

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 25, 2008 in Room 313-S of the Capitol.

All members were present except:

Kay Wolf- excused
Ben Hodge - excused
Tim Owens - excused
Marti Crow - excused
Annie Kuether - excused
Jim Ward - excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Athena Andaya, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Jason Thompson, Office of Revisor of Statutes
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:

John Campbell, Kansas Insurance Department
Larry Magill, Kansas Association of Insurance Agents

The hearing on **HB 2715 - Kansas insurance code, rules and regulations**, was opened.

John Campbell, Kansas Insurance Department, appeared as the sponsor of the bill. He explained that since 1879 the insurance commissioner has had the authority to supervise, control and regulate insurance companies doing business in Kansas. In 1990, the Kansas Court of Appeals ruled in the case of *Durrett v. Bryan* that the statute was too broad. Now the department has had trouble getting rules and regulations approved by the Attorney General. He suggested that the legislature either do a rewrite of the Insurance Code or pass the proposed bill. (Attachment #1)

Larry Magill, Kansas Association of Insurance Agents, appeared before the committee as an opponent of the proposed bill. He was concerned that if the bill was enacted, it would be an unconstitutional delegation of legislative authority. He did not believe that it was administrative in nature. (Attachment #2)

Written testimony, in support of the bill, was provided by the Kansas Insurance Associations (Attachment #3)

The hearing on **HB 2715** was closed.

HB 2850 - stalking; protection orders

Representative Watkins made the motion to report HB 2850 favorably for passage. Representative Goyle second the motion.

A balloon amendment was provided by the Kansas Judicial Council (Attachment #4):

- page 2, line 18 "(d)(1) should be stricken and (e)(1) inserted in its place
- the language on page 2, lines 1 & 2 should be reinserted at the end of line 20
- subsection (d) on page 2 & 3 should be amended to read as follows:
"In a criminal proceeding under this section, a person claiming an exception, excuse or exemption has the burden of going forward with the evidence of the claim. It shall not be necessary to negate any exception, excuse or exemption in any complaint, information or indictment brought for the enforcement of any provision of this section."

Representative Kinzer made the substitute motion to adopt the balloon. Representative Watkins seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 25, 2008 in Room 313-S of the Capitol.

Representative Kinzer made the motion to report **HB 2850** favorably for passage, as amended.
Representative

Watkins seconded the motion. The motion carried.

HB 2732 - sentencing, mitigating factors, departure limitations on crime of extreme sexual violence

Representative Patton made the motion to report **HB 2732** favorably for passage. Representative Kinzer seconded the motion.

Representative Patton made the substitute motion to adopt balloon A (Attachment #5) which deals with crimes of extreme sexual violence. The amendment would not allow judges to do downward dispositional departure sentence or downward durational departure less than 50%. Representative Kinzer seconded the motion. The motion carried.

Representative Patton explained that balloon C (Attachment #6) would restrict all level 4 felonies and above or if they are convicted of a felony and have an A or B history. The effect would be an additional 265 beds in 2009 and 836 beds in 2018. Balloon amendment B (Attachment #7) would apply just to person felony levels 4 and above would require an additional 60 beds in 2009 and 447 in 2018. The bill as currently drafted would increase beds by 8 in 2009 and 120 beds by 2018. The difference between the two balloons and the bill as it currently is would be bed impact.

Committee members expressed that the proposed balloons have serious impact on bed space and were not sure that they wanted to, in essence, redo sentencing guidelines.

Representative Patton made the motion to adopt balloon B. Representative Kinzer seconded the motion. The motion failed 4-8. Representatives Kinzer, Watkins and Patton requested they be recorded as voting in support of the proposed motion.

Representative Patton made the motion to report **HB 2732** favorably for passage. Representative Kinzer seconded the motion. The motion to report carried.

HB 2873 - revoking the authorization of the issuance of bonds for capital improvement projects to expand prison capacity

Kansas Development Finance Authority suggested the following balloon (Attachment #8). It was the understanding of the committee that they were suppose to propose a procedure to follow for the backing out the bonds. Committee was concerned that there might be a fiscal note, and if so, it could be addressed in the appropriations process and decided not to offer the balloon.

Representative Kinzer made the motion to report **HB 2873** favorably for passage. Representative Watkins seconded the motion.

Committee members expressed their respect for Secretary Werholtz, but felt the request for bonds made no sense especially when the prison will not be needed at least for 10 years.

The motion carried.

HB 2845 - increasing the penalties for theft and aiding escape when such crimes concern employees or volunteers of the department of corrections

Representative Pauls made the motion to report **HB 2845** favorably for passage. Representative Watkins seconded the motion. The motion carried.

The committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for February 26, 2008.