

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on February 16, 2005, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Kansas Legislative Research Department  
Jill Wolters, Office of Revisor of Statutes  
Helen Pedigo, Office of Revisor of Statutes  
Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Kevin Graham, Assistant Attorney General  
Kyle Smith, Kansas Bureau of Investigation  
Mike Farmer, Kansas Catholic Conference  
Marsha Strom, Concerned Women of America  
Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence  
Senator Schmidt  
Callie Denton, Kansas Trial Lawyers Association

Others attending:

See attached list.

Chairman Vratil opened the meeting and the hearing on **SB 147**.

**SB 147 Increasing general time limitation for actions to five years**

Proponents:

Kevin Graham testified on behalf of the Attorney General in support of the bill. The Attorney General requested an amendment be made to change the bill on page 2, line 1, to delete the words “any offense provided in subsection (2)” and replace the words with, “enticement of a child as defined in K.S.A. 21-3509 and amendments thereto”. (Attachment 1)

Kyle Smith testified on behalf of the Kansas Bureau of Investigation in support of the bill. Mr. Smith stated that there are many crimes where the prosecutors cannot bring the defendant to trial due to the time limitation and resources. (Attachment 2)

Written testimony was provided in support of the bill from Vernon Chinn, Pratt County Sheriff, Pratt, KS. (Attachment 3)

Chairman Vratil closed the hearing on **SB 147** and opened the hearing on **SB 161**.

**SB 161 Immunity from liability for entities for whom offenders perform community service**

Senator Schmidt stated the bill was introduced on behalf of C. Fred Lorenz, Chief Judge, 31<sup>st</sup> Judicial District. The bill limits the liability of organizations who agree to host offenders doing community service. Senator Schmidt stated that the written testimony from Judge Lorenz provides further explanation for the need of the bill.

Written testimony was provided in support of the bill by Judge C. Fred Lorenz. (Attachment 4)

Opponent:

Callie Denton, Kansas Trial Lawyers Association (KTLA), testified opposing the bill. Ms. Denton stated that the KTLA is concerned about any bill that attempts to limit liability and provide immunity for conduct that is otherwise harmful. The KTLA attached a balloon amendment as an alternative that would clarify the bill limiting the liability to government entities and nonprofit organizations. The balloon recommendation removes the words “willful or wanton misconduct or intentionally tortious” and replaces with the word “negligent”. (Attachment 5)

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Chairman Vratil closed the hearing on **SB 161** and opened the hearing on **SB 151**.

### **SB 151 Crimes of trafficking and aggravated trafficking**

Kevin Graham, Assistant Attorney General, testified in support of the bill. He stated that the bill deals with taking people against their will for forced labor and involuntary servitude or for sexual exploitation. This bill would provide serious criminal sanctions for individuals caught committing this crime.

Kyle Smith, Kansas Bureau of Investigations, testified in support of the bill. Mr. Smith stated that Kansas does not have a current law to prosecute, for example, individuals caught with a trailer load of immigrants. As a result, the Immigration and Naturalization services get the call to pick up the victims for deportation, and the smuggler who preys on the victims slips away. The bill would provide a tool to investigate and prosecute these criminals. (Attachment 6)

Mike Farmer, Kansas Catholic Conference, testified in support of the bill. Mr. Farmer quoted from *Strangers No Longer, a Pastoral Letter Concerning Migration*, from the U.S. Catholic Bishops and the Bishops of Mexico: "Trafficking in persons- in which men, women, and children from all over the globe are transported to other countries for the purposes of forced prostitution or labor- inherently rejects the dignity of the human person and exploits conditions of global poverty." (Attachment 7)

Marsha Strom, Concerned Women for America of Kansas, testified in support of the bill. Ms. Strom stated that an informational packet was provided to each Committee member and she urged them to read it. (Attachment 8)

Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence, testified in support of the bill. Ms. Barnett requested a balloon amendment be considered that under aggravated trafficking a person would be charged if it involved a child under the age of 18, and that it wouldn't matter whether they were forced or threatened. (Attachment 9)

Kris Kobach, Professor of Law, University of Missouri, testified in support of the bill. Professor Kobach stated he served as Counsel to U.S. Attorney General John Ashcroft at the U.S. Department of Justice during 2001-2003.

Professor Kobach stated that the United States Government dramatically improved the prosecutorial and relief efforts with Congress's passage of the Trafficking Victims Protection Act (TVPA) of 2000. Professor Kobach shared several case examples of successful prosecutions. In conclusion, Professor Kobach stated that it was important for states to pass a state statute for several reasons: it allows more prosecutions to be brought with a state law in place; a state law serves to define the crime clearly and give guidance to state and local law enforcement, whose efforts are often the first step in uncovering human trafficking; cases may arise in which human trafficking offenses are part of a larger set of crimes. Prosecution of the defendants for these state crimes, along with the trafficking crimes, in a single state jurisdiction may offer the best prosecution strategy. (Attachments 10 & 11)

Written testimony was provided in support of the bill from: The Honorable Sam Brownback (Attachment 12); Chad Betts, Office to Monitor and Combat Trafficking in Persons (Attachment 13); Dr. Janice Shaw Crouse, Ph.D., Concerned Women of America (Attachment 14); Robin Read, National Foundation for Women Legislators, Inc. (Attachment 15); Melinda Lewis, El Centro. (Attachment 16)

Chairman Vratil closed the hearing on **SB 151** and asked the Committee to consider **SB 52** for final action.

### **Final Action:**

### **SB 52 Providing employer contribution for health insurance for senior judges**

Senator O'Connor stated that her records show the Committee was considering a possible amendment to the bill on page 1, line 27, changing the word "shall" to "may". Chairman Vratil stated he had proposed the change to give the court the discretion rather than to require the employer contribution. There was a motion

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to amend the bill making this change. Senator O'Connor moved, seconded by Senator Donovan, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Goodwin moved, seconded by Senator Schmidt, and the motion carried.

### **Final Action:**

#### **SB 71 Creating the crime of automated teller machine robbery and aggravated automated teller machine robbery**

Senator Journey stated that the Committee was considering a possible amendment to the bill on page 1, line 16, to strike the words, "to affect" and replace with the words, "through the use of". There was a motion to amend the bill making this change. Senator Journey moved, seconded by Senator Bruce, and the motion carried. There was a motion to amend the bill on page 1, line 18, by striking "IV" and inserting "V", making the crime a step lower. Senator Goodwin moved, seconded by Senator Haley, but the motion did not carry. There was a motion to recommend the bill favorably as amended. Senator Journey moved, seconded by Senator O'Connor, and the motion carried.

### **Final Action:**

#### **SR 1820 Resolution requesting that the United States supreme court grant certiorari in the Marsh case**

Chairman Vratil asked the Committee to consider action on the proposed Senate Resolution introduced the day before by Senator Schmidt. (Attachment 17) Senator Schmidt described the resolution, which would be from the body of the Kansas Senate encouraging the U.S. Supreme Court to grant *certiorari* to hear the *Marsh* appeal. A motion was made to introduce the resolution and recommend it favorably. Senator Schmidt moved, seconded by Senator Umbarger, and the motion carried.

Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for February 17, 2005.