

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Ward Loyd at 1:30 p.m. on February 2, 2004 in Room 241-N of the Capitol.

All members were present except:
Representative Dale Swenson - absent

Committee staff present:
Jill Wolters, Revisor of Statutes Office
Jerry Ann Donaldson, Legislative Research Department

Conferees appearing before the committee:
Kyle Smith, KBI
Randall Hodgkinson

Others attending:
See Attached List.

Kyle Smith, Kansas Bureau of Investigation, appeared before the committee to request bill introduction. (Attachment 1)

1. Request a fix to a Kansas Supreme Court ruling in State v McAdam, by strike the word 'compounding' from the manufacture definition in KSA 65-4104 (n) "Manufacture" means the production, preparation, propagation, ~~compounding~~, conversion or process of a controlled substance either directly or indirectly or by extraction

Vice Chair Owens made the motion that this request should be introduced as a committee bill. Representative Pauls seconded the motion. The motion carried.

HB 2542- Collection of specimens by KBI when convicted of certain crimes

Chairman Loyd opened the hearings on **HB 2542**.

Kyle Smith, KBI appeared before the committee as a proponent of the bill. This bill would correct an oversight needed in the DNA databank statute KSA 21-2511, to order a person into custody. The sentencing guidelines passed in 1992 required that there be two versions of the sentencing statute KSA 21-4603, one for persons committing crimes before the guidelines went into effect July 1, 1993 (KSA 21-4603) and another for those persons committing crimes after that date (KSA 21-4603d) this would correct an oversight in not catching a change in the listing of statutes. (Attachment 2)

Chairman Loyd closed the hearing on **HB 2542**.

HB 2541 - Search incident to lawful arrest includes evidence of any crime.

Chairman Loyd opened the hearings on **HB 2541**.

Kyle Smith, KBI appeared before the committee in favor of the bill. This legislation deals with what is commonly called "search incident to an arrest". The Kansas Supreme Court has always held that constitutional rights under the Kansas Constitution are the same as those under the Federal Constitution. (Attachment 3)

HB 2541 would change the word to the broader “a” from the narrower “the”. This is not any reduction in anyone’s constitutional rights. This suppression of evidence is not because of any violation of constitutional rights, but because some revisor in 1970 picked the word “a” instead of “the”.

Randall Hodgkinson appeared in opposition on the bill. There are several practical and legal problems with the bill. Currently KSA 22-2501 gives law enforcement officers the ability to protect themselves, prevent escape, and investigate the crime for which a person is arrested. These powers, in addition to other police investigator powers, (i.e. obtaining a search warrant, consent searches, plain view, etc.) allow law enforcement to investigate and detect crime. The bill is not justified in view of its potential problems. He urged the committee to carefully consider the full ramifications of the bill. (Attachment 4)

Chairman Loyd closed the hearing on **HB 2541**.

The meeting was adjourned at 3:05 pm. The next meeting is schedule for February 3, 2004.