

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 18, 2008 in Room 313-S of the Capitol.

All members were present except:

Annie Kuether- excused
Marti Crow - excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Athena Andaya, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Jason Thompson, Office of Revisor of Statutes
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:

Randy Combs, D.A.R.E. Officer with Kearney County Sheriff's Office
Marci Ralston, Chief Bureau of Department of Division of Motor Vehicle
Cindy Kelly, Kansas Association of School Boards
Representative Joe Patton
Kathy Porter, Office of Judicial Administration
Representative Lance Kinzer
Kent Cornish, Kansas Association of Broadcasters
Rich Gannon, Kansas Press Association
John Lewis, Self
Alan Cobb, Director American for Prosperity
Anne Kindling, Kansas Association of Defense Counsel

The hearing on **HB 2816 - driver's license suspension; possession of illegal drugs or weapons in school**, was opened.

Randy Combs, D.A.R.E. Officer with Kearney County Sheriff's Office, explained that the 2007 bill was passed through the Education Committee but once it was used they found out that it violated the Federal Right to Privacy Act. The Act prohibits schools from disclosing certain information including suspensions or expulsions of students for disciplinary reasons. The proposed bill would return the statute as it was before the passage of legislation in 2007. He requested an amendment to have the reporting done to a law enforcement agency "as soon as possible but not to exceed 10 days." (Attachment #1)

Marci Ralston, Chief Bureau of Department of Division of Motor Vehicle, explained that they had not received notification till one year after the incident and that was the cause of legislation last year.

Staff explained that **HB 2816** puts the statute back the way it was originally, before the 2007 legislation, and keeps the notification within 10 days of the violation. Pupils have the right to request and challenge their violation with DMV before their license is suspended.

Cindy Kelly, Kansas Association of School Boards, appeared before the bill as a proponent. It solves the violation of the federal act by allowing the reporting of observed misconducts to law enforcement. (Attachment #2)

The hearing on **HB 2816** was closed.

The hearing on **HB 2825 - closing court proceedings & sealing court records**, was opened.

Representative Lance Kinzer appeared as the sponsor of the proposed bill. He explained that the bill would not allow the court to close a hearing or allow pleadings to be filed under seal unless it makes findings on the record that the identified safety, property or privacy interest predominates the case and outweighs the public interest and access to the court record. It does not allow the court to conduct business behind close doors.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 19, 2008 in Room 313-S of the Capitol.

A lot of judges are currently doing this, it would just clarify what the standard is. ([Attachment #3](#))

Kent Cornish, Kansas Association of Broadcasters, appeared as a proponent of the bill. The Association has always supported open government & open courts. ([Attachment #4](#))

Rich Gannon, Kansas Press Association, appeared in support of the proposed bill. The bill recognizes that there are times case files need to be closed but the reason for the closed file needs to be on file on the record. ([Attachment #5](#))

John Lewis, Self, likened the bill to the current statute that requires school boards to disclose why they are going into executive session. This would place the same requirements on the courts. ([Attachment #6](#))

Alan Cobb, American for Prosperity, stated that the rules are already in place in Federal Court and should also apply to state courts. ([Attachment #7](#))

Anne Kindling, Kansas Association of Defense Counsel, brought to the committees attention an unintended consequences of the bill, i.e. settlements in lawsuits are sometimes closed as to the amount awarded ([Attachment #8](#))

Written testimony in opposition to the bill was provided by the Kansas County & District Attorneys Association. ([Attachment #9](#))

The hearing on **HB 2825** was closed.

The hearing on **HB 2813 - retired judges, retention election**, was opened.

Representative Joe Patton explained that the proposed bill would allow citizens to vote on whether to retain senior judges. The vote would be in the county where the judge originally served. The main concern is that every judge is either retained or approved by merit selection and currently a senior judge is just appointed by the Supreme Court.

Kathy Porter, Office of Judicial Administration, informed the members that the senior judge program has been a bargain for the state. The judges who serve in this program only receives 25% of the salary they received when they were on the bench full time. There are normally 10 senior judges across the state. It is basically the Supreme Court decision as to who is asked to be a senior judge. They receive input from the judges district before the appointment is made. They cannot serve more than 12 years, they are usually appointed for two years at a time. ([Attachment #10](#))

Written testimony, in opposition, was provided by the Kansas District Judges' Association. ([Attachment #11](#))

The hearing on **HB 2813** was closed.

The committee meeting adjourned at 5:15 P.M.. The next meeting was scheduled for February 19, 2008.