

Approved: August 25, 2011
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:40 A.M. on March 16, 2011, in Room 548-S of the Capitol.

All members were present, except Senator Donovan, who was excused

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Others attending:

See attached list.

Committee Action:

The Chairman called the committee's attention to **HB 2071 -- Inheritance rights; automatically revoking ex-spouses inheritance rights upon divorce** and **HB 2371 -- Amending the provisions of community corrections grants and continuing such programs in certain counties**.

Jason Thompson, Staff Revisor, reviewed the bills.

The Chairman explained that the House Committee of the Whole had approved **HB 2371** on the previous day. He added that he would like to advance the policy contained in the bill to the full Senate as quickly as possible.

Senator King moved, Senator Lynn seconded, that **HB 2071** be amended as follows: Delete the current provisions of **HB 2071** and insert the provisions of **HB 2371** in lieu thereof. The motion was adopted.

Senator Kelly moved, Senator Schodorf seconded, that **HB 2071** be passed as amended. The motion was adopted.

The Chairman called the committee's attention to **SB 7 -- Driving under the influence**.

Senator King moved, Senator Kelly seconded, that **SB 7** be amended by introduction of a Substitute Bill as proposed and distributed by the Chairman on March 15, 2011 [See minutes of March 15, 2011, Attachment 1.]. The motion was adopted.

Senator Kelly moved, Senator Vratil seconded, to amend the proposed Substitute Bill by amending K.S.A. 8-1008 as suggested by the Kansas Chapter of the National Assn. of Social Workers (Attachment 1).

Senator Kelly explained that her amendment would add a definition of "licensed provider" to K.S.A. 8-1008. The amendment concerns the qualifications of persons who could provide evaluation services.

Senator Kelly's motion was adopted.

Senator Vratil moved, Senator Kelly seconded, to amend the proposed Substitute Bill by changing the look back period so that it applies only to convictions or diversions occurring on or after July 1, 2001 (Attachment 2). The motion was adopted.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:40 A.M. on March 16, 2011, in Room 548-S of the Capitol.

Senator King moved, Senator Lynn seconded, to amend the proposed Substitute Bill, as follows: Treat a test refusal as a prior conviction for the purposes of determining the number of DUI offenses and imposing sentences for such offenses; lower the classification in the grid block for fourth and subsequent offenses and make this change wherever appropriate throughout the bill (Attachment 3).

Senator King explained his amendment would reduce the incentive to refuse to submit to BAC test, but it does not criminalize a test refusal. He noted that the balloon does not show every page on which the second part of his amendment needs to be made.

Senator Bruce asked, "Wouldn't there have to be proof of a test refusal? Would the complaint have to include a notation for a test refusal?"

Senator King responded, "It would not require proof that there actually was a test refusal. Proof that there was an administrative determination of a test refusal is sufficient."

Senator King noted that his amendment reduces the fiscal impact by 20%.

Senator King's motion was adopted.

Senator Kelly moved, Senator Vratil seconded, to amend the proposed Substitute Bill by amending K.S.A. 8-1567 so that during the look-back period, a "conviction" would not include a conviction, diversion or test refusal committed when the offender was less than 18 years of age (Attachment 4). The motion was adopted.

Senator Haley moved, Senator Kelly seconded, to amend the proposed Substitute Bill by amending K.S.A. 8-1015 so that in the case of the first time offender, use of the ignition interlock would not be a mandatory restriction (Attachment 5). The motion was adopted.

Senator Owens moved, Senator Kelly seconded, to amend the proposed Substitute Bill by deleting K.S.A. 41-501 (the gallonage tax) and amending K.S.A. 79-4108 to increase the rate of the tax from 8% to 9%; provide that \$3 million of the revenue derived from the increase would be expended for the implementation of the central repository and the balance of revenue from the increase would be deposited in the state general fund; and the increase would expire on June 30, 2014 (Attachment 6). The motion was adopted.

Senator Schodorf moved, Senator Kelly seconded, that the proposed Substitute Bill, as amended by the committee, be introduced and the bill be passed. The motion was adopted.

Senators Lynn and Pilcher-Cook voted no on the motion and asked that their votes be so recorded.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for March 17, 2011.