

Journal of the Senate

SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, January 22, 2020, 2:30 p.m.

The Senate was called to order by Vice President Jeff Longbine.

The roll was called with 40 senators present.

Invocation by Reverend Cecil T. Washington:

Lord, today has been designated “Sanctity of Life Day.” And we’re reminded today, that life is a gift You have amazingly given us. Help us to not take that lightly. Help us to treasure the lives we have, the lives You bring to us and the lives we invest in.

You are the Author of Life. You start us out on a wonderful drama as little children, and You’ve written the Script for how it’s to be lived. God, many of us have learned that being a grown-up adult is not as much defined by our years, according to the calendar, as by our maturity according to Your Script. In Proverbs 8:12-21, the wisdom for a successful life is personified and quoted as saying, “I am Lady Wisdom. I live next to Sanity; Knowledge and Discretion live down the street. I hate evil with a passion. Good counsel and common sense are my characteristics; I am both Insight and the Virtue to live it out. With my help, leaders rule, and lawmakers legislate fairly; with my help, governors govern, along with all in legitimate authority. I love those who love me; those who look for me find me. Wealth and Glory accompany me; also substantial Honor and a Good Name. My benefits are worth more than a big salary, even a very big salary; the returns on me exceed any imaginable bonus. You can find me on Righteous Road, that’s where I walk at the intersection of Justice Avenue, handing out life to those who love me, filling their arms with armloads of life!”

So Lord, as Your life enhancing agents, may all the decisions we make, be guided by You. To Your glory and to our good, I offer this prayer in the life giving Name of Jesus. Amen

The Pledge of Allegiance was led by Vice President Longbine.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 285, AN ACT concerning health and environment; relating to the Kansas storage tank act; extending the existence of the UST redevelopment fund compensation advisory board and UST redevelopment fund; amending K.S.A. 65-34,134 and repealing the existing section, by Committee on Agriculture and Natural Resources.

SB 286, AN ACT concerning health and environment; relating to the Kansas storage tank act; extending the existence of the underground fund and aboveground fund and increasing the maximum liability thereof; amending K.S.A. 65-34,118, 65-34,120 and

65-34,123 and repealing the existing sections, by Committee on Agriculture and Natural Resources.

SB 287, AN ACT concerning health and environment; relating to the Kansas storage tank act; underground storage tank replacement and reimbursement; amending K.S.A. 65-34,119 and 65-34,139 and repealing the existing sections, by Committee on Agriculture and Natural Resources.

SB 288, AN ACT concerning roads and highways; designating a portion of United States highway 77 as the Cpl. Allen E. Oatney and SP4 Gene A. Myers memorial highway; amending K.S.A. 68-1022 and repealing the existing section, by Committee on Transportation.

SB 289, AN ACT concerning insurance; relating to version of risk-based capital instructions in effect; amending K.S.A. 2019 Supp. 40-2c01 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 290, AN ACT concerning certain state officers; pertaining to the securities commissioner and the commissioner of insurance; updating the appointment and removal authority; amending K.S.A. 75-6301 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 291, AN ACT concerning insurance; relating to anti-fraud investigations; granting subpoena and investigative powers to the commissioner of insurance; granting certain law enforcement duties to insurance investigators; requiring special law enforcement training of investigators before carrying firearms; amending K.S.A. 40-103 and 74-5602 and K.S.A. 2019 Supp. 40-113 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 292, AN ACT concerning insurance; relating to property and casualty insurance; pertaining to excess lines coverage; providing for flexibility in certain penalties assessed by the commissioner; amending K.S.A. 2019 Supp. 40-246c and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 293, AN ACT concerning state officers; relating to certain powers, duties and functions of the secretary of state and the attorney general; charitable organizations; increasing certain fees; relating to prosecution of election crimes; address confidentiality program; creating the charitable organizations fee fund; amending K.S.A. 17-1759, 17-1763, 17-1764, 17-1765, 17-1766, 17-1769, 17-1771, 17-1772, 46-236, 75-451, 75-452, 75-453, 75-454, 75-455, 75-456, 75-457 and 75-458 and K.S.A. 2019 Supp. 17-1762 and 25-2435 and repealing the existing sections, by Committee on Judiciary.

SB 294, AN ACT concerning property taxation; relating to tax rates; truth in taxation; establishing notice and public hearing requirements prior to approval to exceed certified tax rate, by Senators Tyson, Alley, Braun, Estes, Goddard, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, Olson, Petersen, Thompson, Wagle and Wilborn.

SB 295, AN ACT concerning property taxation; relating to valuation of real property; prohibiting valuation increase solely as the result of normal repair, replacement or maintenance; amending K.S.A. 79-1460 and repealing the existing section, by Senators Tyson, Alley, Braun, Estes, Goddard, Hilderbrand, Longbine, Lynn, Masterson, Olson, Petersen, Thompson, Wagle and Wilborn.

SB 296, AN ACT concerning zoning; relating to rezoning; amending K.S.A. 2019 Supp. 12-757 and repealing the existing section, by Committee on Assessment and Taxation.

SB 297, AN ACT concerning property taxation; relating to appraisal standards; requiring compliance with uniform standards of professional appraisal practice; removing rules and regulations authority; amending K.S.A. 79-505 and repealing the existing section, by Committee on Assessment and Taxation.

SB 298, AN ACT concerning property taxation; relating to classification of property; appeals; requiring the county to pay reasonable attorney fees and costs of prevailing taxpayer; amending K.S.A. 79-2005 and repealing the existing section, by Committee on Assessment and Taxation.

SB 299, AN ACT concerning elections; relating to the campaign finance act; expanding coverage to include unified school districts with 5,000 or more students and community colleges; amending K.S.A. 2019 Supp. 25-4143 and repealing the existing section, by Committee on Ways and Means.

SB 300, AN ACT concerning agriculture; relating to milk and dairy products; prohibiting the on-farm retail sales of milk or milk products; amending K.S.A. 65-771, 65-773 and 65-789 and repealing the existing sections; also repealing K.S.A. 65-784, by Committee on Agriculture and Natural Resources.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **SB 284**.

Federal and State Affairs: **SB 283**.

Financial Institutions and Insurance: **SB 281**, **SB 282**.

Public Health and Welfare: **SB 280**.

COMMITTEE OF THE WHOLE

On motion of Senator Denning, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Hilderbrand in the chair.

On motion of Senator Hilderbrand the following report was adopted:

SB 45 be amended by the adoption of the committee amendments, be further amended by motion of Senator Wilborn; on page 1, by striking all in lines 8 through 36; By striking all on pages 2 through 6;

On page 7, by striking all in lines 1 through 24; following line 24, by inserting:

"Section 1. K.S.A. 2019 Supp. 21-5405 is hereby amended to read as follows: 21-5405. (a) Involuntary manslaughter is the killing of a human being committed:

(1) Recklessly;

(2) in the commission of, or attempt to commit, or flight from any felony, other than an inherently dangerous felony as defined in K.S.A. 2019 Supp. 21-5402, and amendments thereto, that is enacted for the protection of human life or safety or a misdemeanor that is enacted for the protection of human life or safety, including acts described in K.S.A. 8-1566 and 8-1568(a), and amendments thereto, but excluding the acts described in K.S.A. 8-1567, and amendments thereto;

(3) in the commission of, or attempt to commit, or flight from an act described in K.S.A. 8-1567, and amendments thereto;

(4) during the commission of a lawful act in an unlawful manner; or

(5) in the commission of, or attempt to commit, or flight from an act described in

K.S.A. 8-1567, and amendments thereto, while:

(A) In violation of any restriction imposed on such person's driving privileges pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(B) such person's driving privileges are suspended or revoked pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or

(C) such person has been deemed a habitual violator as defined in K.S.A. 8-285, and amendments thereto, including at least one violation of K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, any resolution of any county in this state or any law of another state, which ordinance, resolution or law declares to be unlawful the acts prohibited by that statute.

(b) Involuntary manslaughter as defined in:

(1) Subsection (a)(1), (a)(2) or (a)(4) is a:

(A) Severity level 5, person felony, except as provided in ~~subsection~~ subsections (b)(1)(B) and (b)(4); and

(B) severity level 3, person felony, if the victim is under the age of six years;

(2) subsection (a)(3) is a severity level 4, person felony, except as provided in subsection (b)(4); and

(3) subsection (a)(5) is a severity level 3, person felony; and

(4) subsection (a)(1), (a)(2) or (a)(3) is a severity level 2, person felony, if the victim is a public safety sector employee as defined in K.S.A. 2019 Supp. 21-5413, and amendments thereto.

Sec. 2. K.S.A. 2019 Supp. 21-5413 is hereby amended to read as follows: 21-5413.

(a) Battery is:

(1) Knowingly or recklessly causing bodily harm to another person; or

(2) knowingly causing physical contact with another person when done in a rude, insulting or angry manner.

(b) Aggravated battery is:

(1) (A) Knowingly causing great bodily harm to another person or disfigurement of another person;

(B) knowingly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(C) knowingly causing physical contact with another person when done in a rude, insulting or angry manner with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted;

(2) (A) recklessly causing great bodily harm to another person or disfigurement of another person;

(B) recklessly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(3) (A) committing an act described in K.S.A. 8-1567, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from such act; or

(B) committing an act described in K.S.A. 8-1567, and amendments thereto, when bodily harm to another person results from such act under circumstances whereby great bodily harm, disfigurement or death can result from such act; or

(4) committing an act described in K.S.A. 8-1567, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from

such act while:

(A) In violation of any restriction imposed on such person's driving privileges pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(B) such person's driving privileges are suspended or revoked pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or

(C) such person has been deemed a habitual violator as defined in K.S.A. 8-285, and amendments thereto, including at least one violation of K.S.A. 8-1567, and amendments thereto, or violating an ordinance of any city in this state, any resolution of any county in this state or any law of another state, which ordinance, resolution or law declares to be unlawful the acts prohibited by that statute.

(c) Battery against a law enforcement officer is:

(1) Battery, as defined in subsection (a)(2), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;

(C) uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty;

(D) judge, while such judge is engaged in the performance of such judge's duty;

(E) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(F) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(2) battery, as defined in subsection (a)(1), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;

(C) uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty;

(D) judge, while such judge is engaged in the performance of such judge's duty;

(E) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(F) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty; or

(3) battery, as defined in subsection (a) committed against a:

(A) State correctional officer or employee by a person in custody of the secretary of corrections, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(B) state correctional officer or employee by a person confined in such juvenile correctional facility, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(C) juvenile detention facility officer or employee by a person confined in such juvenile detention facility, while such officer or employee is engaged in the performance of such officer's or employee's duty; or

(D) city or county correctional officer or employee by a person confined in a city holding facility or county jail facility, while such officer or employee is engaged in the performance of such officer's or employee's duty.

(d) Aggravated battery against a law enforcement officer is:

(1) An aggravated battery, as defined in subsection (b)(1)(A) committed against a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty;

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(C) uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty;

(D) judge, while such judge is engaged in the performance of such judge's duty;

(E) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(F) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)(C), committed against a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty;

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(C) uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty;

(D) judge, while such judge is engaged in the performance of such judge's duty;

(E) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(F) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty; or

(3) knowingly causing, with a motor vehicle, bodily harm to a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty;

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

(C) uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty.

(e) Battery against a school employee is a battery, as defined in subsection (a), committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty.

(f) Battery against a mental health employee is a battery, as defined in subsection

(a), committed against a mental health employee by a person in the custody of the secretary for aging and disability services, while such employee is engaged in the performance of such employee's duty.

(g) (1) Battery is a class B person misdemeanor.

(2) Aggravated battery as defined in:

(A) Subsection (b)(1)(A) or (b)(4) is a severity level 4, person felony, except as provided in subsection (g)(2)(E);

(B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person felony, except as provided in subsection (g)(2)(F);

(C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person felony, except as provided in subsection (g)(2)(E); and

(D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person felony, except as provided in subsection (g)(2)(F);

(E) subsection (b)(1)(A), (b)(2)(A), (b)(3)(A) or (b)(4) is a severity level 3, person felony, if committed against: (i) A public safety sector employee; or (ii) a person complying with a lawful order from or at the direction of any law enforcement officer; and

(F) subsection (b)(1)(B), (b)(1)(C), (b)(2)(B) or (b)(3)(B) is a severity level 4, person felony, if committed against: (i) A public safety sector employee; or (ii) a person complying with a lawful order from or at the direction of any law enforcement officer.

(3) Battery against a law enforcement officer as defined in:

(A) Subsection (c)(1) is a class A person misdemeanor;

(B) subsection (c)(2) is a severity level 7, person felony; and

(C) subsection (c)(3) is a severity level 5, person felony.

(4) Aggravated battery against a law enforcement officer as defined in:

(A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony; and

(B) subsection (d)(2) is a severity level 4, person felony.

(5) Battery against a school employee is a class A person misdemeanor.

(6) Battery against a mental health employee is a severity level 7, person felony.

(h) As used in this section:

(1) "Correctional institution" means any institution or facility under the supervision and control of the secretary of corrections;

(2) "state correctional officer or employee" means any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, whose duties include working at a correctional institution;

(3) "juvenile detention facility officer or employee" means any officer or employee of a juvenile detention facility as defined in K.S.A. 2019 Supp. 38-2302, and amendments thereto;

(4) "city or county correctional officer or employee" means any correctional officer or employee of the city or county or any independent contractor, or any employee of such contractor, whose duties include working at a city holding facility or county jail facility;

(5) "school employee" means any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12;

(6) "mental health employee" means: (A) An employee of the Kansas department for aging and disability services working at Larned state hospital, Osawatomie state

hospital, Kansas neurological institute and Parsons state hospital and training center and the treatment staff as defined in K.S.A. 59-29a02, and amendments thereto; and (B) contractors and employees of contractors under contract to provide services to the Kansas department for aging and disability services working at any such institution or facility;

(7) "judge" means a duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge;

(8) "attorney" means a: (A) County attorney, assistant county attorney, special assistant county attorney, district attorney, assistant district attorney, special assistant district attorney, attorney general, assistant attorney general or special assistant attorney general; and (B) public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto;

(9) "community corrections officer" means an employee of a community correctional services program responsible for supervision of adults or juveniles as assigned by the court to community corrections supervision and any other employee of a community correctional services program that provides enhanced supervision of offenders such as house arrest and surveillance programs;

(10) "court services officer" means an employee of the Kansas judicial branch or local judicial district responsible for supervising, monitoring or writing reports relating to adults or juveniles as assigned by the court, or performing related duties as assigned by the court; ~~and~~

(11) "federal law enforcement officer" means a law enforcement officer employed by the United States federal government who, as part of such officer's duties, is permitted to make arrests and to be armed; and

(12) "public safety sector employee" means an employee of any law enforcement office, sheriff's department, municipal fire department, volunteer and non-volunteer fire protection association, emergency management department, emergency medical services provider, public works department or other similar public or private agency, while actually engaged in official duties of the department or agency."

Also on page 7, in line 25, by striking "2018" and inserting "2019"; also in line 25, by striking the comma and inserting "and"; also in line 25, by striking "and 21-5413a";

On page 1, in the title, in line 3, by striking "2018" and inserting "2019"; in line 4, by striking all after "sections"; in line 5, by striking all before the period

SB 45 be further amended by motion of Senator Wilborn; by amending the amendment designated as fa_2020_sb45_s_2314, adopted by the Senate Committee of the Whole on January 22, 2020, in section 2 of the amendment, amending K.S.A. 2019 Supp. 21-5413, in subsection (h)(12), after "provider" by striking the comma and inserting "or"; after "public works department" by striking "or other similar public or private agency"

and **SB 45** be passed as further amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Judiciary** recommends **SCR 1613** be adopted.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

Under the authority of the President the Vice President referred **SB 295** to the Committee on **Assessment and Taxation**.

On motion of Senator Denning, the Senate adjourned until 2:30 p.m., Thursday, January 23, 2020.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.

COREY CARNAHAN, *Secretary of the Senate*.

