

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on March 18, 2003, in Room 123-S of the Capitol.

All members were present except: Senator Donovan

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:

Gary Steed, Sedgwick County Sheriff, Board of County Commissioners of Sedgwick County, and Kansas Sheriff's Association
Judy Moler, General Counsel/Legislative Services Director, Kansas Association of Counties (written only)
Representative Todd Novascone (written only)
Jeff Bottenberg, Kansas Sheriffs' Association (written only)
Juliene Maska, Federal Grants Administrator, Governor's Office
Bud Handshy, Wilson County Sheriff
Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence
Trista Curzydlo, Kansas Bar Association
Kathy Porter, Office of Judicial Administration
Ellen House, District Court Administrator, 18th Judicial District, Sedgwick Co.
Jeanne Turner, Chief Clerk, 5th Judicial District, Emporia
Alan Bibler, Kansas Credit Attorney's Association

Others attending: see attached list

HB 2132 - Increasing fee charged to inmates on work release from county jail

Chairman Vratil opened the hearing on **HB 2132**. Gary Steed, Sedgwick County Sheriff, testified in support of **HB 2132** on behalf of the Board of County Commissioners of Sedgwick County, Sedgwick County Sheriff's Department, and the Kansas Sheriff's Association. Sheriff Steed explained that the bill would increase the amount a work release inmate would be required to pay to defray the cost of maintaining such inmates in the county jail. The amount would increase from \$10 per day and not to exceed \$20 per day. Sheriff Steed said that Sedgwick County implemented its work release program in 1974, but did not start assessing the inmate a charge until 1988. He stated that this is a voluntary program for the inmates. He added that this is the first request for an increase in the per diem charge to the inmates. (Attachment 1)

Bud Handshy, Wilson County Sheriff, spoke briefly in support of **HB 2132**, and said that the work release program was a good program. He said it gives inmates a chance to get out and work to help pay back their court costs and restitutions. (no written testimony available)

Written testimony was submitted by three conferees in support of **HB 2132**:

Judy Moler, Kansas Association of Counties (Attachment 2)
Representative Todd Novascone (Attachment 3)
Jeff Bottenberg, Kansas Sheriffs' Association (Attachment 4)

The Chair closed the hearing on **HB 2132**.

HB 2293 - Sheriff's fee for service of process

Chairman Vratil opened the hearing on **HB 2293**. Jeff Bottenberg appeared on behalf of the Kansas Sheriffs' Association (KSA), in support of **HB 2293**. The bill was introduced by the House Judiciary Committee at the request of KSA. Mr. Bottenberg explained that the bill would amend current law to allow the sheriff to charge a fee of \$10 for the service of every paper related to a civil action, as well as certain documents the sheriff is required to served. He said that in 1974 the Legislature amended K.S.A. 60-2001 to prohibit the sheriff from charging the district courts for service of process, which in effect

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on March 18, 2003 in Room 123-S of the Capitol.

prohibited the counties from charging civil litigants for the use of the sheriff in delivering process. Mr. Bottenberg added that K.S.A. 60-2001 also prohibits the sheriff from charging such fees as court costs for in-state process. Mr. Bottenberg stated that **HB 2293 would** repeal prohibition on the charging of service of process, and also allow the courts to tax as cost the fees for in-state service, which may be recovered by the prevailing party. He submitted a balloon amendment which would restore the original intent of the bill and require all service of process fees to be deposited in the county general fund. ([Attachment 5](#))

Gary Steed, Sedgwick County Sheriff, testified in support of **HB 2293**, and pointed out that it was anticipated that the passage of this bill would result in a reduction in the service of process. He stated that all the surrounding states charge a fee to the originator of each paper served by local sheriff's departments, and his written testimony included a chart showing what those states charge for the different types of papers served. ([Attachment 6](#))

Written testimony was submitted by Judy Moler on behalf of the Kansas Association of Counties in support of **HB 2293**. ([Attachment 7](#))

Sheriff Bud Handshy, Wilson County, testified in support of **HB 2293**. He stated that we all are aware of today's economics and budgetary problems. Passage of this bill would get badly needed financial assistance to citizens living in rural areas. This action would be a positive step to help the County to not increase local taxes. He attached to his written testimony a 16 county breakdown of the number of papers served. The total number of service for SE Kansas totaled 75,836. Sheriff Handshy pointed out that the service and process is costly in gasoline and man-hours. ([Attachment 8](#))

Julienne Maska, Federal Grants Administrator, Governor's Office, submitted written testimony on **HB 2293** as a neutral party, and briefly explained their office's position on the bill. She stated if a proposed amendment by the Kansas Coalition Against Sexual and Domestic Violence (KCSDV) were adopted by the Committee, the Governor's Office would support **HB 2293** because it would prevent them from being in jeopardy regarding the grant funds Kansas receives from the Federal S.T.O.P. Violence Against Women Act. Ms. Maska attached a copy of the proposed amendment, page 2, line 26. ([Attachment 9](#))

Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence (KCSDV), appeared before the Committee as a neutral party with a technical amendment to **HB 2293**. She said KCSDV suggests amending the bill by adding the following statement into line 26 on page two of the balloon amendment attached, "...chapter 60 of the Kansas Statutes Annotated, except that no fee shall be charged for actions filed under K.S.A. 60-3101 et seq., and amendments thereto, and under K.S.A. 60-31a01 et seq., and amendments thereto. ([Attachment 10](#))

Trista Curzydlo, Kansas Bar Association (KBA), stated that KBA opposed the bill as it was originally drafted because it would increase the workload of the judicial system. Following amendments adopted in the House Judiciary Committee, providing for the Clerk to receive a portion of the fee charged for service of process, KBA no longer opposed **HB 2293**. ([Attachment 11](#))

Kathy Porter, Office of Judicial Administration (OJA), testified in opposition to **HB 2293**. The bill would create a significant amount of new work for clerks of the district court. She stated that OJA objected to the bill as amended by the House Committee. It would require clerks to scrutinize each Chapter 60 and Chapter 61 limited actions filing to see upon how many persons process were to be served. The clerk would need to make sure that the person filing had included \$10 for each person being served. Ms. Porter said that funding for additional clerks, to carry out the provisions of the bill, would not be forthcoming in these difficult fiscal times. She said the balloon amendment offered by Mr. Bottenberg offers a compromise that takes out the major part of the extra work that would be required of the clerks. ([Attachment 12](#))

Committee questions and discussion followed.

Ellen House, District Court Administrator, 18th Judicial District, Sedgwick County, spoke in opposition to **HB 2293** because it would increase the workload of court clerks. Ms. House requested a compromise that

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on March 18, 2003 in Room 123-S of the Capitol.

would remove the language "...the clerk of the court shall collect..." and instead require attorneys to staple a check, payable to the Sheriff, to the defendant's copy upon filing. She said the clerk would then be able to deliver the check along with the regular paperwork. No additional labor would be required. (Attachment 13)

Jeanne Turner, Chief Clerk of the 5th Judicial District, Emporia, testified in opposition to **HB 2293** on behalf of the Kansas Association of District Court Clerks and Administrators. She addressed as her chief concerns the increased workload, the lack of uniformity in process procedures, training issues, and handling the money. Ms. Turner stated that clerks would be willing to compromise on **HB 2293**, and described the same suggested process that Ms. House provided earlier. (Attachment 14)

Alan Bibler, Kansas Credit Attorneys Association (KCAA), spoke in opposition to **HB 2293**. He stated that small businesses and many governmental units will be directly affected if the bill is passed. Mr. Bibler said that KCAA's clients provide goods and services and expect to be paid for them. He testified that one of the biggest fallacies propounded by supporters of this bill is that these additional costs will simply be "passed through" to the "bad guys", the debtors. He stated that this simply was not true. The businesses KCAA represents will not and cannot pay it. Mr. Bibler asked that the bill be killed in Committee, and if not, suggested that it be referred for study during the interim by either the Judiciary Committee or some other committee formed for that purpose. The study would result in recommendations for action during the next session of the Legislature. (Attachment 15)

Following Committee questions and discussion, the Chair closed the hearing on **HB 2293**.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is March 19, 2003.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Tues, March 18, 2003

NAME	REPRESENTING
GARY STEEN	SEDERWICK COUNTY SHERIFF
Andy Schlapp	Sedgwick County
Mike Reporn	Sedgwick County
Oscar Thomason	Sedgwick County Sheriff's Dept.
Bud Handshy	Wilson County Sheriff
Jeff Bottenberg	Kansas Sheriffs Assn
Judy Mader	KAC
Michelle Nee	Johnson County
Hal Hudson	NFIB/KS
KEW DANIEL	NFIB
Amy Bertrand	Judicial Branch
Trista Curzydlo	KS Bar Assn.
Kathy Parke	Judicial Branch
Lay Talley	Shawnee Co Dist Court
Jeanne Turner	KADCCA
Eric Collins	KS Govt Consulting
Blake Kerns	Sen. Schmidt
Doug Smith	KS Credit Attorneys Association
Alan Bibler	" "



SEDGWICK COUNTY, KANSAS

SHERIFF'S DEPARTMENT

Gary Steed

COUNTY COURTHOUSE • 525 N. MAIN • WICHITA, KANSAS 67203 • TELEPHONE 383-7264 • FAX 383-7758

TESTIMONY HB 2132 Before The Senate Judiciary Committee March 18, 2003

Honorable Chairperson Vratil and members of the committee, I appreciate the opportunity to testify in support of HB 2132. I am the Sheriff of Sedgwick County and have also been in law enforcement for the past twenty-five years. I am appearing on behalf of the Board of County Commissioners of Sedgwick County, the Sedgwick County Sheriff's Department and the Kansas Sheriff's Association in support of this legislation.

HB 2132 would be a minor amendment to K.S.A. 19-1930(d) which would increase the amount not to exceed from \$10 per day to \$20 per day what a work release inmate would be required to pay to defray the cost of maintaining such inmate in the county jail. Sedgwick County implemented its work release program in 1974 but did not start assessing the inmate a charge until 1988. This is the first request for an increase in the per diem charge to the inmates.

For the past six years, over one thousand inmates per year (both male and female) have participated in the Sedgwick County Work Release Program. All inmates that participate in the work release program are sentenced to the program by the presiding judge on their case. The program is entirely voluntary and we have had inmates refuse to participate in the program. Most of the inmates in the program are in custody on traffic related or misdemeanor drug offenses and want to maintain their current employment arrangement.

Senate Judiciary

3-18-03

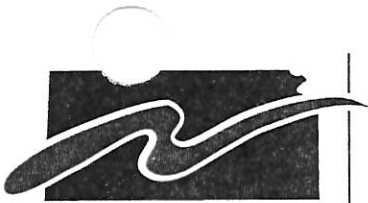
Attachment 1-1

The Sedgwick County Work Release Program is a short-term confinement option with the average length of stay being from 30-40 days. Many of the inmates maintain a residence in the community while participating in the program. Inmates that are not employed but are assigned to the program are not assessed a charge while they are looking for employment. Approximately, 45% of the inmates pay the \$10 per day. Approximately, 36% of the inmates pay \$2.50 per day and 22% do not pay anything as provided by the hardship provision in K.S.A. 19-1930(d).

A Sheriff is not required to operate a work release program and this program is a benefit to the inmates participating in the program. Over \$1.8 million dollars has been collected from work release inmates since 1990 under the provisions of K.S.A. 19-1930(d). In 2001, \$152,484 was collected from the inmates and in 2002 \$130,170 was collected. This is a substantial amount of money that helps defray the cost of providing the program. Since 2002 the program has been expanded and the eventual plan is to house an additional 43 inmates. With this expansion and raising the per diem rate it is projected that the monies collected from inmates could increase to over \$200,000 per year.

But even with the revenue collected from inmates, the program doesn't begin to pay for itself. Estimates of the cost of running the program in Sedgwick County are slightly over \$960,000 per year. The bottom line is that the taxpayers of Sedgwick County should get some relief by having the inmates foot a larger portion of the bill for their upkeep.

We strongly urge your support for HB 2132.



KANSAS
ASSOCIATION OF
COUNTIES

WRITTEN TESTIMONY
Before the Senate Judiciary Committee
HB 2132
March 18, 2003

By Judy A. Moler, General Counsel/Legislative Services Director

Thank you Chairman Vratil and Members of the Committee for allowing the Kansas Association of Counties to provide written testimony on HB 2132.

The Kansas Association of Counties supports HB 2132 as passage of the bill would allow the counties to recoup a more realistic amount from work release prisoners housed in county jails. By increasing the amount to \$20 dollars, this bill allows counties to keep pace with wages currently earned as the bill has not been amended since 1988.

The Kansas Association of Counties supports the passage of HB 2132.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

Senate Judiciary
3-18-03
Attachment 2-1

State of Kansas
House of Representatives

Todd Novascone

99TH DISTRICT



COMMITTEE ASSIGNMENTS
VICE-CHAIRPERSON: COMMERCE AND LABOR
MEMBER: ECONOMIC DEVELOPMENT
FEDERAL AND STATE AFFAIRS
TOURISM AND PARKS

March 18, 2003

Honorable Chairperson Vratil and members of the committee, HB 2132 would be a minor amendment to K.S.A. 19-1930(d) which would increase the amount not to exceed from \$10 per day to \$20 per day what a work release inmate would be required to pay to defray the cost of maintaining such inmate in the county jail. Sedgwick County implemented its work release program in 1974 but did not start assessing the inmate a charge until 1988. This is the first request for an increase in the per diem charge to the inmates.

In my business in Wichita we have a number of work release inmates that work for us. When I talk to them they would do anything to be put into a work release program. To them, work release is a privilege.

In these tough budget times, Sedgwick County could use help in every possible way. I would appreciate your support of HB 2132.

Thank you for your consideration of HB 2132.

A handwritten signature in black ink, appearing to read 'Todd Novascone', written in a cursive style.

Rep. Todd Novascone
99th District

Senate Judiciary

3-18-03
Attachment 3-1

Polsinelli | Shalton | Welte

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Memorandum

TO: THE HONORABLE JOHN VRATIL, CHAIRMAN
SENATE JUDICIARY COMMITTEE

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

RE: HB 2132

DATE: MARCH 18, 2003

Mr. Chairman, Members of the Committee: My name is Jeff Bottenberg and I appear today on behalf of the Kansas Sheriffs' Association ("KSA") which is comprised of approximately 2,100 members, both law enforcement and civilian personnel, that work in county sheriff offices throughout the state. We appreciate the opportunity to testify in support of HB 2132, which would increase the amount a county may charge an inmate that participates in work release programs.

KSA supports HB 2132 because it would allow the county to recoup a very small part of the expense of maintaining prisoners in the county jail. In these times of budget reductions and counties having to do more with fewer resources, it makes sense to allow the county to recoup expenses from those persons that spend time in county jails. Such program, in essence, is a "user fee" charged against those offenders who spend time in the county jails funded by the taxpayers. The increase from \$10 to \$20 per day to defray such costs would only be imposed upon those

Senate Judiciary

3-18-03

Attachment 4-1

One AmVestors Place
555 Kansas Avenue, Suite 301
Topeka, KS 66603
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prisoners that can afford such enhanced payment, and therefore it would not create an undue hardship upon such prisoners.

For the above reasons, KSA strongly supports HB 2132. Please do not hesitate to contact me if I may be of assistance regarding this or any other matter.

Respectfully Submitted,



Jeff Bottenberg

JSB

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Memorandum

TO: THE HONORABLE JOHN VRATIL, CHAIRMAN
SENATE JUDICIARY COMMITTEE

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

RE: HB 2293

DATE: MARCH 18, 2003

Mr. Chairman, Members of the Committee: my name is Jeff Bottenberg and I appear today on behalf of the Kansas Sheriffs' Association ("KSA") which is comprised of approximately 2,100 members, both law enforcement and civilian personnel, that work in county sheriff offices throughout the state. We appreciate the opportunity to testify in support of HB 2293, which was introduced by the House Judiciary Committee at our request.

HB 2293 would amend current law to allow the sheriff to charge a fee of \$10 for the service of every paper related to a civil action, as well as certain documents required to be served by law. By way of background, in 1974 the Legislature amended K.S.A. § 60-2001 to prohibit the sheriff from charging the district courts in the state for service of process. Such amendment, as later interpreted by numerous opinions of the Attorney General, prohibited the courts from charging litigants for service of process. In effect, the counties were prohibited from charging civil litigants for the use of the sheriff in delivering process. Such legislation also prohibited the sheriff from charging such fees as court costs for in-state process.

Senate Judiciary

3-18-03
Attachment 5-1

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HB 2293 repeals such prohibition on the charging of service of process, and also allows the courts to tax as costs the fees for in-state service, which may be recovered by the prevailing party. We believe that such steps are prudent, fiscally sound measures that will allow the counties to recoup some of the costs of the serving of process by the county sheriff.

We have also submitted a balloon amendment to this testimony. The House Judiciary Committee amended the bill by creating special "service of process fee funds" for the sheriff and the district courts. Our amendment would restore the original intent of the bill, which would require all service of process fees to be deposited in the county general fund. In addition, the bill would allow the sheriff and the county clerk to determine the method by which such funds are recorded and deposited in the county general fund.

Thank you very much for the opportunity to testify in support of HB 2293, and please do not hesitate to contact me if I may be of assistance with this or any other matter.

Respectfully Submitted,



Jeff Bottenberg

JSB
Enclosure

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HOUSE BILL No. 2293

By Committee on Judiciary

2-11

5-3

10 AN ACT concerning fees for services by sheriffs; amending K.S.A. 28-
11 110; and 28-170 and ~~28-172a~~ and K.S.A. 2002 Supp. 60-2001 and 60-
12 2003 and repealing the existing sections.

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

15 Section 1. K.S.A. 28-110 is hereby amended to read as follows: 28-
16 110. The sheriffs of each county in the state shall charge for the services
17 required by law to be performed by them the following fees:

18	Serving or executing and returning any writ, process, order or notice, or	
19	tax warrant, including a copy of the same, whenever a copy is required	
20	by law, except as otherwise provided, for the first person	\$1.00 \$10.00
21	For each additional person50 10.00
22	Serving warrants and making return thereof	1.00
23	Making arrests as law enforcement officer	1.00
24	Serving order of attachment, arrest or replevin and returning same	2.00
25	Making levy under execution	2.00
26	Appraisalment of property	2.00
27	Return of "no property found"	2.00
28	Return of "not found" each person	1.00
29	Approving and returning undertaking bond or recognizance	1.00
30	Advertising property for sale	2.00
31	Offering for sale or selling property	2.50
32	Taking inventory of personal property, each day	10.00
33	Sheriff's deed and acknowledgment, to be paid out of the proceeds of the	
34	sale of real estate conveyed	5.00
35	Issuing certificates of sale and recording same	2.00
36	Summoning talesman, each50
37	The sheriff shall charge, for witnesses whose attendance is procured un-	
38	der attachment and who are unable to pay their fare, actual expenses and	
39	mileage in an amount set in accordance with K.S.A. 75-3203a, and amend-	
40	ments thereto, and rules and regulations adopted pursuant thereto. The	
41	sheriff shall charge, for miles actually and necessarily traveled each way	
42	in serving or endeavoring to serve any writ, process, order, venire, notice	
43	or tax warrant, mileage in an amount set in accordance with K.S.A. 75-	

5-4

1 3203a, and amendments thereto, and rules and regulations adopted pur-
 2 suant thereto. No mileage shall be charged when the distance does not
 3 exceed one mile. All fees provided by this section, except those expressly
 4 given to the sheriff, are to be paid into the county general fund. If the
 5 writ contains the names of more than one person, no mileage shall be
 6 taxed or allowed and no person shall be required to pay any mileage unless
 7 at the time of making returns the sheriff makes and files with the returns,
 8 or as a part thereof, a statement showing the distance actually and nec-
 9 essarily traveled in making service on the first person named by the sheriff
 10 and the distance actually and necessarily traveled from the place of mak-
 11 ing the first service to the place of making service on the second person
 12 named by the sheriff and so on for each person served. If more than one
 13 process is served in the same case or on the same person, not requiring
 14 more than one journey from the office, the sheriff shall charge mileage
 15 for one service only. If more than one process for the same person, or in
 16 the same case, is issued and is in the hands of the sheriff at one time, it
 17 shall be the duty of the sheriff to make service of the processes, if possible,
 18 on the one trip. Except as provided by K.S.A. 19-269, and amendments
 19 thereto, the sheriff shall be reimbursed for the necessary transportation
 20 and board expenses incurred while serving under requisition made by the
 21 governor.

22 Sec. 2. K.S.A. 28-170 is hereby amended to read as follows: 28-170.

23 (a) The docket fee prescribed by K.S.A. 60-2001 and amendments thereto
 24 *and the service of process fee* shall be the only costs assessed for services
 25 of the clerk of the district court and the sheriff in any case filed under
 26 chapter 60 of the Kansas Statutes Annotated. For services in other matters
 27 in which no other fee is prescribed by statute, the following fees shall be
 28 charged and collected by the clerk. Only one fee shall be charged for each
 29 bond, lien or judgment:

- | | | |
|----|--|-----|
| 30 | 1. For filing, entering and releasing a bond, mechanic's lien, notice of | |
| 31 | intent to perform, personal property tax judgment or any judgment | |
| 32 | on which execution process cannot be issued..... | \$5 |
| 33 | 2. For filing, entering and releasing a judgment of a court of this state | |
| 34 | on which execution or other process can be issued | 15 |
| 35 | 3. For a certificate, or for copying or certifying any paper or writ, such | |
| 36 | fee as shall be prescribed by the district court. | |

37 (b) The fees for entries, certificates and other papers required in
 38 naturalization cases shall be those prescribed by the federal government
 39 and, when collected, shall be disbursed as prescribed by the federal gov-
 40 ernment. The clerk of the court shall remit to the state treasurer at least
 41 monthly all moneys received from fees prescribed by subsection (a) or
 42 (b) or received for any services performed which may be required by law.
 43 The state treasurer shall deposit the remittance in the state treasury and

credit the entire amount to the state general fund.

4 (c) In actions pursuant to the Kansas code for care of children (K.S.A.
3 38-1501 *et seq.* and amendments thereto), the Kansas juvenile justice
4 code (K.S.A. 38-1601 *et seq.* and amendments thereto), the act for treat-
5 ment of alcoholism (K.S.A. 65-4001 *et seq.* and amendments thereto), the
6 act for treatment of drug abuse (K.S.A. 65-5201 *et seq.* and amendments
7 thereto) or the care and treatment act for mentally ill persons (K.S.A.
8 2000 Supp. 59-2945 *et seq.* and amendments thereto), the clerk shall
9 charge an additional fee of \$1 which shall be deducted from the docket
10 fee and credited to the prosecuting attorneys' training fund as provided
11 in K.S.A. 28-170a and amendments thereto.

12 (d) In actions pursuant to the Kansas code for care of children (K.S.A.
13 38-1501 *et seq.* and amendments thereto), the Kansas juvenile justice
14 code (K.S.A. 38-1601 *et seq.* and amendments thereto), the act for treat-
15 ment of alcoholism (K.S.A. 65-4001 *et seq.* and amendments thereto), the
16 act for treatment of drug abuse (K.S.A. 65-5201 *et seq.* and amendments
17 thereto) or the care and treatment act for mentally ill persons (K.S.A.
18 2000 Supp. 59-2945 *et seq.* and amendments thereto), the clerk shall
19 charge an additional fee of \$.50 which shall be deducted from the docket
20 fee and credited to the indigents' defense services fund as provided in
21 K.S.A. 28-172b and amendments thereto.

22 ~~Sec. 3. K.S.A. 28-172a is hereby amended to read as follows: 28-~~
23 ~~172a. (a) Except as otherwise provided in this section, whenever the pros-~~
24 ~~ecuting witness or defendant is adjudged to pay the costs in a criminal~~
25 ~~proceeding in any county, a docket fee shall be taxed as follows:~~

26 ~~—On and after July 1, 1998.~~

27	Murder or manslaughter.....	\$164.50
28	Other felony.....	146.00
29	Misdemeanor.....	111.00
30	Forfeited recognizance.....	62.50
31	Appeals from other courts.....	62.50

32 ~~(b) (1) Except as provided in paragraph (2), in actions involving the~~
33 ~~violation of any of the laws of this state regulating traffic on highways~~
34 ~~(including those listed in subsection (c) of K.S.A. 8-2118, and amend-~~
35 ~~ments thereto), a cigarette or tobacco infraction, any act declared a crime~~
36 ~~pursuant to the statutes contained in chapter 32 of Kansas Statutes An-~~
37 ~~notated and amendments thereto or any act declared a crime pursuant~~
38 ~~to the statutes contained in article 8 of chapter 92a of the Kansas Statutes~~
39 ~~Annotated, and amendments thereto, whenever the prosecuting witness~~
40 ~~or defendant is adjudged to pay the costs in the action, a docket fee of~~
41 ~~\$54 shall be charged. When an action is disposed of under subsections~~
~~(a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 70-3202, and~~
~~amendments thereto, whether by mail or in person, the docket fee to be~~

5-5

5-6

1 paid as court costs shall be \$54.

2 ~~(2) In actions involving the violation of a moving traffic violation un-~~
3 ~~der K.S.A. 8-2118, and amendments thereto, as defined by rules and~~
4 ~~regulations adopted under K.S.A. 8-240, and amendments thereto, when-~~
5 ~~ever the prosecuting witness or defendant is adjudged to pay the costs in~~
6 ~~the action, a docket fee of \$54 shall be charged. When an action is dis-~~
7 ~~posed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments~~
8 ~~thereto, whether by mail or in person, the docket fee to be paid as court~~
9 ~~costs shall be \$54.~~

10 ~~(c) If a conviction is on more than one count, the docket fee shall be~~
11 ~~the highest one applicable to any one of the counts. The prosecuting~~
12 ~~witness or defendant, if assessed the costs, shall pay only one fee. Multiple~~
13 ~~defendants shall each pay one fee.~~

14 ~~(d) Statutory charges for law library funds, the law enforcement train-~~
15 ~~ing center fund, the prosecuting attorneys' training fund, the juvenile~~
16 ~~detention facilities fund, the judicial branch education fund, the emer-~~
17 ~~gency medical services operating fund and the judiciary technology fund~~
18 ~~shall be paid from the docket fee, the family violence and child abuse and~~
19 ~~neglect assistance and prevention fund fee shall be paid from criminal~~
20 ~~proceedings docket fees. All other fees and expenses to be assessed as~~
21 ~~additional court costs shall be approved by the court, unless specifically~~
22 ~~fixed by statute. Additional fees shall include, but are not limited to, fees~~
23 ~~for Kansas bureau of investigation forensic or laboratory analyses, fees for~~
24 ~~detention facility processing pursuant to K.S.A. 12-16,110, and amend-~~
25 ~~ments thereto, fees for the sexual assault evidence collection kit, fees for~~
26 ~~conducting an examination of a sexual assault victim, fees for service of~~
27 ~~process outside the state, witness fees, fees for transcripts and depositions,~~
28 ~~costs from other courts, doctors' fees and examination and evaluation~~
29 ~~fees. No sheriff in this state shall charge any district court of this~~
30 ~~state a fee or mileage for serving any paper or process.~~

31 ~~(e) In each case charging a violation of the laws relating to parking~~
32 ~~of motor vehicles on the statehouse grounds or other state owned or~~
33 ~~operated property in Shawnee county, Kansas, as specified in K.S.A. 75-~~
34 ~~4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and~~
35 ~~amendments thereto, the clerk shall tax a fee of \$2 which shall constitute~~
36 ~~the entire costs in the case, except that witness fees, mileage and expenses~~
37 ~~incurred in serving a warrant shall be in addition to the fee. Appearance~~
38 ~~bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amend-~~
39 ~~ments thereto, shall be \$2, unless a warrant is issued. The judge may~~
40 ~~order the bond forfeited upon the defendant's failure to appear, and \$2~~
41 ~~of any bond so forfeited shall be regarded as court costs.~~

42 Sec. 4-3. K.S.A. 2002 Supp. 60-2001 is hereby amended to read as
43 follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no

5-7

1 case shall be filed or docketed in the district court, whether original or
2 appealed, without payment of a docket fee in the amount of \$105 to the
3 clerk of the district court.

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

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

26 State of Kansas, _____ County.

27 In the district court of the county: I do solemnly swear that the claim set forth in the
28 petition herein is just, and I do further swear that, by reason of my poverty, I am unable to
29 pay a docket fee.

30 (c) *Disposition of docket fee fees.* The docket fee and the service
31 of process fee shall be the only costs assessed in each case for services
32 of the clerk of the district court and the sheriff. For every person to be
33 served by the sheriff after the initial filing of the case, the clerk of
34 the district court shall collect \$10 in accordance with K.S.A. 28-
35 110, and amendments thereto. ~~On a monthly basis, of the service~~
36 ~~of process fee: (1) Five dollars shall be submitted to the county~~
37 ~~treasurer for deposit in the county treasury and credited to a sher-~~
38 ~~iff's service of process fee fund. Expenditures from such fund shall~~
39 ~~be approved by the sheriff of such county and used for the ex-~~
40 ~~penses incurred in service of process. The board of county com-~~
41 ~~missioners shall provide adequate funding to the sheriff's depart-~~
42 ~~ment and such funds shall not be used to supplant or reduce the~~
43 ~~amount of moneys received by the sheriff's department from the~~

Such fee shall be submitted at least monthly to the county treasurer for deposit
in the county treasury and credited to the county general fund.

delete

8-5

1 ~~county general fund; and~~
 2 (2) Five dollars shall be remitted to the state treasurer in ac-
 3 cordance with the provisions of K.S.A. 75-4215, and amendments
 4 thereto. Upon receipt of each such remittance, the state treasurer
 5 shall deposit the entire amount in the state treasury to the credit
 6 of the district court administration of service of process fee fund
 7 which is hereby created. Expenditures from such fund shall be
 8 made upon warrants of the director of accounts and reports issued
 9 pursuant to vouchers approved by the chief judge of the judicial
 10 district where such county is located and used for the expenses
 11 incurred in administrating the collection of the service of process
 12 fee. The board of county commissioners shall provide adequate
 13 funding for the clerk of the district court's office and such funds
 14 shall not be used to supplant or reduce the amount of moneys
 15 received by the clerk of the district court's office from the county
 16 general fund. The docket fee shall be disbursed in accordance with
 17 K.S.A. 20-362 and amendments thereto.
 18 (d) *Additional court costs.* Other fees and expenses to be assessed as
 19 additional court costs shall be approved by the court, unless specifically
 20 fixed by statute. Other fees shall include, but not be limited to, witness
 21 fees; appraiser fees, fees for service of process ~~outside the state~~, fees for
 22 depositions, alternative dispute resolution fees, transcripts and publica-
 23 tion, attorney fees, court costs from other courts and any other fees and
 24 expenses required by statute. All additional court costs shall be taxed and
 25 billed against the parties as directed by the court. ~~No sheriff in this state~~
 26 ~~shall charge any district court in this state a fee or mileage for serving any~~
 27 ~~paper or process.~~
 28 ~~Sec. 5-4.~~ K.S.A. 2002 Supp. 60-2003 is hereby amended to read as
 29 follows: 60-2003. Items which may be included in the taxation of costs
 30 are:
 31 (1) The docket fee as provided for by K.S.A. 60-2001, and amend-
 32 ments thereto.
 33 (2) The mileage, fees, and other allowable expenses of the sheriff or
 34 other officer incurred in the service of process ~~outside of this state~~ or in
 35 effecting any of the provisional remedies authorized by this chapter.
 36 (3) Publisher's charges in effecting any publication of notices author-
 37 ized by law.
 38 (4) Statutory fees and mileage of witnesses attending court or the
 39 taking of depositions used as evidence.
 40 (5) Reporter's or stenographic charges for the taking of depositions
 41 used as evidence.
 42 (6) The postage fees incurred pursuant to K.S.A. 60-303 or subsec-
 43 tion (e) of K.S.A. 60-308, and amendments thereto.



delete

6-5

1 (7) Alternative dispute resolution fees shall include fees, expenses
2 and other costs arising from mediation, conciliation, arbitration, settle-
3 ment conferences or other alternative dispute resolution means, whether
4 or not such means were successful in resolving the matter or matters in
5 dispute, which the court shall have ordered or to which the parties have
6 agreed.

7 (8) The mileage and fees of a private process server incurred in the
8 service of process or in effecting any of the provisional remedies author-
9 ized by this chapter.

10 (9) Such other charges as are by statute authorized to be taxed as
11 costs.

12 Sec. ~~6~~ 5. K.S.A. 28-110; and 28-170 and ~~28-172a~~ and K.S.A. 2002
13 Supp. 60-2001 and 60-2003 are hereby repealed.

14 Sec. ~~7~~ 6. This act shall take effect and be in force from and after its
15 publication in the statute book.



SEDGWICK COUNTY, KANSAS

SHERIFF'S DEPARTMENT

Gary E. Steed
Sheriff

141 WEST ELM * WICHITA, KANSAS 67203 * TELEPHONE: (316) 383-7264 * FAX: (316) 660-3248

Sheriff Service of Process Fees Fact Sheet

(HB 2293)

- Under current law Sheriff's are not allowed to charge fees for each court document or order they serve. The current reimbursement procedure for the service of process by Kansas Sheriff's is provided for under KSA 20-362 (2001 supp) under that law \$10.00 for each new filing is paid into the County general fund to cover the service of process in that case. This one-time fee is all the reimbursement that the County will receive regardless of the number of papers filed under each case and the actual costs of service incurred.
- During 2002 a total of 37,408 new civil, limited action, small claims and domestic cases were filed with the 18th Judicial District in Sedgwick County. During 2002 the 18th Judicial District transferred the sum of \$340,682 this along with \$40,148 received for out of state papers, was deposited in the Sedgwick County General Fund for the service of process in Sedgwick County. During 2002 the Sedgwick County Sheriff's Department served over 130,000 court documents and orders at a cost of over \$890,000. Based on these figures, in 2002 the taxpayers of Sedgwick County paid service of process costs of just over \$509,000.
- This legislation will shift this burden from the taxpayers to the individuals who are actually involved in these suits. Any increased costs should then be passed on to the judgment debtors.
- All the surrounding states charge a fee to the originator of each paper served by local sheriff's departments. The following fees are currently being charged by Colorado, Missouri, Nebraska, Oklahoma, and Texas:

State	Documents	Court Orders
Colorado (Varies by County)	\$38.00-\$92.40	\$23.40-\$200.00
Missouri	\$10.00+\$0.36 per mile	\$20.00+\$0.36 per mile
Nebraska	\$15.00+\$0.36 per mile	\$15.00+\$0.36 per mile
Oklahoma	\$35.00	\$35.00
Texas	\$55.00	\$65.00

Senate Judiciary

3-18-03

Attachment 6-1

- Private process servers surveyed charge fees beginning at \$25-\$35 per paper.
- To illustrate the impact of this legislation, if each paper served generated a fee of \$10.00, then the potential revenue would be over \$1 Million for Sedgwick County and over \$8 Million statewide.



WRITTEN TESTIMONY
Before the Senate Judiciary Committee
HB 2293
March 18, 2003

By Judy A. Moler, General Counsel/Legislative Services Director

Thank you Chairman Vratil and Members of the Senate Judiciary Committee for allowing the Kansas Association of Counties to provide written testimony on HB 2293.

The Kansas Association of Counties supports HB 2293. This bill would allow sheriffs to collect a reasonable fees for the service of process. This bill could mean over \$8 million dollars for county general budgets statewide in a time when county budgets are suffering.

The Kansas Association of Counties strongly supports the passage of HB 2293.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

Senate Judiciary
3-18-03
Attachment 7-1



THE OFFICE OF THE SHERIFF
WILSON COUNTY

BUD HANDSHY
SHERIFF

925 PIERCE • FREDONIA, KANSAS 66736
1-620-378-3622
1-800-532-9054
FAX # 1-620-378-4510

March 17, 2003

To: Members of the Senate Judiciary Committee

I am Sheriff Bud Handshy of Wilson County. And, I have nearly 30 years in Law Enforcement.

I am here today to show support for House Bill 2293. A bill that would allow us to obtain a fee for serving process papers etc...

During the past year alone my deputies served nearly 2000 papers. We are all very much aware of today's economics and budgetary problems, and those of us who live in small rural counties are already taxed to the limit. If we are able to pass this bill, those of us in the rural areas will get financial assistance that we are badly in need of, without increasing local taxes.

This bill will, for my county, certainly pay for most of my fuel cost. But no way pay the cost of my deputies who must serve the papers. But, it is a positive step to help us to prevent an increase of local taxes.

I have contacted all the Sheriffs (16 total) here in South East Kansas and, we are all in total agreement as to the need to pass this bill.

The total number of service for South East Kansas alone was 75,836 papers served. This service is very costly in gasoline and man hours.

I have attached a second page which shows our 16 counties break down.

I thank you again for allowing me this time to address the need for House Bill 2293 with you. Myself and all the other 15 sheriffs strongly urge you to support this bill by making a viable vote.

Sincerely,

Bud Handshy,
Sheriff,
Wilson County Sheriff's Office

Senate Judiciary
3-18-03
Attachment 8-1

TOTAL PAPERS SERVED IN SOUTHEAST KANSAS

County	Papers Served
Allen County	2,000
Anderson County	2,797
Bourbon County	3,300
Chautauqua County	1,195
Cherokee County	2,000
Coffey County	2,200
Crawford County	10,279
Elk County	1,000
Greenwood County	2,748
Labette County	10,000
Linn County	1,917
Lyon County	14,000
Montgomery County	12,000
Neosho County	7,400
Wilson County	2,000
Woodson County	<u>1,000</u>
Total Papers Served	75,836



K A N S A S

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

March 18, 2003

Senator John Vratil, Chair
Senate Judiciary Committee
255E, Capitol Building
Topeka, KS 66612

RE: House Bill 2293

Dear Sen. Vratil:

House Bill 2293 would allow for Kansas sheriffs to collect fees for processing orders issued by the Court. This bill raises some concern regarding grant funds that Kansas receives from the Federal S.T.O.P. Violence Against Women Act (VAWA).

Under the federal provisions of the Violence Against Women Act, (42 USC 3796hh(c)(4)) our state must comply with certain requirements in order to receive funding. In regard to service of process for protection orders we must certify to the following:

“ . . .that its laws, policies and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender or the costs associated with the filing issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the state, tribal, or local jurisdiction . . . ”

By adding costs for serving orders, in which a victim of domestic violence, stalking, or sexual assault must bear the costs, Kansas would not be in compliance to receive these grant funds. Kansas has received \$10,652,364 in grant funds from this federal source since 1995. For this current fiscal year, we were awarded \$1,533,000 and we anticipate the same amount for next fiscal year. These grant funds provide assistance to law enforcement agencies, prosecutor offices, courts and victim service organizations, in developing and enhancing programs which

Senate Judiciary
3-18-03
Attachment 9-1

Capitol, 300 SW 10th Ave., Ste. 2125, Topeka, KS 66612-1590

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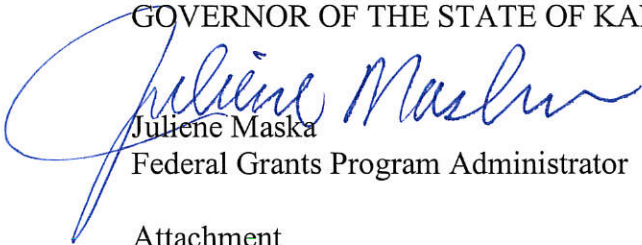
address and strengthen the criminal justice system's response to the crimes of domestic violence, sexual assault and stalking.

It is my understanding that the Kansas Coalition Against Sexual and Domestic Violence (KCSDV) is proposing an amendment that would prevent costs from being assessed in protection from abuse orders and protection from stalking orders. Attached is a copy of the proposed amendment, (page 2 line 26), which we would support and I believe would prevent us from being in jeopardy regarding the federal funds.

Thank you for your consideration.

Sincerely,

KATHLEEN SEBELIUS
GOVERNOR OF THE STATE OF KANSAS



Juliene Maska
Federal Grants Program Administrator

Attachment

2293—Am.

1 3203a, and amendments thereto, and rules and regulations adopted pur-
 2 suant thereto. No mileage shall be charged when the distance does not
 3 exceed one mile. All fees provided by this section, except those expressly
 4 given to the sheriff, are to be paid into the county general fund. If the
 5 writ contains the names of more than one person, no mileage shall be
 6 taxed or allowed and no person shall be required to pay any mileage unless
 7 at the time of making returns the sheriff makes and files with the returns,
 8 or as a part thereof, a statement showing the distance actually and nec-
 9 essarily traveled in making service on the first person named by the sheriff
 10 and the distance actually and necessarily traveled from the place of mak-
 11 ing the first service to the place of making service on the second person
 12 named by the sheriff and so on for each person served. If more than one
 13 process is served in the same case or on the same person, not requiring
 14 more than one journey from the office, the sheriff shall charge mileage
 15 for one service only. If more than one process for the same person, or in
 16 the same case, is issued and is in the hands of the sheriff at one time, it
 17 shall be the duty of the sheriff to make service of the processes, if possible,
 18 on the one trip. Except as provided by K.S.A. 19-269, and amendments
 19 thereto, the sheriff shall be reimbursed for the necessary transportation
 20 and board expenses incurred while serving under requisition made by the
 21 governor.

22 Sec. 2. K.S.A. 28-170 is hereby amended to read as follows: 28-170.
 23 (a) The docket fee prescribed by K.S.A. 60-2001 and amendments thereto
 24 and the service of process fee shall be the only costs assessed for services
 25 of the clerk of the district court and the sheriff in any case filed under
 26 chapter 60 of the Kansas Statutes Annotated. For services in other matters
 27 in which no other fee is prescribed by statute, the following fees shall be
 28 charged and collected by the clerk. Only one fee shall be charged for each
 29 bond, lien or judgment:

- 30 1. For filing, entering and releasing a bond, mechanic's lien, notice of
 31 intent to perform, personal property tax judgment or any judgment
 32 on which execution process cannot be issued..... \$5
- 33 2. For filing, entering and releasing a judgment of a court of this state
 34 on which execution or other process can be issued 15
- 35 3. For a certificate, or for copying or certifying any paper or writ, such
 36 fee as shall be prescribed by the district court.

37 (b) The fees for entries, certificates and other papers required in
 38 naturalization cases shall be those prescribed by the federal government
 39 and, when collected, shall be disbursed as prescribed by the federal gov-
 40 ernment. The clerk of the court shall remit to the state treasurer at least
 41 monthly all moneys received from fees prescribed by subsection (a) or
 42 (b) or received for any services performed which may be required by law.
 43 The state treasurer shall deposit the remittance in the state treasury and

, except that no fees shall be charged for actions filed under K.S.A. 60-3101 et seq., and amendments thereto, and under K.S.A. 60-31a01 et seq., and amendments thereto.



UNITED AGAINST VIOLENCE

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

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

**Senate Judiciary Committee
House Bill ~~2239~~⁹³**

Testimony of Sandy Barnett, KCS DV
March 18, 2003

Chairman Vratil and Members of the Committee:

Thank you for the opportunity to address you this morning about a technical amendment to HB ~~2239~~⁹³.

The Federal Violence Against Women Act (2000) prohibits any victim [of domestic violence, stalking, or sexual assault] from "...bearing the costs associated with the filing, issuance, registration, or service of a warrant, protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; ..."

Although it does not appear to be common practice in Kansas for jurisdictions to charge for the service of protection orders issued in Kansas, we have reason to believe charges have been assessed to serve orders issued by jurisdictions in other states. A simple amendment will clarify this issue.

KCS DV suggests amending HB ~~2239~~⁹³ by adding the following statement into line 26 on page two (balloon attached):

... chapter 60 of the Kansas Statutes Annotated, except that no fee shall be charged for actions filed under K.S.A. 60-3101 et seq., and amendments thereto, and under K.S.A. 60-31a01 et seq., and amendments thereto.

Again, thank you for this opportunity.

Senate Judiciary
3-18-03
Attachment 10-1

1 3203a, and amendments thereto, and rules and regulations adopted pur-
 2 suant thereto. No mileage shall be charged when the distance does not
 3 exceed one mile. All fees provided by this section, except those expressly
 4 given to the sheriff, are to be paid into the county general fund. If the
 5 writ contains the names of more than one person, no mileage shall be
 6 taxed or allowed and no person shall be required to pay any mileage unless
 7 at the time of making returns the sheriff makes and files with the returns,
 8 or as a part thereof, a statement showing the distance actually and nec-
 9 essarily traveled in making service on the first person named by the sheriff
 10 and the distance actually and necessarily traveled from the place of mak-
 11 ing the first service to the place of making service on the second person
 12 named by the sheriff and so on for each person served. If more than one
 13 process is served in the same case or on the same person, not requiring
 14 more than one journey from the office, the sheriff shall charge mileage
 15 for one service only. If more than one process for the same person, or in
 16 the same case, is issued and is in the hands of the sheriff at one time, it
 17 shall be the duty of the sheriff to make service of the processes, if possible,
 18 on the one trip. Except as provided by K.S.A. 19-269, and amendments
 19 thereto, the sheriff shall be reimbursed for the necessary transportation
 20 and board expenses incurred while serving under requisition made by the
 21 governor.

22 Sec. 2. K.S.A. 28-170 is hereby amended to read as follows: 28-170.

23 (a) The docket fee prescribed by K.S.A. 60-2001 and amendments thereto
 24 and the service of process fee shall be the only costs assessed for services
 25 of the clerk of the district court and the sheriff in any case filed under
 26 chapter 60 of the Kansas Statutes Annotated. For services in other matters
 27 in which no other fee is prescribed by statute, the following fees shall be
 28 charged and collected by the clerk. Only one fee shall be charged for each
 29 bond, lien or judgment:

- 30 1. For filing, entering and releasing a bond, mechanic's lien, notice of
- 31 intent to perform, personal property tax judgment or any judgment
- 32 on which execution process cannot be issued..... \$5
- 33 2. For filing, entering and releasing a judgment of a court of this state
- 34 on which execution or other process can be issued 15
- 35 3. For a certificate, or for copying or certifying any paper or writ, such
- 36 fee as shall be prescribed by the district court.

37 (b) The fees for entries, certificates and other papers required in
 38 naturalization cases shall be those prescribed by the federal government
 39 and, when collected, shall be disbursed as prescribed by the federal gov-
 40 ernment. The clerk of the court shall remit to the state treasurer at least
 41 monthly all moneys received from fees prescribed by subsection (a) or
 42 (b) or received for any services performed which may be required by law.
 43 The state treasurer shall deposit the remittance in the state treasury and

, except that no fees shall be charged for actions filed under K.S.A. 60-3101 et seq., and amendments thereto, and under K.S.A. 60-31a01 et seq., and amendments thereto.

VAWA 2000 Fee Provisions

42 U.S.C. § 3796gg-5. Costs for criminal charges and protection orders

(a) In general. A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part [42 USCS § §3796gg et seq.] unless the State, Indian tribal government, or unit of local government—

- (1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; or
- (2) gives the Attorney General assurances that its laws, policies and practices will be in compliance with the requirements of paragraph (1) within the later of--
 - (A) the period ending on the date on which the next session of the State legislature ends; or
 - (B) 2 years after the date of the enactment of the Violence Against Women Act of 2000 [enacted Oct. 28, 2000].

(b) Redistribution. Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to other States, units of local government, and Indian tribal government, respectively, pro rata.

(c) Definition. In this section, the term "protection order" has the meaning given the term in section 2266 of title 18, United States Code.

42 U.S.C. § 3796hh. Grants

(c) Eligibility. Eligible grantees are States, Indian tribal governments, State and local courts (including juvenile courts), or units of local government that

- (4) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction.

(d) Definition. In this section, the term "protection order" has the meaning given the term in section 2266 of title 18, United States Code.

18 U.S.C. § 2266. Definitions

(5) Protection order. The term "protection order" includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court (other than a support or child custody order issued pursuant to State divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other Federal law) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.



**KANSAS BAR
ASSOCIATION**

1200 SW Harrison St.
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Topeka, Kansas 66601-1037
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FAX (785) 234-3813
www.ksbar.org

March 18, 2003

TO: Senator Vratil and Members of the Senator Judiciary Committee
FROM: Trista Beadles Curzydlo, KBA Lobbyist
RE: Senate Bill 2293

Chairman Vratil and Members of the Committee:

My name is Trista Beadles Curzydlo and I am here today representing the Kansas Bar Association. The KBA is a diverse organization with more than 6,000 members, including judges, prosecutors, plaintiffs' attorneys, defense attorneys, and many others.

During hearings held by the House Judiciary committee, the KBA appeared in opposition to this bill as it was originally drafted. The KBA opposes the implementation of legislation that would increase the workload of the judicial system, including the office of the Clerk of the Court, without providing adequate funding. Following amendments adopted in the House Judiciary Committee that provide for the Clerk to receive a portion of the fee charged for service of process, the KBA no longer opposes HB 2293.

I thank you for your consideration of this issue and welcome any questions that you may have.

Senate Judiciary

3-18-03
Attachment 11-1



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th

Topeka, Kansas 66612-1507

(785) 296-2256

March 18, 2003

Testimony In Opposition to HB 2293 As Introduced Senate Judiciary Committee

Kathy Porter

Office of Judicial Administration

As amended by the House Committee, HB 2293 authorizes a \$10 fee to be charged to any person requesting service of process or service of other orders or notice in Chapter 60 and Chapter 61 limited actions cases. The fee would be collected by the clerks of the district court, and half of the fee would be deposited into a newly created county Sheriff's Service of Process Fee, and half would be deposited in the State Treasury and credited to newly created District Court Administration of Service of Process Fee Fund.

As noted in more detail below, having clerks collect this fee would have resulted in a significant amount of new work for clerks of the district court. Because a major proponent of this bill is the Sedgwick County Sheriff, Chief Judge Richard Ballinger of the 18th Judicial District has been working with the Sedgwick County sheriff and other proponents to reach a compromise. That compromise is acceptable. Under its terms, persons wishing to have process or other orders served by the sheriff will provide a \$10 service of process fee with the service or order to be served. A separate check made out to the local sheriff will accompany each request for service. Clerks will then forward the paperwork and the check to the sheriff.

Our reasons for objecting to HB 2293 as amended by the House Committee are that it would have required the clerks to scrutinize each Chapter 60 and Chapter 61 limited actions filing to see upon how many persons process is to be served, and to make sure that the person filing has included \$10 for each person to be served. It has been our experience that turning away people who do not have the correct filing fee often can result in unpleasant, if not hostile, reactions from those persons filing cases. Allowing a separate \$10 fee for each party to be served could well lead to disagreements about the number of persons to be served. If a clerk accepts a party's statement that two people are to be served and accepts a \$20 service fee, only to find out later that three persons are to be served, there is no mechanism, and certainly no clerk time, available to collect the additional fee from the party. These same issues could result in more work when clerks receive filings by mail. If the correct fee is not included, the clerk would have to send the filing back or make a phone call requesting an additional fee.

Senate Judiciary

3-18-03
Attachment 12-1

This would have added additional indexing and accounting issue for the clerks, and the clerks do not need any additional work. If the court system were adequately staffed, this would not have been an issue for us. As we are presently staffed, I can almost guarantee that clerks would not have been able to implement this provision in the manner in which we would all like. Clerks simply would not have had the time to carefully scrutinize the number of persons to be served. In addition, the bill would allow the fee to be charged for "any writ, process, order or notice, or tax warrant." Although the clerks currently collect fees at the onset of a case, this means that clerks will be collecting fees at other stages, as notices, orders of sale, and other documents may be served by the sheriff. Again, this requires additional receipting, indexing, and accounting work.

The current docket fee system evolved around the time of court unification from a system in which individual fees were charged for many different work processes performed by the clerks. The docket fee simplified matters for both the clerks and the litigants. This proposal is a step backward to a more fragmented system.

Clerks of the district court work each day with sheriffs, and are supportive of the sheriffs in their efforts to generate additional funding. The Judicial Branch as a whole probably understands better than most the need for adequate funding to carry out our duties mandated by statute and the Constitution. In opposing the original bill, we do not in any way mean to hinder the sheriffs from collecting a fee, but were asking that any fees be collected in a manner that does not require additional work from court staff. It almost goes without saying that funding for additional clerks to carry out these provisions would not have been forthcoming in these difficult fiscal times.

Thank you for the opportunity to address this bill.

KP:mr

March 17, 2003

Ellen House
District Court Administrator
18th Judicial District, Sedgwick County

Testimony for H.B. 2293

Good morning Chairman and Committee Members:

Thank you for the opportunity to speak to you today regarding H.B. 2293.

I certainly understand and support the need for increased revenues at the local level. However, I do not think that it is an overall benefit to governmental entities to help one entity while harming another.

The proposed bill would raise approximately \$1.2 million dollars in Sedgwick County alone. However, it would also require approximately 4000 hours in clerk time. The proposed bill reads "...the clerk of the court shall collect..." This is in an office that is already struggling to complete it's enormous workload in a timely manner. The hours required to collect these fees equate to 2 FTEs that are positions we simply do not have.

I respectfully request a compromise that would remove the language "...the clerk of the court shall collect..." and instead require the attorneys to staple a check, made payable to the Sheriff, to the defendant's copy upon filing. The clerk will then be able to deliver the check with the regular paperwork and no additional labor will be required.

Senate Judiciary

3-18-03
Attachment 13-1

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**KANSAS ASSOCIATION OF DISTRICT COURT
CLERKS AND ADMINISTRATORS**

Jeanne Turner

House Bill No. 2293
FEEES FOR SERVICES BY SHERIFFS

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to speak on behalf of the Kansas Association of District Court Clerks and Administrators in regard to House Bill No. 2293. This bill deals with fees for services by sheriffs.

I have some concerns with the Bill as it is currently written. If this Bill were to pass, this would take away the uniformity that we now have with filing cases. Clerks would be put in a position to determine if the money with the case was correct or not. Now, to file a civil case is one docket fee. To file a limited case is one docket fee based on the amount requested in the petition. To file a small claims case, there is one docket fee based on the amount asked for in the petition. If the clerks were to be responsible for collecting the \$10 service fee, this takes away the uniformity we now have because money would be based on the docket fee **plus** the number of processes that would be need to be issued. Keep in mind also that there are instances where hundreds of cases are filed at the same time. The clerks would be overwhelmed with determinating what needs to be included. Every case would be different. This would be a training nightmare because there would be no consistency among the cases. If the fees were not correct, what would we do? Would we process it anyway? Do we call the parties? What about last minute subpoenas that need to be issued for a case where they Fax in the subpoena for us to issue? What about the process fee in those cases?

I am also concerned about the number of aids in executions, garnishments, notices, writs, and orders that we would be collecting these fees on. It is not unusual to have 500 to 1000 of these papers issued out of our court per week. To collect the service fees on all of these types of process and then be responsible for the distribution of the funds would create undue hardship on the clerks.

Senate Judiciary

3-18-03
Attachment 14-1

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However, the clerks would be willing to compromise on HB2293. If the parties to the case were to attach a check made payable to the correct sheriff's office for each service they wish to have issued, we would be willing to attach the check and forward it to the sheriff's office along with the process. No money would be receipted by the clerks and no money would be kept by the clerks—the full \$10 would go to the sheriff. This procedure is similar to the procedure that we now use for out-of-state sheriff's service.

Thank you for allowing me the opportunity to appear before you today on this bill. I would be glad to answer any question you may have.

Alan Bible

PRESENTATION BEFORE SENATE JUDICIAL COMMITTEE
H.B. 2293
March 18, 2003

I. Introduction

Good morning all, thank you for this opportunity to share some thoughts regarding H.B. 2293. I am here as President of the Kansas Creditor's Attorneys Association, a group of about 60 law firms representing 1,000s of merchants, landlords, and service providers, as well as governmental units including the State, school districts, counties, cities and towns.

My firm is one of the smaller such collections firms - we file about 350 cases/month throughout the State. We were just notified yesterday that we have been selected for a contract that will add about 1,000 new filings/month. I should be excited and celebrating. Instead, frankly, I am frightened - not by the magnitude of new work, but because if this Bill becomes law as written, I cannot afford this new contract. I probably cannot afford to continue what we're doing now.

II. Facts & Figures

While I do not have similar figures statewide, let me suggest to you the impact that we who are privileged to represent Kansas businesses in the vitally important area of collections has on the court systems. Here in Shawnee County, the fees which we pay represent about 72% of all of the revenue from filings received by the Shawnee County District Court. There are 14 Divisions/Judges serving this Court, yet we collections firms are not even assigned one of these Judges - instead, we are given a pro tem judge who works 1.5 - 2 days/week. The Court Clerk's office has about 30 employees, yet only about 5 handle all of our business. Don't misunderstand me, I'm not complaining, I merely want you to understand that collections funds 72% of the court system while utilizing only about 10-15% of it's revenues. This point is

Senate Judiciary

3-18-03

Attachment 15-1

important because you need to know that we simply cannot keep piling on the burden already being carried by the collections industry.

And, make no mistake about it, the vast amount of the fees this Bill is expected to generate will come from the collections industry. I estimate that probably 85-90% of all of the service of process work done by the Sheriffs are from limited actions (collections) cases. Most of the firms that practice in other areas of the law, first, do not generate much service of process work and, secondly, use private process servers.

III. Fallacies

One of the biggest fallacies propounded by supporters of this Bill is that these additional costs will simply be "passed through" to the "bad guys", the debtors. This simply is not true. Why? Because the clients, the businesses we represent, with only a few exceptions, will not and can not pay it.

Please understand, while I am mentioning large figures in terms of case filings, dollars involved, etc., something in the area of 65-75% of all cases filed involve \$500 or less. One does not have to have an MBA from Harvard to recognize that a business can only risk some certain numbers of dollars in the hope of collecting a bill of \$500 or less. At present, the cost is the filing fee of \$26 plus a surcharge of \$5 for a total of \$31 just to get the case filed. Then, when we get into the post-judgment actions - and, 80+% of these cases will require post-judgment actions, i.e., Aid in Execution, Writ of Execution, Writ of Restitution, Garnishment, Citation in Contempt, Bench Warrants, etc., each of these actions require an additional \$5 surcharge.

Now, this Bill would require and additional \$10 charge for service of each of these post-judgment actions. AND, PERHAPS THE LARGEST PROBLEM HERE IS THAT THIS \$10 CHARGE MUST BE PAID WHETHER THE SERVICE IS SUCCESSFUL OR NOT!

IV. Examples

Let me demonstrate just a couple of examples so you who are not involved in this business might better understand what I'm talking about.

- A. For a landlord to evict a couple for non-payment of rent, there is at present the \$26 filing fee plus the \$5 surcharge to file the case. Then, if the tenants do not move out on their own, a very frequent occurrence, there will be a \$5 surcharge to file the Writ of Restitution, for a total of \$41. With the additional charges proposed in this Bill, there would be an additional \$20 charge to serve the eviction (\$10 for each person) and another \$20 charge to serve the Writ of Restitution. The landlord's court costs for this eviction just jumped from \$41 to \$81.
- B. For the collection of a delinquent account, currently there is the \$26 filing fee plus the \$5 surcharge to file the case. Then, if not resolved and post-judgment actions is required, there is the \$5 surcharge for the Aid in Execution, a garnishment, any Writ of General Execution, any Citation in Contempt, etc. As it stands presently, we could easily be looking at \$51-61, or more in various court costs. Add in the charges proposed by this Bill and we could easily be adding another \$60-100. Which of you, if you were the client who hired me to collect your delinquent \$300 account receivable would be willing to spend even the \$51-61 as it now exists, much less an additional \$60-100 in the hopes of collecting this bill?

V. Some Proposals

First, this Bill should be put to rest by this Committee; it should be killed, period.

Barring that, may I suggest that you defer it for study by

either this Committee or some other committee formed for that purpose this summer, with recommendations to be made for action during the next session of the Legislature? That would give all concerned time to provide testimony, figures, etc.

If there are a majority of you who want this bill advanced during this session, please consider at least a few amendments.

- A. Temper the increase to something more realistic, i.e., from \$1 to \$2, or maybe \$2.50, and from \$0.50 to \$1, instead of the 1000% and 2000% increases proposed.
- B. Review where the dollars received from filing fees are currently being used; you will find that some of these uses are seriously outdated and others do not even have anything to do with the operation of the courts. Consider eliminating some of those and using those dollars to provide an increase to the Sheriffs for their service of process costs.
- C. Make the additional charge payable only upon effective service, i.e., if the service of process is not effective, there should be no charge. Let me explain.
 1. At present, and to even a much greater degree under the provisions of this Bill, there is a disincentive for the Sheriff to provide good service. We frequently get a return of service that simply says "no contact", whatever that means, the effect being that we have to submit a request for alias service and, if this bill is enacted, pay another \$10 or \$20. A sheriff with a good head for business could make a lot of money doing this!
 2. Another thing that happens frequently is that the method of service used does not meet the requirement to allow the next logical action to take place. For example, each week my firm finds dozens of occurrences in which a citation in

contempt is served by regular mail, resident service, tacking, etc., when the only effective method of service for this action is personal service. When this happens, we have no other course of action except to file a request for service of an alias citation in contempt, for which we will have to pay another \$10? We have, literally, hundreds of files for which this process is taking place every week! If this Bill is placed into law, that would cost us \$1,000 weekly. Our clients will not pay these costs and we certainly can not. The result: no further action on these cases, no collection for our clients, who are effectively robbed of their rightful revenues while the debtors, who have long since enjoyed the goods, services, etc., received for this debt, are allowed to avoid payment.

3. Not to criticize our Shawnee County Sheriff, but to explain further what I mean by "effective service" let me show you how many of these service of process matters are handled here. Initially, the Sheriff sends a post card to the defendant/debtor, advising him/her that the document is available to be picked up at the Sheriff's office. You can guess what percentage of those receiving such a card hurry down there to pick up the document to be served. Yet, for this, we would be charged \$10? On the next, or alias, request, a letter is sent via regular mail, again, notifying them the document is there to be picked up. Again, we get charged \$10 with about the same degree of effectiveness. With the next, or alias, request, an attempt is made to deliver the document to the

party, however, unless that person happens to be at home when that attempt is made, it will be served via residential service or residential service and mailing; while this service is effect for some types of documents, it is not for others. Nonetheless, we will be charged \$10 yet again. I have file cabinets full of files which have reached the citation in contempt point in the process, a step which requires personal service. These cases drag on month after month after month receiving an ineffective type of service until, finally, anywhere from 6 months to 2 years later, I get a return of service stating "moved, left no address". But, under the provisions of this Bill, I would be charged \$10 for each of perhaps as many as 8-10 ineffective services. I wonder, if the Sheriff knew that he would be paid only for an effective service, might things change?

VI. Summary & Closing

In summary, while I am fully aware of the level of esteem in which lawyers in general are held and that those of us who are "collection lawyers" are probably at the lowest of even that level, I sincerely hope that you will think of those who will be most directly affected if this Bill is passed: our clients, the small businesses throughout Kansas as well as the many governmental units. The overall effect of these increases may be to simply make the collection of any debt of less than about a \$1,000 impractical. Even the possibility of that should be avoided.

While I understand the plight of the Sheriffs throughout the State, this proposal is not the answer. First, there are better answers and, secondly, any such answer should and must carry with it as assurance of better service.

Thank you. If there are any questions, I will attempt to answer.