

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on January 29, 2007, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen arrived, 9:35 A.M.  
Dwayne Umbarger arrived, 9:36 A.M.  
David Haley arrived, 9:42 A.M.  
Phil Journey arrived, 10:00 A.M.  
Terry Bruce- excused  
Greta Goodwin- excused

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department  
Bruce Kinzie, Office of Revisor of Statutes  
Nobuko Folmsbee, Office of Revisor of Statutes  
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Eric N. Anderson, Attorney  
Marilyn L. Nichols, Shawnee County Register of Deeds  
Marilyn Calhoun, Montgomery County Register of Deeds  
Larry Tucker, Past President, Missouri Bar Association  
David Frye, Attorney  
Hon. Nancy Parrish, Chief Judge, 3<sup>rd</sup> Judicial District  
Hon. Meryl Wilson, Judge, 21<sup>st</sup> Judicial District

Others attending:

See attached list.

Chairman Vratil reminded the committee that they approved introduction of the Model Entity Transaction Act at the request of Melissa Wangeman, Secretary of State's Office, on January 9, 2007. Ms. Wangeman informed the Chairman that some complicating factors have arisen and requests the bill be rescinded. Senator Donovan moved, Senator Schmidt seconded, to rescind the committee's action authorizing introduction of the Model Entity Transaction Act. Motion carried.

Bill Introductions

Steve Kearney requested the introduction of two bills. The first would address unintended consequences of the "stand and defend" legislation passed by the Legislature in 2006. The second bill would prohibit convicted felons holding certain public offices. Senator Schmidt moved, Senator Donovan seconded, to introduce both bills as committee bills. Motion carried.

Helen Pedigo requested the introduction of a bill that would repeal several unused criminal sentencing statutes pertaining to penalties. Senator Schmidt moved, Senator Umbarger seconded, to introduce the bill. Motion carried.

The hearing on **SB 32--Health care; medical assistance repayment; discretionary trusts** was opened.

Eric N. Anderson appeared in support, but recommended several amendments to avoid what he believed could become unintended consequences in the bill as it is written (Attachment 1).

There being no further conferees, the hearing on **SB 32** was closed.

The hearing on **SB 73--Mortgage registration fees, exemptions** was opened.

Marilyn L. Nichols testified in support and proposed an amendment to clarify the intent of the statute to collect mortgage registration tax on "new money" and would no longer be left to the interpretation of the Register of Deeds (Attachment 2).

## CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:34 A.M. on January 29, 2007, in Room 123-S of the Capitol.

Marilyn Calhoun spoke in favor, indicating enactment of this bill would assist Registers of Deeds across the state in their work by clarifying what is now a frustrating situation (Attachment 3).

There being no further conferees, the hearing on **SB 73** was closed.

The hearing on **SB 86--Change of judge by application in civil cases** was opened.

Larry Tucker appeared in support, relating his experiences with a similar rule in the State of Missouri. Mr. Tucker indicated the rule has worked well when there is a legitimate reason to request. A change of judge may be made without the necessity of having to allege any bias or prejudice on the part of the sitting judge. The rule can be a great convenience to the parties and permits counsel to represent their clients more effectively (Attachment 4).

David Frye spoke in support, indicating that while the majority of his practice is in Missouri, he offices in Overland Park, Kansas. Mr. Frye concurred with Mr. Tucker's testimony and he believes enactment of this bill would eliminate the creation of animosity between the judge, the client, and the attorney when a change of judge is desired (No written testimony provided).

Judge Nancy Parrish appeared in opposition, relating several concerns regarding the bill (Attachment 5). Her concerns are:

- the bill will not provide a positive enhancement to current laws regarding disqualification of judges,
- the bill would allow "judge shopping",
- the majority of judicial districts have three or fewer district judges, and
- the bill appears to present difficulty in Chapter 60 civil and domestic cases in which the district magistrate judges do not have jurisdiction.

Judge Meryl Wilson spoke in opposition, addressing his concern regarding the many judicial districts with less than six judges. Judge Wilson indicated this bill could cause extensive delays to these districts and additional expense to the State (Attachment 6).

Written testimony in opposition to **SB 86** was submitted by:

Hon. Steve Tatum, Chief Judge, 10<sup>th</sup> Judicial District (Attachment 7)

There being no further conferees, the hearing on **SB 86** was closed.

### Approval of Minutes

Senator Allen moved, Senator Schmidt seconded, to approve the committee minutes of January 16, 2007, and January 17, 2007. Motion carried.

The meeting adjourned at 10:30 A.M. The next scheduled meeting is January 30, 2007.