

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE.

The meeting was called to order by Chairperson Ward Loyd at 1:00 p.m. on February 21, 2003, in Room 526-S of the Capitol.

All members were present except:

Ranking Minority Member Ward - excused
Representative Dale Swenson - excused
Vice-Chairperson Tim Owens - excused
Representative Donald Betts, Jr. - excused

Committee staff present:

Jill Wolters - Revisor of Statutes
Mitch Rice - Revisor of Statutes
Jerry Ann Donaldson - Legislative Research Department
Martha Dorsey - Legislative Research Department
Nicoletta Buonasera - Legislative Research Department
Bev Renner - Committee Secretary

Conferees appearing before the committee:

Kyle G. Smith, Special Agent, Kansas Bureau of Investigation (KBI)
Sandy Barnett, Executive Director, Kansas Coalition Against Sexual and Domestic Violence
Representative Janice Pauls
Keith Schroeder, Reno County District Attorney
Paul J. Morrison, District Attorney-10th Judicial District (written testimony)
Douglas S. Murphy, Detective-Brewster Police Department, Director-Quad County Drug Task Force

HB 2390 - Amendments to the statutes concerning the civil commitment of sexually violent predators.

HB 2391 - Second or subsequent rape, hard 40; prostitution of a minor; endangering the child; aggravated battery on a law enforcement officer.

Chairperson Loyd continued the hearing on HB 2390 and HB 2391.

Kyle G. Smith, Special Agent, KBI spoke in support of HB 2391 (Attachment 1) on behalf of the KBI and the Kansas Peace Officers Association. This legislation targets four gaps in current law; 1) In the statute criminalizing aggravated battery of a law enforcement officer, 2) Provides more protection for the public from serial rapists, 3) Raises the penalty for promoting prostitution with a child under 16 years of age, and 4) Amends the endangering a child statute to create a felony when a person intentionally and knowingly exposes children to methamphetamine manufacturing, sales or chemicals. Agent Smith offered a balloon to the compulsion defense to address those concerns about a person acting under the fear of imminent threat or compliance with a court order.

Sandy Barnett, Executive Director of the Kansas Coalition Against Sexual and Domestic Violence testified in support of the majority of HB 2391 (Attachment 2). The endangerment of a child issue for some is not a choice. Women and children are more likely to be killed or seriously injured at the point when they leave than at any other time. For someone in a serious domestic abuse situation, the options may be to stay and try to protect the kids the best way possible or to leave with the possibility of death or serious injury. It is unfair and unjust for them to be charged with endangering a child. Battered women rely on the courts for protections and to give them a choice of subjecting their child to the presence of a meth lab or defying a court order of custody or visitation puts them in an impossible situation when they are least able to make a decision or have little knowledge of what might be going on in that household. Ms. Barnett would urge that the balloon contain specific language to address court order situations.

Chairperson Loyd closed the hearing on HB 2390 and HB 2391.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE at 1:00 p.m. on February 21, 2003, in Room 526-S of the Capitol.

HB 2138 - Forensic examinations; certification procedures.

Chairperson Loyd opened the hearing on HB 2138.

Kyle Smith, Special Agent, KBI spoke in support of **HB 2138 (Attachment 3)**. KBI forensic scientists testify all over the state regarding the scientific analysis of evidence. Sometimes there are conflicts with several jurisdictions needing the same scientist on the same date so legislation was passed to create a procedure where the testimony on lab results can be waived. This bill would answer the problem that the certified reports are required to be served within 20 days of arraignment but, in some misdemeanor cases, arraignment occurs the day after arrest, while items may not be submitted to KBI within 20 days. **HB 2138** requests the change to require certificates and the underlying reports be served at least 15 days prior to any hearing. This is already the standard for civil cases and this bill would standardize the time frame for criminal cases, also.

Chairperson Loyd closed the hearing on HB 2138.

HB 2375 - Criminal procedure; preliminary examination, evidence, chain of custody.

Chairperson Loyd opened the hearing on HB 2375.

Representative Janice Pauls was recognized to testify in support of **HB 2375 (Attachment 4)**. This bill provides that evidence may be introduced in a criminal preliminary hearing without actual testimony from all individuals involved in the chain of custody.

Keith Schroeder, Reno County District Attorney was introduced to speak in support of **HB 2375 (Attachment 5)**. The Reno County Evidence Custodian has become a professional witness. He is constantly subpoenaed to testify at preliminary hearings to the exclusion of sufficient time to perform his assigned duties. **HB 2375**, as amended, will end this problem by permitting an evidence that a custody receipt exists to be admitted as hearsay evidence at a preliminary hearing without requiring an evidence custodian or business records custodian to lay a foundation for its admission.

Kyle Smith, Special Agent, KBI returned to the committee in support of **HB 2375 (Attachment 6)**. **HB 2375** would save time and money at no cost to constitutional protections. Real issues concerning the chain of custody could be explored during suppression hearings or trial.

Paul J. Morrison, District Attorney of the 10th Judicial District submitted written testimony in support of **HB 2375 (Attachment 7)**.

Chairperson Loyd closed the hearing on HB 2375.

HB 2216 - Sale of controlled substances near children and schools; sentencing departures; extending coverage area.

Chairperson Loyd opened the hearing on HB 2216.

Detective Douglas S. Murphy, Brewster Police Department and Director of Quad County Drug Task Force spoke in support of **HB 2216 (Attachment 8)**. This legislation would add to trafficking and manufacturing statutes these words "licensed day care, public park (or) playground" after the prohibition of trafficking within 1000 feet and add the phrase for the manufacturing statute of prohibition "within 1000 feet of a school", as well as, "of a licensed day care, public park, playground or in the presence of a person under 18 years of age". The Quad County Drug Task Force requested the following proposal by the legislative committee of the Kansas Peace Officers Association—"within 1000 feet of any licensed day care, public park, playground or school property upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12, or in the presence of a person under

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE at 1:00 p.m. on February 21, 2003, in Room 526-S of the Capitol.

18 years of age”.

Chairperson Loyd pointed out to Staff the need for definition of terms “public park” and “playground” in the bill.

Chairperson Loyd closed the hearing on HB 2216.

HB 2016 -Training and powers and duties of juvenile correctional officers.

Representative Deena Horst as Chairperson was called upon to present the subcommittee report on **HB 2016**. She went through each of the changes—definition of “Juvenile Correction Officer”; addition of “not less than” before 40 hours of in-service training annually; add additional statute K.S.A. 74-5602 dealing with the training act that the Juvenile Justice employees would not be considered police officers. Representatives Carter, Kassebaum, Ward and Betts were thanked for their conscientiousness and contributions to the work of the subcommittee. (Attachment 9)

Representative Dillmore made a motion to accept the subcommittee report and amend **HB 2016** accordingly. The motion was seconded by Representative Carter. The motion carried.

Kyle Smith suggested the definition of the “Juvenile Justice Investigator,” “a certified employee of the Juvenile Justice Authority working at a juvenile correctional facility assigned by the commissioner with responsibility for investigations between employees and juveniles in the custody of the commissioner at a juvenile correctional facility.” Representative Pauls offered that it might be better to delete “certified” because of the training requirements this term implies.

Representative Carter made a motion to amend **HB 2016** to add the language suggested by Kyle Smith to the Revisor and changed by Representative Pauls. Representative Horst seconded the motion.

Revisor Jill Walters offered the definition of an Investigator—an employee of the Juvenile Justice Authority assigned by the commissioner with the responsibility for investigations concerning employees at a juvenile correctional facility and juveniles in the custody of the commissioner in the juvenile correctional facility.

Representative Carter closed on his motion to amend **HB 2016**. The motion carried.

Representative Dillmore made a motion to report **HB 2016** be passed favorably as amended. Representative Horst seconded the motion. The motion carried.

The meeting was adjourned at 2:50 p.m. The next scheduled meeting is on February 24, 2003.



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

Testimony in Support of HB 2391

Before the House Corrections and Juvenile Justice Committee

Kyle G. Smith

Director of Public and Governmental Affairs

Kansas Bureau of Investigation

February 4, 2003

Chairman Lloyd and Members of the Committee,

I am very pleased to appear on behalf of the KBI and the Kansas Peace Officers Association in support of this legislation. The bill carefully targets four gaps in current law:

Section 1 fixes gap in the statute criminalizing aggravated battery of a law enforcement officer, K.S.A. 21-3415. Currently under the law, the officer has to be "uniformed or properly identified" so it doesn't apply where an officer is attacked out of uniform but by someone who well knows they are an officer, probably because they are an officer. This gap is of particular concern to the KBI and other officers who work in plain clothes. Prosecution would only apply if it could be shown beyond a reasonable doubt that the defendant had actual knowledge of the victim's status as a law enforcement officer.

Sections 2, 5 and 6 would provide more protection for the public from serial rapists. Under this section a second or subsequent rape conviction an 'off grid felony' - with option of hard 40 sentence.

Section 3 raises the penalty for promoting prostitution with a child under 16 years of age, K.S.A. 21-3513 from a level 6 felony (presumptive probation) to a level 5 (border box or presumptive imprisonment).

Section 4 amends the endangering a child statute, K.S.A. 21-3608 to create a felony version where a person intentionally and knowingly exposes children to methamphetamine manufacturing, sales or chemicals. I've already provided the committee with testimony on this topic in regards to HB 2318 so won't repeat it here. However I would again note that this approach to the problem would seem more practical as not requiring medical testimony as may be the case under HB 2318.

Thank you for your attention and I would be pleased to stand for questions.

H. Corr. & J.J.
2-21-03
Attachment 1

21-3209. Compulsion. (1) A person is not guilty of a crime other than murder or voluntary manslaughter by reason of conduct which he performs under the compulsion or threat of the imminent infliction of death or great bodily harm, if he reasonably believes that death or great bodily harm will be inflicted upon him or upon his spouse, parent, child, brother or sister if he does not perform such conduct.

(2) The defense provided by this section is not available to one who willfully or wantonly places himself in a situation in which it is probable that he will be subjected to compulsion or threat.

History: L. 1969, ch. 180, § 21-3209; July 1, 1970.

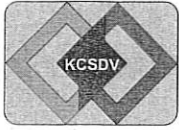
Add on Page 3, line 12 after the word 'knowingly':

, *Unreasonably*

Add at end of sentence, page 3, line 29:

A person is not guilty of endangering a child when he or she acted under the imminent threat or a pattern of threats of great bodily harm or death, or when he or she reasonably believed the great bodily harm or death would be inflicted upon him or her, his or her spouse, intimate partner, parent, brother, sister or children.

? { A person is not guilty of endangering a child when he or she acted under the imminent threat or a pattern of threats of great bodily harm or death, or when he or she reasonably believed the great bodily harm or death would be inflicted upon him or her, his or her spouse, intimate partner, parent, brother, sister or children or if he or she acted under an order of shared custody or visitation.



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

Testimony on HB 2391
February 20, 2003
Corrections and Juvenile Justice Committee

Chairman Lloyd and Members of the Committee:

Thank you for the opportunity to talk with you this morning about our conditional support of HB 2391.

KCSDV wholly supports the first two changes proposed by HB 2391, they are:

- 1) Amendment to K.S.A. 21-3415 to include aggravated battery against a law enforcement officer with a motor vehicle.
- 2) Amending K.S.A. 21-3502 to make the second or subsequent conviction of rape an off-grid felony, which allows the court to impose a sentence of 40 years.

KCSDV's concern relates to the amendment of the child endangerment statute, K.S.A. 21-3608.

Testimony given to this committee on a similar bill (HB 2318) stated that the bill was directed toward mothers who were not the primary manufacturers of these drugs, who were often abused, and who refused to protect their children from the harmful effects of these substances. Although HB 2318 is much broader in that it addresses all controlled substances not just methamphetamine, our concerns are still the same.

This section of HB 2391 is predicated on the assumption that women must take their children and leave the situation in order to protect them: this assumption is erroneous in cases where there is severe domestic abuse. More women and children are killed or seriously injured at the time of leaving or shortly thereafter than at any other time. In such a situation a woman may be faced with a choice of staying or dying. Criminalizing her choice to stay, keeping herself and her children safe from the abuser, is not helpful.

Additionally, since HB 2391 makes exposing a child to methamphetamines a person felony, anyone found guilty of this crime may be ineligible for public benefits, public housing, higher education grants and loans, and have their access to work severely limited.

H. Corr. & J.J.
2-21-03
Attachment 2

Page 2
HB 2391
KCSDV

In most cases the methamphetamine user, dealer, or manufacturer is the father, stepfather, or father-substitute of the children. It is possible that the male is arrested for manufacture, the mother is arrested for endangering children, and the children placed into the custody of SRS. If convicted of endangering the children, this mother could expect her children to be in custody of SRS for some time while a reintegration plan is put into place, which no doubt will require her to have stable income and a home before the children can be placed back into the home. With a felony conviction, an affordable home and regular employment that allows her to be at home when the children are home from school is highly unlikely. In this scenario, the children may be in SRS custody for a long time, perhaps even long enough to generate termination proceedings.

KCSDV recognizes the increased difficulties posed by new and more dangerous drugs than we have ever had to deal with, but punishing victims of crimes will never lead to the change we hope to accomplish. Therefore, KCSDV proposes an amendment to HB 2391 that addresses those occasions where there is another victim who is trying to protect her children in an impossible situation.

This amendment simply states that a person is not guilty of child endangerment when he or she acted under the threat of bodily harm or death, or when he or she believed that bodily harm or death would be inflicted upon him or her... or when acting under an order of shared custody or visitation.

Again, thank you for allowing me this opportunity to speak with you about HB 2319

1 (2) Promoting prostitution when the prostitute is 16 or more years of
2 age is a severity level 7, person felony if committed by a person who has,
3 prior to the commission of the crime, been convicted of promoting
4 prostitution.

5 (3) Promoting prostitution is a severity level 6 5, person felony when
6 the prostitute is under 16 years of age.

7 Sec. 4. K.S.A. 21-3608 is hereby amended to read as follows: 21-
8 3608. (a) Endangering a child is:

9 (1) Intentionally and unreasonably causing or permitting a child un-
10 der the age of 18 years to be placed in a situation in which the child's
11 life, body or health may be injured or endangered; or

12 (2) knowingly and intentionally causing or permitting a child under
13 the age of 18 years to be present where:

14 (A) A person is selling, offering for sale or having in such person's
15 possession with intent to sell, deliver or distribute; prescribe; administer;
16 deliver; distribute; dispense; compound; unlawfully manufacturing; or at-
17 tempt to unlawfully manufacture any methamphetamine as defined by
18 subsections (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto;
19 or

20 (B) drug paraphernalia or volatile, toxic or flammable chemicals are
21 stored for the purpose of unlawfully manufacturing or attempting to un-
22 lawfully manufacture any methamphetamine as defined by subsections
23 (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.

24 (b) Nothing in this section shall be construed to mean a child is en-
25 dangered for the sole reason the child's parent or guardian, in good faith,
26 selects and depends upon spiritual means alone through prayer, in ac-
27 cordance with the tenets and practice of a recognized church or religious
28 denomination, for the treatment or cure of disease or remedial care of
29 such child.

30 ~~(c)~~ Endangering a child as described in subsection (a)(1) is a class A
31 person misdemeanor. Endangering a child as described in subsection
32 (a)(2) is a severity level 9, person felony.

33 ~~(d)~~ As used in this section, "manufacture" shall have the meaning
34 ascribed to that term in K.S.A. 65-4101, and amendments thereto, and
35 "drug paraphernalia" shall have the meaning ascribed to that term in
36 K.S.A. 65-4150, and amendments thereto.

37 Sec. 5. K.S.A. 2002 Supp. 21-4635 is hereby amended to read as
38 follows: 21-4635. (a) Except as provided in K.S.A. 21-4634 and amend-
39 ments thereto, if a defendant is convicted of:

40 (1) The crime of capital murder and a sentence of death is not im-
41 posed, or if a defendant is convicted of murder in the first degree based
42 upon the finding of premeditated murder, the court shall determine
43 whether the defendant shall be required to serve a mandatory term of

(c) A person is not guilty of endangering a child when he or she acted under the threat of bodily harm or death, or when he or she reasonably believed that bodily harm or death would be inflicted upon him or her, his or her spouse, intimate partner, parent, brother, sister, or children, or if he or she acted under an order of shared custody or visitation.



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

Testimony in Support of HB 2138

Kyle G. Smith

Before the House Corrections and Juvenile Justice Committee

February 21, 2003

Chairman Lloyd and members of the Committee,

On behalf of the Kansas Bureau of Investigation I am hear today in support of HB 2138 which makes a procedural change in the statute that controls the admission of certified forensic exams, K.S.A. 22-3437.

KBI forensic scientists testify allover the state regarding the scientific analysis of evidence. Unfortunately there are frequently conflicts with several jurisdictions needing the same scientist on the same date, sometimes hundreds of miles apart. Recognizing that much of this scientific and repeatable evidence isn't really in issue (a defendant may dispute whether it was his cocaine or if it was legally seized, but not that it is cocaine) the legislature passed K.S.A. 22-3437 to create a procedure where the testimony on lab results can be waived. The result not only lets the scientists spend more 'bench time' analyzing new cases, but also save time and money by avoiding continuances that waste court and attorney time.

The problem with the current system is that the certified reports are required to be served within 20 days of arraignment. However, in misdemeanor cases, such as first time possession of LSD, arraignment normally occurs the day after arrest while the items may not even be submitted to the KBI within 20 days, let alone analyzed and reports finished. The requested change would require certificates and the underlying reports be served 'at least 15 days prior to any hearing' thus giving the defense time to review the reports but still allowing for the different timeline in misdemeanor versus felony cases. This is the already the standard for civil cases so HB 2138 would both simplify and improve the law by making it the same for civil and criminal cases.

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

H. Corr. & J.J.
2.21-03
Attachment 3

RANKING MINORITY MEMBER:
JUDICIARYMEMBER:
HOUSE RULES AND JOURNAL
TRANSPORTATION
JOINT HOUSE AND SENATE COMMITTEE
ON JUVENILE JUSTICE AND CORRECTIONS
OVERSIGHT
JOINT HOUSE AND SENATE COMMITTEE
ON ADMINISTRATIVE RULES AND
REGULATIONS
JOINT HOUSE AND SENATE COMMITTEE
ON REDISTRICTING

KANSAS SENTENCING COMMISSION



TOPEKA

HOUSE OF
REPRESENTATIVES

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**Testimony before the
 House Corrections and Juvenile Justice Committee
 Regarding
 House Bill 2375
 on
 February 21, 2003**

Mr. Chairman and Members of the Committee.

HB 2375 was introduced to save time and expense for the prosecutors in the state in presenting evidence regarding physical evidence involved in a criminal preliminary examination. The bill provides that evidence may be introduced without actual testimony from all individuals involved in the chain of custody. The proceeding will be similar to that presently used since 1982 in presenting lab reports in preliminary hearings.

I gave a proposal for this bill to the revisor without running the proposal by my District Attorney, so I've attached what would be my revised proposal for the bill if the committee later works this bill. For your reading convenience, I've reflected the changes as the bill would read, not in a balloon form.

My new language for section one would read:

Section 1. At any preliminary examination pursuant to K.S.A. 22-2902, and amendments thereto, physical evidence for which there exists an evidence custody receipt showing that such evidence has been continuously held in the possession or custody of law enforcement officers, law enforcement agencies, forensic laboratories or the United States Postal Service since the evidence was seized shall be admissible into evidence in the preliminary examination in the same manner and with the same force and effect as if all law enforcement officers, evidence custodians and forensic examiners involved in the chain of custody had testified in person.

Kyle Smith from the K.B.I., and Keith Schroeder, Reno County District Attorney will also testify, and are prepared to answer any procedural questions.

Thank for your attention.

Respectfully submitted,

Janice L. Pauls
 Rep. Janice L. Pauls
 District 102

*H. Corr. & J.J.
 2-21-03
 Attachment 4*

DISTRICT ATTORNEY

Keith E. Schroeder

DEPUTY DISTRICT ATTORNEY

Thomas R. Stanton

ASSISTANT DISTRICT ATTORNEYS

Linda L. Blackburn

F. Terry Bruce

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Faith A.J. Maughan



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February 21, 2003

Committee on Corrections and Juvenile Justice
Kansas State Legislature

RE: Testimony in support of Amended House Bill No. 2375

Dear Members of the Committee,

I was elected by my constituents to be the District Attorney of the 27th Judicial District, Reno County, Kansas, and took office on January 8, 2001. I began working in the District Attorney's Office (then County Attorney's Office) on August 1, 1989. I have personally prosecuted 124 jury trials and hundreds of preliminary hearings.

The number of cases filed on adult criminal matters has doubled in Reno County over the past 15 years. The number of drug related prosecutions has doubled over the past 4 years. Attached to this testimony are graphs depicting these statistics.

Prosecution of drug cases is strangling prosecutor's offices throughout Kansas. For example, Reno County prosecuted 2 cases relating to clandestine methamphetamine laboratories in 1998. The number has doubled every year thereafter. Last year, we prosecuted 95 cases related to clandestine methamphetamine laboratories. This year we are on a pace to double that number again.

As the drug prosecutions rise, so do the demands on prosecutors and law enforcement agencies. The defense bar has learned to recognize that the prosecution has limited time and resources. Demanding an evidentiary preliminary hearing is a common tactic used to force the prosecutor to plea bargain the case. In particular, prosecutions of clandestine methamphetamine laboratories place unique burdens on the criminal justice system not seen 15 years ago. Most of the prosecutions relating to meth labs involve multiple co-defendants. Each defendant has separate counsel, each requires separate discovery, each tends to file separate pretrial motions and multiple defendant preliminary hearings demand an incredible amount of time of overburdened district courts.

It has become a common tactic for defense attorneys to refuse to stipulate to any witness's

H. Corr. & J.J.
2-21-03
Attachment 5

testimony. The State is put in the position of issuing subpoenas and scheduling witnesses for preliminary hearings. Once defense counsel observes all witnesses are present, the defendant more often than not decides to waive his/her preliminary hearing. While refusing to stipulate to the chain of custody on drugs and laboratory reports before the hearing is scheduled, often the defendant changes his/her mind when the evidence custodian is observed to be present.

The Evidence Custodian for Reno County's law enforcement agencies is Ron Moore, a retired officer of the Hutchinson Police Department. On average, he receives 50 to 60 subpoenas a month to testify regarding information that already exists on the evidence custody receipt associated with physical evidence or laboratory reports. Rarely is he actually required to testify. Instead, he sits on benches outside the doors of the Reno County District Court for hours on any given day while prosecutors, defense attorneys and defendants make last minute decisions about the future of the case. He has become a professional witness. He does not have sufficient time to do the duties of the Evidence Custodian because he is constantly subpoenaed to testify at preliminary hearings.

Amended House Bill No. 2375 is designed to stop this problem. It essentially permits an evidence custody receipt to be admitted as hearsay evidence at a preliminary hearing without requiring an evidence custodian or business records custodian to lay a foundation for its admission. It saves time and frees up needed assets for law enforcement agencies.

The Legislature previously addressed a similar issue when it made forensic laboratory reports admissible hearsay evidence at a preliminary hearing, under K.S.A. 22-2902a. This saved the expense and inconvenience of requiring the laboratory technician to testify at a preliminary hearing. Likewise, Amended House Bill No. 2375 does the same thing for evidence custodians and evidence custody receipts.

The right to a preliminary hearing is purely statutory, therefore general Constitutional privileges or requirements of constitutional due process are not mandatory. At a preliminary hearing, the accused does not have the Constitutional right to confront witnesses. The Constitution does not forbid the States from authorizing the use of hearsay evidence in determining probable cause at a preliminary hearing. Thus, statutes such as K.S.A. 22-2902a (forensic laboratory reports admissible hearsay at a preliminary hearing) and K.S.A. 22-2902 (hearsay statements of children less than 13 years of age admissible at preliminary hearing) have been enacted.

Amended House Bill No. 2375 will not infringe upon a criminal defendant's due process rights and it will free up valuable assets and time for the court system. I wholeheartedly support its passage.

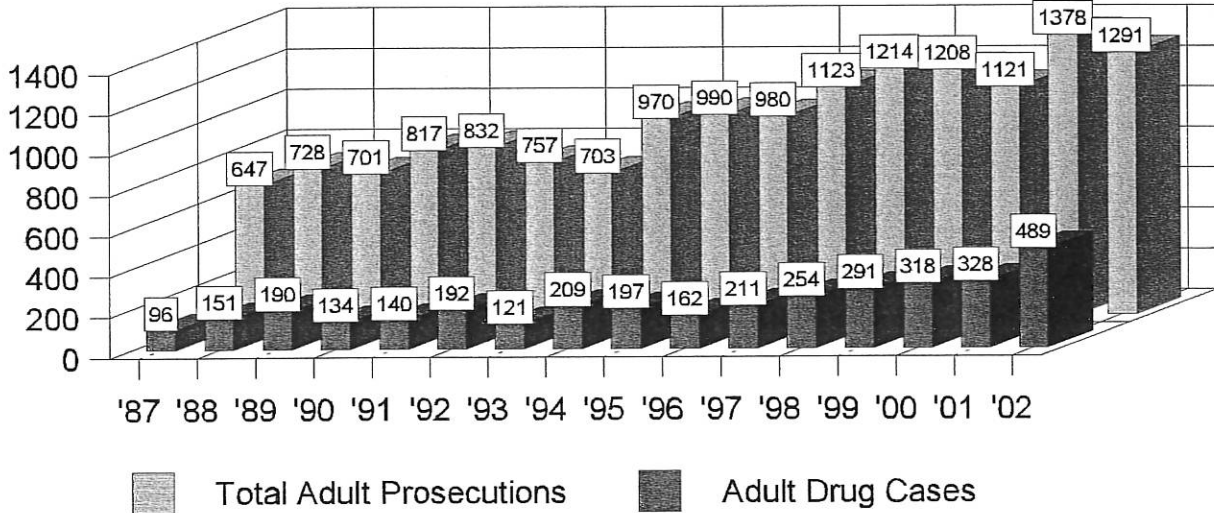
Respectfully Submitted,



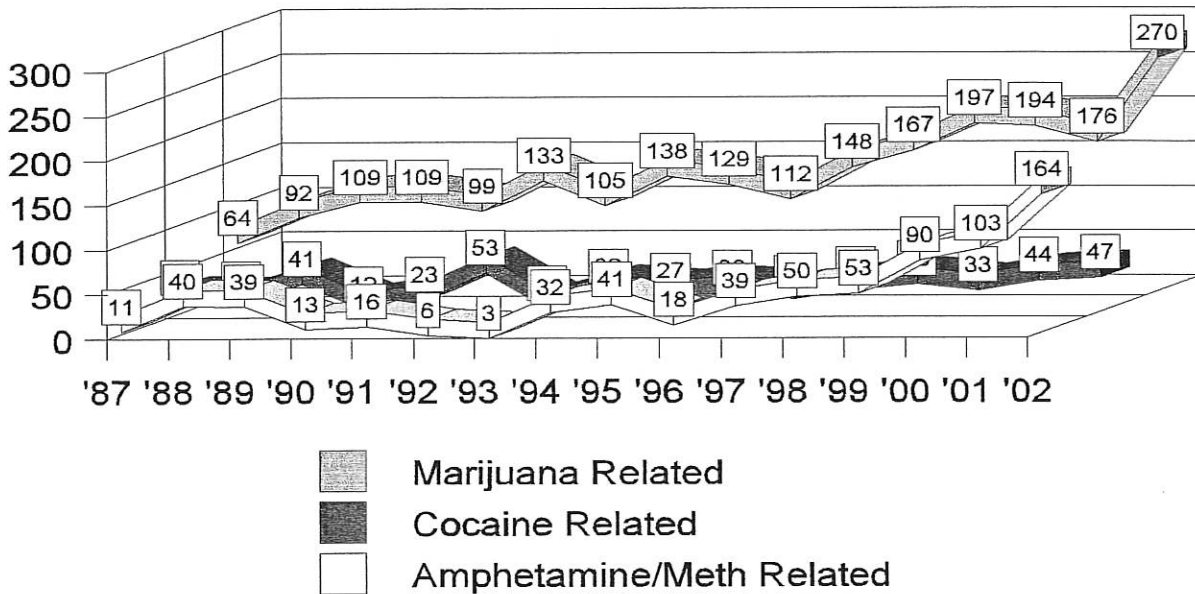
Keith E. Schroeder
Reno County District Attorney

Reno County Prosecution Statistics

Statistics Based On Cases In Which Drug Charges Were Primary Charges Filed



Trends By Most Common Drugs



AMENDED

HOUSE BILL No. 2375

By Committee on Judiciary

2-13

AN ACT concerning criminal procedure; relating to preliminary examinations.

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

Section 1. At any preliminary examination pursuant to K.S.A. 22-2902, and amendments thereto, physical evidence ~~which has a custody receipt attached and~~ *for which there exists an evidence custody receipt showing that such evidence* has been continuously held in the possession or custody of law enforcement officers ~~or~~, law enforcement agencies, *forensic laboratories or the United States Postal Service* since the evidence was seized shall be admissible into evidence in the preliminary examination in the same manner and with the same force and effect as if all law enforcement officers, evidence custodians and forensic examiners involved in the chain of custody had testified in person.

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



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

Testimony in Support of HB 2375

Kyle G. Smith

Before the House Corrections and Juvenile Justice Committee
February 21, 2003

Chairman Lloyd and members of the Committee,

On behalf of the Kansas Bureau of Investigation I am hear today in support of HB 2375, a bill which could save a lot of time and money at not cost to constitutional protections.

Preliminary examinations are designed by statute to verify that that there is probably cause to believe a felony has been committed and that the right person is charged. Probable cause is a fairly low standard of proof, frequently described by the courts as a practical, common sense decision whether, given all the circumstances there is a fair probability that the crime occurred. Probably courts everyday based on hearsay statements in an affidavit for arrest or search warrants commonly determine cause.

It is important to note that these preliminary hearings are an additional statutory safeguard to all of the constitutional protections. In other words, there is no right to a preliminary hearing other than what the legislature deems appropriate.

'Chain of custody' refers to providing at trial evidence about everyone who had access to the evidence from when it was seized until analyzed or brought to the hearing. This can be crucial at times when there is a question of tampering but is normally a boring parade of witnesses who only acknowledge their signatures and testify the evidence wasn't tampered with while in their custody.

H. Corr. & J.J.
2-21-03
Attach ment 6

This bill would allow physical evidence to be admitted, only at preliminary hearing, with out requiring the parade. Real issues, if any, concerning the chain of custody could still be explored during suppression hearings or trial.

Unfortunately cases are frequently continued do to the unavailability of one or more of the members of this parade. This normally causes the case to be continued, as jeopardy hasn't attached so dismissal would only result in the charges being refiled – an even bigger waste of court and attorneys time. Continuances delay justice, frustrate victims and witnesses, and waste valuable court time and resources.

Passage of HB 2375 would allow officers to be out on the street protecting the public rather than waiting to testify and cut down on continuances.

I'd be happy to stand for any questions.

Committee Members

Testimony in Support of House Bill 2375

Paul J. Morrison, District Attorney of the 10th Judicial District

February 21, 2003

Representative Pauls has made me aware of this bill and was kind enough to provide me a copy earlier this week. As a prosecutor who has handled many preliminary hearings over the years, I can tell you that it is most unusual to actually have to put an evidence custodian on to testify at the hearing. Nonetheless, because the current statutes do not allow for it, we still have to call them only to find defense counsel usually stipulates to their testimony once they show up. As you can imagine, this causes great inconvenience and expense for the police agencies who are the custodians of this evidence. The change in the statute is a wonderful idea and will not, in my opinion, impede on any rights of the defendant to have a fair hearing. I would sincerely appreciate your consideration of this bill.

H. Corr is J.J.
2-21-03
Attachment 7

Testimony in Support of HB 2216

Before the House Corrections and Juvenile Justice Committee

Douglas S. Murphy

On behalf of

Kansas Peace Officers Association

And

Quad County Drug task Force

February 21, 2003

Chairman Lloyd and Members of the Committee,

I appreciate the opportunity to appear before this committee today on behalf of the Kansas Peace Officers Association and the Quad County Drug Task Force to express support for HB 2216 which would greatly expand the ability of law enforcement and prosecutors to combat the exposure of the young people of Kansas from the dangers of drug trafficking and drug manufacturing.

Together, you as the enactors of laws and we as the enforcers and prosecutors of laws are charged with providing a service that both protects the citizens of Kansas and which provides a safe environment for them to live in. Especially those persons unable to protect themselves or who are unable to chose the environment in which they live.

Several years ago the legislature enacted the concept of the "drug free school zone" which provided for enhanced sentencing in regards to the sale, distribution and trafficking of controlled substances within 1000 feet of any Kansas school. This enhancement greatly improved the ability of Kansas law enforcement and Kansas prosecutors in attempting to make buffer zones around Kansas schools from drug dealers or, if they continued to deal their within those buffers, the ability to more aggressively prosecute them.

While the previously enacted provisions have helped, we have found that the enhancements are not as all-encompassing as they should be.

HB 2216 was introduced at the request of the legislative committee of the Kansas Peace Officer's Association. However, somewhere between the motion of the committee and the printing of the bill, it lost some of the intended focus and wording intended for your consideration.

H. Corr. & J. J.
2-21-03
Attachment 8

As you consider the proposed amendments of HB 2216 consider that HB 2216 would add the language any "licensed day care, public park, (or) playground" to the two trafficking statutes K.S.A. 65-4161 and K.S.A. 65-4163. The original intent of the committee was to include the language "or in the presence a person under 18 years of age."

While the language was intended to expand the areas where drug dealing would result in enhanced prosecution, it does not ask for any enhancement or upward motion on the severity level of crimes. We feel that the current levels are appropriate but the areas of prohibition should be expanded.

The same language was intended to expand the areas of prohibition for the manufacturing statute K.S.A. 65-54159. Currently, K.S.A. 65-4159 does not provide for any enhancement even for manufacturing within 1000 feet of a school, let alone for doing so within 1000 feet of a "licensed day care, public park, playground or in the presence of a person under 18 years of age."

Manufacturing controlled substances is currently a severity level 1 drug felony. While I personally would like to see the penalty rise to an off-grid felony, our committee agreed to and approved seeking an amendment to the sentencing provisions which would allow the sentencing court to enact an upward departure for manufacturing controlled substances in these proposed protected areas.

At a hearing of HB 2318, this committee heard Assistant Attorney General Kyle Smith discuss the dangers our young people are exposed to with the manufacturing of methamphetamine in their presence. The same arguments and examples apply to the enhancements sought in HB 2216.

There is not a law enforcement officer in Kansas who has conducted drug investigations who cannot attest to the overwhelming number of children who are exposed to the dangers of drug trafficking or manufacturing. I have conducted past and present dug investigations where controlled purchases of drugs were made on school property, and at day care centers, public parks and playgrounds and while children were present. All places where children are commonly present. Places where children should be expected to be. To not enact the provisions of HB 2216 would be to send the message to Kansans and Kansas children that they should avoid places they are normally entitled or expected to be.

In the five counties comprising the Quad County catchment area, most of the cities and towns are small communities. Small communities which are supposed to be the safest communities and where a higher quality of life is the norm and expected. As a result, most of the meth labs and drug deals occurring in these small communities are occurring within the buffer zones surrounding schools, day cares, playgrounds and parks. And, unfortunately, in most of these case, children are actually present during these crimes because it is their parents or guardians who are the ones dealing and manufacturing controlled substances.

Some cases that come to mind are:

- (1) We were purchasing marihuana and meth from a husband and wife whose two year old daughter was present. As the money and drugs were being passed back and forth, the two year old was reaching for them. What kind of life can this toddler be expected to grow into?
- (2) A husband and wife are manufacturing methamphetamine and storing the chemicals and precursors in their home in common areas which their 10 and 12 year old grandchildren have access to. What kind of life can these young people be expected to grow into? What toxins are they being exposed to and what effects will these toxins have on their health and safety?
- (3) The husband of a licensed day care operator was dealing both meth and marihuana from the home-based day care center, both during the hours of operation and after hours. What dangers are the children, both the operators children and those entrusted to the care of the operator? What kind of life can these children be expected to grow into?

One of the major issues facing you as the governing body of our state is the budget and the impact of any statutory changes on the fiscal standing of the state. At first glance and consideration, the proposed amendments would appear to have a potential negative impact on the state's budget by requiring more prison beds. As has been stated previously, dollars – or the lack of - should not dictate policy.

However, while from a statutory standpoint these amendments would appear to have a potential negative impact on the state's budget by requiring more prison beds, in the real world and in practice there would be little impact of the prison bed situation. As you are aware, most people are convicted of lessor crimes because of plea negotiations. The requested enhancements would have more of an effect from the standpoint that they will provide law enforcement and prosecutors with a better stance, a heavier "hammer" if you will, in negotiating pleas with the offenders. Much the same as the current limited wording of "1000 feet of a school" does.

In closing, I would ask that the committee consider three things. One, the level of enhanced protection provided to the young people of Kansas by the amendments provided by HB 2216. Two, to amend and adopt on your own motion the original intent of the proposals approved and requested by the legislative committee of the Kansas Peace Officers Association – "within 1,000 feet of any *licensed day care, public park, playground* or school property upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12, *or in the presence of a person under 18 years of age.*

And, finally, that the eighteen words proposed to amend K.S.A. 65-4159 (manufacturing), K.S.A. 65-4161 (trafficking in Cocaine and methamphetamine) and K.S.A. 65-4163 (trafficking in marihuana and other hallucinogens) would provide for a safer Kansas and a better quality of life for all of our young people.

Thank you for your time and any consideration you may give to this issue. I am willing to answer any questions you may have.

K.S.A. 65-4161
Chapter 65.--PUBLIC HEALTH
Article 41.--CONTROLLED SUBSTANCES

65-4161. Unlawful acts relating to sale or distribution of opiates, opium, narcotic drugs or designated stimulants; penalties; acts within 1,000 feet of school property. (a) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to sell, offer for sale or have in such person's possession with intent to sell, deliver or distribute; prescribe; administer; deliver; distribute; dispense or compound any opiates, opium or narcotic drugs, or any stimulant designated in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107 and amendments thereto. Except as provided in subsections (b), (c) and (d), any person who violates this subsection shall be guilty of a drug severity level 3 felony.

(b) If any person who violates this section has one prior conviction under this section or a conviction for a substantially similar offense from another jurisdiction, then that person shall be guilty of a drug severity level 2 felony.

(c) If any person who violates this section has two or more prior convictions under this section or substantially similar offenses under the laws of another jurisdiction, then such person shall be guilty of a drug severity level 1 felony.

(d) Notwithstanding any other provision of law, upon conviction of any person for a first offense pursuant to subsection (a), such person shall be guilty of a drug severity level 2 felony if such person is 18 or more years of age and the substances involved were possessed with intent to sell, deliver or distribute; sold or offered for sale in or on, or within 1,000 feet of any *licensed day care, public park, playground or school property* upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12, *or in the presence of a person under 18 years of age.*

Nothing in this subsection shall be construed as requiring that school be in session or that classes are actually being held at the time of the offense or that children must be present within the structure or on the property during the time of any alleged criminal act. If the structure or property meets the description above, the actual use of that structure or property at the time alleged shall not be a defense to the crime charged or the sentence imposed.

(e) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

(f) For purposes of the uniform controlled substances act, the prohibitions contained in this section shall apply to controlled substance analogs as defined in subsection (bb) of K.S.A. 65-4101 and amendments thereto.

(g) The provisions of this section shall be part of and supplemental to the uniform controlled substances act.

History: L. 1994, ch. 291, § 86; L. 1994, ch. 338, § 2; July 1

K.S.A. 65-4163
Chapter 65.--PUBLIC HEALTH
Article 41.--CONTROLLED SUBSTANCES

65-4163. Unlawful acts relating to sale or distribution of depressants, stimulants or hallucinogenic drugs or other substances; penalties; acts within 1,000 feet of school property. (a) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to sell, offer for sale or have in such person's possession with the intent to sell, deliver or distribute; cultivate; prescribe; administer; deliver; distribute; dispense or compound:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, and amendments thereto or designated in subsection (g) of K.S.A. 65-4107 and amendments thereto;

(4) any substance designated in subsection (g) of K.S.A. 65-4105, and amendments thereto, and designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto; or

(5) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto.

Except as provided in subsection (b), any person who violates this subsection shall be guilty of a drug severity level 3 felony.

(b) Notwithstanding any other provision of law, upon conviction of any person pursuant to subsection (a) for an offense in which the substances involved were possessed with intent to sell, sold or offered for sale in or on, or within 1,000 feet of any *licensed day care, public park, playground or school* property upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12, *or in the presence of a person under 18 years of age.*

Nothing in this subsection shall be construed as requiring that school be in session or that classes are actually being held at the time of the offense or that children must be present within the structure or on the property during the time of any alleged criminal act. If the structure or property meets the description above, the actual use of that structure or property at the time alleged shall not be a defense to the crime charged or the sentence imposed.

(c) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

(d) For purposes of the uniform controlled substances act, the prohibitions contained in this section shall apply to controlled substance analogs as defined in subsection (bb) of K.S.A. 65-4101 and amendments thereto.

(e) The provisions of this section shall be part of and supplemental to the uniform controlled substances act.

History: L. 1994, ch. 291, S. 88; L. 1994, ch. 338, S. 4; July 1.

(H) The offender manufactured or attempted to manufacture controlled substances in or on, or within 1,000 feet of any licensed day care, public park, playground or school property upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12, or in the presence of a person under 18 years of age.

H. Corr. § J.J.
2-21-03
Attachment 9

HOUSE BILL No. 2016

By Joint Committee on Corrections and Juvenile Justice Oversight

1-14

9 AN ACT concerning the Kansas juvenile justice code; relating to juvenile
10 corrections officers; training and powers and duties thereof; amending _____ and 74-5602
11 K.S.A. 38-1602² and repealing the existing ~~(section)~~ _____
12 _____ sections

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

14 Section 1. K.S.A. 38-1602 is hereby amended to read as follows: 38-
15 1602. As used in this code, unless the context otherwise requires:

16 (a) "Juvenile" means a person 10 or more years of age but less than
17 18 years of age.

18 (b) "Juvenile offender" means a person who commits an offense
19 while a juvenile which if committed by an adult would constitute the
20 commission of a felony or misdemeanor as defined by K.S.A. 21-3105,
21 and amendments thereto, or who violates the provisions of K.S.A. 21-
22 4204a or K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810, and amend-
23 ments thereto, but does not include:

24 (1) A person 14 or more years of age who commits a traffic offense,
25 as defined in subsection (d) of K.S.A. 8-2117, and amendments thereto;

26 (2) a person 16 years of age or over who commits an offense defined
27 in chapter 32 of the Kansas Statutes Annotated;

28 (3) a person under 18 years of age who previously has been:

29 (A) Convicted as an adult under the Kansas code of criminal
30 procedure;

31 (B) sentenced as an adult under the Kansas code of criminal proce-
32 dure following termination of status as an extended jurisdiction juvenile
33 pursuant to K.S.A. 38-16,126, and amendments thereto; or

34 (C) convicted or sentenced as an adult in another state or foreign
35 jurisdiction under substantially similar procedures described in K.S.A. 38-
36 1636, and amendments thereto, or because of attaining the age of majority
37 designated in that state or jurisdiction.

38 (c) "Parent," when used in relation to a juvenile or a juvenile of-
39 fender, includes a guardian, conservator and every person who is by law
40 liable to maintain, care for or support the juvenile.

41 (d) "Law enforcement officer" means any person who by virtue of
42 that person's office or public employment is vested by law with a duty to
43 maintain public order or to make arrests for crimes, whether that duty

9.2

1 extends to all crimes or is limited to specific crimes.

2 (e) "Youth residential facility" means any home, foster home or struc-
3 ture which provides twenty-four-hour-a-day care for juveniles and which
4 is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
5 Annotated.

6 (f) "Juvenile detention facility" means any secure public or private
7 facility which is used for the lawful custody of accused or adjudicated
8 juvenile offenders and which shall not be a jail.

9 (g) "Juvenile correctional facility" means a facility operated by the
10 commissioner for juvenile offenders.

11 (h) "Warrant" means a written order by a judge of the court directed
12 to any law enforcement officer commanding the officer to take into cus-
13 tody the juvenile named or described therein.

14 (i) "Commissioner" means the commissioner of juvenile justice.

15 (j) "Jail" means:

16 (1) An adult jail or lockup; or

17 (2) a facility in the same building as an adult jail or lockup, unless the
18 facility meets all applicable licensure requirements under law and there
19 is (A) total separation of the juvenile and adult facility spatial areas such
20 that there could be no haphazard or accidental contact between juvenile
21 and adult residents in the respective facilities; (B) total separation in all
22 juvenile and adult program activities within the facilities, including rec-
23 reation, education, counseling, health care, dining, sleeping, and general
24 living activities; and (C) separate juvenile and adult staff, including man-
25 agement, security staff and direct care staff such as recreational, educa-
26 tional and counseling.

27 (k) "Court-appointed special advocate" means a responsible adult,
28 other than an attorney appointed pursuant to K.S.A. 38-1606 and amend-
29 ments thereto, who is appointed by the court to represent the best inter-
30 ests of a child, as provided in K.S.A. 38-1606a, and amendments thereto,
31 in a proceeding pursuant to this code.

32 (l) "Juvenile intake and assessment worker" means a responsible
33 adult authorized to perform intake and assessment services as part of the
34 intake and assessment system established pursuant to K.S.A. 75-7023, and
35 amendments thereto.

36 (m) "Institution" means the following institutions: The Atchison ju-
37 venile correctional facility, the Beloit juvenile correctional facility, the
38 Larned juvenile correctional facility and the Topeka juvenile correctional
39 facility.

40 (n) "Sanctions house" means a facility which is operated or structured
41 so as to ensure that all entrances and exits from the facility are under the
42 exclusive control of the staff of the facility, whether or not the person
43 being detained has freedom of movement within the perimeters of the

1 facility, or which relies on locked rooms and buildings, fences, or physical
 2 restraint in order to control the behavior of its residents. Upon an order
 3 from the court, a licensed juvenile detention facility may serve as a sanc-
 4 tions house.

5 (o) "Sentencing risk assessment tool" means an instrument adminis-
 6 tered to juvenile offenders which delivers a score, or group of scores,
 7 describing, but not limited to describing, the juvenile's potential risk to
 8 the community.

9 (p) "Educational institution" means all schools at the elementary and
 10 secondary levels.

11 (q) "Educator" means any administrator, teacher or other profes-
 12 sional or paraprofessional employee of an educational institution who has
 13 exposure to a pupil specified in subsection (a)(1) through (5) of K.S.A.
 14 72-89b03, and amendments thereto.

15 (r) "~~Juvenile corrections officer~~" means ~~[a juvenile corrections officer~~
 16 ~~or juvenile corrections specialist working at a juvenile correctional facility]~~

17 New Sec. 2. (a) The commissioner may adopt rules and regulations
 18 establishing standards of training and provisions for certifying juvenile
 19 corrections officers as defined in K.S.A. 38-1602, and amendments
 20 thereto.

21 (b) Except as provided in subsection (c), no person shall receive a
 22 permanent appointment as a juvenile corrections officer unless awarded
 23 a certificate by the commissioner which attests to satisfactory completion
 24 of a basic course of instruction. Such course of instruction shall be ap-
 25 proved by the commissioner and shall consist of not less than 160 hours
 26 of instruction. The certificate shall be effective during the term of a per-
 27 son's employment, except that any person who has terminated employ-
 28 ment with the commissioner for a period exceeding one year shall be
 29 required to be certified again.

30 (c) The commissioner may award a certificate which attests to the
 31 satisfactory completion of a basic course of instruction to any person who
 32 has been duly certified under the laws of another state or territory if, in
 33 the opinion of the commissioner, the requirements for certification in the
 34 other jurisdiction are equal to or exceed the requirements for certification
 35 in this state. The commissioner may waive any number of hours or courses
 36 required to complete the basic course of instruction for any person who,
 37 in the opinion of the commissioner, has received sufficient training or
 38 experience that such hours of instruction would be unduly burdensome
 39 or duplicitous.

40 (d) Every juvenile corrections officer shall receive ~~40~~ hours of in-
 41 vice training annually. not less than

42 (e) The provisions of this section shall be part of and supplemental
 43 to the Kansas juvenile justice code.

a certified employee of the juvenile justice authority working at a
 juvenile correctional facility assigned by the commissioner with
 responsibility for maintaining custody, security and control of
 juveniles in the custody of the commissioner at a juvenile
 correctional facility

1 New Sec. 3. (a) The superintendent of any juvenile correctional fa-
 2 cility operated by the commissioner, all persons on the staff of the juvenile
 3 justice authority who are in the chain of command from the commissioner
 4 of juvenile justice to the juvenile corrections officer and every juvenile
 5 corrections officer, regardless of rank, while acting within the scope of
 6 their duties as employees of the juvenile justice authority, shall possess
 7 such powers and duties of a law enforcement officer as are necessary for
 8 performing such duties and may exercise such powers and duties any-
 9 where within the state of Kansas. Such powers and duties may be exer-
 10 cised outside the state of Kansas for the purpose of maintaining custody,
 11 security and control of any person in the custody of the commissioner
 12 being transported or escorted by anyone authorized to so act. Such em-
 13 ployees of the juvenile justice authority shall be responsible to and shall
 14 be at all times under the supervision and control of the commissioner of
 15 juvenile justice or the commissioner's designee.

and every investigator

for the purpose of regaining or maintaining custody, security and control of any person in the custody of the commissioner

16 (b) The provisions of this section shall be part of and supplemental
 17 to the Kansas juvenile justice code.

18 Sec. 4. K.S.A. 38-1602 (a) hereby repealed.

Insert Sec. 4. K.S.A. 74-5602 [see attached]
 Renumber remaining sections accordingly.

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

and 74-5602 are

Sec. 4. K.S.A. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Commission" means the Kansas law enforcement training commission, created by K.S.A. 74-5606 and amendments thereto.

(c) "Dean" means the dean of the division of continuing education of the university of Kansas.

(d) "Director," as created in K.S.A. 74-5603 and amendments thereto, means the director of police training at the law enforcement training center.

(e) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858 and amendments thereto; conservation officers of the Kansas department of wildlife and parks; campus police officers at all state educational institutions or a municipal university; law enforcement agents of the director of alcoholic beverage control; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol area security guards, existing under the authority of K.S.A. 75-4503 and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524 and amendments thereto; and school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222 and amendments thereto. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the commissioner of juvenile justice, the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person's office or employment. Such term shall include any officer appointed or elected on a provisional basis.

(f) "Full-time" means employment requiring at least 1,000 hours of work per year.

(g) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of work per year.

(h) "Misdemeanor crime of domestic violence" means a violation of domestic battery as provided by K.S.A. 2002 Supp. 21-3412a and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

(i) "Auxiliary personnel" means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.