

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:07 a.m. on March 27, 2000 in Room 123-S of the Capitol.

All members were present except: Senator Petty (excused)

Committee staff present:

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

Conferees appearing before the committee:

Jeff Bottenberg, Kansas Sheriff's Association

Others attending: see attached list

The minutes of the March 23 meeting were approved on a motion by Senator Bond and seconded by Senator Goodwin. Carried.

HB 2772—concerning crime victims restitution; relating to compensation

SB 446—concerning the Kansas Administrative Procedures Act; abuse, neglect or exploitation of adults; regarding investigations by KDHE

SB 505—concerning crime victims restitution; relating to compensation

Following review of **HB 2772** by the Chair and discussion by Committee, Senator Bond moved to amend **SB 446** into **HB 2772**, Senator Goodwin seconded. Following further discussion the motion and second were withdrawn and Senator Vratil moved to amend **SB 446** and **SB 505** into **HB 2772**, and pass the bill out favorably as amended. Senator Bond seconded. Carried.

Written testimony by Lincoln County Attorney Bob Crangle in support of **HB 2772** was submitted by Representative McClure. (attachment 1)

HB 2557—concerning crimes; related to aggravated battery against a law enforcement officer

Conferee Bottenberg testified on behalf of Loren Anderson, Chair of the Kansas Sheriff's Association Legislative Committee, in support of **HB 2557**. He stated that the bill adds a use of motor vehicles clause to current law governing aggravated battery on a law enforcement officer. (attachment 2) Following discussion, no action was taken.

HB 2683—concerning collection and reporting of statistics regarding race, ethnicity and gender for law enforcement activities

SB 491—probation and suspension of sentence, jail confinement; conditional violators, dispositions; postrelease supervision

SB 665—probation duration and revocation of nonprison sanctions for certain offenders

Senator Pugh reviewed his subcommittee's hearing on **HB 2683** and moved to pass the bill out favorably as recommended by the subcommittee. Following discussion, Senator Oleen made a substitute motion to add "age" and "residency" language to the bill, Senator Vratil seconded. Carried. Following further discussion Senator Vratil moved to amend **SB 491** and **SB 665** into **HB 2683**, Senator Goodwin seconded. Carried. Senator Harrington moved to pass the bill out favorably as amended, Senator Feleciano seconded. Carried.

HB 2805—theft detection shielding devices

Following discussion, Senator Bond moved to delete Sec. II of **HB 2805** regarding domestic battery, Senator Oleen seconded. Carried. Senator Bond moved to pass the bill out favorably as amended, Senator Goodwin seconded. Carried.

HB 2501—enacting the uniform principle and income act

Following the Chair's review of **HB 2501**, a bill which he stated updates the law regarding how trustees make distinctions between principle and income, Senator Oleen moved to pass the bill out favorably, Senator Bond seconded. Carried.

SB 589—concerning criminal procedure; regarding worthless checks

The Chair stated that **SB 589** amends the current law whereby a writer of a worthless check has the opportunity to make restitution prior to a trial. Senator Pugh moved to pass the bill out favorably, Senator Bond seconded. Carried.

The meeting adjourned at 10:45. There are no further meetings scheduled at present.

*Sent
3-27
att 1*

LAURA L. McCLURE
202 SOUTH 4TH
OSBORNE, KS 67473
(785) 346-2715



REPRESENTATIVE, 119TH DISTRICT
STATE CAPITOL
ROOM 278-W
TOPEKA, KS 66612-1504
(785) 296-7680
1-800-432-3924

TOPEKA

HOUSE OF
REPRESENTATIVES

March 27, 2000

Senate Judiciary Committee

In current law no claim can be paid from the local victims restitution fund to any corporation, partnership or other business entity or governmental entity.

Lincoln County Attorney Bob Crangle and the Crime Victims Restitution Fund Coordinator, Harry Cross brought this situation to my attention this fall.

I've attached a copy of the testimony given by Bob Crangle for the House Judiciary Committee.

The Crime Victims fund in Lincoln **contains no tax dollars. There is no money from the State Victims Assistance fund or the Crime Victims Compensation fund.** The money comes from defendants as a condition of their diversion and related fees. The usual fee is \$50.00

Thank you for your consideration of House Bill 2772.

Laura McClure
State Representative 119th District

*In Jud
3-27-00
att 1*

**Hearing on Proposed Amendments to the
Crime Victim Restitution Act, K.S.A. 19-4804**

Statement of Robert D. Crangle, Lincoln County Attorney
February 7, 2000

Under K.S.A. 19-4801 *et seq.* Lincoln County created a citizen-operated fund to compensate some crime victims for out-of-pocket property damage in crimes committed by unknown persons. Based on two years of actual experience we know we ought to be able to help more of them. That is why we are here.

Our fund comes from fees paid by accused defendants who are eligible to, and want to, sign an agreement to divert prosecution for a while on certain terms and conditions. Defendants not only must make restitution for their specific crime and pay other costs, fines and fees; they must also do community service work, conduct themselves as good citizens for a specified length of time, and pay \$50.00 into our Crime Victim Restitution fund. If the defendant does all of this, the original charge is dismissed.

Our fund really helps individuals in our small and relatively poor county of 3500 people. Unfortunately, under K.S.A. 19-4804, it leaves out a large group of local vandalism victims. They are doubly hurt: law enforcement and I have no case to prosecute, and there is no financial relief available. I would like that changed.

I urge the legislature to support House Bill No. 2772 so we can also compensate the small business and governmental organizations that are the lifeblood of Lincoln County and other small communities. These include the cafe, the Carnegie library, the family-run service station, the school, the local convenience store, the art center, the museum and all of our mom-and-pop businesses.

We do not use tax money, but this fund is maintained by the County Treasurer in accord with state law. When the Clerk of the District Court of Lincoln County receives diversion money earmarked for the Crime Victim Restitution Fund, she forwards it to the County Treasurer. As required by law, the Fund is administered by four Lincoln County residents.

Harry Cross, the Methodist minister, is the coordinator. Leon Kingan, Colleen Lovin and Wayne Wallace make up a three-person board to review and decide on the applications. Leon and Colleen are small business owners from the cities of Lincoln and Sylvan Grove. Wayne is a former county commissioner from Barnard. Within legal limits, the board has sole discretion in recommending awards.

To be eligible the victim must, of course, be a resident of Lincoln County. As required by law he or she must have reported the crime within 72 hours to law enforcement, applied to the fund within 60 days of the crime, and need the money. If a victim is later repaid from other sources (such as insurance), the fund is reimbursed.

In deference to the privacy of the victims, our board deliberations are not open to the public. However, the names of recipients and the amounts they receive are public records.

As mandated by law, our fund cannot cover large losses, or frequent claims by the same victim. Now the board can award up to \$150.00 in a misdemeanor case, or \$250.00 if the crime was a felony. The board often awards less than the limit, but it has from time to time been faced with losses from a deserving applicant far in excess of the limit. We do not ask for these or other safeguards to be removed.

I do not personally know of any other county that has through the hoops necessary to implement this law since you enacted it in 1990. In my opinion, one reason is that the law has been designed to sound good, but not do as much good as it should.

Lincoln County has jumped through the hoops. We have some experience. We want to make this law work. The proposals before you will go a long way toward making it work -- without tax dollars.

I ask for your support. Thank you. Attached are two documents that show in more detail how we operate the fund in Lincoln County.

/s/ ROBERT D. CRANGLE

Robert D. Crangle, Lincoln County Attorney

Attachments:

Lincoln County Policy and Procedures Statement for the Crime Victim Restitution Fund
Lincoln County crime victim application form

LINCOLN COUNTY CRIME VICTIM RESTITUTION FUND
Policy and Procedures

I. Establishment

There is hereby established by Resolution Number 97-49 of the Board of County Commissioners of Lincoln County, Kansas (Commissioner) a Lincoln County, Kansas, Crime Victim Restitution (CVR) Fund under the provisions of K.S.A. 19-4801 *et seq.* with the effective date of January 13, 1997.

II. Fund Administration

The CVR Fund is a special revenue fund administered by a board of three Lincoln County residents appointed by the Commission (Board) and assisted by the Lincoln County Attorney (LCA) and by the property crime compensation coordinator (Coordinator). The Board may apply for, receive or accept money from any source for the CVR Fund. Expenditure of Fund moneys shall be by warrant for purposes recommended by the Board and approved by the Commission.

III. Lincoln County Attorney

The LCA shall advise the Commission on Board membership, operations, and the terms of office for Board members. The LCA shall generally assess a CVR fee as part of each agreement reached with persons accused of violations of law where the agreement diverts such persons from further current prosecution (a diversion agreement), and request an order of restitution to reimburse the CVR fund in all cases where CVR funds have already been expended. The LCA shall appoint the Coordinator and be available to assist the Coordinator. It is the responsibility of the LCA to maintain this policy and procedures document in compliance with Kansas laws and orders of the Administrative Judge of the District Court.

IV. The Property Crime Compensation Coordinator

The Coordinator shall be appointed by the LCA to perform duties required or suggested in K.S.A. 19-4808 and 19-4810, and be generally available to assist the LCA and the Board in the operations of the CVR Fund.

V. Clerk of the District Court of Lincoln County

The Clerk of the Lincoln County District Court (Clerk) shall remit all funds specifically identified at the time of receipt as CVR moneys to a fund established for that purpose by the Lincoln County Treasurer. Such receipts may originate from diversion agreements in cases commenced within the Court; from restitution ordered by the Court as provided in K.S.A. 19-4807; from inmates as provided by K.S.A. 75-5211(b); or from any other source. The provisions of administrative order No. 180 of the Twelfth Judicial District, administrative order No. 41 of

the Kansas Supreme Court, K.S.A. 19-4807 and K.S.A. 19-4809, as amended, shall apply as appropriate. In general, this also includes cases where funds have been requested by the property crime compensation board or the Court orders restitution payments but neither the victim nor the victim's family cannot be located.

VI. Lincoln County Treasurer

The Lincoln County Treasurer shall establish and maintain the Lincoln County CVR Fund in accord with the policies of that office and the Resolution by the Commission. The Treasurer is permitted and directed to accept moneys identified for the CVR Fund from any source.

VIII. Application Procedures

Applications for compensation shall be made to the Board in accord with K.S.A. 19-4804, 19-4808, and 19-4810. The Coordinator and Board shall establish procedures, which shall be available to the public, for receiving, documenting, reviewing and making recommendations concerning all applications. Amounts awarded under this policy and procedure are subject to the sole discretion of the Board, without civil liability for any act or decision, in accord with K.S.A. 19-4805. The Board, in reviewing the applications received, shall take into account the factors listed in K.S.A. 74-7305 as well as K.S.A. 19-4804 through K.S.A. 19-4807.

IX. Edition Date

This document is last revised December 5, 1997.

Robert D. Crangle, Lincoln County Attorney

Application for Compensation

CRIME VICTIM RESTITUTION FUND BOARD
LINCOLN COUNTY, KS 67455

Applicant's Name and Address:

Home and Work Telephones:

Kansas law lets this board compensate you for property damage caused by the criminal acts of others if you report the crime within 72 hours to law enforcement, apply to us within 60 days of the crime, and genuinely need the money. If the crime was a misdemeanor or a traffic infraction we can pay up to \$150.00; or up to \$250.00 if the crime was a felony. ***You must attach to this application a copy of the law enforcement report showing the date and nature of the crime, and the property damage you suffered. Without this report attached we cannot review your application.*** Please mail your completed application to us in care of the Lincoln County Sheriff's Office, 116 N. 2nd, Lincoln, KS 67455; or hand-deliver it there at any time.

Was your loss insured?

If so, please name the insurance company and the amount of your deductible.

How much money are you requesting?

What, exactly, will you do with this money?

We have restrictions; for instance, we cannot make payments to the same person more than twice in twelve months. If we have questions, we will write you. By accepting payment, you agree to reimburse the fund if later on someone else (like insurance, or the person who caused the damage) pays for the same thing.

Please add any other statement you think would help us understand your request. If your statement is longer than fits on this page and the back of it, staple the additional pages to this application. Thank you.

Date application received:

Board Decision and Date:

Certification by Coordinator (signature):

Payment (amount, date and Lincoln Co. warrant number):

Payment made to:

Payment received by (signature and date) :

506
3-27
att 2

Testimony of Loren C. Anderson
Chairman, Kansas Sheriff's Association Legislative Committee

Included in the current definition of aggravated battery on a law enforcement officer in K.S.A. 21-3414 and K.S.A. 21-3415 are clauses regarding the use of a deadly weapon to cause bodily harm, disfigurement, or death.

It is time that we recognize, through passage of this bill, that a motor vehicle can be used in such a manner.

Law enforcement officers are all too familiar with situations where vehicles have been used to harm an officer. Just within the last month, a Lawrence Police Officer had done a car stop. During the course of that contact, it was discovered that the driver had a warrant for his arrest. The driver fled by striking the officer with the car and leaving the scene. The driver was then involved in a chase with other officers in the county and was later apprehended. Luckily, the officer who was hit was not seriously injured in this case.

Whether striking the officer while he or she is on a motorcycle, bicycle, on foot, or ramming the officer's department vehicle, the officer is always placed at high risk of injury or death. Even the use of part of the vehicle, such as ramming a car door into an officer, can have devastating results.

Technology has increased the frequency that offenders are identified after an unsuspecting car stop. Penalties are still the best deterrent of this type of offense.

To enhance officer safety, I urge you to support House Bill 2557.

Loren C. Anderson

Loren C. Anderson, Chairman
Kansas Sheriff's Association Legislative Committee

*Sn Jud
3-27-00
att 2*