

Approved: 11-23-05 Date

MINUTES OF THE HOUSE CORRECTIONS & JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Ward Loyd at 1:30 P.M. on February 17, 2005 in Room 241-N of the Capitol.

All members were present except:

Kathe Decker- excused
Jim Ward- excused

Committee staff present:

Jill Wolters, Revisor of Statutes Office
Diana Lee, Revisor of Statutes Office
Jerry Ann Donaldson, Kansas Legislative Research
Connie Burns, Committee Secretary

Conferees appearing before the committee:

Pat Scalia, State Bd. Indigents' Defense Services
Chief Judge Tracy Klinginsmith, 2nd Judicial District
Ed Collister
Jim Clark, KS Bar Association
Representative Judy Morrison
Chad Bettes, US State Department
Kris Kobach, UMKC Law Professor
Dr. Janice Crouse, Concerned Women for America
Phill Kline, Attorney General
Sandy Barnett, KS Coalition Against Sexual & Domestic Violence
Melinda Lewis, El Centro
Kyle Smith, KBI
Judge Stephen Tatum, 10th Judicial District
Paul Morrison, Johnson County District Attorney

Others attending:

See attached list.

HB 2129 – Compensation for attorneys representing indigent defendants, \$80 per hour

Chairman Loyd opened the hearing on **HB 2129**.

Pat Scalia, State Board of Indigents' Defense Services, appeared in support of the bill. (Attachment 1) The Sixth Amendment requires the appointment of counsel for poor persons who stand accused. It must be the public policy of this state to provide competent counsel by paying an appropriate amount for a professional service.

Chief Judge Tracy Klinginsmith, 2nd Judicial District, spoke in favor of the bill. (Attachment 2) Because of the State's failure to adjust the hourly rate paid to counsel in indigent defense matters, the Judges in 2nd Judicial District are facing a shrinking pool of qualified attorneys willing to accept appointments. Sentencing guidelines and the severity levels assigned to drug offenses, enhanced penalties for DUI convictions, new crimes created by the legislature since 1987, particularly sexual offender and domestic related crimes, are crimes that consume significant attorney time to defend and represent a large portion of criminal cases throughout the state, further impacting the willingness of lawyers to volunteer for appointments.

Ed Collister, Attorney, presented testimony in support of the bill. (Attachment 3) If the defense counsel, and the tools to defend, are not provided in felony defense the ultimate result to the State is delay, reversals on appeal with consequent retrials, or lack of action, impacts that are costly and foster delay.

Jim Clark, Kansas Bar Association, appeared in support of the bill. ([Attachment 4](#)) Because the rate for assigned counsel remains frozen at the 1988 level, more than a few attorneys will continue to refuse indigent defendant cases, and ultimately indigent defendants will suffer from either inadequate representation, or in a worst-case scenario, have their cases dismissed for lack of representation. Neither is acceptable.

Representative Paul Davis, appeared as proponent of the bill. ([Attachment 5](#)) These attorneys are compensated at a rate of \$50.00 per hour for representing criminal defendants; this rate has been in existence since 1987 and has not been modified upward during such time. The result of this compensation level is that many attorneys are not interested in representing criminal defendants and the problem exists in both rural and urban areas.

Chairman Loyd closed the hearing on [HB 2129](#).

HB 2004 – Crimes of trafficking in the first degree and trafficking in the second degree

Chairman Loyd opened the hearing on [HB 2004](#).

Representative Judy Morrison, provided introductory remarks in support of the bill. ([Attachment 6](#))

Attorney General Phill Kline, provided a power point presentation in support of the bill. ([Attachment 7](#)) This bill criminalizes the trafficking in human beings and provides severe repercussions to those who engage in and support human trafficking. Human trafficking is a form of modern-day slavery, victims of trafficking exploited for commercial sex or labor purposes, and traffickers use force, fraud or coercion to achieve exploitation.

Chad Bettis, Office to Monitor and Combat Trafficking in Persons, spoke in favor of the bill. ([Attachment 8](#)) This bill deals with people trafficked from freedom into nothing less than modern-day slavery, by force, fraud and coercion.

A substitute bill was presented by Representative Judy Morrison. ([Attachment 9](#))

Kris Kobach, Professor of Law, University of Missouri, appeared in support of the bill. ([Attachment 10](#)) The U.S. Department of Justice estimates the 600,000 to 800,000 people are trafficked across international borders each year having been bought, sold, transported or held in slavery-like conditions for sex and labor exploitation. Trafficking is typically linked to other criminal activities such as document fraud, money laundering, and migrant smuggling. This is an important role for states to play, and the U.S. Department of Justice is encouraging states to pass statutes criminalizing human trafficking. The overlap of state and federal crimes allows for more prosecutions to be brought, and as state prosecutorial resources can be mobilized to fight human trafficking where appropriate, defining the law serves to give guidance to state law enforcement, and human trafficking offenses are part of a larger set of crimes.

Dr. Janice Shaw Crouse, Concerned Women for America, spoke in favor of the bill. ([Attachment 11](#)) Dr. Crouse serves on two national task forces and is working to pass national legislation on human trafficking. Human beings lured into being trafficked end up in prostitution, sweatshops, farms, domestic work or other forms of involuntary servitude and most are treated brutally and repeatedly degraded. Over half of the victims end up trafficked for sexual exploitation; some are forced to serve up to 30 men a day. Millions are trafficked within their home countries.

Sandy Barnett, KS Coalition Against Sexual & Domestic Violence, appeared as a proponent of the bill. ([Attachment 12](#)) Victims of trafficking may in fact be “hiding in plain sight,” forced to work in bars, in massage parlors, as household help, in factories, or in the street. An amendment was requested that deals with juveniles under age 18.

Melinda Lewis, El Centro, Inc., spoke in favor of the bill. ([Attachment 13](#)) The bill which defines the crime of trafficking and would hope reduce incidences of sexual violence and forced labor associated with the smuggling of human beings. Criminals seeking to exploit desperate and vulnerable people who are trying to get to the United States for a chance to build a better life for themselves and their families

have discovered the great profit potential in this illicit activity.

Written testimony was provided by U.S. Senator Sam Brownback, ([Attachment 14](#)) Kyle Smith, KBI, ([Attachment 15](#)) Mike Farmer, Kansas Catholic Conference, ([Attachment 16](#)) and Jennifer Rosen, National Foundation for Women Legislators, Inc. ([Attachment 17](#)) in support of the bill.

Chairman Loyd closed the hearing on **HB 2004**.

HB 2418 – Magistrate may order person to pay for any costs of the supervision of the conditions of release of the appearance bond in an amount not to exceed \$10 per week; increased from \$5

Chairman Loyd opened the hearing on **HB 2418**.

Chief Judge Stephen Tatum, 10th Judicial District, appeared in favor of the bill. ([Attachment 18](#)) This fee increase is a realistic fee to assist in meeting the actual costs of the program. In most cases where bond supervision is ordered, either a PR bond or a lower cash or surety bond is set.

Chairman Loyd closed the hearing on **HB 2418**.

HB 2387 – Death of inmate, prisoner or juvenile in custody; investigation by KBI unless natural cause of death.

Chairman Loyd opened the hearing on **HB 2387**.

Kyle Smith, KBI, appeared as a proponent of the bill. ([Attachment 19](#)) The 2004 Legislature passed two provisions which require the KBI to conduct an investigation whenever a person dies while in custody of local authorities or the state. The 31 deaths from July 1, 2004 to January 1, 2005 have been from natural causes and do not believe that this was the intent of the legislature and would ask that, where the cause of death is determined by an autopsy to be natural, no investigation by the KBI is required.

Tim Madden, Chief Legal Counsel, KDOC, provided an amendment in support of the bill. ([Attachment 20](#)) The Department recommends the bill be amended to include findings in preliminary autopsy reports or death certificates. This amendment does not preclude the KBI from conducting or resuming an investigation at any time.

Chairman Loyd opened the hearing on **HB 2387**.

HB 2384 – Consensual sex in a public restroom considered lewd and lascivious behavior

Chairman Loyd opened the hearing on **HB 2384**.

Paul Morrison, Johnson County District Attorney, appeared in support of the bill. ([Attachment 21](#)) This bill will add to KSA 21-3508, the misdemeanor Lewd and Lascivious Behavior statute, making it illegal to engage in sexual intercourse or sodomy in a public restroom.

Kyle Smith, KPOA, stated that there is a need for this and to look at “stalls vs. public restrooms”.

Chairman Loyd opened the hearing on **HB 2384**.

The meeting was adjourned at 3:15 pm. The next meeting is February 21, 2005.