

Journal of the Senate

TWENTY-SIXTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
Tuesday, February 18, 2003—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with thirty-eight senators present.
Senators Downey and Jordan were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I Samuel 16:7 says that man looks at the outward appearance, but God looks at the heart.

What do You see, Lord, when You look at my heart?

Am I a different person from whom people see?

Am I more concerned about how I look to people than how I look to You?

Does my heart conceal things which only You can see?

Do I try to keep people from knowing what I'm really like?

O God, do You like everything You see in my heart?

Would my friends be surprised if they could look at my heart?

Do I really believe I can hide things from You?

Are there things in my heart which even I cannot see?

Help me so to live, O God,
That when You look upon my heart,
What people see and what I am
Cannot be told apart.

And help me to conduct myself
So when people look at me,
They'll be sure to only find
Who I am is what they see.

I pray in the Name of Christ, AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated:

Agriculture: **HB 2038**.

Commerce: **SB 237**.

Education: **SCR 1611**.

Elections and Local Government: **SB 238; HCR 5005**.

Transportation: **HB 2118**.

Ways and Means: **SB 239**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2089, HB 2090**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2089, HB 2090 were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Gilstrap, Gooch, Haley and Lyon introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1815—

A RESOLUTION congratulating and commending Donald Lee Hollowell.

WHEREAS, Donald Lee Hollowell of Atlanta, Georgia, a noted attorney and civil rights pioneer, will be the honored guest at the Richard Allen Cultural Center's Annual Benefit Gala on February 15 at Leavenworth; and

WHEREAS, Mr. Hollowell was born in Wichita in 1917 and completed his elementary and secondary education in Kansas. He then attended Lane College in Jackson, Tennessee, where he was an honor student and football team quarterback. His undergraduate studies were interrupted by service in the United States Army during World War II from which he was honorably discharged with the rank of Captain. He then completed a law degree at Loyola University in Chicago, Illinois; and

WHEREAS, Mr. Hollowell entered the private practice of law in Georgia in 1952. During the following 14 years his law firm, Hollowell, Ward, Moore and Alexander, served as counsel for hundreds of persons who participated in the civil rights and civil liberties struggles of that era. Notable clients included Horace T. Ward, now a United States District Judge for the Northern District of Georgia, in his efforts to gain admission to the University of Georgia Law School; Charlayne Hunter and Hamilton Holmes in their efforts to be admitted to the University of Georgia and the Reverend Doctor Martin Luther King, Jr., in his appearances with the courts to gain freedom for all Americans; and

WHEREAS, In 1966 he was appointed Regional Director of the United States Equal Employment Opportunity Commission and held this position for 10 years. In 1976 he transferred to the position of Regional Attorney for the Commission, a position he held until his retirement in 1985. During his tenure with the Equal Employment Opportunity Commission he supervised a staff of up to 34 attorneys and was responsible for their training, for the supervision of case preparation and the trial of hundreds of employment law cases involving Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act and the Equal Pay Act; and

WHEREAS, During his past 60 plus years in Georgia he has been a noted civic and church leader, has served on numerous institutional boards and commissions, has received over 100 awards for his legal and community service and has had an honorary professorship named after him at the Emory University School of Law; and

WHEREAS, Mr. Hollowell is married to Louise E. Thornton who holds Professor Emeritus status from her service as teacher of English for 35 years at Morris Brown: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we welcome this son of Kansas back to his childhood home and congratulate and commend this man for his contributions to the civil rights struggles of our nation; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Gilstrap for presentation to Mr. Hollowell.

On emergency motion of Senator Lyon **SR 1815** was adopted unanimously.

Mr. Hollowell was introduced and congratulated on his many accomplishments.

EXPLANATION OF VOTE

MR. PRESIDENT: I am personally elevated today and this Chamber is privileged to recognize this great native son of Kansas. When Phyllis Bass (of the Richard Allen Center); Joyce Williams; Representatives Candy Ruff and Marti Crow first asked me to sponsor this Resolution; neither his name or good works were known to me. Today, two weeks later, Donald Hollowell is on my short list of personal heroes.

Not because Donald Hollowell and David Haley share basic obvious similarities; both native-born Kansans; African-American men; attorneys having the initials "D...H"!!

It's an honor for me to recognize Mr. Hollowell for that which is not so obvious. Born in Wichita; reared in Leavenworth; the Depression forced him first into service, instead of academia, the 10th Calvary (Buffalo Soldiers) at Fort Leavenworth.

Later an honor student and quarterback at Lane College, Mr. Hollowell would matriculate to become sought after legal counsel for too many including: Dr. Martin Luther King, Jr.; Charlyne Hunter (Gauly). Vernon Jordan dedicates pages in his autobiography to this leader. Judges Horace Ward and Marvin Arrington, previously President of the Atlanta City Council, list him as an associate and mentor.

This Senator is but a grateful beneficiary of many of the causes Donald Hollowell championed; he symbolizes the commitment that I, in a successive generation, strive to epitomize. His leadership is an inspiration to those who must overcome others in our democracy who stand in the way of a progressive, united Kansas. . . and America.—DAVID HALEY

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 162** be passed.

Committee on **Commerce** recommends **SB 223** be passed.

Committee on **Judiciary** recommends **SB 71** be passed.

Also **SB 91** be amended on page 2, in line 10, after the period, by inserting: "This subsection shall expire on July 1, 2006."; and the bill be passed as amended.

Committee on Public Health and Welfare begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Secretary of Health and Environment: K.S.A. 2002 Supp. 75-5601

Roderick Bremby, serves at the pleasure of the Governor

Secretary of Social and Rehabilitation Services: K.S.A. 2002 Supp. 75-5301

Janet Schalansky, serves at the pleasure of the Governor

Committee on **Transportation** recommends **SB 68** be passed.

REPORT ON ENROLLED BILLS

SR 1811, SR 1812, SR 1813, SR 1814 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 18, 2003.

COMMITTEE OF THE WHOLE

On motion of Senator Oleen, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Taddiken, and later Senator Corbin, in the chair.

On motion of Senator Corbin the following report was adopted:

Recommended **SB 95**, **SB 159** be passed.

SB 57, **SB 82** be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 15 be amended by motion of Senator Schmidt, on page 2, by striking all of lines 7 through 10, and inserting the following:

"(e) If a landlord provides to a tenant a document which, if signed by the landlord and/or tenant, would constitute the tenant's written notice to the landlord that the tenant intends to vacate the premises, and if such document contains any additional terms that are not contained in the rental agreement between the landlord and tenant, then the document shall include the following statement: 'YOUR SIGNATURE ON THIS DOCUMENT MAY BIND YOU TO ADDITIONAL TERMS NOT IN YOUR ORIGINAL LEASE AGREEMENT. IF YOUR LEASE REQUIRES YOU TO GIVE WRITTEN NOTICE OF YOUR INTENT TO VACATE, YOU HAVE THE RIGHT TO DECLINE TO SIGN THIS DOCUMENT AND TO PROVIDE WRITTEN NOTICE IN ANOTHER FORM.'", and **SB 15** be passed as amended.

SB 35 be amended by adoption of the committee amendments, be further amended by motion of Senator Schmidt, on page 2, line 27, by striking "without a petition being filed under this subsection"

The bill be further amended by motion of Senator Goodwin as amended by Senate Committee, on page 1, in line 28, by striking "person" and inserting "nonperson";

On page 2, in line 35, by striking "person" and inserting "nonperson"

Senator Schmidt moved to amend the bill as amended by Senate Committee, on page 2, after line 38 by inserting:

“Sec. 3. K.S.A. 21-4004 is hereby amended to read as follows: 21-4004. (a) Criminal defamation is communicating to a person orally, in writing, or by any other means, information, knowing the information to be false and with actual malice, tending to expose another living person to public hatred, contempt or ridicule; tending to deprive such person of the benefits of public confidence and social acceptance; or tending to degrade and vilify the memory of one who is dead and to scandalize or provoke surviving relatives and friends.

(b) In all prosecutions under this section the truth of the information communicated shall be admitted as evidence. It shall be a defense to a charge of criminal defamation if it is found that such matter was true.

(c) *This section shall not apply to communications about public officials or public figures on matters of public concern.*

(d) Criminal defamation is a class A nonperson misdemeanor.”;

by renumbering “Sec. 3.” as “Sec. 4.” and inserting “New” preceding “Section 1.” and “Sec. 2.”;

On page 1, in the title, in line 12, after “therefor” by inserting “; concerning criminal defamation; amending K.S.A. 21-4004 and repealing the existing section”

A ruling of the Chair was requested as to the germaneness of the amendment to the bill.

The Chair ruled the amendment was germane to the bill; the ruling of the Chair was challenged.

On division, the Chair was sustained.

The amendment was rejected.

Senator Haley moved to amend **SB 35** as amended by Senate Committee, on page 1, in line 15, preceding “Section”, by inserting “New”; in line 32, preceding “Sec”, by inserting “New”;

On page 2, following line 38, by inserting the following:

“Sec. 3. K.S.A. 2002 Supp. 21-4704 is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level 9	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 564	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	82 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	35 33 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 4

140000
Presumptive Probation
Presumptive Imprisonment

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer or K.S.A. 21-3415, and amendments thereto, aggravated battery against a law enforcement officer and amendments thereto which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered a departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567 and, subsection (b)(3) of K.S.A. 21-3412a, and subsections (b)(3) and (b)(4) of K.S.A. 21-3710, and amendments thereto, shall be as provided by the specific mandatory sentencing require-

ments of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-4707, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-3710, and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a and subsections (b)(3) and (b)(4) of K.S.A. 21-3710, and amendments thereto shall not be served in a state facility in the custody of the secretary of corrections.

(j) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term. Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (1) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (2) at the time of the conviction under subsection (1) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government. The provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto, or any substantially similar offense from another jurisdiction.

(l) The sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment.

(m) *The sentence for any person convicted of a crime that was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the crime was motivated by the person's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim, whether or not the person's belief or perception was correct, shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term for the underlying crime, or if an off-grid crime, shall be double the sentence prescribed by law for such crime. Such motivation or belief or perception as described in this subsection shall be an element of the underlying crime and determination thereof shall be submitted to the trial jury and proved beyond a reasonable doubt.*

Sec. 4. K.S.A. 2002 Supp. 21-4716 is hereby amended to read as follows: 21-4716. (a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines for crimes committed on or after July 1, 1993, unless the judge finds substantial and compelling reasons to impose a departure. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of subsection (b) of K.S.A. 21-4718, and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of subsection ~~(b)(3)~~ (c)(3), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(2) Subject to the provisions of subsection (b)(3) ~~(c)(3)~~, the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

~~(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.~~

~~(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.~~

~~(E) (D)~~ The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to commit or assist in avoiding detection or apprehension for commission of any person felony or any attempt, conspiracy or solicitation as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto to commit any person felony regardless of whether the defendant knew the age of the individual under 16 years of age.

~~(E) (E)~~ The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

(i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization; or

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) “Mental condition or personality disorder” means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

~~(G)~~ (F) The defendant was incarcerated during the commission of the offense.

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

~~(e)~~ (d) In determining aggravating or mitigating circumstances, the court shall consider:

- (1) Any evidence received during the proceeding;
- (2) the presentence report;
- (3) written briefs and oral arguments of either the state or counsel for the defendant; and
- (4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

New Sec. 5. The attorney general shall collect and disseminate data on incidents of criminal acts that evidence prejudice based on race, color, religion, ethnicity, national origin, sexual orientation or disability. All law enforcement agencies shall report monthly to the attorney general concerning such offenses in such form and in such manner as prescribed by rules and regulations adopted by the attorney general. Such information shall be compiled by the attorney general and disseminated upon request to any local law enforcement agency, unit of local government or state agency. Dissemination of such information shall be subject to all confidentiality requirements otherwise imposed by law. Data required pursuant to this subsection shall be used only for research or statistical purposes and shall not include any information that may reveal the identity of an individual victim of a crime. The attorney general shall publish an annual summary of the data required pursuant to this subsection. The attorney general shall provide training for all law enforcement officers in identifying, responding to and reporting all crimes as provided in subsection (m) of K.S.A. 21-4704, and amendments thereto. The Kansas law enforcement training commission shall develop and certify a course of such training to be made available to all law enforcement officers.

Sec. 6. K.S.A. 2002 Supp. 21-4704 and 21-4716 are hereby repealed.”;

By renumbering section 3 as section 7;

On page 1, in the title, in line 12, preceding the period, by inserting “; also relating to hate crimes; prescribing penalties therefor; reporting requirements; amending K.S.A. 2002 Supp. 21-4704 and 21-4716 and repealing the existing sections”

A ruling of the Chair was requested as to the germaneness of the amendment to **SB 35**.

The Chair ruled the amendment was germane to the bill.

The Committee returned to consideration of the amendment.

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 10, Nays 23, Present and Passing 1, Absent or Not Voting 6.

Yeas: Adkins, Allen, Barone, Gilstrap, Haley, Hensley, Lee, Oleen, Schodorf, Steineger.

Nays: Barnett, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Emler, Harrington, Huelskamp, Jackson, Kerr, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Goodwin.

Absent or Not Voting: Brownlee, Downey, Feleciano, Gooch, Jordan, Taddiken.

The motion failed and the amendment was rejected.

The Committee recommended **SB 35** be passed as further amended.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Wednesday, February 19, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

