

Approved
Date: February 15, 2001

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:37 a.m. on February 13, 2001 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Bruce Ward, Kansas Judicial Council, Chapter 61 Committee
Elwaine Pomeroy, Kansas Credit Attorneys Association (KCAA)
Ami Hyten, Kansas Judicial Council (KJC)
Donna O'Malley, Coordinator, Car Seat Program, Children's Mercy Hospital,
Kansas City
Cheri Sage, American Automobile Association (AAA)
Rosalie Thornburgh, Kansas Department of Transportation (KDOT)
Lynn Dryer Voight, Kansas State Nurses Association (KSNA) and Kansas
Emergency Room Nurses Association (KERNA)
Jim Keating, Kansas Safe Kids
Terry Maple, Kansas Highway Patrol
Kelly Wendeln, Chanute, Kansas
Ken Mc Neill, A.B.A.T.E

Others attending: see attached list

Minutes of the February 12th meeting were approved on a motion by Senator O'Connor and seconded by Senator Gilstrap. Carried.

SCR 1604—nonpartisan selection of judges

Written testimony from Don Sallee, District Magistrate Judge Retired, opposing **SCR 1604** was distributed. (attachment 1) as was written testimony from The Kansas Trial Lawyers Association supporting **SCR 1604**. (attachment 2)

SB 67—DUI; concerning penalties

The Chair reviewed the **SB 67** and offered an amendment as follows: for refusal to take a test the license is suspended at a "fixed" one year; for a person <21 years of age who tests out at <.08 and ≥.02 the license is suspended for 30 days unless there is a refusal to take a test or for second and subsequent convictions the penalty is for one year; if the person is <21 years of age and tests out at >.08 the penalty would be fixed at one year. He stated the amendment would be on page 5 of the bill at line 15 where it states...suspend the person's driving privileges for one year, amend that to 30 days so that there would be some proportionality. Following brief discussion, Senator Goodwin moved to amend the bill, Senator Umbarger seconded. Following discussion Senator Oleen made a substitute motion which would delete from the law K.S.A. 8-1567(a) which provides penalties for persons < 21 years of age with a blood alcohol content of .02 or more but <.08. Senator Pugh seconded. Carried after a tie-breaking vote by the Chair. Senator Haley moved to pass the bill out favorably as amended, Senator Donovan seconded. Carried.

SB 159—concerning the code of civil procedure for limited actions

Conferee Ward testified in support of **SB 159** stating that the bill will make technical amendments to Chapter 61 and adopt as an Appendix to Chapter 61 the forms for use under Chapter 61 which were drafted and recommended by the Judicial Council. He further stated that on page 2, L 3-5 was deleted by mistake and should not be stricken. (attachment 3) Discussion followed.

Conferee Pomeroy offered a conceptual amendment to **SB 159** requesting **SB 236** be worked with this bill briefly discussing why. ([attachment 4](#))

Conferee Hyten described the purpose of an amendment she was offering to **SB 159** which would change Section 2(b)(3). ([attachment 5](#))

Written testimony requesting amendments to **SB 159** were submitted by Paul Davis, Kansas Bar Association ([attachment 6](#)) and Kathy Olsen, Kansas Bankers Association. ([attachment 7](#))

SB 172—regulating traffic; concerning the use of child passenger safety seats and safety belts

Conferee O'Malley testified in support of **SB 172**, a bill which would tighten the requirements of children who are to be restrained by safety seats, would make failure to wear a seat belt a primary offense, and would increase the penalty from \$10 to \$25. The Conferee stated that motor vehicle crashes are a leading cause of death for children and cited statistics to support her contention that the proper use of restraints reduces death and injury to children. ([attachment 8](#))

Conferee Sage testified in support of **SB 172**. She stated that seat belts are the most effective means of reducing the number of serious injuries and fatalities in traffic crashes and she cited survey statistics to support her claim. ([attachment 9](#))

Conferee Thornburgh testified on behalf of Terry Heidner and KDOT in support of **SB 172**. She stated that saving lives and preventing injury is KDOT's goal for requesting this bill and the objective is increased use of occupant protection. She further stated that the bill provides for: primary enforcement of seat belt laws; protection for all passengers; and increased fines for individuals not wearing a seat belt from \$10 to \$25. ([attachment 10](#))

Conferee Voigt testified in support of **SB 172**. She presented personal testimony as an RN caring for vehicular crash victims and provided data to support her claim that wearing safety belts reduces the probability of death and injury by 40-55%. ([attachment 11](#))

Conferee Keating testified in support of **SB 172**. He stated that this bill "closes the gaps in our current Child Passenger Safety law" and provides for primary enforcement of the seat belt law. He cited statistical data to support his claims. ([attachment 12](#))

Conferee Maple testified in support of **SB 172**. He stated that 81% of children in Kansas are protected because their parents use child safety seats. He expressed concern regarding the use of seat belts on children after they have outgrown their safety seats as they often do not fit or are used improperly. He supported the use of booster seats until the child can wear a seat belt safely. He also discussed primary enforcement of the seat belt law citing other states who have similar legislation. ([attachment 13](#))

Written testimony supporting **SB 172** was submitted by: Kansas Public Health Association; ([attachment 14](#)) State Child Death Review Board; ([attachment 15](#)) and Kansas Sheriffs' Association. ([attachment 16](#))

Conferee Kelly testified in opposition to **SB 172**. He discussed his opinion that this bill is nothing more than "forced self-protection" and argued that it is unconstitutional according to the Fourteenth Amendment. He agreed that wearing seat belts is advisable but was concerned about government encroachment on the individual's right to choose. He referenced a news item he wrote which appeared in The Wichita Eagle on Tuesday, January 30, 1973, p.4A. ([no attachment](#))

Conferee McNeill testified in opposition to **SB 172**. He agreed that wearing seat belts saved lives but stated that this bill infringes on his liberty to choose whether or not to wear a seat belt without fear of being stopped by a police officer and he referred to his written testimony where he elaborates on this. ([attachment 17](#))

Written testimony in opposition to **SB 172** was submitted by Ron Henneberg, ABATE, Inc. ([attachment 18](#)) and Shirley Gillette, Moundrige, KS. ([attachment 19](#))

SB 136—wage garnishment; assignment of account

The Chair briefly reviewed **SB 136** but no action was taken at this time. Written testimony supporting the bill was submitted by Kansas Association of Financial Services ([attachment 20](#)) and opposing the bill was Kansas Trial Lawyers Association. ([attachment 21](#))

The meeting adjourned at 10:31 a.m. The next meeting is February 14, 2001.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 13, 2001

NAME	REPRESENTING
Carolyn Muldendorf	Ks St Ns Assn
Lynne Dyer Voigt	KS St Nurses Assn, KS Emergency Nurses Assn.
Aui Hyten	OJA
Jim Keating	KANS SAFE KIDS
Jan Hegelman	KANSAS SAFE KIDS Coalition
Donna O'Malley	Children's Mercy Hospital
Walter Stumborg	KDOT
John Rohlf	Federal Highway Admin
Bob Alva	" " "
Kelly Sandelen	
Frankie Moore	
Jim Hanni	AAA Kansas
Cherie Sage	AAA Kansas
Julie Numrick	Federico Consulting
Holly Finney	Ko. Public Health Assoc
Terry Maple	KHIP

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ATT 1
JCR 1604

February 5, 2001

Senator Ed Pugh
State Capitol
Topeka, Kansas 66612

Dear Ed:

I am pleased you made me aware of the legislation being considered to place all Judges under the retention system. The 22nd district is one that still elects the judges by the ballot, and I can guarantee you the vast majority of the people in this district would very much like to leave it that way. We hear politics are involved in these elections and I can tell you it is the opposite. I know of no attorney's who contribute to judges in this district. I can tell you first hand of what can happen in a retention system. I know of a district which has this system and was controlled by one political party. For a number of years they boldly stated no one from the opposite party need apply. There is no reason anyone should be afraid of the ballot. I would hope the Legislators will not change the system and go against the will of a large number of people in this state. As it is now the people can have it either way. This is the way it should remain. Please share this with you colleagues. Thank you for your time and consideration



Don Sallee
District Magistrate Judge Ret.

Don Sallee
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att 1

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#2



*Lawyers
Representing
Consumers*

KANSAS TRIAL LAWYERS ASSOCIATION
Jayhawk Tower, 700 SW Jackson, Suite 706
Topeka, Kansas 66603
785-232-7756
785-232-7730 FAX

FAX MEMORANDUM

TO: Senator John Vratil
FROM: Barb Conant
Director of Public Affairs
DATE: February 2, 2001
RE: SCR 1604 Testimony Attached.

Thank you for allowing us to send over our written comments concerning SCR 1604.

If you have questions, please call me at the above number.

If there is a transmission problem, call the KTLA office at 785-232-7756

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*Law Offices of
Michael C. Helbert*

Voico: (316) 343-6500

Fax: (316) 343-1734

*519 Commercial
P.O. Box 921
Emporia, KS 66801*

*Michael C. Helbert
Laura L. Misor*

January 22, 2001

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE

Good Morning, my name is Mike Helbert, and I am appearing as President of the Kansas Trial Lawyers Association, on a matter that we believe is of tremendous importance to the citizens of this state. The Kansas Trial Lawyers Association in its December 2000 meeting of its Board of Governors, voted to support the efforts of the Citizens Justice Initiative. It is our collective belief that it is in the best interest of all citizens to have an independent and strong judiciary.

While the Kansas Trial Lawyers certainly has a number of individuals within its membership, who fundamentally believe that all public officials should be subjected to periodic elections by the people, it is the belief to the majority of our members that a true merit selection of judges would be in the best interest of all concerned.

The entire system of election in this country is now undergoing serious review. Most Americans are appalled by the amount of money that is being spent on elections, from State Legislative positions to the United States Presidency. Everyone in this room is aware of cases in which money has been the deciding factor in determining which person would be elected to a particular office. While we may debate earnestly over whether or not the free ability of the American public to spend its money on electing officials is appropriate or not, we can agree that this situation has caused widespread disillusionment with the political process. As a society, we can not afford to

have the judicial branch of government subject to the difficult and sometimes, brutal realities of political election.

The resolution before this committee for a statewide merit selection of judges and the creation of the state judicial evaluation commission, is a step toward safeguarding that portion of the three branches of government that has traditionally been considered the safeguard of all our individual liberties and property under the United States Constitution. All of the basic liberties that we consider to be sacred in this country are ultimately preserved and protected by the judicial branch of government. The judicial branch of government has traditionally been considered to be above the political fray and will decide a case upon its merits, not upon the prevailing political winds. If we seek to have that sort of judiciary, then we must take the steps to safeguard the very judicial institutions that we depend upon to provide a safe and civil determination of disputes between individuals, governments, and corporations. A strong and independent judiciary is the best way to provide all of us with those safeguards.

It has been said that one of the strengths of this country is the safety net that our judiciary provides to our communities, states, and our nation from violent actions meant to destroy our institutions and our rights. We must recognize that it is the judicial branch of government that holds both the sword and the shield necessary to preserve our constitutional rights of free speech, free press, free assembly, freedom of religion, and our very right to privacy. In a situation in the which judges are elected in political campaigns, how can we expect any of us, or the general citizenry, to feel that politics will not enter into the decision made by a particular judge. How can one as an attorney, tell his or her client that the courthouse is the last bastion of justice when the attorney on the other side may have been a major contributor to the judge before whom your client's fate may be decided. Such a situation does nothing but create suspicion and distrust of government and the


legal system in general.

I would submit that, for those who are concerned about the lack of access of the people to the judicial branch of government, that the jury is the appropriate place to place your confidence. The institution of the jury places the real direction of society in the hands of the governed. The jury system invests the people with the power to have a direct, more visible, and more effective consequence than even the vote that is cast at the ballot box. Nothing in our system says more about true democracy and the sovereignty of the people than the jury.

A judge's role is to instruct and educate the jury and above all, provide a message that this is a country with equal justice for all. We can not have that if justice is for sale through the use of political contributions and influence. Merit selection is the only way to provide for the confidence that our citizens need and demand from our legal system and through which our juries can effectively operate. I would urge you to support this resolution.

RESPECTFULLY SUBMITTED:

BY:



MICHAEL C. HELBERT
519 Commercial
P.O. Box 921
Emporia, Kansas 66801

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Remarks Concerning Senate Bill 159

Senate Judiciary Committee

February 13, 2001

Thank you for giving me the opportunity to appear before you in support of SB 159. I am Bruce Ward and practice law in Wichita in the area of debt collection. I am appearing on behalf of and at the request of the Judicial Council which requested that your committee introduce this bill.

Last year the legislature passed and the Governor signed House Substitute for Senate Bill 504 which was originally drafted by the Judicial Council. I served as a member of the Chapter 61 Subcommittee of the Civil Code Advisory Committee of the Judicial Council which studied the changes for four years and eventually recommended the bill to the Judicial Council. I was the chief draftsman for the Subcommittee.

H Sub. for SB 504 made a complete recodification of Chapter 61 of K.S.A. which is known as the Code of Civil Procedure for Limited Actions. The recodification became effective on January 1, 2001. The purpose of the act is:

- a. To allow and encourage judicial districts to study and adopt a procedure for the electronic filing of court documents.
- b. To streamline the procedure under Chapter 61, to reduce the amount of paperwork filed with the clerk, and to reduce the amount of court time required in the handling of Chapter 61 cases.

The act consists of 118 sections now found at K.S.A. 61-2801, et. seq., a Supreme Court rule on technical standards for electronic filing which was adopted on September 6, 2000, and a contemplated Supreme Court Rule on forms to be used under Chapter

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61.

The new act makes the most sweeping changes to Chapter 61 since the late 1960s when the old "Justice Code" was repealed. A summary of the significant changes made under the new law are as follows:

1. Jurisdictional limits on tort and secured claims raised to \$25,000. No limit remains on unsecured contract claims.
2. If defendant appears and disputes the Petition, defendant must file a written Answer.
3. Garnishment orders may be served by first class mail, e-mail and fax.
4. Optional pre-trial procedure allowed where within discretion of court, judgment may be entered as a matter of law against defendant if defense has no legal merit or case may be dismissed against plaintiff if plaintiff's claim has no legal merit.
5. On wage garnishments:
 - a. Order is continuing and remains in effect until the judgment is paid or the court releases.
 - b. Withholding is calculated monthly and Answer is completed each month and sent to defendant and plaintiff but not filed with the court.
 - c. Money withheld is automatically paid directly to creditor by garnishee without court order.
 - d. Multiple garnishments can be in effect against the same debtor at the same time. Each creditor shares equally in the amount withheld from defendant's wages.

After the recodification bill became law and before it took effect, the Judicial Council continued to study the bill and its effect. It became apparent to the Council that certain

technical amendments were needed to correct a handful of things overlooked originally in such a large bill. Further, it was believed that the forms which were drafted and recommended by the Council for use under Chapter 61, should be adopted by the Legislature as an Appendix to the new law, rather than be included in a Supreme Court Rule as the act now provides.

The bill before you, SB 159 will accomplish these two things:

1. Make certain technical amendments to Chapter 61 of K.S.A., now found at K.S.A. 61-2801, et. seq. These amendments are for the most part, self-explanatory.

2. Adopt as an Appendix to Chapter 61 the forms for use under Chapter 61 which were drafted and recommended by the Judicial Council. These forms were originally contemplated by the recodification bill to be adopted as a Rule of the Supreme Court. That Rule has not been adopted. The forms were, however, approved for use by Order of the Supreme Court dated December 20, 2000.

It is believed by the Judicial Council that the proposed technical amendments are not controversial and will serve to clarify and improve the law which just took effect on January 1, 2001. The proposed forms are the same forms approved for use by Order of the Supreme Court and which are now being widely used across the state in practice under Chapter 61. The Judicial Council believes that by adopting the forms as part of the law, it will make the use of the forms more consistent across the state among judges, clerks and lawyers.

I would also like to make reference to SB 236 which was introduced by this Committee at the request of the Judicial Council. SB 236 will amend the garnishment provisions of Chapter 60 of K.S.A. to make those provisions identical to the

garnishment provisions of Chapter 61. The new garnishment provisions of Chapter 61, which took effect on January 1, 2001, as part of the recodification of Chapter 61, make substantial changes to Kansas garnishment law, particularly with regard to wage garnishment. Wage garnishment is now continuing, wage garnishment answers are not filed with the court but are sent directly to the debtor and creditor, and money withheld from a debtor's wages is sent directly to the creditor each month without a court order.

The garnishment provisions of Chapter 60 should now be amended to conform to the provisions under Chapter 61 to avoid confusion that now exists with clerks, lawyers and garnishees, and to eliminate the need to use two completely different procedures and form sets. The proposed amendments in SB 236 will accomplish this and were part of the original plan of the Judicial Council when the recodification of Chapter 61 was studied.

In closing, I would urge this Committee to adopt passage of SB 159 which is before you today. I would also urge you to favorably consider and adopt passage of SB 236 when it later comes before you. Thank you for your consideration.

Bruce C. Ward, Attorney at Law
239 Pattie, Suite 1
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e-mail: bruce@brucewardlaw.com

For the Kansas Judicial Council

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REMARKS CONCERNING SENATE BILL 159

SENATE JUDICIARY COMMITTEE

FEBRUARY 13, 2001

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

Our groups support SB 159. The bill makes clarifying amendments to the provisions of Chapter 61 which were revised last year, and makes statutory provisions for forms.

If it were not for calendar deadlines, we would suggest that your committee defer action on SB 159 until you have an opportunity to hear and act on SB 236, which is another bill introduced by your committee at the request of the Kansas Judicial Council. SB 236 would repeal the Chapter 60 garnishment provisions and replace them with language identical to the Chapter 61 garnishment provisions.

We would further urge the committee to consider additional amendments to Chapter 61, and it seems to us that SB 159 would be the vehicle to use in making those additional changes. Whenever there is a massive rewrite of provision, it is normal to find that there are matters that have been overlooked. It is my understanding that the Kansas

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Judicial Council drafted the provisions of SB 159 last November, which was prior to the effective date of the Chapter 61 revisions, which became effective January 1, 2001.

The Kansas Credit Attorneys Association have solicited suggestions as to areas that need clarification, some of which have become apparent as the new Chapter 61 provisions have actually been put to use. My purpose today is to alert you to some of those issues.

In the event that SB 236 is not passed, then we feel Section 10 of the bill needs an amendment to make clear how a Chapter 60 garnishment interacts with a Chapter 61 garnishment.

We feel that Section 11 needs to be amended on page 10, line 6, by striking "pro-rata" and inserting "equally". We also feel that language needs to be added providing that the garnishee shall be discharged from liability upon payment to the creditors in accordance with the forms and instructions.

We feel that the wage garnishment answer form and instructions should be made clear that payment from the garnishee is to be made to the creditor, or if the creditor is represented by an attorney, to the attorney.

We feel that the provision for the administrative fee at the top of page 50 should be clarified to deal with the situation where there may be more than one garnishment on the same employee.

We feel that paragraph 8 of the form on page 50 should make it clear that sharing among creditors is based on each case, not on each creditor. There are instances in which one creditor might have more than one judgment against an employee. The sharing should be based on the number of cases, not on the number of creditors.

We feel that form #17 on page 39 and 40 should be amended to add language that upon receipt of money by the Clerk, the Clerk should then pay the money out to the creditor's attorney, without the need for an additional order authorizing the Clerk to pay the money.

One thing that was overlooked in the revision of Chapter 61 and the forms was that prior to January 1, the garnishee was required to furnish the last known address for the defendant. Under the new law, the creditor is required to serve the notice of exemptions on the defendant. The garnishee should assist in providing the last known address for the defendant, and amendments to SB 159 should be made to make that mandatory. The garnishee is much more likely than the creditor to have up to date information as to the correct address for the defendant.

Another amendment we feel is needed is that in non-wage garnishments, the Notice Of Exemptions should not be required to be sent until the Answer is completed and returned to the creditor. The law presently requires the creditor to send the Notice immediately after the Garnishment Order is served on the garnishee. It is foolish to be required to send a Defendant a Notice Of Exemptions on a bank account that has been closed.

We feel the law should be clarified that garnishment releases are to be signed by the creditor or the creditor's attorney and filed with the Court.

The non-wage garnishment answer forms should be clarified to specify the amount of the administrative fee withheld and that the remaining amount withheld is after deduction of that fee.

We apologize for having to present our suggested amendments in conceptual form, rather than providing the exact language. If this committee has the time to do so, we would appreciate your approval of these amendments. If because of approaching deadlines, it is not possible to get the exact wording for these amendments, we would urge the committee to pass the bill in its present form. In that case, we would request the House Committee to make these amendments. In any event, we wanted you to be aware of our suggestions for improving the statutes.

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

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Senate Judiciary Committee

Testimony on Senate Bill 159

Ami Hyten
Office of Judicial Administration

Tuesday, February 13, 2001

Prior to the January 1, 2001, effective date of 2000 House Substitute for SB 504, the Office of Judicial Administration assembled a group of clerks and court administrators to work with Judicial Council staff in reviewing the bill and to prepare training materials for district court staff.

During that process, the group recommended one additional amendment to the bill that is not included in SB 159. That amendment would change Section 2(b)(3) to read as follows:

(b) All pleadings, other than the petition, motions which cannot be heard ex parte, notices, and orders which are required by their terms to be served, shall be served upon the party's attorney of record, if the party is represented by an attorney, or upon the party if not represented by an attorney, in the following manner:

(1) By delivering a copy;

(2) by mailing a copy by first-class mail, certified mail or registered mail to the last known address: ~~or~~

~~(3) if no address is known, by leaving a copy with the clerk of the court.~~ For the purposes of this subsection, . . .

Clearly, if no address is known, leaving a copy with the clerk of the district court serves no purpose.

Thank you for your consideration of this amendment.

Ami Hyten
2-13-01
att 5



**KANSAS BAR
ASSOCIATION**

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**LEGISLATIVE TESTIMONY
SENATE BILL 159**

FEBRUARY 13, 2001

TO: CHAIRMAN JOHN VRATIL AND MEMBERS OF THE
SENATE JUDICIARY COMMITTEE

FROM: PAUL DAVIS, KBA LEGISLATIVE COUNSEL

Mr. Chairman and Members of the Committee:

I thank you for the opportunity to present testimony on Senate Bill 159. This legislation is referred to as a "clean-up bill" pursuant to the recodification of Chapter 61 (the code of civil procedure for limited actions) that was enacted by the legislature last year. The recodification of Chapter 61 was a product of the Kansas Judicial Council. When it was introduced in the legislature last year, it became somewhat controversial because of a feeling among a number of legislators that the act adversely impacted the due process rights of debtors.

The KBA had a short period of time in which to review the act, which was sixty-five pages long and contained a number of substantial departures from the current law at that time. We, along several other organizations, suggested a variety of amendments to the legislation. Many of these were inserted into the bill in the House Judiciary Committee. The bill was then narrowly approved by the House Judiciary Committee and was inserted in a conference committee bill. As we have had an opportunity to review the act in further detail, we have a number of concerns. This act is lengthy and departs from the previous law in this area in a number of places. Because of the nature of these changes,

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we suggest that further legislative deliberation of this act would be prudent. Therefore, we would like to suggest to the committee that an interim study of Chapter 61 be conducted. The KBA would like to be a participant in this study and will provide as much assistance as possible to an interim committee.

With regard to the legislation that is before you today, I just want to state one concern that we have. Part of the bill contains Chapter 61 forms that were written by the Kansas Judicial Council. These forms have already been approved by the Kansas Supreme Court and are currently in use. With all due respect to the legislature, we believe the approval of forms should be a function of the judicial branch. There are certainly some circumstances where it makes sense to put a form into statute, but we do not believe this is one of them.

Once again, I thank you for the opportunity to present this testimony.



February 13, 2001

TO: Senate Committee on Judiciary

FROM: Kathleen Taylor Olsen

RE: SB 159: Limited Actions

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today on SB 159. We are not appearing either as a proponent or an opponent on the bill. We are here today to respectfully request two amendments.

As many of you recall, the 2000 Legislature passed SB 504 which was virtually a complete rewrite of Chapter 61 dealing with Limited Actions. Chapter 61 contains the garnishment provisions for both garnishment of earnings and garnishment of intangible property such as bank accounts.

Since these changes have become effective and as the new procedures and forms become more familiar to the parties involved, suggestions for improvements are inevitable. Several of our member banks have contacted us and requested your consideration of the following amendments:

1. Service by internet electronic mail. There are banks that have more than one e-mail address. Their concern is that a request for garnishment could go to someone in the bank while they are on vacation. Since many employees in banks are required to take their vacations in two week increments, this could pose a problem with regard to the 10-day answer period.

Our request is to allow the bank to designate an e-mail address to which such court documents must be sent. I have attached a suggested balloon to address this request.

2. Court identifier on the Order of Garnishment. The new Order of Garnishment form does not contain a space to include the address to which Court the amount garnished needs to be sent, nor does it contain any seal, file stamp or other certification indicating that the Court has indeed issued the Order. This may seem like a relatively unimportant item, but garnishments come to a bank from all across the state. It should not be the garnishee's burden to find the address of every court in the state. In addition, not having any evidence that the Order actually came from the Court forces the garnishee to blindly rely on the hope that the Order is not a fraudulent one.

Our request is to include a line or space where the Court will include its address for remittance of the garnished funds. We would also request that the Court be required to place its seal or some other certification identifying the fact that the Order was issued by a Court.

Thank you for your time and attention to these concerns. We hope that you will look favorably upon our request for these two amendments.

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Prepared by:

Attorney for Judgment Creditor

In The District Court of Sedgwick County, Kansas

Judgment Creditor

vs.

Case No. 00 L 12560

Judgment Debtor

Garnishee

Pursuant to Chapter 61 of
Kansas Statutes Annotated

Type of Service Requested: First Class Mail by Judgment Creditor's Attorney

**ORDER OF GARNISHMENT
(To Attach Other Than Earnings)**

To the above named Garnishee:

The attached Instructions to Garnishee are incorporated by reference. You are ordered as a garnishee to follow the attached instructions as if they were set forth in this Order.

If you are indebted to the judgment debtor, complete the attached Answer under penalty of perjury as set forth in the instructions.

If you are a bank, savings and loan association, credit union or finance company, and are holding any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by you pursuant to this order is not to exceed \$846.25.

If you fail to complete and send your answer as required in the instructions, the judgment creditor may file a motion for judgment against you for the amount of judgment against the judgment debtor or such other amount as the court shall order, including the expenses and attorney fees of the judgment creditor.

JAN 11 2001

Dated this _____ day of _____, _____.

BY ORDER OF THE COURT

This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

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Testimony for Senate Bill 172

By Donna O'Malley
6605 West 66th Street
Overland Park KS 66202
(913) 262-9442

Good morning. My name is Donna O'Malley, and I'm from Overland Park. I am a pediatric emergency room nurse by profession. In addition, last year I took the job of car seat program coordinator for the Children's Mercy Hospital and Clinics. My job includes educating hospital staff, parents and caregivers on how best to transport their children in motor vehicles.

I am here today on behalf of the children of Kansas and Children's Mercy Hospital and Clinics. I acknowledge that there are differing views on whether or not we need more seat belt laws. But it is my strong belief that motor vehicle safety can no longer be thought of as simply a personal rights issue or a simple safety issue. Motor vehicle safety is a public health problem that demands a solution.

Motor vehicle crashes are a leading cause of death for children. Infants and children secured in appropriate child passenger safety seats fare far better in crashes than their unrestrained counterparts. Child safety seats, when properly used and installed, reduce the risk of death by 71% for infants and by 54% for toddlers.

Riding unrestrained is the greatest risk factor for death and serious injury to children involved in motor vehicle accidents. The National Highway Transportation and Safety Administration finds that restraint use for children from birth to age one is 97 percent. From ages one to four, 91 per cent are properly restrained by car seats. But for children ages five to fifteen, restraint use plummets over 20 points to 68.7 per cent

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It is reported that over 47 per cent of fatally injured children ages four to seven are unrestrained. One NHTSA study revealed that only a little over 6 per cent of children in this age group were properly restrained. It is my opinion that we must strengthen our seat belt and child passenger safety laws to mirror what we know to be the “best practice” available today to offer our children the best protection in the event of a crash.

Seat belts and car seats save lives. In my years in the emergency room I have worked many trauma activations. I know that anything we can do to prevent these tragedies from happening is a worthwhile effort. When a child dies, many hearts break. A child’s death goes against the natural order of how the world should be. Kids shouldn’t die, especially when we have effective and proven ways of preventing so many of these deaths.

I talk to parents every day who are confused about child passenger safety. I believe our current law contributes to this confusion. When the law states that children four years and younger need to be in appropriate child passenger restraints, many parents and caregivers take this to mean that over the age of four; kids are okay restrained in adult seat belt systems. This belief could not be further from the truth.

What we see so often in the emergency room is this age group, four to eight years, is either totally unrestrained, or improperly restrained in an adult seat belt. Children ages four to eight are at an increased risk of death or serious injury because of this gap in our current law. As adults, it is our responsibility to protect our children.

Last week I attended a luncheon at which the First Lady of Kansas, Linda Graves, was the speaker. She referred to Kansas kids as our “best crop”. I share the First Lady’s sentiment and applaud her efforts to make life better for our children. Things grow well here in Kansas, and Kansas is a good place to raise kids, and a good place for families. We need to do everything we can to protect our most

valuable crop, our kids, so they can grow up to be the artists, doctors, scientists, legislators and lawmakers of the future.

I believe there are three reasons to support Senate Bill 172.

First, I know that strengthening our seat belt and child passenger safety laws will result in lives saved from day one.

Secondly, I strongly believe that support and passage of this bill will clarify for parents and caregivers the best way to protect their children in a motor vehicle.

And third, I believe that passage of this legislation is simply the right thing to do for our children, and now is the right time to do it.

On behalf of the children of Kansas and Children's Mercy Hospital, I ask you to support this legislation. By doing so, I know that many lives will be saved, and many families will be spared the tragedy of losing a child.

Thank you for your time this morning. If there is anything I can do for this committee or any other group to foster support of this bill, I am at your service.

Testimony for Senate Bill 172
By Donna O'Malley
6605 West 66th Street
Overland Park, Kansas 66202

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att 8

- Motor vehicle safety is more than a personal rights issue. It is a public health problem that demands a solution.
- Motor vehicle crashes are a leading cause of death for children.
- Child passenger safety restraints reduce death and injury when used properly.
- Children ages four to eight are at an increased risk of death and injury due to gaps in our current law.
- Belt positioning booster seats offer protection to this age group.
- Support and passage of Senate Bill 172 would result in lives saved.
- Support and passage of Senate Bill 172 would clarify the safest way to transport children.
- Support and passage of Senate Bill 172 is the right thing to do to protect the lives of Kansas children.

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Testimony in support of SB 172
Senate Judiciary Committee
February 13, 2001
Presented by: Cherie Sage, AAA Kansas

Good morning. My name is Cherie Sage and I am the Public Affairs Coordinator for the American Automobile Association of Kansas. AAA Kansas is an organization representing over 132,000 members in our state.

On behalf of AAA Kansas and its members, I am here to urge your support of SB 172 for primary seat belt enforcement, as well as for the enhancement of child passenger safety laws.

Seat belts are the most effective means of reducing the number of serious injuries and fatalities in traffic crashes. The National Highway Transportation Safety Administration (NHTSA) estimates that seat belts save the lives of 9,500 Americans each year. Although all 50 states have primary enforcement for child safety seat laws, only 18 states and the District of Columbia have adopted primary seat belt laws. The results speak for themselves. Seat belt usage in states with a primary seat belt law are fully 15% higher than in states with secondary laws.

Primary enforcement also helps send a message to the public that seat belt use is important. If you don't buckle up, you'll be pulled over. Most people who currently buckle up do it because they see the risk of injury if they are involved in a crash. With primary enforcement, more people buckle up because in addition to the risk of injury, there is the added risk of being pulled over and ticketed.

But the importance of this Bill does not end there. According to NHTSA, each year more than 1,700 children die and about 300,000 are injured as occupants in motor vehicle crashes. Child safety seats, when properly used and installed, reduce the risk of death by 71 percent for infants and by 54 percent for toddlers (in passenger vehicles.) Most parents look to the law as a guideline to help keep their kids safe. With the current gaps in coverage, such as:

- children age 14 and older riding in the back seat are not covered under the current law,
- children age 4-8 are allowed to wear an adult seat belt restraint,
- the exemption allowing a child to be unrestrained if all securing locations are in use, following the law may not be good enough.

In a survey last October of AAA Kansas members, a strong majority (74%) said that manufacturer-installed adult seat belts are not adequate protection for children age 4 and up. In fact, 73% of those surveyed agreed children ages 4 to 8 and weighing less than 80 pounds are better protected in a booster seat. For those respondents who said that they do not use booster seats when transporting children age 4 to 8, the top two reasons given were: they do not think it is necessary for additional safety protection, and state does not require booster seat. Again, this shows how the public looks to the law to determine what is best for their children.

Since its formation in 1902, AAA has been dedicated to protecting the interests of motorists, as well as safety of motorists. We support SB 172 as a step forward towards making the roads and highways a safer place to be for automobile drivers and passengers of all ages. It is our hope that you will agree and support SB 172. Thank you for your attention.

S. Sage
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**KANSAS DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY OF TRANSPORTATION**

E. Dean Carlson
Secretary of Transportation

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**Bill Graves
Governor**

**TESTIMONY BEFORE
SENATE JUDICIARY COMMITTEE**

**REGARDING SENATE BILL 172
STRENGTHENING OF SAFETY BELT AND CHILD PASSENGER SAFETY LAWS**

February 13, 2001

Mr. Chairman and Committee Members:

I am Terry Heidner, Director of the Division of Planning and Development, Kansas Department of Transportation. I appreciate the opportunity to testify on behalf of the Governor's bill for strengthening the safety belt and child passenger safety laws. As the Governor said in his state of the state, "safety on our roads and highways must be a priority."

The Department of Transportation is convinced that one of the most important contributions to transportation safety would be the proper use of occupant protection by every passenger in every motor vehicle every day. No one will argue with the studies that repeatedly conclude that increased use of seat belts and child restraint systems in motor vehicles is one of the most effective countermeasures for reducing the risk of injuries and fatalities in motor vehicle crashes.

Safety Belts

Strong comprehensive laws, coupled with enforcement and education, are sometimes necessary to achieve maximum benefit from the manufactured protection found in most motor vehicles today. Currently, four out of ten front seat occupants still do not buckle up (based upon 2000 statewide observational survey). During 1999, 451 occupants (age 14 and older) incurred fatal injuries in crashes on Kansas roadways. Of those individuals, 422 were front seat occupants and 72 percent were reported not restrained. Back seat occupants totaled 20 of which 85 percent were reported not restrained. The remaining nine fatalities were reported unknown for seating position.

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Testimony Before Senate Judiciary Committee
Senate Bill 172
February 13, 2001

As of May 1, 2000, seventeen (17) states have enacted primary (standard) safety belt enforcement laws. Those states have generally experienced a ten to fifteen percentage increase in usage. Most recently, Michigan and New Jersey experienced a thirteen percent and eleven percent safety belt usage increase within the first year of passage, respectively. A National Highway Traffic Safety Administration (NHTSA) Fact Sheet is attached which provides additional information on the provisions in this proposal and is accompanied by a list of the states that have primary enforcement laws.

Child Restraints

Currently, Kansas law specifies that all children under the age of four must be in a federally-approved child restraint system. For children four years and older the law then specifies that the child must be appropriately protected with a seat belt. We now know that children should ride in a child restraint system beyond age 3 for appropriate protection. Because of a child's size, a lap and shoulder belt alone does not provide an adequate fit and can result in young children being ejected out of the belt system or being injured with an inappropriate fit. Booster seats provide an appropriate transition from infant seat to lap/shoulder belts.

From 1990 through 1998, 35 children (ages 4 through 6) incurred fatal injuries in motor vehicle crashes on Kansas roadways. Of those, only nine were restrained. Three fatalities were reported as restraint unknown. Washington State and California are the two states that have recently passed booster seat laws, both states adopting a five-year old/60 pound maximum for usage of booster seats. Washington State's law was adopted during the aftermath of the death of four-year-old Anton Skeen. Anton, weighing 45 pounds, was buckled into a lap/shoulder belt system and was ejected from a vehicle during a crash. The mother advocated for the change and the bill was subsequently dubbed *Anton's Law*.

In summary, saving lives and preventing serious injury is our purpose for asking for a primary seat belt law and enhanced protection for children. The goal of a strengthened seat belt and child restraint law is to reduce the number of deaths and disabling injuries resulting from motor vehicle crashes. The objective is increased use of occupant protection. Statistics prove beyond a shadow of a doubt that buckling up is the single most effective action we can take to reduce our risk of death and serious injury. In addition, the laws of physics and simple human logic tell us we are safer if every passenger remains in their seat rather than be catapulted within or out of the vehicle. Statistics also tell us that the most effective means to get to our objective of increased seat belt usage is a stronger seat belt law. This proposed legislation asks for three things that will do just that – primary enforcement of the safety belt law, protection for all passengers, and stiffer fines. This is the means to our goal of reducing needless tragedy on Kansas' roadways.



STATE LEGISLATIVE FACT SHEET

January 2000

CONTENTS

- *Make All Belt Use Laws Subject to Primary Enforcement*
- *Protect All Vehicle Occupants in All Passenger Vehicles*
- *Emphasize Enforcement and Levy Significant Fines*
- *Conduct Combined Public Awareness and Enforcement Campaigns*
- *Recommendations from the Presidential Initiative for Increasing Seat Belt Use*
- *Urge Parents to Place Children in the Rear Seat*



U.S. Department of Transportation
National Highway Traffic Safety
Administration

NHTSA
People Saving People
www.nhtsa.dot.gov

STRENGTHENING SEAT BELT USE LAWS— INCREASE BELT USE, DECREASE FATALITIES AND INJURIES

Traffic crashes are a leading cause of death in the United States. Wearing seat belts is the easiest and most effective way of cutting the highway death toll, and strong occupant protection laws are the most effective way of increasing safety belt use. Highway deaths could be cut dramatically if states upgraded their laws to improve coverage and enforcement. A model state safety belt use law is available from NHTSA.

Make All Belt Use Laws Subject to Primary Enforcement **Definitions:**

Primary Enforcement: A citation can be written whenever a law enforcement officer observes an unbelted driver or passenger.

- A July 1997 poll of registered voters by Public Opinion Strategies found overwhelming public support for standard (primary) seat belt use laws across demographic groups:
 - 61 percent of respondents favored primary enforcement of seat belt laws (up from 52 percent just four months earlier).
 - 68 percent of African-American respondents favored primary enforcement of seat belt laws.
- The Presidential Initiative for Increasing Seat Belt Use Nationwide recommends states enact strong legislation by adopting primary seat belt laws and closing the gaps in child passenger safety laws. The other strategies in the four-point plan include building public-private partnerships; embracing active, high-visibility enforcement; and conducting well-coordinated, effective public education.
- As of January 2000, 16 states, the District of Columbia and Puerto Rico have primary laws in effect. Thirty-three states have secondary enforcement laws and one state has no seat belt use law.
- In 1998, states with primary belt laws averaged 17 percentage points higher belt use than those with secondary laws (79 versus 62 percent).
- Primary enforcement sends a message to motorists that belt use is an important safety issue that the state takes seriously.
- California's experience in changing to primary enforcement on January 1, 1993, provides strong evidence of the benefits of primary enforcement laws. Statewide driver seat belt use increased from 70 percent in 1992 to 89 percent in 1998.
- In attitude surveys, officers consistently preferred primary laws and report that a secondary enforcement law is a major deterrent to issuing citations.

Protect All Vehicle Occupants in All Passenger Vehicles

- Extend protection to rear seat occupants. Most laws currently apply only to the driver and front seat passengers. All vehicle occupants should buckle up.
- Extend coverage to all types of personal vehicles. Some states exempt occupants of pickup trucks, vans, and other light trucks, yet most of these vehicles are used for personal transportation.

- Prohibit passengers from riding in the cargo bed of pickup trucks. To avoid excessive risk, passengers should ride only in seating areas equipped with seat belts.

Emphasize Enforcement and Levy Significant Fines

- Experience shows that belt use goes up when seat belt laws are actively enforced. In Elmira, New York, a well-publicized, two-wave enforcement effort from 1985-86 raised belt use from 50 percent to 83 percent.
- In Canada—where laws are primary, fines are adequate, and use is encouraged with periodic waves of strict, well-publicized enforcement—belt use averages 92 percent. The United States, by contrast, averages 70 percent.
- Fines currently range from \$5 in Idaho to \$75 in Oregon. The most common fine (in 27 states) is \$20 or \$25. Only one state (Wyoming)—has no fine. An adequate fine is a measure of effectiveness. A 1995 NHTSA study of the effect of various provisions of seat belt use laws found that for each \$1 in fine level, states tend to gain about 0.08 percent higher belt use. That is, a state with a \$20 fine would tend to have a use rate that is 8 percent higher than a state with a \$10 fine.

Conduct Combined Public Awareness and Enforcement Campaigns

- After statewide enforcement and publicity efforts in October 1993 and July 1994 (with 6,364 checkpoints, 58,883 belt and 3,728 child seat citations), North Carolina's belt use rose from 65 percent to 81 percent. A phone survey revealed that 85 percent of respondents were aware of the effort and 87 percent supported it. A multi-year statewide program is now underway.
- An effective publicity campaign should stress the safety value of seat belts and support the active enforcement of belt laws. Publicity and enforcement must go hand-in-hand.
- Revenue from belt law fines can be used to help fund publicity efforts. Revenues can also help support programs for distributing car seats through hospitals and community groups.

National Goals from the Presidential Initiative for Increasing Seat Belt Use

On April 16, 1997, ambitious national seat belt use goals were established. The goals are to increase national seat belt use to 85 percent by 2000 and 90 percent by 2005 (from 68 percent in 1996). Enacting strong seat belt legislation is an important strategy in meeting these new national seat belt use rate goals.

Occupant Protection Incentive Grant Programs

On May 22, 1998, Congress passed H.R. 2400, the Transportation Equity Act for the 21st Century (TEA-21). Two programs established in TEA-21 have a direct impact on seat belts and occupant protection. In FY 1999, the Section 157 Seat Belt Incentive Grants program authorized \$500 million over five years for incentive grants to encourage states to increase seat belt use rates. States receive funds based on projected annual savings in Federal medical costs resulting from increased seat belt use. States may use these grant funds for any eligible Title 23 project (which may include some construction projects). In fiscal year 1999, funds remaining after these allocations were apportioned for use in the surface transportation program. Beginning FY 2000, remaining funds will be available to finance innovative projects to increase seat belt use rates, based on plans submitted by the states. The Section 405 occupant protection incentive grant program authorized a two-part, \$83 million program over five years to target specific occupant protection laws and programs. Under part one, a five-year program beginning in FY '99, states receive grants if they demonstrate that they have in place certain occupant protection laws and programs, such as primary safety belt use laws and special traffic enforcement programs. Under Section 2003 (b) a two-year program in FY 2000 and 2001, states will receive grants if they carry out child passenger protection education activities. States may use these grant funds for occupant protection programs.

Urge Parents To Place Children In The Rear Seat

- The rear seat is the safest place for children of all ages.
- Infants (less than one year of age) should never be placed in the front seat of a car or truck with a passenger-side air bag.
- Infants must always ride in the rear seat, facing the rear of the car.
- Children should not ride with the shoulder belt tucked under their arms or behind their backs.
- Make sure everyone is correctly buckled up. Unbelted or improperly belted occupants can be hurt or killed by the deploying air bag.

The reports and additional information are available from your State Highway Safety Office, the NHTSA Regional Office serving your State, or from NHTSA Headquarters, Traffic Safety Programs, ATTN: NTS-12, 400 Seventh Street, S.W., Washington, DC 20590; 202-366-2708.

LATE HIGHWAY SAFETY LAWS - KEY PROVISIONS OF SAFETY BELT USE Nov. 15, 2000

State	Enforcement	Penalty		Coverage		Vehicle's Exempted	Use Rate (%)
		Fine	Pts	Seat	Age		
Alabama	Primary	\$25		Front	6+	Designed for > 10 passengers, Mfg. < 1965 School bus Designed for > 10 passengers, Mfg. < 1972 School, church or public bus, Mfg. < 1968 None	57.9
Alaska	Secondary	\$15		All	16+		60.6
Arizona	Secondary	\$10		Front	5+		71.1
Arkansas	Secondary	\$25		Front	5+		57.2
California	Primary	\$20		All	16+		89.3
Colorado	Secondary	\$15		Front	4+	Passenger bus, school bus Truck or bus > 15,000 lbs. None Seating > 8 people School bus, public bus, truck > 5,000 lbs.	65.2
Connecticut	Primary	\$15		Front	4+		72.9
Delaware	Secondary	\$20		Front	All		64.4
Dist. Of Columbia	Primary	\$50	2	All	16+		77.9
Florida	Secondary	\$30		Front	6+; 6-17 in rear		59.0
Georgia	Primary	\$15		Front	4+; 4-17 in rear	Designed for > 10 passengers, pickup Bus or school bus > 10,000 lbs. Weighing > 8,000 lbs. None Truck, tractor, RV	74.2
Hawaii	Primary	\$20		Front	4+		80.3
Idaho	Secondary	\$5		Front	4+		57.9
Illinois	Secondary	\$25		Front*	6+		65.9
Indiana	Primary	\$25		Front	4+; 4-11 in rear		57.3
Iowa	Primary	\$10		Front	6+	None Designed for > 10 people, truck > 12,000 lbs Designed for > 10 people Mfg. before 1981 Mfg. without seat belts	78.0
Kansas	Secondary	\$10		Front	14+		62.6
Kentucky	Secondary	\$25		All	Over 40 in. tall		58.6
Louisiana	Primary	\$25		Front	13+		67.0
Maine	Secondary	\$50		All	4+		*
Maryland	Primary	\$25		Front	16+	Historic Vehicle Truck > 18,000 lbs., bus and taxi operators Taxi, bus, school bus Farm pickup truck Farm vehicle, bus	82.7
Massachusetts	Secondary	\$25		All	12+		52.0
Michigan	Primary	\$25		Front	4+; 4-15 in rear		70.1
Minnesota	Secondary	\$25		Front	All; 3-10 in		71.5
Mississippi	Secondary	\$25		Front	4+; 4-7 in rear		54.5
Missouri	Secondary	\$10		Front	4+; 4-15 in rear	Designed for > 10 people, truck > 12,000 lbs None Mfg. < 1973 Taxi, bus, school bus School bus, vehicles for hire, mfg. < 1968	60.8
Montana	Secondary	\$20		All	4+		74.0
Nebraska	Secondary	\$25		Front	5+		67.9
Nevada	Secondary	\$25		All	6+		79.8
New Hampshire	Secondary	\$25		All	Under 18 only		*
New Jersey	Primary	\$20		Front	5+	None Vehicle > 10,000 lbs. Bus, school bus, taxi Designed for > 10 people Designed for > 10 people	63.3
New Mexico	Primary	\$25	2	Front	11+		88.4
New York	Primary	\$50		Front	16+		76.1
North Carolina	Primary	\$25		Front	16+		78.1
North Dakota	Secondary	\$20		Front	4+		46.7
Ohio	Secondary	\$25		Front	4+	None Farm vehicle, truck, truck-tractor, RV None Truck > 7,000 lbs. None	64.8
Oklahoma	Primary	\$20		Front	all		60.7
Oregon	Primary	\$75		All	16+		82.7
Pennsylvania	Secondary	\$10		Front	4+		69.7
Rhode Island	Secondary	\$30		All	6+		67.3
South Carolina	Secondary	\$10		Front	6+	School bus, public bus Bus, school bus Vehicle > 8,500 lbs. Designed for > 10 people, truck > 15,000 lbs Vehicle > 10,000 lbs, school/public bus, taxi	65.2
South Dakota	Secondary	\$20		Front	5+		*
Tennessee	Secondary	\$10		Front	13+		61.0
Texas	Primary	\$50		Front	4+; 4-14 in rear		74.0
Utah	Secondary	\$10		Front	10+		67.4
Vermont	Secondary	\$10		All	13+	Bus, taxi Designed for > 10 people, taxi Designed for > 10 people Designed for > 10 people Taxi, farm truck	69.8
Virginia	Secondary	\$25		Front	16+		69.9
Washington	Secondary	\$35		All	all		81.1
West Virginia	Secondary	\$25		Front	9+; 9-17 in rear		51.9
Wisconsin	Secondary	\$10		All	4+; 4-15 in rear		65.1
Wyoming**	Secondary	\$25		All	5+	Designed for > 10 people, bus None	*
Puerto Rico	Primary	\$10		Front	5+		77.8

* Law applies to all seating positions if driver is under 18 years old.

The Above Data Is 1999 Reflected Usage Rates

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the Voice of Nursing in Kansas

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Emma Doherty, M.A., R.N.
President

Terri Roberts, J.D., R.N.
Executive Director

For More Information Contact:
Terri Roberts J.D., R.N.
KANSAS STATE NURSES ASSOCIATION
February 13, 2001

S.B. 172 Seat Belt Usage as a Primary Offense

Senator Vratil and members of the Senate Judiciary Committee, my name is Lynne Dryer Voigt and I am a advanced registered nurse practitioner here representing the KANSAS STATE NURSES ASSOCIATION and KANSAS EMERGENCY NURSES ASSOCIATION. For the past sixteen years I have worked in the field of emergency nursing, and for five of those years was a Life Star nurse, often working with accident and trauma victims from isolated and rural areas of our state.

Both the KANSAS STATE NURSES ASSOCIATION and EMERGENCY NURSES ASSOCIATION support S.B. 172 which makes non-seat belt usage a "primary offense" in our state. We believe that the statistics are undisputed that increasing safety belt usage decreases health care costs and lost productivity due to injury. Wearing safety belts is the easiest and most effective way of cutting the highway death toll, and strong occupant protection laws are the most effective way of increasing safety belt use.

Registered nurses, unfortunately, most often work with victims of accidents that were not restrained by safety belts. Each serious injury prevented by belt usage saves approximately \$35,000 in health care costs, and as you know, vehicle crashes place significant demands on America's health care system, from emergency room services to long-term care and rehabilitation. Accident costs skyrocket when vehicle occupants are not wearing safety belts because unbelted crash victims sustain more severe injuries and more fatalities than belted victims.

- Belted victims average 60 to 80 percent lower hospitals costs than unbelted victims, and in 1990, Americans had to pay \$11.4 billion in taxes to cover crash costs---\$3.7 billion for health care, \$6.1 billion for lost taxes and \$1.6 billion for public assistance.
- In 1991 in Arizona, hospital costs for injury patients who had worn safety belts totaled \$15 million, and the cost for unbelted patients was \$58 million.
- Additionally, a study at four Chicago area hospitals found that emergency room and hospital costs for victims of automobile accidents who hadn't worn their seat belts were *three times* as great as those for people who had buckled up.

The pain, permanent injury and death that accompany traffic accidents is often unnecessary and avoidable, if only the victim had been wearing their seat belt. Data clearly reveal that safety belts, when worn by people involved in serious accidents, reduces the probability of death and injury by 40-55%. For the citizens of Kansas, please support this legislation and move towards preventing permanent injury and death with a strengthened primary offense seat belt law. The registered nurses of Kansas support this Governor's initiative and encourage passage of it.

Thank You.

Lynne Dryer Voigt , AR.N.P.
H: 785.271.9368
W: 785.295.8555 (voice message)

c:\office\legislative\testimony2001\sb172 seat belts

The mission of the Kansas State Nurses Association is to promote professional nursing, to provide a unified voice for nursing in Kansas and to advocate for the health and well-being of all people.

Constituent of The American Nurses Association

Signed
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February 13, 2001

Testimony Presented to the Senate Judiciary Committee

Senate Bill 172

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Jan Stegelman

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Kansas Public Health
Association

Cindy Hermes
State Capitol Area
Firefighters Association

Ami Hyten
Kansas Trial Lawyers
Association

James Keating
Kansas State
Association of Fire Chiefs

Roseanne Rutkowski
Kansas State Nurses
Association

I am pleased to provide testimony today on behalf of the Kansas SAFE KIDS Coalition. The Kansas SAFE KIDS Coalition supports Senate Bill 172, which closes many of the gaps in our current Child Passenger Safety law and promotes safety belt use in our state by making the offense a primary one.

A comprehensive study by the National SAFE KIDS Campaign released last week that rated child occupant protection laws across the country found that parents and care givers in Kansas cannot depend on our state's current child passenger safety law to guide them. The study identified gaps in the Kansas law; most notable of which is that only children age 3 and under are required to be restrained in a appropriate child restraint system. Children age 4-8 who should be in a belt-positioning booster seat are currently allowed under Kansas law to use an adult safety belt. The study also pointed out that Kansas children age 14 and older in the back seat can ride completely unbuckled and an exemption in the Kansas law allows children of any age to be unbuckled if the number of children in the vehicle exceeds the number of available seat belts. These gaps are addressed by SB 172, including requiring children from age 4 to 7 or 40-80 pounds to ride in a booster seat.

It would appear that Kansas may indeed be failing its children - particularly after they reach the age of 4. While recent observational usage surveys indicate that 81% of Kansas children ages 0-4 were in child seats, 45% of children ages 4-14 were still not protected by a booster seat or seat belt. One reason for this drop may be that seat belts, which were designed for adults, do not fit a 4 year old child. Parents who are following Kansas law are surprised to learn that a belt-positioning booster seat can not only make their child safer, but make the safety belt fit better and feel better to the child.

The Kansas SAFE KIDS Coalition also supports the primary enforcement seat belt provisions of SB 172. Studies consistently show that the best way to get children buckled up is to get adults buckled up. According to observational data, when a driver buckles up, children are buckled up 87% of the time, however, when a driver is unbuckled, child belt use drops to only 24%. Over the last three years, 7,215 Kansas children age 0-14 were killed or injured in motor vehicle crashes. 68% of those children killed were not protected by a child restraint.



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Cindy Hermes
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Firefighters Association

Ami Hyten
Kansas Trial Lawyers
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James Keating
Kansas State
Association of Fire Chiefs

Roseanne Rutkowski
Kansas State Nurses
Association

Page Two
Testimony Senate Bill 172
Senate Judiciary Committee
February 12, 2001

We all know that strong child passenger laws and primary seat belt use laws have been proven effective at increasing restraint use and saving children's lives. While increasing the fine for violations would certainly strengthen the bill, passage of SB 172 will provide parents in our state with better guidance on how to best protect their children and will send a clear message to motorists that the state considers child safety seat, booster seat and seat belt use necessary for the safety of all of our Kansas citizens. The end result will be fewer Kansas children injured and killed in motor vehicle crashes.

Testimony Presented by:

Jim Keating
Chair, Executive Committee
Kansas SAFE KIDS Coalition
(913) 437-6287

attachments:

Kansas SAFE KIDS Coalition Member Organizations
Kansas Rating information from National SAFE KIDS Campaign Study 2/01

The Kansas SAFE KIDS Coalition, Inc. is a nonprofit group of 67 statewide organizations and businesses that have joined to protect Kansas children from unintentional injury -- the leading killer of Kansas kids. Local coalitions and chapters are located in Barber, Clay, Ford, Johnson, Marion, Osage, Pottawatomie, and Shawnee Counties, as well as Hutchinson, Lawrence, Leavenworth, Manhattan, Norton, Salina, and Wichita. Kansas SAFE KIDS is part of the National SAFE KIDS Campaign.





Kansas SAFE KIDS Coalition Member Organizations

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Chapter*

Lt. John Eichkorn
Kansas Highway Patrol

Sally Finney
*Kansas Public Health
Association*

Cindy Hermes
*State Capitol Area
Firefighters Association*

Ami Hyten
*Kansas Trial Lawyers
Association*

James Keating
*Kansas State
Association of Fire Chiefs*

Roseanne Rutkowski
*Kansas State Nurses
Association*

- AAA Kansas
- American Academy of Pediatrics
- American Red Cross - Wichita
- Attorney General of Kansas
- Barber County SAFE KIDS Chapter
- Board of Emergency Medical Services
- Brain Injury Association of Kansas
- Children's Mercy Hospital
- Clay County SAFE KIDS Chapter
- Dillon Stores
- Fire Education Association of Kansas
- Fire Marshal's Association of Kansas
- Ford County SAFE KIDS Chapter
- Hutchinson SAFE KIDS Chapter
- Johnson County SAFE KIDS Coalition
- Kansas Academy of Family Practice
Physicians
- Kansas Association of Counties
- Kansas Assoc. of Local Health Dept.
- Kansas Assoc. of Osteopathic Medicine
- Kansas Association of School Boards
- Kansas Chapter International Association
Arson Investigators
- Kansas Chiropractic Association
- Kansas Congress of Parents and Teachers
- Kansas Cooperative Extension 4-H
- Kansas Dental Association
- Kansas Depart. of Health & Environment
- Kansas Depart. of Human Resources
- Kansas Depart. of Transportation
- Kansas District of Kiwanis International
- Kansas Emergency Medical Services
Association
- Kansas Emergency Nurses Association
- Kansas Farm Bureau
- Kansas Healthy Start Home Visitors
- Kansas Highway Patrol
- Kansas Hospital Association
- Kansas Insurance Department
- Kansas MADD
- Kansas Medical Society
- Kansas National Employers for Traffic
Safety
- Kansas Public Health Association
- Kansas Recreation & Park Association
- Kansas Rehabilitation Hospital
- Kansas SADD
- Kansas Safety Belt Education Office
- Kansas School Nurses Organization
- Kansas State Association of Fire Chiefs
- Kansas State Board of Education
- Kansas State Fire Marshal
- Kansas State Nurses Association
- Kansas Trial Lawyers Association
- Kaw Valley Girl Scout Council
- KNEA
- KUMC Burn Center
- KUMC Child Development Unit
- Lawrence SAFE KIDS Coalition
- Leavenworth SAFE KIDS Chapter
- Manhattan SAFE KIDS Chapter
- Marion County SAFE KIDS Chapter
- NHTSA Regional Office
- Norton SAFE KIDS Chapter
- Office of the Governor
- Osage County SAFE KIDS
- Pottawatomie County SAFE KIDS
Safety and Health Council of Western
Missouri & Kansas
- Salina SAFE KIDS Chapter
- Shawnee County SAFE KIDS Coalition
- State Farm Insurance
- State Capitol Area Fire Fighters Assoc.
- Stormont-Vail Regional Medical Center
- United School Administrators of Kansas
- Via Christi - St. Francis Burn Center
- Western Resources
- Wichita Area SAFE KIDS Coalition



KANSAS

General Statement/Composite

Kansas's child occupant protection law does not do a good job of protecting its children. It fails to restrain many of them, allowing many of its older child passengers to ride completely unbuckled in the back seat when traveling in a motor vehicle. Furthermore, Kansas does not place a legislative priority on educating its citizens about the law or about the importance of protecting children when they travel. Significantly and disturbingly, Kansas law allows a child to ride unrestrained just because other passengers are occupying all other seating positions and using the accompanying restraints. Overall, Kansas's poor showing clearly demonstrates the immediate need for the Kansas Legislature to close the gaps and otherwise improve its child occupant protection law.

Grade Breakdown

Criteria	How Kansas Fared
Restraint Use Required Through Age 15 30.29 points out of a possible 35 points	Only children ages 13 and under are required to be restrained in all seating positions. Children ages 14 and older can ride completely unrestrained in the back seat.
Appropriate Child Restraint Requirement by Age 12 points out of a possible 24 points	Only children ages 3 and under in all seating positions must be properly restrained in an appropriate child safety seat. Children ages 4 – 8 can be restrained like adults in a safety belt alone – putting them in a potentially dangerous situation.
Proper Child Safety Seat Adjustment Clause 9 points out of a possible 9 points	When Kansas does mandate child restraint use, to its credit, it requires the driver to secure both the child safety seat and the child <i>properly</i> .
Public Education/Public Fund Component 0 points out of a possible 5 points	Unfortunately, Kansas does not recognize the importance of legislatively mandating a public education campaign, nor does it provide public funds to offset the costs of programs that would help protect children while traveling.
Penalty Provisions 1 point out of a possible 9 points	Kansas received only 1 point for its low \$20 fine and received no points for its failure to assess license points for violations.
No Exemptions for Certain Drivers or Vehicles 0 points out of a possible 9 points	It is alarming to note that Kansas's law allows a driver to transport children without restraints if all other seating positions in the vehicle are occupied by other restrained passengers.
Other Provisions 0 points out of a possible 9 points	Kansas's law does not contain any additional provisions worthy of recognition.

Kansas's Call to Action

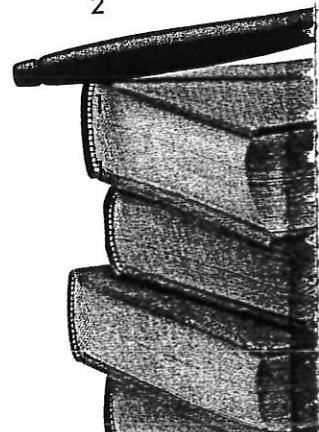
The National SAFE KIDS Campaign is alarmed by Kansas's grade. The Kansas Legislature should, among other things:

- Close its gap by requiring children ages 14 and older to be properly restrained in all seating positions.
- Require children ages 4 – 8 and weighing 40 – 80 pounds to use booster seats.
- Establish a child occupant protection public education program and supply sufficient funds to implement it.
- Increase its fine for violations of the child occupant protection law to more effectively deter non-compliance.
- Eliminate its "safety belt shortage" exemption.
- Consider creating a child safety seat loaner/giveaway program for families in need and establishing a child occupant protection class for violators.
- Eliminate its "proof of child safety seat purchase waiver."
- Consider adding a well-crafted back seat mandate for its child passengers.

THE POINT SYSTEM

SAFE KIDS weighted each component of the model law by assigning the following point values. Each state law was then assigned points based on its ability to meet the model law standards.

	POINT VALUE
A. Restraint use required through age 15	35
Requires children through age 15 to be restrained in any seating position.	2.33/year of life
B. Appropriate child restraint requirement by age	24
Requires children to be in age- and size-appropriate restraint systems.	5 and under = 20; 4 and under = 16; 3 and under = 12; 2 and under = 8; 1 and under = 4
Specifically requires children ages 4 – 8 to ride in a booster seat.	4-8 yrs = 4; 4-7 yrs = 3; 4-6 yrs = 2; 4-5 yrs = 1
C. Proper child safety seat adjustment clause	9
Requires children to be properly secured in a child safety seat according to manufacturer's instructions, or states the necessity of properly adjusted and fastened child safety seats.	
D. Public education/public fund component	5
Requires a public fund to promote child passenger safety.	3
Requires an educational campaign to promote child passenger safety.	2
E. Penalty provisions	9
Penalizes those who do not comply with the law with penalty points or otherwise tracks violations that lead to driver's license suspension	5
– and a fine of at least \$76	4
– \$51 – \$75	3
– \$26 – \$50	2
– \$1 – \$25	1
F. No exemptions for certain drivers/circumstances	9
Provides no exemptions from the law, including non-parent/guardian drivers, out-of-state cars, non-state resident drivers, nursing parents, parents attending to a child's personal needs, situations where there are not enough safety belts for all children to be restrained, and riding in the cargo area of a passenger vehicle such as a station wagon.	
G. Other provisions	9
Specifies option for violators to attend child passenger safety class.	3
Specifies no provision for a waiver of penalties or no provision for a waiver of penalties other than allowing violators to attend a child passenger safety class in lieu of penalty points or fines.	2
Specifies back seat as the safer seating position to prevent a child from being in a potentially dangerous situation (such as in front of an air bag).	2
Establishes a child safety seat loaner program.	
Any (or all) of the following positive provisions:	
– penalizes those who sell or install a child safety device that does not meet federal standards	
– requires violators to attend child passenger safety class in addition to penalty points or fines	
– requires car rental agencies to provide customers with child safety seats and educational materials about the state's child occupant protection law and child passenger safety	
– suspends a violator's driver's license until a child safety seat is purchased.	

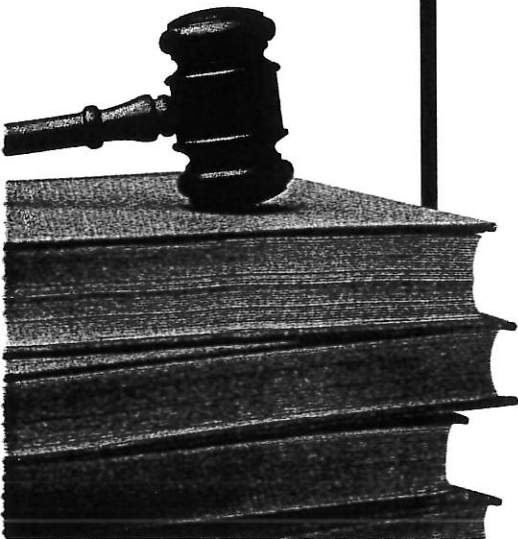


STATE RATINGS BY POINTS AND GRADE

SAFE KIDS weighted each component of the model law by assigning point values. Each state law was then assigned points based on its ability to meet model law standards.



CALIFORNIA	94.00	A	MARYLAND	59.00	F
FLORIDA	80.00	B	MICHIGAN	57.00	F
NEBRASKA	77.00	C	SOUTH CAROLINA	57.00	F
WASHINGTON	76.60	C	WEST VIRGINIA	55.00	F
ALASKA	76.00	C	MONTANA	54.00	F
CONNECTICUT	76.00	C	INDIANA	52.63	F
KENTUCKY	73.00	C	KANSAS	52.29	F
MASSACHUSETTS	72.00	C	OKLAHOMA	51.96	F
COLORADO	69.00	D	TEXAS	51.62	F
DELAWARE	69.00	D	ARKANSAS	51.32	F
RHODE ISLAND	69.00	D	MISSOURI	50.00	F
NEW HAMPSHIRE	68.00	D	LOUISIANA	49.96	F
NORTH CAROLINA	68.00	D	MISSISSIPPI	49.31	F
UTAH	67.00	D	NEW MEXICO	44.30	F
VIRGINIA	67.00	D	ARIZONA	42.32	F
WYOMING	67.00	D	ALABAMA	40.65	F
NEW YORK	66.00	D	WISCONSIN	40.31	F
HAWAII	66.00	D	OHIO	39.99	F
NEVADA	64.00	D	IOWA	38.65	F
DISTRICT OF COLUMBIA	63.00	D	SOUTH DAKOTA	37.32	F
GEORGIA	63.00	D	PENNSYLVANIA	34.99	F
NORTH DAKOTA	63.00	D	ILLINOIS	34.65	F
VERMONT	63.00	D	IDAHO	33.99	F
TENNESSEE	62.96	D	NEW JERSEY	24.32	F
MINNESOTA	62.30	D			
OREGON	61.00	D			
MAINE	60.00	D			



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KANSAS HIGHWAY PATROL

Service—Courtesy—Protection

Bill Graves
Governor



Col. Donald W. Brownlee
Superintendent

Summary of Testimony on SB 172 Senate Judiciary Committee

Presented by
Lieutenant Colonel Terry Maple
February 13, 2001

Good morning Mr. Chairman and members of the committee. My name is Lieutenant Colonel Terry Maple, and I appear before you on behalf of Colonel Don Brownlee and the Kansas Highway Patrol in support of Senate Bill 172.

Regrettably, Kansas' current laws regarding adult and child occupant protection have been identified as having provisions that do not necessarily provide the highest level of safety for passengers travelling Kansas roadways. By amending both of these laws, SB 172 proposes to increase the level of protection for all occupants of passenger cars.

Under current law regulating child passenger safety, children under the age of four years must be transported in an approved child safety seat and children four years but under fourteen years must be buckled by a safety belt, anywhere in the vehicle. Children fourteen years and older are not required to wear a safety belt in the back seat.

Encouragingly enough, more and more adults in Kansas are using child safety seats to protect their little ones. According to KDOT's latest observational study, 81% of children are protected in a child safety seat while travelling on Kansas roadways. But when children outgrow their convertible seats around the age of four years and 40 pounds, many parents stop using child safety seats and move kids directly into safety belts. This can seriously harm small children in a crash since safety belts are designed for adults. Lap/shoulder belts are made to ride over the bony areas of the shoulders and hips. With small children, the lap belt tends to ride up into their

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abdomens and the shoulder belt cuts across their necks.

The solution is for adults to use booster seats until their children reach the age of seven years or 80 pounds, when the safety belt fits them correctly. SB 172 expands coverage contained in current law to include the use of a booster seat to ensure the safety of children in this category.

When talking with the public about Kansas' current child passenger safety law, police officers find many people who are surprised to learn of the law's exception relating to overloaded vehicles. This exception specifically points out that there is no violation of law when the number of children outnumbers securing locations available for use by children. SB 172 strikes this language making it illegal for adults to place children in this dangerous situation.

Under current law regulating adult occupant protection, police officers in Kansas can only take enforcement action on safety belt violations if the officer first observes a separate violation such as an improper lane change or speeding. Even then, the law is specific to only front seat occupants.

SB 172 seeks to amend current law by making it mandatory for all occupants of a passenger car to buckle up. Not only will this provision help to protect adults while travelling, it will also help protect children over 14 years old riding in the back seat.

If you will remember, this is one of the gaps found in our current child passenger safety law. The bill also strikes current language that makes a violation of this act a secondary offense. By doing so, police officers would be able to treat this violation as a primary offense.

Currently, 17 states and the District of Columbia have a primary safety belt law. Thirty-three states, including Kansas, have secondary laws. The average belt use rate reported by states with a secondary law is 63 percent, compared to 78 percent in states with a primary law. Here in Kansas, our safety belt use rate was 61% for 2000. With a primary safety belt law, Kansas could reap the benefits of a possible 78% or more usage rate. An increase in usage simply equates to a decrease in injuries, deaths and the costs associated with these types of crashes to society.

Experience shows that safety belt usage goes up when occupant protection laws are actively enforced. With this in mind, an adequate fine is an excellent measure of effectiveness. A 1995 study conducted by the National Highway Transportation Safety Administration found that for each \$1 in fine, states tend to gain about .08% higher belt usage rate. That is, a state with a \$20 fine would tend to have a usage

rate that is 8 percent higher than a state with a \$10 fine. Currently, a fine for violation of Kansas' safety belt law is \$10, which includes court costs. SB 172 proposes a fine increase to \$20 plus court costs. By doing so, Kansas could see an increase in usage from this change alone.

There is no doubt the Patrol has countless hours of hands on experience with the benefits of buckling up and using child safety seats. Troopers have seen the unnecessary injuries and deaths associated with the failure of buckling up. Many of these gruesome experiences will live forever in the minds of these officers, especially those involving children. Just ask one of them to describe these experiences. Years later, details down to smell and touch are many times as clear as they were that tragic day of occurrence.

This is not an issue of giving law enforcement one more reason to stop innocent motorists. If you look at the statute books, there are plenty enough reasons already. There are hundreds of good law enforcement officers across this state that are doing a job that many times pays little, all because they feel strongly about the preservation of life. When a motorist is stopped for a traffic violation, the experience is intended to correct hazardous driving habits. It is the officer's hope that by doing so, he or she may experience one less chaotic crash scene. A traffic stop for a primary safety belt violation would absolutely be no different.

While the current safety belt and child passenger safety laws in Kansas have helped to reduce our fatality rates, there is more that should be done to reduce injuries and deaths. Because many Kansans look toward their occupant protection laws for guidance in assuring the highest level of safety for themselves and their loved ones, it is important the State provide statutes that will do just that. The Kansas Highway Patrol strongly urges this Committee to give SB 172 a favorable report. Let's all take credit for the life saving measures this bill has to offer.

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**KANSAS
PUBLIC
HEALTH
ASSOCIATION, INC.**

KANSAS PUBLIC HEALTH ASSOCIATION, INC.

AFFILIATED WITH THE AMERICAN PUBLIC HEALTH ASSOCIATION

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PHONE: 785-233-3103 FAX: 785-233-3439

E-MAIL: kpha@networksplus.net

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Testimony presented by
Sally Finney, M.Ed.
Executive Director
Tuesday, February 13, 2001

I respectfully submit this testimony on behalf of the Kansas Public Health Association in support of Senate Bill 172.

Despite what you may hear from its opponents, this bill is about public safety – period. Our society decided long ago that, when it comes to safety, society’s needs take precedence. I do not have the right to choose to hit another person because I feel like it or to run a stop sign because I am in the mood to do so. In fact, the matter of whether or not I have a right to choose to endanger myself and my passengers was resolved during the 1986 and 1989 sessions of the Kansas Legislature when this states’ elected leaders stood up and made the use of safety restraints in family passenger vehicles the law. The matter before you today is whether or not you will now stand up and allow our law enforcement professionals to enforce the law. For as with any law, without enforcement, the law is all but meaningless.

The evidence on the benefits of safety restraints is compelling and overwhelming. Safety restraints save lives and prevent injury, and I could fill this hearing room with volumes of data compiled over the past few decades proving this. Rather, I would like to focus on a few of the key reasons the public health community supports SB 172.

1. **Primary safety belt laws are important for protecting children because they increase usage.** According to the National Highway Traffic Safety Administration (NHTSA), safety belt usage has increased by 17 percent in states that have enacted primary safety belt enforcement laws. NHTSA also reports that for states that have a primary safety belt law, the fatality rate for occupants under the age of 21 years has dropped an average of 23 percent. This compares to only an 8 percent decline in states with only secondary enforcement.
2. **A primary safety belt law would save Kansas millions of dollars.** NHTSA estimates that the increased utilization that would likely result from a primary safety belt law would have prevented 45 Kansas deaths at a savings and 995 injuries in 1997 resulting in a total savings of more than \$69 million that one year (\$38.4 million from deaths and \$31 million from injuries in medical costs, disability claims, lost productivity, etc). Surely there are other needs for which these funds could be used.

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3. **Children are more likely to be protected by safety belts when the driver uses them.**
NHTSA studies show that if a driver is wearing his or her safety belts, the proportion of toddlers wearing them is 86 percent. This plummets to 24 percent for children riding with an unrestrained driver.

We ask you to help save the lives of Kansans by recommending SB 172 favorably for passage.

STATE CHILD DEATH REVIEW BOARD

#15



Carla J. Stovall
Kansas Attorney General

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Nancy Lindberg, Chairperson
Assistant to the Attorney General
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Herbert Doubek, MD
District Coroner
Belleville

Keith Schroeder, JD
Reno County District Attorney
Hutchinson

Roberta Sue McKenna, JD
Social and Rehabilitation Services
Wichita

Sarah Johnston, MD
Kansas State Board of Education
El Dorado

Mary McDonald, JD
Children's Advocate
Wichita

Katherine Melhorn, MD
Pediatrician
Wichita

Erik Mitchell, MD
District Coroner
Topeka

Lorne Phillips, PhD
State Registrar
Topeka

Don Winsor, Senior Special Agent
KBI
Wamego

February 13, 2001

Senator John Vratil
Senate Judiciary Committee
State Capitol
Topeka, KS 66612-1504

Dear Chairman Vratil and Members of the Senate Judiciary Committee:

The State Child Death Review Board (SCDRB) strongly supports Senate Bill 172. The bill would close some of the gaps in the current child passenger safety law by:

- requiring that children from age four to seven or 40 to 80 pounds ride in a seat belt positioning booster seat;
- eliminating the exemption of a violation when the number of child passengers exceeds the number of seat belts in the vehicle; and
- extending coverage to children ages 14 and older in the back seat.

Parents and caregivers look to the law to provide them with guidance on how to best protect their children. Parents often don't realize they need to alter the type of safety restraints they use as children grow. According to National Highway Transportation Safety Administration and the American Academy of Pediatrics, adult safety belts do not adequately protect small children (about 40 to 80 pounds) from injury in a crash. Car booster seats are the best way to protect them. However, an estimated five percent of booster-age children are properly restrained in car booster seats. Strong child occupant protection and safety belt use laws, along with aggressive enforcement, are proven effective at increasing restraint use and reducing injuries and fatalities.

SCDRB statistics reveal that motor-vehicle crashes are the leading cause of death for children ages one through 17 years of age in Kansas. Car crashes are the leading cause of unintentional-injury deaths among all children through age 17. During the period from 1994 through 1998, the SCDRB reported that 62.2 percent of unintentional injury-related deaths among children were the result of motor vehicle crashes.

The SCDRB encourages your support of Senate Bill 172, and continuing to improve the efforts to reduce motor-vehicle injuries and fatalities in Kansas.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
CARLA J. STOVALL

Carolyn Ward
Executive Director, SCDRB

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A Professional Corporation

Memorandum

TO: HONORABLE JOHN VRATIL
SENATE JUDICIARY COMMITTEE

FROM: JEFFERY S. BOTTENBERG, LEGISLATIVE COUNSEL
KANSAS SHERIFFS' ASSOCIATION

RE: SB 172

DATE: FEBRUARY 12, 2001

Mr. Chairman, members of the committee, my name is Jeff Bottenberg and I am submitting this testimony on behalf of the Kansas Sheriffs' Association ("KSA"). KSA is comprised of approximately 2,100 members, both law enforcement and civilian personnel, that work in county sheriff offices throughout the state. We appreciate the opportunity to express our support of SB 172.

Kansas law currently requires that front seat passengers wear a seat belt in a moving vehicle. SB 172 would amend current law by requiring that all passengers wear a seat belt, and allow a law enforcement officer to ticket anyone that is not belted as a primary violation. This change is good public policy, as seat belts are the most effective means of reducing fatalities and serious injuries when traffic crashes occur. Research has proven time and again that seat belts save lives, as an estimated 9,500 lives are saved in America each year because persons were belted.

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Several states, plus Puerto Rico and the District of Columbia, already have primary enforcement laws. In each of these states, seat belt usage has increased as a result of primary enforcement. Georgia is a dramatic example. Prior to the enactment of a primary enforcement mechanism in July 1996, seat belt usage rested at 51 percent. In a matter of five months, usage had climbed to 63 percent, and usage had climbed to 76 percent after a year and a half. Primary enforcement laws save lives!

The opponents of primary enforcement allege that law enforcement officers will use the law to engage in "racial profiling," or to harass motorists. Nothing is farther from the truth. Persons chose a career in law enforcement because they want to help others. If an officer stops a person who is unbuckled, his or her only reason to do so is to make sure that the driver arrives home safely.

KSA urges your favorable consideration of SB 172. Please do not hesitate to contact me if you have questions or need further information.

Sincerely,



Jeff Bottenberg

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Testimony On Proposed Legislation Mandating Primary Use & Enforcement of Seat Belt Use.

KENNETH R MCNEILL
ABATE OF KANSAS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE

My name is Ken McNeill and I am a lobbyist for ABATE OF KS.

I'm not here to argue the facts for a change since I agree that the vast majority of time's seat belts do reduce the chance of being killed, nor the reduction of injuries brought about by increased seat belt use.

I am not even here to claim you are trying to take away one of my freedoms.

No government can take away anyone's freedom, it can only be given away by the one who has it.

You give up your freedom when you allow another to make decisions for you. When you let someone, an individual or a Government body decide what is in your best interests or what's good or bad for you.

However, the only way to be completely free is to want nothing nor have anything. So each person give's up bits and pieces of freedom for each thing you acquire or when you value something, whether that is possessions, love for friends, family, or a dream.

Three and a half years ago I exercised my freedom of choice by breaking the law and not wearing a seat belt.

Because I used my judgement and not the government's I can stand here and testify.

If I had done as the legislature had decided was best for me I would be dead. Only because I wasn't wearing a seat belt, several miracles, high dollar machines and damn good Doctors did I survive the accident, the two times I did die in the hospital and against the odds walk..

No you can't take my freedom away, But you have the power to take away my Liberty. The liberty to make this decision myself with out being stopped every time I pass a police officer. Liberty is the ability to exercise freedom without the cost being made unnecessarily and unreasonably high by people who feel they are better qualified to make decisions for a person than that person is.

You do exactly that with this proposed legislation. As it is now I can chose to wear or not wear my seat belt because as long as I am obeying the traffic laws that are necessary to insure the safety of the public as a whole, the police can't stop me for using my own judgement about my personal safety.

Under this purposed legislation I'm told Big Brother is better suited to do this than I am.

Yet you aren't willing to accept the responsibility for deaths or injures caused by my being forced to wear a seat belt. You may hear the argument that you are responsible for the deaths and injuries that are happening now because this is not the law and that is an asinine argument. If you are responsible for the deaths and injuries of every one who does something they shouldn't the only answer is for the government to regulate everything for everyone and even my opponents here aren't willing to go that far. Well, no all at once anyway.

Those of you who support this type of legislation would say nothing is effective all the time and these minute number of exception's like mine are more than made up for by the number of those saved, well the government isn't your mama nor responsible for those it doesn't save from themselves but it is responsible for the ones they kill or injure through their legislation.

My opponents in law enforcement all say they are not asking for this legislation so they can use it to stop people but if you listen to what they said and wrote all of them say they not only want the power to stop people for not using seat belts but will use it the first chance they get.

In 1987 give or take a year the Kansas legislature passed a bill to make seat belts mandatory but a secondary offense. They did this not because they wished to but for the same reason that motorcycle helmet laws were so popular in the early 90's. It was because of coercion, extortion and black mail by the Federal Government. Kansas stood to lose around 10 million dollars a year in Federal Health and Highway funds.

This bill was killed over and over by both Houses of the Legislature right up till the end of the session whey they surrendered to intense lobbying by a number of Federal agencies including NHTSA and the Federal Highway Administration. The same people who were here asking you to make it a primary offense.

It passed originally because the Feds claimed as usual that this was all they wanted and would want, it wasn't. The insurance companies made their usual claims that insurance rates would go down, they didn't. The safety groups made the claims about how many lives would be saved and at least they were more right this time than usual. The decrease in fatalities and injuries was impressive but not close to the numbers they predicted.

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All of them claimed that people just needed a little incentive to buckle up for it to be effective, the number of people who use seat belts has come close to doubling but this happened mostly because of the education and awareness of the benefits, not from the threat of punishment.

Every year the Federal Bureaucracies and safety Nazi's add more and more restrictions to save us from ourselves. In 1994 I added together all the lives different safety groups said could be saved by this legislature if you passed various driving laws and it added up to more people than had died from traffic accidents.

In 1992 while Jerry Thomas of Motorcycle Riders Foundation was testifying against a helmet law he told Andrea Ramsey, one of the main proponents of the helmet law in Kansas, that it would not be long before the government decided to protect both of them from the risk of heart disease by controlling their diet and exercise as they were both over weight.

Well, for the second year in a row I notice that there is a resolution in the Kansas Legislature to monitor what we eat and how we exercise, we have SCR 1608 in the Senate to empower the KDHE to investigate and report to the 2002 Legislature what actions you should take to control the horrors of being over weight. At what point are we finally going to say enough is enough.

To those who have lost loved ones and use that endless chant, if only there had been a law. To you I say it is and was the law and you or someone dear to you freely chose to ignore it. While I am truly sorry for your loss, I will not surrender my liberties to make you feel better.

I'm a veteran of the U.S. Army, I enlisted in the late 60's during the Viet Nam war, I was well aware of the risks in enlisting during a war that was killing large numbers of America soldiers every day. I did it anyway because I felt it was worth some risk to serve in the U.S. military as every son of my family has, during and since the revolutionary war. I am just as aware of the risks of not wearing a seat belt. We have a military to preserve the liberty of our country and people from out side aggressors. I ask you to preserve my liberty from domestic aggressors, to allow me to make my own decision about when and when not to wear a seat a belt.

I ask you to not recommend this proposed legislation for passage, thank for you time and I'll answer any question you may have.

Kenneth R. McNeill

RON HENNEBERG
PRESIDENT
ABATE OF KS. INC



Mr. Chairman Members of the Committee

My name is Ron Henneberg and I am here to testify against legislation to make the existing secondary seat belt law a primary offense thereby allowing law enforcement officers to stop and ticket drivers for not wearing seat belts.

No one denies that seat belts save lives and reduce injuries, and we should tell people that. We should teach our youth that it is the wisest course to buckle up.

What we should not do is force adults who are fully aware of the chances they are taking to wear seat belts through active coercion. At this time it is the law that you must wear your seat belts while driving, it's the law but it is passive persuasion that seeks to educate and persuade people that it is in their best interest to wear them. As the older generation slowly adapts to this, the younger generation has never know anything else and seat belt use continues to go up. Although it isn't happening as fast as some would like. In their impatience to do what they view as a greater good they are willing to use the full force of the law to coerce people to behave the way they think is best.

Some of you will say that all laws are based on this, but they are mistaken, at least in this country, where laws are supposed insure the greatest amount of liberty to the individual while maintaining a civil society. The public obeys best those laws that they know are necessary to protect themselves and others from criminal's ,who obey only their own wishes, and those laws which they realize are necessary to operate a well ordered society . Even when they are complaining about those speeding tickets or failure to come to a complete stop tickets. They cry and they snivel then they go to court, plead guilty, pay their fines and go on about their lives because they know in their hearts they were in the wrong and these laws are necessary to protect them from others, not themselves.

People who don't wear seat belts admit they should and force their children to buckle up, people who wear them try to convince others of the benefits of wearing them. They mostly agree on something else too, that it is not right for the government to be able to stop, ticket and annoy those who chose not to wear them. The citizen's as a whole are learning what we as motorcyclist's tried to tell them when helmet laws were so popular, if you can justify an infringement of a small groups liberty, for their protection, it won't be long before there is justification to limit anyone's liberty, for their own good of course.

The Governor says we can get money from the Feds if you pass this bill and that is true, we can get money to enforce the law this legislation creates and to make sure people are obeying this law. If you vote against recommending this legislation for passage you will not lose anything because you won't need the money to enforce the law.

Except for the Kansas City Star you can't find an editorial supporting this change. Maybe one out of fifty letters to the editor supports it. Maybe ten percent of the people calling radio shows support it. The people aren't asking you to repeal the existing law because they support it, as it is. They support child restraint laws, they support laws that make teenagers buckled up and they even support everyone wearing seat belts but they strongly oppose this change to it being a primary offense.

Some will say but insurance rates will go down, every state in the country has passed laws that will reduce insurance rates. How many across the board insurance rate drops have you ever saw after passing a bill that would lower insurance rates.

I thank you for your time and ask that you vote against recommending this legislation for passage.

Ron Henneberg
2-13-01
att 18

Mr. Chairman, members of the Committee.

I am Shirley Gillette. I live in Moundrige, KS. I am a veteran of the United states Air Force and am 42 years old.

I wish to testify against SB 172. I was in the Air Force from 1974 till 1978 and was a Flight Line Crew Chief for KC-135's. On my say-so these planes and their flight crews flew or stayed grounded. Their lives depended on my judgement as to whether it was safe for them to fly or not.

I had 99 straight flights without problems till an electronic glitch caused a flight to return to base for repairs and even on that flight no one was endangered.

Less than 100 years ago I was not deemed responsible enough to own or run a business or own property without the supervision of a man.

I was not allowed to vote or hold office and now that I can serve our armed forces, vote, run for president, serve in the legislature, drive a car, ride a motorcycle and pay my share of taxes to support the government, that same government is going to tell me I am not intelligent enough or responsible enough to decide for myself if I should wear a seat belt?

I respectfully ask the Legislature to stay within it's constitutional duties of protecting me against attack by other people and a Federal Government intent on control and regulation of my personal life.

I ask you to vote no on SB 172 and to use your influence to persuade others to vote against this intrusive legislation.

Thank you for your time.

Shirley Gillette

*Shirley
2-13-01
att 19*

Kansas Association of Financial Services

George Barbee, Executive Director

300 SW Eighth Street, Third Floor

Topeka, KS 66603-3912

785/233-4512

Fax: 785/233-2206

53
2-13-01
att
#18

MEMORANDUM

Date: February 12, 2001

To: The Senate Judiciary Committee

From: George Barbee, Executive Director
Kansas Association of Financial Services

Re: Support for SB-136

The member companies of the Kansas Association of Financial Services is pleased to see the concept of SB-136 surface again in the Kansas Legislature. It addresses an important issue relative to the ability to assign the benefits of wage garnishment. It is a common practice in the area of consumer credit loans to move blocks of loans via assignment to gain necessary capital to meet the demands of consumer driven request for credit. To disallow the garnishment benefits to the assignee is an unnecessary and unfair burden to both entities of a transaction.

We also find our industry involved in a "Merger Mania" with large banks and consumer finance companies agreeing to sell accounts receivable or to merge the companies. These companies do not profit from a situation that requires garnishment, but it seems reasonable that they should have the right of garnishment transfer with the loan should such a need for garnishment develop.

Members of the committee, I was not available to attend the hearing of SB-136 and the opportunity to express support in this written statement is very much appreciated.



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the Senate Judiciary Committee

FROM: Terry Humphrey
Executive Director
Kansas Trial Lawyers Association

RE: 2001 SB 136

DATE: February 12, 2001

Chairman Vratil and members of the Senate Judiciary Committee, thank you for the opportunity to offer written comments on Senate Bill 136.

The Kansas Trial Lawyers Association opposes SB 136. If passed, this bill will allow creditors to sell and assign accounts to persons or companies in the collection business, probably selling these accounts for cents on the dollar. These collectors could then sue and garnish debtors for the full amount. Attached is an example of an electronic solicitation received recently by one of our members.

Over the last three or four years, our members have become aware of several companies that have been buying up unsecured debts for pennies on the dollar and then filing claims for these debts in bankruptcy. This procedure causes no harm to a debtor in bankruptcy, since debtors usually don't care whether unsecured creditors are getting any money as part of a bankruptcy plan or a dividend in a Chapter 7 case. The effect, therefore, is neutral on debtors in bankruptcy.

On debtors not under bankruptcy protection, however, the effect could be disastrous. This bill could well result in driving more people into bankruptcy. Debts which might have been written off by the creditor as having no value will now suddenly have some value in the form of whatever consideration is paid by the collecting agency to the primary creditor for these accounts. It will impact mostly the "working poor" who are making above minimum wage and, thus, are subject to wage garnishment, but who have families who come before payment of debts. KTLA sees nothing positive coming from this amendment to debtors, consumers and the average person.

Thank you for allowing us the opportunity to submit our comments on SB 136. We respectfully ask that you consider these issues when deliberating the bill. We are happy to answer any questions or provide any further information that the committee may have on this subject.

Terry Humphrey, Executive Director

Jayhawk Tower • 700 SW Jackson, Suite 706 • Topeka, Kansas 66603-3758 • 785.232.7756 • Fax 785.232.7730

E-Mail: triallaw@ink.org

*Sen Jud
2-13-01
att 21*

From:
Sent: Wednesday, February 07, 2001 10:07
To:
Subject: We purchase uncollected Judgments

...Yes we do purchase uncollected Judicial
Judgments!!

..If you, your company or an acquaintance have an uncollected
Judicial Judgment then please call us and find out how we can
help you receive the money that the court states you are rightfully
due.

..We have strong interest in acquiring uncollected Judicial Judgments
in your City and Area.

We are the largest firm in the world specializing in the purchase and
collection of Judicial Judgments.

Currently we are processing over 340 million dollars worth of
judgments in the United States alone. We have associate offices
in virtually every city in the US and in most foreign countries.

You have nothing to lose and everything to gain by calling. There
is absolutely no cost to you.

We can be reached Toll free at 1-888-248-7093.

You can call 24 hours per day.

Thank you for your time

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