

Approved: 4-5-95  
Date

## MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 10:00 a.m. on March 19, 1996 in Room 313-S of the Capitol.

All members were present except:

Committee staff present: Michael Heim, Legislative Research Department  
Jerry Donaldson, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Janice Brasher, Committee Secretary

Conferees appearing before the committee: Kyle Smith, KBI  
Dr. Corrie May, Coroner of Sedgwick County  
Jim Clark, County and District Attorneys Association  
Chris Mechler, Court Services Officer, Kansas Association of  
Court Services Officers  
John Smith, Division of Vehicles  
Rosalie Thornburgh, Division of Vehicles

Others attending: See attached list

The Chair called the meeting to order at 10:00 a.m..

### **HB 2741--Admissibility of forensic reports at trial.**

Kyle Smith, KBI testified in support of HB **2741**. The conferee stated this bill refines a number of existing statues primarily dealing with forensic reports and information repositories at the Kansas Bureau of Investigation. The conferee explained changes in each section of the bill as the conferee provided in written material. (Attachment 1)

The conferee requested that the Committee consider restoring language struck by the House Judiciary Committee. The conferee stated that transporting an open container, K.S.A. 8-1599, has a higher penalty for subsequent conviction, but since it is not an A or B misdemeanor the sentencing guidelines do not provide for fingerprinting. The conferee stated that without fingerprints the record of an individual cannot be identified to that individual with certainty. (see Balloon B, Attachment 1).

The conferee requested that the Committee amend this bill to include a compromise of provisions in **SB 237**, which expanded the Sex Offender Registration Act to include diversions and juvenile offenders. The conferee stated that the language in Balloon C allows the court as condition of probation or diversion to register individuals for the term of probation or diversion. (see Balloon C, Attachment 1)

The conferee discussed requested changes in Section 1 which would strike "or" on line 19, page 1 and add the reference K.S.A. 21-3511 on line 22, page 1 to make it clear that all these offenses need to be included under the DNA statute. The conferee referred to Section 1(c)(1), page 2 and requested that on line 8, the following language be struck: ~~as a condition of probation.~~ (see Balloon A) The conferee stated some judges had interpreted that language as providing them the discretion of requiring DNA testing as condition of probation.

A member of the Committee discussed the use of the word "contributor" in Section 1, new (b) along with the word, "shall" in (c) of Section 1. The conferee offered to change "all contributors, juveniles and adults," to "all persons covered by this act juveniles or adults."

Dr. Corrie May, Coroner of Sedgwick County testified in support of **HB 2741** and addressed Section 2 of the bill. The conferee stated that on December 22, 1995, the Board of Sedgwick County Commissioners opened the Sedgwick County Regional Forensic Science Center, the first facility of its kind in Kansas. The

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 10:00 a.m. on March 19, 1996.

conferee stated that Sedgwick County request approval of HB 2741 to allow written reports from the forensic laboratories to be admissible into evidence of preliminary hearings in lieu of the testimony of the scientists and examiners who performed the analyses. The conferee requested that the amendment adding the Sedgwick County Forensic Science Center to the list of entities be supported by the Committee. (Attachment 2)

Jim Clark, County and District Attorneys Association, testified in support of HB 2741. The conferee stated that this bill revises the statute to make it clear that lab reports are admissible in other kinds of cases as well, as DUI cases, and since it is generally cases other DUI that require state lab employees to testify in person. The conferee stated that bill is likely to result in a cost savings to the state. The conferee stated that KCDAA supports Section 2 of the amended bill, which adds the new Sedgwick County Regional Forensic Science Center to the list of labs whose reports are admissible at preliminary hearings without the necessity of bringing in the lab technician who prepared the report. (Attachment 3)

The conferee referred to written material from District Attorney, Nola Foulston supporting HB 2741. (Attachment 4)

Chris Mechler, Court Services Officer, Kansas Association of Court Services Officers testified in support of HB 2741. The conferee stated that the changes proposed by this bill will bring consistency and clarity to the statutes. The conferee stated that the changes this bill provides would address problems faced by CSOs, judges and district attorneys. The conferee stated that this bill will make it easier for CSOs to implement K.S.A. 21-2511, 22-2904 and 22-4907. The conferee discussed the various changes this bill would provide that would benefit CSOs. The conferee stated that the amendments offered by Kyle Smith addressed her concerns. (Attachment 5)

The Chair closed the hearing on HB 2741.

The Committee discussed the amendments offered by Kyle Smith.

A motion was made by Senator Bond, seconded by Senator Harris to adopt the amendments requested by Kyle Smith, including striking the word "contributors" and inserting, "persons covered by this act adults and juveniles."

The Committee members and conferee, Kyle Smith discussed whether there was any new material contained in this bill. Mr. Smith stated that this bill addresses problems identified by Court Services, KBI and county attorneys. The conferee stated that SB 237 passed the Senate last year 40 to zero, but was not voted on by the House. Mr. Smith stated that Balloon C is a milder version, leaving it up to the court and the counsel to elect making it a condition of diversion, or the court can make it a condition of probation. The Committee discussed how this bill amends present law. A member of the Committee requested that Section 7 be divided off. The Committee discussed Balloon B. Conferee Smith, stated that the reason for that section was that the KBI has been given the duty to report records, and a higher penalty for subsequent charges of DUI. The conferee stated that if the Committee wants to go back and make the open container law have the same penalty all the way across, that would eliminate the KBI's problem. The conferee continued by stating that as long as the KBI is in charge of providing records to the court, that finger prints are necessary.

Substitute motion by Senator Vancrum was made, seconded by Senator Bond to recommend all amendments requested by Kyle Smith, except Balloon B. The motion carried.

The Chair asked if there was a motion on Balloon B. No motion was made.

Senator Harris requested an amendment that would amend the preliminary examination statute, K.S.A. 22-2902 to allow that the finding of probable cause may be based on hearsay evidence in whole or in part.

The Committee members discussed the reasons for this amendment. Senator Harris stated that currently full disclosure is required between the parties in state court, all documents and lists of witnesses have to be exchanged; and yet preliminary hearings are still being held and witnesses are being compelled to appear before judges on information that is contained in documents and reports. This bill will allow the judge to make a finding that probable cause exists so the case could go forward to a trial stage without requiring in-person testimony of people who have generated reports. The Committee members further discussed issues concerning the use hearsay evidence. Senator Harris concluded by stating that this amendment would allow sufficient procedure where the judge can determine there has not been an abuse of process by the county or district attorney and then allow the case to go on through the discovery and trial phases, thus reducing time and cost.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 10:00 a.m. on March 19, 1996.

Motion was made by Senator Harris, seconded by Senator Reynolds to adopt the amendment concerning the use of hearsay evidence. The motion carried by a vote of seven in favor and five opposed.

A motion was made by Senator Bond, second by Senator Harris to recommend **HB 2741** favorably as amended. The motion carried.

**HB 2603--Drivers under 21 blood alcohol concentration of .02 or greater.**

The Chair requested that John Smith, Division of Vehicles address Committee members concerns regarding reporting of blood alcohol levels of .02.

Mr. Smith stated that in response to those concerns, a new section has been drafted which basically becomes a substitute bill.

Mr. Smith stated that the substitute bill would delete all previous amendments K.S.A. 8-1001, K.S.A. 8-1002 and K.S.A. 8-1013. It would adopt a new section which will become a new statute pertaining to the .02 only, by not referring to this as a test failure. The substitute bill will not enhance an over .08 because it is not a test failure and under K.S.A. 8-1013 test failure constitutes an enhancement of a further conviction. The conferee stated that the individual will not have to take a driving test, because under K.S.A. 8-249, failure is simply a violation of a .02-.08 buffer zone. The conferee stated that the Division of Vehicles is also asking for two other minor amendments. One amendment would delete subsection (d) of K.S.A. 8-1015 pertaining to filing evidence of insurance with the division. The other amendment would further amend K.S.A. 8-1015 to provide that the restrictions apply only to subparagraphs (1), (2), (3), and (4) of K.S.A. 8-292.

The Committee members discussed the creating of a new unlawful act as proposed by the amendment presented by Mr. Smith. Mr. Smith stated that this bill provides that readings of .02 to less than .08 can not be used as a test failure for insurance purposes, and that the language was taken from the speed limit bill.

Committee members discussed with the conferee reasons and circumstances whereby a person could lose his/her license for 30 days with restriction for 330 days. Discussion concerning the federal requirements followed.

The Chair adjourned the meeting at 12:15 p.m.

The next meeting is scheduled for March 19 on adjournment, 1996.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-19-96

NAME	REPRESENTING
Rebecca Liberman	KS Sent. at Comm.
Matt Lynch	Judicial Council
James Salzman	State Bar
Doug Swain	OJA
Jack Dwan	KWSWA
Gibson	W Eagle
Ashley Handberg	Student
Donna Reed	Baldwin
Parri Roberts	Kansas State Nurses Assn.
David Hanson	Ks Insur Assoc
Lee Wild	Farmers Ins. Group
Maryanne Helbert	Kansas Smokeless Kids Institute
Rep. Topf, Ken	House
Bob Bell	House
Elaine F. Pomeroy	KS Credit Attorneys Assn. KC Collector Ass'n Inc.
Steve [unclear]	A. G. S. Office
Wanda [unclear]	ADU

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-19-96

NAME	REPRESENTING
Chris Mechler	Kansas Assn of Court Services Officers
Froey Shaybill	KSC
Louie P. Maynard	Sedgwick Co. Coroner
Kelko Martin	Sedgwick County
Don Doestken	KDHR - Legal
Rosalie Thourbough	KDOR
Jennifer Gallant	Senator Karr
Betty McBride	KDOR - DMV
John Smith	KDOR - DMV
Jim Keller	KDOR - Legal Services
Jamie Corkhill	SRS - CSE
Roger A. Van Etten	SRS - ERU
Whitney Damon	Kansas Bar Assn.
Kathy Reterms	The Century Council
Don R. Keller	Fathers
Laura Harmon	Felocians
Stanley Sutton KHEL/KDHE	Laboratory Forbes
Jim Clark	KCDAA
Nancy Lindberg	AG

Ed Del Coz      Sutr Mads  
 Paul Shelby      OZA



LARRY WELCH  
DIRECTOR

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



CARLA J. STOVALL  
ATTORNEY GENERAL

**TESTIMONY**  
KYLE G. SMITH, SPECIAL AGENT  
KANSAS BUREAU OF INVESTIGATION  
BEFORE THE SENATE JUDICIARY COMMITTEE  
IN SUPPORT OF HOUSE BILL 2741  
MARCH 19, 1996

Chairman Emert and Members of the Committee:

I appear today on behalf of the Kansas Bureau of Investigation in support of House Bill 2741. This bill is relatively simple, if not short, and merely refines a number of existing statutes primarily dealing with forensic reports and information repositories at the Kansas Bureau of Investigation.

**Section 1. DNA Databank.** This section amends K.S.A. 21-2511 regarding the DNA Databank which collects samples from convicted sex offenders. The first change is merely to add the phrase *as an adult* after the word "convicted" to clarify that the act does apply to adults as well as juveniles. This is in response to some arguments by very competent defense counsel, which unfortunately confused some courts.

The second change is to update the list of predicate offenses to make it as much as possible the same as the list of sex offenses requiring registration as a convicted sex offender. The language now in the bill, located on page 1, lines 21 and 22, would add K.S.A. 21-3510, indecent solicitation of a child, and persons convicted of 21-3516, sexual exploitation of a child.

It has been pointed out to me that we have omitted, by oversight, K.S.A. 21-3511, which is aggravated indecent solicitation of a child, and there is a balloon attached to this testimony with that amendment.

The third major change in section 1 clarifies that attempts, conspiracies and solicitations of any of the predicate offenses would require DNA samples to be given. Under current language, only attempts of sexual acts, not crimes of

violence are covered. We do not believe that was the intent of the legislation, but merely an accident of drafting. Again, in hopes of making this as clear as possible, the balloon also suggests striking the word "or" near the end of line 19, page 1, and substituting it with a comma to make it clear that the attempt, conspiracy and solicitation language applies to all the predicate offenses, not just those after the subjunctive four. At the suggestion of court services officers the phrase "as a condition of probation" is struck in the balloon as some courts have decided that gives them the option not to require the samples.

The final change in this first section appears at the top of page 2 and clarifies that to identify persons to their genetic markers the KBI may require fingerprints be submitted for both adults and juveniles. This is in response to an Attorney General's Opinion, Number 95-63, issued June 19, 1995, which held absent specific statutory authority, juveniles may not be fingerprinted for purposes of the DNA Databank. This bill provides that statutory authority.

**Section 2. Preliminary examination forensic reports.** This section merely amends K.S.A. 22-2902a which is the statute that authorizes the admission of forensic examination reports at preliminary hearing by adding the Sedgwick County Regional Forensic Science Center to the fairly long list of existing forensic laboratories already covered. This was originally a separate bill requested by the Sedgwick County delegation in recognition of their rapidly expanding and improving forensic capabilities in Sedgwick County, and the House Judiciary combined it with the KBI bill. We support its inclusion and passage.

**Section 3. Presumptive admission of forensic reports.** This section amends K.S.A. 22-3437 to clean up some confusion that has arisen in the use of this procedural tool. The main change is to set out the requirement that alcohol content tests must comport with K.S.A. 8-1001 into a separate sentence. The language as it currently stands was added late in the legislative process and some courts have read the existing language which uses the conjunctive "and" to try to limit this statute only to DUI cases. As this committee will remember, that was not the intent when we requested this statute, but rather to help alleviate the increasing demand for narcotics examinations. It has been successful in this, however, we would like to clean-up this language and help courts in their confusion.

The other changes are technical and requested by the Department of Health and Environment. In line 14, page 4, we strike the word "blood" and line 16, the prepositional phrase "or other person" to more accurately reflect the type of examination and certifications provided by the Department of Health and Environment.

**Section 4. Sex offender registration.** The amendments in this section amend K.S.A. 24-4904 by requiring annual re-registration by sex offenders and a resulting update of the central information files at the KBI.

**Section 5. Sex offender registration.** This section specifies what information the registration form will require and the only substantive change therein is to require DNA exemplars if they are not already on file through the DNA Databank statutes.

**Section 6. Laboratory analysis fees.** The amendments include adding crimes where forensic exams are already being conducted, however, no fee is authorized under the existing statute. It would also clarify that not just persons convicted or diverted, but also juveniles adjudicated or persons diverted under a pre-adjudicated program, would be subject to this fee. Chapter 41 alcohol violations which are submitted to the KBI will also now be included under this statute and DUI's involving tests for controlled substances, not alcohol, would be covered.

As the committee will remember, the fee was set up to have the convicted persons reimburse the KBI laboratory for the scientific examinations that were required for their conviction and these offenses are all of the kind wherein the KBI laboratory is frequently asked to make such examinations. The only other change appears at the end of that section and is spelled out that fees placed in this fund should be used to supplement the appropriations process. The actual authorized expenditures are spelled out in the statute.

Finally, the KBI would appreciate this committee considering two other items in this bill.

First, the House Judiciary Committee struck a portion the bill that became sections 4, 5 and 6 of this bill, which addressed a problem with fingerprints (see Balloon B). Transporting an open container, K.S.A. 8-1599, has a higher penalty for subsequent convictions, but since it is not an A or B misdemeanor the sentencing guidelines do not provide for fingerprinting. Without fingerprints the record of an individual cannot be identified to that individual with certainty. The House Committee felt that the fingerprinting was intrusive for such a minor offense, but we are still stuck with having to identify the person. We would appreciate the language being restored.

The second possibility concerns SB 237 which passed the Senate last year by a vote of 40-0 and expanded the Sex Offender Registration Act to include diversions and juvenile offenders. The House never acted on the bill primarily because of the "Romeo and Juliet"



problem of consensual sex between two fifteen year olds.

The third balloon suggests a compromise which would allow as a condition of probation or diversion, either adult or juvenile, for registration under the act. Since this is not mandatory and allows the court and prosecutor to select the bad cases and who should be registered, it seems a reasonable compromise.

I appreciate the committee's attention and I realize this is a somewhat technical bill, but we believe these changes are very important in the administration of justice in the operation of forensic examinations and reports.

I would be happy to stand for any questions.

5-1

As Amended by House Committee

Session of 1996

HOUSE BILL No. 2741

By Committee on Judiciary

1-25

10 AN ACT concerning criminal procedure; relating to forensic exams;  
11 amending K.S.A. 21-2511, 22-2902a, 22-3437, 22-4904, 22-4907  
12 and 28-176 and repealing the existing section sections.  
13

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

15 Section 1. K.S.A. 21-2511 is hereby amended to read as fol-  
16 lows: 21-2511. (a) Any person convicted as an adult or adjudicated  
17 as a juvenile offender because of the commission of an unlawful  
18 sexual act as defined in subsection (4) of K.S.A. 21-3501, and  
19 amendments thereto, or an attempt of such unlawful sexual act ~~or~~ con-  
20 victed as an adult or adjudicated as a juvenile offender because of  
21 the commission of a violation of K.S.A. 21-3401, 21-3402, 21-3510, ← 21-3511,  
22 21-3516, 21-3602, 21-3603 or 21-3609, and amendments thereto,  
23 including an attempt, as defined in K.S.A. 21-3301, and amendments  
24 thereto, conspiracy, as defined in K.S.A. 21-3302, and amendments  
25 thereto, or criminal solicitation, as defined in K.S.A. 21-3303, and amend-  
26 ments thereto, of such offenses regardless of the sentence imposed,  
27 shall be required to submit specimens of blood and saliva to the  
28 Kansas bureau of investigation in accordance with the provisions  
29 of this act, if such person is:

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

33 (2) ordered institutionalized as a result of being convicted as  
34 an adult or adjudicated as a juvenile offender because of the com-  
35 mission of a crime specified in subsection (a) on or after the effec-  
36 tive date of this act; or

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

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

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

8 (1) If placed directly on probation, ~~as a condition of probation,~~  
9 that person must provide specimens of blood and saliva, at a col-  
10 lection site designated by the Kansas bureau of investigation. Fail-  
11 ure to cooperate with the collection of the specimens and any de-  
12 liberate act by that person intended to impede, delay or stop the  
13 collection of the specimens shall be punishable as contempt of  
14 court and constitute grounds to revoke probation;

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

18 (3) if a juvenile offender is placed in the custody of the secre-  
19 tary of social and rehabilitation services, in a youth residential fa-  
20 cility or in a state youth center, the specimens of blood and saliva  
21 will be obtained immediately upon arrival.

22 ~~(c)~~ (d) Any person required by paragraph (a)(3) to provide spec-  
23 imens of blood and saliva shall be required to provide such samples  
24 prior to final discharge, parole, or release at a collection site des-  
25 ignated by the Kansas bureau of investigation.

26 ~~(d)~~ (e) The Kansas bureau of investigation shall provide all  
27 specimen vials, mailing tubes, labels and instructions necessary for  
28 the collection of blood and saliva samples. The collection of sam-  
29 ples shall be performed in a medically approved manner. No per-  
30 son authorized by this section to withdraw blood and collect saliva,  
31 and no person assisting in the collection of these samples shall be  
32 liable in any civil or criminal action when the act is performed in  
33 a reasonable manner according to generally accepted medical  
34 practices. The withdrawal of blood for purposes of this act may be  
35 performed only by: (1) A person licensed to practice medicine and  
36 surgery or a person acting under the supervision of any such li-  
37 censed person; (2) a registered nurse or a licensed practical nurse;  
38 or (3) any qualified medical technician including, but not limited  
39 to, an emergency medical technician-intermediate or mobile in-  
40 tensive care technician, as those terms are defined in K.S.A. 65-  
41 6112, and amendments thereto, or a phlebotomist. The samples  
42 shall thereafter be forwarded to the Kansas bureau of investigation  
43 for analysis and categorizing into genetic marker groupings.

Balloon B

Section 7. K.S.A. 21-2501 is hereby amended to read as follows: 21-2501. (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, *transporting an open container of liquor in violation of K.S.A. 8-1599, and amendments thereto*, 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, *transporting an open container of liquor in violation of K.S.A. 8-1599, and amendments thereto*, or assault as defined in K.S.A. 21-3408 and amendments thereto under state law;

(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 a ~~felony or an A or B misdemeanor or a violation of a county resolution which prohibits an act which is prohibited by a class A or B misdemeanor~~, any offense set out in subsection (a)(1) 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.

1 or at least 20 days before a civil trial begins. An opposing party who  
 2 intends to object to the admission into evidence of a certificate shall give  
 3 notice of objection and the grounds for the objection within 10 days upon  
 4 receiving the adversary's notice of intent to proffer the certificate. When-  
 5 ever a notice of objection is filed, admissibility of the certificate shall be  
 6 determined not later than two days before the beginning of the trial. A  
 7 proffered certificate shall be admitted in evidence unless it appears from  
 8 the notice of objection and grounds for that objection that the conclusions  
 9 of the certificate, including the composition, quality or quantity of the  
 10 substance submitted to the laboratory for analysis or the alcohol content  
 11 of a blood or breath sample will be contested at trial. A failure to comply  
 12 with the time limitations regarding the notice of objection required by  
 13 this section shall constitute a waiver of any objections to the admission of  
 14 the certificate. The time limitations set forth in this section may be ex-  
 15 tended upon a showing of good cause.

16 **Sec. 4. K.S.A. 22-4904 is hereby amended to read as follows:**  
 17 **22-4904. (a) Within 15 days of the sex offender coming into any**  
 18 **county in which the sex offender resides or is temporarily domi-**  
 19 **ciled for more than 15 days, the sex offender shall register with**  
 20 **the sheriff of the county.** *The sex offender shall thereafter update the*  
 21 *registration annually until liability to register expires pursuant to K.S.A.*  
 22 *22-4906, and amendments thereto.*

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

27 (2) The law enforcement agency shall, within three days of re-  
 28 ceipt of the new initial registration or change of address, forward this  
 29 information to the Kansas bureau of investigation and, if applicable,  
 30 to the law enforcement agency having jurisdiction of the new place  
 31 of residence.

32 **Sec. 5. K.S.A. 22-4907 is hereby amended to read as follows:**  
 33 **22-4907. (a) Registration as required by this act shall consist of a**  
 34 **statement in writing, on a form prepared by the Kansas bureau of in-**  
 35 **vestigation, signed by the person. The information shall include the**  
 36 **following:**

- 37 (1) Name;
- 38 (2) date and place of birth;
- 39 (3) offense or offenses committed, date of conviction or con-  
 40 victions obtained;
- 41 (4) city or county of conviction or convictions obtained;
- 42 (5) a photograph sex and age of victim;
- 43 (6) fingerprints; and current address;

8-1

Notwithstanding any other provision of law if a diversionary agreement or probation order, either adult or juvenile, requires registration under this act then all provisions of this act will apply except the term of registration which shall be controlled by the agreement or order.

0#2

# SEDGWICK COUNTY, KANSAS

## REGIONAL FORENSIC SCIENCE CENTER



CORRIE L. MAY, M.D. — CORONER-MEDICAL EXAMINER  
GARY D. BRANUM, PH.D. — CHIEF FORENSIC TOXICOLOGIST  
FORREST W. DAVIS, M.S. — CHIEF OF PHYSICAL EVIDENCE  
STEVEN V. GILBERT, M.F.S. — FORENSIC ADMINISTRATOR  
WILLIAM H. DIETZE, M.A. — CHIEF MEDICAL INVESTIGATOR

### Testimony in Support of House Bill 2741 an Act amending K.S.A. 22-2902A

Chairman Emert and Members of the Senate Judiciary Committee:

On December 22, 1995, the Board of Sedgwick County Commissioners opened the Sedgwick County Regional Forensic Science Center, the first facility of its kind in Kansas, incorporating the elements of a police crime laboratory with a modern autopsy suite, including body storage areas capable of meeting the daily needs of southern Kansas as well as a mass disaster involving multiple fatalities. Included in the Center are a large classroom for the enhanced education of law enforcement cadets, college and university students and medical graduates; a sterile tissue recovery suite for procuring transplantable tissues, a firing range and ballistics laboratory, expansion area for a proposed DNA laboratory, and facilities for analyzing postmortem specimens for drugs and poisons under the direction of a Ph.D. toxicologist.

Sedgwick County requests approval of HB 2741 to allow written reports from the forensic laboratories to be admissible into evidence of preliminary hearings in lieu of the testimony of the scientists and examiners who performed the analyses. Sedgwick County and the Regional Forensic Science Center will certainly be able to provide a qualified expert to the Court when called upon. The change we seek is primarily technical in nature, because current law provides that a copy of the report of a forensic examination performed by the Wichita Police Department, Kansas Bureau of Investigation, and other laboratories is admissible as evidence at preliminary examinations. What has changed is that the Regional Forensic Science Center is newly opened and will begin to provide some of these services. Because it is new, it is not yet listed in the law. This technical change is needed to continue to provide cost-effective forensic examinations in Sedgwick County and other counties who may request the services of the Center.

Corrie L. May, M.D.  
Coroner-Medical Examiner

SEN. JUP  
3-19-96

ATTACH 2

#3

OFFICERS

Paul J. Morrison, President  
Nanette L. Kemmerly-Weber, Vice-President  
William E. Kennedy, Sec.-Treasurer  
Dennis C. Jones, Past President



DIRECTORS

Julie McKenna  
David L. Miller  
Jerome A. Gorman  
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Testimony in Support of

### HOUSE BILL NO. 2741

The Kansas County and District Attorneys Association appears in support of **HB 2741**, the original of which appears at Section 4 of the amended version. It clarifies the language in K.S.A. 22-3437 which previously has caused confusion in our trial courts. The statute as originally intended allowed admission of lab reports into evidence, if certain procedures were followed, without having to call the lab technician who prepared the report, where the parties either consented to its use, or after a hearing, the court ruled it admissible. The main purpose of the bill was to reduce road and court time of lab personnel with the resultant saving of state money, where there were no real conflicts over the contents of the report. Nothing precluded the defendant from issuing a subpoena for the lab technician and requiring their live testimony.

As originally intended, the statute was intended to cover not only DUI cases, but, as exemplified by the kinds of laboratories included, other types of cases as well. The language being struck on lines 7 and 8 on page 4 of the amended bill, however, has been construed to limit admissibility of such reports only to cases governed by K.S.A. 8-1001, which is limited to DUI cases. The bill revises the statute to make it clear that lab reports are admissible in other kinds of cases as well, and since it is generally cases other than DUI that require state lab employees, is more likely to result in a cost savings to the state. More importantly, with the huge backlog of drug cases due to insufficient KBI lab personnel, it will speed the processing of drug cases throughout the state.

KCDAA also supports Section 2 of the amended bill, (formerly **HB 2819**) which merely adds the new Sedgwick County Regional Forensic Science Center to the list of labs whose reports are admissible at preliminary hearings without the necessity of bringing in the lab technician who prepared the report. Attached is a statement by Sedgwick County District Attorney Nola Foulston, originally submitted to the House Judiciary Committee on HB 2819, in support of the bill.

We are also supportive of the other sections of **HB 2741**, but will defer to other conferees on those particular subjects.

SEN. JUO  
3-19-96  
ATTACH 3



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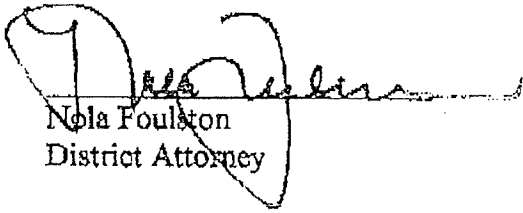
**Testimony in support of House Bill 2819  
an act amending K.S.A. 22- 2902a**

Mr. Chairman and members of the Committee:

I am sorry that I am unable to testify in person concerning my support for House Bill 2819, an act amending K.S.A. 22-2902a. This statute provides for the admissibility of reports of certain forensic examiners at preliminary hearings in criminal cases and is a vital tool for law enforcement and prosecutors.

Sedgwick County has recently opened the Regional Forensic Science Center under the very capable administration of Sedgwick County Coroner, Corrie May, MD. After a national recruiting process, Dr. May was chosen as our medical examiner, among other reasons, upon the basis of her qualifications to design and implement a forensic science center to serve this community's needs. This has now been accomplished. The request for amendment of the existing statute is to add this forensic center to the list of laboratories currently identified. We believe that the laboratory meets the high standards of qualification, and as such, the reports of their examinations, analysis, comparison or identification should be received into court at the time of preliminary hearing without the necessity of in-person testimony by the forensic scientist.

Sedgwick County would benefit from this minor change in the statute, and the ability to utilize this local laboratory would have the effect of reducing our demands upon other state-wide labs including the KBI lab. Your consideration will be appreciated.



Nola Foulston  
District Attorney

SEN. JUD.  
3-19-96  
ATTACH 4



#5  
**KANSAS ASSOCIATION OF COURT SERVICES OFFICERS**



TESTIMONY  
CHRIS MECHLER, COURT SERVICES OFFICER I  
KANSAS ASSOCIATION OF COURT SERVICES OFFICERS  
BEFORE THE SENATE JUDICIARY COMMITTEE  
REGARDING HOUSE BILL 2741  
MARCH 19, 1996

Mr. Chairman and Members of the Committee:

I appear before you today on behalf of the Kansas Association of Court Services Officers in support of House Bill 2741. I have been a Court Services Officer working in Adult Probation for seven years. For the past five years I have supervised a caseload of sexual offenders. In that time I have attended many seminars working with this specialized caseload.

As a line officer given the task of implementing K.S.A. 21-2511, 22-2904 and 22-4907, I believe the proposed changes bring consistency and clarity to the statutes.

In section 1 adding attempt, conspiracy, and criminal solicitation to the listed crimes, will prevent "plea bargaining" by the defense to avoid DNA sampling. By striking the phrase, "as a condition of probation" in section 1 (c) (1), the implied judicial discretion requiring the court to **impose** DNA sampling as a **special** condition of probation is removed. Thereby making DNA sampling a standard condition of probation for the listed offenses.

The changes in section 4 simply clarify issues surrounding updating and changing information on the registration form. Annual updates are necessary to facilitate the effective tracking of offenders.

Testimony - Mechler  
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Section 5 proposes a vital change to registration by requiring DNA exemplars of all registrants. This will provide assistance to law enforcement officers as well as prosecutors. The other proposed changes in Section 5 add consistency by utilizing a single registration document supplied by the KBI, and by requiring more detailed information on the offender.

On behalf of the Kansas Association of Court Services Officers, I again express our support of this legislation. Thank you for allowing me to speak.