

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:34 a.m. on March 15, 2010, in Room 548-S of the Capitol.

All members were present except:
David Haley, excused

Committee staff present:
Doug Taylor, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Conferees appearing before the Committee:
Bob Stephan, Governor's Domestic Violence Fatality Review Board
Representative Jan Pauls
Judge Harold Flaigle, 18th Judicial Dist., Governor's Domestic Violence Fatality Review Board
Curtis & Christie Brungardt
Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence
Travis Harrod, Assistant Attorney General
Mark Gleeson, Office of Judicial Administration
Ron Nelson, Kansas Judicial Council Family Law Advisory Committee
Valerie Moore, Kansas Bar Association
Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence

Others attending:
See attached list.

The Chairman opened the hearing on **H Sub for H 2517 - Domestic violence offenses; special sentencing provision**. Jason Thompson, staff revisor, reviewed the bill.

Bob Stephan testified in support, stating the Domestic Violence Fatality Review Board has found there is no systematic manner to track and report criminal data when it involves domestic violence related crimes. The bill allows for the court to establish if the criminal act resulted from domestic violence and requires the domestic violence offender to receive an assessment. (Attachment 1)

Representative Jan Pauls appeared in support, providing a balloon amendment to change the definition of "household member". As currently written, the definition would remove a protection which exists in current law. (Attachment 2)

Judge Harold Flaigle spoke in support, indicating the intent of this bill is to create a system in Kansas that will track and recognize all domestic related crimes and provide intervention for domestic violence offenders. If enacted, the bill will protect victims of all domestic violence. Judge Flaigle stated support for a proposed amendment by the Kansas Coalition Against Sexual and Domestic Violence and recommended language should that amendment be adopted. (Attachment 3)

Curtis & Christie Brungardt testified in support relating their personal experience regarding the loss of their daughter to domestic violence. If adopted, the bill will ensure that the criminal justice system documents crimes associated with domestic violence and tracks repeat offenders. (Attachment 4)

Sandy Barnett appeared in support. Ms. Barnett proposed two amendments to resolve possible unintended consequences in the bill as currently written. The first amendment replaces the definition of domestic violence, the second amendment adds K.S.A. 21-3218 and K.S.A. 21-3219 to the list of self-defense statutes that officers should consider when making probable cause determinations. (Attachment 5)

Travis Harrod testified in support, stating the bill establishes a good framework for comprehensive domestic violence prosecution reform. The bill will better reflect the reality that domestic violence does not just occur

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:34 a.m. on March 15, 2010, in Room 548-S of the Capitol.

as a battery, as currently codified, but may take the form of other offenses as well, such as criminal damage, criminal restraint, aggravated battery, rape and murder. **H Sub for HB 2517** will enhance the criminal justice system's ability to track domestic violence and ensure that repeat offenders face the full force of the law. ([Attachment 6](#))

Mark Gleeson appeared in opposition stating the opposition is centered on the court's ability to implement the requirement in Section 1 that a "domestic violence designation be placed on the criminal case" and the potential for increased risk to victims by implementing the domestic violence assessment provisions of Section 4. In addition, the amended implementation date does not give the court adequate time to comply with the provision of the bill. Mr. Gleeson questioned whether offenders are going to pay the cost of completing the recommendations based on the State's experience with 2003 SB 123. ([Attachment 7](#))

Written testimony in support of **HB 2517** was submitted by:

Jennie Marsh, Director of Crime Victim Services, Kansas Dept. of Corrections ([Attachment 8](#))

Ed Klumpp, Kansas Assn. of Chiefs of Police; Kansas Sheriffs Assn.; & Kansas Peace Officers ([Attachment 9](#))

Kari Ann Rinker, National Organization for Women of Kansas ([Attachment 10](#))

There being no further conferees, the hearing on **HB 2517** was closed.

The hearing on **HB 2667 - Recodification of certain domestic relations matters** was opened.

Ron Nelson testified in support as a representative of the Kansas Judicial Family Law Advisory Committee. Mr. Nelson indicated the Advisory Committee was asked to review and make recommendations on **SB 27**. The Committee's overall goal is to update all domestic relations statutes in order to bring them more in line with current trends and practice within domestic relations laws. As originally drafted the bill was intended to only reorganize the domestic relations statutes into a single domestic relations code intentionally avoiding any substantive changes. Mr. Nelson reviewed the revised Kansas Domestic Relation Code and indicated the House amended the bill to include a covenant marriage provision. Mr. Nelson indicated the Advisory Council and the Judicial Council support the bill as originally drafted without substantive changes. ([Attachment 11](#))

Valerie Moore appeared in favor of the bill in its original form. The covenant marriage provision raises several concerns including a new class of marriage to the divorce code. There is little evidence that such a classification will reduce divorces. Parties will be required to prove "fault" for the divorce, creating an environment of hostility and resentment which will be difficult to eradicate as the parties go to Court. Allegations will be made in open court and will be of a sensitive nature and will be detrimental to children by inhibiting the ability of the parents to work together in the future. Ms. Moore also voiced concern of an increase in the filing of Protection from Abuse and/or Stalking petitions if a party is unable to divorce because of an inability to establish good cause. ([Attachment 12](#))

Sandy Barnett spoke in opposition only as it relates to the new Sections 52 through 59 - covenant marriage. The covenant marriage provisions are not acceptable for several reasons. Abuse often begins prior to marriage and pressure could be employed to coerce one party to agree to a covenant marriage. Providers of premarital or pre-dissolution counseling are unlikely to have expertise in domestic violence, sexual abuse, or child abuse and the requirement of counseling prior to termination may cause parties to remain in an abusive situation. Public disclosure of abuse may inflame the situation and pose a greater risk of harm to the victim. Minors are particularly vulnerable to abuse and coercion by the person authorizing the marriage and should be protected. It sets aside the Kansas "no fault" divorce and re-institutes the "fault" divorce.

Ms. Barnett urged enactment of the bill as originally introduced. ([Attachment 13](#))

The Chairman announced the hearing will be continued at the next Committee meeting.

The next meeting is scheduled for March 16, 2010.

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