

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on January 31, 2005, in Room 123-S of the Capitol.

All members were present except: Donald Betts- excused
David Haley- excused

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Helen Pedigo, Office of Revisor of Statutes
Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Chairman Vratil opened the meeting and asked for bill introductions. Patricia Biggs, Kansas Sentencing Commission, requested the introduction of an amendment to K.S.A. 21-4729, which was passed in **SB 123** in 2003. The amendment would make the primary offense in a drug possession attempt, conspiracy or solicitation for possession; would include the attempt, conspiracy or solicitation for the sale or manufacture offenses; and, at the court's discretion, would allow out-of-state residents or out-of-country residents to be sentenced not by this statute (which would divert offenders to drug treatment) but as otherwise provided by law. Senator Goodwin moved, seconded by Senator Donovan, and the motion carried.

Chairman Vratil opened the discussion on **SB 27**.

SB 27 Unlawfully selling drug products containing Ephedrine or Pseudoephedrine, pharmacy controls; rebuttable presumption of intent if possession of more than nine grams

Chairman Vratil distributed a handout table which listed all the proposed amendments and proposed bill features offered by the various interested parties. (Attachment 1) Additionally, a hybrid bill was distributed and discussed. (Attachment 2) After much discussion, the Committee could not come to a consensus on the bill features. The Chairman announced the bill would be set aside for approximately two weeks.

Chairman Vratil asked the Committee to consider final action on **SB 7**.

Final Action:

SB 7 In child custody residency, relevant factors include whether parent is residing with registered offender or person convicted of child abuse; notifications to other parent if parent is residing with such offender

Chairman Vratil noted that there have been several technical changes made to the bill not affecting the substance of the statute. The main amendment affecting the substance is regarding page 1, line 17. The Kansas Offender Registration Act, in existence since 1994, currently requires sex offenders to register and stay on a list for 10 years. Senator Journey offered an amendment to change page 1, line 17 to strike "or has been" there and in any other places in the bill. If offender is on the list they would be required to notify his/her spouse if on the list, and the presumption would be that if one were on the list, that he/she would not be a fit person to have custody of the child. Senator Journey moved, Senator O'Connor seconded, and the motion to amend the bill carried. A motion was made to recommend the bill favorably as amended, including the technical corrections. Senator Journey moved, seconded by Senator O'Connor, and the motion carried.

Senator Allen introduced a bill that would require where Social Security numbers are on public records, that the numbers be deleted from such public records. Senator Allen moved, seconded by Senator Donovan, and the motion carried. Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for February 1, 2005.

* Please Continue to Route

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-31-05

NAME	REPRESENTING
Mike Recht	Jackes Braden
Sheila F. Adams	KACCT
SCOTT SCHNEIDER	CITY OF WICHITA
Dorian Lowe	Dorian Lowe
Debra Billingsley	Bdoy Pharmacy
Brad Harrison	KFB
BOB ALDERSON	CASEY'S GENERAL STORES
Jim May	Foulston Siefkin LLP
Jeff Bottoboy	State Farm
Kevin Barone	KTLA-
TOM TUNNELL	KANSAS HERIBUING'S RETAILERS ASSN
Duane Simpson	KARA
Jeanette Myers	School Nut. Assoc of Kansas
Judy Cassidy	School Nut. Assoc. of Kansas
J. Butler	KSC
P. Biggs	KSC
B. Hannon	KSC
John Canshelle	ITTD
Cindy Hermes	KID

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-31-05

NAME	REPRESENTING
Amber Showardi	INCA of KS
Kyle Smith	KBI
Colleen Harrell	KCC
Scott Heidner	KADC
Ron GACHES	KPSC
Vicki Schmidt	Senator
John Kiefhaber	Ks. Pharmacists Assoc.
Mike Hein	KS Pharmacy Coalition
Carolyn Muddendoy	Ks 5K3 Green
Julianne Mullen	Gov. Office
Kellen Penk	SR5/HCP/AAPS
Lana Walsh	OJA
Mike Jennings	KCDAA
Michael White	KCDAA
Natalie Haag	Security Benefit
Whitney Danner	KS Bar Assn.

Issue	Rep. Schwab	Sen. V. Schmidt	Sen. D. Schmidt	KBI & Kyle Smith	KS Pharmacists Coalition	KS Food Dealers Association	Attorney General's Office	Sen. J. Vratil
ist ephedrine and pseudoephedrine in schedule V	Would not add ephedrine and pseudoephedrine to schedule V				No, believe restricted sale could be as effective as a schedule V restricted sale	No, restricts flexibility on how ephedrine and pseudoephedrine can be sold (i.e. behind the counter or at a customer service desk)		Yes, <i>tablets</i> remain schedule V substances
Include other forms of ephedrine or pseudoephedrine	Would not include liquids, liquid capsules, and gel capsules if ephedrine or pseudoephedrine is not the only active ingredient			Multi-ingredient products from schedule 5 should be included			No, it is more difficult for to use liquid or gel form and exempting other forms allows stores w/out pharmacies may continue to carry these medications	No, gencaps/liquid requires log and database, but without listing them in schedule V. New section 4.
Preemption of Local Ordinances				Opposes preemption clauses	Preemption necessary			
9 grams vs. 3 package limit				Change to 3 package limit to comply with pharmacists concerns	3 package limit - easier to comply with			
Time limit				Change to 7 days				
Wholesaler and Distributor		Extraordinary quantity requires report to KBI w/in 5 days						
Other changes proposed			New Sec. 4 - state board of pharmacy shall develop controls on all forms					Frazier Fix

ALTERNATE METH LEGISLATION

January 31, 2005

SCOPE

- covers all ephedrine and pseudoephedrine over the counter products (Oklahoma law only covers tablet single ingredient formulations)
- applies to all locations where products are sold (Oklahoma law only imposes controls to pharmacies; all other locations can sell all products except tablets)

THEFT DETERRENT PROVISIONS

- All retail locations must adopt and enforce one or more of the following display restrictions:
 - Place all covered products behind a counter
 - Place all covered products in a locked cabinet
 - Employ restricted access shelving
 - Employ anti-theft package tags and detection alarms on all covered products

POINT OF SALE RESTRICTIONS

- Package limitations
- Sales log book at every location available for inspection by law enforcement officials during business hours
- Photo ID required for purchase

MONITORING OF COMMERCIAL ESTABLISHMENTS

- Require registration of all businesses which distribute, store or sell covered products (pharmacies, wholesalers and manufacturers already register with Pharmacy Board) (current law only requires registration and fee for businesses selling 12 or more over-the-counter products)
- Report all losses or thefts of three packages or more to local law enforcement and Board of Pharmacy
- Registrants must pay fee set by Board per K.S.A. 65-1645
- Authority to fine businesses that do not register, report or pay fee
- Board must report to KBI regarding loss and theft reports

LAW ENFORCEMENT

- Allow as a condition of bail for anyone accused of meth crimes: daily reporting, rehabilitation counseling and/or drug testing