

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:30 a.m. on January 28, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Sandy McCurdy, Clerk of the District Court, Johnson County
Cynthia Smith, Advocacy Council, Sisters of Charity of Leavenworth Health Systems
Debra Stern, Kansas Hospital Association
Dan Morin, Kansas Medical Society
Larry Wall, Kansas Association for Justice
Terry Symonds, Detective, Topeka Police Department
Ed Klumpp, Kansas Peace Officers' Association
Jennifer Roth, Attorney
Kathy Porter, Office of Judicial Administration

Others attending:

See attached list.

Bill Introductions

Dan Murray requested the introduction of a bill which would amend existing statutes pertaining to scrap metal.

The Chairman opened the hearing on **SB 66 - Change of venue in care and treatment cases; transmittal of documents.**

Sandy McCurdy appeared in support stating the bill will simplify and update the process currently in use by court clerks. The change will eliminate the duplication of a time consuming process and assist in the transition to image and electronically filed documents (Attachment 1).

There being no further conferees, the hearing on **SB 66** was closed.

The Chairman opened the hearing on **SB 32 - Evidence in civil actions; expression of apology by health care providers.** Jason Thompson, staff revisor provided an overview of the bill.

Cynthia Smith spoke in support stating the bill is intended to keep lines of communication open between doctors and patients when a medical procedure or treatment does not go as anticipated. Ms. Smith indicated often doctors fail to communicate with families and patients on the advice of their lawyers. Enactment of this bill could result in fewer lawsuits when an expression of compassion is offered. An "apology law" have been enacted in 35 states. (Attachment 2)

Debra Stern appeared in support stating the practice of medicine is both an art and a science and the treatment of patients does not always proceed as anticipated. The current movement towards transparency in communications between doctors and patients is gaining favor and Ms. Stern encouraged the enactment of **SB 32.** (Attachment 3)

Dan Morin testified in support indicating unanticipated, adverse outcomes in health care happen. Allowing physicians and other caregivers to express sympathy or regret will help patients and families better understand the situation concerning the patient. A physician's empathy and concern for the patient who has experienced an adverse outcome should not be a legal tool to be used against them in the event of litigation. (Attachment 4)

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on January 28, 2009, in Room 545-N of the Capitol.

Larry Wall testified in opposition stating **SB 32** changes the rules of evidence and creates a special exception for health care providers. Doctors have always been empowered to say "I'm sorry" and Kansas does not need a law to protect them. Mr. Wall indicates **SB 32** raises several concerns including:

- the use of "fault" in Sec.1(a) if interpreted literally would exclude valuable evidence,
- statements of fault could not be entered into evidence while statements demonstrating a patient's liability would be allowed,
- makes an exemption to *res gestae*, and
- may present questions of due process.

Mr. Wall questioned the need for another law to be added to the many laws already in place to protect health care providers, and recommended that **SB 32** not be passed. ([Attachment 5](#))

Written testimony in support of **SB 32** was submitted by:

William Sneed, University of Kansas Hospital Authority ([Attachment 6](#))

Anne M. Kindling, Kansas Association of Defense Counsel ([Attachment 7](#))

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

The Chairman opened the hearing on **SB 69 - Crime stoppers advisory council; Kansas crime stopper trust fund**. Jason Thompson, staff revisor provided an overview of the bill.

Terry Symonds appeared in support indicating **SB 69** will substantially assist in reducing criminal activity in Kansas through the development and support of community Crimestopper programs. The establishment of an Advisory Council within the Attorney General's Office will work to coordinate and assist local programs across Kansas. Mr. Symonds provided a proposed amendment attached to his testimony. ([Attachment 8](#))

Ed Klumpp appeared as a proponent stating support of the Crimestoppers program. He voiced several concerns the Kansas Peace Officers Association had regarding the bill which have been addressed in suggested amendments offered in Mr. Symonds testimony. ([Attachment 9](#))

Kathy Porter spoke in a neutral capacity stating concerns regarding the mechanics of collection of fees. Ms. Porter provided suggested amendments to address her concerns. ([Attachment 10](#))

Written testimony in support of **SB 69** was submitted by:

K.C. Blodgett, President, Kansas State Lodge of Fraternal Order of Police ([Attachment 11](#))

Dam Gibb, Assistant Attorney General ([Attachment 12](#))

Written testimony in opposition to **SB 69** was submitted by:

Jennifer Roth ([Attachment 13](#))

The next meeting is scheduled for January 29, 2009.

The meeting was adjourned at 10:30 a.m.