

Approved:
Date 4-29-04

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Ward Loyd at 1:30 p.m. on February 10, 2004 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Revisor of Statutes Office
Jerry Ann Donaldson, Legislative Research Department
Connie Burns, Committee Secretary

Conferees appearing before the committee:

Senator Derek Schmidt
Lane Ryno, Emporia Police Dept
Max Wilson, Prevention & Recovery Services
David Hutchings, KBI
Sandy Barnett, KCSDV

Others attending:

See Attached List.

HB 2730 – Endangering a child when the child's life is endangered or child is present in a meth lab or where meth is sold is a severity level 9, person felony.

Chairman Loyd opened hearing on **HB 2730**.

Senator Derek Schmidt appeared in favor of the bill. The bill contains two policy provisions. The bill proposes that child endangerment that puts a child's body or health at risk would remain a misdemeanor, but child endangerment that puts a child's life at risk would become a level 9, person felony. (Attachment 1)

Lane Ryno, Emporia Police Department and Kansas Peace Officer's Association, appeared as a proponent of the bill. The proposed change would make it specifically illegal to expose children to many of the chemicals used to make Methamphetamine. (Attachment 2)

Max Wilson, Executive Director, Shawnee Regional Prevention and Recovery Services, spoke in favor of the bill. (Attachment 3)

David Hutchings, Senior Special Agent with the KBI, appeared in favor of the bill. On behalf of the agencies of the Southeast Kansas Drug Enforcement Task Force, he supports legislation that would specifically address situations where children are placed in danger by their exposure to the hazards associated with methamphetamine productions and other drug crimes. (Attachment 4)

Kyle Smith, KBI stood for questions and stated that the KBI was looking for improvement to this bill.

Mike Jennings, Kansas County & District attorneys Association, provided written testimony in support of the bill. (Attachment 5)

Sandy Barnett, KS coalition Against Sexual and Domestic Violence, appeared neutral with an amendment to the bill. This is the same amendment offered in 2003 on **HB 2391** and agreed upon by the Governor's office and Attorney General, in that the amendment would help to protect severely battered women from criminalizing their strategies to stay safe. (Attachment 6)

Chairman Loyd closed the hearing on **HB 2730**.

HB 2603 – Clarifying that prior DUI’s are converted to person felonies for criminal history purposes when convicted of involuntary manslaughter while DUI.

Representative Dillmore made a motion to move HB 2603 favorably for passage. Representative Pauls seconded the motion. The motion carried.

HB 2568 – Assessment fee imposed on certain criminal defendants for crimes against children, establishing the children advocacy center fund.

Representative Dillmore made a motion to move HB 2568 favorably for passage. Representative Carter seconded the motion.

Representative Dillmore moved that the bill be amended to raise the assessment fee from \$50 to \$100. Representative Carter seconded the motion. The amendment carried.

Representative Ward moved an amendment that strikes section 1 and makes section 2 new section 1. Representative Crow seconded the motion. The amendment carried.

Representative Dillmore made a substitute motion to pass HB 2568 as amended. Representative Carter seconded the motion. The motion carried.

HB 2569 – Children’s advocacy centers, prescribing standards and training.

The technical amendment would include with sexual abuse on line 20 page 1, lines 11 and 12 on page 2.

Representative Pauls made a motion to move HB 2569 favorable for passage as amended. Representative Goering seconded the motion. The motion carried.

HB 2477 – Stalking when in possession of a firearm and in violation of a protection from stalking order is a severity level 8, person felony.

Representative Dillmore made a motion to move HB 2477 favorably for passage. Representative Goering seconded the motion.

Representative Dillmore moved that the bill be amended to insert weapon definition in KSA 21-4201 in line 26. Representative Horst seconded the motion. The motion carried.

Dillmore made a substitute motion to move HB 2477 favorably for passage as amended. Representative Owens seconded the motion. The motion carried.

HB 2525 – Increasing severity levels on criminal use of explosives.

Representative Pauls made a motion to move HB 2525 favorable for passage. Representative Horst seconded the motion. The motion carried.

HB 2542 – Collection of specimens by KBI when convicted of certain crimes.

Representative Ward made a motion to recommend HB 2542 favorable for passage and because non-controversial be placed on the consent calendar. Representative Crow seconded the motion. The motion carried.

HB 2575 – Reporting of abuse; ministers

Representative Dillmore made a motion to move HB 2575 favorable for passage. Representative Horst seconded the motion.

Representative Carlin made a motion to amend the language that deals with the record custodian and duly ordained minister of religion to specify who is designated to report per the Representative Storm (Farmer) amendment. Representative Ward seconded the motion. The motion carried. (Attachment 7)

Representative Dillmore moved to reinstate the language page 3 lines 4 – 10. Representative Swenson seconded the motion. The motion did not carry.

Representative Carter moved to table the bill. The vote 9 to 6 in favor of being tabled. **HB 2575** is tabled.

The meeting was adjourned at 3:15 PM. The next meeting is February 11, 2004.

**HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
GUEST LIST**

DATE 2-10-04

NAME	REPRESENTING
LANE RYNU	KPOA / EMPORIA POLICE DEPT.
Tricia Masenthin	KU student/reporting class
Cathy Hubbard	SRS
Max Wilson	Pre- + Recovery Services
Sandy Bennett	KCSO
Michael White	KCDAA
Nellada Passafiume	LLL
DAVID HUTCHINGS	KBI
Jill EVANS	KU student
Lou Alvarado	SRS
Mark Gleeson	Judicial Branch
Je. Scranton	JJA
Kyle Kesh	SRS
Dan Bug	self
Mike Farmer	Kansas Catholic Conference
Dan HERMES	KADSPA

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Senator Derek Schmidt
15th District

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Agriculture (Chairman)
Legislative Post Audit (Chairman)
Judiciary
Natural Resources
Elections and
Local Government

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Testimony in Support of House Bill 2730
Presented to the House Committee on Corrections & Juvenile Justice
by Senator Derek Schmidt

February 10, 2004

Chairman Loyd, members of the committee, thank you for conducting this hearing on House Bill 2730.

House Bill 2730 contains two policy provisions. The first part would expand the crime of endangering a child to include, by law, the act of knowingly causing a child to be present where methamphetamine is being manufactured. This is an initiative brought last year by the Kansas Bureau of Investigation. The testimony on this provision in the Senate Judiciary Committee last year was compelling – all-too-common tales of meth busts where small children are found with chemical burns from crawling on chemical-soaked carpet, respiratory problems in children from the effects of breathing meth fumes, and developmental problems in children from the effect of chemical buildup in their bodies from their presence where meth is being made.

The KBI proposed that this new provision of law should be a level 9, person felony. That recommendation is included in this bill.

The second part of House Bill 2730 would amend the penalty provisions of the current law on child endangerment. Child endangerment today is a Class A person misdemeanor. This bill proposes that child endangerment that puts a child's body or health at risk would remain a misdemeanor, but child endangerment that puts a child's life at risk would become a level 9, person felony.

There are two reasons for this proposed change. First, it makes sense in light of the penalty levels proposed by the KBI for the methamphetamine provisions. It would seem odd indeed to say that, for example, putting a child's health in danger by having that child near methamphetamine production would be a felony but putting the same child's life at risk in any other manner would remain a misdemeanor.

Second, this would address a problem brought to Senator Umbarger and myself by a family in Coffeyville. In that case, a man who was playing host to several neighborhood

children at his home knowingly left a loaded firearm in plain sight in his kitchen and left the children unattended. One child picked up the gun and killed 13-year-old C.J. Crane, who was in the house playing with his playmates.

C.J.'s parents explored the possibility of a civil suit against the adult who acted so recklessly in causing the death of C.J. The individual had no assets and was, in effect, judgment proof. They also explored with the county attorney and with the attorney general's criminal division the possibility of bringing criminal charges. Both prosecutors' offices concluded that involuntary manslaughter charges could not be successfully brought. The county attorney considered filing child endangerment charges, but because that crime carries only a misdemeanor penalty, the judgment was made that it was insufficient to fit the crime and, therefore, insufficient to justify the devotion of resources to the prosecution.

House Bill 2730 would make the sort of reckless child endangerment that killed C.J. Crane a felony. C.J. died February 19, 2001. Senator Umbarger and I have worked with his family for two years trying to craft legislation that could address similar circumstances in the future and also that would be good public policy. We have had several false starts, but we hope the approach before you will work.

The Senate passed this provision last year (except the Senate bill proposed to make all child endangerment a felony instead of setting up a two-tiered penalty system). The Senate-passed language is contained in House Bill 2391, which became an "omnibus" crime bill.

Our hope is that this particular issue is sufficiently non-controversial as to move on its own if separated from the many other issues in House Bill 2391. If that is so, we would appreciate your consideration of moving this legislation forward quickly in the hopes it could become law by the third anniversary of C.J.'s death.

Thank you for considering this matter, and I would stand for questions.



Michael J. Heffron, Chief of Police

Michael Lopez, Deputy Chief of Police

Michael Williams, Deputy Chief of Police

House Corrections and Juvenile Justice Committee:

02-10-04

In reference to HB 2730.

Mr. Chairman and members of the committee:

The Kansas Peace Officer's Association (KPOA) along with the Emporia, Kansas Police Department, would support passage of this bill.

The reason the KPOA and the Emporia Police Department would support passage of HB 2730 is due to the proposed changes in the Child Endangering law, in reference to K.S.A. 21-3608. The proposed changes would give law enforcement specific tools in enforcing what should be considered common sense. The proposed changes cited by this bill would make it specifically illegal to expose children to many of the chemicals used to make Methamphetamine.

Members of our department have been able to cite several instances where they have made arrest out of dwellings where Methamphetamine was being made, and children were present. During these instances many of the chemicals used to make Methamphetamine were simply laying around in plain sight, and left unsecured. These chemicals are poison if ingested, and can cause severe injury by simple skin contact.

Some of these chemicals are Anhydrous Ammonia, Iodine, Red Phosphorous, Lithium, (from batteries), and Ether to name a few. I was told about a specific instance where a compressed oxygen bottle, containing Anhydrous Ammonia was found in a bedroom unsecured. This chemical can cause severe burns to the skin, and lasting, or fatal respiratory damage if inhaled.

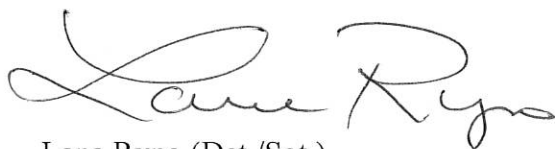
During some of the processes used to make Methamphetamine drain cleaner is mixed with rock salt creating Hydrochloric Acid. This too can be fatal if inhaled or consumed, and can burn skin like any acid.

I have been told by officers in my department about finding Ether in water jugs placed under the kitchen table, or placed in "Mason Jars" on the kitchen cabinets, of households where children as young as 3 and 4 yrs. old were left unattended. These vessels were not secured in any fashion, and when the officers asked what they contained, they were told "water".

These are just some of the examples I've either been told about, or witnessed first hand.

I believe the passage of HB 2391 would be a step in the right direction to help some children, who can't help themselves, get out of some hazardous situations.

Thanks for your consideration!

A handwritten signature in cursive script that reads "Lane Ryno". The signature is written in black ink and is positioned above the typed contact information.

Lane Ryno (Det./Sgt.)
KPOA Legislative Committee
Emporia Police Dept.
518 Mechanic St.
Emporia, Ks. 66801
(620) 343-4219
Fax (620) 343-4206

(2)

Testimony
House Bill No. 2730
Committee on Corrections and Juvenile Justice
Max Wilson, Executive Director
Shawnee Regional Prevention and Recovery Services
2209 SW 29th Street
Topeka, KS 66611
785-266-8666
mwilson@parstopeka.com

Chairman Loyd and Members of the Committee:

I'm Max Wilson, Director of Shawnee Regional Prevention and Recovery Services, here in Topeka, and I'm also representing the Regional Prevention Centers Association of Kansas which is comprised of 13 Regional Prevention Centers throughout the state. This association is also a section of the Kansas Alcohol and Drug Service Providers Association.

We stand in support of House Bill 2730 and urge you to pass this bill which will become another important tool for law enforcement and social services to deal with the growing problem of child endangerment related to methamphetamine manufacturing.

Until recently, clandestine methamphetamine production was viewed as a victimless crime. Law enforcement and child protective services personnel typically failed to treat as victims the children found living at or visiting illegal meth lab sites. They rarely interviewed these children as potential witnesses, evaluated them for physical or psychological damage, or ensured that they were placed in proper safe environments. Now, as more and more children are found living at home-based labs, law enforcement, medical, and social services professionals are showing growing awareness of the enormous physical emotional, and psychological damage these children may incur.

Children who live at or visit these sites or are present during drug production face acute health and safety risks, including physical, emotional, and sexual abuse and medical neglect.

The methamphetamine production process involves three basic stages. First, the cooking stage where the chemicals ephedrine, hydriodic acid, and red phosphorous are mixed and heated at various stages for about 12 hours and then strained to remove the red phosphorous, which is not water soluble and is fatal in large doses. Then the extraction stage involves adding sodium hydroxide to convert the acidic mixture to a basic one and then adding Freon to extract the methamphetamine from the base. Finally, the salting or drying stage includes adding hydrogen chloride gas to the mixture to convert it from an oil into a crystalline powder. All of the stages involve highly flammable and toxic substances.

The danger to children becomes obvious when a methamphetamine lab explodes, killing or injuring them, or when authorities discover neglected children as a result of their parents' methamphetamine use. However, chemical burns and exposure to hazardous chemicals and deadly gases represent some of the more insidious and overlooked injuries caused by living in a methamphetamine lab environment. For example, authorities have found babies crawling on carpets where toxic chemicals used to make methamphetamine have spilled. They have seen children cooking their own meals in the same microwave ovens that their parents used to produce methamphetamine. Also, they have discovered chemicals used in methamphetamine production stored in open or improperly sealed containers in areas where children played. These chemicals emit hazardous fumes toxic enough to burn lungs; damage the brain, kidneys, and liver; or even kill these children. In a recent case, two boys received second-degree chemical burns on their arms when they fell off their bikes onto a patch of dirt in their backyard. Police officers discovered that their parents had dumped leftover waste from their methamphetamine production in the yard.

What can be done to protect these children? The available options do not always provide these children with the safest alternatives. For example, leaving the children with a neighbor or family member may prove risky because such individuals may not possess the ability to care for a child. Also, calling child protective services may result in lengthy delays because these agencies often are overworked and poorly equipped to handle emergency situations. Therefore, in many instances, children return time and again to their unsafe, unstable homes because of the lack of available intervention resources. Further, often stymied in their attempts to get the children to a safe environment, police officers cannot focus on their primary missions of gathering evidence, putting offenders in jail, and preparing these cases for prosecution. Both kids and officers get caught in the middle of parental drug use and profiteering.

For years, the concept of children as victims of the methamphetamine epidemic remained unknown. However, in 1995, the issue gained national attention when a Riverside County, California, methamphetamine lab exploded, killing three small children. Their mother received a conviction for second-degree murder and appealed the verdict. In March 1998, the Fourth District Court of Appeals ruled that manufacturing methamphetamine is an inherently dangerous felony for the purpose of the second-degree felony-murder rule 2. This case sparked state legislation that added prison enhancements for the presence of children at methamphetamine labs. As of January 1998, defendants found guilty of manufacturing methamphetamine in the presence of children under 16 face a 2-year prison enhancement. The methamphetamine producer can expect an additional 5-year penalty enhancement when a child is injured as a result of the methamphetamine production process.

Methamphetamine manufacturing has added a new casualty to its long list of victims caught in the morass of drug abuse. In increasing numbers, children of methamphetamine producers have become victimized by their parents' illegal manufacture and use of this substance. These parents neglect their children's

development and place them in hazardous living conditions that can cause serious health problems, even death.

The passage of House Bill No. 2730 hopefully will help reduce the incidents of meth-endangered children by giving meth manufacturers enhanced punishment for having children present and will give social services the opportunity to find a healthier environment for these children to live and thrive.

Thank you for giving me this opportunity to speak to this issue and support your passing this bill.

Respectfully,

Max Wilson

Hazards of Methamphetamine Production

Typical Chemicals Found in Lab Sites	Common Legitimate Uses	Poison	Flammable	Toxic Vapors	Explosive	Corrosive	Skin Absorption	Common Health Hazards
Acetone	Fingernail polish remover, solvents	X	X	X			X	Reproductive disorders
Methanol	Brake Cleaner fluid, fuel	X	X	X			X	Blindness, eye damage
Ammonia	Disinfectants	X		X		X	X	Blistering, lung damage
Benzene	Dye, varnishes, lacquers	X	X		X	X	X	Carcinogen, Leukemia
Ether	Starters fluid, anesthetic	X	X		X			Respiratory Failure
Freon	Refrigerant, propellants	X		X		X		Frostbite, Lung damage
Hydriodic Acid	Driveway cleaner	X		X		X	X	Burns, Thyroid Damage
Hydrochloric Acid(HCL Gas)	Iron ore processing, mining	X		X		X	X	Respiratory, Liver Damage
Iodine Crystals	Antiseptic, Catalyst	X	X		X	X		Birth Defects, Kidney Failure
Lithium Metal	Lithium batteries	X				X	X	Burns, Pulmonary Edema
Muriatic Acid	Swimming pool cleaners	X		X		X		Burns, Toxic Vapors
Phosphine Gas	Pesticides	X		X			X	Respiratory Failure
Pseudosphedrine	Cold medicines	X						Abuse: Heart Damage
Red Phosphorus	Matches, fireworks	X	X	X	X			Unstable, Flammable
Sodium Hydroxide	Drain cleaners, lye	X		X		X	X	Burns, Skin Ulcers
Sulfuric Acid	Battery Acid	X		X		X	X	Burns, Thyroid Damage
Toluene	Paint, thinners, solvents	X	X	X	X		X	Fetal Damage, Pneumonia
Liquid Lab Waste	None	X	X	X	X	X	X	Unknown long term effects

Methamphetamine Lab Dangers to Children



Fires and explosions fueled by dangerous chemicals

Illness and injuries due to exposure to toxic chemicals and metals:

- Cancer
- Respiratory damage
- Burns
- Poisoning
- Reproductive disorders

Child abuse and neglect resulting from family violence, financial problems, etc

Children at risk due to family crime environment

Complications of prenatal development

- Intrauterine growth retardation
- Decreased head circumference
- Premature labor
- Fetal distress
- Development and behavioral difficulties

METHAMPHETAMINE: What YOU Need to Know

Meth Lab Dangers

Chemicals found in meth labs are involved in causing:

- cancer
- short-term and permanent brain damage (neurological toxicity)
- developmental and growth problems in children and teens
- reproductive system toxicity
- internal and external chemical burns
- immune system problems
- heart problems
- respiratory system problems, and other health problems

Dangerous effects can occur with even short-term exposure. Many chemicals found in labs are poisons by themselves or poisonous and explosive when mixed with other chemicals. One gas sometimes produced is odorless, but fatal.

Child Endangerment

Children living in meth labs or exposed to meth making are endangered; they are breathing and developing faster than adults, so are more affected by chemicals. Young children are more likely to drink the liquids that are part of meth production, especially because they are often stored in real food containers. Increasing numbers of children have been hospitalized or died in California as a result of meth lab fires or poisoning from meth ingredients. Children found in meth labs are also often victims of neglect and physical or sexual abuse. They are often witnesses to domestic violence and criminal activities. Sometimes they are forced to join in meth production or selling which puts them at further risk.

Commonly Found Chemicals

Toluene/paint thinner, methanol, benzene, ethyl ether, camp stove fuel/Coleman fuel, starting fluid, "HEET", ammonia, iodine crystals, ephedrine or pseudoephedrine, Drano, lye, red phosphorous, muriatic/ hydrochloric acid, and battery acid are all examples of chemicals found in many clandestine methamphetamine labs.

METHAMPHETAMINE: CHILDREN AT RISK



Risks to children include:

- Exposure to explosive, flammable, toxic ingredients stored in kitchen cabinets, bathrooms and bedrooms
- Access to meth and paraphernalia
- Presence of loaded weapons in the home and booby traps (due to paranoia of meth users)
- Physical and sexual abuse
- Exposure to high risk populations (sexual abusers, violent drug users)
- Neglect including poor nutrition, poor living conditions
- Presence of pornography

If a pregnant woman uses meth, the baby may experience:

- Premature birth
- Growth retardation
- Withdrawal symptoms including abnormal sleep patterns, high pitched cry, poor feeding
- Cerebral injuries
- Limpness
- Apparent depression
- Shaking and tremors
- Irritability
- Fits of rage
- Sensitivity to stimuli including human touch and regular light
- Coordination problems
- Birth defects (6 times more) including effects on the central nervous system, heart and kidneys
- Cerebral palsy and paralysis are common

The effects of meth last longer than crack and can lead to more damage.

Levels of meth present in breast milk are higher than the level in blood.

Sources: Dr. Rizwan Shah, Iowa Child Protection Council; Dr. Michael Sherman, Chief of Neonatology at UC Davis; Dr. Annette Grefe, Yellowstone Pediatric Neurologist

Medical personnel may notice:

Agitation, inconsolability, tachycardia, respiratory problems (often meth kids present with asthma), nausea, protracted vomiting, hyperthermia, ataxia, roving eye movements, seizures, and headaches.

Source: Dr. Jennifer Geyer, Mesa Center Against Family Violence

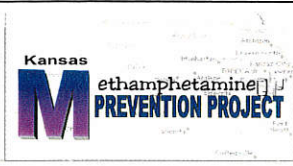
Parents who use meth often exhibit:

- Extreme mood fluctuations
- Violent behavior
- Depression
- Poor impulse control
- Bizarre behaviors
- Lack of attention to hygiene
- Acute psychotic episodes
- Poly-drug abuse

As meth use continues, the parent is unable to provide basic needs to the child. Due to changes in brain chemistry, the parent loses the capacity to care about anything but meth.

Children whose parents use or manufacture meth often experience:

- Respiratory problems
- Delayed speech and language skills
- Higher risk for kidney problems and leukemia
- Malnourishment
- Poor school performance/attendance problems
- Isolation
- Physical, sexual and emotional abuse
- Poor dental health
- Hyperactivity and attention disorders
- Lice
- Obesity
- Other developmental problems
- Violent behavior
- Drug usage
- Lack of boundaries/easy attachment to strangers



This information sheet was developed by the Kansas Methamphetamine Prevention Project. For more information, to schedule a presentation or to become involved in Drug Endangered Children efforts, contact Cristi Cain at (785) 266-8666 or ccain@parstopeka.com.



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

TESTIMONY
BEFORE THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
SENIOR SPECIAL AGENT DAVID HUTCHINGS
KANSAS BUREAU OF INVESTIGATION
SOUTHEAST KANSAS DRUG ENFORCEMENT TASK FORCE
IN REFERENCE TO HB 2730
FEBRUARY 10, 2004

Chairperson Loyd and Members of the Committee:

My name is David Hutchings and I am a Senior Special Agent with the Kansas Bureau of Investigation. I am presently the Task Force Manager for the Southeast Kansas Drug Enforcement Task Force that serves a portion of the state that has experienced more than its share of illegal methamphetamine manufacturing operations. It is also, unfortunately, a part of the state that has seen some of the highest incidence of child abuse. All too often, these criminal acts overlap when children are exposed to the hazards of methamphetamine labs.

I am certified to investigate the hazardous environments associated with methamphetamine production. In other words, I have had a 40 hour course that has acquainted me with the hazards posed by the chemicals and chemical byproducts associated with methamphetamine manufacture. I am provided with chemical suits, a self contained breathing apparatus, an air purifying respirator similar to a gas mask, chemical gloves and overshoes, and equipment that is used to monitor the air for gasses which may be harmful to my health.

I know that the chemicals used to manufacture methamphetamine are highly flammable, explosive, corrosive, and/or carcinogenic. I have been trained to be in the environment of a

methamphetamine lab for the relatively short period of time that it takes to process the evidence found at the site and to remove any obvious contamination. I am present in a methamphetamine lab for only a few hours a week, but because I must be there, my health is monitored with a physical examination every two years. When contaminated items are removed from methamphetamine labs, specially trained individuals from hazardous waste companies are called in to dispose of those items.

I have seen the health issues faced by individuals that manufacture methamphetamine. I have read about the officers that have faced debilitating injuries, often to their respiratory systems, because they were exposed to chemicals at a methamphetamine lab. And I have seen children, who, through no fault of their own, must face the hazards I have described, but without chemical suits or breathing devices. These children must remain exposed to the hazardous conditions found in methamphetamine labs for many hours a day rather than a few in a week. And these children usually don't have the maturity or knowledge to know that they are being harmed. These children are victims.

It has been my experience that methamphetamine labs are often found in residences, and that no effort is taken to protect any occupants of these residences, children or otherwise, from the hazards associated with the lab.

I have seen a two year old boy with chemical burns on his legs because his mother spilled a corrosive solution of strong drain cleaner on the child and herself while she was manufacturing methamphetamine. I have seen the damage done to the children's bedroom from a fire that started while their father and a "friend" were making methamphetamine in the family kitchen. The father and his friend saved what they could from their methamphetamine lab before alerting the children and their mother, who were sleeping late that Saturday morning. The mother knew about the lab, but chose to ignore it because it was her source of methamphetamine.

When a child has been exposed to the hazards of a methamphetamine lab, I have found that there was often a responsible party for that child who allowed the child to be there. That responsible party may not have participated in the methamphetamine manufacturing process, but he or she did place the child in danger by allowing the child to be exposed to the hazards of the lab - often for extended periods of time and through multiple episodes of manufacture.

The Southeast Kansas Drug Enforcement Task Force and concerned area agencies have recognized the significant problem of children found in methamphetamine labs by implementing a Drug Endangered Children Program to more effectively address these children's needs. The program is a joint initiative involving the KBI, local law enforcement, SRS, prosecutors, the medical community, and local children's support agencies. It has met with strong support from participating agencies and the community.

Presently, however, there is not specific legislation to address the situations where children have been knowingly exposed to methamphetamine labs by individuals who may not have been actively participating in the lab operation.

On behalf of the agencies of the Southeast Kansas Drug Enforcement Task Force, I support legislation that would specifically address situations where children are placed in danger by their exposure to the hazards associated with methamphetamine production and other drug crimes. I would be happy to answer any questions.

OFFICERS

Gerald W. Woolwine, President
Christine Kenney, Vice-President
Thomas J. Drees, Secretary/Treasurer
Steve Kearney, Executive Director
John M. Settle, Past President



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DIREC. 5

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Written Testimony in Support of HB 2730
House Committee on Corrections and Juvenile Justice
Mike Jennings
Legislative Committee Chair
Kansas County and District Attorneys Association
February 10, 2004

Chairman Loyd and Members of the Committee:

On behalf of the Kansas County and District Attorneys Association, I want to thank you and the Committee for this opportunity to submit written testimony expressing our support for House Bill No. 2730. Kansas County and District Attorneys Association supports lines 18-20 of the bill, which makes it unlawful to place a minor in a situation that endangers their life.

House Bill No. 2730 makes it a felony to expose a child to the sale and manufacturing process of methamphetamine, thereby creating a risk of injury to the child. This liability is imposed for the protection of minor children who may find themselves exposed to the sale and manufacturing process. The dangers of breathing anhydrous ammonia, ether, phosphene gas, methanol vapor and hydrogen chloride are too well known to be disputed. Skin contact is equally risky for the acids used. In addition, the fire and explosion hazards are well documented. Many of these children are dependant on the person exposing them to this harm for their upbringing, and are to this extent captives of the harm created by the manufacturing process. A child killed in a fire started by an exploding meth lab deserves this degree of protection.

Because these risks of harm are severe, a felony sanction is believed to be proportionate to the harm and is therefore appropriate.

Sandy Barrett



UNITED AGAINST VIOLENCE

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

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785-232-9784 • FAX 785-266-1874 • coalition@kcsdv.org

**House Bill 2730
February 10, 2004
Corrections and Juvenile Justice Committee**

Chairman Loyd and Members of the Committee:

KCSDV's position on HB 2730 relates to the lack of protections afforded to battered women and their children. No doubt, exposing children and others to methamphetamines is of serious concern to us all. KCSDV has no argument with the intent of HB 2730 to impose a clear and strict message about exposing children to dangerous situations – as long as we are able to protect those who do not have realistic choices about their own lives or those of their children.

HB 2730 is predicated on the assumption that women who are battered by their husbands or partners increase the safety for themselves and their children if they leave the situation. Separation violence leaves women and their children at 7 times greater risk of serious harm or death¹. Newspaper accounts of domestic violence murders are almost always accompanied by information about the victim attempting to leave: either by filing a protection from abuse order or a divorce action. The assumption that leaving is the safest choice is simply erroneous.

Women frequently seek help through existing systems only to find that the help offered is insufficient to keep them safe. Often women find themselves having to resort to the only mechanisms they know of that allow them to predict the batterer's behavior: being present to try to circumvent or appease his abusive behavior.

On the off chance that mom and her children have been able to safely separate from a batterer, the courts are most likely to award joint custody. Although the court may consider issues of domestic violence as a factor in custody determinations, attorneys tell us they rarely raise the issue because it has little impact on the outcome of the custody and may serve to only inflame the batterer. So, it is likely that women are in the position of having to comply with court orders requiring children have parenting time with their father.

The amendment we request is exactly as we requested last year on HB 2391.

¹ U.S. department of Justice, Violence Against Women Survey

HOUSE BILL No. 2575

By Representatives Storm, Bethell, Boyer, Carlin, Craft, Crow, Flaherty,
Gilbert, Gordon, Horst, Knether, Loganbill, Jim Morrison, Neighbor,
Rehorn and Toelkes

1-22

AN ACT relating to abuse of persons; concerning mandatory reporting thereof; privileges and immunities; amending K.S.A. 2003 Supp. 38-1522, 39-1402 and 39-1431 and repealing the existing sections.

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

Section 1. K.S.A. 2003 Supp. 38-1522 is hereby amended to read as follows: 38-1522. (a) When any of the following persons has reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsection (c) or (c). Persons licensed to practice the healing arts or dentistry; persons licensed to practice optometry; persons engaged in postgraduate training programs approved by the state board of healing arts; licensed psychologists; licensed masters level psychologists; licensed clinical psychotherapists; licensed professional or practical nurses examining, attending or treating a child under the age of 18; teachers, school administrators or other employees of a school which the child is attending; chief administrative officers of medical care facilities; licensed marriage and family therapists; licensed clinical marriage and family therapists; licensed professional counselors; licensed clinical professional counselors; registered alcohol and drug abuse counselors; persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child; licensed social workers; *a duly ordained minister of religion and a regular minister of religion as defined in K.S.A. 60-429, and amendments thereto* ~~and any custodian of records for such minister~~ pursuant to subsection (b) ~~of this section~~; firefighters; emergency medical services personnel; mediators appointed under K.S.A. 23-602 and amendments thereto; juvenile intake and assessment workers and law enforcement officers. The report may be made orally and shall be followed by a written report if requested. When the suspicion is the result of medical examination or treatment of a child by a member of the staff of a medical care facility or similar institution, that staff member shall immediately notify the superinten-

Rep. Sue Storm
Proposed amendments
January 29, 2004

dent, manager or other person in charge of the institution who shall make a written report forthwith. Every written report shall contain, if known, the names and addresses of the child and the child's parents or other persons responsible for the child's care, the child's age, the nature and extent of the child's injury (including any evidence of previous injuries) and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the persons responsible for the injuries.

(b) Any other person who has reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse may report the matter as provided in subsection (c) or (e).

(c) Except as provided by subsection (e), reports made pursuant to this section shall be made to the state department of social and rehabilitation services. When the department is not open for business, the reports shall be made to the appropriate law enforcement agency. On the next day that the state department of social and rehabilitation services is open for business, the law enforcement agency shall report to the department any report received and any investigation initiated pursuant to subsection (a) of K.S.A. 38-1524 and amendments thereto. The reports may be made orally or, on request of the department, in writing.

(d) Any person who is required by this section to report an injury to a child and who knows of the death of a child shall notify immediately the coroner as provided by K.S.A. 22a-242, and amendments thereto.

(e) Reports of child abuse or neglect occurring in an institution operated by the secretary of social and rehabilitation services or the commissioner of juvenile justice shall be made to the attorney general. All other reports of child abuse or neglect by persons employed by or of children of persons employed by the state department of social and rehabilitation services or the juvenile justice authority shall be made to the appropriate law enforcement agency.

(f) Willful and knowing failure to make a report required by this section is a class B misdemeanor.

(g) Preventing or interfering with, with the intent to prevent, the making of a report required by this section is a class B misdemeanor.

~~the [] Minister of religion [] defined in paragraphs (1) and (2) of subsection (a) of K.S.A. 60-429, and amendments thereto, and any custodian of records for such minister~~ who obtains knowledge of or has reason to suspect that a child has been subjected to physical, mental, or emotional abuse or neglect or sexual abuse and such knowledge or suspicion arises in the performance of such person's professional capacity other than during a penitential communication as defined in K.S.A. 60-429, and amendments thereto, or when acting in some other capacity within the scope of such person's employment that would otherwise make
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1 *such minister* ~~[or custodian]~~ *a mandated reporter, such minister* ~~[or~~
 2 ~~custodian]~~ *shall report such physical, mental or emotional abuse or neglect or*
 3 *sexual abuse promptly as provided in subsections (c) or (c').*

4 ~~[(2) This subsection shall apply even if the victim of the known or~~
 5 ~~suspected physical, mental or emotional or neglect or sexual abuse has~~
 6 ~~reached the age of majority by the time the required report is made.~~

7 ~~[(3) The local law enforcement agency shall have jurisdiction to investi-~~
 8 ~~gate any report of known or suspected physical, mental or emotional~~
 9 ~~abuse or neglect or sexual abuse made pursuant to this subsection if the~~
 10 ~~report is made after the victim has reached the age of majority.]~~

11 Sec. 2. K.S.A. 2003 Supp. 39-1402 is hereby amended to read as
 12 follows: 39-1402. (a) Any person who is licensed to practice any branch
 13 of the healing arts, a licensed psychologist, a licensed master level psy-
 14 chologist, a licensed clinical psychotherapist, a chief administrative officer
 15 of a medical care facility, an adult care home administrator or operator,
 16 a licensed social worker, a licensed professional nurse, a licensed practical
 17 nurse, a licensed marriage and family therapist, a licensed clinical mar-
 18 riage and family therapist, licensed professional counselor, licensed clinical
 19 professional counselor, registered alcohol and drug abuse counselor,
 20 a teacher, a bank trust officer and any other officers of financial institu-
 21 tions, a legal representative, *a duly ordained minister of religion and a*
 22 *regular minister of religion as defined in K.S.A. 60-429, and amendments*
 23 *thereto,* ~~[and any custodian of records for such minister]~~ *pursuant to sub-*
 24 *section (f)* ~~[of this section]~~ *or a governmental assistance provider who has*
 25 *reasonable cause to believe that a resident is being or has been abused,*
 26 *neglected or exploited, or is in a condition which is the result of such*
 27 *abuse, neglect or exploitation or is in need of protective services, shall*
 28 *report immediately such information or cause a report of such informa-*
 29 *tion to be made in any reasonable manner to the department on aging*
 30 *with respect to residents defined under subsection (a)(1) of K.S.A. 39-*
 31 *1401 and amendments thereto, to the department of health and environ-*
 32 *ment with respect to residents defined under subsection (a)(2) of K.S.A.*
 33 *39-1401, and amendments thereto, and to the department of social and*
 34 *rehabilitation services and appropriate law enforcement agencies with*
 35 *respect to all other residents. Reports made to one department which are*
 36 *required by this subsection to be made to the other department shall be*
 37 *referred by the department to which the report is made to the appropriate*
 38 *department for that report, and any such report shall constitute compli-*
 39 *ance with this subsection. Reports shall be made during the normal work-*
 40 *ing week days and hours of operation of such departments. Reports shall*
 41 *be made to law enforcement agencies during the time the departments*
 42 *are not open for business. Law enforcement agencies shall submit the*
 43 *report and appropriate information to the appropriate department on the*

1 first working day that such department is open for business. A report
2 made pursuant to K.S.A. 65-4923 or 65-4924 and amendments thereto
3 shall be deemed a report under this section.

4 (b) The report made pursuant to subsection (a) shall contain the
5 name and address of the person making the report and of the caretaker
6 caring for the resident, the name and address of the involved resident,
7 information regarding the nature and extent of the abuse, neglect or ex-
8 ploitation, the name of the next of kin of the resident, if known, and any
9 other information which the person making the report believes might be
10 helpful in an investigation of the case and the protection of the resident.

11 (c) Any other person, not listed in subsection (a), having reasonable
12 cause to suspect or believe that a resident is being or has been abused,
13 neglected or exploited, or is in a condition which is the result of such
14 abuse, neglect or exploitation or is in need of protective services may
15 report such information to the department on aging with respect to res-
16 idents defined under subsection (a)(1) of K.S.A. 39-1401 and amend-
17 ments thereto, to the department of health and environment with respect
18 to residents defined under subsection (a)(2) of K.S.A. 39-1401, and
19 amendments thereto, and to the department of social and rehabilitation
20 services with respect to all other residents. Reports made to one depart-
21 ment which are to be made to the other department under this section
22 shall be referred by the department to which the report is made to the
23 appropriate department for that report.

24 (d) Notice of the requirements of this act and the department to
25 which a report is to be made under this act shall be posted in a conspic-
26 uous public place in every adult care home and medical care facility in
27 this state.

28 (e) Any person required to report information or cause a report of
29 information to be made under subsection (a) who knowingly fails to make
30 such report or cause such report to be made shall be guilty of a class B
31 misdemeanor.

32 ~~(f) A minister of religion as defined in paragraphs (1) and (2) of sub-~~
33 ~~section (a) of K.S.A. 60-129, and amendments thereto, and any custodian~~
34 ~~of records for such minister who has reasonable cause to believe that a~~
35 ~~resident is being or has been abused, neglected or exploited, or is in need~~
36 ~~of protective services and such belief arises in the performance of such~~
37 ~~minister's professional capacity other than during a penitential commu-~~
38 ~~nication as defined in K.S.A. 60-129, and amendments thereto, or when~~
39 ~~acting in some other capacity within the scope of such minister's~~
40 ~~employment that would otherwise make such minister~~
41 ~~a mandated reporter, such minister shall report such~~
42 ~~belief of abuse, neglect or exploitation or need of protection services as~~
43 ~~provided in subsection (a).~~

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1 Sec. 3. K.S.A. 2003 Supp. 39-1431 is hereby amended to read as
2 follows: 39-1431. (a) Any person who is licensed to practice any branch
3 of the healing arts, a licensed psychologist, a licensed master level psy-
4 chologist, a licensed clinical psychotherapist, the chief administrative of-
5 ficer of a medical care facility, a teacher, a licensed social worker, a li-
6 censed professional nurse, a licensed practical nurse, a licensed dentist,
7 a licensed marriage and family therapist, a licensed clinical marriage and
8 family therapist, licensed professional counselor, licensed clinical profes-
9 sional counselor, registered alcohol and drug abuse counselor, a law en-
10 forcement officer, a case manager, a rehabilitation counselor, a bank trust
11 officer or any other officers of financial institutions, a legal representative,
12 a governmental assistance provider, *a duly ordained minister of religion*
13 *and a regular minister of religion as defined in K.S.A. 60-129, and amend-*
14 *ments thereto, ~~(and any custodian of records for such minister)~~ pursuant*
15 *to subsection (g) ~~of this section~~, an owner or operator of a residential care*
16 *facility, an independent living counselor and the chief administrative of-*
17 *ficer of a licensed home health agency, the chief administrative officer of*
18 *an adult family home and the chief administrative officer of a provider of*
19 *community services and affiliates thereof operated or funded by the de-*
20 *partment of social and rehabilitation services or licensed under K.S.A. 75-*
21 *3307b and amendments thereto who has reasonable cause to believe that*
22 *an adult is being or has been abused, neglected or exploited or is in need*
23 *of protective services shall report, immediately from receipt of the infor-*
24 *mation, such information or cause a report of such information to be made*
25 *in any reasonable manner. An employee of a domestic violence center*
26 *shall not be required to report information or cause a report of infor-*
27 *mation to be made under this subsection. Other state agencies receiving*
28 *reports that are to be referred to the department of social and rehabili-*
29 *tation services and the appropriate law enforcement agency, shall submit*
30 *the report to the department and agency within six hours, during normal*
31 *work days, of receiving the information. Reports shall be made to the*
32 *department of social and rehabilitation services during the normal work-*
33 *ing week days and hours of operation. Reports shall be made to law en-*
34 *forcement agencies during the time social and rehabilitation services are*
35 *not in operation. Law enforcement shall submit the report and appro-*
36 *priate information to the department of social and rehabilitation services*
37 *on the first working day that social and rehabilitation services is in op-*
38 *eration after receipt of such information.*

39 (b) The report made pursuant to subsection (a) shall contain the
40 name and address of the person making the report and of the caretaker
41 caring for the involved adult, the name and address of the involved adult,
42 information regarding the nature and extent of the abuse, neglect or ex-
43 ploitation, the name of the next of kin of the involved adult, if known.

1 and any other information which the person making the report believes
2 might be helpful in the investigation of the case and the protection of the
3 involved adult.

4 (c) Any other person, not listed in subsection (a), having reasonable
5 cause to suspect or believe that an adult is being or has been abused,
6 neglected or exploited or is in need of protective services may report such
7 information to the department of social and rehabilitation services. Re-
8 ports shall be made to law enforcement agencies during the time social
9 and rehabilitation services are not in operation.

10 (d) A person making a report under subsection (a) shall not be re-
11 quired to make a report under K.S.A. 39-1401 to 39-1410, inclusive, and
12 amendments thereto.

13 (e) Any person required to report information or cause a report of
14 information to be made under subsection (a) who knowingly fails to make
15 such report or cause such report not to be made shall be guilty of a class
16 B misdemeanor.

17 (f) Notice of the requirements of this act and the department to
18 which a report is to be made under this act shall be posted in a conspic-
19 uous public place in every adult family home as defined in K.S.A. 39-
20 1501 and amendments thereto and every provider of community services
21 and affiliates thereof operated or funded by the department of social and
22 rehabilitation services or other facility licensed under K.S.A. 75-3307b
23 and amendments thereto, and other institutions included in subsection
24 (a).

25 (g) ~~A minister of religion [as defined in paragraphs (1) and (2) of~~
26 ~~subsection (a) of K.S.A. 60-429, and amendments thereto, and any cus-~~
27 ~~todian of records for such minister] who has reasonable cause to believe~~
28 ~~an adult is being abused, neglected or exploited or in need of protective~~
29 ~~services and such belief arises in the performance of such minister's pro-~~
30 ~~fessional capacity other than during a penitential communication as de-~~
31 ~~scribed in K.S.A. 60-429, and amendments thereto, or when acting in some~~
32 ~~other capacity within the scope of such minister's [or custodian's] employ-~~
33 ~~ment that would otherwise make such minister [or custodian] a mandated~~
34 ~~reporter, such minister [or custodian] shall report such belief of abuse,~~
35 ~~neglect or exploitation or need of protective services as provided in sub-~~
36 ~~section (a).~~

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37 Sec. 4. K.S.A. 2003 Supp. 38-1522, 39-1402 and 39-1431 are hereby
38 repealed.

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