

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE.

The meeting was called to order by Chairperson Ward Loyd at 1:30 p.m. on March 5, 2003, in Room 526-S of the Capitol.

All members were present except:

Representative Donald Betts, Jr. - excused
Representative Dale Swenson -excused

Committee staff present:

Jill Wolters - Office of Revisor
Mitch Rice - Office of Revisor
Jerry Ann Donaldson - Legislative Research Department
Bev Renner - Committee Secretary

Conferees appearing before the committee:

Senator Derek Schmidt
Sheriff Bud Handshy, Wilson County
Kyle Smith, Special Agent-KBI

SB 31 - Aggravated endangering the food supply is an inherently dangerous felony.

Chairperson Loyd opened the hearing on SB 31.

Senator Derek Schmidt appeared before the committee in support of **SB 31**. He described the bill as a technical fix intended to correct an error in the creation of a new statute last year to make a crime of endangering the food supply. It was determined that there should be levels of culpability; if the intention was to hurt somebody that should be a greater crime than if the result was to create property crime or chaos. The felony murder rule was triggered when someone died. Because of an oversight, the statute came out with the lesser crime enacting the murder rule and "aggravated endangering the food supply" stipulating that the offender could not be prosecuted with felony murder. This bill corrects that oversight.

Chairperson Loyd closed the hearing on SB 31.

SB 35 - Criminal use or possession of body armor.

Chairperson Loyd opened the hearing on SB 35.

Sheriff Bud Handshy, Wilson County testified before the committee in support of **SB 35** (Attachment 1). He briefly informed the committee of his nearly 30 years in law enforcement and demonstrated a "bullet proof" vest. This bill aids in the prevention of letting this and similar protective equipment from getting into the hands of the criminal element. This legislation is progressive in nature and not just reactive to changes in criminal activity. Sheriff Handshy has contacted 15 other sheriffs in Southeast Kansas and they all agreed that this is needed legislation.

Kyle Smith, Special Agent with Kansas Bureau of Investigation was recognized to speak in support of **SB 35** (Attachment 2). This bill would address two problems; first the use of body armor while committing crimes, and, second, the bill prohibits persons who have been convicted of a person felony from owning such armor. These appear to be reasonable and prudent limitations that would enhance public and officer safety. Officer Smith offered an amendment to add "or felony violations of the controlled substances act" to the "possession" crime. If this language could be added to section 2, then convicted drug dealers and manufacturers would also be prohibited from owning body armor.

Chairperson Loyd closed the hearing on SB 35.

SB 31 - Aggravated endangering the food supply is an inherently dangerous felony.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE at 1:30 p.m. on March 5, 2003, in Room 526-S of the Capitol.

Chairperson Loyd called for final action on SB 31 with no objection.

Representative Terrie Huntington made a motion to pass SB 31 favorably for passage. Representative Sydney Carlin seconded the motion. The motion carried.

The meeting was adjourned at 2:20 p.m. The next scheduled meeting is March 6, 2003.



THE OFFICE OF THE SHERIFF
WILSON COUNTY

BUD HANDSHY
SHERIFF

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March 5, 2003

To: Chairman Loyd and members of the House Corrections and Juvenile Committee

I would like to thank you for allowing me to speak to you on S.B. 35.

My name is Sheriff Bud Handshy and I have been a Law Enforcement Officer for nearly 30 years. Starting in November 1974 as a Kansas Highway Patrol State Trooper to my retirement and the election as Sheriff of Wilson County in 2000. I am starting my 3rd year as sheriff.

The reason for my being here today is to show support for S.B. 35 a bill which will make it a crime to possess body armor, and or use body armor in commission of a felony crime.

In 1976 while attempting to arrest a man for raping an elderly woman I sustained wounds from shot gun pellets. Shortly after that, because I could not afford to buy body armor, my mother and older brother gave me the money to buy a bullet proof vest. I believe I was the first trooper in South East Kansas to start wearing a vest while on duty. Shortly after that I was asked by my District Commander to write up a report of my recommendation as to the use of body armor. Later the Patrol began to issue all troopers body armor for duty use.

This piece of equipments has saved hundreds of officer's lives since its first introduction for daily law enforcement use and made all Law Enforcement Agency now issue vests.

Since then, there has also been an increase in the use of body armor in the commission of crime by the criminal element. Thus putting Law Enforcement Officers at an even greater risk of loss or life or serious injury.

In late 2001, I read an article in a Law Enforcement magazine that mentioned that a Police Chief in South Carolina had assisted getting a law passed very similar to S.B. 35. I obtained a copy of this law and submitted copies to the Kansas Sheriff's Association and Senator Schmidt. Both parties agreed we could use a similar law to help protect our citizens and our Law Enforcement Officers.

H. Corr & J. J.
3-5-03
Attachment 1

Thou I personally have knowledge of only a few confirmed cases of criminal use of body armor, I have always believed that we should be progressive not just reactive to changes in criminal activity.

This law may not cure all but it is certainly a great path to follow.

I have in the past many weeks contacted all 15 sheriffs' here in South East Kansa and all have agreed that it is a bill that should be made into Law.

I thank you again for allowing me this time to address this issue of Body Armor with you today and I strongly hope you will continue to assist those of us in Law Enforcement by making S.B. 35 a Law.

Thank You,

A handwritten signature in cursive script that reads "Bud Handshy".

Bud Handshy,
Sheriff,
Wilson County Sheriff's Office
Fredonia, KS



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

Testimony in Support of SB 35
Before the House Corrections and Juvenile Justice Committee
Kyle G. Smith
Director of Public and Governmental Affairs
Kansas Bureau of Investigation
March 5, 2003

Chairman Vratil and Members of the Committee,

I appear in support of SB 35, which would address a growing and dangerous problem – criminals using body armor. I think most of us remember the vivid images of the Los Angeles bank robbery where the body armor clad suspects, with high-powered rifles were basically impervious to the handguns of the police. Fortunately we have not had such an incident in Kansas, but unfortunately, the problem is not isolated to just big cities on the coast. While not common, we have had cases in Kansas involving body armor and we have found vests while conducting narcotics search warrants. Generally the cases involve either armed robbery or narcotics trafficking.

SB 35 would address two problems; first the use of body armor while committing crimes and, in section 2, prohibit persons who have been convicted of a person felony from owning such armor. These appear to be reasonable and prudent limitations that would enhance public and officer safety. While such a law will not deter some criminals, any that are deterred will be a clear and real benefit to officer safety. And by prohibiting the possession by convicted felons, law enforcement will have a tool to intercede before the crimes occur.

We would like to suggest a friendly amendment. Section 1 was amended at our suggestion to add felony drug violations as drug manufacturing and trafficking offenses are not classified as 'person' crimes. Drug manufacturing and trafficking crimes are some of the most dangerous ones worked by officers. However, I failed to check the balloon and the language "*or felony violations of the controlled substances act*" was added only to the 'use' crime in section 1, and not to the 'possession' crime in section 2. If the committee would add similar language (see balloon) at the end of the first sentence in section 2, then convicted drug dealers and manufacturers would also be prohibited from owning body armor.

Thank you for your consideration and I would be happy to answer questions.

H. Corr's J.J.
3-5-03
Attachment 2

5
6 **SENATE BILL No. 35**

7
8 By Committee on Judiciary

9
10 1-21

11
12 AN ACT concerning crimes, criminal procedure and punishment; cre-
13 ating certain crimes involving use and possession of body armor and
14 prescribing penalties therefor.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. (a) Criminal use of body armor is committing any offense
18 classified as a person felony **or any felony violation of the controlled**
19 **substance act** while wearing body armor.

20 ~~(b) The provisions of this section shall not apply to: (1) A uniformed~~
21 ~~or properly identified state, county or city law enforcement officer, while~~
22 ~~such officer is engaged in the performance of such officer's duty; or~~
23 ~~(2) a security officer, while such officer is engaged in the performance~~
24 ~~of such officer's duty.~~

25 ~~(c) As used in this section: (1) "Body, "body armor" means cloth-~~
26 ~~ing or a device designed or intended to protect a person's body or a~~
27 ~~portion of a person's body from death or injury caused by a firearm; and~~
28 ~~(2) "security officer" means a person lawfully employed to protect~~
29 ~~another person or to protect the property of another person.~~

30 ~~(d) (c) Criminal use of body armor is a severity level 5 7, person~~
31 ~~[nonperson] felony.~~

32 ~~(e) (d) The provisions of this section shall be part of and supplement-~~
33 ~~tal to the Kansas criminal code.~~

34 Sec. 2. (a) Criminal possession of body armor is possession, purchase,
35 ownership or use of body armor by a person who has been convicted of
36 an offense classified as a person felony. ~~←~~

37 (b) (1) The provisions of this section shall not apply to any person
38 who has been granted permission to possess, purchase, own or use body
39 armor as provided in this section:

40 ~~(2) (A) A person who has been convicted of an offense classified as~~
41 ~~a person felony whose employment, livelihood or safety is dependent on~~
42 ~~such person's ability to possess, purchase, own or use body armor may~~
43 ~~petition the county sheriff of the county in which such person resides for~~

or a felony violation of the
controlled substances act.

1 written permission to possess, purchase, own or use body armor.
2 ~~—(B)—~~ The sheriff may grant a person who properly petitions the sheriff
3 under this subsection written permission to possess, purchase, own or use
4 body armor as provided in this section if the sheriff determines that the
5 petitioner is likely to use body armor in a safe and lawful manner and has
6 reasonable need for the protection provided by body armor.
7 ~~—(C)—~~ In making the determination required under this subsection, the
8 sheriff must consider the petitioner's continued employment, the inter-
9 ests of justice and other circumstances justifying issuance of such written
10 permission.
11 ~~—(D)—~~ The sheriff may restrict written permission issued to a petitioner
12 under this section in any manner determined appropriate by the sheriff.
13 If permission is restricted, the sheriff must state the restrictions in the
14 permission document.
15 ~~—(E)—~~ Sheriffs shall exercise broad discretion in determining whether
16 to issue written permission under this section. Nothing in this section
17 requires a sheriff to issue written permission to any particular petitioner.
18 The issuance of written permission under this section does not relieve
19 any person or entity from criminal liability that might otherwise be
20 imposed.
21 ~~—(F)—~~ A person who receives written permission from a sheriff pursuant
22 to this section must have the written permission in such person's posses-
23 sion when possessing, purchasing, owning or using body armor *whose*
24 *conviction has been expunged pursuant to K.S.A. 21-4619, and*
25 *amendments thereto.*
26 ~~(3)~~ (2) A law enforcement agency may issue body armor to a person
27 who is in the custody of a law enforcement agency or a local or state
28 correctional facility or who is a witness to a crime for such witness or
29 person's protection ~~without a petition being filed under this subsection.~~
30 If the law enforcement agency issues body armor to a person under this
31 subsection, the law enforcement agency must document the reasons for
32 issuing the body armor and retain a copy of that document as an official
33 record. The law enforcement agency must issue written permission to the
34 person under this subsection.
35 (c) As used in this section, "body armor" means the same as provided
36 in section 1, and amendments thereto.
37 (d) Criminal possession of body armor is a severity level 8, ~~person~~
38 *[nonperson]* felony.
39 (e) The provisions of this section shall be part of and supplemental
40 to the Kansas criminal code.
41 Sec. 3. This act shall take effect and be in force from and after its
42 publication in the statute book.
43