

MINUTES

Kansas DUI COMMISSION

July 1-2, 2009
Room 535-N—Statehouse

Members Present

Senator Thomas C. Owens, Chairperson
Representative Janice Pauls, Vice-Chairperson
Greg Benefiel, Assistant District Attorney, Douglas County
Pete Bodyk, Kansas Department of Transportation
Major Mark Bruce, Kansas Highway Patrol
Senator David Haley
Honorable Jennifer Jones, Municipal Judge, Sedgwick County
Wiley Kerr, Kansas Bureau of Investigation
Representative Lance Kinzer
Mary Ann Khoury, Victim Advocate
Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services
Sheriff Ken McGovern, Douglas County
Chris Mechler, Court Services Officer
Helen Pedigo, Executive Director, Kansas Sentencing Commission
Marcy Ralston, Kansas Department of Revenue, Division of Motor Vehicles
Honorable Peter V. Ruddick, 10th Judicial District
Dalyn Schmitt, Substance Abuse Professional
Les Sperling, President, KAAP
Jeremy Thomas, Parole Officer
Doug Wells, Attorney, Kansas Bar Association
Roger Werholtz, Secretary, Kansas Department of Corrections
Karen Wittman, Traffic Safety Resource Prosecutor, Office of the Attorney General

Member Absent

Police Chief Bob Story

Staff Present

Athena Andaya, Kansas Legislative Research Department
Jason Thompson, Office of the Revisor of Statutes (Tuesday)
Doug Taylor, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes (Wednesday)
Karen Clowers, Committee Assistant

Others Attending

See attached list.

Wednesday, July 1 Morning Session

The meeting was called to order by Acting Chairperson Thomas C. "Tim" Owens at 10:00 a.m.

Chairperson Owens welcomed attendees, covered housekeeping items, and explained the reimbursement procedures.

Members of the Commission introduced themselves. Deb Stidham, Director of Addiction and Prevention Services, Kansas Department of Social and Rehabilitation Services, sat in for Secretary Don Jordan.

Representative Janice Pauls moved and Senator David Haley seconded the motion to nominate Senator Tim Owens as Chairperson of the Commission. Motion carried.

Chris Melcher moved and Senator David Haley seconded the motion to nominate Representative Janice Pauls as Vice-Chairperson of the Commission. Motion carried.

Athena Andaya, Kansas Legislative Research Department, reviewed Senate Substitute for HB 2096 which established the Commission and the charges of the Commission.

Chairperson Owens distributed a suggested list of subcommittees based on the charges to the Commission and membership based on various areas of expertise and interest (Attachment 1).

Following discussion, the term "record keeping" was removed from the Law Enforcement Subcommittee, because it was determined all of the subcommittees should discuss the topic. Mary Ann Khoury requested transfer from the Substance Abuse and Treatment Subcommittee to the Criminal Justice Subcommittee. There was no objection to these changes.

The Commission recessed for lunch.

Afternoon Session

The meeting reconvened at 12:03 p.m.

The Chairperson introduced J. Russell Jennings, Commissioner, Juvenile Justice Authority, and Chairperson, Kansas Substance Abuse Policy Board. Commissioner Jennings provided a review of the 2009 Kansas Substance Abuse Policy Board Report which was the impetus for the creation of the Kansas DUI Commission.

Jason Thompson, Office of the Revisor of Statutes, provided a briefing on current Kansas DUI Law (Attachment 2).

Athena Andaya, Kansas Legislative Research Department, provided the Commission with a review of other states' DUI laws (Attachments 3, 4, 5, 6, and 7).

Commission members requested copies of the statutes in states that have enacted laws regarding Alcohol Monitoring Systems (AMS), information as to whether AMS was used as part of a bond condition or conviction, and information regarding the specific accuracy of blood alcohol content. It also was indicated that the Commission might want to review the use of EtG (ethyl glucuronide) and EtS (ethyl sulfate) for monitoring.

The Commission then discussed specific problems with various aspects of current laws the Commission may want to address. These included:

- Recommended treatments;
- Ignition interlock devices and conflicting statutes;
- Establishment of the central repository of arrests and convictions;
- Closing loopholes in existing statutes such as the impoundment of vehicles;
- Recommendations for funding of programs;
- Availability of programs for rural communities; and
- Clarification, recommendations, or both, to statutes to include penalties for maiming.

Future dates for the Commission were scheduled. Meeting dates were set to be August 6 and 7, September 14 and 15, October 1 and 2, November 5 and 6, and December 7 and 8, 2009.

The meeting was adjourned at 3:11 p.m.

Thursday, July 2 Morning Session

The meeting was called to order by Chairperson Tim Owens at 10:00 a.m.

Doug Taylor, Office of the Revisor of Statutes, distributed copies of active bills referred to the Commission for their consideration. Bills included were HB 2263, HB 2315, SB 279, SB 280, and SB 289. Mr. Taylor provided a brief review of these bills (Attachment 8).

Following Mr. Taylor's presentation, the Commission broke into subcommittees for discussion on their assigned topics.

To make the best use of the time allotted, the Chairperson suggested the subcommittees focus on four questions:

- What is the policy question to be decided;
- What are the options available;
- What are the professional recommendations; and
- What will be the budget impact?

Afternoon Session

The Commission reconvened at 1:30 p.m.

Each subcommittee provided a brief review of its discussions.

Karen Wittman reported the Law Enforcement Subcommittee indicated that the Kansas Bureau of Investigation database does not have the reporting capabilities necessary for Courts to use to enhance punishments. Discussion then proceeded to what could be done with the Division of Motor Vehicles on how the State might deal with sanctions that have been imposed by the Courts. There was discussion regarding interlock devices and ways to eliminate current conflicts between the State and the Courts, and improved monitoring of vehicles whether owned, leased, or operated by the offender. The Subcommittee observed there appeared to be too many Courts with different approaches to the problem and talked about ways to improve their effectiveness. The Subcommittee would like information on driver sanctions in other states and how they are monitored; how do other states track repeat offenders; and how many allow DUI's to be handled by municipalities.

Les Sperling reported the Substance Abuse and Treatment Subcommittee reviewed the Substance Abuse Policy Board Report and stated the goal will be to bring consistency to the assessment and treatment of all DUI offenders. An immediate recommendation would be to require all alcohol and drug safety action providers to be licensed. This will raise the standard of care to a consistent and uniform level of intervention and treatment programs. The Subcommittee will present to the full Commission at the next meeting a summary of state statutes and treatments currently available, the best practices, and ways to incorporate them in Kansas including screening practices.

Roger Werholtz summarized the Subcommittee on Criminal Justice session which began with a discussion of anticipated outcomes of the Commission, specifically what will prevent people from driving while under the influence and how to prevent repetition of that action. In addition to fair and effective consequences to these actions, there is a need for education on how to change people's behavior, ensure that responses to these issues are positive, and promote the desired outcome. The Subcommittee would like to look at the policy and treatments used in Kansas and other states, compare sentencing guidelines, look at models of other states with respect to Court assignments, and determine ways to remove the geographic disparity within the state.

Chairperson Owens thanked the Subcommittees for their work and outlined the anticipated agenda for the next meeting of the Commission.

The next meeting is scheduled for August 6, 2009.

The meeting was adjourned at 2:00 p.m.

Prepared by Karen Clowers
Edited by Athena Andaya

Approved by Commission on:

August 6, 2009

(Date)