Approved on: February 12, 2001
Date

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. On January 31, 2001 in Room 313-S of the Capitol.

All members were present except:
Representative Kathe Lloyd - Excused
Representative Candy Ruff - Excused

Committee staff present:
Jerry Ann Donaldson, Legislative Research Department
Jennifer Strait, Intern for Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:
Chris Collins, Kansas Medical Society
Paul Davis, Kansas Bar Association
Kathy Olsen, Kansas Bankers Association
Beverly Peterson, Emporia
Marla Luckert, Chair, Judicial Council Criminal Law Advisory Committee
Karen Suddath, Director Mental Health Substance Abuse Treatment & Recovers, Social & Rehabilitation Services

Chris Collins, Kansas Medical Society, requested a bill which would make it legal for health care providers to provide sterile syringes to illegal drug users.(Attachment 1) Representative Loyd made the motion to have the request introduced as a committee bill. Representative DeCastro seconded the motion. The motion carried.

Paul Davis, Kansas Bar Association, had two request. The first would expand the number of Court of Appeals judges from 10 to 14 over a four year period.(Attachment 2) Representative Patterson made the motion to have the request introduced as a committee bill. Representative DiVita seconded the motion. The motion carried.

The second request clarifies a defect that is contained in K.S.A. 21-4614 in which a person convicted in a criminal action would have jail time credits but a person who plead non contest would not. (Attachment 3) Representative Loyd made the motion to have the request introduced as a committee bill. Representative DiVita seconded the motion. The motion carried.

Kathy Olsen, Kansas Bankers Association. Requested a bill that would treat those who are repeatedly convicted of check forgery more harshly. (Attachment 4) Representative Loyd made the motion to have the request introduced as a committee bill. Representative Long seconded the motion. The motion carried.

The committee received a bill request requiring mandatory jail time for first misdemeanor for cruelty to animals and completion of an anger management program. Representative Shriver made the motion to have the request introduced as a committee bill. Representative Crow seconded the motion. The motion carried.

Another bill request would amend the Crime Victims Compensation Act to allow health care provides the ability to access the CVCA. Representative O'Neal made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

The request from the Riley County Police Department would make it a crime to use and have possession of illegal inhalants. Representative O'Neal made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Representative Pauls received a request that would mandate all district magistrate judges been elected in all counties in with they serve. Representative DiVita made the motion to have the request introduced as a committee bill. Representative Williams seconded the motion. The motion carried.

Hearings on **HB 2003 - authorized dispositions in child in need of care cases**, were opened.

Beverly Peterson, Emporia, appeared as a proponent of the bill. The purpose of the proposed bill is to allow the judges the option of looking at all situations when there is the need to determine an order of custody. (Attachment 5)

Hearings on **HB 2003** were closed.

Hearings on **HB 2084 - for the purpose of a criminal proceeding, a mentally ill person subject to involuntary commitment is a mentally ill person who is likely to cause harm to self or to others**, were opened.

Marla Luckert, Chair, Judicial Council Criminal Law Advisory Committee, stated that the Judicial Council was asked to study the issue of how Kansas should deal with those who allegedly commit crimes but are incompetent to stand trial and are not likely to become competent in the future due to mental retardation. The issue was assigned to the Criminal Law Advisory Committee which looked at what other states are doing and found that each of the states approaches were resource driven. The committee proposed the amendment which would return the statute as it was prior to 1996. (Attachment 6)

Karen Suddath, Director Mental Health Substance Abuse Treatment & Recovers, Social & Rehabilitation Services, commented that the proposed bill attempts to address a problem in which not all person who are incompetent to stand trial are mentally ill. She believes that the bill would be a step backwards and questioned whether the provisions are constitutional. SRS does not want these types of people in a secure state hospital. (Attachment 7)

Hearings on **HB 2084** were closed.

HB 2074 - administration of the KBI; associated directors, deputy directors and assistant directors are unclassified state employees

Representative Loyd made the motion to report **HB 2074** favorably for passage. Representative Swenson seconded the motion. The motion carried.

The committee meeting adjourned at 4:45. The next meeting is scheduled for February 5, 2001.

KMS
KANSAS MEDICAL SOCIETY

TO: House Committee on Judiciary

FROM: Chris Collins Chris Collins
Director of Government Affairs

DATE: January 31, 2001

RE: Prescription of Sterile Syringes

Chairman O'Neal and Ladies and Gentlemen of the Committee:

Thank you for the opportunity to appear before you today to request a bill introduction. I appear on behalf of the Kansas Medical Society, the state professional association of physicians and osteopaths.

KMS respectfully requests the introduction of the attached bill draft that would make it legal for physicians and pharmacists to dispense sterile syringes to illegal drug users. While illegal drug use is a pervasive and distressing social problem, it is not centrally relevant to the proposal before you today. The bill is silent on the moral and criminal issues associated with illegal drug use. Instead, the bill is intended to address a pervasive public health problem. Half of all new HIV infections in the United States are related to the use of illicit injection drugs, according to the attached article which appeared in the September, 2000 issue of the *Journal of the American Medical Association.* As indicated in the article, one author of a Robert Wood Johnson study asserts, "We could start prescribing needles today and reach 97% of those at risk of acquiring HIV through needle injection."

Kansas is one of only two states in the nation that makes it a crime for a physician to prescribe sterile syringes to illegal drug users. Under the controlled substances act, a syringe is classified as "drug paraphernalia" and if a health care provider prescribes or furnishes them with reasonable knowledge they will be used for illegal drugs, that health care provider is guilty of a felony. The attached bill draft decriminalizes the provision of sterile syringes to drug users. In summary, the bill does not address the moral and criminal aspects of illegal drug use; instead it allows Kansas health care providers to attempt to stem the tide of blood borne diseases among their patients.

KMS would respectfully request that this committee introduce the attached bill. Again, thank you for the opportunity to appear before you today. I would be pleased to respond to any questions.

623 SW 10th Ave. • Topeka KS 66612-1627 • 785.235.2383 • 800.332.01
Western Kansas office • 108 E 12th St. • Hays KS 67601 • 785.625.8215 • 800.

KS ST S 65-4153
K.S.A. s 65-4153

TEXT
KANSAS STATUTES ANNOTATED
CHAPTER 65.--PUBLIC HEALTH
ARTICLE 41.--CONTROLLED SUBSTANCES
DRUG PARAPHERNALIA

Current through End of 1999 Reg. Sess.

65-4153. Simulated controlled substances and drug paraphernalia; prohibited acts; penalties.

(a) No person shall deliver, possess with intent to deliver, manufacture with intent to deliver or cause to be delivered within this state:
(1) Any simulated controlled substance;
(2) any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of K.S.A. 1999 Supp. 65-4162, and amendments thereto~~;~~. **For purposes of this section, sterile syringes prescribed by a qualified health care provider or supplied pursuant to a valid prescription shall not be considered "drug paraphernalia";** or
(3) any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the uniform controlled substances act, except K.S.A. 1999 Supp. 65-4162, and amendments thereto~~;~~. **For purposes of this section, sterile syringes prescribed by a qualified health care provider or supplied pursuant to a valid prescription shall not be considered "drug paraphernalia.";** or
(4) any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, sell or distribute a controlled substance in violation of the uniform controlled substances act.
(b) Violation of subsection (a)(1) is a nondrug severity level 9, nonperson felony.
(c) Violation of subsection (a)(2) is a class A nonperson misdemeanor. Any person who violates subsection (a)(2) by delivering or causing to be delivered within this state drug paraphernalia to a person under 18 years of age is guilty of a nondrug severity level 9, nonperson felony.
(d) Violation of subsection (a)(3) is a nondrug severity level 9, nonperson felony. Any person who violates subsection (a)(3) by delivering or causing to

be delivered within this state drug paraphernalia to a person under 18 years of age is guilty of a drug severity level 4 felony.

(e) Violation of subsection (a)(4) is a drug severity level 4 felony.

Prescribing Sterile Needles Is Not Only Beneficial but (Mostly) Legal

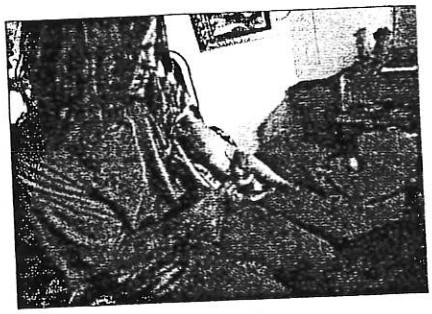
Charles Marwick

WASHINGTON—Physicians need not be afraid to prescribe sterile needles for drug addicts—unless they practice in Delaware or Kansas. It's legal and they are encouraged to do it, since there is clear evidence from many studies that access to clean needles reduces the risk of transmitting HIV infection and hepatitis. Moreover, the encounter provides an opportunity for counseling and for treating other medical conditions.

The message that most physicians need not fear legal action if they prescribe sterile needles for drug addicts is the principal finding of a new survey of the legal situation in the 50 US states by the Substance Abuse Policy Research Program. The study, *Harm Reduction in the Health Care System: Legal Analyses of Prescribing and Dispensing Sterile Injection Equipment*, was funded by the Robert Wood Johnson Foundation.

"In the past, physicians who wished to prescribe sterile syringes to drug addicts did not do so in part because of the perception that it would violate state and federal laws aimed at combating drug abuse or result in a malpractice claim. Our analysis shows that, in most places, these concerns are unfounded. It's legal," said Scott Burris, JD, a professor at Beasley School of Law, Temple University, Philadelphia, and the principal author of the study. He spoke at a press conference here announcing the study results.

While physicians can legally prescribe sterile needles in Puerto Rico and the District of Columbia and every state except Delaware and Kansas, pharmacists can legally fill that prescription in only 25 states and Puerto Rico. However, said Burris, pharmacists have a "reasonable claim to legality" in another 21 states and the District of Columbia. In four states—Delaware, Kansas, Georgia, and Hawaii—it is clearly illegal to dispense sterile injection equipment. Nevertheless, asserted Burris, "We could start prescribing needles today and reach 97% of those at risk of acquiring HIV through needle injection."



Half of all new HIV infections in the United States are related to the use of illicit injection drugs, and nine surveys have demonstrated that providing safe injection equipment prevents the spread of disease, said Peter Lurie, MD, speaking at the press conference. Lurie, a coauthor of the study, is deputy director of Public Citizen's Health Research Group, the Washington, DC, public interest organization.

Josiah D. Rich, MD, assistant professor of medicine at Brown University School of Medicine, gave press conference attendees an example of how the sterile needle prescription process works. "Since our program began a little more than a year ago, our clinic at the Miriam Hospital has prescribed 30 000 syringes to over 250 000 drug users," he said.

"My initial reaction to the program was that it was providing access to sterile syringes and hence was reducing the risk of disease. I say that injecting drugs is dangerous, so the best thing is to stop. But if you're not going to stop, then the next best thing is to make sure you have a clean needle to do it with. But I found this was just the tip of the iceberg.

"A very exciting part [of our program] is the relationship I develop with these patients. Remember, drug addicts are engaging in an activity that is highly stigmatized in our society. It's something they have to hide. Asking for a clean syringe is tantamount to admitting you are a drug user. But once they realize there are no negative consequences to admitting their addiction, this opens the door to a discussion about their drug use. They all tell me that being able to come here and talk about their addiction has helped," Rich said.

The American Medical Association is on record as approving the approach. At its June meeting, the association adopted a resolution that supported "the ability of physicians to prescribe syringes and needles to patients with injection drug addiction in conjunction with addiction counseling in order to help prevent the transmission of contagious diseases."

Harm Reduction in the Health Care System: Legal Analyses of Prescribing and Dispensing Sterile Injection Equipment has been published (*Ann Intern Med.* 2000;133:218-226), and a state-by-state analysis is available online at http://www.temple.edu/lawschool/aidspolicy/default.htm. □

1-4

KANSAS BAR ASSOCIATION

1200 SW Harrison St.
P.O. Box 1037
Topeka, Kansas 66601-1037
Telephone (785) 234-5696
FAX (785) 234-3813
Email: ksbar@ink.org

BILL INTRODUCTION

January 31, 2001

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

FROM: Paul Davis, KBA Legislative Counsel

Mr. Chairman and Members of the Committee:

My name is Paul Davis and I am appearing before you on behalf of the Kansas Bar Association to request the introduction of a bill. The proposed bill expands the number of judges on the Kansas Court of Appeals from 10 to 14 over the next four years by adding one judge per year. This concept is a recommendation from Kansas Citizens Justice Initiative, which was authorized in 1997 and co-chaired by the late Governor Robert Bennett and Wichita businesswoman Jill Docking. The Justice Initiative was comprised of judges, lawyers and citizens who were appointed by the Kansas Legislature and the Kansas Supreme Court.

Since the Court of Appeals was re-established in 1977, it has adhered to a policy that every litigant in District Court is entitled to an appeal. This is a policy that the Kansas Bar Association strongly supports. However, it has resulted in overwhelming caseloads at the Court. In 1983, a Judicial Council committee recommended that each judge on the Court of Appeals write no more than 75 opinions per year. When the Kansas Citizens Justice Initiative was commissioned, the number of cases pending before the Court of Appeals was 1,403 and each judge was writing approximately 139 opinions per year.

Although, much of the Court's backlog was erased by a blitz docket that occurred about two years ago, the backlog will return unless the Court of Appeals is given the resources that it needs. The only way this can be accomplished is with additional judges. The Office of Judicial Administration has asked for funding for one additional judge this year. I hope you will enact this legislation and provide a statutory framework for adding four judges to the Court of Appeals over the next four years.

I respectfully request your introduction of this bill. Thank you!

HOUSE BILL NO. ____

AN ACT concerning courts; relating to the court of appeals; amending K.S.A. 20-3002, 20-3005 and 20-3006 and repealing the existing sections; also repealing K.S.A. 20-3003.

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

Section 1. K.S.A. 20-3002 is hereby amended to read as follows: 20-3002. (a) On and after July 1, 2001, through June 30, 2002, the court of appeals shall consist of ~~10~~ 11 judges whose positions shall be numbered one to ~~10~~ 11. On and after July 1, 2002, through June 30, 2003, the court of appeals shall consist of 12 judges whose positions shall be numbered one to 12. On and after July 1, 2003, through June 30, 2004, the court of appeals shall consist of 13 judges whose positions shall be numbered one to 13. On and after July 1, 2004, the court of appeals shall consist of 14 judges whose positions shall be numbered one to 14. Judges of the court of appeals shall possess the qualifications prescribed by law for justices of the supreme court.

(b) Judges of the court of appeals shall be selected in the manner provided by K.S.A. 20-3003 through 20-3010, and amendments thereto. Each judge of the court of appeals shall receive an annual salary in the amount prescribed by law. No judge of the court of appeals may receive additional compensation for official services performed by the judge. Each such judge shall be reimbursed for expenses incurred in the performance of such judge's official duties in the same manner and to the same extent justices of the supreme court are reimbursed for such expenses.

(c) The supreme court may assign a judge of the court of appeals to serve temporarily on the supreme court.

Sec. 2. K.S.A. 20-3005 is hereby amended to read as follows: 20-3005. On the respective July 1, ~~1987~~, pursuant to subsection (a) of K.S.A. 20-3002, and amendments thereto, the clerk of the supreme court shall notify the chairperson of the supreme court nominating commission of the number of vacant positions on the court of appeals to be filled by appointment. Upon receipt of such notice, the chairperson shall ~~cause the~~ call a meeting of

the commission ~~to meet~~ and submit to the governor a panel of three nominees for the lowest numbered position on the court of appeals for which an appointment is to be made. The governor shall appoint one of such nominees to the position on the court of appeals for which the nominee was nominated within 60 days from the time the panel of nominations for such position is submitted to the governor. If the governor fails to make the appointment within such time, the chief justice of the supreme court shall make such appointment from among the persons ~~so~~ nominated as provided in this section. When the appointment has been made and the person has informed the clerk of the supreme court in writing of the person's acceptance of such appointment, the clerk of the supreme court shall ~~so~~ notify the chairperson of the supreme court nominating commission who again shall ~~cause the~~ call a meeting of the commission ~~to meet~~ and submit to the governor another panel of three nominees for the lowest numbered position remaining on the court of appeals for which no appointment has been made. The process of nomination and appointment provided ~~herein~~ in this section shall be repeated until nominations and appointments have been made for all positions on the court of appeals for which appointments are to be made. Each appointment to the court of appeals shall be made from a separate panel of nominees, and the appointment to each position shall be made and accepted before any other panel of nominees is submitted to the governor. The nomination of a person on an earlier panel shall not preclude the person's nomination on a subsequent panel.

Sec. 3. K.S.A. 20-3006 is hereby amended to read as follows: 20-3006. (a) Persons who are appointed as judges of the court of appeals pursuant to K.S.A. 20-3005 and amendments thereto shall commence the duties of ~~their~~ office upon appointment, and each ~~such~~ judge shall have all the rights, privileges, powers and duties prescribed by law for the office of judge of the court of appeals. The initial ~~terms~~ term of office for ~~persons~~ the person serving as ~~judges~~ judge of the court of appeals in ~~positions~~

~~eight, nine and 10~~ position 11 shall expire January ~~14, 1991~~ 10, 2005. The initial term of office for the person serving as judge of the court of appeals in position 12 shall expire January 9, 2006. The initial term of office for the person serving as judge of the court of appeals in position 13 shall expire January 8, 2007. The initial term of office for the person serving as judge of the court of appeals in position 14 shall expire January 14, 2008.

(b) (1) Not less than 60 days prior to the holding of the general election next preceding the expiration of the term of any judge of the court of appeals, the judge may file in the office of the secretary of state a declaration of candidacy for retention in office. If a declaration is not ~~so~~ filed as provided in this section, the position held by the judge shall be vacant upon the expiration of the judge's term of office. If such declaration is filed, the judge's name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows:

"Shall _____ (Here insert name of judge.), Judge of the Court of Appeals, be retained in office?"

(2) If a majority of those voting on the question ~~shall vote~~ votes against retaining the judge in office, the position which the judge holds shall be vacant upon the expiration of the judge's term of office. Otherwise, unless the judge is removed for cause, the judge shall remain in office for a term of four years from the second Monday in January following the election. At the expiration of each term, unless by law the judge is compelled to retire, the judge shall be eligible for retention in office by election in the manner prescribed in this section.

(3) If a majority of those voting on the question ~~shall vote~~ votes against the judge's retention, the secretary of state, following the final canvass of votes on the question, shall certify the results to the clerk of the supreme court. Any such judge who has not been retained in office pursuant to this

section shall not be eligible for nomination or appointment to the office of judge of the court of appeals prior to the expiration of four years after the expiration of the judge's term of office.

(4) Election laws applicable to the general election of other state officers shall apply to elections upon the question of retention of judges of the court of appeals pursuant to this section, to the extent that they are not in conflict with and are consistent with the provisions of this act.

Sec. 4. K.S.A. 20-3002, 20-3003, 20-3005 and 20-3006 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

KANSAS BAR ASSOCIATION

1200 SW Harrison St.
P.O. Box 1037
Topeka, Kansas 66601-1037
Telephone (785) 234-5696
FAX (785) 234-3813
Email: ksbar@ink.org

BILL INTRODUCTION

January 31, 2001

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

FROM: Paul Davis, KBA Legislative Counsel

Mr. Chairman and Members of the Committee:

My name is Paul Davis and I am appearing before you on behalf of the Kansas Bar Association to request the introduction of a bill. The proposed bill is technical in nature and simply clarifies a defect that is contained in K.S.A. 21-4614. This statute deals with jail-time credit for persons who are convicted in a criminal action. However, the statute omits persons who plead no contest to a criminal charge. A literal reading of the current statute would not allow persons who plead no contest to obtain credit for the time they have been confined pending disposition when a sentence is computed by a judge. The Kansas Bar Association proposes that this inequity be remedied by simply adding the words "or no contest" to K.S.A. 21-4614.

I respectfully ask for the introduction of this bill. Thank you!

HOUSE BILL _____

By Committee on Judiciary

AN ACT concerning deduction of time spent in confinement; relating to no contest pleas.

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

Section 1. K.S.A. 21-4614 is hereby amended to read as follows: 21-4614. In any criminal action in which the defendant is convicted upon a plea of guilty *or no contest* or trial by court or jury or upon completion of an appeal, the judge, if he or she sentences the defendant to confinement, shall direct that for the purpose of computing defendant's sentence and his or her parole eligibility and conditional release dates thereunder, that such sentence is to be computed from a date, to be specifically designated by the court in the sentencing order of the journal entry of judgment or the judgment form, whichever is delivered with the defendant to the correctional institution, such date shall be established to reflect and shall be computed as an allowance for the time which the defendant has spent incarcerated pending the disposition of the defendant's case. In recording the commencing date of such sentence the date as specifically set forth by the court shall be used as the date of sentence and all good time allowances as are authorized by the Kansas adult authority are to be allowed on such sentence from such date as though the defendant were actually incarcerated in any of the institutions of the state correctional system. Such jail time credit is not to be considered to reduce the minimum or maximum terms of confinement as are authorized by law for the offense of which the defendant has been convicted.

Section 2. K.S.A. 21-4614 is hereby repealed.

Section 3. This act shall take effect and be in force from and after its publication in the statute book.

The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

January 31, 2001

TO: House Committee on Judiciary

FROM: Kathleen Taylor Olsen, Kansas Bankers Association

RE: Introduction of Bill: Forgery of Checks

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to respectfully request introduction of a bill that addresses the issue of check forgery and fraud here in Kansas.

The KBA has been working with the Topeka Police Department's Financial Fraud Unit to develop possible solutions to the increasing problem they are seeing with check forgeries. We have tried to be creative with our thinking in trying to find something that would truly serve as a deterrent to individuals thinking about committing check forgery. We have come up with what we believe is a reasonable solution.

This bill would basically do two things: it would treat individuals who are repeatedly convicted of check forgery more harshly by requiring some jail time before probation can be granted; and it would make check forgery subject to the provisions of the Kansas Asset Seizure and Forfeiture Act.

We will be happy to present complete testimony at the scheduled hearing date. Thank you for your time and we ask that you act favorably upon this request for bill introduction.

800 SW Jackson Suite 1500 • Topeka, Kansas 66612-1265 • (785) 2
email kbaoffice@ink.org

2001 lrs0667

PROPOSED BILL NO. ____

By

AN ACT concerning forgery; amending K.S.A. 21-3710 and K.S.A. 2000 Supp. 21-4704 and 60-4104 and repealing the existing sections.

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

Section 1. K.S.A. 21-3710 is hereby amended to read as follows: 21-3710. (a) Forgery is knowingly and with intent to defraud:

(1) Making, altering or endorsing any written instrument in such manner that it purports to have been made, altered or endorsed by another person, either real or fictitious, and if a real person without the authority of such person; or altering any written instrument in such manner that it purports to have been made at another time or with different provisions without the authority of the maker thereof; or making, altering or endorsing any written instrument in such manner that it purports to have been made, altered or endorsed with the authority of one who did not give such authority;

(2) issuing or delivering such written instrument knowing it to have been thus made, altered or endorsed; or

(3) possessing, with intent to issue or deliver, any such written instrument knowing it to have been thus made, altered or endorsed.

(b) (1) Forgery is a severity level 8, nonperson felony.

(2) On a second conviction of a violation of this section, a person shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than the amount of the forged instruments nor more than $1,000. The person convicted must serve at least 30 days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released.

(3) On the third or subsequent conviction of a violation of this section, a person shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than the amount of forged instruments nor more than $2,500. The

person convicted must serve at least 90 days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released.

(c) In any prosecution under this section, it may be alleged in the complaint or information that it is not known whether a purported person is real or fictitious, and in such case there shall be a rebuttable presumption that such purported person is fictitious.

Sec. 2. K.S.A. 2000 Supp. 21-4704 is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

SENTENCING RANGE - NONDRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	39 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND

Presumptive Probation

Border Box

Presumptive Imprisonment

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is

classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3411, aggravated assault against a law enforcement officer or K.S.A. 21-3415, aggravated battery against a law enforcement officer and amendments thereto which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community

safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567 ~~and~~, subsection (c)(3) of K.S.A. 21-3412 and subsections (b)(2) and (b)(3) of K.S.A. 21-3710, and amendments thereto shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567 ~~and~~, subsection (c)(3) of K.S.A. 21-3412 and subsections (b)(2) and (b)(3) of K.S.A. 21-3710, and amendments thereto shall not be served in a state facility in the custody of the secretary of corrections.

(j) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term. Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (1) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (2) at the time of the conviction under subsection (1) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government. The provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed

any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, or any substantially similar offense from another jurisdiction.

(l) The sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment.

Sec. 3. K.S.A. 2000 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

(a) All offenses which statutorily and specifically authorize forfeiture;

(b) violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;

(c) theft which is classified as a felony violation pursuant to K.S.A. 21-3701, and amendments thereto, in which the property

...en was livestock;

(d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments thereto;

(e) money laundering, K.S.A. 65-4142, and amendments thereto;

(f) gambling, K.S.A. 21-4303, and amendments thereto, and commercial gambling, K.S.A. 21-4304, and amendments thereto;

(g) counterfeiting, K.S.A. 2000 Supp. 21-3763, and amendments thereto;

(h) forgery, K.S.A. 21-3710, and amendments thereto;

(i) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;

~~(i)~~ (j) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;

~~(j)~~ (k) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission.

Sec. 4. K.S.A. 21-3710 and K.S.A. 2000 Supp. 21-4704 and 60-4104 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Mr. Chairman, Mr. Vice-Chairman, Members of the Judiciary Committee, friends I thank you for giving me the opportunity to address you as a proponent for HB 2003. My name is Beverly Peterson. I am a teacher, a mother, and a grandmother. I am also the person on whose behalf Representative Stone has introduced this bill. It has been a labor of love, and it is of supreme importance to Tori, my grandchild, whom I am raising. I also feel certain that it will be beneficial to many other small victims of abuse after it has become law.

The purpose of HB 2003 is to give the judicial system a little more leeway in determining what will be in the best interests of the abused child. The exact words of this amendment read, *(7) parent abused or neglected the child and: (A) Reasonable efforts to reestablish the family unit have failed; (B) the parents have failed or refuse to modify their circumstances to meet the needs of the child; or (C) the evidence shows that it is not in the best interest of the child to remain with or be returned to the parent.* Its intent is to allow evidence to be introduced into the court. The court, in turn, is entrusted to listen to the evidence and make a just determination.

HB 2003 is the only hope of permanent safety for my granddaughter, Tori. You see, my granddaughter was a victim of neglect, physical abuse, and

psychological abuse from the time of her birth by both her mother and her father. Through some extraordinary circumstances, I was able to gain temporary guardianship of her and have been able to protect her for two years from being returned to an unsafe home.

Tori is now over three years old. She has been healed through the love of family and friends and by the help of her psychiatrist at Menninger's. We want to see that she remains healed, remains in her home, and is never again forced to endure what occurred in the past.

You are probably asking yourself, "What is the need for this? We already have laws covering child abuse." And you are right. We do have good laws. Unfortunately, these laws do not cover Tori's situation because she was not officially adjudicated as a child in need of care. There has been a guardian ad litem appointed. There has been court ordered counseling for both parents. There have been supervised visitations ordered. There has been a home study ordered. Yet Tori's case will never end because Kansas law will not allow it. The substantial evidence I have collected cannot even be presented to the court to show that her best interests would not be served by reintegration.

To briefly explain, my daughter was the victim of sexual abuse at the age of fourteen. The trauma of that event has left its scars on my entire family. My daughter attempted suicide on more than one occasion, was hospitalized for emergency psychological help and diagnosed with borderline personality disorder, oppositional-defiant disorder, and post-traumatic stress syndrome. Despite efforts to help her through counseling and family support, these scars led to classic acting out behaviors of victims of sexual abuse. No amount of counseling or love could pull her from the pit.

To this day she continues to bear these scars and live her life making choices that are a direct result of this event. I cannot describe the heartbreak this has caused for everyone in my family.

For a year after Tori's birth I was able to protect both the baby and my daughter. But eventually, her choices put me into a position that forced me to choose whom I should protect- her or Tori. In the end I had to choose to protect the one who could not protect herself. It was, indeed, a "Sophie's Choice".

The past two years have been a struggle. We have lived from day to day never knowing whether her parents would complete the process by which reintegration would occur. A lot of evidence has surfaced during this time.

While doing my spring cleaning I found a picture of Tori when she was between two and three months of age. In the picture the baby has bruises on both of her eyes. It had to have been taken by my daughter during the seven-week period of time that she refused to allow me to see Tori. In the same box as the picture I found a journal in which my daughter detailed in her own handwriting fears that Tori's father would kill her by shaking her.

But the most damning evidence that has appeared has been since the reintegration plan has started. For a period of six months neither of the parents even asked to see Tori. There was no contact whatsoever. When supervised visitation was finally started, both parents skipped visitations on a regular basis. The skipping continues to this day. They miss a minimum of 50% of available supervised visitation time.

During a brief period of time during the summer of 1999, the parents were allowed four-hour visitations away from the supervised visitation center with the paternal grandmother being the supervisor. It was during one of these visits that a picture of Tori was taken. She was eighteen months old at the time. The picture shows her about ten feet from the street, completely unsupervised, and at a full run. Luckily, she stopped and

was not hurt. Since that time, all visits have been at the supervised visitation center. The court should be able to hear this evidence.

Tori's response to visitations has become a predictable pattern over time. She has nightmares, night terrors, and/or sleep disturbances five to six times a night immediately after seeing her parents. She displays aggressive behavior towards others. She has increased need to be held and comforted and is frightened if I am out of her sight. The intensity of her response decreases as days pass, then we begin the cycle again as her weekly visitation occurs.

The response is not due to anything that is occurring at the supervised visitation center. They do a wonderful job of protecting her. It is the visitation itself.

No other victim of abuse is required to spend time with the perpetrator(s) of the abuse except children who are abused. I cannot imagine that any court would order a rape victim, spousal abuse victim, or victim of sexual abuse to do this, yet until parental rights are terminated, Tori must do it twice a week. As an adult, I doubt that I would have the coping mechanisms in place to accomplish this task, yet Tori does it every

Wednesday and Thursday evening. What courage she must have! And visitations will continue.

The court also should be able to hear the evidence that shows drug and alcohol abuse by both parents, suspected drug dealing by the father, abuse of my daughter by Tori's father, my daughter's psychological state, and the moral turpitude of both parents.

In over two years neither parent has called to speak with Tori on the phone. Neither parent has attended birthday parties when invited. Neither parent has acknowledged **even one** holiday or milestone with a card or gift.

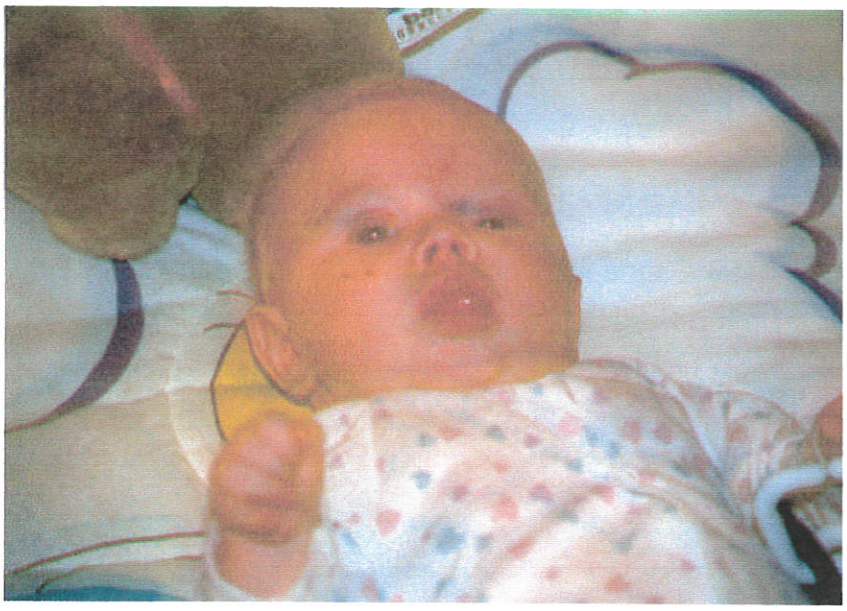
The court should be able to be presented with all of these facts and the other evidence that has been accumulated. The facts prove beyond a shadow of a doubt that their parental rights should be terminated. This, however, is not possible without HB 2003.

Drugs, alcohol, and violence take a heavy toll on the children of our society. I know in my heart that Tori is not the only child in Kansas that is in this situation. Just a few days ago I heard about another woman in my hometown that is living almost my same story. This amendment will help her and the others who find themselves in similar circumstances.

As an educator I see the result of children who the law is not able to protect. Despite the best efforts of every agency, they are the ones who pay the ultimate price. Many times that price is their future. It has not been very long ago that a baby was returned to abusive parents in Council Grove. That baby paid the ultimate price with its life.

If we can open a door that can let in the light of a safe life for these children, shouldn't we grasp the opportunity? If we can save just one child with this amendment, isn't it our duty to do so?

I respectfully ask that you recommend HB 2003 favorable for passage before the full House of Representatives. Thank you for your time and consideration.



Tori Then

Tori Now

TESTIMONY OF THE JUDICIAL COUNCIL
REGARDING HB 2084

January 31, 2001

The Judiciary Committee of the House of Representatives requested that Judicial Council study the problem of how the justice system in Kansas can deal with individuals who allegedly commit crimes, but are incompetent to stand trial and not likely to become competent in the foreseeable future due to mental retardation or organic brain disease. Under the mental illness code, such a person cannot be involuntarily committed because retardation and organic mental disorder are excluded from the definition of "mentally ill person subject to involuntary commitment for care and treatment" as found at K.S.A. 2000 Supp. 59-2946(f)(1). The issue originally arose from concerns expressed by judges in correspondence sent to their Representatives and to the Chair of the House Judiciary Committee regarding individuals who had committed offenses but could not be held in custody because they were not competent to stand trial and could not be involuntarily committed because they did not meet the definition of being mentally ill. The judges felt these individuals continued to be a risk to the safety of others. Additionally, the Attorney General became concerned when a case arose regarding an elderly gentleman who committed murder, but could not be held because of organic brain disease.

Prior to the mental health reforms enacted in 1996, the applicable definition for involuntary commitment was defined as a person who was suffering from a severe mental disorder to the extent the person was in need of treatment, lacked the capacity to make an informed decision regarding treatment, and was likely to cause harm to self or others. In 1996, the definition was amended to read:

> (e) "Mentally ill person" means any person who is suffering from a mental disorder which is manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment.
>
> (f) (1) "Mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in subsection (e), who also lacks capacity to make an informed decision concerning treatment, is likely to cause harm to self or others, **and whose diagnosis is not solely one of the following mental disorders: Alcohol or chemical substance abuse; antisocial personality disorder; mental retardation; organic personality syndrome; or an organic mental disorder.**
>
> (2) "Lacks capacity to make an informed decision concerning treatment" means that the person, by reason of the person's mental disorder, is unable, despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or

House Judiciary
1-31-01
Attachment 6

> treatment or is unable to engage in a rational decision-making process regarding hospitalization or treatment, as evidenced by an inability to weigh the possible risks and benefits.
>
> (3) "Likely to cause harm to self or others" means that the person, by reason of the person's mental disorder: (a) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or (b) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person's ability to function on the person's own.

The portion of the amended language which created this issue was the new language excepting from the definition of "mentally ill person" those who suffer from alcohol or chemical substance abuse, antisocial personality disorder, mental retardation, organic personality syndrome, or an organic mental disorder. Seemingly, this amendment furthered the policy of removing such individuals from institutions.

The issue was assigned to the Criminal Law Advisory Committee. The first step of the study was to begin an extensive review of the statutes of other states. This review revealed that each state's approach was resource driven. In some states, special institutions, facilities, or programs affiliated with institutions, or other specialized programs exist for the care and treatment of such individuals. Other states have well-funded and extensive guardianship programs that include resources for the close supervision of such individuals outside of an institution.

Such issues exceeded the scope of the assignment received from this committee. Therefore, the committee proposed an amendment which would return to basically the same definition as was in place before 1996, at least as it would relate to those who had allegedly committed a crime. The proposed amendment would eliminate the exception of alcohol or chemical substance abuse, antisocial personality disorder, mental retardation, organic personality syndrome or organic mental disorder from the definition of mental illness if the person otherwise met the definition and was likely to cause harm to self or others. While this amendment addresses the statutory problem, it diverges for these limited purposes from the policy decision made by the Legislature and generally endorsed by the mental health community to move individuals from custodial, institutional environments to the community.

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

Docking State Office Building
915 SW Harrison, 6th Floor North
Topeka, Kansas 66612-1570

for additional information, contact:

Operations
Diane Duffy, Deputy Secretary

Office of Budget
J.G. Scott, Director

Office of Planning and Policy Coordination
Trudy Racine, Director

phone: 785.296.3271 ***fax:*** 785.296.4685

House Judiciary Committee
January 31, 2001

Testimony on House Bill 2084

Health Care Policy
Karen Suddath, Director of Mental Health,
Substance Abuse Treatment and Recovery
785.296.3773

House Judiciary
1-31-01
Attachment 7

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

House Judiciary Committee
January 31, 2001

Testimony on House Bill 2084

Thank you Mr. Chairman and members of the committee for the opportunity to appear before you today and offer this testimony on behalf of Secretary Schalansky.

My name is Karen Suddath. I am the Director of Mental Health Substance Abuse Treatment and Recovery for the Kansas Department of SRS. The Department of SRS, among its other duties and services, operates Osawatomie State Hospital, Larned State Hospital, Rainbow Mental Health Facility and the State Security Hospital at Larned.

I speak today in opposition to HB 2084.

HB2084 is clearly intended to address a difficult problem. The problem HB2084 attempts to address arises when a defendant in a criminal proceeding has been found not competent to stand trial, but the reason for their incompetency stems from some problem other than mental illness.

Current law requires the court, when it finds someone not competent and not likely to be made competent by short term treatment, to order the Secretary of SRS to file a civil commitment petition on that person. It is the same type of petition that is filed in any other mental illness commitment proceeding. Of course, if the reason the person is not competent to stand trial is because of mental illness, this requirement makes sense.

The problem comes from the fact that not all persons who are incompetent to stand trial are mentally ill. Sometimes, the cause is mental retardation, or because of a brain injury, or the result of an addiction to alcohol or other drugs. Whatever the cause, SRS is still required to file the mental illness petition and attempt a commitment. We go through the motions in these cases, and the court hearing the mental illness petition applies the law from Chapter 59 of the Kansas Statutes Annotated, and finds that the person is not a "mentally ill person subject to involuntary commitment". The law defining criteria for commitment of a person with mental illness provides four criteria in making that determination:

1) does the person have a serious mental illness for which they are in need of treatment;

2) does the person lack the capacity to understand the nature of their illness and the need for them to receive treatment;

3) because of their illness and lack of understanding, are they therefore dangerous either to themselves or to others or to the property of another; and

4) is their illness not one of those conditions for which mental illness treatment will not help them. (An example is Mental Retardation. No amount of psychotherapy, no administration of psychotropic medications is going to make a mentally retarded person not mentally retarded.)

So, in this type of case, the mental illness petition is denied and dismissed. Since the person is not competent to stand trial, the criminal charges have to be dismissed.

So the question becomes, what do you do with that person? HB2084 tries to address the problem by changing, for those persons, the civil commitment criteria. It eliminates criteria - 2 and 4 above and changes criteria 3 to be just some kind of dangerousness. It attempts to alter and expand the definition of "mental illness" for this purpose, and to use the definition for mental illness which the Chapter 59 statutes reserve for voluntary admissions to the hospital.

Specifically, this bill broadens the definition of who may be civilly committed when they are accused of a criminal offense, found incompetent to stand trial, and found unlikely to regain that competence. This bill would add at least the following persons to those who can be civilly committed in these circumstances: persons with alcohol or chemical substance abuse, antisocial personality disorders, mental retardation, organic personality syndrome, and organic mental disorders. These are the person specifically exempted from the definition under K.S.A. 59-2946 (f)(1).

SRS opposition to HB2084 is based on the following concerns:

1. State psychiatric hospitals are for the treatment of mental illness. Individuals with other types of disabilities would receive no treatment or services that are specific to their needs.

2. There would certainly be an increase in the number of individuals residing in institutional settings. Kansas has been very successful in developing community-based alternatives that are not only less costly but also more effective in the treatment of mental illness. This would be a step backwards and would encourage the use of state hospitals as "placements" for individuals who fall through the cracks of other systems.

3. There is some question as to whether the provision is constitutional because it treats individuals differently depending on what circumstances led up to the filing of the petition. For example:

If a family calls a Community Mental Health Center when a loved one becomes threatening or causes some harm – and a civil petition ultimately is filed, one set of criteria applies. In that same case, if a family calls 911 and law enforcement becomes involved and criminal charges are filed, we still end up at this civil petition stage. HB2084 would impose a second and different set of criteria. Under current law, regardless of which call the family makes, the criteria for civil commitment is the same.

Committing individuals without mental illness to state psychiatric hospitals is not the answer to this problem. These individuals need treatment or services specific to their disability, not to be warehoused in large and costly institutions. SRS would be glad to participate in discussions about a more workable solution.

Thank you for the opportunity to share our concerns, and I would be glad to answer any questions.