

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on March 10, 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

Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Representative David Huff

Sergeant Rusty James, Lenexa Police Department

Ann Henderson, Prosecutor, City of Lenexa

Christopher J. Tymeson, Kansas Department of Wildlife and Parks

Kyle Smith, Special Agent, Kansas Bureau of Investigation

Judge Stephen Tatum, Chief Judge, Johnson County District Court

Others attending:

See attached list.

Chairman Vratil opened the meeting and the hearing on **HB 2122**.

HB 2122 Increasing from \$500 to \$1000 the misdemeanor felony distinction in crimes involving a type of theft or loss of value

Proponents:

Representative David Huff testified in support of the bill, stating that last year a bill was passed which increased the threshold distinction between misdemeanor and felony theft from \$500 to \$1000. The adjustment was made to the crime of theft of services. Representative Huff stated that to maintain uniformity, all similar crimes with similar threshold distinctions between misdemeanor and felony prosecution should be raised to \$1000. (Attachment 1)

Sergeant Rusty James testified on behalf of the City of Lenexa and the Lenexa Police Department in support of **HB 2122**. (Attachment 2)

Ann Henderson, Prosecutor for the City of Lenexa, stated that Sergeant James' testimony was also on behalf of the City, but she would stand for questions, but there were none.

Chairman Vratil stated the fiscal note indicated a bed space impact on the bill would reduce the number of bed needs by 8-16 in 2006 and 8-17 in 2015. (Attachment 3)

Christopher Tymeson, Chief Legal Counsel for the Kansas Department of Wildlife and Parks, testified that as part of this legislation, K.S.A. 32-1005 was being recommended for revision to restore the commercial values of wildlife as they were in the original bill. The current law establishes monetary values for wildlife, to be used in determining whether or not illegal commercial acts were committed and whether the illegal acts constituted felony crimes. Mr. Tymeson provided a list of recommended values based on the most current information available through the U.S. Fish and Wildlife Service. (Attachment 4) Chairman Vratil requested that Mr. Tymeson work with Jill Wolters to prepare a balloon amendment to add the wildlife values.

Written testimony was provided by Paul Morrison, Johnson County District Attorney, and Scott Miller, Prosecutor, City of Overland Park. (Attachment 5 & 6)

Chairman Vratil closed the hearing on **HB 2122** and opened the hearing on **HB 2387**.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on March 10, 2005, in Room 123-S of the Capitol.

HB 2387 Death of inmate, prisoner or juvenile in custody; investigation by KBI unless natural cause of death

Proponents:

Kyle Smith, Special Agent, Kansas Bureau of Investigation, testified in support of the bill. Mr. Smith stated that the Bureau feels that they would not need to investigate inmate deaths when the cause of death is determined by an autopsy to be natural, or when the prisoner has been attended to by a licensed physician. (Attachment 7)

Written testimony was provided by Secretary Roger Werholtz, Department of Corrections. (Attachment 8)

Chairman Vratil closed the hearing on **HB 2387** and opened the hearing on **HB 2418**.

HB 2418 Magistrate may order person to pay for any costs of the supervision of the condition of release of the appearance bond in an amount not to exceed \$10 per week; increased from \$5

Proponent:

Chief Judge Stephen Tatum testified in support of the bill. Judge Tatum stated that bond supervision is a vital tool for judges, as the courts consider release of low risk defendants, knowing that they will be supervised during the pendency of the case. The cases are supervised by a staff paid on the county scale of \$13.39 an hour, with an average bond caseload of 25-30 offenders that require up to a half hour a week of supervision and administrative time, and costs are exceeding the \$5.00 per week allowed by statute. The offenders pay the cost to the court, which then hires people to do the bond supervision. The fee would be discretionary, up to \$10 per week. (Attachment 9)

Chairman Vratil closed the hearing on **HB 2418**. Chairman Vratil asked the Committee to consider final action on **HB 2418**.

Final Action:

HB 2418 Magistrate may order person to pay for any costs of the supervision of the condition of release of the appearance bond in an amount not to exceed \$10 per week; increased from \$5

A motion was made to recommend the bill favorably and to place it on the Consent Calendar. Senator Bruce moved, seconded by Senator O'Connor, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **HB 2387**.

Final Action:

HB 2387 Death of inmate, prisoner or juvenile in custody; investigation by KBI unless natural cause of death

Chairman Vratil expressed that earlier he had concerns about the phrase, "where the prisoner was regularly attended by a licensed physician," but after talking with staff, the House may have had a good reason to leave the phrase in, because of the delay that may occur otherwise in obtaining a death certificate. The consensus of the Committee was that the phrase be left in the bill.

Senator Schmidt suggested that **SB 89**, a bill related to inmates and the courts being able to order restitution be paid to recover costs, be amended into the bill. A motion was made to amend into the bill **SB 89**. Senator Schmidt moved, seconded by Senator Umbarger, and the motion carried. A motion was made to recommend favorably the bill as amended. Senator Schmidt moved, seconded by Senator Goodwin, and the motion carried.

Final Action:

HB 2122 Increasing from \$500 to \$1000 the misdemeanor felony distinction in crimes involving a type of theft or loss of value

Jill Wolters provided some information regarding **HB 2122**. Ms. Wolters stated that in reviewing the Uniform

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Securities Act, specifically securities theft, there was no felony misdemeanor distinction, as it starts at a \$25,000 level, goes to \$100,000 level, and above \$100,000. Theft currently is under \$1,000, \$25,000, and \$100,000, so there is no consistent application. Chairman Vratil stated that there is a House bill on the Uniform Securities Act that is there primarily because of the concern over the one-year statute of limitations, and that it is going to be referred to an interim committee. Chairman Vratil suggested that it might be better to let the interim committee deal with the inconsistency in theft thresholds.

Chairman Vratil stated there is a proposed amendment that was submitted by the Kansas Wildlife and Parks. A motion was made to amend the bill on pages 11-12, to return the threshold values to what they were originally on wildlife, as recommended by Wildlife and Parks. Senator Bruce moved, seconded by Senator Journey, and the motion carried.

A motion was made to amend **SB213** into the bill. Senator Schmidt moved, seconded by Senator Umbarger, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Schmidt moved, seconded by Senator Umbarger, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **HB 2109**.

Final Action:

HB 2109 Child passenger safety, seat belts, manufactured after 1968

Chairman Vratil stated there was a balloon amendment to modify the bill to say that unless the vehicle was manufactured or assembled with safety belts, then cars manufactured before 1968 were not required to have safety belts installed. (Attachment 10) A motion was made to adopt the balloon amendment. Senator Goodwin moved, seconded by Senator Donovan, and the motion carried.

Senator Donovan proposed an additional amendment be made to the bill to include what was proposed by the Kansas Action for Children. The amendment would include three additions: 1) requires children, ages 4-8 to be restrained in a booster seat; 2) requires children 8 years to 18 years to wear seat belts; 3) the fine would be raised from \$20 to \$60 for not using seatbelts, but \$10 of fine could be waived if there were proof of a passenger restraint system. Senator Donovan stated that the language was almost the same as last year's **SB 329**. A motion was made to adopt the proposed amendment. Senator Donovan moved, seconded by Senator Umbarger, and the motion carried. A motion was made to recommend favorably the bill as amended. Senator Donovan moved, seconded by Senator Goodwin, and the motion carried.

Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for March 14, 2005.