

## MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. On January 30, 2001 in Room 313-S of the Capitol.

All members were present except:

Representative Jan Pauls - Excused  
Representative Clark Shultz - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department  
Jennifer Strait, Intern for Legislative Research Department  
Jill Wolters, Revisor of Statutes Office  
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Kyle Smith, Kansas Bureau of Investigations  
Sgt. Lance Royer, Shawnee County Sheriff's Department  
Denny Hamblin, Johnson County Sheriff's Department  
Tammy Rider, YMCA Battered Women's Task Force  
Pattie Yates-Belden, Hutchinson's Sexual Assault & Domestic Violence Center  
Sandy Barnett, Kansas Coalition Against Domestic Violence & Abuse  
Brent Venneman, Kansas County & District Attorneys Association  
Professor Michael Kaye, Washburn School of Law  
Ron Wurtz, Kansas Bar Association  
Randall Hodgkinson, Topeka

Representative Morrison requested a bill which would allow a parent, attorney or guardian to be present at the time of juvenile intake & assessment center. She made the motion to have the request introduced as a committee bill. Representative Ruff seconded the motion. The motion carried.

Chairman O'Neal requested a bill drafted by Uniform Law Commission that is a rewrite of the Enforcement of Domestic Violence Protection Act. He made the motion to have the request introduced as a committee bill. Representative Patterson seconded the motion. The motion carried.

Chairman O'Neal requested amendments substantive in nature to Article 9. He made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Representative Rehorn requested a bill which would amend circulation notices in the four largest counties in the state. He made the motion to have the request introduced as a committee bill. Representative Shriver seconded the motion. The motion carried.

Chairman O'Neal received a request from Representative Sloan which could clarify that courts have the authority to grant divorces but continue to have the authority over other issues in the case, such as child custody & support. He made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Hearings on **HB 2075 - fingerprinting juveniles who commit assault**, were opened.

Kyle Smith, Kansas Bureau of Investigations, the current fingerprinting statutes applies to adults who commit assault and the KBI would like to include juveniles for criminal history purposes. (Attachment 1)

Hearings on **HB 2075** were closed.

Hearings on **HB 2077 - protection from abuse orders entered into the national crime information center protection order file**, were opened.

Kyle Smith, Kansas Bureau of Investigations, appeared in support of the proposed bill. He commented that all protection from abuse (PFA) orders would be entered into the National Crime Information Center (NCIC) so that any law enforcement organization could check on it at any time to see if there was an existing PFA or if there has been updates to the order. It would apply to both foreign orders and expand PFA orders to apply to stalking cases and instances where the parties have not lived together. ([Attachment 2](#))

Members of the committee were concerned with PFA's being expanded to include stalking, since there usually isn't a charge pending.

Sgt. Lance Royer, Shawnee County Sheriff's Department, he explained that PFA's have been entered in by Shawnee County for several years and have found that it is very helpful in determining which PFA order is in affect. ([Attachment 3](#))

Denny Hamblin, Johnson County Sheriff's Department, had concerns with foreign PFA orders as to whether the notification would be received in a timely manner and whether they would have adequate identifiers to enter into the NCIC. ([Attachment 4](#))

Tammy Rider, YMCA Battered Women's Task Force, supported the effort to broaden who PFA orders can cover to make the community a safer place to live. ([Attachment 5](#))

Pattie Yates-Belden, Hutchinson's Sexual Assault & Domestic Violence Center, also supported the bill and believes that there are times when probable cause exists when two people do not have a link, such as living together, they need a recourse and filing a PFA gives them peace of mind. ([Attachment 6](#))

Sandy Barnett, Kansas Coalition Against Domestic Violence & Abuse, appeared as a proponent of the bill. She suggested that if the committee couldn't see their way to include stalking as a reason for a PFA then at least recognize those who have a dating relationship. ([Attachment 7](#))

Hearings on **HB 2077** were closed.

Hearings on **HB 2076 - search incident to lawful arrest includes evidence of any crime**, were opened.

Kyle Smith, Kansas Bureau of Investigations, appeared in support of the proposed bill. It is logical that when law enforcement arrest someone they are allowed to search the person, and his wing span to make sure there are no weapons and possible evidence. The Supreme Court in New York v. Belton expanded the bright-line rule to apply to automobiles.

The proposed bill would change "the" to "a" to being the statute in accordance with laws elsewhere in the United States so that any criminal items found during a search could be held as evidence and the alleged offender could be prosecuted for that crime. ([Attachment8](#))

Brent Venneman, Kansas County & District Attorneys Association, appeared as a proponent of the bill. He commented that Kansas' statute is out of date with the United States Supreme Court. He believes that the bright-line rule works and that people know what to expect. Once the lawful arrest has been made then a search can be conducted. ([Attachment 9](#))

Professor Michael Kaye, Washburn School of Law, appeared as an opponent to the bill. He believes that searches should be limited to legitimate purposes or consent. *State v. Tygart* upholds this belief that searches can be extended to automobiles but it limits where & when the search can be done. He stated that the only time a search of the whole vehicle can be done is when there is probable cause as sited in *California v. Acevedo*. ([Attachment 10](#))

Ron Wurtz, Kansas Bar Association, commented that the proposed bill would violate Supreme Court interpretation of the Fourth Amendment. If the bill passes it would allow officer to go on a fishing expedition to look for any crime in both his home and automobile. He questioned the need for the change when current law is satisfactory in that it allows officers to look around the immediate area to see if there are any weapons or fruits of the crime. ([Attachment 11](#))

Randall Hodgkinson, Topeka, has had cases where warrants are served when the person is in their vehicle so that the officer can search it. He doesn't believe this is right and that the passage of the proposed bill would cause potential problems. ([Attachments 12](#))

Hearings on **HB 2076** were closed.

The committee meeting adjourned at 5:45. The next meeting is scheduled for January 31, 2001.