

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairperson Pat Colloton at 1:30 p.m. on February 16, 2009, in Room 535-N of the Capitol.

All members were present.

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

Bob Stephan, Chair, Governor's Domestic Violence Fatality Review Board
Honorable Judge Flaigle, Governor's Violence Fatality Review Board
Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence
Tom Stanton, Deputy Reno District Attorney
Jennifer Roth, Kansas Assoc. Of Criminal Defense Lawyers
Ed Klumpp, Kansas Assoc. of Chiefs of Police & Kansas Peace Officers Assoc.
Kathy Porter, Judicial Administration
Mark Gleeson, Judicial Administration

Others attending:

See attached list.

HB 2335 - Repealing the crime of domestic battery; battery includes domestic battery; domestic violence designation on criminal offenses; pleas.

Chairperson Colloton opened the hearing on **HB 2335** and introduced Bob Stephan, Chair, Governor's Domestic Violence Fatality Review Board, to give his testimony as a proponent of the bill. Mr. Stephan provided written copy. (Attachment 1) Mr. Stephan stated the bill clearly changes the manner in which we would address domestic violence in the state. Currently, there is no systematic manner in which all crimes related to domestic violence can be tracked from the time of the arrest through the disposition of the case. The bill includes the definition for domestic violence, tracking of all crimes committed in an intimate relationship and requires an assessment of domestic offenders. The bill also amends the statute for written policies by law enforcement agencies by identifying the predominate aggressor. In closing, he stated the Governor's Domestic Violence Fatality Review Board believes this bill would be a step in creating a better approach for tracking domestic violence crimes occurring in intimate relationships.

Chairperson Colloton introduced Judge Flaigle, Governor's Domestic Violence Fatality Review Board, to give his testimony as a proponent of the bill. Judge Flaigle provided written copy of his testimony (Attachment 2). Judge Tatum stated that his experiences and continued work in this area have led him to believe that we must advocate for victims by seeking domestic violence law reform and holding all domestic violence offenders accountable. It is the intent of the bill to create a system in Kansas that will track and recognize all domestic violence related crimes and intervention for domestic violence offenders the first time a domestic violence offense is committed. In closing, he stated this bill will better serve domestic violence victims and hold all domestic violence offenders accountable. He urged the Committee to pass the bill out favorably.

Chairperson Colloton introduced Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence, to give her testimony as a proponent of **HB 2335**. Ms. Barnett provided written copy of her testimony. (Attachment 3) Ms. Barnett stated the bill is, in some ways, the result of decades of conversation about the lack of information available within and between systems regarding the history of domestic violence offenses. The bill is designed to track information about all offenses that occur within the context of domestic violence, not just domestic battery. It is critical that each case is appropriately analyzed at the time of an arrest decision is being made. The bill is the first and best opportunity to appropriately identify abusers and prevent unintended consequences. In closing she stated the Kansas Coalition Against Sexual & Domestic Violence supports this bill with the protections of predominant aggressor language, training, and delayed implementation to make sure the unintended consequences are minimized and do not serve to undermine the

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intent of this law.

Questions and answers followed for the proponents of the bill.

Chairperson Colloton introduced Thomas Stanton, Deputy Reno County Attorney representing the Kansas County & District Attorneys Association, to give his testimony as an opponent of **HB 2335**. Mr. Stanton provided written copy of his testimony. (Attachment 4) He stated the Association has no quarrel with some of the public policy goals reflected by this legislation. However, the Association does oppose two specific precepts of this bill.

- The bill repeals K.S.A. 21-3412a. The bill, however, does not transfer the provisions of K.S.A. 21-3412a into any other statute. K.S.A. 21-3412a currently defines domestic violence battery, and it is what is known as a self-contained habitual violator statute.
- The bill is an attempt to control the prosecutor's decisions in the course of the prosecution of domestic violence cases. The legislation would require the prosecution of each domestic violence case in which a prima facie case could possibly be made, and would require that the case be prosecuted to the fullest possible extent of the law.

In closing, Mr. Stanton urged the Committee not to pass the bill out.

Chairperson Colloton introduced Jennifer Roth, Kansas Association of Criminal Defense Lawyers, to give her testimony as an opponent of **HB 2335**. Ms. Roth provided written copy of her testimony. (Attachment 5) Ms. Roth stated the bill creates a "domestic Violence designation" that would apply to any crime committed where the underlying facts include an act of domestic violence. The Kansas Association of Criminal Defense Lawyers has two problems with the bill.

- The domestic violence designation attaches at arrest. The allegation that an act was a "domestic violence offense" does not have to be charged in the complaint nor proved to a jury. The designation impacts not only plea options, but also sentencing.
- Two contexts collide when we talk about domestic violence. There are terms we use to describe what exists between two people in a relationship. There is a batterer who establishes a pattern of power and control over a person, called the survivor, who experiences that pattern. The designation impacts not only plea options, but also sentencing.

In closing she stated the Legislature needs to delve into the impact of this bill on survivors.

Chairperson Colloton introduced Ed Klumpp, Kansas Association of Chiefs of Police and Kansas Peace Officers Association, to give his testimony as a neutral party of **HB 2335**. Mr. Klumpp provided written copy of his testimony. (Attachment 6) Mr. Klumpp stated they have several concerns with the bill and offered eleven recommendations which address their concerns. In closing, he stated the bill, as written, will likely lead to confusion and an unnecessary potential for erroneous decisions by law enforcement.

Chairperson Colloton introduced Kathy Porter, office of Judicial Administration, to give her testimony as a neutral party of the bill. Ms. Porter provided written copy of her testimony. (Attachment 7) Ms. Porter stated they have concerns with the language of the bill. It will cause confusion because it is unclear on certain procedures. She reviewed their concerns and suggested the Committee change some of the language to make the intent of the bill more clear.

Upon the conclusion of Ms. Porter's testimony, Chairperson Colloton opened the floor for questions.

With no others wishing to testify, Chairperson Colloton closed the hearing on **HB 2335** and asked Ms. Porter and Mr. Klumpp to work with Jason Thompson, Revisor's Office, on an amendment to address their concerns with the bill. She announced due to the time, the hearing on **HB 2139** would be tomorrow and adjourned the meeting at 3:10 p.m. with next scheduled meeting to be February 17, 2009 at 1:30 p.m. in room 535 N.

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