

Approved: 4-5-96
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 3:00 p.m. on February 19, 1996 in 513-S of the Capitol.

All members were present except:

Committee staff present: Michael Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Janice Brasher, Committee Secretary

Conferees appearing before the committee: Kyle Smith, KBI

Others attending: See attached list

The Chair called the meeting to order at 3:00 p.m.

SB 510--Increased penalties for drug paraphernalia used to manufacture or distribute controlled substances.

Kyle Smith, KBI explained the difference between paraphernalia used in manufacturing of drugs and paraphernalia found for use of drugs. Mr. Smith presented an amendment that would make the possession of drug paraphernalia for the planting, propagation, growing or harvesting of less than five marijuana plants a class A non-person misdemeanor. (Attachment 1)

Motion was made by Senator Bond, seconded by Senator Martin to amend SB 510 to include the balloon presented by Kyle Smith. The motion carried.

A motion was made by Senator Martin, seconded by Senator Bond to recommend SB 510 favorably for passage with the amendment. The motion carried.

SB 511--Prosecution does not have to identify informant witness until the time such witness has to testify.

Kyle Smith, KBI reported that a letter had been sent to each of the Committee members describing who is an informant, and other information regarding this bill. The conferee stated that Mr. Wurtz who testified in opposition to this bill had made some recommendations concerning the time of disclosing the witness' identity, and that information will be presented to the Committee members within the next few days.

During discussion of **SB 511** it was the consensus of the Committee to wait for information from Mr. Wurtz before taking action on this bill.

SB 515--Requirement for consent to marriage by judge eliminated for 16 and 17 year old persons.

Senator Brady discussed an amendment that would eliminate the requirement of a judge's consent if both parents' provided permission for persons age sixteen through eighteen to marry.

A motion was made by Senator Brady, seconded by Senator Parkinson to adopt the amendment purposed by Senator Brady. The motion carried

A motion was made to recommend SB 515 favorably for passage as amended. The motion carried.

SB 585--Criminal procedure; reports and forms; reporting criminal information; period of suspension of sentence, probation and assignment to community corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 513-S Statehouse, at 3:00 p.m. on February 19, 1996.

The Staff reviewed **SB 585** and discussed amending Section 1,(a) to take forms out of the statutes and recommends that the Sentencing Commission determine the forms. The staff person stated that this bill would bring all the requirements together.

A motion was made by Senator Bond, seconded by Senator Brady to recommend **SB 585** as amended for passage. The motion carried.

SB 505--Parole Board consolidation of administrative functions

A motion was made by Senator Parkinson, seconded by Senator Bond to recommend **SB 505** favorably for passage. The motion carried.

SB 655--Criminal procedure; Kansas Parole Board

The Committee members discussed the fact that **SB 655** conforms to current statute, and sets aside restitution.

A motion was made by Senator Martin, seconded by Senator Brady to recommend the bill favorably for passage. The motion carried.

SB 673--Escape and aggravated escape from custody to include juvenile offenders.

The Committee members discussed amending **SB 673** to apply the same rules to local facilities as to state facilities.

A motion was made by Senator Parkinson, seconded by Senator Bond to amend **SB 673** to apply to local facilities as well as state facilities. The motion carried.

A motion was made by Senator Parkinson, seconded by Senator Bond to recommend **SB 673** favorably for passage as amended. The motion carried.

SB 674--Material witness, juvenile offender.

A motion was made by Senator Parkinson, seconded by Senator Bond to recommend **SB 674** favorably for passage. The motion carried.

SB 609--Expand the definition of rape.

The Committee members and staff discussed narrowing the scope and deleting subsection (c).

SB 676--Division of property matters in divorce.

Senator Bond discussed that this bill will require that property to be divided in a divorce case must be evaluated close to date of settlement. The court must allocate pension plans and allocate profits as close to the date of distribution. A third item of this bill would be to allow for tax consequences of the property division.

A motion was made by Senator Harris, seconded by Senator Bond to recommend **SB 676** favorably for passage. The motion carried.

Meeting was adjourned at 4:20 pm.

The next meeting is scheduled for February 20, 1996.



LARRY WELCH
DIRECTOR

KANSAS BUREAU OF INVESTIGATION
DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS



CARLA J. STOVALL
ATTORNEY GENERAL

February 13, 1996

Senator Phil Martin
Senate Judiciary Committee
State Capitol Building
Room 143-N
Topeka, Kansas 66612

Dear Senator Martin:

Enclosed is the balloon amendment language requested concerning SB 510 dealing with drug paraphernalia. I have tried to incorporate the limitations found in K.S.A. 65-4101(aa) which defines cultivate as meaning "the planting or promotion of growth of five or more plants which contain or can produce controlled substances".

As I stated at hearing, I am not supporting or adopting this proposal, but I am happy to draft it for you to present to the Committee for consideration.

If you have any questions or I can be of further assistance, please advise.

Sincerely,

Kyle G. Smith
Assistant Attorney General

KGS:ld
Encl.
CC: Chairman Emert

SENATE BILL No. 510

By Committee on Judiciary

1-23

1-2

9 AN ACT concerning the uniform controlled substances act; relating to
10 drug paraphernalia; amending K.S.A. 65-4152 and K.S.A. 1995 Supp.
11 65-4153 and repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 65-4152 is hereby amended to read as follows: 65-
15 4152. (a) No person shall use or possess with intent to use:

- 16 (1) Any simulated controlled substance; or
- 17 (2) any drug paraphernalia to ~~plant, propagate, cultivate, grow, har-~~
18 ~~vest, manufacture, compound, convert, produce, process, prepare, test,~~
19 ~~analyze, pack, repack, use,~~ store, contain, conceal, inject, ingest, inhale or
20 otherwise introduce into the human body a controlled substance in vio-
21 lation of the uniform controlled substances act; or
- 22 (3) *any drug paraphernalia to plant, propagate, cultivate, grow, har-*
23 *vest, manufacture, compound, convert, produce, process, prepare, test,*
24 *analyze, pack, repack, sell or distribute a controlled substance in violation*
25 *of the uniform controlled substances act.*

26 (b) Violation of ~~this section~~ subsections (a)(1) or (2) is a class A non-
27 person misdemeanor.

28 (c) *Violation of subsection (a)(3) is a drug severity level 4 felony* ←
29 Sec. 2. K.S.A. 1995 Supp. 65-4153 is hereby amended to read as
30 follows: 65-4153. (a) No person shall deliver, possess with intent to de-
31 liver, manufacture with intent to deliver or cause to be delivered within
32 this state:

- 33 (1) Any simulated controlled substance; or
- 34 (2) any drug paraphernalia, knowing, or under circumstances where
35 one reasonably should know, that it will be used to ~~plant, propagate,~~
36 ~~cultivate, grow, harvest, manufacture, compound, convert, produce, proc-~~
37 ~~ess, prepare, test, analyze, pack, repack, use,~~ store, contain, conceal, in-
38 ject, ingest, inhale or otherwise introduce into the human body a con-
39 trolled substance in violation of the uniform controlled substances act; or
- 40 (3) *any drug paraphernalia, knowing or under circumstances where*
41 *one reasonably should know, that it will be used to plant, propagate,*
42 *cultivate, grow, harvest, manufacture, compound, convert, produce, proc-*
43 *ess, prepare, test, analyze, pack, repack, sell or distribute a controlled*

unless the violation involved the possession of drug paraphernalia for the planting, propagation, growing or harvesting of less than five marijuana plants in which case the violation is a class A nonperson misdemeanor.

1-3

1 *substance in violation of the uniform controlled substances act.*

2 (b) ~~Except as provided in subsection (e), violation of this section is a~~
3 ~~class A nonperson misdemeanor.~~

4 (e) Any person who violates this section by delivering or causing to
5 be delivered within this state drug paraphernalia or a simulated controlled
6 substance to a person under 18 years of age is guilty of a nondrug severity
7 level 9, nonperson felony. *Violation of subsections (a)(1) or (2) is a non-*
8 *drug severity level 9, nonperson felony.*

9 (c) *Violation of subsection (a)(3) is a drug severity level 4 felony.*

10 Sec. 3. K.S.A. 65-4152 and K.S.A. 1995 Supp. 65-4153 are hereby
11 repealed.

12 Sec. 4. This act shall take effect and be in force from and after its
13 publication in the statute book.