

Approved \_\_\_\_\_  
Date \_\_\_\_\_

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:10 a.m. on March 13, 2000 in Room 123-S of the Capitol.

All members were present except: Senator Donovan (excused)

Committee staff present:

Gordon Self, Revisor  
Mike Heim, Research  
Jerry Donaldson, Research  
Mary Blair, Secretary

Conferees appearing before the committee:

Board of Indigents Defense Candidates:  
Ruth Graham  
David Herndon  
Denise Tomasic

Others attending: see attached list

The minutes of the March 8<sup>th</sup> and March 9<sup>th</sup> meeting were approved on a motion by Senator Bond, seconded by Senator Goodwin. Carried.

The following Candidates reviewed their qualifications for appointment as members to the Board of Indigents Defense: Ruth Graham, David Herndon, and Denise Tomasic. The Chair acknowledged the reappointment of Bruce Beye, Devon Knoll, and Willis Musick to the Board and Glenda Cafer, as Chair, to the Crime Victims Compensation Board. The Chair explained that it is not necessary for reappointed persons to be present. (attachments 1,2,3,4,5,6, and 7) Senator Bond moved to confirm all of the appointments and reappointments, Senator Gilstrap seconded. Carried.

**HB 2673—concerning the probate code**

Senator Vratil briefly reviewed HB 2673 and moved to pass it out favorably, Senator Goodwin seconded. Carried.

**SB 622—concerning juveniles; relating to placement of CINC; juvenile offenders, placement, credit for time spent, notice of release, offender registration; juvenile correctional staff**

Senator Harrington reviewed the subcommittee's work done on **SB 622** (attachment 8) and discussed its recommended amendments to the bill. (attachment 9) Following discussion, Senator Oleen moved to adopt the subcommittee's report, Senator Harrington seconded. Carried. Senator Harrington further discussed a balloon amendment she received prior to Committee meeting from the Juvenile Justice Authority. The balloon amendments are a result of concerns expressed by the Wichita School District. (attachment 10) Following discussion Senator Oleen moved to amend the balloon by striking "secondary" language in the first balloon paragraph on page 5 and, in the same paragraph, striking the phrase "thinks the school should be aware of" and inserting the words "deems appropriate," and adopting the balloon as amended, Senator Bond seconded. Carried. Following further discussion, Senator Vratil moved to amend the bill further by changing the number from 10 to 20 on line 29, page 5 of the balloon so that it reads .... "at least 20 days prior to".... Senator Pugh seconded. Carried. Senator Bond moved to pass the bill out favorably as amended, Senator Harrington seconded. Carried.

Senator Oleen reported that her subcommittee had met and reviewed priorities that were recognized by the attorney general. They will meet again to further discuss **SB's 195, 333, and 341.**

**HB 2224—concerning persons required to report abuse, neglect or exploitation of children and certain adults**

The Chair requested the Committee reconsider action taken on **SB 622.** He reviewed **HB 2224** and stated that since no action was being taken on this bill he suggested removing the contents of the bill and putting **SB 622** into it. Following discussion, Senator Harrington made a motion to reconsider action taken on SB 622, Senator Oleen seconded. Carried. Senator Goodwin moved to do a substitute for HB 2224 that would

be the contents of SB 622 as amended, seconded by Senator Harrington. Carried. Senator Oleen moved to amend the bill with a conceptual amendment whereby truancy cases concerning children under the age of 13 are reported both to the SRS and the county district attorney in a situation where this is agreed to by both the SRS and county district attorney, seconded by Senator Harrington. Carried. Senator Harrington moved to pass the bill out favorably as amended. Carried.

**HB 2879—concerning electronic signatures; enacting the Kansas electronic signature act**  
**SB 559—concerning electronic transfer**

Senator Vratil reviewed his subcommittee's work on **HB 2879** and **SB 559** to determine the possibility of merging these bills. He stated that the subcommittee decided to merge **HB 2879** into **SB 559** by having a substitute bill for **HB 2879** prepared. (attachment 11) He explained the balloon amendments recommended by the subcommittee. (attachment 12) Following discussion, Senator Vratil moved to amend and pass the bill out favorably as amended, Senator Bond seconded. Carried.

The meeting adjourned at 11:00 a.m. The next scheduled meeting is March 14, 2000.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 13, 2000

NAME	REPRESENTING
Jana El-Koubysi	Bd of Indigent's Defense
PAT SCALIA	Bd of Indigents' Defense
Ruth Graham	Bd of Indigents' Defense
Denise Tomasic	" " "
DAVID HERNDON	Bd of Indigent Defense
Paula Schuttera	Juvenile Justice Authority
Heber Podigo	JTA
Diane Gierstad	Wichita Public Schools
Mank Tallman	KASB
Bill Henry	Ks Gov. Consulting
Bob Tombs	KSC
KEVIN GRAHAM	KSC
Nancy Lindberg	AG
Frank Henderson Jr.	Crim. Victims Comp. Bd.
Judy Krueger	Gov. office
Kathy Markham	Gov. office
Pat Lawless	BIDS
Pat Lehman	KFSA

Senate Confirmation  
Information  
Not Scanned  
Due to Confidential  
Content

Attachments 1-7



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A Report on the Judiciary Sub-committee meeting on SB 622.

Held in Rm 234N on March 9, 2000 on adjournment of the Senate.

Those attending were:

Senator Nancey Harrington - Chair  
Senator Lana Oleen  
Senator Marge Petty  
Senator Greta Goodwin  
Gordon Self - Revisor

Roberta Sue McKenna from SRS testified.

Helen Pedigo from JJA testified.

Mark Gleason and Paula Schuttera of the Juvenile Justice Authority took part in the discussion.

Also, Diane Gjerstad from the Wichita Public Schools had a few comments to make.

The meeting started at 3:26 P.M..

Sue McKenna testified. She mainly talked about the balloon attached at back of written testimony on page 5.

Helen Pedigo testified. She had comments on Sue's balloon. Had objection to line 31. Wanted to know who provided information on juveniles to the Court. Senator Petty wanted to know if there is a reason to be concerned on the time element.

Mark Gleason gave comments regarding Line 31, page 4 of Sue McKenna's testimony.

Senator Oleen made a motion to accept Line 31 amendment.

Senator Petty seconded motion.

All voted, amendment was adopted.

Helen Pedigo commenting on the affects of 20 violations. VCO language page 4, line 28 paragraph.

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Senator Petty explained to Helen Pedigo regarding violations. Helen said VCO not following federal procedures. At the bottom of the 1<sup>st</sup> page of Juvenile Justice Authority letter from Albert Murray, Commissioner. It is right to follow federal procedure.

Mark said by all this discussion the end results are also to be able to keep 1.3 million dollars to pay communities, etc.

Senator Petty made a motion to adopt paragraph f on balloon. Senator Harrington seconded. All voted and it was adopted.

Sue McKenna talked on page 2, line 41, page 4, line 12 and 15, 34 through 37 of her testimony.

Senator Oleen made a motion to adopt. Senator Petty seconded. All voted and was adopted.

Diane Gjerstad commented on page 5, line 29 of Sue McKenna's testimony. Diane wanted to make the language stronger. Schools should be notified in first 10 day period. She wants to know when the juvenile will be attending the first day of school. Wants background information on person. What was juvenile's offense.

Senator Oleen to work together on language. Amend to full committee.

Senator Petty said we needed a partnership on all that was discussed.

Everyone will come back to the full committee.

The meeting was closed by Senator Nancey Harrington at 4:07 P.M.

Linda Bradley, Senator Harrington's secretary.

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**SENATE BILL No. 622**

**Proposed Subcommittee Amendments to Senate Bill No. 622**

By Committee of Judiciary

2-10

9 AN ACT concerning juveniles; relating to placement of child in need of  
10 care; juvenile offenders, placement, credit for time spent, notice of  
11 release, offender registration; juvenile correctional staff; amending  
12 K.S.A. 38-1568 and K.S.A. 1999 Supp. 22-4904, 38-1673, 38-1674, 38-  
13 1675, 38-1676, 38-1691, 38-16,129 and 75-7023 and repealing the ex-  
14 isting sections.  
15

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

17 Section 1. K.S.A. 1999 Supp. 22-4904 is hereby amended to read as  
18 follows: 22-4904. (a) (1) Except as provided in subsection (a)(2), within  
19 10 days of the offender coming into any county in which the offender  
20 resides or is temporarily domiciled for more than 10 days, the offender  
21 shall register with the sheriff of the county.

22 (2) Within 10 days of the offender coming into any county in which  
23 the offender resides or temporarily resides for more than 10 days, any  
24 offender who has provided the information and completed and signed  
25 the registration form as required in K.S.A. 22-4905 and amendments  
26 thereto, shall verify with the sheriff of the county that the sheriff has  
27 received such offender's information and registration form.

28 (3) For persons required to register as provided in subsection (a)(1),  
29 the sheriff shall: (A) Explain the duty to register and the procedure for  
30 registration;

31 (B) obtain the information required for registration as provided in  
32 K.S.A. 22-4907 and amendments thereto;

33 (C) inform the offender that the offender must give written notice of  
34 any change of address within 10 days of a change in residence to the law  
35 enforcement agency where last registered and the Kansas bureau of  
36 investigation;

37 (D) inform the offender that if the offender changes residence to  
38 another state, the offender must inform the law enforcement agency  
39 where last registered and the Kansas bureau of investigation of such  
40 change in residence and must register in the new state within 10 days of  
such change in residence; and

41 (E) require the offender to read and sign the registration form which  
42 shall include a statement that the requirements provided in this subsec-  
43

tion have been explained to the offender.

(4) Such sheriff, within three days of receipt of the initial registration shall forward this information to the Kansas bureau of investigation.

(5) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act then all provisions of that act shall apply, except that the term of registration shall be controlled by such diversionary agreement or probation order or juvenile offender sentencing order.

(b) (1) If any person required to register as provided in this act changes the address of the person's residence, the offender, within 10 days, shall inform in writing the Kansas bureau of investigation of the new address.

(2) After receipt of the change of address the Kansas bureau of investigation shall forward this information to the law enforcement agency having jurisdiction of the new place of residence within 10 days of such receipt of the change of address.

(c) For any person required to register as provided in this act, every 90 days after the person's initial registration date during the period the person is required to register, the following applies:

(1) The Kansas bureau of investigation shall mail a nonforwardable verification form to the last reported address of the person.

(2) The person shall mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form.

(3) The verification form shall be signed by the person, and shall state that the person still resides at the address last reported to the Kansas bureau of investigation.

(4) If the person fails to mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form, the person shall be in violation of the Kansas offender registration act.

Nothing contained in this section shall be construed to alleviate any person required to register as provided in this act from meeting the requirements prescribed in subsection (a)(1), (a)(2) and (b)(1).

Sec. 2. K.S.A. 38-1568 is hereby amended to read as follows: 38-1568. (a) Valid court order. During proceedings under this code, the court may enter an order directing a child who is the subject of the proceedings to remain in a present or future placement if:

(1) The court makes a finding that the child has been adjudicated to be a child in need of care pursuant to: (A) Subsection (a)(9) or (a)(10) of K.S.A. 38-1502, and amendments thereto; or (B) any of the subsections (a)(1) through (a)(9) or (a)(8) or (a)(11) of K.S.A. 38-1502, and amendments thereto, and the court determines that the child is not likely to be available within the jurisdiction of the court for future proceedings;

, (a)(2) or (a)(6)

(a)(12)

1 (2) the child and the child's guardian *ad litem* are present before the  
2 court at the time the order is entered; and

3 (3) the child and the child's guardian *ad litem* are given adequate and  
4 fair warning, both orally and in writing, of the consequences of violation  
5 of the order and a copy of such warning is recorded in the official file of  
6 the case.

7 (b) *Application.* Any person may file with the court a verified appli-  
8 cation for a determination that a child has violated an order entered pur-  
9 suant to subsection (a) and for an order authorizing the holding of such  
10 child in a secure facility as provided by this section. Such application shall  
11 state the applicant's belief that the child has violated a valid court order  
12 entered pursuant to subsection (a) and the specific facts which are relied  
13 upon to support the belief.

14 (c) *Ex parte order.* Upon the filing of an application in accordance  
15 with subsection (b), the court may enter *ex parte* an order directing that  
16 the child be taken into custody and held in a secure ~~juvenile detention~~  
17 facility designated by the court if the court determines that there is prob- **strike**  
18 able cause to believe the allegations in the application. The order shall  
19 remain in effect for not more than 24 hours following the child's being  
20 taken into custody. The order shall be served on the child's parents, any  
21 legal custodian of the child and the child's guardian *ad litem*.

22 (d) *Preliminary hearing.* Within 24 hours following a child's being  
23 taken into custody pursuant to an order issued under subsection (c), the  
24 court shall hold a hearing to determine whether the child admits or denies  
25 the allegations of the application and, if the child denies such allegations,  
26 whether there is probable cause to hold the child in a secure facility  
27 pending a hearing on the application pursuant to subsection (e). Notice  
28 of the time and place of the preliminary hearing shall be given orally or  
29 in writing to the child's parents, any legal custodian of the child and the  
30 child's guardian *ad litem*. At the hearing, the child shall have the right to:  
31 (1) Have in writing the alleged violation and the facts relied upon in the  
32 application; (2) a guardian *ad litem* pursuant to K.S.A. 38-1505, and  
33 amendments thereto; and (3) the right to confront and present witnesses.  
34 If, upon the hearing, the court finds that the child admits the allegations  
35 of the application, the court shall proceed without delay to hold a hearing  
36 on the application pursuant to subsection (e). If, upon the hearing, the  
37 court finds that the child denies the allegations of the application, the  
38 court may enter an order directing that the child be held in a secure  
39 facility pending a hearing pursuant to subsection (e) if the court finds  
40 that there is probable cause to believe that the child has violated a valid  
41 court order entered pursuant to subsection (a) and that secure detention  
42 of the child is necessary for the protection of the child or to assure the  
43 appearance of the child at the hearing on the application pursuant to



1 subsection (e).

2 (e) *Hearing on violation of order; authorization.* The court shall hold  
3 a hearing on an application filed pursuant to subsection (b) within 24  
4 hours following the child's being taken into custody, if the child admits  
5 the allegations of the application, or within 72 hours following the child's  
6 being taken into custody, if secure detention of the child is ordered pur-  
7 suant to subsection (d). Notice of the time and place of such hearing shall  
8 be given orally or in writing to the child's parents, any legal custodian of  
9 the child and the child's guardian *ad litem*. Upon such hearing, the court  
10 may enter an order awarding custody of the child to the secretary, if the  
11 secretary does not have legal custody of the child, and authorizing the  
12 secretary to place the child in a secure ~~juvenile detention~~ facility or secure  
13 care facility if the court determines that:

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14 (1) *Determines that* the child has been adjudicated to be a child in  
15 need of care pursuant to subsection ~~(a)(9) or (a)(10)~~ of K.S.A. 38-1502,  
16 and amendments thereto;

(a)(1), (a)(2), (a)(6) through (a)(10) and  
(a)(12)

17 (2) *determines that* the child has violated a valid court order entered  
18 pursuant to subsection (a);

19 (3) *determines that* the child has been provided at the hearing with  
20 the right to: (A) Have the alleged violation in writing and served upon  
21 the child a reasonable time before the hearing; (B) a hearing before the  
22 court on the issue of placement in a secure facility; (C) an explanation of  
23 the nature and consequences of the proceeding; (D) a guardian *ad litem*  
24 pursuant to K.S.A. 38-1505, and amendments thereto; (E) confront and  
25 present witnesses; (F) have a transcript or record of the proceedings; and  
26 (G) appeal; and

27 (4) ~~there is no less restrictive alternative appropriate to the needs of~~  
28 ~~the juvenile and the community determines the reasons for the child's~~  
29 ~~behavior and determines whether all dispositions other than secure con-~~  
30 ~~finement have been exhausted or are clearly inappropriate, based on writ-~~  
31 ~~ten a report submitted by the secretary that reviews the behavior of the~~  
32 ~~child and the circumstances under which the child was brought before~~  
33 ~~the court and made subject to such order.~~

, if the child is in the custody of the  
secretary, or by a public agency independent of  
the court and law enforcement, if the child is  
in the custody of someone other than the  
secretary

34 ~~Nonoffenders shall not be placed in secure juvenile detention or secure~~  
35 ~~care facilities for violating a valid court order. For purposes of this sub-~~  
36 ~~section, nonoffenders means abused or neglected children.~~

37 The authorization to place a child in a ~~juvenile detention facility or a~~  
38 secure care facility pursuant to this subsection shall expire 60 days, in-  
39 cluding Saturdays, Sundays and legal holidays, after it is issued. The court  
40 may grant extensions of such authorization for two additional periods not  
41 exceeding 60 days, including Saturdays, Sundays and legal holidays, upon  
42 rehearing pursuant to K.S.A. 38-1564, and amendments thereto. Payment  
43 by the secretary to a secure facility for child care services provided pur-

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1 suant to this subsection shall be paid only upon receipt by the secretary  
2 of a copy of a valid court order.

3 (f) *Limitations on facilities used.* Nothing in this section shall author-  
4 ize placement of a child in a juvenile detention facility, except that a child  
5 may be held in any such facility which, if in an adult jail, is in quarters  
6 separated by sight and sound from adult prisoners.

7 ~~(1) When ordered by a court pursuant to subsection (c) or (d), for~~  
8 ~~not longer than the times permitted by those subsections, or~~

9 ~~(2) when ordered by a court pursuant to subsection (c), for not more~~  
10 ~~than 24 hours following the hearing provided for by that subsection, ex-~~  
11 ~~cept that nothing in this subsection shall allow a child to be held in an~~  
12 ~~adult jail for more than 24 hours in an adult jail or lockup. Secure place-~~  
13 ~~ment is limited to juvenile detention facilities or secure care facilities.~~

14 (g) *Time limits, computation.* Except as otherwise specifically pro-  
15 vided by subsection (e), Saturdays, Sundays and legal holidays shall not  
16 be counted in computing any time limit imposed by this section.

17 (h) This section shall be part of and supplemental to the Kansas code  
18 for care of children.

19 Sec. 3. K.S.A. 1999 Supp. 38-1673 is hereby amended to read as  
20 follows: 38-1673. (a) When a juvenile offender has satisfactorily com-  
21 pleted such offender's term of incarceration at the juvenile correctional  
22 facility to which the juvenile offender was committed or placed, the per-  
23 son in charge of the juvenile correctional facility shall have authority to  
24 release the juvenile offender under appropriate conditions and for a spec-  
25 ified period of time. Prior to release from a juvenile correctional facility,  
26 the commissioner shall consider any recommendations made by the ju-  
27 venile offender's juvenile community corrections community case man-  
28 agement officer.

29 (b) At least ~~15~~ 10 days prior to releasing a juvenile offender as pro-  
30 vided in subsection (a), the person in charge of the juvenile correctional  
31 facility shall notify the committing court and the county or district attor-  
32 ney of the county where the offender was adjudicated a juvenile offender  
33 of the date and conditions upon which it is proposed the juvenile offender  
34 is to be released. *If such juvenile offender's offense would have constituted*  
35 *an off-grid felony, nondrug felony crime ranked at severity level 1, 2, 3,*  
36 *4 or 5, or a drug felony crime ranked at severity level 1, 2 or 3, on or*  
37 *after July 1, 1993, if committed by an adult, the county or district attorney*  
38 *shall give written notice at least five days prior to the release of the juvenile*  
39 *offender to: (1) Any victim of the juvenile offender's crime who is alive*  
40 *and whose address is known to the court or, if the victim is deceased, to*  
41 *the victim's family if the family's address is known to the court; (2) the*  
42 *local law enforcement agency; and (3) the school district in which the*  
43 *juvenile offender will be residing if the juvenile is still required to attend*

delete

1 a secondary school. Failure to notify pursuant to this section shall not be  
2 a reason to postpone a release. Nothing in this section shall create a cause  
3 of action against the state or county or an employee of the state or county  
4 acting within the scope of the employee's employment as a result of the  
5 failure to notify pursuant to this section.

6 (c) Upon receipt of the notice required by subsection (b), the court  
7 shall review the proposed conditions of release and may recommend  
8 modifications or additions to the conditions.

9 (d) If, during the conditional release, the juvenile offender is not re-  
10 turning to the county from which committed, the person in charge of the  
11 juvenile correctional facility shall also give notice to the court of the  
12 county in which the juvenile offender is to be residing.

13 (e) To assure compliance with conditions of release from a juvenile  
14 correctional facility, the commissioner shall have the authority to pre-  
15 scribe the manner in which compliance with the conditions shall be su-  
16 pervised. When requested by the commissioner, the appropriate court  
17 may assist in supervising compliance with the conditions of release during  
18 the term of the conditional release. The commissioner may require the  
19 parents or guardians of the juvenile offender to cooperate and participate  
20 with the conditions of release.

21 (f) For acts committed before July 1, 1999, the juvenile justice au-  
22 thority shall notify at least 45 days prior to the discharge of the juvenile  
23 offender the county or district attorney of the county where the offender  
24 was adjudicated a juvenile offender of the release of such juvenile of-  
25 fender, if such juvenile offender's offense would have constituted a class  
26 A, B or C felony before July 1, 1993, or an off-grid felony, a nondrug  
27 crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime ranked at  
28 severity level 1, 2 or 3, on or after July 1, 1993, if committed by an adult.  
29 The county or district attorney shall give written notice at least 30 days  
30 prior to the release of the juvenile offender to: (1) Any victim of the  
31 juvenile offender's crime who is alive and whose address is known to the  
32 court or, if the victim is deceased, to the victim's family if the family's  
33 address is known to the court; (2) the local law enforcement agency; and  
34 (3) the school district in which the juvenile offender will be residing if  
35 the juvenile is still required to attend a secondary school. Failure to notify  
36 pursuant to this section shall not be a reason to postpone a release. Noth-  
37 ing in this section shall create a cause of action against the state or county  
38 or an employee of the state or county acting within the scope of the  
39 employee's employment as a result of the failure to notify pursuant to  
40 this section.

41 (g) Conditional release programs shall include, but not be limited to,  
42 the treatment options of aftercare services.

43 Sec. 4. K.S.A. 1999 Supp. 38-1674 is hereby amended to read as

*Dr. Gurd*  
*3-13-00*  
*Att 10*

1 suant to this subsection shall be paid only upon receipt by the secretary  
2 of a copy of a valid court order.

3 (f) *Limitations on facilities used.* Nothing in this section shall author-  
4 ize placement of a child in a juvenile detention facility, except that a child  
5 may be held in any such facility which, if in an adult jail, is in quarters  
6 separated by sight and sound from adult prisoners:

7 ~~(1) When ordered by a court pursuant to subsection (c) or (d), for~~  
8 ~~not longer than the times permitted by those subsections, or~~

9 ~~(2) when ordered by a court pursuant to subsection (c), for not more~~  
10 ~~than 24 hours following the hearing provided for by that subsection, ex-~~  
11 ~~cept that nothing in this subsection shall allow a child to be held in an~~  
12 ~~adult jail for more than 24 hours in an adult jail or lockup. Secure place-~~  
13 ~~ment is limited to juvenile detention facilities or secure care facilities.~~

14 (g) *Time limits, computation.* Except as otherwise specifically pro-  
15 vided by subsection (e), Saturdays, Sundays and legal holidays shall not  
16 be counted in computing any time limit imposed by this section.

17 (h) This section shall be part of and supplemental to the Kansas code  
18 for care of children.

19 Sec. 3. K.S.A. 1999 Supp. 38-1673 is hereby amended to read as  
20 follows: 38-1673. (a) When a juvenile offender has satisfactorily com-  
21 pleted such offender's term of incarceration at the juvenile correctional  
22 facility to which the juvenile offender was committed or placed, the per-  
23 son in charge of the juvenile correctional facility shall have authority to  
24 release the juvenile offender under appropriate conditions and for a spec-  
25 ified period of time. Prior to release from a juvenile correctional facility,  
26 the commissioner shall consider any recommendations made by the ju-  
27 venile offender's ~~juvenile community corrections~~ *community case man-*  
28 *agement officer.*

29 (b) At least ~~15~~ 10 days prior to releasing a juvenile offender as pro-  
30 vided in subsection (a), the person in charge of the juvenile correctional  
31 facility shall notify the committing court ~~and the county or district attor-~~  
32 ~~ney of the county where the offender was adjudicated a juvenile offender~~  
33 ~~of the date and conditions upon which it is proposed the juvenile offender~~  
34 ~~is to be released. If such juvenile offender's offense would have constituted~~  
35 ~~an off-grid felony, nondrug felony crime ranked at severity level 1, 2, 3,~~  
36 ~~4 or 5, or a drug felony crime ranked at severity level 1, 2 or 3, on or~~  
37 ~~after July 1, 1993, if committed by an adult, the county or district attorney~~  
38 ~~shall give written notice at least five days prior to the release of the juvenile~~  
39 ~~offender to: (1) Any victim of the juvenile offender's crime who is alive~~  
40 ~~and whose address is known to the court or, if the victim is deceased, to~~  
41 ~~the victim's family if the family's address is known to the court; (2) the~~  
42 ~~local law enforcement agency, and (3) the school district in which the~~  
43 ~~juvenile offender will be residing if the juvenile is still required to attend~~

The person in charge of the juvenile correctional facility shall notify the school district in which the juvenile offender will be residing if the juvenile is still required to attend a secondary school. Such notification to the school shall include name of the juvenile offender, address upon release, contact person with whom the juvenile offender will be residing with upon release, anticipated date of release, anticipated date of enrollment in school, name and phone number of case worker, crime(s) of adjudication if not confidential based upon other statutes, conditions of release, and any other information the commissioner thinks the school should be aware of. To ensure the educational success of the student, the community case manager or a representative from the residential facility where the juvenile offender will reside will contact the principal of the receiving school in a timely manner to review the juvenile offender's case.

and

the person in charge of the juvenile correctional facility shall notify the county or district attorney of the county where the offender was adjudicated a juvenile offender of the date and conditions upon which it is proposed the juvenile offender is to be released.

1 ~~a secondary school. Failure to notify pursuant to this section shall not be~~  
 2 ~~a reason to postpone a release. Nothing in this section shall create a cause~~  
 3 ~~of action against the state or county or an employee of the state or county~~  
 4 ~~acting within the scope of the employee's employment as a result of the~~  
 5 ~~failure to notify pursuant to this section.~~

6 (c) Upon receipt of the notice required by subsection (b), the court  
 7 shall review the proposed conditions of release and may recommend  
 8 modifications or additions to the conditions.

9 (d) If, during the conditional release, the juvenile offender is not re-  
 10 turning to the county from which committed, the person in charge of the  
 11 juvenile correctional facility shall also give notice to the court of the  
 12 county in which the juvenile offender is to be residing.

13 (e) To assure compliance with conditions of release from a juvenile  
 14 correctional facility, the commissioner shall have the authority to pre-  
 15 scribe the manner in which compliance with the conditions shall be su-  
 16 pervised. When requested by the commissioner, the appropriate court  
 17 may assist in supervising compliance with the conditions of release during  
 18 the term of the conditional release. The commissioner may require the  
 19 parents or guardians of the juvenile offender to cooperate and participate  
 20 with the conditions of release.

21 (f) *For acts committed before July 1, 1999*, the juvenile justice au-  
 22 thority shall notify at least 45 days prior to the discharge of the juvenile  
 23 offender the county or district attorney of the county where the offender  
 24 was adjudicated a juvenile offender of the release of such juvenile of-  
 25 fender, if such juvenile offender's offense would have constituted a class  
 26 A, B or C felony before July 1, 1993, or an off-grid felony, a nondrug  
 27 crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime ranked at  
 28 severity level 1, 2 or 3, on or after July 1, 1993, if committed by an adult.  
 29 The county or district attorney shall give written notice at least 30 days  
 30 prior to the release of the juvenile offender to: (1) Any victim of the  
 31 juvenile offender's crime who is alive and whose address is known to the  
 32 court or, if the victim is deceased, to the victim's family if the family's  
 33 address is known to the court; <sup>and</sup> (2) the local law enforcement agency; ~~and~~  
 34 ~~(3) the school district in which the juvenile offender will be residing if~~  
 35 ~~the juvenile is still required to attend a secondary school. Failure to notify~~  
 36 ~~pursuant to this section shall not be a reason to postpone a release. Noth-~~  
 37 ~~ing in this section shall create a cause of action against the state or county~~  
 38 ~~or an employee of the state or county acting within the scope of the~~  
 39 ~~employee's employment as a result of the failure to notify pursuant to~~  
 40 ~~this section.~~

41 (g) Conditional release programs shall include, but not be limited to,  
 42 the treatment options of aftercare services.

43 Sec. 4. K.S.A. 1999 Supp. 38-1674 is hereby amended to read as



1 follows: 38-1674. If it is alleged that a juvenile offender who has been  
2 conditionally released from a juvenile correctional facility has failed to  
3 obey the specified conditions of release, any officer assigned to supervise  
4 compliance with the conditions of release or the county or district attor-  
5 ney may file a motion with the committing court or the court of the county  
6 in which the juvenile offender is residing. The motion shall describe the  
7 alleged violation and request a hearing thereon. The court shall then  
8 proceed in the same manner and under the same procedure as provided  
9 for a hearing on a complaint filed under this code. If the court finds that  
10 a condition of release has been violated, the court may modify or impose  
11 additional conditions of release that the court considers appropriate, ~~ex-~~  
12 ~~tend the term of the conditional release or order that the juvenile offender~~  
13 ~~be returned to the juvenile correctional facility until discharged by the~~  
14 ~~commissioner as determined by the placement matrix and the court's~~  
15 ~~determination of the specified term of incarceration to serve the condi-~~  
16 ~~tional release revocation incarceration and after care term set by the court~~  
17 ~~pursuant to the placement matrix as provided in K.S.A. 1999 Supp. 38-~~  
18 ~~16,129, and amendments thereto.~~

19 Sec. 5. K.S.A. 1999 Supp. 38-1675 is hereby amended to read as  
20 follows: 38-1675. (a) Unless a juvenile is sentenced pursuant to an ex-  
21 tended jurisdiction juvenile prosecution upon court order, and the com-  
22 missioner transfers the juvenile offender to the custody of the secretary  
23 of corrections, when a juvenile offender has reached the age 23 years or  
24 has completed the prescribed term of incarceration at a juvenile correc-  
25 tional facility together with any conditional release following the program,  
26 the commissioner shall discharge the juvenile offender from any further  
27 obligation under the commitment. The discharge shall operate as a full  
28 and complete release from any obligations imposed on the juvenile of-  
29 fender arising from the offense for which the juvenile offender was  
30 committed.

31 (b) *For acts committed before July 1, 1999*, at least 45 days prior to  
32 the discharge of the juvenile offender, the juvenile justice authority shall  
33 notify the court and the county or district attorney of the county where  
34 the offender was adjudicated a juvenile offender of the discharge of such  
35 juvenile offender, if such juvenile offender's offense would have consti-  
36 tuted a class A, B or C felony before July 1, 1993, or an off-grid felony,  
37 a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime  
38 ranked at severity level 1, 2 or 3, on or after July 1, 1993, if committed  
39 by an adult. The county or district attorney shall give written notice at  
40 least 30 days prior to the discharge of the juvenile offender to: (1) Any  
41 victim of the juvenile offender's crime who is alive and whose address is  
42 known to the court or, if the victim is deceased, to the victim's family if  
43 the family's address is known to the court; ~~(2) the local law enforcement~~

and

1 agency, and (3) the school district in which the juvenile offender will be  
2 residing if the juvenile is still required to attend a secondary school. Fail-  
3 ure to notify pursuant to this section shall not be a reason to postpone a  
4 discharge. Nothing in this section shall create a cause of action against  
5 the state or county or an employee of the state or county acting within  
6 the scope of the employee's employment as a result of the failure to notify  
7 pursuant to this section.

8 Sec. 6. K.S.A. 1999 Supp. 38-1676 is hereby amended to read as  
9 follows: 38-1676. (a) *For acts committed before July 1, 1999*, if a juvenile  
10 offender has committed an act which, if committed by a person 18 years  
11 of age or over, would constitute a class A or B felony, if the offense was  
12 committed before July 1, 1993, or an off-grid felony, a nondrug crime  
13 ranked at severity level 1, 2 or 3 or a drug crime ranked at severity level  
14 1 or 2, if the offense was committed on or after July 1, 1993, and such  
15 juvenile offender is to be released, 45 days before release, the commis-  
16 sioner shall notify the county attorney or district attorney, the court, the  
17 local law enforcement agency, and the school district in which the juvenile  
18 offender will be residing if the juvenile is still required to attend a sec-  
19 ondary school, of such pending release. The county attorney, district at-  
20 torney or the court on its own motion may file a motion with the court  
21 for a hearing to determine if the juvenile offender should be retained in  
22 the custody of the commissioner, pursuant to K.S.A. 38-1675, and amend-  
23 ments thereto. The court shall fix a time and place for hearing and shall  
24 notify each party of the time and place.

25 (b) Following the hearing if the court orders for the commissioner to  
26 retain custody, the juvenile offender shall not be held in a juvenile cor-  
27 rectional facility for longer than the maximum term of imprisonment  
28 which could be imposed upon an adult convicted of the offense or of-  
29 fenses which the juvenile offender has been adjudicated to have  
30 committed.

31 (c) As used in this section, "maximum term of imprisonment" means  
32 the greatest maximum sentence authorized by K.S.A. 21-4501 and  
33 amendments thereto, applying any enhanced penalty which would be  
34 applicable under K.S.A. 21-4504 and amendments thereto and computing  
35 terms as consecutive when required by K.S.A. 21-4608 and amendments  
36 thereto.

37 (d) This section shall be part of and supplemental to the Kansas ju-  
38 venile justice code.

39 Sec. 7. K.S.A. 1999 Supp. 38-1691 is hereby amended to read as  
40 follows: 38-1691. (a) On and after January 1, 1993, no juvenile shall be  
41 detained or placed in any jail pursuant to the Kansas juvenile justice code  
42 except as provided by subsections (b), (c) and (d).

43 (b) Upon being taken into custody, an alleged juvenile offender may

55nd  
3-13  
Att 11

**Senator Vratil's Senate Judiciary Subcommittee**  
**March 7, 2000**  
**HB 2879 and SB 559**

1. HB 2879 would enact the Kansas Electronic Signature Act. SB 559, which is in the House Judiciary Committee, would enact the Uniform Electronic Transfers Act. The charge to the subcommittee was to determine if these two bills conflicted in any way and whether the bills should be combined into one bill.

Conferees: Matthew Goddard, Heartland Community Bankers Association, expressed several concerns with HB 2879 *e.g.*, Section 4 may provide the use of electronic signatures is not voluntary. See attachment 1. Debra Lulig, Information Network of Kansas, supported HB 2879 saying this bill provided some elements missing from SB 559 such as a higher authorization standard by use of digital signatures, by setting a minimum standard for electronic signatures by registering independent third parties that authenticate individuals and issue digital signatures and other changes. See Attachment 2. Attached to her testimony is a list of items covered by HB 2879 but not covered in SB 559. Janet Chubb, Secretary of State's Office, said Section 5 of HB 2879 needed to remain in this bill. It was stricken in the House.

Gayle Bright, Assistant Attorney General in the Consumer Protection Division, expressed concern about several sections of HB 2879 and included as part of her testimony suggested amendments. See Attachment 3.

Kyle Smith, Assistant Attorney General with the Kansas Bureau of Investigation submitted to the Revisor a suggested bill draft combining both bills.

Subcommittee action. The Subcommittee agreed:

- Add SB 559 to HB 2879 and accomplish this by a substitute bill;
- Use the definition of "person" in SB 559;
- Reinsert section 5 of HB 2879 if it is not already covered by section 5(e) of SB 559;
- Amend language in sections 5 through 8 in HB 2879 to substitute "person" for "state agency"; and
- Change penalties in HB 2879 to violation of specific sections of that bill.

To: Senate Judiciary Committee Subcommittee

From: Matthew Goddard  
Heartland Community Bankers Association

Date: March 8, 2000

Re: HB 2879 and SB 559

The Heartland Community Bankers Association appreciates the opportunity to appear before this subcommittee of the Senate Judiciary Committee to share our concern about language in House Bill 2879. We have no concerns with Senate Bill 559.

As financial institutions and other businesses become active players in the world of electronic commerce, it is important that laws promote and safeguard e-commerce, not stifle it. The legal acceptance of electronic signatures is crucial in making digital transactions more common.

We are concerned, however, that HB 2879 is ambiguous in Section 4 when the bill recognizes electronic signatures with the same legal effect as written signatures. Our reading of Section 4 is that the use of electronic signatures would not be voluntary under HB 2879. If one party to a transaction submitted an electronic signature, the other party or parties would be forced to accept the electronic signature as legal and valid.

Many businesses, including some of our membership, are not yet equipped to accept electronic or digital signatures. In addition, business relationships may exist with entities outside of Kansas that do not recognize them as legally binding. In testimony before the House Judiciary Committee, supporters of HB 2879 said the bill would not force someone to accept an electronic signature. We would respectfully disagree with that opinion.

It should be noted that two bills passed by their respective houses of Congress, HR 1714 and S 761, state that the use of electronic signatures is at the discretion of the parties to a transaction. The Kansas legislature's own Senate Bill 559, already passed by the Senate, includes in Section 5 an explicit statement that the Uniform Electronic Transactions Act applies only to transactions where the parties involved agree to conduct the transaction by electronic means. The Kansas Digital Signature Act, K.S.A. 1999 Supp. 60-2616, also leaves the use of a digital signature to the discretion of the involved parties.

HCBA would respectfully request that, if HB 2879 and SB 559 are in some way combined, the language of SB 559's Section 5 be preserved. If the subcommittee opts to keep the two bills separate, HCBA would respectfully request that Section 5 of SB 559 be amended into HB 2879.

Thank you.

#2

TESTIMONY – Electronic Commerce Workgroup

March 8, 2000  
Judiciary Subcommittee  
HB 2879 & SB 559

Presented by: Debra Luling, General Manager, *Information Network of Kansas*;  
Chairman, *Kansas Electronic Commerce Work Group*

Thank you for the opportunity to speak to you today regarding House Bill 2879 and Senate Bill 559

The Kansas Electronic Commerce Work Group studied electronic and digital signatures for more than eight months prior to drafting HB 2879.

Although there are many overlapping elements in both HB 2879 and SB 559 it is imperative this subcommittee understands the variances between the two bills. As a committee, our group is generally supportive of SB 559, however some elements are missing which are crucial for the development of a secure technology infrastructure in Kansas. We believe these bills may be merged to provide the ultimate, secure electronic commerce solution for Kansas.

1. SB 559 allows electronic signatures of any security level to be the equivalent of handwritten signature, irrespective of type of identification or authentication that was used. Merely using any electronic signature will not protect the consumer. There must be a higher standard in Cyberspace.
2. SB 559 allows the use of a low-level electronic signature to rise to the integrity level of a notarized signature. Only a "digital signature" should have that affect due to the rigorous identification and authentication process one must go through to establish their identity.
3. SB 559 does not establish any standard for electronic signatures. An "X" on an e-mail message will satisfy the definition of an "electronic signature" under SB 559. Without a minimum standard for electronic signatures, each state and/or local agency may set differing standards that may be inconsistent with the level of risk and liabilities associated with the transaction.

Language in HB 2879 will resolve all of these concerns by:

1. Setting a higher authentication standard by the use of digital signatures, thus promoting the public confidence in privacy, integrity & reliability of electronic records and electronic commerce
2. Setting a minimum standard for electronic signatures and by registering the independent third party entities (CAs) that identify and authenticate individuals and issues digital signatures.
3. Defining a procedural and technology infrastructure.

We would like to recommend adding language from 2879 into SB 559. Please refer to attached documentation for specific proposed language.



**TESTIMONY – ATTACHMENT  
Electronic Commerce Workgroup**

March 8, 2000  
Judiciary Subcommittee  
HB 2879 & SB 559

Presented by: Debra Luling, General Manager, *Information Network of Kansas*;  
Chairman, *Kansas Electronic Commerce Work Group*

In order to successfully implement an electronic signature infrastructure in Kansas it is imperative we include provisions for "Digital Signatures"

Digital Signatures are, most fundamentally, a more secure type of electronic signature. A successful merger of HB 2879 and SB 559 must include the following attributes from HB 2879

**Under HB 2879 Definitions:**

32 (a) "Digital signature" means a type of electronic signature consisting  
33 of a transformation of an electronic message using an asymmetric crypto  
34 system such that a person having the initial message and the signer's  
35 public key can accurately determine whether:

36 (1) The transformation was created using the private key that corre-  
37 sponds to the signer's public key; and

38 (2) the initial message has not been altered since the transformation  
39 was made.

10 (f) "Registered certification authority" means a person providing cer-  
11 tification of a digital signature who is, or is certified by, a member of the  
12 group of certification authorities approved by and registered with the  
13 secretary.

14 (g) "Secretary" means the Kansas secretary of state.

**Section Five: ensures that we do not harm state agencies currently utilizing electronic signatures.**

28 Sec. 6. 5. (a) This act does not require any state agency to use or  
29 permit the use of electronic or digital signatures.

30 (b) Any state agency may adopt rules and regulations governing the  
31 agency's use of electronic or digital signatures as long as the rules and  
32 regulations meet or exceed those adopted by the secretary.

**Section Six: This section is critical to the development of the technology, security and public safety infrastructure necessary for the more highly evolved and secure "digital signature"**

*[Handwritten initials]*



State of Kansas

# Office of the Attorney General

## CONSUMER PROTECTION/ANTITRUST DIVISION

120 S.W. 10TH AVENUE, 2ND FLOOR, TOPEKA, KANSAS 66612-1597  
PHONE: (785) 296-3751 FAX: 291-3699

CARLA J. STOVALL  
ATTORNEY GENERAL

Testimony of  
Gail E. Bright, Assistant Attorney General  
Consumer Protection Division  
Office of Attorney General Carla J. Stovall  
Before the Senate Subcommittee  
RE: HB 2879  
March 8, 2000

CONSUMER HOTLINE  
1-800-432-2310

Chairperson Vratil and Members of the Committee:

Thank you for the opportunity to appear on behalf of Attorney General Carla J. Stovall today in regard to HB 2879. My name is Gail Bright and I am an Assistant Attorney General for Consumer Protection.

First, let me say that Attorney General Stovall is not opposed to the progress of technology in the global marketplace. It is universally accepted that computers and the Internet are here to stay. While applauding the increasing trends of e-commerce, e-marketing, and e-banking for the convenience of consumers, we must not allow the traditional concept of consumer protection to be lost in cyberspace. Otherwise, we are apt to end up with an equal amount of e-scams. As I understand the concept of digital signatures, and its use of private and public keys, it can be viewed as a secure wave of the future.

However, the concern of the Attorney General lies in Section 4 generally and subsection (c) specifically. Subsection (c) reads "[i]f a law requires a record to be in writing, an electronic record satisfies the law." This is an incredibly broad statement that could include eviction and foreclosure notices, three-day cancellation notices, utility shut-off notices, etc. We have yet to achieve the point where all e-mail sent arrives at its proper destination. At times, I am sure we have all lost something in cyberspace. The question for this Subcommittee is whether you want to allow, by law, a notice to have legal effect when it is never received by the individual to whom it is addressed.

Perhaps you might think our office is being overly protective in regard to these matters. However, the Consumer Protection Division receives more than 7,200 complaints per year and a large majority of them relate to a written document. I would anticipate future complaints from consumers who lost property or services when they did not receive the electronic notice.

Attached to my testimony are two proposed amendments. The first relates to the definition of "electronic record" (p. 1; lines 40-41). The suggested language would remove notices required by law from the definition. The second amendment, found at page 2, line 25, would require a

separate express acknowledgment from the consumer to consent to electronic notices when the underlying contract is "non-electronic," e.g., the purchase of a television at the local discount electronics store.

Finally, we would also ask that Section 5, which was removed by the House Judiciary Committee, be reinserted. It is important that consumer protection laws still apply in these transactions. As we attempt to keep current with the fast-moving age of technology, let us not forget the need for continued consumer protection.

On behalf of Attorney General Stovall, I urge you to carefully consider this bill and to make the requested amendments before recommending passage. I would be happy to answer questions of the Chair or any member of the Subcommittee.

Session of 2000

HOUSE BILL No. 2879

By Joint Committee on Information Technology

2-7

10 AN ACT concerning ~~electrie~~ electronic signatures; enacting the Kansas  
11 electronic signatures act; repealing K.S.A. 1999 Supp. 60-2616.  
12

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

14 Section 1. This act shall be known and may be cited as the Kansas  
15 electronic signatures act.

16 ~~Sec. 2. The provisions of this act shall be construed to enable the~~  
17 ~~development of electronic government and electronic commerce for the~~  
18 ~~benefit of the state of Kansas and its citizens, businesses and industries~~  
19 ~~and to:~~

20 (a) Facilitate electronic communications by means of reliable elec-  
21 tronic records;

22 (b) facilitate electronic transactions of documents with state and local  
23 government agencies and promote the efficient delivery of government  
24 services by means of reliable electronic records;

25 (c) minimize the incidence of forged electronic records and fraud in  
26 electronic commerce;

27 (d) establish uniformity of rules and regulations regarding the au-  
28 thentication and integrity of electronic records; and

29 (e) promote public confidence in the privacy, integrity and reliability  
30 of electronic records and electronic commerce.

31 Sec. 3. As used in this act:

32 (a) "Digital signature" means a type of electronic signature consisting  
33 of a transformation of an electronic message using an asymmetric crypto  
34 system such that a person having the initial message and the signer's  
35 public key can accurately determine whether:

36 (1) The transformation was created using the private key that corre-  
37 sponds to the signer's public key; and

38 (2) the initial message has not been altered since the transformation  
39 was made.

40 (b) "Electronic record" means a record created, generated, sent,  
41 communicated, received or stored by electronic means.

42 (c) "Electronic signature" means an ~~electronic~~ sound, symbol or pro-  
43 cess attached to or logically associated with an electronic record and ex-

*but does not include any notice required by law, including, but not limited to, notice of cancellation or where failure to respond could result in loss of service or property.*

1 ecuted or adopted by a person with the intent to sign the electronic  
2 record.

3 (d) "Message" means a digital representation of information.

4 (e) "Person" means ~~a human being or any organization capable of~~  
5 ~~signing documents and being legally bound by those documents. A person~~  
6 ~~may be an individual, body politic or legal entity~~ any individual, cor-  
7 ~~poration, partnership, firm, company or other association of per-~~  
8 ~~sons, and such term shall include the state of Kansas and any of its~~  
9 ~~political subdivisions.~~

10 (f) "Registered certification authority" means a person providing cer-  
11 tification of a digital signature who is, or is certified by, a member of the  
12 group of certification authorities approved by and registered with the  
13 secretary.

14 (g) "Secretary" means the Kansas secretary of state.

15 (h) "Transaction" means an action or set of actions occurring between  
16 two or more persons relating to the conduct of business, commercial or  
17 governmental affairs.

18 Sec. 4. (a) A record or signature may not be denied legal effect or  
19 enforceability solely because it is in electronic form.

20 (b) A contract may not be denied legal effect or enforceability solely  
21 because an electronic record was used in its formation.

22 (c) If a law requires a record to be in writing, an electronic record  
23 satisfies the law.

24 (d) If a law requires a signature, an electronic signature satisfies the  
25 law.

26 ~~Sec. 5. Any transaction subject to this act is also subject to other~~  
27 ~~applicable substantive law.~~

28 Sec. ~~6-5~~. (a) This act does not require any state agency to use or  
29 permit the use of electronic or digital signatures.

30 (b) Any state agency may adopt rules and regulations governing the  
31 agency's use of electronic or digital signatures as long as the rules and  
32 regulations meet or exceed those adopted by the secretary.

33 Sec. ~~7-6~~. (a) Any person, before entering upon the duties of a reg-  
34 istered certification authority, shall:

35 (1) Register with the secretary on forms approved and provided by  
36 the secretary;

37 (2) pay to the secretary an annual filing fee of \$1,000;

38 (3) file with the secretary a good and sufficient surety bond, certifi-  
39 cate of insurance or other evidence of financial security in the amount of  
40 \$100,000; and

41 (4) be approved by the secretary as meeting the requirements of any  
42 rules and regulations adopted by the secretary, as the secretary deter-  
43 mines appropriate, to ensure the person's financial responsibility and con-

*(e) In the case of a non-electronic consumer contract or agreement, the contract or agreement may not contain a provision authorizing the conducting of the transaction or any part thereof by electronic means unless the consumer agrees to such a provision by a separate and express acknowledgment. Such an agreement shall specifically indicate the parts of the transaction to be conducted by electronic means, and shall indicate the manner in which the electronic transaction or a part thereof shall be conducted. An agreement to conduct a consumer transaction or part thereof electronically may not be inferred solely from the fact that the consumer has used electronic means to pay an account or register a purchase or warranty. This subsection may not be varied by agreement.*

*Sec. 5. Any transaction subject to this act is also subject to other applicable substantive law.*



1 dition, character, qualifications and fitness to be a registered certification  
2 authority.

3 (b) A registered certification authority shall create, maintain and pre-  
4 serve all records that are necessary to demonstrate compliance with rules  
5 and regulations adopted by the secretary.

6 (c) If any person who is approved and registered with the secretary  
7 as a registered certification authority fails to maintain any of the qualifi-  
8 cations listed in subsection (a) and (b) or otherwise required by rules and  
9 regulations of the secretary, the person's registration shall be deemed  
10 lapsed.

11 (d) Any person who violates or fails to comply with this act and the  
12 rules and regulations of the secretary, upon notice and hearing, shall be  
13 subject to a civil penalty not to exceed \$10,000 per failure or violation.

14 ~~Sec. 7.~~ The secretary may adopt rules and regulations to imple-  
15 ment the provisions of this act.

16 ~~Sec. 8.~~ The secretary shall have the authority to establish reci-  
17 procity with other states and nations for purposes of this act.

18 ~~Sec. 9.~~ K.S.A. 60-2616 is hereby repealed.

19 ~~Sec. 10.~~ This act shall take effect and be in force from and after  
20 its publication in the statute book.

DRAFT

**Senator Vratil Senate Judiciary Subcommittee**  
**March 7, 2000**  
**HB 2879 and SB 559**

1. HB 2879 would enact the Kansas Electronic Signature Act. SB 559, which is in the House Judiciary Committee, would enact the Uniform Electronic Transfers Act. The charge to the subcommittee was to determine if these two bills conflicted in any way and whether the bills should be combined into one bill.

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Kyle Smith, Assistant Attorney General with the Kansas Bureau of Investigation submitted to the Revisor a suggested bill draft combining both bills.

Subcommittee action. The Subcommittee agreed:

1. Add SB 559 to HB 2879 and accomplish this by a substitute bill.
2. Use the definition of "person" in SB 559.
3. Reinsert section 5 of HB 2879 if it is not already covered by section 5(e) of SB 559.
4. Amend language in sections 5 through 8 in HB 2879 to substitute "person" for "state agency".
5. Change penalties in HB 2879 to violation of specific sections of that bill.

Sen Jud  
3-13-00  
Att 12

SENATE BILL No. 559

By Committee on Judiciary

Proposed Subcommittee Amendments to Senate Bill No. 559

2-2

10 AN ACT concerning electronic transfers; repealing K.S.A. 1999 Supp.  
11 60-2616

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

14 Section 1. This act shall be known and may be cited as the uniform  
15 electronic transactions act.

16 Sec. 2. In this act:

17 (1) "Agreement" means the bargain of the parties in fact, as found in  
18 their language or inferred from other circumstances and from rules, reg-  
19 ulations, and procedures given the effect of agreements under laws oth-  
20 erwise applicable to a particular transaction.

21 (2) "Automated transaction" means a transaction conducted or per-  
22 formed, in whole or in part, by electronic means or electronic records, in  
23 which the acts or records of one or both parties are not reviewed by an  
24 individual in the ordinary course in forming a contract, performing under  
25 an existing contract or fulfilling an obligation required by the transaction.

26 (3) "Computer program" means a set of statements or instructions to  
27 be used directly or indirectly in an information processing system in order  
28 to bring about a certain result.

29 (4) "Contract" means the total legal obligation resulting from the par-  
30 ties' agreement as affected by this act and other applicable law.

31 [(5)] "Electronic" means relating to technology having electrical, dig-  
32 ital, magnetic, wireless, optical, electromagnetic or similar capabilities.

33 [(6)] "Electronic agent" means a computer program or an electronic  
34 or other automated means used independently to initiate an action or  
35 respond to electronic records or performances in whole or in part, without  
36 review or action by an individual.

37 [(7)] "Electronic record" means a record created, generated, sent,  
38 communicated, received or stored by electronic means.

39 [(8)] "Electronic signature" means an electronic sound, symbol or proc-  
40 ess attached to or logically associated with a record and executed or  
41 adopted by a person with the intent to sign the record.

42 [(9)] "Governmental agency" means an executive, legislative, or judicial  
43 agency, department, board, commission, authority, institution or instru-

(5) "Digital signature" means a type of electronic signature consisting of a transformation of an electronic message using an asymmetric crypto system such that a person having the initial message and the signer's public key can accurately determine whether:  
(1) The transformation was created using the private key that corresponds to the signer's public key; and  
(2) the initial message has not been altered since the transformation was made.

And by renumbering subsections accordingly

1 mentality of the federal government or of a state or of a county, munic-  
 2 ipality or other political subdivision of a state.

3 [(10)] "Information" means data, text, images, sounds, codes, com-  
 4 puter programs, software, databases or the like.

5 [(11)] "Information processing system" means an electronic system for  
 6 creating, generating, sending, receiving, storing, displaying or processing  
 7 information.

8 [(12)] "Person" means an individual, corporation, business trust, estate,  
 9 trust, partnership, limited liability company, association, joint venture,  
 10 governmental agency, public corporation or any other legal or commercial  
 11 entity.

12 [(13)] "Record" means information that is inscribed on a tangible me-  
 13 dium or that is stored in an electronic or other medium and is retrievable  
 14 in perceivable form.

15 [(14)] "Security procedure" means a procedure employed for the pur-  
 16 pose of verifying that an electronic signature, record or performance is  
 17 that of a specific person or for detecting changes or errors in the infor-  
 18 mation in an electronic record. The term includes a procedure that re-  
 19 quires the use of algorithms or other codes, identifying words or numbers,  
 20 encryption, callback or other acknowledgment procedures.

21 [(15)] "State" means a state of the United States, the District of Co-  
 22 lumbia, Puerto Rico, the United States Virgin Islands or any territory or  
 23 insular possession subject to the jurisdiction of the United States. The  
 24 term includes an Indian tribe or band, or Alaskan native village, which is  
 25 recognized by federal law or formally acknowledged by a state.

26 [(16)] "Transaction" means an action or set of actions occurring be-  
 27 tween two or more persons relating to the conduct of business, commer-  
 28 cial or governmental affairs.

29 Sec. 3. (a) Except as otherwise provided in subsection (b), this act  
 30 applies to electronic records and electronic signatures relating to a  
 31 transaction.

32 (b) This act does not apply to a transaction to the extent it is governed  
 33 by:

34 (1) A law governing the creation and execution of wills, codicils or  
 35 testamentary trusts; and

36 (2) the uniform commercial code, other than K.S.A. 84-1-107 and 84-  
 37 1-206 and articles 2 and 2a of chapter 84 of the Kansas Statutes Anno-  
 38 tated, and amendments thereto.

39 (c) This act applies to an electronic record or electronic signature  
 40 otherwise excluded from the application of this act under subsection (b)  
 41 to the extent it is governed by a law other than those specified in subsec-  
 42 tion (b).

43 (d) A transaction subject to this act is also subject to other applicable

(13) "Message" means a digital  
 representation of information.

(16) "Registered certification authority"  
 means a person providing certification of a  
 digital signature who is, or is certified by, a  
 member of the group of certification  
 authorities approved by and registered with the  
 secretary.

(17) "Secretary" means the Kansas  
 secretary of state.

1 substantive law.

2 Sec. 4. This act applies to any electronic record or electronic signa-  
3 ture created, generated, sent, communicated, received or stored on or  
4 after the effective date of this act.

5 Sec. 5. (a) This act does not require a record or signature to be cre-  
6 ated, generated, sent, communicated, received, stored or otherwise proc-  
7 essed or used by electronic means or in electronic form.

8 (b) This act applies only to transactions between parties each of which  
9 has agreed to conduct transactions by electronic means. Whether the  
10 parties agree to conduct a transaction by electronic means is determined  
11 from the context and surrounding circumstances, including the parties'  
12 conduct.

13 (c) A party that agrees to conduct a transaction by electronic means  
14 may refuse to conduct other transactions by electronic means. The right  
15 granted by this subsection may not be waived by agreement.

16 (d) Except as otherwise provided in this act, the effect of any of its  
17 provisions may be varied by agreement. The presence in certain provi-  
18 sions of this act of the words "unless otherwise agreed", or words of  
19 similar import, does not imply that the effect of other provisions may not  
20 be varied by agreement.

21 (e) Whether an electronic record or electronic signature has legal  
22 consequences is determined by this act and other applicable law.

23 Sec. 6. This act must be construed and applied:

24 (a) To facilitate electronic transactions consistent with other appli-  
25 cable law;

26 (b) to be consistent with reasonable practices concerning electronic  
27 transactions and with the continued expansion of those practices; and

28 (c) to effectuate its general purpose to make uniform the law with  
29 respect to the subject of this act among states enacting it.

30 Sec. 7. (a) A record or signature may not be denied legal effect or  
31 enforceability solely because it is in electronic form.

32 (b) A contract may not be denied legal effect or enforceability solely  
33 because an electronic record was used in its formation.

34 (c) If a law requires a record to be in writing, an electronic record  
35 satisfies the law.

36 (d) If a law requires a signature, an electronic signature satisfies the  
37 law.

38 Sec. 8. (a) If parties have agreed to conduct a transaction by elec-  
39 tronic means and a law requires a person to provide, send or deliver  
40 information in writing to another person, the requirements is satisfied if  
41 the information is provided, sent or delivered, as the case may be, in an  
42 electronic record capable of retention by the recipient at the time of  
43 receipt. An electronic record is not capable of retention by the recipient

(f) This act does not require any person to use or permit the use of electronic or digital signatures.

(g) Any state agency may adopt rules and regulations governing the agency's use of digital signatures as long as the rules and regulations meet or exceed those adopted by the secretary.

1 if the sender or its information processing system inhibits the ability of  
2 the recipient to print or store the electronic record.

3 (b) If a law other than this act requires a record (1) to be posted or  
4 displayed in a certain manner, (2) to be sent, communicated or transmit-  
5 ted by a specified method, or (3) to contain information that is formatted  
6 in a certain manner, the following rules apply:

7 (A) The record must be posted or displayed in the manner specified  
8 in the other law.

9 (B) Except as otherwise provided in subsection (d)(2), the record  
10 must be sent, communicated or transmitted by the method specified in  
11 the other law.

12 (C) The record must contain the information formatted in the man-  
13 ner specified in the other law.

14 (c) If a sender inhibits the ability of a recipient to store or print an  
15 electronic record, the electronic record is not enforceable against the  
16 recipient.

17 (d) The requirements of this section may not be varied by agreement,  
18 but:

19 (1) To the extent a law other than this act requires information to be  
20 provided, sent or delivered in writing but permits that requirement to be  
21 varied by agreement, the requirement under subsection (a) that the in-  
22 formation be in the form of an electronic record capable of retention also  
23 may be varied by agreement; and

24 (2) a requirement under a law other than this act to send, commu-  
25 nicate or transmit a record by first-class mail, may be varied by agreement  
26 to the extent permitted by the other law.

27 Sec. 9. (a) An electronic record or electronic signature is attributable  
28 to a person if it was the act of the person. The act of the person may be  
29 shown in any manner, including a showing of the efficacy of any security  
30 procedure applied to determine the person to which the electronic record  
31 or electronic signature was attributable.

32 (b) The effect of an electronic record or electronic signature attrib-  
33 uted to a person under subsection (a) is determined from the context and  
34 surrounding circumstances at the time of its creation, execution or adop-  
35 tion, including the parties' agreement, if any, and otherwise as provided  
36 by law.

37 Sec. 10. If a change or error in an electronic record occurs in a trans-  
38 mission between parties to a transaction, the following rules apply:

39 (a) If the parties have agreed to use a security procedure to detect  
40 changes or errors and one party has conformed to the procedure, but the  
41 other party has not, and the nonconforming party would have detected  
42 the change or error had that party also conformed, the conforming party  
43 may avoid the effect of the changed or erroneous electronic record.

1 (b) In an automated transaction involving an individual, the individual  
2 may avoid the effect of an electronic record that resulted from an error  
3 made by the individual in dealing with the electronic agent of another  
4 person if the electronic agent did not provide an opportunity for the  
5 prevention or correction of the error and, at the time the individual learns  
6 of the error, the individual:

7 (1) Promptly notifies the other person of the error and that the in-  
8 dividual did not intend to be bound by the electronic record received by  
9 the other person;

10 (2) takes reasonable steps, including steps that conform to the other  
11 person's reasonable instruction, to return to the other person or, if in-  
12 structed by the other person, to destroy the consideration received, if any,  
13 as a result of the erroneous electronic record; and

14 (3) has not used or received any benefit or value from the consider-  
15 ation, if any, received from the other person.

16 (c) If neither paragraph (a) nor paragraph (b) applies, the change or  
17 error has the effect provided by other law, including the law of mistake,  
18 and the parties' contract, if any.

19 (d) Paragraphs (b) and (c) may not be varied by agreement.

20 Sec. 11. If a law requires a signature or record to be notarized, ac-  
21 knowledged, verified or made under oath, the requirement is satisfied if  
22 the electronic signature of the person authorized to perform those acts,  
23 together with all other information required to be included by other ap-  
24 plicable law, is attached to or logically associated with the signature or  
25 record.

26 Sec. 12. (a) If a law requires that a record be retained, the require-  
27 ment is satisfied by retaining an electronic record of the information in  
28 the record which:

29 (1) Accurately reflects the information set forth in the record after it  
30 was first generated in its final form as an electronic record or otherwise;  
31 and

32 (2) remains accessible for later reference.

33 (b) A requirement to retain a record in accordance with subsection  
34 (a) does not apply to any information the sole purpose of which is to  
35 enable the record to be sent, communicated or received.

36 (c) A person may satisfy subsection (a) by using the services of an-  
37 other person if the requirements of that subsection are satisfied.

38 (d) If a law requires a record to be presented or retained in its original  
39 form, or provides consequences if the record is not presented or retained  
40 in its original form, that law is satisfied by an electronic record retained  
41 in accordance with subsection (a).

42 (e) If a law requires retention of a check, that requirement is satisfied  
43 by retention of an electronic record of the information on the front and



1 back of the check in accordance with subsection (a).

2 (f) A record retained as an electronic record in accordance with sub-  
3 section (a) satisfies a law requiring a person to retain a record for eviden-  
4 tiary, audit or like purposes, unless a law enacted after the effective date  
5 of this act specifically prohibits the use of an electronic record for the  
6 specified purpose.

7 (g) This section does not preclude a governmental agency of this state  
8 from specifying additional requirements for the retention of a record  
9 subject to the agency's jurisdiction.

10 Sec. 13. In a proceeding, evidence of a record or signature may not  
11 be excluded solely because it is in electronic form.

12 Sec. 14. In an automated transaction, the following rules apply:

13 (a) A contract may be formed by the interaction of electronic agents  
14 of the parties, even if no individual was aware of or reviewed the elec-  
15 tronic agents' actions or the resulting terms and agreements.

16 (b) A contract may be formed by the interaction of an electronic agent  
17 and an individual, acting on the individual's own behalf or for another  
18 person, including by an interaction in which the individual performs ac-  
19 tions that the individual is free to refuse to perform and which the indi-  
20 vidual knows or has reason to know will cause the electronic agent to  
21 complete the transaction or performance.

22 (c) The terms of the contract are determined by the substantive law  
23 applicable to it.

24 Sec. 15. (a) Unless otherwise agreed between the sender and the  
25 recipient, an electronic record is sent when it:

26 (1) Is addressed properly or otherwise directed properly to an infor-  
27 mation processing system that the recipient has designated or uses for  
28 the purpose of receiving electronic records or information of the type  
29 sent and from which the recipient is able to retrieve the electronic record;

30 (2) is in a form capable of being processed by that system; and

31 (3) enters an information processing system outside the control of  
32 the sender or of a person that sent the electronic record on behalf of the  
33 sender or enters a region of the information processing system designated  
34 or used by the recipient which is under the control of the recipient.

35 (b) Unless otherwise agreed between a sender and the recipient, an  
36 electronic record is received when:

37 (1) It enters an information processing system that the recipient has  
38 designated or uses for the purpose of receiving electronic records or in-  
39 formation of the type sent and from which the recipient is able to retrieve  
40 the electronic record; and

41 (2) it is in a form capable of being processed by that system.

42 (c) Subsection (b) applies even if the place the information processing  
43 system is located is different from the place the electronic record is

1 deemed to be received under subsection (d).

2 (d) Unless otherwise expressly provided in the electronic record or  
3 agreed between the sender and the recipient, an electronic record is  
4 deemed to be sent from the sender's place of business and to be received  
5 at the recipient's place of business. For purposes of this subsection, the  
6 following rules apply:

7 (1) If the sender or recipient has more than one place of business,  
8 the place of business of that person is the place having the closest rela-  
9 tionship to the underlying transaction.

10 (2) If the sender or the recipient does not have a place of business,  
11 the place of business is the sender's or recipient's residence, as the case  
12 may be.

13 (e) An electronic record is received under subsection (b) even if no  
14 individual is aware of its receipt.

15 (f) Receipt of an electronic acknowledgment from an information  
16 processing system described in subsection (b) establishes that a record  
17 was received but, by itself, does not establish that the content sent cor-  
18 responds to the content received.

19 (g) If a person is aware that an electronic record purportedly sent  
20 under subsection (a), or purportedly received under subsection (b), was  
21 not actually sent or received, the legal effect of the sending or receipt is  
22 determined by other applicable law. Except to the extent permitted by  
23 the other law, the requirements of this subsection may not be varied by  
24 agreement.

25 Sec. 16. (a) In this section, "transferable record" means an electronic  
26 record that:

27 (1) Would be a note under article 3 of chapter 84 of the Kansas  
28 Statutes Annotated, and amendments thereto or a document under article  
29 7 of chapter 84 of the Kansas Statutes Annotated, and amendments  
30 thereto if the electronic record were in writing; and

31 (2) the issuer of the electronic record expressly has agreed is a trans-  
32 ferable record.

33 (b) A person has control of a transferable record if a system employed  
34 for evidencing the transfer of interests in the transferable record reliably  
35 establishes that person as the person to which the transferable record was  
36 issued or transferred.

37 (c) A system satisfies subsection (b), and a person is deemed to have  
38 control of a transferable record, if the transferable record is created,  
39 stored and assigned in such a manner that:

40 (1) A single authoritative copy of the transferable record exists which  
41 is unique, identifiable, and, except as otherwise provided in paragraphs  
42 (4), (5) and (6), unalterable;

43 (2) the authoritative copy identifies the person asserting control as:

- 1 (A) The person to which the transferable record was issued; or  
2 (B) if the authoritative copy indicates that the transferable record has  
3 been transferred, the person to which the transferable record was most  
4 recently transferred;
- 5 (3) the authoritative copy is communicated to and maintained by the  
6 person asserting control or its designated custodian;
- 7 (4) copies or revisions that add or change an identified assignee of  
8 the authoritative copy can be made only with the consent of the person  
9 asserting control;
- 10 (5) each copy of the authoritative copy and any copy of a copy is  
11 readily identifiable as a copy that is not the authoritative copy; and
- 12 (6) any revision of the authoritative copy is readily identifiable as au-  
13 thORIZED or unauthorized.
- 14 (d) Except as otherwise agreed, a person having control of a trans-  
15 ferable record is the holder, as defined in K.S.A. 84-1-201(20), and  
16 amendments thereto, of the transferable record and has the same rights  
17 and defenses as a holder of an equivalent record or writing under the  
18 uniform commercial code, including, if the applicable statutory require-  
19 ments under K.S.A. 84-3-302(a), 84-7-501, or 84-9-308, and amendments  
20 thereto are satisfied, the rights and defenses of a holder in due course, a  
21 holder to which a negotiable document of title has been duly negotiated,  
22 or a purchaser, respectively. Delivery, possession, and indorsement are  
23 not required to obtain or exercise any of the rights under this subsection.
- 24 (e) Except as otherwise agreed, an obligor under a transferable rec-  
25 ord has the same rights and defenses as an equivalent obligor under equiv-  
26 alent records or writings under the uniform commercial code.
- 27 (f) If requested by a person against which enforcement is sought, the  
28 person seeking to enforce the transferable record shall provide reasonable  
29 proof that the person is in control of the transferable record. Proof may  
30 include access to the authoritative copy of the transferable record and  
31 related business records sufficient to review the terms of the transferable  
32 record and to establish the identity of the person having control of the  
33 transferable record.
- 34 ~~Sec. 17. The secretary of administration shall determine whether,~~  
35 ~~and the extent to which, governmental agencies will create and retain~~  
36 ~~electronic records and convert written records to electronic records.~~
- 37 ~~—Sec. 18. (a) Except as otherwise provided in subsection (f) of section~~  
38 ~~12, and amendments thereto, the secretary of administration shall deter-~~  
39 ~~mine whether, and the extent to which, a governmental agency will send~~  
40 ~~and accept electronic records and electronic signatures to and from other~~  
41 ~~persons and otherwise create, generate, communicate, store, process, use~~  
42 ~~and rely upon electronic records and electronic signatures.~~
- 43 ~~—(b) To the extent that a governmental agency uses electronic records~~

1 and electronic signatures under subsection (a), the secretary, giving due  
2 consideration to security, may specify:

3 ~~(1) The manner and format in which the electronic records must be~~  
4 ~~created, generated, sent, communicated, received and stored and the sys-~~  
5 ~~tem established for the system.~~

6 ~~(2) If electronic records must be signed by electronic means, the type~~  
7 ~~of electronic signature required, the manner and format in which the~~  
8 ~~electronic signature must be affixed to the electronic record, and the~~  
9 ~~identity of, or criteria that must be met by, any third party used by a~~  
10 ~~person filing a document to facilitate the process;~~

11 ~~(3) control processes and procedures as appropriate to ensure ade-~~  
12 ~~quate preservation, disposition, integrity, security, confidentiality and au-~~  
13 ~~ditability of electronic records; and~~

14 ~~(4) any other required attributes for electronic records which are~~  
15 ~~specified for corresponding nonelectronic records or reasonably neces-~~  
16 ~~sary under the circumstances.~~

17 ~~(c) Except as otherwise provided in subsection (f) of section 12, and~~  
18 ~~amendments thereto, this act does not require a governmental agency of~~  
19 ~~this state to use or permit the use of electronic records or electronic~~  
20 ~~signatures.~~

21 ~~Sec. 10. The secretary of administration who adopts standards pur-~~  
22 ~~suant to section 18 and amendments thereto may encourage and promote~~  
23 ~~consistency and interoperability with similar requirements adopted by~~  
24 ~~other governmental agencies of this and other states and the federal gov-~~  
25 ~~ernment and nongovernmental persons interacting with governmental~~  
26 ~~agencies of this state. If appropriate, those standards may specify differing~~  
27 ~~levels of standards for various purposes to be applied by the person~~  
28 ~~choose in implementing the most appropriate standard for a particular~~  
29 ~~application.~~

30 ✓ Sec. 20: 17. If any provision of this act or its application to any person  
31 or circumstance is held invalid, the invalidity does not affect other pro-  
32 visions or applications of this act which can be given effect without the  
33 invalid provision or application, and to this end the provisions of this act  
34 are severable.

35 Sec. 21: 18. K.S.A. 1999 Supp. 60-2616 is hereby repealed.

36 Sec. 22: 19. This act shall take effect and be in force from and after  
37 its publication in the statute book.

Sec. 17. (a) Any person, before entering upon the duties of a registered certification authority, shall:

(1) Register with the secretary on forms approved and provided by the secretary;

(2) pay to the secretary an annual filing fee of \$1,000;

(3) file with the secretary a good and sufficient surety bond, certificate of insurance or other evidence of financial security in the amount of \$100,000; and

(4) be approved by the secretary as meeting the requirements of any rules and regulations adopted by the secretary, as the secretary determines appropriate, to ensure the person's financial responsibility and condition, character, qualifications and fitness to be a registered certification authority.

(b) A registered certification authority shall create, maintain and preserve all records that are necessary to demonstrate compliance with rules and regulations adopted by the secretary.

(c) If any person who is approved and registered with the secretary as a registered certification authority fails to maintain any of the qualifications listed in subsection (a) and (b) or otherwise required by rules and regulations of the secretary, the person's registration shall be deemed lapsed.

(d) Any person who violates or fails to comply with this section and any provision related to registered certification authority and the rules and regulations of the secretary promulgated pursuant to section 18, and amendments thereto, upon notice and hearing, shall be subject to a civil penalty not to exceed \$10,000 per failure or violation.

Sec. 18. The secretary may adopt rules and regulations to implement the provisions of sections 17 and 19.

Sec. 19. The secretary shall have the authority to establish reciprocity with other states and nations for purposes of sections 17, 18 and 19 and related provisions thereto.

And by renumbering sections accordingly