

Journal of the Senate

THIRTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 10, 2017, 8:00 a.m.

The Senate was called to order by Vice President Jeff Longbine.

The roll was called with 29 senators present.

Senators Estes, Faust-Goudeau, Fitzgerald, Hardy, Holland, LaTurner, Masterson, Pilcher-Cook, Pyle, Schmidt and Taylor were excused.

Invocation by Reverend Cecil T. Washington:

Lord, we've come to the end of another week, and we thank You for Your continued grace and mercy. Bless all of us with traveling grace in going to our various destinations. Help us find things well upon our arrival.

Also, remind us Lord, to change our clocks on Sunday, in keeping with daylight saving time. Thanks for the additional light that we'll have and the additional safety it'll provide.

And even when the darkness comes, protect us from the evil deeds of the people who love the dark rather than light as mentioned in John 3:10.

Watch over all the servants under this dome and when we return, let us come back refreshed.

Thanks for helping us finish another week of service. In the precious name of Jesus, Amen.

The Pledge of Allegiance was led by Vice President Longbine.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Federal and State Affairs: **SB 225**.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 202** be passed.

Also, recommends **SB 155** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 155," as follows:

"Substitute for SENATE BILL NO. 155

By Committee on Federal and State Affairs

"AN ACT concerning non-intoxicating cannabinoid medicine; eliminating criminal and professional penalties for recommending, dispensing, distributing or possessing non-intoxicating cannabinoid medicines and related paraphernalia; amending K.S.A. 2016 Supp. 21-5706, 21-5708, 21-5709, 65-1626 and 65-4123 and repealing the existing sections.";

And the substitute bill be passed.

SB 200 be amended on page 1, in line 25, by striking "investigative" and inserting "investigation"; in line 31, by striking "investigative" and inserting "investigation"; also in line 31, after "records" by inserting ", other than the identity of any confidential source or undercover agent,";

On page 2, following line 43, by inserting:

"Sec. 2. K.S.A. 45-218 is hereby amended to read as follows: 45-218. (a) All public records shall be open for inspection by any person, except as otherwise provided by this act, and suitable facilities shall be made available by each public agency for this purpose. No person shall ~~removal remove~~ original copies of public records from the office of any public agency without the written permission of the custodian of the record.

(b) Upon request in accordance with procedures adopted under K.S.A. 45-220, and amendments thereto, any person may inspect public records during the regular office hours of the public agency and during any additional hours established by the public agency pursuant to K.S.A. 45-220, and amendments thereto.

(c) If the person to whom the request is directed is not the custodian of the public record requested, such person shall so notify the requester and shall furnish the name and location of the custodian of the public record, if known to or readily ascertainable by such person.

(d) (1) Each request for access to a public record shall be acted upon as soon as possible, but not later than the end of the third business day following the date that the request is received. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. If the request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester not later than the end of the third business day following the date that the request for the statement is received.

(2) For public records requests for those records listed in K.S.A. 45-217(c)(2)(B), and amendments thereto, the public agency shall furnish copies within 30 days of receiving the request. If such request is made by a parent, child, sibling or grandparent of the person whom the records concern, no fee shall be charged to the person requesting copies of such records.

(e) The custodian may refuse to provide access to a public record, or to permit inspection, if a request places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency. However, refusal under this subsection must be sustained by preponderance of the evidence.

(f) A public agency may charge and require advance payment of a fee for providing access to or furnishing copies of public records, subject to K.S.A. 45-219, and amendments thereto.";

On page 4, in line 22, after "(B)" by inserting ", and amendments thereto";

On page 11, in line 17, before "K.S.A." by inserting "K.S.A. 45-218 and"; in line 19, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "amending" by inserting "K.S.A. 45-218 and";

and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 179** be amended on page 2, in line 11, after "Supp." by inserting "21-5426(b)(4) or (5) or"; also in line 11, by striking "or 21-6422";

On page 3, in line 2, by striking "(c)" and inserting "(d)"; in line 19, by striking all after the second period; by striking all in line 20; in line 21, by striking all before "an"; in line 22, after the second comma by inserting "shall"; in line 25, after "completion" by inserting "to the division of vehicles of the department of revenue"; also in line 25, after the period by inserting "Not later than January 1, 2018, the attorney general shall, in consultation with the director of vehicles, promulgate rules and regulations to implement the provisions of this section.";

On page 4, in line 4, after "(4)" by inserting "and (5)"; in line 33, by striking "or"; in line 35, by striking "inducing" and inserting "obtaining"; also in line 35, by striking "person under 18 years of age" and inserting "child"; in line 36, by striking "person" and inserting "child"; in line 39, after "value" by inserting "; or

(5) hiring a child by giving, or offering or agreeing to give, anything of value to any person, to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act, and the offender knows, should have known, is deliberately indifferent to, is willfully blind to, or recklessly disregards the age of the child";

On page 5, in line 20, by striking "(c)" and inserting "(d)"; in line 26, after "(e)" by inserting "It shall be an affirmative defense to any prosecution under subsection (b)(4) or (5) that the defendant: (1) Was under 18 years of age at the time of the violation; and (2) committed the violation because such defendant, at the time of the violation, was subjected to human trafficking or aggravated human trafficking, as defined by this section.

(f) It shall not be a defense to a charge of aggravated human trafficking, as defined in subsection (b)(4) or (5), that the victim consented or willingly participated in the forced labor, involuntary servitude or sexual gratification of the defendant or another.

(g) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for commercial sexual exploitation of a child, as defined by K.S.A. 2016 Supp. 21-6422, and amendments thereto, or for any form of homicide.

(h) ";

Also on page 5, in line 29, by striking the comma and inserting ":

(1) "Child" means a person under 18 years of age; and

(2) ";

Also on page 5, by striking all in lines 33 through 36;

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 6, in line 28, by striking "(c)" and inserting "(d)";

On page 8, in line 31, by striking all after "(1)"; by striking all in lines 32 through 43;

On page 9, in line 1, by striking "(2)"; in line 39, by striking "(c)" and inserting "(d)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 15, following line 21, by inserting:

"Sec. 11. K.S.A. 2016 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted of any of the following

offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or ~~subsection (a) of K.S.A. 2016 Supp. 21-5505(a)~~, and amendments thereto;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2016 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) promoting the sale of sexual relations, as defined in K.S.A. 2016 Supp. 21-6420, and amendments thereto;

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2016 Supp. 21-6421, prior to its amendment by section 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, when one of the parties involved is less than 18 years of age;

~~(E)~~(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2016 Supp. 21-5513, and amendments thereto, when one of the parties involved is less than 18 years of age;

~~(F)~~(F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and amendments thereto;

~~(G)~~(G) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto;

~~(H)~~(H) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments thereto;

~~(I)~~(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;

~~(J)~~(J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or ~~subsections (a)(1), (a)(2) or (a)(4) of K.S.A. 2016 Supp. 21-5405(a)(1), (a)(2) or (a)(4)~~, and amendments thereto;

~~(K)~~(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2016 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;

~~(L)~~(L) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved nonforcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

~~(M)~~(M) conviction of any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act;

~~(N)~~(N) conviction of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

~~(O)~~(O) unlawful manufacture or attempting such of any controlled substance or controlled substance analog, as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2016 Supp. 21-5703, and amendments thereto;

~~(P)~~(P) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance, as defined by ~~subsection (a) of K.S.A.~~

65-7006(a), prior to its repeal, ~~subsection (a)~~ of K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or ~~subsection (a)~~ of K.S.A. 2016 Supp. 21-5709(a), and amendments thereto;

~~(P)(Q)~~ K.S.A. 65-4161, prior to its repeal, ~~subsection (a)(1)~~ of K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or ~~subsection (a)(1)~~ of K.S.A. 2016 Supp. 21-5705(a)(1), and amendments thereto; or

~~(Q)(R)~~ any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 15 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(b) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) Criminal sodomy, as defined in ~~subsection (a)(1)~~ of K.S.A. 21-3505(a)(1), prior to its repeal, or ~~subsection (a)(1) or (a)(2)~~ of K.S.A. 2016 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto, when one of the parties involved is less than 18 years of age;

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or K.S.A. 2016 Supp. 21-5509, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2016 Supp. 21-5512, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2016 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is 14 or more years of age but less than 18 years of age; or

(J) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 25 years from the date of conviction. Any period of time during which any offender is incarcerated in

any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(c) Upon a second or subsequent conviction of an offense requiring registration, an offender's duration of registration shall be for such offender's lifetime.

(d) The duration of registration for any offender who has been convicted of any of the following offenses shall be for such offender's lifetime:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto;

(2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5508**(b)**, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5506**(b)**, and amendments thereto;

(4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3)~~ of K.S.A. 21-3505**(a)(2) or (a)(3)**, prior to its repeal, or ~~subsection (a)(3) or (a)(4)~~ of K.S.A. 2016 Supp. 21-5504**(a)(3) or (a)(4)**, and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5504**(b)**, and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5426**(b)**, and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;

(8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2016 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is less than 14 years of age;

(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2016 Supp. 21-5408**(a)**, and amendments thereto;

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5408**(b)**, and amendments thereto;

(11) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto; or

(12) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(f) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in ~~subsection (c)~~ of K.S.A. 22-4902**(c)**, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender

is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(g) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in ~~subsection (e)~~ of K.S.A. 22-4902(c), and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2016 Supp. 21-6804, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(h) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in ~~subsection (e)~~ of K.S.A. 22-4902(c), and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2016 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.

(i) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order,

requires registration under the Kansas offender registration act for an offense that would not otherwise require registration as provided in ~~subsection (a)(5)~~ of K.S.A 22-4902(a) (5), and amendments thereto, then all provisions of the Kansas offender registration act shall apply, except that the duration of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(j) The duration of registration does not terminate if the convicted or adjudicated offender again becomes liable to register as provided by the Kansas offender registration act during the required period of registration.

(k) For any person moving to Kansas who has been convicted or adjudicated in an out-of-state court, or who was required to register under an out-of-state law, the duration of registration shall be the length of time required by the out-of-state jurisdiction or by the Kansas offender registration act, whichever length of time is longer. The provisions of this subsection shall apply to convictions or adjudications prior to June 1, 2006, and to persons who moved to Kansas prior to June 1, 2006, and to convictions or adjudications on or after June 1, 2006, and to persons who moved to Kansas on or after June 1, 2006.

(l) For any person residing, maintaining employment or attending school in this state who has been convicted or adjudicated by an out-of-state court of an offense that is comparable to any crime requiring registration pursuant to the Kansas offender registration act, but who was not required to register in the jurisdiction of conviction or adjudication, the duration of registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act.";

On page 21, in line 42, after the second comma by inserting "22-4906,";

And by renumbering sections accordingly;

On page 1, in the title, in line 9, after the fourth comma by inserting "22-4906,"; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

SR 1717, SR 1718, SR 1719, SR 1720 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 10, 2017.

TRIBUTES

The Committee on **Organization, Calendar and Rules** authorizes the following tributes for the weeks of February 20 through February 23 and March 6 through March 10, 2017.

Senator Bowers: congratulating Kansas Territory Brewing Company on being named the Best New Brewer in Kansas for 2016, congratulating Jed Strnad on being named the State Agriculture Teacher of the Year, congratulating Don Landoll on being inducted into the 2017 Topeka Business Hall of Fame, congratulating Carrie Fraser on receiving the Kansas Farm Bureau Excellence in Agriculture Award, congratulating Lisa Voelker on receiving the Outstanding EMT Service Director Award, congratulating Ray and Donna Zillinger on their 70th Wedding Anniversary, celebrating Delores Sutton's 100th Birthday;

Senator Faust-Goudeau: recognizing International Women's Day;

Senator Hardy: celebrating Marjorie Theleman's 100th Birthday, congratulating the Abilene High School Wrestling Team on winning the Class 4A State Championship,

congratulating Melinda Eitel on receiving the Kansas Master Teacher Award;

Senator Kelly: congratulating the Rossville High School Football Team on winning the 2016 3A State Championship;

Senator LaTurner: congratulating the Pittsburg Rotary Club on its 100th Anniversary;

Senator Pyle: congratulating Sydney Smith on being named a Top Youth Volunteer in Kansas;

Senator Schmidt: congratulating Mikayla Keeling on receiving the Boys and Girls Clubs of Topeka Youth of the Year Award; and

Senator Faust-Goudeau and Senator McGinn: recognizing the Donate Life Kansas Team.

On motion of Senator Denning, the Senate adjourned until 2:30 p.m., Monday, March 13, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

