

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 6, 2008 in Room 313-S of the Capitol.

All members were present except:

Annie Kuether- excused
Lance Kinzer- excused
Marti Crow- excused

Committee staff present:

Jerry Ann Donaldson, 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:

Representative Lee Tafanelli
Angela Beckham, Citizen
Karen Dwyer - Citizen
Fawn Demasi, Citizen
Ed Brancart, Past President of Kansas County & District Attorney's Association

Ed Brancart, Kansas County & District Attorney's Association, appeared before the committee with a bill request which would close a loophole of courts granting non-prison sentences. Representative Pauls made the motion to have the request introduced as a committee bill. Representative Roth seconded the motion. The motion carried.

Representative Joe Patton requested a committee bill that relates to retention elections for judges. He made the motion to have the request introduced as a committee bill. Representative Watkins seconded the motion. The motion carried.

Representative Pauls requested a bill introduction concerning consumer protection allowing federal law to govern in several areas. She made the motion to have the request introduced as a committee bill. Representative Wolf seconded the motion. The motion carried.

The hearing on **HB 2684 - felony criminal desecration of human remains**, was opened.

Representative Lee Tafanelli explained that the proposed bill would make it a criminal felony for any type of desecration of a grave. The bill was brought to him by a constituent. The emotional harm incurred by the family seems to be shortchanged because the individuals who committed the crime were only charged with a misdemeanor. (Attachment #1)

Angela Beckham, Citizen, appeared before the committee and relayed her story. The ashes of her son, Justin, were stolen from his grave and given away. They were surprise to find out that the individuals could only be charged with a misdemeanor. She supported the change in the sentencing to a felony. Hopefully, this will make disrespectful individuals who commit such a crime to be reminded of what they did every day. (Attachment #2)

The hearing on **HB 2684** was closed.

The hearing on **HB 2674 - creating the crime of negligent homicide**, was opened.

Representative Vickrey was contacted by Ms. Dwyer who informed him of a weakness in the law with regard to negligent homicide. This is mainly to penalize someone who intentionally does not take any action when injuries are ignored.

Karen Dwyer , Citizen, appeared before the committee in support of the proposed bill. Her granddaughter was scalded over 75% of her body while in the care of her daughters boyfriend, James. He did not contact 911 until 20 minutes after the baby was scalded. She was burned on May 28 and passed away on the 31,

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 6, 2008 in Room 313-S of the Capitol.

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Ms. Dwyer believes that he knew the severity of the injury, because he gave the baby aspirin before placing her in bed. The county prosecutor decided not to charge him with a crime, because he felt that the injury was unintentional. Ms. Dwyer suggested that James would have immediately called 911 if it was unintentional. She commented that they have requested the attorney general's office to look at the case and that there should be a decision in the next few weeks as to whether charges would be filed. (Attachment #3)

Fawn Demasi, Citizen, expressed her sadness in the way baby deaths are handled, like no one cares. People need to be held more accountable for babies and elderly individuals who are in their care.

Ed Brancart, Past President of Kansas County & District Attorney's Association, agreed that this is a horrendous tragedy. However, the Association opposed the bill today because current law already covers these types of acts. The bill is too broad and would apply to most every death that someone happens to see. (Attachment #4)

Committee was concerned that there was not a charge brought under K.S.A. 21-3608. Child endangerment has less to do with the act and more so with what happened after that. They felt there was a definite failure with investigation and the prosecutor not bring charges.

The hearing on **HB 2674** was closed.

HB 2643 - resolving a conflict between two statutes concerning service of process for garnishment on insurance companies.

Representative Pauls made the motion to report HB 2643 favorably for passage and be placed on the consent calendar. Representative Roth seconded the motion. The motion carried.

HB 2700 - community corrections in Johnson County; adult offender program extended to July 1, 2009.

Representative Colloton made the motion to report HB 2700 favorably for passage and be placed on the consent calendar. Representative Garcia seconded the motion. The motion carried.

HB 2656 - authorizing cemetery corporations to convey real estate not plated into cemetery lots free from trust restrictions.

Representative Patton made the motion to report HB 2656 favorably for passage and be placed on the consent calendar. Representative Watkins seconded the motion. The motion carried.

The committee meeting adjourned at 4:45 p.m. The next meeting was scheduled for February 7, 2008.