

Approved: August 25, 2011
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 A.M. on March 10, 2011, in Room 548-S of the Capitol.

All members were present, except Senators Donovan and Kelly, who were 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:

John Settle, Pawnee County Attorney
John C. Haas, Pawnee County Commissioner
Randall Allen, Executive Director Kansas Association of Counties
Phillip Cosby, State Director American Family Assn. of Kansas and Missouri
Ed Klumpp, Kansas Assn. of Chiefs of Police and Kansas Peace Officers Assn.
Jeffry D. Curry, Sheriff Franklin County and Kansas Sheriffs Assn.
Christine Ladner, Office of Attorney General

Others attending:

See attached list.

The Chairman opened the hearings on **SB 217 -- Civil commitment of sexually violent predators; reimbursement for costs related to habeas corpus actions to the county from the sexually violent predator expense fund.**

Jason Thompson, Staff Revisor, reviewed the bill.

John Settle testified in support of **SB 217** (Attachment 1). He explained that the bill is intended to help the taxpayers of Pawnee County. In a recent Attorney General Opinion (Attachment 2), the Attorney General concluded that K.S.A. 20-348 authorizes the court to tax Pawnee County for the fees of an attorney appointed to represent an indigent person confined pursuant to the SVPA in a habeas corpus proceeding under K.S.A. 60-1501. Mr. Settle does not believe that the Legislature would intend that Pawnee County should be responsible for those costs. He stated he was in support of amendments to the bill suggested by the Attorney General (Attachment 3).

John C. Haas testified in support of **SB 217** (Attachment 4). He stated that the bill is necessary to avoid imposing a very large and unfair tax burden on the taxpayers of Pawnee County.

Randall Allen testified in opposition to the solution suggested in **SB 217** (Attachment 5). He stated that the Attorney General should pay the costs of enforcing the SVPA and any litigation relating thereto; that would ensure that all taxpayers of the state share in the cost.

The Chairman called the committee's attention to the fiscal note for **SB 217**.

The Chairman closed the hearings on **SB 217**.

The Chairman opened the hearings on **HB 2042**.

Jason Thompson, Staff Revisor, reviewed the bill.

Phillip Cosby testified in support of HB 2042 (Attachment 6). He stated that the bill would provide for collection of data to quantify and connect the dots between pornographic materials and criminal behavior.

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Written testimony in support of **HB 2042** was submitted by Mary Anne Layden, Ph. D. (**Attachment 7**) and Judy Smith, Concerned Women for America (**Attachment 8**).

Ed Klumpp testified in opposition to **HB 2042** (**Attachment 9**). He stated that the bill imposes an unfunded mandate upon the KBI and local law enforcement agencies throughout the state. He stated that the fiscal note does not reflect the significant costs of implementing the bill as it was amended. He expressed concern with the precedent set by the bill; the bill requires collection of statistical data that does not help deter crime or help law enforcement officers to do their jobs.

Jeffrey Curry testified in opposition to **HB 2042** (**Attachment 10**). He stated that the bill does not help in the investigation or prosecution of sex crimes. He expressed concern with the costs of implementing the bill.

The Chairman called the committee's attention to the fiscal note for **HB 2042** and noted that it reflects only the cost to the state and that it does not reflect the costs of the House amendments.

Senator Vratil requested that a revised fiscal note be prepared for **HB 2042**.

Senator Bruce expressed concern that **HB 2042** appears to assume that the same law enforcement officer will be the same person handling all aspects of the crime such as the search, arrest and investigation.

Senator Bruce also expressed concern that **HB 2042** authorizes the KBI to adopt rules and regulations relating to training of law enforcement officers, and asked whether that was in the purview of the Kansas Law Enforcement Training Center.

No response was provided.

Senator Lynn asked, "Who would have access to the data once it was collected? Would it be subject to disclosure under the open records act?"

No response was provided.

Senator Bruce stated there may be value in having the information, but wondered if there was a less intrusive way to collect the data.

Ed Klumpp stated he thought it would have to be collected electronically and centrally stored to be accessible. He added that if the pornographic material has evidentiary value, it would be collected without the bill.

The Chairman closed the hearings on **HB 2042**.

The Chairman opened the hearings on **HB 2196 -- Amending the rules of evidence regarding expert testimony in sexually violent predator commitment cases.**

Jason Thompson, Staff Revisor, reviewed the bill.

Christine Ladner testified in support of **HB 2196** (**Attachment 11**). She stated that evidence in sexually violent predator (SVP) cases is composed of almost all expert testimony. She stated the bill would save money and streamline presentation of evidence. The bill mirrors the Federal Rule that allows the admissibility of an expert opinion based upon hearsay, but only in SVP cases.

Senator King asked, "Why limit the bill to SVP cases?"

Ms. Lardner responded, "She would be concerned that the bill would not pass if it was as broad as the Federal Rule."

Senator Vratil asked, "Why are sex offenders treated differently than other offenders? Doesn't the bill create an equal protection issue?"

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Ms. Lardner responded, "Persons subject to the SVP Act already have been singled-out and currently are treated differently than other offenders." She stated that she does not believe the bill violates the SVP constitutional rights.

The Chairman called the committee's attention to the fiscal note for **HB 2196**.

The Chairman closed the hearings on **HB 2196**.

Committee Action:

The Chairman called the committee's attention to **SB 39 -- Creating the classification of "aggravated sex offender;" creating additional penalties and restrictions for sex offenders.**

The Chairman called the committee's attention to additional written testimony submitted by Ray Roberts, Secretary of the Kansas Department of Corrections (Attachments 12 and 13).

The Chairman renewed his concern with the provisions of **SB 39** that would prevent juvenile offenders from attending school or living in a home with other children.

Balloon amendments to **SB 39**, prepared at the request of Senator Olson, were distributed to the committee (Attachment 14). Mr. Thompson stated that the amendments address some of the concerns raised by members of the committee.

The Chairman postponed further action on the bill in order to allow the committee to review the proposed amendments in the balloon.

The Chairman called the committee's attention to **SB 159 -- Parole and postrelease supervision for violent offenders and sex offenders.**

Balloon amendments to **SB 159**, prepared at the request of Senator Pilcher-Cook, were distributed to the committee (Attachment 15). Mr. Thompson stated that balloon is different than the balloon that previously had been distributed.

The Chairman announced that discussion and possible action on **SB 39** would continue tomorrow.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for March 11, 2011.