

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:36 A.M. on February 19, 2007, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department
Bruce Kinzie, Office of Revisor of Statutes
Nobuko Folmsbee, Office of Revisor of Statutes
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

John P. Wheeler, Finney County Attorney
Tom Drees, Ellis County Attorney
Randy Hearrell, Kansas Judicial Council
Helen Pedigo, Executive Director, Kansas Sentencing Commission
Mark Stafford, General Counsel, Kansas Board of Healing Arts
Melissa Wangeman, Legal Counsel, Secretary of State's Office
Joseph Molina, Assistant Attorney General

Others attending:

See attached list.

The Chairman opened the hearing on **SB 268–Use of deadly force**.

John Wheeler appeared in support, indicating this bill would address concerns regarding unintended consequences of legislation passed in 2006 (Attachment 1). This legislation commonly referred to as “Stand and Defend” has altered the well-settled law of self defense and has raised several points of concern. These concerns include the possible elimination of the common law objective “reasonable man” standard and the creation of “immunity from prosecution and civil action for the use of such force.” Enactment of **SB 268** will return the law of self defense back to the well-established law as it existed prior to last year’s legislation.

Tom Drees testified in support, relating the need for repeal of K.S.A. 21-3219 because of its adverse and unintended affect on police, prosecutors and the general public (Attachment 2). Mr. Drees feels current law may cause police officers and prosecutors to lose immunity under the Kansas Tort Claims Act, prosecutors could be subject to wrongful prosecution civil claims, as well as encourage the general public to vigilantism.

Written testimony in support of **SB 268** was submitted by:

Paul Morrison, Kansas Attorney General (Attachment 3)
Tom Stanton, Reno County Attorney (Attachment 4)

There being no further conferees, the hearing on **SB 268** was closed.

The hearing on **SB 269–Kansas code for care of children, service of process** was opened.

Randy Hearrell spoke in favor, indicating this bill would clarify that it was not the advisory committee’s intent that publication in another state or foreign country be required in every case when a parent might be located somewhere else (Attachment 5).

There being no other conferees, the hearing on **SB 269** was closed.

The Chairman opened the hearing **SB 324–Repealing certain K.S.A. sections, concerning certain crimes**.

Helen Pedigo spoke in support, indicating **SB 324** will repeal statutes with outdated class D and E felony penalties and one in conflict with the animal cruelty law passed on 2006 (Attachment 6). Ms. Pedigo stated that no convictions have been based on these statutes within the last three years. Ms. Pedigo also indicated that the Sentencing Commission would not oppose retention of the statutes if amended to reflect current severity levels within the sentencing guidelines.

Mark Stafford testified in favor, requesting retention and amendment of K.S.A. 65-28,107 which establishes an individual’s right to decide in advance to withhold or withdraw life-sustaining medical procedures to treat

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terminal illnesses in written declarations (Attachment 7). Mr. Stafford provided a balloon amendment with the requested changes.

Melissa Wangeman testified in favor, requesting retention and amendment of K.S.A. 17-1311 which creates a penalty for misuse of a cemetery permanent maintenance fund (Attachment 8). Ms. Wangeman provided a balloon amendment with the requested changes.

Joseph Molina opposed elimination of K.S.A. 17-1311(a) which creates a penalty for misuse of a cemetery permanent maintenance fund (Attachment 9). Mr. Molina suggested language which would update the criminal penalty of K.S.A. 17-1311(a).

There being no further conferees, the hearing on **SB 324** was closed.

The Chairman called for final action on **SB 183--Uniform commercial code, article 1, general provisions**. Senator Vratil reviewed the bill and distributed a balloon amendment suggested by Kathy Olsen, Kansas Bankers Association, during the hearing on February 15 (Attachment 10).

Senator Bruce moved, Senator Lynn seconded, to adopt the proposed balloon amendment. Motion carried.

Senator Bruce moved, Senator Journey seconded, to recommend SB 183, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 308--Uniform commercial code, article 7, revisions**. The Chairman reviewed the bill. Senator Bruce moved, Senator Goodwin seconded, to recommend SB 308 favorably for passage. Motion carried.

The Chairman called for final action on **SB 133-Election crimes; advance voting ballot suppression**.

The Chairman reviewed the bill indicating the committee had identified several potential problems with the bill as written. A packet of balloon amendments was distributed (Attachment 11). Senator Journey had prepared language concerning the definition of "exercising undue influence" located on page 5 of the packet. Senator Journey reviewed the proposed amendment.

Senator Journey moved, Senator Lynn seconded, to adopt the proposed amendment as reflected in subsection (g) on page 5 of the proposed balloon amendments. Motion carried.

Senator Vratil indicated there had been concern on the bill's language which would make it a crime for the voter to destroy their own ballot and this could be resolved by striking the word "any" on line 14 and inserting the language "another person's" between the words altering and advance voting. Senator Journey moved, Senator Bruce seconded, to amend SB 133 as described by Senator Vratil. Motion carried.

The Chairman then referred to page 1 of the proposed amendment packet which would address the need for language concerning intent. Following discussion, Senator Bruce moved, Senator Goodwin seconded, to replace the colon following the word knowingly on page 1, line 13, and to adopt the balloon amendment as reflected on page 1 of the packet. Motion carried.

The Chairman indicated the proposed amendments on pages 2, 3, and 4 all deal with depositing advance voting ballots in the mail or some mailing service. The committee reviewed the proposed amendments.

Senator Journey moved, Senator Donovan seconded, to adopt the first two balloons on page 4 of the packet of proposed balloon amendments. Motion carried.

The Chairman indicated action on **SB 133** will continued at a later date.

The meeting adjourned at 10:32 A.M. The next scheduled meeting is February 20, 2006.