

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 13, 2006 in Room 313-S of the Capitol.

All members were present except:

Kevin Yoder- excused  
Michael Peterson- excused

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:

Charles Branscon, Douglas County District Attorney  
Rose Rozmiarek, Kansas State Fire Marshal  
Edward Bricknell, Wichita Fire Department  
Chris Banister, Wichita Police Department, Bomb Squad  
Jared Maag, Office of Attorney General  
Representative Becky Hutchins  
Karen Wittman, Shawnee County Assistant District Attorney  
Cindy Thompson, Individual  
Clayton Gurwell, Individual  
Craig Miller, Individual

**HB 2704 - number of small claims procedures filed each year**

Representative Kinzer made the motion to report HB 2704 favorably for passage. Representative Watkins seconded the motion. There was some discussion about deleting any reference to the number of times a person can access small claims court but the committee decided to see how large of an increase there would be in cases being filed with the new bill before considering taking off the cap. The motion carried.

Chairman O'Neal opened the hearing on **HB 2701 - definition of drug paraphernalia.**

Charles Branscon, Douglas County District Attorney, explained that many stores are selling novelty items that are used for the ingestion of illegal substances. The proposed bill would make these items that are packaged in such a way that they would be illegal to possess. He provided the committee with an example of a rose container. The "rose container" actually holds a fabric rose but once the rose is removed the container is then turned into a smoking pipe for crack cocaine or methamphetamine. (Attachment 1)

The hearing on **HB 2701** was closed.

The hearing on **HB 2699 - inherently dangerous felonies; endangering a child; arson; aggravated arson; criminal use of explosive,** was opened..

Charles Branscon, Douglas County District Attorney, appeared in support of the proposed bill which would aid prosecutors and juries in not having to determine if the type of conduct, by an individual, was both intentional and reckless. It would simply instruct that a jury could choose either. The bill addresses instances where a person unintentionally damages a building or dwelling during the commission of a legal act in an unlawful manner or in a reckless manner. (Attachment 2)

Rose Rozmiarek, Kansas State Fire Marshal, commented that Florida, Illinois & Connecticut have similar laws. She explained four provisions in the proposed bill:

- would add the term felony arson into statute so that if the perpetrator commits a felony crime and due to his action a fire results he could be charged with the arson as well
- addresses the unintentional fires that are done in reckless manor

## CONTINUATION SHEET

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- aggravated arson would include injuries to firefighters and investigators
- increases the severity level of the criminal use of explosives (Attachment 3)

Edward Bricknell, Wichita Fire Department, stressed the importance of allowing prosecutors to charge aggravated arson when firefighters are injured in arson fires. The proposed bill would hopefully make people aware that there are consequences for their negligent and irresponsible behavior. (Attachment 4)

Chris Banister, Wichita Police Department, Bomb Squad, supported including hoax bombs into the statute because they are just as destructive when they explode as real bombs. (Attachment 5)

Jared Maag, Office of Attorney General, stated that this was a good intended bill that would encompass all acts that the state is currently seeing that are not covered by current law. (Attachment 6)

The hearing on **HB 2699** was closed.

The hearing on **HB 2748 - traffic violation; failing to report an accident**, was opened.

Representative Becky Hutchins appeared as the sponsor of the bill. The issue was brought to her attention when an elderly lady was struck on her way to church services. She had fatal injuries and the individual driving the car left the scene of the accident. The proposed bill would lower the penalty for leaving the scene of a property damage accident but increase the penalty for leaving the scene of a bodily injury accident and allow for harsher penalties for leaving the scene of a fatal accident. (Attachment 7)

Karen Wittman, Shawnee County Assistant District Attorney, stressed that a lot of time and effort goes into finding individuals who commit hit & run accidents. Currently, the only thing that can be charged are levels A & C misdemeanors. (Attachment 8)

Craig Miller's grandmother was the elderly lady that was struck on her way to church services. His family has rage and anger towards the person who fled the scene. That individual has a long list of previous driving violations. He believes that it is reasonable that if a person causes injuries or death of another person they should have harsh penalties. (Attachment 9)

Chairman O'Neal pointed out that the proposed bill, while it labeled someone as a felony, would actually allow some individuals to receive probation, which is a lighter penalty than current law. Mr. Miller commented that he would like both the label of felony and a more strict penalty, not probation.

Cindy Thompson's boyfriend & Clayton Gurwell's son, Brent Gurwell was hit by a drunk driver who did not stop at the scene of the accident. She relayed their story of how Brent had spent over 30 days in the hospital, had over 4 operations and has received only \$25,000 from the insurance policy, which didn't even come close to covering the bills. The individual was charged with leaving the scene and fined \$500. (Attachments 10 & 11)

The hearing on **HB 2748** was closed.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for 3:30 p.m. on Tuesday, February 14, 2006 in room 313-S.