

MINUTES OF THE SENATE JUDICIARY.

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on February 5, 2003 in Room 123-S of the Capitol.

All members were present.

Committee staff present: Mike Heim, Kansas Legislative Research Department
Lisa Montgomery, Office of the Revisor of Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Kris Crane, Coffeyville
Darrel Harbaugh, Coffeyville
Darci Eveleigh, Coffeyville High School student
Mary Hayes, Coffeyville
Karole Bradford, Inter-Faith Ministries, Wichita
Representative Jim Miller (written testimony)
F. William Cullins, Montgomery County Attorney (written testimony)
Senator Jay Emler
Sandy Jacquot, League of Kansas Municipalities
Roger Kroh, Director of Planning & Development, City of Lenexa
Phil Journey, Attorney, Kansas State Rifle Association and Kansas Second Amendment Society, Wichita
Ken Corbet, Owner of Ravenwood Lodge

Others attending: see attached list

Chairman Vratil called for bill introductions. Jeremy Anderson, Director of Government Affairs, Office of the Governor, asked that a bill be introduced at the request of Governor Sebelius and Attorney General Kline which will strengthen the penalties for crimes committed by sexual predators, criminals who target law-enforcement officers, and those who commit crimes against children. Senator O'Connor moved to have the bill introduced, seconded by Senator Donovan, and the motion carried. (Attachment 1)

Senator Gilstrap asked for introduction of a bill concerning lotteries; authorizing electronic gaming machines at certain locations. Senator Gilstrap made a motion to introduce such a bill, seconded by Senator Haley, and the motion carried. (Attachment 2)

SB 54 - creating the crime of negligent homicide

The Chair opened the hearing on **SB 54**. Kris Crane testified in support of this bill as it was her 13 year old son, C. J. Crane, that was killed due to the negligence of an adult. She shared with the Committee how her son was killed on February 19, 2001. She stated that it was because of an individual's lack of responsibility in leaving a loaded rifle lying on top of the television in the living room of his home that compels her to ask for creation of a criminal negligence law in Kansas. Mrs. Crane said the owner of the rifle should have been held accountable for his indifference to the dangerous situation he created with children in his home. (Attachment 3) Mrs. Crane also submitted supporting written testimony for F. William Cullins, Montgomery County Attorney. (Attachment 4)

Conferee Harbaugh spoke in favor of **SB 54**, and supported a law holding citizens accountable for negligence that results in the injury or death of another human being. (Attachment 5)

Conferee Eveleigh testified as a proponent for **SB 54**, and urged the Committee to make this proposed bill a law which creates a crime of criminal negligence. (Attachment 6)

Conferee Hayes spoke in support of **SB 54** as it was her grandson that was killed in 2001 by the negligence of an adult. She asked that when the bill becomes a law that it be named after her grandson and called "C.J.'s Law". (Attachment 7)

Conferee Bradford testified in support of this proposed legislation for Inter-Faith Ministries and Safe State

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on February 5, 2003 in Room 123-S of the Capitol.

Kansas. She said this bill would help ensure that adults take the steps necessary to prevent harm caused by access to firearms. (Attachment 8)

Representative Jim Miller submitted written testimony in support of **SB 54**. (Attachment 9)

After brief Committee discussion, Chairman Vratil requested staff to do a comparison of this proposed legislation with the current statute on criminal involuntary manslaughter, what the elements of the crimes are, how they differ, and what other states do under similar circumstances. Senator Pugh asked if Gordon Self, the original drafter of this proposed bill could come and explain to the Committee what he modeled the draft after or where the language came from. He also requested that the Committee hear from someone in criminal law and procedure, possibly a law professor. Senator Haley requested from staff two or three hypothetical situations where this law might be applied. The Chair asked Senator Pugh to contact Washburn University or the University of Kansas Law Schools and see if there is a criminal law professor or someone else that could possibly come and address the Committee briefly on this subject on Tuesday, February 11.

Senator Allen stated that she would like to request that a bill be drafted on trigger locks or other devices intended to prevent accidental discharge of a firearm stored within the confines of a residence. Senator Allen made a motion to have such a bill drafted, seconded by Senator Oleen, and the motion carried.

Chairman Vratil closed the hearing on **SB 54**.

SB 25 - sport shooting ranges; local regulation

The Chair opened the hearing on **SB 25**. Senator Emler testified in support of **SB 25**, which he asked to be introduced in order to clarify what he believed was the intent of the Senate amendment to HB 2599 in the 2001 legislative session. He explained that HB 2599 was amended to afford protection to sport shooting ranges around which communities were built, and were not to be grandfathered if they were out of compliance with local regulations *ab initio*. Senator Emler stated that the effect of HB 2599 was to legitimize sport shooting ranges that were not in compliance from their inception. He submitted a balloon amendment which addressed the concerns of the range owners/operators and the National Rifle Association. (Attachment 10)

Conferee Jacquot testified in support of **SB 25**, and clarified that the proposed bill would improve the law and give local governments some measure of control over shooting ranges that constitute nonconforming uses. Ms. Jacquot explained that part of the problem for cities was that the current law allows shooting ranges to legally expand or increase the size and scope of the facilities and activities which may further increase the hazard to the general public. (Attachment 11)

Conferee Kroh, representing the City of Lenexa, testified in support of **SB 25**, in that it specifically acknowledges the ability of a community to amortize lawful nonconforming uses. He expressed a concern regarding the provision within the proposed bill requiring mandatory compensation, and asked that it be amended to be consistent with existing law which provides for the gradual elimination of lawful nonconforming uses. (Attachment 12)

After Committee questions and discussion, the Chair called upon the first opponent to **SB 25**. Conferee Journey testified in opposition to the proposed legislation on behalf of the Kansas Second Amendment Society and the Kansas State Rifle Association. He said that **SB 25** should effectively allow the elimination of any or all sports shooting ranges in the State of Kansas by the enactment of a patchwork quilt of noise ordinances by municipalities or counties across the state. Mr. Journey stated that if a range was being operated outside the guidelines established by the Kansas Department of Wildlife and Parks then administrative or other action can be taken. (Attachment 13)

Chairman Vratil announced that due to time constraints, the hearing on **SB 25** would be continued at the next meeting.

The minutes of the January 30 meeting were approved on a motion by Senator Donovan, seconded by Senator O'Connor, and the motion carried.

The meeting adjourned at 10:36 a.m. The next scheduled meeting is February 6, 2003.

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on February 5, 2003 in Room 123-S of the Capitol.