

MINUTES OF THE SENATE JUDICIARY COMMITTEE

Chairman Tim Owens called the meeting to order at 9:34 A.M. on March 2, 2011, in Room 548-S of the Capitol.

All members were present, except Senator Donovan, who was excused

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Steve Howe, Johnson County District Attorney
Debra Billingsley, Kansas Board of Pharmacy

Others attending:

See attached list.

The Chairman opened the hearings on **HB 2008 -- Making identity theft a person felony.**

Jason Thompson, Staff Revisor, reviewed the bill.

Steve Howe testified in support of **HB 2008** (Attachment 1). Under current law identity (ID) theft is a nonperson felony for which repeat offenders receive probation. Under the bill, repeat offenders could be sentenced to prison. He stated that the fiscal effect of the bill would not be felt for a couple of years since offenders would have to establish a criminal history of ID theft.

Senator Haley asked, "Are there other person felonies which do not require "contact" with the victim?"

Mr. Howe replied, "An example is burglary of a residence and possibly violation of a restraining order."

Senators Kelly and Vratil expressed concern with the cost of implementing the bill as described in the fiscal note. Mr. How stressed the fiscal effect would not be felt for up to five years. The bill is an attempt to "head off" the career criminal.

The Chairman noted that the fiscal note describes the "worst case" scenario and that we (taxpayers of the state) need to pay the price or let the scourges remain on the street. ID theft is costly to the victims of the crime.

No testimony in opposition to **HB 2008** was offered.

Senator Vratil requested an update on the revised prison bed impact statement that had been prepared for **HB 2008**.

Sarah Fertig, Executive Director, Kansas Sentencing Commission, stated that she agrees with Mr. Howe's statement that the costs of implementing **HB 2008** would not be felt until FY 2013.

The Chairman closed the hearings on **HB 2008**.

The Chairman announced that the hearings on **HB 2071 -- Inheritance rights; automatically revoking ex-spouses inheritance rights upon divorce** have been canceled and the topic would be referred to the Kansas Judicial Council for study.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:34 A.M. on March 2, 2011, in Room 548-S of the Capitol.

The Chairman opened the hearings on **HB 2023 -- Continuation of certain exceptions to disclosure under the open records act.**

Jason Thompson, Staff Revisor, reviewed the bill.

Debra Billingsley testified in support of **HB 2023** (Attachment 2). Ms. Billingsley noted that K.S.A. 65-4102 required the Board of Pharmacy to submit an annual report to the legislature that lists the controlled substances that the Board proposes to be scheduled, rescheduled or deleted from the controlled substances schedules. She stated that the bill would implement those recommendations and that the changes in the bill would conform the Kansas law to federal law.

The Chairman called the committee's attention to the fiscal note for **HB 2023**.

The Chairman closed the hearings on **HB 2023**.

Meeting adjourned at 10:25 A.M. The next meeting is scheduled for March 3, 2011.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: WED March 2, 2011

NAME	REPRESENTING
Steve Howe	JO Co DA
Debra Billingsley	KS State Board of Pharmacy
Megan Brooks	Legislative Intern - Rep. Don Hill
Patrick Vogelsberg	KCDAA
David Clark	Intern
claire Crawford	Intern
Whitney Damm	KS Bar Assn
Joe Molire	KS Bar Assn
Sarah Fertig	KSC
Tara Mays	KDOT
Nancy Zogelman	Polsine II.
ERIC BENEDET	INTERN
Stephanie Kimbrel	Washburn School of Nursing
Amanda Buisman	Washburn School of Nursing
DENER HEIN	HEIN LAW FIRM
T.J. Cahill	Intern

OFFICE OF DISTRICT ATTORNEY
STEPHEN M. HOWE, DISTRICT ATTORNEY

February 28, 2011

Senate Judiciary Committee
Attention: Tim Owens, Chairman
300 SW 10th St., Room 536N
Topeka, Kansas 66612

Re: House Bill 2008

Dear Chairman Owens,

Thank you for the opportunity to submit our written response in support of HB 2008.

Over the last several years, the Federal Trade Commission has reported that Identity Theft is the fastest growing crime in America. Many of you have probably heard from victims of these crimes and the impact it has had on their lives. It can include obtaining an individual's personal information, which, when compromised, can affect credit scores, the ability to obtain mortgages, car loans, etc. The earned wages by the perpetrator can result in a long and difficult process to convince the IRS that someone else generated this income. It can also cause disruption of unemployment or disability benefits as the government is notified of false earning wages under the victim's name. When the criminal commits crimes under the victim's name, it can result in criminal arrest WARRANTS. This has resulted in the unsuspecting victim being arrested. Collection efforts by the numerous retailers who are trying to collect on the credit accounts opened under victim's name or bad checks passed in victim's name has a collateral effect, which includes impact on job applications when potential employers run credit scores and do criminal history checks.

The effects of these crimes can linger for years as the information is passed from perpetrator to perpetrator. The methods used to gain this information are becoming more and more elaborate. Organized groups are the source of many of these acts. The economic impact on individuals and businesses reaches billions of dollars in the U.S. economy.

Under the current statute, career criminals can repeatedly commit these crimes and still obtain probation. They will never exceed a criminal history "E" under the current sentencing guidelines. Furthermore, there are no special rules for repeat offenders such as those that exist in the burglary, theft and forgery statutes. The identity theft statute and the impact of those crimes deserves to be distinguished from those who commit identity fraud.

This change in the identity theft statute would provide prosecutors and victims the opportunity to imprison these repeat offenders who continually victimize Kansans. These career criminals should not be afforded numerous chances at probation. This will give prosecutors the tools needed to protect the public from the fastest growing areas for organized crime.

We would ask this committee to support this bill as drafted. I thank you for your time and would be happy to answer any questions you may have regarding the proposed legislation.

Sincerely,



Stephen M. Howe
Johnson County District Attorney

1-2

800 SW Jackson St., Suite 1414
Topeka, KS 66612



phone: 785-296-4056
fax: 785-296-8420
pharmacy@pharmacy.ks.gov
www.kansas.gov/pharmacy

Debra L. Billingsley, Executive Secretary

Board of Pharmacy

Sam Brownback, Governor

Testimony concerning HB 2023
Committee on Senate Judiciary
Presented by Debra Billingsley
On behalf of
The Kansas Board of Pharmacy
March 2, 2011

Chairman Owens and Members of the Committee:

My name is Debra Billingsley and I am the Executive Secretary of the Kansas State Board of Pharmacy. The Board is created by statute and is comprised of seven members, each of whom is appointed by the Governor. Of the seven, six are licensed pharmacists and one is a member of the general public. The Board of Pharmacy, pursuant to K.S.A. 65-4102(b), is required to submit an annual report on controlled substances proposed by the Board for scheduling, rescheduling or deletion by the legislature.] *

The Board conducted a side by side comparison of the State Controlled Substances list to the Federal Controlled Substances list. The Board recommends amending the state laws to match the federal laws in order to facilitate uniformity while maintaining and enhancing the consumer protections afforded by the Pharmacy Board regulatory system.] **

In proposing to the Legislature that any drugs be classified as a scheduled controlled substance, the Board relies on the following factors set forth in K.S.A. 65-4102(b). Specifically, the proposal must state the reasons that the Board makes their recommendations by considering the following factors: 1) Potential for abuse; 2) the scientific evidence of its pharmacological effect, if known; 3) the state of current scientific knowledge regarding the substance; 4) the history and current pattern of abuse; 5) the scope, duration and significance of abuse; 6) the risk to the public health; 7) the potential of the substance to produce psychological or physiological dependence liability; and 8) whether the substance is an immediate precursor of a substance already controlled under this article.

Senate Judiciary

3-2-11
Attachment 2

The Drug Enforcement Agency (DEA) also issues their rulings based on information provided by the DEA's Deputy Administrator and the Department of Health and Human Services using the same factors and criteria that the state uses. The DEA has already reviewed the pharmacology, chemistry, trafficking, actual abuse, pattern of abuse and the relative potential for abuse of the drugs that the Board recommends be amended into the state schedule.

The Board of Pharmacy recommends that *4-Bromo-2,5-dimethoxyphenethylamine* (Street names: *Nexus*, *Toonies*, *Venus*, *2C-B*); *2,5-Dimethoxy-4-(n)-propylthiophenethylamine* (Street names: *Blue Mystic*, *T7*, *Beautiful*, *Tripstay*, *Tweety-Bird*); *Alpha-Methytryptamine* (Street name *Spirals*); and *5-Methoxy-N,N-diisopropyltryptamine* (Street name: *Foxy*) be added to Schedule I. These drugs have a high potential for abuse and have no accepted medical use in treatment in the United States. All four drugs are hallucinogens producing euphoria and altering sensory perception. They have effects common to LSD.

The Board of Pharmacy recommends that the following substances be added to Schedule II. These have a high potential for abuse but have an accepted medical use in the United States or a currently accepted medical use with severe restrictions.

Dihydroetorphine is a potent analgesic painkiller. It is used primarily in the sedation of large animals. It is several times stronger than morphine. *Oripavine* is a narcotic opiate. It is not used clinically but it is the parent compound from which a series of semi-synthetic opioids are derived. *Remifentanyl* is a potent short acting synthetic opioid analgesic drug given to patients during surgery to relieve pain. It is used for sedation and in combination with other medications for use in general anesthesia. *Tapentadol* is an analgesic painkiller. It is used to treat moderate to severe acute pain. *Lisdexamfetamine* is used to treat attention deficit disorder.

The Board of Pharmacy recommends that the following substances be added to schedule III. Schedule III drugs have less potential for abuse than Schedule II drugs and they have an accepted medical use in treatment in the United States.

Embutramide is a potent sedative drug. It is used for euthanasia in veterinary medicine, mainly for euthanizing dogs. *Buprenorphine* is used to treat opioid addiction and to control moderate pain.

The Board of Pharmacy recommends that the following substances be added to Schedule IV. Schedule IV drugs have a lower potential for abuse relative to the drugs in Schedule III. They have current accepted medical uses in treatment in the United States.

Dichloralphenazone is an active ingredient of medications for migraine and vascular tension headaches. *Fospropofol* is an intravenous sedative-hypnotic used in the sedation of adult patients undergoing diagnostic or therapeutic procedures such as endoscopy. *Zopiclone* is a hypnotic agent used in the treatment of insomnia.

The Board of Pharmacy recommends that the following substances be added to Schedule V. Schedule V substances have a low potential for abuse relative to the drugs in Schedule IV. They have a currently accepted medical use in treatment in the United States. Abuse of the drug may lead to limited physical dependence or psychological dependence relative to the drugs in Schedule IV.

Lacosamide is used in the treatment of partial-onset seizures and diabetic neuropathic pain. *Pregabalin* is an anticonvulsant drug used for neuropathic pain and for partial seizures in adults. It is also used for generalized anxiety disorder.

The Board of Pharmacy recommends that *Buprenorphine* be removed from Schedule V because it was moved to Schedule III federally.

Thank you for permitting me to testify. I will yield to any questions from the committee.