

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 7, 2006 in Room 313-S of the Capitol.

All members were present except:

Michael Peterson- excused

Pat Colloton- 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:

Karen Arnold-Burger, Municipal Court Judge, Overland Park

James Keller, Kansas Department of Revenue

Lieutenant John Eichkorn, Kansas Highway Patrol

Randy Hearrell, Kansas Judicial Council

Don Hymer, Kansas Judicial Council, Child in Need of Care Committee

Ron Paschal, Sedgwick county Office of District Attorney

Don Jordan, Acting Commissioner, Kansas Juvenile Justice Authority

Mark Gleeson, Office of Judicial Administration

Chairman O'Neal opened the hearing on **SB 432 - prosecution of juvenile traffic offenders; traffic offenses includes violation of requirement of motor vehicle liability.**

Karen Arnold-Burger, Municipal Court Judge, Overland Park, appeared as a proponent to the bill which would expand the definition of "traffic offense" to include driving without proof of insurance to allow juveniles 14 and over who violate this provision to be prosecuted as adults in municipal and district court. (Attachment 1)

The hearing on **SB 432** was closed.

The hearing on **SB 431 - expungement of DUI ordinances violations and DUI convictions including diversions; probation.** was opened.

Karen Arnold-Burger, Municipal Court Judge, Overland Park, explained that the senate added a provision to the bill which establishes a 12 year decay for driving under the influence (DUI) convictions and diversions. After 12 years, the conviction could not be counted as a prior. The original bill would have the expungement provisions mirror district court expungement statutes and eliminate the ability to expunge DUI convictions. (Attachment 2)

The hearing on **SB 431** was closed.

The hearing on **SB 479 - preliminary screening tests; grounds; notice.** was opened.

James Keller, Kansas Department of Revenue, appeared in support of the bill. Preliminary breath test are used to assist law enforcement officers in determining whether there is probable cause to arrest for DUI, or to request an evidentiary test to determine alcohol or drug in one's system. It cannot be used in any civil or criminal court. The proposed bill corrects a statute that was enacted last year making the preliminary breath test meet the same requirements for evidentiary breath test. It would require an officer to have reasonable grounds to believe a person has been operating or attempting to operate a vehicle while under the influence before requesting a preliminary breath test. (Attachment 3)

Lieutenant John Eichkorn, Kansas Highway Patrol, believed that there needs to be penalties for not taking a preliminary breath test but was concerned that the unintended consequences of the 05 legislation negated the preliminary breath test as an investigatory tool to gather evidence of a DUI. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 7, 2006 in Room 313-S of the Capitol.

The hearing on **SB 479** was closed.

The hearing on **SB 261 - revised Kansas juvenile justice code**, was opened.

Randy Hearrell, Kansas Judicial Council, explained that the Child in Need of Care Advisory Committee began meeting in August 2000. It's goals were to simplify the code, reorganize the code in a more logical manner, and be certain all changes were consistent with the goals of the code and constitutionally permissible.

Mr. Hearrell provided the committee with a balloon amendment that would change the word "child" to "juvenile" everywhere it appears in the bill, change "in the best interest of a child" to "a juveniles best interest", and provide for an interlocutory appeal as provided for in adult criminal cases. (Attachment 5)

Don Hymer, Kansas Judicial Council, Child in Need of Care Committee, touched on the following sections of the bill:

- the statute of limitations has been changed to parallel the adult criminal code and to lengthen the statute of limitations in certain instances
- rape is added to the list of acts committed by a juvenile which can not be expunged
- Juvenile Justice Authority is added to the list of persons who may take a juvenile into custody
- the court appoints one, rather than two, licensed psychiatrists or psychologists to examine the juvenile to determine competency and the court can excuse the juvenile offender from the hearing if it would be injurious to his health to attend
- juveniles in felony cases are granted the right to a trial by jury, upon request.
- statutory requirement for designation of a state-wide sentencing risk assessment tool is eliminated
- Juvenile Justice Authority is required to adopt rules and regulations relating to good time credits
- appeals from district magistrate judges are to be trial de novo unless parties agree to a de novo review on the record of the proceedings. (Attachment 6)

Mark Gleeson, Office of Judicial Administration, explained that the Johnson County risk assessment tool was not being utilized statewide and they would like to acquire the Juvenile Services Risk Assessment Inventory, but it would require funding for training.

Ron Paschal, Sedgwick county Office of District Attorney, supported the 20% good time credit for juvenile offenders. Limiting the percentage of good time credit a juvenile offender may receive ensures the sentence served actually resembles the sentence imposed by the sentencing court. His office has found that a range of 20% - 42% has been granted as good time credit and believes that a set percentage would benefit everyone involved in the case. (Attachment 7)

Don Jordan, Acting Commissioner, Kansas Juvenile Justice Authority, requested that the good time credit be amend to 30%. This amount would be more inline with the mission established for JJA and would create an appropriate balance between punishment and rehabilitation. (Attachment 8)

Randy Hearrell explained that the Council did not address the percentage of good time to be awarded because they felt it was the JJA's call on the amount of good time to be awarded.

The hearing on **SB 261** was closed.

The committee meeting adjourned at 5:30 p.m. The next meeting was scheduled for 3:30 p.m. on March 8, 2006, in room 313-S.