

Approved: 2-8-99
Date

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Vice-Chairman Tim Carmody at 3:30 p.m. on January 26, 1999 in Room 313-S of the Capitol.

All members were present except:

Representative Mike O'Neal - Excused

Committee staff present:

Mike Heim, Legislative Research Department
Avis Swartzman, Revisor of Statutes

Conferees appearing before the committee:

Steve Kearney, LifeSafer Interlock
Marci Hess, Director of Government Relations, Sedgwick County
Kyle Smith, Kansas Bureau of Investigations
Kathy Porter, Office of Judicial Administration

Representative Ward Loyd requested a bill regarding appeal bonds and lien releases. Representative Klein made the motion to introduce the request as a committee bill. Representative Howell seconded the motion. The motion carried.

Steve Kearney, LifeSafer Interlock, appeared before the committee with a bill proposal that would enhance the use of ignition interlock devices in driving under the influence cases. (Attachment 1) Representative Ruff made the motion to have the request introduced as a committee bill. Representative Pauls seconded the motion. The motion carried.

Marci Hess, Director of Government Relations, Sedgwick County, asked the committee for a bill that would allow boards of county commissioners to determine court code violations as deemed reasonable. (Attachment 2) Representative Howell made the motion to have the request introduced as a committee bill. Representative Pauls seconded the motion. The motion carried.

She had a second request which would limit the authority that county judges have in ordering abatement nuisances in zoning matters. (Attachment 3) Representative Klein made the motion to have the request introduced as a committee bill. Representative Pauls seconded the motion. The motion carried.

Kyle Smith, Kansas Bureau of Investigations, appeared before the committee requesting a bill that would mandate both reserve & part-time law enforcement officers complete the same type of training that is required for full-time officers. (Attachment 4) Representative Pauls made the motion to have the request introduced as a committee bill. Representative Howell seconded the motion. The motion carried.

Kathy Porter, Office of Judicial Administration, requested a bill introduction that would amend a section of the Code of Civil Procedure for Limited Actions dealing with the recovery of specific personal property. It would require a judge, rather than a clerk of the court to sign certain forms and to approve a bond filed in those cases. (Attachment 5) Representative Long made the motion to have the request introduced as a committee bill. Representative Flaharty seconded the motion. The motion carried.

Vice-Chairman Carmody had a bill request that centered on appraisals order in the cases of eminent domain. Representative Pauls made the motion to have the request introduced as a committee bill. Representative Howell seconded the motion. The motion carried.

Representative Edmonds requested a bill introduction that would convert for sentencing guidelines the conviction of a fourth non-person felony into a one-person felony. He made the motion to have the request introduced as a committee bill. Representative Pauls seconded the motion. The motion carried.

The committee meeting adjourned. The next meeting is scheduled for January 28, 1999.

Kearney Law Office

1200 W. 10th, PO Box 2428

Topeka, KS 66601-2428

785.234.5859 Fax: 785.234.2433

Memo

To: Chairman O'Neal and members of the House Judiciary Committee
From: Steve Kearney
Date: 01/26/99
Re: Introduction of Interlock Legislation

On behalf of Lifesafer Interlock I am requesting the introduction of a bill that enhances the use of ignition interlock devices in DUI matters. Please find attached a summary of the key points and draft language for use by the Revisor of Statutes Office at the their discretion.

LEGISLATIVE DIGEST
RELATED TO IGNITION INTERLOCK DEVICES

Current statute K.S.A. 8-1015 requires courts to order the Department of Motor Vehicles to restrict the license of 2nd and greater offenders of K.S.A. 8-1567 who register a BAC in excess of .15% to only operating a motor vehicle with an ignition interlock device installed for an unspecified period of time and after a mandatory one suspension of the license has been served and lifted by the Department.

Current statute also allows a first offender to make an election as whether to install an ignition interlock device for 330 days and receive no other restrictions to their driver's license or to obtain a restricted license without an ignition interlock installed that limits the person's driving to condition imposed by K.S.A. 8-292.

The bill would require the Department of Motor Vehicles to impose the ignition interlock restriction as an additional condition of obtaining a restricted license for 330 days for any 1st offender who registered a BAC test of twice the legal limit (.16%) or higher.

The bill would increase the license suspension for 2nd offenders from 1 to 2 years and from 1 to 3 years for 3rd offenders. 2nd and 3rd offenders would be eligible to apply to the Department for an ignition interlock restricted license after 1 year of hard suspension for the remainder of the original suspension period.

The bill would mandate that the Department require that any offender who refused the breath test install and maintain an ignition interlock device as a restriction to their driver's license for 1 year after they are otherwise eligible for reinstatement of their license.

The bill would require the Department to mandate that any repeat offender install and maintain an ignition interlock device for 1 year as a condition of license reinstatement. Any time served on an ignition interlock restricted license would be credited towards the 1 year minimum.

The bill complies with US TEA 21, June 1998 section 1406 "Minimum Penalties for Repeat Offenders for Driving While Intoxicated or Driving Under the Influence."

The bill authorizes the Department to assess a \$25.00 fee for the issuance of the ignition interlock restricted license.

K.S.A. 8-262. Driving while license canceled, suspended or revoked; penalty; extension of time suspension or revocation; ignition interlock device restriction.

(b) The division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or a law of another state which is in substantial conformity with this section, upon a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days. If the conviction is for a violation committed while the person's driving privileges are suspended pursuant to K.S.A. 8-1014 and amendments thereto, the division, upon completion of the extended period of suspension shall require as a condition of license reinstatement the person's driving privileges be restricted for one year to driving only a motor vehicle equipped with an ignition interlock device. Any time period of ignition interlock restriction under this section shall be in addition to any other ignition interlock restriction time period required under K.S.A. 8-1014.

K.S.A. 8-1014 Suspension and restriction of driving privileges for test refusal, test failure or alcohol or drug related conviction.

(a) Except as provided by subsection (d) and K.S.A. 8-2, 142 and amendments thereto, if a person refuse a test, the division, pursuant to K.S.A. 8-1002, and amendments thereto, shall suspend the person's driving privilege for 12 months and shall require as a condition of license reinstatement the person's driving privileges be restricted for one year to driving only a motor vehicle equipped with an ignition interlock device. Any time period of ignition interlock restriction under this section shall be in addition to any other ignition interlock restriction time period required under K.S.A. 8-1014.

(b) Except as provided by subsection (d) and K.S.A. 8-2,142 and amendments thereto, if a person fails a test or has an alcohol or drug related conviction in this state, the division shall:

- (1) If the results of the test were less than twice the legal limit as defined in K.S.A. 8-1567, on the person's first occurrence, suspend the person's driving privileges for 30 days, then..... and
- (2) If the results of the test were twice the legal limit or higher, as defined in K.S.A. 8-1567, on the person's first occurrence, suspend the person's driving privilege for 30 days and restrict the person's driving privileges for 330 days in accordance with K.S.A. 8-1015.
- (3) On the person's second occurrence, suspend the person's driving privilege for one year and restrict the person's driving privileges for one year in accordance with K.S.A. 8-1015 and require as a condition of license reinstatement the person's driving privileges be restricted for one year to driving only a motor vehicle equipped with an ignition interlock device. Any time period of ignition interlock restriction served shall be credited to the one year minimum reinstatement time period.
- (4) On the person's third or subsequent occurrence, suspend the person's driving privilege for one year and restrict the person's driving privileges for two years in accordance with K.S.A 8-1015 and require as a condition of license reinstatement the person's driving privileges be restricted for one year to driving only a motor

vehicle equipped with an ignition interlock device Any time period of ignition interlock restriction served shall be credited to the one year minimum reinstatement time period.

(f) Upon restricting a person's driving privileges pursuant to this section and section 8-262 the division shall issue for a charge of \$25.00 a driver's license which shall indicate on the face that of the license that restrictions have been imposed on the person's

(g) Any person whose license is restricted to only operating a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business

(h) Whenever the division is notified by a certified ignition interlock manufacturer or his authorized representative that any person whose license is restricted to the use of an ignition interlock has failed to comply with the rules and regulations adopted by the division under K.S.A. 8-1016, the division shall suspend the person's driving privileges until the division receives notice of the person's compliance with the ignition interlock program.

K.S.A. 8-1015. Same; authorized restrictions of driving privileges; ignition interlock device; insurance.

(a) When subsection (b) (1) of K.S.A. 8-1014, and amendments thereto, requires or authorizes the division to place restrictions on a person's driving privileges, the division shall restrict the person's driving privileges to driving only under circumstances provided by K.S.A. 8-292 and amendments thereto.

(b) In lieu of the restrictions set out in subsection (a), the division, upon request of the person whose driving privileges are to be restricted, may restrict the person's driving privileges to driving only a motor vehicle equipped with an ignition interlock device, approved by the division and obtained, installed and maintained at the person's expense.

(c) When subsection (b) of K.S.A. 8-262, and subsections (a) and (b) (2), (b) (3) (b) (4) of K.S.A. 8-1014 and amendments thereto, requires or authorizes the division to place restrictions on a person's driving privileges, the division shall restrict the person's driving privileges to driving only a motor vehicle equipped with an ignition interlock device approved by the division and maintained at the person's expense and may require driving only under circumstances provided by K.S.A. 8-292 and amendments thereto. The division shall not issue the restricted license under this subsection until the person has provided proof of installation of an approved ignition interlock device.

(f) In addition to any other requirements of this section, the director of vehicles shall require a person to acquire insurance and shall require such person's insurer to maintain on file with the division evidence of such insurance for a period of three years from the date such person's driving privileges are otherwise eligible to be reinstated when such person has been suspended or restricted pursuant to K.S.A. 8-1014 or K.S.A. 22-2909, and amendments thereto.

The insurer shall..... with regard to the person concerned.

(g) Upon expiration of the period of time for which restrictions are imposed pursuant to this section, the licensee.....

K.S.A. 8-1016. Same; ignition interlock devices; approval by division, immunity from civil and criminal liability.

- (2) the calibration, and maintenance of such devices which shall be the responsibility of the manufacturer; and
- (3) ensuring that each manufacturer approved provides a reasonable statewide service network where such devices may be obtained, repaired, replaced or serviced that can be accessed 24 hours per day through a toll-free phone service.

In adopting rules and regulations for approval of ignition interlock devices under this section, the secretary of revenue shall require that the manufacturer's or the manufacturer's representatives calibrate and maintain the devices at intervals not to exceed sixty days. Calibration and maintenance shall include but not be limited to: physical inspection of the device, the vehicle and wiring of the device to the vehicle for signs of tampering, calibration of the device and downloading of all data contained within the devices memory and reporting of any violation or non-compliance to the court.

- (4) The division shall adopt by rule participant requirements for proper use and maintenance of a certified ignition interlock device during any time period the person's license is restricted by the division to only operating a motor vehicle with an ignition interlock device installed and by rule the reporting requirements of the approved manufacturer's to the Division related to the person's proper use and maintenance of a certified ignition interlock device.

This statute shall be effective July 1, 1999.



SEDGWICK COUNTY, KANSAS

GOVERNMENT RELATIONS

COUNTY COURTHOUSE ● 525 N. MAIN ● SUITE 315 ● WICHITA, KANSAS 67203 ● TELEPHONE: (316) 383-7552 ● FAX: (316) 383-7509

Request submitted by
Marci Hess, Director

COUNTY CODES

BACKGROUND:

Sedgwick County Court handles over 1000 violations of county codes cited by the following departments annually: Animal Control, Code Enforcement, Coliseum, Fire Department, Wichita/Sedgwick County Health Department, County Parks, Courthouse Security, and the Sheriff's Department. Currently, K.S.A. 19-4707 allows the court to assess only \$1.00 for court costs in each case filed for violations of county codes and resolutions, all of which is required to be remitted to the state treasurer.

RECOMMENDATION:

K.S.A. 19-4707 should be amended to allow for boards of county commissioners to determine court code violations as deemed reasonable.



SEDGWICK COUNTY, KANSAS

GOVERNMENT RELATIONS

COUNTY COURTHOUSE ● 525 N. MAIN ● SUITE 315 ● WICHITA, KANSAS 67203 ● TELEPHONE: (316) 383-7552 ● FAX: (316) 383-7509

Request submitted by
Marci Hess, Director

COUNTY COURTS

BACKGROUND:

K.S.A. 19-4705, referencing subsection (e) of K.S.A. 20-310a limits the authority of county court judges, who have been appointed as judge pro tem by the administrative judge of the judicial district, to only such power and authority as is necessary to hear cases involving violation of the county code, to compel appearances, hold persons in contempt for failure to appear, and issue bench warrants.

Because county court judges hear numerous cases involving violations of health and zoning matters, they are faced with trying to resolve what, in fact, are public nuisances situations involving inoperable vehicles, dilapidated buildings, etc. While certain county officers have authority to order abatement of such nuisances, the authority for county court judges to do so is not as clear.

RECOMMENDATION:

Sedgwick County requests that county court pro tem judges be granted statutory authority to order nuisance abatements for cases that have not reached compliance after a reasonable time, or where, based upon the limitations of the accused, compliance is unlikely; the court may also order abatement when the accused requests the court to intervene. Costs of the abatement may be charged to the accused, the County, or both at the discretion of the court.



Kansas Bureau of Investigation

Larry Welch
Director

Carla J. Stovall
Attorney General

BILL REQUEST
BEFORE THE HOUSE JUDICIARY COMMITTEE
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
ON BEHALF OF
THE KANSAS LAW ENFORCEMENT TRAINING COMMISSION
JANUARY 26, 1999

Mr. Chairman and Members of the Committee:

I appear today on behalf of the Kansas Law Enforcement Training Commission (KLETC). Over the last year the Commission has been reviewing certification requirements of reserve and part-time officers, and feels there is a need to standardize the procedures.

We are requesting legislation, which is attached, which will simplify the act to provide for standardize training requirements based on the duties and responsibilities of the officers, not whether they are paid or volunteer personnel. We conducted a survey of law enforcement agencies within the state and their use of part-time volunteers and believe these changes will have minimal impact on the current practices of most departments. However, the Commission feels that public safety would be enhanced if all persons authorized to use lethal force to enforce the laws of the state had some minimal training.

Thank you for your consideration. I would be happy to answer questions.

House Judiciary
1-26-99
Attachment 4

THE KANSAS LAW ENFORCEMENT TRAINING ACT

Chapter 74, Article 56 of The Kansas Statutes Annotated

74-5601. CITATION OF ACT.

The provisions of K.S.A. 74-5601 to 74-5611, inclusive, and amendments thereto, K.S.A. 74-5604a, 74-5607a, 74-5609a, 74-5611a, 74-5616 and 74-5617, and amendments thereto, shall be known and be cited as the Kansas law enforcement training act.

74-5602. DEFINITIONS.

As used in the Kansas law enforcement training act:

(a) "**Training center**" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "**Commission**" means the Kansas law enforcement training commission, created by K.S.A. 74-5606 and amendments thereto.

(c) "**Dean**" means the dean of the division of continuing education of the university of Kansas.

(d) "**Director**," as created in K.S.A. 74-5603 and amendments thereto, means the director of police training at the law enforcement training center.

(e) "**Police officer**" or "**law enforcement officer**" means a full-time or part-time officer or employee of the state, a county or a city, whose duties

[The word "salaried" is removed from line 2 of subsection e to make the initial differentiation between officers who are paid and those who are not. An "employee" is one who is paid.]

include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time ***deputies in the

[The word "salaried" is removed at the *** above to make the initial differentiation between officers who are paid and those who are not. An "employee" is one who is paid.]

sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858 and amendments thereto; conservation officers of the Kansas department of wildlife and parks; campus police officers at all state educational institutions or a municipal university; law enforcement agents of the director of alcoholic beverage control; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol area security guards, existing under the authority of K.S.A. 75-4503 and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524 and amendments thereto; and school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222 and amendments thereto. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person's office or employment. Such term shall include any officer appointed or elected on a provisional basis.

(f) "**Full-time**" means *service as a police or law enforcement officer* requiring at least 1,000 hours of work per year.

[The italicized phrase above replaces the word "employment" so as to encompass, without differentiation, employees and volunteers.]

(g) "**Part-time**" means *service as a police or law enforcement officer involving less than 1,000 hours of work per year, and includes members of organized non-paid groups or individuals which operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.*

[The first italicized phrase above replaces the word "employment" so as to encompass, without differentiation, employees and volunteers. Additionally, the former references to "payroll period" and "requiring" work less than 1,000 hours have been deleted to avoid confusion.]

[The second italicized phrase above encompasses, in substance, the former Subsection "I" of this section, which defined "auxiliary personnel." That definition is revised to bring "reserves" and other volunteers within the "part-time" definition. In addition, the word "nonsalaried" in the former definition has been replaced with the word "non-paid" to avoid confusion with existing labor laws. The word "individuals" has been added to encompass those officers who may be the only such officers working for an agency.]

(h) "**Misdemeanor crime of domestic violence**" means a violation of domestic battery as defined by subsection (c)(4) of K.S.A. 21-3412 and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

[The former subsection "I" has been deleted as discussed above.]

74-5602a. REPEALED.

74-5603. ESTABLISHMENT; LOCATION; PURPOSE AND FUNCTION; RESPONSIBILITY OF DIRECTOR; RULES AND REGULATIONS; DIRECTOR OF POLICE TRAINING; ADDITIONAL PERSONNEL.

(a) There is hereby created within the division of continuing education of the university of Kansas a law enforcement training center, to be located at the former site of the U. S. naval air station in Reno county. The purpose and function of such training center shall be the promotion and development of improved law enforcement personnel and procedures throughout the state, and the training center shall offer to qualified applicants, as defined in K.S.A. 74-5605 and amendments thereto, such programs and courses of instruction designed to fulfill this end.

(b) The director shall be responsible for the administration of the training center and for the operation of the programs thereunder. The director shall be responsible for determining the curriculum of the program, subject to such changes and modification as are directed by the law enforcement training commission. In consultation with the law enforcement training commission, the director may prescribe a code of conduct applicable to all trainees. Upon consultation with and approval of the law enforcement training commission, the director is authorized to adopt such rules and regulations as are necessary for the effective operation of the law enforcement training program.

(c) The dean, upon consultation with and the approval of the commission, shall appoint a director of police training. The dean shall also appoint such additional personnel as is deemed necessary to carry out the law enforcement training programs of the training center, and such personnel, whether administrative, instructional or research, shall be in the unclassified service under the Kansas civil service act.

74-5604. REPEALED.

74-5604a. EXTENSION OF PROGRAM; CERTIFICATION OF SCHOOLS; PART-TIME OFFICER TRAINING; PRETRAINING EVALUATION; REJECTION OF APPLICANT.

(a) The director may establish a program for periodically extending the law enforcement training and instruction of the training center throughout the state on a regional basis. The director also shall certify annually the training schools of state and local law enforcement agencies providing a course of law enforcement training for full-time police officers or law enforcement officers of not less than 320 hours of instruction, and whose training programs also satisfy the qualifications and standards promulgated by the director after approval of the commission. The director shall establish a course in basic law enforcement training of not less than 80 hours

for part-time police officers or law enforcement officers, approved by the commission, to be provided at the training center and certified state and local law enforcement training schools. In addition, after the general election of each election year and prior to January 1 of the next succeeding year, and at such other times as the director deems necessary, the director shall commence a training course for persons elected to the office of sheriff at the preceding general election.

(b) The director shall conduct a pretraining evaluation of applicants for admission to the course for law enforcement officers conducted by the training center or to any certified state or local law enforcement training school to assure that each applicant is qualified to serve as a law enforcement officer. The director shall adopt minimum standards, which shall receive prior approval by the commission, to be considered in the pretraining evaluation. The director shall advise the city, county or state agency, railroad, school district or community college authorizing the applicant to attend the training center or certified state or local law enforcement training school of the results of the pretraining evaluation. The director, with approval of the commission, may reject an applicant to the training center who does not meet the minimum pretraining standards.

74-5605. QUALIFICATIONS OF APPLICANT FOR TRAINING COURSE; REQUIREMENTS.

Every applicant for admission to a course for police officers or law enforcement officers conducted by the training center shall be an employee *or officer* of a

[The italicized phrase "or officer" is added to encompass non-paid officers.]

state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto; an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state; or a school security officer designated as a school law enforcement officer pursuant to K.S.A. 72-8222, and amendments thereto. Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant shall furnish to the director a statement from the applicant's appointing authority or agency head certifying the applicant's fulfillment of the following requirements. The applicant:

(a) Is a United States citizen;

(b) has been fingerprinted and a search of local, state and national fingerprint files has been made to determine whether the applicant has a criminal record;

(c) has not been convicted, does not have an expunged conviction, and on and after July 1, 1995, has not been placed on diversion by any state or the federal government for a crime which is a felony or its equivalent under the uniform code of military justice;

(d) has not been convicted, does not have an expunged conviction, has not been placed on diversion by any state or the federal government for a misdemeanor crime of domestic violence or its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act;

(e) is the holder of a high-school diploma or furnishes evidence of successful completion of an examination indicating an equivalent achievement;

(f) is of good moral character;

(g) has completed a psychological test approved by the commission;

(h) is free of any physical or mental condition which might adversely affect the applicant's performance of a police officer's or law enforcement officer's duties; and

(i) is at least 21 years of age.

74-5605a. REPEALED.

74-5606. CREATION OF TRAINING COMMISSION; MEMBERS; EXEMPTIONS.

(a) There is hereby created the Kansas law enforcement training commission on peace officers' standards and training which shall consist of 12 members which shall include:

- (1) The superintendent of the Kansas highway patrol, or the superintendent's designee;
- (2) the director of the Kansas bureau of investigation, or the director's designee;
- (3) a sheriff of a county having a population of 50,000 or more, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;
- (4) a sheriff of a county having a population of less than 50,000 and more than 10,000, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;
- (5) a sheriff of a county having a population of 10,000 or less, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;

- (6) a chief of police of a city of the first class, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police;
- (7) a chief of police of a city of the second class, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police;
- (8) a chief of police of a city of the third class, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police;
- (9) a training officer from a certified state or local law enforcement training school, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas peace officers association;
- (10) a full-time, commissioned law enforcement officer employed by either a state, county or city agency, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the fraternal order of police;
- (11) a county or district attorney, or an assistant county or district attorney, to be selected by the governor who shall consider, but not be limited to, a list of three nominees submitted therefor by the county and district attorneys' association; and
- (12) a member representing the public at large who is not associated with law enforcement, selected by the governor to serve as chairperson.

(b) Each person initially appointed to a position described in subsection (a)(6), (a)(7), (a)(8), (a)(9) or (a)(12) shall serve for a two-year term and thereafter the term of members appointed to such positions shall be four years. Each person appointed to a position described in subsection (a)(3), (a)(4), (a)(5), (a)(10) or (a)(11) shall serve for a four-year term. A person appointed to a position on the commission shall resign such position upon vacating the office or position which qualified such person to be appointed as a member of the commission in that position. Vacancies in any position shall be filled in the same manner as original appointments.

(c) Membership on the commission shall not constitute holding a public office, and members of the commission shall not be required to take and file oaths of office before serving on the commission and shall not be required to be bonded. No member of the commission shall be disqualified from holding any public office or employment by reason of the member's appointment to or membership on the commission and no such member shall forfeit any such office or employment by reason of the member's appointment under this section, notwithstanding the provision of any law or ordinance.

74-5607. POWERS AND DUTIES OF COMMISSION; COMPENSATION AND EXPENSES; MEETINGS.

(a) In addition to other powers and duties prescribed by law, the commission shall adopt, in accordance with the provisions of K.S.A. 77-415 et seq. and amendments thereto, rules and regulations necessary to carry out the provisions of subsection (c) of K.S.A. 74-5616 and amendments thereto and such other rules and regulations as necessary to administer this act. The commission may also adopt such rules of procedure as are necessary for conducting the business of the commission.

(b) In all matters pending before the commission the commission shall have the power to:

(1) Administer oaths and take testimony.

(2) Issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of the failure of any person to comply with any subpoena issued in behalf of the commission, or on the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of a member of the commission, may require compliance by proceedings for contempt, as in the case of failure to comply with a subpoena issued from such court or a refusal to testify in such court. Each witness who appears before the commission by its order or subpoena, other than a state officer or employee, shall receive for such attendance the fees and mileage provided for witnesses in civil cases in courts of record which shall be audited and paid upon presentation of proper vouchers sworn to by such witnesses and approved by the chairperson of the commission or by a person or persons designated by the chairperson.

(3) Enter into contracts necessary to administer the provisions of this act and the certification of law enforcement officers.

(4) Assess the costs of such matters pending before the commission under this section against the governmental entity employing the police officer or law enforcement officer.

(c) Members of the law enforcement training commission attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, shall be paid amounts provided for in subsection (e) of K.S.A. 75-3223 and amendments thereto. The director and the chairperson of the commission shall be responsible for approving all expense vouchers of members.

(d) The commission shall meet at least once each year at the training center and may hold special meetings whenever they are called by the chairperson.

74-5607a. CERTIFICATION FOR PERMANENT APPOINTMENT; ANNUAL TRAINING; PROVISIONAL APPOINTMENT.

- (a) No person shall receive a permanent appointment as a full-time police officer or law enforcement officer, unless such officer has been awarded a certificate attesting to satisfactory completion of a course of not less than 320 hours of accredited instruction at the training center or at a certified state or local law enforcement training school or has been awarded such a certificate for not less than the number of hours of instruction required by the Kansas law enforcement training act at the time such certificate was issued or received a permanent appointment as a full-time police officer or law enforcement officer prior to July 1, 1969, or was appointed a railroad policeman pursuant to K.S.A. 66-524, and amendments thereto, on or before January 1, 1982. No person shall receive a permanent appointment as a part-time police officer or law enforcement officer, unless such officer has been awarded a certificate attesting to the satisfactory completion of the basic course of not less than 80 hours of accredited instruction in law enforcement at the training center or at a certified state or local law enforcement training school issued ***or was actively serving as a non-paid volunteer police or law enforcement officer or as a non-paid "reserve" police or law enforcement officer law enforcement officer prior to July 1, 1999.***

[The italicized phrase was added to "grandfather" existing reserve officers].

[To preserve discretion, no STATUTORY certification criteria for local part-time schools has been included.]

- (b) Beginning the second year after certification, every full-time police officer or law enforcement officer shall complete annually 40 hours of law enforcement education or training in subjects relating directly to law enforcement. Failure to complete such training shall be grounds for suspension from work without pay until such training is completed. The director with the approval of the commission shall adopt rules and regulations regarding such education or training. Every city, county and state agency shall annually send to the director certified reports of the completion of such education or training. ***Beginning the second year after certification, every part-time police officer or law enforcement officer shall complete annually 16 hours of law enforcement education or training in subjects relating directly to law enforcement. Failure to complete such training shall be grounds for suspension from work without pay and/or suspension or revocation of certification, until such training is completed. The director with the approval of the commission shall adopt rules and regulations regarding such education or***

training. Every city, county and state agency shall annually send to the director certified reports of the completion of such education or training. The director shall maintain a record of the reports in the central registry.

[The italicized material has been added to reflect part-time officer in-service training requirements].

(c) Subject to the provisions of subsection (d):

(1) Any person who is appointed or elected as a police officer or law enforcement officer and who does not hold a certificate as required by subsection (a) may be elected or appointed as an officer on a provisional basis for a period of not more than one year. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following the date of the person's original election or appointment shall forfeit such office or position at the end of such one-year period. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following such original appointment shall not be reappointed as a police officer or law enforcement officer on a provisional basis within one year following the date on which such person last served as a police officer or law enforcement officer.

(2) Any police officer or law enforcement officer who does not complete the education or training required by subsection (b) by the date such education or training is required to have been completed shall be subject to revocation or suspension of certification and loss of the officer's office or position.

(d) The director may extend the one-year time period for the 320 hour basic-reciprocity school or 80 hour part-time school and may extend, waive or modify the annual continuing education requirement, when it is shown that the failure to comply with the requirements of subsection (a) or (b) was not due to the intentional avoidance of the law.

74-5608. REPEALED.

74-5608a. CERTIFICATION OF PERSONS COMPLETING TRAINING IN OTHER JURISDICTIONS; WAIVER OF COURSES.

(a) The director may, in the exercise of discretion, award a certificate attesting to the satisfactory completion of a basic course of instruction to any person who has been duly certified under the laws of another state or territory if, in the opinion of the director, the requirements for certification in such other jurisdiction equal or exceed

the qualifications required to complete satisfactorily the basic course of instruction at the training center.

(b) The director may waive any number of the hours or courses required to complete the basic course of instruction at the training center, 80 hour part-time school, reciprocity school or for the hours required for annual continuing education for any person who, in the opinion of the director, has received sufficient training or experience that such hours of instruction at the training center would be, unless waived, unduly burdensome or duplicitous.

74-5609. REPEALED.

74-5609a. TUITION; REIMBURSEMENT OF TUITION.

(a) The law enforcement training center is authorized to charge tuition for each railroad policeman, each employee of a tribal law enforcement agency and each school law enforcement officer enrolled in a course at the training center. Such tuition shall not exceed the training center's average operating cost per trainee. Tuition charges authorized by this section shall cover the cost of room, board and all necessary instructional supplies and material for any railroad policeman or school law enforcement officer attending the law enforcement training center.

(b) Any city, county or state agency which commences employment of a police officer or law enforcement officer within one year of the time such police officer or law enforcement officer has completed a course of instruction at a state or local law enforcement training school shall reimburse the city, county or state agency which paid the tuition for training such officer. This reimbursement shall include the amount of the tuition paid, the officer's salary and travel expenses and any other expenses incurred which were incidental to training such officer.

74-5610. REPEALED.

74-5611. ANNUAL REPORT TO ATTORNEY GENERAL OF PERSONS ATTENDING ACADEMY.

The director of the law enforcement academy shall annually report to the attorney general of the state of Kansas the names of all persons who attended said academy during each training year.

74-5611a. CENTRAL REGISTRY.

The director shall establish and maintain a central registry of all Kansas police officers or law enforcement officers. The director shall provide forms for registration and shall refuse any registration not submitted on such form in full detail. Within 30

days of appointment, election or termination, every city, county and state agency, every school district and every community college shall submit the name of any person appointed or elected to or terminated from the position of police officer or law enforcement officer within its jurisdiction.

74-5612. REPEALED.

74-5613. REPEALED.

74-5614. REPEALED.

74-5615. REPEALED.

74-5616. ELIGIBILITY FOR APPOINTMENT AS OFFICER; CERTIFICATION BY COMMISSION REQUIRED; SUSPENSION, REVOCATION OR DENIAL OF CERTIFICATION; JUDICIAL REVIEW.

(a) To be eligible for permanent appointment as a police officer or law enforcement officer, a person must first be certified to perform the function of law enforcement by the Kansas law enforcement training commission. The commission's certification shall be awarded to persons who:

(1) Are at least 21 years of age, have successfully completed or satisfied the training requirements specified by subsection (a) of K.S.A. 74-5607a and amendments thereto and meet the requirements of K.S.A. 74-5605 and amendments thereto;

(2) received a permanent appointment as a *full-time* police officer or law enforcement officer prior to July 1, 1969, *or was actively serving as a non-paid volunteer police or law enforcement officer or as a non-paid "reserve" police or law enforcement officer prior to July 1, 1999;* or

(3) hold a permanent appointment as a *paid or salaried part-time* police officer or law enforcement officer on July 1, 1983.

[The italicized language is added to reflect grandfathering of reserve officers].

(b) The commission may suspend, revoke or deny the certification of a police officer or law enforcement officer who fails to meet the requirements of K.S.A. 74-5605 or

74-5607a, and amendments thereto, or has met such requirements by falsifying documents or failing to disclose information required for certification.

(c) The commission shall immediately institute proceedings to revoke the certification of any police officer or law enforcement officer convicted of, or on or after July 1, 1995, diverted for a felony under the laws of this state, another state or the United States or of its equivalent under the uniform code of military justice or convicted of or diverted for a misdemeanor crime of domestic violence under the laws of this state, another state or the United States or of its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act.

(d) The procedure for the public or private censure, reprimand, probation, suspension, revocation and denial of certification of a person as a police officer or law enforcement officer or an applicant for certification shall be in accordance with the Kansas administrative procedure act.

(e) Any action of the commission pursuant to subsection (d) is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The attorney general shall prosecute or defend any action for review on behalf of the state, but the county or district attorney of the county where the police or law enforcement officer has been employed as such shall appear and prosecute or defend such action upon request of the attorney general.

74-5616a. REPEALED.

74-5617. FAILURE TO MEET MINIMUM REQUIREMENTS OF ACT, PENALTIES; VIOLATIONS OF ACT.

(a) Every candidate for permanent appointment to a position as a police officer or law enforcement officer shall meet the minimum training criteria specified in K.S.A. 74-5605 and amendments thereto and shall have attained 21 years of age.

(b) For the purpose of determining the eligibility of an individual for certification under this act, the commission may require the submission of training and education records, and experience history, medical history, medical examination reports and records, and interview appraisal forms.

(c) Law enforcement agencies in Kansas shall be responsible for their agency's observance of the hiring requirements of this section.

(d) No law enforcement agency head or other appointing authority shall knowingly permit the *hiring or appointment* of any person in violation of the

[The italicized phrase replaces the word “hiring” to accommodate the new reserve officer requirements.]

requirements of this act, or knowingly permit the continued **appointment** of any

[The italicized phrase replaces the word “employment” to accommodate the new reserve officer requirements.]

person as a law enforcement officer after receiving written notice from the commission that the person has had such person's certification revoked as provided for under this act. No law enforcement agency head or other appointing authority shall knowingly permit any *** personnel who have been convicted of a

[The word “auxiliary” has been removed at the *** to maintain consistency with the new officer definitions and to encompass all personnel of a law enforcement agency].

felony offense under the laws of Kansas or any other jurisdiction access to law enforcement records or communication systems that are restricted under state or federal law or appoint as a reserve officer any person who does not meet the requirements of K.S.A. 74-5605 and amendments thereto. Any violation of the requirements of this act shall be deemed to constitute misconduct in office and shall subject the agency head or appointing authority to:

- (1) Removal from office pursuant to K.S.A. 60-1205 and amendments thereto; or
- (2) a civil penalty in a sum set by the court of not to exceed \$500 for each occurrence of noncompliance in an action brought in the district court by the attorney general or by the county or district attorney, which penalty shall be paid to the state treasurer for deposit in the state treasury and credit to the state general fund, if the action is brought by the attorney general, or paid to the county treasurer for deposit in the county treasury and credit to the county general fund, if the action is brought by the county or district attorney.

(e) Whenever in the judgment of the commission any person has engaged in any acts or practices which constitute a violation of this act, or any rules and regulations of the commission, the commission may make application to the district court, without giving bond, for civil enforcement of this act or rules and regulations in accordance with the act for judicial review and civil enforcement of agency actions. The district or county attorney of any county shall at the request of the commission render such legal assistance as necessary in carrying out the provisions of this act. Upon the request of the commission, the district or county attorney of the proper county shall institute in the name of the state or commission proceedings for appropriate relief, whether mandatory, injunctive or declaratory, preliminary or final, temporary or permanent, equitable or legal, against any person regarding whom a complaint has been made charging such person with the violation of any provision of this act.

(f) The commission shall make such inquiry as necessary to determine compliance with the requirements of this section and the rules and regulations adopted under it.

(g) It shall be the responsibility of the agency head to ensure that every police officer or law enforcement officer under their supervision has the opportunity to receive the mandatory training as prescribed in K.S.A. 74-5604a and amendments thereto.

74-5618. SAME; AGE.

Every police officer or law enforcement officer, as defined by K.S.A. 74-5602 and amendments thereto, shall have attained at least 21 years of age.

74-5619. LAW ENFORCEMENT TRAINING CENTER FUND.

(a) There is hereby created in the state treasury the law enforcement training center fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose and in the manner prescribed by law, including the expenditures for the operation of the Kansas law enforcement training commission to carry out its powers and duties as mandated by law.

(b) All moneys received for assessments as provided pursuant to K.S.A. 74-5607 shall be deposited in the state treasury and credited to the law enforcement training center fund.

(c) This section shall be part of and supplemental to the Kansas law enforcement training act.

74-5620. LOCAL LAW ENFORCEMENT TRAINING REIMBURSEMENT FUND; EXPENDITURES.

There is hereby created in the state treasury the local law enforcement training reimbursement fund. All expenditures from the local law enforcement training fund shall:

(a) Be distributed to municipalities which participated in local law enforcement training programs certified by the law enforcement training commission which existed prior to January 1, 1992, in accordance with a distribution formula developed by the commission;

(b) not exceed more than 100% of the actual training costs incurred by the municipality in participating in the local law enforcement training program; and

(c) be distributed for basic law enforcement training and not be for any type of continuing law enforcement training education programs.

No money shall be expended from this fund prior to January 1, 1993. Such distribution formula shall provide that distribution be based on the number of individuals trained and the cost per individual trained of each such municipality. Any such distributions shall be reviewed on a year-to-year basis and adjusted accordingly pursuant to the criteria specified in this section. The law enforcement training commission shall conduct a review of all local law enforcement training programs in which municipalities receiving expenditures pursuant to this act are participating and shall require that all such law enforcement training programs report their costs in a standardized format prescribed by the commission.

74-5621. SEVERABILITY CLAUSE.

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

74-5622. CERTIFICATION; ACTIVE STATUS, TIME PERIOD; LAPSE; REINSTATEMENT.

(a) Certification by the commission will remain active for a period of five years after leaving employment as a law enforcement officer. Certification which has lapsed due to more than five years since employment as a law enforcement officer may be reinstated if the applicant, within one year of reappointment:

(1) Satisfactorily completes the current basic training required under K.S.A. 74-5607a and amendments thereto;

(2) passes a written competency test and firearms proficiency qualification course developed and administered by the Kansas law enforcement training center; or

(3) obtains from the director pursuant to subsection (b) of K.S.A. 74-5608a and amendments thereto, a waiver based on the training, experience and circumstances of the applicant.

(b) The provisions of this section shall be part of and supplemental to the Kansas law enforcement training act.



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

(785) 296-2256

January 26, 1999

Representative Mike O'Neal
Statehouse, Room 170-W
Topeka, KS 66612

Dear Chairman O'Neal
and Members of the House Judiciary Committee:

The Kansas Association of District Court Clerks and Administrators respectfully requests the introduction of a bill that would amend a section of the Code of Civil Procedure for Limited Actions dealing with the recovery of specific personal property. The amendment would require a judge, rather than the clerk of the district court, to sign certain forms and to approve a bond filed in those cases. The requested bill would be identical to 1997 SB 89. Certain other clarifying and technical amendments were added by the Revisor.

1997 SB 89 was placed on the consent calendar and passed the Senate on a vote of 40 to 0, but did not receive a hearing in the House.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Porter".

Kathy Porter
Executive Assistant to Judicial Administrator

KP:ps

SESSION OF 1997

SUPPLEMENTAL NOTE ON SENATE BILL NO. 89

As Recommended by Senate Committee on
Judiciary

Brief*

S.B. 89 amends a section of the code of procedure for limited actions dealing with the recovery of specific personal property to require the judge rather than the district court clerk to sign certain forms and to approve a bond filed in these cases.

Background

The bill was supported by the Kansas Association of District Court Clerks and Administrators as a needed clarification of the law. The law was amended in 1994 to require judges to sign certain forms relating to writs of restitution and execution. The suggested amendments make the various forms for execution consistent.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.ink.org/public/legislative/fulltext-bill.html>.