

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:32 A.M. on March 12, 2008, in Room 123-S of the Capitol.

All members were present except:

Terry Bruce arrived, 9:35 A.M.
Barbara Allen- excused
David Haley- excused
Julia Lynn arrived, 9:36 A.M.
Derek Schmidt arrived, 9:36 A.M.

Committee staff present:

Bruce Kinzie, Office of Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Erica Haas, Attorney, Governor's Grants Program
Sandy Barnett, Exec. Director, Kansas Coalition Against Sexual & Domestic Violence
Alison Jones-Lockwood, Metropolitan Organization to Counter Sexual Assault
Deborah Stern, Kansas Hospital Association
Paula Taylor, Newman Regional Health, Emporia
Randy Hearrell, Kansas Commission on Judicial Performance
Chief Judge Merlin Wheeler, 5th Judicial District (Chase and Lyon Counties)
Lt. Mike Life, Kansas Narcotics Officers Association
Jeff Brandau, Special Agent, Kansas Bureau of Investigation
Laura Green, Drug Policy Forum of Kansas

Others attending:

See attached list.

The Chairman opened the hearing on **HB 2727–Sexual assault, evidence.**

Erica Haas testified in support, stating the Governor's Grants Program administers the Violence Against Women Act grant program for Kansas (Attachment 1). The Act was re-authorized in 2005 by the federal government and requires new state certification requirements. **HB 2727** will amend current Kansas statutes to conform with the new requirements. Ms. Haas stated support of amendments made by the House Judiciary Committee.

Sandy Barnett spoke in favor, indicating forensic evidence collected after a sexual assault can be the cornerstone of a successful prosecution (Attachment 2). Often victims are not emotionally prepared to make decisions regarding their assaults at the time of the attack. **HB 2727** will ensure the evidence is available if and when it is needed. Ms. Barnett feels consistent procedures will benefit both the victim and law enforcement.

Alison Jones-Lockwood appeared in support, stating often victims are traumatized and are not in the best position to make the difficult decision to participate in a criminal justice process (Attachment 3). The proposed legislation will provide victims the time needed to make a thorough, well informed decision concerning their attack.

Deborah Stern provided neutral testimony voicing concern that the bill does not address instances when a health care provider, based on professional judgement, accepted standards of practice and specialized training, refuses to conduct an examination or refers the victim to another facility (Attachment 4). Ms. Stern provided a balloon amendment addressing her concerns.

Paula Taylor provided neutral testimony and proposed amendments to the bill (Attachment 5). The first amendment would allow a health care provider to refer a victim to a facility with staff specially trained in forensic evidence collection or refuse to treat the victim when deemed inconsistent with accepted forensic principles. The second amendment addressed preparation and transportation of evidence when law

CONTINUATION SHEET

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enforcement is not involved.

Written testimony in support of **HB 2727** was submitted by:

Ed Klumpp, Kansas Association of Chiefs of Police ([Attachment 6](#))

Ed Klumpp, Kansas Peace Officers Association ([Attachment 7](#))

Dorothy Stucky Halley, Victims Services Director, Office of the Attorney General ([Attachment 8](#))

There being no further conferees, the hearing on **HB 2727** was closed.

The Chairman opened the hearing on **HB 2642–Commission on judicial performance; access to court records; immunity from liability**.

Randy Hearrell spoke in support, stating the proposed legislation would allow the Kansas Commission on Judicial Performance access to court records for the purpose of obtaining individual addresses ([Attachment 9](#)). Currently, if a record is closed that information is not available to them. The bill also provides immunity from liability for any civil action related to any act, error, or omission occurring within the scope of their official duties related to the Commission. It was the opinion of the Judicial Performance Committee that immunity should be statutory and not by court rule since the Commission was created by statute.

Judge Merlin Wheeler appeared in opposition, stating he supported fair, comprehensive, judicial evaluations but had concerns with some sections of the bill ([Attachment 10](#)). Judge Wheeler was deeply concerned regarding the granting of immunity to agents of the Commission and that the collection of information be scientifically valid. Judge Wheeler also suggested returning Section 1 back to the original language.

There being no further conferees, the hearing on **HB 2642** was closed.

The Chairman opened the hearing on **HB 2545–Controlled substances, ecstasy**.

Lt. Mike Life testified in support, stating often teenagers take ecstasy because the penalties are not as severe as with some other types of drugs ([Attachment 11](#)). Ecstasy causes significant physical and mental changes and is not a harmless drug and according to KBI statistics its use has increased 85% between 2005 and 2006. The proposed bill would make the use of ecstasy a felony.

Jeff Bandeau appeared in support, indicating ecstasy is considered a “club drug” and many young people are not aware of the substantial physical and neurological harm it can cause ([Attachment 12](#)). An increase of the penalty will make a statement to potential users to consider these types of drugs as dangerous.

Laura Green spoke in opposition, stating increased penalties will not deter the use of ecstasy or reduce drug abuse in Kansas ([Attachment 13](#)). Ms. Green voiced concern that students convicted of drug abuse in state or federal courts will lose or be denied federal financial aid for college educations.

Written testimony in support of **HB 2545** was submitted by:

Ed Klumpp, Kansas Peace Officers Association ([Attachment 14](#))

Ed Klumpp, Kansas Association of Chiefs of Police ([Attachment 15](#))

There being no further conferees, the hearing on **HB 2545** was closed.

The meeting adjourned at 10:30 A.M. The next scheduled meeting is March 13, 2008.