

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 1, 2006 in Room 313-S of the Capitol.

All members were present except:

Michael Peterson- excused  
Ward Loyd- 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:

Representative Trish Kilpatrick  
Mark Lunsford, Self  
Phil Kline, Attorney General  
Tim Madden, Kansas Department of Corrections  
Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence  
Jennifer Garrett, Self  
Shaun Bennet, Self  
Tempe Persyn, Self  
Curtis & Lisa Jacobs, Individuals  
Jennifer Roth & Stacey Donovan, Public Defenders, Lawrence

Representative Powers requested a bill be introduced that would increase jury compensation from \$10 to \$40 per day. Representative Kinzer made the motion to have the request introduced as a committee bill. Representative Owens seconded the motion. The motion carried.

Chairman O'Neal opened the hearing on **HB 2576 - persistent sex offender life without the possibility of parole; hard 25 or 50 for certain sex offenders; task force to review feasibility of GPS monitoring of certain offenders.**

Representative Trish Kilpatrick, appeared as the sponsor of the proposed bill because thousands of children are effected by sex predators every year. The U.S. Department of Justice estimates that on average, there is one child molester per square mile in the United States. They are often babysitters, coaches, teachers and family members. More than 1.2 million families will report child sexual abuse by the end of the year with fewer than five percent of the offenders ever being apprehended.

**HB 2576** increases the penalty for first-time offenses to 25 years hard time. Judges have the option of trying juvenile offenders as adults if they meet certain aggravating circumstances. It also increases the penalty for failing to register from level 10 non-person felony to a level 5 person felony, and for every 30 days that one fails to register, they would be charged with a new felony. Second-time offenders would be sentenced to no less than 50 years. (Attachment 1)

Mark Lunsford relayed his story of how his 9-year-old daughter, Jessica, was tortured, molested, and buried alive in February 2005 by a registered sex offender in Homosassa, Florida. Since that time he has been lobbying to reform sentencing laws in many states. "Jessica's Law" is about protecting our children. He urged Kansas to become the fifth state to pass Jessica's Law.

Attorney General Phil Kline stated that Kansas does not have a firm policy in place to protect children from sex offenders. In Kansas, 13.7% of those required to register have not. The U.S. Department of Justice estimates that predators commit an additional 16 sexual crimes while on probation.

Tim Madden, Kansas Department of Corrections, supported the proposed legislation but requested some technical changes that would make the bill consistent with **SB 334 & 474:**

- change the term "persistent offender" to "aggravated habitual sex offender"
- make a distinction between the crimes that are subject to enhanced sentencing and those

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crimes which may serve as the criminal history prerequisite for establishing that the offender is a habitual criminal.

- incorporate the aggravating circumstances as found in K.S.A. 21-4636
- do not list the risk factors in statute because they change due to current research and validated assessments. (Attachment 2)

Representative Ann Mah while in support of the concept of the bill had concerns with not allowing judges to depart downward when treatment is warranted instead of jail. She also suggested that more emphasis needed to be placed on prevention, victim assistance and successful prosecution. (Attachment 3)

Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence, appeared as a proponent of the bill but requested amendments that would close the gaps between reporting, arrest, prosecution, and conviction. (Attachment 4)

Jennifer Garrett, Self, relayed her story about being sexually abused. She said she was “tired of paying the price for the offenders acts” and hoped that the committee would make sure that these individuals not be allowed to return to society.

Shaun Bennet, Self, stated that individuals who have sexual types of crimes committed against them spend the rest of their lives simply trying to survive. (Attachment 5)

Tempe Persyn, Self, supported the bill but was concerned with it including juveniles because they do not have an understanding of sexuality and the difference between right and wrong. She agreed that there needs to be consequences for any action one does and requested that once a juvenile has met all the court orders that their name be removed from the website and their record expunged as not to affect their adult life. (Attachment 6)

Curtis & Lisa Jacobs, proposed an amendment that would prevent a student, who has been adjudicated of a sexual act, from attending the same school as the victim. (Attachments 7 & 8) The proposal would address instances, such as Lisa’s, where the boy who sexual abused her on several occasions was allowed to continue to attend the same attendance center.

Jennifer Roth & Stacey Donovan, Public Defenders, Lawrence, didn’t disagree that sexual predators shouldn’t be locked away but were concerned with departing from the current sentencing grid. They were also concerned that the bill includes juveniles and their prior history. (Attachment 9)

The hearing on **HB 2576** was closed.

The committee meeting adjourned at 5:30 p.m. The next meeting was scheduled for 3:30 p.m. on Thursday, February 2, 2006 in room 313-S.