

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:30 a.m. on March 9, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator Derek Schmidt - excused

Senator Jean Schodorf - excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes

Doug Taylor, Office of the Revisor of Statutes

Athena Andaya, Kansas Legislative Research Department

Karen Clowers, Committee Assistant

Conferees appearing before the Committee:

Rep. Scott Schwab

Kristine Olsson, Forensic Scientist, Johnson County Sheriff's Office

Ed Klumpp, Kansas Association of Chiefs of Police & Kansas Peace Officers Association

Randy Hearrell, Kansas Judicial Council

Rep. Jeff King

Bob Keller, Johnson County Sheriff's Office

James M. Concannon, Professor of Law

Others attending:

See attached list.

The Chairman opened the hearing on **HB 2039 - Identification of defendant by unique DNA profile sufficient for reasonable certainty requirement of warrant.** Jason Thompson, staff revisor, reviewed the bill.

Rep. Scott Schwab appeared as sponsor of the bill allowing for an arrest warrant be issued on a DNA profile. Currently, arrest warrants are issued by name. This bill utilizes the technology of DNA to issue an arrest warrant and will lock in the statute of limitations on certain crimes. (Attachment 1)

Kristine Olsson testified in support stating DNA profiles will provide another means to identify offenders named as John Doe in arrest warrants. DNA profiles are unique descriptions of an individual and are legally accepted and used in the United States. Inclusion of the unique genetic profile in the language of the warrant will effectively identify a defendant with reasonable certainty and will assist in cases in which DNA evidence is available but a perpetrator's name is unknown. (Attachment 2)

Ed Klumpp spoke in support stating enactment of this bill will help law enforcement and prosecutors to assure the victims of crimes that every available tool is used to identify offenders. The bill will reinforce the legislative intent of K.S.A. 21-2304 while providing further guidance and clarity to the justice system. (Attachment 3)

There being no further conferees, the hearing on **SB 2039** was closed.

The Chairman opened the hearing on **HB 2059 - Proceeds derived from violation of the uniform controlled substances act or any substantially similar offense from another jurisdiction.** Jason Thompson, staff revisor, reviewed the bill.

Randy Hearrell spoke in favor stating **HB 2059** will address a gap in current law regarding possession of drug proceeds. The Judicial Council reviewed K.S.A. 65-4142 and agree with the proposed amendments contained in the bill. (Attachment 4)

Ed Klumpp appeared in support stating the bill will clarify the intent of K.S.A. 65-4142 and remedy an unintended loophole in the statute. The proposed amendments clearly does no harm and will allow prosecution of offenders regardless of where the actual act of illegal drug manufacturing or distribution is taking place. (Attachment 5)

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on March 9, 2009, in Room 545-N of the Capitol.

There being no further conferees, the hearing on **SB 2059** was closed.

The Chairman opened the hearing on **HB 2060 - Violation of battery against a law enforcement officer causing bodily harm, sentence is presumed imprisonment.** Jason Thompson, staff revisor, reviewed the bill.

Rep. Jeff King testified as sponsor of the bill which will apply to battery convictions that result in bodily harm to an officer. Although battery against law enforcement officers is a felony, only a small number of convicted offenders spend time in prison. Police officers put their lives on the line every day to protect Kansans, enactment of this bill will ensure that criminals who cause bodily harm to officers will spend time in prison. (Attachment 6)

Bob Keller spoke in support stating assaults on law enforcement officers is on the rise. The knowledge that imprisonment is the presumptive sentence for battering a law enforcement officer will dissuade would-be attackers. In addition to providing a greater deterrent against attacks the bill is fiscally responsible. (Attachment 7)

Ed Klumpp appeared as a proponent stating the bill does not introduce a new crime or increase the severity level of the crime but simply adds a simple rule to make the sentence presumptive imprisonment and encouraged enactment of the bill. (Attachment 8)

There being no further conferees, the hearing on **SB 2060** was closed.

The Chairman opened the hearing on **HB 2250 - Rules of evidence; admissibility of prior acts or offenses of sexual misconduct.**

James Concannon provided neutral testimony regarding HB 2250 indicating he feels the bill goes beyond the problem of pedophilia. It makes a sweeping change applicable in every sex crime prosecution. The bill is nearly verbatim of the Federal Rule of Evidence 413 which has been highly criticized by evidence scholars on policy grounds and for poor drafting. Only a few States have adopted Rule 413 due to potential problems. Mr. Concannon indicated the United States Judicial Council has proposed alternative language and recommended no change to Kansas statutes without input from Judicial Council. (Attachment 9)

The next meeting is scheduled for March 10, 2009.

The meeting was adjourned at 10:30 a.m.