

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on January 17, 1996 in Room 313-S of the Capitol.

All members were present except:

Representative David Adkins - Excused
Representative Bob Miller - Excused

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the committee:

Randy Hearrell - Judicial Council
Jennifer Wentz - Legal Counsel, Deputy Secretary of State
Ron Smith - Kansas Bar Association
Kyle Smith - Kansas Bureau of Investigation
Gale Haag - State Fire Marshall
Betty Glover - Office of Attorney General
Janet Cusick - Via Christy Regional Medical Center
Gene Neely - Kansas Safe Kids Coalition
Mike Riches - Washburn Rural High School Student
Don Moler - League of Kansas Municipalities
Ed Jaskinia - The Associated Landlords of Kansas
Wendy McFarland, Kansas Civil Liberty Union

Others attending: See attached list

Randy Hearrell, Judicial Council, appeared before the committee with requests for bill introductions. The first would amend K.S.A. 17-4911, (Attachment 1)

Representative Howell made a motion to have this bill request introduced as a committee bill. Representative Yoh seconded the motion. The motion carried.

The second bill request amends several sections of the Elective Share of Surviving Spouse statute, (Attachment 2).

Representative Pauls made a motion to have this bill request introduced as a committee bill. Representative Grant seconded the motion. The motion carried.

Jennifer Wentz, Legal Counsel, Deputy Secretary of State, appeared before the committee with two bill introductions. The first was a clean-up bill which would address the limited liability act, Delaware code conforming measures for K.S.A. 17-6712 and expansion of the fax filing options, (Attachment 3).

Representative Nichols made a motion to introduce the Delaware code conforming measures for K.S.A. 17-6712 and expansion of the fax filing options as a committee bill.

Representative Mays made a substitute motion to have the three measures introduced as a committee bill. Representative Pauls seconded the motion. The motion carried.

Ms. Wentz explained that the second bill request would propose a flat penalty fee for corporations that are reinstating, (Attachment 4).

Representative Yoh made a motion to have this bill introduced as a committee bill. The Chair seconded the motion. The motion carried.

Ron Smith, Kansas Bar Association, appeared before the committee with a bill request enacting the Fictitious Name Registration Act, which was patterned after Missouri, (Attachment 5).

Representative Ott made a motion to have this bill request introduced as a committee bill. Representative Haley seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 3:30 p.m. on January 17, 1996.

Kyle Smith, Kansas Bureau of Investigation, appeared before the committee with four bill requests. The first dealt with mandatory AIDS testing on convicted criminals. The next, would amend the KBI laboratory analysis fee to cover juvenile adjudications, pre-adjudication diversions and violations of the DUI statute. The third dealt with admissibility of forensic reports at trial. The fourth, involves the KBI data bank, (Attachment 6).

Representative Mays made a motion to have these bill requests introduced as committee bills. Representative Ott seconded the motion. The motion carried.

Hearing on **HB 2463** - smoke detectors act; requiring smoke detectors in residences, were opened.

Gale Haag, State Fire Marshall, appeared before the committee as a proponent of the bill. He stated that all fires start small and there is almost always smoke. Due to this fact a smoke detector is a great investment that would save many lives (Attachment 7).

Betty Glover, Office of Attorney General, appeared before the committee in support of the bill. She explained that with the passage of this legislation there would be a reduction in fire related deaths, (Attachment 8).

Representative Pugh was concerned about how this bill would be enforced. Mrs. Glover commented that North Carolina has a similar bill and that the social services people in that state check to see if houses have the smoke detectors while they are visiting the families for other reasons. Representative Snowbarger questioned if they have a statute in place that enables them to do this. Mrs. Glover responded that she wasn't positive but believed it was just a matter of public education.

Janet Cusick, Via Christy Regional Medical Center, appeared before the committee as a proponent to the bill. She informed the committee that she was a burn survivor. Many people are killed by smoke long before the fire reaches them. She believes that smoke detectors provide early warnings enabling residents to evacuate the home and call for help, (Attachment 9).

Gene Neely, Kansas Safe Kids Coalition, appeared before the committee in support of the bill. He commented that the chances of dying in a residential fire are cut in half when a working smoke detector is present in the home, (Attachment 10).

Mike Riches, Washburn Rural High School Student, appeared before the committee in favor of the bill. He told the committee that a smoke detector had saved his life when he was 9 years old. He urged the committee to give everyone the same chance he had by requiring smoke detectors in homes, (Attachment 11).

Don Moler, League of Kansas Municipalities, appeared before the committee as a proponent to the bill. He stated that this bill would require one smoke detector to be placed in each house and therefore would not be expensive for the homeowners, (Attachment 12).

Ed Jaskinia, The Associated Landlords of Kansas, appeared before the committee in support of the bill. He urged the committee to leave the penalty in the bill for tenants who do not maintain the smoke detector, (Attachment 13).

Wendy McFarland, Kansas Civil Liberties Union, appeared before the committee as an opponent to the bill. She explained that they have no objections to the purpose of the bill but believes that it would violate the Fourth Amendment, (Attachment 14).

Terri Roberts, Kansas State Nurses Association, did not appear before the committee but requested that her written testimony be included in the committee minutes, (Attachment 15).

Hearings on **HB 2463** were closed.

The Judicial Council provided the committee with a status report of the bills the committee requested they study, (Attachment 16).

The next meeting is scheduled for January 22, 1996.

HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: January 17, 1996

NAME	REPRESENTING
Kyle Smith	KBI
Beth M Glover	Attorney General's office
Kelly Kuitala	KTLA
Mike Riches	student
Judy Smith	Shawnee County Econ. Dev. Co.
Wendy McKeen	ACLU
Janis Busick	Via Christi - St. Francis & SAC KWS
Mary Ellen Conlee	Via Christi Health System
Beaden Jones	
Cathy Jones	
Leslie Kaufman	Kansas Farm Bureau
John Edwards	112th Dist. Ks. House
Madie Ann Smith	Kansas Mfg. Housing Assn.
Dale Haag	Kansas State Fire Marshal's Office
Elena Nuss	Kansas State Fire Marshal
James A. Loebl	Ks Fire Fighter Assn
Donna Schneeweis	AI
RICHARD MAGINOT	SOLDIER TOWNSHIP FIRE DEPT
Jim Coder	Kansas State Fire Marshal

Proposed Amendment to K.S.A. 17-4911

1 **17-4911. Tax obligations of corporation and transfer agents.** This act does not affect
2 any obligation of a corporation or transfer agent with respect to estate, inheritance, succession
3 or other taxes imposed by the laws of this state. For purposes of the lien imposed by K.S.A.
4 79-1569, and amendments thereto, however, a transfer made under the provisions of this act
5 shall be deemed to have been made in accordance with law, and a corporation or transfer agent
6 need not require that a fiduciary furnish a consent to transfer as proof of release of the lien prior
7 to the completion of a transfer made under the provisions of this act.

MEMORANDUM

To: Probate Law Advisory Committee
From: Marvin E. Thompson
Re: Transfers of Securities by Executors or Administrators
Date: December 6, 1995

A continuing problem exists in the sale by executors or administrators of corporate stocks and securing the proceeds of sale without furnishing a consent to transfer by the Director of Revenue.

K.S.A. 79-1569 specifically provides that the inheritance tax lien "shall not affect any property after it has been sold or disposed of for value by the executors or administrators in accordance with law and no consent to transfer issued by the director shall be required to release such lien"

The transfer agents take the position that they will not determine whether the transaction is "in accordance with law" and are, therefore, in many cases are requiring the consent to transfer.

This is not only a nuisance to the executors and administrators of the estates but also their attorneys, particularly where the sale of securities may be necessary to pay funeral expenses, debts and costs of administration before the time for filing the state inheritance tax return.

The Department of Revenue has furnished to me a proposed amendment to the Uniform Act for Simplification of Fiduciary Security Transfers, which should cure the problem.

I attach hereto a copy of Senate Bill 338 which was introduced in the 1990 Legislature together with a copy of supplemental note furnished therewith in explanation of the proposed bill.

The Department of Revenue advises that lack of time in the 1990 Legislature prevented this bill from being considered by the House.

I suggest that enactment of the proposed legislation would go a long ways toward simplifying the sale of securities in an estate where there is authority to sell under the will of the decedent or pursuant to a court order.

MET/grp

Wayne C. Vennard, Jr., Director
Division of Taxation
Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66625



(913) 296-3044
FAX (913) 296-2073
TTY (913) 296-6461

Division of Taxation

December 4, 1995

Marvin E. Thompson
Attorney at Law
525 Main
Russell, KS 67665

Re: Kansas Inheritance Tax / Consent to Transfer

Dear Mr. Thompson,

This will confirm our recent discussion during which we discussed the use of Consents to Transfer for Kansas inheritance tax purposes.

As we discussed, several years ago the Kansas Legislature considered an amendment to the Uniform Act for Simplification of Fiduciary Security Transfers which would clarify when Consents to Transfer were needed. Unfortunately, the legislation did not pass and we still face many of the same problems which existed years ago.

Enclosed for your consideration is a copy of the 1990 Bill in question (Senate Bill 338) and a copy of the Supplemental Note on the Bill which was prepared by the Legislative Research Department. The intent behind the Bill, as reflected in the Note, is obvious. Whether the language of the Bill would be appropriate today may be an open question, but some change along this line would certainly be helpful.

I trust this information is of assistance. If I can be of further service, or if you have questions or problems, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Jim Weisgerber".
Jim Weisgerber
Attorney
Tax Specialist

JW:jw

Enclosure: Senate Bill 338
Supplemental Note on Senate Bill No. 338

SENATE BILL No. 338

By Committee on Federal and State Affairs

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AN ACT relating to inheritance tax liens; concerning the determination of gross estate; relating to inheritance tax liens; amending K.S.A. 17-4911 and repealing the existing section.

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

New Section 1. (a) The value of the gross estate shall include the value of any property in which the decedent had a qualifying income interest for life. For purposes of this section, a decedent shall be deemed to have had a qualifying income interest for life in any property with regard to which a qualified terminable interest property election was made under the provisions of K.S.A. 79-1537b, and amendments thereto.

(b) For purposes of this act, property includable in the gross estate of the decedent under subsection (a) shall be treated as property passing from the decedent.

Sec. 2 Section 1. K.S.A. 17-4911 is hereby amended to read as follows: 17-4911. This act does not affect any obligation of a corporation or transfer agent with respect to estate, inheritance, succession or other taxes imposed by the laws of this state. For purposes of the lien imposed by K.S.A. 79-1569, and amendments thereto, however, a transfer made under the provisions of this act shall be deemed to have been made in accordance with law, and a corporation or transfer agent need not require that a fiduciary furnish a consent to transfer as proof of release of the lien prior to the completion of a transfer made under the provisions of this act.

Sec. 3 2. K.S.A. 17-4911 is hereby repealed.

Sec. 4 3. This act shall take effect and be in force from and after its publication in the statute book.

SUPPLEMENTAL NOTE ON SENATE BILL NO. 338

As Amended by Senate Committee on
Judiciary

Brief*

S.B. 338 amends a provision of the Uniform Act for Simplification of Fiduciary Security Transfers dealing with inheritance tax liens. The bill provides that a corporation or transfer agent need not require a fiduciary furnish a consent to transfer, as a proof of the release of the lien prior to the competition of the transfer.

Background

The bill was supported by the Kansas Department of Revenue. Section one of the bill was stricken in anticipation of a more general study of the inheritance tax. The Department testified that at present, the question of whether or not a transfer is made "in accordance with law," thereby releasing the state's lien, must be answered by reference to either the Kansas Inheritance Tax Act or the Kansas Probate Code. Since obtaining a precise answer can be a complex and time consuming task, however, many transfer agents dealing with corporate stocks, bonds, and securities simply choose to shortcut the process by assuming the lien continues to apply until such time as the Department of Revenue issues a "consent to transfer" (or waiver) which specifically releases the lien. As a result, many transfers which might be accomplished pursuant to law are delayed while the estate obtains a specific release from the Department of Revenue.

The amendment offered in S.B. 338 should alleviate much of the confusion as to when a transfer is being made "in accordance with law." K.S.A. 17-4911 is a part of the Uniform Act for the Simplification of Fiduciary Security Transfers, an act which provides corporations and transfer agents with guidelines to follow when dealing with fiduciaries. The proposed amendment would affirmatively state that transfers made under the provisions of the Uniform Act are deemed to be made in accordance with law for purposes of the Inheritance Tax Act and, therefore, that a corporation or

* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

transfer agent need not require that the estate obtain a consent to transfer for transfers so made.

K.S.A. 59-6a201(b)

1 (b) "Fractional interest in property held in joint tenancy with the right of survivorship,"
2 whether the fractional interest is unilaterally severable or not, means the fraction, the numerator
3 of which is one and the denominator of which, if the decedent was a joint tenant, is one plus the
4 number of joint tenants who survive the decedent and which, if the decedent was not a joint
5 tenant, is the number of joint tenants, unless there is proof of some other proportional
6 ownership, legal or equitable.

7
8 (k) "Value of the homestead." For the purposes of this act, where the surviving spouse
9 exercises the right to the homestead, the homestead shall be valued as a life estate interest in the
10 equity of the real estate comprising the homestead in the manner provided by the federal estate
11 tax in 26 U.S.C. 2031, and amendments thereto.

K.S.A. 59-6a204

1 **59-6a204. Decedent's net probate estate.** The value of the augmented estate includes
2 the value of the decedent's probate estate, reduced by funeral and administration expenses,
3 homestead, or homestead allowance, family allowances and enforceable demands.

K.S.A. 59-6a205(a)(2)

1 (2) The decedent's fractional interest in property held by the decedent in joint tenancy
2 with the right of survivorship. The amount included is the value of the decedent's fractional
3 interest, to the extent that such fractional interest passed by right of survivorship at the
4 decedent's death to the surviving joint tenant other ~~that~~ than the decedent's surviving spouse.

K.S.A. 59-6a207(a)(1)(C)

1 (C) property that passed to the surviving spouse by reason of the decedent's death, but
2 not including the spouse's right to homestead or homestead allowance, family allowance, or
3 payments under the federal social security system; and

K.S.A. 59-6a215

1 **59-6a215. Homestead allowance.** ~~(a) Where there is no homestead or the homestead~~
2 ~~is valued at less than \$25,000 a decedent's~~ A surviving spouse is entitled to the homestead, or
3 in lieu thereof the surviving spouse may elect to receive a homestead allowance ~~not to exceed~~
4 of \$25,000. ~~If there is no surviving spouse, each minor child and each dependent child of the~~
5 ~~decedent is entitled to a homestead allowance amounting to \$25,000 divided by the number of~~
6 ~~minor and dependent children of the decedent.~~ The homestead or homestead allowance is
7 exempt from and has priority over all demands against the estate. The homestead or homestead
8 allowance is in addition to any share passing to the surviving spouse ~~or minor or dependent child~~
9 ~~by the will of the decedent, unless otherwise provided, by intestate succession, or by way of~~
10 elective share by way of the elective share.

K.S.A. 59-505

1 **59-505. Same; half of realty to surviving spouse.** Also, the surviving spouse shall be
2 entitled to receive one-half of all real estate of which the decedent at any time during the
3 marriage was seized or possessed and to the disposition whereof the survivor shall not have
4 consented in writing, or by a will, or by an election as provided by law to take under a will,
5 except such real estate as has been sold on execution or judicial sale, or taken by other legal
6 proceeding; Provided, That the surviving spouse shall not be entitled to any interest under the
7 provisions of this section in any real estate of which such decedent in his or her lifetime made
8 a conveyance, when such spouse at the time of the conveyance was not a resident of this state
9 and never had been during the existence of the marriage relation provided further, the spouse's
10 entitlement under this section shall be included as part of the surviving spouse's property under
11 K.S.A. 59-6a207.

K.S.A. 59-2233

1 59-2233. ~~Election to take under will or by intestate succession~~ Notice of Right to
2 Elective Share. ~~Except where the court has previously determined the validity and binding~~
3 ~~consent to a will, when a will is admitted to probate~~ Upon the appointment and qualification of
4 any administrator or executor, the filing of a petition to determine descent, the filing of a
5 petition for an order refusing to grant letters of administration or the filing of an affidavit
6 pursuant to K.S.A. 59-618a the court shall forthwith cause a copy of the will, if any, transmit
7 ~~to the surviving spouse a certified copy thereof, together with a notice statement to the surviving~~
8 ~~spouse stating: "Under K.S.A. 59-6a201 through 59-6a217, you may have valuable rights to take~~
9 ~~a share of conveyances~~ a right to take a share of property owned by the decedent at death, in
10 whole or in part, and of transfers of property made by the decedent prior to death" to be mailed
11 to the surviving spouse. Such notice shall be mailed within 10 days of the qualification of the
12 administrator or executor, the filing of a petition to determine descent, the filing of a petition
13 for an order refusing to grant letters of administration or the filing of an affidavit pursuant to
14 K.S.A. 59-618a. Proof shall be by affidavit filed with the court. If such spouse has consented
15 ~~to the will, as provided by law, such consent shall control; otherwise such spouse shall be~~
16 ~~deemed to have elected to take under the testator's will unless such spouse shall have filed in~~
17 ~~the district court, within six months after the notice of the right to the elective share, an~~
18 ~~instrument in writing to take by the laws of intestate succession~~ If such spouse files an election
19 ~~before the inventory and valuation of the estate is filed, the election shall be set aside upon~~
20 ~~petition of the spouse made within 30 days after the filing of the inventory and valuation. For~~
21 ~~good cause shown, the court may permit an election within such further time as the court may~~
22 ~~determine, if a petition therefor is made within such period of six months.~~

Ron Thornburgh
Secretary of State



2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

House Judiciary Committee
January 16, 1996
Request for Bill Introduction

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you on behalf of the Secretary of State's office to request introduction of two bills.

The first bill contains what we consider to be corporate "cleanup" measures. This bill specifically addresses:

1. A Delaware code conforming measure for K.S.A. 17-6712, which addresses dissenting shareholders' rights;
2. Technical, clerical-type corrections to the limited liability company act in K.S.A. 17-7634 addressing execution of a certificate of merger and K.S.A. 17-7654 addressing filing requirements for a partnership converting to a limited liability company, and the new cross-entity merger statutes in K.S.A. 17-7707 addressing filing requirements for cross entity mergers; and
3. The expansion of the fax filing option for name reservations, withdrawals and limited partnership documents.

The second bill proposes a change in the calculation of penalty fees paid by businesses who reinstate or who qualify to do business as foreign business entities and owe past due annual reports. The bill suggests a flat fee of \$75, as opposed to the current calculation of \$100 plus \$5 for each day a report is past due, which may be waived at the discretion of the secretary of state.

I would address any questions you may have at this time.

Jennifer Chaulk Wentz
Legal Counsel, Deputy Assistant Secretary of State

Secretary of State
Request No. 1

1/16/96

17-6712. Payment for "stock" of "stockholder" objecting to merger or consolidation; "stockholder," "stock" and "share" defined; notice to objecting stockholders; demand for payment; appraisal and determination of value by district court, when; taxation of costs; rights of objecting stockholders; status of stock; section inapplicable to certain shares of stock. (a) When used in this section, the word "stockholder" means a holder of record of stock in a stock corporation and also a member of record of a nonstock corporation; the words "stock" and "share" mean and include what is ordinarily meant by those words and also membership or membership interest of a member of a nonstock corporation. * * *

(k) This section shall not apply to the shares of any class or series of a class of stock, which, at the record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting of stockholders at which the agreement of merger or consolidation is to be acted on, were either (1) registered on a national securities exchange or (2) held of record by not less than 2,000 stockholders, unless the articles of incorporation of the corporation issuing such stock shall otherwise provide; nor shall this section apply to any of the shares of stock of the constituent corporation surviving a merger, if the merger did not require for its approval the vote of the stockholders of the surviving corporation, as provided in subsection (f) of K.S.A. 17-6701 and amendments thereto. This subsection shall not be applicable to the holders of a class or series of a class of stock of a constituent corporation if under the terms of a merger of consolidation pursuant to K.S.A. 17-6701 or 17-6702, and amendments thereto, such holders are required to accept for such stock anything except (i) stock or stock and cash in lieu of fractional shares of the corporation surviving or resulting from such merger or consolidation, or (ii) stock or stock and cash in lieu of fractional shares of any other corporation, which at the record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting of stockholders at which the agreement of merger or consolidation is to be acted on, were either registered on a national securities exchange or held of record by not less than 2,000 stockholders, or (iii) a combination of stock or stock and cash in lieu of fractional shares as set forth in (i) and (ii) of this subsection.

or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc.

17 4. Execution of certificates require. be filed. (a) Each certificate required by this act to be filed in the office of the secretary of state shall be executed in the following manner, unless another manner is specified in this act:

(1) Articles of organization shall be signed by the person forming the organization or by any member or manager;

(2) a certificate of amendment shall be signed by any member or manager and by every member who is designated in the certificate of amendment as a new member; and

(3) a statement of intent to dissolve and articles of dissolution shall be signed by all members.

(b) Any person may sign any certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a member shall describe the admission. Powers of attorney relating to the signing of a certificate by an attorney-in-fact need not be filed in the office of the secretary of state but shall be retained by the company.

(c) The execution of a certificate by a member constitutes an oath or affirmation, under the penalties of perjury, that the facts stated in the certificate are true and that any power of attorney used in connection with the execution of the certificate is in proper form and substance.

History: L. 1990, ch. 80, § 34; L. 1993, ch. 97, § 6; L. 1994, ch. 182, § 4; July 1.

(4) a certificate of merger shall be signed by any member or manager of the surviving company.

17-7654. Conversion of general or limited partnership to limited liability company; requirements. (a) A general or limited partnership formed under the laws of this state may convert to a limited liability company by filing articles of organization that meet the requirements of K.S.A. 17-7607 and amendments thereto and include the following:

(1) The name of the former general partnership or limited partnership; and

, if a limited partnership,

(2) the date and place of filing of the initial certificate of partnership or certificate of limited partnership of the former general partnership or limited partnership.

(b) Nothing in this section shall be construed to require, or deemed to constitute, a dissolution of the general partnership or limited partnership prior to its conversion to a limited liability company as permitted in this section.

(c) When a general partnership or limited partnership is converted to a limited liability company pursuant to this section, the title, to any real or personal property or any interest therein and all rights, privileges, powers, debts, causes of action vested in the former partnership shall be deemed to be transferred to and vested in such limited liability company without further act or deed. Confirmatory deeds, assignments or similar instruments to evidence the transfer may be executed and delivered at any time in the name of the partnership to the limited liability company.

(d) When a general partnership or limited partnership is converted to a limited liability company pursuant to this section, all duties, debts, liens, liabilities and rights of creditors as against the former partnership and its partners shall continue without impairment and shall attach to the limited liability company. Any existing claim, action or proceeding pending by or against the partnership or its partners may be prosecuted to judgment as if the conversion had not taken place, or against the limited liability company to the same extent as if such duties, debts, liens and liabilities had been incurred or contracted by it. A judgment against the partnership constitutes a lien against the limited liability company and may be enforced against the limited liability company.

(e) The filing of articles of organization pursuant to subsection (a) cancels the certificate of limited partnership.

(f) The provisions of this section shall be part of and supplemental to the Kansas limited liability company act.

17 16. Surviving or new entity files agreement of merger or consolidation; requirements; filing; effective date. (a) After an agreement of merger or consolidation is authorized, approved and certified in accordance with K.S.A. 17-7705, the surviving or new entity shall file the agreement of merger or consolidation with the secretary of state or, in lieu thereof, a certificate of merger or consolidation, duly executed, by each constituent entity setting forth:

(1) The name, state or country of organization and nature or type of each of the constituent entities;

(2) that an agreement of merger or consolidation has been authorized and approved by each of the constituent entities in accordance with K.S.A. 17-7705.

(3) the effective date of the merger or consolidation which may not exceed 90 days after the date of filing of the agreement of merger or consolidation or the articles of merger or consolidation;

(4) the name of the surviving or new entity;

(5) if applicable, the address of the registered office and the name of the registered agent at such office for the surviving or new entity;

(6) in the case of a merger, such amendments or changes to the organizational documents of the surviving entity, as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the organizational documents of the surviving entity shall be its organizational documents;

(7) in the case of a consolidation, that the organizational documents of the new entity shall be set forth in an attachment to such agreement or articles of merger or consolidation;

(8) that the executed agreement of merger or consolidation is on file at the principal place of business of the surviving or new entity, stating the address thereof; and

(9) that a copy of the agreement of merger or consolidation will be furnished by the surviving or new entity, on request and without cost, to any partner, shareholder, member or their equivalent of any entity that is a party to the merger or consolidation.

(b) The agreement or certificate of merger or consolidation shall be filed in accordance with K.S.A. 17-6003 and amendments thereto, except that no filing with the register of deeds is required if no domestic corporation is a constituent entity.

(c) A merger or consolidation shall be effective when the requirements for effectiveness of laws under which any constituent entity was formed have been met and the certificate of merger or consolidation has been filed by the secretary of state, unless a later date is certified in the agreement of merger or consolidation or articles of merger or consolidation, in which case, the effective date of the merger or consolidation will be the date so specified which shall, in no event, exceed 90 days after the date the agreement of merger or consolidation or certificate of merger or consolidation is delivered to the secretary of state for filing.

unless a domestic corporation or a foreign corporation qualified to do business in Kansas

17-7306. Same; withdrawal from state; procedure; service of process on secretary of state. (a) Any foreign corporation which shall have qualified to do business in this state under the provisions of K.S.A. 17-7301 may surrender its authority to do business in this state and may withdraw therefrom by filing with the secretary of state:

(1) A certificate signed by its president or a vice-president and under its corporate seal, attested by its secretary or an assistant secretary, stating that it surrenders its authority to transact business in the state of Kansas and withdraws therefrom; and stating the address to which the secretary of state may mail any process against the corporation that may be served upon him; or

(2) A copy of a certificate of dissolution issued by the proper official of the state or other jurisdiction of its incorporation, certified to be a true copy under the hand and official seal of the official, together with a certificate, which shall be executed in accordance with paragraph (1) of this subsection, stating the address to which the secretary of state may mail any process against the corporation that may be served upon him; or

(3) A copy of an order or decree of dissolution made by any court of competent jurisdiction or other competent authority of the state or other jurisdiction of its incorporation, certified to be a true copy under the hand of the clerk of the court or other official body, and the official seal of the court or official body or clerk thereof, together with a certificate executed in accordance with paragraph (1) of this subsection, stating the address to which the secretary of state may mail any process against the corporation that may be served upon him.

(b) The secretary of state, upon payment to him of any required fees, shall issue a sufficient number of certificates, under his hand and official seal, evidencing the surrender of the authority of the corporation to do business in this state and its withdrawal therefrom. One of the certificates shall be furnished to the corporation withdrawing and surrendering its right to do business in this state; one certificate shall be delivered to the agent of the corporation designated as such immediately prior to the withdrawal.

(c) Upon the issuance of the certificates by the secretary of state, the appointment of the resident agent of the corporation in this state, upon whom process against the corporation may be served, shall be revoked, and the corporation shall be deemed to have consented that service of process in any action, suit or proceeding based upon any cause of action arising in this state, during the time the corporation was authorized to transact business in this state, may thereafter be made by service upon the secretary of state in the manner prescribed by K.S.A. 60-304.

The documents evidencing the withdrawal may be filed by telefacsimile communication as prescribed by K.S.A. 17-6003a.

17-7402. Reservation of exclusive right to corporate name; procedure; transfer. The exclusive right to the use of a corporate name may be reserved by: (a) Any person intending to organize a corporation under this act;

(b) any domestic corporation intending to change its name;

(c) any foreign corporation intending to make application for a certificate of authority to transact business in this state;

(d) any foreign corporation authorized to transact business in this state, and intending to change its name; and

(e) any person intending to organize a foreign corporation, and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specific corporate name, executed by the applicant. If the secretary of state finds that the name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period of one hundred twenty (120) days.

The right to exclusive use of a specified corporate name, so reserved, may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

The reservation may be filed by telefacsimile communication as prescribed by K.S.A. 17-6003a.

(a) Any instrument filed in accordance with the Kansas revised uniform limited partnership act, and amendments thereto, may be filed by telefacsimile communications. If such telefacsimile communication is accompanied with the appropriate fees, and meets the statutory requirements, it shall be effective upon its filing date except that the original instrument must be filed in the secretary of state's office within seven days after its telefacsimile filing date. The secretary of state shall prescribe a telefacsimile communication fee in addition to any filing fees to cover the cost of the services. The fee must be paid prior to acceptance of a telefacsimile communication under this section. The telefacsimile communication fee shall be deposited into the information and copy service fee fund. Failure to file the original instrument with the secretary of state's office within such seven days shall void the telefacsimile filing and such instrument shall not take effect until the original is so filed.

(b) As used in this section, telefacsimile communication means the use of electronic equipment to send or transfer a copy of an original document via telephone lines.

(c) The provisions of this section shall be part of and supplemental to the Kansas revised uniform limited partnership act.

Secretary of J
Request No. 2
11/6/96

17-7509. Failure to file or report or pay taxes by corporations organized for profit; penalties: action to recover penalties and taxes: remittance or waiver of penalties: canceled corporations or corporations whose existence has been forfeited. penalties. (a) In case any corporation organized for profit which is required to file an annual report and pay the annual franchise tax prescribed by this act shall fail or neglect to make such report at the time prescribed, such corporation shall be subject to a penalty of ~~one hundred dollars (\$100)~~ and an additional penalty of ~~five dollars (\$5)~~ per day for each day's omission after the time limited in this act for filing such report and paying such tax. Such penalty and the annual tax or taxes required to be paid by this act may be recovered by an action in the name of the state, and all moneys recovered shall be paid into the state treasury to the credit of the general fund. ~~Any corporation shall have the right to be heard by the secretary of state upon the matter of determination of the amount of taxes or penalties due under the provisions of this act. For good cause shown, the secretary of state may remit or waive all or any part of any penalties due under this act.~~

seventy-five dollars (\$75)

(b) On complaint of the secretary of state that any corporation has failed to pay the annual taxes prescribed by this act, it shall be the duty of the county or district attorney, or the attorney general, to institute such action in the district court of Shawnee county, Kansas, or of any county in which such corporation has an office or place of business.

(c) The penalties provided for in subsection (a) also may be assessed against any corporation for the reason that such corporation has been canceled or its existence forfeited pursuant to the Kansas general corporation code. No penalty shall be charged pursuant to this subsection, if a corporation is assessed penalties pursuant to grounds specified in subsection (a).



**KANSAS BAR
ASSOCIATION**

1200 SW Harrison Street
PO Box 1037
Topeka Kansas 66601-1037
Telephone 913-234-5696
FAX 913-234-3813

E-Mail – kansbar@ink.org

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General Counsel

Art Thompson,
IOLTA Director

Memorandum

TO: Hon. Mike O'Neal, Chair,
Members, House Judiciary Committee

FROM: Ron Smith, General Counsel

SUBJ: 1994 SB 580, Fictitious Names Registration Act.

DATE: January 17, 1996

On behalf of the KBA we would like introduction of legislation identical to 1994 SB 580, which was the Fictitious Names Registration Act. The purpose of the act is to give banks, businesses, government and citizens notice of who the real owners of non-SEC businesses happen to be, if the ownership is not readily available from the business name itself. The Secretary of State's office also has an interest in this legislation.

The request comes from our Corporation, Business and Banking Section. For the Reviser's Office purposes, SB 580 is the model for the new legislation, and is a good starting point for discussions.

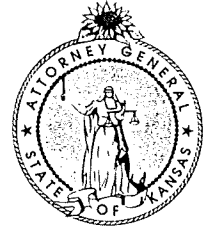
Thank you.

House Judiciary
1-17-96
Attachment 5



LARRY WELCH
DIRECTOR

KANSAS BUREAU OF INVESTIGATION
DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS



CARLA J. STOVALL
ATTORNEY GENERAL

TESTIMONY
BEFORE THE HOUSE JUDICIARY COMMITTEE
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
BEFORE THE HOUSE JUDICIARY COMMITTEE
BILL REQUESTS
JANUARY 17, 1995

Mr. Chairman and Members of the Committee:

On behalf of Director Larry Welch I appreciate this opportunity to appear and request legislation. I suspect you will be pleased to know that none of the four proposals are major, new legislation, but rather minor improvements and corrections in existing statutes affecting the Kansas Bureau of Investigation (KBI).

The **first** proposal would amend two statutes, K.S.A. 22-2913 and 65-6004, which deal with mandatory AIDS testing on convicted criminals. The proposal is to expand the application to include forensic laboratory personnel. The KBI had an incident this last year where an examiner in our lab had an accidental exposure to submitted blood. We then first noted that this situation was not covered by the statutes, but were able to obtain a consent for testing. A balloon with the proposed language is attached.

The **second** proposal would amend K.S.A. 28-176, which establishes the KBI laboratory analysis fee, to clarify that it would cover juvenile adjudications, pre-adjudication diversions and violations of the DUI statute which require testing for drugs and controlled substances. Again, there is a balloon with the proposed language attached to this bill request.

House Judiciary
1-17-96
Attachment 6

The **third** proposal deals with K.S.A. 22-3437 and the admissibility of forensic reports at trial. During the legislative process, language was added to this statute which was intended to clarify its application to DUI's. Unfortunately, experience has taught us that several judges are now reading this as applying only to DUI's, which, you will remember, was not the intent. The proposed language contained in the balloon merely clarifies that all forensic exams are covered by moving the references to DUI exams to a separate sentence. I believe this is also a legislative priority of the County and District Attorneys Association.

The **fourth** proposal amends the statutes regarding data bases kept by the KBI. First as to 21-2511, the DNA Data Bank, there will be a grammatical clarification that it does apply to adults as well as juveniles, a problem some courts have had with the current wording. The predicate offenses which would trigger DNA samples, would be extended to be made consistent with the Sex Offender Registration Act. The fact that we have slightly different offenses has caused some confusion to court services officers, where we have received DNA samples from persons not covered and people have registered for sex offenses when they did not need to. Another clarification would be to include as predicate offenses attempts, solicitation and conspiracies of the crimes listed. I believe this was a drafting oversight in the original bill. Finally, as to K.S.A. 21-2511, Attorney General's Opinion, 95-63, was issued on June 19, 1995, which found there was no specific authority for collecting fingerprints of juveniles who have to give DNA samples. Absent such a specific authority, that opinion concluded the KBI would be unable to collect the prints of the juvenile giving the DNA sample. This last amendment to K.S.A. 21-2511 would specifically authorize the collection of identifiers, including fingerprints, from all persons who are required to register under the DNA act, K.S.A. 21-2511, juveniles and adults.

As to fingerprints, another part of this fourth proposal would be to propose amending K.S.A. 21-2501(a), to allow the fingerprinting of at least one C misdemeanor, that being violations of 8-1599, transportation of liquor in open containers. While the Sentencing Commission saw no reason to fingerprint C misdemeanors since they were not computed for criminal history record information for sentencing purposes under the guidelines, this particular statute has an increased penalties for subsequent convictions. We would be unable to prove identity on the prior offense without such fingerprints.

The final part of the fourth proposal would be amendments to the Sex Offender Registration Act, K.S.A. 22-4902, to clarify the forms used, the information collected and when updates are required. Again, balloons are attached.

While all these changes appear rather technical, I can assure you that they are addressing real problems and we would appreciate this Committee's authorizing them be introduced as bills for hearing and consideration. I would be happy to answer any questions.

65-6004. Physician authorized to disclose to certain persons information about patient who has AIDS or who has had a positive reaction to an AIDS test; confidentiality of information; immunity in judicial proceedings. (a) Notwithstanding any other law to the contrary, a physician performing medical or surgical procedures on a patient who the physician knows has AIDS or has had a positive reaction to an AIDS test may disclose such information to other health care providers, emergency personnel, forensic laboratory personnel or law enforcement officers who have been or will be placed in contact with bodily fluids of such patient. The information shall be confidential and shall not be disclosed by such health care providers, emergency personnel or law enforcement officers except as may be necessary in providing treatment for such patient.

(b) Notwithstanding any other law to the contrary, a physician who has reason to believe that the spouse or partner of a person who has had a positive reaction to an AIDS test or who has AIDS may have been exposed to HIV and is unaware of such exposure may inform the spouse or partner of the risk of exposure. The information shall be confidential and shall not be disclosed by such spouse or partner to other persons except to the spouse or partner who has had a positive reaction to an AIDS test or who has AIDS.

(c) Nothing in this section shall be construed to create a duty to warn any person of possible exposure to HIV.

(d) Any physician who discloses information in accordance with the provisions of this section in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such disclosure. Any such physician shall have the same immunity with respect to participation in any judicial proceeding resulting from such disclosure.

History: L. 1988, ch. 232, § 4; L. 1990, ch. 234, § 3; L. 1993, ch. 221, § 1; July 1.

(d) The results of any test for HIV infection ordered under this section shall be disclosed to the court which ordered the test, to the convicted person and to each person designated under subsection (c) ~~by a victim or by the parent or legal guardian of a victim.~~ If a test for HIV infection ordered under this section results in a laboratory confirmation of HIV infection, the results shall be reported to the secretary of health and environment and to the secretary of corrections for inclusion in the convicted person's medical file. The secretary of health and environment shall provide to each victim of the crime or sexual act, at the option of such victim, counseling regarding the human immunodeficiency virus, testing for HIV infection in accordance with K.S.A. 65-6001 *et seq.* and amendments thereto and referral for appropriate health care and services.

(e) The costs of any counseling and testing provided under subsection (d) by the secretary of health and environment shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the convicted person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and for the costs of any test ordered or otherwise performed under this section.

(f) When a court orders a convicted person to submit to a test for HIV infection under this section, the withdrawal of the blood may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a licensed professional nurse or a licensed practical nurse; or (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the test for HIV infection nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the test is performed in a reasonable manner according to generally accepted medical practices.

(g) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by this section to receive the results or information. Any violation of this section is a Class C misdemeanor.

History: L. 1988, ch. 230, § 1; L. 1993, ch. 242, § 2; July 1.

22-2913. AIDS testing and counseling of certain offenders and victims. (a) As used in this section:

(1) "Conviction" means a judgment of guilt entered upon a finding of guilty or upon a plea of guilty or no contest

(2) "Laboratory confirmation of HIV infection" means positive test results from a confirmation test approved by the secretary of health and environment.

(3) "Sexual act" means contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva or the mouth and the anus. For purposes of this definition contact involving the penis occurs upon penetration, however slight.

(4) "Test for HIV infection" means a test approved by the secretary of health and environment to detect the etiologic agent for the disease acquired immune deficiency syndrome.

(5) "Body fluids" means blood, semen or vaginal secretions or any body fluid visibly contaminated with blood.

(b) At the time of an appearance before the court under K.S.A. 22-2901 and amendments thereto, the court shall inform every person arrested and charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved or a sexual act may have been involved of the availability of testing for HIV infection and counseling and shall cause each alleged victim of the crime, if any, to be notified that testing for HIV infection and counseling is available.

(c) Upon conviction of a person for any crime which the court determines, from the facts of the case, involved or was likely to have involved the transmission of body fluids from one person to another or involved a sexual act, the court: (1) May order the convicted person to submit to a test for HIV infection; or (2) shall order the convicted person to submit to a test for HIV infection if a victim of the crime, or the parent or legal guardian of the victim if the victim is a minor, requests the court to make such order. If a test for HIV infection is ordered under this subsection, a victim who is an adult shall designate a health care provider or counselor to receive the information on behalf of the victim. If a victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive the information. If the test results in a negative reaction, the court shall order the convicted person to submit to another test for HIV infection six months after the first test was administered.

, the collection of bodily fluids.

a law enforcement officer, emergency medical services provider, or a forensic laboratory employee exposed to the defendant's bodily fluids

requestor

23-176. K.B.I. laboratory analysis fee charged as separate court costs in certain cases; use of proceeds. (a) Any person convicted or diverted, pursuant to K.S.A. 22-2906 et seq., and amendments thereto, of a misdemeanor, or felony contained in chapters 21 or 65 of the Kansas Statutes Annotated, shall pay a separate court cost of \$150 as a Kansas bureau of investigation laboratory analysis fee for each offense if forensic science or laboratory services are rendered or administered by the Kansas bureau of investigation in connection with the case.

adjudicated or diverted under a pre-adjudication program

,38-1635 or 12-4414

or a violation of 8-1567 involving drugs or controlled substances,

,41

(b) Such fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

(c) Disbursements from the Kansas bureau of investigation laboratory analysis fee deposited into the forensic laboratory and materials fee fund of the Kansas bureau of investigation shall be made for the following:

(1) Providing criminalistic laboratory services;

(2) the purchase and maintenance of equipment for use by the laboratory in performing analysis;

(3) education, training and scientific development of Kansas bureau of investigation personnel; and

(4) the destruction of seized property and chemicals as prescribed in K.S.A. 22-2512 and K.S.A. 65-4135 and amendments thereto.

History: L. 1992, ch. 298, § 83; July 1, 1993.

(d) Fees received into this fund shall be supplemental to regular appropriations to the Kansas bureau of investigation.

3437. Forensic exam; admissibility; certification. (1) In any hearing or trial, a report concerning forensic examinations and certificate of forensic examination executed pursuant to this section ~~and admissible pursuant to subsection (f)(1) of K.S.A. 8-1001, and amendments thereto,~~ shall be admissible in evidence if the report and certificate are prepared and attested by a criminalist or other employee of the Kansas bureau of investigation, Kansas highway patrol or any laboratory of the federal bureau of investigation, federal postal inspection service, federal bureau of alcohol, tobacco and firearms or federal drug enforcement administration ~~or any law enforcement officer or other person who is certified by the department of health and environment as a breath test operator as provided by K.S.A. 65-1,107 et seq. and amendments thereto.~~

. If the examination involves a breath test for blood alcohol content the report must also be admissible pursuant to subsection (f)(1) of K.S.A. 8-1001 and amendments thereto and be conducted by
a

(2) Upon the request of any law enforcement agency, such person as provided in subsection (1) performing the analysis shall prepare a certificate. Such person shall sign the certificate under oath and shall include in the certificate an attestation as to the result of the analysis. The presentation of this certificate to a court by any party to a proceeding shall be evidence that all of the requirements and provisions of this section have been complied with. This certificate shall be sworn to before a notary public or other person empowered by law to take oaths and shall contain a statement establishing the following: The type of analysis performed; the result achieved; any conclusions reached based upon that result; that the subscriber is the person who performed the analysis and made the conclusions; the subscriber's training or experience to perform the analysis; the nature and condition of the equipment used; and the certification and foundation requirements for admissibility of breath test results, when appropriate. When properly executed, the certificate shall, subject to the provisions of subsection (3) and notwithstanding any other provision of law, be admissible evidence of the results of the forensic examination of the samples or evidence submitted for analysis and the court shall take judicial notice of the signature of the person performing the analysis and of the fact that such person is that person who performed the analysis.

(3) Whenever a party intends to proffer in a criminal or civil proceeding, a certificate executed pursuant to this section, notice of an intent to proffer that certificate and the reports relating to the analysis in question, including a copy of the certificate, shall be conveyed to the opposing party or parties within 20 days after arraignment, if a criminal proceeding or at least 20 days before a civil trial begins. An opposing party who intends to object to the admission into evidence of a certificate shall give notice of objection and the grounds for the objection within 10 days upon receiving the adversary's notice of intent to proffer the certificate. Whenever a notice of objection is filed, admissibility of the certificate shall be determined not later than two days before the beginning of the trial. A proffered certificate shall be admitted in evidence unless it appears from the notice of objection and grounds for that ob-

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

Section 1. K.S.A. 1994 Supp. 21-2511 is hereby amended to read as follows: 21-2511. (a) Any person convicted or adjudicated as a juvenile offender because of the commission of an unlawful sexual act as defined in subsection (4) of K.S.A. 21-3501, and amendments thereto, ~~or an attempt of such unlawful sexual act~~ or convicted or adjudicated as a juvenile offender because of the commission of a violation of K.S.A. 21-3401, 21-3402, 21-3602, 21-3603 or 21-3609, and amendments thereto, regardless of the sentence imposed, shall be required to submit specimens of blood and saliva to the Kansas bureau of investigation in accordance with the provisions of this act, if such person is:

as an adult

as an adult
21-3510, 21-3516,

including an attempt, conspiracy or criminal solicitation of said offenses, as defined in K.S.A. 1994 Supp. 21-3301a, 21-3302a or 21-3303a and amendments thereto,

(1) Convicted or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act;

(2) ordered institutionalized as a result of being convicted or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act; or

(3) convicted or adjudicated as a juvenile offender because of the commission of a crime specified in this subsection before the effective date of this act and is presently confined as a result of such conviction or adjudication in any state correctional facility or county jail or is presently serving an authorized disposition under K.S.A. 21-4603, 22-3717 or 38-1663, and amendments thereto.

(c) ~~7b-~~ Any person required by paragraphs (a)(1) and (a)(2) to provide specimens of blood and saliva shall be ordered by the court to have specimens of blood and saliva collected within 10 days after sentencing or adjudication:

(b) Notwithstanding any other provision of law, the Kansas bureau of investigation is authorized to obtain fingerprints and other identifiers for all contributors, juveniles and adults.

(1) If placed directly on probation, as a condition of probation, that person must provide specimens of blood and saliva, at a collection site designated by the Kansas bureau of investigation. *Failure to cooperate with the collection of the specimens and any deliberate act by that person intended to impede, delay or stop the collection of the specimens shall be punishable as contempt of court and constitute grounds to revoke probation;*

(2) if sentenced to the secretary of corrections, the specimens of blood and saliva will be obtained immediately upon arrival at the Topeka correctional facility; or

(3) if a juvenile offender is placed in the custody of the secretary of social and rehabilitation services, in a youth residential facility or in a state youth center, the specimens of blood and saliva will be obtained immediately upon arrival.

(d) ~~7c-~~ Any person required by paragraph (a)(3) to provide specimens of blood and saliva shall be required to provide such samples prior to final discharge, parole, or release at a collection site designated by the Kansas bureau of investigation.

(e) ~~7d-~~ The Kansas bureau of investigation shall provide all specimen vials, mailing tubes, labels and instructions necessary for the collection of blood and saliva samples. The collection of samples shall be performed in a medically approved manner. No person authorized by this section to withdraw blood and collect saliva, and no person assisting in the collection of these samples shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices. The withdrawal of blood for purposes of this act may be performed only by: (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 *including, but not limited to, an emergency medical technician-intermediate or mobile intensive care technician, as those terms are defined in K.S.A. 65-6112, and amendments thereto, or a phlebotomist.* The samples shall thereafter be forwarded to the Kansas bureau of investigation for analysis and categorizing into genetic marker groupings.

(f) ~~7e-~~ The genetic marker groupings shall be maintained by the Kansas bureau of investigation. The Kansas bureau of investigation shall establish, implement and maintain a statewide automated personal identification system capable of, but not limited to, classifying, matching and storing analysis of DNA (deoxyribonucleic acid) and other biological molecules. *The genetic marker grouping analysis information and identification su-*

etc.



21-2501. Fingerprinting of suspects;

Disposition of fingerprints. (a) It is hereby made the duty of every sheriff, police department or countywide law enforcement agency in the state, immediately to cause two sets of fingerprint impressions to be made of a person who is arrested if the person:

(1) Is wanted for the commission of a felony. On or after July 1, 1993, fingerprints shall be taken if the person is wanted for the commission of a felony or a class A or B misdemeanor, or assault as defined in K.S.A. 21-3408 and amendments thereto or a violation of a county resolution which would be the equivalent of a class A or B misdemeanor, or assault as defined in K.S.A. 21-3408 and amendments thereto under state law;

transporting an open container of liquor in violation of K.S.A. 8-1599 and amendments thereto,

(2) is believed to be a fugitive from justice;

(3) may be in the possession at the time of arrest of any goods or property reasonably believed to have been stolen by the person;

(4) is in possession of firearms or other concealed weapons, burglary tools, high explosives or other appliances believed to be used solely for criminal purposes;

(5) is wanted for any offense which involves sexual conduct prohibited by law or for violation of the uniform controlled substances act; or

(6) is suspected of being or known to be a habitual criminal or violator of the intoxicating liquor law.

(b) The court shall ensure, upon the offender's first appearance, or in any event before final disposition of ~~any offense set out in section (a)(1) above,~~ any offense set out in section (a)(1) above, or a violation of a county resolution which is prohibited by ~~any offense set out in section (a)(1) above,~~ that the offender has been processed and fingerprinted.

(c) Fingerprint impressions taken pursuant to this section shall be made on the forms provided by the department of justice of the United States or the Kansas bureau of investigation. The sheriff, police department or countywide law enforcement agency shall cause the impressions to be forwarded to the Kansas bureau of investigation at Topeka, Kansas, which shall forward one set of the impressions to the federal bureau of investigation, department of justice, at Washington, D.C. A comprehensive description of the person arrested and such other data and information as to the identification of such person as the department of justice and bureau of investigation require shall accompany the impressions.

(d) A sheriff, police department or countywide law enforcement agency may take and retain for its own use copies of fingerprint impressions of a person specified in subsection (a), together with a comprehensive description and such other data and information as necessary to properly identify such person.

(e) Except as provided in subsection (a)(1), this section shall not be construed to include violators of any county resolution or municipal ordinance.

K.S.A. 1994 Supp. 22-4904 is hereby amended to read as follows: 22-4904. (a) Within 15 days of the sex offender coming into any county in which the sex offender resides or is temporarily domiciled for more than 15 days, the sex offender shall register with the sheriff of the county. *The sex offender shall thereafter update the registration annually until liability to register expires pursuant to K.S.A. 22-4906 and amendments thereto.*

(b) (1) If any person required to register as provided in this act changes the address of their residence, the sex offender shall, within 10 days, inform in writing the law enforcement agency where last registered of the new address.

(2) The law enforcement agency shall, within three days of receipt of the ~~new~~ *initial registration or change of address*, forward this information to the Kansas bureau of investigation and, *if applicable*, to the law enforcement agency having jurisdiction of the new place of residence.

K.S.A. 1994 Supp. 22-4907 is hereby amended to read as follows: 22-4907. (a) Registration as required by this act shall consist of a statement in writing, *on a form prepared by the Kansas bureau of investigation*, signed by the person. The information shall include the following:

- (1) Name;
- (2) date *and place* of birth;
- (3) offense or offenses committed, date of conviction or convictions *or adjudication or adjudications obtained or diversion agreement or agreements entered into*;
- (4) city or county of conviction or convictions *or adjudication or adjudications obtained or diversion agreement or agreements entered into*;
- (5) ~~a photograph~~ *sex and age of the victim*;
- (6) ~~fingerprints~~; *and current address*;
- (7) social security number;
- (8) *identifying characteristics such as race, sex, age, hair and eye color, scars and blood type*;
- (9) *occupation and name of employer*; and
- (10) *drivers license and vehicle information*.

(b) *The sex offender shall also provide to the registering law enforcement agency:*

- (1) *A photograph*;
- (2) *fingerprints*; and
- (3) *DNA exemplars*.

(c) *If the exemplars to be taken require the withdrawal of blood, such withdrawal may be performed only by:*

- (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*;
- (3) *any qualified medical technician*; or
- (4) *a licensed phlebotomist*.

~~(b)~~ (d) Within three days, the registering law enforcement agency shall forward the statement and any other required information to the Kansas bureau of investigation.



State Fire Marshal Gale Haag

Governor Bill Graves

"Where Fire Safety is a way of life"

TESTIMONY OF
GALE HAAG
KANSAS STATE FIRE MARSHAL

BEFORE THE HOUSE JUDICIARY COMMITTEE
JANUARY 17, 1996

HOUSE BILL 2463

On behalf of the Fire Service in the State of Kansas, I would like to thank this committee for holding a hearing on the smoke detector legislation. The fire service is speaking with one voice in support of this issue. The groups which have endorsed this proposal and asked me to speak on their behalf are: Kansas State Fire Chiefs Association, Kansas State Firefighters Association, Fire Education Association of Kansas, Fire Marshal's Association of Kansas, International Association of Fire Investigators-Kansas Chapter, and the Kansas Professional Fire Chiefs Association.

All these groups wanted to present a unified front. Several of them have provided additional written testimony which we have attached to my testimony.

Residential fires are devastating and deadly.

In 1994 there were 3,768 fires in residential structures in Kansas.

Kansas has averaged over 50 fire deaths a year for the last 5 years.

Since 1990, 64 children under the age of 14 have died in fires in Kansas.

The peak time for residential fire deaths is between 2 a.m. and 5 a.m.

The most common activity for fire death victims prior to being overcome is sleeping.

National statistics prove that the chances of dying in a residential fire are cut in half by having a working smoke detector.

All fires start small. There is almost always smoke generated. Due to this, the life safety feature of choice in the national codes is smoke detectors. The statistics are clear. The one time installation and periodic maintenance of a \$10 smoke detector is one of the most cost effective life saving measures available.

There is much concern about the possible invasion of privacy in your homes to enforce this bill. When you had the courage and common sense to pass the seatbelt legislation there was similar concerns. However, you do not see the Highway Patrol pulling people over for not using seatbelts. There isn't going to be anyone kicking down doors to check to see if you have a smoke detector installed. This bill is just one step in a public education campaign that will go a long way to solving a major problem of loss of life and property due to fire in the state of Kansas.

The Kansas fire service, speaking as one ask that you support House Bill 2463. It will save lives. We feel this bill is extremely important. It deserves a positive vote from this committee and a chance on the floor of the House.

House Judiciary
1-17-96
Attachment 7

KANSAS STATE ASSOCIATION OF FIRE CHIEFS



SMOKE DETECTOR LEGISLATION TESTIMONY

JANUARY 17, 1996

H.A. HARTLEY, PRESIDENT

KANSAS STATE ASSOCIATION OF FIRE CHIEFS

EXECUTIVE BOARD

PRESIDENT

Chief H.A. Hartley
Shawnee Fire Department
6501 Quivira Road
Shawnee, Kansas 66216
913-631-1080

VICE PRESIDENT

Chief Jim Keating
St. Marys Fire Department
P.O. Box 56
St. Marys, Kansas 66536
913-437-6287

DISTRICT 1 REPRESENTATIVE

Chief Dean Jensen
Goodland Fire Department
1010 Center
Goodland, Kansas 67735
913-899-4545

DISTRICT 2 REPRESENTATIVE

Chief Richard Klaus
Ellis County Rural Fire District
105 W. 12th
Hays, Kansas 67601
913-625-1061

DISTRICT 3 REPRESENTATIVE

Chief Tom Girard
Salina Fire Department
222 West Elm
Salina, Kansas 67401
913-826-7340

DISTRICT 4 REPRESENTATIVE

Major Richard Barr
Lawrence Fire Department
746 Kentucky
Lawrence, Kansas 66044
913-841-9400

DISTRICT 5 REPRESENTATIVE

Chief Jerry Smith
Greensburg Fire Department
418 W. Wisconsin
Greensburg, Kansas 67054
316-723-2336

DISTRICT 6 REPRESENTATIVE

Deputy Director Ralph E. Green
El Dorado Fire Department
220 E. First Avenue
El Dorado, Kansas 67042
316-321-9100

DISTRICT 7 REPRESENTATIVE

Director Gene Tucker
Montgomery County RFD #1
Route 4, Box 114
Coffeyville, Kansas 67337
316-331-2710

PAST PRESIDENT

Chief Jim McSwain
Lawrence Fire Department
746 Kentucky
Lawrence, Kansas 66044
913-841-9400

SECRETARY - TREASURER

Chief Richard Maginot
Soldier Twp. Fire Department
600 NW 46th
Topeka, Kansas 66617
913-286-2123

FIRE DEATHS AND INJURIES

*The United States has one of the highest fire death rates, per capita, in the industrialized world.

*Approximately 5,500 people die in fires in this country annually.

*Each year, fire kills more Americans than all the major natural emergencies combined, including floods, hurricanes, tornadoes and earthquakes.

*Fire is the leading cause of accidental death in the home; at least 70% of all fire deaths occur in residences.

*Kansas is one of only eight states in this country that still lacks state smoke detector legislation for one and two-family dwellings. Over 75% of all deaths and injury due to fire in Kansas in 1991 occurred in these type of dwellings.

*Kansas ranked eighth of forty-four reporting states for residential structure fire deaths per 1,000 fires in 1992.

*Kansas ranked tenth in injuries per 1,000 fires.

*Fifty-seven children, age 0-14, have died in Kansas fires in the last five years.

*Fifty-one percent of the children who die in fires are age 1 - 4. Fire is the third leading cause of death for Kansas children age 1 - 4.

HOME FIRES

*Somewhere in the nation, a residential fire occurs about every 66 seconds.

*The peak time for home fire fatalities is between 2 and 5 A.M. - when most people are asleep. In a recent survey by Energizer batteries, half of the

1996 CONFERENCE - ARKANSAS CITY, KANSAS
1997 CONFERENCE - SALINA, KANSAS

1,000 respondents mistakenly believed they would be awakened by the smell of smoke in time to escape. In reality, smoke often disorients people and dulls their senses. In addition most people die of smoke inhalation in home fires rather than of burns.

*Most fire deaths occur in winter months - December through February - when most fires occur. Poorly installed, maintained or misused portable or area heating equipment is a main cause of fatal home fires.

*In 1991, home fires caused \$5.5 billion damage to homes.

WHAT SAVES LIVES

*The chances of dying in a residential fire are cut in half when a working smoke detector is present.

*Nationally, ninety percent of child fire deaths occur in homes without smoke detectors.

*While national figures indicate that only 26% of homes are not equipped with smoke detectors, in 1989 47% of Kansas homes with fires did not have smoke detectors and 43% of the injuries and 41% of the deaths occurred in homes without smoke detectors.

SOURCES: United States Fire Administration, International Association of Fire Chiefs, National Fire Protection Association, Kansas Safe Kids Coalition.

Kansas State Fire Fighters' Association, Inc.



ORGANIZED AUGUST 13, 1887

Testimony of The Kansas State Firefighters Association, Inc.

Before the Judiciary Committee

January 17, 1996

House Bill 2463

On behalf of the Kansas State Firefighters Association, I would like to take this opportunity to thank this committee for allowing me to speak in favor of the pending legislation concerning placement of smoke detectors in all dwelling units.

The Kansas State Firefighters Association's membership is a representation of fire department from the largest city in Kansas to nearly the smallest. Our members are firefighters, fire officers, and chief executive officers. These members come from full-time paid, part paid/volunteer, or completely volunteer fire departments. They represent city, county, district, and township departments.

Many cities in Kansas have a smoke detector law in place either by ordinance or by adoption of a recognized model building code such as the Uniform Building code. However, much of our state is rural and/or unincorporated with little or no means to implement such a life and property saving tool. A smoke detector that is properly placed and operating can and does save lives.

Kansas is one of the few states in this nation that is without a statewide smoke detector law. We are ranked as having some of the highest death and injuries resulting from fires. Dwelling fires account for approximately 25% of all fires in the United States. Nearly 80% of fire deaths and 70% of fire injuries occur in dwelling fires which include houses, apartment, and hotels/motels. The fire victims are more than likely to be young children (under 5) or those 70 years or older. Nearly two thirds of fatal fires occur at night when the victims are sleeping, with 60% of all the fire deaths occurring in dwellings with no smoke detector or equipped with one that is not properly working.

Nearly 75% of all homes in our State have smoke detectors, but as much as one third are inoperative due to lack of maintenance. Even with thousands of homes without smoke detectors and thousands more that lack working detectors, fire deaths have decreased since 1970 when only 5% of our homes had smoke detectors. The passage of this proposed legislation will not guarantee a smoke detector in every home but it may motivate additional citizens to comply with and install an inexpensive item that can save more lives and property.

Information compiled from:
The Kansas State Fire Marshal's Office
National Fire Protection Association's Fire Protection Handbook, 17th Ed.,
One Batterymarch Park, Quincy, Maryland



Fire Education Association of Kansas

The testimony of Jerry M. Scott, Representative, Fire Education Association of Kansas,

Before The Judiciary Committee

House Bill 2463

On behalf of the Fire Education Association of Kansas, I would like to take this opportunity to thank this committee for allowing me to speak in favor of the pending legislation concerning placement of smoke detectors in all dwelling units.

The Fire Education Association of Kansas membership is a representation of fire departments from the largest city in Kansas to nearly the smallest. Our members are public educators, firefighters, fire officers, and chief executive officers. These members come from full-time, part paid, volunteer, or completely volunteer fire departments. They represent city, county, district, and township departments.

Many cities in Kansas have a smoke detector law in place either by ordinance or by adoption of a recognized model building code such as The Uniform Building Code, however, much of our state is rural and/or unincorporated with no or little means to implement such a life and property saving tool. A smoke detector that is properly placed and operating can and does save lives.

Kansas is one of the few states in this nation that is without a state wide smoke detector law. We are ranked as having some of the highest death and injuries resulting from fires. Dwelling fires account for approximately 25% of all fires in the United States. Nearly 80% of fire deaths and 79% of fire injuries occur in dwelling fires which include houses, apartments, and hotels/motels. The fire victims are more than likely to be young children (under 5) or those in their 70's or older. Nearly two thirds of fatal fires occur at night when the victims are sleeping. 60% of all fire deaths occurred in dwellings with no smoke detector or if equipped, with one that is not properly working.

Nearly 75% of all homes in our State have smoke detectors, but as much as one third are inoperative due to lack of maintenance, Even with thousands of homes without smoke detectors and thousands more that lack working smoke detectors fire deaths have decreased since 1970 when only 5% of our homes had smoke detectors. The passage of this proposed legislation will not guarantee a smoke detector in every home but it may motivate additional citizens to comply with and install an inexpensive item that can save more lives and property.

Information compiled from:

The Kansas State Fire Marshal's Office
National Fire Protection Association
Personal Experience over past 30 years

MARYSVILLE VOLUNTEER FIRE DEPARTMENT

INVEST A MINUTE TO SAVE A LIFETIME

To the members of the Judiciary Committee concerning
HOUSE BILL No. 2463

You all have the chance to become HEROES!! Yes, heroes, when
you sign and pass House Bill 2463.

Since the great Chicago fire of October 9, 1871 where 300
people died, United States citizens are still dying in residential
fires.

FACT: In the year 1924 15,000 people died in fires.
Resource: Fire Safety News Source(NFPA) JR-08,1994

FACT: In the year 1977 Smoke Detectors are credited
for more than 1/3 decline in home fire deaths.
Resource: NFPA

FACT: In the years 1980-1985 home smoke detectors
cut your risk of dying in a fire in half!
Per 1,000 home fire deaths, 9.3 people without
detectors died compared to 5.2 people who had
detectors.
Resource: 1980-85 NFIRS, NFPA Survey

FACT: In the year 1986, there were 565,500 home fires
and 4,655 deaths. There was also \$3,464 billion
property damage.
Resource: Sept. 1987 Fire Journal by Michael Rarter

FACT: In the year 1991 fire deaths reached the lowest
in 14 years. Only 3,500 deaths because of the use of
smoke detectors and fire education.
Resource: 1986-1990 NFIRS, NFPA

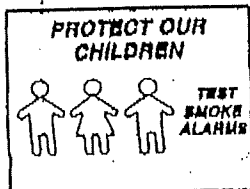
FACT: In May of 1993 Governor Joan Finney signed
a proclamation stating the first Tuesday of each
month as Test Smoke Detector Day.

FACT: In the year 1996 Kansas is still without a
mandate on having smoke detectors in family
dwellings.

Smoke detectors are the leading life safety device in home
safety. With proper locations, installation, maintenance and
testing once a month smoke detectors will save alot of Kansans!!

After passing house bill 2463 all Kansas residences will
have a very good chance of surviving a fire. Invest One Minute
to sign your name on Bill 2463 to Save a Lifetime of your
fellow Kansans.

Welcome to the ranks of a Hero for saving a life in a fire.



David Bruna
Firefighter
405 Broadway
Marysville, KS 66508





State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

TESTIMONY OF
Betty M. Glover
House Judiciary Committee
January 17, 1996

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

Good afternoon, I am very pleased to appear before you today as a conferree in support of House Bill 2463. I am a staff member of the attorney general's office and the executive director of the state child death review board. The Attorney General asked that I appear before you today to convey her support of this bill.

This legislation calls for a smoke detector to be in place in residences in Kansas and will help reduce the tragic consequences of fire-related deaths and injuries. The risk of death is especially high for young children, the most vulnerable of victims.

In the Annual Report of the State Child Death Review Board (SCDRB), which was issued October 1, 1995, we reported that six children had died in fires during our study year (FY94). Among the most disturbing deaths reviewed by the SCDRB, are those in which young children are found huddled inside their dwelling, having died before they could escape. If having an operable smoke detector could save any children from this fate, then this legislation is well worth passing.

Studies have shown that the chance of dying in a residential fire is cut in half when a working smoke detector is present. The relative ease of installation and periodic maintenance, makes the smoke detector an especially easy and effective preventive intervention. Especially when we are concerned with the tragic loss of lives, we must focus our attention on preventive efforts.

As Kansans we simply cannot stand by and allow our children and families to be irreparably damaged when such an effective alternative exists. Our hope and belief is that enactment of this bill will significantly reduce the number of Kansans who die in home fires. We respectfully ask for your support of House Bill 2463.

House Judiciary
1-17-96
Attachment 8



Via Christi
Regional Medical Center
St. Francis Campus

929 North St. Francis
Wichita, KS 67214-3882

Tel 316-268-5000

Testimony Presented to the House Judiciary Committee
In Support of HB 2463
By Janet M. Cusick, RN, Burn Specialist

January 17, 1996

Chairman Michael O'Neal and members of the committee:

My name is Janet Cusick. I am currently a Registered Nurse and Burn Educator at the Burn Center at Via Christi Regional Medical Center-St. Francis Campus in Wichita. Via Christi-St Francis is one of the two burn centers in the state of Kansas who treat the most serious burn injuries. I am also a burn survivor. Thank you for the opportunity to testify on behalf of HB 2463, the "Smoke Detector Bill".

My involvement with burn care and ultimately burn and fire prevention, survival and education began over twenty years ago when I myself was burned in a car fire. Although my injury was not the result of a residential fire, I know first hand the pain and long term recovery necessary following a burn injury. I was one of the lucky ones, I recovered with only a few scars on my face and hands and minimal physical difficulties. Unfortunately, not everyone involved in a fire survives, or they survive with serious disfigurement or disabilities.

The United States has one of the worst fire and burn problems of any industrialized nations. Almost all fires and burns are preventable. According to the National Fire Protection Association, in 1994 there were just less than a half-million residential fires that resulted in 3,500 civilian fire deaths, approximately 1,000 of these deaths are to children. Nationwide, someone died in a fire every 23 minutes. Residential fires accounted for over 20,000 civilian fire injuries, about one every 19-20 minutes. There is a residential fire every 70 seconds in the United States. These numbers mean that in the 30 minutes we are together today, there will be approximately 26 residential fires, at least 1-2 people who suffer a burn injury serious enough to require medical attention and at least one person will die in a residential fire.

It has been well documented that smoke detectors save lives. Smoke detectors provide early warning enabling residents to evacuate the home and call for help. Smoke is a silent and deadly killer. Many people are killed by the smoke long before the fire reaches them. Statistics show that your chances of dying in a residential fire are cut in half if you have a working smoke detector. When a fire occurs, the fire consumes the oxygen. When the human body is not receiving enough oxygen, he or she is unable to think clearly, become less coordinated, and have difficulty controlling their muscles. In other words, without early warning, they are less likely to be able to help save themselves. Heat and smoke numb the senses. The heat of the fire, even before the flames reach the body, can cause unconsciousness in minutes. Smoke detectors provide the warning to enable the person to take action before they lose control.

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The leading cause of home fires that kill children between the ages of 0 and 9 is children playing with fire. When children playing with matches or lighters cause a fire, they are often fearful of the fire itself or punishment and delay calling for help until it is too late. Working smoke detectors alert the adults who are present to the fire situation and they are able to respond.

Other speakers from the fire service will talk to you about the victims of fire who die and the devastation fire causes to property. I was a career firefighter for three years and have witnessed this property damage. I want to talk to you about the ones who suffer a burn injury and survive, at least for a while. Burns and fires effect all socio-economic classes and ages. The very young, older adults, and those individuals with any type of physical or mental disability are those who are least likely to escape a fire on their own and who are the most difficult to heal if they are burned.

I have been a burn nurse for almost twenty years now in two separate regional burn centers. On a daily basis nurses like myself care for the infants and children, men and women who don't die at the scene. Numerous hours are spent with their families and friends helping them cope with the serious nature of the injury and possible impending death. We help people through the painful recovery process. We may help them to die with dignity and grace in the presence of families if the injuries are non-survivable. I would like to very briefly describe for you what burn recovery is like. Have any of you ever visited a burn center? A visit makes a profound impression.

The average length of stay in the hospital following a burn injury is one day per percent of burn if there are no complications or associated injuries. That means that someone who sustains a 30% burn is in the hospital for over a month. It is not uncommon for someone to sustain a fatal injury, but take several weeks or even months to die.

Once the patient is admitted to the burn center, they almost always stay in the burn center until they are dismissed either to home, to a rehabilitation center or other facility. On a daily basis the burn wounds are cleansed either in the bed if the patient is very critical and unstable or in the hydrotherapy room where the patient will either be showered or immersed in a tank containing Clorox water. Have any of you ever been burned? If so, you know how painful washing or showering even a small burn can be. It is vitally important that the wounds are kept clean since the leading cause of death, if they survive the fire, is infection.

Several times a day, Physical or Occupational Therapists see the patient and assist them with their exercises. The patient is encouraged to be up out of bed, walk in the halls, feed themselves and do as much as possible for themselves. The therapy, although extremely painful, is necessary for the person to maintain as much function and endurance as possible so if they survive and return home from the burn center they are able to care for themselves, return to work or school and return to the leisure activities they enjoy.

For a third degree burn to heal, a skin graft from the person's own body must be applied. Skin is harvested off an unburned or healed area and surgically applied to the deep burn. Essentially, what we are doing is creating an injury similar to a second degree burn which is every bit as painful and slow to heal as if the area had been burned.

Once all the skin is healed, the recovery process is far from over. Burned areas, and areas where skin has been harvested, tend to scar. Scarring is almost always permanent to varying degrees. Scarring is not only disfiguring, but can impair function and return to normal activity. Pressure garments, worn for up to two years, help to minimize the scarring, but are uncomfortable, expensive and very noticeable. Many people withdraw from social interaction due to the garments and scarring. Society can be very cruel and unaccepting for those whose appearance is "different" which makes reintegration into society difficult for many.

Physical, Occupational and Vocational Rehabilitation may be necessary for months or even years. Re-admissions to the hospital may be required for scar revisions or reconstructive or plastic surgeries. Some people are never capable of returning to work.

It is well documented that smoke detectors save lives. Smoke detectors provide early warning giving occupants a chance to evacuate the home and call for help. In my 20 years as a burn nurse I have heard repeated stories from individuals and families who are seen by the burn center for observation only with no serious injuries because their smoke detectors woke them from sleep and they were able to escape before they were seriously injured or killed by the smoke or fire.

Smoke detectors also provide a warning if a person catches their clothes on fire. I would like to share with you a story of an 11 year girl who caught her long nightgown on fire and panicked instead of stop, drop and rolling. Fortunately for her, the smoke detector activated, alerting her mother who was able to extinguish the flames. This young girl suffered a 27% burn, was in the hospital for 24 days, but is alive today because of the smoke detector.

I have spoken to you about the physical and emotional impact of fires and burns. Let's talk briefly of the financial consequences of these injuries. Burn therapy involves very intensive, expensive and long term care. The cost of a critical room in a burn center can be over \$2000.00 per day. This does not include physician care, lab tests, X-rays, medications or surgical procedures. Obviously this can be financially devastating to a family. Many of the patients we see rely on public funds such as Medicare or Medicaid. It is not uncommon for total hospital bills to exceed several hundred thousand dollars. Patients who suffer permanent disabilities following a burn injury may be unable to return to work and become dependent on Worker's Compensation, Social Security and other public funds for all living expenses.

Installing and maintaining smoke detectors in every home can decrease the number of patients seen in burn centers and community hospitals every year. I would gladly put burn centers out of business for lack of patients if that were possible. Smoke detectors, combined with good fire prevention education and fire escape plans save lives.

The issue before you today is a multifaceted one. Many of you have children or grandchildren or older parents who are still living alone. Young children and older adults are those most likely to die or suffer serious injuries in residential fires. Smoke detectors are an inexpensive way to increase the chances of survival in residential fires. There are many programs in the state that will provide free smoke detectors and assistance with installation for low income families. Via Christi Regional Medical Center-St. Francis Campus feels strongly enough about this safety issue that we provide a free smoke detector to the family of every new baby born at our facility and all children who have been admitted to the burn center.

Just yesterday I read a report from the Wichita Fire Department that demonstrated the effectiveness of bills such as HB 2463. Before the smoke detector ordinance was passed in Wichita, between 15 and 20 people died in residential fires in Wichita. In 1995, there were only 4 fire fatalities in Wichita. Laws like these do work to save lives.

If any of you have been burned, please share that experience with your colleagues. Having gone through the experience of being burned, I can say with all honesty, I would not want this preventable injury from happening to my worst enemy. Although I am a survivor and able to lead a normal life, not everybody is so fortunate. I hope we can all work together to save citizens of Kansas from this preventable injury and death. Please support HB 2463.

Thank you.



900 SW Jackson, Suite 901N
Topeka, KS 66612-1290
(913) 296-1223
(913) 296-8059 (FAX)

Coordinator:

Jan Stegelman
*Kansas Department of
Health and Environment*

Executive Committee:

Dennis Cooley, MD
*Medical Advisor
American Academy of
Pediatrics, Kansas
Chapter*

Michele Hinds
*Kansas State
Nurses Association*

Steve Jensen
Kansas Highway Patrol

Judy Moler
Corporation For Change

Wendy Moseman
*Kansas Emergency
Nurse Association*

Gene Neely
*Kansas National
Education Association*

Kathryn Nelick
*Coordinator,
Lawrence Chapter,
Kansas SAFE KIDS
Coalition*

Gene Neely
House Judiciary Committee
HB 2463
January 17, 1996

I am Gene Neely, Chairman of the Executive Committee for the Kansas SAFE KIDS Coalition. I am here representing both the Kansas SAFE KIDS Coalition and the Kansas National Education Association. I am pleased to present testimony today in support of House Bill 2463 which requires that all new and existing one- and two-family residences in Kansas be equipped with operable smoke detectors.

Residential fires can be devastating, particularly if a loved one is injured or killed. It is especially tragic if that loved one is a child. According to the Kansas Department of Health and Environment, fifty-one children age 0-14 have died in Kansas fires in the last five years. Fifty-one percent of the children who died in fires were age 1-4. Hospital discharge data indicate that children in the 0-4 age group are hospitalized at a rate 3.9 times higher than 5-14 year olds and two times higher than 15-24 year olds. Fire and burn injury death rates in Kansas are 4.3 times higher in low-income children than for non-low-income children.

Kansas is one of only eight states in this country that still lack state smoke detector legislation for one and two-family dwellings.

Kansas ranked 12th of 40 reporting states for residential structure fire deaths per 1000 fires in 1993 and 12th in injuries per 1000 fires. While nationally it is estimated that 26% of homes are not equipped with smoke detectors, in 1994 41% of Kansas homes with fires did not have smoke detectors.

The chances of dying in a residential fire are cut in half when a working smoke detector is present. Nationally, 90% of child fire deaths occur in homes without working smoke detectors. The one-time installation of a smoke detector and the need for only periodic maintenance makes it one of the most effective interventions available for preventing deaths from fires in Kansas.

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The Kansas SAFE KIDS Coalition is composed of sixty statewide businesses and organizations that have joined together to protect Kansas children from unintentional injury, the number one killer of Kansas kids. The Coalition supports the adoption of a comprehensive smoke detector law in Kansas. The Kansas SAFE KIDS Coalition has implemented a GET ALARMED program for smoke detectors and battery replacement in Kansas City, Wichita, Manhattan, Lawrence, Topeka, Salina, Holton, Medicine Lodge, and Mayetta. With the assistance of Coalition member organizations, communities throughout Kansas are able to develop a smoke detector and battery replacement initiative. First Alert smoke detectors are made available to communities through the Kansas SAFE KIDS Coalition for \$5.00. The implementation of educational programs, coupled with discounted smoke detector and battery replacement initiatives, and strong state legislation will reduce the number of injuries and deaths due to fire in our state. The Kansas SFE KIDS Coalition will be glad to work with you on this bill as it is considered.

National
**SAFE
 KIDS**

 Campaign.

111 Michigan Avenue, N.W.
 Washington, D.C. 20010-2970
 (202) 884-4993
 (301) 650-8038 Fax

Chairman

C. Everett Koop, M.D.

President

Martin R. Bichelberger, M.D.

Executive Director

Heather Paul, Ph.D.

January 17, 1996

Kansas State Legislature
 Topeka, KS

Dear Member of the Kansas State Legislature:

On behalf of the National SAFE KIDS Campaign and our Chairman C. Everett Koop M.D., I would like to express our strong support for the smoke detector use bill now pending before the Kansas State Legislature (HB 2463). We know that 9 out of 10 children who die in a home fire do not have working smoke detectors. The chances of dying in a residential fire are cut in half when a working smoke detector is present. This potential legislation would require smoke detectors in all residential homes in Kansas thus reducing the tragic incidence of fire-related injuries and deaths in the state. We urge you to support this important safety legislation.

As you may know, Kansas is one of only 9 states that still lacks comprehensive smoke detector use legislation. Certainly, this glaring omission is contributing to the number of deaths and injuries associated with residential fire. Each year, U.S. fire departments respond to more than 2 million fires, or one every 15 seconds. In fact, fires and burns are the third leading cause of unintentional injury related deaths among children ages 14 and under. Each year, more than 960 children ages 14 and under die in residential fires. Additionally, each year, 44,000 children are injured in residential fires.

HB 2463 will not only save lives, but will also save money. Fires and burn cost society approximately \$7.5 billion per year in lifetime societal losses. Injury prevention experts, however, have found that one dollar spent on a smoke detector saves an additional \$55 to \$75 in total costs to society. The smoke detector use legislation makes sound financial sense.

With your support, we can provide a safer and healthier environment for all children in Kansas. If I can be of any assistance or answer any questions, please do not hesitate to contact me at 202-884-4993.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Heather Paul', with a long horizontal line extending to the right.

Heather Paul, Ph.D.
Executive Director

cc. Jan Stegelman
Kansas SAFE KIDS Coalition

Heidi Oberrieder
Douglas County SAFE KIDS

Carolyn Jenlink
Wichita Area SAFE KIDS

The National SAFE KIDS Campaign is the first and only national organization solely dedicated to the prevention of unintentional childhood injury: the number one killer of children ages 14 and under. Through nearly 200 State and Local Coalitions, including 3 in the State of Kansas, our Campaign is working to raise awareness of unintentional injury prevention and to make childhood injury a public policy and education priority.

Hello, I'm Mike Riches and I would like to share with you my experience with smoke detectors. When I was a kid, about 9 years old, our house filled with smoke because our furnace backed up. It was about 11:30 at night and we were all asleep. Fortunately, the smoke alarm sounded and woke my Mom and she was able to get us all out of the house. Though we were treated at the hospital for smoke inhalation, we all survived.

BECAUSE OF A SMOKE DETECTOR...I AM HERE TODAY!

We must remember that in a fire, one is not usually burned to death. It's the SMOKE, the carbon monoxide, that's the real killer. If you're asleep without a smoke alarm, you may not wake up...EVER!! A smoke alarm wakes you up so you and your family can escape safely. They are extremely important.

PLEASE SUPPORT THIS BILL...IT MAY SAVE THE LIFE OF SOMEONE YOU LOVE!

In closing, I would ask you to remember the words of the band, "Chicago". "You don't know what you've got until it's gone." I nearly lost my life. But, I

didn't Because of a smoke detector, (and perhaps the intervention of an even higher power), I am alive!

Life is something everyone should be entitled to.

Please support this bill to give everyone in Kansas a chance like I had to survive.

Thank you very much.



**League
of Kansas
Municipalities**

LEGAL DEPARTMENT • 300 S.W. 8TH TOPEKA, KS 66603 • TELEPHONE (913) 354-9565 • FAX (913) 354-4186

LEGISLATIVE TESTIMONY

TO: House Judiciary Committee
FROM: Don Moler, General Counsel
RE: Support for HB 2463 - Smoke Detector Act
DATE: January 17, 1996

First let me thank the Committee for allowing the League to testify today in support of HB 2463. We believe this is a necessary piece of legislation which helps to protect the citizens of Kansas both inside and outside of cities from potential fire hazards. This bill requires that every structure contain at least one smoke detector installed on every story of the dwelling unit or if a dwelling unit is part of a mixed-use structure, that there be a smoke detector at the uppermost ceiling of each interior stairwell and in any dwelling unit. It further places the responsibility on the owner of the structure to supply and install all required smoke detectors with the owner responsible to test and maintain them except in rental units where the tenant will be responsible after taking possession of the unit. Essentially this requires that all housing currently in place in Kansas be equipped with a working smoke detector as well as requiring all new construction to have a smoke detector wired into the structure's AC power line. We believe this is a positive step in the direction of fire safety in Kansas and would urge the committee to favorably report HB 2463.

Thank you very much for allowing the League to testify on HB 2463.

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Ed Jaskinia
President
(913) 299-8383

Ann Elliott
Secretary
(913) 238-1894

Ed Elliott
Treasurer
(913) 238-7544



The Associated Landlords of Kansas

P.O. Box 4221
Topeka, KS 66604-0221
1-800-248-TALK (8255)

James Dunn
Vice President (Zone 1)
(913) 843-5272

Bill Nelson
Vice President (Zone 2)
(913) 827-1865

Pat McBride
Vice President (Zone 3)
(316) 331-4379

The Associated Landlords of Kansas (TALK) was created in 1975 by a group of people from across Kansas to "Promote a strong voice in the legislature, a high standard of ethics and provide educational opportunities for landlords." Some of the members helped create The Residential Landlord-Tenant Act of 1975, a model of fair law for both landlords and tenants. Our organization consists of members in 15 chapters across the state, with new chapters in the process of forming.

In the 1996 legislative session, we continue to work for fair and decent housing for all. We have listed below one of the issues that is of interest in this legislative session.

HB 2463 - Smoke Detector Act.

According to the National Fire Protection Association, every year 4,000 Americans die in home fires. That's twelve people a day who die in their own homes. The U.S. Fire Administration states your chances of dying in a fire is 100% greater if you don't have a working smoke detector. Before you can escape, you must be alerted, and the smoke detector gives you time to escape. Many city housing codes require a working smoke detector outside the sleeping area and each level of the home. When activated, the detector shall provide a loud audible alarm, capable of being heard throughout the sleeping area.

Smoke detectors are particularly effective when it comes to a slow, smoldering fire caused by improper storage of flammable materials and careless smoking. Failing to maintain the smoke detectors is the primary cause for most fire damage. Unfortunately, the people living in the home remove the battery from the smoke alarm to use in another battery operated device, fail to replace the battery when the battery goes dead or they disconnect the battery if the alarm goes off due to cooking.

So many times, the landlord installs the smoke detector and has it properly working when the tenant moves in, the tenant is the one who removes the battery and it is the tenant who gets hurt in a fire when the smoke detector is not working. We strongly urge you to leave the penalty in the bill for the tenants who do not maintain the smoke detector.

TALK supports HB 2463, most importantly to save loss of human lives and secondly to save property due to first alert. TALK asks for your support by passing HB 2463.

If we can be of help to you in these or any other areas concerning property, landlords, or tenants, please feel free to contact us.

Members of The Associated Landlords of Kansas

Zone 1

Landlords of Lawrence, Inc.
Landlords of Johnson Co., KS, Inc.
Leavenworth Area Landlords Assc.
K.C. KS Landlords Inc., serving Wyandotte Co.
Eastern Kansas Landlords Assc, serving Miami Co.

Zone 2

Landlords of Manhattan, Inc.
Shawnee County Landlords Assc.
Geary County Landlords Assc., Inc.
Salina Rental Property Providers, Inc.

House Judiciary
1-17-96
Attachment 13

American Civil Liberties Union
of Kansas and Western Missouri
706 West 42nd Street, Suite 108
Kansas City, Missouri 64111
(816) 756-3113

Wendy McFarland, Lobbyist
575-5749

House Judiciary Committee
Rep. Michael O'Neal, Chair
January 18, 1996
House Bill No. 2463

Thank you for this opportunity to submit our comments on HB 2463, which creates the crime of failure to place or maintain a smoke detector.

The American Civil Liberties Union has no objections to the purpose of the bill. Consistently installed and maintained smoke detectors would enhance the public welfare through increased safety, and fewer fire-related deaths and injury to persons and property would result.

We would, however, raise some concerns regarding the enforceability of HB 2463. Fourth Amendment protections against reasonable, warrantless searches would prohibit public officials with the authority to issue citations from entering homes and work places to inspect smoke alarms, unless reasonable suspicion were shown. We would object to adding smoke alarm policing to the work load of social workers or other inspectors who enter homes on the basis of an unrelated authority.

Kansas State Fire Marshall Gale Haag noted in his testimony yesterday that "This bill is just one step in a public education campaign."

We believe the educational value of this bill would remain intact if an amendment were added to the effect that persons may be cited by the Fire Department if a fire results from their negligence in failing to install or properly maintain a smoke alarm. The occurrence of a fire, small or large, certainly meets the Fourth Amendment standard of reasonable suspicion prior to a search, and fire safety organizations would be able to tell the public that such negligence is now illegal in the state of Kansas.

House Judiciary
1-17-96
Attachment 14



700 SW Jackson, Suite 601
Topeka, Kansas 66603-3731

913/233-8638 * FAX 913/233-5222

the Voice of Nursing in Kansas

Betty Smith-Campbell, M.N., R.N., ARNP
President

Terri Roberts, J.D., R.N.
Executive Director

FOR MORE INFORMATION CONTACT:
Terri Roberts JD, RN
Executive Director
Kansas State Nurses Association
700 SW Jackson, Suite 601
Topeka, KS 66603-3731
(913) 233-8638
FAX: 913-233-5222
January 17, 1996

HB 2463 SMOKE DETECTOR ACT

Chairperson O'Neal and members of the House Judiciary Committee, I am providing written testimony on behalf of the Kansas State Nurses Association (KSNA). The KSNA supports HB 2463 that would require installation of smoke alarms in Kansas residences.

Smoke detectors, an effective intervention, are a reliable and inexpensive means of providing an early warning of house fires. They reduced the risk of death in 96% of fires and the risk of severe injury in 88 percent.(1)

Children are clearly the most vulnerable to house fires, and in Kansas, fire is the third leading cause of unintentional injury for Kansas children age 1-4. Kansas ranks tenth in injuries per 1000 residential fires and this can be significantly reduced if smoke detectors are installed.

Registered nurses care for burn victims of residential fires and support ways that will reduce the pain and suffering from such tragedies. Smoke detectors are cost-effective and reliable. As a matter of public policy, they should be supported in all homes and new construction of homes.

Thank you.

a:961legislation/purple/hb2463/1a

Childhood Residential Injuries

Interventions are proposed in the areas of fire and burn prevention, falls, suffocation, and poisonings to reduce the unacceptably high rates of residential injuries nationwide.

By Nancy Ellen Jones

In the United States in 1989, approximately 2,700 children through the age of 14 died as a result of residential injuries, which are defined as injuries sustained in the home, its immediate surroundings, and in day-care centers (1,2). Each year, 22 percent of children under the age of six suffer such injuries. The most common fatal injuries are caused by house fires, suffocation and asphyxiation, falls, and poisonings.

The high risk to children is a function of their developmental level (neuromuscular, cognitive, and psychosocial) and where they spend their time (home, yard, and day-care center). Males are at greater risk of injury than females, and low-income children suffer higher injury rates than middle-class children, in part because they reside in more hazardous environments (1).

The 1989 report of the National Committee for Injury Prevention and Control (NCIPC), *Injury Prevention: Meeting the Challenge*, identifies interventions that reflect the state of the art in injury prevention and control (1). These interventions are compatible with nursing practice as defined by the American Nurses Association (ANA), which states that health promotion and disease prevention are key components of nursing practice (3). After determining the extent of the local residential injury problem and identifying children at risk, the nurse can implement effective and promising interventions consistent with the mission of the nursing organization. It is not within the scope of the practice of an individual nurse or nursing service to implement all of the interventions. (For suggested interventions and background reading, see Resource Guide.)

General residential injury prevention programs include the following:

- Environmental hazard inspection, with home safety assessment forms to survey risks that are present

NANCY ELLEN JONES, RN, DRPH, is an assistant professor at the Hunter College, Hunter-Bellerue School of Nursing, New York, New York.

in the homes of children and families.

- Day-care safety programs, including inspections of facilities and education of operators about safety, and
- Injury prevention education, using simple, targeted messages that are integrated with enforcement and engineering countermeasures.

Collaboration with community agencies, such as the health department and visiting nurse associations, is useful to implement, monitor, and evaluate programs designed to reduce environmental hazards in homes and in day-care centers. Comprehensive programs based on educational, regulatory, and technological strategies that include training guides and checklists are available through the Massachusetts Department of Public Health (4,5). Programs must reflect the health, sanitary, fire, and building codes of the locality in which they are used.

Nurses are in a position to provide preventive health care, including age-appropriate counseling on injury prevention. A useful guide to safety counseling in office practice, published by the American Academy of Pediatrics (AAP), consists of a comprehensive educational program for children through the age of 12 years, including safety counseling schedules, safety surveys, and safety information sheets (6). Some areas of nursing intervention follow, along with effective and promising interventions identified by the NCIPC, with proposed implementations and suggestions for action statewide and on a federal level. The NCIPC defines interventions that are proven effective as those that should be used and monitored, and promising interventions as those that require further evaluation (1).

Fire and Burn Injuries

Nationwide, house fires are the fourth leading cause of injury death. In 1985 they claimed the lives of 1,118 children through the age of 14, with males at greater risk than females (7). They are the leading

cause of injury death in 11 states, generally in the East and Southeast (8). Fifty percent of fires involve cigarettes (1).

Although the Flammable Fabrics Act of 1953 and the Children's Sleepwear Standard of 1971 resulted in a reduction in fabric ignitions and in sleepwear-related burns, children remain vulnerable. School-aged boys, in particular, are injured by flammable liquids, such as gasoline. Contact burns are most often caused by heating equipment, such as wood stoves, and scald burns occur when hot liquid is spilled in the kitchen or hot tap water burns a child. Electrical burns occur when infants mouth electrical cords or children climb high voltage wires (1).

Interventions. Smoke detectors, an effective intervention, are a reliable and inexpensive means of providing an early warning of house fires. They reduce the risk of death in 86 percent of fires and the risk of severe injury in 88 percent. States can enact and enforce legislation requiring smoke detectors in all residential housing (1).

Sprinkler systems reduce the spread of fire. In New York City high-rise buildings, they were rated over 98 percent effective in suppressing and extinguishing fires. States can require sprinkler systems in all new housing and retrofit older multifamily dwellings (1).

Enforcement of building codes is necessary to eliminate fire hazards, such as faulty electrical and heating equipment, in high-risk buildings. A number of guidelines are available, such as the Model Standards of the American Public Health Association (9). Enforcement of existing building codes is a promising intervention to reduce the risk of fire (1).

Fire-safe cigarettes are effective in reducing fires associated with smoking. Cigarettes cause 45 percent of fires and between 22 and 56 percent of deaths from house fires. Cigarettes contain additives that cause them to burn for as long as 28 minutes. The federal government can enact legislation requiring cigarette manufacturers to make cigarettes self-extinguishing (1).

Public education about fire safety and burn first aid is a promising intervention, but the effectiveness of fire safety education is unknown (1).

Reducing tap water temperature, setting hot water heaters to 125°F, is an effective inter-

vention to prevent tap water scald burns. Hot tap water is a significant cause of burn morbidity (1).

Flammability standards can be expanded to include furniture, bedding, clothing, and home building materials. Regulation of product flammability is effective in reducing the number of burn injuries, such as sleepwear-related injuries (1).

The Nurse's Role. When counseling families, the nurse provides information on the placement, testing, and maintenance of smoke detectors (for example, the need to replace batteries twice yearly when clocks are changed). The nurse also instructs parents to test the temperature of their hot water and to reduce it, if necessary, to 125°F.

School nurses may collaborate with community agencies, such as the fire department, to develop, implement, and evaluate fire safety programs and first-aid programs for burns. The local nursing association can coordinate an effort to provide low-cost or free smoke detectors to low-income families.

Suffocation and Asphyxiation

In 1985, 659 deaths among children through the age of 14 were attributed to suffocation and asphyxiation, which are the second leading cause of injury death among children less than one year of age (7,8). Children under the age of four, males, and those living in poverty are at greatest risk of death (1).

Hot dogs, candy, nuts, and grapes cause 40 percent of specified food-related suffocations. Mechanical suffocation is commonly caused by plastic bags, bedclothes, the plastic sides of playpens and cribs, entrapment, or burial under falling earth. Strangulation is caused by hanging from pacifier cords, clothing, and high-chair straps; and wedging the head between crib slats, accordion-style safety gates, the mattress and bed frame, and electrically operated car windows. The Consumer Product Safety Commission (CPSC) sets toy standards to reduce the risk of choking on nonfood products in children less than three years of age (1).

Interventions. Educational efforts involve counseling parents about choking hazards and teaching first-aid management of the choking victim. Parents can follow the guidelines of the American Academy of Pediatrics concerning management of the choking victim (1).

RESOURCE GUIDE

■ GENERAL RESIDENTIAL INJURY PREVENTION PROGRAM

Safe Home.

A tested program for creating safe homes for children by reducing common hazards. The Safe Home kit includes a Leader's Guide, Inspector's Notes, filmstrip, checklists, and a demonstration supply board.

To order, write:

SCIPP/Statewide Comprehensive Injury Prevention Program
Massachusetts Department of Public Health
Division of Family Health Services
150 Tremont Street
Boston, Massachusetts 02111,
or call 617-727-1246

Safe Day Care.

A teacher's guide for creating safe environments for preschool children. Program serves as a guide to creating and maintaining a safe day-care environment, reinforcing habits of preschoolers, preparing for an emergency, and advocating child safety to parents.

To order, write or call:

SCIPP/Statewide Comprehensive Injury Prevention Program
Address and telephone as above

TIPP: The Injury Prevention Program - A Guide to Safety Counseling in Office Practice

A 24-page guide. Includes: safety counseling schedules, safety surveys, counseling guidelines, safety sheets, and safety slips.

Catalog Code HE 0042; cost \$5/copy

To order, write:

American Academy of Pediatrics
Department of Publications
141 Northwest Point Blvd.
P.O. Box 927
Elk Grove Village, IL 60009-0927,
or call toll free 800-433-9016

For Further Reading:

Bass, J.L., and others. Educating parents about injury prevention. *Pediatr. Clin. North Am.* 32:233-242; Feb. 1985.

Gallagher, S.S., and others. A home injury prevention program for children. *Pediatr. Clin. of North Am.* 32:95-112; Feb. 1985.

■ FIRE AND BURN INJURY

Protect Your Home Against Fire... Planning Saves Lives.

Child safety slip: describes steps for prevention;

Catalog Code HE0039; cost \$5/100 copies

To order, write or call:

American Academy of Pediatrics,
Address and phone as above

For Further Reading:

Dershewitz, R.A., and Williamson, J.W. Prevention of childhood household injuries: A controlled clinical trial. *Am. J. Public Health.* 67:1148-1153, Dec. 1977.

Gorman, R.L., and others. A successful city-wide smoke detector giveaway program. *Pediatrics* 75:14-18, Jan. 1985.

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Prevention of tap water scald burns: Evaluation of a multimedia injury control program. *Am. J. Public Health* 77:1195-1197, Sept. 1987.

McLoughlin, E., and others. Project burn prevention: Outcome and implications. *Am. J. Public Health* 72: 241-247, Mar. 1982.

Miller, R.E., and others. Pediatric counseling and subsequent use of smoke detectors. *Am. J. Public Health* 72:392-393, Apr. 1982.

■ SUFFOCATION

Choking Prevention and First Aid for Infants and Children - Brochure;

Catalog Code HE0066; cost \$15/100 copies

To order, write or call:

American Academy of Pediatrics
Address and telephone as above

Safety News

Free publication of the Consumer Product Safety Commission (CPSC). Lists CPSC and manufacturers' warnings and recalls; information on crib, nursery, toy, and playground safety.

To order, write: CPSC

5401 Westbard Avenue,
Washington, DC 20207,
or call 800-638-CPSC or 301-492-6424

Infant Furniture: Cribs

Child safety slip: describes buying recommendations and safety tips;
Catalog Code HE0030; cost \$6/100 copies

To order, write or call:

American Academy of Pediatrics
Address and telephone as above

For Further Reading:

American Academy of Pediatrics, Committee on Accidental Poison Prevention. Revised first aid for the choking child. *Pediatrics* 78:177-178, July 1986.

Harris, C.S., and others. Childhood asphyxiation by food. *JAMA*. 251: 2231-2235, May 4, 1984.

Kraus, J.F. Effectiveness of measures to prevent unintentional deaths of infants and children from suffocation and strangulation. *Public Health Rep.* 100:231-240, Mar.-Apr. 1985.

■ FALLS

For Further Reading:

Gallagher, S.S., and others. The incidence of injuries among 87,000 Massachusetts children and adolescents. *Am.J.Public Health* 10:1340-1347, Dec. 1984.

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Rieder, M.J., and others. Patterns of walker use and walker injury. *Pediatrics* 78:488-493, Sept. 1986.

Spiegel, C.N., and Lindaman, F.C. Children can't fly: A program to prevent childhood morbidity and mortality from window falls. *Am.J.Public Health* 67:1143-1147, Dec. 1977.

■ POISONINGS

Protect Your Child...Prevent Poisoning

Child safety slip: describes those at risk, common medicines and household products, and safety rules;

Catalog Code HE0033; cost \$6/100 copies

American Academy of Pediatrics

Address and telephone as above

For Further Reading:

Dershewitz, R., and others. The effectiveness of health education on home use of ipecac. *Clin.Pediatr.* 22:268-270, 1983.

Fisher, L., and others. Highlight results of the Genesee regional poison prevention demonstration project. *Vet.Hum.Toxicol.* 24(suppl):112-117, 1982.

Litovitz, T.L., and others. 1988 annual report of the American Association of Poison Control Centers National Data Collection System. *Am.J.Emerg.Med.* 7:495-545, Sept. 1989.

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Woolf, A., and others. Prevention of childhood poisoning: Efficiency of an educational program carried out in an emergency clinic. *Pediatrics*. 80:359-363, 1987.

The Nurse's Role. Nurses advise parents, individually and in groups, about the choking risks associated with small objects and pieces of food and instruct families in first aid for the choking victim. The "no-choke test tube" is an aid used to teach parents about the safe size of toys and other small objects. (Contact the CPSC for information about this device. Call 800-638-CPSC.)

Falls

In 1985, 198 children through the age of 14 died from fall injuries, with the male death rate three times higher than the female (7). The death rate was highest in Oriental children, followed by blacks, Native Americans, and whites (8). Falls are the leading cause of injury morbidity.

The circumstances surrounding any fall reflect the child's age and environment. For example, infants fall from changing tables, and poor children in urban areas are at increased risk of window falls (1).

Interventions. Using educational, enforcement, and engineering strategies, window guard programs have proven effective in preventing falls from windows. Safety gates on stairways help to prevent young children's falls and are considered a promising intervention requiring evaluation. Accordion-style gates are dangerous and should not be used (1).

Education and counseling of parents can include highly targeted messages in conjunction with enforcement and engineering strategies. Educating parents about fall risks is a promising intervention (1).

Baby walkers are associated with a significant number of injuries among infants, and the NCIPC wants them banned. Health care professionals must counsel parents on their danger (1).

The Nurse's Role. Nurses provide an educational role, counseling parents to acquire window and stairway guards or gates to prevent falls. They counsel families about age-appropriate strategies to prevent

falls, such as keeping crib rails raised, and alert parents to the NCIPC recommendation to ban baby walkers.

Poisonings

In 1985, 80 children through the age of 14 died from poisoning by solids and liquids (7). Deaths by poisoning have decreased during the past 15 years among children under the age of five. These reductions are a result of childproof closures mandated by the Poison Prevention Packaging Act (PPPA), dose limits per package, improved emergency services, and regional poison control centers. However, non-fatal poisonings remain a major cause of morbidity among young children (1).

Interventions. The PPPA regulates 16 categories of household products, including most prescription drugs. The PPPA has been proven effective, and the federal government can consider expanding the act to include double-barrier packaging for extremely toxic drugs and strictly enforcing existing legislation (1).

Rapid initiation of treatment reduces mortality and morbidity and lowers emergency room visits and hospital admissions. Poison control centers offer information about first aid and the management of poisonings to the public and health professionals. They are effective in reducing emergency room visits for suspected poisonings (1). Promising interventions include the following: Providing ipecap syrup and stickers containing the telephone numbers of poison control centers to parents of young children and community-based education programs that attempt to alter the poison storage habits in households (1).

Childhood lead poisoning is a common environmental disease that is entirely preventable. Young children living in older, substandard housing in the Northeast are at greatest risk. Screening programs and lead abatement efforts are promising interventions (1).

The Nurse's Role. In collaboration with community agencies, nurses play a preventative role, developing, implementing, and evaluating poison prevention pro-

grams. Activities include counseling with regard to the identification and storage of poisonous household products and medicines, child-resistant packages, and toxic plants, providing information about ipecac syrup, and publicizing the phone numbers of poison control centers and other emergency phone numbers. Nurses provide first aid and screen for lead poisoning.

Just as childproof packaging of pharmaceuticals has reduced deaths by poisoning in the last 15 years — a result of technological, regulatory, and educational measures — childhood residential injuries of all kinds can be reduced. Smoke alarms minimize the destruction caused by fire; fire-safe cigarettes reduce the number of fires; window guards prevent falls; and the CPSC, by monitoring products, prevents suffocation and asphyxiation. These are only some examples.

Nurses who work with families, schools, and day-care centers can serve an important educational function in their own communities, both in identifying safety problems and how to solve them. They can also, through their professional associations, lobby for improved technology and the enforcement of safety standards. All are needed to reduce the unacceptably high frequency of residential injuries that prevail in the United States today.

MCN

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301 West Tenth Street, Suite 262
Topeka, Kansas 66612-1507

Telephone (913) 296-2498
Facsimile (913) 296-1035

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PUBLICATIONS

January 15, 1996

Michael R. O'Neal
Kansas House Of Representatives
State Capitol
Topeka, Kansas 66612

Dear Mike:

Enclosed is the Judicial Council Report on 1995 House Bill No. 2396 sponsored by Representatives Haley and Henderson, which is an act concerning the transfer of real property upon the death of the owner; relating to an heir who files a notification of interest in the title.

Three other house bills which were referred to the Judicial Council:

HB 2295 - expungement of arrest records, diversion
agreement records

HB 2324 - nonprobate transfers of real property

HB 2351 - nonprobate transfers of motor vehicles

are actively being studied by the Judicial Council Criminal Law Advisory Committee and the Judicial Council Probate Law Advisory Committee, respectively. It is my opinion that the reports of these committees on these bills will not be completed in time for consideration by the Legislature this session.

I will keep you informed as to the progress of the committees.

Very truly yours,

A handwritten signature in cursive script that reads "Randy".

Randy M. Hearrell

RMH/lrn
Enclosure

House Judiciary
1-17-96
Attachment 16

(12/8/95)

REPORT OF PROBATE LAW ADVISORY COMMITTEE
ON 1995 HB 2396

1 In March of 1995, the House Judiciary Committee referred HB 2396, "an act concerning
2 the transfer of real property upon the death the owner; relating to an heir who files a notification
3 of interest in title" to the Judicial Council for study.
4

5 At the May 5, 1995 meeting of the Judicial Council, the matter was referred to the
6 Judicial Council Probate Law Advisory Committee. Members of the Probate Law Advisory
7 Committee are: Justice Edward Larson, Chairman, Topeka; Cheryl C. Boushka, Overland Park;
8 Judge Sam K. Bruner, Olathe; Representative Tim Carmody, Leawood; Jack R. Euler, Troy;
9 Gerald L. Goodell, Topeka; Professor John F. Kuether, Topeka; Professor Richard L. D.
10 Morse, Manhattan; Philip D. Ridenour, Cimarron; Marvin E. Thompson, Russell; and Willard
11 B. Thompson, Wichita.
12

13 House Bill 2396 concerns the transfer of real property upon the death of the owner. The
14 bill provides that when the value of real property owned by decedent is less than \$25,000, it is
15 not subject to allowances or waived, any heir, devisee or legatee of the decedent may file a
16 notification of interest in title. This notification includes information concerning the property,
17 personal information about the heir, the name of the decedent, and the date of death. An heir
18 filing a notification of interest in title is filing a claim to be vested owner of the real property
19 of the decedent. The bill provides that if no other heir, devisee or legatee files a notification of
20 interest in title to the real property within three years of the first filing, the heir who filed the

1 original notification shall be the legal owner of the real property. There are provisions in the
2 bill that deal with the dispute arising over the notification of interests. The provisions of
3 HB 2396 apply only to real property in Wyandotte County.
4

5 One of the sponsors of the bill, Representative David B. Haley of Wyandotte County,
6 testified before the legislature in February of 1995 that the purpose of the bill is to address the
7 problem of abandoned houses in Wyandotte County. The bill attempts to ease the legal and
8 probate costs associated with the transfer of real property from one generation to another, and
9 Representative Haley described this as being in cases in which the transfer would go
10 uncontested. Representative Haley gave an example of a situation in which the proposal would
11 be used and expressed concerns that if the structure in the example was left vacant and
12 unattended that it would eventually be destroyed and contribute to the decline of the
13 neighborhood. Mr. Haley gave credit to former state representative Norman Justice for
14 assistance with the bill.
15

16 As a matter of information, it should be noted that Representative Haley feels strongly
17 about this bill and in addition to appearing as a proponent of the bill at the legislative hearing,
18 he was aggressive in attempting to get it amended on other bills during the legislative session.
19

20 In considering the bill, the Probate Law Committee was favorable to the goals of
21 Representative Haley. HB 2396 was reviewed by the committee and the committee believes that
22 there are sufficient problems with the bill that it cannot recommend the bill in the form in which
23 it was drafted. There was discussion that it circumvented the 15-year statute of limitations on
24 adverse possession; that it took away property rights without due process of law; that it is a

1 constitutional infringement in that it denies equal protection to a class of people while providing
2 special treatment to another class. It was further noted that use of the language " devisees and
3 legatees" in the statute contemplates admission of a will to probate and the committee questioned
4 if this would happen. Additionally, in the affidavit there is no procedure to establish how the
5 value of the property is measured, the bill raises questions as to violation of homestead rights
6 and the committee questions whether it is constitutional to create property rights in one county
7 without creating property rights on a statewide basis.

8
9 The committee attempted to address the problem posed by Representative Haley by
10 drafting a bill which was based upon HB 2396 and utilized current K.S.A. 60-1004 relating to
11 peaceful occupancy under color of title and K.S.A. 60-503 relating to adverse possession to
12 accomplish the goals of HB 2396. The committee was not able to satisfactorily complete this
13 task and did not produce a recommended draft.

14
15 In summary, after spending considerable time with HB 2396 and considerable time
16 attempting to draft an alternative thereto, the committee does not recommend the adoption of
17 HB 2396 and does not offer an alternative thereto.