

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Vice-Chairperson Ed Pugh at 9:42 a.m. on March 13, 2001 in Room 123-S of the Capitol.

All members were present except: Senator Vratil (excused)

Committee staff present:

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

Conferees appearing before the committee:

John Badger, General Counsel, SRS  
Representative Tom Burroughs

Others attending: see attached list

Minutes of the March 12<sup>th</sup> meeting were approved on a motion by Senator Donovan, seconded by Senator Schmidt. Carried.

**SB 235—re: domestic battery**  
**SB 229—re: cruelty to animals**

Following staff review of a balloon amendment which makes technical changes to **SB 235**, Senator Donovan moved to adopt the balloon amendment, Senator Oleen seconded. Carried. Senator Haley distributed written testimony and discussed **SB 229**, a bill which addresses the issue of cruelty to animals. (National Conference of State Legislatures, March 2001, Vol. 9, No. 18) (The Kansas City Star, March 12, 2001, Sect. A-2) He made a motion to amend SB 229 into SB 235, Senator Gilstrap seconded. Following discussion Senator Haley withdrew his motion with consent of the second. He then moved to amend SB 229 into SB 235 making certain language changes in the bill, Senator Gilstrap seconded. Motion failed. Senator Donovan moved to pass SB 235 out favorably as originally amended, Senator Goodwin seconded. Carried.

**SB 236—code of civil procedure; re: garnishment**

Following a review of **SB 236** by the Vice-Chair and discussion, Senator Donovan moved to adopt the balloon amendment, Senator Goodwin seconded. Carried.

**HB 2176—re: unlawful sexual relations**

Conferee Badger testified in support of **HB 2176**, a bill which expands the crime of unlawful sexual relations to include consensual sexual relations between SRS employees and patients in SRS institutions. He also discussed a house amendment to the bill that adds language which defines the age of the victim as 16 years or older. (attachment 1) Brief discussion followed.

**HB 2194—re: reports of forensic examination**

Conferee Representative Burroughs testified in support of **HB 2194**, a bill which adds certain labs to the list in current law of laboratories that may report the results of a forensic exam for evidence in preliminary examinations. (attachment 2) Discussion followed.

The meeting adjourned at 10:30 a.m. The next meeting is March 14, 2001.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 13, 2001

NAME	REPRESENTING
Doug Smith	Pinegar-Smith Company
Elwaine F Pomeroy	KCA - KCAA
John Berger	SRS
RS McKenna	SRS
Michael George	JJA
Mark Allen	OJA
Bruce Dimmitt	Independent
Jan Brack	KSC
Bob Torres	KSC
Sum D Richard	KDAA
Ani Hyten	JUDICIAL BRANCH
J-2 Ry	
Laura Howard	SRS
Bob Conrad	Ks Trial Lawyers Assoc

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att 7

**Kansas Department of Social and Rehabilitation Services**  
**Janet Schalansky, Secretary**



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**Senate Judiciary Committee**  
March 13, 2001

**Testimony on House Bill 2176**

Legal Division  
John Badger, General Counsel  
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**Kansas Department of Social and Rehabilitation Services**  
**Janet Schalansky, Secretary**

Senate Judiciary Committee  
March 13, 2001

**Testimony on House Bill 2176**

Mr. Chairman and members of the committee, I am John Badger, General Counsel for SRS. Thank you for the opportunity to appear before you today to present testimony in support of HB 2176.

HB 2176 amends K.S.A. 1999 Supp. 21-3520 by adding a new provision (7) in subsection (a) to make it a criminal act of unlawful sexual relations for an SRS employee or an employee hired by a contractor who is providing services in a state institution to have consensual sexual relations with a patient in the institution where the employee works. Currently, the statute makes such behavior a crime if it occurs in correctional facilities and juvenile correctional facilities. However, there is nothing in current law which makes such behavior a crime in our state hospitals. Thus, if such behavior occurs at an SRS institution the employee is subject to disciplinary action (most likely termination) but is not subject to criminal prosecution. This type of offense is considered very serious because patients at our state hospitals are often extremely vulnerable and staff have a great deal of control and influence over them. Making the crime of unlawful sexual relations apply to these situations should help deter this kind of activity.

SRS Human Resource Policy 2-3, which is considered a Condition of Employment at SRS, is shared with every employee. Each SRS employee is required to sign a statement indicating that they have read the policy and understand its meaning and the consequences of non-compliance. In addition, some hospitals have adopted their own, separate policy prohibiting sexual contact between staff and patients/clients. This policy does not extend to contract employees.

The House amended this bill at SRS' request making the crime of unlawful sexual relations applicable only if the victim is a person 16 years of age or older. The reason for this amendment is that a sexual act committed against a person under 16 years of age is already a more serious crime than unlawful sexual relations which is a severity level 10 person felony. We want to make sure HB 2176 does not have the unintended consequence of lessening the penalty for an employee who engages in sexual relations with a minor patient.

The House also amended HB 2445 into this bill which makes this bill applicable to teachers. SRS has no objection to the addition of this language.

In conclusion, we support this bill and would encourage the Committee to pass it out favorably. This concludes my testimony, but I would be happy to address any questions you may have.

STATE OF KANSAS

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TOPEKA

HOUSE OF  
REPRESENTATIVES

March 13, 2001

COMMITTEE ASSIGNMENTS  
RANKING MINORITY MEMBER: FINANCIAL INSTITUTIONS  
MEMBER: FEDERAL & STATE AFFAIRS  
FISCAL OVERSIGHT  
E-GOVERNMENT  
JOINT COMMITTEE ON  
INFORMATION TECHNOLOGY

Chairman Pugh  
Committee Members

Thank you for the opportunity to appear before such an esteemed group of Legislators. My commitment to each of you is that my testimony will be brief.

The contents of HB 2194 were requested by the District Attorney's (D. A.'s.) office of Kansas City, Kansas/Wyandotte County. As the bill indicates, the D. A.'s. office has requested that the Kansas City, Kansas Community College Forensic Laboratory and the Kansas City, Missouri Regional Crime Laboratory be included for utilization of forensic examination, analysis, comparison or identification. The Forensic Examiners Findings shall be admissible evidence in a preliminary examination.

With the loss of forensic services previously provided by Bethany Medical Center, we have identified a new opportunity with the afore-mentioned providers.

I would also request that this occur upon publication in The Register.

I ask for your consideration in this issue and again thank the committee for this opportunity.

I will yield to questions.

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