

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:37 a.m. on February 27, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Jerry Donaldson, Kansas Legislative Research Department
Athena Andaya, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Pat Scalia, Board of Indigent Defense
Ron Evans, Chief, Death Penalty Defense Unit
Kris Ailslieger, Assistant Solicitor General, Office of the Attorney General
Steve Howe, Johnson County District Attorney, Kansas District

Others attending:

See attached list.

The Chairman reopened the hearing on **SB 208 - Abolishing the death penalty.**

Pat Scalia appeared in support providing the committee with a review of the costs to her agency associated with defending indigent death penalty offenders. Since the re-enactment of the death penalty 107 cases have been under the death penalty statute at a cost of nearly \$20 million dollars. This year the agency will have a budget shortfall of \$995,248 for the defense of capital cases. Enactment of **SB 208** will save millions of dollars and an insufficient use of State funds. (Attachment 1)

Senator Vratil distributed additional documents from the State Board of Indigents; Defense Services regarding data on capital cases. (Attachment 2)

Ron Evans spoke in support and provided the Committee insight to the differences and extraordinary requirements needed when defending a capital punishment case and explains the high cost of defending such offenders. (Attachment 3)

Kris Ailslieger testified in opposition stating the Attorney General's Office and prosecutors across the state view the death penalty as a matter of justice. Kansas has one of the most responsible and limited death penalty statutes in the nation reserved for the worst, most heinous and cruel murders. Defendants are treated fairly by law enforcement and their constitutional rights are protected including an automatic appeal to the Kansas Supreme Court. The argument that abolition of the death penalty will save the State money is questionable since the actual cost figures for death penalty and non-death penalty cases in Kansas do not exist. The *2003 Legislative Post Audit* study states very clearly it "is not a study of whether is more costly for Kansas to have the death penalty than not to have it." There are many inaccurate and /or misleading elements to the report and is a flawed tool for assessing the cost of the death penalty in Kansas. The State will not see significant savings with enactment of **SB 208**, and would be inappreciable compared to the costs suffered by our communities as a result of capital murder and the sense of justice that demands the death penalty. (Attachment 4)

Steve Howe appeared in opposition indicating prosecutors throughout Kansas have been very selective in requests for the death penalty. The fiscal note on this bill indicates additional costs are associated with death penalty cases. Justice should never be controlled merely by costs, and elimination of the death penalty will not guarantee savings. Also to be considered is the leverage provided to prosecutors to obtain capital murder convictions. Mr. Howe referred to two separate instances where prosecutors obtained pleas to capital murder without parole charges due to the possibility of the death sentence thus saving the cost of lengthy, costly trials. (Attachment 5)

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:37 a.m. on February 27, 2009, in Room 545-N of the Capitol.

Written testimony in support of **SB 208** was submitted by:

Forrest Swall, Former Member, Kansas House of Representatives ([Attachment 6](#))
Donna Schneweis, State Death Penalty Abolition Coordinator ([Attachment 7](#))
Bill Lucero, Kansas Coordinator, Murder Victims' Families for Reconciliation ([Attachment 8](#))
Paige A. Nichols, Kansas Association of Criminal Defense Lawyers ([Attachment 9](#))
Bill Kurtis ([Attachment 10](#))

Written testimony in opposition of **SB 208** was submitted by:

Wes Jordan, Chief, Johnson County Police Chiefs & Sheriff's Association ([Attachment 11](#))
Megan Heyka DiGiovanni ([Attachment 12](#))
Larry Heyka ([Attachment 13](#))
Amy Scott ([Attachment 14](#))

There being no further conferees, the hearing on **SB 208** was closed.

The next meeting is scheduled for February 28, 2009.

The meeting was adjourned at 10:30 a.m.