

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 20, 2006 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Toby Taylor, Kansas Ignition Interlock Association
Pete Bodyk, Kansas Department of Transportation, Bureau Chief of Traffic Safety
Jeff Bottenberg, Kansas Sheriff's Association
Tom Williams, Allen County Sheriff
Elizabeth Gillespie, Shawnee County Department of Corrections
Jerry Slaughter, Kansas Medical Society
Fred Lucky, Kansas Hospital Association
Mark Miller, Memorial Hospital, Abilene

Chairman O'Neal opened the hearing on **HB 2916 - driving privileges, DUI ignition interlock, proof of installation.**

Toby Taylor, Kansas Ignition Interlock Association, appeared in support of the bill. He explained that in 2001 the Legislature passed legislation requiring a one year use of ignition interlock devices for second, third, and fourth offenses following a one year period of hard suspension. He has found that the devices have not been ordered and requested the proposed bill to clarify that they need to show proof of the installation before they would receive a release on their restricted license. (Attachment 1)

Pete Bodyk, Kansas Department of Transportation, Bureau Chief of Traffic Safety, informed the committee that the National Highway Traffic Safety Administration has notified Kansas that they would be out of compliance with 23 Section 164, because the bill does not provide for an actual vehicle sanction against the offender. The state would have their federal construction funds reduced by approximately \$7 million per year (Attachment 2).

The hearing on **HB 2916** was closed.

The hearing on **HB 2893 - criminal offenders in custody, health care costs,** was opened.

Jeff Bottenberg, Kansas Sheriff's Association, appeared in support of the bill which was modeled after Colorado legislation. It would require a health care provider that participates in the state medicaid program to accept the medicaid rate for the treatment of persons in the custody of county or city law enforcement, or the Kansas Highway Patrol. It would also prohibit the practice of "un-arresting" a prisoner at the hospital in order to avoid a large hospital bill. (Attachment 3)

Tom Williams, Allen County Sheriff, explained that medical expenses have grown into a huge budget item. He doesn't believe that it is fair to make taxpayers pay the amount that hospitals charge when others are receiving the Medicaid rate. (Attachment 4)

Elizabeth Gillespie, Shawnee County Department of Corrections, provided the committee with a list of seven counties, the amount they were billed for health care, and the projected savings that would have happened if those counties could have filed at the medicaid rate. (Attachment 5)

Jerry Slaughter, Kansas Medical Society, appeared before the committee with proposed amendments:

- on page 2, line 22, making clear that nothing in the act shall be construed to create a new legal duty on the part of a health care provider
- clarify that law enforcement agencies have the option of contracting with health care

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 20, 2006 in Room 313-S of the Capitol.

- providers at other terms and rates which are different than Medicaid define "medicaid rate" (Attachment 6)

Fred Lucky, Kansas Hospital Association, appeared in support of the proposed bill with the following amendments:

- provide for a 60 day prompt payment
- place the responsibility of custodial county to contact with the Health Policy Authority for medical rates (Attachment 7)

Mark Miller, Memorial Hospital, Abilene, expressed concern about the current practice of un-arresting an individual or delaying an arrest until the individual is dismissed from the hospital. This way the law enforcement agency is not responsible for paying the medical bills. The process also puts hospital employees in danger. (Attachment 8)

Kansas Association of Osteopathic Medicine, provided a written request for an amendment that would strike, in (c), "or the behavioral sciences regulatory board" and insert "a person licensed by the behavioral sciences regulatory board. (Attachment 9)

The hearing on **HB 2893** was closed.

HB 2576 - persistent sex offender life without the possibility of parole

Representative Watkins made the motion to adopt the balloon which was provided at the February 16th meeting. It would prevent any juvenile who has been adjudicated for a sexual act from attending the same secondary school building as the victim. Representative Masterson seconded the motion. Committee discussion focused on schools in rural areas where some are already traveling great distances to get to their education and that the constitution requires the state to provide an education for each child. Others were concerned about not hearing from the Kansas Department of Education as to how they would handle such a problem. The Kansas Juvenile Justice Authority distributed testimony in opposition to adopting the proposed amendment because judges usually handle the problem of victims and offenders attending the same school by issuing an order. (Attachment 10) The motion failed 7-10. Representatives Watkins, Hutchins, Masterson & Pilcher-Cook requested that they be recorded as voting yes.

Representative Kinzer made the motion to amended in the provisions of **HB 2935 - increasing the penalty of indecent solicitation of a child & aggravated indecent solicitation of a child in certain circumstances** Representative Owens seconded the motion. The motion carried.

Representative Davis made the motion to adopt the Kansas Department of Corrections proposed amendments:

1. Change the name of offenders subject to the enhanced penalty from "persistent offender" to "aggravated habitual sex offender"
2. Excluding offenses that are not specifically defined as sex offenses from the instant offenses for which an enhanced penalty can be applied, but keep those offenses for the establishment of prior criminal history
3. Delete statutory listing of risk factors
4. Establishes "aggravating circumstances" that are related to sex offenses

Representative Colloton seconded the motion. The motion carried.

Representative Loyd made the motion to amend in the provisions of a balloon he distributed establishing the Sex Offender Policy Board. (Attachment 11) Representative Owens seconded the motion. The motion carried.

Representative Loyd made the motion to strike on page 13, line 8-10 because the previous amendment would take its place. Representative Owens seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 20, 2006 in Room 313-S of the Capitol.

Representative Loyd made the motion to strike on page 29, line 3-7, the violation of non-registering, creating a new felony every 30 days a person does not register. Representative Owens seconded the motion. The motion carried.

Representative Loyd made the motion to have the provisions of the bill sunset on January 1, 2009. Representative Owens seconded the motion. The motion failed.

Representative Pauls provided the committee with a balloon amendment that would create a bifurcated system requiring the prosecutor to give notice that they are asking for 25 year, otherwise they would be sentenced off the sentencing grid (Attachment 12). It also strikes the hard 50. Representative Davis seconded the motion. The motion carried.

Representative Crow made the motion to adopt the provisions of **HB 2881- domestic battery a severity level 10, person felony, not a nongrid person felony**. Representative Loyd seconded the motion. The motion carried.

Representative Loyd made the motion to have the provisions of the bill sunset on January 1, 2012. Representative Owens seconded the motion. The motion carried 8-7.

Representative Davis made the motion to report **HB 2576** favorably for passage, as amended. Representative Colloton seconded the motion. The motion carried.

HCR 5033 - governor appointing supreme court

Representative Kinzer made the motion to report **HCR 5033** favorably for passage. Representative Pilcher-Cook seconded the motion. The motion failed 8-10.

The committee meeting adjourned at 6:00 p.m. The next committee meeting was scheduled for 3:30 p.m. on February 21, 2006 in room 313-S.

Kansas Ignition Interlock Association (KIIA)

LEGISLATIVE TESTIMONY

TO: Chairman Mike O'Neal and Members of the House Judiciary Committee

FROM: Toby Taylor, Kansas Ignition Interlock Association

DATE: February 20, 2006

SUBJECT: HB 2916 – Driving under the influence and use of interlock devices

Matt Strausz
Smart Start

Toby Taylor
Guardian Interlock
Systems

Mr. Chairman and Members of the Committee, my name is Toby Taylor and I am vice-president of the Kansas Ignition Interlock Association. I am the Director of Operations for Guardian Interlock Network, one of the limited number of companies certified to distribute ignition interlock devices in Kansas. I appreciate the opportunity to appear to today in support of HB 2916.

The goal of HB 2916 is to increase compliance with the requirement to limit operation to vehicles equipped with an ignition interlock device for certain DUI offenders. In 2001, the Legislature passed SB 67, which made significant changes in the state's DUI laws. One provision of this act required the use of ignition interlocks for second, third and fourth-time offenders for one year following an initial one-year suspension.

As we have monitored the installation of our devices since this act became effective; it became apparent that compliance with this requirement was low. Prior to the session, we requested information from the Kansas Department of Revenue to determine if our observations could be verified. The following table presents the information received from the Department:

Year	Interlock Required	Interlock Installed	Percent Compliance
2002	592	65	11.0%
2003	1,547	499	32.3%
2004	1,241	364	29.3%
2005	1,736	305	17.6%

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House Judiciary

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Attachment # 1

The bill in front of you today makes two changes to existing law that we believe will substantially increase the level of compliance. In Section 2(b), under current law, after the one-year suspension for 2nd through 4th offenses, the person's license is restricted to driving a vehicle equipped with an interlock device. The proposed change would require the person to provide proof of installation to the division of motor vehicles. During that second year of sanction, the license would remain suspended until this proof is provided.

In Section 3(b), under current law offender's licenses are restricted to driving to work, school and under other limited circumstances unless they opt for a license restricted to driving a vehicle equipped with an ignition interlock device. The change proposed would require the person to provide proof of installation of the device to the division of motor vehicles if they request that alternative sanction.

Use of ignition interlock devices have been shown to reduce repeat DUI offenses. In an issue brief by Mothers Against Drunk Drivers, MADD sites reductions of between 65 and 90 percent in states that require use of the device. In order to achieve these results however, we must take steps to increase compliance. That is the intent of the proposed legislation.

I thank the committee for its time and attention and would stand for any questions.

KANSAS

DEPARTMENT OF TRANSPORTATION
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

TESTIMONY BEFORE HOUSE JUDICIARY COMMITTEE

REGARDING HOUSE BILL 2916 DRIVING UNDER THE INFLUENCE; RELATING TO IGNITION INTERLOCK DEVICES

February 20, 2006

Mr. Chairman and Committee Members:

I am Pete Bodyk, Chief of the Bureau of Traffic Safety. On behalf of the Kansas Department of Transportation (KDOT), I am here to provide testimony in opposition to HB 2916; driving under the influence (DUI); related to ignition interlock devices.

This bill would change the drivers' license suspension period on a second, third and fourth occurrence for a person who submits to a preliminary screening test with the results showing an alcohol concentration of .08 or greater. At the end of the suspension period there would be a requirement that the Division of Motor Vehicles receive proof of installation of an ignition interlock device before the individual can operate a motor vehicle under prescribed restrictions. If the Division does not receive proof of installation, the suspension period will be extended for one year or until proof of installation is received.

Existing federal law requires a vehicle sanction be included in every state's DUI repeat offender law. The National Highway Traffic Safety Administration (NHTSA) has indicated that passing of this bill would take Kansas out of compliance with 23 Section 164 and reduce federal funds available for construction projects. The ignition interlock provision in the proposed bill does not contain an actual vehicle sanction against the offender. As it currently reads, if a person never installs, or provides proof of installation of an ignition interlock device, the suspension would merely be extended for another year; at which time they could apply to the Division for the return of their license.

Noncompliance with this federal requirement would result in a transfer of highway construction funds to safety programs that address alcohol-impaired driving or hazard elimination projects. Based on current federal funding levels in SAFETEA-LU, approximately \$7 million per year would be transferred out of construction funding or \$30 million over the remaining life of the Comprehensive Transportation Program (CTP).

It is vital that Kansas remain in compliance with these federal requirements so that we are able to use the federal construction funds for completing the CTP as promised.

House Judiciary

Date 2-20-06

Attachment # 2

Memorandum

TO: HONORABLE MICHAEL O'NEAL, CHAIRMAN
HOUSE JUDICIARY COMMITTEE

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

RE: HB 2893

DATE: FEBRUARY 20, 2006

Mr. Chairman and Members of the Committee, my name is Jeff Bottenberg and I appear today on behalf of the Kansas Sheriffs' Association, which requested the introduction of HB 2893. The KSA is comprised of approximately 1,200 members, both law enforcement and civilians, that work in county law enforcement offices across the state.

HB 2893, patterned after a law enacted in Colorado, would require a health care provider that participates in the State Medicaid program to accept the Medicaid rate for the treatment of persons in the custody of a county or city law enforcement office, or the Kansas Highway Patrol. Under federal law, persons in incarceration lose their eligibility for Medicaid. Furthermore, in the Kansas Supreme Court case *Wesley Medical Center v. City of Wichita*, 237 Kan. 807 (1985), the Court held that the county was responsible for the medical charges for the treatment of a prisoner charged with a violation of state law. In *Wesley*, a person murdered a highway patrol trooper on the Kansas Turnpike in Butler County and then was wounded as a result of a gun fight with Wichita Police Department officers in Sedgwick County. The Court held that based on statutory and case law, the county is responsible for paying the medical bills of an indigent inmate that is ultimately charged with a violation of state law.

Because case law holds that the county must pay the medical bills of those persons who commit violations of state law, the KSA believes that the sheriff, and consequently the county and its taxpayers, should receive the best available rate, which would be the reimbursement rate under Medicaid. The bill would also allow the Medicaid rate for the medical bills of those prisoners held in a city jail charged with a violation of municipal law, and those persons who require medical treatment while in the custody of the Kansas Highway Patrol. **We believe the estimated savings to the State and local units of government will be extremely significant.**

The bill does exempt those rare persons who have private insurance. Furthermore, the bill requires the Medicaid rate be paid to the provider, unless the county has entered into an agreement for services that is based on a fixed rate.

The bill also prohibits the practice of “unarresting” a prisoner at the hospital in order to avoid a large hospital bill. This provision was put in the bill at the request of the Kansas Hospital Association (“KHA”). Although this practice does not happen that often, the Court in *Wesley* seemed to indicate that such practice would not excuse the county for the responsibility of paying prisoner medical bills. Furthermore, if HB 2893 were to be enacted into law there would be no need for such practice, as the cost of prisoner medical bills would be significantly reduced. There are two exceptions to the “unarrest” provision, as the health care provider can excuse law enforcement from guarding the prisoner, such as in cases of first time DUI and other lesser crimes. Moreover, a judge may release a prisoner from custody, as Sheriffs have actually reported instances when prisoners on probation violate the terms of their parole in order to receive free health care from the county. In those instances the judge releases the offender from custody before the medical procedure is to occur.

The KSA and the KHA are not in agreement on a two points, however, as the KHA wants the bill to have some sort of “prompt pay” provision. The KSA opposes such an amendment, as we do not believe that there are many counties who do not pay their bills on time. Furthermore, since most sheriffs have to submit their bills to the county treasurer for payment in accordance with policies promulgated by the county commission, we do not feel comfortable binding the 105 county commission to any sort of prompt pay provision. We feel that if a county does not pay their medical bills on time, the appropriate response would be to charge the county interest, which a provider can do under current law. Second, the KHA would like the bill to state that sheriffs will work with the Kansas Health Policy Authority to determine the Medicaid rate. Although we intend to work with the Authority, there are other avenues available for the sheriff to determine the correct Medicaid charges, and we do not want to limit his or her availability to do so. Finally, the KHA would like to strike the word arrest in Section 2. We would support this change as long as we can be assured that the word “custody” does not signify when the sheriff transports someone to a hospital in a first responder capacity.

In summary, we thank the Committee for allowing us to bring this issue to your attention. HB 2893 will result in significant savings to the State and to local units of government, while at the same time strengthening the budgets of law enforcement agencies to combat sex offenders, meth production, and better protect the public. The Kansas Sheriffs’ Association, the Kansas Association of Counties, the Attorney General and the Governor support HB 2893, and your local sheriff would ask that you support it as well.

Thank you, and please feel free to contact me if you have any questions.

ALLEN COUNTY LAW ENFORCEMENT CENTER

February 20, 2006

Kansas House Judiciary Committee

Dear Chairman and Committee persons:

I am pleased to speak to you on behalf of HB 2893. I am not normally someone who thinks that legislation is the answer to most problems. This bill however, is an attempt to bring fairness to the taxpayers of the State of Kansas. As a Sheriff of Allen County Kansas I am mandated by statute to provide medical health services to inmates of my jail. The nature of the variety of medical, dental, and mental health problems as well as the variety of inmates we house makes this cost to the taxpayer of my county impossible to budget. Last year an elderly man serving a 12 month sentence in the Allen County Correctional Facility had a stroke. The cost to the taxpayers was 3 times the amount that was budgeted for all the inmates for the entire year.

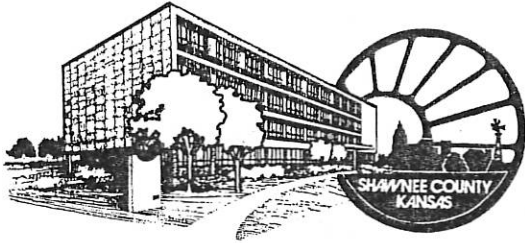
This bill will make the costs to the taxpayer fair. If *John Doe* citizen who is on Medicaid presents himself to the hospital for an ailment, the hospital receives the amount for its services set by the government through Medicaid. If *John Doe* citizen is arrested prior to his health problems and is housed in jail, the hospital charges an amount that is much greater than they would receive from Medicaid. There is no fairness to the taxpayer who is paying for *John Doe's* health services to pay as much as 3 times the amount they would receive from the government for similar services. We are asking that the taxpayer be charged and pays only the amount that the government has set as a cost. I have talked to no one that can explain how anything less is fair to the taxpayer.

I made a promise to treat taxpayers' money as my own when I was elected. I work for the people of Allen County, Kansas. You might say that I am here lobbying on behalf of my employers for this bill. This bill seems to be fair not only to the taxpayer, but to the governmental entity paying, as well as the provider and the patient.

Respectfully,



Thomas R. Williams
Sheriff Allen County Kansas



**Shawnee County
Department of Corrections**

501 S.E. 8th Street - Topeka, Kansas 66607

Elizabeth Gillespie, Director

Adult Detention Facility - 501 SE 8th - Topeka, Kansas 66607 - (785) 291-5000 - FAX (785) 291-4924
Youth Detention Facility - 401 SE 8th - Topeka, Kansas 66607 - (785) 233-6459 - FAX (785) 291-4963

DATE: February 20, 2006

TO: Honorable Members
House Judiciary Committee

FROM: Elizabeth Gillespie, Director *Elizabeth Gillespie*
Shawnee County Department of Corrections

SUBJECT: **House Bill No. 2893**

On behalf of **Shawnee County** and the **Kansas Jail Association**, I am testifying today in support of House Bill No. 2893. This bill will require medical, dental, and mental health providers that serve Medicaid patients to accept the state's Medicaid rate as payment in full for services provided to offenders in the custody of a city, county, or the highway patrol. We are convinced that if this bill is passed into law, local entities will save significant amounts of dollars.

Unfortunately, many of the offenders in the custody of county jails or local law enforcement agencies have pre-existing medical, dental, and/or mental problems. They typically do not care for themselves well in the community. Alcohol and drugs play large roles in the poor health of many of these offenders. When an offender is arrested, the custodial agency becomes responsible for the cost of any medical, dental, or mental health services provided, unless the offender has some type of private medical insurance that will cover the charges. I can assure you that an offender that actually has private medical insurance coverage is rare. Further, many medical providers in local communities charge local government agencies for offender medical services at a much higher rate than the rates charged to most citizens covered by medical insurance plans. These costs can be astronomical in some serious medical cases.

I serve on the Hospitalization Breakthrough Team of The Kansas Collaborative. Late last year, this team conducted a survey of seven different-sized counties (see copy of the survey summary attached) to compare the cost of medical services paid by the county for offenders in their custody and the amount that would have been paid if the counties were paying the Medicaid rate

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Date 2-20-06

Attachment # 5

for these services. Each of the seven counties supplied a few copies of medical invoices for offenders in their custody. The state's Medicaid Office graciously analyzed the invoices. Our team learned that the total amount billed to the counties was \$268,615. Most of the counties paid the bills as charged. If the counties would have paid the Medicaid rate for the same services, they would have paid only \$104,219, a savings of \$158,480 or 59% of the amount billed. These totals represent only a few months of 2005 for only seven counties of the state. There are 100 county jails in the state, so the total dollars saved each year for all of the counties through passage of this bill would likely be over one million dollars.

The Kansas Jail Association, the Shawnee County Commissioners, and I urge you to vote in favor of this bill. It is unfair to the citizens of the state and each local community to provide medical care for offenders at costs that are far above those that any other entity or private citizen pays and far above the costs paid by Medicaid for low-income Kansans.

Thank you for your time and consideration.

EG:eg

Attachment

Summary of Claims for Inmate Populations
Analysis performed by the Division of Health Care Policy and Finance
for the County/State Healthcare Cost Breakthrough Team (an effort of The Kansas Collaborative)
 January 2006

County	Data Period	Billed Amt.	Actual Paid	Medicaid Amt.	Projected Savings Amt.	Projected % savings
<i>Charges without any "comments"</i>						
Atchison County	March 2004 - Sept 2005	\$5,416.78		\$3,238.49	\$2,178.29	40.2%
Crawford County	March 2005	\$121,663.25		\$61,803.03	\$59,860.22	49.2%
Harvey County	March - April 2005	\$25,848.86		\$10,187.96	\$15,660.90	60.6%
Lyon County Detention Center	June - August 2005	\$13,297.42		\$7,587.76	\$5,709.66	42.9%
Pratt County	March - Sept 2005	\$658.00		\$191.09	\$466.91	71.0%
Sedgwick County	August 2005	\$2,856.00		\$957.77	\$1,898.23	66.5%
Shawnee County Dept of Corrections	June - August 2005	\$98,874.31	\$92,958.54	\$20,252.55	\$72,705.99	78.2%
Grand Totals		\$268,614.62		\$104,218.65	\$158,480.20	59.0%



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To: House Judiciary Committee

From: Jerry Slaughter
Executive Director

Date: February 20, 2006

Subject: HB 2893; concerning payment of health care costs for persons in custody

The Kansas Medical Society appreciates the opportunity to submit the following comments on HB 2893. This legislation attempts to limit the amounts that certain law enforcement agencies are obligated to pay health care providers for services rendered to individuals in custody. The purpose of the bill appears to be to limit such payments to Medicaid rates. As you consider this legislation, we would also direct your attention to two existing statutes which deal with the same topic: K.S.A. 19-1910 and K.S.A. 19-4444. You may want to make sure that these provisions are not inconsistent with anything you might decide to do on HB 2893.

We have two principal concerns about the bill. The first relates to the language in Section 1 of the bill, which may be unintended, but appears to imply that health care providers that have contracts with the state Medicaid agency have a legal duty to provide services to individuals in the custody of one of the law enforcement agencies listed in the bill. As a matter of principle, health care providers should be able to decide to whom they provide services. Obviously, they cannot discriminate, and they do have an ethical obligation to render services in the case of emergencies. However, except in those situations, they should not be compelled to provide services, particularly when state law imposes significant reimbursement limitations on them. We have attached a suggested amendment on page 2, line 22, which addresses this point. The amendment makes it clear that nothing in this act shall be construed to create a new legal duty on the part of a health care provider.

Our second concern is that a strict reading of the language in Section 1 would seem to impose fee limitations only on those health care providers that currently contract with the state Medicaid agency. Again, it may be an unintended consequence, but the effect of that language would seem to be that non-Medicaid contracting providers would be paid on one basis, while Medicaid contracting providers would be paid on another. At the very least the language is confusing, which means that there will be misunderstandings in the future between health care providers and law enforcement agencies. We have also suggested an amendment in Section 1 that attempts to clarify that point. Additionally, we have also suggested the addition of a definition of "Medicaid rate," which makes it clear that Medicaid contracts are referred to, not the state

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employee's health care plan, which is also under the jurisdiction of the Kansas Health Policy Authority.

Finally, we have suggested an amendment to subsection (b) of Section 1 that makes it clear that the law enforcement agencies have the option of contracting with health care providers at terms and prices which are different than Medicaid, if those agencies believe it makes more sense to do so in their local situation.

Thank you for considering our comments, and suggested amendments.

Kansas Medical Society Amendments

Session of 2006

HOUSE BILL No. 2893

By Committee on Judiciary

2-13

9 AN ACT concerning offenders in custody; relating to health care costs.

10

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

12 Section 1. (a) ~~A health care provider that has a current approved~~
13 ~~provider agreement with the Kansas health policy authority shall accept~~
14 ~~payment for health care services provided to a person in the custody of~~
15 ~~a county or city law enforcement agency, a county department of correc-~~
16 ~~tions or the Kansas highway patrol, at the same rate that the provider~~
17 ~~would have received if such health care service was paid by the authority~~
18 ~~pursuant to such provider agreement. The provisions of this section shall~~
19 ~~not apply if a person in the custody of a county or city law enforcement~~
20 ~~agency, a county department of corrections or the Kansas highway patrol~~
21 ~~is covered under a current individual or group accident and health insur-~~
22 ~~ance policy, medical service plan contract, hospital service corporation~~
23 ~~contract, hospital and medical service corporation contract, fraternal ben-~~
24 ~~efit society or health maintenance organization contract.~~

25 (b) ~~Except as provided further, a county or city law enforcement~~
26 ~~agency, a county department of corrections or the Kansas highway patrol~~
27 ~~shall not pay less than the rate the provider would have received if such~~
28 ~~health care service was paid by the authority pursuant to such provider~~
29 ~~agreement. A county law enforcement agency or a county department of~~
30 ~~corrections, or its authorized vendor, may enter into an agreement with~~
31 ~~such a provider which is not based upon reimbursement for specific serv-~~
32 ~~ices performed but is based upon a weekly, monthly or annual lump sum~~
33 ~~payment for all services regardless of the rates pursuant to the provider~~
34 ~~agreement.~~

35 (c) "Health care provider" means a person licensed to practice any
36 branch of the healing arts by the state board of healing arts or the be-
37 havioral sciences regulatory board, a person who holds a temporary per-
38 mit to practice any branch of the healing arts issued by the state board
39 of healing arts, a person engaged in a postgraduate training program ap-
40 proved by the state board of healing arts, a licensed physician assistant, a
41 medical care facility licensed by the department of health and environ-
42 ment, a podiatrist licensed by the state board of healing arts, an optom-
43 etrist licensed by the board of examiners in optometry, a pharmacist li-

Except as otherwise provided in this section, a county or city law enforcement agency, a county department of corrections, or the Kansas highway patrol shall be liable to pay a health care provider for health care services rendered to persons in the custody of such agencies the lesser of the actual amount billed by such health care

Nothing in this section shall prevent a county or city law enforcement agency, a county department of corrections, the Kansas highway patrol or their authorized vendors from entering into agreements with health care providers for the provision of health care services at terms, conditions and amounts which are different than the Medicaid rate.

1 censed by the state board of pharmacy, a registered nurse, and advanced
 2 nurse practitioner, a licensed professional nurse who is authorized to
 3 practice as a registered nurse anesthetist, a licensed practical nurse, a
 4 licensed physical therapist, a professional corporation organized pursuant
 5 to the professional corporation law of Kansas by persons who are author-
 6 ized by such law to form such a corporation and who are health care
 7 providers as defined by this subsection, a Kansas limited liability company
 8 organized for the purpose of rendering professional services by its mem-
 9 bers who are health care providers as defined by this subsection and who
 10 are legally authorized to render the professional services for which the
 11 limited liability company is organized, a partnership of persons who are
 12 health care providers under this subsection, a Kansas not-for-profit cor-
 13 poration organized for the purpose of rendering professional services by
 14 persons who are health care providers as defined by this subsection, a
 15 dentist certified by the state board of healing arts to administer anes-
 16 thetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hos-
 17 pital licensed under K.S.A. 75-3307b, and amendments thereto, a li-
 18 censed social worker or a mental health center or mental health clinic
 19 licensed by the secretary of social and rehabilitation services and any
 20 health care provider licensed by the appropriate regulatory body in an-
 21 other state that has a current approved provider agreement with the Kan-
 22 sas health policy authority.

23 Sec. 2. (a) A law enforcement officer having custody of a person ar-
 24 rested without a warrant shall not release such person from custody
 25 merely to avoid the cost of necessary medical treatment while the person
 26 is receiving treatment from a health care provider unless the health care
 27 provider consents to such release, or unless the release is ordered by a
 28 court of competent jurisdiction. When the law enforcement officer is
 29 satisfied that probable cause no longer exists to believe the suspect com-
 30 mitted a crime based upon the ongoing investigation, or the prosecuting
 31 attorney gives notice that no prosecution will be forthcoming at this time,
 32 the law enforcement officer may release such person from custody. Upon
 33 the date of notification to the health care provider that the person is being
 34 released from custody because the ongoing investigation indicates that
 35 probable cause no longer exists or a decision by the prosecuting attorney
 36 that no charges will be filed, the arresting law enforcement agency shall
 37 no longer be responsible for the cost of such person's medical treatment.

38 (b) As used in this section:

39 (1) "Law enforcement officer" has the meaning ascribed thereto in
 40 K.S.A. 22-2202, and amendments thereto.

41 (2) "Health care provider" has the meaning ascribed thereto in sec-
 42 tion 1, and amendments thereto.
 43

(d) Nothing in this section shall be construed to create a duty on the part of a health care provider to render health care services to a person in the custody of a county or city law enforcement agency, a county department of corrections, or the Kansas highway patrol.

(3) "Medicaid rate" means the terms, conditions and amounts a health care provider would be paid for health care services rendered pursuant to a contract or provider agreement with the Kansas health policy authority.

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.



Thomas L. Bell
President

TO: House Committee on Judiciary
FROM: Fred J. Lucky, Senior Vice President
DATE: February 20, 2006
RE: **House Bill 2893**

The Kansas Hospital Association appreciates the opportunity to testify on House Bill 2893. Hospitals are often the first providers of health care services for individuals and offenders needing care who are in the custody of law enforcement. When those services are not covered by any other form of insurance or public funding such as Medicare or Medicaid the county of jurisdiction is responsible for the payment of those services. Oftentimes, but not always, the hospital and county have entered into an agreement to discount the price of the services provided. This bill would require the provider of the health care services to accept as payment in full the prevailing rates due to the provider under their agreement with the Kansas Health Policy Authority – Medicaid.

Over the past several months, we have been working with representatives of the Sheriffs Association to make this bill viable for all parties. For the most part, our suggestions have been incorporated in the language of the bill. However, we would propose the following amendments to make the language of the bill and the responsibilities of the parties more clear (a copy of our proposed amendments is attached):

Page 1, line 18, insert following “provider agreement.” “Payment for such health care services must be made within sixty (60) days after receipt of the claim from the health care provider. Failure to pay for services within the sixty (60) days shall be just cause for the amount due the provider to revert to that provider’s prevailing charge.”

Page 2, insert new paragraph (d): It shall be the responsibility of the custodial county or city law enforcement agency, county department of corrections or the Kansas highway patrol or their agents, to determine, under agreement with the Health Policy Authority, the amount payable for the services provided and to communicate that determination along with the remittance advice and payment for the services provided.

Page 2, lines 23 and 24: Strike “arrested without a warrant”.

Page 2, line 36: Strike “arresting”.

Thank you for this opportunity to testify regarding House Bill 2893. I will be happy to stand for questions regarding our recommendations.

att

House Judiciary

Kansas Hospital Association

215 SE 8th Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/

Date 2-20-06
Attachment # 7

HOUSE BILL No. 2893

By Committee on Judiciary

2-13

9. AN ACT concerning offenders in custody; relating to health care costs.

10.

11. *Be it enacted by the Legislature of the State of Kansas:*

12. Section 1. (a) A health care provider that has a current approved
 13. provider agreement with the Kansas health policy authority shall accept
 14. payment for health care services provided to a person in the custody of
 15. a county or city law enforcement agency, a county department of correc-
 16. tions or the Kansas highway patrol, at the same rate that the provider
 17. would have received if such health care service was paid by the authority
 18. pursuant to such provider agreement. The provisions of this section shall
 19. not apply if a person in the custody of a county or city law enforcement
 20. agency, a county department of corrections or the Kansas highway
 21. is covered under a current individual or group accident and health insur-
 22. ance policy, medical service plan contract, hospital service corporation
 23. contract, hospital and medical service corporation contract, fraternal ben-
 24. efit society or health maintenance organization contract.

25. (b) Except as provided further, a county or city law enforcement
 26. agency, a county department of corrections or the Kansas highway patrol
 27. shall not pay less than the rate the provider would have received if such
 28. health care service was paid by the authority pursuant to such provider
 29. agreement. A county law enforcement agency or a county department of
 30. corrections, or its authorized vendor, may enter into an agreement with
 31. such a provider which is not based upon reimbursement for specific serv-
 32. ices performed but is based upon a weekly, monthly or annual lump sum
 33. payment for all services regardless of the rates pursuant to the provider
 34. agreement.

35. (c) "Health care provider" means a person licensed to practice any
 36. branch of the healing arts by the state board of healing arts or the be-
 37. havioral sciences regulatory board, a person who holds a temporary per-
 38. mit to practice any branch of the healing arts issued by the state board
 39. of healing arts, a person engaged in a postgraduate training program ap-
 40. proved by the state board of healing arts, a licensed physician assistant, a
 41. medical care facility licensed by the department of health and environ-
 42. ment, a podiatrist licensed by the state board of healing arts, an optom-
 43. etrist licensed by the board of examiners in optometry, a pharmacist li-

<p>Payment for such health care services must be made within sixty (60) days after receipt of the claim from the health care provider. Failure to pay for services provided within the sixty (60) days shall be just cause for the amount due the provider to revert to that provider's prevailing charge.</p>
--

1. censed by the state board of pharmacy, a registered nurse, and advanced
 2. nurse practitioner, a licensed professional nurse who is authorized to
 3. practice as a registered nurse anesthetist, a licensed practical nurse, a
 4. licensed physical therapist, a professional corporation organized pursuant
 5. to the professional corporation law of Kansas by persons who are author-
 6. ized by such law to form such a corporation and who are health care
 7. providers as defined by this subsection, a Kansas limited liability company
 8. organized for the purpose of rendering professional services by its mem-
 9. bers who are health care providers as defined by this subsection and who
 10. are legally authorized to render the professional services for which the
 11. limited liability company is organized, a partnership of persons who are
 12. health care providers under this subsection, a Kansas not-for-profit cor-
 13. poration organized for the purpose of rendering professional services by
 14. persons who are health care providers as defined by this subsection, a
 15. dentist certified by the state board of healing arts to administer anes-
 16. thetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hos-
 17. pital licensed under K.S.A. 75-3307b, and amendments thereto, a li-
 18. censed social worker or a mental health center or mental health clinic
 19. licensed by the secretary of social and rehabilitation services and any
 20. health care provider licensed by the appropriate regulatory body in an-
 21. other state that has a current approved provider agreement with the Kan-
 22. sas health policy authority.

23. Sec. 2. (a) A law enforcement officer having custody of a person ar-
 24. ~~rested without a warrant~~ shall not release such person from custody
 25. merely to avoid the cost of necessary medical treatment while the person
 26. is receiving treatment from a health care provider unless the health care
 27. provider consents to such release, or unless the release is ordered by a
 28. court of competent jurisdiction. When the law enforcement officer is
 29. satisfied that probable cause no longer exists to believe the suspect com-
 30. mitted a crime based upon the ongoing investigation, or the prosecuting
 31. attorney gives notice that no prosecution will be forthcoming at this time,
 32. the law enforcement officer may release such person from custody. Upon
 33. the date of notification to the health care provider that the person is being
 34. released from custody because the ongoing investigation indicates that
 35. probable cause no longer exists or a decision by the prosecuting attorney
 36. that no charges will be filed, the ~~arresting~~ law enforcement agency shall
 37. no longer be responsible for the cost of such person's medical treatment.

38. (b) As used in this section:

39. (1) "Law enforcement officer" has the meaning ascribed thereto in
 40. K.S.A. 22-2202, and amendments thereto.

41. (2) "Health care provider" has the meaning ascribed thereto in sec-
 42. tion 1, and amendments thereto.
 43.

(d): It shall be the responsibility of the custodial county or city law enforcement agency, county department of corrections or the Kansas highway patrol or their agents, to determine, under agreement with the Health Policy Authority, the amount payable for the services provided and to communicate that determination along with the remittance advice and payment for the services provided.

1. Sec. 3. This act shall take effect and be in force from and after its
2. publication in the statute book.



MEMORIAL HEALTH SYSTEM

511 NE 10th St
Abilene, Kansas 67410

TO: House Committee on Judiciary
FROM: Mark A. Miller, CEO
DATE: February 20, 2006
RE: **House Bill 2893**

I appreciate the opportunity to be here today to express my support of House Bill 2893 with the amendments proposed by the Kansas Hospital Association.

This bill represents a loss in revenue to hospitals and in the case of a governmental hospital such as mine, the passing of an expense from one tax supported entity to another. However, I wholeheartedly support its passage.

First, I believe a discounted rate to another governmental entity is appropriate. Secondly, and most critically, I believe it is necessary to remove the doubt that currently exists within our system as to when someone should be arrested. While I can not speak intelligently regarding the processes of arresting someone, it is my opinion that the occasions of "de-arresting" or delaying arresting someone at worst endangers hospital staff and at best makes staff extremely uncomfortable.

To my knowledge, we at Memorial have not encountered a case of someone being "de-arrested." I have, however, seen cases of delayed arrests with varying degrees of concern. In one case an individual was hospitalized following a police chase ending in a wreck. We were instructed to call and inform law enforcement when we dismissed the patient so they could arrest the individual.

The second example I would like to relate to you is one in which I was personally involved. When responding to a wreck on I70, drugs were found in the car. One of the occupants was injured and brought by ambulance to Memorial's ER. He was not under arrest, but law enforcement officers remained at the hospital. It was determined that he should be evaluated by an Orthopedic surgeon in Salina. His injury did not require ambulance transportation, so we informed the law enforcement agencies involved that he should be transported to Salina Regional Health Center. They refused to transport him stating that they could not legally do so unless he was arrested, and they did not intend to do so until he was released from hospital care. I was unwilling to pay the county ambulance for an unnecessary run which could also endanger the crew. So I put him in

House Judiciary

Date 2-20-06
Attachment # 8

Mark Miller Testimony
HB 2893
Page 2

the back seat of my personal automobile with my Chief Operating Officer and we drove him to Salina Regional Hospital where we were met by law enforcement officers. He was a pretty big guy and, had he asked to get out along the way, we would have let him.

Admittedly, this was a mistake. It is not my point to illustrate the mistake itself, but rather to point out how concerns with who is paying the bill are creating an environment and opportunity for such mistakes to happen. I enjoy a wonderful relationship with our local law enforcement organizations and very much respect the work they do. Unfortunately, I feel the economics are sometimes getting in the way of doing what is right.

I appreciate the opportunity to express my concerns and support for House Bill 2893. Without the proposed KHA amendments, I could not offer my support for the bill as it wouldn't affect the two examples I have just offered. I request that the bill address both "de-arresting" and delaying arrests.

Thank you!



February 16, 2006

The Honorable Michael O'Neal, Chairman
House Judiciary Committee
143N, Statehouse
Topeka, Kansas 66612

Re: HB2893

Dear Chairman O'Neal:

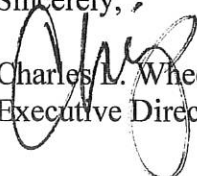
The Kansas Association of Osteopathic Medicine does not have a position on House Bill 2893, but I note a technical flaw that should be corrected if you decide to take action on the bill.

In subsection (c) of section one, "health care provider" is defined such that in order for a person licensed by the Behavioral Sciences Regulatory Board to be defined as a health care provider, he or she would necessarily be licensed to practice a branch of the healing arts. Of course this is not possible. I would suggest the subsection be re-worded as follows:

(c) "Health care provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts ~~or the behavioral sciences regulatory board~~, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a licensed physician assistant, **a person licensed by the behavioral sciences regulatory board**, a medical care facility licensed by the department of health and environment, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a registered nurse, and advanced nurse practitioner, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed practical nurse, a licensed physical therapist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, a licensed social worker or a mental health center or mental health clinic licensed by the secretary of social and rehabilitation services and any health care provider licensed by the appropriate regulatory body in another state that has a current approved provider agreement with the Kansas health policy authority.

Thank you for your consideration.

Sincerely,


Charles L. Wheelen
Executive Director

House Judiciary

Date 2-20-06

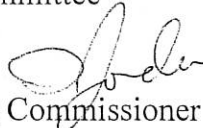
Attachment # 9

KANSAS

JUVENILE JUSTICE AUTHORITY
DON JORDAN, ACTING COMMISSIONER

KATHLEEN SEBELIUS, GOVERNOR

MEMORANDUM

To: House Judiciary Committee
Attention: Chairman O'Neal 
From: Don Jordan, Acting Commissioner
Date: February 20th, 2006
Subject: Amendment to HB 2576

The Juvenile Justice Authority has concerns regarding the proposed amendment to HB 2576, which would forbid a youth to enroll in the same school as his or her victim. Currently, this issue is handled by either an order issued by the judge, or in the planning process for a youth's return to their home community. Currently, judicial orders direct when a youth and their victim should not be in contact. We believe this discretion is working well and should be continued to allow the court to order the regulations they feel most appropriate under the circumstances of their case regarding the offenders contact with the victim. In some cases, forcing a youth to attend a new school would not be required or necessary.

We believe that discharge planning must always consider public safety and the welfare of victims; we do not believe that any particular mechanism should be mandated for all situations. Education of the youth in our system is key to ensure that they have the tools necessary to become productive citizens. We believe the current statutory regulations ensure both victim safety and that youth receive the quality education they need to succeed.

Thank you for your consideration of our concerns. If you have further questions regarding this issue please don't hesitate to contact myself or Heather Morgan at 296-5543 or hmorgan@ksjja.org.

CC: House Judiciary Committee Members
CC: Reagan Cussimano, Kansas Legislative Research Department

House Judiciary

Session of 2006

HOUSE BILL No. 2576

By Representative Kilpatrick

1-5

9 AN ACT concerning crimes, punishment and criminal procedure; en-
10 acting a lifetime imprisonment sentence for persistent offenders; man-
11 datory penalties for certain sex offenses; duties of board of education,
12 department of corrections and criminal justice coordinatng council;
13 relating to offender registration; amending K.S.A. 21-3504, 21-3506,
14 21-3513, 21-3812 and 21-4625 and K.S.A. 2005 Supp. 21-3447, 21-
15 3502, 21-3516, 21-4611, 21-4635, 21-4638, 21-4704, 22-3717, 22-4903,
16 22-4904, 22-4906 and 74-9501 and repealing the existing sections.

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

18 New Section 1. (a) A persistent offender shall be sentenced to im-
19 prisonment for life without the possibility of parole. Such offender shall
20 spend the remainder of the offender's natural life incarcerated and in the
21 custody of the secretary of corrections. An offender who is sentenced to
22 imprisonment for life without the possibility of parole shall not be eligible
23 for parole, probation, assignment to a community correctional services
24 program, conditional release, postrelease supervision, or suspension,
25 modification or reduction of sentence.

26 (b) Upon sentencing a defendant to imprisonment for life without
27 the possibility of parole, the court shall commit the defendant to the
28 custody of the secretary of corrections and the court shall state in the
29 sentencing order of the judgment form or journal entry, whichever is
30 delivered with the defendant to the correctional institution, that the de-
31 fendant has been sentenced to imprisonment for life without the possi-
32 bility of parole.

33 (c) As used in this section:

34 (1) "Persistent offender" means a person who, on and after July 1,
35 2006: (A) Has been convicted in this state of a sexually violent crime; and
36 (B) prior to the conviction of the felony under subparagraph (A), has been
37 convicted on at least two prior conviction events of any sexually violent
38 crime.

39 (2) "Prior conviction event" means one or more felony convictions of
40 a sexually violent crime occurring on the same day and within a single
41 count. These convictions may result from multiple counts within an in-
42 formation or from more than one information. If a person crosses a county
43

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

14 (i) *Any person moving to the state of Kansas who has been convicted*
15 *in another state, and who was required to register under that state's laws,*
16 *shall register for the same length of time required by that state or Kansas,*
17 *whichever length of time is longer.*

18 Sec. 21. K.S.A. 2005 Supp. 74-9501 is hereby amended to read as
19 follows: 74-9501. (a) There is hereby established the Kansas criminal jus-
20 tice coordinating council.

21 (b) The council shall consist of the governor or designee, the chief
22 justice of the supreme court or designee, the attorney general or designee,
23 the secretary of corrections, the superintendent of the highway patrol,
24 the commissioner of juvenile justice and the director of the Kansas bureau
25 of investigation.

26 (c) The governor shall designate staff to the Kansas criminal justice
27 coordinating council. The staff shall attend all meetings of the council,
28 be responsible for keeping a record of council meetings, prepare reports
29 of the council and perform such other duties as directed by the council.

30 (d) The council shall elect a chairperson and vice-chairperson from
31 among the members of the council.

32 (e) The council shall:

33 (1) Appoint a standing local government advisory group to consult
34 and advise the council concerning local government criminal justice issues
35 and the impact of state criminal justice policy and decisions on local units
36 of government. The advisory group shall consist of a sheriff, chief of
37 police, county or district attorney, a member of a city governing body and
38 a county commissioner. Appointees to such advisory group shall serve
39 without compensation or reimbursement for travel and subsistence or any
40 other expenses;

41 (2) define and analyze issues and processes in the criminal justice
42 system, identify alternative solutions and make recommendations for
43 improvements;

1 (3) perform such criminal justice studies or tasks as requested by the
2 governor, the attorney general, the legislature or the chief justice, as
3 deemed appropriate or feasible by the council;

4 (4) oversee development and management of a criminal justice da-
5 tabase including assuming the designation and functions of the state sta-
6 tistical analysis center currently assigned to the Kansas bureau of inves-
7 tigation pursuant to K.S.A. 75-712a and amendments thereto. All criminal
8 justice agencies as defined in subsection (c) of K.S.A. 22-4701 and amend-
9 ments thereto and the juvenile justice authority shall provide any data or
10 information, including juvenile offender information which is requested
11 by the council, in a form and manner established by the council, in order
12 to facilitate the development and management of the criminal justice
13 council database;

14 (5) develop and oversee reporting of all criminal justice federal fund-
15 ing available to the state or local units of government including assuming
16 the designation and functions of administering the United States bureau
17 of justice assistance grants;

18 (6) form such task groups as necessary and appoint individuals who
19 appropriately represent law enforcement, the judiciary, legal profession,
20 state, local, or federal government, the public, or other professions or
21 groups as determined by the council, to represent the various aspects of
22 the issue being analyzed or studied, when analyzing criminal justice issues
23 and performing criminal justice studies. Members of the legislature may
24 be appointed ex officio members to such task groups. A member of the
25 council shall serve as the chairperson of each task group appointed by
26 the council. The council may appoint other members of the council to
27 any task group formed by the council; ~~and~~

28 (7) review reports submitted by each task group named by the council
29 and shall submit the report with the council's recommendations pertain-
30 ing thereto to the governor, the attorney general, the chief justice of the
31 supreme court, the chief clerk of the house of representatives and the
32 secretary of the senate; *and*

33 ~~(8) form a task force composed of 11 members who are representatives
34 of law enforcement, prosecutors, the judiciary, court services, community
35 corrections, parole services and victims rights organization representa-
36 tives for the purpose of collecting information and research concerning
37 the potential utilization of electronic monitoring devices, specifically in-
38 cluding devices capable of utilizing global positioning satellite (GPS) tech-
39 nology, for the purposes of monitoring and tracking the locations of of-
40 fenders placed on bond, probation, parole, postrelease supervision and
41 individuals subject to civil commitment of sexually violent predators, pur-
42 suant to K.S.A. 59-29a01, and amendments thereto, who have been placed
43 on conditional or transitional release. On or before July 1, 2007, the task~~

~~1 force shall submit its findings in writing to the governor, the attorney
 2 general, the speaker of the house of representatives and the president of
 3 the senate. Such report shall include, but not be limited to: (A) An eval-
 4 uation of the effectiveness of such electronic monitoring devices regarding
 5 abilities to track and record the geographic location of a monitored in-
 6 dividual at any given point in time; (B) a cost-benefit analysis of the
 7 financial costs involved in obtaining, monitoring and providing on-going
 8 maintenance for various electronic monitoring devices or systems as com-
 9 pared to the potential benefit of increased ability to locate, track and
 10 supervise monitored individuals; (C) a cost-benefit analysis comparing the
 11 costs of purchase of electronic monitoring equipment and the equipment
 12 and software necessary for tracking monitored individuals by govern-
 13 mental agencies to operate independently versus contracting with vendors
 14 to provide the necessary equipment and services; and (D) an analysis by
 15 geographic region within the state of Kansas detailing areas where, due
 16 to geography or lack of necessary infrastructure such as radio transmis-
 17 sion towers, electronic monitoring may be more or less effective. Subject
 18 to appropriations therefore, the council may contract with other entities
 19 to provide evaluation and comparison studies or other resources necessary
 20 to aid in the development of the report mandated by this paragraph.] Δ [see attached language]~~

21 New Sec. 22. If any provisions of this act or the application thereof
 22 to any person or circumstances is held invalid, the invalidity shall not
 23 affect other provisions or applications of the act which can be given effect
 24 without the invalid provisions or application, and to this end the provisions
 25 of this act are severable.

26 Sec. 23. K.S.A. 21-3504, 21-3506, 21-3513, 21-3812 and 21-4625 and
 27 K.S.A. 2005 Supp. 21-3447, 21-3502, 21-3516, 21-4611, 21-4635, 21-
 28 4638, 21-4704, 22-3717, 22-4903, 22-4904, 22-4906 and 74-9501 are
 29 hereby repealed.

30 Sec. 24. This act shall take effect and be in force from and after its
 31 publication in the statute book.

(8)(A) Establish the sex offender policy board to consult and advise the council concerning issues and policies pertaining to the treatment, sentencing, rehabilitation, reintegration and supervision of sex offenders.

(B) The sex offender policy board shall consist of the secretary of corrections, the commissioner of juvenile justice, the secretary of social and rehabilitation services, the director of the Kansas bureau of investigation and the chief justice of the supreme court or the chief justice's designee and three persons appointed by the criminal justice coordinating council. Of the persons appointed by the criminal justice coordinating council, one shall be a mental health service provider, one shall be engaged in the provision of services involving child welfare or crime victims and one shall be an advocate against sexual assault and domestic violence.

(C) Each member of the board shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the board shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on board activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees.

(D) The sex offender policy board shall elect a chairperson from its membership and shall meet upon the call of its chairperson as necessary to carry out its duties.

(E) Each appointed member of the sex offender policy board shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.

(F) The sex offender policy board shall collect information and research concerning the potential utilization of electronic monitoring devices, specifically including devices capable of utilizing global positioning satellite (GPS) technology, for the purposes of monitoring and tracking the locations of offenders placed on bond, probation, parole, postrelease supervision and individuals subject to civil commitment of sexually violent predators, pursuant to K.S.A. 59-29a01, and amendments thereto, who have been placed on conditional or transitional release. On or before July 1, 2007, the task force shall submit its findings and recommendations in writing to the sex offender policy board. Such report shall include, but not be limited to: (1) An evaluation of the effectiveness of such electronic monitoring devices regarding abilities to track and record the geographic location of a monitored individual at any given point in time; (2) a cost-benefit analysis of the financial costs involved in obtaining, monitoring and providing on-going maintenance for various electronic monitoring devices or systems as compared to the potential benefit of increased ability to locate, track and supervise monitored individuals; (3) a cost-benefit analysis comparing the costs of purchase of electronic monitoring equipment and the equipment and software necessary for tracking monitored individuals by governmental agencies to operate independently versus contracting with vendors to provide the necessary equipment and services; and (4) an analysis by geographic region within the state of Kansas detailing areas where, due to geography or lack of necessary infrastructure such as radio transmission towers, electronic monitoring may be more or less effective. Subject to appropriations therefore or other available funding, the board may contract

with other entities to provide evaluation and comparison studies or other resources necessary to aid in the development of the report mandated by this paragraph.

(G) The sex offender policy board shall:

(i) Collect and review information and research concerning the creation of defined protected areas, including but not limited to schools, parks, libraries and childcare facilities, that sex offenders would be prohibited from entering except in limited and safe circumstances;

(ii) collect and review information and research concerning the identification of a competent assessment performed by trained persons acting on behalf of the state by which offenders intended to be subjected to residential restrictions might be identified and any such restrictions realistically and effectively enforced. The assessment shall be directed at applying the statutory restriction only to those offenders that present an actual risk in protected areas to children with whom the offender has no prior relationship; and

(iii) make recommendations regarding other measures, including educational programs for children, parents, the community and the workplace, targeted at prevention, early intervention and keeping children safe from all offenders.

(H) The board shall submit its reports to the criminal justice coordinating council and to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.

(i) The board shall submit a report regarding public notification pertaining to sex offenders, restrictions on the residence of released sex offenders, utilization of electronic monitoring, and the management of juvenile sex offenders by the first day of the 2007 legislative session.

(ii) The board shall submit a report regarding treatment and supervision standards for sex offenders, suitability of lifetime release supervision and safety education and prevention strategies for the public and the task force report submitted in paragraphs (F) and (G) by the first day of the 2008 legislative session.

(iii) The board shall submit reports regarding any other studies, issues or policy recommendations as completed.

Session of 2006

HOUSE BILL No. 2576

By Representative Kilpatrick

1-5

9 AN ACT concerning crimes, punishment and criminal procedure; en-
10 acting a lifetime imprisonment sentence for persistent offenders; man-
11 datory penalties for certain sex offenses; duties of board of education,
12 department of corrections and criminal justice coordinating council;
13 relating to offender registration; amending K.S.A. 21-3504, 21-3506,
14 21-3513, 21-3812 and 21-4625 and K.S.A. 2005 Supp. 21-3447, 21-
15 3502, 21-3516, 21-4611, ~~21-4635, 21-4638~~ 21-4704, 22-3717, 22-4903,
16 22-4904, 22-4906 and 74-9501 and repealing the existing sections.
17

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

19 New Section 1. (a) A persistent offender shall be sentenced to im-
20 prisonment for life without the possibility of parole. Such offender shall
21 spend the remainder of the offender's natural life incarcerated and in the
22 custody of the secretary of corrections. An offender who is sentenced to
23 imprisonment for life without the possibility of parole shall not be eligible
24 for parole, probation, assignment to a community correctional services
25 program, conditional release, postrelease supervision, or suspension,
26 modification or reduction of sentence.

27 (b) Upon sentencing a defendant to imprisonment for life without
28 the possibility of parole, the court shall commit the defendant to the
29 custody of the secretary of corrections and the court shall state in the
30 sentencing order of the judgment form or journal entry, whichever is
31 delivered with the defendant to the correctional institution, that the de-
32 fendant has been sentenced to imprisonment for life without the possi-
33 bility of parole.

34 (c) As used in this section:

35 (1) "Persistent offender" means a person who, on and after July 1,
36 2006: (A) Has been convicted in this state of a sexually violent crime; and
37 (B) prior to the conviction of the felony under subparagraph (A), has been
38 convicted on at least two prior conviction events of any sexually violent
39 crime.

40 (2) "Prior conviction event" means one or more felony convictions of
41 a sexually violent crime occurring on the same day and within a single
42 count. These convictions may result from multiple counts within an in-
43 formation or from more than one information. If a person crosses a county

1 line and commits a felony as part of the same criminal act or acts, such
2 felony, if such person is convicted, shall be considered part of the prior
3 conviction event.

4 (3) "Sexually violent crime" means:

5 (A) Rape, K.S.A. 21-3502, and amendments thereto;

6 (B) indecent liberties with a child, K.S.A. 21-3503, and amendments
7 thereto;

8 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, and
9 amendments thereto;

10 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
11 and amendments thereto;

12 (E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments
13 thereto;

14 (F) indecent solicitation of a child, K.S.A. 21-3510, and amendments
15 thereto;

16 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and
17 amendments thereto;

18 (H) sexual exploitation of a child, K.S.A. 21-3516, and amendments
19 thereto;

20 (I) aggravated sexual battery, K.S.A. 21-3518, and amendments
21 thereto;

22 (J) aggravated incest, K.S.A. 21-3603, and amendments thereto;

23 (K) any conviction for an offense in effect at any time prior to the
24 effective date of this act, that is comparable to a sexually violent crime as
25 defined in subparagraphs (A) through (J), or any federal, military or other
26 state conviction for an offense that under the laws of this state would be
27 a sexually violent crime as defined in this section;

28 (L) an attempt, conspiracy or criminal solicitation, as defined in
29 K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sex-
30 ually violent crime as defined in this section; or

31 (M) any act which at the time of sentencing for the offense has been
32 determined beyond a reasonable doubt to have been sexually motivated.

33 As used in this subparagraph, "sexually motivated" means that one of the
34 purposes for which the defendant committed the crime was for the pur-
35 pose of the defendant's sexual gratification.

36 New Sec. 2. (a) The department of corrections shall be required to
37 review and report on the following serious offenses committed by sex
38 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while
39 such offenders are in the custody of the secretary of corrections:

40 (1) Murder in the first degree, as provided in K.S.A. 21-3401, and
41 amendments thereto;

42 (2) murder in the second degree, as provided in K.S.A. 21-3402, and
43 amendments thereto;

Insert New Secs. 2, 3, and 4 [See attached]
Renumber remaining sections accordingly.

New Sec. 2 . (a) If a defendant is charged with (1) Aggravated trafficking, as defined in K.S.A. 2005 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and amendments thereto; (3) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto; (4) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto; (5) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age; (6) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto; 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 parts (1) through (6); the county or district attorney shall file written notice if such attorney intends, upon conviction of the defendant, to request a separate sentencing proceeding to determine whether the defendant should be sentenced for an off-grid person felony with imprisonment for life and who shall not be eligible for probation or suspension, modification or reduction of sentence. Except as otherwise provided, in addition, a defendant sentenced pursuant to this section shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. Such notice shall be filed with the court and served on the defendant or the defendant's attorney not later than five days after the time of arraignment.

(b) If such notice is not filed and served as required by subsection (a), the county or district attorney may not request such a sentencing proceeding and the defendant, if convicted of (1) Aggravated trafficking, as defined in K.S.A. 2005 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age, shall be sentenced to a severity level 1, person felony; (2) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and amendments thereto, shall be sentenced to a severity level 1, person felony; (3) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto, shall be sentenced to a severity level 3, person felony; (4) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto, shall be sentenced to a severity level 2, person felony; (5) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age, shall be sentenced to a severity level 6, person felony; (6) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto, shall be sentenced to a severity level 5, person felony; 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 parts (1) through (6), shall be sentenced pursuant to the provision of K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto.

(c) Upon conviction of a defendant of a crime described in subsection (a) (1) through (a) (7), the court, upon motion of the county or district attorney, shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to imprisonment for life. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the sentencing proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors who are unable to serve at the sentencing proceeding, the trial judge may summon a special jury of 12 persons which shall determine the question of whether a sentence of imprisonment for life shall be imposed. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such special jury. The jury at the sentencing proceeding may be waived in the manner provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the jury at the sentencing proceeding has been waived or the trial jury has been waived, the sentencing proceeding shall be conducted by the court.

(d) In the sentencing proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of sentence and shall include matters relating to any of the aggravating circumstances enumerated in section 3, and amendments thereto, and any mitigating circumstances pursuant to section 4, and amendments thereto. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. Only such evidence of aggravating circumstances as the state has made known to the defendant prior to the sentencing proceeding shall be admissible, and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the sentencing proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(e) At the conclusion of the evidentiary portion of the sentencing proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations.

(f) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in section 3, and

amendments thereto, exist and, further, that the existence of such aggravating circumstances outweighs any mitigating circumstances which are found to exist, the defendant shall be sentenced to imprisonment for life; otherwise, the defendant shall be sentenced as provided in subsection (b). The jury, if its verdict is a unanimous recommendation of a sentence of imprisonment for life, shall designate in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found beyond a reasonable doubt. If, after a reasonable time for deliberation, the jury is unable to reach a verdict, the judge shall dismiss the jury and impose a sentence as provided in subsection (b) and shall commit the defendant to the custody of the secretary of corrections. In nonjury cases, the court shall follow the requirements of this subsection in determining the sentence to be imposed.

(g) Upon sentencing a defendant pursuant to this section, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced pursuant to this section.

New Sec. 3. Aggravating circumstances shall be limited to the following:

- (a) The victim suffered substantial bodily injury.
- (b) The defendant has an extensive prior history of such offenses. Extensive prior history may be dependent on the number of victims, length of involvement, number of incidents, or continued involvement subsequent to arrest.
- (c) The offense was characterized by extreme cruelty or depravity.
- (d) The victim was unusually vulnerable.
- (e) There existed a relationship of special trust between the defendant and the victim or the defendant was in a position of authority over the victim.
- (f) The sex crime was committed upon one victim by two or more persons, acting in concert with the defendant.
- (g) The sex crime was committed by a person while serving a sentence for a conviction of a sex crime, or while subject to any provision of a diversion, suspended sentence, postrelease supervision or parole for a conviction of a sex crime.
- (h) The defendant has previously failed to complete treatment or has completed treatment and reoffended.

New Sec. 4. Mitigating circumstances shall include, but are not limited to, the following:

- (a) The defendant has no significant history of prior criminal activity.

(b) The crime was committed while the defendant was under the influence of extreme mental or emotional disturbances.

(c) The victim was a participant in or consented to the defendant's conduct.

(d) The victim was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor.

(e) The defendant acted under extreme distress or under the substantial domination of another person.

(f) The capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired.

(g) The age of the defendant at the time of the crime.

1 *sexually violent crime as defined in section 1, and amendments thereto.*
2 ~~Sec. 14. K.S.A. 2005 Supp. 21-4635 is hereby amended to read as~~
3 ~~follows: 21-4635. (a) Except as provided in K.S.A. 21-4622, 21-4623 and~~
4 ~~21-4634, and amendments thereto, if a defendant is convicted of the~~
5 ~~crime of capital murder and a sentence of death is not imposed pursuant~~
6 ~~to subsection (e) of K.S.A. 21-4624, and amendments thereto, or re-~~
7 ~~quested pursuant to subsection (a) or (b) of K.S.A. 21-4624, and amend-~~
8 ~~ments thereto, the defendant shall be sentenced to life without the pos-~~
9 ~~sibility of parole.~~
10 ~~(b) If a defendant is convicted of murder in the first degree based~~
11 ~~upon the finding of premeditated murder, the court shall determine~~
12 ~~whether the defendant shall be required to serve a mandatory term of~~
13 ~~imprisonment of 40 years or for crimes committed on and after July 1,~~
14 ~~1999, a mandatory term of imprisonment of 50 years or sentenced as~~
15 ~~otherwise provided by law.~~
16 ~~(c) Except as provided in subsection (d): (1) If a defendant is con-~~
17 ~~vinced of the following crimes committed on or after July 1, 2006, the~~
18 ~~court shall sentence the defendant to a term of imprisonment for life with~~
19 ~~a mandatory minimum term of imprisonment of not less than 25 years~~
20 ~~unless the court determines that the defendant should be sentenced as~~
21 ~~determined in paragraph (2):~~
22 ~~(A) Aggravated trafficking, as defined in K.S.A. 2005 Supp. 21-3447,~~
23 ~~and amendments thereto, if the victim is less than 14 years of age;~~
24 ~~(B) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and~~
25 ~~amendments thereto;~~
26 ~~(C) aggravated indecent liberties with a child, as defined in subsection~~
27 ~~(a)(3) of K.S.A. 21-3504, and amendments thereto;~~
28 ~~(D) aggravated criminal sodomy, as defined in subsection (a)(1) or~~
29 ~~(a)(2) of K.S.A. 21-3506, and amendments thereto;~~
30 ~~(E) promoting prostitution, as defined in K.S.A. 21-3513, and amend-~~
31 ~~ments thereto, if the prostitute is less than 14 years of age;~~
32 ~~(F) sexual exploitation of a child, as defined in subsection (a)(5) or~~
33 ~~(a)(6) of K.S.A. 21-3516, and amendments thereto; and~~
34 ~~(G) an attempt, conspiracy or criminal solicitation, as defined in~~
35 ~~K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an of-~~
36 ~~fense defined in paragraphs (A) through (F).~~
37 ~~(2) The provision of paragraph (1) requiring a mandatory minimum~~
38 ~~term of imprisonment of not less than 25 years shall not apply if the court~~
39 ~~finds:~~
40 ~~(A) The defendant is a persistent offender and sentenced pursuant to~~
41 ~~section 1, and amendments thereto; or~~
42 ~~(B) the defendant, because of the defendant's criminal history clas-~~
43 ~~sification, is subject to presumptive imprisonment pursuant to the sen-~~

Strike Sections 14 and 15, strike all on pages 13 and 14.

1 ~~be eligible for parole prior to serving such mandatory term of imprison-~~
2 ~~ment, and such imprisonment shall not be reduced by the application of~~
3 ~~good time credits.~~

4 (d) Upon sentencing a defendant pursuant to this section, the court
5 shall commit the defendant to the custody of the secretary of corrections
6 and the court shall state in the sentencing order of the judgment form or
7 journal entry, whichever is delivered with the defendant to the correc-
8 tional institution, that the defendant has been sentenced pursuant to
9 ~~K.S.A. 21-4638, and amendments thereto.~~

10 Sec. 16. K.S.A. 2005 Supp. 21-4704 is hereby amended to read as
11 follows: 21-4704. (a) For purposes of sentencing, the following sentencing
12 guidelines grid for nondrug crimes shall be applied in felony cases for
13 crimes committed on or after July 1, 1993:

Renumber remaining sections accordingly.

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1 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison
2 sentence upon making the following findings on the record:

3 (1) An appropriate treatment program exists which is likely to be
4 more effective than the presumptive prison term in reducing the risk of
5 offender recidivism, such program is available and the offender can be
6 admitted to such program within a reasonable period of time; or

7 (2) the nonprison sanction will serve community safety interests by
8 promoting offender reformation. Any decision made by the court regard-
9 ing the imposition of an optional nonprison sentence pursuant to this
10 section shall not be considered a departure and shall not be subject to
11 appeal.

12 Sec. 17. K.S.A. 2005 Supp. 22-3717 is hereby amended to read as
13 follows: 22-3717. (a) Except as otherwise provided by this section, K.S.A.
14 1993 Supp. 21-4628 prior to its repeal; K.S.A. 21-4635 through 21-4638,
15 and amendments thereto; K.S.A. 8-1567, and amendments thereto; *sec-*
16 *tion 1, and amendments thereto;* and K.S.A. 21-4624, and amendments
17 thereto, an inmate, including an inmate sentenced pursuant to K.S.A. 21-
18 4618, and amendments thereto, shall be eligible for parole after serving
19 the entire minimum sentence imposed by the court, less good time
20 credits.

21 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, and
22 amendments thereto, an inmate sentenced to imprisonment for the crime
23 of capital murder, or an inmate sentenced for the crime of murder in the
24 first degree based upon a finding of premeditated murder, committed on
25 or after July 1, 1994, shall be eligible for parole after serving 25 years of
26 confinement, without deduction of any good time credits.

27 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
28 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638,
29 and amendments thereto, an inmate sentenced to imprisonment for an
30 off-grid offense committed on or after July 1, 1993, but prior to July 1,
31 1999, shall be eligible for parole after serving 15 years of confinement,
32 without deduction of any good time credits and an inmate sentenced to
33 imprisonment for an off-grid offense committed on or after July 1, 1999,
34 shall be eligible for parole after serving 20 years of confinement without
35 deduction of any good time credits.

36 (3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its
37 repeal, an inmate sentenced for a class A felony committed before July
38 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, and
39 amendments thereto, shall be eligible for parole after serving 15 years of
40 confinement, without deduction of any good time credits.

41 (4) An inmate sentenced to imprisonment for a violation of subsec-
42 tion (a) of K.S.A. 21-3402, and amendments thereto, committed on or
43 after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole

1 after serving 10 years of confinement without deduction of any good time
2 credits.

3 (5) ~~An inmate sentenced to imprisonment pursuant to subsection (b)~~
4 ~~or (c) of K.S.A. 21-4623 and amendments thereto, committed on or after~~ section 2
5 July 1, 2006, shall be eligible for parole after serving the mandatory term
6 of imprisonment without deduction of any good time credits.

7 (c) (1) Except as provided in subsection (e), if an inmate is sentenced
8 to imprisonment for more than one crime and the sentences run consec-
9 utively, the inmate shall be eligible for parole after serving the total of:

10 (1) (A) The aggregate minimum sentences, as determined pursuant
11 to K.S.A. 21-4608 and amendments thereto, less good time credits for
12 those crimes which are not class A felonies; and

13 (2) (B) an additional 15 years, without deduction of good time credits,
14 for each crime which is a class A felony.

15 (2) ~~If an inmate is sentenced to imprisonment pursuant to subsection~~
16 ~~(b) or (c) of K.S.A. 21-4623 and amendments thereto, for crimes com-~~ section 2
17 ~~mitted on or after July 1, 2006, the inmate shall be eligible for parole after~~
18 ~~serving the mandatory term of imprisonment.~~

19 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
20 committed on or after July 1, 1993, or persons sentenced pursuant to
21 subsection (b) or (c) of K.S.A. 21-4623 and amendments thereto, for
22 crimes committed on or after July 1, 2006, will not be eligible for parole,
23 but will be released to a mandatory period of postrelease supervision upon
24 completion of the prison portion of their sentence as follows:

25 (A) Except as provided in subparagraphs (D) and (E), persons sen-
26 tenced for nondrug severity level 1 through 4 crimes and drug severity
27 levels 1 and 2 crimes must serve 36 months, plus the amount of good
28 time earned and retained pursuant to K.S.A. 21-4722, and amendments
29 thereto, on postrelease supervision.

30 (B) Except as provided in subparagraphs (D) and (E), persons sen-
31 tenced for nondrug severity levels 5 and 6 crimes and drug severity level
32 3 crimes must serve 24 months, plus the amount of good time earned
33 and retained pursuant to K.S.A. 21-4722, and amendments thereto, on
34 postrelease supervision.

35 (C) Except as provided in subparagraphs (D) and (E), persons sen-
36 tenced for nondrug severity level 7 through 10 crimes and drug severity
37 level 4 crimes must serve 12 months, plus the amount of good time earned
38 and retained pursuant to K.S.A. 21-4722, and amendments thereto, on
39 postrelease supervision.

40 (D) (i) The sentencing judge shall impose the postrelease supervi-
41 sion period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C),
42 unless the judge finds substantial and compelling reasons to impose a
43 departure based upon a finding that the current crime of conviction was

1 of the secretary of corrections and is subject to the orders of the secretary.
2 Whenever the Kansas parole board formally considers placing an inmate
3 on parole and no agreement has been entered into with the inmate under
4 K.S.A. 75-5210a, and amendments thereto, the board shall notify the
5 inmate in writing of the reasons for not granting parole. If an agreement
6 has been entered under K.S.A. 75-5210a, and amendments thereto, and
7 the inmate has not satisfactorily completed the programs specified in the
8 agreement, or any revision of such agreement, the board shall notify the
9 inmate in writing of the specific programs the inmate must satisfactorily
10 complete before parole will be granted. If parole is not granted only
11 because of a failure to satisfactorily complete such programs, the board
12 shall grant parole upon the secretary's certification that the inmate has
13 successfully completed such programs. If an agreement has been entered
14 under K.S.A. 75-5210a, and amendments thereto, and the secretary of
15 corrections has reported to the board in writing that the inmate has sat-
16 isfactorily completed the programs required by such agreement, or any
17 revision thereof, the board shall not require further program participa-
18 tion. However, if the board determines that other pertinent information
19 regarding the inmate warrants the inmate's not being released on parole,
20 the board shall state in writing the reasons for not granting the parole. If
21 parole is denied for an inmate sentenced for a crime other than a class A
22 or class B felony or an off-grid felony, the board shall hold another parole
23 hearing for the inmate not later than one year after the denial unless the
24 parole board finds that it is not reasonable to expect that parole would
25 be granted at a hearing if held in the next three years or during the interim
26 period of a deferral. In such case, the parole board may defer subsequent
27 parole hearings for up to three years but any such deferral by the board
28 shall require the board to state the basis for its findings. If parole is denied
29 for an inmate sentenced for a class A or class B felony ~~or~~, an off-grid
30 felony ~~for pursuant to subsection (b) or (c) of K.S.A. 21-4638, and amend-~~
31 ~~ments thereto~~, the board shall hold another parole hearing for the inmate
32 not later than three years after the denial unless the parole board finds
33 that it is not reasonable to expect that parole would be granted at a hearing
34 if held in the next 10 years or during the interim period of a deferral. In
35 such case, the parole board may defer subsequent parole hearings for up
36 to 10 years but any such deferral shall require the board to state the basis
37 for its findings.

38 (k) Parolees and persons on postrelease supervision shall be assigned,
39 upon release, to the appropriate level of supervision pursuant to the cri-
40 teria established by the secretary of corrections.

41 (l) The Kansas parole board shall adopt rules and regulations in ac-
42 cordance with K.S.A. 77-415 et seq., and amendments thereto, not in-
43 consistent with the law and as it may deem proper or necessary, with

1 force shall submit its findings in writing to the governor, the attorney
2 general, the speaker of the house of representatives and the president of
3 the senate. Such report shall include, but not be limited to: (A) An eval-
4 uation of the effectiveness of such electronic monitoring devices regarding
5 abilities to track and record the geographic location of a monitored in-
6 dividual at any given point in time; (B) a cost-benefit analysis of the
7 financial costs involved in obtaining, monitoring and providing on-going
8 maintenance for various electronic monitoring devices or systems as com-
9 pared to the potential benefit of increased ability to locate, track and
10 supervise monitored individuals; (C) a cost-benefit analysis comparing the
11 costs of purchase of electronic monitoring equipment and the equipment
12 and software necessary for tracking monitored individuals by govern-
13 mental agencies to operate independently versus contracting with vendors
14 to provide the necessary equipment and services; and (D) an analysis by
15 geographic region within the state of Kansas detailing areas where, due
16 to geography or lack of necessary infrastructure such as radio transmis-
17 sion towers, electronic monitoring may be more or less effective. Subject
18 to appropriations therefore, the council may contract with other entities
19 to provide evaluation and comparison studies or other resources necessary
20 to aid in the development of the report mandated by this paragraph.

21 New Sec. 22. If any provisions of this act or the application thereof
22 to any person or circumstances is held invalid, the invalidity shall not
23 affect other provisions or applications of the act which can be given effect
24 without the invalid provisions or application, and to this end the provisions
25 of this act are severable.

26 Sec. 23. K.S.A. 21-3504, 21-3506, 21-3513, 21-3812 and 21-4625 and
27 K.S.A. 2005 Supp. 21-3447, 21-3502, 21-3516, 21-4611, ~~21-4635, 21-~~
28 ~~4636~~ 21-4704, 22-3717, 22-4903, 22-4904, 22-4906 and 74-9501 are
29 hereby repealed.

30 Sec. 24. This act shall take effect and be in force from and after its
31 publication in the statute book.