

Approved: August 25, 2011
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 A.M. on February 15, 2011, in Room 548-S of the Capitol.

All members were present, except Senators Donovan and Haley, 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:

Bryan Gile, Eagle County Colorado
Donna Saabi
Keven Pellant, Kansas Department of Social and Rehabilitation Services
Helen Pedigo, Special Counsel to the Chief Justice of the Kansas Supreme Court
Bradley R. Burke, General Counsel, Juvenile Justice Authority
Heather Morgan, United Methodist Youthville
Jennifer Roth, Kansas Assn. of Criminal Defense Lawyers
Senator Petersen, Wichita
Major John Cosgrove, Kansas City, Kansas Police Department
Kyle Smith, Office of the Attorney General

Others attending:

See attached list.

The Chairman announced that **SB 107 -- Liability for medical expenses of persons in custody of law enforcement** has been withdrawn from the calendar for Wednesday.

The Chairman re-opened the hearings on **SB 39 -- Creating the classification of "aggravated sex offender;" creating additional penalties and restrictions for sex offenders.**

Jason Thompson, Staff Revisor, briefly reviewed the bill.

Bryan Gile testified in support of **SB 39** (Attachment 1). He stated that there is a need to create a national networking system that will require strict regulations and public alerts to provide warnings through emails, newspapers, and other media.

Keven Pellant stated that residency restrictions give a false sense of security. She suggested moving the residency restriction to 500 feet. She also expressed concern that not all day care centers are registered or licensed, which makes enforcement of the bill difficult. (No written testimony submitted.)

Senator Kelly stated that all day care centers are required to be licensed.

Senator Vratil stated that information provided on prior bills which imposed residency restrictions show that such restrictions "drive offenders underground" and often times, offenders move to rural areas where there are fewer law enforcement officers.

Senator Bruce requested copies of a report from an interim study, conducted within the past five years, relating to such residency restrictions.

Donna Saabi rose in support of SB 39. Ms. Saabi previously submitted written testimony in support of the bill. [See Minutes of February 8, 2011, Attachment 6.]

CONTINUATION SHEET

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Helen Pedigo testified as a neutral party to **SB 39** (Attachment 2). She expressed two concerns with **SB 39**: The impact on juvenile offenders subject to the Kansas offender registration act, and the impact on probation supervision of adult and juvenile sex offenders relating to Halloween activities. She offered a balloon of proposed amendments to address those concerns (Attachment 3).

Bradley R. Burke, on behalf of Curtis L. Whitten testified in opposition to the provision in **SB 39** which would amend the definition of “aggravated sex offender” to include a juvenile offender (Attachment 4). He state that:

- There would not enough prison spaces to house the number of juvenile sex offenders to which the provisions of the bill apply
- Juvenile sex offenders would not be able to attend school

Heather Morgan testified in opposition to Section 7 (a) and Section 8 of **SB 39** (Attachment 5). The language prohibits sex offenders from residing within 2,000 feet of a licensed childcare facility. All existing psychiatric residential treatments facilities, foster homes, youth residential centers, emergency shelters, detention centers and maternity homes are considered child care facilities, at which juvenile sex offenders reside. Some juvenile sex offenders are educated in school district facilities.

Jennifer Roth testified in opposition to **SB 39** (Attachment 6). She opposed:

- The labeling of an offender’s driver’s license
- The suspension of the driver’s license
- The lack of discretion when imposing a sentence for violations of K.S.A. 22-4903

Written testimony in opposition to **SB 39** was submitted by Scott Douglas, Larned, KS (Attachment 7).

Senator Umbarger reminded the committee of a provision in 2009 House Sub for SB 91, which prohibits SRS from placing more than eight sexually violent predators in any one county on transitional release or conditional release and requires these patients to be housed on state property (Attachment 8).

The Chairman called the committee’s attention to the fiscal note and bed impact statement for **SB 39**.

The Chairman closed the hearings on **SB 39**.

The Chairman opened the hearings on **SB 135 -- Kansas racketeer influenced and corrupt organization act**.

Jason Thompson, Staff Revisor, reviewed the bill.

Senator King asked for a list of all offenses, by name, which are included in **SB 39**, but which are not in federal RICO law.

Senator Petersen testified in support of **SB 135** (Attachment 9). He stated the bill was the same as 2010 SB 523 and that it would create the Kansas Racketeer, Influenced and Corrupt Organization (RICO) Act. The bill is modeled after the Florida RICO Act.

Major John Cosgrove testified in support of **SB 135** (Attachment 10). He stated that the bill would enhance the ability of law enforcement to address the most violent predators in their communities.

CONTINUATION SHEET

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Kyle Smith testified in support of **SB 135** (Attachment 11). He stated the bill would provide enhanced penalties for participants in criminal enterprises.

Written testimony in support of **SB 135** was submitted by Ed Klumpp, Kansas Assn. of Chiefs of Police, Kansas Sheriffs Assn., Kansas Peace Officers Assn. (Attachment 11).

Senator Haley asked how frequently was the federal law used?

Major Cosgrove stated that the federal law is complicated. The proposed Kansas RICO act will enable local law enforcement to deal with the issue.

Senator Schodorf, who was a co-sponsor of the bill, expressed her support for **SB 135**.

The Chairman called the committee's attention to the fiscal note and bed impact statement for **SB 135**.

The Chairman closed the hearings on **SB 135**.

The Chairman announced that the committee would start with **SB 159** and **SB 160** at tomorrow's meeting.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for February 16, 2011.