

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:36 A.M. on January 24, 2008, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen arrived, 9:38 A.M.  
Derek Schmidt arrived 9:41 A.M.

Committee staff present:

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

Conferees appearing before the committee:

Jennifer Roth, Legislative Committee Chair; Kansas Association of Criminal Defense Lawyers  
Peter Ninemire, Families Against Mandatory Minimums  
Tim Madden, Department of Corrections  
Helen Pedigo, Kansas Sentencing Commission  
Heather Morgan, Juvenile Justice Authority  
Stuart Little, Kansas Community Corrections Associations  
Kevin Murray, Chief Court Services Officer, 21<sup>st</sup> Judicial District  
Alice Adams, Clerk of the District Court, Geary County

Others attending:

See attached list.

Ron Gaches, requested introduction of bill relating to the uniform trust code concerning irrevocable trust for the discretionary acceleration of remainder interest. Senator Umbarger moved, Senator Donovan seconded to introduce the bill. Motion carried.

The Chairman continued the hearing on **SB 409–Third or subsequent felony conviction, sentence.**

Jennifer Roth appeared in opposition, indicating the one size fits all approach in the proposed legislation does not address the difference between habitual offenders and those defendants with substance abuse or mental illness issues (Attachment 1). Incarceration of this type of offender is not a cure for recidivism. The bill does not provide resources for treatment therefore setting them up to re-offend upon release from prison. In addition, **SB 409** will be costly due to the increased number of prison beds required, and it will overwhelm the court system by defendants with no incentive to plea bargain their cases. Ms. Roth proposed inserting language similar to that found in Jessica's law to allow for a dispositional departure for probation upon finding a substantial and compelling reason. Her suggested amendments also address the issue of third lifetime offenses for petty theft.

Peter Ninemire testified in opposition, indicating **SB 409** will take discretion away from judges and hinder the successful work being done by the Kansas Sentencing Commission in substance abuse treatment (Attachment 2). Mr. Ninemire also voiced concern for the fiscal and social costs created by enactment of the bill.

Tim Madden testified in a neutral capacity raising the Department of Corrections' concern regarding the reference to the drug grid criminal history block 4-E and 4-F (Attachment 3). The Department feels placement in the bill is inappropriate and recommended placing the reference on page 9, line 36 and removing it from page 9, line 42.

There being no further conferees, the hearing on **SB 409** was closed.

The Chairman opened the hearing on **SB 418–Kansas sentencing commission; duty to annually produce official juvenile correctional facility population projections.**

Helen Pedigo appeared in support, stating the Kansas Sentencing Commission has been contracted annually for the several years by the Juvenile Justice Authority to perform juvenile population projections (Attachment 4). Annual projections should continue under the authority of Kansas Sentencing

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:36 A.M. on January 24, 2008, in Room 123-S of the Capitol.

Commission in order to maintain objectivity. Ms. Pedigo suggested an amendment to the bill to include language regarding production of bed impact statements similar to those submitted for adult criminal sentencing bills and to include a specific date by which the projection would be completed.

Heather Morgan testified in support, indicating the Juvenile Justice Authority has found the reports to be useful and beneficial to the agency during the budget process to determine operational needs for the various facilities ([Attachment 5](#)).

There being no further conferees, the hearing on **SB 418** was closed.

The hearing on **SB 419–Criminal procedure; for and consent of journal entry** was opened.

Helen Pedigo spoke in favor, indicating **SB 419** is a technical “clean-up” based on recommendations by a subcommittee created by the Kansas Sentencing Commission to review the “journal of entry of sentencing” ([Attachment 6](#)).

There being no further conferees, the hearing on **SB 419** was closed.

The hearing on **SB 423–Notice of filing of foreign judgement** was opened.

Alice Adams appeared in support, stating enactment of this bill would simplify the process of notice of filing and remove the court clerk as an unnecessary middleman ([Attachment 7](#)).

There being no further conferees, the hearing on **SB 423** was closed.

The Chairman opened the hearing on **SB 422–Kansas Assault and battery against court services officers.**

Heather Morgan spoke in support of strengthening penalties for assault and battery against court officers. Ms. Morgan requested an amendment to include Kansas Justice Juvenile Authority employees, community corrections officers, juvenile community supervision officers and juvenile intake and assessment officers in the bill ([Attachment 8](#)).

Stuart Little spoke as a proponent, supporting the amendment requested by the Juvenile Justice Authority ([Attachment 9](#)).

Kevin Murray testified in support, relating recent statutory changes in which the severity levels of crimes have been enhanced for specific individuals and entities ([Attachment 10](#)). Mr. Little indicated court service officers should be specifically included in **SB 422**.

Written testimony in support of **SB 422** was submitted by:

Roger Werholtz, Secretary, Kansas Department of Corrections ([Attachment 11](#))

There being no further conferees, the hearing on **SB 422** was closed.

The hearing on **SB 414– Electors of county or counties may establish an office of the district attorney; salary based on felony caseload** was opened.

Senator Derek Schmidt spoke in favor, indicating **SB 414** is a compromise worked out by the interim judiciary committee to establish a mechanism in which local voters may decide whether to move from a county attorney system to a district attorney system ([Attachment 12](#)).

There being no further conferees, the hearing on **SB 414** was closed.

The meeting adjourned at 10:32 A.M. The next scheduled meeting is January 28, 2007.