

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Senator Vratil at 9:39 a.m. on January 23, 2002 in Room 123-S of the Capitol.

All members were present except: Senator Pugh (excused)
Senator Haley (excused)

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Tim Madden, Department of Corrections (DOC)
John Parisi, Kansas Trial Lawyers Association (KTLA)
Paul Davis, Kansas Bar Association (KBA)
Dr. Ernest Pogge, AARP, Kansas
Mark Stafford, State Board of Healing Arts (SBHE)
Chip Wheelen, Association of Osteopathic Medicine (AOM)
Jerry Slaughter, Kansas Medical Society (KMS)
Tom Bell, Kansas Hospital Association (KHA)
Ron Hein, Wesley Medical Center (WMC)
Phil Journey, Kansas, President, Kansas 2nd Amendment Society (PAC) and Kansas State Rifle Association
Robert Hodgdon, President, Hodgdon Powder Company (HPC)
Sandy Jacquot, League of Kansas Municipalities (LKM)
Karole Bradford, Safe State Kansas
Kelly Johnston, Safe State Kansas

Others attending: see attached list

The minutes of the January 22, 2002 meeting were approved on a motion by Senator Donovan, seconded by Senator Schmidt. Carried.

Conferee Madden requested introduction of two bills drafted by the DOC. The first bill addresses the issue of unlawful sexual relations between employees and incarcerated offenders (attachment 1) and the second addresses the issue of postrelease supervision for certain felony DUI convictions. (attachment 2) Senator O'Connor moved to introduce the bills, Senator Schmidt seconded. Carried.

SB 377—concerning access to health care records by patients and authorized representatives

Conferee Parisi testified in support of **SB 377**, a bill which provides Kansans a statutory right of access to health records at an affordable cost within a reasonable amount of time. He elaborated on how the procedures and standards in the bill accomplish this. He addressed several arguments made by opponents of the bill (attachment 3) and briefly discussed an amendment to the bill which was proposed by the KBHA and agreeable to KTLA. (attachment 4)

Conferee Davis testified in support of **SB 377**. He cited several changes to the original bill as a result of discussion and compromise with opponents of that bill and briefly discussed vital provisions in the bill which he felt could not be compromised. (attachment 5)

Conferee Madden discussed concerns DOC has with **SB 377** and offered an amendment to address those concerns. The concerns relate to the authority of an offender to limit distribution of his/her health care records and the release of mental health records to an offender. (attachment 6 and 7)

Conferee Pogge testified in support of **SB 377** and expressed the views of AARP regarding the bill. (attachment 8)

Conferee Stafford testified in support of **SB 377**. He stated that the American Medical Association (AMA) recognized it's ethical duty on the part of physicians to grant a patient access to their medical record and he

cited the federal Health Insurance Portability and Accountability Act (HIPPA) regulations which establish this right. He proposed broader legislation for health care providers who are not covered by the Board's (BHA) regulatory power. ([attachment 9](#))

Conferee Wheelen testified in opposition to **SB 377**. He stated that state and federal laws already exist which assure access to medical records information and provide for disciplinary action against physicians who fail to adhere to the law. He further stated that patient rights to obtain medical record information should be enforced by the agencies that regulate professions and institutions creating those records and not by the courts. ([attachment 10](#))

Conferee Slaughter testified in opposition to **SB 377**. He presented arguments as to why the bill is unnecessary and offered an amendment to cover the cost issue, an issue which does not have parameters set out in federal or state regulation. ([attachment 11](#))

Conferee Bell testified in opposition to **SB 377**. He commented on provisions of the bill and offered similar arguments for why the KHA feels the bill is unnecessary. ([attachment 12](#))

Conferee Hein testified in opposition to **SB 377** because of certain provisions in the bill and the proposed statutory charges for obtaining healthcare records. He discussed this and offered a balloon amendment to address these issues. ([attachment 13](#))

Written testimony supporting **SB 377** was submitted by: American Cancer Society; ([attachment 14](#)) Kansas AFL-CIO; ([attachment 15](#)) NAMI; ([attachment 16](#)) ALFA-KAN; ([attachment 17](#)) and Joyce Volmut, KAMU ([attachment 18](#)).

SB 116—concerning firearms; re: limitation on certain civil actions

Conferee Journey testified in support of **SB 116**, a bill which grants immunity to firearm manufacturers from lawsuits filed against them by cities or counties in Kansas. He cited lawsuits filed in Chicago and Atlanta and discussed why he felt these suits are attempts to end firearm ownership in the United States. He presented statistical data relating to the amount of revenue Kansas realizes from the hunting industry and stated that citizens involved in the sport deserve to have their sport protected from lawsuits. He stated that the bill does not prevent appropriate suits from being filed where warranted but does stop the threat of frivolous civil suits. ([attachment 19](#))

Conferee Hodgdon testified in support of **SB 116**. He detailed the economic importance of the firearms and related industries to the State of Kansas citing the industries which depend on firearms and maintained that hunting, recreational shooting, or the purchase of firearms for personal or home protection are part of our nation's heritage. ([attachment 20](#))

Conferee Jacquot testified in opposition to **SB 116**. She stated that the fundamental power of cities is the power to sue and be sued and strongly urged committee reject the bill as a matter of sound public policy. ([attachment 21](#))

Conferee Bradford testified in opposition to **SB 116**, stating that the bill would "encourage the manufacture of dangerously poorly made firearms, and endanger gun owners and the general public." ([attachment 22](#))

Conferee Johnston testified in opposition to **SB 116**. He expressed concerns regarding the bill which he stated would serve to insulate and immunize the firearm industry from civil legal liability. ([attachment 23](#))

Conferee Parisi testified in opposition of **SB 116** stating that the bill sets a "dangerous precedent" in denying Kansas cities and counties access to our court system. He urged Committee to leave the decision to pursue action against a firearms dealer with those duly elected or appointed by the people of Kansas. ([attachment 24](#))

Written testimony supporting **SB 116** was submitted by the National Rifle Association. ([attachment 25](#))

Written testimony opposing **SB 116** was submitted by: MAINstream Coalition; ([attachment 26](#)) Johnson County Board of County Commissioners; ([attachment 27](#)) NCJW; ([attachment 28](#)) and City of Wichita. ([attachment 29](#))

The meeting adjourned at 10:34 a.m. The next meeting is January 24, 2002.