

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on March 18, 2003, in Room 123-S of the Capitol.

All members were present except: Senator Donovan

Committee staff present: Mike Heim, Kansas Legislative Research Department  
Lisa Montgomery, Office of the Revisor of Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Gary Steed, Sedgwick County Sheriff, Board of County Commissioners of Sedgwick County, and Kansas Sheriff's Association  
Judy Moler, General Counsel/Legislative Services Director, Kansas Association of Counties (written only)  
Representative Todd Novascone (written only)  
Jeff Bottenberg, Kansas Sheriffs' Association (written only)  
Juliene Maska, Federal Grants Administrator, Governor's Office  
Bud Handshy, Wilson County Sheriff  
Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence  
Trista Curzydlo, Kansas Bar Association  
Kathy Porter, Office of Judicial Administration  
Ellen House, District Court Administrator, 18<sup>th</sup> Judicial District, Sedgwick Co.  
Jeanne Turner, Chief Clerk, 5<sup>th</sup> Judicial District, Emporia  
Alan Bibler, Kansas Credit Attorney's Association

Others attending: see attached list

**HB 2132 - Increasing fee charged to inmates on work release from county jail**

Chairman Vratil opened the hearing on **HB 2132**. Gary Steed, Sedgwick County Sheriff, testified in support of **HB 2132** on behalf of the Board of County Commissioners of Sedgwick County, Sedgwick County Sheriff's Department, and the Kansas Sheriff's Association. Sheriff Steed explained that the bill would increase the amount a work release inmate would be required to pay to defray the cost of maintaining such inmates in the county jail. The amount would increase from \$10 per day and not to exceed \$20 per day. Sheriff Steed said that Sedgwick County implemented its work release program in 1974, but did not start assessing the inmate a charge until 1988. He stated that this is a voluntary program for the inmates. He added that this is the first request for an increase in the per diem charge to the inmates. (Attachment 1)

Bud Handshy, Wilson County Sheriff, spoke briefly in support of **HB 2132**, and said that the work release program was a good program. He said it gives inmates a chance to get out and work to help pay back their court costs and restitutions. (no written testimony available)

Written testimony was submitted by three conferees in support of **HB 2132**:

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Judy Moler, Kansas Association of Counties ([Attachment 2](#))  
Representative Todd Novascone ([Attachment 3](#))  
Jeff Bottenberg, Kansas Sheriffs' Association ([Attachment 4](#))

The Chair closed the hearing on **HB 2132**.

**HB 2293 - Sheriff's fee for service of process**

Chairman Vratil opened the hearing on **HB 2293**. Jeff Bottenberg appeared on behalf of the Kansas Sheriffs' Association (KSA), in support of **HB 2293**. The bill was introduced by the House Judiciary Committee at the request of KSA. Mr. Bottenberg explained that the bill would amend current law to allow the sheriff to charge a fee of \$10 for the service of every paper related to a civil action, as well as certain documents the sheriff is required to served. He said that in 1974 the Legislature amended K.S.A. 60-2001 to prohibit the sheriff from charging the district courts for service of process, which in effect prohibited the counties from charging civil litigants for the use of the sheriff in delivering process. Mr. Bottenburg added that K.S.A. 60-2001 also prohibits the sheriff from charging such fees as court costs for in-state process. Mr. Bottenberg stated that **HB 2293 would** repeal prohibition on the charging of service of process, and also allow the courts to tax as cost the fees for in-state service, which may be recovered by the prevailing party. He submitted a balloon amendment which would restore the original intent of the bill and require all service of process fees to be deposited in the county general fund. ([Attachment 5](#))

Gary Steed, Sedgwick County Sheriff, testified in support of **HB 2293**, and pointed out that it was anticipated that the passage of this bill would result in a reduction in the service of process. He stated that all the surrounding states charge a fee to the originator of each paper served by local sheriff's departments, and his written testimony included a chart showing what those states charge for the different types of papers served. ([Attachment 6](#))

Written testimony was submitted by Judy Moler on behalf of the Kansas Association of Counties in support of **HB 2293**. ([Attachment 7](#))

Sheriff Bud Handshy, Wilson County, testified in support of **HB 2293**. He stated that we all are aware of today's economics and budgetary problems. Passage of this bill would get badly needed financial assistance to citizens living in rural areas. This action would be a positive step to help the County to not increase local taxes. He attached to his written testimony a 16 county breakdown of the number of papers served. The total number of service for SE Kansas totaled 75,836. Sheriff Handshy pointed out that the service and process is costly in gasoline and man-hours. ([Attachment 8](#))

Julienne Maska, Federal Grants Administrator, Governor's Office, submitted written testimony on **HB 2293** as a neutral party, and briefly explained their office's position on the bill. She stated if a proposed amendment by the Kansas Coalition Against Sexual and Domestic Violence (KCSDV) were adopted by the Committee, the Governor's Office would support **HB 2293** because it would prevent them from being in jeopardy regarding the grant funds Kansas receives from the Federal S.T.O.P. Violence Against Women Act. Ms. Maska attached a copy of the proposed amendment, page 2, line 26. ([Attachment 9](#))

Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence (KCSDV), appeared before the

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Committee as a neutral party with a technical amendment to **HB 2293**. She said KCSDV suggests amending the bill by adding the following statement into line 26 on page two of the balloon amendment attached, "...chapter 60 of the Kansas Statutes Annotated, except that no fee shall be charged for actions filed under K.S.A. 60-3101 et seq., and amendments thereto, and under K.S.A. 60-31a01 et seq., and amendments thereto. (Attachment 10)

Trista Curzydlo, Kansas Bar Association (KBA), stated that KBA opposed the bill as it was originally drafted because it would increase the workload of the judicial system. Following amendments adopted in the House Judiciary Committee, providing for the Clerk to receive a portion of the fee charged for service of process, KBA no longer opposed **HB 2293**. (Attachment 11)

Kathy Porter, Office of Judicial Administration (OJA), testified in opposition to **HB 2293**. The bill would create a significant amount of new work for clerks of the district court. She stated that OJA objected to the bill as amended by the House Committee. It would require clerks to scrutinize each Chapter 60 and Chapter 61 limited actions filing to see upon how many persons process were to be served. The clerk would need to make sure that the person filing had included \$10 for each person being served. Ms. Porter said that funding for additional clerks, to carry out the provisions of the bill, would not be forthcoming in these difficult fiscal times. She said the balloon amendment offered by Mr. Bottenberg offers a compromise that takes out the major part of the extra work that would be required of the clerks. (Attachment 12)

Committee questions and discussion followed.

Ellen House, District Court Administrator, 18<sup>th</sup> Judicial District, Sedgwick County, spoke in opposition to **HB 2293** because it would increase the workload of court clerks. Ms. House requested a compromise that would remove the language "...the clerk of the court shall collect..." and instead require attorneys to staple a check, payable to the Sheriff, to the defendant's copy upon filing. She said the clerk would then be able to deliver the check along with the regular paperwork. No additional labor would be required. (Attachment 13)

Jeanne Turner, Chief Clerk of the 5<sup>th</sup> Judicial District, Emporia, testified in opposition to **HB 2293** on behalf of the Kansas Association of District Court Clerks and Administrators. She addressed as her chief concerns the increased workload, the lack of uniformity in process procedures, training issues, and handling the money. Ms. Turner stated that clerks would be willing to compromise on **HB 2293**, and described the same suggested process that Ms. House provided earlier. (Attachment 14)

Alan Bibler, Kansas Credit Attorneys Association (KCAA), spoke in opposition to **HB 2293**. He stated that small businesses and many governmental units will be directly affected if the bill is passed. Mr. Bibler said that KCAA's clients provide goods and services and expect to be paid for them. He testified that one of the biggest fallacies propounded by supporters of this bill is that these additional costs will simply be "passed through" to the "bad guys", the debtors. He stated that this simply was not true. The businesses KCAA represents will not and cannot pay it. Mr. Bibler asked that the bill be killed in Committee, and if not, suggested that it be referred for study during the interim by either the Judiciary Committee or some other committee formed for that purpose. The study would result in

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recommendations for action during the next session of the Legislature. (Attachment 15)

Following Committee questions and discussion, the Chair closed the hearing on **HB 2293**.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is March 19, 2003.