

Approved: March 11, 1998  
Date

## MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 10:11 a.m. on March 4, 1998 in Room 514-S of the Capitol.

All members were present.

Committee staff present: Mike Heim, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Mary Blair, Committee Secretary

Conferees appearing before the committee: Senator Steinager  
Representative Marty Crow  
Lee Doehring, Leavenworth Police Department  
Forrest Rhea, Rosedale Development Association, et al  
Mike Price, Kansas City, Kansas, Public Housing Authority  
Senator Anthony Hensley  
Sergeant Byron Endsley, Topeka Police Department  
Gary Deers, Housing and Urban Development  
Tony Rues, Shawnee County District Attorney's Office  
Evan Ice, Lawrence Apartment Association

Others attending: See attached list

The minutes of the February 24 and February 25 meetings were approved on a motion by Senator Petty and a second by Senator Harrington. Motion carried.

### SB 231 - Termination of rental agreement relating to conduct of tenant that jeopardizes health, safety and welfare of others

### SB 628 - Evicting tenants for violating certain laws

Conferees Steinager and Crow offered their support for **SB 231** and **628**.

Conferee Doehring testified in support of **SB 231** endorsing "an accelerated eviction process for tenants who allow criminal acts to occur on the property they lease and control". He iterated that the benefits of this process for neighborhoods who are plagued by renters who are involved in drugs. He cited the problems owners of rental property in Leavenworth have had to deal with due to the current lengthy eviction process. (attachment 1)

The Chair noted written testimony in support of **SB 231** submitted by Mary Jane Johnson, Executive Director, Liveable Neighborhoods, Inc. Kansas City, Kansas. (attachment 2)

Conferee Rhea testified in support of **SB 231** and suggested two amendments to the bill which would protect decent landlords from lawsuits and availability to use this law in civil court where the preponderance of evidence is the criteria. (attachment 3)

Conferee Price testified in support of both **SB 231** and **SB 628**. He discussed the Public Housing Authority's endorsement of the bills. He stated that the bills do not interfere with the rights of tenants for due process but simply allow a landlord to take his case to court sooner. Discussion followed on the following: termination of leases laws and partial eviction of the offender only. Conferee Price stated that the latter is normal procedure except under Public Housing Agency rules where an entire family or group with whom the offender is living will be evicted. (no written testimony)

Conferees Hensley and Flora offered their support for **SB 628** agreeing on the merits of the bill. Conferee Hensley introduced Sergeant Endsley and Tony Rues and Conferee Flora introduced Gary Deers and Nancy Brown from Housing and Urban Development (HUD).

Conferee Endsley testified in support of **SB 628**. He discussed a Landlord Training Program conducted by the police departments of Topeka, Lenexa and Overland Park which he stated informs landlords that effective property management can influence the health of a community and that accessible, legitimate techniques exist which can be used to stop the spread of criminal activity on rental property. He described the process of eviction under current law and the problems with the 14/30 day notice. He described the new bill, the changes requested and the impact these changes will have on the safety of citizens and health of neighborhoods. (**attachment 4**) Discussion followed

Conferee Deers, testifying in support of **SB 628**, defined some of the problems that have been a result of lengthy eviction times. He stated one of these problems is the threat to other tenants who are often afraid to testify because a drug dealer may be back in the residence within 48 hours. (no written testimony) Brief discussion followed.

Conferee Rues testified in support of **SB 628** citing the differences between "the other bill and this is that this bill centers around the county attorney being able to do the eviction and it gives the district attorney the ability to intervene on behalf of the neighborhood". (no written testimony) Brief discussion followed.

Conferee Ice, testifying in support of **SB 628**, discussed the following primary changes in the bill: it allows eviction of tenants for non-monetary breaches on seven days' notice instead of the current thirty days and it allows eviction on three days' notice for violation of certain laws. He also suggested a minor revision to the bill with regard to a landlord's right to pursue eviction on his own prior to assistance by the district attorney. (attachment 5)

The Chair announced that due to time constraints he was assigning **SB 593, 628, and 668** to a subcommittee chaired by Senator Schraad and that those who were not able to testify at this meeting may be able to do so before the subcommittee. Several opponents of SB 628 who did not have the opportunity to testify had submitted written testimony prior to the meeting. These testimonies are attached. (attachment 6 and 7).

The meeting adjourned at 11:02 a.m. The next scheduled meeting will be Thursday, March 5.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3/4/98

NAME	REPRESENTING
Buzz Estell	Self
Bocca Vaughan	Topeka Independent Living Resource Ct.
Lee Dochow	Lawrence Police Dept
James Clark	KCOA
Billie & Flora Guntter Sr.	
Kathie Randall	Whitney Jamson, A.A.
Harrie Ann Brown	KS Proit Consulting
Carla Wornack	KCK Housing
Robert Z. Meyer	R.E. M. RDA
Don Sch	1013 SW 11th St
Vicki Lynn Kelsel	Budget
Tom Schaefer	City of Lenexa
Kelly Kuntala	City of Overland Park
Evan Ice	Lawrence Apartment Assoc.
Michael J. Price	Housing Authority of KCK
GARY L. DIERS	U.S. DEPT OF HOUSING & URBAN DEVELOPMENT - KANSAS CITY, KS
Nancy S Brown	US Dept of Housing & Urban Development KICKS
Byron Endsley	Topeka, Kansas Police Dept.
DON COOPER	TOPEKA HOUSING AUTHORITY





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## TESTIMONY TO THE SENATE JUDICIARY COMMITTEE

I, Lee Doehring, Chief of Police of the Leavenworth, Kansas Police Department come before you today to testify in support of the Senate Bill 231 on behalf of the Leavenworth Police Department and Kansas Association of Chiefs of Police. We strongly endorse an accelerated eviction process for tenants who allow criminal acts to occur on the property they lease and control. The expedited eviction process will greatly enhance the safety and peacefulness of neighborhoods that are plagued by renters who are involved in drug trafficking, gang activity, and other criminal enterprises.

In the City of Leavenworth and numerous other cities across the State of Kansas numerous rental properties and the tenants within are involved in conduct which is criminal in nature, dangerous to themselves and their neighbors and destroy the tranquility and cohesiveness of a neighborhood. In the City of Leavenworth we've identified a number of drug operations housed in rental property. Through search warrants and other investigative techniques we have gathered overwhelming evidence to support the prosecution and conviction of these individuals. As a matter of practice, we make contact with the landlord and ask for their assistance. In most cases the landlord, being a responsible individual concerned about the protection of their property and other tenants, is more than willing to assist through initiation of eviction proceedings. At the very best and without being contested, these eviction proceedings take at least 30 days to implement. When contested they take much, much longer. Often during these extensive eviction processes the tenants continue their criminal activity and because they are put on notice of pending eviction, destroy the property where they reside. Criminal activity, specifically drug activity, on rental property has always been a problem. But recently it has taken on a much more ominous perspective which requires the means to achieve an expedient eviction. The clandestine laboratory for manufacture of methamphetamine is prevalent in rental properties. Often

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properties are rented for the express purpose of the manufacturer of methamphetamine. The chemicals utilized and the process utilized in these clandestine laboratories pose a significant health and safety risk for other tenants in adjacent apartments or properties, neighbors, and innocent people conducting business on or around the property. The chemicals utilized can produce poisonous gases such as phosgene, other chemicals are extremely flammable and explosive and all are hazardous materials. Chemicals dumped or stored on leased property become the burden of the owner to dispose of and clean up after. These changes will also allow landlords to protect their property and other tenants from their irresponsible conduct of a tenant. It allows the landlord to take the expedient action necessary to protect his other tenants, neighbors, and his personal property.

From a law enforcement perspective across the State of Kansas we strongly support this Bill and encourage you to incorporate the changes as are proposed. These changes will give law enforcement working with responsible landlords the means to alleviate problems with renters who are involved in criminal activities which, in turn, pose significant health and safety hazards to the general public.

*Written* 3-4-98 att 2  
S.S.

# LIVEABLE NEIGHBORHOODS, INC.

CITY HALL OF KANSAS CITY, KANSAS 701 NORTH 7TH STREET SUITE 828 KANSAS CITY, KS. 66101



EXECUTIVE DIRECTOR:  
MARY JANE JOHNSON  
PHONE: 913-573-5137  
FAX: 913-573-5020

March 3, 1998

To Senate Committee Members,

The Liveable Neighborhoods Task Force is a non-profit organization made up of neighborhood leaders, business owners, churches and Unified Government staff. The Task Force has been working together to solve problems related to rental property which in some parts of the county consists of 70% of the housing stock.

After researching other states, we have found that several have provisions in the law that allow a landlord to take faster eviction action if tenants are engaged in serious behaviors in the community. We need to provide a way so that citizens who are the enforcers of civil law can step up and meet their responsibilities, just as we ask police officers to enforce criminal law. If we have the power to sue a landlord, fine a landlord or close down a property that has illegal activity, then we should give the landlords the power to remove those tenants on short notice when their problems seriously harm the community.

Kansas is one of the very few states that doesn't allow for rapid eviction for serious types of behavior. Many states have added drug activity in response to the changing times and changing problems with rental property.

We support the concept of S.B. 231, S.B. 628 or any another bill that would help with a faster eviction process when dealing with illegal activity on rental property.

Sincerely,

A handwritten signature in blue ink that reads "Mary Jane Johnson". The signature is fluid and cursive.

Mary Jane Johnson  
Executive Director

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att #3

To: Senate Judiciary Committee: State of Kansas

Mr. Chairman, Senators, Ladies and Gentleman.

My name is Forrest L. Rhea, 2615 W. 40th Ave, K. C., KS. I thank you for allowing me to come before you to testify on the change in the Landlord/Tenant Act.

I am here not only for myself, as a victim of criminal activity by drug dealers with bullet holes in my home, but also as a representative of:

Rosedale Development Association - a non-profit community improvement org.  
Hilltop Neighborhood residents  
Wy. Co./KCK Neighborhood Crime Prevention Patrol  
United We Stand America of Kansas

These organizations are all concerned with the level of crime and violence in our neighborhoods. We feel the legislation before you, will give us a tool, along with other laws already on the books, to take immediate action against those who would turn our neighborhoods into war zones.

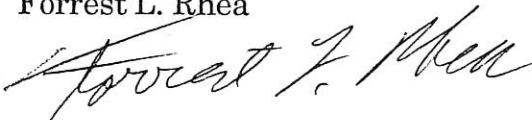
We would suggest a couple of amendments: 1) To protect our decent landlords from lawsuits, if the prosecuting or county attorney should invoke this law in the course of criminal proceedings and fail to win their case.

2) To be able to use this law as neighborhood groups, working with landlords in civil court where the preponderance of the evidence is the criteria.

We all strongly support the changes in the Landlord/Tenant Act. Give us the tools and we will take back our neighborhoods.

Thank you,

Forrest L. Rhea



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**PROPOSED AMENDMENTS TO THE  
KANSAS RESIDENTIAL LANDLORD TENANT ACT**

Chronic drug house activity is a major cause of neighborhood decay. Most drug house activity is done on rental property. Efforts to prevent criminal activity on rental property must include the involvement of those with the greatest leverage to stop the activity at a given location, the property management community.

The Police Departments of Topeka, Lenexa and Overland Park, Kansas are currently involved in Landlord Training Programs. The Topeka Police Department sponsors an eight-hour training which delivers two important messages: 1) That effective property management can have a major impact on the health of a community, 2) that there are accessible, legitimate techniques that can be used to stop the spread of drug activity and other criminal activity on rental property.

When our department executes a search warrant at a suspected drug house, and drugs are found, the property manager receives a letter from the department advising that under KSA 22-3901 and 22-3904 we deem the property to be a public nuisance and ask that the property manager evict the tenant. The problem with the current Landlord - Tenant Act is that there is no quick way to evict a drug dealer who refuses to terminate the lease voluntarily. Currently the property manager must give a 14/30 day notice telling the tenant that the tenant is in noncompliance with the lease. The tenant then has 30 days in which to vacate the property. Chances are good that he will continue to sell drugs from the property or damage the property in retribution for being evicted.

From training classes I have attended in Arizona, New Mexico and Missouri I found those states have all recently changed their laws giving the property manager an expedited eviction procedure when criminal activity is involved.

The bill before you is modeled after the New Mexico Law. What it provides is a 3-Day Substantial Lease violation. A substantial Lease Violation shall have occurred if any of the listed crimes are committed by the tenant, a guest of the tenant or anyone under control of the tenant, on or within 1000 feet of the property. The violation will be non - curable and if the tenant is not off the property within three days a forcible detainer action shall be taken to remove the tenant.

The next change we are requesting is to the current 14/30 day notice. The new law will shorten the time span to cure a breach of the lease to a straight 7 days. The importance to the property manager is that if after notice is given and the breach is not cured he does not have to wait for 16 more days for the tenant to remain on the property, continuing with their behaviors and possibly damaging the property. This change will also make a second breach of any kind within a six-month period non - curable if the property manager so wishes.

The final change in the law, is one that we took from Missouri's new Landlord tenant act. This will give the prosecuting attorney, of the jurisdiction in which the leased property is located, standing to bring a civil action to evict a tenant. This will allow the prosecutor to move on a drug house if the landlord is uncooperative, or scared or absent and that landlord is not pursuing an eviction.

In the Landlord Training Program we tell the Landlords that they are responsible for the behavior of their tenants and tell them to evict problem tenants before the problem is deeply rooted. This new bill will give the property manager the tool they need. This new bill can affect the safety of our citizens and the health of our neighborhoods. It will give drug offenders and violent offenders the message that their behavior will not be tolerated. I hope you will all support this bill.

*Byron Endrey*  
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**STATEMENT ON BEHALF OF**  
**THE LAWRENCE APARTMENT ASSOCIATION**  
Senate Bill 628

The Lawrence Apartment Association supports Senate Bill 628. The Lawrence Apartment Association is an organization of approximately twenty-five apartment owners with about twenty-five hundred apartment units in Lawrence, Kansas.

There are two significant changes in existing law. The first allows eviction of tenants for non-monetary breaches on seven days' notice instead of the current thirty days. Current law provides that the landlord must serve the tenant with a notice of non-monetary breach and the tenant is allowed fourteen days within which to cure the breach. If the breach is not cured in fourteen days, the lease terminates thirty days after the notice is given. Senate Bill 628 reduces the notice and cure period to seven days.

Our experience is that generally non-monetary breaches by tenants fall into two categories:

1. Extensive damage to the apartment; or
2. Conduct that disturbs the peace and quiet of, or terrifies their neighbors.

The problem with the thirty-day notice is that far too often the tenant just repeats the objectionable conduct throughout the thirty-day period, seriously damaging the apartment premises or seriously annoying or scaring the other tenants.

We believe that seven days is adequate time to cure the default or at least begin a good faith effort to do so. Seven days' notice makes a lot more sense than thirty days' notice.

The second change, which we also support, allows eviction on three days' notice for violation of certain laws, such as the most serious crimes against persons, property, public safety, and sex offenses, and for violation of Kansas controlled substance laws. Eviction may be by

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either the landlord or the District or County Attorney. Landlords do not want rapists, burglars, drug using or selling tenants, or other dangerous persons on their premises. Under existing law, there is an ambiguity as to whether landlords can evict these persons. The first thing that the landlord must do is deliver a notice of default and demand to cure. If the tenant doesn't violate the law again within the cure period, the tenant may argue that he has cured the default and the District Court may refuse to evict the tenant. We would be delighted to have this additional tool to get criminals out of the premises and would be willing to surrender some of our sovereignty over our premises to District or County Attorneys to allow them to terminate these peoples' tenancies.

We have one minor suggested revision to the bill. As drafted, the District Attorney can evict a tenant and recover costs and attorney fees from the landlord. We feel that the District Attorney should provide the landlord with a reasonable opportunity to evict the tenant on its own behalf as a prerequisite to the District Attorney's ability to recover costs and attorney fees from the landlord and would suggest a minor change to this effect. On the whole, however, the bill as written is better than the existing law.

Thank you for consideration of our position.



Offices located in  
the Historic Crawford Building

# Topeka Independent Living Resource Center

(913) 233-4572 V/TDD • Fax (913) 233-1561 • 501 SW Jackson St • Ste 100 • Topeka, KS 66603-3300

March 4, 1998

Testimony concerning Senate Bill 628

Judiciary Committee Members:

My name is Becca Vaughn, I am an Independent Living Specialist, and work in the fair housing arena on the State, local and national levels, with the Topeka Independent Living Resource Center, Topeka, Kansas. I am here today to express my opposition to Senate Bill 628. It is our belief that these changes to the current residential landlord tenant act K.S.A. sections 58-2543, 58-2547 and 58-2564 will have a immediate impact affecting all people with disabilities. We have particular concerns to 58-2564, which would limit the time in which a tenant has to remedy a violation of material non-compliance, from the current 14 days to only 7 days. We believe this would allow for increased incidents of wrongful eviction by discriminating landlords concerning people with disabilities.

Sec. 4 of this title would repeal the 14/30 day notice which allow people the opportunity to correct a problem, and allow for a 7/7 day notice. Tenants would only have 7 days to remedy the alleged problem or will be legally evicted at the end of the second 7 day notice. This will essentially not allow for qualified individuals with disabilities to request a reasonable accommodation or modification, if it would remedy the problem and allow for lease compliance. In some situations these notices have been sent due to a need for attendant services, or inability to use certain features of the units, which lead to the notice being issued. I have seen this used as a way to force a person to move, because they had called an emergency vehicle to access necessary medical attention. In these and many other situations, eviction was prevented by allowing for time to prove it was different treatment solely because people had disabilities. We must not pass legislation which would have the effect of encouraging or allowing discriminatory acts.

*Advocacy and services provided by and for people with disabilities.*

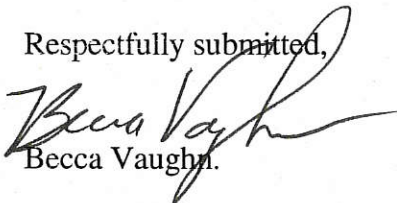
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Part (b)1 and 2 should not be considered with Section 4 K.S.A. 58-2564. Criminal activities, if needs to be separated out, should be covered under a separate section. The provision of the current 14/30 day notice covers many broader areas of concerns, not only criminal actions. Part (b) 1 allows for a three 3 day eviction in the event of criminal acts, thus giving an immediate response in which to swiftly deal with any criminal or direct threats to health and safety. Part 1's reference to; "...shall include arrests for...", is very concerning, since when in this country do we support the guilty until proven innocent concept. By amending the 14/30 day notice to 7/7 day notice you will essentially be denying a persons right of innocent until proven guilty. Discrimination and hate crimes are alive and well in this country, people of all protected classes are accused of or arrested frivolously everyday.

We are all concerned about violence in our communities. Let's not alter a provision which has been proven helpful to these protections of individuals. Criminal and violent acts should be addressed, not however, by victimizing innocent people. We are asking that the amendments to 58-2564 be repealed or a separate section be established for criminal activities. There is no compromise on the 14/30 day notice provision, it must be preserved.

Thank you for your attention to these critical concerns.

Respectfully submitted,



Becca Vaughn.

March 4, 1998

Testimony on Senate Bill 628

Judiciary Committee Members

Presented by, Buzz Estell 2610 SE Gilmore Ct. #169, Topeka, KS 66607

I am here today to express my opposition to Senate Bill 628. I have lived in the same place for many years and have received the current 14/30 day notices. These notices were used as a form of intimidation and harassment in the attempts to force me to move. If I had not been given the 14 days in order to seek advise and assistance through legal advocates, my landlord would have had me out on the streets. I had to prove that this was discriminatory based on my disability. Seven days is not enough time to be assured of protecting my civil rights. People practice discrimination against others everyday. We can not limit the belief of innocent until proven guilty, by enacting legislation which encourages and in fact allows for, the possibility of discrimination or the effect of excluding any member of our community.

Most people with disabilities do not commit crimes, I have never committed a crime or act against the public housing I live in, if your going to pass this bill it should be amended so that the criminal activities are covered in a separate section. There must be separate sections to deal with criminal actions, rather than having the same section to address any of the other areas which may be covered under the "material non-compliance" provision under this section. Such is the case with me and other people with disabilities that we have to face, only because we have disabilities.

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