

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:40 a.m. on March 10, 2009, in Room 545-N of the Capitol.

All members were present.

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. Raj Goyle  
Kris Ailslieger, Assistant Attorney General  
Christine Ladner, Chief Deputy Dist. Atty. (Shawnee) & Kansas County & District Attorneys Assn.  
Tom Bartee, Kansas Association of Criminal Defense Lawyers

Others attending:

See attached list.

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

Rep. Raj Goyle testified in support providing case history illustrating the need for clarifying language to K.S.A. 60-455. Enactment of **HB 2250** corrects a loophole by allowing prior acts of sexual misconduct be entered as evidence. ([Attachment 1](#))

Kris Ailslieger spoke in favor stating the language in **HB 2250** is not a sweeping change. The language comes from Federal Rules of Evidence 413 and 414 which has been tested in the courts and upheld. The Attorney General strongly supports enactment of HB 2250 and believes it is an appropriate response to the request for action made by the Kansas Supreme Court in *State v. Prine*. ([Attachment 2](#))

Christine Ladner appeared in support indicating recent appellate decisions have brought attention to a significant deficit in our law relating to the admissibility of evidence. Proposed changes to the statute are aimed at addressing the need for juries to be given all relevant evidence while affording defendants due process. ([Attachment 3](#))

Tom Bartee spoke in opposition stating **HB 2250** provides for a radical change in the rules of evidence. As written the bill allows for a defendant's bad character to become an issue in a sex crime case. The court will be faced with a mini-trial before trial modeled after commitment proceedings, requiring extensive expert testimony and examinations of the defendant. This will most likely increase the costs of litigation without increasing the State's ability to win justified convictions. Mr. Bartee indicated the Federal Rule of Evidence 413 upon which this bill is based has been called into question. ([Attachment 4](#))

Written testimony in support of **HB 2250** was submitted by:  
Senator Terry Bruce ([Attachment 5](#))

There being no further conferees, the hearing on **HB 2250** was closed.

The Chairman opened the hearing on **HB 2097 - Criminal jury trials, alternate or additional juror selection.**

Melissa Johnson appeared in support and provided a review of the bill. Ms. Johnson stated enactment of the bill would provide the statutory framework for what judges find to be the best practice and often do with the consent of the parties. **HB 2097** codifies the current practice of selecting alternate jurors promoting the efficient use of judicial resources. ([Attachment 6](#))

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:40 a.m. on March 10, 2009, in Room 545-N of the Capitol.

Written testimony in support of **HB 2097** was submitted by:  
Chief Judge Richard Smith, 6<sup>th</sup> Judicial District (Attachment 7)

There being no further conferees, the hearing on **HB 2097** was closed.

The Chairman opened the hearing on **HB 2099 - Withdrawal of guilty plea, time limitation.**

Melissa Johnson appeared in support and provided a review of the bill. Ms. Johnson provided a case history relating to the subject illustrating the need for the proposed legislation. Ms. Johnson indicated the bill is consistent with the original intent of the legislature that timely requests serve the interests of justice. The failure to include a time limit to requests to withdraw a plea allows for manipulation and abuse of the criminal justice system while causing undue pain and suffering to victims and their families. (Attachment 8)

There being no further conferees, the hearing on **HB 2099** was closed.

The next meeting is scheduled for March 11, 2009.

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