

## MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:38 a.m. on February 14, 2001 in Room 123-S of the Capitol.

All members were present except: Senator Oleen (excused)

Committee staff present:

Gordon Self, Revisor  
Mike Heim, Research  
Mary Blair, Secretary

Conferees appearing before the committee:

Senator Barnett  
Tom Meyers, Vice Mayor, Emporia  
Sandy Barnett, Kansas Coalition Against Sex and Domestic Violence (KCSDV)  
Kyle Smith, KBI  
Kristin Hutchinson, City Prosecutor, City of Emporia  
Mark Burghart, Counsel, Western Retail Implement and Hardware Association  
Marvin Allen, Jr., Permanent Paving, Kansas City  
Ken Keller, Western Extralite Company  
James Freeman, Moore, Hennessy & Freeman  
Roy Worthington, Kansas Land Title Association  
Kathy Olsen, Kansas Banker's Association

Others attending: see attached list

Minutes of the February 8th meeting were approved on a motion by Senator Adkins and seconded by Senator Haley. Carried.

**SB 205—period of no contact with victim as condition of release**

Conferee Senator Barnett testified in support of **SB 205**, a bill which he stated will mandate a 72 hour no contact order for suspects in domestic violence cases. He explained how the bill extends protection to victims of domestic violence by covering the period when a judge may not be available, i.e., in the middle of the night or on weekends. (attachment 1)

Conferee Myers testified in support of **SB 205**. He summarized the need for the bill stating that it gives the victim time to "gather resources, support, possessions and courage." He stated that following the 72 hour period the victim can ask for a regular restraining order on the next available business day. He requested several language amendments to the bill. (attachment 2)

Conferee Barnett testified in support of **SB 205**. She referenced a brochure included with her testimony which describes KCSDV and lists the programs in Kansas. She stated that the bill requires a presumption, unless rebutted, that a 72 hour no-contact order is included as a condition of bond. She further stated that the bill should retain the right of local jurisdictions to set bond restrictions according to their community plan and that the no-contact order should be able to be rebutted in certain cases. (attachment 3)

Conferee Smith testified in support of **SB 205** reiterating much of the previous Conferees testimonies. He added that the bill's language also provides for exceptions in certain cases. (attachment 4)

Conferee Hutchison testified in support of **SB 205**. She stated the purpose of the bill, presented a typical scenario under current law and showed how this bill would address the problems created in the scenario. She added further information by pointing out that if the defendant disregards the "no contact" provision of their appearance bond, they may be immediately arrested again on an additional charge of violating the "no contact" order. The bill also provides that should the victim request the order be lifted they can petition the court to do so. (attachment 5)

## **SB 197-re: liens; filing time**

Conferee Burghart testified in support of **SB 197**, a bill which would extend the time a contractor could file a mechanic's lien against a delinquent property owner. He stated the bill would reduce the number of liens filed thus reducing legal and administrative costs. (attachment 6)

Conferee Marvin Allen, Jr. testified in support of **SB 197**. He stated that the filing of liens is costly to business and the extra time allowed would reduce the number of unnecessary liens. (no attachment)

Conferee Keller testified in support of **SB 197**. He defined the term "mechanic's lien" and presented an overview of the lien filing process including issues which must be addressed prior to filing a lien. He further described how extending the time for filing a lien from the current three months to six months would benefit all parties involved in a construction job. He referenced written attachments to his testimony from various contractors. (attachment 7)

Conferee Freeman testified in support of **SB 197**. He presented an overview of his firm's experience handling construction contract matters, claims and government contract claims detailing the mechanic's lien process and problems encountered under current law. He discussed how this bill would benefit all parties involved in construction projects. (attachment 8)

Conferee Worthington testified in opposition to **SB 197**. He stated that the current law provides a fair balance between the rights of property owners to protect their titles to real estate and the rights of contractors and subcontractors to file liens if their bills for material and/or labor are unpaid. He discussed several reasons why extending the time period for filing liens would be unfair to property owners: potential for faulty credit decisions by contractors; titles to real estate will remain uncertain to perspective buyers and mortgage lenders; title companies determination of risk will slow the process of mortgage lending; and there will be a requirement for more performance bonds to be filed. (attachment 9)

Conferee Olsen testified in opposition to **SB 197**. She expressed concern that extending the lien filing time would extend the time in which the title to the property would be clouded potentially delaying the closing of the transaction and causing a hardship for the property owner. (attachment 10)

The meeting adjourned at 10:30 a.m. The next meeting is February 15, 2001.