

Approved January 31, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Michael O'Neal at
Chairperson

3:30 ~~xxx~~/p.m. on January 30, 1989 in room 313-S of the Capitol.

All members were present except:

Representatives Douville and Peterson, 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:

Representative Barbara Allen
Paul Morrison, Johnson County District Attorney, Olathe
Edwin Van Petten, Deputy Attorney General, Criminal Division
Jim Clark, Kansas County and District Attorneys Association
Mary Lou Belz, Overland Park
Rich Halverson, Shawnee
Marsha Sledd, Belton, Missouri
Kelley Summerlin, Johnson County District Attorney's office, Victims Assistance Unit, Olathe

HEARING ON H.B. 2026 - Aggravated Vehicular Homicide

Representative Allen informed the Committee this bill was requested by the Johnson County District Attorney Paul Morrison. The bill increases the penalty for aggravated vehicular homicide from an E felony to a D felony. She said this was proposed last year in S.B. 111 which passed the House and was lost in a conference committee.

Paul Morrison testified this bill would change the felony classification for the crime of aggravated vehicular homicide from a class E felony to a class D felony. He said aggravated vehicular homicide incorporates the unintentional killing of a human being done in the commission of reckless driving, fleeing or attempting to elude a police officer, in addition to driving under the influence of alcohol or drugs. He said the classification for involuntary manslaughter is a D felony and it was time to increase the sentence for the crime of aggravated vehicular homicide.

In answer to questions from the Committee, Mr. Morrison said his office has been supportive of restructuring the sentencing code.

Edwin Van Petten testified aggravated vehicular homicide is similar to the crime of involuntary manslaughter which is classified as a class D felony. He said the Attorney General strongly urges the passage of this bill as a measure to more closely make the punishment fit the crime, see Attachment 1.

Jim Clark testified the Kansas County and District Attorneys Association has adopted the provisions of this bill as one of their legislative programs.

Mary Lou Belz expressed her concern about driving under the influence of alcohol and need for strict and meaningful penalties. She related how her daughter and unborn grandson were killed by a drunk driver. She recommended tougher laws and enforcement; better prosecution and longer jail sentences; higher fines; more conditions and restrictions; and restitution to the victims, see Attachment 11.

Rich Halverson testified in support of H.B. 2026. He said he would like a more aggressive aggravated vehicular homicide bill. He said people are serving longer jail sentences for lesser crimes. He also recommended increasing the funding for the Kansas Highway Patrol so the highways can be better patrolled to stop the killing on the highways, see Attachment 111.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 313-S, Statehouse, at 3:30 ~~xxx~~/p.m. on January 30, 1989.

Marsha Sledd related to the Committee her daughter was killed in a vehicle collision by a reckless driver and asked that the Committee's assistance to strengthen the system and not overlook the seriousness of senseless deaths, see Attachment 1V.

Kelley Summerlin testified she works with victims of violent crime during their contact with the criminal justice system. The most challenging cases are the survivors of homicides. She recommended passage of H.B. 2026.

The hearing on H.B. 2026 was closed.

The Committee meeting was adjourned at 4:20 p.m. The next meeting will be on Tuesday, January 31, 1989 at 3:30 p.m. in room 519-S.



STATE OF KANSAS

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STATEMENT OF
DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
TO THE HOUSE COMMITTEE ON JUDICIARY
RE: PENALTY ON AGGRAVATED VEHICULAR HOMICIDE
JANUARY 30, 1989

Mr. Chairman and Members of the Committee:

The Attorney General would like to thank the committee for this opportunity to recommend the passage of H.B. 2026, which will enhance the penalty of Aggravated Vehicular Homicide from a class E felony to a class D felony.

In the past few years, we have been bombarded with horror stories of the carnage on our roadways caused by alcohol and drug impaired drivers. However, up to this time we have given individuals convicted of such killings a felony conviction. This bill will eliminate at least a degree of this injustice.

Aggravated Vehicular Homicide, is by definition, similar to the crime of Involuntary Manslaughter which is also a class D felony. It therefore seems appropriate to reclassify Aggravated Vehicular Homicide so that these two crimes carry the same possibilities for punishment.

House Judiciary
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Attachment I

Our office is presently prosecuting a matter where a young mother of two was killed by an individual who was fleeing the scene of a prior accident. It seems totally reprehensible that upon conviction this person will receive a maximum sentence of one (1) to five (5) years. By passing this bill the court will at least have the authority to increase the sentence to one of three (3) to ten (10) years.

As you are aware, this crime also incorporates the killing of a human being done in the commission of reckless driving, and fleeing or attempting to elude a police officer, in addition to driving under the influence of alcohol or drugs.

The Attorney General strongly urges the passage of this bill, as a measure to more closely make the punishment fit the crime.

My name is Mary Lou Belz, and I live at 7618 Hayes in Overland Park, Kansas. I appreciate the opportunity to express my thoughts and concerns about driving under the influence of alcohol, and specifically address the need for strict and meaningful penalties.

The most compelling reason I am here is my daughter, Barbara.

On September 24, 1988 my daughter and my grandson, John Layton were murdered by a man who had been drinking and was driving. After drinking in a tavern in Gardner, Kansas for several hours, this individual drove without care or concern down Highway 56. He attempted to pass my daughter's car, saw he couldn't make the maneuver, pulled back into traffic, crashing into the rear of my daughter's car - pushed her into the opposite lane of traffic, causing her vehicle to collide with an on-coming mail truck. My daughter was thrown from the car, my grandson was torn from her womb, and they both died in the ditch.

They died because someone didn't care - because this person deliberately drank (to excess) and deliberately drove his car without caring about the personal safety of himself or others.

THIS WAS NOT AN ACCIDENT!!!

House Judiciary
1/30/89
Attachment II

All because someone didn't care - he didn't give a damn - he wasn't afraid of the consequences. He had been arrested before. Our laws and our criminal justice systems failed me and my family. They failed the state.

Driving is a privilege - not a God-given right. When conditions of that privilege are violated, then driving must be suspended. That, I submit, means tougher laws, tougher enforcement, better prosecution and more severe sanctions, such as longer jail sentences, higher fines, more conditions and restrictions, and restitution to the victims.

We can no longer tolerate tougher penalties for the possession of cocaine than the penalty for murdering someone while operating a motor vehicle under the influence of alcohol. The State of Kansas must let its citizens know it will not tolerate this needless killing of innocent victims and the flagrant violation of its laws.

TRANSCRIPT OF TESTIMONY BEFORE JUDICIAL COMMITTEE
FOR PASSAGE OF HB 2026 1/30/89

MY NAME IS RICH HALVERSON, AND LIVE IN SHAWNEE, KS

I'M HERE NOT ONLY TO SUPPORT H.B. 2026, BUT
A MORE AGGRESSIVE VERSION OF THIS AGGRAVATED VEHICULAR
HOMICIDE BILL

I'M TOTALLY APPALLED OF THE DRIVING CONDITIONS OF
WHERE I DRIVE.

I WAS MORE APPALLED LAST FALL WHEN AN ATTORNEY
IN THE D.A.'S OFFICE INFORMED ME THAT "KILLER
TAILGATER" CHRISTOPHER BURGER GOT OFF SCOTT FREE
LAST MAY AFTER KILLING A YOUNG LADY + THREE
KIDS ON I-35, BECAUSE THERE IS A TECHNICALITY IN
THE LAW THAT THERE WAS NO LAW TO PROSECUTE WITH.

THERE HAVE BEEN OTHER KILLINGS ON THE STREETS +
FREEWAYS IN KANSAS LAST YEAR, AND THE DRIVERS
ARE GETTING OFF SCOTT-FREE OR 1-2 YEARS MAXIMUM
IN JAIL, WHILE PEOPLE ARE SERVING LONGER YEARS
IN JAIL FOR LESSER CRIMES

House Judiciary
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Attachment III

1-30-89

My name is Marsha Stodd
I am a survivor of a vehicle
collision, which also resulted
in the death of my seven
year old daughter Christina.

I am here today representing
Christina and the many other
victims that have had their
rights taken from them
permanently.

The young man that is
responsible for this made
his choice that evening
to drive with a suspended
driver's license, no insurance,
illegal registration and at a
speed of 100 miles per hour.

In my opinion through his
irresponsible negligence, and
his lack of concern for
his own life let alone
another's, he forfeits his
rights permanently.

However, we are a society
that believes in progress and
the hope for tomorrow.

Sous
Judging
1/30/89

Attachment IV

This hope is what brings me here today, Asking for your assistance in strengthening our system. Together we can send the message that the precious gift of life is very valuable. It is wrong for us to overlook the seriousness of these senseless deaths.

I pray that tragedy never strikes your families as it has ours but I ask that you please keep in mind that we travel the same roads together.

I ask that you consider this, if you represented the victim and I the system what would you expect.

I want to thank you for your time and concern for my family.