

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:31 A.M. on March 15, 2007, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen arrived, 9:35 A.M.  
Derek Schmidt arrived, 10:00 A.M.  
Dwayne Umbarger arrived, 10:00 A.M.

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department  
Bruce Kinzie, Office of Revisor of Statutes  
Nobuko Folmsbee, Office of Revisor of Statutes  
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Rep. Mitch Holmes  
Kip Elliott, Attorney  
Doug Anstaett, Executive Director, Kansas Press Association  
Rep. Steven Brunk  
Terri Brooks  
Jeanne Gawdun, Kansans for Life  
Becky Gaughan  
Brad Burke, Attorney  
JoAnn Van Meter, Attorney  
Jennifer Roth, Kansas Association of Criminal Defense lawyers  
Erin Thompson, ProKanDo

Others attending:

See attached list.

The hearing continued on **HB 2001--Civil commitment of sexually violent predators; rights and rules of conduct; transitional release when predator suffers from permanent dementia; battery against a mental health employee.**

Rep. Mitch Holmes appeared as a sponsor of the bill and provided background on its development. The rights defined for mental patients were set years before the creation of the Sexual Predator Treatment Program. The sexually violent offender is a different category of patient with normal cognitive abilities. Rep. Holmes stressed that **HB 2001** will not require that mail be censored but allow the search for contraband. The rights as stated through rules and regulations are based on Wisconsin's law which has been challenged in court and found to be constitutional (Attachment 1).

Kip Elliott spoke in opposition, indicating persons involuntarily committed are detained civilly and under U.S. Supreme rulings must be provided all the rights that accompany any person civilly committed. Mr. Elliot claims differential treatment violates equal protection and other constitutional rights. It is Mr. Elliot's position that locking patients in their rooms at night does not conform to the "least restrictive environment"; is unreasonable seizure under the 4<sup>th</sup> Amendment; and violates the patient's substantive due process rights. Mr. Elliot also voiced concern regarding the opening of mail outside the presence of the patient. Enactment of this bill will likely lead to costly litigation (Attachment 2).

Doug Anstaett appeared in opposition to the House floor amendment prohibiting sexual violent offenders from sending unsealed material to members of the news media. Prohibiting anyone who is incarcerated from having direct uncensored contact with news media is the means for corruption, abuse and inhuman treatment to go unchecked. This amendment prevents patients from having direct access to the media who serve vital roles as watchdogs over government and how it provides services (Attachment 3).

Written testimony in support of **HB 2001** was submitted by:

Linda Henderson, President, Larned Area Chamber of Commerce (Attachment 4)  
Anonymous, Former Larned State Hospital Employee (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:31 A.M. on March 15, 2007, in Room 123-S of the Capitol.

Written testimony in opposition of **HB 2001** was submitted by:

Garen Stockwell ([Attachment 6](#))

Mark Brull ([Attachment 7](#))

There being no further conferees, the hearing on **HB 2001** was closed.

The hearing on **HB 2006--Alexa's law; crimes against unborn children** was opened.

Rep. Steven Brunk appeared as a sponsor of the bill and provided a brief history of its development. Rep. Brunk stressed that the bill is about crimes committed against unborn children and several states have passed similar legislation. This bill will allow for the prosecution of two deaths rather than one ([Attachment 8](#)).

Terri Brooks appeared in support, relating her personal experience in the kidnaping and murder of her daughter Chelsea and Chelsea's unborn child ([Attachment 9](#)).

Jeanne Gawdun spoke in support, providing information on legislation in other states regarding fetal homicide laws. Ms. Gawdun stated prosecution for fetal homicide will not jeopardize Roe v. Wade ([Attachment 10](#)).

Becky Gaughan spoke as a proponent, relating her personal experience of losing her unborn child in an automobile accident in 1994 ([Attachment 11](#)).

Brad Burke appeared as a proponent, stating that from a criminal prosecutor's perspective **HB 2006** would allow prosecution to both the mother and unborn child. The State currently has limitations for prosecution. This bill would allow for prosecution for injuries caused to an unborn child and a variety of degrees of murder if the unborn child dies as a result of the injury sustained ([Attachment 12](#)).

JoAnn Van Meter spoke in opposition, suggesting the crime prompting this bill is in actuality a crime of domestic violence. Ms. Van Meter voiced concern that the law is intended to become effective at conception, a time unknown to many women. An equal application of this law would require any woman who is the victim of a person crime be tested for pregnancy. Ms. Van Meter also had concerns with the definition of "unborn child" and unintended consequences of the language used ([Attachment 13](#)).

Jennifer Roth appeared in opposition, suggesting amendments to existing laws will provide more justice for women and unborn children than **HB 2006**. Ms. Roth voiced concern that **HB 2006** could lead to prosecution of pregnant women, could impact wrongful death or tort law and could unintentionally expose people to criminal charges ([Attachment 14](#)).

Erin Thompson spoke in opposition, suggesting enhancements to existing law which would eliminate the politics of this issue. Suggested changes include strengthening K.S.A. 21-3440, injury to a pregnant woman and K.S.A. 21-3441, injury to a pregnant woman by vehicle, by amending the statutes to run consecutively rather than concurrently, amending the statutes to clearly state that usage of these crimes would not bar other convictions with which the perpetrator might be charged, increasing the severity level for both statutes, and adding a provision to K.S.A. 21-4636, aggravating circumstances ([Attachment 15](#)).

Written testimony in support of **HB 2006** was submitted by:

Darren Brooks ([Attachment 16](#))

Andrea Brooks ([Attachment 17](#))

Judy Smith, Concerned Women for America ([Attachment 18](#))

Michael Farmer, Executive Director, Kansas Catholic Conference ([Attachment 19](#))

Written testimony in opposition of **HB 2006** was submitted by:

Elmer Feldkamp, President, Right to Life ([Attachment 20](#))

Sandy Barnett, Director, Kansas Coalition Against Sexual & Domestic Violence ([Attachment 21](#))

There being no further conferees, the hearing on **HB 2006** was closed.

The meeting adjourned at 10:30 A.M. The next scheduled meeting is March 19, 2007.