

Approved 5-2-92  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative John Solbach at  
Chairperson

8:00 a.m./p.m. on April 30, 1992 in room 123-S of the Capitol.

All members were present except:

Representatives Allen, Carmody, Gomez, Lawrence & Rock who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research  
Jill Wolters, Revisor of Statutes  
Judy Goeden, Committee Secretary

Conferees appearing before the committee:

Robert Stephen, Kansas Attorney General  
Joan Hamilton, State Representative  
Kyle Smith, KBI  
Mark Parkinson, State Representative

The chairman called the meeting to order.

Hearing was opened on SCR 1634, providing certain constitutional rights for victims of crimes.

Robert Stephen, Kansas Attorney General, testified in favor of SCR 1634. (Attachment #1) He had with him more than 11,500 signatures of people who support a victims rights constitutional amendment. He answered committee members questions.

Joan Hamilton testified in favor of SCR 1634. She presented testimony she had also presented to Senate Judiciary Committee. (Attachment #2)

Hearing on SCR 1634 was closed.

Hearing on SB 776, establishment of fee schedule for criminal history record information.

Kyle Smith, Kansas Bureau of Investigation, testified in favor of SB 776. He said law enforcement agencies and criminal justice agencies should be exempt from paying fees. He answered committee members questions.

Mark Parkinson, State Representative, testified in favor of SB 776. He submitted a proposed amendment to SB 776. (Attachment #3) He said his interest in the bill comes from working with the Block Parent Program. He presented a letter from Tomahawk Elementary School requesting elimination of the proposed fee for block parent houses. (Attachment #4)

Rep. Parkinson moved to amend SB 776 per his proposal. Rep. Hochhauser seconded the motion. Motion carried.

Rep. Heinemann moved to amend SB 776 on line 37 before the word "expenditure" inserting "subject to appropriation acts". Rep. Pauls seconded the motion. Motion carried.

Rep. Heinemann made a conceptual motion to amend SB 776 by eliminating fees for public agencies and criminal justice agencies. Rep. Everhart seconded the motion. Motion carried.

Rep. Parkinson moved to report SB 776 favorably for passage as amended. Rep. Pauls seconded the motion. Motion carried.

Rep. O'Neal moved to approve the minutes of committee meetings from March 25, 26, 27, 30, 31 and April 1, 2 and 8. Rep. Douville seconded the motion. Motion carried.

The chairman announced that the committee will meet again to take action on SCR 1634. Time and place to be announced.

Meeting adjourned at 9:00 A.M.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.





STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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

ROBERT T. STEPHAN  
ATTORNEY GENERAL

Testimony of  
Attorney General Bob Stephan  
House Judiciary Committee  
RE: Senate Concurrent Resolution 1634  
Victims' Rights Constitutional Amendment  
April 30, 1992

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

Mr. Chairman and Members of the Committee:

It is appropriate that you are holding the hearing on a victims' rights constitutional amendment this week when victims all across the state are participating in activities to express their support for victims' rights and their support of a constitutional amendment. As you know, this is national victims' rights week.

When we had a hearing in Senate Judiciary, the senate members heard from the chair of my Victims' Rights Task Force Hank Booth of Lawrence, Johnson County District Attorney Paul Morrison, District Court Judge Jim Beasley of Wichita, National Director of Victim Assistance for MADD Janice Harris Lord, and leaders of various state organizations. They told the Senators why they support a constitutional amendment. And they heard from crime victims--some who shared how well the system is working for them and how important it has been for them to be notified and heard by their county or district attorney or by the Department of Corrections,

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and--some who shared their frustrations and anger at a judicial system that has not been compassionate and has not kept them informed of the judicial process. These crime victims explained why they believed you need to pass this resolution to allow a victims' rights constitutional amendment to be on the ballot in November.

I have provided you some of their testimonies. In addition, I have given you a copy of a letter of support from Wyandotte County District Attorney Nick Tomasic.

I have with me petitions containing more than 11,500 signatures of people who support a victims' rights constitutional amendment in Kansas. Several weeks ago I provided you and your House colleagues the names of your constituents who have signed our petitions. The numbers are overwhelming!

You, as legislators, have an excellent record in showing concern and compassion for victims of crime. You may wonder then why we need a constitutional amendment that will transfer from the existing statute to the Constitution the right of the victim to be notified of public hearings and the right to be present and to be heard.

The answer is both simple and basic. Since the victim is the true aggrieved party, the victim should receive the same entitlement to be a "constitutional" person as the perpetrator of the crime. No higher right exists than one existing in the constitution. If victims' rights remain statutory, they will

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remain subservient to the constitutional right afforded the accused.

Also, under current Kansas statutes, a private citizen does not have enforcement power in the area of victims' rights. The amendment would allow victims to bring their own legal actions, not for damages, but to make sure that their rights are protected and ensured.

When we had the hearing in Senate Judiciary, several concerns were raised by the County and District Attorneys Association. The amended version that you are considering today has addressed their concerns.

Eight states currently have constitutional amendments. In addition, Colorado, Missouri, and New Mexico have passed amendments in their legislatures and will have those amendments on the ballot in November, 1992.

We too must have a constitutional amendment for victims' rights. I ask you to support this resolution. Give Kansans the right to vote on this amendment. Thank you.

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# THE ATTORNEY GENERAL'S VICTIMS' RIGHTS TASK FORCE

February 1992

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Judge of the District Court  
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Child Advocate  
4003 Homestead  
Shawnee Mission, Kansas 66208  
(913) 362-2226

Ted Heim  
Department of Criminal Justice  
Washburn University  
17th and College  
Topeka, Kansas 66621  
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Dave Jacobs  
Manager, Area SRS Office  
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Jim McHenry  
Executive Director  
Kansas Child Abuse Prevention Council  
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Topeka, Kansas 66612  
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Executive Director  
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Executive Director  
S.O.S., Inc.  
P.O. Box 1191  
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District Attorney - Johnson County  
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Kathy Ramsour  
School Counselor  
2908 Toalson  
Dodge City, Kansas 67801  
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(316) 227-1604

Roy Raney  
Chief of Police  
Rose Hill Police Department  
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Rose Hill, Kansas 67133  
(316) 776-0191

Carl Ricketts  
Director, Eastern Region  
Kansas Power & Light  
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Lawrence, Kansas 66044  
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Jim Robison  
Chief Court Services Officer  
P.O. Box 805  
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Registered Nurse  
1923 S.W. High  
Topeka, Kansas 66604  
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Wanda Stewart  
Kansas MADD  
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El Dorado, Kansas 67042  
(316) 321-6576

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State Administrator  
Kansas MADD  
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Kathryn Wedermyer  
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(316) 263-7575

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Victims' Rights Program

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Kansas Judicial Center, 2nd Floor  
Topeka, Kansas 66612  
(913) 296-2215

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Office of The  
DISTRICT ATTORNEY  
Of The 29th District of Kansas

Wyandotte County Justice Complex  
710 N. 7th Kansas City, Kansas 66101  
(913) 572-2851

DISTRICT ATTORNEY  
Nick A. Tomasic

April 29, 1992

Representative John Solbach  
and Members of the  
House Judiciary Committee  
State Capitol Building  
Topeka, Kansas 66612

RE: Victims Rights Amendment

Honorable Committee Members:

I have been the District Attorney in Wyandotte County for over nineteen years and I have witnessed the prosecutors' legal responsibilities to victims evolve to the point where there now are positive interactions between prosecutors and victims.

When I first started as an Assistant County Attorney twenty-five years ago, the victims had little if any impact upon the particular case, and they often were not aware of the case dispositions, nor of any rights that would afford them relief. The sentiment often expressed by those in the Criminal Justice System was that the victims had no right to know about the handling of the case, and the victims felt like they were the forgotten citizens with less rights than the criminals! This was not right. Changes had to be made.

The Criminal Justice System is not structured to responding to the needs of victims. We have a system where the victims lives are abruptly shattered by perpetrators, and then the victims are thrown into a two-party criminal justice system of the defendant against the state. It is no wonder they feel left out.

Approximately forty-five states have enacted a Victims Bill of Rights, and about eight states have constitutional amendments to secure the rights of the victims. Kansas is taking a step in the right direction in proposing the constitutional amendment.

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Letter to Representative Solbach  
April 29, 1992

As a prosecutor I realize that my office is a key component in the Criminal Justice process, and we have a critical role to play in informing victims of their rights and in responding to their unique needs.

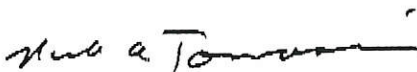
The victims needs must be addressed if we are ever able to achieve a successful prosecution. We must provide information and protection against intimidation and harassment; notification of key proceedings, such as bail and sentencing hearings; explanations relating to criminal procedure; and opportunities for the victims to express views or certain phases of the prosecution such as plea negotiations and sentencing.

Why does this have to be done? Because it is the right thing to do. Almost all of us have been or will be victims, and it is only right that all efforts be made to treat the victims as we would want to be treated.

Legislation is fine as far as it goes. However, as we all know, human nature is such that "we only oil the squeaking wheel." Even though legislation has been in place for some time, some of those in the criminal justice system still have not implemented a Victim Witness Program because of various reasons; one being staff and fund shortages.

The Constitutional Amendment will go a long way toward seeing to it that the legal responsibilities to victims are carried out. It will go a long way in promoting trust and confidence in the entire system.

Yours truly,

  
NICK A. TOMASIC  
District Attorney

NAT/lkf

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**VICTIM'S RIGHTS TESTIMONY**  
**BY HANK BOOTH, CHAIRMAN VICTIMS' RIGHTS TASK FORCE**  
**2/13/92**

My comments today will be brief because the most compelling reasons for putting this amendment on the ballot will be presented by those who follow me.

After listening to hours of testimony I am more convinced than ever that the citizens of Kansas who are caught up in our criminal justice system and who are victims of crimes need the support and strength of their state's Constitution. If the only thing we accomplish with this amendment is that people in this state understand that they have rights that must be protected by their Constitution you have served them well by putting this amendment on the ballot.

Before we started our hearing I read an article in the Wichita Eagle. The headline stated..."Victims' rights amendment faces uphill fight". That's fine, I thought, we should have to prove our case conclusively before we do something as important as changing our state's most important document. Then as I read the article. One quote shocked me. After the County and District Attorneys Association board of directors voted to oppose the amendment the executive director of that association was quoted as saying..."It's kind of like apple pie and motherhood, but it's really not doing anything for victims. One concern is that it would get people's expectations up."

Well friends, heaven forbid that the people of this state should get their expectations up about how they are treated by the criminal justice system. If we don't have high expectations about how we will be treated in our system of laws, authority, prosecution and judgement what will we have? We are simply asking for fairness and responsibility from those who are charged with upholding the law. This amendment would give victims the opportunity to address the system with at least a sense that they have some of the rights of the criminal.

I would conclude that if you hear anything about apple pie and motherhood in the same cynical tone that was applied in the newspaper article. I will be happy to buy each of you a cup of coffee. These are peoples lives we are talking about. Thank you for your time.

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STATE OF KANSAS  
Tenth Judicial District

## OFFICE OF DISTRICT ATTORNEY

PAUL J. MORRISON  
DISTRICT ATTORNEY

JOHNSON COUNTY COURTHOUSE  
P.O. BOX 728, 6TH FLOOR TOWER  
OLATHE, KANSAS 66061  
913-782-5000, EXT. 5333

February 14, 1992

Senate Judiciary Committee

Re: Kansas Victims Rights, Constitutional Admendment

Dear Members of the Committee:

I come to you today in a dual capacity. First, I speak as a representative of the Board of Directors of the Kansas County District Attorney's Association. Secondly, I speak to you as the Johnson County District Attorney. Attached hereto, on a separate sheet of paper, is the position statement of the KCDA on this amendment.

As a prosecutor for the past twelve years, I can attest to the misery I have seen inflicted upon countless crime victims by the perpetrators of crime. Many of these people have suffered irreparable physical and emotional damage as a result of the atrocities committed against them.

Only in the last few years have we in the criminal justice system really figured out that one of our most important functions is to make the system more helpful to victims of crime. With a system that is perpetually overloaded, it is easy to forget about people who are most affected by the crimes that we prosecute. As such, we should be for anything that helps sensitize us to the plight of victims. The Constitutional Amendment outlining victims rights is certainly in that order.

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We feel that it is equally important, however, to remind law makers that we have to be provided the tools of which to do our jobs properly. This includes funding for programs for victims, as well as victims services.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul J. Morrison". The signature is fluid and cursive, with a large initial "P" and "M".

Paul J. Morrison  
District Attorney

PM/kb

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**KANSAS COUNTY AND DISTRICT ATTORNEY'S ASSOCIATION**

**POSITION STATEMENT ON**

**THE RIGHTS OF VICTIMS OF CRIME**

The Kansas County and District Attorneys Association, in order to ensure the fair and compassionate treatment of victims of crime and to increase effectiveness of the criminal justice system, supports victims rights that provide both substantive and tangible benefits to victims of crime.

In order to ensure these rights are implemented, there must be increased State funding of programs for victims; including victim services (victim/witness coordinators), and victim and witness protection and relocation programs.

Whether these rights are implemented by constitutional amendment or by statute is a legislative prerogative.

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FOR MORE INFORMATION CONTACT:

Terri Roberts, J.D., R.N.  
Executive Director  
Kansas State Nurses' Assoc  
700 S.W. Jackson Suite 601  
Topeka, Kansas 66603-3731  
(913) 233-8638

February 13, 1992

## SCR 1634 VICTIMS RIGHTS AMENDMENTS

Senator Winter and members of the Senate Judiciary Committee, my name is Mary Stewart R.N. and I am a registered nurse, here today representing the Kansas State Nurses' Association.

Kansas State Nurses' Association is endorsing this concept because we share not only a desire but also an obligation to support and propagate the Victim's Rights Amendment. Nurses differ in opinion on many issues but there is one point upon which all nurses agree and upon which we base our quite diversified practices ----- nurses are first and foremost patient advocates. As patient advocates we must "stand in" for those we serve and attempt to do for them those things they cannot do for themselves until they are restored to a state of independence. We take on as patients, victims of every type of crime, from the battered, molested, and raped to those robbed, assaulted, and run down by drunken and reckless drivers. We see these victims injured, shamed, discouraged and terrorized, but the worst type of injury witnessed is caused by bondages of fear and anxiety. Countless times we see this bondage of fear inflicted injury equal to or greater than the original assault.

My own practice includes the areas of home health, acute care, and nursing in a clinic for the medically indigent. I have witnessed persons, especially elderly persons, withdraw behind locked doors after becoming victims of crime, immobilized and cut off from socialization. These persons create (out of fear) the very situations they (do) fear. Rather than risk becoming victims of crime again they become victims of bondage.

Kansas State Nurses' Association Constituent of The American Nurses Association

700 S.W. Jackson, Suite 601 • Topeka, Kansas 66603-3731 • (913) 233-8638 • FAX (913) 233-5222  
Michele Hinds, M.N., R.N.—President • Terri Roberts, J.D., R.N.—Executive Director

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Victim's Rights Amendment  
Kansas State Nurses' Association Testimony  
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February 13, 1992

As nurses, we try to sustain the individual while the healing process mends and repairs. Healing requires a large quantity of energy drawn from the individuals physical, emotional, and spiritual reserves. Fear and anxiety utilize a large quantity of energy, tapping these reserves, running them dry ---- retarding the healing process.

You as legislators in the state of Kansas, have already recognized the need to release victims from their bondages by having enacted statutes to help guarantee these rights; but, statutes alone cannot accomplish this. If, for example, these rights guaranteed by statutes are violated or neglected, the victim has little or no recourse to correct the situation. A constitutional amendment guarantees these rights under the office of the Attorney General. It also serves to make these rights permanent and irreversible within the state. A Victim's Rights Amendment will not eliminate the problems victim's face but it will serve as a giant step in guaranteeing basic rights to the many residents of Kansas who fall victim to crime.

Nurses are here to stand in as patient advocates for the many persons who are victims of crime. You also as legislators are here acting as "people" advocates. You also share the responsibility with us to "stand in" for these victims of crime, and to do for them what they cannot do for themselves. Grant them a permanent means of procuring their rights. Guarantee them the rights that belong to them, the rights to protection from being victimized over and over again through fear. We share common roles and common goals, the Victim's Rights Amendment could help us both fulfill these.

Thank you.

a:victim  
Testimony. 1992

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**Kansas  
Child Abuse  
Prevention Council**

715 SW 10th Street  
Topeka, Kansas 66612  
(913) 354-7738

428 S. Broadway, Suite 204  
Wichita, Kansas 67202  
(316) 262-8434

**BOARD OF DIRECTORS**

- SuEllen Fried, Founder  
*Shawnee Mission*
- Rick Bloomer, President  
*Wichita*
- Catherine Hiersteiner, VP Programs  
*Prairie Village*
- Barbara Groh,  
VP Coalitions/PA Chapters  
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*Topeka*
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- Dorothy Werner  
*Great Bend*
- Ronald L. Young, D.C.  
*Salina*

**EXECUTIVE DIRECTOR**

James McHenry, Ph.D.

Testimony in Support of  
the Victims' Rights Constitutional Amendment  
SCR 1634

On January 17, 1992, the Board of KCAPC voted unanimously to endorse the proposed Victims' Rights Constitutional Amendment. KCAPC believes this action represents a positive move in creating a climate more responsive to the needs of crime victims.

In recent years, KCAPC has become aware of instances in which confirmed evidence of child abuse was removed from petitions going to judges. Whether by inadvertence or design, such actions deprive judges of information critical to their decision-making process. For the children involved, their right "to be heard at all critical stages of the criminal justice process" is clearly compromised when significant findings are expunged from the case record.

KCAPC does not believe the proposed amendment is a panacea. We do believe, however, that anchoring victims' rights into the Kansas Constitution serves the public interest, and we urge your approval of SCR 1634.

Testimony submitted by James McHenry, Ph.D.  
Executive Director  
February 13, 1992

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# KANSAS NASW

National Association of Social Workers, Inc.  
Chapter Office  
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Topeka, Kansas 66603-3130

Telephone: 913-354-4804  
Gigi Felix, LMSW  
Executive Director, K-NASW

## Testimony in SUPPORT of SCR 1634

Good morning Senator Winter and members of the Senate Judiciary Committee. It is my pleasure to appear before you today in support of Senate Concurrent Resolution 1634. It is one of the basic tenets of the social work profession that all persons be allowed to have the right of self determination and have equal representation in actions concerning them. This resolution gives the victims of crime that constitutional right.

Our legal system has taken a dramatic slant to ensure the rights of the accused, which we support. However, somehow in that endeavor, the victims' rights have gotten lost in the process. This resolution will do nothing to minimize, or change the rights of alleged offenders in any way. Their rights are guaranteed by the constitution. What this resolution does, is give the victims the protection of their rights under the constitution of Kansas. It is obviously not enough to have these rights embedded in statute. It is only through a constitutional amendment that the rights are guaranteed, and victims have recourse if they are not upheld.

I don't know if any of you have ever been a victim of a crime, or had a friend or family member be a victim, but I can tell you that it is a horrendous experience which strips you of all feelings of control, self determination, recourse as the crime proceeds through the criminal justice system, and extreme levels of frustration and anger. This affirmation of the victim's rights will help alleviate these feelings. In addition, it presents the opportunity for officials of the system to hear what the victim has to say with regard to its deliberations and decisions. The victim can be present and have the opportunity to be heard as the court and correctional systems take their course though adjudication, and possible conviction, incarceration, and release of the convicted.

Our association has taken a firm stand in supporting this resolution. Our February Newsletter, which is delivered to over 1550 social workers around our state, contained an article of support for the resolution, the tri-fold brochure prepared by the Attorney General's office, and petitions (buff colored) (see attached copies) to enable our membership to become part of the advocacy effort.

I strongly urge you, on behalf of our Board of Directors, and our membership to support this resolution, and give crime victims their rights by constitutional law.

Thank you for your time, and opportunity to appear before you.

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**KCSDV**

**KANSAS COALITION AGAINST  
SEXUAL & DOMESTIC VIOLENCE**

P. O. BOX 1341

PITTSBURG, KS 66762

316-232-2757

1972  
Lawrence

Testimony Before the Senate Judiciary Committee

1974  
Wichita

February 14, 1992

1976  
Emporia  
Lawrence  
Wichita  
Hutchison

RE: Senate Concurrent Resolution 1634

On behalf of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV), and the more than 9000 victims we served in 1991, I wish to thank you for your consideration of this resolution.

1977  
Topeka  
McPherson

1978  
KOSAC

KCSDV strongly supports this Resolution for several reasons. First of all, we support it because it would be advantageous to the victims we serve. There is an old saying, "A woman who is raped, is raped twice: once by the perpetrator, and then again by the system." The current system, which so often denies the victim of his or her rights, imposes many obstacles to their recovery; as if the victim doesn't have enough to endure, suffering the physical and emotional trauma the crime created. Questions go unanswered, changes are made without notification, and misinformation is presented with authority.

1979  
KADVP  
Manhattan  
Pittsburg  
Overland Park

1980  
Salina  
Kansas City  
El Dorado

1981  
Dodge City  
Great Bend  
Garden City  
Liberal

This isn't just an inconvenience for victims. For many, it is dangerous: sometimes deadly. I have included the testimony of two of the many victims we have seen endangered due to the current lack of protection of their rights.

1983  
Hays  
Winfield  
Scott City

The most common frustration of those who work with victims is not the crisis itself, but rather the constant dilemma of encouraging victims to work with the judicial system that uses and abuses them. Without a Victim's Rights Constitutional Amendment, this injustice will continue unchecked.

1984  
Iola  
Leavenworth

1985  
Hillsboro

Dorothy Miller, President  
Kansas Coalition Against Sexual and Domestic Violence  
P.O. Box 1341  
Pittsburg, KS 66762

1989  
Atchison

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On December 4, 1989, I, along with two neighbors, was kidnapped at gun point by Tyrone Baker in Topeka. Baker drove us into Douglas county, where I escaped. The other two vicims were murdered. Because the crimes were committed in both Shawnee and Douglas counties, separate trials were held in each county.

Two weeks after the kidnappings/murders, I read in the paper that the preliminary hearing in the Baker case in Shawnee county was to be held January 4, 1990. On Friday, December 29, an outside source told me the hearing had been continued. I read about it in Saturday's paper. I was stunned, for I had been gearing myself psychologically to facing Baker for the first time since his arrest and to testifying. My husband urged me to call the County Attorney and talk with him about it on Monday. Until this time I had had no contact with his office, except for the sheriff's officer who delivered the subpoena and a "Victim Witness Testimony Aid" pamphlet, although I was a primary witness in the case. The attorney was out when I called. He returned my call and I explained to him that I was totally ignorant of court procedures. I had never even had a parking ticket. I further explained that I was still fearful, emotionally labile and deeply concerned that I be able to do whatever I was supposed to do at the hearing. I followed with two requests: that he assign someone in his office to spend some time with me to answer my questions about legal procedures and that someone in his office relay information about the case to me before it appeared in the newspaper. I used the continuance as an example, telling him how it had upset me. His response was curt and defensive. He saw no need for someone to explain procedures to me. All I had to do was to come down to the courthouse, testify and go home. As far as developments in the case were concerned, I could read about them in the newspaper like everyone else. I told him again about my fragile emotional balance and that I also needed time to arrange for police escort to and from the courthouse. He sounded angry and impatient as he told me he could not provide escort, that it was not necessary. Out of patience, I responded that the police and I thought it was necessary, and that they understood that this was more complicated than having my car stolen. He raised his voice and started to say something. I interrupted, saying, "Thank you for returning my call", and slammed down the receiver. All the frustration, rage, and the feelings of helplessness were overwhelming. Looking into the barrel of Baker's gun had been no more intimidating.

On Friday, January 26, with the preliminary hearing to start on the 30th, I

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received a call from Suzanne James, the daughter of one of the murdered victims. She has received a call from the Douglas County Attorney, telling her that the Shawnee County Attorney had sent him information about a plea bargain with the defendant, Baker, by which Baker would receive a minimum of 30 years in prison... having committed 3 murders, 5 aggravated kidnappings, an aggravated assault and sundry other crimes. Four of the survivors of the murder victims, and my husband and I agreed that we opposed any plea bargaining. Suzanne, at our request, held a news conference that evening and asked the community to respond to the idea of a plea bargain by contacting the Shawnee County Attorney. It was at that time that we hired a special prosecutor to represent us because we felt that the county attorney would continue to ignore us and give us no consideration. It seemed to be the only way to have any voice in the proceedings.

Let me contrast that with my experience when the legal action moved to Douglas county. Before any proceedings began, I received a call from the victim/witness advocate in the county attorney's office, who explained that she was responsible for keeping me informed about the case. She gave me her home and office phone numbers and told me to call anytime I felt I needed to. And she DID keep me informed...and I assume she did the same for the other survivors. Sometimes I knew about developments before our special prosecutor, because she communicated by phone and his information came by mail. She was my life-line for the time I was involved in the Douglas County hearings and trial. When I wanted to talk directly with the county attorney, she arranged an appointment. He was always willing to see me or talk with me on the phone. I felt as though I were an integral part of the proceedings and as if I were an asset instead of a nuisance.

Although the present system may work, it works only if the prosecutor wishes it to, and the victim has little recourse. Victims need the protection of a constitutional amendment to ensure that their rights will be honored.

Verne Bennett Horne  
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Topeka, KS. 66604-2581  
(913) 273-1291

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Michael D. Solaberry  
3516 Juniper  
Roeland Park, KS 66205  
(913) 831-1808

Senate Concurrent Resolution 1634

Lawmakers of Kansas:

Thank you Mr. Stephan to introduce Resolution 1634.

My family and I are crime victims. My daughter was murdered. She was stabbed 163 times. She had a daughter at that time she was 2½ years old. My wife found our daughters butchered body in the closet of her apartment.

As law abiding people, we did not know anything about the criminal law. As crime victims we learned about all of the rights we do not have. Basically, crime victims have no rights- They are told from the first moment on to go into their closets and keep their mouths shut.

The murderer that maggot- The disease that he has brought to our lives! And he has constitutional rights? He is protected by law- He is taken care of both physically and legally.

We crime victims try to help each other. We think of our loved ones. The law degrades us because we are crime victims. We are the second class citizens in the state of Kansas.

In my opinion, any one who has less rights than a convicted murderer- he is a degraded person. Degraded by the law and by his leaders.

If any one of you who has doubt in his mind- Step into this victims shoes and feel what we crime victims feel. Think of your loved one taken away from you and you be degraded for what he has done to you. The law adds insult to injury.

Too soon will come the day that he is freed from prison. We are asking you to give us crime victims Constitutional Rights. We want to know when he is up for parole hearings.

We want to be notified if he has any hearing at any time. We should not hear it through the media after the fact. We do not want to meet him on the street or in our house with the butcher knife in his hand.

We are not asking you to take away his rights. We are asking you to give us crime victims Constitutional Rights. I never heard of a case where the victims rights were violated. Who has no rights his rights cannot be violated.

Let there be crime victims rights in Kansas!  
Let there be JUSTICE.



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January 13, 1992

Re: Senate Concurrent Resolution 1634

Senators I am here today to ask for your support concerning Senate Concurrent Resolution 1634. I am here as a volunteer for Mothers Against Drunk Driving and as a crime victim of Kansas.

I am proud to have the opportunity to speak to you today and yet stressed by doing so...Because you see today ironically it is the anniversary loss of our son, Scott. Eleven years ago today our 3 and a half month old son was killed by a drinking driver -- leaving Stan and I childless and yes victims of a criminal act.

Our victimization did not end with the crash that day. Several concerned individuals asked us what we were going to do about the young woman who was responsible for the loss of Scott and for my injuries. Stan and I were both raised that if someone did something wrong they would be held accountable. We counted on the judicial system --- how naive we were ...

Never once did the county attorney visit with me - the surviving mother. Never once did he speak voluntarily with any member of our family. Only after the charge was filed and processed through the system did we learn through our own means what happened. We learned through the court docket that she was charged with only DUI and received a \$100 fine and was given a drivers license restriction to drive to and from college --5 hours across Kansas--actually what she was doing the day of the crash. How could such a crime take place and our loss of Scott ignored. The sentencing was questioned by my mother. The judges' response was he had no knowledge of there being a fatality- the county's only fatality of the year. We were victimized again by the very system we thought was to serve and protect us. How naive we were...

MADD's mission is to stop drunk driving and to assist the victims of that crime. As a volunteer I have listened to a number of victims of alcohol-related crashes. The majority of our victims are frustrated with the system --- they feel left out - excluded from the very process that brought them to the system. Every county attorney's office should make the victim or victim's family a part of the process yet more times than not they hit a wall of resistance or neglect. The Victims Bill of Rights sounds great but it really gives victims no recourse if their rights are ignored. Senate Concurrent Resolution 1634 is needed for all victims.

Thank you for your time and consideration.

Wanda Stewart \* 609 Random Rd. \* El Dorado 67042



SENATE CONCURRENT RESOLUTION NUMBER 1634  
SUSAN AND RACHEL MCGEE

IN May 1987, Rachel was hit by a drunk driver. He was charged with a DUI which the state sees as a misdemeanor charge. As Rachel lay in a coma, he was given probation. Six months later he was arrested on his THIRD liquor violation in a year. At that time he was forced to serve his original sentence of six months. Rachel was also continuing to serve time. She was in hospitals for two and a half years.

We were never informed of any court hearings. Through our own efforts, we obtained court information and attended the multitude of hearings. IN each of his appearances, we were only spectators.

• His lawyers requested a hearing for an early release. It was granted. As I sat in the courtroom and listened, his lawyer stated that he needed to put this behind him and get on with his life. **HOW CAN RACHEL PUT THIS BEHIND HER?** My daughter was a cheerleader, played in the band, and was president-elect of her senior class. Her life was put on hold for three years while she was hospitalized. Getting on with her life now won't be quite the same. Is confining her to this chair for life the same as hitting a lamp post? **I THINK NOT!!!** The legislature for the state of Kansas should be ashamed of its attitudes toward DUI!!

Our state needs this constitutional amendment to insure victims rights. Victim's impact statements do have a place in our courts. It is imperative that the court understands the full extent of victim injuries. Oft times, as in our case, the hurt goes on long after a broken leg is healed. While criminals are guaranteed their rights, victim's are often left to fend for themselves emotionally, financially, and legally. Should we, as victims of crime, also be victims of our own legal system?

There are programs to help victims, but how do we know what they are? At a time of unreal stress and anxiety, to have to hunt for help is unrealistic. There is victims compensation, but we knew nothing of it until the time limit had expired. In 1987, as victims, we had nbo rights and in 1992, it isn't much better.

Thank you,

Susan McGee,

Rachel McGee.

SM

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VICTIMS RIGHTS CONSTITUTIONAL AMENDMENT

LEGISLATIVE HEARING

MY NAME IS RUTH HESSMAN, I AM A HOUSEWIFE AND A MOTHER. MY HUSBAND BOB FARMS SOUTH OF DODGE CITY AND WE ARE THE PARENTS OF SEVEN ADULT CHILDREN. OUR NEXT TO YOUNGEST DAUGHTER MARY MEL EESA RAINS WAS A TWENTY-EIGHT YEAR OLD HAPPILY MARRIED WIFE AND MOTHER TO THREE YOUNG CHILDREN WHO LIVED IN GARDEN CITY.

ON THE NIGHT OF JULY 19, 1989, WHILE AT WORK AT A COASTAL MART SHE WAS ROBBED AT GUNPOINT, KIDNAPPED AND TAKEN TO A WHEAT STUBBLE FIELD NORTH OF TOWN. THERE SHE WAS MURDERED EXECUTION STYLE WITH TWO SHOTS TO THE BACK OF HER HEAD.

THE ACCUSED MURDERER IS GREGG BRAUN, SON OF LELYN BRAUN WHO IS A PROMINENT ATTORNEY FROM GARDEN CITY. GREGG BRAUN STARTED HIS MURDER SPREE SHORTLY AFTER MIDNIGHT AT A DART IN STORE ACROSS TOWN FROM WHERE OUR DAUGHTER WORKED. THERE HE ROBBED, KIDNAPPED AND TOOK BARBARA KOCHENDORFER TO A DITCH NORTH OF TOWN AND SHOT HER TWICE IN THE BACK OF THE HEAD. BARBARA WAS A TWENTY-SEVEN YEAR OLD MOTHER OF FIVE YOUNG CHILDREN.

THE NEXT DAY HE WENT TO PAMPA, TEXAS. THERE HE IS ACCUSED OF KILLING MR. PETE SPURRIER. NEXT TO ARDMORE, OKLAHOMA WHERE HE IS ACCUSED OF SHOOTING THREE WOMEN, ONE GWEN MILLER DIED. THEN HE WENT ON TO SPRINGER, NEW MEXICO WHERE HE KILLED MRS. ELITO VALDEZ. DUE TO THE FACT THAT THEY CALLED FOR A ROAD BLOCK HE WAS CAPTURED, CONFESSED  WAS TRIED AND  SENTENCED TO LIFE IN PRISON.

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HE IS NOW IN JAIL IN GARDEN CITY AWAITING TRIAL.

OUR DAUGHTER'S BODY WAS FOUND AT 9:00 A.M. THAT MORNING AND HER FATHER AND I ARRIVED IN GARDEN CITY AT 7:30 A.M. I CALLED THE POLICE TWICE THAT DAY ASKING FOR INFORMATION --- I WAS TOLD BOTH TIMES THEY COULD TELL US NOTHING. EVEN THOUGH THE POLICE HAD PICKED UP A PHOTO OF HER AT 4:30 A.M., WHEN THEY INFORMED OUR SON-IN-LAW THAT SHE WAS MISSING. AT 3:30 P.M. WHEN THE MAILMAN CAME BY HE INFORMED MY HUSBAND THAT OUR DAUGHTER WAS DEAD. HIS WIFE KNEW OUR DAUGHTER AND SHE WAS ONE OF THE E.M.T.'S WHO PICKED UP HER BODY. SHORTLY AFTER THAT A FRIEND OF OUR DAUGHTERS CAME BY, SHE WAS CRYING AND VERY UPSET. SHE HAD BEEN IN THE BEAUTY SHOP WHEN ONE OF THE POLICEMEN'S WIVES HAD TOLD EVERYONE IT WAS OUR DAUGHTER. LAW ENFORCEMENT DID NOT INFORM US UNTIL 4:30 P.M. --- THATS SEVEN AND A HALF HOURS. WAITING TO TELL OUR FAMILY THEIR LOVED ONE IS DEAD DOES NOT SOFTEN THE BLOW. IF IT WAS BEING PASSED ALL OVER TOWN, WHY COULD WE NOT BE TOLD? FOR SEVEN AND A HALF HOURS WE WERE ON THE MOST HORRIBLE EMOTIONAL ROLLER COASTER, HOPEFUL ONE MINUTE AND DESPAIRING THE NEXT. THE PRESENT STATUTE HAS FAILED OUR FAMILY COMPLETELY. I'M SAD TO REPORT WE HAVE BEEN KEPT BETTER INFORMED BY THE NEW MEXICO DISTRICT ATTORNEYS OFFICE THEN BY OUR OWN STATE. RICKLAND PIERCE IS THE COUNTY ATTORNEY FOR FINNEY COUNTY. WHEN I FIRST CONTACTED HIM I COMPLAINED ABOUT THE POLICE AND THE WAY THEY HAD HANDLED THE WHOLE CASE: THE WAY WE WERE INFORMED, THE FACT THAT THERE WERE SEVERAL HOURS BETWEEN KIDNAPPINGS AND THERE WAS NO ROAD BLOCK SET UP WHEN THE FIRST VICTIM WAS REPORTED MISSING. I THOUGHT HE WOULD BE ABLE TO EXPLAIN THE PROBLEM.

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INSTEAD I RECEIVED A LONG LECTURE ABOUT HOW GREAT THE POLICE DEPARTMENT WAS. WE TRIED SEVERAL TIMES AFTER THAT TO GET SOME INFORMATION ABOUT THE CASE, ONLY TO RECEIVE MORE LONG LECTURES ABOUT THE COST OF A TRIAL AND THAT HE WAS CONSIDERING A PLEA BARGAIN. WE FOUND HIM TO BE THE MOST DIFFICULT PERSON TO TALK TO AND HE DOES NOT EVEN PRETEND TO UNDERSTAND THE FEELINGS OF THE FAMILY. WE HAVE A FAXED COPY OF PIERCE'S LETTER TO BRAUN'S ATTORNEY IN NEW MEXICO OUTLINING THE PLEA BARGAIN AGREEMENT. IN IT PIERCE AGREED TO TWO LIFE SENTENCES--TO BE SERVED CONCURRENTLY, WHICH MEANS SIDE BY SIDE. THIS WOULD MEAN BRAUN COULD COME UP FOR PAROLE IN JUST FIFTEEN YEARS. THE TWO ROBBERY AND TWO KIDNAPPING CHARGES WOULD BE DROPPED.

WE WERE INFORMED FROM NEW MEXICO WHEN BRAUN WAS TO BE RETURNED TO KANSAS. I CALLED JULIE LANNON THE VICTIM REPRESENTATIVE IN GARDEN CITY THE NEXT MORNING ASKING WHEN BRAUN WOULD HAVE HIS FIRST HEARING. HER REPLY WAS, "AS WE SPEAK HE'S HAVING HIS FIRST HEARING". WELL SO MUCH FOR NOTIFICATION!

THE GARDEN CITY NEWSPAPER FOR NOVEMBER 15, 1991 QUOTES BRAUN ABOUT HIS RETURN TO KANSAS, "THIS IS LIKE A VACATION FOR ME". ALSO HE WANTED NO VISITORS WHILE IN JAIL, "BECAUSE IT IS A SHAMEFUL ENVIRONMENT".

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WE LEARNED LATER THAT BRAUN IS RECEIVING VISITS FROM HIS FAMILY MEMBERS IN A CONFERENCE ROOM INSTEAD OF THE REGULAR VISITORS ROOM. I ASKED MR. GROVER CRAIG, THE SHERIFF, IF THIS WAS TRUE AND HE SAID IT WAS. AT THAT TIME I INFORMED HIM OUR FAMILY OBJECTED TO THIS PAMPERING OF A SELF CONFESSED, CONVICTED MURDERER. HIS ONLY REPLY WAS, "YOU SHOULD HAVE SOME SYMPATHY FOR THE BRAUN FAMILY". OUR OBJECTION HAD NOTHING TO DO WITH THE BRAUN FAMILY, IT HAS TO DO WITH A CONVICTED MURDERER BEING GRANTED HIS WISH NOT TO HAVE HIS FAMILY SEE HIM IN THE "SHAMEFUL ENVIRONMENT" IN WHICH HE HAS PLACED HIMSELF.

WE VISIT OUR DAUGHTER AT THE CEMETERY! AS WE STAND BY HER GRAVE THERE IS NO WAY SHE CAN COME TO US SO WE CAN TELL HER ONE LAST TIME THAT WE LOVE HER AND MISS HER. WE HAVE RECEIVED A LIFE SENTENCE WITH NO SPECIAL PRIVILEGES. THERE IS SOMETHING WRONG WITH THE CRIMINAL JUSTICE SYSTEM IN OUR STATE WHEN THOSE IN CHARGE TAKE THE SIDE OF THE CRIMINAL. MORE AND MORE WE READ AND SEE ON TELEVISION THE VICTIMS TRYING TO TAKE THE LAW INTO THEIR OWN HANDS. SURELY THIS IS NOT WHAT ANY THINKING PERSON WANTS. IT'S FINE TO PROTECT THE CRIMINAL'S RIGHTS, IN DOING THAT, LET'S NOT FORGET THAT THE VICTIM HAS RIGHTS ALSO.

ON DECEMBER 30, 1991, A WEAPON MADE OF TWO COMBS, A DOUBLE EDGED RAZOR BLADE AND STRIPS FROM HIS BED SHEET WAS FOUND IN BRAUN'S CELL. A NOTE TO ONE OF THE JAILERS FROM AN INMATE TOLD OF AN ESCAPE PLAN BY BRAUN AND ANOTHER PRISONER. I WONDER JUST HOW MANY CRIMINALS ARE RECEIVING SPECIAL PRIVILEGES?

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THIS MAN IS DANGEROUS! HE HAS MURDERED FOUR WOMEN, ONE MAN AND LEFT THIRTEEN CHILDREN MOTHERLESS AND THREE CHILDREN FATHERLESS, ~~AND~~ HE DOES NOT DESERVE ANY SPECIAL TREATMENT!

THE PEOPLE WHO CONTROL THE SYSTEM ARE THE COUNTY ATTORNEYS AND DISTRICT ATTORNEYS. THESE ARE THE PEOPLE WHO WILL BE SPEAKING AGAINST THIS AMENDMENT: ESPECIALLY THOSE LIKE PIERCE WHO HAVE HAD VERY LITTLE POWER IN THEIR LIFE AND DON'T KNOW HOW TO HANDLE IT. THEIR ONLY INTEREST IN THIS MATTER IS THEIR OWN RE-ELECTIONS. THEY WILL BE CLAIMING TO SAVE THE VOTERS MONEY WITH PLEA BARGAINS AND BY NOT HAVING EXPENSIVE TRIALS.

WHAT THE VOTERS AND YOU THE PEOPLE WHO REPRESENT THE VOTERS MUST UNDERSTAND IS THAT ANYONE CAN BECOME A VICTIM AT ANYTIME. WE CERTAINLY DID NOT SEEK THIS DISTINCTION. PLEASE REMEMBER ALSO THAT VICTIMS ARE MOST OF THE TIME TAXPAYERS AND VOTERS.

BRAUN HAS DECIDED TO PLEAD INNOCENT TO PROLONG HIS "VACATION" HERE IN KANSAS. AS THINGS STAND AT THE MOMENT THERE WILL BE A TRIAL. NO THANKS TO PIERCE! OUR FEAR IS THAT IF BRAUN CHANGES HIS PLEA TO GUILTY PIERCE MAY REVERT BACK TO THE PLEA BARGAIN. THIS ALONG WITH ALL THAT HAS HAPPENED TO OUR FAMILY IN THE LAST THIRTY MONTHS WILL JUST MAKE US VICTIMS AGAIN, BY A SYSTEM THAT SEEMS TO CARE MORE ABOUT THE CRIMINALS THEN ABOUT THE VICTIM.

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WE HAVE HAD TO HIRE AN ATTORNEY JUST TO MAKE SURE WE RECEIVE THE INFORMATION WE ARE ASSURED OF BY THE PRESENT STATUTE. THIS WILL COST US OVER \$1,500.00. WE ARE NOT A WEALTHY FAMILY AND THIS PRESENTS A REAL HARDSHIP. A CONSTITUTIONAL AMENDMENT WOULD PREVENT ANOTHER FAMILY FROM HAVING TO GO THROUGH WHAT WE HAVE. WE SUPPORT IT AND PRAY YOU WILL FIND IT IN YOUR HEART TO DO THE SAME. I WOULD LIKE TO THANK EACH OF YOU FOR THE CHANCE TO SPEAK ON THIS MATTER.

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Mary Mel Eesa Pains & her family  
She was murdered 7-19-89 by Gregg Braun #1  
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Attorney General Bob Stephan's  
Victims' Rights Task Force

Attorney General Bob Stephan  
Hank Booth, Lawrence, Chair  
Marilynn Ault, Topeka  
Sandy Barnett, Manhattan  
Judge James G. Beasley, Wichita  
Betty Bomar, Topeka  
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Jan Carman, Goodland  
Ken Christian, Leawood  
Lyndon Drew, Topeka  
SuEllen Fried, Shawnee Mission  
Ted Heim, Topeka  
Mary Horsch, Topeka  
David Jacobs, Salina  
Nancy Lindberg, Topeka  
Jim McHenry, Topeka  
Juliene Maska, Lawrence  
Dorothy Miller, Pittsburg  
Susan Moran, Emporia  
Paul Morrison, Olathe  
Randall Murphy, Kansas City  
Judy Osburn, Lawrence  
Corrine Radke, Wichita  
Kathy Ramsour, Dodge City  
Roy Raney, Rose Hill  
Carl Ricketts, Lawrence  
Jim Robison, Colby  
Mary Roth, Topeka  
Sr. Mary Austin Schirmer, Kansas City  
Mary Stewart, Topeka  
Wanda Stewart, El Dorado  
Max Sutherland, Topeka  
Kathryn Wedermyer, Goodland  
Kris Wilshusen, Wichita

If you would like more information or would like to receive a petition for a constitutional amendment to circulate in your community, please contact the Attorney General's Victims' Rights Task Force, 2nd Floor Judicial Center, 301 W. 10th, Topeka, Kansas 66612, or call toll free 1-800-828-9745.

# VICTIMS' RIGHTS

## A Constitutional Amendment for Victims of Crime in Kansas

Victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality, or any of the agencies, instrumentalities, or employees provided that the Legislature may, by statutory enactment, reverse, modify, or supersede any judicial decision or rule arising from any cause of action brought pursuant to this section.

Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilt, or an acceptance of a plea of guilty in any criminal case.

**Sponsored by:**  
**The Attorney General's  
Victims' Rights Task Force**

25-30

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**How can justice be obtained by hearing "the truth, the whole truth, and nothing but the truth" when the victim or surviving victim's family is not heard? Now is the time to restore balance to the criminal justice system. Kansas needs a constitutional amendment for victims of crime!**

---

## **Why Does Kansas Need A Constitutional Amendment For Victims Of Crime?**

A state constitutional amendment will grant crime victims a meaningful and voluntary opportunity to participate in the criminal justice system. It is a modest remedy to assure that the victim's voice will be heard...not a veto, but a voice.

If victims are to be treated equally, they must be recognized equally in the Constitution, just like defendants. Anything less confines them to secondary status.

Eight states currently have constitutional amendments. They are: Rhode Island, Florida, Michigan, Texas, Washington, Arizona, California and New Jersey. Our neighbors, Colorado and Missouri, have passed constitutional amendments in their legislatures and will have those amendments on the ballot in 1992.

## **Why Does Something Need To Be Done?**

Under our current system of law, the rights of the defendant are protected constitutionally. In the name of equal justice, victims' rights must also be imbedded in the constitution.

Victims of crime have indicated that it is just not worth the effort to go through a system that gives little or no consideration to the victim. The lack of consideration and lack of participatory rights accelerate the feeling that the results of prosecution are unfair.

## **Will This Impede Prosecution Efforts?**

A constitutional amendment would not take away any of the protections afforded criminal defendants. It would only give victims the essential rights of participation that the constitution provides to defendants. Nor would it curtail the discretion our system gives to such decision makers as prosecutors and judges. However, it would ensure that victims would be able to see and hear the way their cases are being handled, and to have their concerns heard by the decision makers.

It has been effectively demonstrated that victims can be given some basic rights of participation without adverse impact on court proceedings. It is not the state, but rather a real human being who suffers the wounds of a criminal assault and who has a strong and legitimate interest in the proceeding of a case.

## **Aren't Victims' Rights Already Protected By Statute?**

No. Presently under Kansas statutes, a private citizen does not have enforcement power in the area of victims' rights.

The system focuses its energy on the criminal, not the victim. This imbalance creates frustration and bitterness. It compounds the suffering of victims. It also undermines the legal system. The system will not work without victims as participants.

## **Would This Cause More New Trials?**

No. There is nothing in this amendment which would grant either party the right to a new trial in the event of violation.

*Attorney General Bob Stephan and his Victims' Rights Task Force are asking the 1992 Kansas Legislature to pass a resolution allowing the issue of a constitutional amendment for crime victims to be placed on the November, 1992, ballot. Contact your legislators to let them know how you feel.*

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HOUSE JUDICIARY COMMITTEE --- APRIL 30, 1992

SENATE JUDICIARY COMMITTEE --- FEBRUARY 14, 1992

(I offer this testimony that I gave to the Victim Rights' Task Force in January, 1992.) Thank you.

January 6, 1992

VICTIM RIGHTS' TASK FORCE

Public Hearing, Topeka

I, Joan M. Hamilton, 51st Representative, come before you today, not only as a legislator for southwestern Shawnee County, but as a citizen, a past Parole Board Member, a past Assistant District Attorney, and a mother of three children and wife. Our state of judicial justice is in need of immediate attention and correction. We must give safety back to our citizens and help public safety get back into focus.

I applaud the efforts of this Victims Rights' Task Force, but as a member of the original Attorney General's Task Force on Victims Rights, we realized we needed much more than rhetoric and flowery words. We approached the Legislature in 1989 for a constitutional amendment --- just like the one you have offered here (yours has two additional phases), with very little support. We were asked to compromise with statutory language, which we did, and were successful at. I don't believe that doing the same thing three years later would be much more successful, **though I'm not saying that you shouldn't try. But why?** It is merely re-inventing the wheel, and wasting precious time for needed legislation. Though **8 states** have adopted constitutional amendments for victims and victims' rights, they also have not made the progress in laws that Kansas has. This constitutional amendment would NOT be enforceable without the adjoining statutory law to enforce it.

\*\* (CHAIRPERSON OF THE JUDICIARY WAS REP. MIKE O'NEAL)

You ask the important questions: Have you been notified of hearings involving your cases? of parole hearings? of inmates being released into your communities where you were the victim? These are important and IT IS NOT BEING DONE, BUT KANSAS A L R E A D Y HAS THE LAWS REQUIRING IT----IT JUST ISN'T BEING FOLLOWED.

Handwritten notes in blue ink: + JLC ar 4-30-92 #7 1997

**WHY? ----- There are no sanctions within the law if the authorities don't follow the law...no punishment...no delays...etc. That is where we need to add "teeth to the law" to protect victims and their families. THIS CONSTITUTIONAL AMENDMENT WILL NOT PERFECT THOSE INJUSTICES.**

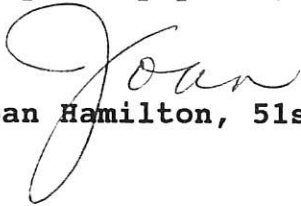
Another argument I have heard is that people feel judges, attorneys, and legislators will take it "more seriously" if the Constitution includes words protecting victims and their families. **If that is what it takes to get their protection, please do it.** However, the law NOW states that they must give the victims the rights that you voice within this amendment ----- query? **Why would they respect the Constitution if they don't respect the law as it reads now?**

Many brave steps by victims and their families, with help from law enforcement and friends, have fought against the resistance of the judicial system for "justice" and equality in the laws. I would ask this Victim Rights' Task Force to join them in their efforts and keep this ball rolling.

**DON'T SLOW IT UP ----- ADD TO THE CREDIBILITY --- PUT "JUSTICE" BACK INTO THE SYSTEM WITH NEW LEGISLATION AND "TEETH".**

My thanks to you for this opportunity to address you. I would be most willing to share with you present, past, and future legislation that has been and will be introduced into the Session to assure victims' rights within our judicial system and a hope for public safety and freedom.

Very truly yours,



Joan Hamilton, 51st Representative

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SENATE BILL No. 776

By Committee on Ways and Means

3-23

8 AN ACT concerning criminal procedure; relating to criminal history  
9 record information; establishment of fee schedule; payment and  
10 reimbursement.

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) The director shall, by rule and regulation establish  
14 a fee schedule for criminal history record information which is dis-  
15 seminated pursuant to this act or any other provision of law. Such  
16 fees shall be paid to the Kansas bureau of investigation by all re-  
17 questors of criminal history record information if such information  
18 is intended for a noncriminal investigation purpose. Information re-  
19 quests for employment, licensing, registration or other administrative  
20 purposes shall not be considered criminal investigations. The director  
21 may deny a request for such information if payment of the established  
22 fee does not accompany the request.

23 (b) A state agency requesting such information in carrying out  
24 its regulatory functions shall require payment or reimbursement of  
25 such costs by any entity or person so regulated by that agency. A  
26 state agency requesting such information for employment purposes  
27 may require payment or reimbursement of such costs by applicants  
28 for employment. Payment or reimbursement may be provided for  
29 through licensing fees, payment to the agency for the direct costs  
30 of acquiring the information or direct payment to the Kansas bureau  
31 of investigation.

32 (c) In establishing fees, the director shall seek to recover part or  
33 all of the direct and indirect costs associated with the collection,  
34 maintenance and retrieval of criminal history record information. All  
35 fees received by the director under this section shall be deposited  
36 in the state treasury and credited to the criminal history record  
37 check fees fund. Expenditures from this fund shall be made only  
38 for operating costs directly or indirectly related to collection, main-  
39 tenance and retrieval of criminal history records.

40 (d) This section shall be part of and supplemental to the criminal  
41 history record information act, K.S.A. 22-4701 *et seq.*

42 Sec. 2. This act shall take effect and be in force from and after  
43 its publication in the statute book.

Except as provided further,

Information requests from an agency for the purpose of participating in a block parent program, including but not limited to the McGruff house program, shall not be charged a fee.

(e)

HJC  
4-30-92  
Attach #3



# TOMAHAWK ELEMENTARY SCHOOL

13820 BROUGHAM DRIVE  
OLATHE, KANSAS 66062  
DAVID KEARNEY, PRINCIPAL



April 23, 1992

Dear Mark,

During the last several months, Tomahawk Elementary and the Olathe Police Department have been involved in a partnership involving the establishment of the McGruff House Program. As you will recall from the research you have conducted, McGruff Houses are a nationally recognized program that provide a safe place for children to go when they find themselves in a emergency or frightening situation. Tomahawk's decision to be involved in this particular safe house program stems from the extensive regulations established by the national headquarters and its' recognition by the National Crime Prevention Council. The program's components take a proactive stance toward safety by involving students, parents, and the entire community in awareness education.

Our involvement was made possible by a very insightful and caring booster club that provided funding. Their financial backing covered the start-up costs which were approximately \$700.00. The major expense of establishing the program in Kansas is a charge for background checks performed on volunteers by the K.B.I. The checks, which are a very valuable component of this program, enhance the program effectiveness. However, the \$10.00 check must be conducted annually for every parent volunteer. At Tomahawk the annual budget would run approximately one thousand dollars to qualify us for continued national endorsement. These expenses would represent a major portion of our yearly budget which has traditionally been used to purchase teaching supplies and pay for student field trips.

As the Program at Tomahawk has gained exposure, I have been approached by several principals and parent representatives about the possibility of establishing McGruff Houses at their schools. They all feel the program is one that is extremely valuable, yet extremely expensive for the limited funds in parent clubs. Essentially, the \$10.00 per person fee is eliminating a large amount of schools and children from involvement in this valuable program.

On behalf of children of Kansas, I would like to request that legislation be drafted to eliminate the fee charged by the K.B.I. for background checks involving McGruff Houses. Legislative action would send a clear message that the safety of the state's children is of utmost importance. It would allow parents to establish programs without the tremendous financial commitment. But most importantly, it would increase the sense of security of children in communities throughout the state.

Sincerely,

*DAVID*

David Kearney

*HJC  
4-30-92  
Attach #4  
182*

April 26, 1992

Representative Mark Parkinson  
16000 W. 136th Terrace  
Olathe, Ks. 66062

Dear Mark,

Per our previous conversation I have compiled a list of those Olathe schools that have demonstrated an interest in the McGruff House Program. Those schools are:

Heritage  
Blackbob  
Briarwood  
Prairie Center  
Scarborough  
Rolling Ridge  
Green Springs  
Brougham  
Central  
Mahaffie

Of these schools that have inquired the final two, Central and Mahaffie, have advised that they would be unable to fund any costs associated with the mandatory criminal background checks and, thus, not be able to participate in the Program. It is also anticipated that the following schools would have a similar problem funding the Program:

Westview  
Ridgeview  
Washington  
Prairie Center  
Fairview

Please let me know if further information would be helpful.

Sincerely,



Kathie Holmes, McGruff House Chairperson  
16006 W. 136th Terrace  
Olathe, Ks. 66062  
782-6636

HJC  
4-30-92  
Attach #4  
2082