

Approved 2-7-89 Ginger Barr, Chm.
Date

MINUTES OF THE House COMMITTEE ON Federal and State Affairs

The meeting was called to order by Representative Ginger Barr at
Chairperson

1:30 a.m./p.m. on January 19, 1989 in room 526 of the Capitol.

All members were present except:

Committee staff present: Mary Torrence, Revisor of Statutes Office
Mary Galligan, Kansas Department of Legislative Research
Juel Bennewitz, Committee Secretary

Conferees appearing before the committee:

PROPOSERS

Douglas Murphy, Chief of Police, Maize, Kansas
Lieutenant William Jacobs, Kansas Highway Patrol
Jack Pearson, Kansas Association of Chiefs of Police
George Schureman, Kansas Peace Officers Association

Chairman Barr called the meeting to order at 1:33 p.m. Rules for the Federal and State Affairs Committee are that the committee will convene on time and absences not reported to the chairman or the committee secretary will be unexcused. Proposed bills relating to state agencies will be introduced as committee bills and individuals having bill requests should be encouraged to find a sponsor for the bill.

HB 2018

Representative Kenneth Francisco introduced Douglas Murphy, Chief of Police, Maize, Kansas, who testified in support of the bill regarding the possession of a firearm with a barrel length of more than 12 inches, Attachment No. 1. Attachment No. 1A contains statistics and information to support the testimony.

Questions from the committee concerned the inclusion of "habitual drunkard" and "addict" in the proposed language and whether there is existing statutory basis for the inclusion. The intent of the proposed language was to include all felons although Chief Murphy acknowledged there are non-violent felons and stated the major concern to be persons committing crimes who have a propensity for violence.

In response to a question, Chief Murphy stated a sunset on permitting a convicted felon to possess a firearm will probably have to be included in the bill.

One representative proposed a longer barrel length for firearm possession. Chief Murphy responded that "a firearm is a firearm" and that the felon should have to demonstrate rehabilitation before being permitted to possess one.

Lieutenant William Jacobs testified in support of the bill, Attachment No. 2.

On a point of clarification, the lieutenant stated there was no current statute including the terminology regarding "habitual drunkard or addict" and explained that was a determination made by a doctor.

Also testifying in support of the bill were Jack Pearson, Attachment No. 3 and George Schureman, Attachment No. 4.

In response to a question, Mr. Schureman stated there were no statistics to support warrants being effective in use against repeat offenders. Further, he

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal and State Affairs,
room 526-S, Statehouse, at 1:30 ~~a~~^p.m. on January 19, 1989.

believed this proposal would provide an additional safeguard.

The meeting was adjourned at 1:57 p.m. The next meeting of the committee will be on call of the chairman.

Committee on Federal and State Affairs
House Bill 2018
January 19, 1989 1:30 P.M.

Testimony of: Douglas S. Murphy

MY NAME IS DOUGLAS MURPHY, AND I AM THE CHIEF OF POLICE FOR THE CITY OF MAIZE, WHICH IS LOCATED APPROXIMATELY 5 MILES TO THE NORTHWEST OF WICHITA. I ALSO SERVE AS A GOVERNOR AT LARGE AND ON THE LEGISLATIVE COMMITTEE FOR THE KANSAS PEACE OFFICER'S ASSOCIATION, AND I AM A REGIONAL REPRESENTATIVE OF THE KANSAS ASSOCIATION OF CHIEFS OF POLICE.

I AM HERE TO SPEAK ON BEHALF OF HOUSE BILL 2018. THIS BILL WAS ORIGINALLY INTRODUCED ON OUR BEHALF BY REPRESENTATIVE KEN FRANSISCO AS HOUSE BILL 2247. IT SAT IN COMMITTEE IN 1987 AND 1988 AND WENT NOWHERE. I APPRECIATE THIS COMMITTEE TAKING THE TIME TO LISTEN TO OUR CONCERNS ABOUT THE AMBIGUITY OF THE EXISTING STATUTES CONCERNING POSSESSION OF FIREARMS BY FELONS.

ONE OF THE DUTIES OF YOU AS LEGISLATURES IS TO ENACT LAWS WHICH PROMOTE THE SAFETY AND WELFARE OF THE CITIZENS OF OUR STATE. PRESENTLY KANSAS LAW ALLOWS FELONS TO POSSESS A FIREARM, IF THE BARREL LENGTH IS MORE THAN 12 INCHES. WE FEEL THAT A GUN'S A GUN. IT IS JUST AS DEADLY WITH A BARREL MORE THAN 12 INCHES AS IT IS WITH A BARREL LESS THAN 12 INCHES. IF THE CURRENT LAW WAS TRYING TO ADDRESS CONCEALABLE WEAPONS, IT MISSESS THE MARK. THIS SHOTGUN HAS A BARREL LENGTH OF $12\frac{3}{4}$ INCHES AND IS AS EASILY CONCEALABLE AS ONE WITH A BARREL LENGTH LESS THAN 12 INCHES.

ACCORDING TO FIGURES GATHERED AS OF DECEMBER, 1987, THERE WERE 3945 FELONS ON PAROLE STATUS IN KANSAS. THIS DOES NOT INCLUDE THOSE PAROLED SINCE THAT TIME. THESE FIGURES WILL CONTINUE TO GROW WITH THE CURRENT PRISON OVERCROWDING AND THE RELAXED PAROLE CRITERIA.

STUDIES HAVE SHOWN THAT NEARLY 70% OF CRIMINALS WILL BECOME REPEAT OFFENDERS. THIS MEANS THAT OVER 2700 OF THOSE RELEASED FELONS ARE GOING TO COMMIT ANOTHER CRIME AFTER THEY ARE RELEASED.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 1
1/19/89

IF WE CAN MAKE IT ILLEGAL FOR THEM TO POSSESS ANY FIREARM,
WE CAN REDUCE THE CHANCES OF PLACING OUR CITIZENS IN JEOPARDY
AND HAVE THE ABILITY TO CHARGE THE FELON CRIMINALLY.

THE BILL DOES NOT PROPOSE CHANGES THAT GO BEYOND FEDERAL
LAW CONCERNING POSSESSION OF FIREARMS BY FELONS AND IN NO WAY
RESTRICTS THE RIGHTS OF LAW ABIDING CITIZENS, GUN ENTHUSIASTS,
HUNTERS OR SPORTSMEN FROM OWNING OR POSSESSING FIREARMS. IT
DOES RESTRICT THE CONVICTED FELON OF POSSESSING FIREARMS.

I AM CONFIDENT THAT EACH OF YOU CAN RECOGNIZE THE AMBIGUITY
OF THE EXISTING LAWS AND THE NEED TO ADOPT HOUSE BILL 2018
AND THEREBY AMEND K.S.A. 21-4203 AND 21-4204 AS THEY CURRENTLY
EXIST.

I APPRECIATE YOUR TIME AND WILL ANSWER ANY QUESTIONS YOU
MAY HAVE.

December 23, 1987

INTENT AND JUSTIFICATION FOR PROPOSED AMENDMENTS TO
K.S.A. 21-4203 AND 21-4204 AND REPEALING THE EXISTING
SECTIONS.

Law Enforcement Officers in Kansas are finding that there is an increase in the carrying of firearms, both concealed and unconcealed, by convicted felons. A feeling exists among Law Enforcement Officers that there is a greater threat to their safety, and the safety of the general public, than at any time prior.

While statistical figures show a -.27% overall decrease in violent crimes, i.e., Murder/Non-negligent Manslaughter, Forcible Rape, Robbery, and Aggravated Assault, from 1980 to 1986; the 9082 occurrences of violent crimes in 1986, in a supposedly ordered and protected society, is unacceptable.

<u>Types of Crime</u>	<u>1970</u>	<u>1980</u>	<u>%+/-</u>	<u>1986</u>	<u>%+/- (1970)</u>
Murder/Non-negligent Manslaughter	98	160	+63.3	108	+10.2
Forcible Rape	N/A*	741		816	+10.1(1980)
Robbery	1684	2658	+57.8	1958	+16.3
Aggravated Assault	2298	5548	+141.4	6200	+169.8
Total		9107		9082	-.27(1980)

There is no comprehensive statistical data available for firearms used in Rape, Robbery, and Aggravated Assault. However, it is common knowledge that firearms are used in a very large percentage of these types of crimes.

Murder/Non-negligent Manslaughter

<u>Type of Firearm</u>	<u>1970</u>	<u>1980</u>	<u>1986</u>
Handgun	48	75	57
Rifle	10	7	6
Shotgun	12	18	7
Other/Unknown Firearm		2	
Total	70	102	70
# Annual Homicides	98	160	108
% Firearms Used	71.4	63.8	64.8

Historically and statistically handguns are used most often in the commission of violent crimes due to their concealability, accessibility, etc. However, long guns such as rifles and shotguns are used to a great extent.

	<u>1970</u>	<u>1980</u>	<u>1986</u>
# Long Gun Murders	22	27	13
% Long Gun Murders	31.4	26.5	18.6

Under existing statutes it is unlawful for a convicted felon to possess a firearm with a barrel less than twelve inches in length for a period of five years. It was the intent of the law to restrict convicted felons from possessing firearms that are easily concealable, i.e., handguns, sawed-off rifles and shotguns.

A convicted felon can possess any firearm with a barrel over twelve inches. This includes specialty handguns and any rifle or shotgun, sawed-off or not, as long as the barrel is over twelve inches. This makes existing statutes on possession of a firearm by a convicted felon extremely ambiguous. A thirteen, fourteen, fifteen inch, etc., barreled firearm is as easily concealable as a twelve inch barreled firearm; and it is just as deadly.

As the following table shows, there is a continual increase in the number of convicted felons in Kansas. In 1986 there were 3945 convicted felons placed on parole in Kansas by our system and the systems of other states. Add to this the number of convicted felons placed on parole, and still in the parole system from previous years, and the number of convicted felons in the mainstream of society is even greater.

Convicted Felons in Kansas

	<u>1970</u>	<u>1980</u>	<u>1986</u>	<u>% +/- (1970)</u>
Penal Institutions	1936	2333	4991	+157.8
Paroled Outright	1067	1503	1731	+ 62.2
Paroled by Other States	N/A	826	846	+ 2.2(1980)
Total		4662	7568	+ 62.3(1980)

Released from Penal Institutions

	<u>1970</u>	<u>1980</u>	<u>1986</u>
via Parole	N/A	N/A	963
via Conditional Release	"	"	72
Parole by Compact States	"	"	295
Conditional Release by Compact States	"	"	38
Total	"	"	1368

When the percent of repeat offenders is figured into the number of convicted felons in Kansas, it becomes quite evident why there is concern among the members of the Law Enforcement profession for their personal safety and for the safety of the public at large.

A convicted felon that has the propensity to become a repeat offender is not going to insure that he possesses a firearm which is legally accessible to him, i.e., a barrel over twelve inches. He will use whatever is available to him be it handgun, rifle or shotgun, sawed-off or not.

It is the intent of the proposed statutory amendments to make it unlawful for anyone convicted of a felony to possess any firearm for five years after release from imprisonment or conviction if not imprisoned.

The proposed amendments will not infringe upon the Second Amendment rights of the law abiding citizen to bear arms. The law abiding citizen who may be a gun enthusiast, hunter, or sportsman, would not be restricted in any way from owning or possessing a firearm. These proposed amendments do not initiate any type of gun registration or prevent the possession or ownership of any type of firearm, except to the convicted felon.

Federal law prohibits convicted felons from possessing any firearm for a period of five years after conviction or release from imprisonment. This amendment would only make Kansas law comparable to similar Federal Law.

The Kansas Peace Officer's Association solicits and petitions the support of the Legislature in adopting the amendments to K.S.A. 21-4203 and 21-4204.

Your consideration and support of this effort will be greatly appreciated.

Prepared by:

Douglas S. Murphy
Legislative Committee
Subcommittee Chairman
Kansas Peace Officer's Association

Chief of Police
Maize, Kansas 67101

Information and data for this report was obtained from the following sources:

Kansas Bureau of Investigations
Crime in Kansas, 1986
Records Division

Kansas Department of Corrections
Parole Division

Federal Bureau of Investigations
Crime in the United States, 1986

SUMMARY OF TESTIMONY

Before the House Committee on State and Federal Affairs

January 19, 1989

House Bill 2018

Presented by the Kansas Highway Patrol

(Lieutenant William Jacobs)

Appeared in Support of House Bill 2018

The Kansas Highway Patrol supports House Bill 2018 which would make it illegal to sell or transfer any firearm to any person convicted of a felony; or for a person so convicted to possess any firearm for five (5) years after conviction or release from imprisonment for such conviction. Our support is based upon providing safety for law enforcement officers that encounter those individuals and also the safety of the public at large.

The present language in K.S.A. 21-4203 and 21-4204 provides those prohibitions on firearms with a barrel less than twelve (12) inches long, but we contend that crimes can be committed with firearms that have a barrel in excess of that length and legally owned by such individuals.

We also realize that not all persons convicted of a felony are violent persons, but we are very concerned about those who are convicted of crimes that involve the use of firearms and those that are convicted of drug related crimes where firearms are often used in their illegal business transactions.

For the reasons stated above, the Kansas Highway Patrol would ask this committee for their favorable consideration to House Bill 2018.

HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

House Bill No. 2018

My name is Jack Pearson and I appear before this Committee representing the Kansas Association of Chiefs of Police. The Association would like the Committee to know that it supports this bill and encourages a favorable vote on it. Our support stems from an honest desire to enhance the protection and safety of the lives of police officers and citizens throughout the State of Kansas. We believe this bill to be a logical and reasonable extension of the existing statutes.

Thank you for your time.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 3
1/19/89

HOUSE BILL 2018 - FEDERAL AND STATE AFFAIRS COMMITTEE

Testimony given by George J. Schureman on January 19, 1989 in behalf of the Kansas Peace Officers Association.

House Bill 2018 will make the selling or possession of any firearm a felony crime if such firearm is possessed by a convicted felon. The concern of the Kansas Peace Officers Association is that currently, as a result of court mandates, the prison population is being reduced.

This mandate is putting more convicted felons on the street. Approximately 30 per cent of parolees on the street at this time are Class A, B, and C felony violators. This would indicate that these persons probably committed crimes against persons, or are serious drug offenders. As the law stands today, these convicted felons may legally possess rifles and shotguns. These persons should not have immediate access to any firearm upon release from prison or parole. The 5-year-waiting-period, as currently provided by law, allows the convicted felon to prove that he is once again a law-abiding citizen before owning a firearm.

Another concern of the Kansas Peace Officers Association is that many of the convicted felons are involved in drug usage or trafficking. These people may again become involved in drugs upon their release from prison or parole. Persons involved in drugs are a threat to the police as well as to the citizens of the state and to themselves, when police serve search warrants in drug investigations. More often than not, firearms are found on the premises, vehicle, or on the person when police serve a search warrant in drug related investigations.

House Bill 2018 could save the life of a police officer.

I think it is important to remember that this bill does not restrict in anyway, the right to bear arms by the law-abiding citizens of the State of Kansas.

GJS:mfc
01-19-89 / #009-W