

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on March 21, 2005, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen- 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:

Mike Jennings, Kansas County and District Attorney Association

Others attending:

See attached list.

Chairman Vratil opened the meeting and hearing on HB 2385.

HB 2385 Admission of photographs of wrongfully taken property

Proponent:

Mike Jennings, Legislative Chair, Kansas County & District Attorneys Association, stated that the bill seeks to amend K.S.A. 60-472, related to photographic evidence of stolen property. The bill would amend the statute to eliminate the unnecessary conditions precedent to the introduction of relevant photographic evidence and allow owners to regain their property quickly without fear that photographs of it would not be allowed in court. Mr. Jennings urged support for the passage of the bill. (Attachment 1)

Kyle Smith, Special Agent, Kansas Bureau of Investigation, a guest in the meeting, stated that the passage of the bill would help to return stolen property to victims in a more timely fashion.

Chairman Vratil closed the hearing on HB 2385.

Chairman Vratil asked the Committee to consider final action on Sub HB 2038.

Final Action:

Sub HB 2038 Multidisciplinary teams for adults

A motion was made to table the bill. Senator Bruce moved, seconded by Senator Goodwin, and the motion carried.

Chairman Vratil asked the Committee to consider final action on Sub HB 2087.

Final Action:

Sub HB 2087 Relating to identity theft, identity fraud and vital record fraud

Chairman Vratil stated there was support for this bill from Senator Peterson and the proposed amendment attached to the testimony of Donna Calabrese, Director of Vital Statistics, Kansas Department of Health and Environment. Ms. Calabrese had additionally requested that a technical correction to change on page 2, line 18, the number "9-1599" to read "8-1599". A motion was made to adopt the balloon amendment and make the technical correction. Senator Journey moved, seconded by Senator O'Connor, and the motion carried.

Senator Bruce asked about the change on page 3, line 18, which removed the word, "economic benefit" and replaced with "any benefit" and whether K.S.A. 21-3711 would not cover this same issue. Senator Bruce asked whether the statute was a higher severity level. K.S.A. 21-3711 is a "8" severity level. The question

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arose if this bill passed with the severity level of "9", would not the Committee be recreating the "Frazier" problem. A motion was made to amend the bill to reflect a severity level of "8" throughout the bill. Senator Journey moved, seconded by Senator Donovan, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Journey moved, seconded by Senator Donovan, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **HB 2128**.

Final Action:

HB 2128 Expansion of SRS access to criminal history records

A motion was made to accept the balloon amendment made by Social and Rehabilitation Services. Senator Bruce moved, seconded by Senator Goodwin, and the motion carried.

A motion was made to accept the amendment offered by Legislative Post Audit on page 2, line 4, to add "or prohibit the disclosure of any such information to the post auditor in accordance with and subject to the provisions of the legislative post audit act". Senator O'Connor moved, seconded by Senator Donovan, and the motion carried.

A discussion followed regarding the addition of "juvenile expungements" offered in the SRS version of the bill. Additionally, there was discussion regarding the balloon amendment offered by Senator Bruce. A motion was made to accept the balloon amendment. Senator Bruce moved, seconded by Senator O'Connor, and the motion carried.

A motion was made to further amend Senator Bruce's amendment, under K.S.A. 2135-17 to strike "sexual battery" from the list of non-expungement violations unless the individual was under 18 years of age. Senator Journey moved, seconded by Senator Betts, and the motion carried.

A motion was made to recommend the bill favorably as amended. Senator Journey moved, seconded by Senator O'Connor, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **HB 2304**.

Final Action:

HB 2304 Criminal act to ingest or inject certain controlled substances

Chairman Vratil stated he would like to amend this bill in some way so that it goes to conference, with the idea that at least the Senate position in conference committee would be that the bill should go to interim study. Chairman Vratil offered that an amendment could be made on page 2, line 26, so that it states the effective date would become "effective upon publication in the Kansas register". A motion was made to make this amendment. Senator Goodwin moved, seconded by Senator Schmidt, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Goodwin moved, seconded by Senator Umbarger, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **Sub HB 2261**.

Final Action:

Sub HB 2261 Statute repealed relating to searches incident to lawful arrest includes evidence of the crime

Chairman Vratil stated the bill repeals the statute on searches without a search warrant. Chairman Vratil suggested that the bill be amended so that it goes to conference, so the conference committee would have an opportunity to get the most current information and recommendation on the bill. A motion was made to amend the bill, on page 5, line 13, to make the bill "effective upon publication in the Kansas register". Senator Donovan moved, seconded by Senator Goodwin, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Donovan moved, seconded by Senator Bruce, and the

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motion carried. Senator Journey asked his "no" vote to be recorded.

Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for March 22, 2005.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3/21/05

NAME	REPRESENTING
WADE BOWIE	JJA
BILL BRADY	KGC
JOHN BUDGER	SRS
KYLE KESSLER	SRS
JEREMY S BARCLAY	KDOC
BILL HENNY	KSCredit Union Assn
RON SEEGER	Law Firm
JEAN HOTTHAUS	Top Coalition on Adult Abuse
LEW EBERT	The KANSAS Chamber
MICHAEL WHITE	KCDAA

MEMBERS

Thomas J. Drees, President
Douglas Witteman, Vice President
Edmond D. Brancart, Secretary/Treasurer
Steve Kearney, Executive Director
Gerald W. Woolwine, Past President



LECTORS

Thomas Stanton
David Debenham
Ann Sweogle
Jacqie Spradling

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March 21, 2005

TO: Senate Judiciary Committee

FROM: Mike Jennings, Legislative Chair

RE: Support for H.B. 2385

Honorable Chairman Vratil and Committee Members:

House bill 2385 seeks to amend a statute, K.S.A. 60-472, related to photographic evidence of stolen property to eliminate the requirement of unnecessary and costly procedures that simply serve as a hindrance to the truth finding process without legitimate purpose.

Photographic evidence is routinely used in criminal proceedings to establish facts, corroborate testimony or document a crime scene. Photographs are used to establish the nature of injuries in homicides, to show how a methamphetamine lab is laid out and the path of a fleeing robber. Photographs are taken of arson scenes, vandalism sites and homes that have been burglarized. Generally, the only requirement for the admission of photographic evidence is the foundation that the photographs accurately represent a relevant matter. If they do, they are admissible.

K.S.A. 60-472 requires that before photographs of stolen property can be admitted into evidence, that they bear a written description of the property alleged to be taken, the name of the property owner, the location of the taking, the name of the investigating law enforcement officer, the date the photograph was taken and the name of the photographer. This writing must be made under oath by the investigating officer and the photograph identified by the signature of the photographer. Once these measures are completed and the photograph and writing filed with the law enforcement agency or the court, that statute allows the stolen property to be returned to the lawful owner.

Thus, K.S.A. 60-472 requires a high barrier to the admission of photographic evidence of stolen property than exists for the admission of any other type of photographic evidence and imposes needless impediments to owners retrieving what has been wrongfully taken from them. There is no rational basis for this distinction or the extra work and resources required of law enforcement.

House bill 2385 would amend K.S.A. 60-472 to eliminate the unnecessary conditions precedent to the introduction of relevant photographic evidence and allow owners to regain their property quickly without fear that photographs of it will not be allowed in court.

Based on the forgoing, we urge your support for House bill 2385.

Senate Judiciary
3-21-05
Attachment 1