

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Senator Vratil at 9:36 a.m. on March 18, 2002 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Dr. Tim Rohrig, Director, Sedgwick County Regional Forensic Science Laboratory
Major Walt Way, Johnson County Sheriff's Department
Kyle Smith, Kansas Bureau of Investigation (KBI)
Judge Allen Slater, Tenth Judicial District, Johnson County Kansas
Amy Brunner, Kansas Association of School Boards (KASB)

Others attending: see attached list

The minutes of the March 14th, 2002 meeting were approved on a motion by Senator Donovan, seconded by Senator Oleen. Carried.

HB 2772--court costs; re: laboratory analysis fee

Conferee Rohrig testified in support of **HB 2772**, a bill which would require convicted persons to pay a \$150 court fee for each offense if forensic services or laboratory services were provided by the Sedgwick Regional Forensic Science Laboratory(SRFSL). He discussed the structure and function of the SRFSL and reviewed the purpose of the bill.(attachment 1) Discussion followed.

Conferee Way testified in support of **HB 2772**. He briefly discussed the function of Johnson County Sheriff's Department's forensic lab services and reiterated the previous conferee's remarks regarding the purpose of the bill.(attachment 2)

Conferee Smith, at the request of the Chair, stood for questions and clarification regarding percentage of monies collected from convicted persons. He stated that the collections range from about 15% to 27%.(no attachment)

HB 2230--proposed substitute bill concerning school truancy

Conferee Slater testified in support of **HB 2230**, a bill which would provide the courts with tools or remedies needed to deal with truant children and/or their parents who refuse to cooperate. He showed how current truancy laws are ineffective and he discussed provisions in the bill which provide a remedy. He further suggested several amendments to the bill draft including expanding the ability of the court to receive a report not just from SRS but other qualified persons and deleting the reference to home schooling.(attachment 3) Discussion followed.

Conferee Brunner testified in support of **HB 2230**. She briefly reiterated the purpose of the bill and discussed the provision regarding the home-schooling exemption and why it should be deleted.(attachment 4) Discussion followed.

Final action:

HB 2075--proposed substitute bill regarding methamphetamine; enforcement grants; forfeiture proceeds

The Chair reviewed **HB 2075** and, following discussion, Senator Schmidt moved to amend the bill to go back to the original sentencing where the violation would be a drug severity level I, Senator Adkins seconded. Carried with Senator Haley requesting his nay vote be recorded. Following further discussion regarding the clarification of the definition of "manufacture," Senator Schmidt moved to add the word "or"as reflected in Mr. Stanton's testimony on page 2 (see 3-14-02 minutes, attachment 2), Senator Adkins seconded. Carried. Senator Adkins moved to submit the draft as amended as **Sub for HB 2075** and report the same as amended. Senator Schmidt seconded. Carried.

Written testimony supporting **HB 2075** was submitted by the Kansas Peace Officers Association and the Kansas Sheriffs' Association (attachment 5) and the Office of the District Attorney, Eighteenth Judicial District.(attachment 6)

HB 2078—relating to shoplifting

Following a review of the bill by the Chair and discussion, Senator Schmidt moved to delete language added by the House COW, Senator Adkins seconded. Carried, with Senator Haley requesting his nay vote be recorded. Following staff recommendation to change the language on p1 line 43 and p 2 line 1 to read “a conviction or plea of guilty to the offense of theft which constitutes shoplifting,” Senator Goodwin moved to make the technical amendment as stated, Senator Donovan seconded. Carried. Senator Schmidt moved to pass the bill out favorably as amended, Senator Adkins seconded. Carried, with Senator Haley requesting his nay vote be recorded.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is March 19, 2002.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 18, 2001

NAME	REPRESENTING
DR TIMOTHY P. ROTHKIL	Sedgewick Co FSC
Mike Pepoon	Sedgewick County
WALTER WAY	JOHNSON COUNTY SHERIFF
Allen R. Slater	Joi. Co. Dist. Judge
Don Jordan	SRS
Mike Peecatt	Ks Goat Consulting
Connie Burns	Whitney B. Dannon, PA
Ashley Sherard	Johnson County
DENISE MUSSER	JUVENILE JUSTICE AUTHORITY
Leslie Kaufman	Ks Farm Bureau
Marlee Carpenter	KCCT
Barb Lembs	KSC
Brenda Humon	KSC
Joe Herold	KSC
Mark Gleeson	Judicial Branch
Frances Kastner	Ks Food Dealers
Jeff Bottenberg	KS Peace Officers Assn
Steve Keating	KCOAA
SUOX SUTNETER	ILADL



REGIONAL FORENSIC SCIENCE CENTER

MARY H. DUDLEY, M.D. — DISTRICT CORONER-MEDICAL EXAMINER
JAIME L. OEBERST, M.D. — DEPUTY DISTRICT CORONER-MEDICAL EXAMINER
TIMOTHY P. ROHRIG, PH.D. — DIRECTOR, FORENSIC SCIENCE LABORATORIES
MARY L. KNOPICK ORR — FORENSIC ADMINISTRATOR

Testimony of Dr. Timothy P. Rohrig: Senate Judiciary Committee 18 March 2002

Good Morning Mr. Chairman and Committee Members:

My name is Dr. Tim Rohrig; I am the Director of the Forensic Science Laboratories at the Sedgwick County Regional Forensic Science Center located in Wichita, Kansas.

The Forensic Science Center is a state of the art facility, which houses the 18th Judicial District Coroner and the Sedgwick County Forensic Science Laboratories. The Center was constructed in 1995 to promote the health and public safety of the citizens of Sedgwick County. The forensic services are provided to Sedgwick County Law Enforcement and the District Attorney's Office at no charge.

The Center is a unique facility in that it is the only Forensic Center in the state of Kansas and one of a few in the country which combines, *under one roof*, the functions of the Coroner [Medical Examiner] and a full service crime laboratory.

Forensic Science Laboratories provide critical information to the criminal justice system. Without scientific analyses conducted by Forensic Laboratories many cases would go untried, many police investigations would be stalled, innocent individuals may not be exonerated, and criminals would be on the street continuing to victimize our citizens. The challenge of improving and expanding forensic services comes at a significant cost. Many forensic analyses are complex; require costly equipment and considerable technical training. We must do everything we can to supply the appropriate training and necessary tools to our forensic scientists in their battle against crime.

Today, I stand before you in support of House Bill 2772. This bill is an amendment to KSA 28-176, which currently authorizes the Kansas Bureau of Investigation Forensic Science Laboratory to receive a \$150.00 court assessed fee for forensic analyses that supports adjudication of a criminal case. This money is used to enhance the capabilities of the Forensic Laboratory in its support of law enforcement and the criminal justice system. We are asking, thru this bill, to have the statutory authority to receive a similar fee. This will **not** have a negative fiscal impact on the KBI.

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Currently, if the KBI works the criminal case, they are allowed to receive the court-assessed fee, whereas if we [i.e. the Center] work the same type of criminal case, upon conviction, no fee is assessed against the individual. Thus making the total punishment for the same crime less in Sedgwick County than the rest of the state of Kansas.

The ability to receive this fee will allow Sedgwick County to acquire additional revenue to maintain and support enhancements to its Forensic Science Laboratories, without seeking additional tax dollars.

Thank you for your time and I urge you to support the passage of House Bill 2772.

I would be more than happy to respond to any questions you may have.

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Testimony of:

Major Walter Way
Johnson County Sheriff's Office
Olathe, Kansas 66061

House Bill No. 2772

March 18, 2002

Chairman Vratil, Members of the Judiciary Committee:

My name is Walter Way and I represent the Johnson County Sheriff's Office and Johnson County Government. I am appearing in support of House Bill No. 2772.

The Johnson County Sheriff's Office provides forensic laboratory services, without charge, to the Johnson County District Attorney's Office and Sheriff's Office, to 14 police departments in the county, to several fire department arson units, and occasionally to police agencies in adjoining counties who request our assistance with a major crime such as homicide. Our laboratory is nationally accredited and it provides a broad range of forensic science services that includes DNA analysis, latent fingerprint identification, firearms and tool mark examinations, drug analysis, arson analysis, photographic services and questioned document examinations.

The Johnson County Sheriff's Laboratory provides forensic services that are comparable to the services provided by both the Kansas Bureau of Investigation Laboratory and by the Sedgwick County Regional Forensic Science Center. We ask for the same statutory authority that has been granted to the KBI through K.S.A. 28-176 and that has also been requested by Sedgwick County for the assessment of a \$150 laboratory analysis fee.

As we all experience declining revenues and increased demands for service, we believe it more important than ever to have the ability to recover some of our costs for service from adjudicated offenders who caused those expenses to be incurred. The authority to assess a laboratory analysis fee will be of benefit to the taxpayers of Johnson County.

Thank you for the opportunity to present this testimony. I would welcome any questions that you may have of me.

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DISTRICT COURT OF KANSAS
TENTH JUDICIAL DISTRICT
JOHNSON COUNTY COURTHOUSE
OLATHE, KANSAS
66061

CHAMBERS OF:
ALLEN R. SLATER
DISTRICT COURT JUDGE
DIVISION NO. 9

The Senate Judiciary Committee
Kansas State Capitol
10th and Jackson
Topeka, Kansas 66612

March 18, 2002

Re: Senate Substitute for House Bill No. 2230 - School Truancy

Dear Senators Adkins, Donovan, Gilstrap, Goodwin, Haley, O'Connor, Oleen, Pugh, Schmidt, Umberger and Vratil:

I support Senate Substitute for House Bill No. 2230. This is an important piece of legislation which will assist the courts and schools in keeping children in school. A child who is truant not only fails to get an education but is at a higher risk to commit one or more juvenile offenses. The number of children truant from school at any given time is difficult to ascertain; however, it is a problem of statewide concern. Representative Webber toured Kansas prior to the start of the 2001 legislative session and she identified school truancy as one of the major concerns to school districts across the state.

The current truancy laws are ineffective in dealing with truants and with parents who do not take the education of their children seriously. If a child refuses to attend school under our current law the only remedy, other than a lecture from the judge, is to put the child in SRS custody and in foster care. This can cost up to \$25,000.00 per year and is impractical. If a parent is the problem, there is no remedy at the present time other than SRS custody and out of home placement. Senate Substitute for House Bill 2230 provides the following dispositions to remedy this problem:

1. A truant may be placed on house arrest,
2. A parent may be ordered to attend parenting classes,

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3. The court can order the child to attend school or attend an alternative education program,
4. The court can suspend the child's drivers license,
5. The court can restrict the child's driving privileges,
6. The court can fine the parent or child up to \$250.00.

As a last resort, the court can place the child in a "secure facility" for up to 60 days if the child refuses to attend school and/or violates the terms of house arrest. The child is afforded all of his or her due process rights before a placement is made and the cost of the "secure facility" can be taxed to the parents.

This bill provides the courts with the tools or remedies we need to deal with truant children and/or their parents who refuse to cooperate. I urge the members of this committee to act favorably on this bill.

I would recommend the phrase "secure *care* facility" be changed to "secure facility" to avoid any confusion as to the meaning of this phrase. The term "secure facility" is a defined term in section 2 of this bill. (K.S.A. 38-1502(k)). Finally, Judge Thomas Graber objects to the inclusion of and use of secure "detention" by the court while a truant is awaiting his or her hearing on the issue of whether he or she will be ordered to secure care. Judge Graber is supportive of this bill if the option of "detention" is dropped from the bill. I would agree with this amendment.

If you have any questions or comments, please feel free to call me.

Respectfully



District Judge

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
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Testimony on
Senate Substitute for HB 2230 – Truancy
Before the
Senate Judiciary Committee

By
Amy Brunner, Governmental Relations Specialist
Kansas Association of School Boards

March 18, 2002

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify before your committee on Substitute for HB 2230. This bill would give the courts more options for dealing with truant children, specifically options regarding driver's license suspension. Because this option would provide appropriate consequences for truancy without taking the child out of school, KASB supports the new provisions of subsection (k).

However, KASB would like to bring to the attention of the committee some concerns that we have with the language in subsection (b) on the first page of the bill draft. As we understand it, this provision would exempt home-schooled children from the new consequences outlined in subsection (k) as well as from the consequences already stated in current law.

Currently, truancy is one of the criteria which qualifies a child as a "child in need of care" as defined by Kansas law. By adding a provision that specifically states home-schooled children are not subject to this law, we are allowing parents to raise the defense of home-schooling in any situation in order to avoid consequence of the law. This could result in thousands of children not receiving an adequate education, something we believe that all students in Kansas should receive. Our comments are not directed at those parents who give appropriate and adequate home-schooling to their children. Our concern is for the children whose parents are not truly educating their children at home, but under this bill would be able to avoid any consequence for their failure to do so.

In summary, we would support passage of the Substitute for HB 2230 if the home-schooling exemption were removed from the bill. For the reasons stated above, KASB would urge the committee to amend this bill, deleting subsection (b), and recommend it favorably as amended.

Thank you for your consideration.

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A Professional Corporation

Memorandum

TO: THE HONORABLE JOHN VRATIL, CHAIRMAN SENATE JUDICIARY COMMITTEE

FROM: KANSAS PEACE OFFICERS ASSOCIATION

RE: HB 2075

DATE: MARCH 14, 2002

On behalf of the approximately 4,800 members of the Kansas Peace Officers Association and the Kansas Sheriffs' Association, we appear today in support of HB 2075. HB 2075 contains provisions from Senate Bills 612 and 515, the contents of which greatly increase the ability of law enforcement to combat the growing methamphetamine problem in Kansas.

SB 515 expands the definition of arson to include an accidental fire or explosion caused by the manufacture of methamphetamine or another controlled substance. Such addition to the arson statutes is necessary, since, due to the highly explosive nature of the ingredients, law enforcement officers arriving on the scene of a supposed meth lab are placed in great danger by the presence of such chemicals. Therefore, an arson charge is justified for such fires, since the person intended to manufacture a highly flammable substance that he or she knew posed a great danger to themselves and others.

We also support the criminalization of the possession of pressurized ammonia in a container not approved by the Department of Agriculture. It is the experience of law enforcement that farmers and those that use such substance use extreme caution when handling it, and would never use unapproved and unsafe containers.

We also want to strongly state that the KPOA and KSA fully support the concept contained in SB 612, which would create a grant program to award grants to local units of government to fight meth production in areas in which a high incidence of its manufacture and sale occur. As many of you are aware, meth devastates communities by not only the effects of its use, but also by the long lasting effects of the cleanup and supervision of manufacturing sites, and in many instances the local communities do not have the ability to effectively deal with the cleanup. These grants are an acceptable use of forfeiture monies, and are fully supported by law enforcement.

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WRITTEN TESTIMONY
SENATE JUDICIARY COMMITTEE

March 14, 2002

Office of the District Attorney, Eighteenth Judicial District
Nola Foulston, District Attorney

Submitted by
Mike Jennings, Assistant District Attorney

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to address the Committee on Substitute House Bill 2075, formerly Senate Bill 515 and 612.

We support Senate Bill 515 as included in the substitute House Bill. We believe that keeping Possession of Pseudoephedrine With Intent to Manufacture as a Level 1 Drug Felony is vital to the continued effectiveness of Kansas' efforts to control the illegal manufacture of methamphetamine. This statute is cost-effective. Its enforcement is no where near as expensive as the manufacturing statute. The raw pills are not dangerous to handle in most cases and can be easily tested in the lab.

Pseudoephedrine is the single most important and necessary chemical precursor to methamphetamine. Reducing the severity level of this crime below severity level 1 would be a major blunder and a step backward. It would only increase the underground supply of pseudoephedrine. It would send absolutely the wrong signal to the cooks and their co-conspirators.

It is important to have the level one penalties for those offenders whose crime warrants the same on the books. To eliminate the level one penalties will build into the structure of our drug laws inequalities in result for offenders who are doing the same thing - cooking meth. Leaving possession of pseudoephedrine as a level one violation will make it possible for similar

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offenders to be treated similarly with the exact result in a given case to be worked out in the court system. Taking level one penalties out of our drug laws will make this impossible.

Senate Bill 515 as included in the substitute House Bill also provides for increased penalties for possessing other items used in the manufacture of methamphetamine. We support this measure as well. Adding these provisions will fill a gap in the present penalty structure which has allowed several cooks to return to the community basically unpunished and to resume their illegal manufacturing simply because they happened to avoid the attention of law enforcement when they were actively engaged in the manufacturing process itself.

We also support the clarification of the definition of "manufacturing." We believe it will benefit the overall administration of justice in Kansas by giving clarity to trials and to defining what is, and what is not, a manufacturing process.

Lastly, we ask the Committee's endorsement of former Senate Bill 612. The enforcement of the meth lab laws is very expensive. It requires sophisticated equipment and highly trained officers to properly gather the evidence from the lab sites. The cost of the equipment has been a major barrier in the state wide enforcement of these laws. These grants would be a positive incentive for many communities to carry out the legislative enforcement priorities reflected in Kansas' meth lab laws, as amended by Substitute House Bill 2075.

Thank you.