

Approved: 4-2-99
Date

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on March 3, 1999 in Room 313-S of the Capitol.

All members were present except:

Representative Tim Carmody - Excused
Representative Tony Powell - Excused
Representative Rick Rehorn - Excused
Representative Candy Ruff - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfschle, Committee Secretary

Conferees appearing before the committee:

Representative Kent Glasscock
Terry Bullock, Administrative Judge, 3rd Judicial District
Marilyn Scafe, Kansas Parole Board
Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence
Kelly Newton, Attorney General's Office
Chris Mechler, Court Services Officer, 3rd Judicial District

Hearings on **HB 2440 - aggravating circumstances under sentencing for hard 40**, were opened.

Representative Kent Glasscock, appeared before the committee as the sponsor of the bill. He commented that this bill was drafted in response to a recent Kansas Supreme Court decision in *State v. Spry*, in which the Court overturned a Hard 40 sentence for the defendant because the crime did not qualify as "especially heinous, atrocious or cruel". (Attachment 1)

Terry Bullock, Administrative Judge- 3rd Judicial District, provided the committee with suggested amendments to the bill that would expand the definition of heinous, atrocious or cruel. (Attachment 2)

Marilyn Scafe, Kansas Parole Board, appeared before the committee in support of the bill. She agreed that the definition should be more narrow but that the courts still need to be able to set the level of severity. (Attachment 3)

Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence, appeared before the committee as a proponent of the bill. She stated that the Legislature should make clear what "act that terrorize victims immediately prior to death" means. (Attachment 4)

Kansas Peace Officers' Association and the Kansas Sentencing Commission did not appear before the committee but requested that their written testimony be included in the minutes. (Attachments 5 & 6)

Hearings on **HB 2440** were closed.

Hearings on **HB 2500 - Kansas sex offender registration act**, were opened.

Kelly Newton, on behalf of the Attorney General's Office, appeared before the committee in support of the bill. She stated that Kansas is currently in compliance with the Jacob Wetterling Act but that new mandates would be issued in September 1999. The changes that were requested in this bill should continue to bring the state into compliance. (Attachment 7)

Chris Mechler, Court Services Officer, 3rd Judicial District, appeared before the committee as a proponent of the bill. It was suggested that the language be stricken that requires the courts to certify sexual offenders. (Attachment 8)

Hearings on **HB 2550** were closed.

The committee meeting adjourned at 4:30 p.m. The next meeting is scheduled for March 4, 1999.

STATE OF KANSAS

KENT GLASSCOCK
P.O. Box 37
Manhattan, Kansas 66505
(785) 776-5353, Ext. 108
kentglas@flinthills.com



State Representative
62nd District
State Capitol, Room 381-W
Topeka, Kansas 66612-1504
(785) 296-7662

MAJORITY LEADER
House of Representatives

**Testimony Supporting HB 2440
Before the House Judiciary Committee
March 3, 1999**

Today I rise in support of my legislation, HB 2440.

I introduced this legislation in response to the recent Kansas Supreme Court decision in *State v. Spry*. In this decision, the Court overturned a "hard 40" sentence for the defendant because, it said, the crime did not qualify as "an especially heinous, atrocious or cruel" crime.

Let's talk about this crime. In this case, the defendant broke into Barbara Chaffee, his ex-girlfriend's, house through a window, pulled the telephone wires out of the wall, and crept around sleeping women and children who shared the house with Ms. Chaffee. He moved the child safety gate away from the stairs and quietly went to the basement, where he knew Ms. Chaffee was sleeping. Then he took an ax and hacked her on the back of her head 9 times.

The Kansas Supreme Court recently ruled that this crime did not fulfill the aggravating factor as "an especially heinous, atrocious or cruel" crime. I say it should.

My bill allows the Court to consider the whole violent act that caused the death of the victim as long as the act is continuous. This means that the court will no longer have to spend so much of its time determining precisely when the victim died. Rather, the court can focus on the act as a whole and the likelihood, rather than the certainty, that the victim suffered.

This is a narrow change. This bill does not address post death mutilation. It does not change the aggravating factors for capital punishment. This bill more clearly states what I believe has always been the legislative intent of which crimes deserve the "hard 40" sentence.

I would like to thank Chairman O'Neal and all of the committee members for the opportunity to testify regarding this legislation. I hope you will support this important bill.

(f) The defendant committed the crime in an especially heinous, atrocious or cruel manner. In making this determination, any of the following conduct by the defendant may be considered sufficient:

prior threats to or stalking or terrorizing of the victim;

preparation or planning, indicating an intention that the killing was meant to be of the type described in this subsection;

physical abuse to or mental anguish or abuse of the victim;

torture of the victim;

continuous acts of violence begun before and continuing after the killing; or

desecration of the victim's body in a manner indicating a particular depravity of mind, either during or following the killing.

(f) The defendant committed the crime in an especially heinous, atrocious or cruel manner. In making this determination, any of the following conduct by the defendant may be considered sufficient:

prior threats to or stalking or terrorizing of the victim;

preparation or planning, indicating an intention that the killing was meant to be of the type described in this subsection;

physical abuse to or mental anguish or abuse of the victim;

torture of the victim;

continuous acts of violence begun before and continuing after the killing; or

desecration of the victim's body in a manner indicating a particular depravity of mind, either during or following the killing.

(f) The defendant committed the crime in an especially heinous, atrocious or cruel manner. In making this determination, any of the following conduct by the defendant may be considered sufficient:

prior threats to or stalking or terrorizing of the victim;

preparation or planning, indicating an intention that the killing was meant to be of the type described in this subsection;

physical abuse to or mental anguish or abuse of the victim;

torture of the victim;

continuous acts of violence begun before and continuing after the killing; or

desecration of the victim's body in a manner indicating a particular depravity of mind, either during or following the killing.

Marilyn Scafe
Chairperson

Leo "Lee" Taylor
Vice Chairperson

Bob J. Mead
Member

Larry D. Woodward
Member



KANSAS PAROLE BOARD
LONDON STATE OFFICE BUILDING
900 SW JACKSON STREET, 4TH FLOOR
TOPEKA, KANSAS 66612-1236
(913) 296-3469

Teresa L. Saiya
Administrator

MEMORANDUM

TO: Representative Michael O'Neal, Chairman
House Committee on Judiciary

FROM: Marilyn Scafe, Chair
Kansas Parole Board *M Scafe*

DATE: March 3, 1999

RE: HB 2440

From the perspective of the Kansas Parole Board, the decision making process of determining the appropriate amount of time served on a serious case which we consider heinous, atrocious or cruel is our most challenging responsibility. Our basic guidelines for decisions are the statutory requirements. Part of this consideration is the severity of the current offense and the determination of an adequate amount of time served in relation to the crime.

In order to arrive at good decisions, the Board has struggled with setting our own internal criteria. We have worked on the process to ensure that we are fair and yet take into account public safety. As we review the numerous cases serving life sentences, we are continuously frustrated with the difficulty of fitting each separate case into our attempt at structured decision making. The reality is that each crime is unique with its own aggravating and mitigating circumstances, and we take into account the totality of the act. Timing of the actions of the perpetrator is not necessarily a deciding factor. It would be a never-ending task to define absolute factors to place crimes on a continuum of severity.

The definition of heinous, atrocious or cruel needs to be broad enough to allow consideration of all significant evidence at the time of sentencing. Without this legislation, there may be individuals who will not receive the sentence they deserve.



UNITED AGAINST VIOLENCE

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

820 S.E. Quincy, Suite 600, Topeka, Kansas 66612
785-232-9784 • FAX 785-232-9937 • kcscdv@cjnetworks.com

House Bill 2440

Testimony to: House Judiciary Committee, Chairman O'Neal
Testimony of: Sandy C. Barnett, Executive Director
Position: **Proponent**

Chairman O'Neal and Members of the Committee;

Thank you for the opportunity to speak to you today in support of HB 2440.

The Kansas Coalition Against Sexual and Domestic Violence (KCSDV) represents the 28 programs that provide shelter and advocacy services to victims of domestic violence, sexual assault and rape in all 105 counties in Kansas.

Those programs served more than 6,000 people in 1997. During that same year, law enforcement agencies reported more than 19,000 incidents in Kansas. Unfortunately, we believe that fewer than 10% were served by both programs and law enforcement. If we consider that sexual assault, rape, and domestic violence are still hidden crimes, then it is a very conservative estimate that at least 22,000 victims exist in this state each year.

How is that relevant to this bill? HB 2440 is in response to the murder of Barbara Chaffee in 1993. Barbara Chaffee was a victim of domestic violence. Her murderer, George Spry was intimately involved with Barbara – in much the same way as any abuser is with their victim. Spry threatened Chaffee both directly and indirectly, stalked her, her friends and family – in much the same way many abusers threaten and stalk their victims. And, Spry murdered his victim – also much the same as many abusers. The red flyers you have received today tells the stories of just a few of these women, all victims murdered at the hands of their abuser – just like Barbara Chaffee.

This particular case has come to light again, six years later, because the Kansas Supreme Court recently ruled on the appropriateness of George Spry's "Hard 40" sentence. The Kansas Supreme Court's opinion is that the criteria necessary for such a sentence was not met and they remanded the case back to the lower court for resentencing. That criterion was whether the murder of Barbara occurred in an "especially heinous, atrocious or cruel manner." In this particular case, one or more of the multiple chop wounds to her head with an ax killed Barbara Chaffee.

House Judiciary

Member Programs Serve All 105 Counties in the State of Kansas

3-3-99

Attachment 4

The majority opinion of the Kansas Supreme Court was that the current statute (KSA 21-4636) does not intend for mutilation after death to be considered as heinous, atrocious, or cruel. Currently, only acts that terrorize victims immediately prior to their murder count as heinous, atrocious and cruel. The important element is that the victim was filled with fear and terror immediately prior to death.

HB 2440 clarifies that when acts occur in quick succession, "...when the act that caused the death of the victim was part of one continuous act of physical violence..." then we should also consider that to be heinous, atrocious and cruel. But, there are other events that occurred prior to Barbara's murder that we should also consider. Events that are commonly experienced by battered women. When a victim is stalked and threatened with death the victim lives in constant fear: sometimes for extended periods of time prior to their murder – just like Barbara Chaffee's experience. Then we should also consider the criteria of heinous, atrocious, and cruel to have been met.

On behalf of the hundreds of victims of domestic violence who are killed each decade in Kansas, many of whom were stalked and threatened first, please report HB 2440 out of committee with a recommendation to pass it. I also ask you to consider strengthening it to include language so that juries and courts can consider acts of threats and stalking that occur over an extended period of time prior to murder to meet the elements necessary for a crime to be heinous, atrocious, and cruel.

Thank you.

BOARD OF GOVERNORS

GOVERNORS AT LARGE

FRANK DENNING
Roeland Park Police Department
Roeland Park, Kansas 66205
BILL SECK
Federal Bureau of Investigation
Wichita, Kansas 67201
LARRY THOMAS
Kansas Bureau of Investigation
Topeka, Kansas 66612
DAVE BURGER
Lenexa Police Department
Lenexa, Kansas 66215

GOVERNORS

DISTRICT 1

LOREN ANDERSON
Sheriff, Douglas County
Lawrence, Kansas 66044
JAMES "BUD" BURKE
AT&SFRR Police
Kansas City, Kansas 66101
TIM CRONIN
Ottawa Police Department
Ottawa, Kansas 66067

DISTRICT 2

RANDY THOMAS
Lyon County Sheriff's Office
Emporia, Kansas 66801
JOSH KYLE
Riley County Police Department
Manhattan, Kansas 66502
NATE SPARKS
Kansas Highway Patrol
Junction City, Kansas 66441

DISTRICT 3

DAVE SMITH
Ellsworth Police Department
Ellsworth, Kansas 67439
RON BLAD
Republic County Sheriff's Office
Belleville, Kansas 66935
WILEY KERR
Kansas Bureau of Investigation
Clay Center, Kansas 67432

DISTRICT 4

LAWRENCE YOUNGER
Hays Police Department
Hays, Kansas 67601
TROY THOMSON
Norton County Sheriff's Office
Norton, Kansas 67654
JERRY BUMP
Ks. Dept. of Wildlife and Parks
Hays, Kansas 67601

DISTRICT 5

RAY MORGAN
Kearney County Sheriff's Office
Lakin, Kansas 67860
DENNIS SHARP
KS Dept. of Wildlife and Parks
Holcomb, Kansas 67851
DAVID RUPP
Garden City Police Department
Garden City, Kansas 67846

DISTRICT 6

WARREN S. PETERSON
Barton County Sheriff's Office
Great Bend, Kansas 67530
BOYCE MOSES
Kansas Law Enforcement Training Center
Hutchinson, Kansas 67504
TIM DRISCOLL
St. John Police Department
St. John, Kansas 67530

DISTRICT 7

CRAIG KING
Cowley County Sheriff's Office
Winfield, Kansas 67156
TOM PRUNIER
Derby Police Department
Derby, Kansas 67037
SCOTT MAYFIELD
Kansas Highway Patrol
Wichita, Kansas 67226

DISTRICT 8

LOWELL PARKER
Greenwood County Sheriff
Eureka, Kansas 67045
CHARLES D. WARD
KS Dept. of Wildlife and Parks
Chanute, Kansas 66720
HOWARD KAHLER
Iola Police Department
Iola, Kansas 66749

Kansas Peace Officers' Association

INCORPORATED

TELEPHONE 316-946-KPOA

FAX 316-946-0570

P.O. BOX 2592 • WICHITA, KANSAS 67201



MEMORANDUM

TO: Representative Mike O'Neal
House Judiciary Committee

FROM: William W. Sneed
Kansas Peace Officers Association

DATE: March 3, 1999

RE: HB 2440

Mr. Chairman, members of the committee, my name is Bill Sneed and I appear today on behalf of the Kansas Peace Officers Association (KPOA). KPOA, the largest professional law enforcement organization in Kansas, thanks the Committee for the opportunity to express its views concerning House Bill 2440.

This legislation achieves a significant clarification of existing law. The current version of K.S.A. 21-4636(f) includes, as an aggravating factor in determining the suitability of the "hard 40" sentence, that "the defendant committed the crime in an especially heinous, atrocious, or cruel manner." Unfortunately, current language is, at best, inexact; at worst, it is exceedingly vague. It encourages inconsistency.

HB 2440 will, if passed, help crystallize the notion of this critical aggravating circumstance and promote consistency in sentence determination. The proposed amendment clearly facilitates logical decision-making and provides Kansas' judges a more precise indication of legislative intent.


House Judiciary
3-3-99
Attachment 5

In Unity There Is Strength

Specifically, the amendment allows the sentencing judge to find that repeated acts of violence, inflicted with the intent to cause death and continued even after the victim died, constitute aggravating circumstances. Such violence, which is far from rare, cries out for an aggravating circumstance finding. HB 2440 affords Kansas judges the opportunity to make such a finding based upon clear and concise criteria. Defendants who truly deserve the "hard 40" are more likely to receive it .

Again, KPOA supports this legislation and urges the Committee to report it favorably.

Very truly yours,

A handwritten signature in cursive script that reads "William W. Sneed".

William W. Sneed

WWS/pk



State of Kansas
KANSAS SENTENCING COMMISSION

Honorable Richard D. Walker, Chair
District Attorney Paul Morrison, Vice Chair
Barbara S. Tombs, Executive Director

Testimony on House Bill 2440
House Judiciary Committee
March 2, 1999

The Kansas Sentencing Commission would like to offer support for House Bill 2440. The proposed amendment to expand the definition of aggravating circumstances to include acts that are considered heinous and atrocious in the commission of a murder, whether committed before or after the death of a victim, creates a situation in which the imposition of a Hard 40 sentence would be an appropriate sentence.

Sentencing Guidelines were designed and implemented on the underlying principle that the longest and most severe sentences should be reserved for the most violent and chronic offenders. The offense of murder is always viewed as a crime of violence, however, when the murder includes acts that are deemed cruel, heinous and atrocious, a higher level of violence is exhibited. Whether the heinous and atrocious acts occurred prior to or after the death of a victim, the fact remains that the offender acted in a manner that is outside a scope of violence that is normally associated with the crime of murder.

The Sentencing Commission supports the imposition of the Hard 40 sentence for murders committed in the manner described above, since the state of the victim is not the critical issue but rather the intent and actions of the offender. We support the passage of House Bill 2440 and hope the Judiciary Committee will consider this bill favorably.



State of Kansas

Office of the Attorney General

301 S.W. 10th Avenue, Topeka 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

MAIN PHONE: (785) 296-2215
FAX: 296-6296
TTY: 291-3767

HOUSE COMMITTEE ON JUDICIARY
ATTORNEY GENERAL CARLA J. STOVALL'S
TESTIMONY IN SUPPORT OF
HOUSE BILL NO. 2500
March 3, 1999

Dear Chairman O'Neal and Members of the Committee:

I am pleased to be here today to testify in favor of House Bill 2500. In particular, I would like to thank you for the opportunity to discuss changes that need to be made to the Kansas Offender Registration Act ("Act"), K.S.A. 22-4901 *et seq.*, to continue our efforts at achieving compliance with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act ("Jacob Wetterling Act," 42 U.S.C. Section 14071), as amended by Megan's Law and the Pam Lychner Sexual Offender Tracking and Identification Act of 1996 ("Pam Lychner Act").

The Jacob Wetterling Act, enacted in 1994, establishes minimum standards for state sex offender registration programs. States that fail to comply with these minimum standards will receive a 10% reduction in Byrne Grant funding in the fiscal year 2000. Since its enactment in 1994, the Jacob Wetterling Act has been amended by Megan's Law (1996), which ensures that registration programs include means for members of the public to obtain information concerning registered offenders that is necessary for the protection of themselves and their families. In addition, the Pam Lychner Act has created a limited number of new requirements for state registration programs as well. These include a requirement that recidivists and perpetrators of aggravated offenses be subject to lifetime registration, with no opportunity for relief whatsoever.

The original deadline for compliance with the Jacob Wetterling Act was September 12, 1997. However, upon a showing of a good faith effort to achieve compliance, the State of Kansas was granted a two year extension and must achieve compliance by September 12, 1999 to avoid a 10% reduction in Byrne Grant Funding. The Department of Justice published its Final Guidelines regarding compliance with the Jacob Wetterling Act on January 5, 1999. These Final Guidelines summarize and explain those amendments that are necessary to achieve compliance. My office has reviewed the Final Guidelines thoroughly and is confident that we are already in

House Judiciary
3-3-99
Attachment 7

compliance with the Jacob Wetterling Act and the Megan's Law amendments to the Jacob Wetterling Act, based largely on the legislature's assistance in the 1997 session.

Specifically, the legislature's willingness in 1997 to expand the Act to include certain additional violent offenses was a critical step in achieving compliance with the federal mandates. Furthermore, the legislature adopted several other amendments that have had a significant and positive effect on meeting the Final Guidelines, including placing a mandatory ten year registration requirement on all first time offenders, and requiring address verification checks by the Kansas Bureau of Investigation every 90 days.

Although we believe our Act is already in compliance with the Jacob Wetterling Act and the Megan's Law amendments, I am proposing a few amendments required under the Pam Lychner Act that I believe will bring our Act into full compliance, and I would urge your favorable consideration of these proposed changes.

The Pam Lychner Act requires lifetime registration for two types of offenders: (1) registrants who have a prior conviction for an offense for which registration is required by the Act, and (2) registrants who have been convicted of an aggravated offense (even if it's the registrant's first conviction). In addition to requiring lifetime registration for these two types of offenders, the Pam Lychner Act mandates that there shall never be any opportunity for relief from registration for these two types of offenders.

The Act currently provides that registrants who receive a second or subsequent conviction under the Act must register for their lifetime. (See K.S.A. 1998 Supp. 22-4906 (a)(2)). This is certainly in compliance with the Pam Lychner Act. However, pursuant to K.S.A. 1998 Supp. 22-4908, a lifetime registrant could potentially be granted relief after registering for ten years. This possibility for relief for recidivists under the Act is prohibited under the Pam Lychner Act. As such, I would refer you to section 7(e) of the bill and urge your adoption of the added language, which states that "[a]ny person required to register as an offender . . . who has a second or subsequent conviction for an offense which requires registration pursuant to such act, and any person who has been convicted of an aggravated offense, shall not ever be granted relief from registration." I believe this additional language in the Act will eliminate any contradiction to the Pam Lychner requirements.

Regarding the Pam Lychner Act's requirement that offenders convicted of an aggravated offense register for their lifetime with no possibility for relief, the Final Guidelines define aggravated offenses as "engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 12 years of age." Based on the Department of Justice's responses to inquiries posed by my staff, the policy and intent behind this provision is to capture the most serious and violent offenders under the Act and protect the public by never relieving those offenders of their registration requirements. This will not only promote long-term awareness of these particularly dangerous offenders in the community, but will certainly reassure

child victims and victims of particularly violent crimes that these offenders cannot eventually disappear into society. In light of this requirement, we are proposing additional language to section 6 of the bill that will require lifetime registration for offenders convicted of aggravated offenses.

Regarding the definition of aggravated offenses, I would propose adopting almost the exact same definition as provided by the Department of Justice in the Final Guidelines. We have added this definition in Section 2 of the bill. The only slight change we have made is defining aggravated offenses to include sexual acts involving penetration with victims less than 14 years of age. I believe this age demarcation will be more consistent with the Kansas criminal statutes involving sex crimes with minors. We also have the latitude to make this adjustment, as the Department of Justice asserts throughout the Final Guidelines that it is offering us guidelines that act as a floor and not as a ceiling. States, so long as they are meeting the minimum requirements of the federal acts, are authorized and even encouraged to make these laws tougher than the Final Guidelines mandate.

The only other proposed change that may eventually enhance our compliance with the Jacob Wetterling Act is consistently requiring offenders who must register under the Act to do so within 10 days of their arrival in a new county or state, or upon a change of address within the county in which they reside. The Act currently allots an offender 15 days to register once he arrives in his county of residence and 10 days to register if he moves to another state. Consistently requiring compliance within 10 days would keep state and local agencies better informed of these offenders' whereabouts. Furthermore, although the Department of Justice is silent in the Final Guidelines as to how many days an offender should have to register, my staff has discussed these time lines with the Department of Justice and the Department of Justice has strongly hinted and recommended we pare down these time lines to no more than 10 days.

Now that I have discussed those changes that are necessary to comply with the Jacob Wetterling Act, as amended by Megan's Law and the Pam Lychner Act, I would like to briefly point out a few additional changes we are proposing that will not necessarily affect compliance with the federal mandates, but will certainly promote better enforcement of the Act in general.

First of all, I propose deleting the language in section 2 of the bill that requires certification by the court at the time of conviction that the offender is subject to the provisions of the Act. This certification language is superfluous and has created confusion in at least one county, whereby offenders are being relieved of their duty to register based on a finding that no "certification" occurred at the time of conviction and sentencing. Eliminating this language would clarify the purpose and intent of the Act, which is to require a *per se* compliance with the Act upon an offender's conviction for any offense enumerated therein.

Second, I propose enhancing the penalty for an offender who fails to comply with the Act to a severity level 10 nonperson felony. Under the current provisions of the Act, an offender who violates any provision of the Act is guilty of a class A nonperson misdemeanor. This penalty is

not severe enough to provide an impetus for the offender's compliance. In fact, most prosecutors would have difficulty revoking the probation or parole of an offender if the offender's only new conviction was a class A nonperson misdemeanor. We need to get the attention of these offenders, as well as the county and district attorneys prosecuting them, by increasing this penalty to a felony.

Third, we have added language throughout the bill that requires those offenders moving out of state to not only notify the law enforcement agency where last registered, but the Kansas Bureau of Investigation as well. Since the Kansas Bureau of Investigation is the central repository for registrant information and is responsible for tracking these offenders and maintaining the web site, it should be kept apprised of all its registrants' whereabouts as well.

Fourth, we have included in the bill some proposed language to clarify K.S.A. 1998 Supp. 21-2511, which addresses the collection of DNA of certain offenders. By tying this amendment in with this bill, it will provide reciprocity by requiring that any offender who has not already given DNA to provide DNA to the Kansas Bureau of Investigation. In addition, it will require that anyone who has to register under the Act to provide DNA to the Kansas Bureau of Investigation.

Lastly, we have added a new section 8, which provides civil immunity to any employee of the state acting within the scope of the employee's employment as a result of requiring an offender to register or an offender's failure to register.

I would appreciate your support of these amendments and I am happy to stand for any questions.

Thank you.



KANSAS ASSOCIATION OF COURT SERVICES OFFICERS

TESTIMONY TO HOUSE JUDICIARY COMMITTEE
CHRIS MECHLER, LEGISLATIVE CHAIRPERSON
KANSAS ASSOCIATION OF COURT SERVICES OFFICERS
ON 1999 HOUSE BILL 2500
MARCH 3, 1999

Chairman O'Neal and Members of the Committee:

I am Chris Mechler, Legislative Chair for the Kansas Association of Court Services Officers. I am here today to express the associations strong support for House Bill 2500.

Of utmost importance is the proposal to strike the language requiring the court to certify sexual offenders. This requirement has caused much confusion and has been interpreted in many different ways. I would like to provide the following five case examples to the committee to illustrate why these changes are necessary.

- Mr. W was convicted of Indecent Liberties With a Child, his girlfriend's daughters. At the time of sentencing, the court ruled that since Mr. W was granted probation and not committed to an institution, he did not have to register as a sexual offender.
- Mr. C was convicted of the Attempted Sodomy of an 11-year old boy. When the District Attorney requested that the defendant be certified, the court refused stating that it had discretion to certify or not.
- Mr. L was placed on probation for the Sexual Battery of a 12-year old neighbor. At the time of sentencing, the court ordered him to register as an offender. Mr. L failed to complete the 90-day update letter and the District Attorney filed charges for Failure to Register. During the preliminary hearing, the charges were dismissed because the

- In the case of Mr. P, who was convicted of the Felony Sexual Battery of his ex-wife, the court did not require Mr. P to register as a sexual offender because he had not been diagnosed as a pedophile.
- Mr. R has been convicted of Criminal Restraint; he tried to lure a 10-year girl into his car. At the time of sentencing, the court did not certify Mr. R. to register stating that he does not meet the criteria for registration.

The Kansas Association of Court Services Officers would support all other changes as proposed in this legislation. Thank you for your consideration. I will now stand for questions.