

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Senator Vratil at 9:38 a.m. on February 12, 2002 in Room 123-S of the Capitol.

All members were present except: Senator Adkins (excused)

Committee staff present:

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

Conferees appearing before the committee:

Kathy Porter, Office of Judicial Administration (OJA)
Juliene Maska, Office of Attorney General (AG)
Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence (KCSDV)
Sarah Jane Russell, Rape Victims Survival Program
Lela Smith, Clerk of District Court

Others attending: see attached list

The minutes of the February 11th, 2002 meeting were approved on a motion by Senator Schmidt, seconded by Senator Donovan. Carried.

SB 477—protection from abuse; re: funding for programs

Conferee Porter offered a technical administrative amendment to **SB 477**, a bill which would increase the civil court docket fee paid to the district courts by \$1 so that the amount would be \$102 rather than \$101 with the increase going to the Protection from Abuse Fund. OJA's amendment would conform the bill to OJA's accounting procedures.(attachment 1)

Conferee Maska testified in support of **SB 477**. She stated that the bill allows sexual assault programs to access state funds and it clarifies that the AG has authority to administer the fund. She discussed why it was necessary to add further amendments to the bill, increasing the civil court docket fee paid to the district courts by \$4 rather than \$1, making the civil court docket fee \$105.(attachment 2)

Conferee Barnett testified in support of **SB 477**. She discussed numerous statistics on rape and rape victims stating that sexual violence is a problem of "epidemic proportions in Kansas." She further discussed federal funding sources available for sexual violence programs and stated that current state funding is less than adequate.(attachment 3)

Conferee Russell testified in support of **SB 477**. She discussed services Douglas County provides to victims of sexual violence and cited national statistics related to sexual assault and/or abuse. She stated that the proposed funding would assist Douglas County to establish and fund a 24/7 live voice hotline and to expand and diversify volunteer coverage.(attachment 4)

Committee Member Senator Goodwin submitted written testimony in support of **SB 477**.(attachment 5)

SB 444—evictions; forms of summonses

Conferee Smith testified in support of **SB 444**, a bill which she stated amends current law to create compliance with summons forms and response time frames relating to limited civil actions in Kansas courts.(attachment 6)

Conferee Smith testified in support of **SB 444** and offered an amendment which he stated would permit the combining of notices for termination of rental agreement and intent to file suit for eviction.(attachment 7) Following discussion there was general consensus that this amendment would be more appropriate in another bill. Following further discussion Senator Oleen moved to pass the bill out favorably and place it on the consent calendar, Senator O'Connor seconded. Carried.

SB 445–judgment liens

Conferee Wilson testified in support of **SB 445**, a bill which she explained clarifies procedures in current law for elevating the status of a limited actions judgment to a lien against real estate.(attachment 8)

Written testimony supporting **SB 445** was submitted by Kansas Trial Lawyers Association.(attachment 9)

Final Action

SB 432–regulating traffic; restricting transportation of nonsibling minor passengers

The chair reviewed **SB 432** and Committee Member Senator Umbarger offered a balloon amendment to the bill which exempted persons going to or from such passenger’s job, employment or farm-related work.(attachment 10) Also discussed was adding “church attendance or church activities”. Following discussion Senator Umbarger moved to amend the bill by inserting the language as stated above, Senator Oleen seconded. Carried. Lengthy discussion followed. Senator Donovan moved to pass the bill out favorably as amended, Senator Umbarger seconded. Motion failed 4-5.

The meeting adjourned at 10:34. The next scheduled meeting is February 13, 2002.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb. 12, 2002

NAME	REPRESENTING
Sarah Jane Russell	Dg. Co. Rape Victim-Survivor Svc.
Jerilyn Smith	Dg CO Rape Victim-Survivor Service
Kelly Janson Fetrow	Attorney General's Office
Joe Herold	KSSC
Brenda Harmon	KSC
KEVIN GRAHAM	KAGS
Nancy Lindberg	Att office
Kate Hayes	intell
Doug Smith	Ks Credit Attorneys Association
Kay Falley	KADCCA
Ann Smith	KADCCA
Lisa Wilson	KADCCA
Whitney Damon	KS Bar Assn.
Jeff Bottberg	KS Sher. Hs' Assn
Tim Madden	KHOC
Chris Collins	KMS
Barb Court	KTLA
Killany Hayes	Federico Consulting
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS



State of Kansas
Office of Judicial Administration
Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

Senate Judiciary Committee

Friday, February 8, 2002

Testimony on SB 477
Kathy Porter

Thank you for the opportunity to offer an amendment to SB 477. The amendment is technical and administrative in nature.

The Judicial Branch's current accounting system is old, and reprogramming to accommodate SB 477 as introduced is ill-advised, if indeed it is even possible. Rather than segregating the \$1 Chapter 60 civil docket fee, as the bill calls for, the same result can be accomplished by calculating the increase in docket fee collections the bill is expected to generate, and then by adjusting the distribution percentages of the various funds to which docket fees are distributed. This is the method that has been employed through the years as various funds have been added or the amounts distributed to the funds have been adjusted.

As the attached table illustrates, the other funds receiving percentages of the docket fees would be held harmless.

Thank you, and I would be glad to answer any questions.

*STJ
2-12-02
att*

SENATE BILL No. 477

By Senators Adkins, Vratil and Goodwin

1-31

9 AN ACT concerning protection from abuse; relating to funding for pro-
10 grams; amending K.S.A. 2001 Supp. ~~20-362~~, 20-367, ~~60-1621~~, 60-2001
11 and 74-7325 and repealing the existing sections.

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

14 ~~Section 1.~~ K.S.A. 2001 Supp. 20-362 is hereby amended to read as
15 follows: 20-362. The clerk of the district court shall remit all revenues
16 received from docket fees as follows:

17 (a) At least monthly to the county treasurer, for deposit in the county
18 treasury and credit to the county general fund:

19 (1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A.
20 60-2001 and 60-3005, and amendments thereto, during the preceding
21 calendar month;

22 (2) a sum equal to \$10 for each \$36.50 or \$61.50 docket fee paid
23 pursuant to K.S.A. 2001 Supp. 61-4001, or K.S.A. 61-2704 or 61-2709,
24 and amendments thereto; and

25 (3) a sum equal to \$5 for each \$19.50 docket fee paid pursuant to
26 K.S.A. 2001 Supp. 61-4001 or K.S.A. 61-2704, and amendments thereto,
27 during the preceding calendar month.

28 (b) At least monthly to the board of trustees of the county law library
29 fund, for deposit in the fund, a sum equal to the library fees paid during
30 the preceding calendar month for cases filed in the county.

31 (c) At least monthly to the county treasurer, for deposit in the county
32 treasury and credit to the prosecuting attorneys' training fund, a sum
33 equal to \$1 for each docket fee paid pursuant to K.S.A. 28-172a, and
34 amendments thereto, during the preceding calendar month for cases filed
35 in the county and for each fee paid pursuant to subsection (c) of K.S.A.
36 28-170, and amendments thereto, during the preceding calendar month
37 for cases filed in the county.

38 (d) To the state treasurer, in accordance with the provisions of K.S.A.
39 75-4215, and amendments thereto, for deposit in the state treasury and
40 credit to the indigents' defense services fund, a sum equal to \$50 for
41 each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of
42 K.S.A. 28-170, and amendments thereto, during the preceding calendar
43 month.

Section 1. K.S.A. 2000 Supp. 20-367 is hereby amended to read as follows: 20-367. (a) On and after July 1, ~~2001~~ 2002 of the remittance of the balance of docket fees received monthly by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the access to justice fund, a sum equal to ~~6.05%~~ 6.03% of the remittance of docket fees; to the juvenile detention facilities fund, a sum equal to ~~3.36%~~ 3.35% of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to ~~2.58%~~ 2.57% of the remittances of docket fees; to the crime victims assistance fund, the state treasurer shall deposit and credit a sum equal to .69% of the remittances of the docket fees; to the protection from abuse fund, the state treasurer shall deposit and credit a sum equal to ~~2.07%~~ 2.37% of the remittances of docket fees; to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to ~~5.23%~~ 5.21% of the remittances of docket fees; to the dispute resolution fund, the state treasurer shall deposit and credit a sum equal to .43% of the remittances of docket fees; to the Kansas juvenile delinquency prevention fund, the state treasurer shall deposit and credit a sum equal to 1.53% of the remittances of docket fees; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit a sum equal to .25% of the remittances of docket fees; to the trauma fund, a sum equal to ~~1.81%~~ 1.80% of the remittance of docket fees; and to the judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit a sum equal to ~~21.97%~~ 21.90% of the remittances of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

1 (e) To the state treasurer, in accordance with the provisions of K.S.A.
2 75-4215, and amendments thereto, for deposit in the state treasury and
3 credit to the law enforcement training center fund, during the period
4 commencing July 1, 1998, and ending June 30, 2002, a sum equal to \$9,
5 and on and after July 1, 2002, a sum equal to \$8 for each docket fee paid
6 pursuant to K.S.A. 28-172a, and amendments thereto, during the pre-
7 ceding calendar month.

8 (f) ~~To the state treasurer in accordance with the provisions of K.S.A.~~
9 ~~75-4215, and amendments thereto, for deposit in the state treasury and~~
10 ~~credit to the protection from abuse fund, a sum equal to \$1 for each docket~~
11 ~~fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments~~
12 ~~thereto, during the proceeding calendar month.~~

13 (g) To the state treasurer, in accordance with the provisions of K.S.A.
14 75-4215, and amendments thereto, for deposit in the state treasury and
15 distribution according to K.S.A. 20-367, and amendments thereto, a sum
16 equal to the balance which remains from all docket fees paid during the
17 preceding calendar month after deduction of the amounts specified in
18 subsections (a), (b), (c), (d) ~~and~~, (e) ~~and~~ (f).

19 Sec. 2. K.S.A. 2001 Supp. 20-367 is hereby amended to read as fol-
20 lows: 20-367. Of the remittance of the balance of docket fees received by
21 the state treasurer from clerks of the district court pursuant to subsection
22 ~~(f)~~ (g) of K.S.A. 20-362, and amendments thereto, the state treasurer shall
23 deposit and credit to the access to justice fund, a sum equal to 6.05% of
24 the remittances of docket fees; to the juvenile detention facilities fund, a
25 sum equal to 3.36% of the remittances of docket fees; to the judicial
26 branch education fund, the state treasurer shall deposit and credit a sum
27 equal to 2.58% of the remittances of docket fees; to the crime victims
28 assistance fund, the state treasurer shall deposit and credit a sum equal
29 to .69% of the remittances of the docket fees; to the protection from
30 abuse fund, the state treasurer shall deposit and credit a sum equal to
31 2.07% of the remittances of the docket fees; to the judiciary technology
32 fund, the state treasurer shall deposit and credit a sum equal to 5.23% of
33 the remittances of docket fees; to the dispute resolution fund, the state
34 treasurer shall deposit and credit a sum equal to .43% of the remittances
35 of docket fees; to the Kansas juvenile delinquency prevention trust fund,
36 the state treasurer shall deposit and credit a sum equal to 1.53% of the
37 remittances of docket fees; to the permanent families account in the fam-
38 ily and children investment fund, the state treasurer shall deposit and
39 credit a sum equal to .25% of the remittances of docket fees; to the trauma
40 fund, a sum equal to 1.81% of the remittance of docket fees; and to the
41 judicial branch nonjudicial salary initiative fund, the state treasurer shall
42 deposit and credit a sum equal to 21.97% of the remittance of docket
43 fees. The balance remaining of the remittances of docket fees shall be

1 deposited and credited to the state general fund.

2 ~~Sec. 3. K.S.A. 2001 Supp. 60-1621 is hereby amended to read as~~
3 ~~follows: 60-1621. (a) No post-decree motion petitioning for a change in~~
4 ~~legal custody, residency, visitation rights or parenting time, or for a mod-~~
5 ~~ification of child support shall be filed or docketed in the district court~~
6 ~~without payment of a docket fee in the amount of \$20 to the clerk of the~~
7 ~~district court.~~

8 ~~(b) A poverty affidavit may be filed in lieu of a docket fee as estab-~~
9 ~~lished in K.S.A. 60-2001, and amendments thereto.~~

10 ~~(c) The docket fee shall be the only costs assessed in each case for~~
11 ~~services of the clerk of the district court and the sheriff. The docket fee~~
12 ~~shall be disbursed in accordance with subsection (f) (g) of K.S.A. 20-362,~~
13 ~~and amendments thereto.~~

14 ~~Sec. 4. K.S.A. 2001 Supp. 60-2001 is hereby amended to read as~~
15 ~~follows: 60-2001. (a) Docket fee. Except as otherwise provided by law, no~~
16 ~~case shall be filed or docketed in the district court, whether original or~~
17 ~~appealed, without payment of a docket fee in the amount of \$10+ \$102~~
18 ~~to the clerk of the district court.~~

19 ~~(b) Poverty affidavit in lieu of docket fee. (1) Effect. In any case where~~
20 ~~a plaintiff by reason of poverty is unable to pay a docket fee, and an~~
21 ~~affidavit so stating is filed, no fee will be required. An inmate in the~~
22 ~~custody of the secretary of corrections may file a poverty affidavit only if~~
23 ~~the inmate attaches a statement disclosing the average account balance,~~
24 ~~or the total deposits, whichever is less, in the inmate's trust fund for each~~
25 ~~month in (A) the six-month period preceding the filing of the action; or~~
26 ~~(B) the current period of incarceration, whichever is shorter. Such state-~~
27 ~~ment shall be certified by the secretary. On receipt of the affidavit and~~
28 ~~attached statement, the court shall determine the initial fee to be assessed~~
29 ~~for filing the action and in no event shall the court require an inmate to~~
30 ~~pay less than \$3. The secretary of corrections is hereby authorized to~~
31 ~~disburse money from the inmate's account to pay the costs as determined~~
32 ~~by the court. If the inmate has a zero balance in such inmate's account,~~
33 ~~the secretary shall debit such account in the amount of \$3 per filing fee~~
34 ~~as established by the court until money is credited to the account to pay~~
35 ~~such docket fee. Any initial filing fees assessed pursuant to this subsection~~
36 ~~shall not prevent the court, pursuant to subsection (d), from taxing that~~
37 ~~individual for the remainder of the amount required under subsection (a)~~
38 ~~or this subsection.~~

39 ~~(2) Form of affidavit. The affidavit provided for in this subsection~~
40 ~~shall be in the following form and attached to the petition:~~

41 State of Kansas, _____ County.

42 In the district court of the county: I do solemnly swear that the claim set forth in the
43 petition herein is just, and I do further swear that, by reason of my poverty, I am unable to

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1 pay a docket fee.

2 (c) *Disposition of docket fee.* The docket fee shall be the only costs
3 assessed in each case for services of the clerk of the district court and the
4 sheriff. The docket fee shall be disbursed in accordance with K.S.A. 20-
5 362 and amendments thereto.

6 (d) *Additional court costs.* Other fees and expenses to be assessed as
7 additional court costs shall be approved by the court, unless specifically
8 fixed by statute. Other fees shall include, but not be limited to, witness
9 fees, appraiser fees, fees for service of process outside the state, fees for
10 depositions, alternative dispute resolution fees, transcripts and publica-
11 tion, attorney fees, court costs from other courts and any other fees and
12 expenses required by statute. All additional court costs shall be taxed and
13 billed against the parties as directed by the court. No sheriff in this state
14 shall charge any district court in this state a fee or mileage for serving any
15 paper or process.

16 Sec. ~~5~~ K.S.A. 2001 Supp. 74-7325 is hereby amended to read as
17 follows: 74-7325. (a) There is hereby created in the state treasury the
18 protection from abuse fund. All moneys credited to the fund shall be used
19 solely for the purpose of making grants to programs providing: (1) Tem-
20 porary emergency shelter for *adult* victims of domestic abuse or *sexual*
21 *assault* and their dependent children; (2) counseling and assistance to
22 those victims and their children; or (3) educational services directed at
23 reducing the incidence of domestic abuse or *sexual assault* and diminish-
24 ing its impact on the victims. All moneys credited to the fund pursuant
25 to K.S.A. 20-367, and amendments thereto, shall be used only for on-
26 going operating expenses of ~~such~~ *domestic violence* programs. *All moneys*
27 *credited to the fund pursuant to subsection (f) of K.S.A. 20-362, and*
28 *amendments thereto, shall not be awarded to programs until July 1, 2003,*
29 *and shall be used for ongoing operating expenses of domestic violence or*
30 *sexual assault programs*

31 (b) All expenditures from the protection from abuse fund shall be
32 made in accordance with appropriation acts upon warrants of the director
33 of accounts and reports issued pursuant to vouchers approved by the
34 attorney general or by a person or persons designated by the attorney
35 general.

36 (c) ~~The crime victims compensation board~~ *attorney general* may ap-
37 ply for, receive and accept moneys from any source for the purposes for
38 which moneys in the protection from abuse fund may be expended. Upon
39 receipt of any such moneys, the attorney general shall remit the entire
40 amount to the state treasurer in accordance with the provisions of K.S.A.
41 75-4215, and amendments thereto. Upon receipt of each such remittance,
42 the state treasurer shall deposit the entire amount in the state treasury
43 to the credit of the protection from abuse fund.

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1 (d) Grants made to programs pursuant to this section shall be based
2 on the numbers of persons served by the program and shall be made only
3 to the city of Wichita or to agencies which are engaged, as their primary
4 function, in programs aimed at preventing domestic violence *or sexual*
5 *assault* or providing residential services or facilities to family or household
6 members who are victims of domestic violence *or sexual assault*. In order
7 for programs to qualify for funding under this section, they must:

8 (1) Meet the requirements of section 501(c) of the internal revenue
9 code of 1986;

10 (2) be registered and in good standing as a nonprofit corporation;

11 (3) meet normally accepted standards for nonprofit organizations;

12 (4) have trustees who represent the racial, ethnic and socioeconomic
13 diversity of the county or counties served;

14 (5) have received 50% or more of their funds from sources other than
15 funds distributed through the fund, which other sources may be public
16 or private and may include contributions of goods or services, including
17 materials, commodities, transportation, office space or other types of fa-
18 cilities or personal services;

19 (6) demonstrate ability to successfully administer programs;

20 (7) make available an independent certified audit of the previous
21 year's financial records;

22 (8) have obtained appropriate licensing or certification, or both;

23 (9) serve a significant number of residents of the county or counties
24 served;

25 (10) not unnecessarily duplicate services already adequately provided
26 to county residents; and

27 (11) agree to comply with reporting requirements of the ~~crime vic-~~
28 ~~tims compensation board~~ *attorney general*.

29 The ~~crime victims compensation board~~ *attorney general* may adopt
30 rules and regulations establishing additional standards for eligibility and
31 accountability for grants made pursuant to this section.

32 (e) As used in this section, "~~domestic~~:"

33 (1) "*Domestic abuse*" means abuse as defined by the protection from
34 abuse act (K.S.A. 60-3101 *et seq.*, and amendments thereto).

35 (2) "*Sexual assault*" means acts defined in article 35 of chapter 21 of
36 *the Kansas Statutes Annotated, and amendments thereto*.

37 (f) On or before the 10th day of each month, the director of accounts
38 and reports shall transfer from the state general fund to the protection
39 from abuse fund interest earnings based on:

40 (1) The average daily balance of moneys in the protection from abuse
41 fund for the preceding month; and

42 (2) the net earnings rate for the pooled money investment portfolio
43 for the preceding month.

1-6

SB 477

6

- 1 Sec. ~~6~~ K.S.A. 2001 Supp. ~~20-362~~, 20-367, ~~60-1621~~, 60-2001 and 74-
- 2 7325 are hereby repealed.
- 3 Sec. ~~7~~ This act shall take effect and be in force from and after its
- 4 publication in the statute book.



State of Kansas

Office of the Attorney General

120 S.W. 10TH AVENUE, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

MAIN PHONE: (785) 296-2215
FAX: (785) 296-6296

Testimony of
Juliene Maska, Statewide Victims' Rights Coordinator
Office of Attorney General Carla J. Stovall
Before the Senate Judiciary Committee
Senate Bill 477
February 12, 2002

Chairperson Vratil and Members of the Committee:

Thank you for the opportunity to appear before you today on behalf of Attorney General Carla J. Stovall in support of Senate Bill 477.

Senate Bill 477 amends the Protection from Abuse Fund to allow sexual assault programs to access state funds. Currently, the state does not earmark specific state dollars for sexual assault services in Kansas. While the Legislature has provided funding sources for domestic violence services, sexual assault services do not have a specific state funding source.

In Fiscal Year 2001, domestic violence programs responded to 22,502 crisis calls, sheltered 3,875 women and children and provided 15,242 face to face services to women, children and men. Additionally, sexual assault programs provided services to 4,436 child and adult victims of sexual assault and rape.

This bill would allow funds generated from docket fees to accumulate for one year and would allow sexual assault programs, as well as domestic violence programs, to access additional money to assist with ongoing operating expenses. In addition, this bill clarifies that the Attorney General has the authority to administer the fund.

When we initially proposed this change, we had anticipated more than \$174,500 would be generated from this one dollar increase, however we have learned that this increase may only generate approximately \$54,000. We would propose the following amendments to generate more funds, **on page two line 10, "... a sum equal to \$4 for each docket fee paid pursuant to ..."** and **on page three line 17, "... payment of a docket fee in the amount of \$105 ..."** These proposed amendments would generate approximately \$217,000.

I appreciate your consideration of these proposed amendments and support of Senate Bill 477.

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1 (e) To the state treasurer, in accordance with the provisions of K.S.A.
 2 75-4215, and amendments thereto, for deposit in the state treasury and
 3 credit to the law enforcement training center fund, during the period
 4 commencing July 1, 1998, and ending June 30, 2002, a sum equal to \$9,
 5 and on and after July 1, 2002, a sum equal to \$8 for each docket fee paid
 6 pursuant to K.S.A. 28-172a, and amendments thereto, during the pre-
 7 ceding calendar month.

8 (f) *To the state treasurer in accordance with the provisions of K.S.A.*
 9 *75-4215, and amendments thereto, for deposit in the state treasury and*
 10 *credit to the protection from abuse fund, a sum equal to ~~\$1~~ for each docket*
 11 *fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments*
 12 *thereto, during the proceeding calendar month.*

\$4

13 (g) To the state treasurer, in accordance with the provisions of K.S.A.
 14 75-4215, and amendments thereto, for deposit in the state treasury and
 15 distribution according to K.S.A. 20-367, and amendments thereto, a sum
 16 equal to the balance which remains from all docket fees paid during the
 17 preceding calendar month after deduction of the amounts specified in
 18 subsections (a), (b), (c), (d) ~~and~~, (e) ~~and~~ (f):

19 Sec. 2. K.S.A. 2001 Supp. 20-367 is hereby amended to read as fol-
 20 lows: 20-367. Of the remittance of the balance of docket fees received by
 21 the state treasurer from clerks of the district court pursuant to subsection
 22 ~~(f)~~ (g) of K.S.A. 20-362, and amendments thereto, the state treasurer shall
 23 deposit and credit to the access to justice fund, a sum equal to 6.05% of
 24 the remittances of docket fees; to the juvenile detention facilities fund, a
 25 sum equal to 3.36% of the remittances of docket fees; to the judicial
 26 branch education fund, the state treasurer shall deposit and credit a sum
 27 equal to 2.58% of the remittances of docket fees; to the crime victims
 28 assistance fund, the state treasurer shall deposit and credit a sum equal
 29 to .69% of the remittances of the docket fees; to the protection from
 30 abuse fund, the state treasurer shall deposit and credit a sum equal to
 31 2.07% of the remittances of the docket fees; to the judiciary technology
 32 fund, the state treasurer shall deposit and credit a sum equal to 5.23% of
 33 the remittances of docket fees; to the dispute resolution fund, the state
 34 treasurer shall deposit and credit a sum equal to .43% of the remittances
 35 of docket fees; to the Kansas juvenile delinquency prevention trust fund,
 36 the state treasurer shall deposit and credit a sum equal to 1.53% of the
 37 remittances of docket fees; to the permanent families account in the fam-
 38 ily and children investment fund, the state treasurer shall deposit and
 39 credit a sum equal to .25% of the remittances of docket fees; to the trauma
 40 fund, a sum equal to 1.81% of the remittance of docket fees; and to the
 41 judicial branch nonjudicial salary initiative fund, the state treasurer shall
 42 deposit and credit a sum equal to 21.97% of the remittance of docket
 43 fees. The balance remaining of the remittances of docket fees shall be

22

1 deposited and credited to the state general fund.
 2 Sec. 3. K.S.A. 2001 Supp. 60-1621 is hereby amended to read as
 3 follows: 60-1621. (a) No post-decree motion petitioning for a change in
 4 legal custody, residency, visitation rights or parenting time, or for a mod-
 5 ification of child support shall be filed or docketed in the district court
 6 without payment of a docket fee in the amount of \$20 to the clerk of the
 7 district court.

8 (b) A poverty affidavit may be filed in lieu of a docket fee as estab-
 9 lished in K.S.A. 60-2001, and amendments thereto.

10 (c) The docket fee shall be the only costs assessed in each case for
 11 services of the clerk of the district court and the sheriff. The docket fee
 12 shall be disbursed in accordance with subsection ~~(f)~~ (g) of K.S.A. 20-362,
 13 and amendments thereto.

14 Sec. 4. K.S.A. 2001 Supp. 60-2001 is hereby amended to read as
 15 follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no
 16 case shall be filed or docketed in the district court, whether original or
 17 appealed, without payment of a docket fee in the amount of ~~\$101-\$102~~ ————— \$105
 18 to the clerk of the district court.

19 (b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where
 20 a plaintiff by reason of poverty is unable to pay a docket fee, and an
 21 affidavit so stating is filed, no fee will be required. An inmate in the
 22 custody of the secretary of corrections may file a poverty affidavit only if
 23 the inmate attaches a statement disclosing the average account balance,
 24 or the total deposits, whichever is less, in the inmate's trust fund for each
 25 month in (A) the six-month period preceding the filing of the action; or
 26 (B) the current period of incarceration, whichever is shorter. Such state-
 27 ment shall be certified by the secretary. On receipt of the affidavit and
 28 attached statement, the court shall determine the initial fee to be assessed
 29 for filing the action and in no event shall the court require an inmate to
 30 pay less than \$3. The secretary of corrections is hereby authorized to
 31 disburse money from the inmate's account to pay the costs as determined
 32 by the court. If the inmate has a zero balance in such inmate's account,
 33 the secretary shall debit such account in the amount of \$3 per filing fee
 34 as established by the court until money is credited to the account to pay
 35 such docket fee. Any initial filing fees assessed pursuant to this subsection
 36 shall not prevent the court, pursuant to subsection (d), from taxing that
 37 individual for the remainder of the amount required under subsection (a)
 38 or this subsection.

39 (2) *Form of affidavit.* The affidavit provided for in this subsection
 40 shall be in the following form and attached to the petition:

41 State of Kansas, _____ County.

42 In the district court of the county: I do solemnly swear that the claim set forth in the
 43 petition herein is just, and I do further swear that, by reason of my poverty, I am unable to



UNITED AGAINST VIOLENCE

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

220 SW 33rd Street, Suite 100 Topeka, Kansas 66611
785-232-9784 • FAX 785-266-1874 • coalition@kcsdv.org

Senate Judiciary Committee

Re: SB 477
Contact: Sandy Barnett

Dear Chairman Vratil and Members of the Committee:

Sexual Assault and rape happen in Kansas as they do in all other parts of the country. In fact, even as crime reports in Kansas indicate a reduction in the reporting of crime, sexual violence reports have increased. According to the Domestic Violence and Rape Report produced by the Attorney General and KBI, there was an approximate 33% increase in the number of rapes reported in the years 1987 and 1997 (788 to 1,192). This increase is the result of a steady annual increase of reports over the ten-year span. This number does not include the reports that do not meet the statutory definitions of rape. Although no statistics are available specific to Kansas, it is estimated by the Department of Justice, Bureau of Justice Statistics that less than 25% of all rapes are reported to law enforcement. Other national advocacy groups believe the number to be more likely that only 10% of rapes are reported to law enforcement.

Working to end rape and sexual assault and provide services to victims has been ongoing work in Kansas for the past twenty-five years, yet we are long way from being able to provide even basic services to victims across the state. Crisis services designed to assist a victim with immediate counseling and help with the medical exam and police reporting is available on a 24-hour basis in only 25 counties in Kansas. Victims in the remaining counties must wait until an advocate is available – sometimes not until the next day or they must travel to meet an advocate in another county. This is the reality of having only about 30 advocates available throughout the state each night and weekend that must respond to all domestic violence and rape victims.

Current state funding comes from a portion of the marriage license fees and from a portion of the docket fees and is available only for domestic violence services. This funding is less than inadequate as it is. There are NO state generated funds available for sexual assault services. This amendment would allow programs providing services to victims of sexual assault to apply for these modest funds generated by increasing docket fees by \$1.00.

Kansas Coalition Against Sexual and Domestic Violence urges passage of SB477, which would result in minimally increasing funding for sexual assault programs providing direct service to victims and survivors across the state.

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The State of Funding for Sexual Assault Programs in Kansas

Sexual Violence is a problem of epidemic proportions in Kansas.

In 1998, there were 1,136 rapes reported to law enforcement in Kansas, or one every 7 hours, 43 minutes, 36 seconds.¹ Given that sexual violence remains the most dramatically underreported crime, with recent studies showing that 70% to 84% of sexual assaults are not reported², as many as 7,100 rapes were committed in Kansas in 1998. This does not include other forms of sexual violence perpetrated, such as sexual harassment, incest, sexual battery, and, indecent liberties with a minor. Each year, survivors of sexual assault seek help through agencies across the state. Currently, there are only 3 programs in the state of Kansas that provide services specifically to survivors of sexual violence and another 20 programs provide services to both survivors of domestic violence and sexual violence. **Each year, programs respond to at least 3,800 crisis calls and provide face-to-face counseling to at least 1,600 survivors.** Many of these agencies receive limited funding to provide a large population of survivors with much needed services.

Sexual violence continues to be a problem of epidemic proportions that has significant costs to survivors, family members, the community, and the state of Kansas.

- Almost one-third of sexual assault survivors suffer from rape trauma syndrome at some point. Symptoms may include depression, suicidal thoughts or attempts, and drug/alcohol use. Victims of rape are three times more likely than non-victims to experience a major depression. The attempted rate of suicide is 13 times higher than for that of non-victims. (*Rape in America*, National Victim Center, 1992).
- Sexual harassment affects women in many ways. They may quit work or find schoolwork difficult to finish. Four out of five girls experience some form of sexual harassment in school. Most were harassed by their peers, but 18% were harassed by school employees (*Hostile Hallways*, American Association of University Women, 1993).
- The average rape or attempted rape costs \$5,100 in tangible, out-of-pocket expenses. Medical and mental health care to victims represents the bulk of expenses. Adding to the impact a rape has on the victim's quality of life, the average rape costs \$87,000 annually. (*Victim Costs and Consequences*, National Institute of Justice, U.S. Department of Justice, 1996)

The Funding for Sexual Violence Services

In fiscal year 2002, approximately \$844,479³ was awarded to programs from federal funding sources for sexual violence programs. Those sources are:

- Crime Victim's Assistance Fund - \$11,825
- Child Abuse Assistance Fund - \$24,642
- S.T.O.P. - approximately \$90,000
- Victims of Crime Act (VOCA) - \$468,012 (total was \$936,025 for two-year period)
- Rape Prevention and Services Act - \$250,000

Since approximately \$250,000 was from the Rape Prevention and Services Act, disseminated to programs to provide primary prevention services,³ **only \$594,479 was available for services related directly to the support of sexual violence survivors.** Taking into account that this money is divided between twenty-three programs throughout the state of Kansas, **this averages out to only \$25,847 per program.** This is hardly enough funding to support a program and staff.

Services provided by programs with funds

One out of every six American women has been the victim of an attempted or completed rape in her lifetime.⁴ When examining all forms of sexual violence; this number is more likely one out of every three American women and one in seven men.⁵ **This means that potentially 453,446 women and 189,725 men in Kansas have been the victims of sexual violence at some point in their life.** The programs in Kansas have been very resourceful at generating money from local resources, other grants, and matching funds to enable them to provide direct services, community awareness, and prevention efforts. They have had to be very creative to stretch these funds to provide services to so many; services such as:

- 24-hour crisis lines
- Advocacy
- Counseling services
- Community awareness
- Primary prevention
- Volunteer training and recruitment
- Support groups
- Hospital advocacy
- Community response
- Clothing bank to provide clothing after a sexual assault
- Outreach to underserved communities

Currently there are no general revenue funds appropriated at the State level for sexual assault services. In addition, as shown above, there is limited federal funding being provided to programs to serve the enormity of the problem of sexual assault in Kansas. **These programs continue to need community, state, and federal support in order to have the resources necessary to effectively serve survivors.**

Provided by **Kansas Coalition Against Sexual and Domestic Violence**
220 SW 33rd St., Suite 100 Topeka, KS 66611
785-232-9784 ■ FAX 785-266-1874 ■ coalition@kcsdv.org

1. *A Report on Domestic Violence and Rape in Kansas, 1998* Office of Attorney General Carla J. Stovall and Kansas Bureau of Investigation, 1998
2. National Sexual Violence Resource Center, 2001
3. Information from Attorney General Carla J. Stovall's office
4. *Prevalence, Incidence, and Consequences of Violence Against Women Survey*, National Institute of Justice and Centers for Disease Control and Prevention, 1998.
5. Population Reports: Ending Violence Against Women, 2000

Douglas County Rape Victim - Survivor Service

Senate Bill 477

February 8, 2002

Contact Person: Sarah Jane Russell
Executive Director

I would like to express my thanks to the Chair and Members of the Committee for the opportunity to submit written testimony on a subject of great importance to women, children, and men across the state of Kansas: the crime of sexual assault. My name is Sarah Jane Russell and I am the Executive Director of Douglas County Rape Victim-Survivor Service located in Lawrence.

Established in 1973, Douglas County Rape Victim-Survivor Service (RVSS) is committed to providing ongoing advocacy and support, community awareness and prevention education in an effort to end all forms of sexual violence. Comprehensive, confidential, non-judgmental advocacy and support are offered to survivors of sexual violence, their families, friends, and partners. Community awareness and prevention education programs are conducted for many different age groups and audiences. Specific education and training programs have been developed for area public and private schools, universities, community social service agencies, law enforcement, medical and mental health personnel.

With three employees, in addition to twenty volunteer advocates, most of whom are students from Baker University, Haskell Indian Nations University, and the University of Kansas, RVSS serves Douglas County, population: 99,962.

According to the U.S. Department of Justice, U.S. Department of Health and Human Services, and the Kansas Bureau of Investigation:

- ◆ **One in three girls, and one in six boys** are sexually abused before the age of 18.
- ◆ **Only one in four women and one in eight men** report sexual assault to law enforcement.
- ◆ **85%** of victims know their assailant(s).

In Kansas, **1134** rapes were reported in 1998. According to the rate of reporting, **3402** more went unreported.

The proposed funding would greatly benefit sexual assault services throughout Kansas. Specifically, Douglas County services would be enhanced by the following:

- ◆ Establish and fund a 24/7 live voice hotline.
- ◆ Expand and diversify volunteer coverage.

- ◆ Establish additional support groups as identified by a community needs assessment, i.e. adult (female and male) survivors of child sexual abuse, adolescent support groups focused on dating violence.
- ◆ The purchase of essential forensic equipment, such as a colposcope for hospital sexual assault examinations.
- ◆ Establish a freestanding Advocacy Center to provide safe and comprehensive services for women, children and men.

This opportunity to strengthen and broaden sexual assault services in Kansas validates the statement, "this crime will not be tolerated".

STATE OF KANSAS

GRETA H. GOODWIN
SENATOR, 32ND DISTRICT
COWLEY AND SUMNER COUNTIES

STATE CAPITOL BUILDING
ROOM 403-N
TOPEKA, KANSAS 66612-1504
(785) 296-7381
420 E. 12TH AVE.
WINFIELD, KANSAS 67156
(620) 221-9058
e-mail: ggoodwin@ink.org



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER:
JUDICIARY
CORRECTIONS/JUVENILE JUSTICE
STATE BUILDING CONSTRUCTION

MEMBER: ASSESSMENT AND TAXATION
TRANSPORTATION
CONFIRMATION OVERSIGHT
KANSAS SENTENCING COMMISSION
STATE CAPITOL RESTORATION
HEALTH CARE STABILIZATION FUND
LEGISLATIVE OVERSIGHT
JUDICIAL COUNCIL JUVENILE OFFENDER/
CHILD IN NEED OF CARE ADVISORY
JUDICIAL COUNCIL PROBATE LAW
ADVISORY

SENATE JUDICIARY COMMITTEE
February 7, 2002

Testimony
Senate Bill No. 474, 475, 477

I have worked for many years as a board member of our two county Safe Homes Agency and as a community advocate against domestic violence. I want to express my strong support of the three bills which are being heard today. As we all know, domestic violence remains one of the highest growing crimes being committed against persons, mostly women of our society. I truly believe that any additional laws that can strengthen current statutory law should be given the utmost consideration as we try to eradicate domestic violence and which will hold the perpetrators accountable for these horrible acts of violence.

Senate Bill 474 will provide a further avenue of a stalking victim to obtain relief. Although we have current statutes covering criminal stalking, many prosecutors do not regard this act as a top priority and in return do not file charges as a result of heavy case loads or other more pressing matters. This bill would enable the victim to obtain relief similar to that of a protection from abuse order regardless whether an intimate relationship exists in the relationship. Approximately 30 states have passed similar civil stalking legislation.

Senate Bill 475 would also allow a victim of abuse or threats of abuse to obtain a restraining order pro se if the victim is only in a dating relationship. Current law allows this protection to persons who have lived together or those persons who have a child in common. From my past experience, this bill would provide much needed protection from particularly young girls who have not been able to break off an abusive dating relationship and feels there is no place to turn for help.

Senate Bill 477 would provide additional funding resources for programs which not only provides safe harbor for domestic violence victims but also for sexual assault examinations. Much more can be done, and must be done in the area of fighting domestic violence as well as taking care of the victims. The increase of docket fees can

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help victims feel there are places to go to seek safety from the violence they are subjected to, as well as being cared for by trained professionals after a sexual assault.

I urge your favorable consideration of the three referenced bills to give our victims of domestic violence additional tools to hopefully stop the violence and/or the threatened violence they are subjected to as well as the necessary funds needed for our victims.

Wilson, President Elect

Jackson County
400 New York, P.O. Box 1026
Holton, KS 66436-1026
785-364-2191 • Fax: 785-364-3804
E-Mail: lwilson@holtonks.net

Geneva Mason, Secretary

Rooks County
P.O. Box 531
Stockton, KS 67669-0531
785-425-6718 • Fax: 785-425-6568
E-Mail: rcdc@ruraltel.net



John Isern, President

Barton County
1400 Main, Room 306
Great Bend, KS 67530-4098
620-793-1863 • Fax: 620-793-1860
E-Mail: bartondistct@greatbend.com

Diane McElwain, Treasurer

Ford County
101 W. Spruce, P.O. Box 197
Dodge City, KS 67801
620-227-4609 • Fax: 620-227-6799
E-Mail: dmcelwain@fordcounty.net

Joby Henning, Immed. Past Pres.

Ness County
P.O. Box 445
Ness City, KS 67560-0445
785-798-3693 • Fax: 785-798-3348
E-Mail: nsdistdc@ruraltel.net

Senate Bill # 444
Chapter 61 Summons Forms
K.S.A. 61-3805

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before this Committee today on behalf of the Kansas Association of District Court Clerks and Administrators and speak to you regarding Senate Bill # 444. This bill is intended to create compliance with summons forms and response time frames relating to limited civil actions in our state courts.

K.S.A. 61-3805 presently reflects that the summons in eviction and forcible detainer lawsuits should be the same as all other lawsuits filed under Chapter 61. In its present form, K.S.A. 61-3805 presently requires the eviction/forcible detainer summons form to be the same as the "general summons form". However, the defendant's response time on an eviction/forcible detainer summons is set not less than 3 nor more than 14 days after the date of the issuance of the summons by the court.

In contradiction to this, the "general summons form", described in K.S.A. 61-3002, requires the defendant to appear in response to the petition not less than 11 nor more than 50 days after the date of the issuance of the summons by the court. In order to eliminate further confusion, we would ask that the present K.S.A. 61-3805 be amended as follows:

"The form of summons in lawsuits under KSA 61-3801 through 61-3808, and amendments thereto, shall be the same as for other lawsuits filed under the code of civil procedure for limited actions comply with the rules or orders of the Supreme Court of this state. The time stated in the summons requiring the defendant to appear in response to the petition shall be determined by the court. Such time shall be not less than 3 nor more that 14 days after the date the summons is issued."

Thank you for your time and attention today on this issue. I would be happy to entertain any questions you might have.

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Senate Judiciary Committee

Testimony of Kansas Credit Attorneys Association

Senate Bill No. 444

February 12, 2002

Senator Vratil and Members of the Senate Judiciary Committee:

I appear on behalf of the Kansas Credit Attorneys Association (KCAA) and Kansas Collectors Association (KCA). I would like to thank you for the opportunity to present remarks today. KCAA and KCA would like to express their support of Senate Bill No. 444 and encourage your favorable action on the legislation.

We would also like to offer the attached amendment for the Committee's consideration.

KCAA and KCA propose to amend K.S.A. 61-3803 and permit combining of the notices for termination of rental agreement and intent to file suit for eviction. We believe that the intent of the statute is to speed up the process for which a property owner can recover possession of a dwelling by evicting a tenant for non-payment of rent. There are varied opinions on this particular aspect. The amendment we are offering should resolve questions regarding the intent of the Legislature.

Thank you for your time today and consideration of our request.

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61-3803. Notice to leave premises.

Before a lawsuit to evict a person pursuant to K.S.A. 2000 Supp. 61-3801 through 61-3808, and amendments thereto, is filed, the party desiring to file such lawsuit shall deliver to the other party a notice to leave the premises for which possession is sought. The notice shall be delivered at least three days before commencing the lawsuit, by leaving a written copy with the other party or by leaving a copy thereof with any person over the age of 12 years residing on the premises described in such notice, or if no such person is found upon the premises, by posting a copy of such notice in a conspicuous place thereon, or by mailing a copy of the notice to the other party at the address of the premises described in the notice. The three day notice period provided for in this section shall be computed as three consecutive 24-hour periods to commence at the time the notice is delivered, posted or mailed. If the notice is mailed, an additional two days from the date of mailing shall be allowed for the person to leave the premises before the lawsuit is filed. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation of the notice period. ***If the lawsuit to be brought is for the purpose of evicting a tenant for the non-payment of rent, a combined notice to terminate the tenancy and of intent to file suit may be given to the tenant, and only one notice to the tenant shall be required in this event.*** The form of ~~the notice~~ ***all notices required or allowed under this section*** shall be substantially in the forms set forth in the rules ***or by order or orders*** of the supreme court of this state.

Wilson, President Elect
Jackson County
400 New York, P.O. Box 1026
Holton, KS 66436-1026
785-364-2191 • Fax: 785-364-3804
E-Mail: lwilson@holtonks.net

Geneva Mason, Secretary
Rooks County
P.O. Box 531
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John Isern, President
Barton County
1400 Main, Room 306
Great Bend, KS 67530-4098
620-793-1863 • Fax: 620-793-1860
E-Mail: bartondistct@greatbend.com

Diane McElwain, Treasurer
Ford County
101 W. Spruce, P.O. Box 197
Dodge City, KS 67801
620-227-4609 • Fax: 620-227-6799
E-Mail: dmcelwain@fordcounty.net

Joby Henning, Immed. Past Pres.
Ness County
P.O. Box 445
Ness City, KS 67560-0445
785-798-3693 • Fax: 785-798-3348
E-Mail: nsdistdc@ruraltel.net

**Senate Bill No. 445
JUDGMENT LIENS
K.S.A. 60-2418**

TESTIMONY

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to speak on behalf of the Kansas Association of District Court Clerks and Administrators regarding Senate Bill No. 445. This bill proposes a clarification of procedures set forth in K.S.A. 60-2418(a) for elevating the status of a limited actions judgment to a lien against real estate.

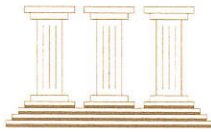
This statute deals, in part, with making a Chapter 61 judgment a lien on real property of judgment debtors in counties wherein their property is located. The status of the judgment in the county of origin should have the same force and effect as that given it in any other county where the judgment is filed; thus, it should not be a lien on real property in any other county until after the proper filing and fee, as provided by law, have been made in the originating county.

Since all attachments for enforcement of this judgment continue to be issued from the originating county, this insures that proper process is issued for the current status of that judgment. Therefore, we are requesting the insertion of the following sentence to further clarify this process.

“After such payment of the fee and renumbering of the case, such judgment may be filed in any county in which real property of the judgment debtor is located pursuant to K.S.A. 60-2202, and amendments thereto”.

Again, thank you for allowing us the opportunity to appear before you today on this bill. I would be glad to entertain any questions you may have.

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KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the Senate Judiciary Committee

FROM: Terry Humphrey, executive director
Kansas Trial Lawyers Association

RE: 2002 SB 445

DATE: Feb. 12, 2002

Chairman Vratil and members of the Senate Judiciary Committee, thank you for the opportunity to submit written testimony in support of SB 445. This bill will provide an important benefit to Kansas citizens that hold or obtain judgments in actions brought in Small Claims Court under Chapter 61 of the Kansas Code of Civil Procedure.

Actions brought under Chapter 61, often referred to as Small Claims Court, do not require an attorney. In fact, the parties are not allowed to be represented by an attorney in actions under Chapter 61 which are limited to disputes where the value of the money or personal property at issue does not exceed \$1800, (exclusive of interest, costs and damages otherwise specified in KSA 61-2703). These "limited" actions serve an important function in our system of jurisprudence. They allow ordinary Kansan's access to the civil justice system for disputes that arise over relatively small amounts of money or personal property, and do so in an efficient and low cost manner. Small claims court provides a venue for cases where the claimant may not be able to find an attorney willing to take the case, or need an attorney.

By amending KSA 60-2418, SB 445 eliminates a current gap in the existing Kansas Code of Civil Procedure. The provisions of SB 445 will allow Kansas citizens to obtain a judgment in small claims court under Chapter 61; register that judgment in any other Kansas county where the judgment debtor has property located; and, collect the small claims judgment from those assets without having to bring a separate action in the county where the assets are located. Thus, the bill will make it easier for Kansans who have obtained a judgment in small claims court to collect that judgment. If the judgment debtor has assets in another Kansas county, the debtor can collect from those assets by following the procedure set forth in SB 445. SB 445 will also make it harder for those seeking to avoid paying a judgment obtained in small claims court from simply placing their assets in another county.

Current Kansas law already allows for the registering of judgments obtained under Chapter 60 of the Kansas Code of Civil Procedure. Amending KSA 60-2418 to extend

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

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this procedural mechanism to small claims court judgments obtained under Chapter 61 is good public policy. It will allow the person or entity obtaining a small claims judgment to satisfy that judgment without having to file a second action in the county where the debtor has assets located. It will also discourage judgment debtors from attempting to move their assets out of the county to avoid payment of their debts.

KTLA appreciates the opportunity to submit this written testimony in support of SB 445. For the reasons set forth herein, we request that the members of the committee support the bill to eliminate a current gap in the rules of civil procedure for limited actions.

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8-21-02
LAWRENCE
JAMES

SENATE BILL No. 432

By Committee on Judiciary

1-24

9 AN ACT regulating traffic; restricting the transportation of nonsibling
10 minor passengers by certain drivers; exceptions; amending K.S.A. 8-
11 237, 8-296 and 8-2118 and repealing the existing sections.

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

14 New Section 1. (a) (1) No person who is at least 16 years of age, but
15 less than 18 years of age, shall operate any motor vehicle with more than
16 one nonsibling minor passenger, except as provided in paragraph (2).

17 (2) The provisions of paragraph (1), shall not apply if such person is
18 transporting more than one nonsibling minor passenger to such passen-
19 gers' school of enrollment for the purposes of school attendance or for
20 the purposes of participation in school sponsored activities

or while going to or from or in connection
with such passenger's job, employment or
farm-related work

21 (b) No person issued a restricted license under K.S.A. 8-237, and
22 amendments thereto, shall operate any motor vehicle with nonsibling mi-
23 nor passengers.

24 (c) No person issued a farm permit under K.S.A. 8-296, and amend-
25 ments thereto, shall operate any motor vehicle with nonsibling minor
26 passengers.

27 (d) Any conviction for violating this section shall be construed as a
28 moving traffic violation for the purpose of K.S.A. 8-255, and amendments
29 thereto.

30 (e) This section shall be part of and supplemental to the uniform act
31 regulating traffic on highways.

32 Sec. 2. K.S.A. 8-237 is hereby amended to read as follows: 8-237.
33 The division of vehicles shall not issue any driver's license to any person:

34 (a) Who is under the age of 16 years, except that the division may
35 issue a restricted class C or M license, as provided in this act, to any
36 person who: (1) Is at least 15 years of age; (2) has successfully completed
37 an approved course in driver training; (3) has held an instructional permit
38 issued under the provisions of K.S.A. 8-239, and amendments thereto,
39 for a period of at least six months and has completed at least 25 hours of
40 adult supervised driving; and (4) upon the written application of the per-
41 son's parent or guardian. The required adult supervised driving required
42 in clause (3) above shall be conducted by an adult who is at least 21 years
43 of age and is the holder of a valid commercial driver's license, class A, B