

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 526, at the Statehouse at 3:30 a. m./p. m., on February 27, 1979.

All members were present except:

The next meeting of the Committee will be held at 3:30 a. m./p. m., on February 28, 19 79.

These minutes of the meeting held on February 26, 19 79 were considered, corrected and approved.

JOSEPH J. HOAGLAND

Chairman

The conferees appearing before the Committee were:

Representative Cooper
Richard Walker, Kansas Adult Authority
Major Elliott, Kansas Highway Patrol
Ray E. Cooley, Attorney with the Department of Revenue
Ken Gorman, Topeka Police Department
Bernie Dunn, Attorney with the Department of Corrections

Chairman Hoagland called the meeting to order at 3:30 p.m. and introduced Richard Walker with the Kansas Adult Authority, who testified in favor of HB 2607, and requested the committee to consider an amendment in Line 158. (SEE ATTACHMENT # 1).

Representative Cooper then explained HB 2499, which he sponsored. The bill would allow the city of Bonner Springs to handle their minor juvenile cases in their own district court, rather than be sent to a larger, overcrowded court. Several questions were asked by committee members.

Major Elliott, Kansas Highway Patrol, testified next in favor of HB 2609. (SEE ATTACHMENT # 2).

Ray Cooley, Attorney for the Department of Revenue then testified the department's opposition to HB 2609. He indicated that it was necessary for the arresting officer to testify in these cases or the charges would be dropped or a continuance would be asked for.

Ken Gorman, Topeka Police Department testified their support of HB 2609 and indicated that the Shawnee County Sheriff's Association could not be here to testify, but also support HB 2609.

Bernie Dunn, Attorney with the Department of Corrections testified next in favor of HB 2611, a bill concerning disclosure of presentence reports and diagnostic reports. He requested the committee to consider amending to allow the court to confer with the psychiatrist or Kansas Diagnostics Center for the report and 2). the name of the person or persons who draft the report not have their name mentioned.

CONTINUATION SHEET

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Chairman Hoagland explained HB 2144, briefly to the committee. This bill concerns the penalty for certain unclassified misdemeanors. After a brief discussion of the bill, Chairman Hoagland assigned it for further study and recommendation to the Criminal Law Sub-Committee.

The meeting adjourned at 4:50 p.m.



Kansas Adult Authority

Fourth Floor
535 Kansas Avenue
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913 296-3469

February 27, 1979

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE

RE: H.B. 2607

The Kansas Adult Authority supports House Bill 2607.

The primary purpose of this bill is to clarify and insure that persons sentenced to imprisonment for certain crimes do not serve more time prior to achieving parole eligibility than is required for the highest class of crime. Under existing law, persons sentenced to multiple offenses or under the provisions of the mandatory firearm act, could serve more time prior to becoming parole eligible than for a class A felony offense.

The Kansas Adult Authority further recommends that H.B. 2607 be amended on page 5, on line 0158, by adding a sentence similar to the following:

The Adult Authority may conduct an initial hearing by review of the record and without the presence of the inmate on an inmate sentenced pursuant to K.S.A. 21-4608(5).

Under subsection (g)(3) on page 4 it states that the Adult Authority shall hold an initial hearing on all newly committed offenders within 6 months after imposition of sentence. In the last calendar year, the Authority granted parole on 23 cases who were considered under an in absentia status and were serving their time concurrently with a federal term or another state's sentence outside of Kansas. In these cases, the Adult Authority reviews the record and attempts to coordinate its activities with the federal officials or out of state authorities. If the Authority could do the same for initial hearings, it could avoid any unnecessary out of state trips by the members of the Authority.

KANSAS ADULT AUTHORITY

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SUMMARY OF TESTIMONY
BEFORE THE HOUSE JUDICIARY COMMITTEE

HOUSE BILL 2609
BY COMMITTEE ON JUDICIARY (By Request)

BY MAJOR STUART A. ELLIOTT
KANSAS HIGHWAY PATROL

February 27, 1979

Appeared in support of the passage of House Bill 2609 as written.

The peace officers of the State of Kansas have been consistent in their urging that the Kansas Peace Officers' Association petition the Legislature for the change represented by this bill. In each of the past four years, the Association's Board of Governors has selected this issue as being of importance to effective, efficient service to the public. We appreciate the opportunity to offer our contentions as to the bill's merit.

The present statute (KSA 8-1001), and the related Division of Vehicles' administrative statute (KSA 8-255), require that suspension hearings for failure to submit to a chemical test "be held in the licensee's county of residence or a county adjacent thereto, unless the division and the licensee agree that such hearing may be held in some other county". The arresting officer is requested to appear and offer testimony concerning the circumstances of the refusal to submit to a chemical test, subsequently to an arrest for driving under the influence.

These chemical test hearings occur in substantial number each year. Division of Vehicles' figures indicate:

In 1976 - 1,350 + hearings
1977 - 1,196 + hearings
1978 - Not Available (1,819 suspensions)

(Figures do not include hearing requests which were later withdrawn or dismissed.)

On behalf of the Patrol and the Kansas Peace Officers' Association, I respectfully request the committee's favorable consideration of this bill. Our request is fostered by the dilution to staffing and manpower of law enforcement agencies that is created by requiring the arresting officer to appear in the alleged violator's county of residence, or adjacent county. Cross-state travel is not an

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uncommon requirement of the present hearing procedure. Quite simply, the city or county or highway patrol division is without the protection and services of the arresting officer for one, two or sometimes three days. We suggest that it is reasonable to hold the hearing in the county which the violation occurred.

The adverse impact of the officer's absence from his law enforcement duties is amplified in its effect on the smaller departments. The absence of an agency car, and the attendant travel expenses, represent another significant drain on individual department resources.