

Approved

Date: *January 30, 2001*

## MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:38 a.m. on January 25, 2001 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor  
Mary Blair, Secretary

Conferees appearing before the committee:

Senator Steve Morris  
Doug Wareham, Kansas Grain and Feed Association and Kansas Fertilizer & Chemical Association  
Tim Madden, Department of Corrections (DOC)  
Captain James Schwegman, Johnson County Sheriff's Department for the Kansas Sheriff's Association

Others attending: see attached list

Minutes of the January 24, 2001 meeting were approved on a motion by Senator Adkins, seconded by Senator Donovan. Carried.

### **SB 36—concerning agriculture; re: destruction of field crops; damages**

Conferee Morris testified as a proponent of **SB 36**. He discussed the events that led him to introduce this legislation which addresses the serious issue of expanding organized eco-terrorism in the United States and its impact on agriculture throughout the country. (attachment 1)

Conferee Wareham testified as a proponent of **SB 36**, a civil bill, which provides, from the penalties imposed, more than adequate compensation for victims of acts of bio-terrorism. He stated that it is hoped that these stiff penalties will act as a deterrent to this type of crime. He detailed examples of acts of bio or eco-terrorism by special interest extremists who willfully destroy or damage field crops grown for personal, commercial, testing or research purposes and he provided detailed information on media coverage of this crime as well as web site information. (attachment 2) Discussion followed.

Written testimony supporting **SB 36** was submitted by Kansas Grain Sorghum Producers Association. (attachment 3)

### **SB 26—concerning Kansas standard asset seizure and forfeiture act; re: civil remedies**

Conferee Madden testified on behalf of Secretary Simmons in support of **SB 26**, a bill which provides for an amendment to current statutes to "clarify that the forfeiture of contraband items pursuant to regulations governing the inmate disciplinary process is not precluded by the Standard Asset Seizure and Forfeiture Act." He explained that the bill was a response to a Legislative Division of Post Audit query made during their review of property seizure by law enforcement agencies. (attachment 4) Discussion followed.

### **SB 27—concerning corrections; re: transfer of offenders**

Conferee Madden testified on behalf of Secretary Simmons in support of **SB 27**, a bill which amends current law as follows: requires that whenever the physical custody of an offender sentenced to the DOC is transferred by a sheriff to a non-DOC jurisdiction, the sheriff shall notify both the DOC and the non-DOC jurisdiction that a sentence to be executed by DOC has been imposed; requires the sheriff to notify the DOC to where the offender was taken; requires offenders sentenced to the DOC's custody be transported to a designated correctional facility regardless of whether the prison portion of the sentence has been served; and addresses the lack of uniformity in references to the correctional facilities. The Conferee discussed the purpose for each of these provisions. (attachment 5) Discussion followed.

Conferee Schwegman testified in opposition to **SB 27** on behalf of Major Robert Johnston and the Kansas Sheriff's Association. He opposed the requirement that offenders be transported to the DOC regardless of whether the prison portion of the offender's sentence has been served explaining that this presented a civil liability risk to the holding sheriff's office. He offered an alternative to this provision and to other provisions which he opposed. (attachment 6) Discussion followed.

**SB 16—concerning CINC; re: temporary custody hearing**

The Chair reviewed **SB 16** which was heard on January 18, 2001. Following discussion, Senator Adkins moved to table the bill, Senator Oleen seconded. Carried.

**SB 20—concerning charitable organizations and solicitations act; re: bonds**

The Chair reviewed **SB 20** which was heard on January 18, 2001. Senator Schmidt discussed his proposed amendment to the bill. Following brief discussion Senator Schmidt moved to amend **SB 20** and to pass the bill out favorably as amended, Senator Oleen seconded. Carried.

The meeting adjourned at 10:30 a.m. The next meeting is January 30, 2001.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: January 25, 2001

NAME	REPRESENTING
Doc Wareham	KGFA/KFCA
Tom Tennell	KGFA/KFCA
Joyce Allegrucci	SRS
Cleta Renyer	Wes J. De
KATHY R. LANDIS	CHRISTIAN FIDELITY COMMITTEE ON PUBLICATION FOR KANSAS
Bill Henry	KS Gov. Consulting
Joe Herold	KSC
Ernest O. Fogge	AARP
Paul Davis	KS Bar Assn.
Kathy Olsen	KS Bankers Assn.
Jeff Bottolera	KS Sheriff's Ass'n
Jim Schwegman	Johnson County Sheriff's Office
ED SCHLESSELMAN	JOHNSON CO. SHERIFF'S OFFICE
Steve LARRICK	ATTORNEY GENERAL
Robert Collins	Keamey Law Office
Bill Hanzill	Governor's office
Joe Lieber	KS Co-op Council
Jan Baber	KADC



9th Dist  
1-25-01  
att 1

EVE MORRIS

SENATOR, 39TH DISTRICT  
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HUGOTON, KS 67951  
(316) 544-2084

STATE CAPITOL BUILDING, ROOM 120-S  
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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENT

CHAIRMAN: WAYS AND MEANS  
SRS TRANSITION OVERSIGHT

MEMBER: AGRICULTURE  
LEGISLATIVE BUDGET  
STATE BUILDING CONSTRUCTION

CO-CHAIR: COUNCIL OF STATE GOVERNMENTS  
AGRICULTURE TASK FORCE

**Testimony on SB 36 presented Senate Judiciary Committee  
January 25, 2001**

Good morning, I am pleased to be here today to talk to you about the growing epidemic of eco-terrorism in our country and, specifically, how this disturbing trend is impacting agriculture across the nation. It may not have impacted Kansas yet, but we need to address what farmers and agricultural research are going through.

Environmental terrorists, who are apparently not satisfied with the legal means by which they can protest and challenge scientific innovations in agriculture, have begun a systematic and organized attack on farmers and the agricultural research being done across the country. These groups, like the Earth Liberation Front (ELF) who were discussed on 60 Minutes a few weeks ago, have destroyed research crops, trees, and facilities at both public universities and private labs in more than 10 states so far.

The issue was brought to my attention last year through my colleagues at the Council of State Governments (CSG). In my capacity as co-chairman of the Agricultural Policy Task Force, I was stunned as we learned of such attacks on both public and private research facilities, we as well as innocent growers across the country. I was pleased to find out that a California Legislator, Assemblywoman Thompson, introduced legislation in California last year which increased penalties and the security of the offense for destruction of agricultural research plot and or research facilities. This measure became law last fall. She sponsored this bill after learning that a California-Davis graduate student's two year doctoral project was completely destroyed by eco-terrorists.

The CSG task force decided to pursue this issue as well. After consulting with agriculture and industry research groups, we adapted a resolution supporting Assemblywoman Thompson's approach, and we recommended that her bill be included in the 2001 Book on Suggested State Legislation. The book should be available to all of us from CSG.

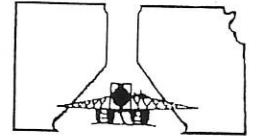
With that in mind, I am here today to urge your support of SB36. I have introduced this bill to protect the public and private agricultural research crops in Kansas, as well as the innovative new crops grown by our producers. Similar bills have already been introduced in 9 other states so far this session, and agricultural groups are hopeful that anti-crop destruction bills will be introduced in as many as 30 states this year and next.

These are not merely youthful pranksters or misunderstood activists we are dealing with. This is an organized assault on agricultural research by stealth eco-terrorist groups. There is reason to believe that facilities in all states will be targeted. Its time to send a strong message to these groups that their activities will have serious consequences. We should not and will not tolerate this kind of behavior and illegal activity. Thank you for your support.

In Jud  
1-25-01  
att 1



SJ 1-25-01  
att 2



STATEMENT OF THE  
KANSAS GRAIN & FEED ASSOCIATION  
AND THE  
KANSAS FERTILIZER & CHEMICAL ASSOCIATION  
BEFORE THE  
SENATE JUDICIARY COMMITTEE  
ON SENATE BILL 36  
SENATOR JOHN VRATIL, CHAIRMAN  
January 24, 2001

KGFA & KFCA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTEGRAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

816 SW Tyler, Topeka KS 66612 - 785-234-0461 - Fax: 785-234-2930

In Jud  
1-25-01  
att 2

Chairman Vratil and members of the committee, I am Doug Wareham appearing today on behalf of both the Kansas Fertilizer and Chemical Association (KFCA) and the Kansas Grain and Feed Association (KGFA). KFCA's over 550 members are primarily plant nutrient and crop protection retail dealers with a proven record of supporting Kansas producers by providing the latest crop protection products and services. KGFA is comprised of more than 1100 member firms including country elevators -- both independent and cooperative -- terminal elevators, grain merchandisers, feed manufacturers and associated businesses. KGFA's membership represents 99% of the over 860 million bushels of commercially licensed grain storage space in the state of Kansas.

I want to express our support for Senate Bill 36, which would prescribe tougher penalties, than those available under current law, for persons who willfully destroy or damage field crops that are grown for personal, commercial, testing or research purposes.

During the next few minutes I will do my best to provide you with information that I hope will justify the need for specific legislative language that we hope will serve as a deterrent against acts of bio or eco-terrorism in Kansas and will send a message to "special interest extremists", that destroying or damaging research crop production test plots in Kansas will come with a very expensive price-tag. I want to first point out that the terms, bio-terrorism, eco-terrorism and special interest extremists are not flashy phrases I came up with to spice up my testimony this morning, but rather are terms used by the Federal Bureau of Investigation as they describe organizations such as the Environmental Liberation Front (ELF), the Bioengineering Action Network, Reclaim the Seeds, the Bolt Weevils and The Genetic Jokers.

The blue attachment with my testimony today, which was compiled by MSNBC, outlines a detailed list of terrorists acts by organizations opposed to agricultural biotechnology. The examples listed range from the destruction of vegetable test plots in California to the uprooting of experimental hybrid trees in Washington state to the trampling of corn test plots in Minnesota to the firebombing of a biotech research facility on the campus of Michigan State University. We realize there have been no such reported acts within the borders of Kansas, but we believe the Kansas Legislature should take preemptive action to discourage acts of bio-terrorism and more importantly to ensure just compensation is paid by the guilty parties should there ever be cases similar to these in Kansas.

I have also attached (green copies) for your review the cover page of the Bioengineering Action Network (BAN) of North America's Website found at [www.tao.ca/~ban](http://www.tao.ca/~ban) along with their featured information entitled, "The Nighttime Gardener". "The Nighttime Gardener", has nothing to do with backyard gardening in the dark, but is instead a step-by-step guide for extreme activists to follow as they plan and prepare to destroy genetically



enhanced crop production test plots. This step-by-step crop destruction guide provides advice to bio-terrorists on the following:

- Advice on how to identify genetically enhanced crops
- Suggested dress for nighttime destruction of crops
- Suggested tools for destruction of crops
- Advice on disposal of evidence that could link activists to the damaged or destroyed site
- Recommendations on “when” to destroy genetically enhanced crops as to afflict the most economic damage to the public or private research facility.

It is unfortunate that acts of terrorism and this type of information is being promoted. The fact that it is being promoted and in the cases I’ve shared actually followed through on, is what led to anti-crop destruction legislation being adopted by the State of California during their 2000 Legislative Session. It also led to model legislation being approved by the Council for State Governments and has led to anti-crop destruction bills being introduced for consideration in Nebraska (LB 834), Missouri (SB 302), Mississippi (HB 760 & SB 2790), Virginia (HB 2223 & SB 1187) and Georgia (H.B. 17). I am also aware that bills have or will soon be introduced in Iowa, North Dakota and Hawaii.

Before I close my comments today, I would like to address one question that was raised concerning the different penalties that would be applicable under this proposed law versus existing laws in Kansas. We had our legal counsel review SB 36 and I know our legal counsel also contacted your legislative staff revisor for input.

Based on our legal review, we believe this legislation would strengthen existing Kansas law by:

- ensuring liable persons or parties are responsible for **twice** the value of destroyed or damaged crops.
- ensuring courts consider **twice** the value of production, research, testing, replacement and crop development costs.

Once again, I appreciate the opportunity to appear in support of Senate Bill 36 and would be happy to answer any questions at this time.

## U.S. Gets a New Crop of Terrorists

“Activists opposed to genetic engineering have stepped up attacks on private and government properties in North America. News reports cited 18 strikes in 1999, compared with just a handful in prior years and 11 attacks have been made so far this year...A review by MSNBC.com found that 2000 is on track to be a record year for violence by these biotech extremists.” Source: MSNBC, June 14, 2000

### **Sites attacked by groups opposed to genetic engineering.**

#### SEATTLE, WASHINGTON

DATE: November 27, 1999

VICTIM: University of Washington

INCIDENT: Washington Tree Improvement Association hacks up about 200 experimental poplars and alders

#### PUYALLUP, WASHINGTON

DATE: November 27, 1999

VICTIM: University of Washington

INCIDENT: Washington Tree Improvement Association pulls up at least 150 raspberry plants it mistakes for hybrid poplar trees.

#### CANBY, OREGON

DATE: June 4, 2000

VICTIM: Pure-Seed Testing

INCIDENT: The Anarchist Golfing Association destroys experimental grass plots. The company, specializing in golf greens, said the grass was grown using plant breeding, not genetic engineering. Estimated damage: \$300,000-\$500,000.

#### TUELAKE, CALIFORNIA

DATE: May 26, 1987

VICTIM: UC-Berkeley



INCIDENT: Vandals pull up about 3,000 experimental potato plants scheduled to be treated with frost-inhibiting bacterium.

WOODLAND, CALIFORNIA

DATE: May 23, 2000

VICTIM: Seminis Vegetable Seeds

INCIDENT: Unnamed activists destroy tomato, broccoli, pea, onion, and pepper crops at research greenhouses.

DATE: September 30, 1999

VICTIM: Novartis Seeds Inc.

INCIDENT: Reclaim the Seeds and Future Farmers smash watermelons, cut up plastic irrigation pipes and pull down trellises.

DATE: September 30, 1999

VICTIM: Pioneer Hi-Bred International Inc.

INCIDENT: Reclaim the Seeds and Future Farmers crush corn, destroy sunflower seed plants - neither genetically engineered.

DAVIS, CALIFORNIA

DATE: September 27, 1999

VICTIM: UC-Davis

INCIDENT: Reclaim the Seeds smashes experimental watermelons, hacks up walnut trees, turns over a weather station.

DATE: September 14, 1999

VICTIM: UC-Davis

INCIDENT: Reclaim the Seeds pulls up and tops Round Up resistant sugar beets in UC-Davis experimental crop.

DATE: July 14, 1999

VICTIM: UC-Davis

INCIDENT: Reclaim the Seeds destroys experimental corn at UC-Davis "to fight the nightmares of biotechnology."

LODI, CALIFORNIA

DATE: July 28, 1999

VICTIM: Eureka Seeds Inc.

INCIDENT: Lodi Loppers cut down more than 500 stalks of corn engineered to resist the herbicide Round Up

SONOMA COUNTY, CALIFORNIA

DATE: April 7, 2000

VICTIM: Vinifera

INCIDENT: The Petaluma Pruners destroy grape plants in Sonoma County, Calif. The company says the plants were not genetically modified, but raised via plant breeding.

ALBANY, CALIFORNIA

DATE: May 21, 2000

VICTIM: USDA

INCIDENT: Reclaim the Seeds enter research offices at night but flee after being spotted by a security guard.

DATE: January 11, 2000

VICTIM: USDA's Agricultural Research Service

INCIDENT: Reclaim the Seeds breaks into the Western Regional Research Center, dumps experimental wheat plants on floor.

DATE: January 10, 2000

VICTIM: USDA, University of California

INCIDENT: Reclaim the Seeds raid research offices to disrupt tests on genetically modified wheat.

DATE: August 2, 1999

VICTIM: UC-Berkeley

INCIDENT: California Croppers play football in UC-Berkeley cornfields, but the stalks aren't genetically engineered



BERKELEY, CALIFORNIA

DATE: September 14, 1999

VICTIM: UC-Berkeley

INCIDENT: Reclaim the Seeds carves circle in cornfield, but the crop contains no genetically engineered corn.

DATE: November 26, 1998

VICTIM: UC-Berkeley

INCIDENT: The California Croppers play tackle football in genetically engineered corn, damaging UC-Berkeley experiment.

BRENTWOOD, CALIFORNIA

DATE: April 24, 1987

VICTIM: Advanced Genetic Sciences

INCIDENT: Strawberry Liberation Front uproots strawberry plants designed to fight frost formation

WATSONVILLE, CALIFORNIA

DATE: January 20, 2000

VICTIM: Plant Sciences Inc.

INCIDENT: The Fragaria Freedom Farmers destroy an experimental patch of strawberries.

KAUAI, HAWAII

DATE: May 10, 2000

VICTIM: USDA, University of Hawaii

INCIDENT: The Menehune strike test crops on Kauai.

DATE: May 9, 2000

VICTIM: Novartis

INCIDENT: Activists calling themselves the Menehune, or elves in Hawaiian, strike a corn plot near Kekaha.

MANKATO, MINNESOTA

DATE: September 12, 1999

VICTIM: Pioneer Hi-Bred International Inc.

INCIDENT: Bolt Weevils trample research corn at Pioneer Hi-Bred International seed company, damage vehicles, paint graffiti.

GOLDEN VALLEY, MINNESOTA

DATE: September 1, 1999

VICTIM: Novartis Seeds Inc.

INCIDENT: Bolt Weevils trample and crush corn owned by Novartis, glue locks on company building.

ST. PAUL, MINNESOTA

DATE: April 1, 2000

VICTIM: U.S. Forest Service

INCIDENT: The Genetic Jokers trash vehicles at the University of Minnesota in St. Paul. The USFS was targeted because of its research into genetic engineering of trees.

DATE: February 9, 2000

VICTIM: University of Minnesota

INCIDENT: The Earth Liberation Front destroys tests on genetically engineered oat crops.

EAU CLAIRE, WISCONSIN

DATE: October 27, 1999

VICTIM: Pioneer Hi-Bred International Inc.

INCIDENT: Seeds of Resistance breaks four windows at a research center leased by Pioneer Hi-Bred.

LANSING, MICHIGAN

DATE: December 31, 1999

VICTIM: Michigan State University

INCIDENT: The Earth Liberation Front, targeting a researcher, sets a \$400,000 fire in MSU's 91-year old Agriculture Hall.

NEWBURY, VERMONT

DATE: August 24, 1999

VICTIM: Paul Knox farm

INCIDENT: Vandals cut down a small patch of Round Up resistant corn, stick cutouts of Monarch butterflies in ground.

OLD TOWN, MAINE

DATE: August 19, 1999

VICTIM: University of Maine

INCIDENT: Seeds of Resistance damages a half-acre plot of Round Up resistant corn.

Information is taken from the "Eco-saboteurs" section of an MSNBC article that can be viewed at: <http://www.msnbc.com/news/417499.asp?cp1=1>



# BIOENGINEERING ACTION NETWORK

join the movement to protect  
the fabric of life

of north america



## THE NIGHTTIME GARDENER

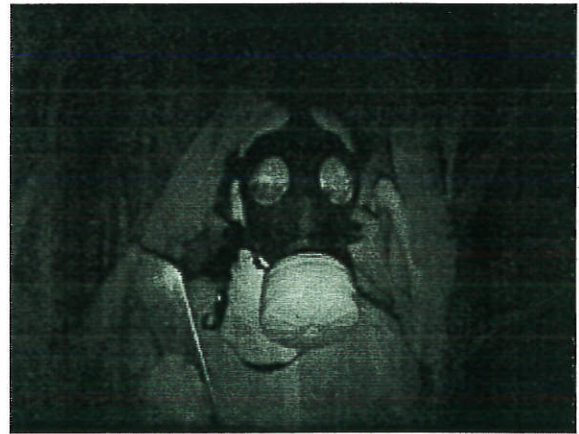
a how-to guide for the shy gardener in North  
Amerika-

## BAN RANTS

activist commentaries on strategy and tactics

## DIGGING DEEPER

investigations into a wide variety of issues  
relating to bioengineering and biopiracy



## THE CROSS-POLLINATOR (BAN) Newsletter #1

## GE ACTIVIST CALENDAR

## GENETIX ALERT PRESS OFFICE

24 hours of **GE FREE** news headlines

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**Action Reports** news from the frontlines

"Don't ever forget the seed is the most important thing in the whole world. I am going to tell you a story. It was during the war and I was doing some drawings in the Bethlehem-Fairfield shipyard near Baltimore. There was a great battleship being made there and while I was looking at it, suddenly I saw at my feet a rubble heap and a little dandelion plant. As I was standing there a puff of wind came and wafted the seed from that dandelion plant right across the big steel ship, and as I looked at it, suddenly I realized there was more power in that one little seed than there was in this great big steel ship, because the steel ship was static. It had no power of growth. But that one tiny dandelion seed had in itself the force of immortality beyond my lifetime, because it held inside that tiny little shell the power of growth. And so I think that when we play with earth and seeds, we do it with a stimulating

earth and seeds, we do it with a stimulating humility because we know we are playing with the things of this life which are of the most enduring importance".

**Mad Science** news from the brave new world

From the 'The Philosophy of Gardening' by Clare Leighton. An address given at a horticultural meeting St. Paul, Minnesota, June 1947.

**Research Links** how to find your targets

**Activist Links** contacts for regional action groups and links to organizations working against GE

**BAN Goodies** Merchandise--shirts, stickers etc.

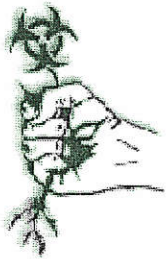
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This page last updated December 9, 2000

Questions? Comments? Send email to [ban@tao.ca](mailto:ban@tao.ca)  
Site design, maintenance by [denny@tao.ca](mailto:denny@tao.ca)

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## The Nighttime Gardener

-A guide for the shy gardener in North Amerika-

Greetings. The following guide was put together for the WTO gathering in the hopes that people from all over the continent would find this informational useful and inspiring. The corporate biotechnology onslaught embodies the New World Order perhaps better than any other issue. Johnna Appleseed of Reclaim the Seeds, one of several nighttime gardening groups, describes it well: "If you care about wildlife and think the natural world is fine without mutant genes, you should resist genetic engineering. If you care about social justice and don't want to poison farm workers with pesticides and herbicides, you should resist genetic engineering. If you care about biological and cultural diversity as opposed to a global corporate monoculture, you should resist genetic engineering. If you care about laboratory animals and don't want researchers creating hybrid genetic monsters, you should resist genetic engineering. If you eat food, you should resist genetic engineering. If not you, then who? If not now, when? Resistance to genetic engineering is as transnational as capital."

A section on computer security will be released with a future draft of this guide. Please make sure and check it out. There are numerous benefits of encryption technology and anonymous web-surfing. Also, a read-through of the essential book Ecodefense will be most helpful, in particular the "Security" chapter.

These GE plants are held captive as biotech slaves. By harvesting them early, we free them from the bonds of corporate servitude. Remember this while gardening because sometimes it feels strange to garden in this manner. Life is sacred, which is why we garden at night in the first place. May nighttime gardening flourish here as it has in Europe and other lands around the globe.



## THE NIGHTTIME GARDENERS

-This guide shall be continuously updated. Please give us your input at: [nighttimegardeners@angelfire.com](mailto:nighttimegardeners@angelfire.com)

### Evening Attire for The Nighttime Gardener

Gardening is a very dirty job. For the least hassle it is recommended to wear a complete set of old clothes that can easily be discarded in dumpsters after gardening. Don't be cheap. It's really necessary, even if like us, you hate wasting anything. Black evening attire is the most appropriate for shy gardeners. You may get very wet and cold, so wear appropriate cold-weather and rain gear. Have some comfortable clean clothes and shoes to change into before you get home.

A forensic scientist can tell roughly where you've been from the composition of the dirt and soil that you will have picked up on your travels. Say, for instance, you've been gardening at a Monsanto test site of



GE corn, then traces of earth will be upon you, as will traces of plant life, such as pollen that you may have brushed against.

These traces are used to put you at a certain place, and in some instances, at a certain time. Once again, it is best to dispose of any gardening clothing. i.e. give up your attachment to your clothes! And before you leave for the action, empty your pockets and don't bring along anything (even to leave in a vehicle) you don't need and wouldn't want to see in court.

On soft surfaces, such as mud, earth, dog shit, etc., shoe impressions will be left behind. From these marks identification can be made. The only sensible thing to do is to wear old shoes and to throw them a long way away immediately afterwards. Shoes (and clothes) will also carry traces away with them, such as oil, gas, glass splinters and other such gardening giveaways. Don't wear them in your vehicle or in your home. When gardening in urban areas, consider the impact that you may have on a passer-by wearing all black from head to toe. Wearing inconspicuous clothes such as dark pants and a hooded sweatshirt may serve the purpose.

Make sure you don't have activist bumper stickers on your action vehicle. A "Smash The State" sticker may narrow down the pool of suspects.

Gardening just after a spraying of RoundUp, Liberty or other toxic herbicides may pose a grave threat to the health-conscious gardener Gore-Tex or rubber rain gear (cheaply purchased or easily stolen from Wal-Mart) as well as medical masks, and chemical-protective gloves (Home Depot, etc.) are necessary. It is possible to find out from county extension offices whether or not there is a particular timing for spraying of certain local crops. Particularly sensitive gardeners may want to hit BT or other pest-resistant crops rather than Roundup-Ready/Liberty Link (herbicide tolerant) crops. It is more likely that commercial GE. crops (those grown for market) will be sprayed. Be careful!

## The Nighttime Gardener's Toolbox

The tools you use for gardening will vary, but for some crops you won't need any at all. Your hands in good work gloves (for fingerprint guard and protection) will do just fine. Gardening without tools is great when the crops are easy enough to rip up by hand because you'll have less weight to carry, and less gear to accidentally leave at the site or get nabbed with. Night gardeners have had success with rolling their bodies over the crops as well, but this may only bend certain crops at certain ages, instead of damaging them beyond repair.

However, some GE crops (older trees, for example) are nearly impossible to take out without tools. Some people like to use saws, scythes, machetes, hoes, shears, or other gardening tools, but it's really a personal preference. Think simple and streamlined. Ever try to carry a machete over barbed wire? Not easy! They can sometimes be too much trouble, too time consuming, or difficult to part with after gardening. One group reported that a long metal pole pushed across one or two rows of corn (dubbed the California Corn Cutter") worked well for quick, convenient, and energy-efficient gardening. Be creative. Practice beforehand if you are using any fancy methods.

Bolt cutters are good for getting through locked gates or into greenhouses. Another technique for gaining access into glass greenhouses is to duck tape a square one could crawl through, and then punch it in. The tape will muffle sound by absorbing the blow and keeping the glass from scattering all over the ground. There are also hand-held, manual, spring-loaded punches which paramedics use to break glass on car windows that work very well. Corrugated plastic greenhouses can be cut into with a sharp knife as well.

Another tool for rows of some crops is a strong board with holes in both ends through which a rope is strung. The board is placed on the ground, and then the gardener puts a foot on top of it and lifts up the rope to a comfortable waist height. Then, the gardener can go step by step stomping down the crops, and avoid stooping or kneeling on the ground, which can easily get very tiring.



Lots of tactics have been created since the need for nighttime gardening came about to survive in this modern (biotech) world. If not properly handled, some tools can also be a serious safety issue.

If you do use any tools, make sure they are cleaned of all fingerprints before taken on site. A good way to clear up those pesky fingerprints is with warm, soapy water. In a time-crunch, extensive rubbing with cloth can be satisfactory. Be thorough: even the batteries inside a flashlight have been touched, and you wouldn't want to drop anything while you were out and about!

On the subject of dropping things, it's easy to lose things such as jewelry and glasses when working hard in the garden, so take them off beforehand or make sure they are secure. If something is dropped (especially a hat with hair stuck to it) it might be a good idea to go back and get it if it's not too sketch.

Entry and exit of the site is often the most risky aspect of nighttime excursions. If you need to use a vehicle, it's worth parking away from your gardening and walking in, as tires leave those horrible distinctive marks and can accumulate soils that are easily identified. Leave someone with your vehicle, as there can be unexpected people about, and make sure the driver has a reason to be where s/he is. A pair of people making out can be a good excuse, or a problem getting the car started. Better yet, have a driver who can quickly pick you up when done gardening. The driver might need to come around at several different times before the final pick-up in order to make sure the gardening is going well. Set up an interval of time (such as 15 minutes) for the driver to wait and come around again if nobody's at the pick-up site. This way if you're running late, you don't miss your only chance for a pick-up.

If the site is located in a residential neighborhood, a drop-off may look suspicious. Therefore, it may be appropriate to have two different pick-up and drop-off points, and possibly alternate sites as well if access is cut off in one place. It is also essential to plan an emergency pick-up time/place where a crew can run to and hide all night if they are detected and the cops are crawling around the neighborhood.

When you're waiting by the road for a car, you can't make out what kind of vehicle it is until the last second because of the headlight glare. One technique is to leave some distinctive marker, such as a bag of trash (not yours) or a can at certain place by the road. When the driver comes by, if the marker is no longer there, s/he knows to pull over and pick up the crew. Another method is for the driver to flash a turn signal during the approach if there is clearly no place a regular vehicle would be turning, and that way the crew can identify their ride to safety. Lastly and best of all, get radios (see below).

Remember when you get home to vacuum and clean the whole car. Oh, and get rid of your directions, too!

For a smooth night of gardening it is best to bring along a reliable set of radios and a scanner. Remove all serial numbers on the radios, and make sure you purchase them discreetly and with cash. Ear pieces work best while gardening because they free up your hands. Check everything thoroughly before you leave, wipe them down, and have extra batteries. You can then be in communication with your driver (and other gardeners) and they can alert you to any possible disturbances.



## The Best Time To Go

The best gardening time for the shy gardener is obviously at night. And at the new moon is better than when it is full. You have two main choices: early a.m. is quite dead, but remember how long the job will take, starting earlier in the evening will give you more of an excuse to be out and about. Try and start at a time that provides you with enough time to garden thoroughly for the specific site and have a buffer for the drop-offs/pick-ups if they take longer than expected, which is common. Agricultural areas or





neighborhood garden plots can be a busy place as farmers usually get an early start on the day, sometimes before dawn. At this time a flash-beam or light of any sort will draw attention. Cover flashlights with blue or red saran wrap, tinted tape, or a gel to filter the stark white light into something more subtle.

It is worth bearing in mind that when it's raining hard it will wash away most traces and provide visual and audio cover. You'll often get drenched from the dew alone. It is a good idea to scout your site of interest at many different times throughout the day/night to get a clear idea of what the scene is like.

An all-night recon is a really good idea to make sure the garden is right for you. There may be cameras at university test sites/greenhouses or biotech corporation labs/sites/greenhouses. For the main part, these cameras serve to deter potential "gardeners," and instill a healthy sense of paranoia. Paranoia, Nah! Those who are careful stay free!

## How To Spot Your Crop

Firstly, the timing of your harvest is important if you want to actually sabotage their research and cause economic damage. Too early could let them replant, and too late could harvest their crop for them! Just before flowering obviously prevents the mutant genes from escaping through the plant's pollen, and if you can't get it by then, you can cut down the plant before the seeds are fully developed. Don't just harvest the beans or corn cob either, harvest the whole plant from the stalk/stems, or better yet, pull it right up out of the ground. A slick trick would be to bag up some of the offending matter and leave it on the doorstep of the facility, or on your local USDA or State Ag. Dept.'s doorstep!

It's important to research WHAT you are targeting and WHO. Considering how pervasive commercial GE crops are, it's a good idea to target research, both at universities and corporate facilities (is there really any difference??). Industry links up with local farmers as "co-operators" to grow seed and test varieties in their fields, often in return for advertising their more impressive trials with big signs advertising the company and the variety. Oftentimes you may see signs for a certain company's seed trials in a field that is obviously belonging to a small farmer (there may be a house and driveway and family-type items around the yard). Targeting these types of sites will likely bring into question the intentions of night gardeners and may confuse the message of opposing the Ag-Biotech industry by targeting already desperate farmers.

On occasion you may be able to identify a commercial crop that is being grown specifically for a company, or on Agribusiness farmland where no family is present. You can sometimes find these type of sites by checking out property maps ("Plats") at the County tax assessor's office in the County Building closest to your target crop (or the local library, but they often don't have current maps), or through the LEXUS property records database at your local library.

This is also a good process for locating corporate facilities not listed in the phone book (or on [www.yellowpages.net](http://www.yellowpages.net)). If you know the address of a facility or a plot of fields, a quick search on the county assessor's web site will tell you the value of the property, the acreage, and possibly the types of structures on the site.

The basic reality is that commercial GE crops cover 20 million acres of American farmland, and attacking random commercial fields is simply not strategic, especially when there are so many better research targets. If a research project is "nipped in the bud," so to speak, it may never make it to the commercial market!



For example, the same colorful signs that hug the backroads are often posted in the same fashion in front of rows of research crops at corporate facilities, often boasting the "Roundup Ready" or "YIELDGUARD" trait, depending on the company. Bt crops are often listed on signs by a certain variety number ending in Bt. Corn and Soybeans are the most common GE crops, both commercially and in research. But at universities, one might also see a wide variety of GE crops including sunflowers, alfalfa, and wheat.

A helpful, but not infallible, tool for zeroing in on your target crop is the U.S. government database Field Trials listed through the USDA/APHIS web site. You can request searches of current trial notifications and permits as well as registered trials by state, crop, institution or phenotype (GE trait). The results will tell you the states these trials are being performed in, the acreage of the trial, and a contact person, usually a company researcher, for information.

## What To Do When You Get There

Obviously the number of people you need will depend on the size of the GE site. Most sites can be done quite happily with 2-4 gardeners. The actual work could be 1 hour, or it could be all night. For larger sites you may need many gardeners, but it's harder to avoid detection in larger numbers. Again, make sure you're suitably dressed and scout out the site extensively, including in/out routes and an emergency escape plan/meeting place if things go awry. The group should decide what to do if confronted with an angry farmer. Instead of everyone scattering on their own, we strongly recommend sticking together as a group, at least at first, and then making a call to scatter if necessary.

Remember, a well-placed sheet over a camera can have a rather numbing effect on their security. A well-placed kick or spray paint shot over the lens can do the same.

The goal is to destroy the plants: you will either have to snap them off at the stem, or when uprooted pull them apart at times. At a release site in East Anglia (England), sugar beet was uprooted and left lying on the site. It was later replanted by the farmer (and later still, dug up by concerned gardeners and removed from the site). In 1987, the Strawberry Liberation Front in the U.S. pulled up a crop of strawberries that were to be sprayed with ice-minus bacteria. For the photo opportunity the next day, the scientist placed the strawberries back in the holes from which they had been pulled.

Remember, the test sites are experiments (with our future). If your aim is to disrupt this misguided experiment then you may not need to destroy all of the crop. Destroying 50-75% of the research plants will call into question any data collected. It will also disrupt the experiment if all the markers and identification tags are scattered around or taken, but be safe. Don't stick them in your closet. Make the garden messy, and it is less likely to be considered salvageable. Scattering bags and bags of organic or non/GE seeds can also ruin a test site and spread a little bit of consciousness as well. A good idea is to scatter seed in the beginning of the season and not issue a communique about it until a month later. By that time, your seeds have wreaked havoc on the GE varieties.

Don't forget to target irrigation equipment, greenhouses, solar thermometers and the like. Groups such as Reclaim The Seeds and the Future Farmers have sabotaged thousands of dollars of this sort of equipment in different actions. It is suggested that computers, data files, clipboards with research information, and other documentation should be removed for our own research, or quietly destroyed.

## What You Will Be Gardening

### Canola (Oilseed Rape)

There are two different breeds of canola that you might be gardening, winter and spring. The spring crop is sown mid March and April, and harvested late September to mid October. The winter crop is sown late August to mid September, flowering during May and is harvested mid July - mid August.



The plant has erect branching stems up to three feet high bearing deep-lobed, grass green, bristly lower leaves and lobed blue upper leaves, with distinctive yellow flowers. It may be harvested early by breaking the stalk of the plant. This can be achieved by holding a large disposable stick outstretched and falling onto a row of the crop. The California Corn Cutter is used the same way. Corn (Maize)

Corn is usually sown in late March early April and is harvested from July onward, depending on the region. It has a single main stem with irregular long thin drooping leaves. It can be harvested in the same way as canola. A good snap is enough to finish off the corn plant. Tomatoes

This crop is usually sown in seedbeds at the end of winter and then transplanted to the test fields between late March and early April. It is then harvested between mid-July and early September. They have a main stem with branches. Each branch produces a green fruit that turn red with ripening. To harvest early, pull or dig up the plant and snap the main stem. Wheat

Winter wheat is sown between late September and early October. Summer wheat is sown in early March and harvested in August or September. When young it is difficult to distinguish from barley, both of which look like large-leafed grasses, but as they grow you can see that wheat has a much larger head. To harvest when young, pull up, if older use a "grass hook" (a type of crescent shaped knife). Barley

Spring barley is sown February to March and harvested mid-May to mid-August. The winter crop is sown September to October and harvested July to August. Garden the same as wheat. Sugar Beet

This crop is sown in seedbeds in late February and then transplanted to the fields between late March and late April, and is then harvested in early November.

It has a whitish conical root that produces a lot of stems each with a single irregular green, lobed leaf as well as a garland of flowers. It can be harvested early by pulling or digging up the crop and removing the root bit from the leaves and scattering in opposite directions. Potato

There are lots of varieties of GE potatoes grown in North Amerika, many of which would be appropriate to garden. The description and the growing times of the plants will depend on the variety, but generally potato plants look like straggly tomato plants with either small yellow flowers or small green flowers. To harvest early, pull or dig up the plant and snap the main stem and pull apart or smash the root. GE Forestry

Weyerhaeuser, International Paper, Westvaco, and Boise Cascade, among others, are working in conjunction with the oil industry (\$hell) and universities to create GE trees for herbicide tolerance, higher growth rates, improved fiber yield/uniformity, salt tolerance, and much much more! Douglas fir, eucalyptus, banana, papaya, walnut, radiata pine, loblolly pine, Amerikan sweetgum, poplar, European larch, white spruce, orange, kiwifruit, cottonwood, alder and elm are all being genetically mutated and mutilated.

GE trees take a lot more energy, time, tools and research. For nighttime forestry it is important to have the right tools. Saws, hand saws, loppers, pruning tools, and ring-barking/girdling equipment are essential. Sometimes just good old brute force can bring down a small sapling. Or you can just snap it in two with your gloved hands. For small seedlings, cutting and pulling work together to make sure they not only are out of the earth, but cannot be put back in. Apparently, our distant cousins in England used a tool to "ring-bark" trees, which involves cutting a ring into the bark in a complete circle, which will end the tree's life. They also used knives to cut away the bark. The benefits of this silent method hold great potential.

Some GE tree sites are absolutely enormous and you can easily get lost in them. Others are small plots that won't take much time. Research sites generally have various sizes of trees, so come prepared accordingly. Frankentrees will most likely be out in the fields year round and are part of long-term research. Years of research have gone into them, so be meticulous in your work. Nighttime forestry works because the potency of economic sabotage is strongly felt at the frankenforest institution.

GE trees are also likely to be in pots in greenhouses at the research sites. Greenhouses can be spray painted, stink-bombed, broken, and have every pot within them emptied.

## Appendices

A) Genetically engineered organisms that have been released in the environment in the form of field tests by the USDA/APHIS.

Alfalfa	Gladiolus	
Amelanchier Laevis	Grape	
Anthurium andreanum	Grapefruit	
Apple	Heterorhabditis	
Arab. Thaliana	bactriophora	
Arabidopsis	Kentucky bluegrass	Rhizobium fredii
Aspergillus flavus	Lettuce	Rhizobium
Barley	Melon	leguminosarum
Beet	Metaseilus	Rhizobium melioli
Belledonna	occidentalis	Rice
Brassica oleracea	Oat	Rubus idaeus
Carrot	Onion	Soybean
Cephalosporium	Papaya	Spruce
gramineum	Pea	Squash
Chrysanthemum	Peanut	Strawberry
Cichorium intybus	Pear	Sugrabean
Clavibacter	Pelargonium	Sunflower
Calvibacter xyli	Pepper	Sweet Potato
Coffee	Persimmon	Sweetgum
Corn	Petunia	TEV
Cotton	Pine	TMV
Cranberry	Pineapple	Tobacco
Creeping bentgrass	Pink bollworm	Tomato
Cryphonectria	Plum	Walnut
parsitica	Poplar	Watermelon
Cucumber	Populus deltoides	Wheat
Cucurbita texana	Potato	Xanthomonas
E.Coli	Pseudomonas	Xanthomonas
Eggplant	Pseudomonas putida	campestris
Fetsuca	Pseudomonas	
Fusarium	syringae	
graminearum	Rapeseed	
Fusarium moniliforme	Rhizobium	
Fusarium	Rhizobium etli	
sporotrichiodes		

B) Links/Resources:



**U.S. Dept. of Agriculture/Animal Plant and Health Inspection Service (APHIS).**

Database of GE organisms released.

**Bioengineering Action Network**

links to more research, action news, etc.

--Genetix Alert

Receives anonymous communiques from nighttime gardeners and communicates with the press.

**GenetX Alert Press Office**

**Genetic Engineering Network (UK)**

**Mapquest.**

Print out a map and driving directions to your site.

**Yellowpages.**

Run a statewide or local search for an institution in your area.

--There are so many resources on the internet for locating sites and researchers that space does not allow for further information. But it's all out there for you to learn!

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Back to **BAN MAIN PAGE**

This page last updated February 2, 2000

## Doug Wareham

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**From:** "skp" <skp@ksu.edu>  
**To:** "doug" <doug@kgfa-kfca.org>  
**Sent:** Wednesday, January 24, 2001 9:08 PM  
**Subject:** Statement for SB36

Doug,

It is most difficult to determine the impact of destruction of field crops both in money and in time. However, researchers in the Plant Pathology Department have give the following information.

1. Actual replacement cost of chemicals, supplies, equipment, buildings, etc. damaged, destroyed, or made inoperable or unusable, and including any shipping and handling fees and faculty and staff time spent in procuring those materials.

2. Man-hours involved in bringing research materials to their present point of development. For research plants or animals or microorganisms, this would include the following:

a. Hours of time spent by all faculty, staff, students, and others, times the hourly rate paid those persons as they worked to develop the particular plant or animal or microorganism that was destroyed, damaged, or disabled, plus any additional benefit costs to the University or research unit.

b. Hours of time spent by all faculty, staff, students, and others, times the hourly rate paid those persons as they worked to develop any and all like plants or animals or microorganisms that were brought along the same research pathway and eliminated in the research process and its products become more refined.

Example: A plant breeder makes many crosses, and works with the progeny of many crosses to develop a single variety of crop. The crosses that are made that do not develop into crops are still the object of research effort, and cost time and money, until it becomes clear that they lack the characteristics needed in the final product, and they are systematically eliminated from the research process as these characteristics are determined.

3. Future earnings affected as a result of this destruction, damage, etc. include the following:

a. Earnings of the University research unit that might have resulted from the success in the research or research product destroyed, in the form of additional grants to the University or research unit, based on an assessment made by an independent team of experts, plus the cost of bringing those experts together.

b. Personal earnings to the researchers and others that would have resulted from the scientific prestige and prominence brought about, had they been able to bring the research to fruition and/or publication, in the form of continued employment for the temporary workers and salary increases and/or tenure for faculty based on an assessment made by an independent team of experts, plus the cost of bringing those experts together.

4. Actual funding dollars used to develop this research, including overhead, repaid to the funding agency.

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January 24, 2001

Senator John Vratil, Chair  
Senate Judiciary Committee  
State Capitol, Room 120-South  
300 SW 10<sup>th</sup> Avenue  
Topeka, Kansas 66612-1504

RE: Senate Bill No. 36

Dear Senator Vratil:

Due to previous meeting commitments out-of-state, which prevent my appearance in person at the committee hearing on Thursday, January 25, 2001, I wish to submit the following written comments on behalf of the Kansas Corn Growers Association and the Kansas Grain Sorghum Producers Association supporting the passage of Senate Bill No. 36.

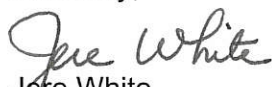
Unfortunately, examples of the destruction of field crops both in commercial production and research plots, among others, continues to occur around the country and world on an increasing basis. Fortunately, this problem has not significantly affected Kansas farmers' operations to date, but the chance that it eventually will, grows with each passing day and each newly publicized occurrence elsewhere.

Any such of event in Kansas would not only cause concerns to the entire agricultural industry, but it would cause devastating direct economic harm to the individual farmer's operation or the agricultural entity whose crop is targeted. With this in mind, we strongly support an increased level of damages as outlined in the proposed legislation.

Our only suggested change to the proposed language would be to establish the damages available as a minimum of twice the market value of the crop affected or costs incurred from the activity causing damage or destruction. Agricultural crop production is an extremely diverse industry, and it may be difficult to predict with certainty that establishing the threshold of twice the level of damages will adequately satisfy the economic harm which has been caused.

Thank you for the opportunity to submit these written comments for the committee's consideration of Senate Bill No. 36.

Sincerely,

  
Jere White  
Executive Director

---

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DEPARTMENT OF CORRECTIONS  
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Bill Graves  
Governor

Charles E. Simmons  
Secretary

**Memorandum**

Date: January 24, 2001

To: Senate Judiciary Committee

From: Charles E. Simmons  
Secretary of Corrections

Re: SB 26

SB 26 provides for amendment of K.S.A. 60-4123, a provision of the Kansas Standard Asset Seizure and Forfeiture Act. SB 26 would clarify that the forfeiture of contraband items pursuant to regulations governing the inmate disciplinary process is not precluded by the Standard Asset Seizure and Forfeiture Act.

Recently the Legislative Division of Post Audit conducted an audit of property seizure by law enforcement agencies. During that review, the Division of Post Audit raised with officials of the Department of Corrections the issue of whether Kansas Administrative Regulations governing the forfeiture of property pursuant to inmate disciplinary proceedings was in conformity with the provisions of the Standard Asset Seizure and Forfeiture Act. Secretary Simmons responded to that inquiry by pointing out that the adoption of the Standard Asset Seizure and Forfeiture Act, by its own language, does not preclude forfeitures conducted pursuant to other provisions of law. While the Division of Legislative Post Audit has not expressed any concern regarding the Department's position relative to the Standard Asset Seizure and Forfeiture Act, SB 26 would clearly establish the supplemental and non exclusive nature of that Act, specifically in respect to inmate disciplinary proceedings conducted pursuant to administrative regulation.

The Department of Corrections initiated 24,558 disciplinary actions involving inmates during FY 2000. While the department does not collect information regarding the number of those cases which involved the seizure and forfeiture of property, the department believes that subjecting

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property seized from incarcerated offenders and forfeited pursuant to regulation to additional litigation initiated by county and district attorneys before district judges would not be a sound use of limited judicial and prosecutorial resources.

Situations in which forfeitures of property pursuant to the department's disciplinary process would be applicable would include instances in which an inmate is found to be in possession of property that is not registered to that specific inmate or marked with an inmate's identification number. Since the owner of the property cannot be identified due to the identification number having been obliterated or otherwise removed, the property is subject to forfeiture if through the disciplinary process, it is determined that possession of the property is prohibited.

In contrast, property seized due to it having been used in the introduction of controlled substances into a correctional facility by a visitor or staff member must be subjected to forfeiture proceedings pursuant to the Standard Asset Seizure and Forfeiture Act. Neither visitors nor staff are subject to the inmate disciplinary process.

SB 26 does not alter the current practice regarding the forfeiture of contraband. The Department urges favorable consideration of SB 26.

CES/TGM/cj

cc: Legislation file





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Bill Graves  
Governor

Charles E. Simmons  
Secretary

**Memorandum**

Date: January 24, 2001

To: Senate Judiciary Committee

From: Charles E. Simmons  
Secretary

Re: SB 27

SB 27 amends K.S.A. 75-5220 to require that whenever the physical custody of an offender sentenced to the Department of Corrections is transferred by a sheriff to a jurisdiction other than KDOC, the sheriff shall notify both the department and the other jurisdiction that a sentence to be executed by KDOC has been imposed. Furthermore, the sheriff would be required to notify KDOC as to where the offender was taken. Additionally, the bill specifies that offenders sentenced to the department's custody be transported to a designated correctional facility regardless of whether the prison portion of the sentence has been served. Finally, SB 27 addresses the lack of uniformity in references to the correctional facilities. In this regard SB 27 refers to the El Dorado Correctional Facility relative to male offenders and the Topeka Correctional Facility for female offenders when referring to the facility to which an offender is to be taken.

It is not uncommon for an offender sentenced to the custody of the department by a district court to also have criminal charges pending in another jurisdiction or be required to be returned to another state pursuant to the Uniform Mandatory Disposition of Detainer Act. In those situations the sheriff delivers the offender to such jurisdiction rather than to the Department of Corrections.

SB 27 addresses this situation by requiring the sheriff to notify both the department and the other jurisdiction that a sentence has been imposed that is to be executed by the department. This enables the department to begin monitoring the sentence in order to determine when it will be fully served as well as to lodge a detainer with the other jurisdiction. The notification to the

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other jurisdiction that the offender also has a sentence obligation owed to the department likewise serves to prevent the offender from improperly being released from that jurisdiction.

SB 27 also provides that offenders sentenced to the custody of the Department of Corrections are to be brought to a correctional facility irrespective of whether the prison portion of the offender's sentence has been served. Most sentences imposed pursuant to the Sentencing Guidelines Act are comprised of a prison portion and a postrelease supervision period. Asserting custody over offenders who have been sentenced to the department's custody through the intake process employed at either the El Dorado or Topeka Correctional facilities provides the department with the ability to ensure the proper identification of the offender, implement the execution of the sentence imposed by the court, and impose the appropriate supervision conditions. These intake procedures are necessary in order for the department to carry out the execution of the sentence even if only the postrelease supervision obligation remains.

The enactment of SB 27 clarifying the necessity of delivering offenders to the department's reception unit does not substantially change current practice. From January 1, 2000 through January 18, 2001, 130 offenders sentence to the department's custody have been admitted into the department's custody through the reception and diagnostic unit even though at the time of their admission they had served past the release date for the prison portion of their sentence while in a county jail awaiting sentencing. The sentencing orders for these offenders are immediately reviewed, identification information obtained, reporting instructions and conditions for supervision issued and the offender released in a timely manner. An additional 140 offenders, upon their admission and the awarding of good time credits at the reception unit had served the prison portion of their sentence. These offenders are likewise immediately processed at the reception unit and released. It is the department's estimate that during the same time period less than ten offenders had been directly released by a court to postrelease supervision.

Those offenders who were ordered by the court to report directly to a parole office present significant issues relative to the execution of their sentence. There is an increased chance of the department not knowing if or when an offender is to report. Additionally, the possibility for misidentification of the offender exists if law enforcement custody has not been maintained throughout the booking process at the department's reception unit. Finally, the field offices for parole services do not have the resources and capabilities necessary for the identification, sentence computation, and record creation tasks undertaken at the reception unit.

The provisions of SB 27 relative to references to correctional facilities clearly indicate where newly admitted offenders will be evaluated depending on their gender.

The Department requests favorable consideration of SB 27.

CES/TGM/cj

cc: Legislative file

**Amendment to SB 27**

Insert at the end of sentence on line 12, page 2:

Provided, that if the record of the offender's trial and conviction causes the sheriff to believe that the offender has fully served both the prison portion and postrelease supervision obligation of the sentence or sentences imposed, the sheriff may provide certified copies of the record to the secretary of corrections prior to the sheriff's conveyance of the offender. If the secretary determines that the offender's sentence has been fully served, the secretary shall cause the issuance of a certificate of discharge of the offender from the sentence or sentences. The issuance of a certificate of discharge shall relieve the sheriff of the obligation to convey the offender to the secretary pursuant to the record of the offender's trial and conviction.



Testimony Of:

Major Robert Johnston  
Johnson County Sheriff's Office

Senate Bill 27

January 24, 2001

Mr. Chairman, Members of the Committee:

My name is Robert Johnston, Commander of the Johnson County Sheriff's Office Detention Bureau. I am appearing in opposition of Senate Bill 27.

First, let me open with agreement on the designation of El Dorado as the reception point for males sentenced to the Secretary of Corrections. For a long time Johnson County has enjoyed the benefit of delivery of our sentenced inmates to Topeka and realize the business nature of the decision. Further, we respect that many Kansas Sheriffs are required to travel further than the distance from Olathe to El Dorado.

The requirement that offenders are transported to the Kansas Department of Corrections (KDOC), regardless of whether the prison portion of the offender's sentence has been served, presents a significant civil liability risk to the holding Sheriff's Office. We estimate that 10% of the over 400 offenders transported to KDOC last year were at or over the sentence imposed. In one instance the Johnson County Sheriff's Office settled, out of court, a suit filed because a sentenced felon was held 32 days past the expiration of the sentence. The reason this offender was held too long was a delay in production of the offender's record of trial and conviction through the court system. Certain levels of the judicial system are bestowed immunity from civil action that Kansas Sheriffs do not enjoy and time served in excess of the sentence, absent release, is outside the control of the Sheriff.

On other occasions the sentencing court has ordered the Sheriff to release an inmate due to the sentence having been served. One such instance occurred last Monday where the court ordered an offender released due to the sentence having been served. The Johnson County Sheriff's Office followed the court's order and will do so in the future. There are many reasons this situation may occur. Often offenders are unable to post bond and serve more time adjudicating the case than the sentence the Court could impose. Other times an offender is brought before the court and serves additional time in jail after adjudication due to one or more probation violation hearings.

We ask the committee to consider alternatives to transporting offenders to El Dorado when they will be only processed and released when the entire sentence has been served. It is a waste of local resources to transport an offender several hundred miles only to be released in a few hours or the next day. We ask the committee to consider utilizing

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current technology to provide information needed. An alternative to consider is designating all KDOC facilities available for offender processing under these conditions.

We oppose the requirement to deliver a copy of the records prescribed in subsection (c) of the bill, with the offender, when the Sheriff is required to deliver the offender to a jurisdiction other than the Secretary of Corrections. This requirement will create additional hardship on Kansas Sheriffs due to holding offenders additional time awaiting the court records. We are not opposed to delivery of a "Detainer Letter" with the offender to the other agency. It seems to me that a voluminous order will not serve the State's wishes better than a simple, one page, detainer letter. Further, we do not oppose sending a copy of the records as prescribed to the Secretary, as I understand this is the current process.

Thank you for the opportunity to present these issues before the committee. I stand ready to answer questions the committee may have.