

Approved: February 14, 2000

Date

## MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on February 1, 2000 in Room 313-S of the Capitol.

All members were present except:

Representative John Edmonds - Excused

Representative Tony Powell - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Jill Wolters, Office of Revisor of Statutes

Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Senator Stan Clark

David Porter, Identity Theft Victim

Jim Welch, Assistant Attorney General, Consumer Protection Division

Ron Gaches, Associated Credit Bureaus of Kansas

Eric Ellman, Association of Credit Bureaus

Mike Stewart, Trans Union Credit Reporting

Marlee Bertholf, Kansas Chamber of Commerce & Industry

George Barbee, Kansas Association of Financial Services

Representative Pauls had four bill requests:

- , allowing the courts to admit a statement or confession by video or audio tape
- , regarding the Department of Corrections monitoring parolees
- , having certain records from the Department of Corrections being open records
- , requiring the Secretary of Corrections to compile a list of identifiable inmates who are charged with a felony while on parole or post-release supervision

Representative Pauls made the motion to have the requests introduced as committee bills. Representative Loyd seconded the motion. The motion carried.

Hearing on **HB 2685 - Kansas Fair Credit Reporting Act**, was opened.

Senator Stan Clark appeared as the sponsor of the bill. A criminal will typically use victims personal information, such as his Social Security number, or date of birth to establish credit and run up debt. The victim usually becomes aware of this when he receives a poor credit report. Only to have a difficult time clearing up the mistakes on his report. (Attachments 1 & 2)

The Kansas Fair Credit Reporting Act has not been amended since its enactment in 1973. The suggested changes in the bill would mirror current Federal law. The changes are necessary so people can be notified that someone is inquiring about the credit history and be able to stop the identity theft before it happens.

David Porter, Identity Theft Victim, told the committee his story and how hard it had been to get help from authorities who were in a position to help. Theft of identity is a misdemeanor and therefore law enforcement would not get involved because there were more important crimes to deal with. He said that it was very difficult to talk to personnel at credit bureaus and banks, because when he called he would usually get an automated answering system. He has also contacted the Attorney General's Office and eventually got help when he refused to leave the office until he talked to the Attorney General. (Attachment 3)

Jim Welch, appeared on behalf of the Attorney General. He explained that the Judiciary Interim Committee requested the Division draft proposed language to update the Kansas Fair Credit Reporting Act. The proposed bill was its end result.

## CONTINUATION SHEET

The Federal Credit Reporting Act supercedes states acts unless state law gives greater protection to the consumer than they could receive under the Federal Act. Over the past several years, the Federal Act has had numerous changes and it is important for States to mirror those changes.

The proposed bill not only addresses the Federal changes but also includes two provisions from the Colorado Fair Credit Reporting Act. If either one of the following happens: (1) consumer reporting agency receives three credit inquiries pertaining to that consumer, or (2) the consumer reporting agency receives a report that would add adverse information to a consumer's file, they must send a copy of the consumer's report at no charge to the consumer. ([Attachment 4](#))

Ron Gaches, introduced several conferees from credit bureaus and reporting agencies.

Eric Ellman, supported moving the enforcement of the Act to the Attorney General's office and the Federal provisions but opposed the mandatory notice and free report provisions that have been included in the bill. He believes that this would be confusing to consumers who could have three inquires at the beginning of the year and be sent their credit report, and not receive another one the rest of the year, even if adverse information had been placed in their file. He was also concerned that the notice would not prevent identity fraud. It would require the notice being sent to the consumer's home, which increases the probability that personal information could be stolen from their mailbox. The last concern was the issue of free reports. To receive a report the consumer must currently pay \$8.50 The bill would cause a financial burden on the credit industry. Consumers can currently receive free records if: the consumer is unemployed and seeking employment, if the consumer is on public assistance, if the consumer has been denied credit or if the consumer considers himself to be a victim of fraud. ([Attachment 5](#))

Mike Stewart, was also in opposition of the bill. He explained that a consumer who has been a victim of identity theft could contact the consumer provision and place a statement in their file, which states that fraudulent applications could be made under his name and that they should contact him personally to see that it is legitimate. The notice would stay in his credit file for a period of 7 years. ([Attachment 6](#))

Marlee Bertholf, supported many of the provision of the bill except for the mandatory notice provision. She requested an amendment that would remove it from the bill. She stated that the Federal Act already addresses allowing consumers to receive a copy of their credit report if they are a victim of fraud. ([Attachment 7](#))

George Barbee, appeared in opposition to the Colorado provisions. In Colorado the free notice provision has cause credit reporting companies to add a \$.75 service charge to those who are requesting credit reports. He believes this is unfair to consumers to have to pay so others can receive "free reports". ([Attachment 8](#))

Hearing on **HB 2685** was closed.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for February 2, 2000.