

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on February 9, 2006, in Room 123-S of the Capitol.

All members were present,

David Haley arrived, 9:44 a.m.
Greta Goodwin arrived, 9:55 a.m.
Derek Schmidt arrived, 9:59 a.m.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Helen Pedigo, Office of Revisor of Statutes
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Senator Mike Petersen
Norman D. Williams, Chief of Police, Wichita, KS
Lt. Jeffrey T. Easter, Commander of the Gang Division, Wichita, KS
Ed Klumpp, Chief of Police - Retired, Kansas Association of Chiefs of Police
Kevin A. Graham, Assistant Attorney General, Director of Legislative Affairs
Kevin Tubbesing
Hal Hudson, State Director, National Federation of Independent Business
Sally Howard, Chief Counsel, Kansas Department of Transportation
Terry E. Beck, Kansas Trial Lawyers
James W. Clark, Legislative Counsel, Kansas Bar Association

Others attending:

See attached list.

Final action on **SB 381**--Pleas; court advisory that conviction or guilty plea may have immigration, naturalization consequences

A balloon amendment was provided to address the testimony of Rekha Sharma-Crawford at the February 8th hearing (Attachment 1). Senator Journey moved, Senator Umbarger seconded, to adopt the balloon amendment to **SB 381**. Motion carried.

Senator Umbarger moved, Senator Donovan seconded, to recommend **SB 381** as amended favorably for passage. Motion carried.

The hearing on **SB 458--Criminal street gang prevention act** was opened.

Senator Mike Petersen spoke in support of the bill stating that enactment of the bill will provide tools for law enforcement to curb the increasing levels of street gang activity (Attachment 2).

Norm Williams appeared in favor of **SB 458** indicating a dramatic increase in gang activity over the last two years (Attachment 3). This legislation will provide tools to take an aggressive approach to gang violence and recruitment by:

- Increasing accountability for violent actions and penalties for recruitment, especially children
- Preventing witness and victim intimidation
- Preventing retaliation against members wanting to quit gangs

Lt. Jeff Easter spoke in favor of **SB 458** stating it will assist the Gang Plan, a comprehensive plan developed by the Wichita Police Department and members of the community (Attachment 4). Lt. Easter requested a change to New Section 5 which would increase bail for felony arrests.

Ed Clumpp appeared in support of the bill indicating that gang activity is on the rise and the provisions in this bill will provide a proactive approach to reduce the crime problem created by gang activity (Attachment 5). Kevin Graham spoke in support of **SB 458** stating that the new crime definitions and stronger criminal

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penalties proposed have the potential to serve as deterrents to the proliferation of criminal street gangs (Attachment 6).

There being no further conferees, the hearing on **SB 458** was closed.

The hearing on **SB 445--In any civil action, excluding personal injury actions, the prevailing party recovers reasonable attorney fees** was opened.

Kevin Tubbesing appeared in support of the bill (Attachment 7). The legislation will decrease frivolous or nuisance suits as well as place the burden of collection costs on the debtor.

Hal Hudson spoke in support of **SB 445** and expressed the concern of small businesses across the state regarding lawsuits (Attachment 8). Many businesses go to extraordinary expense to have adequate liability insurance or limit their business to avoid lawsuits due to the high rate and cost of litigation.

Sally Howard appeared in opposition to the bill requesting an amendment excluding condemnation appeals are excluded from the phrase "civil action" (Attachment 9). It was her opinion that the current provision for attorney fees under K.S.A. 26-509 provides a better method to determine when a court should award attorney fees in condemnation appeals. Under K.S.A. 26-509 the landowner is never at risk of paying the condemner's attorney fees which could be the case with this bill.

Terry Beck spoke in opposition stating **SB 445** would favor those who are financially able to assume the risk of attorney fees and be a detriment to litigants who could face financial ruin if the lawsuit were lost (Attachment 10).

Jim Clark spoke on behalf of the Kansas Bar Association stating opposition to **SB 445** indicating that the bill will burden small businesses and the middle class (Attachment 11). The fear of bearing the costs of opposing counsel's fees will deter most people from filing valid claims.

Written testimony in support of **SB 445** was submitted by:

Marlee Carpenter, Vice President of Government Affairs, The Kansas Chamber (Attachment 12)

There being no further conferees, the hearing on **SB 445** was closed.

The meeting adjourned at 10:32 a.m. The next scheduled meeting is February 13, 2006.