

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:30 a.m. on February 26, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Senator Carolyn McGinn
Senator David Haley
Richard Dieter, Executive Director, Death Penalty Information Center, Washington, DC
Sean O'Brien, Attorney, Kansas City, MO
Rebecca Woodman, Attorney, Lawrence, KS
Sue Norton, Murder Victims' Families for Reconciliation, Arkansas City, KS
Dr. Michael Birzer, Kansas Coalition Against the Death Penalty
Michael Schuttloffel, Executive Director, Kansas Catholic Conference
Duane Friesen, Mennonite Churches of Central Kansas
Pat Scalia, Board of Indigent Defense
Forrest Swall, Former House of Representatives Member
Ron Evans, Chief, Death Penalty Defense Unit

Others attending:

See attached list.

The Chairman opened the hearing on **SB 208 - Abolishing the death penalty**.

Senator Carolyn McGinn appeared as sponsor of the bill. The Senator indicated the death penalty has become an expensive and inefficient way to protect society against offenders and deliver justice to victims and their families. In addition to saving state funds, life without parole will ensure murderers will be punished for their crimes while protecting the citizens of Kansas. (Attachment 1)

Senator David Haley testified in support stating the death penalty costs millions of dollars and referred to the *Performance Audit Report Costs Incurred for Death Penalty Cases: A K-Goal Audit of the Department of Corrections, A Report to the Legislative Post Audit Committee*, by the Legislative Division of Post Audit, State of Kansas, December 2003. Senator Haley indicated the report states that each death penalty case costs approximately \$500,000 more than a non-death penalty case. The Senator urged the enactment of **SB 208**. (Attachment 2)

Richard Dieter spoke in favor indicating there has been a national trend away from the death penalty in the United States. Since 1999 there has been a 60% drop in death sentences and a 50% decline in executions. When given a choice, more people prefer a life without parole rather than a death sentence. Part of this attitude is a result of the innocence issue, cases where innocent people have been wrongly convicted. This in turn has contributed to the increasing time requirements of a capital cases, the appeals process and the associated increased cost. (Attachment 3)

Sean O'Brien appeared as a proponent explaining factors that contribute to the cost of representation in a capital trial which include:

- the constitutional obligation to provide competent legal representation,
- guidelines and standards pertaining to the investigation and presentation of mitigation evidence,
- and issues involving expert assistance, recruiting and training counsel, and other death penalty issues. (Attachment 4)

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on February 26, 2009, in Room 545-N of the Capitol.

Sue Norton spoke in support providing personal experience and the effect the long drawn out emotionally draining, she said it is devastating to watch the execution and she does not have closure and is not healed by the death of the man who murdered her Father and Step-mother in Oklahoma. Repercussions are wide-spread and long lasting when someone is put in prison for life without parole. Ms. Norton urged the removal of the death penalty and recommended enactment of **SB 208**. (Attachment 5)

Rebecca Woodman appeared in support stating the cost of the death penalty in Kansas is too costly to justify its use both financially and psychologically. Death penalty cases require extraordinary and unique expenditures often over several years costing the State millions of dollars. A death verdict at trial is not an end but marks the beginning of a process continuum that is expensive, time-consuming, emotionally draining and highly error-prone. (Attachment 6)

Michael Bizer spoke in favor stating capital punishment poses a host of problems. These include:

- lack of empirical evidence the death penalty is a deterrent,
- disparities in who receives the sentences,
- the cost of the death penalty, and
- the possibility of an innocent person put to death.

Mr. Bizer feels the death penalty is not a meaningful solution to crime and abolition of the death penalty would potentially save an astronomical amount of money which could be put to better use. (Attachment 7)

Michael Schuttloffel appeared as a proponent stating in modern industrialized societies capital punishment is not necessary. We have the technological means to ensure that those who would do us harm are incarcerated for life. The Catholic tradition makes room for the taking of human life in cases of defense against an aggressor, it makes no room for killing for the sake of revenge. By incarcerating a convicted criminal, society provides itself with time to ensure the correct verdict has been reached, permits the criminal time to reflect and possibly arrive at a conversion of heart. (Attachment 8)

Duane Friesen spoke in favor stating the death penalty is not necessary to protect the public and is expensive to administer. A life sentence without parole fits the gravity of the crime, will provide swifter justice, and is more likely to provide the context for victims to focus on their own healing. The criminal justice system is not perfect and innocent persons have been executed, and it has been applied disproportionately to the poor and minorities. (Attachment 9)

The Chairman indicated the hearing would continue tomorrow.

The next meeting is scheduled for February 27, 2009.

The meeting was adjourned at 10:30 a.m.