

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 16, 2006 in Room 313-S of the Capitol.

All members were present except:
Michael Peterson- excused

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

HB 2607 - amendments to the Kansas Uniform Trust Code

Representative Kinzer made the motion to adopt the balloon amendments provided by the Kansas Bankers Association, Trust Division. (Attachment 1) Representative Davis seconded the motion. The motion carried.

Representative Crow made the motion to reinsert "act in good faith" on page 3, line 13. Representative Loyd seconded the motion. The motion carried.

Representative Kinzer made the motion to amend section 13, dealing with "exculpatory term" by including a requirement that an attorney who represents a settlor, certify that they have reviewed the exculpatory clause and believe it to be reasonable. Representative Hutchins seconded the motion. The motion carried.

Representative Loyd made the motion to amend on page 11, lines 1 & 11 to include that the beneficiary can request an entire copy of the trust instrument. Representative Davis seconded the motion. The motion carried.

Representative Loyd made the motion to report **HB 2607** favorably for passage, as amended. Representative Colloton seconded the motion. The motion carried.

HB 2554 - DNA collection of all arrested for person felony and drug severity level 1 & 2

Representative Colloton provided the committee with a balloon she handed out at the hearing with an additional amendment that would make the refusal to give a DNA sample a severity level 10, nonperson felony. (Attachment 2) She moved her balloon. Representative Kiegerl seconded the motion. Representative Owens requested the motion be divided.

Part A = adopt the balloon without refusal provisions being a felony, carried.
Part B = adopt the severity level 10, nonperson felony for test refusal

Committee discussion centered on whether a felony label would correctly identify the type of crime that was committed. Currently, it is not a crime for not submitting DNA. It was suggested that if the individual was charged with a felony, then the refusal would be a felony but if the individual was charged with a misdemeanor then the refusal would be a misdemeanor crime. Representative Colloton asked to withdraw Part B of the division. The second did not agree. The motion failed.

Representative Kinzer made the motion to amend the bill so if charges are dropped or the individual is acquitted their DNA would automatically be expunged from the DNA database. (Attachment 3) Representative Owens seconded the motion. The motion carried 9-7.

Representative Roth made the motion to include the taking of DNA samples for those who are arrested for DUI. Representative Watkins seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 16, 2006 in Room 313-S of the Capitol.

Representative Yoder made the motion to add “charging” to the statute to cover those who have not been arrested. Representative Kiegerl seconded the motion. The motion carried.

Representative Colloton made the motion to report **HB 2554** favorably for passage, as amended. Representative Kinzer seconded the motion. The motion carried.

HB 2576 - persistent sex offender life without possibility of parole

Representative Watkins provided the committee with a balloon which would require the court to inform the victim and victim’s family of any proposed plea agreement and would provide the right for the victim and victim’s family to be present at any hearing where a plea agreement is reviewed. (Attachment 4) Representative Masterson seconded the motion. The motion carried.

Representative Loyd made the motion to amend in the provisions of **HB 2760** dealing with Sex Offender Policy Board. Representative Watkins seconded the motion. (Attachment 5) Chairman O’Neal pointed out that the Criminal Justice Coordinating Council (CJCC) is basically made up of the same individuals and suggested that the committee might want to direct them to undertake the tasks. Representative Pauls pointed out that while there is compensation for the CJCC because they are state employees, there would be no compensation for the Sex Offender Policy Board. With permission of the second, Representative Loyd withdrew his motion.

Representative Kilpatrick provided the committee with a balloon that would prevent any juvenile who has been adjudicated for a sexual act from attending the same secondary school building as the victim. (Attachment 6) Committee discussion focused on schools in rural areas where some are already traveling great distances to get to their education and the constitution requires the state provide an education for each child.

Representative Yonally requested that the committee consider amending in the provisions of **HB 2935 - increasing the penalty of indecent solicitation of a child and aggravated indecent solicitation of a child in certain circumstances; mandatory sex offender**.

Chairman O’Neal announced that the committee would consider Representative Kilpatrick’s & Yonally’s request at the next meeting.

The committee meeting adjourned at 5:45 p.m. The next meeting was scheduled for 3:30 p.m. on February 20, 2006 in room 313-S.