

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:38 a.m. on March 21, 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:

Kyle Smith, Kansas Bureau of Investigation (KBI)

Others attending: see attached list

Minutes of the March 20<sup>th</sup> meeting were approved on a motion by Senator Schmidt, seconded by Senator Donovan. Carried.

**HB 2329—concerning the division of vehicles; re: records**

Written testimony explaining and supporting **HB 2329** was submitted by Sheila Walker, Director of Vehicles. (attachment 1) She wrote that this bill allows driver's license photos to be used by criminal justice agencies for use in criminal investigations. Lengthy discussion followed. Senator Schmidt moved to pass the bill out favorably, Senator Donovan seconded. Carried.

**HB 2074—re: employees of the KBI**

Conferee Smith testified in support of **HB 2074**, a bill which reorganizes the KBI's administrative structure by making all assistant and associate directors unclassified employees. The Conferee discussed the purpose of the bill. (attachment 2) Following brief discussion, Senator Goodwin moved to pass the bill out favorably, Senator Haley seconded. Carried.

**HB 2154—concerning providers of care services**

**SB 354—concerning corrections; re: placement of facilities; coop and consultation with municipalities and the public**

The Chair reviewed **HB 2154**, a bill heard on March 20<sup>th</sup> which amends the law prohibiting the employment of persons convicted of certain crimes by adult care homes and home health agencies. He reminded Committee there was a motion and second on **HB 2154** from that meeting and requested a substitute motion on the bill to include a Department of Correction's proposal for an amendment to **SB 354** (attachment 3). Senator Oleen made a substitute motion to include the language as proposed by the DOC and amend SB 354 into HB 2154, Senator Haley seconded. Carried. At the request of Senator Schmidt, who chaired the subcommittee hearing on **HB 2154**, Research Staffperson Heim explained the bill and its technical amendments. Senator Schmidt discussed his subcommittee's recommendation. (attachment 4) Following brief discussion, Senator Schmidt moved to amend HB 2154 according to his subcommittee's recommendation, Senator O'Connor seconded. Carried. Senator Oleen made a motion that the contents of both amendments to HB 2154 be placed into a substitute bill and be recommended favorably for passage, Senator O'Connor seconded. Carried. Written testimony supporting **HB 2154** was submitted by Senator Schodorf. (attachment 5)

**2208–re: jurisdiction of magistrate judges**

The Chair reviewed **HB 2208**, a bill which would give district magistrate judges the authority to preside over cases filed under the limited actions code of civil procedure. Senator Donovan moved to adopt the proposed technical amendments to **HB 2208**, Senator Schmidt seconded. Carried. Following discussion Senator Goodwin moved to pass the bill out favorably as amended, Senator Schmidt seconded. Carried. Written testimony supporting **HB 2208** was submitted by Representative Ward Loyd. (attachment 6)

**HB 2212–concerning civil procedure; re: records**  
**SB 197–re: liens; filing time**

The Chair informed Committee that **SB 197** had passed the Senate but was delayed in House Committee. Following discussion Senator Adkins made a motion to substitute the contents of **SB 197** for the current contents of **HB 2212** and recommend it favorably for passage, Senator O’Connor seconded. Carried.

**HB 2194–re: reports of forensic examination**

The Chair reviewed **HB 2194**, a bill which would amend the criminal procedure code by adding the Kansas City, Kansas Community College forensic laboratory or the Kansas City, Missouri regional crime laboratory to the list of laboratories that can submit reports into evidence at preliminary hearings as if the forensic examiner had testified in person. Following brief discussion Senator Oleen moved to pass the bill out favorably, Senator Haley seconded. Carried.

**HB 2328–re: abusing toxic vapors; possession of a controlled substance**

The Chair reviewed **HB 2328**, a bill which would make the intentional use of inhaling certain toxic vapors for the purpose of altering senses of the nervous system, a B nonperson felony. Following discussion there was general consensus to table the bill.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is this afternoon upon adjournment of the Senate.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 21, 2001

NAME	REPRESENTING
Ann Mennos	Winton, Inc.
Kerrie Kublman	Ks. Adult Care Executives
KEVIN GRAHAM	A.G.
Nancy Lindberg	A.G.
Lesla Roberts	KDHE
Steve Irwin	KDHE
Terry Heidner	KDOT
Nancy Bogina	KDOT
Catalie Stouff	KDOT
Robert Collins	Kearney Law Office
Paul Jones	KSC
Joe Harold	KSC
Angie Wideman	Ottawa University
AMBER WESTERMAN	Ottawa University
Dustin Patte	Ottawa University
STEVE KEARNEY	KEARNEY LAW OFFICE
Shelia S. Walker	KDOR-DMV
Brook Grant	Ks. Trial Lawyers Assoc
Shelley King	Cachin, Bonded Bankers Assoc
Kerrie Patte	Judicial Branch



3-21-01  
att 1

Sheila J. Walker, Director  
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Topeka, KS 66626-0001



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Division of Vehicles

TESTIMONY

**TO:** Senate Judiciary Committee Chair John Vratil  
Members of the Senate Judiciary Committee

**FROM:** Sheila J. Walker, Director of Vehicles *Sheila J. Walker*

**DATE:** March 21, 2001

**RE:** House Bill 2329

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Chairman Vratil and members of the Senate Judiciary Committee, my name is Sheila Walker, and I serve as Director of the Kansas Division of Motor Vehicles. Thank you for the opportunity to provide written testimony today on House Bill 2329.

This bill allows driver's license photos to be used by "criminal justice agencies . . . for use in criminal investigations or criminal proceedings." K.S.A. 22-4701 defines criminal justice agency as any government agency authorized by law to exercise the power of arrest, detention, prosecution, adjudication, correctional supervision, rehabilitation or release of persons suspected, charged or convicted of a crime and which allocates a substantial portion of its annual budget to any of these functions.

Currently, the use of photos is limited to "law enforcement agencies for use in criminal investigations."

Driver's Licensing in the Division of Vehicles currently processes all photo requests from law enforcement agencies. We get about 35 to 50 requests a day. Substituting the phrase "criminal justice agencies" for "law enforcement agencies" has the potential to increase the number of these requests. However, with the House Judiciary Committee's amendments, we now expect to be able absorb any increase within existing resources.

Thank you for your consideration.

*In Jud*  
3-21-01  
att 1



35  
3-21-01  
att 2

## Kansas Bureau of Investigation

Larry Welch  
*Director*

Carla J. Stovall  
*Attorney General*

TESTIMONY  
BEFORE THE SENATE JUDICIARY COMMITTEE  
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL  
IN SUPPORT OF HB 2074  
MARCH 21, 2001

Mr. Chairman and Members of the Committee:

I am Kyle Smith, Director of Public and Governmental Affairs at the Kansas Bureau of Investigation (KBI), and appear today in support of HB 2074. KBI Director Larry Welch requested this legislation to facilitate the administration at the KBI. The employees it affects and Director Welch requested this legislation to improve the administration of the KBI.

Besides striking obsolete language and renaming some positions at the KBI, the main thrust of HB 2074 is moving 4 of our top administrators to the unclassified service. The purpose is twofold; it allows this and future directors more ability to carry out his or her goals and gives these administrators more pay flexibility.

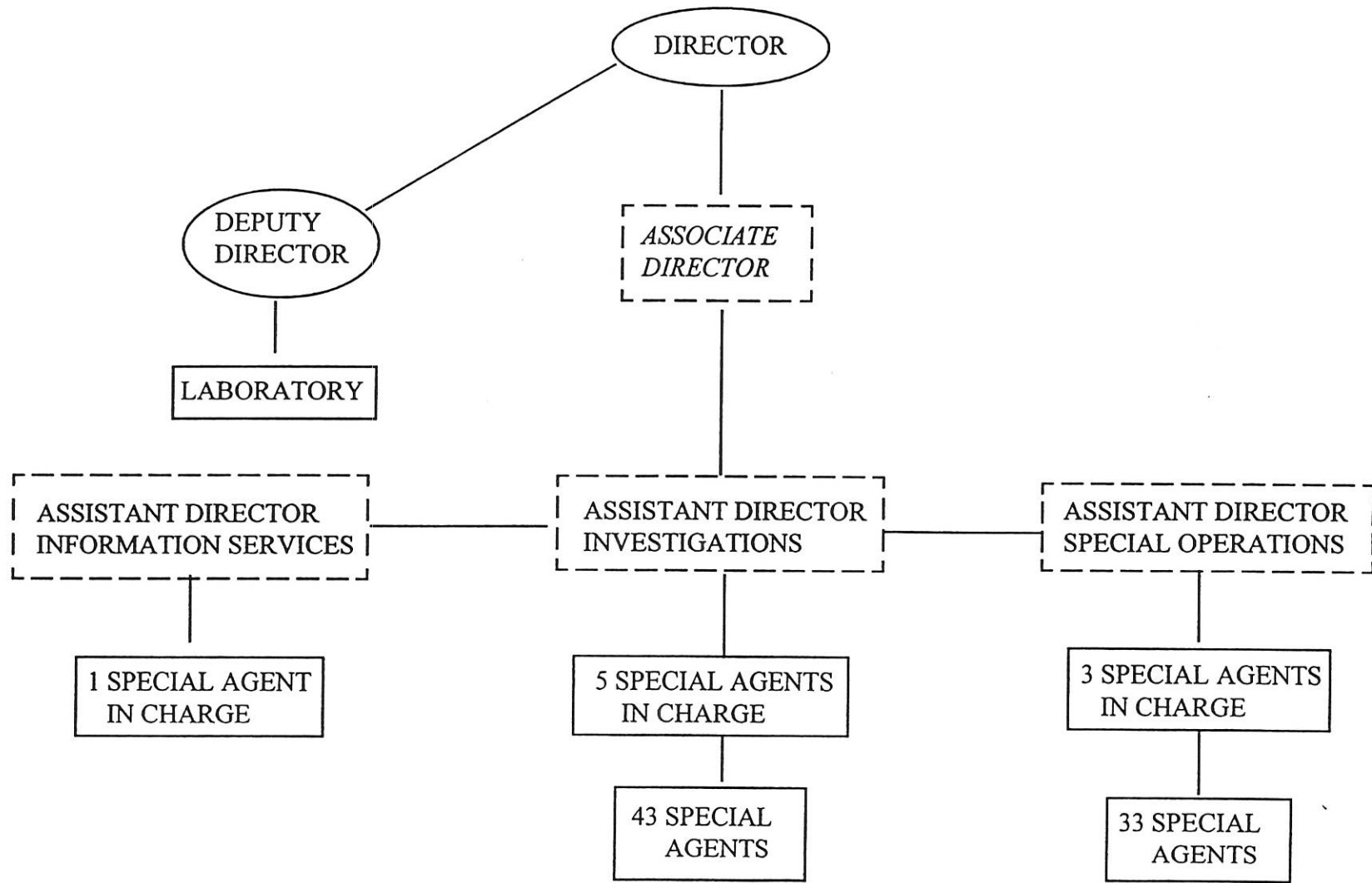
Currently the number two person at the KBI, the associate director, as well as the three assistant directors, are classified positions and will be there, regardless who the AG or Director may be. While that provides a certain amount of continuity, it might also make it difficult for an incoming director to implement changes in policy. It is a little like a new president having to keep the old vice president and cabinet members.

Of course, the other reason for going to unclassified positions is the compensation for those positions would be more flexible. The Director hopes in the future to work with the appropriations committees on what might be accomplished to make the salaries more appropriate to the duties. We have had several meetings within the KBI and with DPS regarding this problem. The requested bill is submitted without objection by the affected employees or DPS.

I have attached a chart of the organizational structure of the KBI, which might make this a little clearer. I would be happy to answer any questions.

In Jud  
3-21-01  
att 2

# KBI ORGANIZATIONAL CHART



- [- - -] Position changes
- [ ] Classified
- [ ] Unclassified

March 21, 2001  
9:30 am.

To: Members of the Judiciary Committee:

FROM; SENATOR JEAN SCHODORF

Attached you will find testimony for SB 354 from the City of Wichita and Sedgwick County. Senate bill 354 was originally scheduled for hearing in the Senate Fed and State Affairs Committee but was reassigned to Judiciary. At your meeting yesterday, several senators expressed concern for this amendment as an attempt to further the "not in my backyard" syndrome when placing correctional facilities in communities. .

In fact, the intent of this amendment is just the opposite. Because there has been difficulty placing the Day Reporting Center in Wichita, SB354 would establish a simple procedure to include communities in the planning process before a lease is signed. The Department of Corrections would inform the community officials of the intent to place a facility and then coordinate and communicate with them to find an appropriate location, i.e. to reduce community opposition. While this admittedly is difficult to do, it would at least show a good faith effort by the State of Kansas to solve a problem.

It does not tie the hands of the state or prevent the Department of Corrections from placing a facility in that community after communication and an attempt to coordinate efforts have been made.

The Secretary of Corrections listed a number of facilities which could be involved. It may be broader than my intent so I have amended this bill to narrow the scope. However, the purpose is the same.

UPDATE;

Secretary Simmons just faxed me an amendment to replace Section 1 of the bill. Please consider . Thanks again.

ST  
att3

Sen Jud  
3-21-01  
att3



Possible amendment to SB 354  
 Strike existing Section 1 and insert:

The secretary of corrections shall provide information to the local government of a community regarding site selection considerations, alternative sites which have been identified and site preferences any time the department of corrections seeks to establish, either directly or indirectly, a new residential facility or a new day reporting center in that community. If the local government objects to the site alternatives identified by the department, the local government shall actively assist the department in identifying a suitable location for the residential facility or day reporting center within the community, giving due consideration to the site selection criteria established by the department. In making a final determination regarding the location of the residential facility or day reporting center, the secretary shall consider the views of the local government and affected members of the public.

As used in this section, "local government" means any city, county or other taxing subdivision of the state having general governance authority.

Call Pam at 6-7391 to find out  
 tax # -

← Fax to Sen. Schodorf  
 with request that this  
 be provided to her prior  
 to 9:30 Judiciary Comm.  
 meeting *CSJ*

I would suggest the above language  
 as an alternative to Section 1 of  
 the bill. I think it accomplishes  
 what you seek.

Charles Simmons  
 6-3310

**SENATE BILL No. 354**

By Committee on Ways and Means

3-9

9 AN ACT concerning corrections; relating to placement of facilities; co-  
10 operation and consultation with municipalities and the public.  
11

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

13 Section 1. The department of corrections and the secretary of cor-  
14 rections shall consult, cooperate and coordinate activities relating to  
15 placement of ~~any~~ correctional facility or ~~any facility which takes place-~~  
16 ~~ments of or which provides services for any person sentenced to the cus-~~  
17 ~~tody of the secretary~~ with such municipalities and members of the public  
18 that have an interest in such placement and may be affected by the sec-  
19 retary's decision on such placement to ensure that the municipality ~~and~~  
20 ~~the comments~~ and concerns of the public are considered by the depart-  
21 ment prior to making such placement. In making a final determination  
22 of such placement of any such facility by the secretary, the secretary shall  
23 make such determination only after providing appropriate updates and  
24 relevant information on the department's progress toward a final place-  
25 ment decision; giving due consideration to whether such placement is  
26 supported by such municipalities ~~and the public~~ and whether such place-  
27 ment is conducive to the location chosen, the community and the purpose  
28 behind the placement of such facility; and providing timely notice of a  
29 final decision. As used in this section, "municipality" means any city,  
30 county or other political or taxing subdivision of the state.

31 Sec. 2. This act shall take effect and be in force from and after its  
32 publication in the statute book.

3/20/01

Senator Schodorf -

I understand an effort was made to amend SB 354 into another bill during Judiciary Comm. today. This is testimony on SB 354 I would have presented had a hearing been held. My concern is that the bill is too broad (see p. 3 of testimony). It would have impact far greater than what I think was intended.

MEMORANDUM

TO:

FROM: Charles E. Simmons, Secretary

DATE: March 14, 2001

SUBJECT: SB 354

CS  
6-3310

This bill stems from the department's efforts to locate day reporting centers in three communities.

The 2000 Legislature, in enacting Senate Bill 323, authorized that day reporting centers be established in Topeka, Wichita, and Kansas City.

The purpose of these centers is to provide highly structured supervision to offenders on post-incarceration supervision who have violated conditions of supervision that can be addressed through increased supervision incorporating electronic monitoring and other programs, but who do not require an immediate return to incarceration. The goal in authorizing the centers was to reduce the number of condition violators being returned to prison, thereby lessening the demand for additional prison capacity.

Because federal crime bill money was used to fund the operation of the day reporting centers, it was necessary for the Department of Corrections to contract for their operation. The request for proposal issued by the department provided that the contractor be responsible for site selection, subject to the final approval of the department, and that the site(s) conform to all applicable zoning and building codes.

In each of the three cities, the contractor, Community Solutions, Inc., identified a proposed site and submitted information to the department. Our action with respect to each city has been as follows:

Topeka:

We notified community officials by memorandum dated September 25, 2000 of site at 400 SW Croix (see attached memorandum and list of officials to which it was sent). No comments or concerns have been received. This center should be ready to open on April 1, 2001.

Kansas City:

We notified community officials by memorandum dated September 25, 2000 of a proposed site at 4601 State Avenue (see attached memorandum and list of officials to which it was sent). I met personally with the Mayor and the Managing Editor of the Kansas City Kansan. The Mayor requested that other sites be considered. The Contractor subsequently considered other sites and identified 3748-A State Avenue as a site. By memorandum dated February 5, 2001 officials in the Kansas City area were notified of this location for the center. I met personally with area legislators. The Kansas City Kansan and Kansas City Star were notified. More than a month passed without comments (other than a telephone call from a local official who indicated that a special use permit might be required) prior to media contacts preliminary to an article in the Kansas City Kansan on March 11<sup>th</sup>.

Wichita:

We notified community officials by memorandum dated September 25, 2000 of proposed site at 4921 E. 21<sup>st</sup> Street (see attached memorandum and list of officials to which it was sent). Neighborhood reaction to this site was negative. We requested the contractor to consider other sites. I contacted the Wichita City Manager for assistance in locating a site and met with the editorial page editor of the Wichita Eagle.

By memorandum dated December 5, 2000 we notified the same officials of a proposed site at 701 E. 21<sup>st</sup> Street. A lease for this site was never agreed upon, so the project did not proceed.

In late January, 2001 I met with area legislators regarding a site at 21<sup>st</sup> and Amidon. This site then received media coverage in early February, before we could make notification to local officials.

Community input regarding the 21<sup>st</sup> and Amidon site has been negative. As such, I have requested officials with the City of Wichita to identify a site which would have more general community acceptance. To date such a site has not been identified.

I believe this history reflects that we have tried to keep local officials informed regarding activities to locate a day reporting center in their community. We have not hidden our efforts or attempted to force a center into a specific location, against community acceptance.

While the impetus for the bill is the effort to locate a day reporting center in three communities as authorized by SB 323, the scope of the bill would extend well beyond those centers. The scope of the bill encompasses:

*“ . . . any correctional facility or any facility which takes placement of or which provides services to any person sentenced to the custody of the secretary . . . ”*

Among the community-based programs or services which would be covered by this language are:

- location of parole offices (DOC has 18 offices statewide)
- substance abuse treatment facilities (both residential and non-residential)
- sex offender treatment facilities
- community residential beds
- outpatient counseling offices
- non-prison based private industry programs
- halfway houses
- work release centers
- locations at which community corrections programs provide services to a DOC postreleasee pursuant to a contract with the Department.
- hospitals and clinics that provide medical care to offenders
- county jails and detention centers

Additionally, SB 354 requires that the consultation, cooperation and coordination by the Department be with “members of the public that have an interest in such placement and may be affected by the secretary’s decision on such placement...” Arguably, this requirement gives individuals standing to contest facility placement decisions that are acceptable to both the Department and the elected local officials. SB 354 would expand both the number and types of facilities that would be subject to litigation brought by individuals as well as the grounds that could be raised in opposition to the placement of facilities.

Application of this bill to all of these areas appears to be overly broad and unnecessary and may serve to hinder the development of such programs or the willingness of providers to contract to deliver services to offenders. A community or individual could in effect block the delivery of the program or services, resulting in the possibility that offenders will still be in the community but will not have access to some programs or services.

If the real intent is to apply the bill to only certain types of programs or services, I believe a more narrowly-crafted bill should be considered.



*Carolyn McGinn*  
*Chair*  
*Commissioner - Fourth District*

**BOARD OF COUNTY COMMISSIONERS**  
**SEDGWICK COUNTY, KANSAS**

*COUNTY COURTHOUSE § SUITE 320 § 525 NORTH MAIN § WICHITA, KANSAS 67203-3759*  
*TELEPHONE (316) 383-7411 § FAX (316) 383-8275*

TESTIMONY ON SENATE BILL No. 354  
Senate Committee on Federal and State Affairs  
March 14, 2001

Madame Chair and members of the Committee. I am Commissioner Carolyn McGinn, Chair of the Board of Sedgwick County Commissioners. I am here to speak in support of Senate Bill 354.

As a local government official, we must balance the values of our community in our decision-making. When considering an issue, we ask citizens to voice their ideas and concerns on both sides of the issue and then carefully weigh the positive and negative impacts on our community.

Senate Bill 354 would require the State Department of Corrections to involve cities, counties and members of the public prior to the placement of any State correctional facility within a community. We think this makes sense, to help keep citizens better informed about potential changes within their communities and to assure that the most appropriate locations within the city or county are identified. We also think it is important that we have a voice, to assure that these placements fit within our neighborhood and community improvement plans.

Sedgwick County has both juvenile and adult corrections facilities within our community. We understand the difficulty in locating these types of facilities, to assure residents' safety and peace of mind. However, we have found that keeping neighbors informed has always proven beneficial. In addition, we understand the growth patterns and land uses in our local area. This helps us to determine how we might impact a neighborhood or community when we identify potential sites.

I hope you will support Senate Bill 354, to have cities, counties and the public involved with the State in determining appropriate placement of State correctional facilities in our communities. I understand we need these facilities. However, working more closely together we can accomplish that goal in the best interest of the community.

**AWorking Together ... Working For You®**



# ***TESTIMONY***

City of Wichita  
Mike Taylor, Government Relations Director  
455 N Main, Wichita, KS. 67202  
Phone: 316.268.4351 Fax: 316.268.4519  
Taylor\_m@ci.wichita.ks.us

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## **Senate Bill 354 Cooperation in Placing Correctional Facilities**

The City of Wichita supports Senate Bill 354. The bill would require the Secretary of Corrections to "consult, cooperate and coordinate" the placement of a correctional facility with municipalities and the public.

As many of you may know, a Day Reporting Facility for parolees was contemplated at the Twin Lakes mall in Wichita. The City City Council, City staff and City residents were not aware of the intention to locate this facility at Twin Lakes until a story about the facility appeared in the Wichita Eagle. Many neighborhood residents expressed opposition to this facility to our Mayor and City Council members. The City Council did make a formal request to the Secretary of Corrections to include the City in this decision-making process.

It is my understanding that the intent of this bill is to make it mandatory for the State to consult with the City government and citizens on the location of such facilities and to work in a more coordinated and cooperative manner. The City of Wichita welcomes this collaboration and feels that it is necessary to ensure that such facilities can be integrated into the community.

I should note that the Secretary of Corrections has initiated contact with the City Managers office on the location of this facility. City staff members are working with their real estate agent to identify a suitable site. Over twenty sites have been reviewed and rejected as they did not meet the State's location criteria. Currently a site is under review (1725 East Douglas) and the City is seeking input from citizens and others on its suitability.

SJ  
3-21-01  
att 4

March 19, 2001

## Senator Schmidt's Judiciary Subcommittee March 9 and 16, 2001

- I. HB 2154 amends the law prohibiting the employment of persons convicted of certain crimes by adult care homes and home health agencies.

**Conferees:** Representatives of the Kansas Department of Health and Environment requested certain clarifying amendments (Attachment 1). Representative Bob Bethell requested a technical amendment be made plus language be reinserted regarding private contractor background checks eg. page 2, lines 42-43 and page 3 lines 1-6 as did a representative of the Clarence M. Kelly Group of Companies. A representative of the Kansas Association of Homes and Services for the Aging also appeared.

**Subcommittee Action:** The Subcommittee agreed to recommend HB 2154 to the full Judiciary Committee with the amendments suggested in Attachment 1 with a further clarification (Representative Bethell's suggestion) on pages 4 and 8, *i.e.* "or" changed to "and"; and the addition of misdemeanor theft under KSA 21-3701 (b) (3) to the criminal history information that may be disclosed to the Secretary of the Department of Health and Environment for disclosure to the adult care homes and home health agencies. See Attachment 1 also for these amendments which are in cursive.

Sn Jud  
3-21-01  
att 4



HOUSE BILL No. 2154

By Committee on Appropriations

1-24

KDHE Suggestions

4-2

10 AN ACT concerning providers of care services; employment of persons  
11 by such providers; amending K.S.A. 39-970 and K.S.A. 2000 Supp. 65-  
12 5117 and repealing the existing sections.  
13

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

15 Section 1. K.S.A. 39-970 is hereby amended to read as follows: 39-  
16 970. (a) (1) ~~On and after July 1, 1998, No person shall knowingly operate~~  
17 ~~an adult care home if, in the adult care home, there works any person~~  
18 ~~who has been convicted of or has been adjudicated a juvenile offender~~  
19 ~~because of having committed an act which if done by an adult would~~  
20 ~~constitute the commission of capital murder, pursuant to K.S.A. 21-3439~~  
21 ~~and amendments thereto, first degree murder, pursuant to K.S.A. 21-~~  
22 ~~3401 and amendments thereto, second degree murder, pursuant to sub-~~  
23 ~~section (a) of K.S.A. 21-3402 and amendments thereto, voluntary man-~~  
24 ~~slaughter, pursuant to K.S.A. 21-3403 and amendments thereto, assisting~~  
25 ~~suicide pursuant to K.S.A. 21-3406 and amendments thereto, mistreat-~~  
26 ~~ment of a dependent adult, pursuant to K.S.A. 21-3437 and amendments~~  
27 ~~thereto, rape, pursuant to K.S.A. 21-3502 and amendments thereto, in-~~  
28 ~~decent liberties with a child, pursuant to K.S.A. 21-3503 and amendments~~  
29 ~~thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-~~  
30 ~~3504 and amendments thereto, aggravated criminal sodomy, pursuant to~~  
31 ~~K.S.A. 21-3506 and amendments thereto, indecent solicitation of a child,~~  
32 ~~pursuant to K.S.A. 21-3510 and amendments thereto, aggravated inde-~~  
33 ~~cent solicitation of a child, pursuant to K.S.A. 21-3511 and amendments~~  
34 ~~thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516 and~~  
35 ~~amendments thereto, sexual battery, pursuant to K.S.A. 21-3517 and~~  
36 ~~amendments thereto, or aggravated sexual battery, pursuant to K.S.A. 21-~~  
37 ~~3518 and amendments thereto, an attempt to commit any of the crimes~~  
38 ~~enumerated herein listed in this subsection (a)(1), pursuant to K.S.A.~~  
39 ~~21-3301 and amendments thereto, a conspiracy to commit any of the~~  
40 ~~crimes enumerated herein listed in this subsection (a)(1), pursuant to~~  
41 ~~K.S.A. 21-3302 and amendments thereto, or criminal solicitation of any~~  
42 ~~of the crimes enumerated herein listed in this subsection (a)(1), pur-~~  
43 ~~suant to K.S.A. 21-3303 and amendments thereto, or similar statutes of~~

1 other states or the federal government.

2 (2) On and after July 1, 1998, A person operating an adult care home

3 may employ an applicant who has been convicted of any of the following

4 if five or more years have elapsed since the applicant satisfied the sen-

5 tence imposed or was discharged from probation, a community correc-

6 tional services program, parole, postrelease supervision, conditional re-

7 lease or a suspended sentence; or if five or more years have elapsed since

8 the applicant has been finally discharged from the custody of the com-

9 missioner of juvenile justice or from probation or has been adjudicated a

10 juvenile offender, whichever time is longer: A felony conviction for a

11 crime which is described in: (A) article 34 of chapter 21 of the Kansas

12 Statutes Annotated and amendments thereto, except those crimes listed

13 in subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas

14 Statutes Annotated and amendments thereto, except those crimes listed

15 in subsection (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) a

16 conviction of an attempt under K.S.A. 21-3301 and amendments thereto

17 to commit any act listed in this subsection or subsection (a)(1), or (D) an

18 attempt to commit any of the crimes enumerated herein listed in this

19 subsection [or subsection (a)(1)] pursuant to K.S.A. 21-3301 and

20 amendments thereto; (D) a conspiracy to commit any of the crimes enu-

21 merated herein listed in this subsection [or subsection (a)(1)] pursuant

22 to K.S.A. 21-3302 and amendments thereto; (E) criminal solicitation of

23 any of the crimes listed in this subsection or subsection (a)(1), pur-

24 suant to K.S.A. 21-3303 and amendments thereto; or ~~(F)~~ (F) similar

25 statutes of other states or the federal government.

26 (b) No person shall operate an adult care home if such person has

27 been found to be a disabled person in need of a guardian or conservator,

28 or both

29 (c) ~~+~~ The secretary of health and environment shall have access to

30 any criminal history record information in the possession of the Kansas

31 bureau of investigation regarding felony convictions or adjudications of a

32 juvenile offender which if committed by an adult would be a felony, con-

33 victions under K.S.A. 21-3437 and 21-3517, and amendments

34 thereto, [and] adjudications of a juvenile offender which ~~is~~ **com-**

35 **mitted by an adult would have been a felony conviction** concerning

36 persons working in an adult care home. The secretary shall have access

37 to these records for the purpose of determining whether or not the adult

38 care home meets the requirements of this section. The Kansas bureau of

39 investigation may charge to the department of health and environment a

40 reasonable fee for providing criminal history record information under

41 this subsection.

42 ~~(2) The operator of an adult care home shall be deemed in compliance~~

43 ~~with this section provided that the operator obtains the same or better~~

KSA 21-3701(b)(3)

, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517, and amendments thereto,

1 ~~criminal history record information from a private contractor approved~~  
 2 ~~by the Kansas bureau of investigation. If a private contractor determines~~  
 3 ~~that a person is prohibited from working in an adult care home under~~  
 4 ~~this section, the private contractor shall notify the department of health~~  
 5 ~~and environment of such person's name and the reasons for such~~  
 6 ~~determination.~~

7 (d) For the purpose of complying with this section, the operator of  
 8 an adult care home shall request ~~information regarding only felony con-~~  
 9 ~~victions and adjudications of a juvenile offender which if committed by~~  
 10 ~~an adult would have been a felony conviction~~ from the department of  
 11 health and environment ~~information obtained by the secretary of health~~  
 12 ~~and environment, or from an approved private contractor, information~~  
 13 ~~regarding only felony convictions, convictions under K.S.A. 21-~~  
 14 ~~3437, and 21-3517, and amendments thereto, [and] adjudications of~~  
 15 ~~a juvenile offender which if committed by an adult would have~~  
 16 ~~been a felony conviction~~ and which relates to a person who works in  
 17 the adult care home, or is being considered for employment by the adult  
 18 care home, for the purpose of determining whether such person is subject  
 19 to the provision of this section. For the purpose of complying with this  
 20 section, the operator of an adult care home shall receive from any em-  
 21 ployment agency which provides employees to work in the adult care  
 22 home written certification that such employees are not prohibited from  
 23 working in the adult care home under this section. For the purpose of  
 24 complying with this section, information relating to convictions and ad-  
 25 judications by the federal government or to convictions and adjudications  
 26 in states other than Kansas shall not be required until such time as the  
 27 secretary of health and environment determines the search for such in-  
 28 formation could reasonably be performed and the information obtained  
 29 within a two-week period. For the purpose of complying with this section,  
 30 a person who operates an adult care home may hire an applicant for  
 31 employment on a conditional basis pending the results from the depart-  
 32 ment of health and environment of a request for information under this  
 33 subsection. No adult care home, the operator or employees of an adult  
 34 care home or an employment agency, or the operator or employees of an  
 35 employment agency, shall be liable for civil damages resulting from any  
 36 decision to employ, to refuse to employ or to discharge from employment  
 37 any person based on such adult care home's compliance with the provi-  
 38 sions of this section if such adult care home or employment agency acts  
 39 in good faith to comply with this section.

KSA 21-3701(b)(3)

, and adjudications of a juvenile offender for an offense described' in K.S.A. 21-3437 and 21-3517, and amendments thereto,

40 (e) The secretary of health and environment shall charge each person  
 41 requesting information under this section a fee equal to cost, not to ex-  
 42 ceed \$10, for each name about which an information request has been  
 43 submitted to the department under this section.

1 f No person who works for an adult care home and who is currently  
 2 licensed or registered by an agency of this state to provide professional  
 3 services in the state and who provides such services as part of the work  
 4 which such person performs for the adult care home shall be subject to  
 5 the provisions of this section.

6 (g) (1) *The secretary of health and environment shall provide to each*  
 7 *person requesting information under this section the criminal history rec-*  
 8 *ord information concerning felony convictions ~~and adjudications as pro-~~*  
 9 *vided, convictions under K.S.A. 21-3437 and 21-3517, and amend-*  
 10 *ments thereto, and adjudications of a juvenile offender which if*  
 11 *committed by an adult would have been a felony conviction, in-*  
 12 *cluding any felony convictions of offenses other than those enumerated in*  
 13 *subsection (a), regardless of whether the information discloses that the*  
 14 *subject of the request has been convicted of an offense enumerated in*  
 15 *subsection (a) of this section.*

16 (2) *The secretary of health and environment shall provide each person*  
 17 *requesting information under this section with the criminal history record*  
 18 *information ~~regarding any felony convictions~~ within three business days*  
 19 *of receipt of such information from the Kansas bureau of investigation.*

20 (3) *The secretary of health and environment shall provide each person*  
 21 *requesting information under this section, in writing and within three*  
 22 *business days after receipt of such information from the Kansas bureau*  
 23 *of information, whenever the criminal history record information reveals*  
 24 *that the subject of the request has not been convicted of an offense enu-*  
 25 *merated in subsection (a) of this section.*

26 (h) A person who volunteers in an adult care home shall not be  
 27 subject to the provisions of this section because of such volunteer activity.

28 (i) No person who has been employed by the same adult care  
 29 home for five consecutive years immediately prior to the effective date  
 30 of this act shall be subject to the provisions of this section while employed  
 31 by such adult care home.

32 (j) The operator of an adult care home shall not be required under  
 33 this section to conduct a background check on an applicant for employ-  
 34 ment with the adult care home if the applicant has been the subject of a  
 35 background check under this act within one year prior to the application  
 36 for employment with the adult care home. The operator of an adult care  
 37 home where the applicant was the subject of such background check may  
 38 release a copy of such background check to the operator of an adult care  
 39 home where the applicant is currently applying.

40 (k) No person who is in the custody of the secretary of corrections  
 41 and who provides services, under direct supervision in nonpatient areas,  
 42 on the grounds or other areas designated by the superintendent of the  
 43 Kansas soldiers' home or the Kansas veterans' home shall be subject to

and

(g) (1) The secretary of health and environment shall  
 provide to each operator requesting information under this  
 section with the criminal history record information concerning  
 felony convictions and convictions under K.S.A. 21-3437 and 21-  
 3517, and amendments thereto, in writing and within three  
 working days of receipt of such information from the Kansas  
 bureau of investigation. The criminal history record information  
 shall be provided regardless of whether the information discloses  
 that the subject of the request has been convicted of an offense  
 enumerated in subsection (a) of this section. The secretary shall  
 notify each operator that requests information under this section  
 in writing and within three working days of receipt from the  
 Kansas bureau of investigation when an offense enumerated in  
 subsection (a) of this section exists in the criminal history record  
 information. <sup>and</sup> when further confirmation regarding criminal  
 history record information is required from the Kansas court of  
 jurisdiction or Kansas department of corrections. The secretary  
 shall provide to the operator requesting information under this  
 section with information in writing and within three business days  
 of receipt of such information from the Kansas court of  
 jurisdiction or Kansas department of corrections regarding  
 confirmation regarding the criminal history record information.

(2) The secretary shall provide notice to each operator  
 requesting information under this section, in writing and within  
 three business days after receipt of such information from the  
 Kansas bureau of investigation, whenever the criminal history  
 record information reveals that the subject of the request has no  
 criminal history on record.

3) The secretary of health and environment shall not  
 provide each operator requesting information under this section  
 with the juvenile criminal history record information which  
 relates to a person subject to a background check as is provided  
 by K.S.A. 38-1618 and amendments thereto. The secretary shall  
 notify the operator that requested the information, in writing and  
 within three business days of receipt of such information from  
 the Kansas bureau of investigation, when juvenile criminal history  
 record information received pursuant to this section reveals that  
 the operator would be prohibited by this section from employing  
 the subject of the request for information.

KSA 21-3701 (G)(3)

1 the provisions of this section while providing such services.

2 *b.* For the purpose of this section, the Kansas bureau of investigation  
3 shall only report felony convictions, **convictions under K.S.A. 21-3437**  
4 ~~and 21-3517, and amendments thereto, and~~ adjudications of a ju-  
5 venile offender which if committed by an adult would have been  
6 a felony conviction ~~to the secretary of health and environment when a~~  
7 background check is requested

, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517 and amendments thereto,

8 ~~(c) (i)~~ This section shall be part of and supplemental to the adult  
9 care home licensure act.

10 Sec 2 K.S.A. 2000 Supp. 65-5117 is hereby amended to read as  
11 follows. 65-5117. (a) (1) ~~On and after July 1, 1998,~~ No person shall know-  
12 ingly operate a home health agency if, for the home health agency, there  
13 works any person who has been convicted of or has been adjudicated a  
14 juvenile offender because of having committed an act which if done by  
15 an adult would constitute the commission of capital murder, pursuant to  
16 K.S.A. 21-3439 and amendments thereto, first degree murder, pursuant  
17 to K.S.A. 21-3401 and amendments thereto, second degree murder, pur-  
18 suant to subsection (a) of K.S.A. 21-3402 and amendments thereto, vol-  
19 untary manslaughter, pursuant to K.S.A. 21-3403 and amendments  
20 thereto, assisting suicide, pursuant to K.S.A. 21-3406 and amendments  
21 thereto, mistreatment of a dependent adult, pursuant to K.S.A. 21-3437  
22 and amendments thereto, rape, pursuant to K.S.A. 21-3502 and amend-  
23 ments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503  
24 and amendments thereto, aggravated indecent liberties with a child, pur-  
25 suant to K.S.A. 21-3504 and amendments thereto, aggravated criminal  
26 sodomy, pursuant to K.S.A. 21-3506 and amendments thereto, indecent  
27 solicitation of a child, pursuant to K.S.A. 21-3510 and amendments  
28 thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-  
29 3511 and amendments thereto, sexual exploitation of a child, pursuant to  
30 K.S.A. 21-3516 and amendments thereto, sexual battery, pursuant to  
31 K.S.A. 21-3517 and amendments thereto, or aggravated sexual battery,  
32 pursuant to K.S.A. 21-3518 and amendments thereto, *an attempt to com-*  
33 *mit any of the crimes enumerated herein listed in this subsection (a)(1),*  
34 *pursuant to K.S.A. 21-3301 and amendments thereto, a conspiracy to*  
35 *commit any of the crimes enumerated herein listed in this subsection*  
36 *(a)(1), pursuant to K.S.A. 21-3302 and amendments thereto, or criminal*  
37 *solicitation of any of the crimes enumerated herein listed in this sub-*  
38 *section (a)(1), pursuant to K.S.A. 21-3303 and amendments thereto, or*  
39 similar statutes of other states or the federal government.

40 (2) ~~On and after July 1, 1998,~~ A person operating a home health  
41 agency may employ an applicant who has been convicted of any of the  
42 following if five or more years have elapsed since the applicant satisfied  
43 the sentence imposed or was discharged from probation, a community

1 correctional services program, parole, postrelease supervision, conditional  
 2 release or a suspended sentence; or if five or more years have elapsed  
 3 since the applicant has been finally discharged from the custody of the  
 4 commissioner of juvenile justice or from probation or has been adjudi-  
 5 cated a juvenile offender, whichever time is longer: A felony conviction  
 6 for a crime which is described in: (A) article 34 of the Kansas Statutes  
 7 Annotated and amendments thereto, except those crimes listed in sub-  
 8 section (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes  
 9 Annotated and amendments thereto, except those crimes listed in sub-  
 10 section (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) ~~a con-~~  
 11 ~~viction of an attempt under K.S.A. 21-3301 and amendments thereto to~~  
 12 ~~commit any act listed in this subsection or subsection (a)(1), or (D) an~~  
 13 ~~attempt to commit any of the crimes enumerated herein listed in this~~  
 14 **subsection or subsection (a)(1), pursuant to K.S.A. 21-3301 and**  
 15 **amendments thereto; (D) a conspiracy to commit any of the crimes enu-**  
 16 **merated herein listed in this subsection** **[or subsection (a)(1)]**, pursuant  
 17 **to K.S.A. 21-3302 and amendments thereto; (E) criminal solicitation of**  
 18 **any of the crimes listed in this subsection** **[or subsection (a)(1)]**, pur-  
 19 **suant to K.S.A. 21-3303 and amendments thereto; or (E) (F) similar**  
 20 **statutes of other states or the federal government.**

21 (b) No person shall operate a home health agency if such person has  
 22 been found to be a disabled person in need of a guardian or conservator,  
 23 or both.

24 (c) ~~(H)~~ The secretary of health and environment shall have access to  
 25 any criminal history record information in the possession of the Kansas  
 26 bureau of investigation *regarding any felony convictions or adjudications*  
 27 *of a juvenile offender which if committed by an adult would be a felony,*  
 28 **convictions under K.S.A. 21-3437, and 21-3517, and amendments**  
 29 **thereto, [and] adjudications of a juvenile offender which if commit-**  
 30 **ted by an adult would have been a felony conviction** concerning  
 31 persons working for a home health agency. The secretary shall have access  
 32 to these records for the purpose of determining whether or not the home  
 33 health agency meets the requirements of this section. The Kansas bureau  
 34 of investigation may charge to the department of health and environment  
 35 a reasonable fee for providing criminal history record information under  
 36 this subsection.

37 ~~(2) The operator of a home health agency shall be deemed in compli-~~  
 38 ~~ance with this section provided that the operator obtains the same or~~  
 39 ~~better criminal history record information from a private contractor ap-~~  
 40 ~~proved by the Kansas bureau of investigation. If a private contractor~~  
 41 ~~determines that a person is prohibited from working in an adult care home~~  
 42 ~~under this section, the private contractor shall notify the department of~~  
 43 ~~health and environment of such person's name and the reasons for such~~

of chapter 21

KSA 21-3701 (b)(3)

— | , and adjudications of a juvenile offender for an offense  
 described in K.S.A. 21-3437 and 21-3517, and amendments  
 thereto,

~~determination~~

(d) For the purpose of complying with this section, the operator of a home health agency shall request ~~information regarding only felony convictions and adjudications of a juvenile offender which if committed by an adult would have been a felony~~ from the department of health and environment ~~information obtained by the secretary of health and environment, or from an approved private contractor, information regarding only felony convictions, convictions under K.S.A. 21-3437 and~~

~~21-3517, and amendments thereto, and adjudications of a juvenile offender which if committed by an adult would have been a felony conviction and~~ which relates to a person who works for the home health agency or is being considered for employment by the home health agency, for the purpose of determining whether such person is subject to the provisions of this section. For the purpose of complying with this section, information relating to convictions and adjudications by the federal government or to convictions and adjudications in states other than Kansas shall not be required until such time as the secretary of health and environment determines the search for such information could reasonably be performed and the information obtained within a two-week period.

For the purpose of complying with this section, a person who operates a home health agency may hire an applicant for employment on a conditional basis pending the results from the department of health and environment of a request for information under this subsection. No home health agency, the operator or employees of a home health agency or an employment agency, or the operator or employees of an employment agency, which provides employees to work for the home health agency shall be liable for civil damages resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on such home health agency's compliance with the provisions of this section if such home health agency or employment agency acts in good faith to comply with this section.

(e) The secretary of health and environment shall charge each person requesting information under this section a fee equal to cost, not to exceed \$10, for each name about which an information request has been submitted under this section.

(f) No person who works for a home health agency and who is currently licensed or registered by an agency of this state to provide professional services in this state and who provides such services as part of the work which such person performs for the home health agency shall be subject to the provisions of this section.

~~(g) (1) The secretary of health and environment shall provide each person requesting information under this section with the criminal history record information provided by the Kansas bureau of investigation con-~~

and KSA 21-3701(b)(3)

, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517, and amendments thereto,

For the purpose of complying with this section, the operator of a home health agency shall receive from any employment agency which provides employees to work for the home health agency written certification that such employees are not prohibited from working for the home health agency under this section.

(g) (1) The secretary of health and environment shall provide to each operator requesting information under this section with the criminal history record information concerning felony convictions and convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, in writing and within three working days of receipt of such information from the Kansas bureau of investigation. The criminal history record information shall be provided regardless of whether the information discloses

cerning felony convictions, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, and adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, including any felony convictions of offenses other than those enumerated in subsection (a), regardless of whether the information discloses that the subject of the request has been convicted of an offense enumerated in subsection (a) of this section.

(2) The secretary of health and environment shall provide each person requesting information under this section with the criminal history record information within three business days of receipt of such information from the Kansas bureau of investigation.

(3) The secretary of health and environment shall provide each person requesting information under this section, in writing and within three business days after receipt of such information from the Kansas bureau of information, ~~a report of no conviction~~ whenever the criminal history record information reveals that the subject of the request has not been convicted of an offense enumerated in subsection (a) of this section ~~or any other felony.~~

(g) (h) A person who volunteers to assist a home health agency shall not be subject to the provisions of this section because of such volunteer activity.

(i) No person who has been employed by the same home health agency for five consecutive years immediately prior to the effective date of this act shall be subject to the requirements of this section while employed by such home health agency.

(j) The operator of a home health agency shall not be required under this section to conduct a background check on an applicant for employment with the home health agency if the applicant has been the subject of a background check under this act within one year prior to the application for employment with the home health agency. The operator of a home health agency where the applicant was the subject of such background check may release a copy of such background check to the operator of a home health agency where the applicant is currently applying

(k) For the purpose of this section, the Kansas bureau of investigation shall only report felony convictions ~~as enumerated in subsection (a) of this section and other felony convictions,~~ convictions under K.S.A. 21-3437 ~~and 21-3517,~~ and amendments thereto, and adjudications of a juvenile offender which if committed by an adult would have been a felony conviction to the secretary of health and environment when a background check is requested.

(l) This section shall be part of and supplemental to the provisions of article 51 of chapter 65 of the Kansas Statutes Annotated and acts

and

that the subject of the request has been convicted of an offense enumerated in subsection (a) of this section. The secretary shall notify each operator that requests information under this section in writing and within three working days of receipt from the Kansas bureau of investigation when an offense enumerated in subsection (a) of this section exists in the criminal history record information. ~~or~~ when further confirmation regarding criminal history record information is required from the Kansas court of jurisdiction or Kansas department of corrections. The secretary shall provide to the operator requesting information under this section with information in writing and within three business days of receipt of such information from the Kansas court of jurisdiction or Kansas department of corrections regarding confirmation regarding the criminal history record information.

(2) The secretary shall provide notice to each operator requesting information under this section, in writing and within three business days after receipt of such information from the Kansas bureau of investigation, whenever the criminal history record information reveals that the subject of the request has no criminal history on record.

3) The secretary of health and environment shall not provide each operator requesting information under this section with the juvenile criminal history record information which relates to a person subject to a background check as is provided by K.S.A. 38-1618 and amendments thereto. The secretary shall notify the operator that requested the information, in writing and within three business days of receipt of such information from the Kansas bureau of investigation, when juvenile criminal history record information received pursuant to this section reveals that the operator would be prohibited by this section from employing the subject of the request for information.

and KSA 21-370(B)(3)

, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517 and amendments thereto,



1 amendatory thereof or supplemental thereto.

2     Sec. 3   K.S.A. 39-970 and K.S.A. 2000 Supp. 65-5117 are hereby  
3 repealed.

4     Sec. 4   This act shall take effect and be in force from and after its  
5 publication in the statute book.

# Memo

**To:** Senator Vratil  
**From:** Senator Jean Schodorf  
**Date:** March 15, 2001  
**Subject:** RE SB 354

Attached are testimonies from Mike Taylor, City of Wichita and Carolyn McGinn, Commissioner - Fourth District supporting this bill. They all refer to the Bill as 354 and we realize that it will be included with another bill.

Please advise when the bill will be brought to the floor and the bill no. Thank you for combining this bill with another.

Kind Regards,

Jean Schodorf

53.  
15  
  
In Jwd  
3-21-01  
att 5



*Carolyn McGinn*  
*Chair*  
*Commissioner - Fourth District*

**BOARD OF COUNTY COMMISSIONERS**  
**SEDGWICK COUNTY, KANSAS**

*COUNTY COURTHOUSE § SUITE 320 § 525 NORTH MAIN § WICHITA, KANSAS 67203-3759*  
*TELEPHONE (316) 383-7411 § FAX (316) 383-8275*

TESTIMONY ON SENATE BILL No. 354  
Senate Committee on Federal and State Affairs  
March 14, 2001

Madame Chair and members of the Committee. I am Commissioner Carolyn McGinn, Chair of the Board of Sedgwick County Commissioners. I am here to speak in support of Senate Bill 354.

As a local government official, we must balance the values of our community in our decision-making. When considering an issue, we ask citizens to voice their ideas and concerns on both sides of the issue and then carefully weigh the positive and negative impacts on our community.

Senate Bill 354 would require the State Department of Corrections to involve cities, counties and members of the public prior to the placement of any State correctional facility within a community. We think this makes sense, to help keep citizens better informed about potential changes within their communities and to assure that the most appropriate locations within the city or county are identified. We also think it is important that we have a voice, to assure that these placements fit within our neighborhood and community improvement plans.

Sedgwick County has both juvenile and adult corrections facilities within our community. We understand the difficulty in locating these types of facilities, to assure residents' safety and peace of mind. However, we have found that keeping neighbors informed has always proven beneficial. In addition, we understand the growth patterns and land uses in our local area. This helps us to determine how we might impact a neighborhood or community when we identify potential sites.

I hope you will support Senate Bill 354, to have cities, counties and the public involved with the State in determining appropriate placement of State correctional facilities in our communities. I understand we need these facilities. However, working more closely together we can accomplish that goal in the best interest of the community.

**AWorking Together ... Working For You®**



# ***TESTIMONY***

City of Wichita  
Mike Taylor, Government Relations Director  
455 N Main, Wichita, KS. 67202  
Phone: 316.268.4351 Fax: 316.268.4519  
Taylor\_m@ci.wichita.ks.us

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## **Senate Bill 354 Cooperation in Placing Correctional Facilities**

The City of Wichita supports Senate Bill 354. The bill would require the Secretary of Corrections to "consult, cooperate and coordinate" the placement of a correctional facility with municipalities and the public.

As many of you may know, a Day Reporting Facility for parolees was contemplated at the Twin Lakes mall in Wichita. The City City Council, City staff and City residents were not aware of the intention to locate this facility at Twin Lakes until a story about the facility appeared in the Wichita Eagle. Many neighborhood residents expressed opposition to this facility to our Mayor and City Council members. The City Council did make a formal request to the Secretary of Corrections to include the City in this decision-making process.

It is my understanding that the intent of this bill is to make it mandatory for the State to consult with the City government and citizens on the location of such facilities and to work in a more coordinated and cooperative manner. The City of Wichita welcomes this collaboration and feels that it is necessary to ensure that such facilities can be integrated into the community.

I should note that the Secretary of Corrections has initiated contact with the City Managers office on the location of this facility. City staff members are working with their real estate agent to identify a suitable site. Over twenty sites have been reviewed and rejected as they did not meet the State's location criteria. Currently a site is under review (1725 East Douglas) and the City is seeking input from citizens and others on its suitability.

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3-21-01  
att  
6

WARD LOYD

REPRESENTATIVE, 123RD DISTRICT  
FINNEY COUNTY  
1304 CLOUD CIRCLE, P.O. BOX 834  
GARDEN CITY, KS 67846  
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TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEES  
CHAIR RULES & JOURNAL  
VICE-CHAIR JUDICIARY  
MEMBER UTILITIES  
TAX JUDICIAL &  
TRANSPORTATION BUDGET  
CORRECTION & JUVENILE  
JUSTICE OVERSIGHT

March 14, 2001

Senator John Vratil, Chairman  
Senate Judiciary Committee  
Statehouse, Room 123-S  
Topeka, KS 66612

Re: House Bill 2208

Dear Senator Vratil:

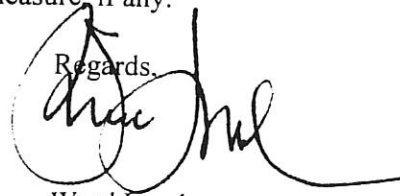
House Bill 2208 was filed with the intent of expanding the jurisdiction of district magistrate judges in keeping with increased claim limits under the code of civil procedure for limited actions as amended last year. House Sub. for Senate Bill 504 substantially revised Chapter 61, and one portion of the revision was to increase to \$25,000 those claims that could be filed as limited actions. At the same time, the legislature did not amend any provisions of Chapter 20, so the jurisdictional limit on claims that could be considered by district magistrate judges remained at \$10,000. This meant, naturally, that our district judges must now hear any limited action contract claim exceeding \$10,000. District magistrate judges have never had jurisdiction over tort claims.

I filed HB 2208 at the request of a local judge who noticed the disparity in the dollar limits. K.S.A. 2000 Supp. 20-302b sets forth the jurisdiction and power of district magistrate judges, and acts by identifying those actions over which such judges shall not have jurisdiction. My original thought was that the dollar limitation in 20-302b(a) (1) simply be changed from \$10,000 to \$25,000.

As it is, HB 2208 was drawn so as to specifically recite that district magistrate judges have concurrent jurisdiction over actions filed pursuant to code of civil procedure for limited actions. That would extend jurisdiction to claims arising in tort. Given that many of the district magistrate judges are not law trained, at least in our area, this may not be the best policy decision.

There would appear to be little reason for me to appear on the bill at the scheduled hearing, and take time you might use otherwise. I do support HB 2208, but leave it to the wisdom of Senate Judiciary as to the appropriate action on the measure, if any.

Regards,

  
Ward Loyd

Sn Jud  
3-21-01  
att 6

HOUSE BILL No. 2208

By Representative Loyd

Proposed Technical amendments to HB No. 2208

1-30

10 AN ACT concerning district magistrate judges; relating to the jurisdiction  
11 thereof; amending K.S.A. 2000 Supp. 20-302b and repealing the ex-  
12 isting section; also repealing K.S.A. 2000 Supp. 20-302d.  
13

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

15 Section 1. K.S.A. 2000 Supp. 20-302b is hereby amended to read as  
16 follows: 20-302b. (a) A district magistrate judge shall have the jurisdiction  
17 and power, in any case in which a violation of the laws of the state is  
18 charged, to conduct the trial of traffic infractions, cigarette or tobacco  
19 infractions or misdemeanor charges/ to conduct the preliminary exami-  
20 nation of felony charges and to hear felony arraignments subject to as-  
21 signment pursuant to K.S.A. 20-329 and amendments thereto. In civil  
22 cases, a district magistrate judge shall have jurisdiction over actions filed  
23 under the code of civil procedure for limited actions, K.S.A. 2000 Supp.  
24 61-2801 et seq., and amendments thereto, and concurrent jurisdiction,  
25 powers and duties with a district judge, except that, unless otherwise  
26 specifically provided in subsection (b), a district magistrate judge shall  
27 not have jurisdiction or cognizance over the following actions:

Except as otherwise provided,

. Except as

. The provisions of this subsection shall not apply to

. In

. Nothing

28 (1) Any action, other than an action seeking judgment for an unse-  
29 cured debt not sounding in tort and arising out of a contract for the  
30 provision of goods, services or money, in which the amount in contro-  
31 versy, exclusive of interests and costs, exceeds \$10,000, excluding ac-  
32 tions filed under the code of civil procedure for limited actions,  
33 K.S.A. 2000 Supp. 61-2801 et seq., and amendments thereto, except  
34 that in actions of replevin, the affidavit in replevin or the verified petition  
35 fixing the value of the property shall govern the jurisdiction; nothing in  
36 this paragraph shall be construed as limiting the power of a district mag-  
37 istrate judge to hear any action pursuant to the Kansas probate code or  
38 to issue support orders as provided by paragraph (6) of this subsection;  
39 (2) actions against any officers of the state, or any subdivisions  
40 thereof, for misconduct in office;  
41 (3) actions for specific performance of contracts for real estate;  
42 (4) actions in which title to real estate is sought to be recovered or  
43 in which an interest in real estate, either legal or equitable, is sought to

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be established, except that nothing in this paragraph shall be construed as limiting the right to bring an action for forcible detainer as provided in the acts contained in ~~article 23 of chapter 61 of the Kansas Statutes Annotated, and any acts amendatory thereof or supplemental~~ K.S.A. 2000 *Supp. 61-3801 through 61-3808, and amendments* thereto; and nothing

in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code;

(5) actions to foreclose real estate mortgages or to establish and foreclose liens on real estate as provided in the acts contained in article 11 of chapter 60 of the Kansas Statutes Annotated, and ~~any acts amendatory thereof or supplemental~~ *amendments* thereto;

(6) actions for divorce, separate maintenance or custody of minor children; except that nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to: (A) Hear any action pursuant to the Kansas code for care of children or the Kansas juvenile justice code; (B) establish, modify or enforce orders of support, including, but not limited to, orders of support pursuant to the Kansas parentage act, K.S.A. ~~23-451 et seq., 39-718a, 23-9,101 et seq., 39-718b, 39-755 or 60-1610 or K.S.A. 23-4,105 through 23-4,118, 23-4,125 through 23-4,137, 38-1542, 38-1543 or 38-1563, and amendments~~ thereto; or (C) enforce orders granting visitation rights or parenting time;

- (7) habeas corpus;
- (8) receiverships;
- (9) change of name;
- (10) declaratory judgments;
- (11) mandamus and quo warranto;
- (12) injunctions;
- (13) class actions;
- (14) rights of majority; and
- (15) actions pursuant to K.S.A. 59-29a01 *et seq.* and amendments thereto.

(b) Notwithstanding the provisions of subsection (a), in the absence, disability or disqualification of a district judge, a district magistrate judge may:

- (1) Grant a restraining order, as provided in K.S.A. 60-902 and amendments thereto;
- (2) appoint a receiver, as provided in K.S.A. 60-1301 and amendments thereto; and
- (3) make any order authorized by K.S.A. 60-1607 and amendments thereto.

(c) In accordance with the limitations and procedures prescribed by law, and subject to any rules of the supreme court relating thereto, any appeal permitted to be taken from an order or final decision of a district

. Nothing

. Nothing

1 magistrate judge shall be tried and determined *de novo* by a district judge,  
2 except that in civil cases where a record was made of the action or pro-  
3 ceeding before the district magistrate judge, the appeal shall be tried and  
4 determined on the record by a district judge.

5 (d) Upon motion of a party, the chief judge may reassign an action  
6 from a district magistrate judge to a district judge.

7 Sec. 2. K.S.A. 2000 Supp. 20-302b and 20-302d are hereby repealed.

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

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