

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 14, 2007 in Room 313-S of the Capitol.

All members were present except:  
Ben Hodge- excused

Committee staff present:  
Jerry Ann Donaldson, Kansas Legislative Research  
Athena Andaya, Kansas Legislative Research  
Jill Wolters, Office of Revisor of Statutes  
Duston Slinkard, Office of Revisor of Statutes  
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:  
Representative Oletha Faust-Goudeau  
Cristi Cane, Shawnee County Drug Paraphernalia Task Force  
Kevin Myles, Wichita NAACP  
Daniella Dempsey-Swoops, Director of Kansas African American Affairs Commission  
Kyle Smith, KBI  
Ed Klumpp, Kansas Association of Chiefs of Police  
Thomas Nuemaker, KBI  
Jim Clark, Kansas Bar Association  
Captain Glenn Kurtz, Sedgwick County Sheriff's Department  
Joyce Grover, Kansas Sexual Assault & Domestic Violence Centers of Kansas  
Captain Lance Royer, Shawnee County Sheriff's Department

The hearing on **HB 2359 - controlled substance, drug paraphernalia**, was opened.

Representative Oletha Faust-Goudeau, in conjunction with the KBI, are sponsors of the proposed bill. She grew concerned with the large number of convenience stores selling drug paraphernalia. The bill would prohibit the sale of drug paraphernalia. ([Attachment 1](#))

Kevin Myles, Wichita NAACP, identified 13 stores in Wichita where drug paraphernalia was being sold. He explained that the bill would criminalize the purchase and fine the owner for selling such items. ([Attachment 2](#))

Daniella Dempsey-Swoops, Director of Kansas African American Affairs Commission, informed the committee that the sale of drug paraphernalia is explicitly prohibited by federal law, 21-USCA, Section 863. ([Attachment 3](#))

Cristi Cane, Shawnee County Drug Paraphernalia Task Force, commented that selling these types of items to kids are becoming "acceptable". ([Attachment 4](#))

Kyle Smith, KBI, stated that the problem the bill is trying to address is that these items are often legitimate items but are used to take drugs. ([Attachment 5](#))

Ed Klumpp, Kansas Association of Chiefs of Police, appeared as a proponent to the bill. The law enforcement community has found it difficult to show intent for the product to be used for illegal drug consumption when it has a legitimate use. ([Attachment 6](#))

The hearing on **HB 2359** was closed.

The hearing on **HB 2384 - criminal procedure; palm prints; expungement of DNA samples and profile records**, was opened.

Kyle Smith, KBI, appeared before the committee in support of the proposed bill which would enhance the

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identification database used by the Kansas criminal justice system. The bill adds palm prints to the fingerprint files and uses swabs instead of drawing blood for DNA database. ([Attachment 7](#))

Ed Klumpp, Kansas Association of Chiefs of Police, appeared as a proponent to the bill. He explained that palm prints are left at scenes more often than fingerprints. He did caution the committee that not all law enforcement offices have the ability to scan palm prints & fingerprints. ([Attachment 8](#))

The hearing on **HB 2384** was closed.

The hearing on **HB 2381 - probable cause determination required before submission of DNA specimen to KBI**, was opened.

Jim Clark, Kansas Bar Association, appeared before the committee as the sponsor of the proposed bill. He explained that it would require probable cause that the person committed a crime before DNA is taken. ([Attachment 9](#))

Kyle Smith, KBI, appeared in opposition to the bill because it is easier and cheaper to collect all identifiers at one time rather than wait to see if there is probable cause. ([Attachment 10](#))

Ed Klumpp, Kansas Association of Chiefs of Police, stated that there could be a problem with the person charged for a crime not coming back in to provide the DNA, and if identifiers are not all taken at one time how would that person be positively identified. ([Attachment 11](#))

Captain Glenn Kurtz, Sedgwick County Sheriff's Department, suggested that it might be easier to take all identifiers at the time of conviction and not at the time of arrest. ([Attachment 12](#))

The hearing on **HB 2381** was closed.

The hearing on **HB 2382 - protection orders not submitted to the national criminal information center without opportunity for a hearing**, was opened.

Jim Clark, Kansas Bar Association, appeared as a proponent to the bill. He stated that problems exist when a protection from abuse order (PFA) are entered into NCIC and the respondent hasn't been notified of the PFA. The proposed bill would require a hearing on the PFA before it is entered into the database. ([Attachment 13](#))

Written testimony in support of the bill was provided by the Kansas Coalition Against Sexual & Domestic Violence. ([Attachment 14](#))

Kyle Smith, KBI, informed the committee that probable cause hearings are held within 20 days after a PFA is filed. He believes that it is better to protect women with the entry of the PFA into the NCIC rather than let something happen to her. ([Attachment 15](#))

Captain Lance Royer, Shawnee County Sheriff's Department, explained that a final PFA order is given an expiration date at which it's withdrawn from the NCIC. ([Attachment 16](#))

The hearing on **HB 2382** was closed.

The hearing on **HB 2360 - arrest powers of federal law enforcement officers**, was opened.

Thomas Nuemaker, KBI, appeared before the committee in support of the proposed bill. The bill would simply remove the sunset clause in KSA 22-2411 to make it permanent. This statute recognizes agents of the FBI as law enforcement officers in Kansas. ([Attachment 17](#))

Ed Klumpp, Kansas Association of Chiefs of Police, appeared as a proponent to the bill. He commented that arrest powers are critical to the efficiency of operations especially in joint task forces such as the

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terrorism task forces. (Attachment 18)

The hearing on **HB 2360** was closed.

The committee meeting adjourned at 5:30 p.m. The next meeting was scheduled for February 15, 2007.