

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on March 13, 2003, in Room 123-S of the Capitol.

All members were present except: Senator Schmidt (E)

Committee staff present: Mike Heim, Kansas Legislative Research Department
Lisa Montgomery, Office of the Revisor of Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Kyle Smith, KBI
Representative Jeff Goering
Representative Dean Newton
Representative Sidney Carlin
Bill Kennedy, Riley County Attorney
Chris Biggs, Geary County Attorney
Paul Morrison, Johnson County District Attorney
Lt. Col. Keith Faddis, Overland Park Chief of Police
Frank Denning, Undersheriff, Johnson County
Ellen Henson, Chief of Police, Lenexa (written only)
Marlee Carpenter, Kansas Chamber of Commerce and Kansas Retail Council

Others attending: see attached list

HB 2138 - Forensic examinations; certification procedures

Chairman Vratil opened the hearing on **HB 2138**. Kyle Smith testified in support of **HB 2138**. He said this bill makes a procedural change in the statute that controls the admission of certified forensic exams, K.S.A. 22-3437. Mr. Smith explained that the requested change would require certificates and underlying reports be served at least 15 days prior to any hearing, therefore giving the defense time to review the reports. The change would still allow for a different time line in misdemeanor versus felony cases. Mr. Smith stated that this is already the standard for civil cases so **HB 2138** would both simplify and improve the law by making it the same for civil and criminal cases. (Attachment 1)

Having no other conferees appearing before the Committee on this proposed legislation, the Chair closed the hearing on **HB 2138**.

HB 2165 - Civil liability for worthless checks, definition of giving a worthless check

Chairman Vratil opened the hearing on **HB 2165**. Representative Jeff Goering appeared before the Committee to speak in support of **HB 2165**. He explained that the proposed bill would revise the current definition of "giving a worthless check" as found in K.S.A. 60-2610(h), and would correct a technical glitch. Representative Goering said the problem lies in the provision that addresses pre-existing debt, and believed the best way to fix it was to simply eliminate that part of the statute that addresses the payment of

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pre-existing debt. (Attachment 2)

Following Committee questions and discussion, the Chair closed the hearing on **HB 2165**.

HB 2271 - Certain crimes against property, raising \$500 threshold to \$2,000

Chairman Vratil opened the hearing on **HB 2271**. Representative Dean Newton testified in support of **HB 2271**, and stated that the legislation was supported by district attorneys, county attorneys, chiefs of police, sheriffs, and other members of the law enforcement community. Representative Newton explained that the legislation would change the law to make it a severity level 5, non-person felony if a person steals more than \$100,000. He said the theft of property or services of at least \$25,000 but less than \$100,000 would remain a severity level 7, non-person felony offense. Representative Newton added that the proposed change in the law would make it more likely that major criminals will receive prison time rather than a slap on the wrist. (Attachment 3)

Representative Sidney Carlin testified in favor of **HB 2271**. She explained how the bill would change Kansas theft law, and stated it continues to be good public policy to ensure that prison space is reserved for those individuals that cause the greatest harm to our communities. Representative Carlin said that the Kansas Sentencing Commission has estimated that **HB 2271** would save up to 47 beds in FY 2004. (Attachment 4)

Committee question concerned a bed space impact report that was unavailable at the time of the hearing.

Bill Kennedy, Riley County Attorney, appeared before the Committee in support of **HB 2271**, and stated he saw the bill as a savings in several areas. Mr. Kennedy said that changing the threshold to \$1,000 will eventually lower the prison population by changing criminal history, and will enormously lower the costs of prosecution. He stated that most counties and District Attorneys are swamped with felonies. The bill would reduce the size of juries from 12 jurors to 6. (Attachment 5)

The Chairman noted that the limit on theft had not been increased since 1988, and so it is due for a change. Questions from Committee members concerned the availability of bed space at the local levels through the state, and that budgets have been reduced in the counties.

Chris Biggs, Geary County Attorney, testified in favor of **HB 2271**. Mr. Biggs explained that the bill proposes a presumptive prison sanction for theft over \$100,000 and raises the threshold for felony theft to \$1,000. He said the bill also creates a level five non-person felony for the most serious level of theft—a real sanction for these crimes. Mr. Biggs stated that the bill strikes a nice balance, and will not cost the state additional prison beds to punish the most serious offenders. (Attachment 6)

Paul Morrison, Johnson County District Attorney, testified in strong support of **HB 2271**. He urged the Committee to put more teeth in the laws affecting people who commit large scale thefts. Mr. Morrison said the impact on the state correctional system will be minimal, and the number of trials will decline. He further stated that there would be a net savings on bed space with the passage of **HB 2271**. (Attachment 7)

Lt. Colonel Faddis, Overland Park Police Department, spoke in favor of **HB 2271**. He testified about the

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impact of heavy caseloads and that cases vary greatly in how the crimes are carried out. Mr. Faddis stated that the bill would help get cases worked faster. (Attachment 8)

Frank Denning, Johnson County Undersheriff, submitted written testimony in support of **HB 2271**. (Attachment 9)

Ellen Henson, Chief of Police, Lenexa, KS, submitted written testimony in support of **HB 2271**. (Attachment 10)

Marlee Carpenter, Kansas Chamber of Commerce and Industry (KCCI) and the Kansas Retail Council (KRC), testified as a neutral conferee for increasing the felony theft limit to \$1,000. Ms. Carpenter explained that the bill was introduced in the House with a felony theft limit of \$2,000, and KCCI and KRC opposed the increase as well as **SB 171** here in the Senate. She said the Kansas Retail Council Board of Directors reviewed their theft policy last year and reaffirmed their support for additional retail theft penalties. Ms. Carpenter stated **HB 2271** weakens theft penalties in Kansas, but in pursuit to ensure the felony theft threshold is not increased to \$2,000, the KRC Board worked with the sponsors of the bills and came to a compromise. She added they also requested that the worthless check portion of the bill be struck and the felony threshold remain at \$500. (Attachment 11)

Following Committee questions and discussion, the Chair closed the hearing on **HB 2271**.

Final action on:

SB 195 - Kansas Parole Board; membership reduced to three

Chairman Vratil reviewed **SB 195**, which decreases the membership of the Parole Board from four to three, and provides that the term of office commence on January 15 of the year the members are appointed.

Senator Oleen said she had requested information from staff about the confirmation process and how the process fits in the statute. Mr. Heim, Legislative Research, reported that he had visited with Theresa Kiernan of the Revisor's Office, and they agreed that lines 34 through 40 were really not needed, and could be deleted as a technical amendment because it is redundant language.

Senator Oleen made a motion to amend out the unnecessary language on page 1, lines 34 through 40. The motion was seconded by Senator Donovan, and the motion carried.

Senator O'Connor moved to delete lines 18 through 27 on page 2, as unnecessary language. The motion was seconded by Senator Goodwin, and the motion carried.

Senator Haley moved to change the date of publication from the statute book and have it published in the Register, seconded by Senator Oleen, and the motion carried.

Senator Donovan made a motion to recommend this bill favorably as amended, seconded by Senator O'Connor, and the motion carried.

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The meeting adjourned at 10:30 a.m. The next scheduled meeting is March 14, 2003.