

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on March 10, 2005, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen- excused

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Helen Pedigo, Office of Revisor of Statutes
Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Representative David Huff
Sergeant Rusty James, Lenexa Police Department
Ann Henderson, Prosecutor, City of Lenexa
Christopher J. Tymeson, Kansas Department of Wildlife and Parks
Kyle Smith, Special Agent, Kansas Bureau of Investigation
Judge Stephen Tatum, Chief Judge, Johnson County District Court

Others attending:

See attached list.

Chairman Vratil opened the meeting and the hearing on **HB 2122**.

HB 2122 Increasing from \$500 to \$1000 the misdemeanor felony distinction in crimes involving a type of theft or loss of value

Proponents:

Representative David Huff testified in support of the bill, stating that last year a bill was passed which increased the threshold distinction between misdemeanor and felony theft from \$500 to \$1000. The adjustment was made to the crime of theft of services. Representative Huff stated that to maintain uniformity, all similar crimes with similar threshold distinctions between misdemeanor and felony prosecution should be raised to \$1000. (Attachment 1)

Sergeant Rusty James testified on behalf of the City of Lenexa and the Lenexa Police Department in support of **HB 2122**. (Attachment 2)

Ann Henderson, Prosecutor for the City of Lenexa, stated that Sergeant James' testimony was also on behalf of the City, but she would stand for questions, but there were none.

Chairman Vratil stated the fiscal note indicated a bed space impact on the bill would reduce the number of bed needs by 8-16 in 2006 and 8-17 in 2015. (Attachment 3)

Christopher Tymeson, Chief Legal Counsel for the Kansas Department of Wildlife and Parks, testified that as part of this legislation, K.S.A. 32-1005 was being recommended for revision to restore the commercial values of wildlife as they were in the original bill. The current law establishes monetary values for wildlife, to be used in determining whether or not illegal commercial acts were committed and whether the illegal acts constituted felony crimes. Mr. Tymeson provided a list of recommended values based on the most current information available through the U.S. Fish and Wildlife Service. (Attachment 4) Chairman Vratil requested that Mr. Tymeson work with Jill Wolters to prepare a balloon amendment to add the wildlife values.

Written testimony was provided by Paul Morrison, Johnson County District Attorney, and Scott Miller, Prosecutor, City of Overland Park. (Attachment 5 & 6)

Chairman Vratil closed the hearing on **HB 2122** and opened the hearing on **HB 2387**.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on March 10, 2005, in Room 123-S of the Capitol.

HB 2387 Death of inmate, prisoner or juvenile in custody; investigation by KBI unless natural cause of death

Proponents:

Kyle Smith, Special Agent, Kansas Bureau of Investigation, testified in support of the bill. Mr. Smith stated that the Bureau feels that they would not need to investigate inmate deaths when the cause of death is determined by an autopsy to be natural, or when the prisoner has been attended to by a licensed physician. (Attachment 7)

Written testimony was provided by Secretary Roger Werholtz, Department of Corrections. (Attachment 8)

Chairman Vratil closed the hearing on **HB 2387** and opened the hearing on **HB 2418**.

HB 2418 Magistrate may order person to pay for any costs of the supervision of the condition of release of the appearance bond in an amount not to exceed \$10 per week; increased from \$5

Proponent:

Chief Judge Stephen Tatum testified in support of the bill. Judge Tatum stated that bond supervision is a vital tool for judges, as the courts consider release of low risk defendants, knowing that they will be supervised during the pendency of the case. The cases are supervised by a staff paid on the county scale of \$13.39 an hour, with an average bond caseload of 25-30 offenders that require up to a half hour a week of supervision and administrative time, and costs are exceeding the \$5.00 per week allowed by statute. The offenders pay the cost to the court, which then hires people to do the bond supervision. The fee would be discretionary, up to \$10 per week. (Attachment 9)

Chairman Vratil closed the hearing on **HB 2418**. Chairman Vratil asked the Committee to consider final action on **HB 2418**.

Final Action:

HB 2418 Magistrate may order person to pay for any costs of the supervision of the condition of release of the appearance bond in an amount not to exceed \$10 per week; increased from \$5

A motion was made to recommend the bill favorably and to place it on the Consent Calendar. Senator Bruce moved, seconded by Senator O'Connor, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **HB 2387**.

Final Action:

HB 2387 Death of inmate, prisoner or juvenile in custody; investigation by KBI unless natural cause of death

Chairman Vratil expressed that earlier he had concerns about the phrase, "where the prisoner was regularly attended by a licensed physician," but after talking with staff, the House may have had a good reason to leave the phrase in, because of the delay that may occur otherwise in obtaining a death certificate. The consensus of the Committee was that the phrase be left in the bill.

Senator Schmidt suggested that **SB 89**, a bill related to inmates and the courts being able to order restitution be paid to recover costs, be amended into the bill. A motion was made to amend into the bill **SB 89**. Senator Schmidt moved, seconded by Senator Umbarger, and the motion carried. A motion was made to recommend favorably the bill as amended. Senator Schmidt moved, seconded by Senator Goodwin, and the motion carried.

Final Action:

HB 2122 Increasing from \$500 to \$1000 the misdemeanor felony distinction in crimes involving a type of theft or loss of value

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on March 10, 2005, in Room 123-S of the Capitol.

Jill Wolters provided some information regarding **HB 2122**. Ms. Wolters stated that in reviewing the Uniform Securities Act, specifically securities theft, there was no felony misdemeanor distinction, as it starts at a \$25,000 level, goes to \$100,000 level, and above \$100,000. Theft currently is under \$1,000, \$25,000, and \$100,000, so there is no consistent application. Chairman Vratil stated that there is a House bill on the Uniform Securities Act that is there primarily because of the concern over the one-year statute of limitations, and that it is going to be referred to an interim committee. Chairman Vratil suggested that it might be better to let the interim committee deal with the inconsistency in theft thresholds.

Chairman Vratil stated there is a proposed amendment that was submitted by the Kansas Wildlife and Parks. A motion was made to amend the bill on pages 11-12, to return the threshold values to what they were originally on wildlife, as recommended by Wildlife and Parks. Senator Bruce moved, seconded by Senator Journey, and the motion carried.

A motion was made to amend **SB213** into the bill. Senator Schmidt moved, seconded by Senator Umbarger, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Schmidt moved, seconded by Senator Umbarger, and the motion carried.

Chairman Vratil asked the Committee to consider final action on **HB 2109**.

Final Action:

HB 2109 Child passenger safety, seat belts, manufactured after 1968

Chairman Vratil stated there was a balloon amendment to modify the bill to say that unless the vehicle was manufactured or assembled with safety belts, then cars manufactured before 1968 were not required to have safety belts installed. (Attachment 10) A motion was made to adopt the balloon amendment. Senator Goodwin moved, seconded by Senator Donovan, and the motion carried.

Senator Donovan proposed an additional amendment be made to the bill to include what was proposed by the Kansas Action for Children. The amendment would include three additions: 1) requires children, ages 4-8 to be restrained in a booster seat; 2) requires children 8 years to 18 years to wear seat belts; 3) the fine would be raised from \$20 to \$60 for not using seatbelts, but \$10 of fine could be waived if there were proof of a passenger restraint system. Senator Donovan stated that the language was almost the same as last year's **SB 329**. A motion was made to adopt the proposed amendment. Senator Donovan moved, seconded by Senator Umbarger, and the motion carried. A motion was made to recommend favorably the bill as amended. Senator Donovan moved, seconded by Senator Goodwin, and the motion carried.

Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for March 14, 2005.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3/10/05

NAME	REPRESENTING
Chris Tymeson	KDWP
Kevin Jones	KDWP
Kyle Smith	KBI
Rusty James	GENERAL P. D.
Ann Henderson	Lynxxa City Prosecutor
Brian Nye	INTERN - REP. HUFF
P Biggs	KSC
B Haemon	KSC
J Butler	KSC
JEREMY S BARCLAY	KDOC
Lance Wicks	OJA
Jeff Bottenberg	Stok Farm
Janelle Nussen	Hein Law Firm
Steve Tatum	Jv. Co. Dist Ct.
Jim Clark	KBA
J. Hill	—
Kevin Barone	KTLA
WADE BOWIE	JJA

HB 2122

Submitted by
Rep. David Huff

Thank you Chairman Vratil, Vice Chairman Bruce and Ranking member Goodwin.

As you will might recall, last year we passed a bill which increased the threshold distinction between misdemeanor and felony theft from \$500 to \$1,000. This adjustment was made last year to the crime of theft of services.

We believe that to maintain uniformity, all similar crimes with similar threshold distinctions between misdemeanor and felony prosecution should be raised to \$1,000. In essence, all of the crimes that we are including in this draft bill involve some type of theft or loss of value. For example, we feel that someone who damages their neighbor's property to the extent of \$800, or one who writes a bad check for \$800, or takes property valued at \$800, have all essentially committed the same crime and should be punished equally.

Senate Judiciary

3-10-05

Attachment 1

However, under the current statutory scheme, the person who actually stole the property (or committed “theft”) would only face misdemeanor prosecution; all of the others would face felony prosecution. We would like to see the punishment for these similar violations become more consistent.

Mr. Chairman, I would like to defer questions on this bill until the other conferees have given testimony.

Thank you Mr. Chairman,

Rep. David Huff



March 10, 2005

To: Senate Judiciary Committee
State of Kansas

From: Sergeant Rusty James
Lenexa Police Department

RE: House Bill 2122

I am here today to testify on behalf of the City of Lenexa and the Lenexa Police Department in support of House Bill 2122. House Bill 2122 would establish a uniform threshold for various crimes.

Last year, the Kansas Legislature passed House Bill 2271 which established a threshold of \$1000.00 for the crimes of Theft and Theft of Services. This bill also established the severity levels for these crimes. Previously, these crimes had a threshold of \$500.00.

House Bill 2122 addresses other crimes that currently have a \$500.00 threshold. This legislation would establish a uniform threshold of \$1000.00 for the filing of felony charges. This would help to eliminate confusion on the part of the public, police officers, and prosecutors.

We support the passage of House Bill 2122. The passage of this bill would help to provide for consistency in the Kansas Criminal Code.

Sincerely,

A handwritten signature in black ink, appearing to read "Rusty James". The signature is stylized and written over a horizontal line.

Sergeant Rusty James

Senate Judiciary

3-10-05

Attachment 2



KANSAS

KANSAS SENTENCING COMMISSION

Honorable Ernest L. Johnson, Chairman
 District Attorney Paul Morrison, Vice Chairman
 Patricia Ann Biggs, Executive Director

KATHLEEN SEBELIUS, GOVERNOR

MEMORANDUM

To: Duane A. Goossen, Director of the Budget
ATTN: Jeff Arpin
From: Patricia Biggs, Executive Director
Date: January 27, 2005
RE: Fiscal Note on HB 2122

SUMMARY OF BILL:

AN ACT concerning crimes and punishment; relating to the loss of value of the crime; amending K.S.A. 16-305, 19-3519, 21-3720, 21-3729, 21-3437, 21-3902, 21-3904, 21-3905, 21-4111, 39-717, 40-247, 40-2,118, and 44-5,125 and K.S.A. 2004 Supp. 21-3437, 21-3707, 21-3763, 21-3846, 21-1005, 40-5013 and 47-1827 and repealing the existing sections.

This bill will have an impact upon the Kansas Sentencing Guidelines Act (KSGA). Specifically, this bill will raise the amount of value in the sections below from \$500 **to** \$1,000. A crime with the loss of value of less than \$1,000 is a misdemeanor. A crime with the loss of value of \$1,000 or more is a felony.

Section 1 amends K.S.A. 16-305 (misappropriating funds in violation of an agreement)

(a)(2) is amended to change the amount from \$500 but less than \$25,000 **to** \$1,000 but less than \$25,000 is a severity level 9 nonperson felony;
 (a)(3) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

Section 2 amends K.S.A. 19-3519 (obtaining money illegally from the district court)

(b)(1) is amended to change the value from \$500 **to** \$1,000;
 (b)(2) is amended to change the value from at least \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.

Section 3 amends K.S.A. 2004 Supp. 21-3437 (mistreatment of a dependant adult)

(d)(3) is amended to change the value from at least \$500 but less than \$25,000 **to** \$1,000 but less than \$25,000 is a severity level 9 person felony.
 (d)(4) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A person misdemeanor.
 (d)(6) is amended to change the value from \$500 **to** \$1,000.

Section 4 amends K.S.A. 2004 Supp. 21-3707 (worthless check)

(e)(2) is amended to change the value from at least \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.
 (e)(3) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.
 (e)(4) is amended to change the value from \$500 **to** less than \$1,000.

Section 5 amends K.S.A. 21-3720 (criminal damage to property)

700 SW Jackson Street, Suite 501, Topeka, KS 66603 -3714

Voice 785-296-0923 Fax 785-296-0927 <http://www.accesskansas.org/ksc/SiteMap.htm>

Senate Judiciary

3-10-05
 Attachment 3

Prison Population Impact of 2005 HB 2122
January 27, 2005 Page 2 of 8

(b)(2) is amended to change the amount from at least \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000.

(b)(3) is amended to change the amount from \$500 **to** \$1,000 or is of the value of from \$500 **to** \$1,000 or more and is damaged to the extent from \$500 **to** \$1,000.

Section 6 amends K.S.A. 21-3729 (criminal use of a financial card)

(d)(2) is amended to change the value from at least \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000.

(d)(3) to change the amount from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

Section 7 amends K.S.A. 21-3734 (impairing a security interest)

(b)(2) is amended to change the value from at least \$500 **to** \$1,000 or the value from \$500 **to** \$1,000 or more but subject to a security interest from less than \$500 **to** \$1,000.

Section 8 amends K.S.A. 2004 Supp. 21-3763 (counterfeiting)

(e)(1) is amended to change the amount from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

(e)(2) is amended to change the amount from at least \$500 **to** at least \$1,000 but less than \$25,000; or on a second violation is a severity level 9 nonperson felony.

Section 9 amends K.S.A. 2004 Supp. 21-3846 (false claim to Medicaid program)

(b)(2) is amended to change the value from \$500 but less than \$25,000 **to** \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.

(b)(3) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A misdemeanor.

Section 10 amends K.S.A. 21-3902 (official misconduct)

(c)(3)(B) is amended to change the amount of the claim from at least \$500 **to** at least \$1,000 but less than \$25,000 is a severity level 9 nonperson felony; and

(c)(3)(C) is amended to change the amount of the value of the claim from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

Section 11 amends K.S.A. 21-3904 (presenting a false claim)

(b)(2) is amended to change the value from at least \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.

(b)(3) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

Section 12 amends K.S.A. 21-3905 (permitting a false claim)

(b)(2) is amended to change the value from at least \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.

(b)(3) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

Section 13 amends K.S.A. 21-4111 (criminal desecration)

(b)(1)(B) is amended to change the value from at least \$500 but less than \$25,000 **to** \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.

(b)(1)(C) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

Section 14 amends K.S.A. 2004 Supp. 21-1005 (commercialization of wildlife)

(b)(1) and (2) is amended to change the value from \$500 **to** \$1,000;

(b)(3) is amended to change the value from \$600 **to** \$1,000;

(d) is amended to change the value from \$500 **to** \$1,000 is a severity level 10 nonperson felony. Changes the value from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

Section 15 amends K.S.A. 39-717 (assistance granted under this act)

(b)(1) is amended to change the value from \$500 **to** \$1,000.

Prison Population Impact of 2005 HB 2122
January 27, 2005 Page 3 of 8

(b)(2) is amended to change the value from at least \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.

Section 16 amends K.S.A. 40-247 (agent or broker negotiating insurance contracts)

(b)(1)(B) is amended to change the value from at least \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.

(b)(1)(C) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

(b)(2) is amended to change the value from less than \$500 **to** less than \$1,000 is a severity level 9 nonperson felony.

Section 17 amends K.S.A. 40-2,118 (fraudulent insurance act)

(b) to remove the severity level 9 nonperson felony for an amount of at least \$500 but less than \$1,000. Changes the value from less than \$500 **to** less than \$1,000 is a class C nonperson misdemeanor.

Section 18 amends K.S.A. 2004 Supp. 40-5013 (viatical settlement contract)

(d)(1)(B) is amended to change the value from at least \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.

(d)(1)(C) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

(d)(2) is amended to change the value from less than \$500 **to** less than \$1,000 is a severity level 9 nonperson felony.

Section 19 amends K.S.A. 44-5,125 (workers compensation benefits)

(i) is amended to change the value from less than \$500 **to** less than \$1,000 is a class A nonperson misdemeanor.

(ii) is amended to change the value from more than \$500 but less than \$25,000 **to** more than \$1,000 but less than \$25,000 is a severity level 9 nonperson felony.

Section 20 amends K.S.A. 2004 Supp. 47-1827 (animal facility)

(g)(1) is amended to change the violation of subsections (a) or (e) from \$500 but less than \$25,000 **to** at least \$1,000 but less than \$25,000 is a severity level 9 nonperson felony. Violation of (a) or (e) is a class A nonperson misdemeanor and changes the value from less than \$500 **to** less than \$1,000 or is the value from \$500 **to** \$1,000 or more and is damaged to the extent from less than \$500 **to** less than \$1,000.

(g)(2) violation of subsection (b) remains a severity level 10 nonperson felony.

Section 21 repeals K.S.A. 16-305, 19-3519, 21-3720, 21-3729, 21-3734, 21-3902, 21-3904, 21-3905, 21-4111, 39-717, 40-247, 40-2,118 and 44-5,125 and K.S.A. 2004 Supp. 21-3437, 21-3707, 21-3763, 21-3846, 32-1005, 40-5013 and 47-1827.

Section 22 sets the effective date as publication in the statute book.

IMPACT ON KANSAS SENTENCING COMMISSION:

Based on the current duties of the Kansas Sentencing Commission, the change(s) proposed in this bill will affect the following:

- The current operation or responsibilities of the Commission: Based on estimates derived from the scenarios presented below, the number of journal entries received and recorded by the Commission staff would decrease by 49-97 in FY 2006 and decrease by 57-113 in FY 2015. This decrease, however, would not change the staffing requirements of the Sentencing Commission.*
- The current budget of the Commission.
- The current staffing and operating expenditure levels of the Commission.
- The long-range fiscal estimates of the Commission.
- The change(s) proposed in this bill will not likely affect the duties of the Kansas Sentencing

Prison Population Impact of 2005 HB 2122
January 27, 2005 Page 4 of 8

Commission.

ANALYTIC RESULT SUMMARY:

IMPACT ON PRISON ADMISSIONS:

- Increase by an estimated:
- Potential to increase but cannot quantify
- Decrease by an estimated: 5 to 11 fewer prison admissions in FY 2006; 7-14 fewer prison admissions in FY 2015.**
- Potential to decrease but cannot quantify
- Remain the same

IMPACT ON OFFENDER POPULATION LEVELS:

- Impact offender population as noted below: Reduce prison bed needs by 8-16 in FY 2006; reduce prison bed needs by 8-17 in FY 2015**
- Potentially impact offender population as noted below.
- Minimal or no impact on offender population.
- May impact offender population but cannot quantify with data available.

ASSUMPTIONS

- Population:
 - Target: The target population of this assessment is any offender convicted of the crimes falling under the following KSA: 16-305, 19-3519, 21-3720, 21-3729, 21-3437, 21-3902, 21-3904, 21-3905, 21-4111, 39-717, 40-247, 40-2,118, and 44-5,125 and K.S.A. 2004 Supp. 21-3437, 21-3707, 21-3763, 21-3846, 21-1005, 40-5013 and 47-1827.
 - Growth Rate: Projected admissions to KDOC correctional facilities are assumed to increase by an annual average of one and one-half percent which is consistent with the underlying growth assumption used in the baseline forecast.
 - Impact Relation: Bed space impacts are in relation to the baseline forecast produced in September 2004 by the Kansas Sentencing Commission.
- Effective Date: It is assumed that the effective date for this policy is for offenses committed on/after July 1, 2005.
- Percentage of target inmate sentences served in prison is assumed to be 85 percent, consistent with the September 2004 projections.

SCENARIOS PRESENTED

- **Scenario One**: It is assumed that **20%** of the offenders who would be sentenced as felons, absent this policy, will have convictions of the above listed KSAs where the dollar value is between \$500 and less than \$1000 and, therefore, pursuant to this bill, now be sentenced as misdemeanants.
- **Scenario Two**: It is assumed that **30%** of the offenders who would be sentenced as felons, absent this policy, will have convictions of the above listed KSAs where the dollar value is

Prison Population Impact of 2005 HB 2122
January 27, 2005 *Page 5 of 8*

between \$500 and less than \$1000 and, therefore, pursuant to this bill, now be sentenced as misdemeanants.

- **Scenario Three:** It is assumed that **40%** of the offenders who would be sentenced as felons, absent this policy, will have convictions of the above listed KSAs where the dollar value is between \$500 and less than \$1000 and, therefore, pursuant to this bill, now be sentenced as misdemeanants.

PRESENTATION OF ANALYSIS AND RESULTS:

Analysis:

- During FY 2004, 38 offenders were admitted to prison under the following statutes:
 - 8 were under K.S.A. 21-3707 (giving a worthless check; loss of >=\$500 but<\$25,000) with an average length of sentence of 10.9 months;
 - 19 were under K.S.A. 21-3720 (criminal damage to property; loss of >=\$500 but<\$25,000) with an average length of sentence of 10.8 months;
 - 11 were under K.S.A. 21-3729 (criminal use of a financial card; loss of >=\$500 but<\$25,000) with an average length of sentence of 10 months.
 - Of the 38 offenders, 9 were new court commitments and 29 were probation condition violators.
- During FY 2004, 243 offenders were convicted of the crimes under the following statutes:
 - 2 were under K.S.A. 39-717 (welfare fraud; loss of >=\$500 but<\$25,000),
 - 1 was sentenced to prison
 - 1 was sentenced to probation
 - 67 were under K.S.A. 21-3707 (giving a worthless check; loss of >=\$500 but<\$25,000),
 - 6 were sentenced to prison
 - 61 were sentenced to probation
 - 125 were under K.S.A. 21-3720 (criminal damage to property; loss of >=\$500 but<\$25,000),
 - 14 were sentenced to prison
 - 111 were sentenced to probation
 - 41 were under K.S.A. 21-3729 (criminal use of a financial card; loss of >=\$500 but<\$25,000),
 - 6 were sentenced to prison
 - 35 were sentenced to probation
 - 2 were under K.S.A. 21-3734 (impairing security interest; loss of >=\$500 but<\$25,000),
 - 2 were sentenced to probation
 - 6 were under K.S.A. 21-3846 (Medicaid fraud; loss of >=\$500 but<\$25,000),
 - 6 were sentenced to probation

Current Policy: If current policy remains unchanged, by the year 2006, 28 prison beds will be needed and by the year 2015, 33 prison beds will be needed.

Scenarios:

- **Scenario One:** If 20% of offenders are convicted of the above crimes where the value of loss is less than \$1000 and are sentenced as misdemeanants,
 - By 2006, there would be 23 prison beds needed.
 - This is a decrease of 5 beds from current policy.
 - By 2015, there would be 26 prison beds needed.
 - This is a decrease of 7 beds from current policy.

Prison Population Impact of 2005 HB 2122
January 27, 2005 *Page 6 of 8*

- **Scenario Two:** If 30% of offenders are convicted of the above crimes where the value of loss is less than \$1000 and are sentenced as misdemeanants,
 - By 2006, there would be 20 prison beds needed.
 - This is a decrease of 8 beds from current policy.
 - By 2015, there would be 23 prison beds needed.
 - This is a decrease of 10 beds from current policy.

- **Scenario Three:** If 40% of offenders are convicted of the above crimes where the value of loss is less than \$1000 and are sentenced as misdemeanants,
 - By 2006, there would be 17 prison beds needed.
 - This is a decrease of 11 beds from current policy.
 - By 2015, there would be 19 prison beds needed.
 - This is a decrease of 14 beds from current policy.

Presented below is the projected change in prison admissions and prison bed needs:

Prison Admission Impact Assessment

Fiscal Year	Current Policy Unchanged Admission	Scenario #1 20% Less Than \$1,000 Admission	Scenario #2 30% Less Than \$1,000 Admission	Scenario #3 40% Less Than \$1,000 Admission
2006	39	31	27	23
2007	39	32	28	24
2008	40	32	28	24
2009	40	33	29	24
2010	41	33	29	25
2011	42	34	30	25
2012	42	34	30	26
2013	43	35	30	26
2014	43	35	31	27
2015	44	36	31	27
Fiscal Year	Scenario #1 Admission Reduced	Scenario #2 Admission Reduced	Scenario #3 Admission Reduced	
2006	8	12	16	
2007	7	11	15	
2008	8	12	16	
2009	7	11	16	
2010	8	12	16	
2011	8	12	17	
2012	8	12	16	
2013	8	13	17	
2014	8	12	16	

Prison Population Impact of 2005 HB 2122
 January 27, 2005 Page 7 of 8

2015	8	13	17
------	---	----	----

Prison Bed Space Impact Assessment

Fiscal Year	Current Policy Unchanged Beds Needed	Scenario #1 20% Less Than \$1,000 Beds Needed	Scenario #2 30% Less Than \$1,000 Beds Needed	Scenario #3 40% Less Than \$1,000 Beds Needed
2006	28	23	20	17
2007	30	25	21	18
2008	29	24	21	19
2009	30	25	21	19
2010	30	25	22	19
2011	31	26	24	20
2012	31	26	22	20
2013	34	25	23	20
2014	32	26	23	20
2015	33	26	23	19

Fiscal Year	Scenario #1 Beds Saved	Scenario #2 Beds Saved	Scenario #3 Beds Saved
2006	5	8	11
2007	5	9	12
2008	5	8	10
2009	5	9	11
2010	5	8	11
2011	5	7	11
2012	5	9	11
2013	9	11	14
2014	6	9	12
2015	7	10	14

CONCLUSION: IMPACT OF HB 2122:

Admissions: The impact of this bill will result in 8-16 fewer prison admissions in FY 2006 and 8-17 fewer prison admissions in FY 2015.

Prison Beds: The impact of this bill will result in the need for 5-11 fewer prison beds by FY 2006 and 7-14 fewer prison beds by FY 2015.

Prison Population Impact of 2005 HB 2122
January 27, 2005 *Page 8 of 8*

KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2122 relating to the Felony Provisions To
Senate Committee on Judiciary
By Christopher J. Tymeson
Chief Legal Counsel
Kansas Department of Wildlife and Parks
10 March 2005**

House Bill 2122 seeks to raise the monetary threshold for felony provisions from \$500 to \$1,000. As part of this legislation, K.S.A. 32-1005 was being recommended for revision to meet this standard. **In addition to increasing the felony level threshold, the Kansas Department of Wildlife and Parks requests restoring the commercial values of wildlife as were in the original bill.**

The current law establishes monetary values for wildlife, to be used in determining whether or not illegal commercial acts were committed and whether the illegal acts constitute felony crimes. The recommendations being made by the Department are based on the most current information available through the U. S. Fish and Wildlife Service. That information, published in August 2003, provides the values placed on various species and classifications of wildlife across the nation. Not all states have established values and when necessary, values for restitution or penalties are left to the individual courts. The remaining states have established values set by law or regulation. In considering the Department's recommendations, available values were calculated to obtain a mean average of all applicable categories. Values within the information relating to Kansas were not included in the calculations. The following information lists, by group classification or individual species, the comparison of wildlife values.

Summary Of Average Values For Wildlife By Classification

Animal Group	Average Value	KDWP Recommendation
Eagle	\$ 1,791.70	\$ 1,000.00
Deer	\$ 1,151.26	\$ 1,000.00
Antelope	\$ 1,019.15	\$ 1,000.00
Elk	\$ 2,098.28	\$ 1,500.00
Buffalo	\$ 2,435.71	\$ 1,500.00
Furbearers	\$ 95.99	\$ 25.00
Bobcat	\$ 335.75	\$ 200.00
Wild turkey	\$ 373.84	\$ 200.00
Raptors	\$ 555.13	\$ 500.00
Gen. Game & Non-game animals	\$ 154.87	\$ 50.00
Turtle	\$ 45.50	\$ 25 each or \$16/lb processed
Frogs	\$ 20.08	\$ 4.00
Threatened & Endangered	\$ 1,358.70	\$ 500.00
Any wildlife not included above	\$ 39.42	\$ 25.00

Office of the Secretary

1020 S Kansas Ave., Ste. 200, Topeka, KS 66612-1327

Phone 785-296-2281 Fax 785-296-6953 www.kdwp.state.ks.us

Senate Judiciary

3-10-05

Attachment 4

OFFICE OF DISTRICT ATTORNEY
PAUL J. MORRISON, DISTRICT ATTORNEY

March 10, 2005

Judiciary Committee
STATE OF KANSAS

RE: House Bill 2122

Dear Committee Members:

I'm writing this letter to offer my support for House Bill 2122. As you are aware, last year the legislature amended the Theft statute (K.S.A. 21-3701) by raising the threshold level for a felony from \$500 to \$1,000. This brought Kansas more in line with what most other states have done in the last few years. I believe it was a good change.

As you are aware, there are many other statutes that are tied to the \$500 level as the felony threshold. As an example, the threshold amount for felony Criminal Damage to Property is raised from \$500 to \$1,000. This bill, "cleans up", many of these inequities, which will provide for consistency in our Criminal Code. I believe it's the right thing to do and support this bill.

Sincerely,

[signature omitted sent via e-mail]

Paul J. Morrison,
District Attorney

:tli

Senate Judiciary
3-10-05
Attachment 5



The City of
**Overland
Park**
KANSAS

• Fax: 913-895-5003
www.opkansas.org

March 10, 2005

Kansas Senate Judiciary Committee
Kansas State Capitol
300 SW 10th St.
Topeka, Kansas 66612

RE: HOUSE BILL NO. 2122

Dear Chairperson Vratil and Hon. Members of the Committee:

My name is Scott Miller. I have been a Kansas prosecutor for more than ten years and am currently employed in that capacity by the City of Overland Park. I am writing in support of House Bill No. 2122, currently under consideration by your committee.

Bill No. 2122 increases the monetary threshold that divides felony and misdemeanor levels of certain property offenses to be the same as the one found in our theft statute, K.S.A. 21-3701. I believe this change benefits Kansas law enforcement and the public.

Municipal court jurisdiction over these types of offenses is in large part defined by their felony or misdemeanor status. Police officers are regularly called upon to decide whether a certain offense should be charged through municipal court or referred to district court for prosecution, and having one consistent dividing line for financial value helps guarantee that a law enforcement officer's decision about which prosecution agency to refer a case to is the correct one.

Public belief in the fundamental fairness of the legal system should also be enhanced by this bill, as similarly situated defendants will face identical penalties for identical ranges of financial loss, regardless of the title or specific elements of the crime.

For these reasons, I would ask that House Bill No. 2122 be given favorable consideration.

Sincerely,
Scott J. Miller

Senate Judiciary
3-10-05
Attachment 6



Kansas Bureau of Investigation

Larry Welch
Director

Senate Judiciary Committee
Testimony in support of HB 2387
Kyle G. Smith
Kansas Bureau of Investigation
March 10, 2005

Phill Kline
Attorney General

Chairman Loyd and Members of the committee,

On behalf of the Kansas Bureau of Investigation I appear in support of HB 2387 which would eliminate some unnecessary waste of the KBI's already stretched resources.

Last year the legislature passed two provisions in HB 2638 which requires the KBI to conduct an investigation whenever a person dies while in custody of local authorities (K.S.A. 19-1935) or the state (K.S.A. 75-52,147). And the KBI supported that bill as an appropriate crosscheck to ensure the public's confidence in the system. However, we also assumed, that we were talking about 5 – 10 deaths a year, most of which the KBI was already normally being called to investigate. There have been several more such investigations required than we anticipated, 31 from July 1, 2004 to January 1, 2005. While there have been an unusual number of suicides, the biggest part of this unanticipated number have been from natural causes. We've even had to investigate the deaths of prisoners who die in hospice, with their families present and agreeing to 'pulling the plug.'

We do not believe that was the intent of the legislation and would ask that, where the cause of death is determined by an autopsy to be natural, no investigation by the KBI is required. We will of course immediately start investigations but as soon as a doctor or coroner can say there is no indication of foul play and a natural death, we could put the agents back on other duties.

Thank you for your consideration. I'd be happy to answer any questions.

KANSAS

KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on HB 2387
to
The Senate Judiciary Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections

March 10, 2005

HB 2387, as amended by the House, amends K.S.A. 19-1935 and 75-52,147 to relieve the Kansas Bureau of Investigation from the mandatory obligation of conducting an investigation into the death of a person who dies in the custody of a law enforcement agency if the death is determined to have been due to natural causes. HB 2387 as amended provides that the determination of death by natural causes sufficient to relieve the Bureau of its investigation obligation may be made established by a qualified autopsy, preliminary autopsy report, death certificate, or licensed physician who regularly attended the prisoner.

The Department supports HB 2387 as amended as an appropriate measure to conserve the Bureau's investigative resources. From July 1, 2004 through February 15, 2005, the KBI has been called upon to investigate the death of 24 persons that have died while incarcerated with the Department. Twenty-two of those deaths were from natural causes and two were the result of suicide. The Department notes that the results of an autopsy may not be available for a considerable period of time and in light of the availability of other reliable, albeit tentative, information concerning a cause of death the House amendment to HB 2387 is reasonable.

Generally, the issuance of an autopsy report is delayed until a laboratory toxicology analysis has been conducted. The priority for the laboratory analysis is determined by whether there are other indications that the death may be due to other than natural causes. The Department has experienced delays of several months before the autopsy report incorporating toxicology findings is issued. Additionally, while the Department orders that an autopsy be conducted on every person that dies in its custody, other officials, including jail administrators, prosecutors, and coroners have the discretion as to whether an autopsy is to be performed. An autopsy of a person who dies in the custody of other jurisdictions may not be conducted, particularly if the death occurred during hospitalization for the treatment of a disease or illness. Even though an autopsy is not performed, a death certificate identifying the cause of death will be issued.

In order to provide timely criteria for establishing whether a KBI investigation must be conducted, the Department supports HB 2387 as amended. HB 2387, as amended, does not preclude the KBI from conducting or resuming an investigation at any time. HB 2387 passed out of the House by a vote of 102 – 21.

Request for Increase in Bond Supervision Fees

Submitted by
Judge Stephen Tatum

In 2001, the Kansas Legislature passed legislation (KSA 22-2802 sub. 12) specifically allowing the Court to order a defendant to pay \$5 per week for the cost of bond supervision.

In the 10th Judicial District, bond supervision has been used most frequently on domestic violence cases. However, in November of 2004, the criminal judges approved more extensive use of bond supervision for other criminal cases. Currently, our bond supervision caseload is at 256 of which 113 are criminal cases and 145 are domestic violence cases. These cases are supervised by a staff comprised of one half-time grant funded position for the domestic violence caseload and currently a team of five part-time on call staff who work up to five hours a week depending on caseload. These staff are paid on the county scale of \$13.39 an hour. With an average bond caseload of 25-30 offenders that require up to a half hour a week of supervision and administrative time, our costs are exceeding the \$5.00 per week allowed by statute.

HB 2418 would allow an increase in the supervision fee of up to \$10 per week. Our history of bond supervision indicates that offenders are supervised for an average of 12 weeks for a total cost of \$60.00. Thus an increase to \$10.00 per week would, on average, cost most offenders \$120.00. This is a more realistic fee to assist us in meeting the actual costs of the program. In most cases where bond supervision is ordered, either a PR bond or a lower cash or surety bond is set. The defendant, who is likely to post a bond anyway, is placed on bond supervision which requires compliance with certain conditions.

For example, a defendant who is placed on bond supervision for a DUI charge would have a condition prohibiting consumption of alcohol and random testing for presence of alcohol. A defendant may have to obtain a job. In Domestic Violence cases a defendant may have a no contact condition with the victim. Conditions are tailored to the specific issues presented by the defendant. The defendant then is required to report to the assigned court services officer to insure compliance with those conditions.

I believe that bond supervision is a vital tool for judges when determining bond for criminal offenders. Also, given that our jail is facing serious over-crowding issues, bond supervision allows for the court to consider release of low risk defendants knowing that they will be supervised during the pendency of the case. Your support of this legislation will assist the courts in providing a higher level of community protection while offenders are released on bond.

Thank you for your consideration.

Stephen R. Tatum

Chief Judge, 10th Judicial District

Senate Judiciary

3-10-05

Attachment 9

HOUSE BILL No. 2109

By Committee on Transportation

1-20

Proposed amendment
March 8, 2005

Submitted
by Chairman Vratil

Senate Judiciary
3-10-05
Attachment 10

9 AN ACT concerning motor vehicles; relating to the child passenger safety
10 act and the safety belt use act; amending K.S.A. 8-1343a and 8-2502
11 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 8-1343a is hereby amended to read as follows: 8-
15 1343a. As used in K.S.A. 8-1343 through 8-1347, and amendments
16 thereto, "passenger car" means a motor vehicle, *manufactured or assem-*
17 *bled after January 1, 1968* with motive power designed for carrying 10
18 passengers or fewer, including vans, but does not include a motorcycle,
19 a trailer or a vehicle constructed either on a truck chassis registered for
20 a gross weight of more than 12,000 pounds or a farm truck registered for
21 a gross weight of more than 16,000 pounds.

22 Sec. 2. K.S.A. 8-2502 is hereby amended to read as follows: 8-2502.
23 As used in this act, "passenger car" means a motor vehicle, *manufactured*
24 *or assembled after January 1, 1968* with motive power designed for car-
25 rying 10 passengers or fewer, including vans, but does not include a mo-
26 torcycle, a trailer or a vehicle constructed either on a truck chassis reg-
27 istered for a gross weight of more than 12,000 pounds or a farm truck
28 registered for a gross weight of more than 16,000 pounds or a vehicle
29 constructed with special features for occasional off-road operation.

30 Sec. 3. K.S.A. 8-1343a and 8-2502 are hereby repealed.

31 Sec. 4. This act shall take effect and be in force from and after its
32 publication in the Kansas register.

unless such motor vehicle was manufactured or assembled with safety
belts