

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on January 31, 2006 in Room 313-S of the Capitol.

All members were present except:
Michael Peterson- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:
Representative Pat Colloton
Kyle Smith, Kansas Bureau of Investigation
Sheriff Mike Keating, Hamilton County
Sheriff Frank Denning, Johnson County
Gary Howell, Johnson County Laboratory Director
Representative Judy Morrison
Eric Rucker, Office of Attorney General
Kyle Smith, Kansas Bureau of Investigations
Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence

Representative Yoder requested a bill that would extend the sunset provision on immunity for civil liability for anhydrous ammonia by 3 years. He made the motion to have his request introduced as a committee bill. Representative Owens seconded the motion. The motion carried.

Chairman O'Neal opened the hearing on **HB 2554 - collection of DNA specimens for persons arrested of person felony or drug severity level 1-2.**

Representative Pat Colloton appeared as the sponsor of the proposed bill which would provide for the taking of DNA at the time of booking for those arrested for violent crimes and felonies. The results would be entered into a statewide DNA database maintained by the Kansas Bureau of Investigation (KBI). Currently, there are five other states that provide for the collection of DNA at the time of an arrest. She noted that the fiscal note was rather large but has understood that the KBI had requested a federal grant that would help the database be in place by 2007. (Attachment 1)

She requested a balloon amendment which would:

- strike "an oral sample" on page 1, line 32 and replace with "or an oral or other biological sample authorized by the KBI
- if the court determines that there was not probable cause fo the arrest, they shall send a copy of the determination to the KBI and the KBI shall remove the specimen or sample from their database.
- the KBI shall also provide all specimen vials, mailing tubes, labels and instructions for collecting oral or other biological samples

Sheriff Frank Denning, Johnson County, appeared as a proponent to the bill. A DNA database would provide a powerful tool to identify perpetrators of crimes and hold them accountable for their actions. (Attachment 2)

Gary Howell, Johnson County Laboratory Director, sited that studies show the chance of lifting identifiable latent prints from a handgun is less than 10% while the chance of getting enough DNA from a swabbing of the trigger and hammer are over 30% . (Attachment 3)

Sheriff Mike Keating, Hamilton County, supported the proposed bill because it would organize and increase in the capturing of offenders. DNA is a persons signature, more so than fingerprints. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on January 31, 2006 in Room 313-S of the Capitol.

Kyle Smith, Kansas Bureau of Investigation, suggested that the bill would move identification into the next generation and that it is easier to collect DNA than it is to get a good set of fingerprints. The DNA program has mostly been funded by Federal grants and the State has only contributed a small amount. He was concerned that the federal resources would not be available in the future and stressed the need for the state to start picking up more financial responsibility. He also stressed that the KBI is short of office space and would need to acquire additional space if the proposed bill passed. (Attachment 5)

While he supported Representative Colloton's balloon he requested two additional amendments:

- change the effective date to July 1, 2007
- amend page 4, line 25 so that in the event a person's DNA sample is lost or not adequate, the person shall provide another sample for analysis

Committee discussion centered on whether the DNA results would be expunged if the individual was found not guilty. It was pointed out that the state currently does not expunge fingerprints and wasn't sure what the difference was since both are ways to identify a person.

The hearing on HB 2554 was closed.

The hearing on HB 2626 - missing persons and unidentified persons and human remains, reporting and investigation of, was opened.

Representative Judy Morrison appeared as the sponsor of the bill, which was based on the President's DNA initiatives. (Attachment 6)

Eric Rucker, Office of Attorney General, commented that according to the National Crime Information Center there were at least 5,639 unidentified deceased persons last year.

Gary Howell, Johnson County Laboratory Director, stated that the bill would assist law enforcement with investigations of crimes and hopefully close many cases. (Attachment 7)

Kyle Smith, Kansas Bureau of Investigations, explained that all states provide missing and unidentified persons information to NCIC. The addition of DNA analysis and comparison between missing and unidentified persons would improve the matching of those individuals. In Kansas, as of January 2006, 537 persons were listed in KBI's repository as missing. The majority of these are children under the age of 18. (Attachment 8)

Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence, was concerned with law enforcement providing the abuser information where the missing person resides and requested the bill be clarified that the only information an abuser can receive is that the missing person was found, not where they are residing. (Attachment 9)

The hearing on HB 2626 was closed.

The committee meeting adjourned at 5:30 p.m. The next meeting was scheduled for 3:30 p.m. on February 1, 2006 in room 313-S.