

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 20, 2006 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Toby Taylor, Kansas Ignition Interlock Association
Pete Bodyk, Kansas Department of Transportation, Bureau Chief of Traffic Safety
Jeff Bottenberg, Kansas Sheriff's Association
Tom Williams, Allen County Sheriff
Elizabeth Gillespie, Shawnee County Department of Corrections
Jerry Slaughter, Kansas Medical Society
Fred Lucky, Kansas Hospital Association
Mark Miller, Memorial Hospital, Abilene

Chairman O'Neal opened the hearing on **HB 2916 - driving privileges, DUI ignition interlock, proof of installation.**

Toby Taylor, Kansas Ignition Interlock Association, appeared in support of the bill. He explained that in 2001 the Legislature passed legislation requiring a one year use of ignition interlock devices for second, third, and fourth offenses following a one year period of hard suspension. He has found that the devices have not been ordered and requested the proposed bill to clarify that they need to show proof of the installation before they would receive a release on their restricted license. (Attachment 1)

Pete Bodyk, Kansas Department of Transportation, Bureau Chief of Traffic Safety, informed the committee that the National Highway Traffic Safety Administration has notified Kansas that they would be out of compliance with 23 Section 164, because the bill does not provide for an actual vehicle sanction against the offender. The state would have their federal construction funds reduced by approximately \$7 million per year (Attachment 2).

The hearing on **HB 2916** was closed.

The hearing on **HB 2893 - criminal offenders in custody, health care costs**, was opened.

Jeff Bottenberg, Kansas Sheriff's Association, appeared in support of the bill which was modeled after Colorado legislation. It would require a health care provider that participates in the state medicaid program to accept the medicaid rate for the treatment of persons in the custody of county or city law enforcement, or the Kansas Highway Patrol. It would also prohibit the practice of "un-arresting" a prisoner at the hospital in order to avoid a large hospital bill. (Attachment 3)

Tom Williams, Allen County Sheriff, explained that medical expenses have grown into a huge budget item. He doesn't believe that it is fair to make taxpayers pay the amount that hospitals charge when others are receiving the Medicaid rate. (Attachment 4)

Elizabeth Gillespie, Shawnee County Department of Corrections, provided the committee with a list of seven counties, the amount they were billed for health care, and the projected savings that would have happened if those counties could have filed at the medicaid rate. (Attachment 5)

Jerry Slaughter, Kansas Medical Society, appeared before the committee with proposed amendments:

- on page 2, line 22, making clear that nothing in the act shall be construed to create a new legal duty on the part of a health care provider
- clarify that law enforcement agencies have the option of contracting with health care

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- providers at other terms and rates which are different than Medicaid
define “medicaid rate” (Attachment 6)

Fred Lucky, Kansas Hospital Association, appeared in support of the proposed bill with the following amendments:

- provide for a 60 day prompt payment
- place the responsibility of custodial county to contact with the Health Policy Authority for medical rates (Attachment 7)

Mark Miller, Memorial Hospital, Abilene, expressed concern about the current practice of un-arresting an individual or delaying an arrest until the individual is dismissed from the hospital. This way the law enforcement agency is not responsible for paying the medical bills. The process also puts hospital employees in danger. (Attachment 8)

Kansas Association of Osteopathic Medicine, provided a written request for an amendment that would strike, in (c), “or the behavioral sciences regulatory board” and insert “a person licensed by the behavioral sciences regulatory board. (Attachment 9)

The hearing on **HB 2893** was closed.

HB 2576 - persistent sex offender life without the possibility of parole

Representative Watkins made the motion to adopt the balloon which was provided at the February 16th meeting. It would prevent any juvenile who has been adjudicated for a sexual act from attending the same secondary school building as the victim. Representative Masterson seconded the motion. Committee discussion focused on schools in rural areas where some are already traveling great distances to get to their education and that the constitution requires the state to provide an education for each child. Others were concerned about not hearing from the Kansas Department of Education as to how they would handle such a problem. The Kansas Juvenile Justice Authority distributed testimony in opposition to adopting the proposed amendment because judges usually handle the problem of victims and offenders attending the same school by issuing an order. (Attachment 10) The motion failed 7-10. Representatives Watkins, Hutchins, Masterson & Pilcher-Cook requested that they be recorded as voting yes.

Representative Kinzer made the motion to amended in the provisions of **HB 2935 - increasing the penalty of indecent solicitation of a child & aggravated indecent solicitation of a child in certain circumstances** Representative Owens seconded the motion. The motion carried.

Representative Davis made the motion to adopt the Kansas Department of Corrections proposed amendments:

1. Change the name of offenders subject to the enhanced penalty from “persistent offender” to “aggravated habitual sex offender”
2. Excluding offenses that are not specifically defined as sex offenses from the instant offenses for which an enhanced penalty can be applied, but keep those offenses for the establishment of prior criminal history
3. Delete statutory listing of risk factors
4. Establishes “aggravating circumstances” that are related to sex offenses

Representative Colloton seconded the motion. The motion carried.

Representative Loyd made the motion to amend in the provisions of a balloon he distributed establishing the Sex Offender Policy Board. (Attachment 11) Representative Owens seconded the motion. The motion carried.

Representative Loyd made the motion to strike on page 13, line 8-10 because the previous amendment would take its place. Representative Owens seconded the motion. The motion carried.

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Representative Loyd made the motion to strike on page 29, line 3-7, the violation of non-registering, creating a new felony every 30 days a person does not register. Representative Owens seconded the motion. The motion carried.

Representative Loyd made the motion to have the provisions of the bill sunset on January 1, 2009. Representative Owens seconded the motion. The motion failed.

Representative Pauls provided the committee with a balloon amendment that would create a bifurcated system requiring the prosecutor to give notice that they are asking for 25 year, otherwise they would be sentenced off the sentencing grid (Attachment 12). It also strikes the hard 50. Representative Davis seconded the motion. The motion carried.

Representative Crow made the motion to adopt the provisions of **HB 2881- domestic battery a severity level 10, person felony, not a nongrid person felony**. Representative Loyd seconded the motion. The motion carried.

Representative Loyd made the motion to have the provisions of the bill sunset on January 1, 2012. Representative Owens seconded the motion. The motion carried 8-7.

Representative Davis made the motion to report **HB 2576** favorably for passage, as amended. Representative Colloton seconded the motion. The motion carried.

HCR 5033 - governor appointing supreme court

Representative Kinzer made the motion to report **HCR 5033** favorably for passage. Representative Pilcher-Cook seconded the motion. The motion failed 8-10.

The committee meeting adjourned at 6:00 p.m. The next committee meeting was scheduled for 3:30 p.m. on February 21, 2006 in room 313-S.