JUDICIARY SUBCOMMITTEE ON CRIMINAL LAW AND CONSUMER PROTECTION

Senator Jerry Moran, Chairman

March 7, 1991 - Room 313-S - 10:05 a.m.

SB 292 - creating crime involving laundering of money. (KBI/AG)

PROPONENTS:

Kyle Smith, Asst. A.G. with KBI (ATTACHMENT 1)
Jim Clark, KCDAA (ATTACHMENT 2)

OPPONENTS:

None appeared.

Subcommittee recommendation: none made.

SB 293 - possession of fake out-of-state driver's license or identification is a crime. (DG Co. D.A.)

PROPONENTS:

Gayl Armstrong, Douglas Co. D.A. (ATTACHMENT 3)
Lt. Bill Jacobs, Kansas Highway Patrol

OPPONENTS:

None appeared.

Subcommittee recommendation: to recommend favorable for passage.

SB 262 - regulation of travel promoter. (AG)

PROPONENTS:

Jeanne Kutzley, Asst. A.G., Consumer Protection Div. (ATTACHMENT 4)

OPPONENTS:

Harriet Lange, Kansas Assoc. of Broadcasters (ATTACHMENT 5)

Subcommittee recommendation: none made.

SB 296 - copy and retention of report by attorney for the state. (KCDAA)

PROPONENTS:

Jim Puntch, Sedgwick County D.A. (ATTACHMENT 6)

OPPONENTS:

None appeared.

Subcommittee recommendation: to recommend favorable for passage.

SB 299 - traffic citations for purchase or consumption of alcoholic beverage by minor. (KCDAA)

PROPONENTS:

Jim Clark, KCDAA (ATTACHMENT 7)
Lt. Bill Jacobs, Kansas Highway Patrol (ATTACHMENT 8)

OPPONENTS:

None appeared.

Subcommittee recommendation: to amend by adding subparagraphs recommended by Kansas Highway Patrol and include publication in the Kansas register; and to recommend favorable for passage as amended.

SB 303 - violation of city ordinance which is misdemeanor can be basis for adjudication of minor as juvenile offender. (DG Co. D.A.)

PROPONENTS:

Gayl Armstrong, Douglas Co. D.A. (ATTACHMENT 9)

OPPONENTS:

None appeared.

Subcommittee recommendation: to amend line 20 by striking the words "felony or"; and to recommend favorable for passage as amended.

SB 326 - corrections, fees for substance abuse tests of inmates and parolees. (DOC)

PROPONENTS:

Steven J. Davies, Ph.D., Dept. of Corrections (ATTACHMENT 10)

OPPONENTS:

None appeared.

Subcommittee recommendation: to recommend favorable for passage.

SB 329 - requiring collection of DNA exemplars from convicted felons. (AG/KBI)

PROPONENTS:

Melanie Jack, Asst. A.G. with FBI (ATTACHMENT 11)
Juliene Maska, A.G. Victim Rights Coordinator (ATTACHMENT 12)
Terry Maple, KPOA
Steven J. Davies, Ph.D., Dept. of Corrections (ATTACHMENT 13)

OPPONENTS:

None appeared.

Subcommittee recommendation: to amend to adopt language recommended by the KBI for persons who can perform the test and add the crimes of incest, aggravated incest and abuse of a child as convictions requiring the submission of blood and saliva samples as listed in Section 1(a); and to report the bill to full committee without recommendation.

SB 330 - community corrections, primary purpose of act, grant determinations and annual plan review. (DOC)

PROPONENTS:

Roger Werholtz, Dept. of Corrections (ATTACHMENT 14)
Will Belden, League of Women Voters (ATTACHMENT 15)

OPPONENTS:

None appeared.

Subcommittee recommendation: to recommend favorable for passage.

SB 332 - correctional institutions, disposition of certain abandoned property of inmates. (DOC)

PROPONENTS:

Steven J. Davies, Ph.D., Dept. of Corrections (ATTACHMENT 16)

OPPONENTS:

None appeared.

Subcommittee recommendation: to recommend favorable for passage.

SB 333 - records of incidents and reporting of crimes by law enforcement agencies. (AG, VRTF)

PROPONENTS:

Juliene Maska, A.G.V.R. Coordinator (ATTACHMENT 17)
Mike Boyer, KBA (ATTACHMENT 18)
Dorothy Miller, Pittsburg Safehouse (ATTACHMENT 19)
Edie Strange, Pittsburg (ATTACHMENT 20)
Delma Rourk, Iola (ATTACHMENT 21)
Alita Brown, Pittsburg (ATTACHMENT 22)
Nancy Nye, Cherokee (ATTACHMENT 23)

OPPONENTS:

None appeared.

Subcommittee recommendation: none made.

SB 354 - non resident motorist to be taken in front of judge for failure to give bond. (Senator Lee)

PROPONENTS:

Lt. Bill Jacobs, Kansas Highway Patrol (ATTACHMENT 24)

OPPONENTS:

None appeared.

Subcommittee recommendation: to recommend favorable for passage.

SB 355 - eliminating spousal defense in certain crimes. (AG, VRTF)

PROPONENTS:

Juliene Maska, AG, VR Coordinator (ATTACHMENT 25)
Chris Wilshusen, Ex. Dir., Wichita Sexual Assault Center (ATTACHMENT 26)
Alita Brown, Pittsburg (SEE ATTACHMENT 22)

OPPONENTS:

None appeared.

Subcommittee recommendation: none made.

SB 356 - written policies for law enforcement officers regarding domestic violence calls. (AG,VRTF)

PROPONENTS:

Juliene Maska, AG, VR Coordinator (ATTACHMENT 27)
Chris Wilshusen, Ex. Dir., Wichita Sexual Assault Center (SEE ATTACHMENT 26)
Alita Brown, Pittsburg (SEE ATTACHMENT 25)
Dorothy Miller, Pittsburg Safehouse (SEE ATTACHMENT 19)
Nancy K. Nye, Cherokee (SEE ATTACHMENT 23)
Janet A. Messing, Sexual Assault/Domestic Violence Center (ATTACHMENT 28)
Marilyn Ault, Battered Women Task Force (ATTACHMENT 29)

OPPONENTS:

Jim Kaup, League of KS Municipalities (ATTACHMENTS 30 & 31)

Subcommittee recommendation: none made.

SB 357 - community corrections, grant years on state fiscal year basis, county participation options. (DOC)

PROPONENTS:

Roger Werholtz, Dept. of Corrections (ATTACHMENT 32)

OPPONENTS:

None appeared.

Subcommittee recommendation: to amend page 3, lines 21 and 22 by restoring the word "calendar" and striking the words "state fiscal"; and to recommend favorable for passage as amended.

SB 75 - regulation of unsolicited telephone calls. (Bill requested by Senator Bogina)

PROPONENTS:

Senator Gus Bogina (ATTACHMENT 33)
Rob Hodges, Kansas Telecommunications (ATTACHMENT 34)

OPPONENTS:

Mike Reecht, AT&T (ATTACHMENT 35)
Bob W. Storey, Idelman Telemarketing, Inc. (ATTACHMENT 36)
David W. Newcomer IV, D.W. Newcomer's Sons, Inc. (ATTACHMENT 37)
Andrew Garen, Pioneer TeleTechnologies, Inc. (ATTACHMENT 38)
LeAnn Chilton, MCI (ATTACHMENT 39)
Ralph E. Skoog, Kansas Cable Television Association (ATTACHMENT 40)
Dana Bradbury, Kansas Corporation Commission (ATTACHMENT 41)

Subcommittee recommendation: none made.

SB 135 - organized crime activity. (Bill requested by Sedgwick County Delegation)

PROPONENTS:

Nola Foulston, District Attorney, 18th Judicial Dist., Wichita (ATTACHMENT 42)

OPPONENTS:

None appeared.

Subcommittee recommendation: none made.

GUEST LIST

COMMITTEE: Senate Judiciary Subcommittee on CRIMINAL LAW

DATE: 3/7/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Lt. BILL JACOBS	TOPEKA	KS HIGHWAY PATROL
Steve Stanley	Topeka	KBI
Jim Puntch	WICHITA	SEDG. CY. DIST. ATTY
PATRICIA HENSHALL	TOPEKA	OJA
Will Belden	Topeka	LWVK
June Leadley	Topeka	DOC
Chuck Simmons	"	DOC
Julene Maska	Topeka	A.G. office
Paula Freerksen	"	League of KS Municipalities

Criminal Law & Consumer Protection Sub.
Attachment 1

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS
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TOPEKA, KANSAS 66612-1837
(913) 232-6000

JAMES G. MALSON
DIRECTOR

ROBERT T. STEPHAN
ATTORNEY GENERAL

TESTIMONY
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
ON BEHALF OF ROBERT T. STEPHAN, ATTORNEY GENERAL AND
THE KANSAS BUREAU OF INVESTIGATION
BEFORE THE SENATE JUDICIARY CRIMINAL SUBCOMMITTEE
REGARDING SENATE BILL 292
MARCH 5, 1991

Mr. Chairman and Members of the Subcommittee:

I am Kyle G. Smith, Assistant Attorney General assigned to the Kansas Bureau of Investigation's Narcotic Strike Force. On behalf of Attorney General Bob Stephan and the Kansas Bureau of Investigation (KBI), I want to thank you for the opportunity to address you in support of Senate Bill 292.

Senate Bill 292 addresses a current gap in our statutory arsenal in the drug war. It's purpose is to provide appropriate penalties and hence deterrence to those persons involved in the drug trade on the financial end, i.e. money laundering. We can attack drug dealers by attacking the profits of drug dealing.

The vast amounts of cash generated by the illegal drug trade not only corrupt our youth by luring them into a deadly world of ostentatious wealth and easy money, but can also have a corrupting influence on a business community. The potential for high profits in return for simple money transfers or forgetting to file a federal form has tempted businessmen, attorneys, and financial institutions across this country. It would be naive to think that it is not occurring here in Kansas.

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Attachment 1

Under current Kansas law there is no crime for a person to go around converting small bills into large, even though that agent or "smurf" has full knowledge that these are drug profits and that he is working for drug dealers. There is no state law against an attorney or an accountant setting up, with full knowledge of his client's business, a drug laundering operation including sham corporations, multiple accounts, and off-shore multiple money transfers.

Money laundering has three primary stages. The first stage is called the placement stage. This is the conversion of cash into legitimate investments by placing it in banks, security brokers or other businesses involved in handling cash. It is at this stage that drug traffickers are most exposed and the opportunity is greatest for detection and prosecution. At the placement stage the drug trafficker has four choices: 1) the money can be hidden or spent as cash, which besides the obvious security risks, fails to draw any interest; 2) the money can be smuggled out of the country, which statistics show is occurring more and more frequently; 3) the money can be placed in the aforementioned financial institutions or through businesses which handle large amounts of cash, e.g. precious metal dealers, brokers, casinos; or 4) or the money can become mingled with a legitimate business's legal income.

The second stage is called layering, which as it's name implies, is the process of clouding the paper trail generated by financial documents by creating layers of transactions through wire transfers, money orders, cashiers checks, travel vouchers and letters of credit.

The third stage is integration back into the economy turning the drug proceeds into useable wealth through sham loans, purchases through nominees, or purchases of legitimate businesses, which can in turn be used to launder additional drug proceeds. This bill attacks all three phases of laundering.

Subsection (a) addresses those individuals who knowingly or intentionally receive or acquire proceeds or engage in transactions involving proceeds from the illegal drug trade.

Subsection (b) deals with those individuals who knowingly or intentionally provide finances or property that they know will be used to violate the drugs laws.

Subsection (c) addresses those individuals who are supervising, directing or facilitating the transportation or transfer of proceeds known to be derived from the drug trade.

Subsection (d) addresses the problem of 'structuring', wherein criminals structure payments to avoid federal cash payment reports and currency transaction reports. For example, a drug dealer may go to four different banks and purchase a $9,000 cashier check at each bank to use in the purchase of a $36,000 airplane for his drug trade. The drug dealer has structured his finances to avoid the $10,000 trigger that requires federal reporting. This would itself be a crime and has been used successfully in the federal system to place a drug dealer on the dilemma of either causing the reporting of financial transactions or committing a crime in an attempt to conceal those transactions.

The activity made illegal under Kansas law in Senate Bill 292 is already prohibited under federal law. As such, this statute will not expose any businesses or individuals to new liability, but would only broaden the authority to investigate such crimes to state and local agencies and their greater resources.

A second point is that for prosecution for any of these offenses it must be shown that a person intentionally or knowingly gets involved with drug money. This should protect the innocent vendor or businessman who unknowingly finds himself to have dealt with drug dealers.

While I don't believe that this statute would result in numerous prosecutions, the handful of individuals who are involved in money laundering that come to light each year could be appropriately punished.

We respectfully request that you pass Senate Bill 292. Thank you.

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Attachment

Kansas County & District Attorneys Association

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EXECUTIVE DIRECTOR • JAMES W. CLARK, CAE

Testimony in Support of

SENATE BILL NO. 292

The Kansas County and District Attorneys Association appears in Support of Senate Bill 292. Like forfeiture of property, the bill is one more weapon that attacks the ability of drug dealers to profit from their illicit activity. It does so by allowing the tracing of ill-gotten profits into more legitimate activities, and punishing those responsible. It sends the message to drug dealers, and those who assist them, that even though you have made a drug sale without being caught in the act, you will never be able to enjoy the money you made without subjecting yourself, and those you do business with, to further jeopardy.

We do have one objection to the bill, beginning with line 16, which creates an exception to application of the bill to transactions between defendants and their lawyers. By recognizing that there is a nexus between such transactions, the Legislature is creating a new right for drug dealers that is not enjoyed by any other criminal, much less a law-abiding citizen. The U. S. Supreme Court has held that a defendant has no right under the Sixth Amendment to pay their attorney with ill-gotten gains, Caplin & Drysdale, Chartered v. United States, 109 S. Ct. 2646 (1989); United States v. Monsanto, 109 S. Ct. 2657. The provisions of this bill appear to give back such a right to drug dealers in Kansas, because it also bases its protection on section 10 of the Kansas bill of rights, thus recognizing independent state grounds over which the United States Supreme Court has no jurisdiction.

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Gayl B. Armstrong
Assistant District Attorney
Douglas County, Kansas
Testimony on Senate Bill No. 293

Our office has run into some problems with Chapter 8 in general, and more specifically regarding possession of false driver's licenses. Other problems with chapter 8 which our office faces includes:

1. There are two definitions of maximum speed limit, in K.S.A. 8-1336 and 8-1558, and these definitions are different.
2. The habitual violator statute, K.S.A. 8-285, is a source of definitions of words and phrases which are also defined in other parts of chapter 8.

We have a problem in our county regarding filing charges on those in possession of false driver's licenses and false identification cards, when the card was issued from another state.

K.S.A. 8-234a(b) states that words and phrases in this act shall have the meaning respectively ascribed to them as defined in article 14 of chapter 8.

K.S.A. 8-1417 defines driver's license as a license to operate a motor vehicle issued under the laws of this state.

K.S.A. 9-1430 defines driver's license as a license or permit to operate a motor vehicle issued under or granted by the laws of this state including . . . any nonresident's operating privilege.

Because K.S.A. 8-260 and 8-1327 do not have a separate definitional section, it can be argued that it is not unlawful to possess a false driver's license or identification card which was issued from a state other than Kansas.

Out-of-state driver's licenses are common in our county, because of the university population. And therefore it is a particular problem which our office is facing.

Unless and until chapter 8 can be cleaned up, I ask that you adopt the proposed amendment which specifically defines a driver's license and identification card to to include those from other states, with regards to possession of false driver's licenses and identification cards.

Thank you.

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Attachment 3

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Attachment

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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TESTIMONY OF
ASSISTANT ATTORNEY GENERAL D. JEANNE KUTZLEY
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
TO THE SENATE JUDICIARY SUB-COMMITTEE
ON CRIMINAL LAW AND CONSUMER PROTECTION

RE: S. B. 262

March 5, 1991

Mr. Chairman and Members of the Committee:

Attorney General Stephan requested the introduction of this bill to attack a problem which has touched hundreds of Kansas consumers over the past few years. Virtually every Kansan has received a postcard or letter proclaiming them the winner of a "free" vacation. Some have pictures of exotic locations while others are disguised as official government mailings.

These mailings by travel promoters are distinctly different from mailings and advertisements by legitimate travel agencies. First, the "free" trip is never free. Usually, you must purchase hotel accommodations at their hotels for a specific number of nights. The rates are so high that you wind up paying more for the hotel than if you arranged your own trip and paid hotel and air fare. Second, the travel promoter never intends to let you take the trip you pay for.

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The solicitations urge you to call for information on your "free" trip. Your call is answered by an operator in a "boiler room" operation. Their scripts are filled with misrepresentations. The American Society of Travel Agents labelled these operations as "travel scams." A typical "boiler room" could bring in $4,000,000 in six months.

We have received over 200 complaints in the past few years from Kansans who were bilked out of their money. Although we pursue these complaints, the promoter has usually closed shop by the time the consumer is aware of the problem. The promoter usually requires the consumer to select three dates for the trip. The first two are always "unavailable" at the last minute. By the time the third date rolls around, the promoter is gone.

This bill would prohibit advertising by travel promoters unless they have actually arranged the transportation they claim to provide. The promoter could not receive any money until the promoter provided the consumer with the disclosures set forth in section 4 of this bill.

The travel promoter would be required to keep on deposit with the state treasurer or a bank approved by the state bank commissioner cash or securities satisfactory to the attorney general in the amount of $500,000. In lieu of cash or securities, the promoter may post a surety bond. This money deposited would be used to provide restitution to consumers if the promoter could not provide the services advertised. Errors and omissions policies would not cover these consumer damages since it is not a mistake but a purposeful act.

Further, the travel promoter would be required to submit a list to the attorney general of names and addresses of the promoter's selling agents.

The promoter will be required to issue a ticket immediately on payment by the consumer. Refunds must be made promptly if the scheduled trip is cancelled.

None of the above requirements will be fool-proof. What they do is give us an early avenue for enforcement. We will no longer be forced to wait until the promoter fails to provide the trip as promised. That is always too late. We can take action if they begin to solicit without posting the security or furnishing us with the list of names of selling agents.

Please note that the definition of travel promoter has been tailored to touch only the scam artists. The definition specifically excludes air carriers, sea carriers, officially appointed agents of air carriers who are members in good standing of the airline reporting corporation, a bona fide non-profit organization and those who offer primarily ground transportation.

This bill is similar to legislation already in place in Illinois and California.

Attorney General Stephan urges your support of this bill.

J/SB262/TXTATTY

Criminal Law & Consumer Protection Subc.
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TESTIMONY
Before the Senate Judiciary Subcommittee on
Criminal Law and Consumer Protection
March 5, 1991
By
Harriet Lange, Executive Director
Kansas Association of Broadcasters

RE: SB 262

Mr. Chairman, Members of the Committee, I am Harriet Lange, executive director of the Kansas Association of Broadcasters (KAB). The KAB represents radio and television broadcast stations in Kansas.

We appreciate the opportunity to appear before you concerning SB 262.

Although we understand the well-intentioned purpose of the bill, we have concerns with the definition of "travel promoter", in Sec. 2 (c).

Many stations and broadcast companies in Kansas periodically sponsor and/or coordinate air and sea travel packages for their listeners and viewers; and to my knowledge have always followed through in providing the travel which they sponsored and promoted.

Requiring a broadcast company to make a $500,000 deposit or to post a security bond in that amount would effectively eliminate broadcast-sponsored air and sea tours.

We therefore respectfully offer for your consideration, a proposed amendment to Section 2 (c), which would exempt from the requirements of this bill, "broadcasting companies".

Thank you for your consideration.

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Session of 1991

SENATE BILL No. 262

By Committee on Federal and State Affairs

2-20

AN ACT concerning regulation of travel promoters; prohibiting certain acts and providing penalties for violations.

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

Section 1. the legislature finds and declares that certain advertising, sales and business practices of travel promoters have worked financial hardship upon the people of this state; that the travel business has a significant impact upon the economy and well-being of this state and its people; that problems have arisen which are peculiar to the travel promoter business; and that the public welfare requires regulation of travel promoters in order to eliminate unfair advertising, sales and business practices. The purpose of this act is to establish standards which will safeguard the people against financial hardship and to encourage competition, fair dealing and prosperity in the travel business.

Sec. 2. As used in this act:

(a) "Air carrier" means a transporter by air of persons subject to regulation as an air carrier by any governmental agency.

(b) "Ticket or voucher" means a writing which is itself good and sufficient to obtain the entire air or ocean transportation, or both, for which the passenger has contracted.

(c) "Travel promoter" means a person who communicates an offer, sells, provides, furnishes, contracts or arranges, or advertises that such person can or may arrange, or has arranged, wholesale or retail air or sea transportation either separately or in conjunction with other services. Travel promoter does not include: (1) An air carrier; (2) a sea carrier; (3) an officially appointed agent of an air carrier who is a member in good standing of the airline reporting corporation; (4) a bona fide nonprofit organization exempt from federal income tax pursuant to section 501(c) of the Internal Revenue Code of 1986 as in effect on the effective date of this act; or (5) a person who offers, sells, provides, furnishes, contracts or arranges, or advertises that such person can or may arrange, or has arranged, primarily ground transportation.

(5) a broadcasting company;

(6)

Sec. 3. A travel promoter shall not advertise that air or sea transportation is or may be available unless such travel promoter

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OFFICE OF THE DISTRICT ATTORNEY

EIGHTEENTH JUDICIAL DISTRICT

SEDGWICK COUNTY COURTHOUSE

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NOLA FOULSTON
District Attorney

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OUTLINE OF TESTIMONY BEFORE
SENATE JUDICIARY SUB-COMMLITTEE OF
JAMES E. PUNTCH, JR.
March 7, 1991

My name is James E. Puntch, Jr. I am an Assistant District Attorney in Sedgwick County, Kansas, and I am here representing the Kansas County and District Attorneys Association and the District Attorney of the Eighteenth Judicial District. Both the Kansas County and District Attorney's Association and Sedgwick County District Attorney strongly support the proposed amendment which is contained in Senate Bill 296.

In the past two years the Sedgwick County District's Attorney's Office has filed more than 4,700 criminal cases. Most of those cases involved dispositions which required the preparation of pre-sentence investigation reports. Those reports contain information about the defendant's background, work, school history, and reports from third parties about the defendant including psychological reports, prior arrests and convictions. The report also contains the defendant's own statements about the circumstances of the crime and the defendant's feelings about the crime. It also includes the pre-sentence investigator's recommendations as to what type of sentence the defendant should receive. Defendants sentenced to the Secretary of Corrections have State Reception and Diagnostic Center reports prepared which contain not only the above information but much more detailed reports on the defendant's psychological background, his current mental status and recommendations for future treatment. Currently all pre-sentence and SRDC may be reviewed by the Prosecuting Attorney but may not be copied and retained.

Permitting the Prosecuting Attorney to copy and retain such reports will increase the efficiency and economy of the Administration of Justice here in the State of Kansas. This will occur in two ways.

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Sedgwick County is a large judicial district with 27 District court judges. Although only a certain number are assigned to the criminal division at any one time most judges will be assigned criminal cases or may have criminal defendants they are supervising on probation or parole. It is not uncommon to have ten or more divisions of the district court conducting sentencing hearings, motions to modify or probation violation motions at the same time on any given day. Typically, more than one defendant will be appearing in each court and in some divisions, as many as 15 different defendants may be appearing on the same morning.

It has been the policy of the Sedgwick County District Attorney's Office to assign every criminal case to a specific attorney who is responsible for that case. This attorney, of course, becomes very knowledgeable about the facts of that case and about that particular defendant. Whenever possible the attorney assigned to that case is sent to cover any post-trial motions such as sentencing hearings, probation violation hearings and motions to modify. However, because of the large number of courts and defendant's involved it is usually impossible to assign the attorney responsible for the case to the post-trial hearing. The reason is the attorney may no longer be with the office or may be involved in court hearings in another division of the District Court which prohibit that attorney from appearing in that case.

As a result attorneys not familiar with a particular case or a particular defendant often have to appear at sentencing hearings, probation violation hearings or motions to modify. If the prosecuting attorney's office is permitted to copy and retain the reports then prosecutor's unfamiliar with the case can easily review the file, including these reports, and appear for the State at sentencings with full knowledge of all of the facts of the case. This permits the attorney who is, for example, assigned to a court where there are ten separate hearings to review the files, including these reports, at one time and at one location. This prevents needless duplication of effort. In addition, the presence of these reports in the District Attorney's file more easily allows the attorney familiar with the case to review them and give advice to the prosecutor attending the sentencing for the State about the appropriate actions and recommendations to take. This will save time and needless duplication of effort.

There will be no breach of confidentiality in permitting the District Attorney to retain copies of such reports because the District Attorney's records are already confidential in nature. Records kept in the District Attorney's files are not disclosed to the public and are kept in secure locations.

The requested change carries no fiscal note for the State of Kansas. Any reports which are copied are done at the expense of the office of the prosecuting attorney and not at the expense of the State of Kansas.

The second benefit to having the reports remain in the prosecutor's files is that it is not at all uncommon for defendants who are placed upon probation to violate that probation and again appear before the Court. If the prosecuting attorney has ready access to previous pre-sentence investigations in all of the defendants cases a clear picture of the defendant's criminal history record and success or lack thereof in prior cases can be made available to the Court. The prosecutor can get a complete picture of a particular defendant's prior record, and make more informed decisions on what actions to recommend to the Court. The Court can then make a more informed judgment as to the appropriate action to take in such probation violation hearings.

I thank you for the opportunity to testify on behalf of this matter today, and urge that this legislation be passed.

Respectfully submitted,

James E. Puntch, Jr.
Assistant District Attorney

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Criminal Law & Consumer Protection Sub.
Attachment

Kansas County & District Attorneys Association

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Testimony in Support of

SENATE BILL NO. 299

The Kansas County and District Attorneys requested this bill and is submitting written testimony in its support. The purpose of the bill is to amend K.S.A. 1990 Supp. 8-2106, the notice to appear statute, by adding violations of K.S.A. 1990 Supp. 41-727, purchase or consumption of alcoholic beverage by a minor, to the list of offenses for which a notice to appear may be issued. The bill was initiated by the Chase County Attorney apparently because of the proliferation of violations of the statute by college students attending the Strong City Rodeo. Having to draft long-form complaints, complete with affidavits, causes a significant increase in Chase (and other) County's workload, and is inconsistent with the legislative trend toward allowing the notice to appear to be used for misdemeanor offenses. The omission of this particular statute from the notice to appear statute is especially unfortunate, since only a few short years ago, the prohibited acts were not even considered a crime for persons who had reached 18 years of age.

There may be some concern that since K.S.A. 41-727 also applies to persons less than 18 years of age, issuance of a notice to appear may cause them to be prosecuted as an adult. It is clear, however, that section (c) of the statute requires filing those cases under the juvenile offender code. The changes we are suggesting in this bill would apply only to those offenders between the ages of 18 and 21.

We urge the subcommittee's favorable recommendation of this bill.

Respectfully Submitted,

James W. Clark

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Attachment 7

41-727. Purchase or consumption of alcoholic beverage by minor; penalty. (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-2610 or 41-2704 or K.S.A. 1989 Supp. 41-308b, and amendments thereto, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a class C misdemeanor for which the minimum fine is $100.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the Kansas juvenile offenders code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than $100 nor more than $500.

(d) In addition to any other penalty provided for a violation of this section, the court may order the offender to do either or both of the following:

(1) Perform 40 hours of public service; or

(2) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) Any city ordinance or county resolution prohibiting the acts prohibited by this section shall provide a minimum penalty which is not less than the minimum penalty prescribed by this section.

(g) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 1985, ch. 173, § 2; L. 1987, ch. 182, § 55; L. 1988, ch. 165, § 9; L. 1990, ch. 179, § 4; July 1.

Attorney General's Opinions:

National minimum drinking age act; history and intent of language of 41-104. 86-74.

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Criminal Law & Consumer Protection Sub.
Attachment 8

SUMMARY OF TESTIMONY

Before the Judiciary Subcommittee on
Criminal Law and Consumer Protection

March 7, 1991

Presented by the Kansas Highway Patrol

(Lieutenant Bill Jacobs)

Appeared in Support of Senate Bill 299

The Kansas Highway Patrol supports Senate Bill 299 because it amends K.S.A. 8-2106 to allow an officer to issue a Notice to Appear instead of filing a long form complaint for a violation of K.S.A. 41-727. K.S.A. 41-727 pertains to the purchase, possession, consumption or attempt to purchase alcoholic liquor or cereal malt beverage by a person under the age of 21 except as authorized by law. The issue of a Notice to Appear instead of filing a long form complaint will be far less time consuming for an officer and will provide additional time to perform other duties and services for the citizens of Kansas.

During review of this proposed legislation, it came to our attention that there was a problem of this same nature in other areas of the traffic law book. At present it is common practice to issue a Notice to Appear for violations of the Child Passenger Safety Act and the Safety Belt Use Act. It appears that there is no statutory authority to issue a Notice to Appear for those offenses.

Therefore, we request that this committee amend Senate Bill 299 to include new subparagraphs (7) and (8) in K.S.A. 8-2106 paragraph (a) as follows:

(7) K.S.A. 8-1343 through 8-1347 relating to the Child Passenger Safety Act.

(8) K.S.A. 8-2501 through 8-2507 relating to the Safety Belt Use Act.

This amendment would clearly authorize the use of a Notice to Appear when citing for those offenses and would avoid any future conflict in that area.

We would also ask this committee to amend the effective date of Senate Bill 299 from publication in the statute book to publication in the Kansas register.

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Gayl B. Armstrong
Assistant District Attorney
Douglas County, Kansas
Testimony on Senate Bill No. 303

We have a problem in our county regarding filing charges on juveniles for violations of city ordinances and county resolutions. K.S.A. 38-1602(b) has been interpreted in our county to include only acts which are contained in the state statutes, and **not** local laws. I am here today to ask that you specifically define a juvenile offender to include one who violates city ordinances and county resolutions.

Currently, in our county if a juvenile between the age of 10 to 17 violates a city ordinance or county resolution, there is no impact on the juvenile. Our office has filed complaints regarding these violations, and the court has repeatedly dismissed these complaints for lack of jurisdiction, in that violations of city ordinances and county resolutions are not included in the definition of juvenile offender, K.S.A. 38-1602(b).

The bottom line is 10 to 17 year olds can not be treated as juvenile offenders, in our county, unless their conduct is violative of a state statute. Obviously the state statutes do not cover problems on the local levels, and there are several areas where the state is silent, but the local governments have spoken. In Lawrence, some of the laws which currently have no effect on juveniles are: possession of electronic device without a serial number, discharging fireworks within city limits and skateboarding on downtown sidewalks and on the university campus.

Our office has been in contact with other counties regarding this problem. In Johnson County, the same problem existed. However, the District Attorney's office prepared a memorandum to the court regarding this issue and since that time the court has accepted complaints charging juveniles with violations of local laws. Additionally, I believe Wyandotte County resolved this issue in the same fashion. However, efforts in our county have been unsuccessful. I believe that the only way to solve this problem is a change in K.S.A. 38-1602(b).

To eliminate the discrepancy from county to county, I would ask that you adopt the proposed amendment which specifically defines a juvenile offender to be one who violates a city ordinance or county resolution.

Thank you.

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STATE OF KANSAS

DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson—Suite 400-N
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(913) 296-3317

Joan Finney
Governor

Steven J. Davies, Ph.D.
Secretary

To: Senate Judiciary Committee

From: Steven J. Davies, Ph.D.
Secretary of Corrections

Subect: Senate Bill No. 326

Date: March 6, 1991

This bill would authorize the Secretary of Corrections to charge and collect a fee from inmates and parolees who test positive for use of controlled substances. The amount of the fee would be based on the cost of the test utilized, including the costs of the test materials and the costs of administering the test. The fees collected would then be placed in the Substance Abuse Testing Fee Fund and would be used to fund the acquisition of additional testing materials.

At correctional facilities in 1990, almost 8000 tests for substance abuse were performed. Approximately 300 of these tests were positive. For parolees, approximately 16000 tests were conducted. Approximately 30-33% of the parolees tested yielded positive results. At correctional facilities, each positive test is confirmed by a second test administered by a different officer. For parolees, positive tests are confirmed by a GCMS test performed by a laboratory when revocation of parole is contemplated. These confirmation procedures increase the costs of the tests and would be included in the fee calculated to be collected from the inmate or parolee.

Testing inmates and parolees for use of controlled substances is believed to be vital to maintaining the security of correctional facilities and the public safety. Requiring inmates and parolees who test positive to pay for the tests is viewed as an appropriate penalty for their conduct.

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While collection of the fee proposed in Senate Bill No. 326 would not cover all of the costs of substance abuse testing for inmates and parolees, it would reduce the amount of operating budgets devoted to this area. As such, Senate Bill No. 326 would be of assistance in maintaining security and public safety and in allowing for the best utilization of taxpayer dollars.

SJD:CES\pa

10-2/2

Criminal Law & Consumer Protection Sub.
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KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS
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JAMES G. MALSON
DIRECTOR

ROBERT T. STEPHAN
ATTORNEY GENERAL

TESTIMONY
MELANIE S. JACK, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
BEFORE THE SENATE JUDICIARY CRIMINAL SUBCOMMITTEE
REGARDING SENATE BILL 329
MARCH 5, 1991

Mr. Chairman and Members of the Subcommittee:

The Automated Fingerprint Identification System (AFIS) has seen increasing success in solving crimes through the use of it's fingerprint library to match known prints with crime scene prints. It is with this success that we ask the Legislature for another law enforcement tool to be implemented with the DNA laboratory. The Legislature has appropriated funds for the DNA laboratory at the Kansas Bureau of Investigation (KBI), which will put Kansas on the forefront of forensic technology. Once operational the KBI requests authority to utilize the DNA technology to develop a DNA databank much like the AFIS system. Such a system will not only identify suspects, but it will also exclude suspects. It could potentially reduce investigation time and insure that a correct identification of the suspect is made. Establishing such a databank can increase the chances of solving sexual assaults and violent offenses when no suspect has been identified. From a prosecutor's standpoint these cases are often very difficult to prove because it is usually one person's word against the other. It's strength is in the ability to make a positive identification.

The DNA databank proposal is drafted from an Illinois/Florida statute which provides for the collection of blood and saliva from persons

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convicted of sex crimes and other violent offenses. To date 11 other states have DNA databanks. In the future it is likely that the FBI will be in charge of central indexing for all states, which will allow access to the databanks from all states participating.

Recently the Kansas Supreme Court has approved the use of DNA in court which paves the way for it's continued use in criminal cases (see attached article).

The Department of Health and Environment has advised us that they object to the language on Page 2, line 4-7. They suggested we adopt the language in the DUI statute 8-1001(c) which states:

> (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person;
> (2) a registered nurse or a licensed practical nurse; or
> (3) any qualified medical technician.

We'd also like to add the crimes of incest, aggravated incest and abuse of a child as convictions requiring the submission of blood and saliva samples as listed in Section 1(a).

On behalf of the Attorney General and the KBI, I would like to thank you for giving me the opportunity to speak.

11-2/5

DNA EXEMPLARS ARE TO BE COLLECTED IN THE FOLLOWING CRIMES:

Rape	(includes attempt)
Indecent Liberties	"
Aggravated Indecent Liberties	"
Criminal Sodomy	"
Aggravated Criminal Sodomy	"
Lewd and Lascivious Behavior	"
Sexual Battery	"
Aggravated Sexual Battery	"
*Incest	
*Aggravated Incest	
*Abuse of a Child	
Murder in the First Degree	
Murder in the Second Degree	
Voluntary Manslaughter	
Involuntary Manslaughter	
Aggravated Battery	
Aggravated Battery Against a Law Enforcement Officer	

*Proposed additions to Senate Bill 329

11-3/5

DNA EXEMPLARS ARE TO BE COLLECTED IN THE FOLLOWING CRIMES:

Rape	(includes attempt)
Indecent Liberties	"
Aggravated Indecent Liberties	"
Criminal Sodomy	"
Aggravated Criminal Sodomy	"
Lewd and Lascivious Behavior	"
Sexual Battery	"
Aggravated Sexual Battery	"
*Incest	
*Aggravated Incest	
*Abuse of a Child	
Murder in the First Degree	
Murder in the Second Degree	
Voluntary Manslaughter	
Involuntary Manslaughter	
Aggravated Battery	
Aggravated Battery Against a Law Enforcement Officer	

*Proposed additions to Senate Bill 329

11-4/5

The Topeka Capital-Journal Saturday, March 2, 1991 9-A

DNA testing admissible

The Associated Press

DNA print testing will be admissible as evidence in court under a decision handed down Friday by the Kansas Supreme Court.

The court, in upholding the validity of the relatively new method of identification, upheld the conviction of Oliver K. Smith in the first-degree murder of a Marion County woman.

In an opinion written by Justice Tyler Lockett, the court in its precedent-setting decision unanimously agreed that the use of DNA material as a method of identifying a suspect generally is regarded as reliable by the scientific community.

DNA is the abbreviation for deoxyribonucleic acid, the principal carrier of genetic information in almost all organisms. It is found in the chromosomes of cells.

Smith was convicted of rape and murder in the death of Shelly Prine, who was found shot and lying in a pool of blood on her living room floor on Oct. 26, 1986. Although shot twice in the head, she was still alive and taken to St. Francis Medical Center in Wichita, where she died the following day.

Smith, who lived 13 miles away from the Prines, became a suspect in the case when neighbors told police they had heard a motorcycle leave the farm on the afternoon of the rape. Smith owned a motorcycle.

The DNA test was done on semen found on the victim. Three experts testified there was a 99 percent probability the semen was Smith's.

DNA profiling can match a person's genetic material with genetic material obtained from a small amount of human tissue left at the scene, on a murder weapon or on a suspect's clothing.

"Although traditional forensic methods exist for comparing blood, hair and semen, DNA profiling has the advantage of being performed on much smaller tissue samples than traditional tests," Lockett said.

11-5/5

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Testimony of
Juliene A. Maska
Statewide Victims' Rights Coordinator
Before the Senate Judiciary Sub-Committee on
Criminal Law and Consumer Protection
RE: Senate Bill 329
March 5, 1991

Attorney General Bob Stephan has asked that I speak to you today about Senate Bill 329. The Attorney General asked that Senate Bill 329 be introduced and seeks your support.

As the Statewide Victims' Rights Coordinator, I have received a number of calls from crime victims who requested that there be a central registry for sex offenders. The collection of blood and saliva specimens for all convicted felony sex offenders would be a major step forward in keeping track of sex offenders.

Sex offenders repeat their crimes. Nicholas Groth, a leading authority on sex offenders, states the average number of rapes committed by a particular offender before he is prosecuted is 13. If there are 12 other victims and some of them may have reported the crime but they could not identify their attacker, DNA profiling could possibly assist in identifying the sex offender.

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There is no known research that states sex offenders can be cured. Most diversion and treatment programs monitor the sex offender to see if they repeat the crime. While a number of sex offenders can be managed from repeating their crime, there are still those who cannot be treated or controlled.

By having this DNA profile of sex offenders, investigators can eliminate suspects and hopefully apprehend the correct offender. By keeping this accurate record of sex offenders, we can begin to stop repeat offenders. The chances will be far greater that the suspect will be prosecuted and found guilty.

With the DNA profiling, there will be a record of all sex offenders in Kansas. This will benefit victims of sex crimes and future victims.

I ask for your support of Senate Bill 329.

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Attachment 1

STATE OF KANSAS

DEPARTMENT OF CORRECTIONS
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Joan Finney
Governor

Steven J. Davies, Ph.D.
Secretary

TO: Senate Judiciary Committee

From: Steven J. Davies, Ph.D.
Secretary of Corrections

Subject: Senate Bill No. 329

Date: March 5, 1991

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY
SENATE BILL 329

The Department of Corrections wishes to express its support for the passage of Senate Bill No. 329, however we do have some concerns. The collection of DNA exemplars samples from convicted felons upon reception at the Kansas Reception and Diagnostic Center and from current felons being paroled or otherwise released from Corrections facilities would impose a financial burden on the Department. Our current healthcare providers are prohibited by National Commission on Correctional Health Care Standard P-11 from participating in collection of forensic information that may be used against the inmate. Enactment of this bill would require additional funding necessary to contract with local healthcare providers for the purpose of collection of forensic samples. The Department estimates that a total of 500 incoming and discharging inmates per year would fit the felony conviction criteria of this bill. Additional clerical costs would be anticipated to monitor the incoming and discharge population in order to identify the specific inmates, where they are located, and the approximate date of testing which would be subject to a multitude of factors. If the designated sites were other than KDOC facilities upon discharge, additional security and transport costs would also be incurred.

The Department of Corrections would like to urge revision of this bill which would take into account the fiscal impact upon the corrections system.

SJD:NKB:el

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STATE OF KANSAS

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Joan Finney
Governor

Steven J. Davies, Ph.D.
Secretary

TESTIMONY TO THE SENATE JUDICIARY COMMITTEE
ON SENATE BILL 330
ROGER WERHOLTZ, DEPUTY SECRETARY
DIVISION OF COMMUNITY AND FIELD SERVICES MANAGEMENT
MARCH 6, 1991

The Department of Corrections supports the enactment of Senate Bill 330 as drafted. The bill creates one procedural change and clarifies language in three separate ways regarding Community Corrections Act statutes.

The first issue addressed by Senate Bill 330 is the establishment of a requirement that a probation violator be referred for review by the local Community Corrections Act program before that probation violator can be revoked and sent to prison. The Department has been advised by several local programs that some probation violators are revoked and sent to state correctional facilities without the community corrections programs knowledge and without that program having an opportunity to review the case and see whether or not they might be able to provide a suitable alternative which would allow that individual to be retained in the community rather than be sent to prison. This language does not require that the person be placed in the community corrections program prior to revocation. It simply requires that the community corrections program have an opportunity to review the individual and propose an alternative to incarceration if appropriate. We believe by formalizing the inclusion of community corrections programs into the revocation process, we may improve those

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programs' ability to keep certain adult felons from being incarcerated in state institutions.

The second issue addressed by Senate Bill 330 is the restoration of the mission statement for Community Corrections Act programs. In 1982, the original statement of purpose for Community Corrections Act programs was deleted from statutory language. The language proposed in Senate Bill 330 is not identical to that original language but does clearly define the primary purpose for Community Corrections Act programming. We believe that this mission statement is consistent with every discussion pertaining to Community Corrections Act funding in which the Department has participated in the last several years.

The third issue addressed by Senate Bill 330 is a clarification of the method used by the Kansas Department of Corrections in reviewing comprehensive plans submitted by local advisory boards and county commissions. The language being amended was first established in Senate Bill 49 in the 1989 Legislative Session. It has been interpreted by a few local programs to mean that the Department of Corrections does not have the ability to alter any of the proposals submitted by the local programs and that funding decisions should be based solely on whether or not the statement of priorities, budget, and proposed plan are in compliance with state statutes, regulations, and operating standards. Using such an interpretation, the Department would have very little ability to control the content of a comprehensive plan or the activities carried out by a local community corrections program. After the passage of Senate Bill 49, we took the opportunity to clarify this concern with several legislators and were advised that that interpretation was not consistent with their intent and that the Department should be involved in setting direction towards the focus on community corrections programs. The practice of the Department in reviewing comprehensive plans is described in KAR 44-11-122 which is attached. The changes suggested by Senate Bill 330 simply clarify the Department's

current practice for review of comprehensive community corrections plans and place it in statute rather than in administrative regulation.

The fourth issue addressed by Senate Bill 330 is simply a clarification of the method of calculation of community corrections grants. It does not alter in any way the grant calculation method but simply clarifies in more specific language what that method is.

The Department of Corrections does not believe that these changes will have any fiscal or procedural impact on any Community Corrections Act programs. They simply reflect in clearer language what the practice has been in terms of approving comprehensive plan content and local program budgets. The bill also returns to statutory language a mission statement which the Department has consistently supported since the first community corrections programs were implemented.

We would respectfully request your support in the passage of Senate Bill 330 as drafted.

44-11-122. Submission of plan, response by secretary. (a) An initial comprehensive plan shall be submitted to the secretary at least 30 days before the start of the calendar quarter for which funds are requested. Each subsequent comprehensive plan shall be submitted by May 1 of each year.

(b) The comprehensive plan shall be submitted by May 1 according to established program standards and the general outline for development of a comprehensive plan.

(c) A program review committee shall be appointed by the secretary to review each comprehensive plan. The committee shall make a recommendation to the secretary.

(d) Any plan may be accepted, rejected or accepted by the secretary subject to specified modifications. Any plan rejected may be revised and resubmitted to the secretary for review. Each county shall be notified by the secretary of approval or disapproval of the comprehensive plan by June 30. (Authorized by and implementing K.S.A. 75-5294, 75-5296, as amended by L. 1989, ch. 92; effective May 1, 1981; amended Feb. 6, 1989; amended March 5, 1990.)

Criminal Law & Consumer Protection Sub.
Attachment

LEAGUE OF WOMEN VOTERS OF KANSAS

919½ S. Kansas Avenue Topeka, KS 66612 (913) 234-5152

March 6, 1991

STATEMENT TO THE SENATE JUDICIARY SUBCOMMITTEE ON CRIMINAL LAW AND CONSUMER PROTECTION IN SUPPORT OF SB 330.

Mr. Chairman and Members of the Subcommittee:

My name is Will Belden, speaking for the League of Women Voters of Kansas in support of SB 330.

The League has long supported the use of rehabilitation in correctional settings. Therefore, the League supports the primary purpose of the Community Corrections Act: To provide juveniles and certain adult offenders with community rehabilitation services, instead of simply sending these people to prison. If correctly implemented, this bill can help provide more effective rehabilitation programs for juvenile and adult offenders.

Thank you for this opportunity to testify before your subcommittee, and I urge your support of SB 330.

Will Belden

Will Belden

Subcommittee - Senate Judiciary
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Attachment 15

STATE OF KANSAS

DEPARTMENT OF CORRECTIONS
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Joan Finney
Governor

Steven J. Davies, Ph.D.
Secretary

To: Senate Judiciary Committee

From: Steven J. Davies, Ph.D.
Secretary of Corrections

Subject: Senate Bill No. 332

Date: March 6, 1991

The Department of Corrections requested the introduction of Senate Bill No. 332 in order to address a problem which has been ongoing for many years. Inmate personal property management has become increasingly more difficult with the growing inmate population. Storage space is in short supply. The more property which is placed in storage creates the potential for property claims due to lost, damaged, or misplaced property. Maintaining control of the property and management of property inventories is a time consuming effort for staff.

The enactment of Senate Bill No. 332 would reduce the management responsibility in this area as well as the risk of liability. Under this act, the property of an inmate who escapes from custody would be considered abandoned property. The Department of Corrections could then proceed to dispose of that property. It would no longer have to be held in storage until the inmate is retaken into custody.

For other inmates, the act provides that any property not taken with them at the time of their release would be held for up to 90 days. If not claims by that time, the property would be considered abandoned and could be disposed of at that time.

The passage of Senate Bill No. 332 will ease a problem which has been ongoing for many years. It could also reduce liability the state might incur as a result of lot or damaged inmate personal property.

SJD:CES/pa

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Attachment 1

STATE OF KANSAS

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Testimony of
Juliene A. Maska
Statewide Victims' Rights Coordinator
Before the Senate Judiciary Sub-Committee on
Criminal Law and Consumer Protection
RE: Senate Bill 333
March 5, 1991

Attorney General Bob Stephan has asked that I speak to you today about Senate Bill 333.

In February 1988, Attorney General Stephan formed a 50-member Victims' Rights Task Force. The purpose of the task force was and still is to insure that the rights and needs of Kansas crime victims are not neglected. The Victims' Rights Task Force continues to address the issues concerning crime victims. The task force asked that Senate Bill 333 be introduced and seeks your support.

Senate Bill 333 would make changes in the crimes being reported to the State by local law enforcement agencies. This bill would allow for the reporting of all incidents of misdemeanors and felonies to the Kansas Bureau of Investigation.

Many incident reports go into the files of a local law enforcement agency and are never seen again or are never written up because the incidents are not important. These

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incident reports can be a valuable tool for showing a pattern or method of operation which can progress to a violent crime.

For example, domestic violence may lead to murder or a minor sex crime can lead to sexual assault or rape. A study done by New England Forensic Associates revealed that 10 percent of all sexually dangerous rapists started out as window peepers; 13 percent of men convicted of child molesting started out by exposing themselves; and 5 percent of all rapists were obscene phone callers. These minor incidents are usually not documented.

There are a number of violent offenders that I am aware of who have committed misdemeanor incidents, but no reports were written by the responding officer. In one case, an offender started with obscene phone calls to females, then exposed himself, then started following females, then abused and shot a woman, and finally this offender is in prison.

As another example, in a homicide case, records of minor and violent abuse incidents were on file in several local law enforcement agencies. Though the suspect was eventually charged with murdering his wife, none of these incidents were reported to the State. The investigation would have gone more smoothly and quickly if these incident reports had been filed with the State.

At this time, we do not have a clear picture of criminal activity in this state. In order to address the problems that

local and state law enforcement agencies are having, we need to have a better report of the actual activity taking place.

The Attorney General and his Victims' Rights Task Force ask for your support of Senate Bill 333.

17-3/3

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KANSAS BUREAU OF INVESTIGATION

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JAMES G. MALSON
DIRECTOR

ROBERT T. STEPHAN
ATTORNEY GENERAL

March 5, 1991

Mr. Chairman & Member of the Committee

I am Michael E. Boyer from the Kansas Bureau of Investigation. The KBI stands in support of the passage of SB 333. The KBI maintains the state's crime reporting system and has since 1978. In the early 1980's, both the federal government and the state of Kansas began a process of converting a monthly summary-based system of crime reporting dating to the 1930's, to what is now referred to as an Incident Based Reporting System. The state of Kansas achieved this conversion in 1985 and is currently in the process of updating this system to incorporate changes at the federal level including hate/bias crime reporting, campus crime initiatives, victim concerns, expanded drug issues and other related problems. As most all data collected is "incident" in nature, the overall impact of this bill is minimal and the changes basically substantiate that which has been occurring since 1985.

The key element in the Kansas Incident Based System is the collection of violations pursuant to state statute. These may then be converted to federal categories; however, the reverse is not true. Given the initiatives of the Sentencing Commission, the IBR system provides a universe from which crime may be viewed in its totality. Simply knowing the number of convictions each year that end up in the custody of the state is not enough to adequate resource planning; one must be able to gauge the potential impact of changes in crime occurrence and enforcement patterns. Only with a solid base of information which the IBR system produces can policy planners be provided with a complete picture of the crime situation in Kansas.

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JAMES G. MALSON
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

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ATTORNEY GENERAL

SENATE JUDICIARY COMMITTEE
SB 333 CRIME REPORTING
March 5, 1991

FUNCTIONAL IMPACT:

1. Comprehensive felony and misdemeanor reporting pursuant to state statute (line 22)

    a) Necessary for more accurate crime count for state of Kansas
        1) Local agencies need for planning (budget, manpower, comparison with other agencies), crime prevention
        2) Legislative staff often requests data
        3) Sentencing Commission efforts
    b) More accurate reflection of agency activity.
    c) Better focus on specific crime problems--target areas
    d) Report forms are provided free of charge to all agencies
    *e) Under the Incident Based Reporting system (IBR) agencies are reporting these data now
    f) Excludes city ordinance/county resolution unless an equivalent state statute exists (lines 23-24)
    g) Better linkage to Criminal History Record System with monitoring capabilities enhanced.

2. Method of Reporting modified (lines 16 & 27)

    a) Allows for electronic media reporting (disk, tape, remote transfer)
    b) Alleviate paper submission if possible
    c) Reduce paperwork at state and local level

3. Incident Reporting (line 17, 26, and 28)

    a) Characterizes total activity
    b) Precludes concern for charges being filed through discretion (lines 20-21)

4. Time of Reporting controlled by Rules and Regulations (line 31)

    a) More flexibility
    b) Reiterates issue of enforcement.

FISCAL IMPACT:

There is no perceived impact to either the state or local agencies from this bill specifically. However, it is recognized that the federal redesign effort will have an impact on those agencies with existing computer systems and the Bureau is currently working with these agencies to collect additional data elements beyond the state program as implemented in 1985.

18-2/2

Criminal Law & Consumer Protection Sub.
Attachment 1

"Helping People Help Themselves"

SAFEHOUSE, Inc. Est. 1979

NATIONAL BANK BUILDING • 101E. 4TH, SUITE 214 • PITTSBURG, KANSAS 66762-4851

Testimony before the Senate Judiciary
Criminal Subcommittee
March 6, 1991

Re: SB 333 and SB 356

SAFEHOUSE wishes to express appreciation for the protection of victims of domestic violence encompassed in SB 333 and SB 356. Legal protection of these victims is well worth acting upon, because they currently do not have the protection they need. Browne and Williams, in their article "Resource Availability for Women at Risk" reported that an in-depth study of all one-on-one murder and non-negligent manslaughter cases from 1980-84 found that more than one-half (52%) of female victims were killed by their male partners. In the book The Abusive Partner, 1982, M. Roy writes "Violence will occur at least once in two-thirds of all marriages." And C. Everett Koop, the former surgeon general, shocked many in medical professions as well as others when he announced "Battery is the single most significant cause of injury to women in this country."

A second compelling fact is that, when such a victim attempts to seek legal recourse, she is often led to believe that there is none available. Then later, when another incident occurs, is often shamed for not taking action previously. This often creates a catch-22 predicament for the victim, and leads to her assumption that no one can help, that she is the cause of the abuse because she always does something wrong, and that she must learn to deal with it herself. These thoughts are always heavily reinforced by the abuser. This element of desperation certainly takes its toll: A survey of women inmates in the New York prison system found that 80% of the women incarcerated for homicide had contacted the police at least five times prior to the act of homicide.

The written reporting of all disturbances would assist victims in proving that they really are being victimized, and that this is not the first time they reported such abuse. It would also enable us to get a clearer analysis of the problem: when no report is written, it is difficult to detect the scope of the problem in any given area, as well as creating difficulty in obtaining other helpful data.

Requiring all law enforcement agencies to have a written policy for domestic violence cases would be tremendously helpful for

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victims. They could then know what assistance is possible. Currently, many victims hear different instructions from various officers at different times, creating much confusion and exacerbating her feelings of helplessness. An important part of SB 356 is having this written policy include arrest when there is probable cause that such a crime occured. Those of us working in rural areas where in many cases law enforcement has not yet adopted such a policy are anxious for the uniformity which would be created by this law. In the 12-county area SAFEHOUSE serves, only two law enforcement agencies have a known written policy for domestic violence cases. The many other agencies handle these cases differently: not only department to department, but also officer to officer. It therefore becomes virtually impossible to provide victims with adequate information so they can take the necessary legal action. Passage of SB 333 and 356 would provide the necessary protection which is currently unavailable for many victims in Kansas today.

Thank you for considering SAFEHOUSE'S interest in the critical topics addressed in SB 333 and 356.

Dorthy Miller, LBSW
Executive Director
SAFEHOUSE, Inc.

19-2/2

Criminal Law & Consumer Protection Sub-Committee
Attachment

TO THE SENATE JUDICIARY CRIMINAL SUBCOMMITTEE
Senate Bill #333
March 6, 1991

Dear Committee Members,

Thank you for taking the time to consider my concerns and remarks. I am here today in reference to Senate Bill #333. I believe that it is essential for a written report to be filed by law enforcement agencies each time an abusive incident occurs for the protection of the victim, as I believe many victims have had difficulties similar to mine. On August 21, 1989, Tommy Rozell, my abuser, attempted to ram my car into an oncoming train. When that didn't work, he abducted me from my car, and beat me severely. After I escaped from him, police took me to the hospital. While in the hospital and recovering, I called the police to come there and take the report. I was told they couldn't come to the hospital for that reason. After I was released, I went to the sheriff department's office to make the report several times, and each time was told that there was no officer present to take the report, or take the necessary pictures.

In last hopes, I contacted Dorthy Miller at Safehouse. I was scared and angry, and couldn't believe that the police were, again, making no attempt to help me. I had called the police eight different times requesting help for different incidents with this same abuser. Written reports were never made. I felt like he was going to kill me, and there was nothing I could do to prevent it. After receiving several calls from Dorthy, the police finally agreed to pursue this case. A written report was taken, though it was too late to get adequate pictures. Tommy plea bargained to terroristic threats, and served eight months in Lansing Penitentiary.

Before Tommy was convicted, it was necessary for me to leave my home town, seek shelter at Safehouse, and relocate in Pittsburg for my safety. Now, Tommy has been placed at the Renewal Halfway House, which is two blocks away from my current address. Although I've spoken to his parole officer and expressed my fears, I was unable to convince him of the risk involved. I have no legal record of all the times this man has broken down my doors, tore my home apart, traumatized my children, and beaten me. The only record I have is the one time for which he was convicted, and the crime he was convicted of does not illustrate the suffering he has caused me or my children. If a written report had been taken each time, I would certainly have more information to provide the authorities so they could make a more knowledgeable decision concerning his placement.

During my stay at Safehouse I have become aware there are many other women and children whose lives are traumatized and sometimes destroyed because of domestic violence. I feel if a

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written report was filed each time a disturbance happened, there would be more evidence available to help the victim prevent any further devastation and destruction in her life and the lives of her children. Too many times the lack of evidence has proven to be fatal in domestic violence situations.

Thank you for considering my concerns.

Edie Strange
2601 N. Joplin, Apt. E 10
Pittsburg, Ks. 66762

20-2/2

Criminal Law & Consumer Protection Sub.
Attachment 2

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE
MARCH 5, 1991

RE: SB 333

THE KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE REPRESENTS THE MORE THAN THIRTY PROGRAMS ACROSS THE STATE WHICH PROVIDE SERVICES TO THE VICTIMS OF SEXUAL AND DOMESTIC VIOLENCE. WE WISH TO EXPRESS APPRECIATION FOR THE BILL TO MAINTAIN PERMANENT RECORDS.

THE NEED FOR BILL 333 IS TO PROVIDE A CHAIN OF EVIDENCE FOR THE VICTIMS. REPORTING PROCEDURES IN MOST CITIES IS NON-EXISTENT. THE FINAL SEPERATION AND PHYSICAL REMOVAL OF THE VICTIM IS RECEIVED, NOT BY SYMPATHETIC EARS BUT INSTEAD THE RESPONSE "DID YOU REPORT THE CRIME TO A LAW ENFORCEMENT AGENCY?" DOCUMENTATION OF PREVIOUS NOTIFICATION OF ABUSIVE SITUATIONS ARE NOT ALWAYS AVAILABLE (ie: NON-RECORDED); A LIFE THREATENING SITUATION TERMED DOMESTIC IS SELDOM DOCUMENTED.

THIS MANATORY DOCUMENTATION WOULD ESTABLISH EVIDENCE OF AN ABUSIVE PATTERN AND IF THE ABUSER KNEW A WRITTEN RECORD WAS BEING MADE EVERY TIME A LAW ENFORCEMENT AGENCY WAS CALLED UPON ABOUT A DISPUTE IT MIGHT NOT SLOW DOWN THE ABUSIVENESS, BUT IT WOULD DOCUMENT THE INCIDENTS. THIS TYPE OF REPORTING WOULD ALSO MAKE AVAILABLE MORE ADEQUATE STATISTICS.

FAMILY VIOLENCE AS A CRIME IS INCREASING IN EPIDEMIC PROPORTIONS. MORE PEOPLE ARE MURDERED, INJURED, OR ABUSED IN THE HOME THAN ANYWHERE ELSE. DUE TO THE SNOW BALLING EFFECT, AND INCREASED REPORTING, I BELIEVE THAT THE CRIME OF THE '90'S WILL BE DOMESTIC VIOLENCE. WE MUST FOCUS ON FAMILY VIOLENCE, AS THIS IS OFTEN THE PREDISPOSING FACTOR FOR MANY OTHER PROBLEMS.

IT IS TIME WE PLACED PRIORITIES IN PERSPECTIVE AND FOCUS ON THE MAIN PROBLEM: FAMILY VIOLENCE AND ABUSE! IT IS TIME FOR POLICY-MAKERS TO REALIZE THAT THEIR IDEALISTIC VIEW OF THE FAMILY IS OFTEN AN ILLUSION AND THAT WE MUST ESTABLISH A PRIORITY TO TRULY MAKE AN IMPACT ON FAMILY VIOLENCE. I BELIEVE BILL 333 WILL HAVE THE IMPACT TO MAKE THESE PROBLEMS MORE REALISTIC.

Testimony provided by Delma M. Rourk

Subcommittee - Senate Judiciary
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Attachment 21

Criminal Law & Consumer Protection Sub.
attachment

KCSDV

KANSAS COALITION AGAINST SEXUAL & DOMESTIC VIOLENCE

P. O. BOX 1341 • PITTSBURG, KS 66762 • 316-232-2757

Testimony before the Senate Judiciary
Criminal Subcommittee
March 5, 1991

RE: SB 333, SB 356, and SB 355

1972 Lawrence
1974 Wichita
1976 Emporia Lawrence Wichita Hutchison
1977 Topeka McPherson
1978 KOSAC
1979 KADVP Manhattan Pittsburg Overland Park
1980 Salina Kansas City El Dorado
1981 Dodge City Great Bend Garden City Liberal
1983 Hays Winfield Scott City
1984 Iola Leavenworth
1985 Hillsboro
1989 Atchison

The Kansas Coalition Against Sexual and Domestic Violence represents the more than thirty programs across the state which provide services to the victims of sexual and domestic violence. As Director of the Coalition, I am afforded a unique overview of the services being offered across our state and the obstacles which victims and advocates encounter as they provide those services. I am pleased to speak on behalf of Senate bills 333, 356, and 355, and to assure you of the Coalition's support for your efforts.

During last year, programs in Kansas provided shelter to approximately 2,100 women and 2,600 children. At a rate of one person per unit per day, an estimated 49,000 shelter units were provided. During the last six months, nearly 2,000 victims received services without being sheltered. We would hope that this represents all of the victims of domestic violence who needed services and yet, that probability is very low. National statistics tell us that one woman is beaten every 18 seconds; that 3-4 million are battered each year. It is a great concern to those of us working in this field, that Kansas has no way of determining the actual number of domestic violence victims within the state. Every day we encounter victims whose abuse has been persistent and progressive but which is not documented because no reports were filed on the various incidences. Senate bill 333 will enable us to keep an accurate account of both the frequency of domestic violence and the progression of its severity by requiring reports to be made. In addition, the information generated will allow us to determine how effective our outreach programs really are, by providing a comparison to the number of victims we serve.

I would like to be able to say that every one of last year's victims in Kansas, had equal access to services, law enforcement protection, and recourse through the courts. As it happens, there is a wide variation in access because true access is only gained by the coordination and cooperation of the professionals who work in these systems: social services, law enforcement and court services. What we have learned in the communities which have implemented written policies, is that written policies enhance, encourage, and even create the context in which such coordination and cooperation develops. It seems a great shame to not share the learning of the few with the many. It is completely possible that left on their own, many communities would eventually develop policies concerning domestic violence for law enforcement officers. The problem with such an approach is that it leaves hundreds, even thousands, of victims in the lurch. Senate bill 356 would accelerate the process and help assure that all victims in Kansas are afforded equal access.

It is currently estimated that one out of every four battered women has also been raped by her abuser. What this means for Kansas, based on our usage statistics, is that some 525 of the victims who sought shelter from abuse last year, have also been raped by their abusers. If she was forced to have intercourse against her will or under specified circumstances, then she can file rape charges. If her abuser chose instead to demean her physically, without penetration, through grabbing, handling, or fondling, then she has no recourse. When domestic violence is understood as a struggle for power and control, the use of sexual abuse as a tool for domination is clear and the damage to the victim just as devastating. Many years ago, Kansas lead the way by being one of the first states to abolish the marital exclusion in its rape law. Senate bill 355 will carry that leadership one step further by asserting that married women in Kansas are just as valuable and worthy of respect as anyone else.

I applaud your efforts to address these difficult yet critical issues and thank you on behalf of all the victims who will benefit from actions.

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3-7-91

Alita Brown, Director

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KCSDV
KANSAS COALITION AGAINST SEXUAL & DOMESTIC VIOLENCE
P. O. BOX 1341 • PITTSBURG, KS 66762 • 316-232-2757

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

MISSION STATEMENT

The Kansas Coalition Against Sexual and Domestic Violence is a network of programs reaching across our state, helping us unify on a state level to end battering and sexual assault wherever it occurs. Our primary focus is on providing support and safety to the victims of these crimes through the direct services that our member programs provide.

The major work of the Coalition is to support this network of services by increasing public awareness through education and advocacy, providing technical assistance and training, exploring new options for services and funding, and by working for social change. We are dedicated to the vision of "violence-free lives" for the women, children, and men of Kansas.

LEGISLATIVE SURVEY

In preparation for the current legislative session, the Legislative Committee surveyed KCSDV Member Programs to ascertain the issues of most pressing concern at the local level. The results from the survey clearly indicate some of the distinct needs perceived across the state.

* More Funds Needed. 100% of those programs responding to the survey reported that it is important to address the need for additional funds for services to victims of sexual and domestic violence and their children during this upcoming legislative session.

Although the budget is certain to be tight, the demand for funding is particularly critical when considering the consistent increase in demand for our services and that a recession will only exacerbate our over extension.

* Protection of children: 100% of the programs stated a need for the Statutory Presumption that it is detrimental to the child to place them in the custody or unsupervised visitation of an abusive parent when there is evidence of spouse abuse.

* Other legislative actions sought by KCSDV:

* A law requiring HIV testing for alleged sex offenders with results made available to victims.

* A law requiring all law enforcement agencies to have written policies for the handling of domestic violence cases, including arrest when probable cause exists.

* A law requiring that a report be written on each criminal incident, whether or not an arrest is made. This data is essential to support the victims of this crime and to the collection of accurate statistics which will develop a realistic picture of this crime in Kansas.

* A law which will remove the marital exclusion in the crimes of aggravated sexual battery and sexual battery.

SENTENCING COMMISSION RECOMMENDATIONS

KCSDV supports the changes which are being recommended by the Kansas Sentencing Commission. Over the fifteen years during which our programs have been providing services, there has been a huge variance in the sentences received by the perpetrators of the crimes whose victims we serve. We believe that the current recommendations will allow for more consistency in sentencing practices and will result in more accountability to the victims of these crimes.

The overall intent of the Commission, to make crimes against persons at least as consequential as crimes against property, is totally supported by the Coalition. It addresses our frustration of many years in seeing the victims we serve revictimized by the system.

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KANSAS COALITION AGAINST SEXUAL & DOMESTIC VIOLENCE

KCSDV

P. O. BOX 1341 • PITTSBURG, KS 66762 • 316-232-2757

1972
Lawrence

1974
Wichita

1976
Emporia
Lawrence
Wichita
Hutchinson

1977
Topeka
McPherson

1978
KOSAC

1979
KADVP
Manhattan
Pittsburg
Overland Park

1980
Salina
Kansas City
El Dorado

1981
Dodge City
Great Bend
Garden City
Liberal

1983
Hays
Winfield
Scott City

1984
Iola
Leavenworth

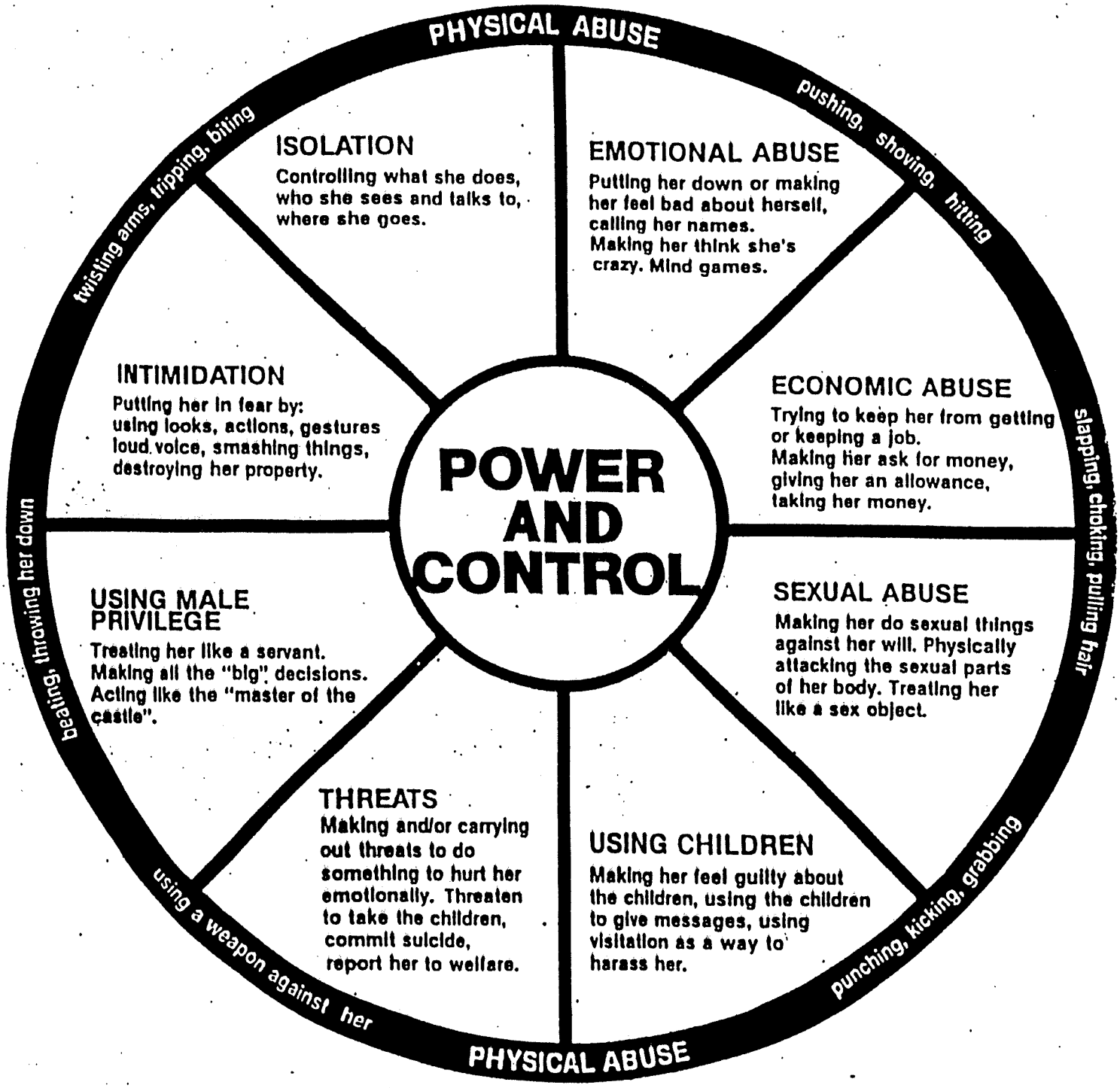
1985
Hillsboro

1986
Atchison

Alliance Against Family Violence - P.O. Box 465, Leavenworth 66048	913-682-1752
Battered Women's Task Force - P.O. Box 1883, Topeka 66601	913-354-7927
Cowley County Safe Homes - P.O. Box 181, Winfield 67156	316-221-4357
Crisis Center, INC. - P.O. Box 1526, Manhattan 66502	913-762-2333
Crisis Center of Dodge City - P.O. Box 1173, Dodge City 67801	316-225-6987
Domestic Violence Association of Central Kansas - 1700 E. Iron, Salina 67401	913-827-5862
Douglas County Rape Victims Support Services - 1419 Massachusetts, Lawrence 66044	913-843-8985
DoVES (Domestic Violence Emergency Services) - P.O. Box 262, Atchison 66002	913-367-2112
Family Crisis Center - P.O. Box 1543, Great Bend 67530	316-792-3672
Family Crisis Services - P.O. Box 1092, Garden City 67846	316-275-2018
Family Life Center - P.O. Box 735, El Dorado 67042	316-321-7104
Harvey Co. Task Force on Domestic Violence & Sexual Assault - P.O. Box 687, Newton 67114	316-383-6900
Hope Unlimited - P.O. Box 12, Iola 66749	316-365-7566
Liberal Area Rape and Domestic Violence Services - P.O. Box 1707, Liberal 67901	316-624-8818
Marion County Domestic Violence Association - 400 Floral Drive, Hillsboro 67063	316-947-2466
McPherson County Council on Violence Against Persons - P.O. Box 406, McPherson 67460	316-241-3510
Northeast Kansas Victims of Crime - Rt. 1, Box 157A, Horton 66439	800-544-3167
Northwest Kansas Family Shelter - P.O. Box 284, Hays 67601	913-625-4202
Rebecca Vincson Center - P.O. Box 1514, Kansas City 66117	913-321-0951
S.O.S., INC. - P.O. Box 1191, Emporia 66801	316-342-1870
Safehouse - P.O. Box 313, Pittsburg 66762	316-231-8251
Safehome, INC. - P.O. Box 4469, Overland Park 66204	913-432-5158
Sexual Assault & Domestic Violence Center of Reno County - 1 E. 9th, Hutchison 67504-2856	316-665-3630
Wichita Area Sexual Assault Center - 215 N. St. Francis, Suite 1, Wichita 67202	316-263-0185
Women's Transition Care Services - P.O. Box 633, Lawrence 66044	913-841-6887
YWCA Women's Crisis Center - P.O. Box 1740, Wichita 67201	316-263-2313

Serving Victims Throughout Kansas

22-3/4


PHYSICAL ABUSE
pushing, shoving, hitting
slapping, choking, pulling hair
punching, kicking, grabbing
using a weapon against her
beating, throwing her down
twisting arms, tripping, biting
POWER AND CONTROL
ISOLATION
Controlling what she does, who she sees and talks to, where she goes.
EMOTIONAL ABUSE
Putting her down or making her feel bad about herself, calling her names. Making her think she's crazy. Mind games.
ECONOMIC ABUSE
Trying to keep her from getting or keeping a job. Making her ask for money, giving her an allowance, taking her money.
SEXUAL ABUSE
Making her do sexual things against her will. Physically attacking the sexual parts of her body. Treating her like a sex object.
USING CHILDREN
Making her feel guilty about the children, using the children to give messages, using visitation as a way to harass her.
THREATS
Making and/or carrying out threats to do something to hurt her emotionally. Threaten to take the children, commit suicide, report her to welfare.
USING MALE PRIVILEGE
Treating her like a servant. Making all the "big" decisions. Acting like the "master of the castle".
INTIMIDATION
Putting her in fear by: using looks, actions, gestures loud voice, smashing things, destroying her property.

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Criminal Law & Consumer Protection Sub.
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TESTIMONY BEFORE THE SENATE JUDICIARY CRIMINAL SUBCOMMITTEE
MARCH 6, 1991

RE: SB #333 and SB #356

Dear Committee Members,

I want to thank you for this opportunity to express my support for Senate Bill #333. I am also in support of SB #356, as my remarks will indicate. I am a victim of domestic violence. My abuser, Tom Bolds Jr., has abused me repeatedly since January, 1989. Since that time, he has beaten me atleast fifteen times, held a knife to my stomach twice, held a piece of glass to my throat, almost choked me to death once, busted in two doors, broken several windows, beat on my door repeatedly in the middle of the night, beat on my daughter's window when I wouldn't answer the door, and after breaking in wouldn't let me leave my own home for hours at a time. In fact, in some of the instances, when I requested police assistance, I was the one forced to leave my own home while he stayed there, regardless of the fact that the home was rented to me alone with only my name on the lease. When my Safehouse Counselor, Brooke, tried to help me get some personal possessions out of my home during one of these times when the police made me leave and let him stay in my home, the police threatened to arrest Brooke if she went one more step in the apartment, because Tom said he didn't want her in there. Since the police also refused to come in, I was cornered in the bedroom closet by Tom until Brooke convinced the officer to come check on me.

A written police report was taken in less than one-half of the times I requested help, and I was discouraged from contacting them any more. At one point an officer told me that if I called them for help again, they would arrest me for disorderly conduct. Discouraged and feeling unsafe, I moved to another town while Tom was in jail: he was not arrested for anything he did to me, but because he was harassing my daughter's school and they called the police. When the police responded, he stated some obscenities to them and they arrested him for disorderly conduct. I lived in Cherokee for about 3 peaceful weeks before he showed up on my doorstep New Year's Eve, drunk. I had no telephone at the time, and finally opened the door due to my fear of his anger if I didn't. So the abusive cycle started again, and again I had to leave my home and go to Safehouse for protection. While in Safehouse, he continued to harass me, calling the Safehouse numerous times each day, and even calling bomb threats in to the TV station, saying there was a bomb at Safehouse. Finally, he was arrested again: this time it was for a parole violation which involved him threatening another woman with a gun. When they arrested him, he had again broken into my house.

Although he no longer is free, he is being held at a community work release program, and is able to call my family and harass them, which he does quite frequently. He is now threatening to

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go to my doctor's appointments and harass me there. Since he reportedly gets 4 hours off per week, I'm not sure whether he could really do this.

If Tom had been arrested rather than pampered when he was harassing me, this harassment wouldn't be continuing the way it is. Instead, he has been able to turn the police against me by his constant harassment of me, which just gives him the ammunition to keep it up.

If each time the police are called on a domestic disturbance they would make a written report and take the incident seriously, men like Tom would not get away with as much as they do. The way it is now, they get by with so much without even a report written up, that it is hard for a victim to have the necessary legal evidence to prove they are truly a victim. Right now Tom has battery charges pending against me because while attempting to protect my son from Tom taking off with him, I unintentionally scratched Tom while reaching for my son.

Until we get written reports on incidents, and policies which include arrest when probable cause exists, the harassment will continue to happen until something more severe happens: in my case and many others. I therefore urge you to seriously consider these bills. Thank you.

Nancy K. Nye
211 North Buckeye
Cherokee, Ks. 66724

Criminal Law & Consumer Protection Sub.
Attachment

SUMMARY OF TESTIMONY

Before the Judiciary Subcommittee on
Criminal Law and Consumer Protection

March 6, 1991

Presented by the Kansas Highway Patrol

(Lieutenant Bill Jacobs)

Appeared in Support of Senate Bill 354

The Kansas Highway Patrol supports Senate Bill 354 because it would provide for equal penalties for persons who commit traffic infractions no matter if they were from a state that is a member of the nonresident violators compact or not.

Presently, those persons from a state that is not a member may be asked to post bond for infraction offenses, but if that person refuses to post bond, there is no recourse but to release that person. If the individual does not pay the fine to the court at a later date, there are no actions taken against them in their home state. The person escapes all penalties unless they return to Kansas and are stopped for some reason and the officer checks their record and finds an outstanding warrant for their failure to appear.

This amendment would allow an officer to take an individual that refuses to post bond, if from a noncompact state, into custody and take them before a judge so that they would receive the same penalties for their violations as residents from Kansas or from a compact state.

The Patrol would request that this committee give favorable consideration to Senate Bill 354.

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Attachment 25

Testimony of
Juliene A. Maska
Statewide Victims' Rights Coordinator
Before the Senate Judiciary Sub-Committee on
Criminal Law and Consumer Protection
RE: Senate Bill 355
March 5, 1991

Attorney General Bob Stephan has asked that I speak to you today about Senate Bill 355.

In February 1988, Attorney General Stephan formed a 50-member Victims' Rights Task Force. The purpose of the task force was and still is to insure that the rights and needs of Kansas crime victims are not neglected. The Victims' Rights Task Force continues to address the issues concerning crime victims. The task force asked that Senate Bill 355 be introduced and seeks your support. This bill would further enhance the rights of crime victims.

Senate Bill 355 would allow the spouse of the victim to be charged with sexual battery or aggravated sexual battery.

Many people do not define attacks of sexual assaults as a crime unless the offender is a stranger. Even victims who are married to the person who sexually assaulted them do not refer to the assault as a crime, yet the acts committed against them are crimes.

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There are a number of assumptions that the impact on a victim who is married to the offender is less traumatic. This is not true. In a study done by the Department of Psychiatry and Behavioral Sciences at the Medical University of South Carolina, it revealed that in sexual assault cases where the husband was the offender, the victims were likely to be injured or thought they would be killed. The study also stated that women assaulted by their spouses were just as likely to be depressed, fearful, and sexually dysfunctional years after the assault. This shows that the physical and psychological impact is no different for a spouse.

Sexual battery is a violent crime causing physical or psychological injury to its victims. Kansas needs a statute which would allow offenders who are married to the victim to be charged with sexual battery.

The Attorney General and his Victims' Rights Task Force ask for your support of Senate Bill 355.

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Attachment 26

Testimony by

Kris Wilshusen, Executive Director,
Wichita Area Sexual Assault Center

Given to the Senate Judiciary Subcommittee
with regard to Senate Bill No. 355 on March 5, 1991.

My name is Kris Wilshusen. I am the Executive Director of the Wichita Area Sexual Assault Center. Thank you for allowing me the time to speak with you today.

I have been working with victims of sexual assault since 1982. During that time I have seen many types of victims - young, old, male, female, all colors and socioeconomic levels, married and unmarried. The common thread that exists despite these differences is that each person has been traumatized by a sexual assault, an act carried out against her or his wishes.

Emotional trauma results whether the victim knows the offender or not. It is no less traumatic for the victim who has been sexually assaulted by a spouse than for a victim sexually assaulted by a stranger. One may result in a newly developed fear of strangers or places. The other may result in the shattering of a personal support system - not knowing if those you love are to be trusted or believed; not knowing if you are safe in your very own home.

By removing the spousal exemption from the Kansas statutes regarding sexual battery and aggravated sexual battery, people will know that victims in Kansas are treated equally. A victim who happens to be married to her or his offender will no longer be at a disadvantage in the eyes of the law. It will be a clear message to spouses who sexually batter their partners that they no longer have a "license" to do so.

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It is time to say to all in Kansas that every person has the right to choose when, where, and with whom they will engage in sexual activity. This right should not be limited to certain groups. All people should be protected by the statutes - married persons as well as unmarried.

Thank you for your time.

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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
Juliene A. Maska
Statewide Victims' Rights Coordinator
Before the Senate Judiciary Sub-Committee on
Criminal Law and Consumer Protection
RE: Senate Bill 356
March 5, 1991

Attorney General Bob Stephan has asked that I speak to you today about Senate Bill 356.

In February 1988, Attorney General Stephan formed a 50-member Victims' Rights Task Force. The purpose of the task force was and still is to insure that the rights and needs of Kansas crime victims are not neglected. The Victims' Rights Task Force continues to address the issues concerning crime victims. The task force asked that Senate Bill 356 be introduced and seeks your support. This bill would further enhance the rights of crime victims.

Senate Bill 356 would require law enforcement agencies to adopt written policies for responding to domestic violence calls. This bill outlines a minimum number of procedures which all officers should follow.

Domestic violence affects three to four million women each year. Victims of domestic violence who call for help from law enforcement agencies are often treated differently

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than other victims of similar crimes. Litigation against law enforcement agencies has been widespread in recent years by victims of domestic violence. In Watson vs. Kansas City, a victim brought civil damages against the city, alleging that as a domestic violence victim, she was treated differently than victims involved in similar types of crimes. The victim established that when there was a known perpetrator in non-domestic assault crimes, there was an arrest rate of 31 percent. However, in domestic assault cases for the same time frame, there was only an arrest rate of 16 percent. The court ruled that victims of domestic violence were afforded less protection than non-domestic victims.

This bill would require all officers to develop procedures for responding to domestic violence calls. In a 19-page position paper entitled Managing the Risk of Municipal Liability, prepared by Steve Schwarm, Special Assistant Attorney General, he states "... should a policy be adopted which would be viewed as guidelines or should law enforcement officers operate based on their discretion, guidelines would make the Kansas Tort Claims Act unavoidable as a defense. Guidelines provide officers with an across-the-board application based on the status of the crime involved and not the status of the crime participants."

This bill states that all law enforcement agencies shall have written policies. While state law enforcement agencies may not have the same responsibilities as outlined in this

bill, state officers should be directed to follow the procedures in the jurisdiction they are in. Training on responding to domestic violence victims and offenders is also needed. Also, if the state agency receives the initial call on a domestic disturbance, it should have procedures to follow in responding to the call.

The Attorney General and his Victims' Rights Task Force ask for your support of Senate Bill 356.

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Attachment

Sexual Assault/Domestic Violence Center

formerly Reno County Rape Center, Inc. & Reno County Victims of Abuse Network, Inc.
1 East Ninth, Hutchinson, KS 67501
316-665-3630 - Office

Committee on Judiciary
Re: Senate Bill # 356

Dear Chairperson and Committee Members,

Simply stated, we as advocates of victims of sexual and domestic violence ask for you support of Senate Bill # 356 as written.

Respectfully,

Janet A. Messing
Program/Volunteer Coordinator

Annetta Hembree
Shelter Manager

Lucki Boyd
Executive Director

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Criminal Law & Consumer Protection Sub.
Attachment 3

Battered Women Task Force

at the YWCA

Box 1883 • Topeka, KS 66601 • (913) 354-7927

Testimony before Senate Judiciary Sub-Committee
March 5, 1991

Re: SB 356

On January 3, 1990 the Community Criminal Justice Protocol for Family Violence Cases in Shawnee County was formally signed by the District Attorney, Sheriff, Police Chief and the Battered Women Task Force staff. Representatives from these agencies met periodically over the previous year to write formal, mutually agreed upon, policy for our community that would encourage uniform procedures in domestic violence cases.

This written policy has been a wonderful reference point when there are glitches in the system. What we have found after one year is that our agency is hearing fewer complaints from victims about how the criminal justice system is treating them. There continue to be some individual cases that are handled inappropriately but with our formalized procedure there is less confusion on the part of law enforcement officers about what they are to do and what the district attorney's staff will do in domestic battery cases.

The task of writing the protocol gave us the opportunity to improve our working relationship with other agency members and we have continued to meet periodically to problem-solve in the area of domestic violence with representatives from Topeka Police, Sheriff and District Attorney's office.

A written policy on domestic violence that clarifies responsibility of each entity enhances the standard of justice making it more uniform for victims throughout the state. Our local domestic violence program was the catalyst for the formulation of a written policy in our community however, there are only thirty such programs in the state. Requiring written policies should greatly help victims throughout the state receive more equitable treatment.

Respectfully,

Marilynn Ault
Program Director

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Attachment 30

League of Kansas Municipalities

Municipal Legislative Testimony

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: Senate Committee on Judiciary; Subcommittee on Criminal Law
FROM: Jim Kaup, League General Counsel
RE: **SB 356; Mandatory Domestic Violence Policies**
DATE: March 5, 1991

The League appears in opposition to SB 356 on the basis of our longstanding opposition to state mandates.

The League's convention-adopted Statement of Municipal Policy provides, in pertinent part:

> **B-4c. State Mandated Functions. (a)** We oppose the imposition of additional state-mandated functions or activities on local governments. State-mandated programs without state funding is contrary to the spirit of constitutional home rule. Any function or activity deemed of sufficient statewide concern or priority to justify its required local performance should be financed by the state.

This opposition to state mandates was the basis for the League's opposition to HB 2330 in the 1989 and 1990 legislative sessions. That bill, like SB 356, placed mandatory duties upon local law enforcement officers. Partially in response to HB 2330, and the Kansas legislature's obvious interest in curbing domestic violence, the League increased its efforts to encourage our member cities to consider adoption of domestic violence policies for law enforcement officers. In May 1990 the League published a report, "Municipal Policies on Domestic Violence", which was distributed to most of our member cities, and summarized that report in an article in the Kansas Government Journal.

The League's convention-adopted Statement of Municipal Policy was also amended to reflect the growing concern over domestic violence:

> **G-6. Domestic Violence.** Municipalities should adopt written policies stipulating that domestic violence will be treated as other battery and assault cases, including a specific policy concerning how to handle domestic violence cases when probable cause exists for arrest.

The League's opposition to SB 356 goes beyond the basic philosophical objection to state mandates upon the performance of local law enforcement. The League would call to this Committee's attention the serious consequences for tort liability which could result from enactment of SB 356, and the subsequent failure of a law enforcement agency to comply with its provisions. Tort liability would also exist where an agency has adopted "written policies

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regarding domestic violence calls", but the responding law enforcement officers do not comply with the adopted policies.

This concern over tort liability relates back to the 1986 Kansas Supreme Court decision in Fudge v. City of Kansas City, 239 Kan. 369. In Fudge, the Supreme Court dealt with the public duty doctrine--the tort concept of no governmental liability absent a special duty to act. The Court noted that police officers have a duty to the public at-large rather than to any individual citizen, but where the police are subject to guidelines or owe a specific duty to an individual, the public duty doctrine does not apply and the police owe a special duty accordingly. In Fudge, the Court adopted the Restatement of Torts, Section 324A, which provides in part: "One who undertakes...to render services to another which he should recognize as necessary for the protection of a third party...is subject to liability to the third party for physical harm resulting from failure to exercise reasonable care to protect his undertaking, if (a) his failure to exercise reasonable care increases the risk of such harm..."

In Fudge, the Kansas City police department had a standard operating procedure manual which set out mandatory procedures for handling a variety of police situations. One of those situations involved handling intoxicated individuals. Specifically, that order stated, in part, "an individual...who is incapacitated by alcohol...will be taken into protective custody...". The existence of that general order lead the Court to conclude that the police officers had a duty to take an intoxicated driver into protective custody. The Court stated that the police officer should have realized that taking the intoxicated driver into protective custody was necessary for the protection of third parties. "Their failure to do so significantly increased the risk that (the intoxicated driver) would cause physical harm to others." Therefore, once having established a special duty to take the intoxicated person into protective custody, they were able to extend this special duty to a deceased plaintiff who was killed in an automobile accident caused by the intoxicated driver. It was the Kansas Supreme Court's holding that the failure to enforce the law, in this case the police department's own general order which sets out mandatory arrest guidelines, created a special duty owed by the police to a third party who suffered injury because of that failure to follow the department's general order.

As a final note regarding the potential for Fudge-type tort liability arising from SB 356, the League would note the 1987 Kansas Legislature's amendment to K.S.A. 75-6104(d) of the Kansas Tort Claims Act. While that amendment was in response to Fudge, the League does not believe that the 1987-passed amendment would be adequate to protect a municipality from tort liability in claims arising from the alleged failure to comply with the mandates of SB 356.

Finally, the League notes for this Committee's consideration the fact that there are very few provisions in state law where a law enforcement officer is mandated to place an individual under arrest. The general rule is that law enforcement officers are given discretion as to whether persons should be arrested for their conduct, regardless of whether that conduct constitutes a felony or misdemeanor, and regardless of whether the conduct occurred in the officer's presence. SB 356 represents a rather dramatic departure from that longstanding state policy.

The League respectfully asks this Committee to not take favorable action on SB 356.

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Municipal Policies on Domestic Violence

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League of Kansas Municipalities
112 West Seventh Street
Topeka, Kansas 66603

May, 1990
Price $5.00

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STATE OF KANSAS

DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Joan Finney
Governor

Steven J. Davies, Ph.D.
Secretary

TESTIMONY TO THE SENATE JUDICIARY COMMITTEE
ON SENATE BILL 357
ROGER WERHOLTZ, DEPUTY SECRETARY
DIVISION OF COMMUNITY AND FIELD SERVICES MANAGEMENT
MARCH 6, 1991

The Department of Corrections supports the enactment of Senate Bill 357. This bill simply rectifies inconsistency in statutory language between KSA 75-52,103 and KSA 75-52,111.

When Senate Bill 49 was passed by the legislature during the 1989 Legislative Session, it mandated statewide implementation of community corrections programs and placed the funding cycle of those programs on a state fiscal year. That language is reflected in KSA 75-52,111. The ten original community corrections programs were subsequently converted to the state fiscal year funding cycle and the twenty-two new community corrections programs were all implemented on the state fiscal year cycle. This bill simply brings language contained in KSA 75-52,103 into conformity with other statutory language pertaining to Community Corrections Act programs.

The Department of Corrections would suggest one minor change in the bill as drafted. On line 21 of page 3, the word "calendar" is struck and the words "state fiscal" are substituted. In this one line only, the word should remain "calendar" because it refers to the county fiscal year which is a traditional calendar year.

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All other changes contained in the bill should remain. There is no fiscal or procedural impact to this bill.

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STATE OF KANSAS

JUST BOGINA, JR., P.E.
SENATOR, TENTH DISTRICT
JOHNSON COUNTY
5747 RICHARDS CIRCLE
SHAWNEE, KS 66216

COMMITTEE ASSIGNMENTS
CHAIRMAN: WAYS AND MEANS
CHAIRMAN: LEGISLATIVE POST AUDIT
VICE CHAIR: GOVERNMENTAL ORGANIZATION
MEMBER: FINANCE COUNCIL

TOPEKA

SENATE CHAMBER
STATE CAPITOL
TOPEKA, KANSAS 66612
(913) 296-7362

Mr. Chairman and Members of the Subcommittee:

Senate Bill 75 attempts to address a problem many of us have with telephone solicitors. The prime mover of this bill is a friend who has a bed-ridden invalid wife who pays for a separate private unlisted line and phone for her use in case of emergency. Unfortunately telephone solicitors in person and via electronic recording make calls to that phone against his wishes and desires. Furthermore, often times the recorded call does not disconnect in a timely manner when the phone is supposedly disconnected. This latter event can be a danger in case an emergency does arise and the phone is needed. In this real case, this issue is above and beyond mere nuisance to the recipient of those calls.

I believe a letter from Mary Fulco (attached) probably expresses a most valid opinion. "I feel, I pay for my phone & no one is allowed to tap in on my electric line or gas lines, nor interrupt by cable TV. Why should <u>just anyone</u> be able to use my phone line?" I agree with that attitude. I understand that I can hang up the phone and not listen to the sales pitch, but at that point I have already been inconvenienced and interrupted by

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an unnecessary and unwanted telephone call.

I have a tape from a friend's answering machine whereon an electronic machine "talks" to the recorder for a full five minutes about a solicitation and in the process leaves a "900" number to respond to the sales pitch. The "900" number calls are charged to the person making the call. Therefore, the unsuspecting potential "pigeon" will pay for the call if they respond to the solicitation.

All of you probably have been disturbed by these calls. If so, this is your opportunity to attempt to eliminate that unwanted intrusion. I am aware of some friendly amendments proposed by Southwestern Bell Telephone and Kansas Telecommunications Association that could enhance the qualities of the bill. I would ask that you be wary of other proposed amendments that might weaken the desirable features. One important feature in the bill is the disconnect time found on page 2, lines 17 through 20. That time must be reasonable, but not excessive. As an indication, the next time you receive a computer call, hang up, pick up the phone after a few seconds, and you will probably find the computer still trying to sell you some unwanted merchandise. Do this with different computer calls, you would probably be surprised how long your line is "tied up" by the calling machine.

Mr. Chairman and members of the subcommittee, I believe this

is a consumer measure. Your constituents will appreciate the passage of the bill. The solicitors will not like you, especially those that might be penalized for violating this Act.

I respectfully request that you recommend the bill favorable for passage.

Thank you. I will be pleased to attempt to answer any questions the members may have.

Respectfully submitted,

Senator Gus Bogina
Senator, Tenth District

Attachment

Mary Zulco
8404 W. 111 Terr.
O. P. Ks. 66210

Feb 12, 1990

Senator Gus Bogina,

I am so elated about your legislature regarding telemarketing. I have written to my State & National congressmen. I have written twice to Telephone Preference Service, asking my number be removed from their lists. I have even changed my phone number. Nothing has helped.

I have gotten out of the bathtub, burned my dinner & been bothered in my sickbed by these calls. Just yesterday my baby grandson was awakened by a call from a siding company (I have an all stucco house).

I feel, I pay for my phone & no one is allowed to tap in on my electric line or gas lines, nor interrupt my cable TV. Why should just anyone be able to use my phone line?

Thank you
Thank you
Thank you
Mary Zulco

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KANSAS TELECOMMUNICATIONS ASSOCIATION

700 S.W. Jackson, Suite 704
Topeka, Kansas 66603-3731
VOICE/TDD 913-234-0307
FAX 913-234-2304

Testimony before the
Senate Committee on the Judiciary
Subcommittee on Criminal Law

SB 75 February 20, 1991

Mr. Chairman, members of the committee, I am Rob Hodges, President of the Kansas Telecommunications Association. Our membership is made up of 27 telephone operating companies plus other firms and individuals who provide service to and support for the telecommunications industry in Kansas.

As we have read SB 75, telephone companies have two comments to make regarding the provisions of the proposal:

1. On page 2 of the bill, in lines 21 through 29, residential telephone subscribers would be offered the option to purchase an extra line in their directory listing to indicate they do not wish to receive sales solicitation calls. This could result in the same line of type being reproduced many times on each residential page of the directory. The directories could become larger than is necessary and more difficult to handle.

The KTA respectfully requests the language in lines 21 through 29 be amended to permit the telephone company to designate how the customer's desire is to be noted in the directory. While one company may wish to do exactly as this draft of the bill would require, another company may choose to include an asterisk as part of the listing and provide a key at the bottom of the page indicating listings with an asterisk are not to receive solicitation calls. Yet another company may select to print those listings in italics, or in some other way make the customer's wishes known.

Whatever works best for the local company that produces the directory, and still fulfills the desires of the customer, should be permitted.

2. From page 2, line 42, through page 3, line 6, the procedure for handling a complaint for an alleged violation is mentioned. The Kansas Corporation Commission (KCC) would be designated to

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investigate and being action if it finds a violation. Any civil penalty received from such an action would go to the state general fund.

The KCC is financed with money received from assessments paid by utilities and other firms it regulates. To place the costs of investigation and legal action on that agency will increase the assessments paid by utilities and their customers, assuming there are complaints filed. The KTA suggests that the KCC be given authority to recover its investigation and legal costs from violators. It seems fair that violators pay for those costs not utility customers.

Mr. Chairman, members of the subcommittee, the KTA acknowledges and appreciates the efforts of the author of the bill to recognize that telephone companies are not responsible for the actions of telephone solicitors. Our two suggestions are honest attempts to resolve potential problems we see with the proposal.

Thank you for your time, I will attempt to answer your questions.

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Mike Reecht
State Director
Government Affairs
Kansas

Capitol Tower
400 SW 8th Street, Suite 301
Topeka, KS 66603
Phone (913) 232-2128

TESTIMONY OF MIKE REECHT

REGARDING SB 75 AND SB 133

My name is Mike Reecht. I am the State Director of Government Affairs for AT&T in Kansas. The purpose of my testimony is to introduce amendments to SB 75 and SB 133 regarding the telemarketing industry as it is applicable to Kansas.

AT&T is a firm that conducts telemarketing operations on a nation-wide basis. It encourages all efforts that are designed to enhance the image of the telemarketer. SB 75 is an attempt to stop unwanted calls from terminating at residence telephones who elect not to receive such calls. The methodology prescribed in SB75, that is to limit the calls by additional listings in the directory or insuring that no call is made to a non published number will fall short of accomplishing its purpose as it might be applicable to national telemarketers.

It is important for the committee to recognize that national telemarketers do not use local telephone directories in the course of conducting their business. Rather, national telemarketers obtain call lists from suppliers of such lists on a nation-wide basis. It is essential that if a residential customer decides that he or she does not want to receive calls from national telemarketing firms that he or she notify a service that would, in fact, remove his or her name from national telemarketing lists. Although listing in the local phone directory may in fact stop calls of local telemarketers to a particular residence, it does little to stop calls by national telemarketing operations.

It is the intent of my amendment to provide a methodology where by a customer can notify the Kansas Corporation Commission in writing that he or she does not wish to receive such calls from national telemarketing firms. The Kansas Corporation Commission would in turn forward the request by the customer to a national telemarketing association to insure that his or her name will be removed from national lists. Such a list is maintained by the Direct Marketing Association.

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AT&T concurs with the purpose of SB 75 in its attempt to stop calls from customers who do not wish to receive calls from telemarketers. It is important, however, that the remedies suggested in SB 75 do in fact achieve the results anticipated. In my opinion, national telemarketing calls would not be deterred under the legislation in its current format.

I have proposed an additional amendment regarding the disconnect interval found on page 2 of the bill. It changes 15 seconds to 30 seconds. Typically, computer placed calls can disconnect within a matter of seconds but due to local telephone office technology, the additional time frame needs to be built into the legislation.

With regard to SB 133, AT&T sells its services and products through its national telemarketing operation. AT&T long distance customers today within one day of ordering the service can have available to him or her plans such as Reach Out America, Pro Watts or some of the other long distance savings programs AT&T offers.

SB 133 would require AT&T to obtain written authorization from the customer before implementing such savings plans. AT&T does not feel that this is in the best interest of the telecommunications consumer. AT&T does not feel it should be the intent of SB 133 to diminish in any way what the customer is able to obtain today, but rather to safeguard customers from disreputable companies. To that end, AT&T submits an additional exemption to be included in the bill that would exempt telemarketers from the provisions of the bill if the customer is assured of a full refund. The amendment language suggested by AT&T goes to that point.

AMENDMENT NO._____

TO SENATE BILL 75

Amend Section 1, page 2, (B) (b) (3), at line 19:

substitute "30" for "15"

Further amend Section 1, page 2, (c) & (d), to read as follows:

"(c) Any residential telephone subscriber that does not wish to receive unsolicited consumer telephone calls may notify the Kansas Corporation Commission in writing of his or her wish not to receive such calls at his or her residence. The Kansas Corporation Commission upon receiving such written notification is obliged to relay the customer's desire not to receive unsolicited telephone calls on his or her residential telephone to one or more organizations that maintain lists on a national basis of subscriber telephone numbers that do not wish to receive unsolicited consumer telephone calls.

"(d) No telephone solicitor shall make or cause to be made any unsolicited consumer telephone call to any residential telephone number if the number for that telephone appears in a list maintained by an organization that maintains lists on a national

basis of subscribers' telephone numbers that do not wish to receive unsolicited consumer telephone calls."

Further amend Section 1, page 2, line 36, by striking subsection (e) and renumbering accordingly.

Further amend Section 1, page 3, subsection (g) to read as follows:

"(g) Telephone companies shall not be responsible for the enforcement of the provisions of this section. [and shall not be liable for any error or omission [in the listings made pursuant hereto.] "

AMENDMENT NO. ——

TO SB 133

Amend Sec. 3 of SB 133 by amending page 3, line 17, by adding a new subsection (d) to read as follows:

"(d) In which the consumer may obtain a full refund for the return of undamaged and unused goods or a cancellation of services notice to the seller within 7 days after receipt by the consumer, and the seller will process the refund within 30 days after receipt of the returned merchandise by the consumer or the refund for any services not performed or a prorata refund for any services not yet performed for the consumer."

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TESTIMONY OF BOB W. STOREY
SENATE BILL NO. 75
SENATE JUDICIARY SUBCOMMITTEE

Members of the Committee:

I represent DeHart and Darr Associates, Inc., a member of the Direct Marketing Association ("DMA"). DMA has 15 members located in 8 Kansas cities and 47 members with operations in Kansas.

DMA and its members are opposed to Senate Bill No. 75. They feel it is unnecessary because of the restrictions the industry has placed on itself to protect consumers. We understand Senator Bogina's reason for introducing the bill. We also understand that numerous members of the public consider telephone solicitation very annoying, and that is the reason the industry has made provisions to protect that consumer from these calls.

DMA is the largest and oldest national trade association serving the direct marketing industry. Members of DMA market goods and services through direct response advertising methods such as direct mail and catalog, telemarketing, magazine and newspaper ads, and broadcast advertising.

The industry operates a free service to consumers whereby anyone in the United States can be deleted from telemarketing lists by writing to the Telephone Preference Service ("TPS"), a free consumer service sponsored by DMA.

TPS is a program designed to assist consumers in decreasing the amount of nationally-based telemarketing calls they receive at their home. TPS will not affect calls of a business-to-business nature.

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Consumers may register with TPS by writing to:

Telephone Preference Service
Direct Marketing Association
6 East 43rd Street
New York, NY 10017

The consumer should include his or her name, address and telephone number complete with area code when registering with the service. DMA updates the "do not call" list quarterly, and the list is provided to telemarketing list brokers who delete the names from lists before the lists are made available to individual telemarketers.

In an effort to inform consumers of the service, TPS advertises in the following manners:

1) Regular press releases and information packages;

2) through Better Business Bureaus;

3) "Call for Action;"

4) national consumer reporters--newspapers, radio, TV, and magazines;

5) paid-for advertising in nationally circulated magazines (attached is an example of the advertising published in various magazines in an effort to inform the consumer about TPS); and

6) the DMA privacy task force has recently committed to undertaking a nationwide education campaign to make consumers aware of TPS.

Further, TPS is described in the introductory explanatory pages of telephone directories in most states. DMA advocates that this information should be included in all telephone directories in the U.S.

One of the reasons the industry opposes Senate Bill No. 75 is that it would not prohibit calls from out of state, which would

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make it unenforceable. For example, if a citizen of Kansas is called from a resident of Oregon, Missouri or any other state which does not have knowledge of the language contained in this bill, how will a civil penalty be enforced against a citizen of another state? In addition, since this is a civil penalty and authority would be given to the State Corporation Commission to enforce the penalty in a court of law, how will the Commission get jurisdiction over a citizen of another state?

We believe Senate Bill No. 75 would send the wrong message to businesses by telling them that the people of Kansas do not want telephone solicitation, when there are many citizens of Kansas who enjoy the service. In addition, many people use answering machines and other telephone technology to screen calls and thereby avoid unwanted calls.

Similar legislation has been introduced in numerous states, however, Florida is the only state to enact such legislation. The first law enacted in Florida did not work; it was amended in 1990 and has only been in effect since October 1, 1990. The marketers have already become aware and have reported that it is not working as intended and that it has not been of any assistance to the consumer.

The governor of California has recently vetoed a bill similar to the one passed in Florida. Colorado, North Dakota and Virginia recently defeated similar legislation in their state legislature.

Further, we believe that employment in Kansas will be adversely affected if this bill passes. The telemarketers actively recruit and employ the handicapped and senior citizens. At the

present time, the top telemarketer in the country is blind and performs very efficiently.

We believe that because of the safeguards being taken by DMA on the national level, the consumers' problems are taken care of and Senate Bill No. 75 is not needed. However, if the committee believes that such a bill is necessary, we suggest the following amendments:

1) Section (b)(1), lines 10 and 11 on page 2, the language be changed to the following:

> Identify the business on whose behalf such person is soliciting and the purpose of the call immediately upon making contact by telephone with the person who is the object of the telephone solicitation.

2) Section (b)(2), page 2, strike lines 13, 14 and the first three words of 15, leaving (b)(2) to read:

> Immediately discontinue the solicitation if the person being solicited gives a negative response.

3) Strike section (c) on page 2.

4) Amend section (d) on line 32 of page 2 by adding the following after "number if the":

> . . . subscriber has asked the caller to not call again.

and striking the rest of line 32 after "number if the" and lines 33, 34 and 35.

5) Strike section (e) on page 2.

The reason for these amendments is that TPS has taken care of the national marketing problem.

As it relates to problems of calls within the state, South Carolina has enacted the following legislation:

> Every telephone solicitor operating in this state who makes unsolicited consumer telephone calls shall implement in-house systems and procedures whereby every effort is made not to call subscribers who ask not to be called again. The Department has the authority to monitor compliance with this provision.

Again, we believe that Senate Bill No. 75, even though well-intentioned, is not needed in the state of Kansas. However, if the committee feels that the legislation should be implemented, we request that the suggested amendments be added to the bill.

Thank you for your consideration.

SAVE MONEY BY DOING THE RIGHT THING

Don't waste time and money calling prospects when you know your sales pitch will fall on deaf and resentful ears.

Eliminate unreceptive consumers from your calling list. . . and at the same time improve productivity and profits.

Subscribe to the Telephone Preference Service: quarterly tapes listing consumers who have requested that their names, addresses and phone numbers be removed from national advertisers' calling lists.

Do it today and start saving now. It's cost effective, good business and good P.R. For more information, contact:

Telephone Preference Service
Direct Marketing Association
1101 17th Street N.W., Suite 900
Washington, DC 20036-4704
(202) 347-1222

SAVE MONEY BY DOING THE RIGHT THING

Don't waste time and money calling prospects when you know your sales pitch will fall on deaf and resentful ears.

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Telephone Preference Service
Direct Marketing Association
1101 17th Street N.W., Suite 900
Washington, DC 20036-4704
(202) 347-1222

Name

Company

Address

City State Zip

Area Code Telephone Number

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D.W. NEWCOMER'S SONS
GENERAL OFFICES
1331 Brush Creek Boulevard
Kansas City, Missouri 64110
816/561-0024

David W. Newcomer, IV

Comments on Senate Bill No. 75

I make the following comments on behalf of my company, D.W. Newcomer's Sons, Inc., and as Legislative Chairman for the Kansas Cemetery Association. I oppose Senate Bill No. 75.

Senate Bill No. 75 proposes to severely restrict telemarketing solicitations. Companies such as D.W. Newcomer's Sons, Inc. use telemarketing solicitations to provide truthful and accurate information to Kansas consumers.

Telephone solicitations are a form of commercial speech protected by the First Amendment. The U.S. Supreme Court has stated that truthful, informative solicitations should be free from regulation unless government has a substantial and legitimate interest in creating narrowly tailored restrictions.

What substantial and legitimate governmental interests does Senate Bill No. 75 propose to advance?

Does Senate Bill No. 75 represent restrictions which have been narrowly tailored?

Senate Bill No. 75 will require telephone solicitors to review a specific telephone directory prior to any calls. A solicitor will always be at risk in determining if he or she has access to the most current directory.

Senate Bill No. 75 will also impose civil penalties of up to $10,000 for violations of the solicitation restrictions. A penalty can be imposed for mistakes as well as intended violations.

Senate Bill No. 75 does not attempt to identify those abuses which will be avoided.

It is not sufficient that telephone marketing solicitations occasionally create uninvited interruptions. Telephone answering machines already provide consumers a cheap and effective tool in screening telemarketing solicitations.

Telephone solicitations can be properly restricted when substantial and legitimate interests exist and such restrictions are narrowly drawn.

Senate Bill No. 75 fails to satisfy either of these requirements. This bill specifically targets a few specific industries such as the cemetery industry without explanation why telemarketing solicitation by these industries is abusive. Accordingly, Senate Bill No. 75 should be withdrawn.

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Pioneer TeleTechnologies, Inc.

the Opportunity People!

Reasons PTI opposes SB 75

Pioneer TeleTechnologies, Inc. is very conscious of the privacy concerns of our customers and prospects. We therefore support the intent of Senate Bill 75 but believe that the mechanism provided—a "no solicitations calls" listing in the phone book—is not appropriate to today's telemarketing industry.

Most telemarketers do not dial manually from phone books. Instead, the dialing is conducted automatically from computer lists that are acquired from a variety of sources.

The bill would place a very great burden on telemarketing firms by requiring them to compare their computer data bases to numerous local phone books. In fact, Florida passed a similar piece of legislation in 1987 but has since amended it to allow for a centralized data base because the previous system was unworkable.

At PTI, we have taken steps to avoid contacting individuals who do not wish to receive sales calls. We support the Telephone Preference Service, a **free** service the Direct Marketing Association offers to consumers.

Subscribing companies receive regular updates of the list on computer tape, which reduces the chance that someone will be overlooked. Consumers can be listed by writing:

Telephone Preference Service
Direct Marketing Associate
6 East 43rd Street
New York, NY 10017

The Telephone Preference Service offers several advantages:

- Consumers who do not wish to be called are available from a central data base, not a variety of different phone books.
- Consumers are not charged for the do not call listing.
- The information is available in a format comapatible with current telemarketing procedures.

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102 Sergeant Square Drive • P.O. Box 67 • Sergeant Bluff, Iowa 51054 • (712) 943-1000

ATA American Telemarketing Association, Inc. Active Member

Attachment 38

Pioneer TeleTechnologies, Inc.

the Opportunity People!

Alternatives to written authorization

Telemarketing offers benefits to both consumers and marketers that would be undermined if written authorization were required to finalize telemarketing sales. Pioneer TeleTechnologies, Inc. believes that consumer safeguards are desirable but prefers an approach which maintains the consumer advantages telemarketing offers.

For consumers, telemarketing is an easy, convenient option for obtaining goods and services. When customers inititiate or receive a call, they have access to a live representative who can answer questions and provide complete information. Individuals who decide to purchase can complete the order without leaving their home.

Requiring a written contract makes the telemarketing process more cumbersome for consumers and marketers alike. Consumers who purchase goods or services over the phone are comfortable with the telemarketing channel and typically prefer doing business by phone to mailing in their order. Likewise, companies who are set up to do business over the phone do not always have the sophisticated administrative resources to conduct efficient mailings.

Pioneer TeleTechnologies, Inc. suggests that companies be allowed to choose alternatives to written authorization:

- Authorization by an independent organization via the phone during a subsequent verification call. The telemarketer would be required to cover all pertininent information regarding costs and the goods or services purchased. This process could require authorization from the customer in the form of some specific piece of information not commonly available.

- As an alternative to written authorization, companies could have the option of instituting a "cooling off" period, similar to the mail order rule, in which consumers could receive a full refund for goods and services.

- Companies whose telemarketing activities are already governed by a state or federal regulatory body would be considered in compliance with any authorization requirements for the telemarketing industry as a whole.

102 Sergeant Square Drive • P.O. Box 67 • Sergeant Bluff, Iowa 51054 • (712) 943-1000

Attachment 39

LEANN CHILTON, MCI

10/90

YOU CAN REDUCE UNDESIRED TELEPHONE SALES CONTACTS

You CAN reduce unwanted telephone sales calls. It's your option: either tell each caller to remove your name from the contact list used OR write to:

TELEPHONE PREFERENCE SERVICE
DIRECT MARKETING ASSOCIATION
8 EAST 43RD STREET
NEW YORK, NEW YORK 10017

Include your name, address and telephone number (also Area Code). Ask that your name be placed in a "delete" file, made available by TPS to telemarketers requesting such information. Names are kept on file five years.

Call decreases can be anticipated approximately three months after registration. Such action will NOT stop calls placed by telemarketers (primarily local or narrowly-focused) not using TPS services. Nevertheless, reductions in overall telemarketing call volumes may be expected.

GTE

Subcommittee - Senate Judiciary
3-7-91
Attachment 39

Criminal Law & Consumer Protection Act
Attachment 40

COMMENTS OF THE KCATV ASSOCIATION
TO CRIMINAL SUBCOMMITTEE OF THE KANSAS SENATE
FEBRUARY 20, 1991

Submitted by Ralph E. Skoog,
Attorney for KCATV Association
Re: **Senate Bill No. 75**

The KCATV Association appreciates the opportunity to appear and voice its concern about the provisions of S.B. No. 75.

The cable television industry is concerned about the provisions of S.B. No. 75 for the reason that in many ways, varying between systems providing service to the more than 575,000 subscribers of cable television in the state of Kansas,, the Act appears to provide traps and constrictions to our regular telemarketing programs.

It appears that our routine calls to subscribers and non-subscribers would come within the definitions of "consumer telephone calls" and that the services which we provide are "consumer services" within the statute. To the extent that we use telemarketing to attempt interest persons in our service areas in subscribing to our services, such calls would be "unsolicited consumer telephone call." (Our business is so entwined with our communities that we should be included in the exception of Paragraph (3)(D).)

The provisions of Paragraph (6)(b) makes a number of limitations which can be inadvertently violated and cause substantial concern about the use of the telephone in marketing.

Our experience has been that well intended governmental restrictions and regulations often have unintended results.

We are concerned about the manner in which the State Corporation Commission is required to be an investigative and prosecutorial commission with reference to parties who are not subject to their jurisdiction.

As a general rule, we are interested in being of aid in the response to serious problems which exist but believe that this Bill as presently written may have unintended effect uon our regular and appropriate business activities. We have no reason to believe that the provisions on Page 2, Lines 21 through 41 will be a convenient and effective way for citizens to obtain the result indicated by the title as that desired.

Thank you for the opportunity to appear.

Subcommittee - Senate Judiciary
3-7-91
Attachment 40

Criminal Law & Consumer Protection Sub.
Attachment 4

Kansas Corporation Commission

March 4, 1991

Senator Frank Gaines
State Capitol, Room 140-N
Topeka, Kansas 66612

RE: Senate Bill 75; Unsolicited Telephone Calls

Dear Senator Gaines:

Enclosed please find a copy of the Nebraska Statutes and a portion of the Nebraska Public Service Commission's Rules you requested. As you can see the Nebraska Statutes do not address telemarketers generally, but rather address the use of Automatic Dialing-Announcing Devices (ADADs).

Pursuant to Neb. Rev. Stat. § 87-307, all ADAD users must apply for a permit before connecting an ADAD to any telephone line in Nebraska. Like our KCC rules, the Nebraska law requires the ADAD user to provide certain identifying information. Likewise, the Nebraska statute requires the ADAD user to disconnect on termination of the call.

The Nebraska PSC's rules require a permit if the ADAD is used for advertising purposes. Although not in the written information I've been provided, I understand a 2 year, permit costs $500.00 per ADAD instrument. For nonadvertising purposes, an ADAD user must register and there is no fee. Criminal penalties for noncompliance are enforced by the district or county attorney.

The written information I'm providing you was faxed to me and was to be followed by hard copy. On receipt, I will forward the information to you.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Dana A. Bradbury
Assistant General Counsel

DAB/gr

1500 S.W. Arrowhead Rd.
Topeka, KS 66604-4027
Telephone (913) 271-3100

Subcommittee - Senate Judiciary
3-7-91
Attachment 4

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ters who publish, broadcast, or reproduce material without knowledge of its deceptive character; or

(3) Actions or appeals pending (a) on December 25, 1969, under sections 87-301 to 87-306 as they existed immediately prior to March 25, 1974, or (b) under such sections as amended and sections 87-303.01 to 87-303.09 on March 25, 1974.

(b) Subdivisions (a)(2) and (a)(3) of section 87-302 do not apply to the use of a service mark, trademark, certification mark, collective mark, trade name, or other trade identification that was used and not abandoned before December 25, 1969, if the use was in good faith and is otherwise lawful except for sections 87-301 to 87-306.

Source: Laws 1969, c. 855, § 4, p. 3224; Laws 1974, LB 327, § 12.

87-305. Sections, how construed. Sections 87-301 to 87-306 shall be construed to effectuate their general purpose to make uniform the law of those states which enact them.

Source: Laws 1969, c. 855, § 5, p. 3224; Laws 1974, LB 327, § 13.

87-306. Act, how cited. Sections 87-301 to 87-306 may be cited as the Uniform Deceptive Trade Practices Act.

Source: Laws 1969, c. 855, § 6, p. 3224; Laws 1974, LB 327, § 14.

(b) AUTOMATIC DIALING-ANNOUNCING DEVICE

87-307. Automatic dialing-announcing device, defined. As used in sections 87-302, 87-303.08, and 87-307 to 87-311, unless the context otherwise requires, automatic dialing-announcing device shall mean a device which selects and dials telephone numbers and without obtaining permission of the recipient plays a recorded advertising message.

Source: Laws 1979, LB 257, § 2.

87-308. Automatic dialing-announcing device; connection; permit; application; contents. No person shall connect any automatic dialing-announcing device to any telephone line without first obtaining a permit from the Public Service Commission. Each person desiring such a permit shall make a written application to the Public Service Commission. Such application shall be in the form prescribed by the Public Service Commission and shall require the applicant to provide information as to the type of automatic dialing-announcing device proposed to be connected, the time of day such telephone calls are proposed to be placed using such device, the anticipated number of calls proposed to be placed during the specified calling period, the average length of a completed call, and such additional information as the Public Service Commission may require. Upon receiving such an application for service, the Public Service Com-

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mission may deny the application or modify the application and grant the application as so modified.

Source: Laws 1979, LB 257, § 3.

87-309. Permit; Public Service Commission; issue; conditions; revocation or suspension; when. Prior to issuing a permit pursuant to section 87-308, the Public Service Commission shall require each applicant to agree to: (1) Include, on all calls made on the automatic dialing-announcing device, a statement of the nature of the call and the name, address, and telephone number of the business or organization being represented, if any, and (2) as soon as the serving telephone company's central office equipment allows, disconnect the automatic dialing-announcing device from the telephone line upon the termination of the call by either the person calling or the person called. Failure to comply with the provisions of such an agreement shall, after ten days' notice and a hearing, be grounds for revocation or suspension of a permit.

Source: Laws 1979, LB 257, § 4.

87-310. Public Service Commission; rules and regulations; adopt. The Public Service Commission shall adopt and promulgate all rules and regulations necessary to carry out the provisions of sections 87-302, 87-303.08, and 87-307 to 87-311. Such rules and regulations shall include, but not be limited to, limitations on the length of messages and the time of day when calls can be made.

Source: Laws 1979, LB 257, § 5.

87-311. Legislative intent. It is the intent of the Legislature that sections 87-302, 87-303.08, and 87-307 to 87-311 shall apply to any automatic dialing-announcing devices connected to any telephone line both prior and subsequent to August 24, 1979.

Source: Laws 1979, LB 257, § 6.

ARTICLE 4
FRANCHISE PRACTICES

(a) FRANCHISE PRACTICES ACT

Section.

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Title 291 - NEBRASKA PUBLIC SERVICE COMMISSION

Chapter 11 - AUTOMATIC DIALING-ANNOUNCING DEVICES

INDEX

41-4/10

Title 291 - NEBRASKA PUBLIC SERVICE COMMISSION

Chapter 11 - AUTOMATIC DIALING-ANNOUNCING DEVICES

001 Scope.

001.01 General. These rules and regulations govern the use of automatic dialing-announcing devices as set forth in Sections 87-302, 87-303.08 and 87-307 to 87-311, Laws of 1988.

002 Applications and Permits.

002.01 Permit or Registration Required. No person shall operate or connect any automatic dialing-announcing device to any telephone line without either obtaining a permit from the Commission if the device is to be used for advertising purposes as defined by law, or registering the device with the Commission if it is to be used for other than advertising purposes. A separate permit or registration is required for each device connected or operated.

002.02 Application Forms. Applications may be obtained from the Commission. The same application form shall be used for either a permit or registration. An original of the application must be filed, along with the filing fee for a permit as required by law. No filing fee is required for registration unless, upon review of the application by the Commission, it is determined that a permit is required.

002.03 Application Content. Applications shall specifically identify the applicant, the automatic dialing-announcing device, the content of the message, including a written or taped transcript, and the name, address and telephone number of the individual to contact concerning complaints. In addition, the applicant shall specify the hours of operation and shall agree to the conditions required by law. An application form furnished by the Commission shall be used.

APPROVED
NOV 23 1988
KAY A. ORR, GOVERNOR

APPROVED
ROBERT M. SPIRE
ATTORNEY GENERAL
OCT 11 1988
By Assistant Attorney General

41-5/10

devices used for advertising purposes and connected to any telephone line must be so equipped, as soon as the serving telephone company's central office equipment allows, to disconnect the automatic dialing-announcing device from the telephone line upon the termination of the call by either the person calling or the person called.

003.02 Inspection. The permit holder shall inspect his automatic dialing-announcing device at least monthly to insure proper operation and compliance with these rules, and shall maintain a record of such inspections for at least two (2) years.

003.03 Inspection by Commission. All automatic dialing-announcing devices used for advertising purposes may be inspected by the Commission during the hours of operation specified in the application.

004 Limitations on Use.

004.01 Hours. The following shall be the maximum hours of use of all automatic dialing-announcing devices used for advertising purposes:

Monday through Saturday	8:00 a.m. to 9:30 p.m.
Sunday and legal holidays	1:00 p.m. to 9:00 p.m.

Note: Times indicated are local times of called party.

004.02 Time Limit. No message transmitted by any automatic dialing-announcing device used for advertising purposes shall exceed two (2) minutes in length.

004.03 Emergency Numbers. In addition to police, fire stations and medical emergency numbers the following are

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Title 291 - NEBRASKA PUBLIC SERVICE COMMISSION

Chapter 11 - AUTOMATIC DIALING-ANNOUNCING DEVICES

006 Revocation.

006.01 Penalty. The permit of any person who violates any of the provisions of Chapter 11 of these Rules and Regulations shall, after notice and hearing, be subject to revocation.

APPROVED
NOV 23 1988
KAY A. ORR, GOVERNOR

APPROVED
ROBERT M. SPIRE
ATTORNEY GENERAL
OCT 11 1988
BY
Assistant Attorney General

41-7/10

Title 291 - NEBRASKA PUBLIC SERVICE COMMISSION

Chapter 11 - AUTOMATIC DIALING-ANNOUNCING DEVICES

INDEX (Continued)

b.

Title 291 - NEBRASKA PUBLIC SERVICE COMMISSION

Chapter 11 - AUTOMATIC DIALING-ANNOUNCING DEVICES

002.04 Demonstration and Inspection. Prior to issuing any permit or accepting any registration, the Commission may require the applicant to submit its automatic dialing-announcing device to a demonstration and inspection.

002.05 Permits Not Transferrable. Permits or registrations are not transferable and a new permit or registration is required for a change in the person operating or connecting the automatic dialing-announcing device.

002.06 Filing with Telephone Company. Upon issuance of a permit or acceptance of any registration and prior to operating or connecting the device to any telephone line, the permit holder or registrant shall notify the serving telephone company in writing of its intent to connect or operate such device and identify the line to which connection is proposed.

002.07 Changes in Information Contained in Application. The permit holder or registrant shall notify the Commission of any changes in the information contained in its application within five (5) days.

002.08 Renewal of Permit. Applications for renewal of permits should be filed thirty (30) days prior to the expiration date in sufficient time to allow for review and consideration by the Commission. No device may be operated after the expiration date unless a renewed permit has been issued by the Commission or the Commission has granted temporary authority.

003 Automatic Dialing-Announcing Devices Used for Advertising Purposes.

003.01 Disconnection. All automatic dialing-announcing

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designated as emergency numbers not to be called by automatic dialing-announcing devices:

004.03A 911 numbers

004.03B Electric, water, gas and telephone system emergency numbers

004.03C Health department emergency numbers

004.03D Administrative, operational and other numbers of fire department, police department, civil defense, sheriff, State Patrol, armed forces, FBI, US Secret Service, Bureau of Alcohol Tobacco and Firearms, Drug Enforcement Administration, National Weather Service, physicians, dentists, hospitals, clinics and ambulance service.

004.04 Disconnection. Use of an automatic dialing-announcing device shall not impair the telephone service of others. The serving telephone company may suspend or disconnect without prior notice the telephone service of the permit holder or registrant if the use of the automatic dialing-announcing device causes the prevention, obstruction or delay of the telephone service of others. The serving telephone company shall immediately notify the permit holder or registrant in writing of such disconnection and the reason therefor. Service may be reestablished with the consent of the serving telephone company or by order of the Commission after notice and hearing.

005 Reports.

005.01 Filing of Reports. Permit holders may be required to file reports at such times and containing such information as the Commission may direct.

Criminal Spec & Consumer Protection Com
Attachment 4

WICHITA

POLICE DEPARTMENT
OFFICE OF THE CHIEF OF POLICE
CITY HALL – FOURTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

February 20, 1991

Nola Foulston
District Attorney
18th Judicial District
535 N. Main
2nd Floor Annex
Wichita, KS 67203

Dear Ms. Foulston:

I have reviewed the Senate Bill No. 135 pertaining to the creation of an organized criminal activity act. As I discussed with you earlier, I certainly agree with the need for such legislation. This Bill clearly provides a much needed means to more effectively fight street gangs, drugs and related violence. It, at the same time, deals with other specific problem areas of organized gambling and fraud and prostitution and obscenity involving children.

This proposed legislation definitely has my support and endorsement.

RICK STONE
Chief of Police

RS:Ksd

cc: Doyle King, WPD Legislative Coordinator
Cathy Holdeman, City of Wichita Lobbyist

Subcommittee - Senate Judiciary
3-7-91
Attachment 42