

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on Tuesday, March 16, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator David Haley -Arrived 9:45

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:

Nola Wright, Assistant Attorney General

Tyler Robinson, University of Kansas student, National Association to Protect Children, and Students PROTECT Kansas

Others attending: See attached list.

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

Chairman Vratil opened the hearing on **HB 2815**. Nola Wright, Attorney General's Office, testified in support of the bill. She related that studies have shown that incarcerated child molesters continue to victimize young children once they are released on parole. She said recidivism occurs when there is a new arrest, new conviction or new commitment to custody. It does not include sex offenses that occur but aren't reported. She added that the recidivism rates for sex offenders are staggering, and suggest that incarceration is ineffective and nether deters nor rehabilitates sex offenders.

Ms. Wright explained different types of sex offenders and the various methods used to seduce a child. She told the Committee the Association for the Treatment of Sexual Abusers states that "although many, if not most, sexual abusers are treatable, there is no known cure. Management of sexually abusive behavior is a life-long task for some sexual abusers." She testified that the average sentence for aggravated indecent solicitation of a child is 36 months. Ms. Wright concluded by stating that increasing the level of penalties for seduction can interrupt the deviant cycle of a molester and possibly prevent him from going further. (Attachment 1)

Chairman Vratil called attention to the bed space impact or fiscal note on **HB 2815**. Patricia Biggs, Executive Director of the Kansas Sentencing Commission, said there was an estimated increase of 24 additional beds in 2005, and 227 additional beds in 2014. Copies of the fiscal note were furnished to Committee members. (Attachment 2)

Tyler Robinson, on behalf of the National Association to Protect Children and Students PROTECT Kansas, spoke in favor of **HB 2815**. He stated the organizations he represented strongly support raising the penalty for aggravated indecent solicitation of a child from a level 6 person felony to a level 3 person felony. (Attachment 3)

Brief questions and discussion followed.

There being no other conferees to testify, the Chairman closed the hearing on **HB 2815**.

Final Action on:

SB 547 - Limitation on exercise of eminent domain

Chairman Vratil called for discussion and final action on **SB 547**. He explained the bill, and called attention to a proposed amendment Senator Tyson had distributed to Committee members. The Chairman asked Senator Tyson to explain his proposed amendment. Senator Tyson said the amendment was a compromise to get something that would work not only to restrict eminent domain for the taking of private property for use by a private person, but also to allow a one year lease provision for the people

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that want to work with KDOT along the right-of-way or for schools that want to let people use the schools. He thought this would solve some of the problems with the **SB 547**. (Attachment 4)

Senator Schmidt said he had a balloon amendment to offer for consideration on **SB 547**, and distributed copies to Committee members. He explained that what the Committee was talking about was a constitutionally protected right to private property. He said that over the past several decades the Courts, which have historically defended that right, have allowed it to be eroded because they have gone through the same sort of analysis that the Committee is going through. He stated that he felt his amendment would be a better public policy choice to make. Senator Schmidt emphasized that he did not want to come in conflict with the drafters of the bill, and he would not be the one to offer up this amendment since there had been an agreement worked out. (Attachment 5)

Committee questions and discussion followed.

Senator Schmidt made a motion to offer his amendment which would strike the language on page 1, line 16, beginning with “Notwithstanding any provision....through line 25, and insert his balloon amendment. The motion was seconded by Senator Haley.

Committee questions and discussion followed.

Chairman Vratil called for a vote on Senator Schmidt’s motion to amend **SB 547**. The motion carried.

Senator Goodwin moved to adopt a balloon amendment proposed by the Kansas Livestock Association (KLA). She explained that it requires that anything taken by eminent domain to meet all the local, state, and federal permits to use and develop that property. She said on page 2 of the bill it adds the language, “and (4) a showing that all required local, state and federal permits to use or develop any such property have been obtained pursuant to section 1, and amendments thereto.” The motion was seconded by Senator Schmidt. (Attachment 6)

Following discussion on the amendment, the Chairman said he could see some problems with including “local” on both parts, and suggested that “local” should be deleted if that was acceptable to the motion make and the second. Senators Goodwin and Schmidt agreed to the change in the motion.

Further discussion continued on the proposed amendment.

Chairman Vratil called for a vote on Senator Goodwin’s motion to amend **SB 547** in accordance with KLA’s balloon amendment. The motion carried.

Considerable discussion followed regarding other possible amendments, but no motions were offered.

Senator Haley moved to recommend **SB 547** favorably for passage as amended, seconded by Senator O’Connor, and the motion carried.

The Chairman adjourned the meeting at 10:30 a.m. The next scheduled meeting is Wednesday, March 17, 2004.