

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

10:00 a.m./~~p.m.~~ on March 17, 1989, 1989 in room 514-S of the Capitol.

All members were present except: Senators Winter, Moran, Bond, Feleciano, Gaines, D. Kerr, Martin, Oleen, Parrish, Petty and Rock.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Jane Tharp, Committee Secretary

Conferees appearing before the committee:

Marilyn Bradt, Kansans For Improvement of Nursing Homes
Mark S. Braun, Assistant Attorney General, Consumer Protection Division
Judge James Beasley, Sedgwick County District Court Judge
Elwaine Pomeroy, Kansas Parole Board
Paul Shelby, Judicial Administrator
Neil Woerman, Office of Attorney General
Betty Bomar, Crime Victims Reparations Board

Senator Bond announced the first meeting of the Special Health Care Liability Subcommittee will hold its first meeting Wednesday on adjournment.

House Bill 2009 - Durable power of attorney, health care decisions.

Marilyn Bradt, Kansans for Improvement of Nursing Homes, testified the members of the organization she represents are drawn largely from among the relatives and close friends of nursing home residents, or are themselves approaching an age when nursing home care or other inhome care and assistance is becoming a real possibility. With regard to some of these elements, we find HB 2009 not entirely satisfactory. We have worked with some other interested persons to offer some changes we believe would improve the bill. We have used concepts and language from the original bill, House Bill 2824, introduced last session. Copies of her testimony and the balloon are attached (See Attachments I). The interested parties who met to draw up the proposals that appear on the balloon were Randy Hearrell, Kansas Judicial Council, Marilyn Bradt, Kansans for Improvement of Nursing Homes, Claire McCurdy, Department on Aging, Keith Landis, Christian Science Committee on Publication For Kansas, Sister Mary Francine Stubbs, St. Francis Hospital and Tom Bell, Kansas Hospital Association. Marilyn Bradt explained their proposed amendments. She added, it would be useful to the consumer if there were a form prescribed in the bill.

The chairman appointed a subcommittee of Senator Petty, chairperson, Senator Oleen, Senator Martin and Senator Rock to study the substitute bill.

Senate Bill 342 - Investigatory powers of deputy and assistant attorneys general

Mark S. Braun, Assistant Attorney General in the Consumer Protection Division, testified the Attorney General supports the bill and believes the changes sought will clarify and enhance his abilities to enforce the charities and consumers acts on behalf of Kansas. A copy of his testimony is attached (See Attachment II). Senator Bond moved to report the bill favorably and placed on the consent calendar. Senator Parrish seconded the motion. The motion carried.

House Bill 2199 - Requiring notice to be given to victims of crime of inmate's public hearing and release of inmates; release considerations.

Judge James Beasley, Sedgwick County District Court Judge, testified you now have the opportunity through House Bill 2199 and House Bill 2200 to respond to victims in a positive and meaningful way. The AFL-CIO and the Kansas Chamber

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,

room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 17, 1989

House Bill 2199 - continued

of Commerce are on record in support of these two bills. A copy of his testimony is attached (See Attachment III).

Chairman Elwaine Pomeroy, Kansas Parole Board, appeared in support of both bills. He explained his proposals were technical in nature (See Attachment IV). Following his explanation of the proposed amendments, Senator Gaines moved to amend the bill as Chairman Pomeroy had proposed. Senator Bond seconded the motion. The motion carried. A committee member inquired concerning placing the prison overcrowding consideration in House Bill 2199. Chairman Pomeroy replied it is a public policy issue that has to be decided. If you are going to create a new organization, why don't you do it with the existing organization, the parole board. We are not going to be looking at prison capacity until you spell it out.

Paul Shelby, Judicial Administrator, testified on House Bill 2200. He stated the bill has an impact to this accounting system. Some of these changes are manageable while others would have a very detrimental effect on the efficiency of the accounting system. Our proposed change would include the elimination of docket fee distribution for crime victims reparation fund which money would offset Clerks fees state. Copies of his testimony and the proposed amendment are attached (See Attachments V).

Neil Woerman, Office of Attorney General, the attorney general would be happy to delay effects of the provision to allow the county to get adjusted. If both forfeitures went to a specific person, this is an impelling reason to see that the bonds are forfeited. The attorney opposes the change that was suggested.

Betty Bomar, Crime Victims Reparations Board, referred to page 14, Section 12, line 532, relating to members of the board, and inquired if this should not be amended to "Members of the crime victims reparations board"? A copy of her letter is attached (See Attachment VI). Senator Oleen moved to amend House Bill 2200 in Section 6(b), line 298, by changing 14% back to 22.4%. Senator Martin seconded the motion. The motion carried.

Senator Martin moved to amend House Bill 2199 to include language concerning prison capacity. Senator Gaines seconded the motion. The motion carried.

The meeting adjourned.

Copy of the guest list is attached (See Attachment VII).

Copy of Substitute for House Bill 2009 is attached (See Attachment VIII).

Copy of a letter from the District court in Lawrence is attached (See Attachment IX)

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-17-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Marilyn Bradt	Lawrence	KINH
Dee Samar	Topeka	CVRB
Brad Ambrose	Topeka	AG
Mark S. Braun	Topeka	AG
George Goebel	Topeka	Chf. AARP Capital Area Task Force
JOHN H. HOLMGREN	Topeka	Catholic Health Association
Sister Mary Francine Stults	Topeka	St. Francis Hospital - Topeka
Von Sloan	Topeka	Doc
Uwe Mulwede	"	Army
Randy M. Hearrell	"	Judicial Council
KEITH R LANDIS	"	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Neil Wassman	"	Attorney General
Barbara F. Allen	Topeka	Legis.
Jerry Sloan	"	OJA
Paul Shelby	Topeka	OJA
James Beasley	Wichita	Att. Gen. VICTIM RIGHTS
Joan Hamilton	Topeka	"
Elwanda Tomeray	Topeka	Parole Bd
Kathy Guenther	Lawrence	KS Assn of Domestic Violence Program



Kansans for Improvement of Nursing Homes, Inc.

913 Tennessee, suite 2 Lawrence, Kansas 66044 (913) 842 3088

TESTIMONY PRESENTED TO THE SENATE JUDICIARY COMMITTEE
CONCERNING HB 2009
DURABLE POWER OF ATTORNEY

March 16, 1989

Mr. Chairman and Members of the Committee:

The members of Kansans for Improvement of Nursing Homes are drawn largely from among the relatives and close friends of nursing home residents, or are themselves approaching an age when nursing home care or other in-home care and assistance is becoming a real possibility. As such they have experienced very directly the need for legislation of this kind that will enable them to have some affect upon the course of their own care beyond the time when they can themselves make such decisions. KINH members strongly support the concept of this legislation.

Clearly, the goal and purpose of a durable power of attorney for health care is to permit a person of sound mind and will (the principal) to designate another person of his or her choice (the agent) to make health care decisions for the principal in the event that the principal is unable to do so, and to assure that the agent will act, as nearly as possible, as the principal would act if he/she were able to make decisions.

To do that requires 1) that the principal freely choose the agent and communicate to the agent the principles that should govern the agent's decisions, and 2) that the agent, in assuming that responsibility, accept the obligation to carry out the principal's wishes as fully as possible.

Certain elements should be included in a durable power of attorney for health care:

- 1) It should protect against coercion or duress.
- 2) It should provide specific instructions concerning the withholding or withdrawal of life-support systems and should be explicit about what powers are not authorized. A standard form for the document itself might be helpful.
- 3) It should provide some assurance that in accepting the durable power of attorney the agent agrees to carry out the wishes of the principal to the best of his/her ability, as those wishes are known.

Attachment I

SJC

3-17-89

- 4) The statute should be as simple as possible, and readily understood by the consumer. The form, if prescribed, should be simple as well, and should contain all relevant instructions in a single document.
- 5) It should not involve the courts in determinations of incapacity or guardianship-type actions.

With regard to some of these elements, we find HB 2009 not entirely satisfactory. We have, accordingly, worked with some other interested persons -- conferees when the bill was considered in the House -- to offer some changes we believe would improve the bill. We have, in some instances, used concepts and language from the original bill, HB 2824, introduced last session.

We strongly urge the committee to pass legislation that will provide us all with the ability to set the course for our own later lives according to our own convictions and desires. Conferees may well differ as to how to achieve that end; I am aware of none who do not support the goal.

Marilyn Bradt
Legislative Coordinator

[As Amended by House Committee of the Whole]

As Amended by House Committee

HOUSE BILL No. 2009

By Special Committee on Judiciary

Re Proposal No. 20

12-22

21
22 AN ACT concerning power of attorney; relating to the uniform du-
23 rable power of attorney act; health care decisions; amending K.S.A.
24 58-610, 58-611, 58-612, 58-613, 58-614 and 58-615 and repealing
25 the existing sections.
26

Be it enacted by the Legislature of the State of Kansas:

27 Section 1. K.S.A. 58-610 is hereby amended to read as follows:
28 58-610. A durable power of attorney is a power of attorney by which
29 a principal designates another as the principal's ~~attorney in fact~~
30 *agent* in writing and the writing contains the words "this power of
31 attorney shall not be affected by subsequent disability or incapacity
32 of the principal" or "this power of attorney shall become effective
33 upon the disability or incapacity of the principal," or similar words
34 showing the intent of the principal that the authority conferred shall
35 be exercisable notwithstanding the principal's subsequent disability
36 or incapacity.

37 Sec. 2. K.S.A. 58-611 is hereby amended to read as follows: 58-
38 611. All acts done by an ~~attorney in fact agent~~ pursuant to a durable
39 power of attorney during any period of disability or incapacity of
40 the principal have the same effect and inure to the benefit of and
41 bind the principal and the principal's successors in interest as if the
42 principal were competent and not disabled.

43 Sec. 3. K.S.A. 58-612 is hereby amended to read as follows: 58-
44 612. (a) If, following execution of a durable power of attorney, a
45 court of the principal's domicile appoints a conservator, guardian of
the estate or other fiduciary charged with the management of all of

17 the principal's property or all of the principal's property except spec-
18 ified exclusions, the ~~attorney in fact~~ agent is accountable to the
19 fiduciary as well as to the principal. The fiduciary has the same
20 power to revoke or amend the durable power of attorney that the
21 principal would have had if the principal were not disabled or
22 incapacitated.

23 (b) A principal may nominate, by a durable power of attorney,
24 a conservator, guardian of the principal's estate or guardian of the
25 principal's person for consideration by the court if protective pro-
26 ceedings for the principal's person or estate are thereafter com-
27 menced. The court shall make its appointment in accordance with
28 the principal's most recent nomination in a durable power of attorney
29 except for good cause or disqualification.

30 Sec. 4. K.S.A. 58-613 is hereby amended to read as follows: 58-
31 613. (a) The death of a principal who has executed a written power
32 of attorney, durable or otherwise, does not revoke or terminate the
33 agency as to the ~~attorney in fact~~ agent or other person, who, without
34 actual knowledge of the death of the principal, acts in good faith
35 under the power. Any action so taken, unless otherwise invalid or
36 unenforceable, binds the principal's successors in interest.

37 (b) The disability or incapacity of a principal who has previously
38 executed a written power of attorney that is not a durable power
39 does not revoke or terminate the agency as to the ~~attorney in fact~~
40 agent or other person, who, without actual knowledge of the disa-
41 bility or incapacity of the principal, acts in good faith under the
42 power. Any action so taken, unless otherwise invalid or unenforce-
43 able, binds the principal and the principal's successors in interest.

44 (c) A *voluntary revocation by a principal of a written power of*
45 *attorney, durable or otherwise, does not revoke or terminate the*
46 *agency as to the agent or other person, who, without actual knowl-*
47 *edge of the revocation, acts in good faith under the power. Any*
48 *action so taken, unless otherwise invalid or unenforceable, binds the*
49 *principal and the principal's successors in interest.*

50 Sec. 5. K.S.A. 58-614 is hereby amended to read as follows: 58-
51 614. As to acts undertaken in good faith reliance thereon, an
52 affidavit executed by the ~~attorney in fact~~ under a power of
attorney, durable or otherwise, stating that the ~~attorney in fact~~

, except that the fiduciary shall not have the authority to revoke or amend the powers conferred under Sec. 6.

Sec. 3 permits the fiduciary to revoke or amend the Durable Power of Attorney. While that provision might reasonably apply to a durable power of attorney for fiscal management, it should not apply to decisions concerning health care since the fiduciary has at no time been given authority either by the court or by the principal over the principal's person.

did not have, at the time of exercise of the power, actual knowl-
 edge of the principal's death, disability or incapacity or of the
 termination of the power by revocation is conclusive proof of
 the nonrevocation or nontermination of the power at that time.
 If the exercise of the power of attorney requires execution and
 delivery of any instrument that is recordable, the affidavit when
 authenticated for record is likewise recordable. This section
 does not affect any provision in a power of attorney for its
 termination by expiration of time or occurrence of an event
 other than express revocation or a change in the principal's
 capacity. Anyone presented with a power of attorney who, without
 actual knowledge of any matters affecting its validity (and with no
 obligation to make affirmative inquiry into any matters beyond the
 express terms of the written document), acts in good faith under
 the power shall not be liable civilly or criminally for relying on the
 power of attorney.

~~New Sec. 6. Any durable power of attorney containing the words
 "power of attorney for guardianship powers" or "power of attorney
 for guardianship and conservatorship powers," or similar words show-
 ing the intent of the principal that the authority conferred shall
 include the authority to do acts that a guardian can do, shall convey
 to the agent the authority to: (a) do all acts that a guardian can do
 under Kansas law, including the power to place the principal in
 any facility or institution, including any treatment facility, but
 such agent shall not be required to obtain any court order to
 take any such action except as set out in subsections (g)(3), (4),
 (5), (6), (7) and (8) of K.S.A. 59-3018;~~

(b) make arrangements, contracts, employ, discharge or oth-
 erwise, any health care provider, as defined in K.S.A. 1988
 Supp. 60-513d, and amendments thereto, hospice, nursing
 home, convalescent home or similar institution or in the prin-
 cipal's residence should such principal desire, and ensure that
 all the principal's essential needs are provided for at such fa-
 cility or residence and to pay them or cause them to be paid
 reasonable compensation; (b) make all necessary arrangements
 for the principal at any hospital, hospice, nursing home or similar
 institution; to employ, discharge health care personnel to include

New Sec. 6. Any durable power of attorney contain-
 ing the words "power of attorney for health
 care" or similar words showing the intent of
 the principal that the authority conferred shall
 include the authority to make health care deci-
 sions shall convey to the agent the authority
 to: (a) consent, refuse consent, or withdraw
 consent to any care, treatment, service or pro-
 cedure to maintain, diagnose or treat a physical
 or mental condition, and to make decisions about
 organ donation, autopsy, and disposition of
 body.

(insert) psychiatric hospital or psychiatric
 treatment facility.

We would prefer not to be tied into the guardian-
 ship statute which is limited, in certain powers
 directly pertaining to health care decisions,
 to actions approved by the courts, including
 the power "to place a ward in a facility or insti-
 tution", or "to consent on behalf of a ward to
 the withholding of life-saving medical procedures,
 except in accordance with provisions of
 K.S.A. 65-28,101 to K.S.A. 65-28,109..." (the
 Natural Death Act).

We believe that many persons wishing to use a
 durable power of attorney for health care will
 want to delegate precisely those powers to a
 trusted relative or friend without the necessity
 of court procedure. It should be possible to
 so instruct the agent within a single document,
 the durable power of attorney for health care.

We have retained all the specific powers contained
 in HB 2009, Sec. 6(b) but have added psychiatric
 hospitals and psychiatric treatment facilities.

121 physicians, psychiatrists, psychologists, dentists, nurses, therapists
 122 or any other person who is licensed, certified, or otherwise au-
 123 thorized or permitted by the laws of this state to administer health
 124 care; as the agent shall deem necessary for the physical, mental
 125 and emotional well being of the principal and to pay them or cause
 126 them to be paid reasonable compensation;] and

127 (c) request, receive and review any information, verbal or writ-
 128 ten, regarding the principal's personal affairs or physical or mental
 129 health including medical and hospital records and to execute any
 130 releases of other documents that may be required in order to obtain
 131 such information.

132 This power to contract and make decisions effecting the principal's
 133 health shall not be construed to authorize the withholding or with-
 134 drawal of life sustaining procedures unless the principal shall have
 135 executed a declaration in accordance with the natural death act,
 136 pursuant to K.S.A. 65-28,101 *et seq.*, and amendments thereto, and
 137 provided further that the principal has not revoked the declaration
 138 as authorized by K.S.A. 65-28,106, and amendments thereto. The
 139 powers of the agent herein shall be limited, however, to the extent
 140 set out in writing in the power of attorney], and shall not include
 141 the power to revoke or invalidate a previously existing declaration
 142 by the principal in accordance with the natural death act]. No
 143 guardian powers shall be effective until the occurrence of the prin-
 144 cipal's disability or incapacity [as determined by the principal's at-
 145 tending physician, as defined by K.S.A. 65-28,102, and amendments
 146 thereto, or any other person who is licensed, certified or otherwise
 147 authorized or permitted by the laws of this state to administer
 148 health care], unless the power of attorney specifically provides oth-
 149 erwise. Nothing herein shall affect the validity of any power of
 150 attorney which conveys by its language the powers a guardian would
 151 have under Kansas law, even though the language referred to above
 152 is not used.

(d) The powers of the agent herein shall be limited to the extent set out in writing in the power of attorney, and shall not include the power to revoke or invalidate a previously existing declaration by the principal in accordance with the natural death act. No agent powers conveyed pursuant to this section shall be effective until the occurrence of the principal's decision making incapacity as determined by the principal's attending physician unless the power of attorney specifically provides otherwise.

Nothing in this act shall be construed as prohibiting an agent from providing treatment by spiritual means through prayer alone and care consistent therewith, in lieu of medical care and treatment, in accordance with the tenets and practices of any church or religious denomination of which the principal is a member.

(e) In exercising the authority under the durable power of attorney for health care, the agent has a duty to act consistent with the desires of the principal as expressed in the durable power of attorney or otherwise made known to the agent at any time or, if the principal's desires are unknown, to act in the best interests of the principal.

We have deleted the first reference to K.S.A. 65-28,102, the natural death act. In its present form, HB 2009 requires that the principal execute not only a durable power of attorney but also a living will, if it is the wish of the principal to convey those powers. We do not agree with the provision that only by reference to a declaration under the natural death act can the principal convey the power to authorize withholding or withdrawal of life-sustaining procedures. We believe it should be possible, if the principal desires, to include that power within a single document, the durable power of attorney for health care.

The principal has conveyed the power to make certain consequential decisions but, in the current Sec. 6, the agent is under no obligation to follow the principal's desires with regard to those decisions. We believe that wording to that affect should be added. Such wording would instruct the agent, reassure the principal that his/her wishes would be observed, and protect both.

(f) Neither the treating health care provider nor an employee of the treating health care provider, nor an employee, owner, director or officer of a health care facility may be designated as the agent to make health care decisions under a durable power of attorney unless related to the principal by blood, marriage or adoption.

(g) A durable power of attorney for health care shall be witnessed or acknowledged by one of the following methods:

(1) Witnessed by at least two witnesses who shall not be:

- (A) the agent;
- (B) the treating health care provider;
- (C) an employee of the treating health care provider;
- (D) the employee, owner, director or officer of the treating health care facility;
- (E) a relative of the principal by blood, marriage or adoption; or
- (F) a person who would be entitled to any portion of the estate of the principal.

(2) Acknowledged before a notary public at any place within this state.

(h) A durable power of attorney executed before July 1, 1989, that specifically authorizes the attorney in fact to make decisions relating to the health care of the principal shall not be limited or otherwise affected by the provisions of this section.

(i) Death of the principal shall not prohibit or invalidate acts of the agent in arranging for organ donation, autopsy or disposition of body.

In HB 2009, there is no constraint upon who may serve as agent, nor is there a requirement that the document be witnessed, even though the principal may be conveying the authority to make decisions of considerable consequence at a time when he or she may be vulnerable to coercion or duress. We believe the durable power as it relates to health care decisions should be witnessed and that certain safeguards should be observed concerning who the agent and the witnesses may be.

The uniform durable power of attorney ceases upon the death of the principal; this language would permit the agent to carry out the wishes of the principal in certain matters after death.

153 New Sec. 7. Unless and to the extent provided for in the written
154 document, the agent is not entitled to compensation. However, the
155 agent shall be entitled to reimbursement for all actual and reasonable
156 expenses incurred on behalf of the principal.

157 Sec. 8. K.S.A. 58-615 is hereby amended to read as follows: 58-

158 615. This act shall be applied and construed to effectuate its general
159 purpose to make uniform the law with respect to the subject of this
160 act among states enacting it. *Any power of attorney which is a valid*
161 *durable power of attorney under the laws of the state of the prin-*
162 *cipal's residence at the time the power of attorney was signed, shall*
163 *be a durable power of attorney under this act. All acts taken by an*
164 *agent in this state under a power of attorney which would be valid*
165 *under the laws of this state, shall be a valid act. All acts taken by*
166 *an agent for a principal whose residence is Kansas at the time the*
167 *power of attorney is signed shall be valid if valid under Kansas law.*

168 New Sec. 9. The provisions of this act shall apply to all powers
169 of attorney regardless of when executed.

170 Sec. 10. K.S.A. 58-610, 58-611, 58-612, 58-613, 58-614 and 58-
171 615 are hereby repealed.

172 Sec. 11. This act shall take effect and be in force from and after
173 its publication in the statute book.
174



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

TESTIMONY OF MARK S. BRAUN

ASSISTANT ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

BEFORE THE SENATE JUDICIARY COMMITTEE

HEARING ON SENATE BILL 342

MARCH 17, 1989

Mr. Chairman and Members of the Committee:

Attorney General Stephan requested introduction of Senate Bill 342. This bill gives deputy and assistant attorneys general the authority to issue subpoenas, take testimony under oath and examine documentary material in investigating and prosecuting the Kansas Charitable Organizations and Solicitations Act and the Kansas Consumer Protection Act.

This authority always has been assumed under current law, but has recently been called into question. Rather than be required to litigate the issue some day, the Attorney General proposed this clarification. Without these changes, the Attorney General arguably would have to be present during the taking of all testimony under subpoena or the reviewing of any documentary material subpoenaed under these two acts.

Attachment II

JGC
3-17-89

The authority sought in Senate Bill 342, is specifically given assistant attorneys general in several other statutes. It is arguable that since only the Attorney General is given the authority in the current charities and consumer acts, and the Attorney General and his assistants are given the authority in other statutes, then the Attorney General cannot delegate his investigatory authority under the charities and consumer acts.

In conclusion, the Attorney General supports Senate Bill 342 and believes the changes sought will clarify and enhance his abilities to enforce the charities and consumers acts on behalf of Kansas.

Thank you for your consideration and the opportunity to appear before you.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

Statement of
Judge James Beasley
On Behalf of Attorney General Bob Stephan's
Victims' Rights Task Force
Before the Senate Judiciary Committee
March 17, 1989

I want to thank you for the opportunity to appear before you today. I am Judge James Beasley, a District Court Judge in Sedgwick County and Chair of the Attorney General's Victims' Rights Task Force.

For more than a year now Attorney General Bob Stephan's Victims' Rights Task Force has been hearing from victims from across the state who believe that the criminal justice system is not fair toward victims. You now have the opportunity through House Bills 2199 and 2200 to respond to these people in a positive and meaningful way. The AFL-CIO and the Kansas Chamber of Commerce are on record in support of these two bill.

You have had the joint hearing with the House Judiciary Committee. I am here today to outline the two bills, to explain what changes were made in the House, to answer any questions you may have, and to encourage you to support these two bills. Several other task force members are also present.

Attachment III
SJC
3-17-89

House Bill 2199 requires that comments from the victim, the victim's families, the public and officials within the criminal justice system be admitted before parole is granted. This is the policy of the current parole board but this bill would require that such comments be considered. The bill would also require that reasonable efforts be made by the County and District Attorney's Offices to notify victims and victims' families of public hearings for parole eligible inmates. Also, there should be notification by the Department of Corrections given to victims or victims' families when individuals convicted of crimes against persons or sexual offenses are released into the community. House Bill 2199 passed the House with an amendment which stated that failure to notify would not be a reason to postpone a parole hearing, parole, conditional release, or other forms of release.

House Bill 2200 contains a Victims' Bill of Rights. This bill changes the name of the Crime Victims Reparations Board to Crime Victims Compensation Board and places the board under the auspices of the Attorney General. House Bill 2200 establishes a new position of Victims Rights Coordinator also under the Attorney General. This person would coordinate all the victim/witness programs located in several counties throughout the state and assist other counties in setting up such programs.

House Bill 2200 also eliminates the current means test used to determine a victim's claim. The funeral allowance is increased from \$750 to \$2,000. Maximum compensation possible is increased

from \$10,000 to \$25,000. A new Crime Victims Assistance Fund to finance programs that provide services to victims of crime is created by earmarking the Probation Services Fee. The marriage license fee is increased \$15 to help develop a solid funding base for domestic violence programs. The docket fee is increased \$3 to go to the Crime Victims Compensation Board. The moneys from bond forfeitures except traffic bonds are distributed to the Crime Victims Compensation Board, the Crime Victims Assistance Fund and the County or District Attorneys Office.

The House amended the bill by expanding the definition of criminally injurious conduct so that victims who are Kansas citizens but victimized in other states or U.S. territories could be compensated provided that compensation would be payable if the crime had occurred in Kansas.

House Concurrent Resolution 5008, a constitutional amendment on victims rights, was not passed out of the House Judiciary Committee, but the committee did add New Sec. 31 to assure the rights of victims. Also House Bill 2198 on the furlough program and inmate program participation was not passed out of committee.

I encourage you to support House Bills 2199 and 2200 to guarantee that victims of crime are treated fairly by our criminal justice system.

MEMORANDUM

KANSAS PAROLE BOARD

HB 2199

Page 2, line 80 strike "hearing"
and insert "comment sessions"

HB 2700

Page 29, line 575, strike "hearings"
and insert "public comment sessions";
also, strike "and 22-3718"

Above changes are very important.
It would also appear that the
House Committee of the Whole
amendment would be better placed
if it were moved from lines 98
and 99 of Page 3 of HB 2199
to Page 2 following line 83.

Also, HB 2199, Page 3, line 96, strike "and"

Attachment II
SJC
3-17-89

Shelton

March 17, 1989

House Bill No. 2200; concerning victims of crime
Senate Judiciary

In 1982 the Supreme Court adopted a uniform accounting system for the district courts. Approximately 20 of our courts have the accounting function automated in some manner and the remaining courts have a one-write accounting system. All accounting systems whether they are automated or on the one-write system must meet the requirements of the Supreme Court Accounting Order. This established accounting system has been very effective and efficient in handling the large sums of money that transfer through our courts on a daily and monthly schedule. We feel our clerks of the district court and our accounting employees do a super job..

This month, our office is conducting regional training seminars in Emporia, Hays and Garden City on the functions of district court accounting as a continuing program to maintain efficiency.

Presently, our system collects and distributes moneys for the local law libraries, law enforcement training, crime victims, prosecuting attorney training, indigent defense services, alcohol and drug safety action programs, driver's license reinstatements, marriage licenses, alimony and support, fines, fees and forfeitures, judgments, clerk's fees state and county.

HB2200 has an impact to this accounting system. Some of these changes are manageable while others would have a very detrimental effect on the efficiency of the accounting system. First of all it increases docket fees by \$3.00 in all criminal, traffic and fish and games cases. It increases marriage license fees from \$25 to \$40. It changes the Crime Victims Reparation Fund to the Crime Victims Compensation Fund. These changes are manageable. It establishes a new fund, "Crime Victims Assistance Fund" where probation fees are to be isolated and paid into this fund. Presently, we collect \$25 for misdemeanor and \$50 for felony and these fees are paid to the State Treasurer under clerks fees state. It establishes another new fund called the Crime Victims Aid Fund where it requires us to isolate bond forfeitures and make distribution by percentages to the state treasurer and county treasurer. These changes are detrimental to the system.

Attachment II
SJC
3-17-89

House Bill No. 2200; concerning victims of crime
Senate Judiciary
March 17, 1989

These changes would not only disrupt our accounting system but would also have a fiscal impact on the counties. Accounting forms and procedures currently utilized would have to be revised considerably to accommodate these changes in the distribution of these funds. Counties that have automated the accounting function would be required to make substantial program modifications. In fact, because of the number of additional fields required by this bill, some computer programs might have to be substantially modified if they can't be patched.

The computer changes would cost an estimated \$150,000 statewide and the additional forms changes would cost an estimated \$5,000, both of these changes would be effective in the middle of the counties' fiscal year budget process.

An argument of the proponents of the present wording of the bill is that routing forfeitures of appearance bonds directly to local prosecutors would enhance collection of forfeited appearance bonds overlooks the probability that the costs of collecting together with the cost of accounting and auditing will exceed the amounts realized.

We recommend that instead of isolating probation fees and bond forfeitures that we continue to send all the money to the State Treasurer and allow comparable money to be separated and distributed at this level rather than at 105 different locations. We think the separation and distribution could be achieved similar to the distribution of marriage license fees as it presently exists. This distribution could be made from the finances, fees and forfeitures funds.

The State Treasurer could allot legislatively determined proportions of the fines, fees, and forfeitures account to the special revenue funds created by this bill for the alleviation of hardships suffered by crime victims and witnesses.

Our proposed change then would include the elimination of docket fee distribution for crime victims reparation fund which money would offset Clerks fees state.

Our proposal is based on the original House Bill 2200. Presently with the amendments the bill has a much smaller fiscal impact to the proposed crime victims aid fund and the crime victims compensation fund due to the elimination of the traffic bonds.

I thank you for your time and considerations and urge the committee to adopt our recommendations.

The \$3.00 docket increase in criminal, traffic and fish and game will increase collections by \$686,559.

The increase in marriage license fees from \$25 to \$40 will increase collections by \$349,085 which is directed to the Protection from Abuse Fund.

The isolation of probation and community corrections fees would generate an estimated \$ 286,275.

The district courts statewide collected in FY1988 the following amounts:

Fines, Fees and Forfeitures	\$ 7,949,988
Clerks Fees State	8,727,208
Crime Victims Reparation	471,232
Marriage License Fees	569,986
Drivers License Reinstatement Fees	134,725
Law Enforcement Training Fund	1,083,565
Interest on Idle Funds	342,213

All of these fees are paid to the State Treasurer on a monthly schedule from all 105 courts.

On the basis of \$7,984,530 received for fines, fees, and forfeitures, annual figures for the State Treasurer's distributions as recommended by HB2200 percentages would be:

Crime Victims Compensation	\$ 4,072,110
Crime Victims Assistance	1,756,597
Witness and Crime Victims Aid	1,517,061
State General Fund	638,762
	<hr/>
	\$ 7,984,530

By eliminating the Crime Victims Reparation deduction from the docket fee, we would increase the clerks fees state, which goes to the State General Fund by \$1,144,265.

State Treasurer
P.O. Box 737
Topeka, Kansas 66601

REPORT AND PAYMENT OF DISTRICT COURT REVENUE AS
REQUIRED BY 1987 SB 289, K.S.A. 8-2110, K.S.A.
20-350, 20-362, 20-2801, 21-4610a, 23-108a,
28-170, 28-172a and 59-104.

- A. FINES, PENALTIES AND FOREFEITURES: \$ _____
670-00-1000-8-9999-5401
 - B. INTEREST ON INVESTMENT OF IDLE FUNDS: \$ _____
670-00-1000-8-9999-5403
 - C. CLERK'S FEES: \$ _____
670-00-1000-8-9999-5304
 - D. LAW ENFORCEMENT TRAINING CENTER
DEDUCTIONS FROM DOCKET FEES: \$ _____
682-01-2133-8-9999-5305
 - E. CRIME VICTIMS REPARATIONS
DEDUCTIONS FROM DOCKET FEES: \$ _____
160-00-2630-8-9999-5303
 - F. INDIGENT DEFENSE SERVICE FUND
DEDUCTIONS FROM DOCKET FEES: \$ _____
328-00-2119-8-9999-5302
 - G. MARRIAGE LICENSE FEES: \$ _____
32 % Protection From Abuse Fund
160-00-2175-8-9999-2040
22.4% Family and Children's Trust Fund
628-00-7371-8-9999-2040
45.6% State General Fund
670-00-1000-8-9999-2040
 - H. DRIVERS LICENSE REINSTATEMENT FEES: \$ _____
565-00-2089-8-9999-5409
- TOTAL REMITTANCE \$ _____

I hereby certify the above to be a true, complete and accurate report and payment of district court revenue as required to be remitted to the State Treasurer by 1987 SB 289, K.S.A. 8-2110, 20-350, 20-362, 20-2801, 21-4610a, 23-108a, 28-170, 28-172a and 59-104.

For the month of _____

District Court of _____

Treasurer's use only	
Check # _____	_____
Date _____	_____

Authorized Signature _____ Date _____



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

(913) 296-2256

February 17, 1989

To: Michael F. O'Keefe, Director of the Budget
From: Jerry Sloan, Budget and Fiscal Officer
Re: Senate Bill No. 168

This bill would increase certain docket fees by \$3.00 and designate this addition to be deposited in the crime victims compensation fund. Further, the bill would increase the fee for obtaining a marriage license from \$25.00 to \$40.00 with the additional revenue designated for the protection from abuse fund. Finally, this bill would redirect revenue collected from forfeited recognizance and probation and community correction fees from the state general fund to the crime victims reparation fund; a special fund, created in each county, to aid witnesses and victims of crime; and the crime victims assistance fund.

Based on our most current data regarding statewide fee collections we have estimated the relative increases and decreases for the various funds in the table below.

	<u>FY 1988</u>	<u>FY 1990</u>	<u>FY 1991</u>
<u>Marriage License Fees</u>			
Protection From Abuse	\$ 186,170.56	\$ 506,165.55	\$ 535,256.00
Family & Children Trust Fund	\$ 130,319.39	\$ 130,319.39	\$ 130,319.39
State General Fund	\$ 265,293.05	\$ 265,293.05	\$ 265,293.05
TOTAL	\$ 581,783.00	\$ 901,777.99	\$ 930,868.44
<u>Crime Victims Docket Fee</u>	\$ 457,706.00	\$1,048,909.58	\$1,144,265.00
<u>Bond Forfeitures</u>			
State General Fund	\$5,928,513.52	\$ 494,042.79	\$ 0.00
Crime Victims Compensation Fund	\$ 0.00	\$2,730,821.54	\$2,979,078.04
Crime Victims Assistance Fund	\$ 0.00	\$1,345,031.50	\$1,467,307.10
County Witness and Crime Victims Programs	\$ 0.00	\$1,358,617.68	\$1,482,128.38
TOTAL	\$5,928,513.52	\$5,928,513.52	\$5,928,513.52

Hand-delivered
2-17-89 cmh

Probation and Community
Correction Fees

State General Fund	\$ 286,275.00	\$ 23,856.25	\$ 0.00
Crime Victims Assistance Fund	\$ 0.00	\$ 262,418.75	\$ 286,275.00
TOTAL	\$ 286,275.00	\$ 286,275.00	\$ 286,275.00

These figures are based on FY 1988 data and estimates. The FY 1991 estimates indicate the full shift after the normal transitional shifts with any of these payment changes due to payments in process shown for FY 1990. Thus, the full year fiscal impact would be an increase in collections of \$686,559 from docket fees and \$349,085 from marriage license fees. It would also place the docket fee increase in a new fund, Crime Victims Compensation Fund, which replaces the Crime Victims Reparations Fund. In addition, there would be an estimated shift of receipts from the State General Fund to the Crime Victims Compensation Fund as well as the counties' Crime Victims and Witnesses Assistance Funds of \$6,214,788.52.

There would also be financial impact on the counties. First, accounting forms, and procedures currently utilized in the district courts would have to be revised considerably to accommodate the changes in the distribution of these funds. Further, those counties that have accounting processes computerized would be required to make substantial program modifications to accommodate these changes.

The effective date of this change would cause a severe dislocation of district court county operating funds to purchase new accounting forms and change computer systems. The computer changes would cost an estimated \$180,000 statewide. The additional forms changes in the middle of the counties' fiscal year would cost an estimated \$5,000 this year. Because of the increased number of accounts to account for, ongoing forms in the future will also cost more.

JS:cml

15 shall be notified of the right to be present at any public hearing
16 where the accused or the convicted person has the right to appear
17 and be heard.

18 (b) As used in this section: (1) "Public hearing" means any court
19 proceeding or administrative hearing which is required to be open
20 to the public and shall include but not be limited to the:

21 (A) Preliminary hearing;

22 (B) trial;

23 (C) sentencing;

24 (D) sentencing modification;

25 (E) parole hearings, pursuant to K.S.A. 22-3717 and 22-3718,
26 and amendments thereto; and

27 (F) expungement hearing.

28 (2) "Victims' family" means a spouse, surviving spouse, children
29 or parents.

30 (c) Notification shall be made to any victim of the crime who
31 is alive and whose address is known to the county or district attorney
32 or, if the victim is deceased, to the victim's family if the family's
33 address is known to the county or district attorney.

34 (d) Costs of transportation for the victim to appear shall be
35 borne by the victim unless the appearance is required pursuant to
36 a subpoena or other order of the court.

37 New Sec. 31 32.3(a) [~~Except for the forfeiture of any bond~~
38 pursuant to K.S.A. 8-2107, and amendments thereto,] at least
39 monthly the clerk of the district court shall remit all moneys payable,
40 as provided in subsection (c)(1), to the state treasurer from forfeitures
41 of appearance bonds as provided in K.S.A. 22-2807 and amendments
42 thereto, to the state treasurer. The state treasurer shall deposit such
43 moneys in the state treasury as provided in subsection (c)(2).

44 (b) [~~Except for the forfeiture of any bond pursuant to K.S.A.~~
45 8-2107, and amendments thereto,] at least monthly the clerk of the
46 district court shall remit all moneys from forfeitures of appearance
47 bonds as provided in K.S.A. 22-2807 and amendments thereto, which
48 are payable, as provided in subsection (c)(1), to the county treasurer
49 of the county in which such forfeiture took place, to such county
50 treasurer. Such county treasurer shall deposit such moneys as pro-
51 vided in subsection (c)(2).

Sec. 31. (a) Of the remittances of fines, penalties and
forfeitures received from clerks of the district court, at
least monthly the state treasurer shall credit 51% to the
crime victims compensation fund, 22% to the crime victims
assistance fund, and 19% shall be distributed (on the basis of
population figures of the counties certified to the secretary
of state pursuant to K. S. A. 11-201 and amendments thereto on
July 1 of each year) to county treasurers for credit to the
county's witness and crime victims program. The remainder of
the remittances shall be credited to the state general fund.

(b) The county treasurer shall deposit moneys as
provided in subsection (a) to the credit of a special fund
created for use by the county or district attorney in
establishing and maintaining programs to aid witnesses and
victims of crime.

NOTE: The above percentages are based on revenue received by
the State Treasurer in FY 1988; and may be adjusted to deliver
whatever amount is deemed appropriate to any of the named
funds.

3-1-89

Shelby



STATE OF KANSAS
CRIME VICTIMS REPARATIONS BOARD

March 9, 1989

117 W. 10TH
TOPEKA, KANSAS 66612-1208
(913) 296-2359

Senator Wint Winter, Jr.
Chairman, Senate Judiciary Committee
State Capitol - 120 South
Topeka, Kansas 66612

Re: House Bill 2200 as Amended by the Committee of the Whole

Dear Senator Winter:


This letter is in the form of an inquiry relative to the above noted House Bill.

On Page 14, Sec. 12, line 532 as relates to "Members of the board." Should this not be amended to: "Members of the crime victims reparations board?" The question arises due to the fact that presently there is not a compensation board until July 1, 1989, and after July 1, 1989 there will not a be reparations board.

As stated previously, this is a technicality and merely an inquiry as to whether this should be corrected.

Further as a matter of inquiry relative to the raising of the maximum amounts allowable for funeral expenses and the maximum total for awards, are those amount applicable to incidents which occur after July 1, 1989, or are they applicable to awards considered after July 1, 1989. The Board would appreciate the Legislature's intent in regard to these two issues.

Thank you for your assistance and if there is anything further we can do to assist in your consideration of H.B. 2200, please do not hesitate to contact our office.

Sincerely,

Betty A. Bomar
Director

BAB/ba

Attachment VI
Senate Judiciary Com
3-17-89

SUBSTITUTE FOR HOUSE BILL No. 2009

AN ACT concerning the durable power of attorney for health care decisions;....

Be it enacted by the Legislature of the State of Kansas:

Section 1. A durable power of attorney for health care decisions is a power of attorney by which a principal designates another as the principal's agent in writing and the writing contains the words "this power of attorney for health care decisions shall not be affected by subsequent disability or incapacity of the principal" or "this power of attorney for health care decisions shall become effective upon the disability or incapacity of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity.

Sec. 2. All acts done by an agent pursuant to a durable power of attorney for health care decisions during any period of disability or incapacity of the principal have the same effect as if the principal were competent and not disabled.

Sec. 3. (a) If, following execution of a durable power of attorney for health care decisions, a court of the principal's domicile appoints a guardian charged with the responsibility for the principal's person, the guardian has the same power to revoke or amend the durable power of attorney that the principal would have had if the principal were not disabled or incapacitated.

(b) A principal may nominate, by a durable power of attorney

for health care decisions, a conservator or guardian of the principal's person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

Sec. 4. A voluntary revocation by a principal of a durable power of attorney for health care decisions does not revoke or terminate the agency as to the agent or other person, who, without actual knowledge of the revocation, acts in good faith under the power.

Sec. 5. A durable power of attorney for health care decisions shall convey to the agent the authority to: (a) consent, refuse consent, or withdraw consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition, and to make decisions about organ donation, autopsy, and disposition of the body;

(b) make all necessary arrangements for the principal at any hospital, psychiatric hospital or psychiatric treatment facility, hospice, nursing home or similar institution; to employ or discharge health care personnel to include physicians, psychiatrists, psychologists, dentists, nurses, therapists or any other person who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care as the agent shall deem necessary for the physical, mental and emotional well being of the principal and to pay them or cause them to be paid reasonable compensation; and

(c) request, receive and review any information, verbal or

written, regarding the principal's personal affairs or physical or mental health including medical and hospital records and to execute any releases of other documents that may be required in order to obtain such information.

(d) The powers of the agent herein shall be limited to the extent set out in writing in the durable power of attorney for health care decisions, and shall not include the power to revoke or invalidate a previously existing declaration by the principal in accordance with the natural death act. No agent powers conveyed pursuant to this section shall be effective until the occurrence of the principal's decision-making-incapacity as determined by the principal's attending physician, as defined in K.S.A. 65-28,102(a), unless the durable power of attorney for health care decisions specifically provides otherwise. Nothing in this act shall be construed as prohibiting an agent from providing treatment by spiritual means through prayer alone and care consistent therewith, in lieu of medical care and treatment, in accordance with the tenets and practices of any church or religious denomination of which the principal is a member.

(e) In exercising the authority under the durable power of attorney for health care decisions, the agent has a duty to act consistent with the desires of the principal as expressed in the durable power of attorney.

(f) Neither the treating health care provider, as defined by K.S.A. 65-4921(c), nor an employee of the treating health care provider, nor an employee, owner, director or officer of a facility described in section 5(b) may be designated as the agent to make health care decisions under a durable power of attorney

for health care decisions unless: (1) related to the principal by blood, marriage or adoption; or

(2) the principal and agent are members of the same community of persons who are bound by vows to a religious life and who conduct or assist in the conduct of religious services and actually and regularly engage in religious, benevolent, charitable or educational ministrations or the performance of health care services.

(g) A durable power of attorney for health care decisions shall be witnessed or acknowledged by one of the following methods:

(1) Witnessed by at least two witnesses who shall not be:

(A) the agent;

(B) the treating health care provider;

(C) an employee of the treating health care provider;

(D) the employee, owner, director or officer of the treating health care facility;

(E) a relative of the principal by blood, marriage or adoption; or

(F) a person who would be entitled to any portion of the estate of the principal.

~~(G)~~ Acknowledged before a notary public at any place within this state.

(h) Death of the principal shall not prohibit or invalidate acts of the agent in arranging for organ donation, autopsy or disposition of body.

Sec. 6. Any durable power of attorney for health care decisions which is valid under the laws of the state of the

principal's residence at the time the durable power of attorney for health care decisions was signed, shall be a durable power of attorney for health care decisions under this act. All acts taken by an agent in this state under such a durable power of attorney for health care decisions which would be valid under the laws of this state, shall be valid acts. All acts taken by an agent for a principal whose residence is Kansas at the time the durable power of attorney for health care decisions is signed shall be valid if valid under Kansas law.

Sec. 7. The provisions of this act shall apply to all powers of attorney regardless of when executed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT
JUDICIAL CENTER
LAWRENCE, KANSAS 66044
913-841-7700

RALPH M. KING, Jr., Judge
First Division

JAMES W. PADDOCK, Judge
Second Division

JEAN F. SHEPHERD, Judge
Third Division

MICHAEL J. MALONE, Judge
Fourth Division

March 15, 1989

SCOTT COURTNEY
Court Administrator
Room 172, Ext. 263

SHERLYN K. SAMPSON
Chief Clerk
Room 179, Ext. 251

TIM CRAGG
Chief Court Services Officer
Room 172, Ext. 263

Senator Wint Winter, Jr.
State Capitol, Room 127
Topeka, Ks. 66612

Re: HB 2200

Dear Senator Winter:

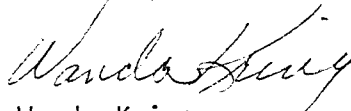
I am writing to you in regard to HB 2200, that will be coming before the Senate Judiciary Committee in the very near future.

Attached is a copy of HB 2200, highlighted, indicating an accounting problem for Douglas County. It would make computer changes much simpler not to have the bond forfeitures separated. If the bond forfeitures must be separated, it would even help a great deal to send the full amount to the State Treasurer and let them break it down.

As for the probation fees to be separated, this was down at one time and they later told us just to include it in with the State Clerk fees, now they want us to separate it again.

This will cost the county a great deal of money to make these computer changes. We are running out of breakouts in our new computer system. Please give this portion of HB 2200 your careful consideration.

Sincerely,



Wanda Krings
Accounting Technician

WK

cc: Sherlyn Sampson

Attachment IX
Senate Judiciary Committee
3-17-89

552 (c) (1) Moneys from forfeitures of appearance bonds as provided
 553 in this section shall be remitted by the clerk of the district court as
 554 follows: (A) Seventy-five percent to the state treasurer; and (B)
 555 twenty-five percent to the county treasurer of the county in which
 556 such forfeiture took place.

557 (2) The state treasurer shall deposit $\frac{2}{3}$ of such moneys as provided
 558 in subsection (c)(1) to the credit of the crime victims ~~reparations~~
 559 [compensation] fund and $\frac{1}{3}$ of such moneys to the credit of the
 560 crime victims assistance fund.

561 (3) The county treasurer shall deposit such moneys as provided
 562 in subsection (c)(1) to the credit of a special fund created for use by
 563 the county attorney or district attorney in establishing and main-
 564 taining programs to aid witnesses and victims of crime.

565 New Sec. ~~32~~ 33. The attorney general shall appoint a victims
 566 rights coordinator. It shall be the duty of the victims rights coor-
 567 dinator to:

568 (1) Create, coordinate and assist in the operation of local victim-
 569 witness programs throughout the state;

570 (2) respond to a statewide victims rights telephone hotline; and

571 (3) administer the Kansas crime victims assistance fund.

572 Sec. ~~33~~ 34. K.S.A. 20-350, 20-362, 20-2801, 21-4610a, 23-108a,
 573 74-7302, 74-7303, 74-7304, 74-7305, 74-7306, 74-7308, 74-7311, 74-
 574 7313, 74-7316 and 74-7325 and K.S.A. 1988 Supp. 8-2107, 28-172a,
 575 32-155b, 60-2313, 74-7301, 74-7312, 74-7317, 74-7319, 74-7320, 74-
 576 7321 and 75-5211 are hereby repealed.

577 Sec. ~~34~~ 35. This act shall take effect and be in force from and
 578 after its publication in the statute book.

515 shall be notified of the right to be present at any public hearing
 516 where the accused or the convicted person has the right to appear
 517 and be heard.

518 (b) As used in this section: (1) "Public hearing" means any court
 519 proceeding or administrative hearing which is required to be open
 520 to the public and shall include but not be limited to the:

521 (A) Preliminary hearing;

522 (B) trial;

523 (C) sentencing;

524 (D) sentencing modification;

525 (E) parole hearings, pursuant to K.S.A. 22-3717 and 22-3718,
 526 and amendments thereto; and

527 (F) expungement hearing.

528 (2) "Victims' family" means a spouse, surviving spouse, children
 529 or parents.

530 (c) Notification shall be made to any victim of the crime who
 531 is alive and whose address is known to the county or district attorney
 532 or, if the victim is deceased, to the victim's family if the family's
 533 address is known to the county or district attorney.

534 (d) Costs of transportation for the victim to appear shall be
 535 borne by the victim unless the appearance is required pursuant to
 536 a subpoena or other order of the court.

537 New Sec. ~~31~~ 32. (a) [Except for the forfeiture of any bond
 538 pursuant to K.S.A. 8-2107, and amendments thereto,] at least
 539 monthly the clerk of the district court shall remit all moneys payable,
 540 as provided in subsection (c)(1), to the state treasurer from forfeitures
 541 of appearance bonds as provided in K.S.A. 22-2807 and amendments
 542 thereto, to the state treasurer. The state treasurer shall deposit such
 543 moneys in the state treasury as provided in subsection (c)(2).

544 (b) [Except for the forfeiture of any bond pursuant to K.S.A.
 545 8-2107, and amendments thereto,] at least monthly the clerk of the
 546 district court shall remit all moneys from forfeitures of appearance
 547 bonds as provided in K.S.A. 22-2807 and amendments thereto, which
 548 are payable, as provided in subsection (c)(1), to the county treasurer
 549 of the county in which such forfeiture took place, to such county
 550 treasurer. Such county treasurer shall deposit such moneys as pro-
 551 vided in subsection (c)(3).