

Approved: 5-2-2005  
Date

MINUTES OF THE HOUSE CORRECTIONS & JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Ward Lloyd at 1:30 P.M. on February 8, 2005 in Room 241-N of the Capitol.

All members were present except:

Kathe Decker- excused  
Mike Peterson- Absent

Committee staff present:

Jill Wolters, Revisor of Statutes Office  
Diana Lee, Revisor of Statutes Office  
Jerry Ann Donaldson, Kansas Legislative Research  
Connie Burns, Committee Secretary

Conferees appearing before the committee:

Jared Maag, Deputy Attorney General  
Ed Brancart, KCDA

Others attending:

See attached list.

**HB 2061 – Death penalty; if aggravating circumstances outweigh mitigating circumstances, the sentence is death; if circumstances are equal, the defendant is not sentenced to death.**

Chairman Loyd opened the hearing on **HB 2061**.

Jared Maag, Deputy Attorney General, appeared before the committee as neutral and to provide information to the committee. (Attachment 1) The Attorney Generals felt it necessary to inform the committee of where the appeal of the decision in *State v. Marsh* presently stands. The AG's office is now seeking review of the Marsh decision with the United States Supreme Court. The State has 90 days to submit its petition under Supreme Court rules, and a decision on certiorari should be delivered on or before the ending of the Court's term in the third week of June.. On average the United States Supreme Court docket between 8,000 and 9,000 cases a year and hear about 80 cases a year, which is about 1% of cases seeking review are granted. The Attorney General's office appreciates the opportunity to present the time-line concerning the appeal of the *Marsh* decision.

Ed Brancart, Kansas County & District Attorneys Association, recommended to the committee not to pursue any legislative action concerning the Kansas Death Penalty Statute until the judicial review process is allowed to run its course. (Attachment 2) It is believed that if the Kansas Legislature takes any action to "fix the problem" of equipoise in *Marsh*, then it is very unlikely the United States Supreme Court would grant review. If the Kansas Supreme Court reconsiders the *Marsh* decision and reverses itself, or if the United States Supreme Court grants review and reverses the *Marsh* decision, then the seven death penalty sentences would remain in full force and effect.

The question was discussed on a passing something with a legislative fix or to take effect after cert was granted, and a clarification from KU Law will be forthcoming.

Kansas Legislative Research Department provided to the committee a history of the Death Penalty from the Kansas Legislator Briefing Book 2005. (Attachment 3)