

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on January 17, 2007 in Room 313-S of the Capitol.

All members were present except:  
Kevin Yoder- excused

Committee staff present:  
Jerry Ann Donaldson, Kansas Legislative Research  
Athena Andaya, Kansas Legislative Research  
Jill Wolters, Office of Revisor of Statutes  
Duston Slinkard, Office of Revisor of Statutes  
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:  
Willa DeCastro, Americans for Adoptions  
Mary Prewitt, The Humane Society of the United States  
Representative Pat Colloton  
Kathy Olson, Kansas Bankers Association  
Karen Wittman, Assistant District Attorney for Shawnee County  
Major Mark Goodloe, Kansas Highway Patrol  
Pete Bodyk, Bureau Chief of Traffic Safety, Kansas Department of Transportation  
Richard Howard, Quality Improvement of State Labs, Kansas Department of Health & Environment  
James Keller, Kansas Department of Revenue  
Terri Roberts, Kansas State Nurses Association  
Sheriff Randy Rogers, Kansas Sheriff's Association  
Major Jim Woods, Sedgwick County Sheriff's Department  
Doug Wells, Kansas Association of Defense Lawyers

Willa DeCastro, Americans for Adoptions, appeared before the committee with a bill request relating to the advertising for the adoption of children. Representative Watkins made the motion to have the request introduced as a committee bill. Representative Kinzer seconded the motion. The motion carried.

Mary Prewitt, The Humane Society of the United States, requested a bill that would apply all the provisions of the dog fighting statute to any other type of animal fights. Representative Owens made the motion to have the request introduced as a committee bill. Representative Colloton seconded the motion. The motion carried.

Representative Pat Colloton requested two bills:

1. providing for a grant program for counties to receive more funding to provide more services for community corrections
2. requiring treatment, job training, and counseling before an inmate is released from prison

Representative Colloton made the motion to have her requests introduced as committee bills. Representative Owens seconded the motion. The motion carried.

Kathy Olsen, Kansas Bankers Association, appeared before the committee with a bill request to assure that a lender's security interest in vehicles and manufactured homes remains perfected when challenged in court by a third party. 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 received a bill request from Representative Anthony Brown that would restrict wildlife & park permits from those who owe child support. Representative Kinzer made the motion to have the request introduced as a committee bill. Representative Owens seconded the motion. The motion carried.

The hearing on **HB 2012 - increased penalties for certain DUI violations**, were opened.

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Karen Wittman, Assistant District Attorney for Shawnee County, appeared before the committee in support of the proposed bill. She was a member of the subcommittee which made recommendations to the Special Committee on Judiciary during the interim.

Ms. Wittman suggested four changes to the proposed bill:

- provide a mechanism to pay KDHE for the expected challenges to the equipment used for DUI testing by law enforcement
- provide a mechanism to pay Kansas Department of Revenue for an increase in hearings that will be requested
- provided a mechanism to reimburse county jails for the increase in housing DUI offenders on page 5, line 1 strike the language "to another person" and replace with "to a person"

Chairman O'Neal stated that the first three proposal were issues that the budget committee would need to consider and pass legislation.

Ms Wittman spoke about the admission in court of assessments done by law enforcement officers certified as drug recognition evaluators (DREs). Kansas pays for officers to become DREs. Officers must go through extensive training. However, some courts are reluctant to allow testimony from DREs. The Kansas Court of Appeals, has recently, recognized the information obtained by an assessment by the DREs, and have found it useful in DUI cases. ([Attachment 1](#))

Major Mark Goodloe, Kansas Highway Patrol, supported the enhanced penalties in the bill but was concerned there were no funding mechanisms to support counties which have to house the DUI inmates and funding for Kansas Department of Health & Environment & the Kansas Department of Revenue for the extra work they would be required to provide. ([Attachment 2](#))

Pete Bodyk, Bureau Chief of Traffic Safety, Kansas Department of Transportation, appeared as a proponent of the bill. He informed the members that studies show an individual with a BAC of .15 or higher are at least 20% more likely to be involved in a fatality accident. The most frequently BAC recorded by those involved in fatal crashes is .18. ([Attachment 3](#))

Mr. Bodyk proceeded to explain that under the current federal transportation funding authorization, each state needs to meet five criteria out of eight to qualify for federal safety monies. Those eight criteria being:

1. STEP = using DUI checkpoints and extra patrol to stop individuals from driving drunk
2. Having prosecution and judicial outreach programs
3. Increasing the number of BAC test given in a year. Kansas is currently at 40%, which is low.
4. Provide DUI courts and alcohol rehabilitation
5. Setting .15 as BAC level
6. Restricting anyone under the age of 21 from retaining alcohol
7. Administrative license and registration suspension for 90 days on the 1<sup>st</sup> offense
8. Earmark a portion of fines to go back too communities for DUI programs

With the passage of the proposed bill, Kansas would meet four of the requirements (1, 3, 4, & 6).

Richard Howard, Quality Improvement of State Labs, Kansas Department of Health & Environment, stated that they provide support for the breath alcohol testing program and expect that the bill will require their staff to attend more court hearings and would have a direct impact on the amount of money needed to be allocated to the department. ([Attachment 4](#))

James Keller, Kansas Department of Revenue, does not expect any difficulty in administering the requirements of the proposed bill. However, they anticipate an increase in administrative hearings being held via telephone and need additional funding to offset the expense. ([Attachment 5](#))

Terri Roberts, Kansas State Nurses Association, provided information on the level of consumption it takes to reach a BAC of .15. Additional information was offered about other states with different sanctions for persons with a higher BAC than Kansas. ([Attachment 6](#))

Sheriff Randy Rogers, Kansas Sheriff's Association, supported the proposed DUI enhancements and believed

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that there would actually be a cost savings to the counties due to administrative hearings being held by telephone, but was concerned with possible overcrowding of county jails. (Attachment 7)

Major Jim Woods, Sedgwick County Sheriff's Department, expressed his concern with the impact on bed space, medical expenses, and the possible requirement to have county jails provide rehabilitation services to inmates (Attachment 8)

Dan Hermes, lobbyist, stated that he was working on an amendment for the funding issue, such as having the increased fines being dedicated to assist in the cost of housing inmates in county jails.

Doug Wells, Kansas Association of Defense Lawyers, appeared as an opponent of the bill. He said municipalities and counties would be burdened by the increase costs of prosecuting and incarcerating people who are convicted. The increased penalties would cause hardships on those who are the breadwinners of the family and suggested that the court order mandatory ignition interlocks be placed on vehicles. (Attachment 9)

The hearing on **HB 2012** was closed.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for January 18, 2007.