

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 14, 2006 in Room 313-S of the Capitol.

All members were present except:
Michael Peterson- excused

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:
Rick Fleming, Office of Kansas Securities Commissioner
Kyle Smith, Kansas Bureau of Investigation
Tempe Persyn, Self
Roger Werholtz, Secretary, Kansas Department of Corrections
Kerrie Platt, Sedgwick County Department of Corrections

Chairman O'Neal opened the hearing on **SB 366 - departure sentence; aggravating factors include offender playing a major role as the organizer.**

Rick Fleming, Office of Kansas Securities Commissioner, appeared before the committee in support of the bill. He explained that the bill amends the sentencing guidelines regarding upward departures by adding a new aggravating factor when a crime involves two or more offenders and the defendant played a major role in the crime as the organizer or ringleader. (Attachment 1)

Mr. Fleming commented that the senate amendment seems to suggest that a departure factor would only apply when the crime involves two or more "offenders". He was concerned that "offenders" means one who has been convicted and suggested it should be replaced with "persons" or something similar.

Kyle Smith, Kansas Bureau of Investigation, appeared as a proponent of the bill. He agreed that the term "offender" could have unintended consequences when a multiple of defendants are being prosecuted in separate cases and the leader is sentenced before the others are convicted. One could argue that because no other "offenders" had been convicted the departure factor does not apply. (Attachment 2) He suggested using the word "participants" in place of "offenders".

Senator Mike Petersen did not appear before the committee but requested his written testimony in support of the bill be included into the minutes. (Attachment 3)

The hearing on **SB 366** was closed.

The hearing on **SB 506 - persons required to register pursuant to the Kansas offender registration act; annual driver's licensed or identification card,** was opened.

Kyle Smith, Kansas Bureau of Investigation, appeared as a proponent of the bill. He explained the following provisions in the bill:

- It would prohibit cities and counties from adopting residential restrictions on sex offenders;
- Requires the Division of Vehicles to issue "readily distinguishable" driver's licenses and identification cards to registered sex offenders;
- Prohibits transitional release and conditional release facilities for sexually violent offenders being located within 2,000 feet of any facility where children are located;
- Permits judges to depart from requiring juvenile offenders from registering under the Kansas Offender Registration Act
- The Kansas Sex Offender Policy Board would study public notification and other issues related to sex offenders

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 14, 2006 in Room 313-S of the Capitol.

Tempe Persyn, Self, supported the provision in the bill which allows judges to relieve juvenile offenders from registering under the Kansas Offender Registration Act for substantiated and compelling reasons. She agreed that some juveniles should be required to register because of the severity of their crime. (Attachment 4)

Kyle Smith suggested that the law require juveniles to register but that their file not be part of the public record.

Roger Werholtz, Secretary, Kansas Department of Corrections, explained that DOC already has the ability to limit the residency of individuals through their parole officer. (Attachment 5)

Chairman O'Neal assigned the following members to a subcommittee on **SB 506**: Representative Kinzer, Chair, Watkins, Loyd, Pauls & Crow.

The hearing on **SB 351 - drug possession sentencing, drug abuse assessment after sentencing, not pre-sentence**, was opened.

Kerrie Platt, Sedgwick County Department of Corrections, was requested as a means to clarify when the non-prison drug sanction would apply and to save money on unnecessary assessments. It would provide that the non-prison sanction option and assessments would not apply to defendants who are residents of another state and who would be returned to that state and to offenders who are not lawfully present in the U.S. (Attachment 6)

The hearing on **SB 351** was closed.

SB 408 - animal cruelty

Representative Kinzer made the motion to define malicious as "the state of mind characterized by an intent to do a harmful act with evil mindedness or specific intent to injury". Representative Masterson seconded the motion. The motion carried.

Representative Hutchins made the motion to strike the language on page 2, lines 33-37 because the definition of "serious physical injury" is covered on page 1. Representative Pilcher-Cook seconded the motion. The motion carried.

Representative Pilcher-Cook made the motion to have the bill cross reference K.S.A. 2-2438 a(2)(x) to protect those individuals who do pest control. Representative Garcia seconded the motion. The motion carried.

Representative Pauls made the motion to amend in the Kansas Federation of Animal Owners balloon. (Attachment 7) Representative Hutchins seconded the motion. The motion carried

Representative Pilcher-Cook made the motion to correct the spelling on page 2, line 2 "treat" should be "threat". Representative Owens seconded the motion. The motion carried.

Representative Watkins made the motion to strike section 10 because it was already covered in section 7. Representative Masterson seconded the motion. The motion carried.

Representative Hutchins made the motion to place "intentionally" before "abandoning" on page 1, (2). Representative Pilcher-Cook seconded the motion. The motion carried.

Representative Owens made the motion to insert requirements for one to attend anger management treatment program during the 30 days one is serving his sentence in jail. Representative Kiegerl seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 14, 2006 in Room 313-S of the Capitol.

Representative Colloton made the motion to strike the bold language on page 3, lines 1-7. Representative Kelley seconded the motion. The motion carried.

Representative Pilcher-Cook made the motion to replace subsection 10 by stating "killing of any animal in self defense or when an animal is posing a threat of bodily harm to a person." Representative Watkins seconded the motion. There were concerns about individuals and animals protecting ones property. With permission of the second, Representative Pilcher-Cook withdrew her motion.

Representative Owens made the motion to strike section 3 because it was an unfunded mandate. Representative Hutchins seconded the motion. The motion carried.

Representative Loyd made the motion to make the fines consistent throughout the bill. Representative Owens seconded the motion. The motion carried.

Representative Owens made the motion to strike section 7 requiring registration with the Kansas Offender Registration Act. The motion was seconded. The motion carried.

Representative Hutchins made the motion to amend the bill to allow "Normal or accepted practices of animal husbandry means the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region." Representative Crow seconded the motion. The motion carried.

Representative Masterson made the motion to report SB 408 favorably for passage, as amended. Representative Watkins seconded the motion. The motion carried.

The committee meeting adjourned at 6:15 p.m. The next meeting was scheduled for 3:30 p.m. on March 15, 2006 in room 313-S.



KANSAS

OFFICE OF THE SECURITIES COMMISSIONER

KATHLEEN SEBELIUS, GOVERNOR
CHRIS BIGGS, COMMISSIONER

TESTIMONY IN SUPPORT OF SENATE BILL No. 366
House Judiciary Committee

Rick A. Fleming, General Counsel
Office of the Securities Commissioner
March 14, 2006

Mr. Chairman and members of the committee,

The Office of the Securities Commissioner investigates and prosecutes securities crimes throughout the State of Kansas. In many of our cases, we have found that two or more people were involved in creating and promoting investment-related frauds.

Under current law, each defendant is treated the same, regardless of the degree of their involvement or enrichment. The law does not assign more liability to the most culpable member of the group. As a result, an agent or subordinate is sanctioned the same as the mastermind who instructed and trained the subordinate to sell the fraudulent investment opportunity. Senate Bill 366 provides a solution to this problem by adding a new departure factor that would allow us to punish more severely those who benefit the most from the fraudulent scheme.

Recommended amendment (page 3, line 13):

The Senate committee amended the original bill to specify that the departure factor would only apply when the crime involved two or more "offenders." I do not quarrel with the committee's intention to require multiple participants in the criminal enterprise, but the term "offender" connotes a person who has actually been convicted. (See definitions of "sex offender" and "violent offender" in K.S.A. 22-4902.) The use of this term may have unintended consequences when multiple defendants are being prosecuted in separate cases and the kingpin is sentenced before the subordinates are convicted. Under these circumstances, it could be argued by the kingpin that the crime did not involve two or more "offenders" because no one else has been convicted. *Therefore, I recommend an amendment to page 3, line 13, to delete the word "offenders" and replace it with "persons."*

With that minor change, I respectfully request that you recommend Senate Bill 366 favorably for passage. Thank you for your consideration.



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

House Judiciary Committee

Testimony in Support of SB 366

Kyle G. Smith
Deputy Director
Kansas Bureau of Investigation
March 14, 2006

Chairman O'Neal and Members of the Committee,

I appear today on behalf of the KBI in support of SB 366, a legislative effort to make common sense the law.

Organized crime, be it a gang distributing methamphetamine or a street gang, poses a more serious threat to society by virtue of the organized and coordinated nature of their activity. For good or evil, a group working together can do more than one person on their own.

SB 366 would allow the sentencing court to consider the degree of culpability to be considered in organized criminal activity. If a person is the 'ringleader', having a role in coordinating the criminal activity, the courts should be able to punish that person more severely than the mope who simply follows orders. Removing a commander for a longer period of time would be more crippling to a criminal organization just as it would be to any organization. This legislation would allow more appropriate sentences and be good public policy. On behalf of the KBI, we would ask your support.

I'd be happy to stand for questions.

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COMMITTEES
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TRANSPORTATION
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JT. COMMITTEE ON
INFORMATION TECHNOLOGY

SENATOR MIKE PETERSEN

SB 366

SB 366 is the result of a Supreme Court decision in June of 2005. That decision basically states that a Defendant's role as the leader and organizing force of a criminal enterprise is not an aggravating factor that can be used to enhance sentences.

While I believe that prior to this case it may have been used to increase a criminal's sentence, this decision made it clear that it is not a reason to be used in overriding the sentencing guidelines. SB 366 specifically lists this factor on the list of aggravating circumstances in KSA 21-4716. It is interesting to note, playing a passive or minor role in a crime is a specifically listed mitigating factor to reduce a sentence. If a jury finds someone guilty of being a leader, recruiter, or manager of a crime beyond a reasonable doubt in the bifurcated sentencing section of the trial, judges would have the ability to extend the sentence.

During hearings we had testimony from the Office of the Securities Commissioner and Wichita Police Chief Williams. They both testified in favor of allowing the mastermind of the operation or any supervisor to be sanctioned more harshly than a simple agent or subordinate that is trained and instructed by the kingpin of the criminal enterprise.

General Counsel of the Securities Commissioner testified that in many cases securities fraud and security offenses are a team sport, i.e., two or more people are involved in creating and promoting the scam. In some instances a promoter might be a licensed securities dealer and have superior knowledge of the industry. Another case where this could be used is when the elderly have been taken advantage of by unscrupulous thieves.

A handwritten signature in cursive script that reads "Mike Petersen". The signature is written in dark ink and is positioned above a horizontal line.

Senator Mike Petersen

House Judiciary

Date 3-14-06

Attachment # 3

June 7, 2005 Tuesday 1 EDITION

ARTICLE ON
USE OF AGG. CIRCUMSTANCES
DECISION.

SECTION: B; BRIEF; Pg. 3

LENGTH: 426 words

HEADLINE: Sentence violated guidelines, court rules;
Theft-ring leader got prison term

BYLINE: By TONY RIZZO; The Kansas City Star

BODY:

Edward B. Martin is no Al Capone.

He is the convicted leader of a multistate identity theft ring, and he did go to prison for orchestrating the criminal acts of his underlings.

But the Kansas Supreme Court has ruled that a Johnson County judge was wrong to send Martin to prison for 34 months.

In Friday's ruling, the Supreme Court said that Martin's leadership role in the ring was not an appropriate reason to override sentencing guidelines and send him to prison. The guidelines had called for probation.

In a dissenting opinion, Chief Justice Kay McFarland compared Martin's situation to that of the notorious Depression-era gangster, but she was outvoted by her colleagues.

The court ordered that Martin be returned to Johnson County to be resentenced, although he is now on parole in California.

Records show that Martin spent 29 months in custody from the time of his arrest until he was paroled in June 2004. Fifteen percent of the sentence was cut because of "good time" allowed under Kansas law.

Martin, 36, ran the identity theft ring from California, recruited its members and instructed them in what to steal and how to steal it, according to testimony at his trial in Johnson County District Court in 2002.

A jury found him guilty of conspiracy to commit identity theft and four counts of identity theft. Jurors also found that Martin "acted as the organizing force and directed the criminal activities of the accomplices."

Using that finding as the basis, District Judge James Franklin Davis denied probation and sentenced Martin to 34 months.

But the Supreme Court said that it should be up to the Legislature to include a defendant's role as leader of a criminal enterprise in the list of "aggravating factors" that can be used to enhance sentences.

The Legislature has not done that, but it has included a defendant's passive or minor role in a crime as one of the listed "mitigating factors" that can be used to lower a sentence.

In her dissent, McFarland said that under the majority opinion, Capone and the truck drivers who transported his illegal alcohol would have been equally culpable. Capone, shielded from arrest because of his behind-the-scenes role, would have had less of a criminal record and probably would have received a shorter sentence than his minions, she said.

To reach Tony Rizzo, Johnson County courts reporter, call

(816) 234-7713 or send e-mail to trizzo@kcstar.com

First glance

A gang member's leadership role is not enough to enhance sentences, the Kansas Supreme Court rules.

LOAD-DATE: June 7, 2005

March 14, 2006

Michael O'Neal
Chairman
Lance Kinzer
Vice Chair
Committee on the Judiciary

RE: Senate Bill AN ACT concerning persons required to register pursuant to the Kansas offender registration act: providing for an annual driver's license or identification card; residency restrictions; juvenile offenders required to register; sexually violent predators.

Committee Members,

I am here today to support Senate Bill 506. I want to thank each of you for allowing me again the opportunity to be heard, as I was here in February supporting House Bill 2576. At that time I had mentioned I was concerned with the children that were being listed on the Kansas sex offender registry. I know that there has been allot of attention on this topic this session and it has been a very trying session.

The section of the bill that states: permit a judge to relieve a juvenile offender from registering under the Kansas Offender Registration Act for substantiated and compelling reasons gives my self and many others hope for our children. I am not asking that you feel sorry for any of these children listed on the website. Most of the juveniles that are listed on the website do not need to be on there. But don't get me wrong, there are some that do so allowing the judge the ability to hear what has taken place is very important.

I am not trying to come across as a scorned parent because my child is listed on the website, and I am not trying to make what happen seem as though is was not something that was a serious matter. My son was only 12 years old when his incident took place. The authorities were not aware of the incident until I took him to counseling and all I was trying to do was to make sure my son understood what he did was wrong and also wanted to make sure he would grow up as a healthy and productive member of society. Even the detective that we talked with stated that he didn't think that this was something my son had set out to do. "That he was confused and made a mistake". So again allowing the Judge the ability to hear this on a case by case basis it imperative to not only these children but to everyone involved including the victim.

I again thank you for your time and considering this very important bill.



Tempe Persyn

316-655-1582

House Judiciary

Date 3-14-06

Attachment # 4

March 12, 2006

Michael O'Neal
Chairman
Lance Kinzer
Vice Chair
Committee on the Judiciary

Dear Mr. Chair, Vice Chair and members of the house judiciary committee,

I am writing to express my support for Senate Bill 506. It was my honor to testify in person in front of your committee regarding HB 2557, so at this time I won't delve again into my personal testimonial at length. In brief, prior to my son's offense he had no police record/adjudication. He wasn't "caught" or reported by anyone else; in fact he told me what happened and asked for consequences/help, and I in turn made the report to the EMCU. He has cooperated 110% with all of his probation conditions and is making great strides in his treatment program.

There is one segment of this bill which gives me and other parents of juvenile offenders hope. Particularly, the part which would permit a judge to relieve a juvenile offender of the duty to register if the judge finds substantial and compelling reasons to do so. The segment then goes on to enable the judge to order that the offender registers if a probation violation occurs. This would allow for my son, and others like him, to have an opportunity to focus on treatment and probation requirements...and if they fail to do so, there will be the serious consequence of being listed on the state and national sex offender registries.

Thank you for your time.

Sincerely,

Cindy Vaught

To Whom it May Concern,

My name is Lora McCormick, and I am a single mom of a 15-year old son. He wants to go to college someday, and hopes to become a marine biologist. He is also a registered sex offender.

Trying to live a normal life in a small town is challenging since my son is on the state sex offender registry. We live in constant fear of being harrassed and threatened; it has happened before, and every time I hear a knock on my door I am afraid it will be the police, coming to report that my son has been injured. He deals with daily name-calling at school, and is very isolated from peers.

My local newspaper recently ran an article on the front page about an area juvenile sex offender, and the journalist has stated that he is reviewing other childrens profiles on the registry so he can get them on the front page headline as well. This is terrifying for parents and families; life is anything but normal as it is, without this additional threat.

My son is in therapy and is also participating in a very intensive sex-offender treatment program for kids. He is paying for his actions, and I'm glad he is getting the help he needs. But if society treats him as a sex offender for decades, as would happen if a particular bill in congress passes, he will have no chance to truly benefit from help and to pursue his long-term goals.

I hope that someday my son will be able to get his adjudication expunged, but until a law passes that makes this possible, I hope that you will consider passing SB 506.

Sincerely yours,

Lora McCormick,

A Mother who wants a decent life for her son.

To Whom it May Concern,

On March 9, 2003, my son was sexually inappropriate with the daughter of a friend. He was thirteen years old at the time. When I found out about this, I immediately took the girl to her mother and reported what happened, and urged her to take the girl to the doctor immediately.

I then made my son stay inside until the police arrived; he was questioned in front of me and then handcuffed and arrested. He was taken out of our home that day, and it would be another month before I would see him again. Our home was completely torn apart from this experience.

My son was moved several times to different placements by the state. I was allowed to see him for one hour a week, and after almost a year he was finally able to come home.

I was very lost without him, but I also have two other children that I had to be there for. It was important to make life as normal as possible for them throughout this experience.

My boy is now in a treatment program called Stepping Stones and is also receiving extensive therapy. He has done everything his juvenile probation officer asks of him.

The most important part of this is that he understands how very wrong his actions were; he feels so remorseful about how he affected his victims life. It is my prayer that the victim will heal and get all of the help she needs. It is also my hope that my son won't have to be held accountable forever for a crime he committed when he was only thirteen.

Thank you.

Dear Members of the House Judiciary Committee,

I would like to tell you a story about a good family that lives in a small, friendly town. The mom and dad were born and raised here and they have five children. The family is very active in their church and community. They are especially respected and well-liked in the Mexican-American community because they are the family that is educated, involved, always willing to help others, and very close and supportive of each other. This family I'm writing about is my family, and all of the above is still true except that our world was shaken when our youngest child committed a sexual offense in the summer of 2005.

As the parents of the victim were telling us what had happened, we were shocked and just couldn't believe our child had done this. Our boy is in high school, an honor roll student, on STUCO, involved in 5 or so clubs, on the yearbook team, etc. After the parents left, we talked with our son and found out that he had also been a victim of sexual abuse when he was younger and had never come forward. This was such a nightmare, trying to deal with our child's actions and also grieving about what was done to him.

We got our son into counseling right away, hired an attorney and began dealing with law enforcement. We kept in touch with the victim's parents to make sure that the victim was getting help as well.

The administrators at my son's school contacted me and said that I had two options at this point; to either have my son expelled, or to complete his education at home with a computer-based learning program. I really wanted to fight this, but the victim's family contacted the State School Board Association since I am on the local school board. Knowing this would create a conflict of interest if I pushed this any farther, I decided to opt for the home-school program.

Three days after our son's profile was listed on the Kansas sex offender registry, our paper ran an article on the front page about our son as well as my position on the school board. Our world fell apart that day and we didn't know if we could survive it. The article gave my son's name, his charges, other website information and my name. As the days passed, we were flooded with hugs, love, cards, phone calls, flowers and lots of support and prayers. It was so wonderful that our community hadn't abandoned us in this very difficult time, and so many from our area were furious at the newspaper for their decision to run this "story".

I would like to say that juvenile offenders are not the same as adult offenders and with good treatment and counseling, they can turn their lives around and never offend again. Juvenile offenders see their probation officers several times per week and are watched carefully by community corrections and by parents and families. Please help these families by changing laws that would differentiate between adult offenders and juvenile offenders. The biggest change that I would like to see happen is that juvenile offenders should not be on the website unless they don't cooperate with their treatment and restrictions. The website listing exposes them to fear, an unsafe environment, harassment; the site information is being used to intimidate our kids. I hope you will pass this bill as written, to give our children a chance to make amends to their victims and society as a whole.

Thank you.



KANSAS

KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on SB 506
to
The House Judiciary Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections

March 14, 2006

The Department of Corrections supports SB 506. SB 506 was unanimously passed by the Senate. SB 506 addresses several issues pertaining to sex offenders. SB 506 provides for the issuance of special driver's licenses or state identification cards for persons who are required to register. SB 506 also establishes a Sex Offender Policy Board to study and make recommendations regarding substantive issues pertaining to the treatment, sentencing, rehabilitation, reintegration, and supervision of sex offenders.

The management of sex offenders in the most effective and efficient manner possible is the corner stone of making Kansans safer. The Kansas Department of Corrections, through a technical assistance grant from the National Institute of Corrections, was a leader in the utilization of plethysmographs and polygraphs in the treatment and supervision of sex offenders. However, the field of sex offender treatment and management is not static. The Sex Offender Policy Board would assist Kansas in utilizing the latest research and best practices in the field. SB 506 mandates, inter alia, that the Sex Offender Policy Board report on residential restrictions and the utilization of electronic monitoring by the beginning of the 2007 Legislative Session.

The department urges favorable consideration of SB 506.



**SEDGWICK COUNTY
DEPARTMENT OF CORRECTIONS**

Mark Masterson, Director

***Adult Field Services Division
Kerrie Platt, Administrator***

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HOUSE JUDICIARY COMMITTEE

March 14, 2006

My name is Kerrie Platt and I am here today on behalf of the Sedgwick County Department of Corrections, where I serve as Administrator of the Adult Intensive Supervision Program, which, in Sedgwick County, is the program responsible for the implementation of SB 123, the 2003 Alternative Sentencing Laws for Drug Offenders. I am here today to speak in support of SB 351, which amends those laws.

Last October, I testified before the Joint Committee on Corrections and Juvenile Justice Oversight in support of SB 123. While I won't take up your time today with the many positive aspects of SB 123, I would like to state that with the financial resources available through SB 123, offenders with chronic addictions are receiving the treatment services they need. The key seems to be keeping them in treatment for long periods of time, giving them the opportunity to learn and practice drug free living. Without the financial resources from SB 123 legislation, this opportunity wouldn't be available for many offenders.

Because long term drug treatment is expensive, we need to make the laws as effective and efficient as possible. In my October testimony, I asked the committee for legislative action on two issues that I believe will strengthen the current law.

First, language should be incorporated to address defendants that reside outside of the State of Kansas or are non-US citizens facing deportation. Currently, many of these offenders are receiving SB 123 evaluations and incurring unnecessary pre-sentence costs. The law should direct the Courts to depart from SB 123 sentencing when the offender will not be remaining in Kansas and available for a KDOC certified drug treatment program. SB 351 addresses this need by clarifying that mandatory substance abuse treatment as outlined by SB 123 does not apply to defendants who are residents of another state and will be returning to that state and to offenders who are not lawfully present in the United States.

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Attachment # 6

Second, and most significant, is the requirement that the risk/need assessment, completed by Community Corrections agencies, and the substance abuse evaluation, completed by KDOC certified treatment providers, are completed prior to sentencing. This requirement causes a number of problems:

- Unnecessary costs are being incurred by evaluating offenders who are later found to be ineligible for SB 123 treatment because of their criminal history. Currently, the Presentence Evaluation, done by Court Services, the Level of Service Inventory done by Community Corrections and the Substance Abuse Evaluation done by a treatment provider are all being done about the same time, making it difficult to share and incorporate the information into recommendations for the court.
- Many offenders remain in jail pending sentencing. The Kansas Department of Corrections has invested many resources toward using the Level of Service Inventory - Revised (LSI-R) as the standardized assessment tool for all offenders. All officers who administer the LSI-R must be certified, and a condition of that certification is to administer the LSI-R in a "comfortable interview environment free from distractions." The jail isn't the place for a good assessment to occur.
- A good assessment takes place when the assessor has an opportunity to review information regarding the offender prior to the assessment. Information regarding the offender, such as a confirmed criminal history and how they have done during previous supervision episodes, is hard to obtain during the presentence stage.
- Prior to sentencing, many offenders are trying to put their "best foot forward" and minimize their drug use and criminal activity, resulting in initial treatment placements that need to be increased in intensity. This would be less likely after sentencing.

Passing SB 351 would eliminate the above problems by moving the evaluations from pre-sentence to post-sentence. Money would be saved by eliminating unnecessary evaluations and the evaluations that are done would be a better product.

In summary, I believe that SB 123 is extremely beneficial and will have a positive impact on the prison population as offenders are given significant opportunity to reclaim their lives and become productive citizens. Please continue to fund this important legislation. And, to make it as cost effective and efficient as possible, please pass SB 351, which moves the evaluation process to occur after sentencing and direct the courts to depart for non-Kansas residents.

Thank you.

Proposed Amendment for SB 408
BY
Kansas Federation of Animal Owners

Senate Bill 408 as amended needs to have the following inserted in *Sec. 2 (5) (b) The provisions of this section shall not apply to:*

Accepted practices of animal husbandry for domestic pet animals pursuant to regulations of the Animal Welfare Act and administered by the United States Department of Agriculture Animal and Plant Health Inspection Service

This is needed because the original statutes on the description and punishment of animal cruelty have a definition for farm animals and domestic pet animals. Sen. 408 has an exception that states: *with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by by-products;* but no exception for domestic pet animals. The following statute addressing animal cruelty clearly demonstrates the difference between farm animals and domestic pet animals and SB 408 needs to address this important issue.

The language below was lifted from the current statute covering definitions as it relates to animal cruelty.

21-4313

Chapter 21.--CRIMES AND PUNISHMENTS

PART II.--PROHIBITED CONDUCT

Article 43.--CRIMES AGAINST THE PUBLIC MORALS

21-4313. Definitions. As used in this act [*], unless the context otherwise requires;

(1) "Animal" means every living vertebrate except a human being.

(2) "Farm animal" means an animal raised on a farm or ranch and used or intended for use as food or fiber.

(3) "Retailer" means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale.

(4) "Wild animal" means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal.

(5) "Domestic pet" means any domesticated animal which is kept for pleasure rather than utility.

History: L. 1977, ch. 116, § 1; April 27.

House Judiciary

Date 3-14-06

Attachment # 7