

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on February 18, 2011, in Room 346-S of the Capitol.

All members were present except:

Representative Bruchman
Representative Collins
Representative Tietze

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Tamera Lawrence, Office of the Revisor of Statutes
Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Ed Klumpp, Kansas Association of Chief of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association
John Mackey, presenting for Steve Bukaty, State Lodge Attorney, Fraternal Order of Police

Others attending:

See attached list.

The Hearing on **HB 2163 - Amendments to laws regarding racial profiling** was opened.

Jill Wolters, Staff Revisor, provided an overview of the bill for the committee. ([Attachment 1](#))

Ed Klumpp, Kansas Association of Chief of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association addressed the committee as a proponent of the bill. He provided some background information leading up to the request for this bill. He explained last year the House passed a floor amendment adding significant racial profiling amendments to a Senate bill and by doing so, those provisions were never heard in any committee in either chamber. Some of those provisions were contrary to decisions made by the Governor's Task Force on Racial Profiling and that this subject is an important issue and one which should be vetted through the committee process and simply added on the floor without meaningful dialogue and discussion. He proceeded to list several issues this bill addresses. ([Attachment 2](#))

John Mackey, presented testimony on behalf of Steve Bukaty, State Lodge Attorney, Fraternal Order of Police, in support of the bill. He told the committee that in the last eight years, there have been a total of eighty-seven complaints regarding the racial profiling statute and only six had merit. He added no court in the State of Kansas has ever held that an officer violated the racial profiling law and the vast majority of the 560 departments in the State have never had a racial profiling complaint filed against them. He stated these facts demonstrate that the current Statute more than adequately protects the citizens of Kansas. He added if changes are made to the current Statute, he pointed out some areas they recommended the Committee focus on, such as 1) Data Collection, 2) amend K.S.A. 22-4610 (d)(5) to read "Provide that the law enforcement agency shall take appropriate corrective action with regard to officers who are found to have engaged in biased policing," 3) He stated all current police departments have internal affairs or professional standards units that are trained in the investigation against their officers and there is no reason to change that procedure. He also stated since the FOP only has a few concerns with this bill, they are still to be viewed as a proponent of the bill who is supporting the bill if these concerns can be addressed. ([Attachment 3](#))

Sandy Jacquot, League of Kansas Municipalities provided written testimony in support of the bill. ([Attachment 4](#))

Joseph Mastrosimone, Chief Legal Counsel, Kansas Human Rights Commission provided written testimony as a neutral on the bill. ([Attachment 5](#))

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on February 18, 2011 in Room 346-S.

There were no opponents.

The hearing on **HB 2163** was closed.

HB 2031 - Allowing the attorney general or the county or district attorney to request of the district court the convening of a grand jury to investigate alleged violations of serious felonies.

Representative Brookens made the motion to report **HB 2031** favorably for passage. Representative Smith seconded the motion.

Representative Brookens made a substitute motion to remove “judicial district” on Page 1, Line 10, and insert “county”. Representative Colloton seconded the motion. Motion carried.

Representative Brookens made a substitute motion to remove “attorney general in any judicial district or the” on Page 1, Line 9. Representative Alford seconded the motion. Motion failed 7 to 8.

Representative Osterman made the motion to report **HB 2031** favorably for passage as amended. Representative Smith seconded the motion. Motion carried.

HB 2042 - Requiring law enforcement to collect and report pornographic materials found at scene of or in possession of person who commits a sexually violent crime.

Representative Brookens made the motion to report **HB 2042** favorably for passage. Representative Ryckman seconded the motion.

Representative Smith presented a balloon and made a substitute motion to amend the bill as follows:

Line 18, delete “evidence collection form evidence” and insert “Kansas standard offense report the presence”. Line 26, insert a new subsection (d) “The Kansas bureau of investigation shall: (1) Make the necessary change to the Kansas standard offense report and the Kansas incident based reporting system handbook; and (2) shall promulgate rules and regulations concerning the training for law enforcement agencies to implement the provisions of this section.”

Representative Brookens seconded the motion. Motion carried.

Representative Brookens made a substitute motion to amend the bill by adding subsection (e) and inserting “Nothing in this section shall be construed to expand the scope of the officers search.”

Representative Colloton seconded the motion. Motion carried.

Representative Smith made the motion to report **HB 2042** favorably for passage as amended. Representative Osterman seconded the motion. Motion carried.

HB 2068 - Amending the Kansas power of attorney act regarding durable power of attorney and duties of the attorney in fact.

Jill Wolters, Staff Revisor, provided the committee an overview of the bill.

Representative Ward made the motion to table the bill. Representative Rubin seconded the motion. Motion carried.

HB 2069 - Enacting the Kansas adverse medical outcome transparency act.

Jill Wolters, Staff Revisor, provided the committee an overview of the bill.

Representative Patton made the motion to report **HB 2069** favorably for passage. Representative Rubin seconded the motion.

Representative Patton made the substitute motion to amend the bill per balloon as follows:

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on February 18, 2011 in Room 346-S.

Substitute Section 1. (b) with the following language:

“A health care administrator may convene a facilitated conference for the purpose of the health care provider and the health care administrator expressing benevolence, regret, mistake, error, sympathy, apology, commiseration, condolence, compassion or a general sense of benevolence to a patient or person on behalf of such patient allegedly experiencing an adverse outcome of medical care. In any claim or civil action concerning such alleged adverse outcome, any verbal statements made in such facilitated conference shall be inadmissible as evidence and shall not constitute an admission of liability or an admission against interest”

Insert the following new language for subsection Section 1 (d) (2) “Health care administrator means the individual directly responsible for planning, organizing, directing and controlling the operation of a medical care facility” and adding subsection Section 1 (d) (3) with the language previously shown in Section 1 (d) (2).

Representative Brookens seconded the motion. Motion carried.

Representative Patton made the substitute motion to amend the balloon to add “ or such administrator’s designee”, after the words “ a health care administrator”. Representative Ryckman seconded the motion. Motion carried.

Representative Patton made the substitute motion to amend the bill to include the word “sorry” in the list of expressions. Representative Brookens seconded the motion. Motion carried.

Representative Patton made the substitute motion to amend the bill to include language that “the fact such conference was called shall not be admissible.” Representative Osterman seconded the motion. Motion carried.

Representative Patton made the substitute motion to amend the bill to define who can attend the conference by adding the language to page 2 of the balloon, “with a health care provider or providers and the patient.” Representative Kelly seconded the bill. Motion carried.

Representative Patton made the substitute motion to amend the bill to ensure the only place a facilitated conference may be held is in a medical care hospital. Seconded by Representative Kelly. After further discussion, with permission of the second, the motion was withdrawn.

Representative Brookens made the substitute motion to amend in subsection (b), at the end of the first sentence, add “in a medical care facility.” Representative Patton seconded the motion. Motion carried.

Representative Pauls made the substitute motion to amend the bill to include language that waiver of charges for medical care provided can be done and shall not constitute an admission of liability or an admission against interest. Representative Patton seconded the motion. Motion carried.

Representative Brookens made the substitute motion to include language that if the defendant waives such inadmissibility of statement, such waiver shall not be construed to be a failure to assist with the defendants insurance carrier in the defense of the claim. Representative Patton seconded the motion. Motion carried.

Representative Keuther asked if the vote on the bill could be delayed until the next meeting due to the heavily amended bill. Chairman Kinzer instructed the Revisor to make all the amendments or draft as a substitute bill if desirable and have available at the next meeting.

The next meeting is scheduled for February 21, 2011.

The meeting was adjourned at 5:40 p.m.