

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 21, 2008 in Room 313-S of the Capitol.

All members were present except:

Annie Kuether- excused
Ben Hodge - excused
Kevin Yoder - 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:

Representative Kasha Kelley
Debra Wilson, Kansas Judicial Council, Criminal Law Advisory Committee
Brian Sanderholm, Citizen
Chris Smith, Cowley County Attorney
Sean Wallace, Chief of Police, Arkansas City
Eileen Doran, Director of YWCA, Topeka
Judy Davis, Crisis Center of Manhattan
Jim Bartle, Kansas Department of Revenue
Eric Stafford, Associated General Contractors of Kansas

The hearing on **HB 2850 - stalking; protection orders**, was opened.

Representative Kasha Kelley appeared as the sponsor of the proposed bill. She commented that after the brutal death of Jodi Sanderholm she was speaking to the Arkansas City police about how hard it is to file stalking charges against individuals. She worked on and introduced HB 2473 during the 2007 legislative session, which was eventually referred to the Kansas Judicial Council. The Judicial Council met on the bill and came up with recommendations, which is the makeup of the bill being discussed today. She appreciated the work they did on this issue. The most notable change that the bill would make is to remove the insurmountable "credible threat" requirement which is hard to determine and prove. (Attachment #1)

Debra Wilson, Kansas Judicial Council, Criminal Law Advisory Committee, explained that the bill does the following:

1. Removes the "credible threat" requirement found in current statute. The key is how the behavior is perceived by the targeted person.
2. Contains a tighter or more helpful definition of "course of conduct."
3. Changes the law to include fear for the safety of a third party, but limits this expansion to member of the targeted person's immediate family.

The Advisory Committee looked at stalking legislation nationwide and based the bill loosely on the New Hampshire statute. (Attachment #2)

Brian Sanderholm, Citizen, relayed the story their daughter, Jody, and her brutal death. He stressed that law enforcement needs to be trained in the new law and citizens need to help prevent the next victim. U.S. statistics state that one in seven women will be stalked sometime in their lifetime. (Attachment #3)

Chris Smith, Cowley County Attorney, read his testimony in support of the bill. (Attachment #4) He proposed the following three amendments:

- Section (a)(3) refers to "at least one act listed in subsection (d)(1)" The bill does not have a section (d)(1).
- There is concern in Section (d) with the term "burden of proof" being used when describing exceptions, excuses or exemptions that could apply to a defense. The language suggests a possible affirmative defense. This section needs clarification.
- Section (d) refers to exceptions, excuses or exemptions however, none are listed within the bill.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 21, 2008 in Room 313-S of the Capitol.

Sean Wallace, Chief of Police, Arkansas City, commented that stalking only stops when a stalker kills the victim or when he finds a new person to abuse.

Eileen Doran, Director of YWCA, provided statistics on known stalking cases in Topeka. (Attachment #5)

Judy Davis, Crisis Center of Manhattan, read her testimony in support of the bill. (Attachment #6)

Written testimony, in support of the bill, was provided by the Office of Attorney General and Kansas Coalition Against Sexual and Domestic Violence. (Attachments 7 & 8)

The hearing on **HB 2850** was closed.

The hearing on **HB 2794 - civil procedure; public works bonds and certificates of deposit**, was opened.

Jim Bartle, Kansas Department of Revenue, appeared before the committee as a proponent of the bill. He explained that the bill would permit claims to be made against bonds or CDs for amounts owed to the state for liabilities, such as withholding taxes and unemployment insurance contributions.

There are employers incorrectly classifying their employees as independent contractors in order to avoid responsibility for payment of federal and state withholding taxes and unemployment insurance, workers compensation, social security and other payroll taxes. (Attachment #9) He hoped that when a state job is awarded, the contractor and subcontractor would get together and make sure that everyone is classified.

Eric Stafford, Associated General Contractors of Kansas, informed the committee that 2007 SB 292 would have repealed a section of the statute that held general contractors responsible for unpaid unemployment and payroll taxes of subcontractors; it passed out of committee but failed to get above the line. The general contractor has no control over how a subcontractor runs his business. He does not know the extent of the misclassification of employment. However, the state shouldn't hold one business accountable for another's misclassification. (Attachment #10)

Written testimony, in support of the bill, was provided by Kansas Building Industry. (Attachment #11)

The hearing on **HB 2794** was closed.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for February 25, 2008.