

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 5, 2008 in Room 313-S of the Capitol.

All members were present except:

- Representative Marti Crow- excused
- Representative Raj Goyle - excused
- Representative Lance Kinzer - excused
- Representative Jim Ward - 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:

- Barbara Hinton, Kansas Legislative Post Audit
- Mark Stafford, Kansas Board of Healing Arts
- Representative Pat Colloton
- Sheriff Frank Denning, Johnson County

Representative Pauls requested two bills on behalf of Representative Candy Ruff:

- clean-up on right to carry bill by allowing expungements to be looked at
- licensed fire arm dealers can ship guns and silencers to law enforcement personal

Representative Pauls made the motion to have the requests introduced as committee bills. Representative Whitham seconded the motion. The motion carried.

The hearing on **HB 2620 - state board of healing arts, non-disciplinary resolutions**, was opened.

Jerry Donaldson provided an overview of the recommendations from the Special Committee on Judiciary. The committee was charged with reviewing the Legislative Post Audit report on the Board of Healing Arts (BOHA). The committee recommend a bill be introduced with regard to alternative sanctions to accomplish competency maintenance in a non-disciplinary setting.

Barbara Hinton, Kansas Legislative Post Audit, provided some background on the bill. The issue that was studied and brought to the forefront due to an audit showed that there is a lack of staff resources and the board is only permitted to take disciplinary actions when there are repeated instances or a pattern of a practice that is substandard. Since the audit, the board has adopted the policy to investigate alleged practice below the standard of care without waiting for a pattern to develop. (Attachment #1)

Mark Stafford, Kansas Board of Healing Arts (BOHA), stated that the only types of cases that were put off were cases where the standard of care was at issue. This is because there needed to be an investigation of the issue. They were overwhelmed with many complaints. The proposed bill would allow the board the opportunity to identify potential problems early and to address issues of negligence before patterns start to exist without resorting to adversarial disciplinary process. (Attachment #2)

Mr. Stafford explained that when the BOHA receives a complaint, no matter how small the complaint seems, there is an investigation. If the facts show that a further investigation is needed then that case is then given a priority number. This number determines how fast the assigned investigator will act. Once the investigator has received all the information he presents it to the disciplinary attorney who will review and either pursue it or not.

If a standard of care type of question is involved, the case is sent to a peer-review committee for a recommendation. The recommendation is then forwarded to the disciplinary panel. If the disciplinary panel decides it looks like there is a violation, the board will either file a disciplinary petition or offer a settlement.

CONTINUATION SHEET

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Written testimony was provided by the Kansas Medical Society and the Kansas Association for Justice. (Attachments #3 & 4)

The hearing on **HB 2620** was closed.

The hearing on **HB 2701 - laboratory fees for criminal procedures; heart of America regional computer forensic laboratory**, was opened.

Representative Pat Colloton appeared as the sponsor of the proposed bill. She explained that the bill would allow a judge to assess a court cost in the amount of \$400 against a convicted defendant for forensic laboratory service. This allows for the laboratory to recover court costs for the analysis. (Attachment #5)

Sheriff Frank Denning, Johnson County, stated that the Heart of America Regional Computer Forensic Laboratory (HARCFL) has become a very important tool in fighting crime. The bill will allow them to receive similar compensation as other forensic labs. While they are located in Missouri, 50% of their cases derive from Kansas. Eleven of the eighteen law enforcement departments assigned to the HARCFL are from Kansas. (Attachment #6)

Kevin Steck, Director of HARCFL, explained that currently all forensic exams are done at no costs. Western District of MO are more offense specific than lab for reimbursement. The lab focuses only on digital forensic.

The hearing on **HB 2701** was closed.

The committee meeting adjourned at 4:30 p.m. The next meeting was scheduled for February 6, 2008.