

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on March 13, 2003, in Room 123-S of the Capitol.

All members were present except: Senator Schmidt (E)

Committee staff present: Mike Heim, Kansas Legislative Research Department  
Lisa Montgomery, Office of the Revisor of Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Kyle Smith, KBI  
Representative Jeff Goering  
Representative Dean Newton  
Representative Sidney Carlin  
Bill Kennedy, Riley County Attorney  
Chris Biggs, Geary County Attorney  
Paul Morrison, Johnson County District Attorney  
Lt. Col. Keith Faddis, Overland Park Chief of Police  
Frank Denning, Undersheriff, Johnson County  
Ellen Henson, Chief of Police, Lenexa (written only)  
Marlee Carpenter, Kansas Chamber of Commerce and Kansas Retail Council

Others attending: see attached list

**HB 2138 - Forensic examinations; certification procedures**

Chairman Vratil opened the hearing on **HB 2138**. Kyle Smith testified in support of **HB 2138**. He said this bill makes a procedural change in the statute that controls the admission of certified forensic exams, K.S.A. 22-3437. Mr. Smith explained that the requested change would require certificates and underlying reports be served at least 15 days prior to any hearing, therefore giving the defense time to review the reports. The change would still allow for a different time line in misdemeanor versus felony cases. Mr. Smith stated that this is 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. (Attachment 1)

Having no other conferees appearing before the Committee on this proposed legislation, the Chair closed the hearing on **HB 2138**.

**HB 2165 - Civil liability for worthless checks, definition of giving a worthless check**

Chairman Vratil opened the hearing on **HB 2165**. Representative Jeff Goering appeared before the Committee to speak in support of **HB 2165**. He explained that the proposed bill would revise the current definition of "giving a worthless check" as found in K.S.A. 60-2610(h), and would correct a technical glitch. Representative Goering said the problem lies in the provision that addresses pre-existing debt, and believed the best way to fix it was to simply eliminate that part of the statute that addresses the payment of pre-existing debt. (Attachment 2)

Following Committee questions and discussion, the Chair closed the hearing on **HB 2165**.

**HB 2271 - Certain crimes against property, raising \$500 threshold to \$2,000**

Chairman Vratil opened the hearing on **HB 2271**. Representative Dean Newton testified in support of **HB 2271**, and stated that the legislation was supported by district attorneys, county attorneys, chiefs of police, sheriffs, and other members of the law enforcement community. Representative Newton explained that the legislation would change the law to make it a severity level 5, non-person felony if a person steals more than \$100,000. He said the theft of property or services of at least \$25,000 but less than \$100,000 would remain a severity level 7, non-person felony offense. Representative Newton added that the proposed change in the law would make it more likely that major criminals will receive prison time rather than a slap on the wrist. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on March 13, 2003 in Room 123-S of the Capitol.

Representative Sidney Carlin testified in favor of **HB 2271**. She explained how the bill would change Kansas theft law, and stated it continues to be good public policy to ensure that prison space is reserved for those individuals that cause the greatest harm to our communities. Representative Carlin said that the Kansas Sentencing Commission has estimated that **HB 2271** would save up to 47 beds in FY 2004. (Attachment 4)

Committee question concerned a bed space impact report that was unavailable at the time of the hearing.

Bill Kennedy, Riley County Attorney, appeared before the Committee in support of **HB 2271**, and stated he saw the bill as a savings in several areas. Mr. Kennedy said that changing the threshold to \$1,000 will eventually lower the prison population by changing criminal history, and will enormously lower the costs of prosecution. He stated that most counties and District Attorneys are swamped with felonies. The bill would reduce the size of juries from 12 jurors to 6. (Attachment 5)

The Chairman noted that the limit on theft had not been increased since 1988, and so it is due for a change. Questions from Committee members concerned the availability of bed space at the local levels through the state, and that budgets have been reduced in the counties.

Chris Biggs, Geary County Attorney, testified in favor of **HB 2271**. Mr. Biggs explained that the bill proposes a presumptive prison sanction for theft over \$100,000 and raises the threshold for felony theft to \$1,000. He said the bill also creates a level five non-person felony for the most serious level of theft—a real sanction for these crimes. Mr. Biggs stated that the bill strikes a nice balance, and will not cost the state additional prison beds to punish the most serious offenders. (Attachment 6)

Paul Morrison, Johnson County District Attorney, testified in strong support of **HB 2271**. He urged the Committee to put more teeth in the laws affecting people who commit large scale thefts. Mr. Morrison said the impact on the state correctional system will be minimal, and the number of trials will decline. He further stated that there would be a net savings on bed space with the passage of **HB 2271**. (Attachment 7)

Lt. Colonel Faddis, Overland Park Police Department, spoke in favor of **HB 2271**. He testified about the impact of heavy caseloads and that cases vary greatly in how the crimes are carried out. Mr. Faddis stated that the bill would help get cases worked faster. (Attachment 8)

Frank Denning, Johnson County Undersheriff, submitted written testimony in support of **HB 2271**. (Attachment 9)

Ellen Henson, Chief of Police, Lenexa, KS, submitted written testimony in support of **HB 2271**. (Attachment 10)

Marlee Carpenter, Kansas Chamber of Commerce and Industry (KCCI) and the Kansas Retail Council (KRC), testified as a neutral conferee for increasing the felony theft limit to \$1,000. Ms. Carpenter explained that the bill was introduced in the House with a felony theft limit of \$2,000, and KCCI and KRC opposed the increase as well as **SB 171** here in the Senate. She said the Kansas Retail Council Board of Directors reviewed their theft policy last year and reaffirmed their support for additional retail theft penalties. Ms. Carpenter stated **HB 2271** weakens theft penalties in Kansas, but in pursuit to ensure the felony theft threshold is not increased to \$2,000, the KRC Board worked with the sponsors of the bills and came to a compromise. She added they also requested that the worthless check portion of the bill be struck and the felony threshold remain at \$500. (Attachment 11)

Following Committee questions and discussion, the Chair closed the hearing on **HB 2271**.

**Final action on:**

**SB 195 - Kansas Parole Board; membership reduced to three**

Chairman Vratil reviewed **SB 195**, which decreases the membership of the Parole Board from four to three, and provides that the term of office commence on January 15 of the year the members are appointed.

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on March 13, 2003 in Room 123-S of the Capitol.

Senator Oleen said she had requested information from staff about the confirmation process and how the process fits in the statute. Mr. Heim, Legislative Research, reported that he had visited with Theresa Kiernan of the Revisor's Office, and they agreed that lines 34 through 40 were really not needed, and could be deleted as a technical amendment because it is redundant language.

Senator Oleen made a motion to amend out the unnecessary language on page 1, lines 34 through 40. The motion was seconded by Senator Donovan, and the motion carried.

Senator O'Connor moved to delete lines 18 through 27 on page 2, as unnecessary language. The motion was seconded by Senator Goodwin, and the motion carried.

Senator Haley moved to change the date of publication from the statute book and have it published in the Register, seconded by Senator Oleen, and the motion carried.

Senator Donovan made a motion to recommend this bill favorably as amended, seconded by Senator O'Connor, and the motion carried.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is March 14, 2003.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 13, 2003

NAME	REPRESENTING
Rebecca Zepick	Federico Consulting
Michelle West	KC DAA
Marilee Cooper	KCCI
KEITH FADDIS	OVERLAND PARK POLICE
Paul Morrison	JS Co D.A
Kyle Smith	KBT
CARL ANDERSON	KBI
Bill Kennedy	Riley County Atty
Sydney Carlin	Rep 66 <sup>th</sup>
JEAN NEWTON	21 <sup>st</sup> DISTRICT M.D.
KATHY OLSEN	Ks Bankers Assn.
Denise Everhart	JJA
Jacky mes	KSC
Patricia Colover	OSA
Ruby Dougherty	Sen Umbarger
Doug Smith	Pinegar, Smith & Associates
ED JASKINIA	THE ASSOCIATED LANDLORDS OF KANSAS
Sharon Gilsinger	League of Women Voters - Wichita
Linnea R. Anderson	League of Women Voters - Wichita







## Kansas Bureau of Investigation

Larry Welch  
*Director*

Phill Kline  
*Attorney General*

### Testimony in Support of HB 2138

Kyle G. Smith  
Before the Senate Judiciary Committee  
March 13, 2003

Chairman Vratil 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.

Senate Judiciary  
3-13-03  
Attachment 1-1

**TESTIMONY  
SENATE JUDICIARY COMMITTEE  
FEBRUARY 12, 2003  
HB 2165**

Mr. Chairman and members of the Judiciary Committee:

Thank you for the opportunity to come before you today and speak in support of HB 2165. HB2165 revises the current definition of "giving a worthless check" as found in K.S.A. 60-2610(h). Before I discuss what this bill does, let me first describe the problem with the current definition.

K.S.A. 60-2610(h) currently states:

"As used in this section, 'giving a worthless check' means the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent:

(1) With the intent to defraud or in payment for pre-existing debt; or

(2) Which is dishonored by the drawee because the maker or drawer had no deposits in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation; and

(3) for which the maker or drawer has not tendered to the holder's agent the amount of money demanded and within the time allowed by the demand required in subsection (b)."

The problem with K.S.A. 60-2610(h) lies in that provision that addresses pre-existing debt. As currently drafted, K.S.A. 60-2610(h) defines "giving a worthless check" as the making or delivering of a check on any bank for the payment of a pre-existing debt. There is no requirement that the check actually bounce, or be dishonored by the drawee bank due to insufficient funds.

The difficulty this creates is in the area of checks that are not honored due to stop payment orders. I have had cases where clients were sued under the bad check statute because checks were tendered for payment of pre-existing debts which were subsequently subject to stop pay orders. I do not believe that was the intent of the legislature.

I have reviewed the legislative history of this statute. In one of its prior forms, "giving a worthless check" was defined as giving a check "with the intent to defraud or in payment of a pre-existing debt; *and* which is dishonored by the drawee . . ." In discussing the history of the statute with the collection bar, I understand that the statute was amended in an effort to simplify the statute to define "giving a worthless check" to simply mean any check which is dishonored by the drawee bank due to insufficient funds. This was accomplished by changing the word "and" in section (h)(1) to "or." While this accomplished the goal of the collection bar, the result was the creation of the problem described above.

This problem can be resolved in one of two ways. A requirement that a check tendered in payment of a pre-existing debt be dishonored could be inserted which would solve the problem. However, this would seem to me that this would be redundant to the language which already exists in section (h)(3).

It seems to me that the definition of giving a worthless check is already provided in section (h)(3). This being the case, I believe the better fix is to simply eliminate that part of the statute that addresses the payment of a pre-existing debt, which is what this bill does.

Jeff Goering  
Representative-105th District



IAN NEWTON  
 REPRESENTATIVE, 21ST DISTRICT  
 4808 WEST 77TH TERRACE  
 PRAIRIE VILLAGE, KS 66208  
 (913) 384-0490  
 dnewton@kc.rr.com



COMMITTEE ASSIGNMENT  
 MEMBER: APPROPRIATIONS  
 EDUCATION AND LEGISLATIVE  
 BUDGET  
 JUDICIARY

ROOM 115-S, STATEHOUSE  
 TOPEKA, KANSAS 66612-1504  
 (785) 296-7682  
 newton@house.state.ks.us

TOPEKA

HOUSE OF  
 REPRESENTATIVES

March 13, 2003

The Honorable John Vratil  
 Chair, Senate Judiciary Committee  
 State Capitol, Room 255-E  
 Topeka, KS 66612

Senator Vratil and Members of the Senate Judiciary Committee:

Thank you for the opportunity to appear before you as a proponent of HB 2271. This legislation is supported by district attorneys, county attorneys, chiefs of police, sheriffs and other members of the law enforcement community, several of whom are testifying today.

There is a glaring inconsistency in the criminal code that this legislation attempts to remedy. The loophole allows criminals who commit major felonies to simply receive a slap on the wrist under the law. Basically, under the current criminal code a person who steals \$25,000 in money from a convenience store and a person who steals \$20 million through fraud or embezzlement are subject to the same penalty under the law: a severity level 7, nonperson felony. The practical effect of this fact is that both individuals receive only presumptive probation.

This legislation changes the law to make it a severity level 5, nonperson felony if a person steals more than \$100,000. The theft of property or services of at least \$25,000 but less than \$100,000 remains a severity level 7, non-person felony offense.

The change in the law makes it much more likely that these major criminals will receive prison time rather than a slap on the wrist. Most importantly, the loophole is eliminated with no impact on prison beds.

The punishment simply does not fit the crime in these instances and I urge your support for this bill. Criminals who commit these major felonies belong in prison and not on the streets.

Senate Judiciary  
3-13-03  
 Attachment 3-1

**Sydney Carlin**  
 REPRESENTATIVE, 66TH DISTRICT  
 1650 Sunny Slope Lane  
 Manhattan, Kansas 66502  
 785-539-6612  
 State Capitol, 272-W  
 Topeka, KS 66612-1504  
 785-296-7650



HOUSE OF  
 REPRESENTATIVES

**Committee Assignments:**  
 Business, Commerce & Labor  
 Corrections & Juvenile Justice  
 Higher Education  
 Economic Development  
 Select Committee on Kansas Security

March 12, 2003

Thank you Mr. Chairman for inviting me to testify in favor of House Bill 2271. HB 2271 changes Kansas theft law in three significant ways. 1. Establishes a new classification under the sentencing grid for thefts in an amount of \$100,000 or greater. This crime would be a non-person felony, severity level 5, presumptive prison. 2. Changes the felony theft threshold from \$500.00 to \$1,000.00. Felony theft in an amount from \$1,000 to \$100,000 would still remain a non-person felony, severity level 9, presumptive probation. 3. Provides additional punishment for repetitive thieves. After a second conviction of theft, regardless of value, the third conviction would be a non-person felony, severity level 9.

HB 2271 continues the good public policy of insuring that prison space is reserved for those individuals that cause the greatest harm to our communities. HB 2271 provides presumptive prison for those who steal significantly higher amounts and cause the greatest economic disruption. It attacks the problem of repeat offenders and it updates the threshold amount for felony theft. This legislation also frees up prison bed space.

Before I came to the legislature, I served on the Manhattan City Commission and was elected Mayor. For 3 years I was a member of the Law Advisory Board, which oversees the Riley County Consolidated Law Enforcement. I was involved with the construction of our new Law Enforcement Center and Jail.

HB 2271 came about after Riley County Attorney Bill Kennedy shared with me and the other members of our Flint Hills Area Delegation the problems his office had prosecuting thefts. It was agreed that legislation would be introduced to alleviate some of the pressures on our county attorneys, the courts, and the prison system.

HB2271 proposes to raise threshold amount for felony theft from the current \$500 to \$1000. This change was the result of negotiations and was arrived at based on many factors including the replacement costs of property lost at current values and the cost of bringing these persons to a jury trial.

Senate Judiciary

3-13-03

Attachment 4-1

The bill also provides for presumptive prison sentences for those convicted of theft involving \$100,000 and greater, which is not available under current law.

HB 2271 provides additional punishment for repetitive thieves, by making three time thieves subject to felony prosecution regardless of the value involved.

The Kansas Sentencing Commission has estimated that HB 2271 would save up to 47 beds in FY 2004.

Thank you

*Sydney Carlin*  
*Rep. 66<sup>th</sup> District*

**TESTIMONY OF WILLIAM E. KENNEDY III, RILEY COUNTY ATTORNEY,  
CONCERNING HOUSE BILL 2271**

I suggest that the threshold cost of felonies in various nonperson statutes be increased from the current threshold of \$500.00 to a threshold of \$1,000.00. In the last twenty (20) years, this figure has moved from \$50.00 to \$100.00 to \$150.00 to \$500.00. It has been at the \$500.00 level since 1988.

Prosecutors should prosecute with an eye toward the best interest of the State of Kansas, the victim, and the Defendant in that order. In many cases, there is nothing to be gained for the State of Kansas by convicting someone as a felon. It simply does the rest of us no good.

Changing the threshold to \$1,000.00 will eventually lower the prison population by changing criminal history.

Changing the threshold to \$1,000.00 will enormously lower the costs of prosecution. Currently a person charged with Theft over \$500.00 is entitled to a jury trial with twelve (12) jurors, requiring a panel of thirty-four (34) potential jurors in order to pick twelve. Experience shows you have to summons approximately forty-five (45) in order to get thirty-four (34) actual jurors. On the other hand, a misdemeanor jury of six (6) requires only eighteen (18) potential jurors to report. Further, a person charged with a felony has a right to a preliminary examination. These require the presence of the victim, testimony, court time, preparation time and most often police officers on overtime. It is expensive and time consuming. Victims don't like to come to court.

As the felony grid, K.S.A. 21-4704a, and the misdemeanor sentencing statute K.S.A. 21-4502 interrelate, a Court can sentence a first time misdemeanor theft Defendant to a year in jail, while if a person is convicted of theft between \$500.00 and \$25,000.00, that is a Severity Level IX crime and even a person with three or more nonperson felonies in their background can only be sentenced to eleven (11) months on a new conviction for Felony Theft. Conversely a first time Defendant convicted of Felony Theft will generally receive the recommended sentence of six (6) months. Conviction of misdemeanors is quicker and much more sure.

Senate Judiciary

3-13-03  
Attachment 5-1

March 13, 2003

Testimony  
House Bill 2271  
Chris Biggs  
Geary County Attorney

I am here today to testify in favor of House Bill 2271, which proposes a presumptive prison sanction for theft over \$100,000.00 and raises the threshold for felony theft to \$1,000.00. The bill creates a level five non-person felony for the most serious level of theft -- a real sanction for these crimes.

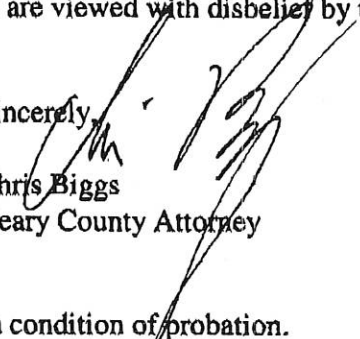
This bill strikes a nice balance. It will not cost the state additional prison beds to punish the most serious offenders, because it is combined with raising the threshold to \$1,000.00 for a level 9 felony theft, which will save beds.

Property offenders are a constant frustration for prosecutors and victims. These offenders know there is no risk to them, even for felony crimes. I have heard them laughing on the courthouse steps about the fact that they routinely receive probation under our sentencing guidelines. Right now in Kansas, you can steal 10 million dollars, spend it before you get caught, and receive probation for 12 months. Your probation cannot be revoked for failure to pay the money back unless it is shown that nonpayment is willful -- meaning you have a job and can pay it back. See, *Bearden v. Georgia*, 461 U.S. 660, 103 S.Ct. 2064, 76 L.Ed.2d 221 (1983). Once off of probation, you can again commit such a crime without risk of punishment.\* In reality, property offenders rarely go to prison, and only for repeated violations of probation.

This bill also addresses an inequity in our criminal code. Hypothetical: An unsophisticated criminal snatches an elderly woman's purse and is convicted of robbery and sent to prison for this level five person felony. K.S.A. 21-3426. A forger who obtains her checkbook and passes five dollar forged checks does face mandatory county jail time for repeat offenses. K.S.A. 21-3710. A sophisticated white-collar criminal who steals one million dollars from her account gets probation. Amazingly, if the elderly woman wrote a bad check on her own account, she could theoretically get one year in the county jail without a presumption of probation. (We wonder why our criminal laws are viewed with disbelief by the public!)

I urge passage of this bill.

Sincerely,

  
Chris Biggs  
Geary County Attorney

\* a court can impose a 60 day jail sentence as a condition of probation.

Senate Judiciary

3-13-03

Attachment 6-1

STATE OF KANSAS  
Tenth Judicial District

**OFFICE OF DISTRICT ATTORNEY**  
PAUL J. MORRISON, DISTRICT ATTORNEY

**Testimony in Support of House Bill 2271**

March 13, 2003

I am here today to show my strong support for this bill, which makes thefts of \$100,000 or more a serious felony. I also understand that this raises the threshold amount for felony from \$500 to \$1,000. As most of you are aware, felony theft in Kansas is currently either a severity level 7 (\$25,000 or more) or a severity level 9 (under \$25,000). As such, most felony thefts are relegated to the lower rungs on the severity scale. This is usually appropriate. However, we are beginning to see these "big" thefts with increasing frequency. Unfortunately, I've often been amazed at how little consequences there are for individuals who can steal hundreds of thousands of dollars compared to the petty "street criminal" who oftentimes does massive prison time (appropriately I might add) for stealing a few dollars.

Unfortunately, in years past the federal authorities were usually able to prosecute these cases. Due, however, to their limited capacity, these cases are increasingly falling on county and district attorneys to prosecute. Here are a couple of example from our county within the last two years:

1. Several members of a family took advantage of a 77 year old widow and were convicted of stealing over \$700,000 from her.
2. A boat dealer used a fraudulent financing scheme to steal over \$1.3 million dollars from several consumers and banks. He was convicted of felony theft.
3. A "consulting firm" which advertised heavily for consumers to submit ideas for inventions stole more than \$600,000 from Kansas consumers. This firm, which operated nationally, has stolen millions and millions of dollars from individuals throughout the nation. They were convicted of felony theft.
4. Our office is currently preparing to file theft charges against an investment counselor who stole over \$100,000 in retirement funds from various individuals. Some people lost the vast majority of their retirement savings. It will be a felony theft case.

In all the above mentioned cases, the defendants were convicted of low grade felony thefts. As a severity level 7 felony, most faced no more than six to twelve months in state custody. Most were eligible for presumptive probation. Frankly, for thefts of this size these sentences are an outrage. I urge you to put some more teeth in these laws for people who commit large scale thefts. The impact on the state correctional system will be minimal.

In fact, it's my understanding that if the threshold amount for felony theft is increased, it will more than offset any increase in bed space caused by raising of the penalty for these big thefts to a level 5.

Senate Judiciary  
3-13-03  
Attachment 7-1





Police Department

John M. Douglass, Chief of Police

W. Jack Sanders Justice Center  
12400 Foster  
Overland Park, Kansas 66213  
913/895-6000 • Emergency 911  
www.opkansas.org

Testimony Before  
The Senate Judiciary Committee  
Regarding  
Sentencing  
House Bill 2271

March 13, 2003

The Overland Park Police Department supports the changes to sentencing as recommended in House Bill 2271. Overland park currently has two detectives assigned to investigate financial crimes. Due to the caseload it is often necessary to call on other detectives to assist. I spoke with those detectives prior to coming here and they provided me with some interesting information. They estimated that it is not uncommon to investigate cases that involve losses greater than \$100,000. The cases vary greatly in how the crime was carried out. One case involved a small business and the bookkeeper. Over a three-year period the bookkeeper stole \$196,000 from her company. In another case one individual was responsible for a check scam that netted over \$400,000. The most recent involved a person who was caring for an elderly individual and the caretaker systematically withdrew several hundred thousand dollars from the account.

In the past cases of this magnitude would be moved to the federal jurisdiction. However, the FBI, IRS and Secret Service have set thresholds on the dollar loss before they will open a federal case. Even then it takes a significant amount of time before the case goes to court. It is our belief that the faster we can present a case for prosecution, the greater likelihood of preventing additional crimes. We can get a case to trial in the District Court in Johnson County quicker than federal court. Our investigators will spend many hours developing a case and presenting it for prosecution. It is frustrating for the investigators to put effort into a case with such a significant dollar loss and know that the suspect may be facing only probation. It is more frustrating to the victim who has just suffered a tremendous loss to see the suspect only receive probation.

Thank you for your consideration.

Lt. Colonel Faddis  
Overland Park Police Department

Senate Judiciary

3-13-03  
Attachment 8-1



OFFICE OF THE  
Johnson County Sheriff

Courthouse  
125 N. Cherry  
Olathe, KS 66061

Telephone  
913-791-5800  
Fax  
913-791-5806

**John Foster**  
Sheriff

March 11<sup>th</sup>, 2003

State of Kansas Capitol Building  
**Attn: Senator John Vratil**  
Judiciary Committee Chairperson  
Room 255-E  
Topeka, KS 66612-1504

Re: Letter of Support - House Bill No. 2271

Dear Senator Vratil:

I, Undersheriff Frank Denning, of the Johnson County Sheriff's Office, submit this letter in support of House Bill No. 2271. With the continued increase in value of consumer goods, the proposed changes in this house bill offer the citizens of Johnson County and the Great State of Kansas, the ability to make violators more accountable for their actions when committing acts of the thievery.


The ever present threat of "white collar" crimes being committed has demonstrated a need for stronger penalties for these offenders. These types of crimes usually are committed by persons of above average intelligence and are usually in a position of trust, related to the victim(s).

Offenders that are willing to commit, or contemplate committing, theft crimes that exceed one hundred thousand dollars, will have a higher degree of awareness for the punishment potential, that the state statute prescribes, than the typical law violator would have. With the knowledge that committing a crime of this magnitude carries, the offender will most likely know that the potential punishment for this behavior will carry a presumptive imprisonment term instead of presumptive probation. This house bill proposes to act as a strong deterrent to this type of criminal activity.

I also support raising the value threshold from \$500 to \$1,000 before a theft becomes a felony. This will help prevent overcrowding of the state prisons for offenses that can be adequately dealt with at the local and/or county level.

As representative of the Johnson County Sheriff's Office, I offer this letter in support of House Bill No. 2271. This bill brings about greater accountability from the persons committing these crimes and to all of the citizens of the Great State of Kansas who ultimately bear the financial burden.

Sincerely,

  
Undersheriff Frank Denning  
FD/ers

Senate Judiciary

3-13-03  
Attachment 9-1

EN T. HANSON - CHIEF OF POLICE



12500 WEST 87TH STREET PARK  
LENEXA, KANSAS 66215  
OFFICE • 913/477-7300  
FAX • 913/888-8690

Testimony of Ellen T. Hanson  
Chief of Police, Lenexa, Kansas Police Department

Before the Kansas Senate Judiciary Committee

March 13, 2003

In Support of HB 2271

MR. CHAIRMAN, ladies and gentlemen of the committee, I thank you for holding this hearing and for the opportunity to address you regarding **House Bill 2271**. As a Chief of Police, a law enforcement officer and as a citizen of Kansas I feel early passage of this important legislation is critical to the equitable protection of our individual and corporate citizens as well as to the just and proportionate application of our laws on those who would violate them.

House Bill 2271 fills an obvious deficiency in the current Statutes. There are thieves and then there are thieves who go to extraordinary lengths to steal. Today's world offers very sophisticated tools, cyber-tools among them, which equip the dedicated thief with a full toolbox of instrumentalities to operate with near impunity for varying periods of time. Only a short time is typically needed to raid accounts or place lavish and costly orders for goods using an actual identity

Senate Judiciary

3-13-03

Attachment 10-1

stolen from someone or by establishing a false identity. False identification, realistic financial instruments, and virtual hideouts are easily fabricated by even marginally talented but motivated thieves. A computer mouse and an inexpensive software program are much more effective than a gun and a getaway car.

The theft statute, as currently written, contemplates no difference in terms of sentencing between *petit* larceny and *grand* larceny. It seems a common sense measure to add a proportionally higher sentence for a significant theft, and HB 2271 does that in a reasonable and effective manner. Moving the threshold for felony crimes from \$500 to \$1,000 which is a reasonable amount that sends a clear signal that all felony crimes are serious. This bill also allows for a very distinct differentiation between a simple felony and a complicated multi-thousand dollar fraud.

Law Enforcement and prosecutorial resources are becoming very limited; budget cuts across the state will have a clear impact on how resources will be allotted. The significant resources required to investigate and prosecute high end frauds and computer crimes should not be wasted if the penalties are so light as to allow the offender a quick opportunity to re-offend.

It is my request and with my strongest recommendation that I ask you to quickly pass HB 2271 out of committee with a favorable recommendation for early passage. Give law enforcement and the courts the updated tools we need deal

more effectively with this evolving attack on the safety and security of our citizens and their property.

Thank you for your kind attention and for your service to the State of Kansas.

10-3

# LEGISLATIVE TESTIMONY



*The Unified Voice of Business*

835 SW Topeka Blvd. • Topeka, KS 66612-1671 • 785-357-6321 • Fax: 785-357-4732 • E-mail: [kcci@kansaschamber.org](mailto:kcci@kansaschamber.org) • [www.kansaschamber.org](http://www.kansaschamber.org)

## HB 2271

March 13, 2003

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony before the Senate Judiciary Committee  
By Marlee Carpenter, Executive Director, Kansas Retail Council

Chairman Vratil and members of the Committee:

I am Marlee Carpenter with the Kansas Chamber of Commerce and Industry and the Kansas Retail Council representing more than 700 retailers in the state of Kansas. We are here testifying as a neutral party to HB 2271, increasing the felony theft limit to \$1,000. This bill was introduced in the House with a felony theft limit of \$2,000. We opposed that increase as well as SB 171 here in the Senate. The Kansas Retail Council Board of Directors reviewed their theft policy last year and reaffirmed their support for additional retail theft penalties. HB 2271, we believe, weakens theft penalties in Kansas, but in pursuit to ensure the felony theft threshold is not increased to \$2,000 we have worked with the sponsors of these bills and come to this compromise. We also requested that the worthless check portion of the bill be struck and the felony threshold remain at \$500.

The reasons KRC and the Kansas Chamber originally opposed SB 171 and oppose increasing the felony theft threshold above \$1,000 is simple: Nebraska, Colorado, Oklahoma, Iowa, Missouri and Arkansas all have a felony theft level of \$500, the same as is presently on the books in Kansas. An increase would attract thieves and professional boosters from our neighboring states that have lower theft limits. I have attached a list of states and their felony theft levels.

Increasing the level of a felony theft above \$1,000 is of great concern to retailers across the state. The Kansas Chamber and the KRC oppose any increase above the \$1,000 limit stated in HB 2271. Thank you for your time and I will be happy to answer any questions.

### **About the Kansas Chamber of Commerce and Industry**

The Kansas Chamber of Commerce and Industry (KCCI) is the leading broad-based business organization in Kansas. KCCI is dedicated to the promotion of economic growth and job creation and to the protection and support of the private competitive enterprise system.

Senate Judiciary  
3-13-03  
Attachment 11-1



KCCI is comprised of nearly 2,000 businesses, which includes 200 local and regional chambers of commerce and trade organizations that represent more than 161,000 business men and women. The organization represents both large and small employers in Kansas. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

11-2

FELONY THEFT LEVELS		11/05/2002	
STATES	AMT PER STATE		
Alabama	\$ 250.00		
Alaska	\$ 500.00		
Arizona	\$ 250.00		
Arkansas	\$ 500.00		
California	\$ 400.00		
Colorado	\$ 500.00		
Connecticut	\$ 1,000.00		
Delaware	\$ 1,000.00		
Florida	\$ 300.00		
Georgia	\$ 300.00		
Hawaii	\$ 300.00		
Idaho	\$ 1,000.00		
Illinois	\$ 150.00		
Indiana	theft is a Class D felony, regardless of amt		
Iowa	\$ 500.00		
Kansas	\$ 500.00		
Kentucky	\$ 400.00		
Louisiana	\$ 300.00		
Maine	\$ 1,000.00		
Maryland	\$ 500.00		
Massachusetts	\$ 250.00		
Michigan	\$ 1,000.00		
Minnesota	\$ 250.00		
Mississippi	\$ 250.00		
Missouri	\$ 500.00		
Montana	\$ 1,000.00		
Nebraska	\$ 500.00		
Nevada	\$ 250.00		
New Hampshire	\$ 500.00		
New Jersey	\$ 250.00		
New Mexico	\$ 250.00		
New York	\$ 1,000.00		
North Carolina	\$ 1,000.00		
North Dakota	\$ 500.00		
Ohio	\$ 500.00		
Oklahoma	\$ 500.00		
Oregon	\$ 750.00		
Pennsylvania	\$ 2,000.00		
Rhode Island	\$ 500.00		
South Carolina	\$ 1,000.00	Washington	\$ 250.00
South Dakota	\$ 500.00	Washington, DC	\$ 250.00
Tennessee	\$ 500.00	West Virginia	\$ 1,000.00
Texas	\$ 500.00	Wisconsin	\$ 2,500.00
Utah	\$ 1,000.00	Wyoming	\$ 500.00
Vermont	\$ 100.00		
Virginia	\$ 200.00		
Washington	\$ 250.00	average	\$ 614.00