

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 20, 2007 in Room 313-S of the Capitol.

All members were present except:
Annie Kuether- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Athena Andaya, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Duston Slinkard, Office of Revisor of Statutes
Cindy O'Neal, Committee Assistant

HB 2001 - civil commitment of sexually violent predators; rights & rules of conduct; transitional release when a predator suffers from permanent dementia; battery against a mental health employee

Social & Rehabilitation Services requested a balloon that would put the rights of a patient in statute instead of having them develop rules and regulations. (Attachment 1)

Representative Crow made the motion to adopt the balloon, with grammatical changes. Representative Wolf seconded the motion. The motion carried.

Representative Goyle was concerned with letters being sent to the news media being screened before it would be sent to possibly stop whistle blowers. He made the motion to include "members of the news media" in (14). Representative Wolf seconded motion. The motion carried.

Representative Owens made the motion to strike "a reasonable time" and replace with "informed in writing within seven days". Representative Garcia seconded the motion. The motion failed.

Representative Wolf made the motion to report HB 2001 favorably for passage, as amended. Representative Crow seconded the motion. The motion carried.

HB 2143 - no hunting or fishing license for persons in arrearages for child support

Kansas Department of Wildlife and Parks provided the committee with a balloon amendment which strikes on page 3, line 16 "the individuals informing such individual" and adds in its place "any new individual on the listing who has a current license, permit, stamp, tag or other issue of the department of wildlife and parks informing such individual." They also requested on page 5, line 16 striking "except" and replace with "including". (Attachment 2)

Representative Kinzer made the motion to adopt the balloon and proposed amendment. Representative Watkins seconded the motion. The motion carried.

Some members of the committee voiced concern that only 14 courts currently have court trustee and wondered how other courts would handle the reporting.

Representative Kinzer made the motion to report HB 2143 favorably for passage, as amended. Representative Watkins seconded the motion. The motion carried.

HB 2359 - controlled substance, drug paraphernalia

Jill Wolters, Office of Revisor, provided the committee with a comparison of **HB 2359**, current law, and federal law. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 20, 2007 in Room 313-S of the Capitol.

Representative Owens made the motion to adopt federal language by changing the word "specific" to "primarily" wherever it appears in the bill. Representative Ward seconded the motion. The motion carried.

Representative Owens made the motion to include in the list on (12) "phencyclidine (PCP), methamphetamine, or amphetamine". Representative Crow seconded the motion. The motion carried.

Representative Owens made the motion to include in section (n) "wired cigarette papers and cocaine freebase kits". Representative Wolf seconded the motion. The motion carried.

Representative Garcia made the motion to report **HB 2359** favorably for passage, as amended. Representative Crow seconded the motion. The motion carried.

HB 2188 - professional screening panels

Chairman O'Neal announced that he had a meeting with the Kansas Trial Lawyers Association and that they agreed to the following proposed changes:

- Section 2, to allow for additional period of time for a screening panel to be appointed change 10 days to 20 days.
- Section 3, change the time frame from 120 days to 180 days for panel to be required to provide its written recommendation.
- Section 5, change tolling date to date that the screening panel convenes. (Currently tolling starts upon filing of the memorandum requesting a screening panel.) Also, change 180 days to 210 days with regard to how long it would remain tolled.
- Move lines 19 - 22 on page 4, section (b)(4) to page 5 (c) to make clear that no person selected to serve on a panel would be allowed to testify in court if they do not meet the qualifications of an expert witness.

It was the Chairman's understanding that the only subject that they did not reach agreement on was striking in Section 1, line 27-30 allowing that if a claim is filed naming more than one defendant, each defendant would be entitled to request separate screening panels.

Representative Ward wanted the bill to make clear that in case of a dispute on the number of screening panels the court would order the number of panels to be seated. He also was concerned that if there was a failure to make an appointment within the time set, that the court would make the appointment. He also suggested that the tolling date should be extended by the number of days it takes to get a panel appointed.

The committee meeting adjourned at 5:15 p.m. The next committee meeting was scheduled for February 28, 2007.

HOUSE BILL No. 2001

By Representative M. Holmes

12-5

9 AN ACT concerning the civil commitment of certain persons; relating to
10 sexually violent predators; relating to rights of such predators; con-
11 cerning battery against a mental health employee; amending K.S.A.
12 59-2978, 59-29a08 and 59-29a12 and K.S.A. 2006 Supp. 21-3448 and
13 repealing the existing sections.

14
15 *Be it enacted by the Legislature of the State of Kansas:*
16 New Section 1. ~~(a) The rights and rules of conduct applicable to per-~~
17 ~~sons civilly committed to a treatment facility as a sexually violent predator~~
18 ~~pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall be~~
19 ~~established by rules and regulations adopted by the secretary of social~~
20 ~~and rehabilitation services. The rules and regulations adopted under this~~
21 ~~subsection shall take into consideration the rights of patients as set forth~~
22 ~~in K.S.A. 59-2978, and amendments thereto, but shall specifically address~~
23 ~~the differing needs and specific characteristics of, and treatment protocols~~
24 ~~related to, sexually violent predators. In developing these rules and reg-~~
25 ~~ulations, the secretary shall give due regard to security concerns and safety~~
26 ~~of the residents, treatment staff, custodial personnel and others in and~~
27 ~~about the facility.~~

28 (b) This section shall be a part of and supplemental to article 29a of
29 chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

30 Sec. 2. K.S.A. 2006 Supp. 21-3448 is hereby amended to read as
31 follows: 21-3448. (a) Battery against a mental health employee is a battery,
32 as defined in K.S.A. 21-3412, and amendments thereto, committed
33 against a mental health employee by a person in the custody of the sec-
34 retary of social and rehabilitation services, while such employee is en-
35 gaged in the performance of such employee's duty.

36 (b) Battery against a mental health employee is a severity level 7,
37 person felony.

38 (c) As used in this section "mental health employee" means an em-
39 ployee of the department of social and rehabilitation services working in
40 ~~the state security program located at Larned state hospital, Osawatomie~~
41 ~~state hospital and Rainbow mental health facility, Kansas neurological~~
42 ~~institute and Parsons state hospital and training center and the treatment~~
43 ~~staff as defined in K.S.A. 59-29a02, and amendments thereto, at the sex-~~

Insert the attached language

House Judiciary
Date 2-20-07
Attachment # 1

New Section 1. (a) As used in this section:

(1) "Patient" means any individual:

(A) Who is receiving services for mental illness and who is admitted, detained, committed, transferred or placed in the custody of the secretary of social and rehabilitation services under the authority of K.S.A. 22-3219, 22-3302, 22-3303, 22-3428a, 22-3429, 22-3430, 59-29a05, 75-5209, and 76-1306, and amendments thereto.

(B) In the custody of the secretary of social and rehabilitation services after being found a sexually violent predator pursuant to K.S.A. 59-29a01, et seq. and amendments thereto, including any sexually violent predator placed on transitional release.

(2) "Restraints" means the application of any devices, other than human force alone, to any part of the body of the patient for the purpose of preventing the patient from causing injury to self or others.

(3) "Seclusion" means the placement of a patient, alone, in a room, where the patient's freedom to leave is restricted and where the patient is not under continuous observation.

(b) Each patient shall have the following rights:

(1) Upon admission or commitment, be informed orally and in writing of the patients under this section. Copies of this section shall be posted conspicuously in each patient area, and shall be available to the patient's guardian and immediate family.

(2) The right to refuse to perform labor which is of financial benefit to the facility in which the patient is receiving treatment or service. Privileges or release from the facility may not be conditioned upon the performance of any labor which is regulated by this subsection. Tasks of a personal housekeeping nature are not considered compensable labor. Patients may voluntarily engage in therapeutic labor which is of financial benefit to the facility if such labor is compensated in accordance with a plan approved by the department and if:

(A) The specific labor is an integrated part of the patient's treatment plan approved as a therapeutic activity by the professional staff member responsible for supervising the patient's treatment;

(B) The labor is supervised by a staff member who is qualified to oversee the therapeutic aspects of the activity;

(C) The patient has given written informed consent to engage in such labor and has been informed that such consent may be withdrawn at any time; and

(D) The labor involved is evaluated for its appropriateness by the staff of the facility at least once every 120 days.

(3) A right to receive prompt and adequate treatment, rehabilitation and educational services appropriate for such patient's condition, within the limits of available state and federal funds.

(4) Have the right to be informed of such patient's treatment and care and to participate in the planning of such treatment and care.

(5) Have the following rights, under the following procedures, to refuse medication and treatment:

(A) Have the right to refuse all medication and treatment except as ordered by a

court or in a situation in which the medication or treatment is necessary to prevent serious physical harm to the patient or to others. Except when medication or medical treatment has been ordered by the court or is necessary to prevent serious physical harm to others as evidenced by a recent overt act, attempt or threat to do such harm, a patient may refuse medications and medical treatment if the patient is a member of a recognized religious organization and the religious tenets of such organization prohibit such medications and treatment.

(B) Medication may not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with a patient's treatment program.

(C) Patients will have the right to have explained the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatments ordered.

(6) Except as provided in paragraph (2), have a right to be free from physical restraint and seclusion.

(A) Restraints or seclusion shall not be applied to a patient unless it is determined by the superintendent of the treatment facility or a physician or licensed psychologist to be necessary to prevent immediate substantial bodily injury to the patient or others and that other alternative methods to prevent such injury are not sufficient to accomplish this purpose. Restraint or seclusion shall never be used as a punishment or for the convenience of staff. The extent of the restraint or seclusion applied to the patient shall be the least restrictive measure necessary to prevent such injury to the patient or others, and the use of restraint or seclusion in a treatment facility shall not exceed 3 hours without medical reevaluation. When restraints or seclusion are applied, there shall be monitoring of the patient's condition at a frequency determined by the treating physician or licensed psychologist, which shall be no less than once per each 15 minutes. The superintendent of the treatment facility or a physician or licensed psychologist shall sign a statement explaining the treatment necessity for the use of any restraint or seclusion and shall make such statement a part of the permanent treatment record of the patient.

(B) The provisions of clause (A) shall not prevent:

(i) The use of seclusion as part of a treatment methodology that calls for time out when the patient is refusing to participate in a treatment or has become disruptive of a treatment process.

(ii) Patients may be restrained for security reasons during transport to or from any designation located off the patient's building, including transport to another treatment facility. Any patient committed or transferred to a hospital or other health care facility for medical care may be isolated for security reasons within locked facilities in the hospital.

(iii) Patients may be locked or restricted in such patient's room during the night shift, if such patient resides in a unit in which each room is equipped with a toilet and sink or if the patients who do not have toilets in the rooms shall be given an opportunity to use a toilet at least once every hour, or more frequently if medically indicated.

(iv) Patient's may be locked in such patient's room for a period of time no longer than one hour during each change of shift by staff to permit staff review of patient needs.

(v) Patients may also be locked in such patient's room on a unit-wide or facility-wide basis as an emergency measure as needed for security purposes to deal with an escape or attempted escape, the discovery of a dangerous weapon in the unit or facility or the receipt of reliable information that a dangerous weapon is in the unit or facility, or to prevent or control a riot or the taking of a hostage. A unit-wide or facility-wide emergency isolation order may only be authorized by the superintendent of the facility where the order is applicable or the superintendent's designee. A unit-wide or facility-wide emergency isolation order shall be approved within one hour after it is authorized by the superintendent or the superintendent's designee. An emergency order for unit-wide or facility-wide isolation may only be in effect for the period of time needed to preserve order while dealing with the situation and may not be used as a substitute for adequate staffing. During a period of unit-wide or facility-wide isolation, the status of each patient shall be reviewed every 30 minutes to ensure the safety and comfort of the patient, and each patient who is locked in a room without a toilet shall be given an opportunity to use a toilet at least once every hour, or more frequently if medically indicated. The facility shall have a written policy covering the use of isolation that ensures that the dignity of the individual is protected, that the safety of the individual is secured, and that there is regular, frequent monitoring by trained staff to care for bodily needs as may be required.

(vi) Individual patients who are referred by the court or correctional facilities for criminal evaluations may be placed in administrative confinement for security reasons and to maintain proper institutional management when treatment can not be addressed through routine psychiatric methods. Administrative confinement of individuals shall be limited to only patients that demonstrate or threaten substantial injury to other patients or staff and when there are no clinical interventions available that will be effective to maintain a safe and therapeutic environment for both patients and staff. Administrative confinement shall not be used for any patient who is actively psychotic or likely to be psychologically harmed. The status of each patient shall be reviewed every 15 minutes to ensure the safety and comfort of the patient. The patient shall be afforded all patient rights including being offered a minimum of one hour of supervised opportunity for personal hygiene, exercise and to met other personal needs.

(7) The right to not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained authority to consent to such from the court which has venue over the guardianship following a hearing held for that purpose;

(8) The right to individual religious worship within the facility if the patient desires such an opportunity. The provisions for worship shall be available to all patients on a nondiscriminatory basis. No individual may be coerced into engaging in any religious activities.

(9) A right to a humane psychological and physical environment within the hospital facilities. All facilities shall be designed to afford patients with comfort and safety, to promote dignity and ensure privacy. Facilities shall also be designed to make a positive contribution to the effective attainment of the treatment goals of the hospital.

(10) The right to confidentiality of all treatment records, and as permitted by other

applicable state or federal laws, have the right to inspect and to receive a copy of such records.

(11) Except as otherwise provided, have a right to not be filmed or taped, unless the patient signs an informed and voluntary consent that specifically authorizes a named individual or group to film or tape the patient for a particular purpose or project during a specified time period. The patient may specify in such consent periods during which, or situations in which, the patient may not be filmed or taped. If a patient is legally incompetent, such consent shall be granted on behalf of the patient by the patient's guardian. A patient may be filmed or taped for security purposes without the patient's consent.

(12) The right to be informed in writing upon or at a reasonable time after admission, of any liability that the patient or any of the patient's relatives may have for the cost of the patient's care and treatment and of the right to receive information about charges for care and treatment services.

(13) The right to be treated with respect and recognition of the patient's dignity and individuality by all employees of the treatment facility.

(14) Patients have an unrestricted right to send sealed mail and receive sealed mail to or from legal counsel, the courts, the secretary of social and rehabilitation services, the superintendent of the treatment facility, the agency designated as the developmental disabilities protection and advocacy agency pursuant to P.L. 94-103, as amended, private physicians and licensed psychologists, and have reasonable access to letter writing materials.

(15) The right as specified under clause (A) to send and receive sealed mail, subject to the limitations specified under clause (B):

(A) A patient shall also have a right to send sealed mail and receive sealed mail to or from other persons, subject to physical examination in the patient's presence if there is reason to believe that such communication contains contraband materials or objects that threaten the security of patients or staff. The officers and staff of a facility may not read any mail covered by this subdivision.

(B) The above rights to send and receive sealed and confidential mail are subject to the following limitations:

(i) An officer or employee of the facility at which the patient is placed may delay delivery of the mail to the patient for a reasonable period of time to verify whether the person named as the sender actually sent the mail; may open the mail and inspect it for contraband outside the presence of the patient; or may, if the officer or staff member cannot determine whether the mail contains contraband, return the mail to the sender along with notice of the facility mail policy.

(ii) The superintendent of the facility or the superintendent's designee may, in accordance with the standards and the procedure under subsection(c) for denying a right for cause, authorize a member of the facility treatment staff to read the mail, if the superintendent or the superintendent's designee has reason to believe that the mail could pose a threat to security at the facility or seriously interfere with the treatment, rights, or safety of the patient or others.

(iii) Residents may be restricted in receiving in the mail items deemed to be pornographic, offensive or which is deemed to jeopardize their individual treatment or that of others.

(16) Reasonable access to a telephone to make and receive telephone calls within reasonable limits.

(17) Be permitted to use and wear such patient's own clothing and personal possessions, including toilet articles, or be furnished with an adequate allowance of clothes if none are available. Provision shall be made to launder the patient's clothing.

(18) Be provided a reasonable amount of individual secure storage space for private use.

(19) Reasonable protection of privacy in such matters as toileting and bathing.

(20) Be permitted to see a reasonable number of visitors who do not pose a threat to the security or therapeutic climate of other patients or the facility.

(21) The right to present grievances under the procedures established by each facility on the patient's own behalf or that of others to the staff or superintendent of the treatment facility without justifiable fear of reprisal and to communicate, subject to paragraph (14), with public officials or with any other person without justifiable fear of reprisal.

(22) The right to spend such patient's money as such patient chooses, except to the extent that authority over the money is held by another, including the parent of a minor, a court-appointed guardian of the patient's estate or a representative payee. A treatment facility may, as a part of its security procedures, use a patient trust account in lieu of currency that is held by a patient and may establish reasonable policies governing patient account transactions.

(c) A patient's rights guaranteed under subsections (b)(15) to (b)(21) may be denied for cause after review by the superintendent of the facility or the superintendent's designee, and may be denied when medically or therapeutically contraindicated as documented by the patient's physician or licensed psychologist in the patient's treatment record. The individual shall be informed in writing of the grounds for withdrawal of the right and shall have the opportunity for a review of the withdrawal of the right in an informal hearing before the superintendent of the facility or the superintendent's designee. There shall be documentation of the grounds for withdrawal of rights in the patient's treatment record. After an informal hearing is held, a patient or such patient's representative may petition for review of the denial of any right under this subsection through the use of the grievance procedure provided in subsection (d).

(d) The department of social and rehabilitation services shall establish procedures to assure protection of patients' rights guaranteed under this section.

(e) No person may intentionally retaliate or discriminate against any patient or employee for contacting or providing information to any state official or to an employee of any state protection and advocacy agency, or for initiating, participating in, or testifying in a grievance procedure or in an action for any remedy authorized under this section.

(f)

HOUSE BILL No. 2143

By Committee on Judiciary

1-19

Proposed amendment
Representative A. Brown
February 8, 2007

House Judiciary
Date 2-20-07
Attachment # 2

9 AN ACT concerning child support; relating to wildlife and parks licenses
10 and permits; amending K.S.A. 2006 Supp. 23-495, 32-918 and 32-930
11 and repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 23-495 is hereby amended to read as
15 follows: 23-495. The court trustee shall have the responsibility:

16 (a) For collection of support or restitution from the obligor upon the
17 written request of the obligee or upon the order of the court; and

18 (b) *to compile a list of individuals who owe arrearages under a sup-*
19 *port order or have failed, after appropriate notice, to comply with a sub-*
20 *poena issued pursuant to a duty of support. The court trustee shall deliver*
21 *such list to the secretary of social and rehabilitation services on a quarterly*
22 *basis or more frequently as requested by the secretary.*

23 Sec. 2. K.S.A. 2006 Supp. 32-918 is hereby amended to read as fol-
24 lows: 32-918. (a) Upon request of the secretary of social and rehabilitation
25 services, the secretary of wildlife and parks shall not allow any license,
26 permit, stamp, tag or other issue of the department of wildlife and parks
27 to be purchased by any applicant except as provided in this section. The
28 secretary of social and rehabilitation services may make such a request
29 by providing the secretary of wildlife and parks, on a quarterly basis, a
30 listing of names and other information sufficient to allow the secretary of
31 wildlife and parks to match applicants against the list with reasonable
32 accuracy. The secretary of social and rehabilitation services may include
33 an individual on the listing if, at the time the listing is compiled, the
34 individual owes arrearages under a support order in a title IV-D case or
35 has failed, after appropriate notice, to comply with an outstanding warrant
36 or subpoena directed to the individual in a title IV-D case. *The secretary*
37 *of social and rehabilitation services shall include an individual on the*
38 *listing if, at the time the listing is compiled, the individual owes arrearages*
39 *under a support order, as reported to the secretary of social and rehabil-*
40 *itation services by the court trustee or has failed, after appropriate notice,*
41 *to comply with a subpoena directed to the individual by the court trustee*
42 *and as reported to the secretary of social and rehabilitation services by*
43 *the court trustee.*

1 75-3306, and amendments thereto, to any person who has been denied
any license, permit, stamp, tag or other issue of the department of wildlife
and parks pursuant to this section, provided that the person complies
4 with the requirements of the secretary of social and rehabilitation services
5 for requesting such fair hearing. *In a non-IV-D case, the applicant shall*
6 *contact the court trustee.*

7 (g) The term "title IV-D" has the meaning ascribed thereto in K.S.A.
8 32-930, and amendments thereto.

9 (h) The secretary of social and rehabilitation services and the secre-
10 tary of wildlife and parks may enter into an agreement for administering
11 the provisions of this section.

12 (i) The secretary of social and rehabilitation services and the secretary
13 of wildlife and parks may each adopt rules and regulations necessary to
14 carry out the provisions of this section.

15 (j) *Upon receipt of such list, the secretary of wildlife and parks shall*
16 *send by first class mail, a letter to the individuals informing such individ-*
17 *uals of the provisions of this section.*

any individual on the listing who has a current license, permit,
stamp, tag or other issue of the department of wildlife and parks
informing such individual

NEW

18 Sec. 3. K.S.A. 2006 Supp. 32-930 is hereby amended to read as fol-
19 lows: 32-930. (a) Except as provided in subsection (c), the secretary or
20 the secretary's designee is authorized to issue to any Kansas resident a
21 lifetime fishing, hunting or furharvester or combination hunting and fish-
22 ing license upon proper application made therefor to the secretary or the
23 secretary's designee and payment of a license fee as follows: (1) A total
24 payment made at the time of purchase in the amount prescribed pursuant
25 to K.S.A. 32-988 and amendments thereto; or (2) payment may be made
26 over a two-year period in eight quarter-annual installments in the amount
27 prescribed pursuant to K.S.A. 32-988 and amendments thereto. If pay-
28 ment is in installments, the license shall not be issued until the final
29 installment has been paid. A person making installment payments shall
30 not be required to obtain the appropriate annual license, and each in-
31 stallment payment shall be deemed to be such an annual license for a
32 period of one year following the date of the last installment payment
33 made. If an installment payment is not received within 30 days after it is
34 due and owing, the secretary may consider the payments in default and
35 may retain any payments previously received. Any lifetime license issued
36 to a Kansas resident shall not be made invalid by reason of the holder
37 thereof subsequently residing outside the state of Kansas. Any nonresi-
38 dent holder of a Kansas lifetime hunting or combination hunting and
39 fishing license shall be eligible under the same conditions as a Kansas
40 resident for a big game or wild turkey permit upon proper application to
41 the secretary. Any nonresident holder of a lifetime fishing license issued
42 before July 1, 1989, shall be eligible under the same conditions as a Kansas
resident for a big game or wild turkey permit upon proper application to

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MEMORANDUM

To: House Judiciary Committee
From: Jill Ann Wolters, Senior Assistant Revisor
Date: February 20, 2007
Subject: Comparison of K.S.A 65-4150, definition of drug paraphernalia, and K.S.A. 65-4151, factors the court shall consider when determining whether an object is paraphernalia to the federal law, 21 U.S.C. 863

Boldface is federal law and in KS law, boldface is federal law not in KS law
Italics is new language in HB 2359, boldface is federal law and in HB2359

K.S.A 65-4150 defines drug paraphernalia to mean all **equipment, product, and materials of any kind which are used or primarily intended for use or specifically **designed for use**** in planting, propagating, cultivating, growing, harvesting, **manufacturing, compounding, converting, producing, processing, preparing**, testing, analyzing, packaging, repackaging, storing, containing, **concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the uniform controlled substances act**. This definition covers all descriptive terms used in the federal law. HB 2359 amends the law to include "specifically designed for use" whereas the federal law states "primarily intended or designed for use." This section further lists specific types of drug paraphernalia including, but not limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing

House Judiciary
Date 2-20-07
Attachment # 3

or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

(3) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances used or intended for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances.

(7) Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marihuana.

(8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances.

(9) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances.

(10) Containers and other objects used or intended for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body.

(12) **Objects used or primarily intended for use or specifically designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish, or hashish oil PCP, methamphetamine, or amphetamine into the human body, such as:**

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) **water pipes**, *bongs or smoking pipes designed to draw smoke through water or another cooling device;*

(C) ~~carburetion tubes and devices~~ *pipes, glass or other heat resistant tubes or any other device used or intended to be used, designed to be used to cause vaporization of a controlled substance for inhalation;*

(D) **smoking and carburetion masks;**

(E) **roach clips (objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);**

(F) **miniature cocaine spoons and cocaine vials with level capacities of one-tenth cubic centimeter or less;**

(G) **chamber smoking pipes;**

(H) **carburetor smoking pipes;**

(I) **electric smoking pipes;**

(J) **air-driven smoking pipes;**

(K) **chillums;**

(L) **bongs; and**

(M) **ice pipes or chillers and;**

(n) any smoking pipe manufactured to disguise its intended purpose.

Federal law includes in the list wired cigarette papers and cocaine freebase kits.

K.S.A. 65-4151 establishes factors the court or other authority shall consider, in addition to all other logically relevant factors, when determining whether an object is drug paraphernalia:

(a) Statements by an owner or person in control of the object concerning its use.

(b) Prior convictions, if any, of an owner or person in control of the object, under any state or federal law relating to any controlled substance.

(c) The proximity of the object, in time and space, to a direct violation of the uniform controlled substances act.

(d) The proximity of the object to controlled substances.

(e) The existence of any residue of controlled substances on the object.

(f) Direct or circumstantial evidence of the intent of an owner or person in control of the object, to deliver it to a person the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of the uniform controlled substances act. The innocence of an owner or person in control of the object as to a direct violation of the uniform controlled substances act shall not prevent a finding that the object is intended for use as drug paraphernalia.

(g) Oral or written instructions provided with the object concerning its use.

(h) Descriptive materials accompanying the object which explain or depict its use.

(i) National and local advertising concerning the object's use.

(j) The manner in which the object is displayed for sale.

(k) Whether the owner or person in control of the object is a legitimate supplier of similar like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(l) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.

(m) The existence and scope of legitimate uses for the object in the community.

(n) Expert testimony concerning the object's use.

(o) Any evidence that alleged paraphernalia can or has been used to store a controlled substance or to introduce a controlled substance into the human body as opposed to any legitimate use for the alleged paraphernalia.

(p) Advertising of the item in magazines or other means which specifically glorify, encourage or espouse the illegal use, manufacture, sale or cultivation of controlled substances.

Kansas law contains all the factors included in the federal law, with the difference of Kansas using the term "similar" compared to the federal term "like" and Kansas not requiring the distributor of tobacco products to be licensed.