

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on March 20, 2002 in Room 313-S of the Capitol.

All members were present except:

Representative Doug Patterson - Excused

Committee staff present:

Jerry Ann Donaldson, Department of Legislative Research

Jill Wolters, Department of Revisor of Statutes

Sherman Parks, Department of Revisor of Statutes

Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Charles Simmons, Secretary, Kansas Department of Correction

Marilyn Scafe, Kansas Parole Board

Mark Gleeson, Office of Judicial Administration

Senator Dwayne Umbarger

Representative Jerry Williams

Doug Wareham, Kansas Agribusiness Retailers Association

Jerry Boettcher, Boettcher Enterprises

Tony Dyer, Kansas Farmers Service Association

Scott Anderson, Kansas Farmers Service Association

Joe Lieber, Kansas Cooperative Council

Jere White, Kansas Corn Growers Association

Greg Foley, Assistant Secretary of Agriculture

Rick Tucker, Kansas Trial Lawyers Association

Paul Davis, Kansas Bar Association

Representative Karen DiVita

Kathy Porter, Office of Judicial Administration

Judge Tom Graber, Sumner County

Hearing on **SB 339 - Procedure for early release of functionally incapacitated persons by the Secretary of Corrections**, was opened.

Charles Simmons, Secretary, Kansas Department of Correction, explained that many states have procedures in place for the release of inmates who are functionally incapacitated as a result of terminal illness or some other condition. The bill would allow the Secretary of Corrections to recommend these types of releases to the Kansas Parole Board, who will make the final decision. (Attachment 3)

Written testimony in support of the bill was provided by Marilyn Scafe, Kansas Parole Board. (Attachment 2)

Hearing on **SB 339** was closed

Hearing on **HB 3010 - Placement in court services or community corrections in Johnson County**, was opened.

Marilyn Scafe, Kansas Parole Board, appeared before the committee in support of the proposed bill which would allow for a pilot program in Johnson County called the Level of Service Inventory-Revised (LSI-R). The LSI-R is a tool that is used to identify risk and needs of offenders. She hoped to receive a grant from the National Institute of Corrections to provide training and education to those who would staff the pilot program. (Attachment 3)

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Mark Gleeson, Office of Judicial Administration, was concerned about the resources and that there has not been a financial grant received from the National Institute of Corrections and that Johnson County has not voiced their support for the pilot project. ([Attachment 4](#))

Hearing on **HB 3010** was closed.

Hearing on **SB 489 - Immunity from liability for certain owners of anhydrous ammonia from acts of tamperers and civil penalties related to certain acts of custom blenders of fertilizers**, was opened.

Senator Dwayne Umbarger appeared before the committee as the sponsor of the proposed bill. He explained that farmers and ag retailers face huge risks due to the growing problem of individuals stealing anhydrous ammonia to make methamphetamine (meth). ([Attachment 5](#))

Representative Jerry Williams, stated that in southeast Kansas meth labs are growing and the local law enforcement is doing its best to close them down but they do not have the finances to keep up with the growth. ([Attachment 6](#))

Doug Wareham, Kansas Agribusiness Retailers Association, explained that the proposed bill would still allow for civil penalties to be assessed if the owner of the anhydrous tank is found not in compliance with standards that ensure the safe storage, transportation and handling of the fertilizer & such products. Fertilizer is a much needed tool in agriculture today, it the cheapest way to give the crops the nutrients it needs. He provided a balloon amendment which would extend immunity to the third party liability for a period of four years. At which time, there should be an additives that has been added to the anhydrous that will render it unusable to make meth. The agriculture community did not ask for this problem but the meth dealers have made it an issue. ([Attachment 7](#))

Jerry Boettcher, Boettcher Enterprises, commented that while no person has been injured, he believes it's only a matter of time. The industry is currently responsible for its own acts but he does not want them to be responsible for the acts of a theft. ([Attachment 8](#))

Tony Dyer, Kansas Farmers Service Association, told the committee that there is an insurance crisis in agriculture. Even before September 11, many companies were withdrawing from the market. It's not due to the frequency of claims but to the severity of claims. What use to be a two hundred thousand dollar claim is now in the millions of dollars. ([Attachment 9](#))

Scott Anderson, Kansas Farmers Service Association, informed members that dealers have tried many things to stop the theft of anhydrous such as removing hoses from tanks, improving lighting, using locks, video surveillance and fences, but these do not deter the thief. They want the anhydrous so bad that they will find a way around any type of security. ([Attachment 10](#))

Joe Lieber, Kansas Cooperative Council, stated that the purpose of the bill is to protect the owners from the tamperer and third party lawsuits. ([Attachment 11](#))

Jere White, Kansas Corn Growers Association, sees anhydrous as a very helpful and inexpensive tool for growing crops, and if farmers have to stop using it there will be an increase in food. ([Attachment 12](#))

Greg Foley, Assistant Secretary of Agriculture, appeared in support of the bill. He informed the committee that Kansas Department of Agriculture is going to propose regulations establishing 60 days as the maximum time allowed for bulk liquid fertilizer storage of greater than 2,000 gallons without triggering containment requirements. ([Attachment 13](#))

Kansas Farm Bureau provided written testimony in support of the bill. ([Attachment 14](#))

Rick Tucker, Kansas Trial Lawyers Association, read his testimony in opposition of the bill. He proposed striking subsection (e) of Section 1, to do away with the English Rule provisions. ([Attachment 15](#))

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Paul Davis, Kansas Bar Association, was concerned about Section 1 (e) which modifies the “loser pays” rule in cases where a 3<sup>rd</sup> party brings an action against the anhydrous owner for negligence. (Attachment 16)

Hearing on **SB 489** was closed.

Hearing on **HB 3932 - Establish criteria for amount of child support and restrictions**, was opened.

Representative Karen DiVita explained that the proposed bill would close a loophole for those who divorce and live in the same metropolitan area but are getting a break on child support due to the difference in the costs of living. (Attachment 17)

Kathy Porter, Office of Judicial Administration, was concerned with the understaffed, under funded court system and suggested that factors on page 2, lines 28-36 would add to that. (Attachment 18)

Judge Tom Graber, Sumner County, commented that the courts consider all financial situations but did not anticipate this problem.

Hearing on **HB 3932** was closed.

The committee meeting adjourned at 6:30 p.m.