

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on February 16, 2006, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen- excused
Kay O'Connor- excused
Dwayne Umbarger arrived, 9:37 a.m.
David Haley arrived, 9:38 a.m.
Phil Journey arrived, 9:43 a.m.
Derek Schmidt arrived, 9:51 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 Greta Goodwin
Representative Bill McCreary
Peter Ninemire, Kansas Families Against Mandatory Minimums
Representative Ward Loyd
Representative Pat George
Kevin A. Graham, Assistant Attorney General, Director of Legislative Affairs
Patricia Biggs, Executive Director, Kansas Sentencing Commission
Christopher L. Schneider, Wyandotte County Assistant District Attorney
Paul L. Morrison, Johnson County District Attorney

Others attending:

See attached list.

The hearing on **SB 507--Jury fee** was opened.

Senator Goodwin spoke in support and provided information regarding the successful use of jury fees in Oklahoma (Attachment 1). The Senator also provided a balloon amendment to clarify that the fee applies only when a jury is requested for a civil case.

Written testimony in opposition was submitted by:

James W. Clark, Kansas Bar Association (Attachment 2)
Callie Jill Denton, Kansas Trial Lawyers Association (Attachment 3)

There being no further conferees, the hearing on **SB 507** was closed.

The hearing on **HB 2231--Defendant may petition the court to modify certain drug offense prison sentences to certified drug abuse treatment programs** was opened.

Representative Bill McCreary appeared in support and provided background on the bill (Attachment 4). Rep. McCreary also provided a balloon amendment which would return the bill to the standards of **SB 123**. He indicated that funding for both bills will be recouped in savings by prison avoidance.

Peter Ninemire spoke in favor relating his personal experience with substance abuse and his road to recovery (Attachment 5). His research indicates that prison does not work for substance abusers and the treatments proposed in **HB 2231** is an effective way to treat offenders.

Representative Loyd appeared as a proponent indicating **HB 2231** contained provisions by which prosecutors can object to any application for treatment qualification (Attachment 6). Rep. Loyd indicated that **HB 2231** is about mandated rehabilitation and that such programs have high success rates.

CONTINUATION SHEET

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Representative George spoke in support relating his personal story regarding substance abuse and how substance abuse treatment helped him successfully overcome the disease ([Attachment 7](#)). Included with his testimony is a letter from Michael Dukakis who has been a champion of this type of program.

Kevin Graham appeared in opposition due to the proposed retroactive provisions in the bill ([Attachment 8](#)). Mr. Graham indicated that in many cases the convictions are a result of plea bargaining. Enactment of this legislation may allow release of offenders that had non-drug related offenses dismissed as part of their plea agreement.

Patricia Biggs spoke in opposition due to several unaddressed and unresolved issues ([Attachment 9](#)). Concerns include:

- Offenders may benefit from the retroactive provisions and could be threats to the community,
- Increased burden on the courts due to requested hearings by affected offenders,
- Increased burden of prosecutors to prove offenders should receive sentence modification,
- Increased burden on treatment providers,
- Need for increased funding,
- Increased resource requirements,
- Possible constitutionality issues, and
- Questions regarding offenders eligibility.

Christopher Schneider appeared in opposition regarding sentence modification on offenders currently in custody ([Attachment 10](#)). He stated that plea agreements were fashioned to protect citizens and benefit both the offender and the State of Kansas. Retroactive changes will frustrate the intent of these agreements as well as create unnecessary litigation resulting in more work for prosecutors and public defenders, more expense, and increased case loads for the courts. Mr. Schneider also questioned the lack of provisions to deal with parole violators and persons convicted of level I and II felonies prior to November 1, 2003.

Paul Morrison spoke in opposition because of the potential legal problems associated with the bill and the possibility of releasing offenders that do not deserve it ([Attachment 11](#)).

Written testimony in support of **HB 2231** was submitted by:

- Senator Donald Betts, Jr. ([Attachment 12](#))
- Representative Oletha Faust-Goudeau ([Attachment 13](#))
- Paul Goseland ([Attachment 14](#))
- Bernard L. Smith ([Attachment 15](#))

There being no further conferees, the hearing on **HB 2231** was closed.

The meeting was adjourned at 10:33 a.m. The next scheduled meeting is February 17, 2006.