

Approved February 2, 1988  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Robert S. Wunsch at  
Chairperson

3:30 ~~a.m.~~/p.m. on January 28, 1988 in room 313-S of the Capitol.

All members were present except:

Representatives Peterson, Roy and Vancrum, who were excused

Committee staff present:

Jerry Donaldson, Legislative Research Department  
Jill Wolters, Revisor of Statutes Office  
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Attorney General Robert T. Stephan  
Becky Ridgway, Chairperson, Kansas Attorney General's Task Force on Drugs, Wichita  
Dale A. Finger, Kansas Bureau of Investigation  
Ben Burgess, U. S. Attorney, Wichita  
Robert Schumaker, President, Kansas Police Officers Association  
Clifford Hacker, Kansas Sheriffs Association & Kansas Police Officers Association  
Ron Smith, Kansas Bar Association  
Walter N. Scott, Jr., Attorney

The Chairman announced the Committee would hear bill requests.

Representative Bideau requested the Committee introduce a bill that would permit counties, district courts, administrative agencies and the state of Kansas to use letter size and legal size paper for two years before phasing out the use of legal size paper.

Representative Walker moved and Representative O'Neal seconded to introduce the bill requested by Representative Bideau, as a Committee bill. The motion passed.

Representative Wunsch requested the Committee introduce a bill relating to damages for pain and suffering in personal injury actions. He also requested the Committee introduce a bill relating to exemplary damages in civil actions.

Representative Crowell moved to introduce two bills requested by Representative Wunsch as Committee bills. Representative Douville seconded and the motion passed.

Representative Wunsch requested the Committee introduce a bill concerning collateral source.

Representative Douville moved and Representative O'Neal seconded to introduce the bill requested on collateral source as a Committee bill. The motion passed.

Hearings on H.B. 2708 -- Unlawful to arrange drug sales or purchases using a communication facility  
H.B. 2710 -- Increasing penalties for purchase or consumption of liquor by a minor

Attorney General Robert T. Stephan testified the Attorney General's Task Force on Drugs was organized in September 1986 and held public hearings across the state in November and December 1986 and January 1987. As a result of the hearings, the Task Force recommended proposed legislation. H.B. 2708 imposes a Class D felony on any person who knowingly or intentionally uses any communication facility in committing or in causing or facilitating the commission of a sale, offer for sale, purchase or offer to purchase controlled substances as set forth in the statutes. H.B. 2710 increases the penalty of manufacturing controlled substances and distributing to children under the age of 18, (see Attachment I). He also distributed a list of the members of the task force on drugs, (see Attachment II).

Becky Ridgway explained that members of the task force were from law enforcement, legislature, the judicial systems, education and state and community agencies. The task force held hearings at six sites across Kansas. She said the Task Force requests the Committee consider and support H.B. 2708 and H.B. 2710, (see Attachment III).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,  
room 313-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on January 28, 1988, 19    .

Dale A. Finger testified in support of H.B. 2708. H.B. 2708 makes it a Class D felony for a person to arrange for drug sales or purchases by use of a telephone or other communication facilities. Federal statutes have contained a law of this type for quite some time, (see Attachment IV).

Ben Burgess testified as a member of the Task Force and recommended H.B. 2708 and H.B. 2710 would be useful tools to law enforcement agencies in the state of Kansas.

Dale A. Finger testified in support of H.B. 2710. H.B. 2710 increases the penalties of manufacturing controlled substances, (see Attachment V).

Robert Schumaker strongly supported the passage of H.B. 2708 and H.B. 2710.

Clifford Hacker testified in support of H.B. 2708 and H.B. 2710.

A letter from Jane Lewis, Coordinator of Drug Abuse Programs, Office of the Governor was distributed to the Committee. On behalf of Governor Hayden she encouraged the House Judiciary Committee to give serious consideration to H.B. 2708 and H.B. 2710, as these proposals are consistent with their goals of reducing drug manufacturing and distribution, (see Attachment VI).

The hearings on H.B. 2708 and H.B. 2710 were closed.

Hearing on H.B. 2689 -- Pay period changes in garnishment

Ron Smith testified in support of H.B. 2689. Current law states you can garnish on one pay period per month. This bill would change the law so that the employer can withhold appropriate amounts from any pay period that falls within a 30-day period including the date of service of notice, (see Attachment VII).

Walter N. Scott, Jr., explained there will be problems that will have to be worked out but this bill will be more fair and equitable.

The hearing on H.B. 2689 was closed.

The Committee adjourned at 5:00 p.m.

The next meeting will be Monday, February 1, 1988, at 3:30 p.m., in room 313-S.



HOUSE JUDICIARY COMMITTEE

JANUARY 28, 1988

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

ATTORNEY GENERAL'S TASK FORCE ON DRUGS

-- ORGANIZED IN SEPTEMBER, 1986

MEMBERS ON TASK FORCE

-- CITIZENS COMMITTEE

-- CHAIRPERSON - BECKY RIDGWAY, WICHITA,  
SCHOOL TEAM TRAINING ADMINISTRATOR  
WITH THE WICHITA PUBLIC SCHOOLS

-- LEGISLATORS: REP. DONNA WHITEMAN  
REP. JOANN POTTORFF  
REP. BOB WUNSCH  
SENATOR FRANK GAINES

NOVEMBER, DECEMBER 1986, AND JANUARY 1987 - HELD PUBLIC  
HEARINGS ACROSS THE STATE

WHY FORMED?

-- NOT JUST PENAL APPROACH TO OUR STATE DRUG PROBLEM  
-- MULTI DISCIPLINARY APPROACH

*Attachment I*

TASK FORCE WORKED IN SUBCOMMITTEES WITH LEGISLATIVE RECOMMENDATIONS IN EACH AREA.

EDUCATION AND PREVENTION ISSUES - PROGRAMS IN PUBLIC SCHOOLS AND PUBLIC SERVICE

INTERVENTION AND TREATMENT - IDENTIFYING PEOPLE IN NEED OF TREATMENT AND PROVIDING THAT TREATMENT.

CRIMINAL JUSTICE AND LAW ENFORCEMENT - NOT ONLY CRIMINAL STATUTES THAT MIGHT BE VIOLATED BUT ALSO ENTIRE SYSTEM INCLUDING COURTS AND PAROLE.

TODAY - WE'RE SEEKING SUPPORT FOR TWO HOUSE BILLS

2708 - USE OF TELEPHONE IN DRUG CASES

2710 - INCREASING PENALTY OF MANUFACTURING OF CONTROLLED SUBSTANCES AND DISTRIBUTING TO CHILDREN UNDER AGE 18

BECKY RIDGWAY, CHAIR OF THE TASK FORCE, AND DALE FINGER, SPECIAL AGENT IN NARCOTICS AT THE KANSAS BUREAU OF INVESTIGATION ARE ALSO HERE TO SPEAK TO YOU TODAY.

THANK YOU FOR YOUR CONSIDERATION.

ATTORNEY GENERAL'S TASK FORCE ON DRUGS

Becky Ridgway  
Task Force Chair  
School Team Training Administrator  
Wichita Public Schools  
1847 North Chautauqua  
Wichita, Kansas 67214  
Office: 316/833-2303 Home: 316/684-9653

Jackie Anderson  
Rainbow Mental Health Unit  
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Kansas City, Kansas 66103  
Office: 913/384-1880 Home: 913/342-0318

Bruce Beale  
Executive Director  
DCCCA Counseling & Resource Center  
2200 West 25th  
Lawrence, Kansas 66044  
Office: 913/841-2880 Home: 913/887-6348

Ben Burgess  
U.S. Attorney  
306 U. S. Courthouse  
401 North Market  
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Jim Clark  
Executive Director  
Kansas County & District Attorneys Association  
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Margie Dugan Ecklund  
Office of Traffic Safety  
Kansas Department of Transportation  
8th Floor, Docking State Office Building  
Topeka, Kansas 66612  
Office: 913/296-3756

Dale Finger  
Narcotics Division  
Kansas Bureau of Investigation  
1620 S.W. Tyler  
Topeka, Kansas 66612  
Office: 913/232-6000 Home: 913/267-0573

Attachment II

Jim Flory  
Douglas County District Attorney  
Law Enforcement Center  
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Frank Gaines  
State Senator, 16th District  
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Cynthia Galyardt  
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Ramon Gonzalez  
Warrants Officer  
Finney County Sheriff's Office  
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Garden City, Kansas 67849  
Office: 316/275-3260 Home: 316/275-5583

Tom Hanna  
Director, Alcoholic Beverage Control  
2nd Floor, 700 Jackson  
Topeka, Kansas 66603  
Office: 913/296-3946 Home 913-272-8961

Glendia Henley  
Education Specialist  
Kansas Department of Education  
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Richard Johnson  
Det. Sgt.  
Topeka Police Department  
500 Van Buren  
Topeka, Kansas 66603  
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Melissa Masoner  
Executive Director  
Topeka Youth Project  
1100 Gage Blvd.  
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Andrew O'Donovan  
Commissioner, Alcohol & Drug Abuse Division  
Department of Social & Rehabilitation Services  
2700 West 6th, Biddle Building  
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Tom Pensabene  
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Jo Ann Pottorff  
Representative, 83rd District  
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Oakley Ralph  
Chief of Police  
705 First Avenue  
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Cathy Roberts  
School Board Member  
484 Upper Mill Heights Drive  
Salina, Kansas 67401  
913/827-1612

Herbert Rohleder  
District Court Judge  
Barton County Courthouse  
Great Bend, Kansas 67530

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Drug/Alcohol Abuse Prevention Center  
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Scott Teeselink  
Special Agent  
Kansas Bureau of Investigation  
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Topeka, Kansas 66612  
Office: 913/232-6000



Donna Whiteman  
Representative, 102nd District  
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Hutchinson, Kansas 67504  
Office: 316/669-0467 Home: 316/669-0252

Robert Wunsch  
Representative, 101st District  
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Kingman, Kansas 67068  
Office 316/532-3113

STAFF

Brenda L. Braden  
Deputy Attorney General  
Office of the Attorney General  
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Nancy Lindberg  
Assistant to the Attorney General  
Office of the Attorney General  
Kansas Judicial Center, 2nd Floor  
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GOVERNOR'S LIAISON

Jane Lewis  
Coordinator, Drug Abuse Programs  
Office of Administration - Room 263-E  
State Capitol Building  
Topeka, Kansas 66612-1572  
Office: 913/296-3011 Home: 913/272-0609

September 1987

Testimony of

Becky Ridgway  
Chairperson of

Kansas Attorney General Robert T. Stephan's  
Task Force on Drugs

The House Judiciary Committee

January 28, 1988

Mr. Chairperson and Members of the House Judiciary Committee:

In early fall of 1986, Attorney General Robert T. Stephan demonstrated his concern for all people of Kansas when he announced the formation of a Task Force on Drugs. For that, General Stephan, I say thank you - from members of the Task Force and from the dedicated citizens across Kansas who expressed their appreciation for the opportunity to have their voices heard.

Invitations to Task Force membership were extended to persons from across the state who represented a variety of professional backgrounds: law enforcement, the legislative and judicial systems, education, and state and community agencies.

Following the initial convening of the Task Force, hearing times were scheduled at six sites across Kansas:

Dodge City	Dodge City Community Library
Hays	Fort Hays State University
Kansas City	Kansas City, Kansas Community College
Pittsburg	Pittsburg State University
Topeka	Washburn University
Wichita	Wichita State University

At each of these hearings, persons representing city and county law enforcement agencies; parents and other community members; and the total continuum of care related to alcohol

*Attachment III*

and other drug abuse: substance abuse prevention, intervention, treatment and after care, presented their statements, demonstrating their concerns and their hopes for the health and well-being of persons for whom they work and care. The members of the Task Force were privileged to hear from those people testifying, persons who daily see the crucial needs of the consumers of their services.

Task Force members learned from persons appearing before the group as well as from each other, as possible legislative responses and strategies were considered that could address the needs identified by persons testifying and Task Force members.

A variety of backgrounds are represented on the Task Force roster and were also shown by persons testifying before the group. That diversity of experience is crucial in the development of the proposals emerging from the Task Force. However, each person who has participated in this process demonstrated one common purpose: dedication to the quality of life to be shared by all citizens of our state.

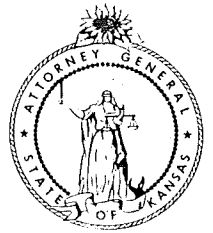
The Task Force recognizes its responsibility of being a conduit between the persons testifying before the Task Force and you, members of the legislature. Your time and attention are valuable and appreciated. Your special consideration and support of H.B. 2708 and H.B. 2710 would be appreciated. For all members of the Task Force, I say, "Thank you."



DAVID E. JOHNSON  
DIRECTOR

# KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL  
STATE OF KANSAS  
1620 TYLER  
TOPEKA, KANSAS 66612-1837  
(913) 232-6000



ROBERT T. STEPHAN  
ATTORNEY GENERAL

TESTIMONY OF SPECIAL AGENT DALE A. FINGER  
KANSAS BUREAU OF INVESTIGATION  
ON HOUSE BILL 2708  
BEFORE THE  
HOUSE JUDICIARY COMMITTEE  
THURSDAY, JANUARY 28, 1988  
ROOM 313-S  
STATE CAPITOL

Mr. Chairman and members of the House Judiciary Committee:

On behalf of the Attorney General's Task Force on Drugs, of which I am a member, I am asking that you consider making it a crime for a person to arrange for drug sales or purchases by use of a communication facility, i.e. by use of a telephone.

For the past 15 years, I have been employed as a Special Agent by the Kansas Bureau of Investigation to investigate narcotic violations in the state. From my experiences working undercover and also by operating court-authorized wiretaps, I have found communication facilities to be a common means by which illegal drug deals are transacted. These facilities are utilized by both the sellers and users of illegal drugs.

In creating a new law making it a crime to conduct illegal drug transactions by use of a communication facility, law enforcement will have the means by which to attack the drug problem on both the supply side and the demand side.

*Attachment IV*

Regarding the supply side of this issue, it is well known and documented that illicit drug organizations cannot operate efficiently without using some type of communication facility, whether the facility be a telephone or a computer network. By enacting a law making it illegal to use a communication facility in conducting illicit drug business, law enforcement would have yet another tool in combatting suppliers of illegal drugs in this state.

Regarding the demand side of this issue, it is common place for a drug user to pick up the telephone, for example, and place a call for a personal supply of illegal drugs from his supplier. By enacting the proposed law, charges could be filed against not only the supplier but the user, too. Narcotics enforcement shouldn't focus solely on the suppliers of illegal drugs, for if there wasn't a demand for illegal drugs, there would be no suppliers.

Federal statutes have contained a law of this type for quite some time. The federal penalty for the unlawful use of a communication facility is imprisonment of up to 4 years and a fine of up to \$30,000. Second-time offenders face double the prison sentence and double the fine.

I, with the Task Force, am asking you to pass House Bill 2708 which would establish the crime of Arranging Drug Sales or Purchases by use of a Communication Facility as a Class D felony.

Thank you for your consideration. I will be pleased to answer any questions from the Committee.



DAVID E. JOHNSON  
DIRECTOR

# KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL  
STATE OF KANSAS  
1620 TYLER  
TOPEKA, KANSAS 66612-1837  
(913) 232-6000



ROBERT T. STEPHAN  
ATTORNEY GENERAL

TESTIMONY OF SPECIAL AGENT DALE A. FINGER  
KANSAS BUREAU OF INVESTIGATION  
ON HOUSE BILL 2710  
BEFORE THE  
HOUSE JUDICIARY COMMITTEE  
THURSDAY, JANUARY 28, 1988  
ROOM 313-S  
STATE CAPITOL

Mr. Chairman and members of the House Judiciary Committee:

On behalf of the Attorney General's Task Force on Drugs, of which I am a member, I am asking that you consider increasing the penalties for certain drug violations.

Currently, according to state law, a person who is convicted of manufacturing controlled substances is guilty of a Class A misdemeanor, the penalty of which is up to 1 year in the county jail. Under federal statutes, this same crime is a felony, punishable by imprisonment of up to 20 years in a federal penitentiary.

I am asking that the punishment fit the crime under state law. Manufacturing an illegal drug is, in essence, creating a source of supply for that illegal drug. One of the main goals in narcotic investigations is to identify and target supply sources because the source is the "starting point" of any given drug trafficking network.

There are numerous drugs which can, and are being manufactured illegally, but the drug of choice being made illegally in Kansas recently has been methamphetamine, otherwise known as "crystal meth" or "crank". Much like cocaine, methamphetamine is a powerful and addictive stimulant drug which is snorted or injected by the user.

*Attachment V*

During the past year, at least 3 operating clandestine "meth" laboratories were captured by law enforcement in Kansas. Several other locations showed evidence of having housed clandestine laboratories and were found to be vacated; still other suspected clandestine laboratory operations are currently under investigation.

Under current state law, the door has been left open for out-of-state violators to set up operations in Kansas. In one investigation recently, information was received that a suspected violator from Texas actually had his attorney research neighboring state drug laws to determine which state has the most lenient laws regarding manufacturing controlled substances. This suspected violator is now a resident of Kansas.

Manufacturing illegal drugs is big business. Over 400 of these operations were captured by law enforcement nationwide in 1987. We are seeing an increase in this type of illegal activity in Kansas. Due to huge profits and the risk of only a misdemeanor charge, it is anticipated that Kansas will be a prime location for a growing number of these violators unless the current law is changed.

I ask that you pass House Bill 2710 which would increase the penalty for manufacturing controlled substances to a Class C felony, placing the penalty in line to fit the crime.

Other drug crimes requested to be dropped from the misdemeanor portion of the statute in this bill and placed in the felony subsections of the statute include the following: prescribing, administering, delivering, distributing, dispensing or compounding controlled substances designated by Kansas law. These crimes should



be removed from the "simple possession" subsection and placed in the felony portion of the statute since these crimes involve the introduction of controlled substances into society.

The final issue to be dealt with regarding HB2710 is the addition of enhanced penalties pertaining to repeat felony drug offenders and those who furnish controlled substances to a child under 18 years of age. I believe it goes with little explanation that these two groups of drug violators should be dealt with the harshest.

I would like to think that after an individual has been convicted of a felony drug offense, this person would be deterred from committing another felony drug offense due to the seriousness of the crime. However, the number of repeat offenders is no small figure, and an enhanced penalty is sought.

Likewise, who can honestly say that drug pushers selling drugs to children shouldn't be dealt with the toughest of all under these statutes. It is difficult enough for kids to deal with peer pressure and to "Just Say No to Drugs". Without question, the stiffer penalties for those persons selling illegal drugs to children as outlined in HB2710 are requested.

I, with the Task Force, ask that you pass HB2710 as introduced, and I thank you for your consideration. I will be pleased to answer any questions from the Committee.

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol  
Topeka 66612-1590  
(913) 296-3232

January 27, 1988

Mike Hayden Governor

The Honorable Robert S. Wunsch, Chairman  
Judiciary Committee  
Kansas House of Representatives  
Room 313-S, State Capitol  
Topeka, Kansas 66612

Dear Mr. Chairman:

On behalf of Governor Hayden, I would like to encourage the House Judiciary Committee to give serious consideration to 1988 House Bill numbers 2708 and 2710. These proposals are consistent with our goals of reducing drug manufacturing and distribution. Our laws must provide adequate penalties for illegal drug dealers, especially those who distribute dangerous drugs to our children.

The Governor is confident that the Legislature will consider these proposals as an integral part of a statutory framework designed to assist law enforcement in this important mission.

If we can be of assistance to you or your committee in this or any other matter, do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Jane Lewis".

Jane Lewis, Coordinator  
Drug Abuse Programs

JL:dp  
5052A

Attachment VI

WALTER N. SCOTT, JR.  
ATTORNEY AT LAW  
420 WEST 33RD  
TOPEKA, KANSAS 66611

TELEPHONE OFFICE 266-4220

January 28, 1988

House Judiciary Committee

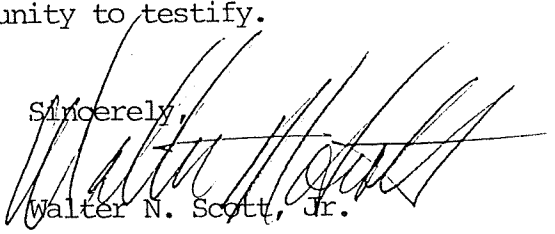
Mr. Chairman & Members of the Committee,

For your information and consideration, the following schedule shows differences in weekly, every-2-weeks, semi-monthly and monthly garnishment amounts of \$1,000.00 monthly after deductions required by law.

Monthly:	Semi-Montly:
\$1,000.00 net	\$500.00 net
\$250.00 garnishment amount	\$125.00 garnishment amount
Every-2-Weeks:	Weekly:
\$461.54 net	\$230.77 net
\$115.39 garnishment amount	\$57.69 garnishment amount

I appreciate your giving me the opportunity to testify.

Sincerely,

  
Walter N. Scott, Jr.

WNS:zsm

Attachment VII