

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:35 a.m. on March 12, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator Derek Schmidt- 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

Jerry Donaldson, Kansas Legislative Research Department

Karen Clowers, Committee Assistant

Conferees appearing before the Committee:

Senator Faust-Goudeau

Elizabeth Bossell

Pete Bodyk, Manager, Traffic Safety Section, Kansas Department of Transportation

Helen Pedigo, Kansas Sentencing Commission

Tom Stanton, Kansas County & District Attorneys Association

Will Larson, Associated General Contractors of Kansas

Dean Ferrel, Ferrell Construction

Bennie Crossland, President, Crossland Construction Company

Woody Moses, Kansas Ready Mixed Concrete Association

Clint Patty, Frieden & Forbes Law Firm

Steve Glass, LRM Industries, Inc.

Others attending:

See attached list.

Senator Schordorf moved, Senator Lynn seconded, to approve the Committee minutes of January 22 and January 23. Motion carried.

The Chairman opened the hearing on **SB 279 - Mandatory minimum sentence for involuntary manslaughter while driving under the influence of alcohol drugs.**

Senator Faust-Goudeau testified in support as sponsor of the bill. The Senator related the circumstances of a recent case where the offender received little over seven years imprisonment for the death of two people and the serious injury to two other people. The offender was then allowed to be free on bail while the case was appealed. It is unconscionable to allow drunk drivers so much leniency and it is time for stricter penalties regarding drunk drivers to enacted. (Attachment 1)

Elizabeth Bossell spoke in support as the mother of a victim. Ms. Boswell related the anguish and grief her family has suffered due to the many court dates and legal proceedings due to delays, continuances, and appeals. The changes contained in this bill will eliminate other families from enduring the same pain. (Attachment 2)

Written testimony in support of **SB 279** was submitted by:

Avis E. Cosby (Attachment 3)

There being no further conferees, the hearing on **SB 279** was closed.

The Chairman opened the hearing on **SB 280 - Suspension and restriction of driving privileges for test refusal, test failure or alcohol or drug-related conviction for persons under 21.**

Pete Bodyk testified in opposition relating enactment of the bill as written would cause Kansas to be non-compliant with a federal requirement on minimum penalties for repeat DUI offenders. The penalty for this non-compliance is a transfer of three percent of the state's core construction funds (\$7.9 million) to safety programs. The transfer of funds would continue as long as the State remains non-compliant. This action

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would have a significant impact on the Department of Transportation's budget and recommends this bill not be enacted. ([Attachment 4](#))

There being no further conferees, the hearing on **SB 280** was closed.

The Chairman opened the hearing on **SB 281 - Sentencing for severity level 4 drug crimes; probation or assignment to community correctional services up to 18 months.**

Helen Pedigo appeared in support stating enactment of **SB 281** will mirror what is often current practice reflecting sentencing based on the 2003 SB 123 substance abuse treatment program. This will allow the probation term to run the full term for treatment. Ms. Pedigo also requested the effective date be changed to publication in the Kansas Register. ([Attachment 5](#))

Tom Stanton spoke in favor indicating the bill is intended to correct an inconsistency in the sentencing statutes and urged enactment of the bills ([Attachment 6](#))

There being no further conferees, the hearing on **SB 281** was closed.

The Chairman opened the hearing on **SB 292 - Civil procedure, liens; requiring notice of commencement and notice of furnishings to be filed prior to filing certain commercial property liens.**

Will Larson testified in support stating **SB 292** offers a method for remote claimants (second-tier subcontractors and suppliers) to notify the general contractor of their intent to provide goods and services on a construction project. This will help ensure that all parties are paid for goods and services and protect all parties of a construction contract. ([Attachment 7](#))

Dean Ferrell spoke in favor indicating that over the years much effort has been exerted to assure that laws are in place to protect vendors and subcontractors are paid in a timely manner. These laws generally work well but there is a gap that occurs when general contractors pay subcontractors for services rendered without the knowledge that the subcontractor has failed to pay their subcontractors or vendors leaving the general contractor at risk. This bill will allow contractors to better monitor the payment histories of its subcontractors. ([Attachment 8](#))

Bennie Crossland appeared as a proponent stating general contractors are required to give owners a completed project free of liens. When remote claimants do not get paid, they file liens which in turn can require the general contractor pay twice for the same work. This bill will reduce liens being filed and ensure remote claimants are paid. ([Attachment 9](#))

Woody Moses spoke in opposition stating Kansas has a good lien law structure that spreads the risk in a balanced manner. Lien laws exist for a good reason and **SB 292** unfairly tips the scale against suppliers and subcontractors by decreasing the time to file a lien from 90 days to 21 days. This bill will increase construction costs, create unnecessary paperwork, and lacks a compelling reason for passage. ([Attachment 10](#))

The Chairman indicated the Committee was out of time and would continue the hearing at the next Committee meeting.

The next meeting is scheduled for March 13, 2009.

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