

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on March 14, 2005, in Room 123-S of the Capitol.

All members were present except:

Barbara Allen- excused

Donald Betts- 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:

Others attending:

See attached list.

Chairman Vratil opened the meeting and announced that there would be no final action taken on **HB 2104**, which deals with UCC securities interest in oil and gas production. The Chairman asked the Committee to consider final action on **HB 2268**.

Final Action:

HB 2268 Uniform interstate enforcement of domestic violence protection orders

Chairman Vratil passed out a proposed balloon amendment for consideration by the Committee. He explained that the balloon amendment was submitted by the interested parties and that he had written alternative language to that proposed in the box on page four of the bill. (Attachment 1) His language does the same thing in fewer words.

Senator Journey was curious why the sheriff was prohibited from notifying a respondent. Joyce Grover, Attorney for the Kansas Coalition Against Sexual and Domestic Violence and a guest in the meeting, stated that the language was inserted because of foreign orders. When the order has been issued in another state, it has already been served and entered into NCIC from another state. Senator Journey suggested that the language in the new proposed section 5 (c) should read, "A sheriff's department is prohibited from notifying or requiring notification of a respondent if the personal service is verified..." . Chairman Vratil stated the dilemma is that the initiator of a protective order, as the protected individual, doesn't want the respondent to know where he or she is residing, and so do not want the respondent notified of the filing of a foreign protection order. On the other hand, there is no way to know for certain that the respondent has been notified of the existence of the protection order. It is certainly not fair to not give notices to the respondent and then hold the person responsible for an order he knows nothing about.

Ms. Grover stated that the responsibility lies with the prosecutor to check NCIC. Chairman Vratil stated that the law doesn't say that. There is nothing in this statute which gives any reason to believe that the respondent has been served with a foreign protection order.

Ms. Grover stated in Section 4 (c) it says that, "if a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order..." Chairman Vratil noted what Ms. Grover was pointing to, but stated that Section 4 (c) is in direct contradiction with the amendment. Ms. Grover stated that the bolded language was added at the request of the Kansas Sheriffs Association because they didn't want to duplicate work that had already been done. Chairman Vratil asked the Committee to look at Section 4 (c). Chairman Vratil indicated that it explains why the House struck the language that it took out of the bill, in 5 (f). The Chairman suggested that the Committee defer to the House version.

A motion was made to strike from the bill Section 5 (f). Senator Journey moved, seconded by Senator Bruce.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on March 14, 2005, in Room 123-S of the Capitol.

and the motion carried.

Chairman Vratil reviewed new Section 10. Jill Wolters stated that the purpose of the section was to correct a drafting error. The intent of the section is that since there would be foreign protection orders that were in effect, that the date would make it valid so the State of Kansas would recognize them. Chairman Vratil suggested that the language be changed to "This act applies to all protection orders issued, before or after the effective date of the Act."

A motion was made to change the language in new Section 10 to the suggested language offered by Chairman Vratil. Senator Goodwin moved, seconded by Senator Donovan, and the motion carried.

There was discussion whether to allow a fee and use the language proposed by the balloon in 5 (b). A motion was made to allow a fee, not to exceed \$30, which may be waived if the party is unable to pay due to poverty, or if waived by the district court. Senator Journey moved, seconded by Senator O'Connor, and the motion carried.

A motion was made to strike page 3, lines 19-43 and page 4, line 1, and replace with the balloon language in new Section 5 (a), and strike on page 4, line 2, and replace with the new language for Section 5 (b). Senator Bruce moved, seconded by Senator Goodwin, and the motion carried.

A motion was made to recommend favorably the bill as amended. Senator Bruce moved, seconded by Senator Goodwin, and the motion carried.

Chairman Vratil turned the meeting over to Vice-Chair Bruce. The next bill reviewed by the Committee for final action was **SB 117**.

Final Action:

SB 117 If an offender resides within 1,000 feet of any licensed child care facility or any school, sheriff shall notify such facility or school

Vice-Chairman Bruce handed out a proposed amendment from Senator Brownlee. (Attachment 2) The bill incorporates a portion of **HB 2314** and requires that the Kansas Department of Health and Environment notify day care centers and the Kansas Board of Education notify schools, rather than the notification come from the county sheriff. Vice-Chairman Bruce stated that the legal draft of an amendment prepared by Senator Journey should be discarded (Attachment 3), as Senator Journey stated Senator Brownlee's amendment would work in lieu of his.

A motion was made to adopt the proposed balloon amendment. Senator Journey moved, seconded by Senator O'Connor, and the motion carried. A motion was made to recommend favorably the bill as amended. Senator Journey moved, seconded by Senator Donovan, and the motion carried.

Vice-Chairman Bruce asked the Committee to consider final action on **HB 2314**.

Final Action:

HB 2314 Timing of offender registration

A motion was made to amend the bill with the balloon amendment of **SB 117** incorporated into the bill. Senator Journey moved, seconded by Senator Schmidt, and the motion carried. A motion was made to recommend favorably the bill as amended. Senator Journey moved, seconded by Senator O'Connor, and the motion carried.

Vice-Chairman Bruce asked the Committee to consider final action on **HB 2016**.

HB 2016 Arbitration; validity of agreement; can apply to employer employee contracts and a tort claim

Senator Journey stated that the bill offers sweeping changes affecting how arbitration is done in Kansas. It

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MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on March 14, 2005, in Room 123-S of the Capitol.

involves waiving an individual's access to the courts. He had many concerns about the issue and made the motion that the Committee refer the issue to the Judicial Council for consideration and perhaps modification. Senator Schmidt suggested that, procedurally, we hollow out the bill, referring the issue to the Judicial Council, and inserting the 'guts' of **SB 179** in its place.

A motion was made to amend the bill by removing the contents of the bill and referring the subject matter to the Judicial Council to be studied, and replacing the contents with **SB 179**, using the language as recommended and passed favorably as amended out of Committee. Senator Journey moved, seconded by Senator Umbarger, and the motion carried. A motion was made to recommend favorably the substitute for the bill favorably as amended. Senator Journey moved, seconded by Senator O'Connor, and the motion carried.

Vice-Chairman Bruce asked the Committee to consider final action on **HB 2129**.

HB 2129 Compensation for attorneys representing indigent defendants, \$80 per hour

Senator Journey suggested that the increase was needed because the last increase was made in the late 1980s. Senator Goodwin stated that the increase would help the rural communities as well as the larger communities, that in the smaller communities the private attorneys are called on to serve indigent defendants and not necessarily by choice. Senator Donovan stated that this was a big hit to absorb, that if the legislature were bumping anything else by 60 percent, there would be an outcry. Senator Umbarger asked where the money was coming from and was advised from the state general fund. Senator Journey stated that the significant impact is in the initial year, but because there would be a revolving fund, it would not be as bad after the initial year. Senator Umbarger was stated that he felt this was one of the more legitimate uses of docket fees.

A motion was made by Senator Journey to recommend the bill favorably for passage, seconded by Senator Haley. Senator Journey withdrew and changed his motion to increase the compensation to \$65, effective July 1, 2005, and increase the compensation to \$80, effective July 1, 2006. Senator Journey moved, seconded by Senator Umbarger, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator Umbarger moved, seconded by Senator Journey, and the motion carried.

Vice-Chairman Bruce adjourned the meeting at 10:30 A.M. The next meeting is scheduled for March 15, 2005.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3/14/05

NAME	REPRESENTING
Doug Wareham	Kansas Bankers Assn.
Kathy Olsen	Kansas Bankers Assn.
Jessica Baumgard	KGC
Rd. Wray	HEIN Law Firm
BILL MISKELL	JJA
JIM CLARK	KIB
JOYCE GROVER	KCSDV
Becca Vaughn	TILRC
LUKE BELL	Kearney and Associates
PATSCALIA	BIDS
Whitney Danner	KS Ban Assn.
Bill Henry	KS Credit Union Assn
JEFF BOTTENBORG	Stl Farm
Mike Specht	Haches Braden
Jim Maag	Foulston Siefkin LLP
Dan Murray	Federico Consulting
Sarah Gigous	DofA
Connie Guerrero	DofA



KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

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

Submitted by
CHAIRMAN VRATIL

March 3, 2005

Dear Senator Vratil and Members of the Senate Judiciary Committee;

Attached is the second proposed balloon for HB2268 specifically addressing the concerns with New Section 5. We are again referencing current law (K.S.A. 60-3112), while at the same time avoiding involvement by the district courts in this discretionary registration process.

Kathy Porter with the Office of Judicial Administration has reviewed this version and has no problems with it.

Sincerely,

Sandy Barnett
Executive Director

Senate Judiciary

3-14-05

Attachment 1

1 respondent and, on its face, is currently in effect constitutes probable
 2 cause to believe that a valid foreign protection order exists. For the pur-
 3 poses of this section, the protection order may be inscribed on a tangible
 4 medium or may have been stored in an electronic or other medium if it
 5 is retrievable in perceivable form. Presentation of a certified copy of a
 6 protection order is not required for enforcement.

7 (b) If a foreign protection order is not presented, a law enforcement
 8 officer of this state may consider other information in determining
 9 whether there is probable cause to believe that a valid foreign protection
 10 order exists.

11 (c) If a law enforcement officer of this state determines that an oth-
 12 erwise valid foreign protection order cannot be enforced because the
 13 respondent has not been notified or served with the order, the officer
 14 shall inform the respondent of the order, make a reasonable effort to
 15 serve the order upon the respondent and allow the respondent a reason-
 16 able opportunity to comply with the order before enforcing the order.

17 (d) Registration or filing of an order in this state is not required for
 18 the enforcement of a valid foreign protection order pursuant to this act.

19 New Sec. 5. (a) Any individual may register a foreign protection order
 20 in this state. To register a foreign protection order, an individual shall
 21 present a certified copy of the order to the clerk of the district court in
 22 the judicial district sheriff in the county where the protection order will
 23 be enforced and request that the order be registered with the district
 24 court.

25 (b) Upon receipt of a foreign protection order, the clerk of the district
 26 court in the judicial district where the order will be enforced shall register
 27 the order in accordance with this section. After the order is registered,
 28 the clerk of the district court shall furnish to the individual registering
 29 the order and the sheriff of the county where the order will be enforced
 30 a certified copy of the registered order.

31 (c) The clerk of the district court in the judicial district where the
 32 protection order will be enforced shall register an order upon presenta-
 33 tion of a copy of a protection order which has been certified by the issuing
 34 state. A registered foreign protection order that is inaccurate or is not
 35 currently in effect must be corrected or removed from the registry in
 36 accordance with the law of this state.

37 (d) (c) An individual registering a foreign protection order shall file
 38 an affidavit by the protected individual with the district court in the ju-
 39 dicial district sheriff in the county where the protection order will be
 40 enforced stating that, to the best of the protected individual's knowledge,
 41 the order is currently in effect.

42 (e) (d) A foreign protection order registered under this act may be
 43 entered in any existing state or federal registry of protection orders, in

New Sec. 5 (a) Any individual may register a foreign protection order in this state. To register a foreign protection order, an individual shall present a certified copy of the order to the sheriff in the county where the protection order will be enforced. Pursuant to K.S.A. 60-3112 and amendments thereto, the sheriff shall contact the issuing jurisdiction to verify the order and request that such jurisdiction enter the order into the national criminal information center and other appropriate databases.

*be charged
not to exceed
\$30.*

1 accordance with applicable law.
 2 ~~(f) (e)~~ A fee shall not be charged for the registration of a foreign
 3 protection order.
 4 ~~(g) (f)~~ No sheriff's department or district court accepting or register-
 5 ing a foreign protection order under this section may notify or require
 6 notification of a party against whom the protection order was filed of its
 7 filing or registration unless the individual protected by the protection
 8 order requests that the sheriff's department or district court do so and
 9 the respondent has not already been notified of such filing or
 10 registration.
 11 New Sec. 6. This state, a local governmental agency, a law enforce-
 12 ment officer, a prosecuting attorney, a clerk of court or any state or local
 13 governmental official acting in an official capacity is immune from civil
 14 and criminal liability for conduct arising out of the registration or enforce-
 15 ment of a foreign protection order or the detention or arrest of an alleged
 16 violator of a foreign protection order if the conduct was done in good
 17 faith in an effort to comply with this act.
 18 New Sec. 7. A protected individual who pursues remedies under this
 19 act is not precluded from pursuing other legal or equitable remedies
 20 against the respondent.
 21 New Sec. 8. In applying and construing this uniform act, consider-
 22 ation shall be given to the need to promote uniformity of the law with
 23 respect to its subject matter among states that enact it.
 24 New Sec. 9. If any provision of this act or its application to any person
 25 or circumstance is held invalid, the invalidity does not affect other pro-
 26 visions or applications of this act which can be given effect without the
 27 invalid provision or application. To this end, the provisions of this act are
 28 severable.
 29 New Sec. 10. This act applies to protection orders issued before July
 30 1, 2006, and to continuing actions for enforcement of foreign protection
 31 orders commenced before July 1, 2006. A request for enforcement of a
 32 foreign protection order made on or after July 1, 2006, for violations of
 33 a foreign protection order occurring before July 1, 2006, is governed by
 34 this act.
 35 Sec. 11. K.S.A. 2004 Supp. 21-3843 is hereby amended to read as
 36 follows: 21-3843. (a) Violation of a protective order is knowingly or in-
 37 tentiously violating:
 38 (1) A protection from abuse order issued pursuant to K.S.A. 60-3105,
 39 60-3106 and 60-3107, and amendments thereto;
 40 (2) a protective order issued by a court or tribunal of any state or
 41 Indian tribe that is consistent with the provisions of 18 U.S.C. 2265, and
 42 amendments thereto;
 43 (3) a restraining order issued pursuant to K.S.A. 38-1542, 38-1543,

~~(f) (e) (b)~~ A fee shall not be charged for the registration of a
 foreign protection order.
~~(g) (f) (c)~~ No sheriff's department accepting or registering a foreign
 protection order under this section may notify or require
 notification of a party against whom the protection order was
 filed of its filing or registration unless the individual protected
 by the protection order requests that the sheriff's department
 do so and the respondent has not already been notified of
 such filing or registration.



*A sheriff's department is prohibited from
notifying or requiring notification of a respondent
of the filing or registration of a foreign
protection order unless the protected
individual requests such notification.*

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2005

SENATE BILL No. 117

By Senator Brownlee

1-26

Proposed amendment
Senator Brownlee
March 11, 2005

Senate Judiciary
3-14-05
Attachment 2

Submitted by
Vice Chairman Bruce

12 AN ACT concerning ~~criminal procedure, relating to~~ offender registra-
13 tion; amending K.S.A. 2004 Supp. 22-4902, ~~22-4909 and 22-4912~~ and 22-4906 and
14 repealing the existing sections.
15

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

17 ~~Section 1. K.S.A. 2004 Supp. 22-4902 is hereby amended to read as~~
18 follows: 22-4902. As used in this act, unless the context otherwise
19 requires:

20 (a) "Offender" means ~~any person who has been convicted of any of~~
21 ~~the following acts, no matter the date of occurrence of the crime or the~~
22 ~~date of conviction on or after January 1, 1980:~~ (1) A sex offender as
23 defined in subsection (b);

24 (2) a violent offender as defined in subsection (d);

25 (3) a sexually violent predator as defined in subsection (f);

26 (4) any person who, on and after the effective date of this act, is
27 convicted of any of the following crimes when the victim is less than 18
28 years of age:

29 (A) Kidnapping as defined in K.S.A. 21-3420 and amendments
30 thereto, except by a parent;

31 (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amend-
32 ments thereto; or

33 (C) criminal restraint as defined in K.S.A. 21-3424 and amendments
34 thereto, except by a parent;

35 (5) any person convicted of any of the following criminal sexual con-
36 duct if one of the parties involved is less than 18 years of age:

37 (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

38 (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-
39 3505, and amendments thereto;

40 (C) promoting prostitution as defined by K.S.A. 21-3513, and amend-
41 ments thereto;

42 (D) patronizing a prostitute as defined by K.S.A. 21-3515, and
43 ~~amendments thereto;~~

Strike all on pages 2, 3, and 4

~~(2) The sheriff shall may collect a fee not to exceed \$50 from the offender who meets the requirements of paragraph (1) to cover the costs of implementing this subsection. The fee shall be set by the board of county commissioners by resolution. Such fee shall be deposited in the county general fund.~~

~~(3) The sheriff and any employee of the sheriff shall be immune from liability in any civil action based upon the failure to notify so long as the failure to notify was done without malice.~~

Sec. 3. K.S.A. 2004 Supp. 22-4912 is hereby amended to read as follows: 22-4912. (a) Any offender who was required to be registered pursuant to the Kansas offender registration act K.S.A. 22-4901 et seq. and amendments thereto, prior to July 1, 1999, and who would not have been required to be registered pursuant to the Kansas offender registration act on and after July 1, 1999, as a result of the enactment of this act K.S.A. 2004 Supp. 21-3520, and amendments thereto, shall be entitled to be relieved of the requirement to be registered. Such offender may apply to the sentencing court for an order relieving the offender of the duty of registration. The court shall hold a hearing on the application at which the applicant shall present evidence verifying that such applicant no longer satisfies the definition of offender pursuant to K.S.A. 22-4902 and amendments thereto. If the court finds that the person no longer satisfies the definition of offender pursuant to K.S.A. 22-4902 and amendments thereto, the court shall grant an order relieving the offender's duty to register if the offender no longer fulfills the definition of offender pursuant to K.S.A. 22-4902 and amendments thereto. Such court granting such an order shall forward a copy of such order to the sheriff of the county in which such person has registered and to the Kansas bureau of investigation. Upon receipt of such copy of the order, such sheriff and the Kansas bureau of investigation shall remove such person's name from the registry.

(b) This section shall be part of ~~an~~ and supplemental to the Kansas offender registration act.

~~[Sec. 4. The Kansas bureau of investigation shall establish a procedure, through rules and regulations, to notify offenders who prior to July 1, 2005 were not required to register as offenders pursuant to Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, but pursuant to K.S.A. 22-4902, and amendments thereto, are currently required to be registered.]~~

Section 1. K.S.A. 2004 Supp. 22-4902 [see attached]
Sec. 2. K.S.A. 2004 Supp. 22-4906 [see attached]
Sec. 3. K.S.A. 2004 Supp. 22-4909 [see attached]
Renumber remaining sections accordingly.

~~Sec. 4. [5.] K.S.A. 2004 Supp. 22-4902, 22-4909 [and 22-4912] are hereby repealed.~~

22-4906 and

~~Sec. 5. [6.] This act shall take effect and be in force from and after its publication in the statute book.~~

Section 1. K.S.A. 2004 Supp. 22-4902 is hereby amended to read as follows: 22-4902.
As used in this act, unless the context otherwise requires:

(a) "Offender" means any person who has been convicted of any of the following acts on or after January 1, 1985: (1) A sex offender as defined in subsection (b);

(2) a violent offender as defined in subsection (d);

(3) a sexually violent predator as defined in subsection (f);

(4) any person who, ~~on and after the effective date of this act,~~ is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or

(C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto;

or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who has been convicted of an offense ~~in effect at any time prior to the effective date of this act,~~ that is comparable to any crime defined in subsection (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) or (5); or

(8) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4) or (5).

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, ~~after the effective date of this act,~~:

(1) Is convicted of any sexually violent crime set forth in subsection (c) or;

(2) is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c); or

(3) has been convicted of any sexually violent crime and is currently in the custody of the secretary of corrections and will be released on probation, parole, conditional release or postrelease supervision.

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and

a.ments thereto;

- (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
- (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;
- (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments

thereto;

- (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;
- (9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;
- (10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
- (11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or
- (12) any conviction for an offense ~~in effect at any time prior to the effective date of this act,~~

that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, ~~after the effective date of this act,~~ is convicted of any of the following crimes:

- (1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;
- (2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or
- (6) any conviction for an offense ~~in effect at any time prior to the effective date of this act,~~

that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 *et seq.* and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.

Sec. 2. K.S.A. 2004 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) Any person required to register as provided in this act shall be required to register: (1) Upon the first conviction of a sexually violent crime as defined in subsection (c) of K.S.A. 22-4902, and amendments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902, and amendments thereto, or any offense as defined in subsection (d) of K.S.A. 22-4902, and amendments thereto, if not confined, for a period of 10 years after conviction, or, if confined, for a period of 10 years after paroled, discharged or released, whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement; or (2) upon a second or subsequent conviction for such person's lifetime.

(b) Upon the first conviction, liability for registration terminates, if not confined, at the expiration of 10 years from the date of conviction, or, if confined, at the expiration of 10 years from the date of parole, discharge or release, whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement. Liability for registration does not terminate if the convicted offender does not again become becomes liable to register as provided by this act during that period.

(c) Any person who has been convicted of an aggravated offense shall be required to register for such person's lifetime. The provisions of this subsection shall expire on June 30, 2009.

(d) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 *et seq.*, and amendments thereto, shall register for such person's lifetime.

(e) Any nonresident worker shall register for the duration of such person's employment. The provisions of this subsection are in addition to subsections (a) and (b).

(f) Any nonresident student shall register for the duration of such person's attendance at a school or educational institution as provided in this act. The provisions of this subsection are in addition to subsections (a) and (b).

(g) Notwithstanding any other provisions of this section, a person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, shall be required to register until such person reaches 18 years of age ~~or~~, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. The five-year period shall not apply to any person while that person is incarcerated in any jail, juvenile facility or correctional facility. The five-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement. Liability for registration does not terminate if the adjudicated offender again becomes liable to register as provided by this act during the required period.

Sec. 3. K.S.A. 2004 Supp. 22-4909 is hereby amended to read as follows: 22-4909. (a) The statements or any other information required by this act shall be open to inspection by the public at the sheriff's office, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a sheriff's department or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas

of records act, K.S.A. 45-215 *et seq.*, and amendments thereto, except that the name, address, telephone number, or any other information which specifically and individually identifies the victim of any offender required to register as provided in this act shall not be disclosed other than to law enforcement agencies.

(b) The state department of education shall annually notify any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12 of the Kansas bureau of investigation internet website and any internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the school is located for the purposes of locating offenders who reside near such school.

(c) The secretary of health and environment shall annually notify any licensed child care facility of the Kansas bureau of investigation internet website and any internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the facility is located for the purposes of locating offenders who reside near such facility.

(d) Such notification required in subsections (b) and (c) shall include information that the sheriff of the county where such school or child care facility is located is available to the school and child care facilities to assist in using the registry and providing additional information on the registered offenders.

STATE OF KANSAS

SENATE CHAMBERSubmitted by
Senator Journey

MR. PRESIDENT:

I move to amend SB 117, as amended by Senate Committee of the Whole, on page 1, by striking all in lines 17 through 43;

On page 2, by striking all in lines 1 through 43;

On page 3, by striking all in lines 1 through 43;

On page 4, by striking all in lines 1 through 43;

On page 5, by striking all in lines 1 through 38 and inserting the following:

"Section 1. K.S.A. 2004 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

(a) "Offender" means: (1) A sex offender as defined in subsection (b);

(2) a violent offender as defined in subsection (d);

(3) a sexually violent predator as defined in subsection (f);

(4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or

(C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments

thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) or (5); or

(8) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4) or (5).

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who ~~7--after--the effective-date-of-this-act;~~

(1) On and after April 14, 1994, is convicted of any sexually violent crime set forth in subsection (c) or;

(2) on and after July 1, 2002, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c);

(3) no matter the date of occurrence of the crime or the date of conviction, has been convicted of any sexually violent crime and is currently in the custody of the secretary of corrections.

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;

(10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;

(11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or

(12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through

(11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

(1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;

(2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;

(3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;

(4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;

(5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq. and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.

Sec. 2. K.S.A. 2004 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) Any person required to register as provided in this act shall be required to register: (1) Upon the first conviction of a sexually violent crime as defined in subsection (c) of K.S.A. 22-4902, and amendments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902, and amendments thereto, or any offense as defined in subsection (d)

of K.S.A. 22-4902, and amendments thereto, if not confined, for a period of 10 years after conviction, or, if confined, for a period of 10 years after paroled, discharged or released, whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement; or (2) upon a second or subsequent conviction for such person's lifetime.

(b) Upon the first conviction, liability for registration terminates, if not confined, at the expiration of 10 years from the date of conviction, or, if confined, at the expiration of 10 years from the date of parole, discharge or release, whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement. Liability for registration does not terminate if the convicted offender ~~does--not~~ again ~~become~~ becomes liable to register as provided by this act during that period.

(c) Any person who has been convicted of an aggravated offense shall be required to register for such person's lifetime. The provisions of this subsection shall expire on June 30, 2009.

(d) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(e) Any nonresident worker shall register for the duration of such person's employment. The provisions of this subsection are in addition to subsections (a) and (b).

(f) Any nonresident student shall register for the duration of such person's attendance at a school or educational

institution as provided in this act. The provisions of this subsection are in addition to subsections (a) and (b).

(g) Notwithstanding any other provisions of this section, a person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, shall be required to register until such person reaches 18 years of age ~~or~~, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. The five-year period shall not apply to any person while that person is incarcerated in any jail, juvenile facility or correctional facility. The five-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement. Liability for registration does not terminate if the adjudicated offender again becomes liable to register as provided by this act during the required period.

Sec. 3. K.S.A. 2004 Supp. 22-4909 is hereby amended to read as follows: 22-4909. (a) The statements or any other information required by this act shall be open to inspection by the public at the sheriff's office, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a sheriff's department or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except that the name, address, telephone number, or any other information which specifically and individually identifies the victim of any offender required to register as provided in this act shall not be disclosed other than to law enforcement agencies.

(b) The state department of education shall annually notify any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student

instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12 of the Kansas bureau of investigation internet website and any internet website sponsored or created by the sheriff of the county in which the school is located for the purposes of locating offenders who reside near such school.

(c) The secretary of health and environment shall annually notify any licensed child care facility of the Kansas bureau of investigation internet website and any internet website sponsored or created by the sheriff of the county in which the facility is located for the purposes of locating offenders who reside near such facility."

And by renumbering the remaining sections accordingly;

Also on page 5, in line 39, following the comma by inserting "22-4906 and"; also in line 39, by striking "and 22-4912";

In the title, in line 12, by striking "criminal procedure; relating to"; in line 13, following the comma by inserting "22-4906 and"; also in line 13, by striking "and 22-4912"

Senator _____