

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:35 a.m. on January 26, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator David Haley- excused  
Senator Jean Schodorf- excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes  
Doug Taylor, Office of the Revisor of Statutes  
Jerry Donaldson, Kansas Legislative Research Department  
Athena Andaya, Kansas Legislative Research Department  
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Roger Werholtz, Secretary, Kansas Department of Corrections

Others attending:

See attached list.

Bill Introductions

Kathy Porter, Office of Judicial Administration, requested the introduction of a bill deleting language pertaining to establishing docket fees.

The Chairman notified the Committee of additional written testimony on **SB 26** from Ed Klumpp, Kansas Association of Chiefs of Police and the Kansas Peace Officers Association. (Attachment 1)

The Chairman opened the hearing on **SB 61 - Prison-made goods act; additional authorization to contract for certain work projects.**

Roger Werholtz appeared in support providing a brief overview of the bill which allows the Secretary to contract with private landlords to repair their rental property damaged by tenants under the Department's release supervision. (Attachment 2)

There being no further conferees, the hearing on **SB 61** was closed.

The Chairman called for final action **SB 34 - Continuation of certain exceptions to disclosure under the open records act.** Senator Bruce moved, Senator Lynn seconded, to recommend **SB 34** favorably for passage. Motion carried.

The Chairman called for final action on **SB 45 - Kansas power of attorney act amendments.** Senator Lynn moved, Senator Vratil seconded, to recommend **SB 45** favorably for passage. Motion was withdrawn.

Senator Kelly moved, Senator Donovan seconded to amend **SB 45**, page 2, line 41 by striking the word "all". Motion carried.

Senator Donovan moved, Senator Pilcher-Cook seconded, to recommend **SB 45** as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 44 - Kansas false claims act.** Jason Thompson, staff revisor, reviewed the bill.

Senator Donovan moved, Senator Vratil seconded, to recommend SB 44 favorably for passage. Motion carried.

The next meeting is scheduled for January 27, 2009.

The meeting was adjourned at 10:15 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-26-09

NAME	REPRESENTING
Whitney Damra	KS Bar Assn
J. Molina	KS Bar Assn
Kathy Porter	Judicial Branch
Roger Werhantz	KDOC
Tim Madden	KDOC
Mojib Farooqui	LKM
Cynthia Smith	SOLHS
Derek Hein	HLF
Mary Davis	Sen. Masterson
Bill Sneed	Merrick
Matt Casey	GBA
Whitney Damra	KJHHA
Richard Sauer	Kerny Assoc.
Robert Collins	K-TAF Policy Research Group
Bob Vanover	Greater KC Chamber & Blue Valley USD



## Kansas Association of Chiefs of Police

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## Kansas Peace Officers Association

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January 23, 2009

Senate Judiciary Committee  
Kansas State Capital, Room 536-N  
Topeka, KS 66618

SUBJECT: SB 26 – Use of Firearms During a Drug Felony

Chairman Owens and Committee Members,

As I listened to the committee discussion of SB 26 today, I grew a little concerned about the effort to further restrict the type of crimes to which the firearms provisions would apply. The primary concern was with the consistent use of the term “seller” as the applicable violator in a drug distribution transaction. If that term were to be adopted, then only the person actually transacting the sale would be included. Typically, firearms are introduced into these illegal activities not just by the actual seller but also by others involved in the transaction, such as the buyer and the accompanying associates protecting either the buyer or the seller. It would also exclude the person actually distributing drugs if no actual “sale” took place or could be proven. In other words, it could unintentionally not apply to a person distributing illegal drugs to others where no money or other form of payment could be proven because it was not exchanged at the time of the transfer of drugs.

In regards to further restricting the “possession” crimes from the scope of the bill, we also have a concern. We must be careful that any wording to affect that change does not unintentionally make it inapplicable to *possession with intent to distribute* crimes. We should also remember that the buyer doesn’t commit a drug distribution offense but, in most cases, they do commit a felony possession offense once they take possession of the illegal drugs.

We agree with the view of Senator Vratil and other committee members who suggested we leave the covered drug felonies as originally proposed for now so we can capture better data to evaluate both the resulting effect of enforcement and the prison bed impact. But if the committee decides to modify the applicable drug felonies we believe it is absolutely essential the language include any person involved in the drug distribution transaction. It is also critical the bill continue to cover illegal drug manufacturing and possession with intent to distribute.

Our priorities for what drug felonies should be covered are: 1) any participant in the manufacturing or distribution of illegal drugs, 2) possession with intent to sell drugs, and 3) the remainder of drug felonies as originally provided in the bill.

In regards to the length of sentence, it is our belief that for this bill to work two things must occur: 1) the sentence must be consecutive to other sentences, and 2) the sentencing must be of sufficient length to have a deterrence effect on criminals. We certainly understand the concerns of the legislature regarding bed space, especially in light of the current economic challenges. We would be opposed to any further sentencing reductions beyond those approved by the committee on January 23, 2009. We would be elated if it were slightly lengthened from the amended length of sentence.

Ed Klumpp  
Legislative Committee Chair-Kansas Association of Chief of Police  
Legislative Committee Chair-Kansas Peace Officers Association  
eklumpp@cox.net or (785) 640-1102

Senate Judiciary

1-26-09

Attachment 1

Testimony on SB 61  
to  
The Senate Judiciary Committee

By Roger Werholtz  
Secretary  
Kansas Department of Corrections  
January 26, 2009

The Department of Corrections supports SB 61. This bill would amend K.S.A. 75-5275 (The Prison Made Goods Act) to allow the secretary to contract with private landlords to repair their rental property damaged by tenants under the department's release supervision. The department would utilize inmate work crews on these work projects. The department believes that the ability for the department to provide limited assistance in the repair of property damaged by released offenders would aid in released offenders obtaining suitable housing by providing an incentive to landlords to rent to released offenders.

The department believes that it should not become an insurer for landlords and thus would limit its obligation in terms of both cost and scope of the repairs that would be conducted by department. The use of inmate work crews would allow the contractual obligation of the department to be cost neutral.

The department urges favorable consideration of SB 61.