

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on January 19, 2005, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen- excused

Committee staff present:

Mike Heim, Kansas Legislative Research Department

Jill Wolters, Office of Revisor of Statutes

Helen Pedigo, Office of Revisor of Statutes

Carol Benoit, Legislative Assistant

Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Tim Madden, Department of Corrections

Keven Pellant, Deputy Secretary of Community and Field Services, Kansas Department of Corrections

Bea Magathan, The Farm

Gloria Van Winkle

David Thomason, Director of the WIC, Kansas Department of Health and Environment

Gary Daniels, Acting Secretary, Social and Rehabilitation Services

Sister Therese Bangert, Kansas Catholic Conference

Kyle G. Smith, Special Assistant Attorney General and Special Agent, Kansas Bureau of Investigation

Colonel William Seck, Kansas Highway Patrol

Max Wilson, Regional Prevention Centers Association of Kansas (written submitted for Cristi Cain, State Coordinator, Kansas Methamphetamine Prevention Project)

Sheriff Lamar Shoemaker, Brown County Sheriff

Duane Simpson, Director of Government Relations, Kansas Agribusiness Retailers Association

Garry Winget, President, Kansans for Addiction Prevention

John L. Kiefhaber, Executive Director, Kansas Pharmacists Association

Kevin Kraushaar, Consumer Health Care Products Association

Others attending: See attached list.

Chairman Vratil called the meeting to order. He announced he would not take bill introductions today, due to the large number of conferees.

Chairman opened the hearing on **SB 30**.

SB 30-Exercising the state's option to provide an exemption to disqualification for public assistance to certain drug offenders

Proponents:

Tim Madden, Kansas Department of Corrections, stated the bill would provide needed assistance to eligible former drug offenders, while at the same time, preserving the public's interest in limiting that assistance to persons who have addressed their substance abuse through necessary treatment. (Attachment 1)

Kevin Pellant, Deputy Secretary of Community and Field Services, Department of Corrections, testified she served as Deputy Warden at the Topeka Correctional Facility for 13 years. Ms. Pellant stated it is important to help offenders coming out of incarceration (most are women) to receive the financial assistance, childcare support, and job training necessary so that they may succeed in reintegrating into the community. (Attachment 2)

Gloria Van Winkle testified that she was released from prison after being incarcerated for 12 years. With \$800 to start her new life, she rented an apartment, believing everything else would fall into place. However, two weeks later, when her prescriptions ran out, she could not afford to refill them. She went to Social and Rehabilitation Services (SRS) for help but was denied assistance because of her drug crime. Ms. Van Winkle

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went to other agencies but was treated as though she was looking for a handout. Facing eviction, off her medications, and feeling like a failure, she contacted a crisis center, just wanting to go back to prison. It was through the crisis center that she finally received the necessary help to survive, received her medications, and learned about various agencies and websites that could help someone in her situation. Ms. Van Winkle stated that her situation was not unique and that if the rate of prison recidivism was to decrease, then passage of the bill would be one way to begin to turn things around.

Bea Magathan shared a personal experience from dealing with her brother, who had mental illness as a teenager that continued into adulthood. He was diagnosed as having Schizoaffective Disorder while incarcerated for possession of a controlled substance. Today, at age 33, he is unemployable and has been denied food stamps, Medicaid and housing assistance because of his drug conviction. He is not abusing drugs now, but because he is still mentally ill, his situation has caused a great financial burden on the family. Ms. Magathan asked for the bill to be passed to help her brother, and others worse off. (Attachment 3-4)

Dave Thomason, Director of the WIC Program, testified on behalf of the WIC Program and the Health and Human Services Team (task force) On Hunger Reduction in Kansas. They are concerned that denial of food and other assistance to persons with past drug convictions results in harm not only for the individual but also for their children and families. (Attachment 5)

Gary Daniels, Acting Secretary of Kansas Social and Rehabilitation Services, stated that the federal *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, places a lifetime ban on persons convicted of a drug felony from receiving food assistance, Temporary Assistance to Needy Families (TANF) cash and employment services, yet these services are available to felons convicted of other more violent types of offenses. Mr. Daniels stated this bill will help stabilize families and reduce prison recidivism. (Attachment 6)

Sister Bangert, Kansas Catholic Conference, shared information from a document entitled, "*Responsibility, Rehabilitation and Restoration - a Catholic Perspective on Crime and Criminal Justice*," released by the U.S. Conference of Catholic Bishops in 2000. It calls upon government to redirect public policy and public resources away from building more prisons and toward more effective programs aimed at crime prevention, rehabilitation, education efforts, substance abuse treatment, and programs of probation and reintegration. (Attachment 7)

Written testimony was supplied by Roger Werholtz, Secretary of the Kansas Department of Corrections, in support of **SB 30**. (Attachment 8)

Chairman Vratil closed the hearing on **SB 30**, and opened the hearing 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.

Proponents:

Kyle Smith, Special Agent, testified on behalf of the Kansas Bureau of Investigation and the Kansas Peace Officers Association. He summarized that if access to the precursor chemicals that are used to make methamphetamine is controlled, it will ultimately save lives and taxpayer dollars. (Attachments 9-13)

Colonel William Seck, Kansas Highway Patrol, testified on behalf of the Highway Patrol and a task force, charged by Governor Kathleen Sebelius and the Kansas Criminal Justice Coordination Council. The task force was formed to identify how best to address the methamphetamine and other illegal drug problems in Kansas. Because the availability of methamphetamine is on the rise, the Patrol assists law enforcement agencies with investigations, which equate to many man hours spent dealing with this problem. (Attachment 14)

Larry Welch, Director of the Kansas Bureau of Investigation, gave a brief history of methamphetamine abuse in the State of Kansas. In 1994, law enforcement was primarily concerned with other controlled substances. The KBI and local law enforcement seized four methamphetamine (meth) labs, which then was a state record.

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Since then, law enforcement continued to break records in meth lab seizures until it peaked at more than 800 seizures in 2001. Oklahoma has done everything Kansas has done to fight the meth lab problem, but it also enacted an equivalent bill to the proposed bill. With the bill passed into law, Kansas law enforcement could begin to direct more of its resources toward fighting imported meth drug traffic, which accounts for approximately 80 percent of the meth in Kansas (which primarily comes in from Mexico and California). (Attachment 15)

Max Wilson gave testimony on behalf of Cristi Cain, State Coordinator of the Kansas Methamphetamine Prevention Project. Meth addiction accounts for over 10 percent of all treatment admissions in Kansas, and over the past three years, more Kansans have entered treatment and at much younger ages. Kansas has seen an increase in children residing in homes where drugs are manufactured, distributed or abused. Some Kansas communities, specifically Shawnee County, have identified methamphetamine-exposed newborns as a serious problem. Analysis of the medical cost of one meth-exposed child over a lifespan has been estimated to be more than \$1.7 million dollars. (Attachment 16)

Sheriff Lamar Shoemaker, Brown County Sheriff, stated that his office has been involved with methamphetamine lab seizures and one where they seized a meth lab underneath a baby's crib. It is Sheriff Shoemaker's belief, with the meth law enacted in the state of Oklahoma, it is important that Kansas enact a similar law. (Attachments 17-18)

Duane Simpson, Director of Government Relations, Kansas Agribusiness Retailers Association, testified on behalf of fertilizer retailers and producers. Anhydrous ammonia, used in the cooking process for methamphetamine, is the preeminent fertilizer for wheat in Kansas. Theft of this valuable fertilizer is a serious problem for the industry and for customers. When Oklahoma passed its law, Kansas agribusiness retailers and producers noticed an increase in theft and damage along the border counties. They support all reasonable measures to restrict ephedrine products that can be used to produce methamphetamine. (Attachment 19)

Gary Daniels, Acting Secretary, stated that the Kansas Department of Social and Rehabilitation Services (SRS) received a federal grant two years ago that established the Kansas Methamphetamine Prevention Project, which produced partnerships between many state agencies, community organizations and private businesses. Several low cost initiatives under the Project involved working with pharmacies, grocery stores, discount stores and convenience stores to voluntarily place pseudophedrine products behind the counter to avoid theft and purchases of large quantities used in producing meth. Although the funding is gone, the partnerships remain committed to addressing the issues of preventing production of this dangerous substance. (Attachment 20)

Garry Winget, President, Kansans for Addiction Prevention, stated reducing the supply and access would favorably impact the problem of addiction. (Attachment 21)

Written testimony in support of the bill was provided by: Officer Ed Drake, Olathe Police Department; Terry Holdren, Kansas Farm Bureau Governmental Relations; Chief Norman D. Williams, Wichita Police Department; Daryl Reece, Kansas Peace Officers Association; Sheriff Vernon Chinn, Pratt County Sheriff; Leslie Kaufman, Kansas Cooperative Council; Jerry Slaughter, Kansas Medical Society. (Attachments 22-28)

Neutral:

John Kiefhaber testified on behalf of the Kansas Pharmacists Association (KPhA). Pharmacists have cooperated with the MethWatch programs. There are several important points in the bill that the KPhA would like changed: preemption of local restriction on sales, the exclusion of multi-ingredient products from Schedule V, and the issue of package verses gram limits on sales. (Attachment 29)

Written testimony was provided by Representative Scott Schwab. (Attachment 30)

Opponent:

Kevin Kraushaar testified on behalf of the Consumer Health Care and Products Association (CHCPA), a trade association based in Washington, D.C., made up of manufacturers and many of the distributors of non-prescription drugs and over-the-counter drugs. Mr. Kraushaar said there are many success stories around

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the nation, including Oklahoma. California and Washington have seen similar drops in meth labs without the restriction of access. Mr. Kraushaar requested some accommodation in the bill for products to be sold in non-pharmacy retail outlets. The CHCPA has long supported the comprehensive approach to the methamphetamine problem, but hopes its concerns will be addressed.

At the conclusion of testimony, the Committee had questions for conferees. Senator Donovan asked Mr. Kraushaar and Mr. Kiefhaber if the changes proposed by the KBI representative (in Attachment 13) helped their organizations' concerns. The consensus was that striking section three of the bill moves it in the right direction. It is better to have three packages than nine grams. Senator Goodwin asked if Mr. Kraushaar would provide to the Committee a written synopsis on some of the success stories in the other states he mentioned, and Mr. Kraushaar indicated he would.

Senator Bruce addressed whether there has been a lot of inventory shrinkage, and whether it is more pronounced in border communities. Mr. Kraushaar indicated that theft is an issue. Mr. Kiefhaber stated that there was a pharmacist present from the Kansas Pharmacists Association, Mr. Aaron Kropf, who might better address the issue. Mr. Kropf stated that the percentage of theft has gone down since many businesses are keeping the product behind the counters. Senator Umbarger asked that if the gel caplets and the liquid form of the drug provide the same relief as the hard tablet, then what is wrong with the language as it appears in the current bill. Mr. Kiefhaber answered that some products work more effectively on some people and it is a matter of preference. Senator Journey asked if any of the proponents objected to the striking of section three, as proposed by Mr. Smith. No proponents objected to striking section three.

Chairman Vratil announced the Committee intends to work this bill the following Monday, so if there are any proposed amendments to this bill, please provide them before then. Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for January 20, 2005.