

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:38 A.M. on February 21, 2007, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Others attending:

See attached list.

Approval of Minutes

Senator Donovan moved, Senator Bruce seconded, to approve the committee minutes of January 31, 2007. Motion carried.

The Chairman called for final action on **SB 270--Ephedrine and pseudoephedrine; purchase; sale; pharmacy log; prohibiting direct access by customers; immunity; statewide uniformity**. Chairman Vratil reviewed the bill and the proposed amendments suggested by Kyle Smith, Kansas Bureau of Investigation.

Following discussion Senator Lynn moved, Senator Donovan seconded, to adopt the amendments proposed by Kyle Smith with the deletion of Section 4 and subsection 3, on page 3, concerning two dosage blister packs. Motion carried.

Senator Donovan moved, Senator Umbarger seconded, to recommend SB 270, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 324--Repealing certain K.S.A. sections, concerning certain crimes**. Chairman Vratil reviewed the bill and amendments proposed by Mark Stafford, Kansas Board of Healing Arts and Melissa Wangeman, Secretary of State's Office.

Senator Journey moved, Senator Lynn seconded, to amend SB 324 in accordance with the recommendation from Mark Stafford. Motion carried.

Senator Journey moved, Senator Goodwin seconded, to amend SB 324 in accordance with the recommendation from Melissa Wangeman with the exception to make the offense a level 7. Motion carried.

Senator Bruce moved, Senator Goodwin seconded, to recommend SB 324, as amended, favorably for passage. Motion carried.

The Chairman resumed final action on **SB 133--Election crimes; advance voting ballot suppression**. A balloon was distributed reflecting the changes made by the committee on February 19 (Attachment 1). Chairman Vratil indicated he had read over the amendments made February 19, and is of the opinion that the amendment made to Section 1(b) is contradictory. Senator Vratil moved to restore Section 1(d) on page 1, lines 21 and 22, to their original language. Senator Schmidt seconded the motion. Motion carried.

The Chairman indicated proposed amendments by Melissa Wangeman, Secretary of State's Office (Attachment 2). Chairman Vratil reviewed the proposed amendments including a minor change by the Chairman to subsection (h). Senator Journey moved, Senator Lynn seconded, to adopt the proposed amendments with a friendly change to insert the word "calendar" between the words "five" and "days" of subsection (h). Motion carried.

Senator Schmidt moved, Senator Goodwin seconded, to modify subsection (h) by inserting the language "with

CONTINUATION SHEET

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first class postage attached,” before “at least five calendar days”. Motion carried.

Senator Bruce questioned the language on page 1, lines 15 and 16. Senator Vratil moved, Senator Goodwin seconded, to strike on page 1, line 15, the language “regardless of whether or not such registered voter has knowledge of destruction or alteration;” and insert the language “unless such registered voter consents in writing to such destruction or alteration”. Motion carried. Senator Haley voted “no” and requested his vote recorded.

Senator Goodwin moved, Senator Haley seconded, to recommend **SB 133**, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 268–Use of deadly force**. Senator Schmidt distributed a proposed Substitute for **SB 268** and described the proposed bill. Senator Schmidt indicated that the legislation passed last year did not contain input from prosecutors and **SB 268** is the prosecutors solution to such legislation. **Substitute for SB 268** is an alternate approach which does not repeal last year’s legislation but goes to the heart of the prosecutor’s concerns, especially the immunity sections of the current law. Current law potentially creates a bottom line effect nullifying every conviction between the effective date of the current law and whenever the courts so rule in cases in which these defense provisions were an issue.

Senator Allen questioned the intent of last year’s bill. Chairman Vratil, as a member of the conference committee that dealt with the bill, indicated that it was the intent to give some form of protection to people who were defending themselves lawfully. Immunity was probably the wrong way to approach it, because the bill granted immunity not only from prosecution but from arrest which creates a real quandary for law enforcement. Senator Schmidt’s proposal reflected an affirmative defense that one would assert in court. He said it would be a better way to approach the problem. This bill would codify what was common law before last year’s legislation.

Following further discussion the committee indicated a preference to not work the bill any further this session.

The meeting adjourned at 10:32 A.M. The next scheduled meeting is February 28, 2007.