

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by CHAIRMAN MILLER at _____
Chairperson

1:30 a.m./p.m. on January 22, 1987 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Lynda Hutfles, Secretary
Mary Torrance, Revisor's Office
Mary Galligan, Research
Raney Gilliland, Research

Conferees appearing before the committee:

The meeting was called to order by Chairman Miller.

The minutes were corrected to read on the second page, first paragraph, "The last five people" instead of "There have been five people".

Representative Aylward made a motion, seconded by Representative Rolfs, to approve the minutes as corrected. The motion carried.

HB2062 - Death Penalty

Representative Sprague made a motion, seconded by Representative Long, to strike felony murder and set forth three criteria - premeditated murder, commission of kidnapping and commission of reape or sodomy. The motion lost. See attachment A.

Representative Sprague made a motion, seconded by Representative Rolfs, to strike on line 75 and 76 "or substantially impaired". The motion carried.

Representative Peterson made a motion, seconded by Representative Jenkins, to report HB2062 favorably as amended. The motion carried.

The Chairman announced discussion of the lottery on Monday. No additional hearings on the lottery have been requested. The Chairman suggested that if committee members have amendments, they should have them in writing for Monday's meeting. The Chairman stated that it was his intention not to vote on the bill on Monday even if the work is complete. Final action will be taken on Tuesday if the work is complete.

The meeting was adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 1/22

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
BOB MILLER	BALDWIN	PROF. BAKER U.
Mark Talbot	Topeka	ASK
John Bortee	Lawrence	University of Kansas
Joanne Loftland	Wichita	KAKE-TV
Ray Unruh	Wichita	KWCN-TV
Dianna Darrett	Emporia	Phil Kline's Intern
Brian Morris	Emporia	Jordan Foster
Dan Ampton	Emporia	Jeff Freeman
Guiney Brock	Emporia	Rep. Goldner
JACKIE MALONE	PARSONS	---
Kathy Trimmer	PAOLA	---
Ken Frazier	PAOLA	---
Melissa Malone	Parsons	Bill Brady (page)
Sue Gunnels	Hays	Ellis County Star
Marissa Curiel	Newton	Page
Jodi Giesbrecht	Newton	Page
Alicia Stubbs	Newton	Page
Curtis Stubbs	Newton	Counselor
Steve Reths	Bonnet Springs	Page
Cathy Tinsley	Basehor	Page
Stephanie Smith	Tonganoxie	Page
Bob Broves	Topeka	---
Azel Dry	Larned Ks	LSH-CDR P
Dennis Augustine	Larned Ks	Surprise Inc.
Barbara Slough	Shawnee, Ks	Page Parent
Marlene Wedel	Shawnee, Ks	Page Parent

HOUSE BILL No. 2062

By Representatives Graeber, Jenkins, Acheson, Apt, Aylward, Bideau, Braden, Bryant, Buehler, Bunten, C. Campbell, Crumbaker, Dillon, Eckert, Empson, Francisco, Freeman, Gatlin, Green, Gross, Harper, Jenkins, Johnson, King, Lacey, Laird, Long, Mead, Neufeld, O'Neal, Ott, Patrick, Peterson, Rezac, Roe, Roenbaugh, Rolfs, Sallee, Schauf, Shallenburger, Shore, Spaniol, Vancrum, Wilbert and Wisdom

1-15

0023 AN ACT concerning crimes and punishments and procedures
0024 relating thereto; providing for a sentence of death for certain
0025 crimes under certain circumstances; concerning the proce-
0026 dure for carrying out a sentence of death; amending K.S.A.
0027 22-4002, 22-4003, 22-4004, 22-4005, 22-4006, 22-4009, 22-
0028 4011, 22-4012, 22-4013 and 22-4014 and K.S.A. 1986 Supp.
0029 21-4501, 21-4603, 21-4604 and 22-4505 and repealing the
0030 existing sections; also repealing K.S.A. 22-4001, 22-4007, 22-
0031 4008 and 22-4010.

0032 Be it enacted by the Legislature of the State of Kansas:

0033 Section 1. K.S.A. 1986 Supp. 21-4501 is hereby amended to
0034 read as follows: 21-4501. For the purpose of sentencing, the
0035 following classes of felonies and terms of imprisonment sen-
0036 tences authorized for each class are established:

0037 (a) Class A, the sentence for which shall be imprisonment for
0038 life, ~~except that the sentence for the crime of murder in the first~~
0039 ~~degree, as defined by K.S.A. 21-3401 and amendments thereto,~~
0040 ~~shall be death or imprisonment for life, as provided by sections~~
0041 ~~3 through 9.~~

0042 (b) Class B, the sentence for which shall be an indeterminate
0043 term of imprisonment, the minimum of which shall be fixed by
0044 the court at not less than five years nor more than 15 years and
0045 the maximum of which shall be fixed by the court at not less than
0046 20 years nor more than life.

0047 (c) Class C, the sentence for which shall be an indeterminate

*Molton
Last*

Section 1. K.S.A. 21-3401 is hereby amended to read as fol-
lows: 21-3401. (a) Murder in the first degree is the killing of a
human being committed maliciously, willfully, deliberately and
with premeditation premeditated murder or the killing of a
human being committed in the perpetration of or attempt to
perpetrate any felony.

(b) Murder in the first degree is a class A felony.

(c) As used in this section, "premeditated murder" means
the killing of a human being committed maliciously, willfully,
deliberately and with premeditation.

New Sec. 2. Murder in the commission of kidnapping is the
killing of a human being committed in the perpetration of or
attempt to perpetrate aggravated kidnapping as defined by
K.S.A. 21-3421 and amendments thereto.

Murder in the commission of kidnapping is a class A felony.

New Sec. 3. Murder in the commission of rape or sodomy is
the killing of a human being committed in the perpetration of or
attempt to perpetrate rape, as defined by K.S.A. 21-3502 and
amendments thereto, or aggravated criminal sodomy, as defined
by K.S.A. 21-3506 and amendments thereto.

Murder in the commission of rape or sodomy is a class A
felony.

4.

following class A felonies
shall be death or imprisonment for life, as provided by sections
6 through 12:

(1) Premeditated murder, as defined by K.S.A. 21-3401 and
amendments thereto;

(2) murder in the commission of kidnapping, as defined by
section 2; or

(3) murder in the commission of rape or sodomy, as defined
by section 3

Attachment A

0122 thereto. At the conclusion of the evidentiary presentation, the
0123 court shall allow the parties a reasonable period of time in which
0124 to present oral argument.

0125 (3) At the conclusion of the evidentiary portion of the sen-
0126 tencing proceeding, the court shall provide instructions to the
0127 jury orally and in writing to guide its deliberations.

0128 (4) A sentence of death may be imposed if, by unanimous
0129 vote, the jury finds beyond a reasonable doubt: (a) That one or
0130 more of the aggravating circumstances enumerated in section 5
0131 exist; (b) that the existence of such aggravating circumstance or
0132 circumstances is not outweighed by any mitigating circum-
0133 stances which are found to exist; and (c) if the defendant ~~com-~~
0134 ~~mitted the crime while engaged in the perpetration of or attempt~~
0135 ~~to perpetrate a felony,~~ that the defendant personally committed
0136 the killing, attempted to commit a killing or intended that a
0137 killing take place or that lethal force be used. Otherwise, a
0138 sentence of life imprisonment shall be imposed and the defend-
0139 ant shall be committed to the custody of the secretary of correc-
0140 tions. The jury, if its verdict is a unanimous recommendation of a
0141 sentence of death, shall designate in writing, signed by the
0142 foreman of the jury, any statutory aggravating circumstances
0143 which it found beyond a reasonable doubt. If the jury, after a
0144 reasonable time for deliberation, is unable to reach a verdict, the
0145 judge shall dismiss the jury and impose a sentence of imprison-
0146 ment for life. In nonjury cases, the court shall follow the re-
0147 quirements of this subsection in determining the sentence to be
0148 imposed.

0149 (5) Notwithstanding the verdict of the jury, the trial court
0150 shall review any jury verdict imposing a sentence of death to
0151 ascertain whether the imposition of such sentence is supported
0152 by the evidence. If the court determines that the imposition of a
0153 sentence of death is not supported by the evidence, the court
0154 shall modify the sentence to imprisonment for life. Whenever
0155 the court enters a judgment modifying the sentencing verdict of
0156 the jury, the court shall set forth its reasons for so doing in a
0157 written memorandum which shall become part of the record.

0158 New Sec. 5. Aggravating circumstances shall be limited to

is being sentenced for murder in the commission of kidnapping or murder in the commission of rape or sodomy