

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:37 A.M. on January 23, 2008, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen arrived, 9:45 A.M.

Phil Journey arrived, 9:42 A.M.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department

Bruce Kinzie, Office of Revisor of Statutes

Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Ed Klumpp, Kansas Association of Chiefs of Police; Kansas Peace Officers

Tom Stanton, Kansas County and District Attorneys Association

Kenny McGovern, Sheriff, Douglas County

Jennifer Roth, Legislative Committee Chair, KS Assoc. Of Criminal Defense Lawyers

Peter Ninemire, Families Against Mandatory Minimums

Tim Madden, Department of Corrections

Others attending:

See attached list.

Chairman Vratil brought to the committee's attention a letter written by Senator Vicki Schmidt concerning a review of some proposed rules and regulations from the Kansas Department of Health and Environment (KDHE) on the testing of human breath for law enforcement purposes (Attachment 1). The Committee has doubts on the authority of KDHE to impose the rules and regulations. Senator Schmidt felt it important to notify the Judiciary Committee to determine if any statutory response is appropriate. The Chairman requests the committee to review the letter and attached information. He will write to the Secretary of KDHE to requesting the agency provide their rationale why these rules and regulations are within their authority.

Bill Introductions

Kathy Olson, Kansas Bankers Association, requested the introduction of a bill relating to the filing of notice of security interest on manufactured homes. Senator Donovan moved, Senator Umbarger seconded, to introduce the bill. Motion carried.

Tom Stanton, Kansas County and District Attorneys Association, requested introduction of five bills. The first bill would allow for verbal arrest and detain orders by probation and parole officers.

The second bill amends K.S.A. 65-4105 to include *salvia divinorum* and *datura stramonium* (commonly know as Gypsum weed or Jimsom weed) to schedule 1.

The third bill amends Alexa's law to exempt any lawful act of the mother of the unborn child.

The fourth bill amends K.S.A. 22-4902 of the Sex Offender Registry to include electronic solicitation.

The fifth bill amends K.S.A. 21-4608 to provide that offenders whose old sentence is life pursuant to 1993 Supp. 21-4629 prior to repeal or for which there is no conditional release or maximum sentence expiration shall remain on post supervision for life or until discharged by the Kansas Parole Board.

Senator Bruce moved, Senator Schmidt seconded, to introduce all five bills bill. Motion carried.

Susan Kang, Kansas Department of Health and Environment, requested introduction of a bill regarding name changes. Senator Haley moved, Senator Umbarger seconded, to introduce the bill. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:37 A.M. on January 23, 2008, in Room 123-S of the Capitol.

The Chairman called for final action on **SB 379–Contracts; indemnification clauses and additional insured requirements in construction contracts void.**

Chairman Vratil reviewed the bill which had been re-referred to the committee following discovery of a loophole during the 2007 Legislative session concerning construction contracts. The Chairman proposed removing the amendment the committee added and passed during final action on March 22, 2007.

Following discussion, Senator Goodwin moved, Senator Umbarger seconded, to remove from Section 1(4) (c) “...except that the provisions of this subsection shall not apply to a construction contract between the owner of the property and the general contractor”. Motion carried.

Senator Bruce moved, Senator Umbarger seconded, to make a technical correction by striking the reference to “2006 Supp.” on page 1, line 13; page 1, line 17; and page 2, line 11 and to change the effective date on page 2, line 13 to the year 2009. Motion carried.

Senator Goodwin moved, Senator Umbarger seconded, to recommend SB 379 as amended, favorably for passage. Motion carried. Senator Journey voted no and requested his vote be recorded.

The Chairman opened the hearing of **SB 409–Third or subsequent felony conviction, sentence.**

Senator Derek Schmidt testified in support as sponsor of the bill, stating this legislation would provide certainty of punishment for repeat offenders (Attachment 2). For several years, in order to ration prison space, the legislature has repeatedly shifted the focus of prison time to violent, person felons. A consequence of this policy has created a repeating cycle of catch and release for non-violent offenders. Enactment of **SB 409** would be good for Kansas, victims and public policy.

Ed Klumpp appeared in support, indicating enactment **SB 409** will provide law enforcement with the ability to aggressively handle repeat felony offenders (Attachments 3 & 4). As a result of implementation of the sentencing grid several years ago, many repeat offenders remain on probation resulting in higher crime rates and the continued victimization of our citizens.

Tom Stanton testified in favor, stating **SB 409** is good public policy aimed at the protection of citizens from (Attachment 5). Mr. Stanton questioned the possibility of inconsistencies in the bill regarding the sentencing grid for non-drug felony offenses and requested the committee review the statute.

Kenny McGovern spoke in support, stating enactment of **SB 409** will address the issue of theft and make a strong statement to repeat offenders (Attachments 6). Sheriff McGovern also voiced support of the drug treatment programs included in the bill which may not always be available at the county level.

The Chairman indicated the committee was out of time and will continue with **SB 409** at the next meeting.

The meeting adjourned at 10:30 A.M. The next scheduled meeting is January 24, 2007.