

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Ward Loyd at 1:30 p.m. on January 15, 2004 in Room 241-N of the Capitol.

All members were present except:

Representative Dale Swenson - Excused

Committee staff present:

Jill Wolters, Revisor of Statutes Office
Jerry Ann Donaldson, Legislative Research Department
Becky Krahl, Legislative Research Department
Nicoletta Buonasera, Legislative Research Department
Connie Burns, Committee Secretary

Conferees appearing before the committee:

Kyle Smith, Kansas Bureau of Investigation
Chief Justice McFarland

Others attending:

See Attached List.

Kyle Smith, Kansas Bureau of Investigation appeared before the committee to request the introduction of bills.

1. Clean-up amendment to the Kansas DNA databank law. (Attachment 1)
2. Legislation that will bring Kansas search and seizure law back into consistency with the constitutional standard of the other 49 states. (Attachment 2)

Representative Goering made the motion that this request should be introduced as committee bills. Representative Carter seconded the motion. The motion carried.

Chief Justice McFarland, of the Kansas Supreme Court overview of the Judicial Branch. She spoke about the budget and the Governors' approval without any cuts this fiscal year. She explained that the maintenance budget is the amount of money to do the same thing as the court system did the year before.

The court budget is 97 to 98 % salaries. There have been programs initiated to save money like the Senior Judge Program where Senior Judges are carefully selected and they give 40% of their time and are paid for 25% of that time.

HB 2049 – Creating the office of district attorney in judicial districts that vote for approval.

Chairperson Loyd called for final action on sub for HB 2049. The bill was requested by Representative Ward. This bill was amended and passed out of committee in 2003 session, but held over till 2004 session.

Representative Jim Ward made a motion to further amend the substitute bill, and the substitute bill be passed out favorably as amended. Representative Jeff Goering seconded the motion. The motion carried.

The meeting was adjourned at 2:45 P.M. The next scheduled meeting is January 20, 2004.



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

Bill Request
DNA Databank, Covered Offenses
Kyle Smith
Kansas Bureau of Investigation
January 15, 2004

Chairman Loyd and Members of the Committee,

On behalf of the KBI I would ask for a small 'clean-up' amendment to the Kansas DNA databank law. A Sedgewick county court found that a person who was convicted after July 1, 1993 did not have to give DNA for the Kansas DNA databank law as 21-4603d was omitted from the list of covered statutes in K.S.A. 21-2511. Probably because K.S.A. 21-4603d didn't even exist when the list was made in 1991 – it is the product of sentencing guidelines in '93.

Thank you for your consideration.

21-2511. Collection of specimens of fingerprints, blood and saliva from certain persons; Kansas bureau of investigation, powers and duties. (a) Any person convicted as an adult or adjudicated as a juvenile offender because of the commission of any felony; a violation of subsection (a)(1) of K.S.A. 21-3505; a violation of K.S.A. 21-3508; a violation of K.S.A. 21-4310; a violation of K.S.A. 21-3424, and amendments thereto when the victim is less than 18 years of age; a violation of K.S.A. 21-3507, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of subsection (b)(1) of K.S.A. 21-3513, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of K.S.A. 21-3515, and amendments thereto, when one of the parties involved is less than 18 years of age; or a violation of K.S.A. 21-3517, and amendments thereto; including an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of any such offenses provided in this subsection regardless of the sentence imposed, shall be required to submit specimens of blood and saliva to the Kansas bureau of investigation in accordance with the provisions of this act, if such person is:

(1) Convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act;

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(3) convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in this subsection before the effective date of this act and is presently confined as a result of such conviction or adjudication in any state correctional facility or county jail or is presently serving a sentence under K.S.A. 21-4603, **21-4603d**, 22-3717 or 38-1663, and amendments thereto.

House Corr § JJ
Attachment 1
1-15-04



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

Bill Request
Search Incident to Lawful Arrest Amendment
House Corrections and Juvenile Justice Committee
Kyle Smith
Kansas Bureau of Investigation
January 15, 2004

Chairman Loyd and Members of the Committee,

I appear today on behalf of KBI Director Larry Welch requesting this committee introduce legislation that will bring Kansas search and seizure law back into consistency with the constitutional standards of the other 49 states.

A Kansas court decision, *State v Anderson*, 259 Kan. 16, (1996) caused Kansas law enforcement officers to be unduly restricted in searching suspects after their arrest, merely due to one unintentional word choice in the statute. As a result, evidence of crimes other than the one for which the person was arrested, is being suppressed. We respectfully request the statute to be amended to correctly reflect the constitutional limits on searches incidental to arrest.

Thanks for your attention and consideration. I'd be happy to answer any questions.

Draft language

K.S.A. 22-2501.

When a lawful arrest is effected a law enforcement officer may reasonably search the person arrested and the area within such person's immediate presence for the purpose of

- (a) Protecting the officer from attack;
- (b) Preventing the person from escaping; or
- (c) Discovering the fruits, instrumentalities, or evidence of the a crime.

History: L. 1970, ch. 129, § 22-2501; July 1.