

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 13, 2008 in Room 313-S of the Capitol.

All members were present except:
Marti Crow- 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:
Erica Haas, Governor's Grants Program
Rick Guinn, Office of Attorney General
Sandy Barnett, Kansas Coalition of Sexual & Domestic Violence
Kyla Forte, Wichita Area Sexual Assault Center
Jill Jointer, Metropolitan Organization to Counter Sexual Assault
Robert Blecha, Director of Kansas Bureau of Investigation

The hearing on **HB 2726 - polygraph examinations prohibited for certain alleged victims**, was opened.

Erica Haas, Governor's Grants Program, explained that the proposed bill is a federal requirement for all states to receive federal funding. (Attachment #1)

Rick Guinn, Office of Attorney General, explained that funding from the federal government is heavily relied upon for sexual assault programs. The Attorney General's Office does not have a problem with the polygraph provisions in the bill. (Attachment #2)

Sandy Barnett, Kansas Coalition of Sexual & Domestic Violence, appeared in support of the bill and stated that polygraphs are not necessarily perfect. There are many circumstances which cause individuals to fail a polygraph test. (Attachment #3)

Kyla Forte, Wichita Area Sexual Assault Center, supported the proposed bill because survivors would not have to prove that she was raped. Victims from other types of crimes are not required to take polygraphs before an investigation happens and therefore the same standards should apply for those who are raped. (Attachment #4)

Jill Jointer, Metropolitan Organization to Counter Sexual Assault, relayed her story about being raped. (Attachment #5)

Written testimony, in support of the bill, was provided by the Kansas Association of Chiefs of Police and Kansas Peace Officer's Association. (Attachments #6 & 7)

The hearing on **HB 2726** was closed.

The hearing on **HB 2727 - sexual assault, evidence**, was opened.

Erica Haas, Governor's Grants Program, explained that the proposed bill does two things:

- amends current statute to provide guidance to medical facilities when a victim of sexual assault chooses not to report the incident to law enforcement at the time of the forensic examination
- ensures that the refusal of a victim to report the crime to law enforcement does not prevent the victim from obtaining a forensic medical exam

She requested an amendment that would allow the KBI to store the sealed sexual assault kits for a period of 180 days and then be destroyed. (Attachment #8)

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 14, 2008 in Room 313-S of the Capitol.

Sandy Barnett, Kansas Coalition of Sexual & Domestic Violence, supported the proposed bill but requested three amendments:

1. Require that a hospital or medical facility not notify law enforcement, without the victims consent, that a rape has occurred
2. The cost of the examination of the victim shall not be charged to the victim or their insurance carrier.
3. The rape kit shall not be preformed on a minor 16 years or older without their consent. (Attachment #9)

Robert Blecha, Director of KBI, informed the committee that they do have room in evidence facility to hold the these rape kits even though no crime has been reported.

Kyla Forte, Wichita Area Sexual Assault Center, appeared as a proponent of the proposed bill. There are many victims who have been assaulted and want the kit done but are not emotionally ready to report the crime to law enforcement. (Attachment #10)

Jill Jointer, Metropolitan Organization to Counter Sexual Assault, appeared as a proponent of the proposed bill. She supported allowing an approved facility to hold a sealed evidence kit for 180 days before destroying it to see if the victim decides to report the crime or not. (Attachment #11)

Written testimony, in support of the bill, was provided by the Office of Attorney General, Kansas Association of Chiefs of Police, Kansas Peace Officer's Association. (Attachments #12-14)

The hearing on **HB 2727** was closed.

HB 2642 - commission on judicial performance; access to court records; immunity from liability

Representative Pauls made the motion to report HB 2642 favorably for passage. Representative Colloton seconded the motion.

Representative Goyle made the substitute motion to limit access of court records to appropriate persons and addresses. Representative Owens seconded the motion. The motion carried.

Representative Pauls made the motion to adopt the Judicial Council's proposed amendment which strikes on page one, lines 19 through 22 and replace with "Conduct surveys of such persons as the Commission determines to be appropriate who have had sufficient experience with a judge or justice to form an opinion about the performance of the judge or justice, such as attorneys, litigants, jurors, witnesses, court staff and others". Representative Colloton seconded the motion. The motion carried.

The committee discussed Judge Wheeler's concern about providing immunity to contracting party. Representative Watkins made the motion to strike on line two, page two "or agent" and add a separate provision providing that the agent shall have no liability unless the agent is negligence of an intentional act. Representative Pauls seconded. The motion carried.

Representative Pauls made the motion to add the Kansas Judicial Council as having immunity. Representative Colloton seconded the motion. The motion carried.

Representative Pauls made the motion to report HB 2642 favorably for passage, as amended. Representative Colloton seconded the motion. The motion carried.

The committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for February 14, 2008.