. She stated that it would help enhance the penalties for crimes that could be committed at a later time. ([Attachment 3](#))

Ed Klumpp, Kansas Association of Chiefs of Police, appeared as a proponent to the bill. He commented that most of these types of cases go to District & County Attorneys to prosecute. Many of these types of cases are not prosecuted because they are low level types of crimes. ([Attachment 4](#))

Stuart Little, Johnson County, provided a balloon that would clarify that prosecutors for municipalities would need to check a defendant's NCIC record to check with their prior driving history. ([Attachment 5](#))

Representative Jeff King appeared before the committee with a request to amend the bill to correct an ambiguity concerning municipal court jurisdiction over juveniles who violate municipal ordinances that do not have a Kansas statutory counterpart. ([Attachment 6](#)).

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An attorney general's opinion issued in 1997 stated that state law grants municipal courts the right to try alleged violations of "a penal ordinance that proscribes conduct that is not prohibited by statute such as a curfew violation." While some municipal courts follow this opinion, others do not. ([Attachment 7](#))

Committee members suggested that violations of municipal ordinances are handled under the CINC code and wondered if the amendment would really be needed.

The hearing on **SB 31** was closed.

The hearing on **SB 35 - DUI computation of time to request administrative hearings**, was opened.

Senator Phil Journey appeared as the sponsor of the proposed bill. He stated that it would clarify how time would be computed to determine if a request for an administrative hearing was filed in a timely manner. ([Attachment 8](#))

Jim Clark, Kansas Bar Association, appeared before the committee as a proponent of the bill. He stated that other statutes refer to the method of computation and not a specific number of days. This would simply unify several statutes. ([Attachment 9](#))

Pete Bodyk, Kansas Department of Transportation, informed the committee that the National Highway Traffic Safety Administration (NHTSA) has informed KDOT that Kansas is currently out of compliance with two of the federal codes:

- Kansas has allowed for a license to operate a motorized bicycle for 1 year which is the period of the hard suspension. Federal law does not allow any license. Kansas would lose approximately \$7.6 million in 2008 and \$7.7 million in 2009 in federal funds. ([Attachment 10](#))
- Kansas requires an ignition interlock device be installed on any vehicle the offender drives. Federal law requires it to be on "each of the vehicles" that are registered to the offender. Kansas could lose approximately \$7.3 million this fiscal year. ([Attachment 11](#))

The hearing on **SB 35** was closed.

The hearing on **SB 53 - civil procedure; release of dormant judgements**, was opened.

Pam Moses, Chief Clerk 27<sup>th</sup> Judicial District, appeared as a proponent of the bill. It would modify how a judgement is released by requiring the judge to make a legal determination and sign the release. Currently, the judgement is made by the clerk. ([Attachment 12](#))

The hearing on **SB 53** was closed.

The hearing on **SB 51 - vital statistics, list of deceased residents, district court clerk**, was opened.

Jeanne Turner, Chief Clerk 5<sup>th</sup> Judicial District, appeared in support of the bill. She explained that it would require the Department of Health & Environment to provide to district court a list of deceased residents of that county who were at least age 18 and for whom death certificates have been filed. The list would be used to update the jury pool. ([Attachment 13](#))

The hearing on **SB 51** was closed.

The hearing on **SB 75 - compensation for attorney representing indigent defendants**, was opened.

Pat Scalia, Board of Indigents Defense, appeared before the committee as a proponent of the bill. She reminded the committee that last legislative session the Judiciary Committee increased hourly compensation to \$80 per hour for attorneys representing indigent defendants. Somehow through the process, the bill was changed to allow for indigent defense offices to be installed in counties where they were needed.

Ms. Scalia conducted public hearings and found that a number of judicial districts preferred to retain the assigned counsel they currently had and offered to accept a lower hourly rate than the \$80 per hour to remain

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cost effective. The proposed bill would allow for a chief judge to enter into agreement with counsel on the rate of compensation. (Attachment 14)

The hearing on **SB 75** was closed.

**SB 57 - repealing K.S.A. 20-351a report on certain judgeships**

Representative Kinzer made the motion to report SB 57 favorably for passage, and because of it's non-controversial nature, be placed on the consent calendar. Representative Owens seconded the motion. The motion carried.

**SB 53 - civil procedure; release of dormant judgements**

Representative Pauls made the motion to report SB 53 favorably for passage, and because of it's non-controversial nature, be placed on the consent calendar. Representative Owens seconded the motion. The motion carried.

**SB 51 - vital statistics, list of deceased residents, district court clerk**

Representative Crow made the motion to report SB 51 favorably for passage, and because of it's non-controversial nature, be placed on the consent calendar. Representative Colloton seconded the motion. The motion carried.

**SB 75 - compensation for attorney representing indigent defendants**

Representative Goyle made the motion to change "specify" to "negotiate" on page 2, line 2. Representative Davis seconded the motion. The motion carried.

Representative Roth made the motion to report SB 75 favorably for passage, as amended. Representative Crow seconded the motion. The motion carried.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for March 1, 2007.