

Approved: June 22, 2012
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 a.m. on February 1, 2012, in Room 548-S of the Capitol.
All members were present.

Committee staff present:

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

Conferees appearing before the Committee:

Ed Klumpp, appearing for Professor Tom Stacy, KJC
Tom Witt, Executive Director of Kansas Equality Coalition
Tom Stanton, Reno County Attorney, KCDA
Jennifer Roth
Kyle Smith, KBI

Others Attending:

See Attached List

The Chairman re-opened the hearings on **Substitute for HB 2318—Amendments to the recodified criminal controlled substances provisions and the drug sentencing grid**. He reminded the Committee that hearings on the bill had been held on March 21, 2011.

Jason Thompson, Staff Revisor, distributed a memo, which described the provisions contained in **Substitute for HB 2318**. (Attachment 1). Mr. Thompson stated the bill contains policy recommendations of the Kansas Criminal Code Recodification Commission, relating to the recodified drug code. The bill would also create a drug sentencing grid with five levels and conforming amendments to implement a five-level grid. The bill also contains several technical changes in other statutes.

Mr. Thompson also distributed copies of a proposed Senate Substitute for House Bill No. 2318 (12rs1976) and a memo describing the provisions contained in the bill draft. (Attachments 2 and 3). Mr. Thompson stated the draft contained the original policy recommendations of the Kansas Criminal Code Recodification Commission, relating to the recodified drug code. The proposed **Senate Substitute for Substitute for HB 2318** would use the four-level drug grid in current law. The bill also contains several technical changes in other statutes.

Ed Klumpp, appearing for Professor Tom Stacy, testified in support of the bill. He stated the main concern of the Criminal Law Advisory Committee related to tying severity levels to drug quantities. He noted that since the guidelines account for an offender's criminal history, drug quantity is a preferable alternative method of determining the severity level of the offense. (Attachment 4).

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:35 a.m. on February 1, 2012, in Room 548-S of the Capitol.

Tom Stanton testified in support of the bill. He stated that without adding a fifth level on the drug grid, a person who is convicted of possession of controlled substances for personal use is punished at the same level as a person who is convicted for possession of a small amount of controlled substances for sale. (Attachment 5).

Jennifer Roth, appearing as an individual, expressed concerns relating to the treatment of precursors and paraphernalia as attempted manufacture, distribution or possession. She suggested that current law, relating to the application of enhancements if the offender is less than 18 years of age, should remain in effect. She also suggested that the increase in the severity-level which results from sales that occur within 1,000 feet of a school, should result only if the sale was to a minor. (Attachment 6).

Kyle Smith testified in support of the bill, but expressed concerns with certain provisions. He stated the provisions of current law, referred to as the Matt Samuels Act, relating to the number of packages of pseudo-ephedrine, should be reinserted. (Attachment 7).

The chairman closed the hearings on **Substitute for HB 2318**.

The chairman opened the hearings on **SB 308—Amendments to the Kansas criminal code**.

Jason Thompson, Staff Revisor, reviewed the bill. He stated the bill would create two new crimes: Armed criminal action and endangerment. The bill also would make several changes to the Kansas Criminal Code.

Ed Klumpp, appearing for Professor Tom Stacy, testified in support of the bill. He stated the bill contains policy recommendations of the Criminal Recodification Commission. (Attachment 8).

Tom Witt testified in support of the amendments to K.S.A. 21-5504 and 21-5507, which would delete unconstitutional provisions from those sections. Attached to Mr. Witt's testimony was information provided by Emily Behlmann, John Wheeler, Jr. and Sheri Moore. (Attachment 9).

The Chairman closed the hearings on **SB 308**.

The next meeting is scheduled for February 2, 2012.

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