

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson John Barker at 3:30 pm on Monday, February 23, 2015, 112-N of the Capitol.

All members were present except:

Representative Janice Pauls – Excused

Representative Brett Hildabrand, appointed substitute member to the committee

Committee staff present:

Lauren Douglass, Legislative Research Department

Robert Allison-Gallimore, Legislative Research Department

Katherine Goyette, Office of Revisor of Statutes

Jason Thompson, Office of Revisor of Statutes

Connie Bahner, Kansas Legislative Committee Assistant

Conferees appearing before the Committee:

Jeff Kahrs, Department for Children and Families

Evelyn Everton, UnSpam Corporation

Eric Langheinrich, UnSpam Corporation

Phillip Cosby, American Family Action of Kansas

Mike Schuttloffel, My House Initiative

Others in attendance:

[See Attached List](#)

Hearing on: HB2272 — Converting classified staff assistants and attorney positions to unclassified positions.

Chairperson Barker opened the hearing on **HB2272**. Katherine Goyette, Office of Revisor of Statutes, gave an overview.

Chairperson Barker recognized Jeff Kahrs, Chief of Staff, Kansas Department for Children and Families, as a proponent of **HB2272** ([Attachment 1](#)). Questions were directed to the proponent by Representatives Leslie Osterman, John Carmichael, and Dennis Highberger.

Seeing that there were no further conferees, Chairperson Barker closed the hearing on **HB2272**.

Hearing on: HB2277 — Enacting the Kansas child protection registry act.

Chairperson John Barker opened the hearing on **HB2277**. Katherine Goyette, Office of Revisor of Statutes, gave an overview of the bill.

Evelyn Everton and Eric Langheinrich, UnSpam Corporation, provided testimony as proponents of the bill ([Attachment 2](#)) ([Attachment 2A](#)). Questions were asked by Representatives Craig McPherson, James Todd, John Carmichael, and Brett Hildabrand, and by Chairperson John Barker.

Chairperson Barker then recognized Phillip Cosby, American Family Action of Kansas, as a proponent

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of **HB2277** ([Attachment 3](#)).

Mike Schuttloffel provided testimony for Sam Meier of My House Initiative as a proponent ([Attachment 4](#)).

Chairperson Barker directed the committee's attention to the written proponent testimony of Utah Representative Greg Hughes ([Attachment 5](#)) and the Salt Lake City Chamber of Commerce ([Attachment 6](#)), as well as the written neutral testimony of Phyllis Gilmore of the Department for Children and Families ([Attachment 7](#)), and Jim Welch, Attorney General's Office ([Attachment 8](#)).

Chairperson Barker closed the hearing on **HB2277**.

Possible action on bills previously heard

HB2105 - An act concerning money laundering; enacting the Kansas comprehensive money laundering act.

Chairperson Barker asked the committee members to open their folders on **HB2105**.

*Representative Mark Kahrs moved to remove **HB2105** from the table. A vote was taken, and the motion passed.*

*Representative John Rubin moved to report **HB2105, as amended**, favorably for passage, seconded by Representative Leslie Osterman.*

Representative John Rubin stated that this is a very important law enforcement tool. There are types of money laundering activities which cannot be reached in the current statutes that this bill is specifically designed to address. It fills a gap in our criminal laws. The severity levels of the offenses proposed in this bill have been well thought out and are proportionate to the offenses. He supports **HB2105**.

Representative Craig McPherson has concerns about the bill. It seemed to him that the underlying motivation for the bill was not to criminalize this conduct specifically, but to have a tool to investigate other crimes already on the books. Money laundering in and of itself is not an evil, What it does is make it difficult to know of the evil because it is basically a cover up thereof. Accomplice liability tends to be a better area of law to use to prosecute those who did not actually commit the underlying crime. For those who did commit the underlying crime, there is already a criminal prosecution available. He did not hear any compelling testimony of why this law is necessary. He does not favor creating new laws without a purpose.

Representative John Carmichael agrees with Representative McPherson. This bill came from the Securities Commissioner's Office, not the Attorney General's Office. There is no need to expand the Securities Commissioner's jurisdiction. If we need money laundering legislation per se, the Attorney

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General's Office would have been the one to bring this bill if it was needed. He opposes the bill.

Representative Steven Becker is opposed to the bill. The definition of a financial transaction is too broad. It covers some very low-level conduct, but makes it a severity level 5 person felony which carries a presumptive prison sentence. This would be subject to abuse or imposing sentences that do not align with the conduct of the crime.

Representative Mark Kahrs stated the bill was amended at the recommendation of the Attorney General's Office. They had indicated that with the amendment this bill would further the goal of ending the profitable nature of felonies in Kansas. Thirty-seven other states have this money laundering bill, and he supports **HB2105** and would encourage the committee to do so.

*Representative John Rubin closed on **HB2105, as amended**. A vote was taken, and the Chair was in question as to the outcome. Chairperson Barker called for members to raise their hands. Ten voted in favor of **HB2105, as amended**, eleven voted against the bill. **HB2105, as amended, failed**.*

The following representatives asked to have their aye votes recorded: Representatives Leslie Osterman, Randy Powell, Becky Hutchins, Mark Kahrs, John Whitmer, and John Rubin.

HB2039 - Domestic case management.

Chairperson Barker asked the committee to open their folders on **HB2039**.

*Representative John Carmichael moved to report **HB2039** favorably for passage, seconded by Representative Leslie Osterman.*

Representative John Carmichael stated he has a balloon amendment ([Attachment 9](#)) that he believes satisfies everyone's concerns about **HB2039**. Katherine Goyette stated that the amendment does represent the changes requested by Dr. Bud Dale, the Office of Judicial Administration, the Coalition Against Sexual and Domestic Violence, Ronald Nelson, the Social Workers Association, and others. Representative Carmichael explained the amendments.

There was discussion on **HB2039** between Representatives Leslie Osterman, Kyle Hoffman, Randy Powell, Erin Davis, James Todd, John Carmichael, Chairperson John Barker, and Katherine Goyette relating to who would be the case managers and what training would be given to them, how much oversight there would be over the case managers, the fees involved, the length of time a case manager would be involved, and the difference between a written recommendation and a written report.

Representative Leslie Osterman stated he felt this was a good amendment.

*Representative John Whitmer moved to table **HB2039**, to give the committee more time to review the*

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amendment, seconded by Representative Erin Davis. A show of hands revealed that ten voted in favor of tabling **HB2039** and nine voted against it. **HB2039** was tabled.

HB2115 - An act concerning crimes and punishment; relating to aggravated battery; driving under the influence

Representative Blaine Finch moved to pass **HB2115** favorably, seconded by Representative Travis Couture-Lovelady.

Representative Blaine Finch stated that he has a proposed substitute to **HB2115 (Attachment 10)**. He stated that the original bill had issues with defining permanent disability and elevating an aggravated battery due to a DUI from a level five to a level four on the sentencing grid. This substitute bill simply states that if you have a prior conviction for DUI and then commit an aggravated battery DUI, it will count as a non-person felony in the first instance. If a person has multiple prior convictions, the second, third, and subsequent convictions will count as a person felony. A sentencing grid was distributed ([Attachment 11](#)), and he explained how that would work. This is a middle ground approach that will punish repeat offenders but will not clog prison beds. This bill retains the name of Mija Stockman's Law.

Questions were asked by Representative Jim Ward, Chairperson John Barker, and Representative John Whitmer.

Representative Blaine Finch moved for the adoption of the proposed substitute for **HB2115**, seconded by Representative James Todd. The motion to adopt the Substitute for **HB2115** passed.

Representative Blaine Finch moved that the **Substitute for HB2115** be passed, seconded by Representative Travis Couture-Lovelady. A vote was taken, and the **Substitute for HB2115** passed.

HB2159 - Relating to convictions and diversions; habitual violator status; expungement of DUI and other driving offenses.

Chairperson John Barker asked the committee to open their folders on **HB2159**.

Representative Kyle Hoffman moved to report **HB2159** for passage, seconded by Representative Stephen Alford.

Representative Kyle Hoffman stated that he has an amendment ([Attachment 12](#)). It takes out section one and leaves the current law dealing with habitual violator status. It changes the expungement period from seven to five years. This is the same bill that was passed last year except the time period for expungements was changed in conference committee.

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Representative Kyle Hoffman moved to amend **HB2159**, seconded by Representative Craig McPherson. Representative Hoffman then moved to make the amendment a substitute to **HB2159**, seconded by Representative McPherson.

Questions were asked by Representatives Steven Becker and Blaine Finch.

Representative John Rubin stated that he is opposed to both the proposed amendment and the underlying bill. He read an obituary from the "Kansas City Star" about a woman who was hit by a drunk driver in February 1989 and died in January 2015. She was comatose for one year and then for the following 25 years she was unable to talk, walk, eat, or act in any way on her own behalf. Drunk drivers, whatever age, are killers. They kill and maim people and ruin lives. There was another article over the weekend in the "Kansas City Star" about a person who was convicted of his tenth recent DUI and was sentenced to three days in jail. For those reasons, he opposes this bill and any other legislation that would lighten penalties or in any way lessen the repercussions, including expungement, of being convicted of drunk driving.

Representative Kyle Hoffman stated that this bill only applies to those convicted of DUI but doesn't get another one for the next five years.

Representative John Whitmer stated he opposes **HB2159**.

Questions were asked by Representative John Carmichael, Jim Ward, Travis Couture-Lovelady, and Randy Powell, to which Katherine Goyette and Jason Thompson of the Office of Revisor of Statutes, responded.

Representative Mark Kahrs stated that he opposes both the amendment and the underlying bill. It shortens the period of time that a person convicted of DUI can have it expunged, but it actually speeds up the time that that conviction can be hidden from a private employer who may be trying to hire someone. It weakens the protections for the private sector employer who is trying to do a background check on someone they are considering hiring.

Representative Kyle Hoffman closed on his motion to adopt the amendment as a substitute for **HB2159**. A vote was taken, and the Chair was in doubt. He called for members to raise their hands. Fourteen voted in favor of the amendment. The amendment passed.

The following representatives asked to have their nay votes recorded: Representatives John Whitmer, John Rubin, Mark Kahrs, Jim Ward, and Leslie Osterman.

Representative Kyle Hoffman moved to report **Substitute for HB2159** favorably for passage, seconded by Representative Randy Powell.

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Representative John Rubin stated that he still opposes this legislation since it sends the messages that as long as you don't kill or maim somebody, it is okay to drive drunk.

Representative Kyle Hoffman closed on his motion to pass **Substitute for HB2159**. A vote was taken, and the Chair was in doubt. He called for members to raise their hands. Fifteen voted in favor and six voted in opposition. **Substitute for HB2159** passed.

The following representatives asked to have their vote recorded: Representatives John Whitmer, John Rubin, Jim Ward, Mark Kahrs, and Leslie Osterman.

Chairperson John Barker told the committee that there would not be a meeting on February 24, 2015. The next meeting is scheduled for March 5, 2015.

The meeting was adjourned at 5:05 p.m.