

Approved: April 28, 2000  
Date

## MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on March 15, 2000 in Room 313-S of the Capitol.

All members were present except:

John Edmonds - Excused  
Andrew Howell - Excused  
Phill Kline - Excused  
Tony Powell - Excused  
Rich Rehorn - Excused  
Candy Ruff - Excused  
Jonathan Wells - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department  
Jill Wolters, Office of Revisor of Statutes  
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Elwaine Pomeroy, Kansas Credit Attorneys' Association & Kansas Collectors' Association  
Bob Alderson, Kansas Pharmacists Association  
Joyce Allegrucci, Social & Rehabilitation Services  
Tom Graber, District Court Judge, Wellington  
Marilyn Jacobson, Social & Rehabilitation Services  
Amy Waddle, Office of Judicial Administration  
Senator Tim Emert  
Dr. Loren Phillips, Bureau of Vital Statistics  
Pam Scott, Kansas Funeral Directors Association  
Dr. Allen Hancock, Wyandotte County Coroner  
John Foster, Johnson County Undersheriff  
Dr. Erik Mitchell, Shawnee & Douglass County Coroner

Hearings on **SB 504 - Judgements in certain limited actions for possession for nonpayment of rent**, were opened.

Elwaine Pomeroy, Kansas Credit Attorneys' Association & Kansas Collectors' Association appeared as the sponsor of the proposed bill. He commented that it would clarify that forcible detainer actions by landlords against tenants for repossession of their property shall include rent due, if this was stated in the petition. (Attachment 1)

Hearings on **SB 504** were closed.

Hearings on **SB 528 - Definition of practitioner to include pharmacist under chemical control act**, were opened.

Bob Alderson, Kansas Pharmacists Association, explained that the bill would add pharmacist to the list of those who are exempt from certain provisions of the Kansas Chemical Control Act. (Attachment 2)

Hearings on **SB 528** were closed.

Hearings on **SB 530 - Child support enforcement**, were opened.

Marilyn Jacobson, Social & Rehabilitation Services, commented that **SB 530** would establish a Kansas Payment Center, which is required by the Federal Government to retain Title IV-D funds. The Kansas Payment Center would collect maintenance and child support and provide disbursement of payments. (Attachment 3)

Amy Waddle, Office of Judicial Administration, testified that it was in the best interest of customers of the courts for the Judicial Branch to cooperate with SRS in its effort to meet the federal requirement to establish

CONTINUATION SHEET

a centralized child support payment processing center. (Attachment 4)

Hearings on **SB 530** were closed.

Hearings on **SB 461 - Continued jurisdiction of court when permanent guardian appointed for child in need of care**, were opened.

Tom Graber, District Court Judge, Wellington, stated that in most Child In Need of Cases the courts should continue to have jurisdiction to review each case and make changes as needed. (Attachment 5)

Joyce Allegrucci, Social & Rehabilitation Services, appeared in support of the bill. The permanent guardianship provides an alternative permanency for children who cannot return to the home of their parents, but for whom adoption is not a viable option.

Hearings on **SB 461** were closed.

Hearings on **SB 224 - Notification & investigation of deaths by coroner**, were opened.

Senator Tim Emert appeared as the sponsor of the proposed bill. He explained that prior to 1993, death certificates were issued and signed by the coroner where the death occurred. Legislation was passed which required the certificate to be signed in the county where the cause of death occurred. The proposed bill would change it back to the way they were issued prior to '93. It includes an amendment which would require the county where the cause of death occurred to pay for the autopsy, if one is done. (Attachment 6)

Dr. Erik Mitchell, Shawnee & Douglass County Coroner, appeared before the committee as a proponent of the bill with the suggested amendments (See Attachment 7), which would omit the restriction on subpoena power by deleting the phrase "within the District". The suggested amendments gave three options:

Option A - would allow the coroner in the county of the cause of death determine if an investigation should take place. If so, the costs would be accounted to and reimbursed by the county of the cause of death. If the coroner of the county of the cause of death requests an investigation, the coroner of the county of death shall be responsible for the investigation and the costs.

Option B - would have the costs of such investigations be the responsibility of the county in which the cause of death occurred.

Option C - would allow deaths of non-county residents that fall within the coroner's jurisdiction to have their costs reimbursed by the State General Fund

Pam Scott, Kansas Funeral Directors Association, appeared before the committee in opposition of the proposed bill and suggested that the committee adopt Dr. Mitchell's amendments with would be acceptable to all involved. (Attachment 8)

Dr. Loren Phillips, Bureau of Vital Statistics, & Dr. Allen Hancock, Wyandotte County Coroner, commented that **SB 224** would change the coroner's jurisdiction so that the place of death, rather than the place of the cause of death, would determine jurisdiction. The supported the suggested amendments that Dr. Mitchell provided for the committee. (Attachment 9)

John Foster, Johnson County Undersheriff, supported Dr. Mitchell's amendments but was concerned about the costs that could be assessed to the county where the cause of the death occurred.

Hearings on **SB 224** were closed.

The committee meeting adjourned at 5:45 p.m. The next meeting was scheduled for March 16, 2000.

**REMARKS CONCERNING SENATE BILL 504**

**HOUSE JUDICIARY COMMITTEE**

**MARCH 15, 2000**

Thank you for giving me the opportunity to appear in support of SB 504 on behalf of the Kansas Credit Attorneys Association, which is a state-wide organization of attorneys whose practice includes considerable collection work, and Kansas Collectors Association, Inc., which is an association of collection agencies in Kansas.

At the request of these two organizations, the 1999 Legislature passed HB 2222, which amended K.S.A. 61-2305, to provide that in eviction actions, the original action can be simply for eviction, and a subsequent action can be brought for the amount plaintiff claims to be due from the defendant as rent. That was passed to eliminate compliance problems with the Federal Fair Debt Collection Act.

When we requested HB 2222 to be introduced, and passed, we overlooked the fact that an amendment should also have been made to K.S.A. 61-2309. SB 504 makes the necessary amendment to K.S.A. 61-2309. As you can see, the statute presently requires the judge to enter judgment against the defendant for the amount of rent which the judge finds to be due the plaintiff. If the action had been brought simply for possession, to evict the tenant from the premises, the plaintiff would not have included a request for judgment of the rent due. The heart of the bill is the language added on lines 30 and 31, "*if the plaintiff sought judgment for such rent due in the petition*". The other changes in the bill are simply clean up amendments designed to make the statute read more smoothly.

When we requested the Senate Judiciary Committee to introduce this bill, our groups told that committee that we hoped that the bill introduced at the request of the Kansas Judicial Council, HB 2697, would pass the Legislature this year. If HB 2697 were passed, SB 504 would not be needed. If your committee is committed to not passing HB 2697 we would request that you recommend SB 504 favorably for passage.

If your committee would consider moving forward with HB 2697, SB 504 would be a vehicle to be used for that purpose. As I understand, the committee report on HB 2697 was going to be in the form of a substitute bill. The completed work product of your committee concerning the revision of Chapter 61 could be contained in a House Substitute for SB 504. We would urge your committee to consider doing so.

Elwaine F. Pomeroy  
For Kansas Credit Attorneys Association  
And Kansas Collectors Association, Inc.

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MEMORANDUM

TO: Representative Mike O'Neal, Chairman, and Members of  
House Judiciary Committee  
FROM: Bob Alderson on behalf of Kansas Pharmacists  
Association  
DATE: March 15, 2000  
RE: Senate Bill No. 528

I am Bob Alderson, and I am appearing on behalf of the Kansas Pharmacists Association in support of Senate Bill No. 528.

As you will recall, during the 1999 session the House Committee on Judiciary had under consideration Substitute for House Bill No. 2469 which had as a major purpose the elimination of the illegal manufacturing of methamphetamines and other controlled substances. As the bill was reported out of this Committee, the exemptions provided pharmacists were less than those provided other practitioners. The proponents of the bill agreed, however, that all practitioners should have the same exemptions, and Chairman O'Neal suggested the possibility of a floor amendment to accomplish this. However, because of the extensive floor debate, the amendment was not offered.

Thus, I presented this issue to the Senate Committee on Judiciary. Preliminary to the full Committee's deliberations, Senator Vratil chaired a subcommittee which considered potential amendments to the bill. I appeared before Senator Vratil's subcommittee on behalf of the Kansas Pharmacists Association to request an amendment which would exempt pharmacists to the same extent that all other "practitioners" (as defined in the bill) were exempted. The subcommittee adopted the recommended change, the full committee included that amendment in the bill recommended for passage to the full Senate and it was included in the version of the bill passed by the Senate.

The efficacy of the exemption adopted by the Senate depended upon the definition of "practitioner" in Section 9 of the bill (now codified as K.S.A. 1999 Supp. 65-7003). However, the conference committee recommended substitution of the definition of "practitioner" found in the Uniform Controlled Substances Act, apparently for the sole purpose of maintaining consistency with that act, and without any thought of its effect on the exemption. Unfortunately, that definition of "practitioner" does not include pharmacists. Thus, the exemption of pharmacists sought to be achieved was undone.

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Attachment 2

Accordingly, I am respectfully requesting on behalf of the Kansas Pharmacists Association the passage of SB 528, which amends K.S.A. 1999 Supp. 65-7003, the definition section of the Kansas Chemical Control Act enacted by HB 2469, so as to insert "pharmacists" in the definition of "practitioner" as set forth in subsection (k). By this change, the exemption of pharmacists to the same extent as other practitioners will be accomplished.

Thank you for your consideration of this request. I will be happy to respond to any questions.



State of Kansas  
Department of Social  
and Rehabilitation  
Services

Janet Schalansky, Secretary

*for additional information, contact:*

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**House Judiciary Committee**

March 15, 2000

**S.B. 530, Kansas Payment Center and amendments to the Income  
Withholding Act**

Integrated Service Delivery  
Candy Shively, Deputy Secretary  
(785) 296-3271

House Judiciary  
3-15-2000  
Attachment 3

**Kansas Department of Social and Rehabilitation Services**  
**Janet Schalansky, Secretary**

House Judiciary Committee  
March 15, 2000

Mr. Chairman and members of the committee, thank you for this opportunity to testify today concerning Senate Bill 530, the Kansas Payment Center (KPC).

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires the State to establish a centralized unit for collection and disbursement of support payments in all IV-D (CSE) cases and income withholding payments established after January, 1994 in Non-IV-D (non SRS) cases. The inclusion of this provision was done at the request of employers across the nation.

Because both IV-D and Non-IV-D cases are affected, CSE and the Office of Judicial Administration have actively collaborated from the beginning in defining and designing the KPC. Running dual systems – the KPC for mandated payments and local court processing for all other child support payments – would present difficulties for the courts, for SRS, and for the general public. Non-IV-D cases which do not have an order requiring payment to the Clerk of the Court or are maintenance only cases will not be processed by the KPC.

The partnership between CSE and OJA will continue through implementation and during the ongoing operation of the Kansas Payment Center (KPC). We have contracted with Tier Technologies, Inc. of Walnut Creek, California, a vendor experienced in child support remittance processing.

When operational, the KPC will perform some of the basic functions now carried out in all the local district courts for handling child support payments made by parents or employers. The Kansas Payment Center will receive the support payments, post the payments to individual court order accounts, disburse the money to the appropriate person or office, and provide payment histories as needed.

Although difficult to quantify, we believe that the savings to employers will be substantial. Savings for the business community will include replacing multiple remittances to multiple courts (postage and checks) with one remittance to the KPC by electronic funds transfer if desired. Also, the option to complete all remittances by a single transmission can reduce processing costs for large employers. We expect employers to benefit from having toll-free access to customer service representatives specially trained to assist employers with income withholding or remittance questions.

Families, too, will benefit. The introduction of direct deposit will eliminate the delay of mailing payments and provide protection from lost or stolen checks. This feature has proven popular in other states and carries the long term benefit of holding down processing costs.



Before recessing in November, the U.S. Congress enacted H.R. 3424 which provides relief for states that are making good faith efforts to implement support payment centers. Under the original penalty provision, Kansas was at risk of losing all federal funds for the IV-D program and a percentage of the TANF block grant. For states unable to meet the original 1999 implementation date, the new law provides a graduated scale of IV-D penalties (starting at four percent of FFP, federal financial participation) and eliminates the related penalty against TANF.

The new law also provides for waiver of all or part of the penalty for any state that completes implementation during federal fiscal year 2000. Based upon the current implementation schedule, Kansas expects to qualify for the partial waiver, limiting our penalty risk to one percent of administrative costs (\$242,000).

Enactment of S.B. 530 is an important step for establishing the Kansas Payment Center. An explanation of the specific amendments this bill includes is attached. Generally, this legislation clarifies the authority of the Kansas Supreme Court to require that child support payments be sent to the KPC, as well as providing an orderly transition for existing orders.

This bill also includes some technical amendments to the Income Withholding Act. One updates the definition of Title IV-D to include amendments enacted in recent years by the Congress. The other change clarifies that a copy of the income withholding order, rather than the original document, is served on the payor and triggers the payor's obligations under the withholding law.

We ask you to recommend S.B. 530 be passed.

Thank you.

Bill Section	Statute Amended and Topic	Explanation of Change
1.	K.S.A. 23-4,106(o) – Income withholding act; definition of "Title IV-D"	Updates the definition to include changes in the federal law enacted since May 1, 1997.
2.	K.S.A. 23-4,108(b) and (h) – Income withholding act; payor's duties	Adds the phrase "a copy of" to clarify that a copy, rather than the original court document, is served on the payor (employer) and triggers the payor's duties under the act.
3.	K.S.A. 23-4,118 – Income withholding act; designated income withholding agencies	<p>The text being deleted was adopted originally to meet a federal requirement for income withholding. The old requirement has been repealed because the new requirement for centralized collection and disbursement has rendered it obsolete.</p> <p>In subsection (a), the new text describes in general the responsibility of SRS, the role of the Supreme Court, and the function of the Kansas Payment Center.</p> <p>Subsection (b) provides an automatic transition for existing support orders and income withholding orders that require payments to be remitted to the local court. This eliminates the need for attorneys or agencies to modify those orders individually.</p> <p>Subsection (c) provides, for purposes of this section, that a child support order includes maintenance (alimony) when ordered in conjunction with a child support order. This is needed because income withholding orders served on payors do not separate child support from maintenance; the payor is directed to withhold a sum for "family support," which may or may not include maintenance. Insuring that this type of maintenance is included in the transition to the KPC protects employers from having to send the child support portion to the KPC and the maintenance portion to the local court.</p>

4.	K.S.A. 23-4,136 – Income withholding act; voluntary withholding orders	Deletes a sentence directing where payments are to be remitted. This subject is addressed in K.S.A. 23-4,108(c), which has general application to all income withholding orders and was amended in 1997 to allow for establishment of centralized collections through Supreme Court rule. Removing the duplicate language in K.S.A. 23-4,136 reduces the risk of creating conflicting or inconsistent provisions.
5.	K.S.A. 38-1121(c) – Parentage act; order determining parentage and order for support	Deletes a sentence directing that the judgment require payments to be made through the local court. This subject is addressed in K.S.A. 38-1123 of the parentage act (section 6 of the bill). Removing the duplicate language here eliminates an inconsistent provision and reduces the risk of creating conflicting or inconsistent provisions in the future.
6.	K.S.A. 38-1123 – Parentage act; order for support	<p>The first sentence in subsection (a) applies to paternity and support orders entered before the Kansas parentage act was enacted in 1985; in those cases, existing law gives the court discretion to order payments be made through the local court instead of directly between the parents. The second sentence applies to orders entered after enactment of the parentage act, which eliminated payments directly between parents in parentage cases.</p> <p>In both sentences, the amendment replaces the reference to the local court clerk or trustee with a reference to the Kansas Payment Center.</p> <p>In subsection (b), the limited reference to the income withholding act is replaced by a fuller, more descriptive cross-reference.</p>

7.	K.S.A. 60-1610(a)(1) and (b)(2) – Divorce code; child support order; maintenance order	<p>In subsection (a)(1), which covers child support orders, the amendment replaces the reference to the local court clerk or trustee with a reference to the Kansas Payment Center. No change is made in the court's discretion to order otherwise, for good cause shown.</p> <p>In subsection (b)(2), which covers maintenance (alimony) orders, the amendment clarifies that in a case with only a maintenance order, payments will still go through the local courts. No change is made in the court's discretion to order otherwise, for good cause shown. Because the income withholding act authorizes income withholding in a "maintenance only" case, the provision is made subject to the requirements of the income withholding act.</p> <p>"Maintenance only" transactions were not included in the volume and cost projections for the KPC. There is no federal mandate for their inclusion, nor are they likely to be added to the mandate in the future.</p>
8.	K.S.A. 60-2308(e) – Code of civil procedure; exemption from garnishment or attachment	Existing law makes support money in the hands of the clerk of court, district court trustee, or SRS exempt from garnishment or attachment. The amendment adds the KPC to this list of offices which handle support payments.

9.	K.S.A. 60-2803(c) – Code of civil procedure; satisfaction and release of judgments	<p>When a money judgment has been paid, this section generally requires the judgment creditor to file a satisfaction and release of the judgment upon demand. With the exception of support payments, most civil money judgments are paid directly from one party to the other rather than through the court, and there is no public record of the payments.</p> <p>The existing exception in subsection (c) recognizes that where a public record of payments does exist, the need for a formal satisfaction and release is not critical for such purposes as clearing title to real estate.</p> <p>Payment histories maintained by the KPC will be available in a manner similar to the payment histories maintained by the local clerks of court, so the amendment adds a reference to the KPC to subsection (c).</p>
10.	n/a	Sections repealed; only the sections described above are included.
11.	n/a	Effective upon publication in the <i>Kansas Register</i> . To meet federal requirements by September 30, 2000, many activities must be completed. An earlier effective date will ensure that the Supreme Court has adequate time to adopt a rule or order governing designation of the KPC and the transition period. It will also ensure that the KPC contractor can complete preparation of accounts and outreach to parents and employers in a timely manner.

**House Judiciary Subcommittee  
March 15, 2000**

**Testimony of Amy Waddle  
Office of Judicial Administration  
Senate Bill 530**

**Representative O'Neal and members of the Committee:**

Thank you for the opportunity to present information about the proposed Kansas Payment Center. As you know, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires all states to establish a centralized unit for collection and disbursement of child support. The federal law requires centralized payment processing for all IV-D related child support and payments in Non IV-D cases in which the support order was issued on or after January 1, 1994 and in which the income of the non-custodial parent is subject to withholding.

In 1999, over \$300 million in child support payments was processed by the Kansas district courts. At the beginning of this project, the district courts were surveyed to gather more information about type and volume of payments that were processed. Approximately 68% of child support payments processed in Kansas are attributable to funds submitted by employers on behalf of employees whose wages are subject to income withholding.

Due to the large number of payments that fell under the requirements for centralized processing, the decision was made to convert all cases, IV-D and Non IV-D, to centralized processing. Access to payment information will be easier for the public, employers and others if payment processing is not split between centralized processing and 108 court locations.

The federal requirements for centralized processing were requested by employers. It will benefit employers in Kansas, such as the State of Kansas, by providing one location for processing of income withholding rather than preparing individual checks for processing by 108 court locations. Centralized processing will also benefit child support recipients by providing the option for direct bank deposit of child support payments. The federal requirements state that payments must be mailed within 48 hours of receipt at the central payment center. Availability of direct deposit will further enhance processing times.

Currently the Kansas courts are responsible for processing the child support payments. For that reason, the Office of Judicial Administration is working with the Department of Social and Rehabilitation Services to establish the Kansas Payment Center (KPC) which will provide the required centralized child support payment processing. The statutory changes proposed in Senate Bill 530 will allow child support payments to be paid through "the central unit for collection and disbursement of support payments" rather than through the clerk of the district court or district court trustee.

House Judiciary  
3-15-2000  
Attachment 4



State of Kansas

## Office of Judicial Administration

Kansas Judicial Center  
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**House Judiciary Committee  
Wednesday, March 15, 2000**

Testimony on SB 461

Kathy Porter  
Office of Judicial Administration

The Supplemental Note on this bill provides both an accurate assessment of what the bill does and why it was requested. Last year, the Code for the Care of Children was amended to require the dismissal of all child in need of care proceedings once a permanent guardian is appointed. As you may recall from the 1998 legislative session, permanent guardianships were created as a means of providing permanent homes for children in need of care. A permanent guardian may be appointed for a child after termination of parental rights or without the termination of parental rights if the parents consent.

Many judges had concerns about the amendment that required dismissal of all proceedings once a permanent guardian was appointed for a child. The judges believe that, in some cases, further involvement by the court may be needed for the child's continued protection and to assist the permanent guardian. Children for whom permanent guardians are appointed would be discharged from the custody of SRS.

The bill would give the court a means to meet the needs demonstrated in individual cases.

KP:mr

House Judiciary  
3-15-2000  
Attachment 5

**TIM EMERT**

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COMMITTEE ASSIGNMENT

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 CONFIRMATION OVERSIGHT  
 JUDICIARY

VICE-CHAIRMAN:  
 ORGANIZATION, CALENDAR & RULES  
 JOINT COMMITTEE ON STATE BUILDING  
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 STATE FINANCE COUNCIL  
 UNIFORM LAW COMMISSION

KANSAS SENATE  
 OFFICE OF THE MAJORITY LEADER

**Testimony**  
**Senator Tim Emert**  
**House Judiciary**  
**March 15, 2000**  
**SB 224**

Thank you, Mr. Chairman, for the opportunity to appear today in support of SB 224 which addresses amendments to the coroners and death certificate laws.

Prior to 1993, in the case of a death in which a coroner was involved, the death certificate was signed by the coroner in which the death occurred.

In 1993, for some unknown reason, the statute was changed to provide that the death certificate would be signed by the coroner in which the cause of death occurred.

As the law stands today, Kansas is the only state in the nation that has such a provision. The other 49 states have provisions similar to the original, pre-1993 Kansas law.

Many problems arise under the present law. When an accident or even a crime occurs in one county, the victim is sent to a major medical center which is usually in Sedgwick County, Shawnee County, or the Kansas City area. Two weeks later the victim dies and the coroner in the county in which the incident occurred is required to sign off on the death certificate. In all probability, that coroner didn't even know the incident occurred, let alone the cause of death.

This creates enormous problems on the decedent's family. Death certificates face lengthy delays. Children and spouses of the decedents are stymied from applying for death benefits, life insurance, transfer of assets, and in some cases even social security. The right thing to do is to help these family members and restore the law to its original form which SB 224 does.

As this bill went through the Senate, there was opposition from coroners in Sedgwick, Shawnee and Johnson Counties. I have a balloon amendment which, to the best of my knowledge, satisfies those concerns. There has been no intention on my part to shift any of the burden of payment or financial responsibility in the investigations and autopsies performed by urban coroners. I believe this balloon addresses their concerns.

I urge you to adopt the amendment and recommend the bill favorably for passage to the full House. Thank you for your consideration.

House Judiciary

3-15-2000

Attachment 6



SENATE BILL No. 224

By Committee on Judiciary

Proposed amendment  
3-15-00

2-3

9 AN ACT concerning district coroners; notification and investigation of  
1 deaths; amending K.S.A. 22a-231 and 22a-232 and repealing the ex-  
11isting sections.

12  
13 Be it enacted by the Legislature of the State of Kansas:

14 Section 1. K.S.A. 22a-231 is hereby amended to read as follows: 22a-  
15 231. When any person dies, or human body is found dead in the state,  
16 and the death is suspected to have been the result of violence, caused by  
17 unlawful means or by suicide, or by casualty, or suddenly when the de-  
18 cedent was in apparent health, or when decedent was not regularly at-  
19 tended by a licensed physician, or in any suspicious or unusual manner,  
20 or when in police custody, or when in a jail or correctional institution, or  
21 in any circumstances specified under K.S.A. 22a-242, and amendments  
22 thereto, or when the determination of the cause of a death is held to be  
23 in the public interest, the coroner or deputy coroner of the county in  
24 which the ~~cause of~~ death occurred, if known, or if not known, the coroner  
25 or deputy coroner of the county in which such dead body was found, shall  
26 be notified by the physician in attendance, by any law enforcement offi-  
27 cer, by the embalmer, by any person who is or may in the future be  
28 required to notify the coroner or by any other person.

29 Sec. 2. K.S.A. 22a-232 is hereby amended to read as follows: 22a-  
30 232. (a) Upon receipt of notice pursuant to K.S.A. 22a-231, and amend-  
31 ments thereto, the coroner shall take charge of the dead body, make  
32 inquiries regarding the cause of death and reduce the findings to a report  
33 in writing. Such report shall be filed with the clerk of the district court  
34 of the county in which the ~~cause of~~ death occurred if known, or if not  
known the report shall be filed with the clerk of the district court of the  
county in which the ~~death occurred~~ *dead body was found*. If the coroner  
37 determines that the dead body is not a body described by K.S.A. 22a-231,  
38 and amendments thereto, the coroner shall immediately notify the state  
39 historical society.

40 (b) If in the opinion of the coroner information is present in the  
41 coroner's report that might jeopardize a criminal investigation, the cor-  
42 oner shall file the report with the clerk of the district court of such county  
and designate such report as a criminal investigation record, pursuant to

1 subsection (a)(10) of K.S.A. 45-221, and amendments thereto.  
2 Sec. 3. K.S.A. 22a-231 and 22a-232 are hereby repealed.  
3 Sec. 4. This act shall take effect and be in force from and after its  
4 publication in the statute book.

(c) If the coroner takes charge of the dead body, makes inquires regarding the cause of death and reduces the findings to a report in writing, as provided in subsection (a), the costs of such actions shall be paid by the board of county commissioners of the county in which the cause of death occurred.



## Shawnee County Coroner/Medical Examiner

Erik K. Mitchell, M.D.  
Coroner/Medical Examiner  
320 S. Kansas Avenue, Suite 400  
Topeka, KS 66603-3644  
785-368-2350

House Judiciary Committee  
Kansas Statehouse

14 March 2000

Senate Bill 224, as presently proposed, will prevent the Coroner's Offices of the larger Counties from executing their mandated functions in a timely fashion in part because the funding required to accomplish the work does not accompany the mandate of the proposed Statute. Also, the new language will require the Coroner to investigate deaths where the investigation will involve other jurisdictions. New language must omit the restriction on subpoena power by deleting the phrase "within the District". We propose amendatory language to correct defects in the Bill.

### Problem # I:

Out of State Deaths of Persons injured in Kansas, SB 224 does not allow Coroner's to bring cases back to the Kansas Jurisdiction.

### Solution # I:

Add to K.S.A. 22a-232

"If a death investigation involves multiple jurisdictions, the Coroner notified under K.S.A. 22a-231 may transfer jurisdiction to another jurisdiction if the Coroners of both jurisdictions are agree to the transfer."

### Problem # II:

A Coroner will have to investigate the cause of death in multiple jurisdictions, but is at present given subpoena power only in his/her jurisdiction.

### Solution # II:

Delete the words "within the judicial district" from the description of the Coroner's subpoena power in K.S.A. 22a-230d

Problem #

The larger Counties with referral hospitals will have to absorb the cost of investigations for out-of-County residents dying in the hospital.

Solution # III:

There are three options for funding: costs can continue to be the responsibility of the County of Incidence or costs can be borne by the State.

Option A:

K.S.A. 22a-231 to be amended as follows:

"The Coroner in the County of the Cause of Death shall decide if an investigation shall take place. If an investigation is authorized by the Coroner of the County of Cause of Death, the Coroner in the County of Death shall undertake such investigation, with costs to be accounted to and reimbursed by the County of the Cause of Death. Investigation may include, but is not limited to, obtaining medical and law enforcement background information, examination of the scene of the Cause of Death, Inquest, Autopsy, and other duties required of the Coroner. If the Coroner of the County of the Cause of Death requests an investigation, the Coroner of the County of Death shall be responsible for the investigation and the certification of Death.

Option B:

K.S.A. 22a-231 to be amended as follows:

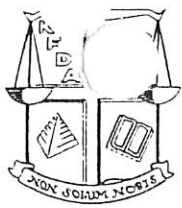
"The costs of investigation shall be the responsibility of the County in which the cause of death occurred and paid to the County where the death occurred upon presentation of an accounting of costs."

Option C:

K.S.A. 22a-231 to be amended as follows.

"Deaths of non-County Residents that fall within the Coroner's jurisdiction shall have the cost of investigation reimbursed to the County from the State General Fund."

As a matter of note, in New York State, the Counties large enough to convert from Coroner to Medical Examiner, i.e. the large referral Counties, have received up to 40% reimbursement from the State Health Department for the cost of death investigation. In North Carolina, Residents of a County have the cost of investigation paid by the County, while deaths of non-Residents of a County have the costs reimbursed by the State. In Florida, the Medical Examiners are subsidized by a tax that, in my understanding, is on Insurance policies.



# KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

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## EXECUTIVE DIRECTOR

**PAM SCOTT**  
Topeka

Date: March 15, 2000

To: House Judiciary Committee

From: Pam Scott  
Executive Director

Re: Senate Bill No. 224

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you today in support of Senate Bill No. 224.

The Kansas Funeral Directors and Embalmers Association (KFDA) supports Senate Bill No. 224 that would amend K.S.A. 22a-231 to provide that the coroner of the county in which death occurred would have jurisdiction over a death. As a result of legislation passed in 1993, jurisdiction was moved from the county where death occurred to the county where cause of death occurred. Current Kansas law provides that the coroner of the county where cause of death occurs has jurisdiction.

Since the change in 1993, funeral directors have encountered many difficulties in their ability to get death certificates completed, signed and filed within a reasonable period of time. As a result, the families of the deceased have not been able to put their financial affairs in order after the death of a loved one because of their inability to receive certified copies of the death certificate. Death certificates are often required in order to receive the proceeds of life insurance policies, obtain access to bank accounts or even apply for social security benefits.

Kansas law requires that in situations where a person dies by unnatural causes or when not regularly attended by a licensed physician, the coroner with jurisdiction over the death must sign the death certificate and state the cause of death thereon. Therefore, under current Kansas law, the coroner of the county where the cause of death occurred must sign the death certificate. This has created problems particular with accidents occurring in one county but death occurring in another county. The following is a typical example of such a problem: An automobile accident occurs in Cowley County. The accident victim is transported to a hospital in Sedgwick County and dies hours, days, or even months after the accident. Once death occurs, the coroner of Cowley County, the county where cause of death occurred, is required to sign the death certificate stating cause of death even though he never saw the victim prior to death and perhaps did not even know an accident had occurred. In such cases the coroner is reluctant to sign and often refuses to sign the death certificate. This problem not only occurs with automobile accidents but also with other types of unintentional deaths such as work related accidents, falls at home, or sudden illness.

when the individual was in apparent good health at time of death. The problem is prevalent in rural areas of the state where individuals must be taken to hospitals in larger surrounding communities for medical care. Because of these disputes as to which coroner is to sign a death certificate, we have seen many delays of three to four months, which can be financially devastating to a family. Prior to the change in the law, problems resulting in delays were not as prevalent.

I have checked the laws of surrounding states concerning who has jurisdiction over dead bodies and have found that in Colorado, Nebraska and Missouri jurisdiction lies with the coroner of the county where death occurred. Oklahoma has a statewide medical examiner that has jurisdiction over all deaths in the state. The Office of Vital Statistics has testified that they know of no other state with a coroner jurisdiction law such as Kansas. I have talked to many coroners from around the state who are in support of this legislation.

It will be argued that by passing this bill, death resulting from criminal intent could not be investigated in the county where the crime occurred. This is not true. This bill will not prevent an investigation from taking place in the county where the event or crime leading to death occurred by law enforcement officials. Investigations would proceed and criminals would be tried and convicted in the county where a crime occurred just as they were prior to 1993. The coroner of the county where death occurred would merely determine the cause of death and communicate their findings to law enforcement officials in the county where the crime occurred. This happens now under current law because the coroner where death occurs often performs the autopsy for the coroner of the county where the "cause of death occurred".

The number of criminal cases resulting in death are minimal compared to the number of accidental deaths. In 1998, 1129 deaths were caused by accidents including automobile accidents while only 157 resulted from homicide and legal intervention. Of the 157 homicide and legal intervention cases, 118 occurred in Johnson, Sedgwick, Shawnee and Wyandotte Counties. Although I have no statistics to prove it, it is likely that in the majority of the remaining 39 homicide cases, the counties where "death occurred" and "cause of death occurred" are the same.

You may also receive testimony arguing that this legislation will have a financial impact on counties with large medical centers. Although we do not believe the impact will be significant, the bill could be amended to provide that the county where cause of death occurred would pay the cost of the coroner's investigation as to cause of death if they request such an investigation. It is my understanding such an amendment will be offered by Dr. Erik Mitchell, Shawnee County Coroner.

In conclusion we believe Senate Bill No. 224 is needed to assure that the appropriate coroner has jurisdiction over a death which will result in death certificates being completed on a timely basis. This will greatly benefit the families who have experienced the loss of a loved one.

WADE M. DIXON  
COUNTY ATTORNEY

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Testimony Concerning SB224  
Senate Judiciary Committee  
February 16, 2000

Chairman Pugh and members of the Committee:

My name is Wade M. Dixon, County Attorney for Greeley County, Kansas. Thank you for the opportunity to present testimony on Senate Bill 224. On behalf of our local physicians, and our community generally, I want to express support for the changes in the current law proposed by this Bill.

Although the problems created by the existing law are fairly obvious in the context of a victim of an automobile accident being transferred from the county in which the accident occurred to a regional medical center in another county where he subsequently dies. The law now requires a physician in the county where the cause of death occurred, not the attending physician in the county where the death occurred, to sign the report of death. However, I recently became involved in a case where a criminal investigation was delayed because of the present statutory requirements.

A resident of Greeley County was the victim of a severe blow to the head in September of 1999. He did not immediately seek medical attention and, in fact, went to work the next day. More than a week went by before he was taken by his family to our local hospital. Neither he nor any family members advised the medical staff of the blow to the head; they reported only that he was having severe head aches which were getting worse. His condition continued to worsen and our local physicians decided he needed more diagnostic services than were available in our hospital and they had him transferred by ambulance to St. Catherine Hospital in Garden City, Kansas.

Upon arrival in Garden City, he started a battery of tests, including a CT scan, under the orders of the attending physician. However, shortly after the CT scan, the patient died. Without checking the CT scan results, the attending physician notified the family of the death and the body was picked up by the mortuary service, transported back to Greeley County and buried. Subsequently, the attending physician reviewed the CT scan results and determined there was a severe subdural hematoma on the left side of the brain, but an autopsy would be necessary to establish that as the cause of death.

The attending physician had access to the information necessary to establish the cause of death but, because he was not the one required to complete the report of death, the body was buried before that

information was examined. The result was that the report of death was referred to the District Coroner, authorization to exhume the body had to be obtained from the District Court, and the body had to be transported 175 miles for an autopsy, all involving much time and expense which could have been avoided if the attending physician had been required to complete the report of death. Additionally, the family is still waiting for a death certificate in order to process a life insurance claim more than four months after the date of death. The criminal investigation is still pending.

In conclusion, I believe the adoption of Senate Bill 224 would prevent similar situations from occurring in the future and I urge the Committee to recommend its passage.

Thank You.

Wade M. Dixon



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James W. Bruno, M.D., F.A.A.F.P.  
Thomas L. Koksol, M.D., D.A.B.F.P.  
Scott D. Booker, D.O.  
Harold L. Perkins, M.D.

February 15, 2000

KFOA  
Facsimile Number: 785-232-7791

Re: Senate bill No. 224

To Whom it May Concern:

I support the above referenced bill.

Sincerely,



James W. Bruno, M.D.

JWB/bb



**KANSAS**  
**DEPARTMENT OF HEALTH & ENVIRONMENT**  
BILL GRAVES, GOVERNOR  
Clyde D. Graeber, Secretary

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**Testimony presented to the  
House Judiciary Committee**

**March 15, 2000**

**by**

**Lorne A. Phillips, Ph.D., State Registrar  
Center for Health and Environmental Statistics**

**Senate Bill No. 224**

I appreciate the opportunity to testify in support of SB 224, on behalf of the Kansas Department of Health and Environment, the Office of Vital Statistics. This bill defines which coroner has responsibility for completing death certificates.

This bill would require the coroner in the county in which the death occurred to complete and sign the death certificate. Currently, K.S.A. 22a-231 requires the coroner serving the county in which the cause of death occurred to complete and sign the death certificate. This provision was enacted in 1993. SB 224, if enacted, would return to the provision which existed before 1993.

From the perspective of vital records administration, this bill would make establishment of the cause of death less burdensome, leading to more timely completion of the death record. Under current provisions, the coroner serving the county in which the cause of death occurred may be reluctant to sign the death certificate, for the coroner may have no knowledge of the actual event of death, and any other information regarding the decedent may not be available. As an example, the occupant(s) of an automobile accident may be taken to a hospital in a county other than the county in which the accident occurred. The victim later dies in the hospital in the other county. The coroner serving the county in which the accident occurred would probably not have any facts regarding the accident or medical information of the victim(s). However, the coroner is obligated by statute to complete the death certificate and certify to the cause of death. Completion of the death certificate is delayed while the coroner gathers information to resolve the matter from the county in which the death occurred. Consequently, the turnaround time in closing such records is significantly extended.

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The completed death record is needed, as soon as possible, by the survivor(s) to obtain survivor's benefits (insurance, Social Security, etc.), close financial accounts and a variety of other business and personal activities following death of an individual. Timely turnaround means survivors can obtain certified copies more quickly to meet those needs.

From the perspective of the Office of Vital Statistics we would prefer that the death certificate be filed by the coroner in the county in which the death occurred and therefore strongly support the passage of SB 224.

I would be pleased to respond to any questions you may have regarding this matter.