

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 p.m. on March 10, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Ward Loyd- excused
Representative Dean Newton- excused
Representative Dan Williams- excused

Committee staff present:

Jill Wolters, Revisor of Statutes
Diana Lee, Revisor of Statutes
Jerry Ann Donaldson, Kansas Legislative Research Department
Cindy O'Neal, Secretary

Conferees appearing before the committee:

Senator Barbara Allen
Jack Dickson, Survivors Ministry, 1st Methodist Church, El Dorado
Arlys-Marie Gilchrist, Survivors Ministry, 1st Methodist Church, El Dorado
Mike Farmer, Kansas Catholic Conference

The hearing on **SB 460 - taxpayer identification can not be used to obtain drivers' licenses or other identification cards**, was opened.

Senator Barbara Allen appeared as the sponsor of the proposed bill which would delete from current statute the ability to use a taxpayer identification number as proof of identification if the person does not have a social security number. The IRS does not verify applicants' legal presence in the United States when it issues Individual Taxpayer Identification Numbers. By passing the bill it would strengthen the security and verifiability of state issued identifications (Attachment 1)

The hearing on **SB 460** was closed.

The hearing on **SB 436 - statute of limitations on childhood sexual abuse extended to 30 years**, was opened.

Jack Dickson, Survivors Ministry, 1st Methodist Church, El Dorado, appeared in support of the proposed bill but requested an amendment which would strike the Senate amendment of 5 years and replace it with a 15 year statute of limitation because in many cases it takes more than 3 years to admit the abuse happened and then the person needs extensive therapy and medical evaluations. The current 3 years is not a sufficient amount of time for victims to bring their case to court. (Attachment 2)

Arlys-Marie Gilchrist, Survivors Ministry, 1st Methodist Church, El Dorado, told about her experience of sexual abuse by her father and her medical conditions which are believed to be associated directly and indirectly to that abuse. (Attachment 3)

Written testimony in support of the bill was provided by Mary Jo Grant, Survivors Ministry, 1st Methodist Church, El Dorado, (Attachment 4)

Mike Farmer, Kansas Catholic Conference, preferred the current statute of limitations which is 3 years and would be accepting of a 5 year standard but opposed anything more than 5 years. He was concerned that overtime, the truth and recollections begin to fade and those who are involved might have passed away and therefore not able to defend himself. (Attachment 5)

The hearing on **SB 436** was closed.

The committee meeting adjourned. Then next committee meeting was scheduled for March 11, 2004.

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on March 10, 2004 in Room 313-S of the Capitol.

BARBARA P. ALLEN
SENATOR, EIGHTH DISTRICT
JOHNSON COUNTY
9851 ASH DRIVE
OVERLAND PARK, KANSAS 66207
(913) 648-2704
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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
CHAIR: ELECTIONS AND LOCAL GOVERNMENT
MEMBER: ASSESSMENT AND TAXATION
JUDICIARY

March 10, 2004

Mr. Chairman:

Thank you for the opportunity to testify today on SB 460. In my view, our top priority with regard to Kansas Driver's Licenses (DL) and ID Cards should be to ensure they are verifiable and secure, thus protecting Kansans' safety. SB 16, passed last year, was about strengthening the security and verifiability of State-issued identification.

An amendment added to SB 16 on the floor of the Senate last year, which eventually became law, is the subject of SB 460. SB 460 strikes the amendatory language that allows an applicant for a Kansas DL or ID card to provide an individual taxpayer identification number (ITIN) as proof of identification, if the applicant does not have a social security number (SSN.)

The need for this statutory change became clear to me upon review of a letter from the Internal Revenue Service (IRS), addressed to Sheila Walker, Director, Kansas Division of Motor Vehicles (DMV), dated August 8, 2003. (attached.) That letter states:

"Several state government motor vehicle departments are accepting IRS-issued Individual Taxpayer Identification Numbers (ITINs) as proof of identification for state driver's licenses, prompting us to issue this reminder – ***ITINs are not valid for identification outside the tax system.***"

Highlighted in your copy of the IRS letter is critically important language regarding the use of ITINs as proof of identification for Kansas DLs and ID cards.

"Although we require ITIN applicants to provide proof of identity documents, we accept these documents at face value without validating their authenticity with issuing agencies or conducting applicant background investigations. We do not require applicants to appear in person, and third parties may submit applications and provide documentation on behalf of others. Also, since we issue ITINs

for tax filing purposes only, we do not verify applicants' legal presence in the U.S." (emphasis added.)

The IRS clearly states the proof of identity documents used to obtain an ITIN are not validated for authenticity, and in fact, the person for whom the number is issued does not even have to show up in person. A third party may obtain an ITIN on behalf of someone else. An ITIN is not a reliable or verifiable form of identification for obtaining a Kansas DL or ID card, because the underlying documents used to obtain an ITIN are not validated for authenticity.

Furthermore, the IRS clearly states it does not verify applicants' legal presence in the U.S. when it issues an ITIN. Kansas law requires (K.S.A. 2003 Supp. 8-240; K.S.A. 2003 Supp. 8-1324) that an applicant for a Kansas DL or ID card submit proof that the applicant is lawfully present in the United States, and prohibits the division from issuing identification to any person who is not lawfully present in the United States. According to the IRS, an ITIN is not verifiable proof of legal presence in the U.S. Therefore, the ITIN should not be allowed as proof of identification for State-issued identification.

I also have attached to my testimony a letter from Janet Schalansky, Secretary of SRS, dated February 11, 2004, that clarifies the federal requirements concerning driver's license applications and SSNs. The SRS letter states:

"The state is required to have in effect laws which require any applicant for a driver's license to provide the applicant's social security number on the driver's license application. S.B. 460, as introduced, does not affect CSE's compliance with federal law."

SRS testified in support of SB 460 in the Senate Judiciary Committee. Passage of this bill, which would remove an applicant's ability to provide an ITIN to obtain a Kansas DL, would not affect Kansas' compliance with Title IV-D of the social security act, relating to Child Support Enforcement.

At the time the language that is the subject of SB 460 was offered as an amendment to SB 16, I cautiously supported the

amendment, based on Director Walker's recommendation. The date of the final vote on SB 16 was January 30, 2003. However, the letter from the IRS to Director Walker, dated August 8, 2003, caused me to withdraw my support of the amendatory language.

Specifically, the IRS letter states:

"If your state is considering legislation to accept ITINs as proof of identity for driver's licenses, please alert your legislators to potential security risks. State-issued photo identification provides unrestricted access to most U.S. air and ground transportation systems and entry to public buildings." (emphasis added.)

In summary, my sole purpose for bringing SB 460 before you today is that Kansas DLs and ID cards must be a secure form of identification. Last year, SB 16 went a long way in preventing Kansas from being one of the easiest states in the nation in which to obtain false identification. I believe the language in current law, that allows an applicant to submit an ITIN as proof of identification if the applicant does not have an SSN, compromises the security and verifiability of state-issued identification.

Accepting ITINs as proof of identity for DLs and ID cards is a potential security risk. Passage of SB 460 would remove that risk. SB 460 passed the Senate 40-0 on February 27, 2004. I respectfully urge your support.



Barbara P. Allen
State Senator, District 8

Attachments:

1. IRS letter, August 8, 2003
2. K.S.A. 2003 Supp. 8-240; K.S.A. 2003 Supp. 8-1324
3. SRS letter, February 11, 2004
4. SB 460 vote, Senate Journal, February 27, 2004



COMMISSIONER
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

RECEIVED

AUG 11 2003

DIRECTOR OF VEHICLES

AUG 8 2003

Shiela Walker, Director
Kansas Division of Motor Vehicles
Docking State Office
915 SW Harrison Street #162
Topeka, Kansas 66626

Barbara P. Allen
District #8

Dear Director Walker:

Several state government motor vehicle departments are accepting IRS-issued Individual Taxpayer Identification Numbers (ITINs) as proof of identification for state driver's licenses, prompting us to issue this reminder -- *ITINs are not valid for identification outside the tax system.*

The Internal Revenue Service issues ITINs for the sole purpose of enabling individuals who do not qualify for Social Security numbers to meet their tax filing responsibilities. Therefore, we do not subject ITIN applicants to the same rigorous document verification standards as Social Security number or visa/passport applicants.

Although we require ITIN applicants to provide proof of identity documents, we accept these documents at face value without validating their authenticity with issuing agencies or conducting applicant background investigations. We do not require applicants to appear in person, and third parties may submit applications and provide documentation on behalf of others. Also, since we issue ITINs for tax filing purposes only, we do not verify applicants' legal presence in the U.S. — the tax code classifies aliens based on their physical presence (resident or non-resident), not their legal status in this country.

Unlike Social Security numbers, ITINs do not:

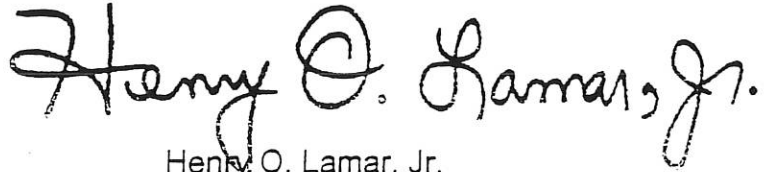
- Authorize an individual to work in the U.S.;
- Endorse an individual's legal status in this country; or
- Entitle an individual to Social Security benefits or the Earned Income Tax Credit.

If your state is considering legislation to accept ITINs as proof of identity for driver's licenses, please alert your legislators to potential security risks. State-issued photo identification provides unrestricted access to most U.S. air and ground transportation systems and entry to public buildings.

If your state currently accepts ITINs as proof of identity for driver's licenses, please alert your staffs that IRS issues ITINs for tax purposes only. Please do not direct driver's license applicants to us for ITINs; we do not issue the numbers for non-tax reasons.

Thank you for your help and support. For additional information about ITINs, visit our website at <http://www.irs.gov/individuals/article/0..id=96287.00.html> or direct questions to Anita Hill at (904) 665-1158, Bonnie Harrison at (859) 669-5538, or e-mail to itinprojectoffice@irs.gov.

Sincerely,

A handwritten signature in black ink that reads "Henry O. Lamar, Jr." in a cursive style.

Henry O. Lamar, Jr.

cc: Governor Kathleen Sebelius

7; L. 1988, ch. 45, § 2, ch. 70, § 3; July

Registration of city, district vehicles;
Registration. (a) Except as provided, each motor vehicle owned or leased by any person in this district of this state shall be registered exclusively for the purpose and not otherwise authorized by statute.

shall be registered for a period of one year from the date of registration adopted except that such fee shall be permanent in nature as to remain in effect for the life span of the lease or until the lease is not a city, county, or district.

For city, county, or district vehicles shall be displayed in city, county, or district there shall be no

relationship or school district with the division of vehicles registered under this section shall be issued by subsection (b), except shall be issued for a fee. Every applicant shall be required to pay a fee to K.S.A. 8-143, although such vehicles shall be the secretary of revenue affixed to such license word utility and the fee.

The division shall adopt rules to carry out the provisions of this section.

§ 1; L. 1988, ch. 41, § 1; L. 1995, ch. 41, § 1; L.

License plates, right

In the event of the display of distinctive license

plates under the provisions of K.S.A. 8-161, 8-177a, 8-177c, 8-1,139, 8-1,140, 8-1,145 or 8-1,146, and amendments thereto, the surviving spouse or other family member, if there is no surviving spouse, shall be entitled to possession of any such distinctive license plates. Such license plates shall not be displayed on any vehicle unless otherwise authorized by statute.

History: L. 1998, ch. 140, § 4; L. 2002, ch. 4, § 1; July 1.

Article 2.—DRIVERS' LICENSES

8-222.

CASE ANNOTATIONS

15. Negligence of driver under 16 years of age is imputed to plaintiff parent permitting son to drive; summary judgment granted on wrongful death claim of parent. *Yetsko v. Panure*, 272 K. 741, 35 P.3d 904 (2001).

8-234.

Attorney General's Opinions:

"Adult" supervising driving of person with restricted license means licensed person at least 18 years of age. 2001-34.

8-235.

Attorney General's Opinions:

"Motor scooters" — required to be registered, operators to have driver's license. 2001-39.

8-235d.

Attorney General's Opinions:

"Adult" supervising driving of person with restricted license means licensed person at least 18 years of age. 2001-34.

8-235e. Application for driver's license, instructional permit or nondriver's identification card constitutes consent to selective service registration. (a) Any person, who is subject to registration under the provisions of section 3 of the military selective service act, 50 U.S.C. App. section 453, as amended, and who applies for any driver's license or instructional permit under the provisions of article 2 of chapter 8 of the Kansas Statutes Annotated, or any nondriver's identification card under the provisions of K.S.A. 8-1324 through 8-1334, and amendments thereto, or any renewal of such driver's license, instructional permit or nondriver's identification card and who is at least 16 years of age but less than 26 years of age shall consent to such applicant's registration in compliance with the requirements of section 3 of the military selective service act, 50 U.S.C. App. section 453, as amended.

(b) The division of vehicles shall forward, in an electronic format, the necessary personal in-

formation of the applicants identified in subsection (a), to the selective service system. The applicant's signature on the application shall serve as an indication that the applicant either has already registered with the selective service system or that the applicant is authorizing the division of vehicles to forward to the selective service system the necessary information for such registration. The division of vehicles shall notify the applicant that the applicant's submission of the application will serve as the applicant's consent to registration with the selective service system, if such registration is required by federal law.

History: L. 2003, ch. 41, § 1; July 1.

8-236.

Attorney General's Opinions:

"Motor scooters" — required to be registered, operators to have driver's license. 2001-39.

8-237.

Attorney General's Opinions:

"Adult" supervising driving of person with restricted license means licensed person at least 18 years of age. 2001-34.

"Motor scooters" — required to be registered, operators to have driver's license. 2001-39.

8-240. Drivers' licenses and instruction permits; application for; proof of age and identity; proof of lawful presence; examination tests; reexamination; drivers' records; fees; late application penalties. (a) Every application for an instruction permit shall be made upon a form furnished by the division of vehicles and accompanied by a fee of \$2 for class A, B, C or M and \$5 for all commercial classes. Every other application shall be made upon a form furnished by the division and accompanied by an examination fee of \$3, unless a different fee is required by K.S.A. 8-241, and amendments thereto, and by the proper fee for the license for which the application is made. If the applicant is not required to take an examination the examination fee shall not be required. The examination shall consist of three tests, as follows: (1) Vision; (2) written; and (3) driving. If the applicant fails the vision test, the applicant may have correction of vision made and take the vision test again without any additional fee. If an applicant fails the written test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails the driving test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails to pass all three of the tests within a

period of six months from the date of original application and desires to take additional tests, the applicant shall file an application for reexamination upon a form furnished by the division, which shall be accompanied by a reexamination fee of \$3, except that any applicant who fails to pass the written or driving portion of an examination four times within a six-month period, shall be required to wait a period of six months from the date of the last failed examination before additional examinations may be given. Upon the filing of such application and the payment of such reexamination fee, the applicant shall be entitled to reexamination in like manner and subject to the additional fees and time limitation as provided for examination on an original application. If the applicant passes the reexamination, the applicant shall be issued the classified driver's license for which the applicant originally applied, which license shall be issued to expire as if the applicant had passed the original examination.

(b) (1) For the purposes of obtaining any driver's license or instruction permit, an applicant shall submit, with the application, proof of age or proof of identity, or both, as the division may require. An applicant shall submit the applicant's social security number or a taxpayer identification number if the applicant does not have a social security number, which shall remain confidential and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012, and amendments thereto. If the applicant does not have a social security number or a taxpayer identification number, the applicant shall submit a sworn statement, with the application, stating that the applicant does not have a social security number or taxpayer identification number. The distinguishing number assigned to the license or permit may be the applicant's social security number or a taxpayer identification number if the applicant so requests in writing. If the applicant is applying for an instruction permit or driver's license and the applicant otherwise meets the requirements for such license, the applicant shall receive a temporary license or instruction permit until the division verifies all facts relative to such applicant's right to receive an instruction permit or driver's license, including the age, identity, social security number, taxpayer identification number and residency of the applicant.

(2) An applicant who submits proof of age or of identity issued by an entity other than a state or the United States shall also submit such proof

as the division may require that the applicant is lawfully present in the United States.

(3) The division shall not issue any driver's license to any person who is not lawfully present in the United States.

(4) The division shall not issue any driver's license to any person who is not a resident of the state of Kansas, except as provided in K.S.A. 8-2,148, and amendments thereto.

(5) The parent or guardian of an applicant under 16 years of age shall sign the application for any driver's license submitted by such applicant.

(c) Every application shall state the name, date of birth, sex and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has been licensed as a driver prior to such application, and, if so, when and by what state or country. Such application shall state whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal. In addition, applications for commercial drivers' licenses and instruction permits for commercial licenses must include the following: The applicant's social security number; the person's signature; the person's color photograph; certifications, including those required by 49 C.F.R. 383.71(a), effective January 1, 1991; a consent to release driving record information; and, any other information required by the division.

(d) When an application is received from a person previously licensed in another jurisdiction, the division shall request a copy of the driver's record from the other jurisdiction. When received, the driver's record shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(e) When the division receives a request for a driver's record from another licensing jurisdiction the record shall be forwarded without charge.

(f) A fee shall be charged as follows:

(1) For a class C driver's license issued to a person at least 21 years of age, but less than 65 years of age, \$18;

(2) for a class C driver's license issued to a person less than 21 years of age or 65 years of age or older, or a farm permit, \$12;

(3) for a class M driver's license issued to a person at least 21 years of age, but less than 65 years of age, \$12.50;

(4) for a class person less than 2 or older, \$9;

(5) for a class a person who is a than 65 years of a

(6) for a class a person less than age or older, \$16;

(7) for any c license, \$18.

A fee of \$10 s commercial driver's l; brake endorsement;

If one fails to r renewal applicati the time required cation within 60 d Kansas, a penalty charged for the d

(g) Any perso tion card as p amendments the: tification card to r valid Kansas driv ment and return e

History: L. 1 § 1; L. 1949, ch. L. 1958, ch. 48, § 49, § 7; L. 1963. 1; L. 1973, ch. 30 1982, ch. 42, § 1 ch. 42, § 1; L. 19 § 1; L. 1990, ch. 1993, ch. 154, § 7 ch. 219, § 1; L. 19 § 10; L. 2003, ch July 1.

Revisor's Note:
Section was also a version was repealed

8-241.

Law Review and Ba
"2001 Legislative W
7, 14 (2001).

8-243. Issu signature; phot tomical gift st. cense for deaf a payment of the re sue to every appi visions of this ac

(4) for a class M driver's license issued to a person less than 21 years of age or 65 years of age or older, \$9;

(5) for a class A or B driver's license issued to a person who is at least 21 years of age, but less than 65 years of age, \$24;

(6) for a class A or B driver's license issued to a person less than 21 years of age or 65 years of age or older, \$16; or

(7) for any class of commercial driver's license, \$18.

A fee of \$10 shall be charged for each commercial driver's license endorsement, except air brake endorsements which shall have no charge.

If one fails to make an original application or renewal application for a driver's license within the time required by law, or fails to make application within 60 days after becoming a resident of Kansas, a penalty of \$1 shall be added to the fee charged for the driver's license.

(g) Any person who possesses an identification card as provided in K.S.A. 8-1324, and amendments thereto, shall surrender such identification card to the division upon being issued a valid Kansas driver's license or upon reinstatement and return of a valid Kansas driver's license.

History: L. 1937, ch. 73, § 7; L. 1938, ch. 13, § 1; L. 1949, ch. 104, § 11; L. 1955, ch. 51, § 1; L. 1958, ch. 48, § 1 (Budget Session); L. 1959, ch. 49, § 7; L. 1963, ch. 402, § 3; L. 1969, ch. 52, § 1; L. 1973, ch. 30, § 1; L. 1975, ch. 36, § 13; L. 1982, ch. 42, § 1; L. 1986, ch. 38, § 1; L. 1990, ch. 42, § 1; L. 1990, ch. 42, § 2; L. 1990, ch. 43, § 1; L. 1990, ch. 43, § 2; L. 1991, ch. 36, § 9; L. 1993, ch. 154, § 5; L. 1996, ch. 14, § 1; L. 1996, ch. 219, § 1; L. 1997, ch. 36, § 1; L. 2000, ch. 179, § 10; L. 2003, ch. 5, § 1; L. 2003, ch. 158, § 1; July 1.

Revisor's Note:

Section was also amended by L. 2003, ch. 63, § 2, but that version was repealed by L. 2003, ch. 158, § 11.

8-241.

Law Review and Bar Journal References:

"2001 Legislative Wrap-Up," Paul T. Davis, 70 J.K.B.A. No. 7, 14 (2001).

8-243. Issuance of licenses; contents; signature; photograph, exception; fee; anatomical gift statement; distinguishable license for deaf and hard of hearing. (a) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act the driver's license as applied

for by the applicant. Such license shall bear the class or classes of motor vehicles which the licensee is entitled to drive, a distinguishing number assigned to the licensee, which, if the licensee so requests in writing, may be the licensee's social security number, the name, date of birth, residence address, and a brief description of the licensee, a colored photograph of the licensee, a facsimile of the signature of the licensee or a space upon which the licensee shall write such licensee's usual signature with pen and ink immediately upon receipt of the license and the statement provided for in subsection (b). No driver's license shall be valid until it has been signed by the licensee. All drivers' licenses issued to persons under the age of 21 years shall be readily distinguishable from licenses issued to persons age 21 years or older. In addition, all drivers' licenses issued to persons under the age of 18 years shall also be readily distinguishable from licenses issued to persons age 18 years or older. On and after July 1, 2004, the secretary of revenue shall implement a vertical format to make drivers' licenses issued to persons under the age of 21 more readily distinguishable. Except as otherwise provided, on or after July 1, 2004, no driver's license issued by the division shall be valid until a colored photograph of such licensee has been taken and verified before being placed on the driver's license. The secretary of revenue shall prescribe a fee of not more than \$4 and upon payment of such fee the division shall cause a colored photograph of such applicant to be placed on the driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A. 8-246, and amendments thereto, for issuance of a new license, the division shall issue to such licensee a new license containing a colored photograph of such licensee. A driver's license which does not contain a colored photograph of the licensee as required may be issued to persons exempted from such requirement. Any such license shall be valid for the purposes of the motor vehicle drivers' license act and the division shall set forth upon such driver's license the words "valid without photo." Any person who is outside the state and for whom the division provides for renewal of the driver's license by mail is exempt from the requirement to have a colored photograph of such person placed on such person's driver's license. Any person belonging to a religious organization which has a basic objection to having their picture taken may sign a statement to

8-1002.**Attorney General's Opinions:**

Conditions wherein peace officer can obtain warrantless extraction of blood after subject has refused to submit to blood test. 2002-26.

CASE ANNOTATIONS

43. Failure of police officer to complete suspension notice form within 5-day requirement does not deprive department of jurisdiction to conduct suspension hearing. *Linenberger v. Kansas Dept. of Revenue*, 28 K.A.2d 794, 20 P.3d 1290 (2001).

8-1003.**Law Review and Bar Journal References:**

"2001 Legislative Wrap-Up," Paul T. Davis, 70 J.K.B.A. No. 7, 14 (2001).

Attorney General's Opinions:

Administrative judge may certify more than one alcohol and drug safety action program but may not designate one as financial administrator of program. 2002-22.

8-1012.**CASE ANNOTATIONS**

2. Charge of refusal to submit to PBT hereunder was properly dismissed but court erred in dismissing DUI charge under 8-1567. *State v. Gray*, 270 K. 793, 18 P.3d 962 (2001).

3. Provision that arrest may be made solely or in part on results of preliminary breath test is not significant interference by legislature with judicial function. *State v. Chacon-Bringuez*, 28 K.A.2d 625, 18 P.3d 970 (2001).

8-1014.**Law Review and Bar Journal References:**

"2001 Legislative Wrap-Up," Paul T. Davis, 70 J.K.B.A. No. 7, 14 (2001).

8-1015.**Law Review and Bar Journal References:**

"2001 Legislative Wrap-Up," Paul T. Davis, 70 J.K.B.A. No. 7, 14 (2001).

8-1016.**Law Review and Bar Journal References:**

"2001 Legislative Wrap-Up," Paul T. Davis, 70 J.K.B.A. No. 7, 14 (2001).

8-1021. Impoundment of motor vehicle for 8-1567 violation; failure to pay fees or take repossession; disposition of vehicle. If the owner of a motor vehicle which has been impounded pursuant to K.S.A. 8-1567 or K.S.A. 2003 Supp. 8-1022, and amendments thereto, refuses to pay any towing, impoundment, storage or other fees relating to the impoundment or immobilization of such vehicle or fails to take possession of such vehicle within 30 days following the date of the expiration of the impoundment period, such vehicle shall be deemed abandoned and the vehicle may be disposed of by the person having possession of such vehicle. If the person

having possession of such vehicle is a public agency, disposition of such vehicle shall be in compliance with the procedures for notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto. If the person having possession of such vehicle is not a public agency, disposition of such vehicle shall be in compliance with K.S.A. 8-1103 through 8-1108, and amendments thereto.

History: L. 2003, ch. 100, § 2; July 1.

8-1022. Permitting driving in violation of 8-1014; penalties. (a) It shall be unlawful for the owner of a motor vehicle to allow a person to drive such vehicle when such owner knows or reasonably should have known such person was driving in violation of K.S.A. 8-1014, and amendments thereto.

(b) Violation of this section is an unclassified misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000. In addition to the fine imposed upon a person convicted of a violation of this section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment and storage fees or other immobilization costs. Prior to ordering the impoundment or immobilization of any such motor vehicle, the court shall consider the factors established in subsection (k)(3) of K.S.A. 8-1567, and amendments thereto. Any personal property in a vehicle impounded or immobilized pursuant to this section may be retrieved prior to or during the period of such impoundment or immobilization.

History: L. 2003, ch. 100, § 3; July 1.

Article 13.—MISCELLANEOUS PROVISIONS

8-1324. Nondriver's identification card; application for; proof of age, identity and lawful presence; fees. (a) Any resident who does not hold a current valid Kansas driver's license may make application to the division of vehicles and be issued one identification card, certified by the registrant and attested by the division as to true name, correct age, photograph and other identifying data as the division may require.

(b) An applicant who submits documentary evidence under subsection (a), issued by an entity other than a state or the United States shall also submit such proof as the division may require that

the applicant is a resident of the United States. For the purpose of this section, an identification card, an application, proof of age, identity and lawful presence, both, as the division may require, shall submit the applicant's photograph or a taxpayer identification number if the applicant does not have a social security number shall remain confidential, except as provided in 2012, and amendments thereto, and amendments does not have a social security number payer identification number submit a sworn statement stating that the applicant's social security number is not the same as the applicant's identification card number. The distinguishing number of the applicant's identification card shall be the same as the applicant's social security number if the applicant is applying for an identification card for such card, the applicant shall provide all facts relating to the applicant's identification card to receive an identification card. The applicant shall provide identity, social security number and date of birth to the division.

(c) The division shall issue an identification card to any person who is a resident of the United States and who has a current valid Kansas driver's license or who has applied for a driver's license pursuant to the provisions of K.S.A. 8-1002, and amendments thereto.

(d) The parent or guardian of a minor under 16 years of age shall be required to provide an identification card to the minor.

(e) The division shall charge a fee of \$14 at the time an identification card is made, except for a minor under 16 years of age or a person who is blind as defined in K.S.A. 8-1002, and amendments thereto, who shall be required to provide an identification card.

(f) For the purpose of this section, a person who is 16 years of age or older shall be deemed to be a resident of this state if the person is a resident of this state.

(1) The person shall be deemed to be a resident of this state if the person is a resident of this state.

(2) The person shall be deemed to be a resident of this state if the person is a resident of this state.

(3) The person shall be deemed to be a resident of this state if the person is a resident of this state.

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§ 2; July 1.

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MISCELLANEOUS PROVISIONS

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the applicant is lawfully present in the United States. For the purposes of obtaining any identification card, an applicant shall submit, with the application, proof of age or proof of identity, or both, as the division may require. An applicant shall submit the applicant's social security number or a taxpayer identification number if the applicant does not have a social security number, which shall remain confidential and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012, and amendments thereto. If the applicant does not have a social security number or a taxpayer identification number, the applicant shall submit a sworn statement, with the application, stating that the applicant does not have a social security number or taxpayer identification number. The distinguishing number assigned to the identification card may be the applicant's social security number or a taxpayer identification number if the applicant so requests in writing. If the applicant is applying for an identification card and the applicant otherwise meets the requirements for such card, the applicant shall receive a temporary identification card until the division verifies all facts relative to such applicant's right to receive an identification card, including the age, identity, social security number, taxpayer identification number and residency of the applicant.

(c) The division shall not issue an identification card to any person who is not lawfully present in the United States nor to any person who holds a current valid Kansas driver's license unless such driver's license has been physically surrendered pursuant to the provisions of subsection (e) of K.S.A. 8-1002, and amendments thereto.

(d) The parent or guardian of an applicant under 16 years of age shall sign the application for an identification card submitted by such applicant.

(e) The division shall require payment of a fee of \$14 at the time application for an identification card is made, except that persons who are 65 or more years of age or who are handicapped, as defined in K.S.A. 8-1,124, and amendments thereto, shall be required to pay a fee of only \$10.

(f) For the purposes of K.S.A. 8-1324 through 8-1328, and amendments thereto, a person shall be deemed to be a resident of the state if:

- (1) The person owns, leases or rents a place of domicile in this state;
- (2) the person engages in a trade, business or profession in this state;
- (3) the person is registered to vote in this state;

(4) the person enrolls the person's child in a school in this state; or

(5) the person registers the person's motor vehicle in this state.

History: L. 1973, ch. 31, § 1; L. 1983, ch. 39, § 1; L. 1986, ch. 36, § 12; L. 1990, ch. 42, § 4; L. 2000, ch. 179, § 15; L. 2003, ch. 5, § 3; L. 2003, ch. 158, § 2; July 1.

Revisor's Note:

Section was also amended by L. 2003, ch. 63, §4, but that version was repealed by L. 2003, ch. 158, §11.

8-1325. Same; expiration; renewal; fee; anatomical gift; organ and tissue registry. (a) Every identification card shall expire, unless earlier canceled, on the sixth birthday of the applicant following the date of original issue, except as otherwise provided by K.S.A. 8-1329, and amendments thereto. Renewal of any identification card shall be made for a term of six years and shall expire in a like manner as the originally issued identification card, unless surrendered earlier. For any person who has only been issued an identification card, the division shall mail a notice of expiration or renewal at least 30 days prior to the expiration of such person's identification card at the address shown on such identification card. The division shall include with such notice, written information required under subsection (b). Any application for renewal received later than 90 days after expiration of the identification card shall be considered to be an application for an original identification card. The division, at the end of six years and six months after the issuance or renewal of an identification card, shall destroy any record of the card if it has expired and has not been renewed. The division shall require payment of a fee of \$14 for each identification card renewal, except that persons who are 65 or more years of age or who are persons with a disability, as defined in K.S.A. 8-1,124, and amendments thereto, shall be required to pay a fee of only \$10.

(b) The division shall provide the following information under subsection (a):

(1) Written information explaining the person's right to make an anatomical gift in accordance with K.S.A. 8-1328, and amendments thereto, and the uniform anatomical gift act;

(2) written information describing the organ donation registry program maintained by the Kansas federally designated organ procurement organization. The written information required under this paragraph shall include, in a type, size and



JANET SCHALANSKY, SECRETARY

K A N S A S

KATHLEEN SEBELIUS, GOVERNOR

SOCIAL AND REHABILITATION SERVICES

February 11, 2004

The Honorable John Vratil
Chairman, Senate Judiciary Committee
300 SW 10th Avenue, Room 522-S
Topeka, KS 66612-1504

RE: Senate Bill 460

Dear Senator Vratil:

I am writing in support of Senate Bill 460, Senator Allen's bill amending K.S.A. 8-240.


My purpose is to provide the Senate Judiciary Committee with information about the federal requirement that applies to the SRS Child Support Enforcement program (CSE) and relates to drivers' license applications and social security numbers. The federal law is found at 42 U.S.C. 666(a)(13), part of Title IV-D of the social security act. The State is required to have in effect laws which require any applicant for a driver's license to provide the applicant's social security number on the driver's license application.

This requirement was fully addressed in 2003 by amendments to K.S.A. 8-240(b). S.B. 460, as introduced, does not affect CSE's compliance with federal law.

The federal statute itself does not address the matter of applicants who have no social security number, but there is no reason to believe that the Congress intended for states to refuse drivers' licenses to all such applicants. If the applicant has no social security number, federal law does not require any identifying number to be furnished. Federal regulators have approved state plans that provide a reasonable alternative for those circumstances, such as accepting a sworn statement that the applicant has no social security number. K.S.A. 8-240 presently provides the alternative of a sworn statement, a measure which would remain in effect under Senator Allen's proposal.

I hope this information is of assistance as the Committee considers S.B. 460.

Sincerely,


Janet Schalansky
Secretary

JS:JLC

DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., ROOM 603-N, TOPEKA, KS 66612-1570

Voice 785-296-3271 Fax 785-296-4685 www.srskansas.org

SB 453, An act concerning the regulation of child care facilities; relating to exemptions therefrom; amending K.S.A. 65-501 and 72-8236 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Goodwin, Helgerson, Hensley, Jackson, Jordan, Journey, Kerr, Lee, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Gilstrap, Haley, Huelskamp, Lyon.

The bill passed, as amended.

SB 460, An act concerning drivers' licenses and other identification cards; relating to taxpayer identification numbers; amending K.S.A. 2003 Supp. 8-240 and 8-1324 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

SB 461, An act concerning eminent domain; relating to acquisition of land for certain purposes by a port authority or county; amending K.S.A. 12-3408 and K.S.A. 2003 Supp. 12-3402, 12-3406 and 19-101a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil.

Present and Passing: Wagle.

The bill passed, as amended.

SB 466, An act concerning driver's licenses; relating to medical information reported to the division; amending K.S.A. 8-255c and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Kerr, Lee, Morris, O'Connor, Oleen, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Clark, Huelskamp, Journey, Lyon, Pugh, Salmans.

The bill passed, as amended.

SB 469, An act concerning crimes, punishment and criminal procedure; relating to offender registration; requiring investigation and report of findings regarding investigation into the circumstances of inmate deaths in department of corrections facilities and jails; amending K.S.A. 2003 Supp. 22-4909 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

Senate Bill #436
Testimony of Jack M. Dickson
Before the House or Representatives Judiciary Committee
March 10, 2004

Proposed amendment: Section 1 (a) No action for recovery of damages suffered as a result of childhood sexual abuse shall be commenced more than ~~three~~ ^{30 five} 15 (proposed change) years after the date the person attains 18 years years of age. All language in every other section of the SB 436 shall remain as approved by the senate of the State of Kansas.

Reason for proposal:

1. Other states have recently revised the statute of limitations for adult survivors to seek civil penalty for this abuse. Specifically refer to attachment # 1 for information on revisions to law in Connecticut, Illinois, and Missouri.
2. The time period of five years from age of majority does not allow sufficient time for victims to discover abuse that has been repressed for long periods of time.

“Traumatic amnesias (Post traumatic stress) are age- and dose-related: the younger the age at the time of the trauma and the more prolonged the traumatic event, the greater the likelihood of significant amnesia. Generally, recall is triggered by exposure to sensory or affective stimuli that match sensory or affective elements associated with the trauma.” Van der Kolk and Fidler *Dissociation and the Fragmentary Nature of Traumatic Memories* (Harvard Medical School Journal, 1995).

3. Evidence suggests that recall of traumatic events after a kindling experience is extremely accurate.

“However, accuracy of memory is affected by the emotional valence of an experience: Studies of people’s subjective reports of personally highly significant events generally find that their memories are unusually accurate and that they tend to remain so over time.” Christian and Bohannon, *The Stability and Accuracy of Memories of Stressful Events* (Harvard Medical School Journal, 1992).

4. Statistics indicate that we are talking about a significant number of Kansans who are victims of childhood sexual abuse. See attachment # 2.
5. A family member or close personal friend abuses the majority of sexually abused persons. Our concern should be for the victims of abuse in a time when many of their care systems are cut off.

Attachments: #1—revised law in three states, #2—childhood sexual abuse statistics, #3—letter from Dr. Carol Hammon-Paulson, Ph. D, D. Min, ARNP-BC

**State Statute of limitations
Comparison of current statutes of limitations for civil actions
March 10, 2004**

Connecticut:

Conn. Gen. Stat. §52-577d:

LIMITATION OF ACTION FOR DAMAGES TO MINOR CAUSED BY SEXUAL ABUSE, EXPLOITATION OR ASSAULT.

Notwithstanding the provisions of section 52-577, no action to recover damages for personal injury to a minor, including emotional distress, caused by sexual abuse, sexual exploitation or sexual assault may be brought by such person later than thirty years from the date such person attains the age of majority.

Missouri:

Missouri's Statute of Limitations for sexual abuse defines childhood sexual abuse as sexual contact with a person under the age of 18.

The 2003 amendment to the limitations statute provides that civil claims must be filed either on or before reaching the age of 30, or within 3 years from the date the victim discovers, or should have discovered, that physical or psychological injury was caused by abuse. Mo. Rev. Stat. § 537.046. In *Doe v. Roman Catholic Diocese*, 862 S.W.2d 338 (Mo. en banc 1993) the Missouri Supreme Court ruled that the express language of retroactivity in the underlying statute violated the State constitution and therefore the statute could not be applied to cases for which the SOL had already run when the special SOL was originally passed in 1990.

Illinois:

Illinois has a special statute of limitations for survivors of childhood sexual abuse. As amended in 2003, Illinois Statutes § 13--202.2(b) provides:

An action for damages for personal injury based on childhood sexual abuse must be commenced within 10 years of the date the person abused discovers or through the use of reasonable diligence should discover that the act of childhood sexual abuse occurred and that the injury was caused by the childhood sexual abuse.

The limitations period of section 13-202.2(b) does not begin to run until the alleged victim has attained the age of 18 years. The previous version of the statute has been applied to perpetrators and non-perpetrators. *Hobert v. Covenant Children's Home*, 309 Ill. App. 3d 640, 723 N.E.2d 384; 243 Ill. Dec. 352 (Ill. App. 3d 2000).

Childhood Sexual Abuse Statistics
March 10, 2004

- **Approximately 1 in 3 females, 1 in 5 males are victimized sexually prior to their 18th birthday. *Treating Abuse Today*, October 1995.**
- **Approximately 1 in 4 females, 1 in 6 males are sexually abused prior to their 18th birthday. *Child Welfare Institute*, 2002.**
- **1 in 3 females, 1 in 5 males are sexually abused prior to their 18th birthday. *National Crime Victims Research Center*, 2002.**
- **Approximately 3,000,000 children were sexually abused in the year 2000. *Child Help U.S.A.*, 2002.**
- **In the year 2000 there were 19,736 children reported as abused or neglected in the state of Kansas. *Ksattach.us/statistics*, Dec. 3, 2003**

Arlys-Marie Gilchrist

March 10, 2004

316.744.3104 & 316.250.7891
arlysmarie@worldnet.att.net
1810 Denver Drive
Park City, Kansas 67219-1605

Presentation Outline:

TIME FRAME	EVENT
18 Months Old	My birth father began to sexually, physically and emotional abuse me.
18 months to 25 years Old	1. The abuse continued until a few months before my birth fathers death on December 22, 1971.
	2. In order to be able to cope what was being done to me, I developed Dissociative Identity Disorder/Multiple Personality Disorder (DID/MPD).
	3. From the beginning of the abuse, I repressed all memories of the abuse. With this repression of abuse memories, the memory of the majority of my life was lost to me forever.
33 years old	Entered into psychotherapy because 'something' was wrong.
35 years old	During my first hospitalization, I regained my first repressed memory.
40 years old	Correctly diagnosed with PTSD (Post Traumatic Stress Disorder) and DID/MPD (Dissociative Identity Disorder/Multiple Personality Disorder).
45 years of age	Integrated all of my different parts and overcame DID/MPD.
48 years of age	Terminated therapy for DID/MPD.
50 years of age	1. Gave first public speech on incest and DID/MPD.
	2. Became totally physically disabled.
53 years of age	Reached emotional stability to be able to survive the traumatic experience of testifying in a court of law against my birth father for the abuse he perpetrated on me.

The attached three (3) sheets are a part of what I must carry with me at all times. Since I am disabled, there are so many different things that a doctor must know about me that there is just no way that I can remember them all.

All of my medication, prescription or otherwise, are prescribed by my physician. My primary care physician, Teresa K. Johnson, MD, a teaching physician at Kansas University School of Medical-Wichita and Via Christi Regional Medical Center-St. Joseph Family Practice, has determined that all of my medical issues are either directly or indirectly related to the abuse I suffered as a child.

From these three (3) sheets, you will note the following:

I require 30 different medications, 19 of them on a daily basis

I have 46 different medical issues

I have had 19 surgical procedures

Thank you for allowing me to speak to you today.

Arlys-Marie Gilchrist

**Meds for Arlys-Marie Gilchrist (DOB 5/16/45)
Effective March 9, 2004**

MEDICATION	MORN.	NOON	EVEN.	BED	PURPOSE
Allegra	180 mg				chronic sinusits
Astelin Nazal Spray	1 puff each side			1 puff each side	chronic sinusits
Bactroban 2% ointment	1 application; x3 -- P.R.N.				cuts, etc.
Bextra	20 mg				inflammation
Biaxin XL		1000 mg			chronic sinusits
Calcium				1500 mg	fibromyalgia
Century Senior		1 tablet			nutritional supplement
Echinacea	400 mg	400 mg	400 mg	400 mg	cold symptoms replacement therapy
Estradiol	**Take for only 5 days at a time -- PRN** ***2 CC injection every 4 weeks***				
Fish Oil			3600 mg		heart and health
Gluosamine Sulfate	1500 mg				fibromyalgia
Guaifenesin	600 mg PRN				chronic sinusits
Lexapro	20 mg				depression
Magnesium	250 mg	250 mg	250 mg	250 mg	fibromyalgia
Melatonin				3 mg	night time sleep aid
Nitroquick Tablets	1 tablet @ 15 minutes x 3 -- P.R.N.				rapid heart beat
Potassium	100 mg	100 mg	100 mg	100 mg	nutritional supplement
Protonix or Nexium	40 mg				H. pylori infection(Hx PUD)
Proventil HFA Inhaler	1 puff every 4 hrs. -- P.R.N.				asthma
RhoGAM Rho(D) Immune Globulin (Human)	1 injection on June 9,				Delivery of a Rho (D) positive baby.
Seroquel				50 mg	night time sleep aid
Singular	10 mg				asthma
Skelaxin or Zanaflex	800mg each 6 hrs. or 4mg each 12 hrs. PRN				muscle strain
TENS machine	***continuous use -- P.R.N.***				pain
Tetnaus Injection	May 25, 2002				cut on finger
Tiazac	180 mg				rapid heart beat
Ultracet	**75 mg/650 mg each 6 hrs. ---P.R.N.**				pain
Vitamin B-6		100 mg			fibromyalgia
Bitamin B-12 (1000 MCG/milk)	***1 CC by injection every month***				fibromyalgia
Vitamin E		400 I.U.			fibromyalgia

ALLERGIES

Aspirin				
Neosporin				
Leviquin				

Medical Information for Arlys-Marie Gilchrist (DOB 5/16/45)

ONSET DATE	DIAGNOSED BY	DIAGNOSIS
October 1, 1967	Don O'Donahue MD	Lumbars 3, 4 & 5 lying on side
August 3, 1998	Mary Lynch MD	Sciatica, Piriformis Muscle Syndrome (Numbness)
August 3, 1998	Mary Lynch MD	Patella Tendinitis
August 3, 1998	Mary Lynch MD	Functional Ankle Instability
August 3, 1998	Mary Lynch MD	Chronic Mechanical Lumbar Strain
Nov. 18, 1989	Teresa K. Johnson MD	Bleeding Stomach Ulcer
Dec. 1, 1989	Teresa K. Johnson MD	Irritable Bowel Syndrome (no meds since Aug. 2000)
July 28, 1990	T.K. Johnson MD & Cynthia Simpson PhD.	Clinical Depression
October 1, 1990	Tom Troilo DDS	Parodontal Disease
October 1, 1990	Tom Troilo DDS & Rodger Baker DDS	TMD (Tempromandibular Dysfunction)
Sept. 1, 1991	T.K. Johnson MD & James Gilbaugh MD	Incontinence
Feb. 1, 1992	T.K. Johnson MD & Y. Leitner MD	Chronic Sinusitis
January 6, 1993	T.K. Johnson MD & George Lucas MD	Carpal Tunnel Syndrome-Bilateral Upper Extremities
March 16, 1993	George Lucas MD & Pedro Murati MD	Right Media Nerve Decompression
March 16, 1993	George Lucas MD	Arthritis - Bilateral Upper Extremities
March 5, 1994	George Lucas MD & Pedro Murati MD	Chronic de Quervan's, secondary to status post carpal metacarpal arthroplasty with tendon interposition grafting - Right
July 24, 1994	Teresa K. Johnson MD	Lyme Disease
Sept. 1, 1994	George Lucas MD & Pedro Murati MD	Left Media Nerve Decompression
April 28, 1995	George Lucas MD & Pedro Murati MD	Chronic de Quervan's, secondary to status post carpal metacarpal arthroplasty with tendon interposition grafting - Left
June 1, 1998	T. K. Johnson MD & Chad Cohoon DC	Fibromyalgia Syndrome
March 1, 2000	Teresa K. Johnson MD	Hypoglycemia
Oct. 13, 2000	Teresa K. Johnson MD	Rosacea
Oct. 21, 2000	T.K. Johnson MD & Chad Cohoon DC	Head Trauma/Concussion
Oct. 22, 2000	T.K. Johnson MD & Chad Cohoon DC	Head Trauma
Oct. 26, 2000	T.K. Johnson MD & Chad Cohoon DC	Head Trauma/Concussion
Nov. 6, 2000	T.K. Johnson MD & Chad Cohoon DC	Head Trauma
Nov. 29, 2000	T.K. Johnson MD & Michelle Brown MD	Rapid Heart Beat
Dec. 1, 2000	T.K. Johnson MD & James French MD	Gallbladder malfunction
Dec. 7, 2000	Michelle Brown MD	Slightly Enlarged Right Side of Heart
Dec. 12, 2000	Michelle Brown MD	Mitral Valve
Dec. 15, 2000	Teresa K. Johnson MD	Asthma
Jan. 22, 2001	Teresa K. Johnson MD	Chronic Sinus Infection
Jan. 22, 2001	Teresa K. Johnson MD	Arthritis - Left Hip
Feb. 3, 2001	T.K. Johnson MD & Cynthia Simpson PhD	Post Concussion Syndrome
Feb. 8, 2001	Robert Cusick MD	Snapping Tendon Syndrome Greater Trochanter Left Hip
Oct. 10, 2002	T.K. Johnson MD & Robert Cusick MD	Arthritis - Left Knee

Continued on Page 3

Medical Information for Arlys-Marie Gilchrist (DOB 5/16/45)

ONSET DATE	DIAGNOSED BY	DIAGNOSIS
August 29, 2002	T. K. Johnson MD, James Gilbaugh MD & Patricia Wyatt Harris MD	Cystourethrocele
August 29, 2002	T. K. Johnson MD, James Gilbaugh MD & Patricia Wyatt Harris MD	Bladder Defect
Sept. 5, 2002	T.K. Johnson MD & Robert Cusick MD	Left Meniscus Tear
Oct. 2, 2002	T. K. Johnson MD, James Gilbaugh MD & Patricia Wyatt Harris MD	Rectocele
Oct. 21, 2002	T. K. Johnson MD & Marilyn Holm OD	Cataracts, Left & Right
Jan. 19, 2003	Teresa K. Johnson MD	Stenosis of Spinal Canal between L3 & L4
Jan. 19, 2003	Teresa K. Johnson MD	Cyst on Spine between L3 & L4
July 21, 2003	Teresa K. Johnson MD	H. pylori Infection (Hx PUD)
Oct. 27, 2003	Teresa K. Johnson MD	Arthritis - Right Clavicle
Oct. 28, 2003	Marilyn Holm OD	Dry Eye Syndrome

Prior Surgery for Arlys-Marie Gilchrist (DOB 5/16/45)

DATE	SURGEON	TYPE OF SURGERY
Nov. 7, 1967	Don O'Donahue MD	Lumbar Fusion (#3, 4 & 5 to S1)
Nov. 16, 1989	Unknown	Upper digestive track scope
Nov. 17, 1989	Unknown	Colon scope
March 16, 1993	George Lucas MD	Carpal Tunnel Release - Right
Feb. 21, 1994	George Lucas MD	Carpal Metacarpal Arthropasty with Tendon Interposition Grafting - Right
April 18, 1995	George Lucas MD	Carpal Metacarpal Arthropasty with Tendon Interposition Grafting - Left
August 14, 1998	James French MD	Colon scope
Oct. 21, 1998	Ann Hentzen Paige MD	Complete Hysterectomy
Oct. 21, 1998	James Gilbaugh MD	Bladder Repair
August 24, 1999	Frank Galbraith DPM	Repair of hammertoe second and third toe of left foot
Nov. 19, 1999	Frank Galbraith DPM	Incision of matatarsal of second toe and correction of bunion - left foot
Jan. 12, 2000	Frank Galbraith DPM	Removal of support implant, second toe, left foot
April 17, 2002	James French MD	Removal of Gallbladder
Oct. 14, 2002	Robert Cusick MD	Left Meniscus Repair Arthroscopy/surgery
Oct. 30, 2002	James Gilbaugh MD	Cystoscopy
Oct. 30, 2002	James Gilbaugh MD	Bladder Defect Repair
Oct. 30, 2002	James Gilbaugh MD	Repair of Urethia with Vaginal Sling
Oct. 30, 2002	Patricia Wyatt Harris MD	Repair of Rectocele
April 1, 2002	Raymond Grundmeyer III MD	Laminectomy, L2, L3 & L4 with hardward and stabilization

MEMO

FROM: The Outreach Ministry to Survivors of Childhood Sexual Abuse
First United Methodist Church
El Dorado, Kansas

TO: Judiciary Committee of the Kansas House of Representatives
Mike O'Neal, Chairman
2004 Session

DATE: March 10, 2004

RE: Amendment and passage of Senate Bill 436

We have researched Statutes of Limitations for childhood sexual abuse for many other states and have found that many states have made improvements in their statutes in the last few years: among them are Missouri, Oklahoma, Illinois and Connecticut.

The current Kansas Statute K.S.A. 60-523 provides 3 years to bring an action after turning 18 or 3 years from the date the person discovers or reasonably should have discovered that the injury or illness was caused by childhood sexual abuse whichever occurs later. Senate Bill 436 as passed by the Senate amended this Statute to provide 5 years for the initial Statute of Limitations and 5 years for the proviso paragraph but it is submitted that the 5 years in the first part of the Statute still excludes a sizeable number of those persons that is meant to protect. The unique characteristics that most victims display simply cannot meet the criteria of the 5 years stated in the first part of the Statute even though the tolling provision attempts to do that. We are suggesting that the first 5 year limitation period be changed to 15 years.

KEY POINTS

- A problem with the present Kansas Statute is that the Kansas Supreme Court has interpreted it to require a plaintiff to take action within the time limitation period after turning 18 years of age or to prove THAT THEIR PRESENT DISABILITY WAS CAUSED BY CHILD ABUSE TO A COURT OR JURY BEFORE THEY CAN EVEN GET INTO COURT. In other words, the statute has been interpreted to require that in order to have one's day in court, one must first go to court to prove that they are not barred by the Statute of Limitations and many abuse victims simply cannot surmount that hurdle.
- Young victims are so traumatized that they cope by forgetting or dissociating or repressing memories of the trauma which do not surface until something triggers them and they surface much later in life (typically by ages 30 or 40).
- Almost all victims develop PTSD or Post Traumatic Stress Disorder, which is explained in the Diagnostic and Statistical Manual for Psychiatric Disorders IV as a disabling disorder that includes flashbacks of actual events, numbing out, dissociation, recurrent distressing dreams, distortion of reality, denial, body memories (trauma is stored in tissue) hyper arousal, rage and suicidal ideology. Most victims bury the trauma until it is triggered and dominates conscious reality.

- The present Kansas Statute is based on the assumption that victims know and can articulate what happened to them. A five or six year old hasn't the vocabulary or maturity to process the trauma. The reality is that most victims cannot. Many do not remember for years even though the trauma is producing disturbing physical and psychological symptoms.
- One in three females and one in five males experience sexual abuse by age 18 (National Crime Victims Research Center 2002).
- In 2000, 19,736 children were reported as abused or neglected in Kansas (Kansas ATTACH December 3, 2003). It is estimated that only 1/3 of abuse cases are reported.
- We need a revision of the statute which will relax the burden of taking immediate action to recover for the disabling consequences of childhood sexual abuse the way other states have done. The statute is designed to help only in civil and not criminal cases.
- The unique Connecticut Statute comes the closest, in our opinion, to taking all aspects of childhood sexual abuse into account. It gives the victim 30 years from age 18 to bring civil action against the abuser. It seems a realistic, reasonable, and compassionate time allowance when all the life-long injury resulting from the trauma of abuse to a child is taken into consideration.
- Perpetrators have had a measure of protection from their crimes for too long. It is time to protect the victims. A revision of the current statute would hold the abuser accountable longer than 5 years and gives the victims a chance to heal so that they are able to bring legal action.
- A brief description of statutes of other states which have recently been changed to address this problem are attached hereto, and reference is made to the web site below for others.

Respectfully submitted,

Iris Lawrence
Paula Aritocher

Mary Jo Grant, Ph.D.
First United Methodist Church
El Dorado, Kansas

Rev. David Wable
Mary Jo Grant
Paul M. Durb
Adys-Wante J. Chis, Survivor

Web site: For information about other state statutes
[http://www.smith-lawfirm.com/sol_\(enter state name\).html](http://www.smith-lawfirm.com/sol_(enter state name).html)

**ATTACHMENT TO MEMO TO
JUDICIARY COMMITTEE FROM THE
OUTREACH MINISTRY TO SURVIVORS OF
CHILDHOOD SEXUAL ABUSE**

Brief outlines of recent statutory changes from selected states:

Conn. Gen. Statutes 52-577 (d) Sec. 52-577d. Limitation of action for damages to minor caused by sexual abuse, exploitation or assault.

Notwithstanding the provisions of section 52-577, no action to recover damages for personal injury to a minor, including emotional distress, caused by sexual abuse, sexual exploitation or sexual assault may be brought by such person later than thirty years from the date such person attains the age of majority.

Illinois Statutes #13-202.2 (b) Sec. 15 the code of civil procedures amended by changing section 13-202.2 as follows:

Sec. 13-202.2. Childhood sexual abuse.

(a)

(b) Notwithstanding any other provision of law, an action for damages for personal injury based on childhood sexual abuse must be commenced within 10 years of the date the limitation period begins to run under subsection (d) or within 5 years of the date the person abused discovers or through the use of reasonable diligence should discover both (i) that the act of childhood sexual abuse occurred and (ii) that the injury was caused by the childhood sexual abuse. The fact that the person abused discovers or through the use of reasonable diligence should discover that the act of childhood sexual abuse occurred is not, by itself, sufficient to start the discovery period under this subsection (b).

Oklahoma Statutes Title 12, §95

6. An action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse incidents or exploitation as defined by Section 7102(10-7102) of Title 10 of the Oklahoma Statutes or incest can only be brought within the latter of the following periods:

- a. (Not applicable)
- b. (Not applicable)

Provided further, any action based on intentional conduct specified in paragraph 6 of this section must be commenced within twenty (20) years of the victim reaching the age of eighteen (18);

Missouri Revised Statutes #537.046. Childhood sexual abuse. (Amended in 2003 to provide that)

Civil claims must be filed either or before reaching the age of 30, or within 3 years from the date the victim discovers, or should have discovered, that physical or psychological injury was caused by abuse.



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***House Judiciary Committee
Testimony on SB 436 (Informational)***

Chairman O'Neal and members of the committee:

Thank you for the opportunity to testify this morning on Senate Bill 436 which, as amended by the Senate, would increase the statute of limitations from 3 years to 5 years past the age of 18 on recovery of damages from child abuse, and from 3 years to 5 years past the date of discovery. My name is Mike Farmer and I am the Executive Director of the Kansas Catholic Conference, the public policy office of the Catholic Church in Kansas.

I testified in opposition to this bill in its original form in front of the Senate Judiciary Committee last month. It originally would have increased the statute of limitations from 3 years to 30 years past the age of 18. While our preference would be to not change the existing statutes, I appear here today with informational testimony only and will not oppose the current form of this bill as long as the time frame is not increased past 5 years.

I have included with my testimony that offered by Mr. John J. Jurcyk, Jr., attorney for the Archdiocese of Kansas City in Kansas, which he gave to the Senate Judiciary Committee. I believe the points he raised are still valid and I would hope members of this committee would take his comments under consideration when working this bill. Mr. Jurcyk was not able to be here today, but he does concur in my testimony this afternoon.

It is my understanding that statutes of limitations exist in order to balance the rights of the victim and the accused. They also exist because the truth is more difficult to determine as time passes and recollections fade. If a claim is not asserted until years after an event took place, it is more likely that witnesses may have become deceased or moved away, and other relevant evidence may no longer exist. Even witnesses who are still alive may no longer accurately recall the underlying events that formed the basis for a claim. In such cases, it would be difficult if not impossible to ascertain what actually occurred.

The vast majority of cases that have been brought forth involving child sexual abuse by the clergy occurred in excess of 20 years ago, at a time when psychiatry, law and medicine believed that child sexual abuse was a moral lapse, rather than an incurable disease. That fact points to another reason for

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MOST REVEREND JAMES P. KELEHER, S.T.D.
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MOST REVEREND THOMAS J. OLMSTED, J.C.D., D.D.
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MOST REVEREND MARION F. FORST, D.D.
RETIRED

MICHAEL P. FARMER
Executive Director

MOST REVEREND IGNATIUS J. STRECKER, S.T.D.
House Judiciary Committee

3-10-04
Attachment 5

statutes of limitation, which is to assure that the accused will be judged by knowledge and understanding available at the time an injury occurred.

As Mr. Jurcyk points out in his testimony, sexual abuse is not a Catholic Church problem. It is a societal problem. Unfortunately the Catholic Church has received the notoriety, even though statistical evidence points out that 90 percent of child sexual abuse is committed by parents or relatives. With that in mind I would like to take a few minutes to update you on the recent actions taken by the Catholic Church to prevent any future situations of child abuse by priests or other church ministers and volunteers.

On June 12, 2002 the Bishops of the United States took decisive action by adopting a *Charter for the Protection of Children and Young People*. The *Charter* mandated that every diocese in the United States put into place certain structures and procedures to assure the safety of children and young people in the future. Some of the provisions of the *Charter* include reporting any allegation of sexual abuse of a person who is a minor to public authorities, criminal background checks on all church personnel who regularly minister to children, the establishment of a diocesan Victim Assistance Coordinator, diocesan seminars or workshops on the nature of child sexual abuse and its prevention, the formation of a lay review board to assist the Bishop when allegations arise, the implementation of age-appropriate educational programs for children to prevent future victimization, the establishment of a national Office of Child and Youth Protection, and the permanent removal of any priest or deacon who is proven guilty of child sexual abuse.

Recently an audit was conducted to determine the compliance of each diocese with the mandates of the *Charter*. A national, independent, auditing firm that employs former F.B.I. agents and other professionals who have been involved in law enforcement conducted this audit. The auditing firm conducted onsite visits of every diocese in the country. The results were released to the media two months ago. All four dioceses in Kansas were found to be in full compliance with the dictates of the *Charter*. The official results of the audit for each diocese can be found on the United States Bishops website at www.usccb.org. I am very proud of the steps that my church has taken in this regard.

We continue to pledge our assistance toward reaching our mutual goal of increasing the protection of all the children in the State of Kansas, even though the bill you are currently considering does not appear to increase protection so much as it expands the liability of institutions, school districts, churches, and the many public and private entities that serve children and vulnerable adults.

Thank you,



Michael P. Farmer
Executive Director

STATEMENT OF JOHN J. JURCYK, JR., ATTORNEY FOR THE
ROMAN CATHOLIC ARCHDIOCESE OF KANSAS CITY IN KANSAS, A
NON-PROFIT CORPORATION, A KANSAS CORPORATION BEFORE
THE SENATE COMMITTEE ON THE JUDICIARY

Re: S.B. 436

February 16, 2004

Chairman Vratil and Members of the Committee:

My name is John J. Jurcyk, Jr. I am with a law firm in Kansas City, Kansas, called McAnany, Van Cleave & Phillips, P.A. I am the general counsel for The Roman Catholic Archdiocese of Kansas City in Kansas. The Archdiocese comprises 21 counties in northeast Kansas. The Catholic population of this area is over 192,000. In Kansas, there are three other Catholic dioceses, namely Wichita, Salina, and Dodge City. I represent the Archdiocese of Kansas City in Kansas.

I am reminded of the old Polish proverb that says, "If it ain't broke, don't fix it." K.S.A. 60-253, I submit, is not broken and does not need fixing.

I am not aware of any compelling reasons that require the present K.S.A. 60-253 to be amended to increase the limitation period to 30 years. Sexual abuse is not a Catholic Church problem. It is a societal problem. Statistical evidence that 90

percent of child sexual abuse is committed by parents or relatives. The Catholic Church has received the notoriety. It has taken unprecedented action for a church organization to remedy the matter.

1. Public Policy And Statutes of Limitations.

A statute of limitations is any law which fixes the time within which parties must take judicial action to enforce rights or else thereafter be barred from enforcing them.

Statutes of limitation are deadlines. They are intended to promote timely and efficient litigation of claims. The right to be free from a claim upon which the statute of limitations has expired is as important as an aggrieved party's right to file an action. The defense of the statute of limitations stands upon the same place as any other legal defense; it is legitimate and meritorious. 51 Am. Jur. 2d Limitations of Action §§ 2, 6.

The Kansas Supreme Court has said that statutes of limitation are enacted to prevent fraudulent and stale claims from springing up at great intervals of time and surprising the parties or their representatives when all proper vouchers and evidence are lost or the facts have become obscure from the last lapse of time or defective memory, death, or removal of witnesses. *Bott v. Equitable Life Assurance Society of the United States*, 147 Kan. 671 (1938).

A federal court sitting in Kansas has also said that statutes of limitation represent a pervasive legislative judgment that it is unjust to fail to put the adversary on notice to defend within a specified period of time and that the right to be free of stale claims in time comes to prevail over the right to prosecute them. Statutes of limitation protect defendants and the courts from having to deal with cases in which the search for truth may be seriously impaired by the loss of evidence, whether by death or disappearance of witnesses, fading memories, or disappearance of document or otherwise. *City of Wichita v. Aero Holdings, Inc.*, 177 Fed. Supp. 2d 1153, 1178 (D. Kan. 2000). CF. *United States v. Kubrick*, 444 U.S. 111, 117 (1979).

A treatise on statutes of limitation has said that the primary purpose of a statute of limitations is to compel the exercise of a right of action within a reasonable time so that the opposing party has a fair opportunity to defend, that is, to present without undue delay the bringing of a suit or claim and to encourage promptness and diligence in bringing actions. Statutes of limitation reflect the understanding that a party will generally choose to pursue available claims rather than wait indefinitely to do so. 51 Am. Jur. 2d, Limitations, § 14, 16, 17.

Statutes of limitation are designed, in part, to protect potential defendants from the fear of litigation and to promote repose and security by bringing finality to disputes. Statutes of limitation are intended, in part, to prevent burdening courts with

stale claims and to promote judicial economy.

The public policy of Kansas as announced through the courts is that claims should be pursued timely, diligently, and efficiently and that the courts should not have to deal with stale claims where witnesses, documents, and evidence are lost or unavailable and memories are faded.

2. Kansas Statute of Limitations.

At the present time, the Kansas statute of limitations for contract cases is five years and two years for tort actions. If a person under 18 is involved in a car accident, for example, that person may bring that action at any time up to his or her 18th birthday, and after his or her 18th birthday, that person may bring the action within one additional year.

The current K.S.A. 60-253 provides for a greater period of time in cases of childhood sexual abuse to a minor. The statute permits the minor to bring the action at any time after the incident and has an additional three years after his or her 18th birthday to bring the action. The statute also provides that if the damage from the alleged sexual abuse is not known, and the person later discovers it, he or she has three years from the date of discovery of the injury or three years from the date that the person should have reasonably known about it. This last provision, I understand, is an exception for the so-called repressed memory syndrome.

3. Senate Bill 436.

Senate Bill 436, as proposed, would give the minor 30 years after the person's 18th birthday to file suit. So that person could file up to his or her 48th birthday.

In essence, this means that a person who was allegedly abused at age 16 could file a suit at any time for the next 30 years after the 18th birthday. And the person would only be time-barred after the 48th birthday. But if there is a repressed memory syndrome injury, then the case could be brought at any time within the three years of discovering the injury.

Not only does the statute give the right for anyone to proceed with a case for the next 30 years; the statute goes further to say that any claims that occurred prior to the date of the enactment of the statute within the last 30 years may also be brought. Consequently, in my judgment, the longstanding Kansas public policy as proclaimed by the Kansas courts that claims should be pursued timely and efficiently and that courts should not deal with stale claims, dead witnesses, and lost evidence is being violated.

Please keep in mind that the statute does not deal with claims of sexual abuse involving only ministers and priests; it covers everyone. A 30-year time limit could create unforeseen consequences.

For example, let's take a high school coach of a girls' softball team. The

coach is 50 years old. A girl is 15 years old. Thirty-three years later, the girl, at age 48, brings a claim that the coach, now 83, abused her sexually while on a trip to a high school softball tournament. The coach, now 83 years old, if he is still living, is going to have to defend himself. His school district will have to defend itself. What insurance policy is applicable? Is the policy itself still in existence? What is covered by the policy? Where are the witnesses? The records are gone. The witnesses, if available, have scattered. It is simply not fair to allow suits 33 years after the alleged incident. What will we lose as a society? Who will want to volunteer to work with youth groups or coach teams?

The popular media complains that there we live in a litigious society. For example, there was a hue and cry about the \$200,000 plus verdict against McDonalds in a case where a lady went through the McDonalds drive-through and put the cup of hot coffee between her legs while driving away from the drive-up window. The coffee spilled and her legs were burned. The woman sued McDonalds and the jury rewarded her. You will note that all McDonalds coffee cups now have a warning stating the obvious, that the coffee is hot.

By extending the statute to 30 years, Kansas courts could be deluged with a torrent of cases, some of which may be meritorious, and some not. However, the policy of the state of Kansas as announced in its courts is that stale claims should not

be pursued, that there ought to be a time when a person may no longer pursue a claim.

In preparation for my testimony, I visited with an attorney in Los Angeles, California. The California legislature recently passed a one-year moratorium of the statute of limitations for sexual abuse cases. The Los Angeles Archdiocese has now been sued over 500 times. Those cases go back to the 1930s, '40s, '50s, '60s, '70s, '80s, and the '90s.

How does one evaluate, defend, or try to settle claims occurring in 1930 when the alleged perpetrator is deceased? Who among you could go back and determine the name of your insurance carrier 30 years ago and what the policy covered or did not cover? Most institutions do not keep their records forever. In one case in Los Angeles, they compared the date of the alleged incident with the priest's records and they found that at the time of the date of the claim, the priest would have been two years old. This is not to say that all of those claims are not without merit; however, the opportunity for claims that are without merit is there.

How does an insurance company underwrite a policy if the statute of limitations is 30 years? Is that policy affordable? How much is the premium?

Another problem presented in permitting stale claims to be brought is that prior to 1985, there were no cases on the law books where any church or organization

was held responsible for the individual sexual misconduct of an employee or minister because it was clear that such conduct was not in the scope of that person's job duties with the church or employer. Since 1985, the laws have changed somewhat, and what may happen is actions occurring in the 1930s, '40s, '50s, and '60s, will be judged by today's standards. For example, can you fault a manufacturer of 1940 automobiles for not having seat belts which are required today?

Extending the time period to 30 years may involve what I call the law of unintended consequences. For example, a person might open a car window in the garage to air out the car, but the motor is running and carbon monoxide enters the vehicle and the person becomes ill.

The amendments to House Bill 436, while intending to help victims of sexual misconduct, might have the opposite effect. It seems to me that the best thing for people who claim to have been abused sexually is to come forward and come to terms with their victimization. I submit that one of the reasons for not extending the statute of limitations is that it does not help a victim begin the process of healing to be waiting for 30 years to pursue justice. If anything, victims should be supported by the law to come forward sooner. If there are perpetrators, delaying the statute of limitations would allow those perpetrators to continue in their activities with the victims and, potentially, others.

Coming forward takes courage, but that courage should be encouraged by the law because the sooner the better for all concerned. The goal of American justice has always been to be swift, timely, efficient, and fair. Nor does delay assist the organization in dealing with the problem.

The work to stop victimization is best applied in prevention and education. The Boy Scouts of America and the Catholic Church are two examples of organizations doing that.

We live in a world of limitations. If a person is in a car wreck, he or she has two years in which to bring a case. If a minor is in a car wreck, he or she may bring the case at any time and has one year after his or her 18th birthday in which to bring a case.

Periodically, people come to my office with potential motor vehicle personal injury claims. The claims are meritorious; however, I am forced to tell them when the statute of limitations has expired.

Our courts are backlogged under the current statute of limitations. K.S.A. 60-253 is not broken and does not need fixing. Extending the limitations for 30 years, in my judgment, will dramatically increase litigation and insurance costs and is not fair to everyone concerned. There are no compelling reasons for the amendments to K.S.A. 60-253. The amendments are not fair and do not afford due process to all

concerned.

I recommend that K.S.A. 60-253 remain as it is.

Thank you.