

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on February 9, 2005, in Room 123-S of the Capitol.

All members were present except:

David Haley- excused

Committee staff present:

Mike Heim, Kansas Legislative Research Department

Jill Wolters, Office of Revisor of Statutes

Helen Pedigo, Office of Revisor of Statutes

Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence

Alison Jones, Metropolitan Organization to counter Sexual Assault

Kathy Williams, Wichita Area Sexual Assault Center

Shelley Phillips-Corley, Crisis Resource Center, Pittsburg, KS

Judy Davis, The Crisis Center, Inc., Manhattan, KS, and the Kansas Crisis Hotline

Others attending:

See attached list.

Vice-Chairman Bruce called the meeting to order. There were no bill introductions.

Vice-Chairman Bruce opened the hearings on **SB 82**, **SB 83**, and **SB 111**, as most conferees were appearing as proponents on all bills.

SB 82 Previous sexual conduct of complaining witness in sex offense prosecutions not admissible in any court proceeding

SB 83 Sexual battery; striking the spousal exemption

SB 111 Increasing marriage license fees; creating the domestic violence and sexual assault centers fund

Proponents:

Sandy Barnett stated that rape is one of the most under reported crimes, with an estimated 109 rapes occurring each week and only 22 being reported to law enforcement. The reasons rapes are not reported include: the perpetrator is known to them or may be a family member; there is shame and embarrassment; fear of others finding out they were raped; fear of retribution for reporting; hostile law enforcement and court atmosphere; didn't recognize their experience as criminal. In Kansas, the rape shield law, K.S.A. 21-3525, prohibits the presentation before the jury of evidence of the complaining witness' previous sexual conduct with any person, including the defendant, unless the court decides it is relevant and otherwise admissible.

Ms. Barnett stated that the Kansas statute protects victims only during hearings in the presence of the jury. Victims need protection during all phases of the criminal proceedings. If those protections are not available until the jury is seated and hearing the case, the damage is already done. All criminal proceedings are open to the public and to the press. During the preliminary or other hearings, the victim may be subjected to many questions about prior sexual conduct that is irrelevant and may clearly be disallowed during the trial. Ms. Barnett stated that, recently, a Kansas district court was asked to rule on just this point and found that the Kansas rape shield law applies only to evidence in front of a jury. Ms. Barnett stated that **SB 82** seeks to close the gap by simply eliminating the words "in the presence of the jury" found on line 38 and inserting in its place "in any proceeding before the court". Ms. Barnett stated this change in Kansas law would help victims have a little more faith in the criminal justice system. Additionally, the bill provides criminal penalties for violation of K.S.A. 21-3525, which the Kansas Coalition Against Sexual and Domestic Violence (KCASDV) also supports. (Attachment 1)

Ms. Barnett stated that the KCSDV supports **SB 83** which removes the marital exemption from the sexual

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battery statute found in K.S.A. 21-3517. Ms. Barnett stated that Kansas was one of the first 10 states to remove the marital exemption from the rape statute. Ms. Barnett and the KCSDV do not believe that the Kansas Legislature ever intended that marriage be a defense to non-consensual acts. ([Attachment 2](#))

Ms. Barnett stated that the KCSDV supports **SB 111** which will enhance the quality and quantity of services provided to victims of sexual and domestic violence throughout Kansas. Thirty programs in Kansas rely heavily on federal grants which provide between 34 percent and 80 percent of their funding. The bill increases the marriage license fee from \$50 to \$100 which would provide approximately \$1.2 million dollars that is needed to have the matching funds required in order to obtain the federal grants. ([Attachment 3](#))

The Committee asked questions which Ms. Barnett and Ms. Joyce Grover, Attorney with KCSDV and guest in the meeting, answered. Issues included how similar programs are funded in other states and whether the KCSCV would be open to finding an alternative means of appropriations than through an increase in the Kansas marriage license fee.

Alison Jones testified on behalf of the Metropolitan Organization to Counter Sexual Assault (MOCSA) in support of **SB 82**, **SB 83**, and **SB 111**. Ms. Jones stated that sexual assault has serious effects on health and mental health, that major depression affects an estimated one-third of all victims of rape; one-third of women raped contemplate suicide and 17 percent attempt suicide; victims of rape are 13.4 times more likely to develop two or more alcohol-related problems and 26 times more likely to have two or more serious drug abuse-related problems. Ms. Jones stated that assault victims have nightmares, suffer insomnia, flashbacks, and cannot function at work for a time. Healing time is needed to help victims get through the trauma, and that is when MOCSA and other similar organizations are of assistance. However, the costs of programs need to be stabilized. Some local funding is raised which helps pay for the utilities, transportation expenses, and other necessary support services that cannot be paid for with federal grant dollars. ([Attachments 4-6](#))

Kathy Williams stated that the Wichita Area Sexual Assault Center supports passage of **SB 82**, **SB 83**, and **SB 111**. Ms. Williams stated that it is imperative to continue to find ways to provide assistance and support to people who have been sexually and violently victimized that turn to law enforcement and the courts for justice. ([Attachment 7](#)) Senator Bruce questioned why the aggravated sexual battery statute does not have the marital exemption. Chairman Vratil asked the revisors to review the issue.

Shelley Phillips-Corley testified that the Crisis Resource Center of Southeast Kansas, Inc. (strongly supports passage of **SB 111**. Ms. Phillips-Corley stated that they serve a 10 ½ county area in Southeast Kansas. Current economic trends have reduced their ability to obtain federal and Kansas resources to use as matching funds. Not only is the pool of resources for the provision of services or program enhancements decreasing, the competition for those funds is becoming more fierce. The local funds that are raised from the private sector are generally directed to victim material and physical needs. The hiring and retention of qualified staff is also difficult because there are no funds for annual raises or cost of living increases. The passage of the bill would help stabilize matching funding resources. ([Attachment 8](#))

Judy Davis gave testimony in support of **SB 111** on behalf of The Crisis Center, Inc., and the Kansas Crisis Hotline. Ms. Davis shared that every year they must work to raise local funds and find grants and they operate a lot on faith that somehow needs will be met. If there are drops in the number of volunteer hours at the Center, some appropriations received from certain grants may have to be paid back. It is very difficult to provide for the basic needs and programs when resources have to be used as matching funds. Even so, increasing matching requirements attached to federal dollars threatens to put those appropriations out of reach. The Center operates around the clock to provide assistance and each year the direct costs of operating the Hotline. ([Attachment 9](#))

Written testimony was received from Heather Soper, Domestic Violence Association of Central Kansas, in support of **SB 82**, **SB 83**, and **SB 111**. ([Attachments 10-12](#))

Chairman Vratil handed out Sub-Committee assignments to address **SB 117**, **SB 135**, **SB 136**, **SB 137**, **SB 145**, **SB 146**, **SB 148**, **SB 171**, **SB 179**, and **SB 180**. ([Attachment 13](#))

Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for February 10, 2005.