

Approved: May 22, 2012
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 a.m. on January 17, 2012, in Room 548-S of the Capitol.

All members were present except Senators Bruce and King, who were excused

Committee staff present:

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

Conferees appearing before the Committee:

Scott Frank, Legislative Post Auditor
Kyle Smith, Office of the Attorney General
Christine Ladner, Office of the Attorney General

Others attending:

See attached list.

The Chairman opened the hearings on **SB 249 – Relating to employees; criminal history record check.** Jason Thompson, Staff Revisor, reviewed the bill. He stated the bill would authorize the Legislative Post Auditor to collect fingerprints of current employees and any person seeking employment with the division in order to conduct a criminal background investigation.

Scott Frank testified in support of the bill (Attachment 1). He stated the background checks are a part of the Division's effort to ensure the security of confidential and sensitive information his staff has access to while conducting audits.

In response to a question by Senator Kelly, Mr. Frank stated it would cost \$50 to conduct a federal and state background check, but only \$27 if only a state background check is conducted.

In response to a question by Senator Haley, Mr. Frank stated there were no concerns with current employees at this time, but the authorization in the bill extends to current employees.

No one testified in opposition to the bill.

The Chairman closed the hearings on **SB 249.**

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The Chairman opened the hearings on **SB 279 – Unlawful sexual relations, foster parents and foster children**. Jason Thompson, Staff Revisor, reviewed the bill. He stated the bill would amend K.S.A 21-5512 and would criminalize otherwise consensual sexual relations between people who are in a dependent and vulnerable situation and people who have positions of control over them.

Senator Donovan expressed concern with the phrase “other person of authority” and asked if there was something in the bill to protect against false accusations?

Senator Owens suggested that a person should always document and report any statement made by a child in which the child asserts a threat to file a false report.

Senator Vratil expressed concern with awkward wording in existing language on page 2 in lines 29 through 32 and also in subsections (8) and (9).

Kyle Smith testified in support of the bill (Attachment 2). He stated the bill was designed to protect children who are in vulnerable situations. Under current law a person who is at least 16 years of age may consent to engage in sex. He noted that Senator Owens was correct in his suggestion to document and report threats of false accusations. He also reminded the committee of the presumption of innocence. He added that the bill does not apply to private foster care arrangements.

In response to a question by Senator Haley, Mr. Smith stated the bill would apply to a person under the age of 18 who lives in a foster home and engages in sex with another person under the age of 18 who also lives in the same foster home.

No one testified in opposition to the bill.

The Chairman closed the hearings on **SB 279**.

The Chairman opened the hearings on **SB 280 – Sexually violent predator cases; evaluations and expert testimony**. Jason Thompson, Staff Revisor, reviewed the bill. He stated the bill would require that a person performing a sexually violent predator (SVP) evaluation must inform the offender of the nature and purpose of the evaluation. The bill allows the use of expert testimony in all proceedings conducted under the act.

Christine Ladner testified in support of the bill (Attachment 3). She stated that the bill clarifies that there is limited confidentiality in an SVP evaluation. The bill also would expand the admissibility of expert testimony to all proceedings and hearings conducted under the sexually violent predator act, not just at the trial.

Senator Vratil expressed concern that the language concerning the waiver of the doctor-patient privilege

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does not accomplish the proponents' intent. He suggested the bill should state that the doctor-patient privilege does not attach in an SVP evaluation.

The Chairman closed the hearings on **SB 280**.

In response to a question by Senator Umbarger relating to **SB 279**, Ms. Ladner stated that the situation described in Senator Haley's question raised earlier, the "Romeo and Juliet" situation, she agreed that the under-age persons could be prosecuted, but wondered if they should be. In regard to false accusations, she stated that false accusations create reasonable doubt.

The next meeting is scheduled for January 18, 2012.

The meeting was adjourned at 10:25 a.m.