

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 16, 2006 in Room 313-S of the Capitol.

All members were present except:

Jim Ward- excused
Michael Peterson- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Senator Greta Goodwin
Chief Dan Givens, Arkansas City Police
Senator Jean Schodorf
Chief Norman Williams, Wichita Police Department
Lt. Jeff Easter, Wichita Police Department
Kyle Smith, Kansas Bureau of Investigation
Rex Beasley, Office of Attorney General
Representative Sydney Carlin
Rocky Nichols, Disability Rights Center
Robert Collins, Kansas Taxpayers Against Fraud
Michelle Sweeney, Association of Community Mental Health Centers
Kathy Lobb, Advocate Collation of Kansas
Tom Laing, Interhab
Jerry Slaughter, Kansas Medical Society
Bob Day, Division of Health Policy & Finance
Gary Daniels, Secretary of SRS
Jane Rhys, Kansas Council on Developmental Disabilities
Jennifer Schwartz, Kansas Association of Centers for Independent Living

Chairman O'Neal opened the hearing on **SB 180 - preliminary screening tests for alcohol consumption by minors.**

Senator Greta Goodwin, appeared as the sponsor of the bill which would amend the crime of unlawful possession, consumption, or purchase of alcoholic liquor or cereal malt beverages by a minor to allow the use of preliminary screening tests of a minor's breath by law enforcement. (Attachment 1)

Chief Dan Givens, Arkansas City Police, appeared as a proponent of the bill. It would provide that a law enforcement officer may request a person under the age of 21 submit to a preliminary breath screening to determine if alcohol has been consumed and determine if the officer has reasonable grounds to believe that the individual has alcohol in their body. (Attachment 2)

The hearing on **SB 180** was closed.

The hearing on **SB 458 - criminal street gang prevention act**, was opened.

Senator Jean Schodorf requested this bill because of the City of Wichita's concern with the increasing problems of gang activities. The bill creates new crimes for recruiting criminal street gang membership and criminal street gang intimidation. It would also establish a \$50,000 minimum bail for street gang members who have been arrested for either of the crimes. (Attachment 3)

Chief Norman Williams, Wichita Police Department, stated that it is important to provide help for those who want to get out of gangs and live a better life. This bill would hopefully stop the intimidation that goes on when a member request he be allowed to withdraw from the club or has terminated his membership. (Attachment 4)

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Lt. Jeff Easter, Wichita Police Department, commented that every community has some type of gang activity. This bill would help stop the gangs recruiting, especially those who are young. Approximately 15 other states have some type of similar legislation. ([Attachment 5](#))

Kyle Smith, Kansas Bureau of Investigation, explained that while the bill is not as strong as they had hoped it was an excellent step toward fighting gang violence and they support it. ([Attachment 6](#))

Chairman O'Neal opened the hearing on **SB 342 - obstruction of medical fraud investigation & forfeiture of proceeds.**

Rex Beasley, Office of Attorney General, appeared in support of the bill which creates the new crime of obstruction of a medicaid fraud investigation and expand the Kansas Standard Asset Seizure and Forfeiture Act to cover the crime of Medicaid fraud.

The crime of medicaid fraud would include: falsifying, concealing, or covering up a material fact or making or causing any materially false writing or document. It would be a severity level 9, nonperson felony. ([Attachment 7](#))

The hearing on **SB 342** was closed.

The hearing on **SB 326 - civil penalties for false claims against the state**, was opened.

Representative Sydney Carlin appeared as the sponsor of the bill. She explained that the bill creates a civil cause of action against any person who knowingly submits or benefits from fraudulent medicaid claims. It would also create civil penalties and treble damages for violators. Any person who violates the act and within 30 days reimburses the state and cooperates with the investigation would not be subject to criminal prosecution or the civil penalties but would be required to pay twice the amount of damages sustained by the state. ([Attachment 8](#))

Robert Collins, Kansas Taxpayers Against Fraud, stated that if the state passes a false claims act it would be eligible to receive up to 25% of a federal match. ([Attachment 9](#))

Rocky Nichols, Disability Rights Center, appeared with concerns on the bill but would support it if the balloon he provided was adopted. ([Attachment 10](#))

His concerns were as follows:

- community based services operated by the state would be restricted in providing services to meet unique needs of those requesting their services
- section 2 (a)(2) gives medicaid state plan and the provider manuals the force and effect of the law when one does not fully comply with federal or state law

Rex Beasley, Office of Attorney General, remarks mirrored those of Senator Schodorf. He worked with the Disability Rights Center to reach agreements on the balloon. He believes it will strengthen the state's ability to prosecute fraudulent acts while also recognizing that mechanisms exist to legally protect the state's responsibility to provide medically necessary individualized services to Kansans with disabilities who are eligible for medicaid. ([Attachment 11](#))

The following conferees were all concerned with the effect section 2 would have on state employees and officials in the performance of their daily job responsibilities:

Michelle Sweeney, Association of Community Mental Health Centers ([Attachment 12](#))

Kathy Lobb, Advocate Collation of Kansas ([Attachment 13](#))

Tom Laing, Interhab ([Attachment 14](#))

Gary Daniels, Secretary of SRS ([Attachment 15](#))

Jane Rhys, Kansas Council on Developmental Disabilities ([Attachment 16](#))

Jennifer Schwartz, Kansas Association of Centers for Independent Living ([Attachment 17](#))

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Jerry Slaughter, Kansas Medical Society, believes that the proposed bill is unnecessary because Kansas has ample tools to prosecute these type of cases under the Federal False Claims Act. (Attachment 18)

Bob Day, Division of Health Policy & Finance, informed members that Kansas processes 40,000 medicaid claims a day and reimbursements are in excess of \$2 billion dollars. Filing claims with errors occur for anyone filing a claim and requested that they have discretion as to determine which ones are legitimate claims. (Attachment 19)

The hearing on SB 326 was closed.

The committee meeting adjourned at 6:00 p.m. The next meeting was scheduled for March 20, 2006