

Approved: March 3, 1999
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:08 a.m. on March 2, 1999 in Room 123-S of the Capitol.

All members were present except: Senator Harrington (excused)

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Senator Robert Tyson
Frank Kelly, Sheriff, Miami County
Charles Gillette, City Commissioner, Ottawa
Jeffrey D. Herrman, Chief of Police, Ottawa and Kansas Association of Chiefs of Police
Rex Bowling, Franklin County Sheriff's Department
Anna Lee Billam, Mayor, Osawatomie
Dave Smail, Chief of Police, Paola
Sheila Walker, Kansas Department of Revenue

Others attending: see attached list

The amended minutes of the February 16 meeting and minutes of the February 23 meeting were approved on a motion by Senator Bond and seconded by Senator Goodwin; carried.

SB 178—an act concerning alcohol or drug related offenses involving the operation of a vehicle

Conferee Tyson testified in support of **SB 178**. He discussed how the bill changes current law which, he stated, imposes a hardship on Franklin and Miami Counties by requiring their law enforcement officers to expend time and energy traveling outside of their area to secure Driving Under The Influence (DUI) drivers license suspensions. He cited other counties in Kansas that are experiencing the same costly problem. (attachment 1)

Conferee Kelly testified in support of **SB 178**. He provided statistics on DUI cases in Miami County and stated that "tax dollars are not being efficiently utilized by law enforcement agencies due to the fact that DUI hearings are held outside the respective jurisdictions." (attachment 2)

Conferee Gillette testified in support of **SB 178**. He reiterated the problems as discussed by the previous conferees and stated that the City of Ottawa has had to devote, on average over the past three years, over 280 staff hours per year to have officers attend out of county hearings. He urged Committee to pass the bill. (attachment 3) Lengthy discussion followed regarding an alternative solution to this problem.

Conferee Herrman testified in support of **SB 178** detailing the number of DUI arrests and man hours spent by the Ottawa Police Department from January 1997 through December 1998 and including August 1998 through January 1999. He urged passage of the bill. (attachment 4)

Conferee Bowling testified in support of **SB 178**. He discussed a list of problems the Franklin County Sheriff's Department has encountered since driver's license suspension hearings were moved from Franklin County to Lawrence, Kansas and stated that these could be alleviated if the hearings were held in the local county. (attachment 5)

Conferee Billam testified in support of **SB 178** in like manner as the previous conferees providing statistical data relating to DUI arrests in the last three years by the Osawatomie Police Department. She discussed the labor and transportation costs to the Department when officers must attend DUI hearings in Shawnee, Kansas and stated that her city would save between 60-80% of these costs if hearings were held at the Miami County Court House. (attachment 6)

Conferee Smail testified briefly in support of **SB 178** agreeing with previously presented testimony that the "cost factor is enormous." He stated that, excluding himself, there were only twelve sworn officers on his staff and he expressed concern about being required to relinquish manpower when all were needed in times of crisis. (no attachment)

Conferee Walker provided "educational" testimony on **SB 178**. She stated that this bill would require the Kansas Division of Motor Vehicles (DMV) to hold hearings in the county where alleged DUI violations occurred and she detailed concerns the DMV had regarding this in terms of fiscal and administrative challenges. (attachment 7) There was discussion regarding the use of Interactive Video (IV) to hold these hearings and the possible use of IV equipment at local schools in areas where fiberoptic cable does not yet exist. This appeared to be a plausible solution and amenable to all parties present. It was determined that Conferee Walker would provide the Committee with substantive statistical data, e.g., list of counties, number of cases, population, etc. so that the feasibility of using IV could be thoroughly determined.

Written testimony in support of **SB 178** was submitted by Floyd Grimes, Mayor, City of Paola, Kansas. (attachment 8)

The meeting adjourned at 10:49 a.m. The next scheduled meeting is Wednesday, March 3.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 2, 1999

NAME	REPRESENTING
JEFFREY HERRMAN	Ks CHIEF OF POLICE + CITY OF OTTAWA
Charles Gillette	City of Ottawa Commission
REX A. Bowling	FRANKLIN Co. Sheriff
Kevin Kimball	Capt Franklin Co Sheriff's Dept
LAWRENCE M. WRIGHT	FRANKLIN COUNTY ATTORNEY
David Miles	Associated Press
JAMES CHASE	KC DAA
Paul Jones	KSC
Kevin A. Shah	KSC
FRANK KELLY	Sheriff Miami County
Dave Small	Paola Police Dept.
ORVILLE COLE	INTERN FOR St. Joseph
Gina Lee Bellam	City of Osawatomie
Zed L. Hyden	City of Osawatomie
SAKE FISHER	WHITNEY DAMRON
Tad Cole	St. Joseph Intern
Marcy Balkster	KDOT Vehicles
Dan Anderson	KDOT - Vehicles
Sherida Walker	Ks Dept. of Revenue

STATE OF KANSAS



TOPEKA

KANSAS SENATE

ROBERT TYSON
SENATOR, TWELFTH DISTRICT
Home Address: ROUTE 1, BOX 229
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(913) 898-6035
Office: STATE CAPITOL BUILDING—136-N
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COUNTIES
ANDERSON, BOURBON,
FRANKLIN, LINN & MIAMI
COMMITTEE ASSIGNMENTS
MEMBER: AGRICULTURE
ENERGY AND NATURAL RESOURCES
TRANSPORTATION AND TOURISM
JOINT COMMITTEE ON PENSIONS,
INVESTMENTS & BENEFITS

Testimony
Senate Bill 178
Senate Judiciary Committee
March 2, 1999

Chairman Emert and members of the committee. Thank you for the opportunity to appear before you today regarding SB 178. This bill contains a minor but important change of wording to present law as you will notice on page 3, line 29 of the bill. The present law imposes on Franklin County and Miami County a tremendous hardship. In order to secure DUI drivers license suspensions, law enforcement officers are required to spend their day in Lawrence or in Johnson County. You will hear of these expensive inconveniences from those speaking before you today.

Miami County and Franklin County have populations of 20,000 or over. There are eight other counties in Kansas that are this size or larger that do not have hearings in their county. They are Butler, Cherokee, Geary, Harvey, Leavenworth, McPherson, Riley and Sumner.

This minor wording change will provide major relief for these two counties. Thank you for your time and consideration on this requested legislation.

Sen Jud
3-2-99
att 1



FRANK W. KELLY

Sheriff of Miami County

118 South Pearl Street
PAOLA, KANSAS 66071

Mark Schmidt
Undersheriff

Phone: 913-294-4444
Fax: 913-294-9118

March 1, 1999

Senate Judiciary Committee Members,

At the present time, Miami County Law Enforcement Agencies that arrest an individual for driving under the influence must drive to Shawnee, Kansas for D.U.I. hearings. Miami County Law Enforcement Agencies arrested 463 individuals over the past three years. In 1999, 26 individuals have been arrested and the total for 1999 is expected to increase due to six sobriety checkpoints scheduled for 1999.

Miami County continues to take an active stance against Driving Under the Influence.

The time that Miami County Law Enforcement Officers spend for D.U.I. hearing ranges from three to four hours. The majority of the officers pay is overtime due to the fact that most D.U.I. arrests occur in the evening or early morning hours. The officers are off-duty during the day when the D.U.I. hearings take place.

To put it simply - tax dollars are not being efficiently utilized by law enforcement agencies due to the fact that D.U.I hearings are held outside the respective jurisdictions.

These inefficient tax dollars can be used for necessary training and equipment to increase the professionalism of law enforcement.

FK/bt

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Memo

To: Sheriff Kelly
From: Lt. Ridley
CC: file
Date: 02/28/99
Re: DUI statistics

Sheriff Kelly, here are the DUI statistics that you requested.

	1999 YTD	1998	1997	1996	
KHP	1	7	12	7	
MISO	18	107	58	74	
Paola PD	4	14	20	54	
Osawatomie PD	1	15	15	65	
Louisburg PD	2	2	2	11	
TOTALS	26	145	107	211	<u>489</u>

MISO officers are currently averaging 9 DUI arrests a month over the past 14 months. This is expected to increase with the six DUI Checkpoints scheduled for 1999.

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TO: Judiciary Committee

FROM: Commissioner Charles Gillette

SUBJECT: Driver's License Suspension Hearings, SB178

DATE: March 2, 1999

For several years, elected officials from the City of Ottawa have been aware of numerous problems associated with driver's license suspension hearings. We strongly support the passage of Senate Bill 178, which would move the location of current driver's license suspension hearings into the individual counties in which the offense occurred.

As Chief Herrman will testify today, the Ottawa Police Department uses a great deal of their resources to attend these driver's license suspension hearings. An unfair burden is placed upon our city, and others, in requiring them to attend hearings well away from their counties. This has the effect of penalizing our police department for their active enforcement of drunken driving laws. The City of Ottawa regularly experiences manpower shortages due to the travel time and length of hearings. Officers are usually gone from Ottawa for two full hours on the dates they are subpoenaed. I am certain other city and county law enforcement agencies are experiencing the same difficulties throughout Kansas.

We all recognize the dangers associated with allowing drunk drivers on our streets. To require the law enforcement agency to travel to driver's license hearings in another county is an unwarranted impediment to the penal process. Our officers aggressively enforce the drunk driving laws and will continue to do so. It is the feeling of our city officials that whatever steps can be taken, to keep these officers available for their assigned duties and minimize the amount of time they are called away from the city, should certainly be done. On average, over the last three years, the City of Ottawa has had to devote over 280 staff hours per year to have officers attend these out of county hearings.

I, and the officials of the City of Ottawa, would therefore strongly recommend your serious consideration of the passing of Senate Bill 178 to reduce the burden placed on our city and all others in the same circumstances.

Respectfully,

Charles Gillette
Charles Gillette

City Commissioner

City Hall • 101 S. Hickory • Ottawa, Kansas 66067-2347 • (785) 229-3600 • Fax (785) 229-3610

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OTTAWA POLICE DEPARTMENT

OTTAWA, KANSAS

JEFFREY D. HERRMAN
Chief of Police

To Protect and Serve

TO: Judiciary Committee

FROM: Chief Jeffrey Herrman

SUBJECT: Testimony on SB 178, Driver's License Suspension Hearings

DATE: March 2, 1999

The Ottawa Police Department takes a very aggressive enforcement posture concerning drunken drivers. We know an intoxicated person poses a very serious threat to life and property whenever that person operates a motor vehicle.

As part of the normal process in a Driving Under the Influence arrest, we know that 95% of our arrestees will be scheduled for a driver's license revocation hearing. Currently these hearings are held for the City of Ottawa on the third Tuesday of each month in Lawrence. This location is over 25 miles from Ottawa, and places a serious strain on our manpower and resources.

From January, 1997 through December, 1998, 293 persons were arrested by the Ottawa Police Department for driving under the influence. In the past six months (from August, 1998 through January, 1999), 45 persons were arrested, 42 of these requesting driver's license hearings. Our average officer spends 2 hours, including travel time, to testify at these hearings. This resulted in over 84 hours of overtime being paid in just the last six months. While the expense of these hearings to the department is of great concern, the loss of manpower on hearing dates is critical. We regularly have three or four officers, and sometimes more, appearing on each of these hearing dates. Four officers is an entire patrol shift for a city our size. The logistical problems of holding hearings in another county is our gravest concern. We currently do not have sufficient vehicles to send each of four officers to an adjacent county, in a different vehicle, for a different time of individual hearings. We, therefore, are required to send several officers in one vehicle, and have them wait throughout the hearings for several cases. This results in an increase in the time that officers are gone from their duties and replaced with another overtime employee, or are on overtime themselves when subpoenaed during their regular off-duty hours.

While there are numerous problems associated with our current hearings process, the location of those hearings is one which can be resolved. With the relocation of the hearings to individual counties, we would recognize a substantial relief in the commitment we are required, by law, to make to attend these hearings.

I wish to thank the committee for their time and deliberation on this matter and strongly urge them to support the passage of Senate Bill 178.

Respectfully,

Jeffrey D. Herrman
Chief of Police

Sen Jud
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FRANKLIN COUNTY
SHERIFF'S OFFICE

REX A. BOWLING,
SHERIFF

CRAIG A. DAVIS
UNDERSHERIFF

305 SOUTH MAIN
OTTAWA, KANSAS 66067
PHONE 913-242-3802
FAX 913-242-8340



March 2nd, 1999

To: Senate Judiciary Committee

From: Franklin County Sheriff's Department
Ottawa, Kansas

Reference: Senate Bill 178 (to move driver's license suspension hearing to local county)

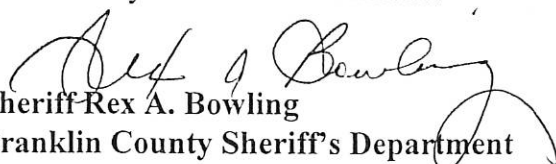
Several years ago we were fortunate in Franklin County to have the driver's license suspension hearings in Franklin County. Unfortunate in the past few years the location for the Franklin County driver's license suspension hearings were moved to Lawrence Kansas.


The following is a list of a few of the problems this move created for Franklin County law enforcement officers and their administrators:

1. Officers who often work midnights or late evening shift must now commute to Lawrence. Up to 4 - 6 hours of the day will be spent on one hearing including, driving time, waiting for the hearing, and the actual hearing.
2. Overtime is often paid during this time causing financial hardship.
3. The officers have also expressed a concern of not having representation at these hearings. Officers have told us that the hearings are becoming a "mini trial" where defense attorney's attempt to gain information for the criminal case. Officer's told us that it would be nice to have the County Attorney available to give advice in these situation. Officer's do not want to hinder the prosecution in a DUI case and are sometimes blind sided by defense attorney's.

As you can see all three incidents reported above can be alleviated if the driver's license suspension hearings were held in the local county. Officers would not spend as much of their time driving and waiting. Overtime cost would go down. And the County Attorney would be available before, during, and immediately after a hearing.

Thanks for your time in this matter.


Sheriff Rex A. Bowling
Franklin County Sheriff's Department


Capt. Kevin Kimball
Franklin County Sheriff's Department

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Senate Bill 178

City of Osawatomie

Anna Lee Billam

Mayor

March 2, 1999

Good Morning -

My name is Anna Lee Billam. I serve as Mayor of the City of Osawatomie. The City of Osawatomie is located on Highway 169 in Miami County and is approximately fifty (50) miles from Shawnee, Kansas, where the Driver License Hearings for our jurisdictions are currently held.

In the last three years Osawatomie Police Department made one hundred thirty eight (138) D.U.I. arrests. Approximately eighty (80%) percent of the arrests resulted in the arresting Officer being subpoenaed for these hearings. Normally, the four (4) hour assignment is during an overtime period, due to the fact most D.U.I arrests occur during second and third shifts. Since the hearings are scheduled during the first shift and our Department size seldom allows for coverage without overtime, the total labor costs to attend the Hearings in Shawnee are at the one & one-half (1 1/2) time rate. The City of Osawatomie labor and transportation costs for the Driver License Hearing's the past three years have totaled in excess of \$13,744.00.

By having the Drivers License Hearings at the Miami County Court House, the City of Osawatomie would save between sixty (60%) percent and eighty (80%) percent of these associated expenditures. Being only one of several law enforcement's entities in the County, the total tax dollars to be saved are substantial.

Another factor, which likely exists, is the human element in selective enforcement. Police officer's are human beings and their decision to enforce a particular law can be influenced somewhat by the eventual avenue of the prosecution. The localization of the Driver's License Hearing's will save on local expenditures and possibly encourage a more effective enforcement of the D.U.I. violations.

Thank you for providing us the opportunity to make this presentation and hopefully, this body will give favorable consideration to Senate Bill 178.

Sen Jud
3-2-99
att 6



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 Kansas Department of Revenue
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Office of the Secretary

TESTIMONY

TO: Sen. Tim Emert, Chairman
 Senate Judiciary Committee Members

FROM: Sheila Walker, Special Assistant *Sheila Walker*

DATE: March 2, 1999

SUBJECT: Senate Bill 178

Senator Emmert and members of the Senate Judiciary Committee, my name is Sheila Walker, and I serve as Special Assistant to the Secretary of the Kansas Department of Revenue. I appreciate the opportunity to provide testimony today regarding Senate Bill 178.

This bill would require the Kansas Division of Motor Vehicles (DMV) to hold hearings in the county where alleged "driving under the influence" violations occurred. The DMV would respectively like to express a few concerns with this bill.

We currently hold driver license hearings in 27 locations throughout the state, with hearings in the county where the alleged violation occurred or in an adjacent county. We try to accommodate law enforcement as much as possible by holding hearings in their home counties or in a county immediately adjacent to them. Approximately 11,000 of these hearings are held each year and are currently performed with two part-time and two full-time staff attorneys.

To hold all hearings in the county where the alleged violation occurred would require us to secure an additional 78 locations with some associated rental costs. Additionally, we estimate that six additional unclassified hearing officers and one full-time office assistant would be needed to handle the additional locations. The total fiscal note is estimated at \$485,841.

In summary, eliminating the ability to centralize hearing locations is expected to cause difficulties in coordinating hearings; additional hearing officers are likely to be needed; and there may be some impact upon the time in which a hearing can be provided to a licensee, which may affect issues raised in hearings and appeals.

The Kansas Division of Motor Vehicles appreciates your consideration.

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Written #8

City of Paola, Kansas

March 1, 1999

Senator Tim Emert, Chairman
Kansas Senate Judiciary Committee
Room 123-S
State Capitol Building
Topeka KS 66612-1504

Dear Senator Emert and Committee Members:

Please be advised that the City Council of Paola, the administration staff, and I as Mayor support SB 178.

The Paola Police Department has averaged 40 driving under the influence arrests per year over the last three years. Of those arrests, approximately 30 per year have administrative drivers license hearings. With these hearings being held in Shawnee Mission it entails four hours, per hearing, of overtime at a cost of \$70.00 per hearing. That figure does not count gas, mileage, and expenses. This amounts to thousands of dollars per year. If we held the hearings in Miami County, it would cut that figure in half.

We believe that the change that SB 178 makes will allow us to provide more efficient law enforcement and more cost effective usage of our personnel.

We encourage your committee members to cast a favorable vote on SB 178.

Respectfully,

Floyd J. Grimes, Mayor



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