

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:37 a.m. on February 18, 2003, in Room 123-S of the Capitol.

All members were present.

Committee staff present: Lisa Montgomery, Office of the Revisor of Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Jeff Bottenberg, State Farm Insurance
Captain Bob Hinshaw, Sedgwick County Sheriff's Department
Dave Zable, Douglas County Assistant District Attorney
Tom Drees, Ellis County District Attorney
Doug Murphy, Kansas Peace Officers Association (written only)
Roger Werholtz, Secretary of Corrections
Kyle Smith, Kansas Bureau of Investigation (written only)
Sonny Scroggins, National Action Network

Others attending: see attached list

SB 111 - Presumed imprisonment at minimum security correctional facility for certain persons convicted of burglary and construction of additional housing therefor

Chairman Vratil opened the hearing on **SB 111**. Conferee Bottenberg testified in support of **SB 111** as it would require imprisonment at a state minimum correctional facility for repeat burglars. He stated that sending repeat burglars to state correctional facilities will not only reduce the frequency of such crimes, but will help give their victims a sense of security and relief that may not be accomplished through financial compensation alone. (Attachment 1)

Captain Hinshaw appeared before the Committee on behalf of the Sheriff of Sedgwick County in support of **SB 111**. He explained that **SB 111** amends K.S.A. 2002 Supp. 21-4704, allowing the use of any comparable prior juvenile adjudication or out of state conviction to be used in sentencing guidelines. He said that under this amendment incarceration in a minimum custody or security facility would become mandated, and would also include persons who had three prior convictions. (Attachment 2)

Conferee Zable testified on behalf of the Kansas County and District Attorneys Association in support of **SB 111**. He explained the sentencing guidelines grid for non-drug crimes that appears on page 2 of the drafted bill, the four types of burglary, and the severity levels. He stated that the proposed bill would rectify the current situation where a perpetual burglar of motor vehicles and/or businesses would never go to prison. He said the **SB 111** recognizes that a person that perpetually burglarizes motor vehicles and businesses belongs in the same place as a person who repeatedly burglarizes residences—prison. (Attachment 3)

Thomas Drees, Ellis County Attorney, submitted written testimony in support of **SB 111**, in which he

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stated that after a repeated history of property offenses, the victim and the public deserve some retribution and a short prison sentence is warranted and necessary. ([Attachment 4](#))

Doug Murphy submitted written testimony in support of **SB 111** on behalf of the Kansas Peace Officer's Association. ([Attachment 5](#))

Kyle Smith, Kansas Bureau of Investigation, submitted written testimony also on behalf of the Kansas Peace Officer's Association in support of the passage of **SB 111**. ([Attachment 6](#))

Secretary of Corrections, Roger Werholtz, testified as neutral conferee on **SB 111**, and shared the concern regarding the offender's custody classification to be determined by the Secretary of Corrections. He said the Corrections Department is concerned that **SB 111** creates an expectation that is inconsistent with the Department's custody classification policies and practices, and recommended that provisions pertaining to presumptions regarding custody classification be deleted. ([Attachment 7](#))

After Committee discussion and questions, attention was directed to the fiscal note on **SB111** which included projected costs if the bill changes the need for higher custody beds, and also gave the estimated costs if the bill does not change the need for expansion of capacity the additional costs that would be incurred. ([Attachment 8](#))

Chairman Vratil closed the hearing on **SB 111**.

SB 189 - Inmates sentenced to prison for possession of drugs to serve in a minimum security facility
Chairman Vratil opened the hearing on **SB 189**. Conferee Zable submitted written testimony in support of the proposed bill on behalf of the Kansas County and District Attorneys' Association. In his testimony he explained that the proposed bill would keep the current sentencing structure for felony drug offenses in place, and at the same time, address prison over-crowding in the state's maximum and medium security prisons. He talked about the current drug grid which distinguishes between dealers and users, but said it also recognizes that a persistent drug user is a very real threat to the safety of the community. He said the current laws do not send a mere user of drugs to prison unless there have been repeated violations, thus proving that treatment without incarceration is not viable. ([Attachment 9](#))

Kyle Smith, Kansas Bureau of Investigation, submitted written testimony on behalf of the Kansas Peace Officer's Association endorsing the proposed changes in **SB 189**. ([Attachment 10](#))

Secretary Werholtz submitted written testimony on **SB 189** as well as verbal along with **SB 111** expressing some of the same concerns about both bills. He stated that **SB 189** creates an expectation that will not be produced, and therefore, the Corrections Department recommends against passing **SB 189** out favorably. ([Attachment 11](#))

Conferee Scroggins testified against **SB 189**, and said it was a short term solution to a long term problem. He stated that this bill spends money that the state doesn't have, and money that does very little to rehabilitate. ([Attachment 12](#))

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After brief discussion and questions, the Chairman directed the Committee members to review the fiscal note on **SB 189** (Attachment 13) and the bed space impact statement from the Kansas Sentencing Commission. (Attachment 14)

The Chair closed the hearing on **SB 189**.

Final action on:

SB 91 -Law enforcement training center, qualifications and officer training requirements

Chairman Vratil reviewed **SB 91**. Senator Donovan made a motion to amend by adding a three year sunset provision on the bill, and recommend it favorably as amended. The motion was seconded by Senator Schmidt, and the motion carried.

SB 71 - Kansas payment center; removal of sunset provision

Chairman Vratil reviewed **SB 71**. Senator Goodwin suggested that the Oversight Committee cease to be in existence since it is no longer needed. The Chair shared with the Committee that he had received a letter from Secretary Schalansky that morning saying that in a separate statute the Oversight Committee was also repealed.

Senator Goodwin moved to recommend **SB 71** favorably, seconded by Senator Gilstrap, and the motion carried.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is February 19, 2003.