

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Jeff King at 10:40am on Wednesday, February 17, 2016, 346-S of the Capitol.

All members were present except:

Senator Garrett Love – Excused  
Senator Carolyn McGinn – Excused  
Senator Pat Pettey – Excused

Committee staff present:

Robert Gallimore, Legislative Research Department  
Jason Thompson, Office of Revisor of Statutes  
Natalie Scott, Office of Revisor of Statutes  
Lauren Douglass, Legislative Research Department  
Natalie Nelson, Legislative Research Department  
Suzanne Nelson, Kansas Legislative Committee Assistant

Conferees appearing before the Committee:

Senator Jeff King, 15th District, Montgomery, Neosho, and Labette Counties, Kansas;  
Jennifer Roth, Kansas Association of Criminal Defense Lawyers;  
Johnnie Goddard, Interim Secretary, Kansas Department of Corrections (KDOC);  
Michael Hale for the Kansas Department of Revenue (KDOR);  
Tom Palace, Executive Director, Petroleum Marketers and Convenience Store Association of Kansas;  
Doug Mays, on behalf of the Cigar Association of America;  
Spencer Duncan, on behalf of the Kansas Vapors Association;  
Bob Alderson, General Counsel, Casey's General Stores, Inc.;  
Senator David Haley, Fourth District, Wyandotte County and Kansas City, Kansas;  
Rachel Wester, Midwest Innocence Project;  
Ed Klumpp, Associations for Kansas Chiefs of Police, Sheriffs, and Peace Officers;

Others in attendance:

[See Attached List](#)

**Hearing continuation on: SB440 — Supreme court general administrative authority over judicial branch.**

Chair King reconvened the hearing on **SB440**. The Chair called Jason Thompson to explain his Memorandum handout, which sets forth all of the statutes repealed by **SB440**. ([Attachment 1](#)) Jason stood for questions; there were none.

There being no questions and no other oral or written proponent, opponent, or neutral testimony, the

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Chair closed the hearing on **SB440**.

Chair King turned the committee's attention to **SB454**.

**Hearing on: SB454 — Amending court docket fees and charges.**

Chair King opened the hearing on **SB454**.

Jason Thompson distributed a Memorandum to the committee and audience which states the five statutes that are repealed in **SB454**. Jason explained each section and stood for questions. There were none. ([Attachment 2](#))

The Chair called attention to the written-only opponent testimony of Drew Graham, Assistant General Counsel, Credit Management. ([Attachment 3](#))

The Chair also pointed to the written-only neutral testimony of:

- Chief District Judges Michael Powers, Daniel Creitz, and James Fleetwood on behalf of the Kansas District Judges Association ([Attachment 4](#))
- Nancy Dixon, Judicial Administrator, Supreme Court of Kansas ([Attachment 5](#))
- Larry Zimmerman, Legislative Committee Member, Kansas Credit Attorneys Association ([Attachment 6](#))

There being no questions and no other oral or written proponent, opponent, or neutral testimony, the Chair closed the hearing on **SB454**.

Chair King turned the committee's attention to **SB453**.

**Hearing on: SB453 — Creating a program for early release from incarceration for parents in certain cases.**

Chairperson King opened the hearing on **SB453**. Jason Thompson gave an overview of the bill and stood for questions. There were none.

Senator Jeff King presented testimony in support of **SB453**. He stated that this bill creates a program to enhance parenting skills and family focus among certain low risk offenders. It is modeled from a successful Washington state program that was designed to strengthen families in which single parents have been incarcerated. ([Attachment 7](#))

Jennifer Roth testified in support of **SB453**. She explained what research and real life show about families with an incarcerated parent:

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- having a parent in prison has numerous negative effects on children;
- having healthy family relationships can reduce recidivism;
- many offenders decide how to resolve their criminal charge based on what would do the least damage to their children and families (and what would get them home soonest);
- programming in prisons can help offenders when they transition to home and their families.

Ms. Roth also raised some issues that she would like to see considered before the bill is finalized. ([Attachment 8](#))

Secretary Johnnie Goddard gave testimony in support of **SB453**. He recommended that the monitoring of the released parent mirror the provisions of house arrest and that supervision of the released offender be conducted by a parole officer, rather than by community corrections. He offered a balloon amendment (attached to his written testimony) incorporating these recommendations. ([Attachment 9](#))

There being no questions for the proponents, and no other oral or written proponent, opponent, or neutral testimony, Chair King closed the hearing on **SB453**.

The Chair turned the committee's attention to **SB455**.

### **Hearing on: SB455 — Amending the Kansas cigarette and tobacco products act.**

Chair King opened the hearing on **SB455**. Jason Thompson gave an overview of the bill. He stood for questions; there were none.

Michael Hale presented proponent testimony related to proposed amendments to the *Cigarette and Tobacco Products Act*. He explained that while some of the amendments are "clean-up" in nature, the majority of the requested changes are necessary for Kansas to be in compliance with the Master Settlement agreement. ([Attachment 10](#))

The Chair pointed to written-only proponent testimony submitted by Assistant Attorney General Jordan Brewer, Tobacco Enforcement Unit. ([Attachment 11](#))

Tom Palace testified in opposition to the bill. Mr. Palace raised issues with the bill, including tax stamps, ten-day notice on director's intent to revoke a license, seizure of counterfeit/contraband cigarettes, and several other issues. He also made some recommendations he would like to see considered before a final draft of the bill. ([Attachment 12](#))

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Doug Mays testified in opposition to **SB455**. Mr. Mays raised questions and issues regarding the collection of taxes on the mail order sale of premium cigars. ([Attachment 13](#))

Spencer Duncan testified in opposition to the bill. He raised questions and issues regarding the sale and regulation of electronic cigarettes. There is a proposed amendment in his testimony. ([Attachment 14](#))

Bob Alderson said that he originally had intended to present opposition testimony. He stated that his clients' biggest concern was the increased penalty proposed in Section 19 which would raise the maximum civil fine from \$1,000 to \$2,500. After hearing the proposed balloon amendment arrived at with KDOR and other interested parties, Mr. Alderson said that it appears the majority of his issues have been resolved and he urged passage of the balloon amendment. ([Attachment 15](#))

Chair King asked Jason Thompson if the balloon would be ready later in the day so that it could be circulated to committee members and all interested parties before tomorrow when action will be taken on the bill. Jason agreed that he would attempt to circulate the balloon contingent upon when he received final approval of the draft.

The opponents stood for questions from committee members.

There being no further questions and no other oral or written proponent, opponent, or neutral testimony, the Chair closed the hearing on **SB455**.

The Chair turned the committee's attention to **SB428**.

**Hearing on: SB428 — Relating to eyewitness identifications.**

Chair King opened the hearing on **SB428**. Jason Thompson gave an overview of the bill, which he described as a new section that would go in the code of criminal procedure in Chapter 22.

Senator David Haley gave proponent testimony. He stated that **SB428** gives procedures to law enforcement designed to drastically reduce the incidence of convicting the wrong person based on faulty eyewitness(es). ([Attachment 16](#))

Rachel Wester testified in favor of the bill. She related that eyewitness misidentification occurred in 71% of the nation's 337 DNA-based exonerations. She said that 14 states have adopted a set of cost-neutral, "core four" reforms and urged passage of the bill. ([Attachment 17](#))

Jennifer Roth, Kansas Association of Criminal Defense Lawyers submitted written-only proponent testimony. ([Attachment 18](#))

Ed Klumpp testified in opposition to **SB428**. He explained that making detailed law enforcement

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procedure a statute will set up a system of failure over minor deviations in process. The law enforcement associations that Chief Klumpp represents believe the best approach is to pursue best practices through model policies, training, and collaboration on procedural issues with local prosecutors. They have been pursuing such a model policy, which was approved for publication last week and are currently rolling it out to their agencies. He emphasized that newly-released policy covers all of the law enforcement procedural issues contained in this bill, while still allowing for new research and findings. Chief Klumpp urged the committee reject the bill. He stood for and answered questions from the committee. ([Attachment 19](#))

Written-only opponent testimony was submitted by:

- Kirk Thompson, Director, Kansas Bureau of Investigation ([Attachment 20](#))
- Marc Bennett, Kansas Criminal District Attorneys Association ([Attachment 21](#))

There being no further questions and no other oral or written proponent, opponent, or neutral testimony Chair King closed the hearing on **SB428**.

### **Possible action on bills previously heard**

No action was taken on any previously heard bills today.

The meeting adjourned at 12:04 pm. The next meeting will be Thursday, February 18, 2016.