

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on Tuesday, March 23, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator Barbara Allen (E)
Senator David Haley - Arrived 9:55
Senator Edward Pugh - Arrived 9:50

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jill Wolters, Office of the Revisor Statutes
Helen Pedigo, Office of the Revisor Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Denise Everhart, Commissioner, Juvenile Justice Authority
Mike Jennings for John Wheeler, Jr., Kansas County and District Attorneys Association
Robert Hecht, District Attorney, Shawnee County (written testimony)

Others attending: See attached list.

Chairman Vratil announced that Senator Goodwin had a guest in attendance that she would like to introduce to the Committee.

Senator Goodwin introduced one of her constituents, the Kansas Honey Queen, Miss Jackie Rowan, from Milton, Kansas, who is a Senior at Kansas State University.

Hearings on:

HB 2487 - Repealing the sunset provisions for the juvenile justice authority

Chairman Vratil opened the hearing on **HB 2487**. Commissioner Denise Evarhart, Juvenile Justice Authority (JJA), testified in support of the proposed legislation that would repeal the JJA sunset provision in KSA 75-7001. She said that the bill was a result of meetings held last fall and a recommendation by the interim Joint Committee on Corrections and Juvenile Justice. She attached copies of JJA's Annual Report along with a document that identified how the agency had complied with the Juvenile Justice Reform Act. (Attachment 1)

There being no other conferees to testify, the Chairman closed the hearing on **HB 2487**.

Final Action on:

HB 2487 - Repealing the sunset provisions for the juvenile justice authority

The Chair announced that since this was the last meeting day for the Senate Judiciary, he suggested taking final action on **HB 2487**. He called for discussion and final action on the bill.

Senator Goodwin made a motion to recommend **HB 2487** favorably, seconded by Senator Donovan, and the motion carried.

Hearing on:

HB 2602 - Allowing more prosecutorial discretion for immediate intervention programs for juveniles

Chairman Vratil opened the hearing on **HB 2602**. Mike Jennings testified in support of **HB 2602** on behalf of John Wheeler, Jr., Kansas County and District Attorneys Association.. He explained the purpose of the bill was to amend KSA 38-1635 to remove certain restrictions disallowing certain juvenile offenders from consideration for immediate intervention programs. (Attachment 2)

Denise Everhart, Juvenile Justice Authority, submitted written testimony in support of **HB 2602**. (Attachment 3)

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Robert Hecht, Shawnee District Attorney, submitted written testimony in opposition to **HB 2602**. The Chair instructed the Committee members to read the written testimony which was submitted late, as final action would possibly be taken later in the meeting. (Attachment 4)

The Chair closed the hearing on **HB 2602**.

Final Action on:

HB 2815 - Aggravated indecent solicitation child, severity level 3, person felony increase from a severity level 6, person felony

Chairman Vratil called for discussion and final action on **HB 2815**. He explained the bill, and stated there were no amendments. Senator Schmidt inquired what the bed space impact was on the bill. The Chair responded that the impact on prison admissions would be 24 additional admissions in 2005, 27 additional admissions in 2014, offender population would be 24 additional beds in 2005, and 227 in 2014. He stated that the bed space impact of some significance. (Attachment 5)

Committee discussion followed, and concern was expressed about all the bills considered in the Legislature this session with bed space impacts.

Senator Schmidt made a motion to take no action on **HB 2815**, seconded by Senator Umbarger, and the motion carried.

HB 2869 - Preliminary examinations, admissibility of field tests for controlled substances

Chairman Vratil called for discussion and final action on **HB 2869**. He explained the bill, and said that Judge Ernest Johnson had submitted a proposed amendment to the Committee. The amendment consisted of using Judge Johnson's proposed Section 1 including subsections (a), (b), and (c) in place of Section 1(a) in the bill.

Senator Goodwin made a motion to delete lines 14 through 24 and replace it with the proposed amendment from Judge Johnson, including Section 1, 2, and 3 and renumber accordingly. The motion was seconded by Senator O'Connor, and the motion carried.

Senator Donovan made a motion pass the bill favorably as amended, seconded by Senator Goodwin, and the motion carried.

HB 2880 - Duties of the chief justice of the supreme court, justices of the supreme court and the office of judicial administration

Chairman Vratil called for discussion and final action on **HB 2880**. The Chair asked Representative Mike O'Neal to address the Committee on the bill since he was unable to attend the previous day's hearing. (Attachment 6) He explained the bill and shared its history and the Supreme Court's position.

Representative O'Neal included with his written testimony a cover letter from Chief Judge Robert Fairchild, Seventh Judicial District, submitting a joint letter from Judge Steve Tatum, Tenth Judicial District, and himself, expressing their concerns that the statistics used by the judicial administrator may not provide the best information for allocation of judicial resources. The Judges pointed out that rapidly growing counties have different needs than counties that are not experiencing the same growth rates. (Attachment 7)

Representative O'Neal also distributed copies of a letter from Chief Judge, Thomas Tuggle, Twelfth Judicial District, stating his support for that portion of **HB 2880** which provides that the judicial administrator will be appointed by the Chief Justice with the advice and consent of the Justices of the Supreme Court. (Attachment 8)

Representative O'Neal stated that there would be no objection to the deletion of Section 5(b)(3), as the Courts said it was not necessary. The provision deals with the departmental justices approving the budgets from the various judicial districts.

Following questions and discussion, Representative O'Neal stated that there would be no objections to

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deleting what the judges disapproved of described in their letter distributed to Committee members yesterday.

Following further discussion regarding the Supreme Courts' concerns and requests including not trying to micro-manage the courts, the Chairman called for a motion on the bill.

Senator O'Connor pointed out that the Supreme Court also recommended reinserting the wording "majority vote" on page 3.

Senator Pugh moved to amend **HB 2880** by using the language recommended by the Supreme Court in place of the language in the bill on page 3, lines 23 through 26, seconded by Senator Donovan, and the motion carried.

Senator Schmidt made a motion to amend the bill on page 4 of the bill, by deleting Section (b)(1), starting on line 1 going through line 25 on that page, leaving sub-section (c) in the bill. The motion was seconded by Senator Goodwin, and the motion carried.

Senator Goodwin made a motion to amend **HB 2880** deleting the language on page 5 of the bill, lines 14 through 17, seconded by Senator Schmidt, and the motion carried.

Senator Schmidt made a motion to adopt an amendment authorizing the Revisor to make any technical cleanup revisions the Revisor deems necessary, seconded by Senator O'Connor, and the motion carried.

Senator Schmidt moved to recommend **HB 2880** favorably as amended, seconded by Senator Umbarger, and the motion carried.

SB 489 - State Child Death Review Board; prescribing duties regarding injury to or death of a child under certain circumstances

Chairman Vratil called for discussion and final action on **SB 489**. He explained the bill and the amendment proposed by the Department of Social and Rehabilitation Services (SRS). The amendment proposed to strike out the wording "at any time has been determined to be a child in need of care", on page 1, line 20, replacing that language with "*had been a ward of the state within three years prior to the child's death or near fatality*".

Senator Donovan moved to adopt SRS's proposed amendment as outlined by the Chairman, seconded by Senator Schmidt, and the motion carried.

The Chair stated that since this is a Senate bill and the end of the session is near, that consideration should be given to putting the bill into a House bill. He suggested amending the contents of **SB 489** into **HB 2602** in the form of a substitute bill, and take out the contents of **HB 2602** which is conferrable.

Committee discussion followed with concerns expressed regarding the written testimony received on **HB 2602** from Shawnee County's District Attorney in opposition to the bill. The Committee felt that this issue needed to be studied further and not rushed through the process. Changes were needed if the state was providing for intervention for adults and not for juveniles. The bill was not worked because it would not be heard on the Senate floor for discussion or consideration.

Senator Goodwin moved to delete the contents of **HB 2602** and replace it with the amended contents of **SB 489** prepared in the form of a substitute bill, seconded by Senator Schmidt, and the motion carried.

The meeting was adjourned at 10:25 a.m.