

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on March 13, 2002 in Room 313-S of the Capitol.

All members were present except:

Representative Karen DiVita-Johnson - Excused
Representative Kathe Lloyd - Excused
Representative Rick Rehorn - Excused
Representative Candy Ruff - Excused

Committee staff present:

Jerry Ann Donaldson, Department of Legislative Research
Jill Wolters, Department of Revisor of Statutes
Sherman Parks, Department of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Tom Weilert, Sedgwick County District Attorney's Office
Kyle Smith, Kansas Bureau of Investigation
Chris Biggs, Geary County Attorney
Steve Rarrick, Office of Attorney General, Consumer Protection Division
Doug Smith, Direct Marketing Association
Ron Gaches, Experian
LJ Leatherman, Kansas Trial Lawyers Association

Due to no conferees signed up to testify on **SB 491 - Definitions under the Kansas tort claims act**, the hearing was cancelled.

Hearing on **SB 453 - sentencing of offenders who are arrested for violations of conditions of original sentence**, was opened.

Tom Weilert, Sedgwick County District Attorney's Office, explained that the bill would give judges the ability to order a lesser sentence for a defendant who violates a condition of probation. ([Attachment 1](#))

Kyle Smith, Kansas Bureau of Investigation, requested two amendments; the first would clarify existing law that such lab reports can be authenticated pursuant to the provisions of K.S.A. 22-3437; second amendment was to add section 3 of HB 2856 which is clean up language. ([Attachment 2](#))

Hearing on **SB 453** was closed.

Hearing on **SB 487 - presumed imprisonment for certain persons convicted of burglary with three prior burglary convictions**, was opened.

Chris Biggs, Geary County Attorney, explained that the proposed bill would address the problem of repeat burglary offenders who commit burglary of a non dwelling or a vehicle. Presently they would receive presumptive probation. There needs to be a way to remove property offenders from the community. ([Attachment 3](#))

Tom Weilert, Sedgwick County District Attorney's Office, appeared in support of the proposed bill. He proposed language that would clarify legislative intent when dealing with: the inclusion of juvenile adjudications for crimes which trigger the enhancement provisions and inclusion of out of state convictions for crimes which trigger the enhancement provisions ([Attachment 4](#))

Kyle Smith, Kansas Bureau of Investigation, requested two amendments: first would amend in section 1 of **HB 2856** regarding expungement of those convicted of sexual battery and aggravated sexual battery not being allowed by statute; the second would clarify that expunged convictions must be divulged and considered in application as a private investigator. ([Attachment 5](#))

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on March 13, 2002 in Room 313-S of the Capitol.

Hearing on **SB 487** was closed.

Hearing on Substitute **SB 467 - commercial electronic mail act; protection from deceptive and unwanted span**, was opened.

Steve Rarrick, Office of Attorney General, Consumer Protection Division, appeared before the committee to explain the bill which was designed to provide protection from unwanted e-mails, also known as "spam". The proposal was modeled after California and Washington, both of which have been upheld at the appellant court level. (Attachment 6)

Doug Smith, Direct Marketing Association, was concerned with the "ADV" provisions that could actually legitimize "spam". (Attachment 7)

Ron Gaches, Experian, supported all language in the proposed bill except that placing "ADV:" at the beginning of the subject line for all commercial email. It was his belief that authorized email should not have this requirement. (Attachment 8)

LJ Leatherman, Kansas Trial Lawyers Association, supported the bill and requested that subsection (k) be deleted because it would allow deceptive and unwanted emails to circumvent the consumer protections created by the bill. (Attachment 9)

Hearing on **SB 467** was closed.

The committee meeting adjourned at 6:30 p.m. The next meeting was scheduled for March 14, 2002.