

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:36 A.M. on March 8, 2006, in Room 123-S of the Capitol.

All members were present,

Barbara Allen arrived, 9:38 a.m.
Terry Bruce arrived, 9:38 a.m.
Donald Betts arrived, 9:40 a.m.
Phil Journey arrived, 9:40 a.m.
David Haley arrived, 9:47 a.m.
Derek Schmidt arrived, 10:07 a.m.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Helen Pedigo, Office of Revisor of Statutes
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Jamie Corkhill, Policy Attorney, Child Enforcement, Social and Rehabilitation Services
Paul Johnson, Kansas Catholic Conference
Cindy D'Ercole, Kansas Action for Children
Frank Henderson, Executive Director, Crime Victims Compensation Board
Carol Lutjohann
Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence
Representative Becky Hutchins
Karen C. Whittman, Senior District Attorney, Shawnee County
Clayton Gurwell, Sr.
Fred Lucky, Kansas Hospital Association
Sandy Horton, Sheriff, Crawford County
Greg Madsen, Administrator, St. John Hospital, Leavenworth
Roger Werholtz, Kansas Department of Corrections
Bill Sneed, University of Kansas Hospital Authority
Dan Morin, Director of Government Affairs, Kansas Medical Society

Others attending:

See attached list.

The hearing on **Sub HB 2706--Contempt of court; child support arrearage, driver's license suspension** was opened.

Jamie Corkhill appeared in support and provided background on the bill and the Child Support Enforcement Program (Attachment 1).

Paul Johnson spoke in support indicating that enactment of this bill will provide an additional tool to collect child support (Attachment 2).

Cindy D'Ercole appeared as a proponent re-enforcing previous testimony (Attachment 3).

There being no further conferees, the hearing on **HB 2706** was closed.

The hearing on **HB 2761--Crime victims compensation; reasons compensation reduced or denied** was opened.

Frank Henderson appeared in support and briefed the committee on the bill (Attachment 4). Mr. Henderson requested an amendment to recognize the extraordinary dynamics involved in cases of sexual assault and domestic violence. The Chairman requested Mr. Henderson provide a balloon amendment in order for the committee to consider it.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:36 A.M. on March 8, 2006, in Room 123-S of the Capitol.

Carol Lettjohann appeared in support requesting expansion of the bill to include survivors of suicide and to provide for assistance in funeral expenses and mental health services ([Attachment 5](#)). The Chairman requested Ms. Lettjohann provide a balloon amendment in order for the committee to consider it.

Sandy Barnett appeared in opposition stating her opinion that Section 1 (c) (3) is overly broad as applied to victims of sexual assault and domestic violence ([Attachment 6](#)).

There being no further conferees, the hearing on **HB 2761** was closed.

The hearing on **HB2748--Traffic violation; failing to report an accident** was opened.

Representative Hutchins appeared in support and briefed the committee on the bill ([Attachment 7](#)).

Karen Whittman spoke in support and provided data relating to current penalties regarding failure to report accidents ([Attachment 8](#)).

Clayton Gurwell appeared as a proponent relating their personal story regarding a hit and run accident ([Attachment 9](#)). Mr. Gurwell requested stronger penalties for an offenders failure to report an accident when serious injury or death has occurred.

There being no further conferees, the hearing on **HB 2748** was closed.

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

Fred Lucky appeared in support providing background on the bill ([Attachment 10](#)).

Sandy Horton spoke as a proponent detailing the financial burden placed on counties for the health care of inmates ([Attachment 11](#)). He indicated that by limiting payments to those equivalent to Medicaid, would make costs equitable throughout the state.

Greg Madsen spoke in support and relayed concern about the Department of Corrections and the Juvenile Justice Authority intent to use this bill to secure reductions for health care for inmates ([Attachment 12](#)).

Roger Werholtz appeared in support of the use of Medicaid rates in establishing the medical costs charged for inmates ([Attachment 13](#)). Secretary Werholtz requested that the bill be extended to cover inmates in the custody of the Department of Corrections and the Juvenile Authority and provided a balloon amendment covering the requested changes.

Bill Sneed appeared stating that the University of Kansas Hospital Authority has a written binding contract with the Department of Corrections ([No written testimony](#)). Mr. Sneed indicated that he was unaware of any contact with the Department of Corrections regarding billing costs.

A written response to Mr. Sneed's testimony by Secretary Werholtz was distributed to the committee the next day. ([Attachment 14](#)).

Dan Marin appeared as a proponent indicating support of the bill as passed by the House ([No testimony](#)).

Written testimony in support of **HB 2893** was submitted by:

- Kevin A. Graham, Assistant Attorney General, Director of Legislative Affairs ([Attachment 15](#))
- Elizabeth Gillespie, Director, Shawnee County Department of Corrections ([Attachment 16](#))
- Randall Allen, Executive Director, Kansas Association of Counties ([Attachment 17](#))
- Thomas R. Williams, Sheriff, Allen County ([Attachment 18](#))
- Jerry Slaughter, Executive Director, Kansas Medical Society ([Attachment 19](#))

There being no further conferees, the hearing on **HB 2893** was closed.

The meeting was adjourned at 10:33 a.m. The next scheduled meeting is March 9, 2006.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-8-06

NAME	REPRESENTING
Sandy Barnett	KCSOV
Frank Henderson Jr	CVCB
Judy Nightingale	CVCB
Mark Gleeson	OJA
Jamie Corkhill	SRS
Bill Sneed	UKHA
Sandy Horton	Crawford County Sheriff/KSA
Viola Piggan	KDOC
Roger Werholtz	KDOC
Tim Madden	KDOC
Ricardo Bonner	SCDOC
John Price	SNDOC
ELIZABETH GILLESPIE	SHAWNEE COUNTY DEPT. OF CORRECTIONS (SNDOC)
MARY Ellen Conlee	UCHS Lobbyist
Sheila Kocher	UCHS
Clayton Gurnwell	
Chad Austin	KS Hosp Assoc
Fred Luckey	KS Hosp Assoc

Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Secretary

Senate Judiciary Committee

March 8, 2006

Sub HB 2706 - Drivers License Sanction

Integrated Services Delivery

Jamie Corkhill, Policy Attorney

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For additional information contact:

Public and Governmental Services Division
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Senate Judiciary

3-8-06

Attachment 1

Kansas Department of Social and Rehabilitation Services
Gary Daniels, Secretary

Senate Judiciary Committee
March 8, 2006

Sub HB 2706 - Driver's License Sanctions

Chair Vratil and members of the Committee, I am Jamie Corkhill, Policy Attorney with SRS. Thank you for the opportunity to testify about Substitute HB 2706 - Driver's License Sanctions and the Kansas Child Support Enforcement Program (CSE).

Lack of child support income is an ongoing challenge for many families today. Of the 131,000 cases served by the CSE Program, 54 percent of children receive the financial support to which they are entitled. That performance, although meaningful to many Kansas families, places Kansas 37th in state rankings. Within our own federal region, Kansas lags far behind Nebraska (#7) and Iowa (#16).

Sub HB 2706 is part of a package of changes intended to improve Kansas' efforts to efficiently and effectively enforce support orders whenever they go unpaid. This measure expands the existing Kansas driver's license sanction for nonpayment of support. Currently, driving privileges may only be restricted under a judge's order in contempt proceedings. Although this has given judges an additional remedy to apply in those difficult cases, it is clear from the experience of other states that Kansas could be using sanctions against driving privileges much more effectively.

Contempt proceedings are not a cost-efficient remedy for nonpayment of support. Because imprisonment is one possible result, they are invariably labor-intensive, always require the use of an attorney, and require case-by-case preparation for court. Contempt proceedings are best suited to debtors who avoid regular employment or who intentionally hide income to avoid paying support. Due to the relatively high cost, contempt proceedings are a remedy of last resort; as a consequence, the current driver's license sanction is also a remedy of last resort in Kansas.

Other states have taken a different approach to the use of driver's license sanctions. Rather than limiting driver license sanctions to those who are in contempt of court, other states treat the driving privilege as one which may be revoked if the driver does not fulfill fundamental responsibilities toward the driver's family. By expanding driver license sanctions beyond contempt of court proceedings, states are able to apply them to driver-debtors who are more sensitive to the status of their driving privileges and are, therefore, strongly motivated to voluntarily comply with their support orders. Their families benefit both financially and emotionally from their compliance, and scarce state resources can be

focused on more difficult cases.

This bill would authorize SRS to notify drivers who are seriously delinquent in paying support of the proposed sanction against their driving privileges, outlining the debtor-driver's options to prevent the sanction or protest the proposed action. After this notice and opportunity for relief have been provided, SRS would ask the Department of Revenue to impose license sanctions against the debtor-drivers using procedures in K.S.A. 8-255. Following imposition of the sanction, the individual would be able to regain his or her lost driving privileges by establishing and following a regular payment plan.

Our goal is not for child support debtors to lose their driving privileges, but to encourage them to avoid losing their license by paying their support obligations on time and in full. Outreach and voluntary compliance are what have made this measure successful in other states, and those states have found they actually impose the sanction in a relatively small number of cases. We believe that would be true in Kansas, too. We know parents value their children's financial well-being at least as much as they value their own driving privileges; we just want to ensure their actions are in line with those values.

Also included in this bill is language to provide the Child Support Program access to driver photos. Currently, access is limited to law enforcement agencies. In CSE cases, a photograph is often essential to ensure legal pleadings are served by law enforcement officers and process servers upon the correct person, especially when service occurs in another state. Many custodial parents are unable to furnish a usable photo of the noncustodial parent, so providing CSE with access to driver images will frequently facilitate accurate service of process.

Kansas has a long history of enacting progressive laws to protect and provide for our children, reflecting the high value we as a people place on our most vulnerable citizens. This legislation builds upon that history and affirms that children continue to hold that priority today.

This concludes my prepared remarks. I will be glad to stand for questions.

Note: Attached is a CSE Fact Sheet that provides background information about the Child Support Enforcement Program and its recent achievements.

2005 CSE Fact Sheet

- The Kansas Child Support Enforcement Program, operated under Title IV-D of the federal social security act, has two purposes: (1) to ease the taxpayers' burden for public assistance to children not being supported by both parents, and (2) to promote financial stability for the appalling number of children living in or near poverty. By pursuing these goals CSE helps families become and remain independent of public assistance, which in turn allows the State to extend its finite resources to more families in need. CSE's work helps custodial parents expand their children's opportunities to grow, learn, and develop their abilities to the fullest.
- The Department of Social and Rehabilitation Services is the designated Title IV-D (CSE) agency for the State of Kansas. CSE operates within the Integrated Service Delivery Division of SRS. The CSE caseload consists of approximately 131,000 TAF and Non-TAF cases serving over a quarter million people.
- The Kansas CSE Program is a multifaceted operation that combines state, county, judicial, and private resources to meet detailed federal requirements concerning all phases of operation. CSE services include:
 - Locating absent parents and their assets;
 - Establishing parentage, as needed;
 - Establishing support orders, including medical coverage;
 - Ensuring regular payment of support through income withholding orders;
 - Enforcing past due support through administrative action, such as interception of federal and state tax refunds;
 - Enforcing past due support through court action, such as garnishment of bank accounts; and
 - Modifying ongoing support orders, as needed, to reflect the child's current needs and the parent's ability to provide support.
- CSE services are provided across Kansas by full and part-time SRS staff and by more than 20 contractors. CSE's enforcement contractors are selected through competitive procurement and presently include a county prosecutor, several district court trustees, and a variety of private sector vendors. Other private contractors include the vendor operating the Kansas Payment Center, a paternity testing laboratory, credit bureaus, and process servers.

- CSE cases fall into two broad categories:
 - Temporary Assistance to Families (TAF). When a child's custodian applies for TAF (Temporary Assistance to Families), that child's support rights are assigned to the State. If CSE collects support in a TAF case, it is used to reimburse the state and federal governments for public assistance provided to the child's family. Any collections beyond the claim for reimbursement are passed on to the family. If the TAF eligibility worker determines that monthly child support collections for a family are regularly exceeding the monthly TAF grant, the TAF cash grant may be ended. When that happens, appropriate transitional services and supports for the family continue, including CSE services.
 - Non-TAF. Federal law requires the CSE Program to provide services to any family, regardless of income, that applies for support enforcement services. CSE is also required to provide Non-TAF services when a family stops receiving cash TAF benefits, at the custodial parent's discretion. The idea is to prevent the need for TAF and other forms of public assistance by insuring reliable child support income, and to provide equal treatment under the law for all children. It is important to note that nearly 2 out of 3 Kansas Non-TAF families formerly received public assistance.

The CSE Non-TAF caseload also includes families receiving only Child Care Assistance from SRS. When CSE successfully collects support in such a case, current support (and any past due support that is not subject to an SRS claim for reimbursement) goes to the family. Child support income enables the family to make co-payments while eligible for Child Care Assistance and, after Child Care Assistance ends, to pay independently for child care services from the provider of their choice.

- Although SRS normally deducts a 4% cost recovery fee from Non-TAF collections, families receiving Child Care Assistance, Medicaid, or Food Assistance are all exempt from the fee. In addition, all CSE cases are automatically exempt from any district court trustee fee that might otherwise apply.
- In state fiscal year 2005, CSE's total support collections topped \$156 million, most of which was passed on to families. Altogether, more than 1.8 *billion* dollars of support have been collected for families and taxpayers since the Kansas IV-D program's inception in 1976.

- In state fiscal year 2005, CSE established over 9,800 child support obligations. The Child Support Guidelines, used to calculate all current support orders in Kansas, call for work-related child care expenses to be factored into the monthly support award, so that the parent who pays for child care will receive a fair contribution toward that expense from the other parent. Whenever appropriate, CSE also establishes a medical support order that requires the noncustodial parent to provide group health coverage for the child.
- Paternity establishment by the CSE Program also plays a vital role in SRS' mission. Children benefit from having their parentage established because it opens the avenue to cash and medical support from the second parent, assures them access to complete family medical information, and paves the way for potential inheritance and other rights. It also gives the child certainty about his or her family background, which is so important to the child's emotional development and confidence.
- Federal rules permit TAF cash assistance to be ended when current support payments regularly exceed the cash grant. Such closures provide significant advantages to the State, allowing scarce public assistance resources to be focused on the people most in need. CSE services to the former TAF family continue automatically, providing a safety net that reduces the risk of the family returning to dependence on public assistance. This is especially important for people affected by the five-year lifetime limit on TAF eligibility.

Whenever CSE secures regular child support income for a household receiving Child Care Assistance, the State also has the opportunity to stretch its limited resources to help more families -- including families who do not have the option of child support income from an absent parent. Regular, dependable child support income gives a working family greater assurance that, regardless of the ups and downs of public human services, they will be able to purchase the child care services that they need.

- In October 2000 the Kansas Payment Center (KPC), a joint venture of CSE and the Kansas Office of Judicial Administration, became Kansas' central unit for collection and disbursement of all support payments. The KPC offers a number of customer services statewide that were not feasible before 2000. Examples include 24-hour access to payment and disbursement information by phone or through the Internet, a toll-free customer service center, and direct deposit of support disbursements. Taken together, these elements enable families to monitor support payments independently and use up-to-date information for planning and managing their own household expenses.
- Historic information about the Kansas CSE Program:

	State FY 2002	State FY 2003	State FY 2004	State FY 2005
CSE cases	150,204	144,544	134,115	131,616
Total collections	\$143.1 million	\$146.8 million	\$151.7 million	\$156.3 million
State's share	\$15.3 million	\$15.7 million	\$17.2 million	\$16.8 million

**KANSAS SENATE JUDICIARY COMMITTEE
TESTIMONY IN SUPPORT OF Sub HB 2706
MARCH 8, 2006
PAUL JOHNSON – KANSAS CATHOLIC CONFERENCE**

Thank you for this opportunity to testify in favor of Sub HB 2706. My name is Paul Johnson and I am testifying for the Kansas Catholic Conference.

This legislation would give the Department of Social and Rehabilitation Services Child Support program one more tool as many states have to collect child support. This legislation suspends driver's licenses if \$500 in support is owed.

The Department of Social and Rehabilitation Services 4-D child support collection rate of current support is under 55%. Kansas ranks 37th out of the 50 states in collection of current support. The 4-D child support cases should be generating \$14.6 million monthly but the actual support paid averages \$7.9 million. 4-D child support arrearages in 2005 totaled \$576 million with \$48 million collected.

In 2005, SRS's child support caseload was 131,616 which represented 172,135 children – one in every fourth Kansas child. The average caseload for SRS's 204 child support collection officers in 2005 was 645 – twice what a normal caseload should be. SRS has proposed the development of a child support customer call center that would assist in answering routine calls thus freeing up time for the collection officers to establish and enforce more child support orders.

The Kansas Department of Revenue is prepared to implement this law with a fiscal note of \$41,959 coming from the Division of Vehicles Operating Fund.

While this new law would be used sparingly, the perception and the 'word on the street' would generate its greatest impact. Kansas needs this law to demonstrate the critical importance of paying child support. For thousands of Kansas' families, child support is a crucial source of income and that is why the Kansas Catholic Conference supports Sub for HB 2706.

March 8, 2006

To: Senate Judiciary Committee
From: Cindy D'Ercole
Re: House Bill 2706 – Child Support



Making a difference for Kansas children.

Kansas Action for Children supports enactment of HB 2706.

Kansas does not do a very good job at child support enforcement and establishment. One of the reasons that Kansas does not compare well to other states is that we have not implemented some of the administrative tools other states use to collect support arrearages. HB 2706 is part of a package of bills that will give Kansas the ability to effectively enforce unpaid support orders.

HB 2706 is Not Punitive

HB 2706 would improve the state's current ability to restrict driver's licenses by making it more effective and efficient. It is clear that the goal of this measure is not punitive; it is an administrative tool that encourages payment from individuals that owe child support through outreach and prevention. To restrict the ability of numerous debtors to drive would be counter-productive to the goal of increasing support payments.

HB 2706 is Effective and Efficient

Although it is unfortunate that we have not been able to use this mechanism in Kansas, we do know that it will be effective because of the successful experience of other states. The current process in Kansas is not only labor-intensive, but it also can only be used with a small population of debtors that have been found in contempt of court. The results in other states show that we could be much more successful in helping these families through this process.

The Importance of Child Support

Child support is a critical source of support for many low- and moderate-income families. As we look at ways to support vulnerable Kansans with limited state and federal dollars, it is clear that child support is an effective and efficient support. Not only does child support potentially save children and families from experiencing poverty, but it also benefits the state economically through a reduced need to provide cash assistance, food stamps, and Medicaid.

At the child development level, children whose noncustodial parents pay child support have more contact with them, potentially providing the children with emotional as well as financial support. Research also indicates that children with parental contact have better grades, better test scores, fewer behavior problems, and remain in school longer.

Despite court orders, many Kansas families get sporadic or no child support. From the experience in other states it is clear that Kansas can do a better job helping these families. Driver's license sanctions will be effective without being punitive and will decrease families' dependence on public assistance. I strongly encourage you to support HB 2706.

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Senate Judiciary

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3-8-06

Attachment 3

The Importance of Child Support

If child support orders were established and followed for families needing support, the state could experience substantial savings.

Researchers have estimated that if all families who needed child support had orders in place, and those orders were fully enforced:

- cash assistance costs for families would drop 26%
- food stamp costs would drop 19%
- Medicaid costs would drop 5%

Child Support Enforcement Improves Child Well-being

There is increasing evidence that children in single-parent families who regularly receive child support do better in a variety of ways than children who do not receive such support. Research indicates that the receipt of child support appears to have a positive effect on children's achievement in school, reduces divorce rates, deters non-marital births, and that fathers who pay child support are more involved with their children.

Child Support in Kansas

A Critical Source of Support for Families

Child support is a critical source of economic stability for families.

Kansas can help families collect child support arrearages by expanding administrative remedies to collect unpaid child support such as liens on insurance proceeds, recreational license sanctions, administrative suspension of driving privileges, and a statewide Financial Institution Data Match.

Background

Child support payments are a critical source of economic stability for low- and moderate-income families. As we look at ways to support vulnerable Kansans with limited state and federal dollars, it is clear that child support is an effective and efficient support. Not only does child support potentially save children and families from experiencing poverty, but it also benefits the state economically through a reduced need to provide cash assistance, food stamps, and Medicaid.

Child Support in Kansas

Kansas does not do a very good job at child support establishment and enforcement. In fact, Kansas is falling behind the national average on nearly every category according to FFY 2003 Federal Performance Measures. One of the reasons that Kansas does not compare well to other states is that we do not have a lot of the tools other states use to collect support arrearages.

Although they do require an initial investment from the state, these processes and procedures will enable the Kansas Child Support Enforcement program to help families become independent of public assistance and reduce net state expenditures for public assistance. These administrative procedures include:

- Liens on insurance proceeds
- Recreational license sanctions
- Administrative suspension of driving privileges
- A statewide Financial Institution Data Match.



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RITA L. NOLL, CHAIR
LOUIS JOHNSON
PAULA S. SALAZAR

**Statement of Frank S. Henderson, Jr.
Executive Director, Crime Victims Compensation Board
Before Senate Judiciary Committee
Re: House Bill 2761**

March 15, 2006

Chairman Vratil and Members of the Committee:

I am Executive Director of the Crime Victims Compensation Board. I thank you for the opportunity to address the committee today and to express our support of House Bill 2761.

This bill amends the statute relating to the Board's consideration of claims for compensation. House Bill 2761 grants the Board the ability to reduce or deny a claim, to the extent, if any, that it deems reasonable if the applicant for compensation was involved in unlawful activity at the time of the crime. The Board is requesting these changes to address a common occurrence. Increasingly, the Board is faced with situations in which the applicant for compensation was engaged in unlawful activity at the time of the crime. A typical example is an applicant who is shot at a "drug house" while using illegal drugs, and requests the State of Kansas, through the Crime Victims Compensation Board, to pay for his medical expenses, up to \$25,000.

We do not believe it was the intent of the legislature to provide compensation to persons in these and similar situations. Additionally, the Board desires to use the limited resources prudently when granting awards. These amendments would grant the Board the ability to reduce or deny compensation, if they deem it reasonable.

As a result of conversation yesterday with Sandra Barnett of the Kansas Coalition Against Sexual and Domestic Violence, we are recommending a "friendly amendment" be made to this bill, although it unanimously passed the House of Representatives. We suggest the following change on page 2, line 16: ***(d) Nothing in section [c][3] shall be construed to reduce or deny compensation to a victim of domestic abuse or sexual assault.*** Section (d) becomes section (e); (e) becomes (f), etc. This amendment recognizes the extraordinary dynamics involved in cases of sexual assault and domestic violence and exempts them from this provision. Thank you for your support of this bill.

Senate Judiciary

3-8-06
Attachment 4

March 8, 2006
Carol Luttjohann
501 Lincoln
Topeka, Kansas 66606
Telephone: 785.608.8199
cluttjohann@cox.net

My name is Carol Luttjohann. I am a student at Washburn University, working on a Masters in Social Work. My social work interests include grief and bereavement, policy, and research.

While I support HB2761, I am here because of a gap of services for victims that I would like to ask you to consider acting on. I am asking you to consider taking another step in victims' services and amend this bill to include language to allow survivors of suicide access to financial assistance for funerals and mental health services and to give survivors access to law enforcement records that many need to facilitate their understanding and healing. HB2911, which is not currently scheduled for hearing, provides for survivors of suicide to have access to services provided for by the Victims' Compensation Board.

First, to be clear, I am using the term survivors of suicide as defined by Dr John McIntosh, Professor of Psychology at Indiana University and a significant contributor to research on suicide. McIntosh defines a survivor of suicide as, "An individual who remains alive following the suicide death of someone with whom they had a significant relationship or emotional bond."

My own story as a survivor of suicide began on January 16, 2003. That day my life was shattered and changed forever. It is the day I lost my younger brother, John Luttjohann, to suicide. John touched many lives. His life made a difference.

In her book, My Son...My Son, Iris Bolton tells about a Psychotherapist friend of hers, Leonard T Maholick, visiting her the day after Bolton's son, Mitch, died by suicide. Maholick told her, "There is a gift in your son's death. You may not believe it at this bitter moment, but it is authentic and it can be yours if you are willing to search for it. To other eyes it may remain hidden. The gift is real and precious and you can find it if you choose."²

About three months after John's death, I went to his grave. I stood and cried. I told John I knew there was a gift in his death. I promised him I would find it. I began my initial search for meaning in John's death by learning everything I could about suicide.

In 2002 Kansas ranked 21st in the United States for number of suicides, with a rate of 12.7 per 100,000. That is much higher than the national average of 11.0 per 100,000. In 2001, Kansas had ranked 36th. In Kansas we lose an average of approximately one person every day to suicide. Suicide is the leading cause of death among college students. It is the second leading cause of death among 15-24 year olds. And, in recent years, we have begun to see an increase in pre teens and young children dying by suicide. Children as young as eight-years-old are taking their own lives. The highest rates of suicide are found in males over age 65 and are growing among 30-50 year olds. Suicide knows no boundaries.

² Bolton, Iris. My Son, My Son. Bolton Press, Atlanta, 1983.

As I learned all the numbers, I soon realized that those numbers represent people who have left survivors like myself behind to make sense of their loss. American Foundation for Suicide Prevention literature says, "Every 18 minutes someone dies by suicide. Every 19 minutes someone is left to make sense of it."

Sociologists have estimated that each person lost to suicide leaves six to eight survivors behind. More recent studies indicate that that number is low. My own experience is that my brother left twenty-eight of us in our immediate family. This high number is, in part, due to John being 46-years-old at the time of his death. He left adult siblings with children and grandchildren, as well as our parents.

I have met and heard the stories of many other survivors. Suicide is a crime that brings financial and emotional hardships.

Kay and her two sons rushed to have Kay's husband cremated within 24 hours of him hanging himself in order to save expenses of embalming and burial. Her story is not uncommon. She and others would greatly benefit from being able to receive funeral assistance. There have been families that cremate the body immediately due to financial needs, leaving family that travels for memorials without the ability to view the body, to see the deceased and say good-bye. This creates additional emotional trauma in an already devastating experience.

Often children are survivors. I have worked with many children. They experience a lot of anger and guilt – as many adults do. With the addition of survivors of suicide to the Victims' Bill of Rights and giving them access to assistance to receive mental health services, we are not only helping them to deal with their loss, but also taking a significant step in prevention. Survivors of suicide are at a greater risk for suicide – acting on the grief of missing and wanting to be with the deceased.

As I said previously suicide is treated as a crime. This presents some additional challenges to survivors. Dennis talks about going to the home of his 30-year-old son, Christopher, where the police were processing the scene. Christopher had died by hanging. Dennis says, "All I wanted to do was get to my son and hold him." The police assured Dennis that he would have access to the scene as soon as they finished their work. Instead, Dennis stood and watched as his son was taken away in a black body bag.

Catherine could not understand how her husband's death could have been ruled a suicide by hanging. With the position he had been found in, it did not make sense. It was only when she was given the opportunity to view pictures and read police reports of the scene that she understood that her husband had tightened a belt around his neck until he lost consciousness, fell, and his neck snapped killing him.

Having direct access to official information is a powerful tool for understanding and healing. My own experience includes having been at the scene where John died. I got there minutes after the police had found the body. But being at the scene I had information that haunted me. It was two years later before I was given access to law enforcement reports and pictures of the scene. The images I created from the partial information were much more traumatic than the reality I finally got to see. I have been much more able to deal with the truth than with the unknown.

The current Victims Bill of Rights states, "The views and concerns of victims should be ascertained and the appropriate assistance provided throughout the criminal process." For survivors of suicide, this needs to include the option of viewing

the scene of the death and access to information in police reports. Currently law enforcement is not required to provide access to information, and policies are inconsistently practiced not only from jurisdiction to jurisdiction, but within a law enforcement jurisdiction. In fact law enforcement do not have to share a suicide note with family or even acknowledge the existence of a note.

This access is not only beneficial to families at the time of a loss to suicide, but also needed for children. As they grow older, how can they get answers to questions that other family members either won't answer or don't know the answer if police records are not available?

In my own situation a grief counselor accompanied me to view the records about my brother's death. She read reports and described what I would hear, then asked if I wanted to hear the reports. And when it came to viewing pictures, she went through them all to choose pictures that would help me answer my specific questions. Again she described each one in some detail and asked if I wanted to view it before I did.

This same kind of procedure would be beneficial at the scene of the death. Survivors need to be told openly and honestly what they will see, and then being given a choice about viewing the scene or not.

Giving survivors the right to view the scene and access to police reports, they are being given power over their grief process – a grief they had no choice in experiencing.

I would also like to interject a personal request and ask that you consider "naming" the provisions for survivors of suicide "John's Law" for my brother. John's life made a difference, and this would be a way to give meaning to his death.

I urge you to consider amending HB2761 to include provisions for survivors of suicide by adding the provisions of HB2911 as an amendment to the bill before you and to go a step further to address survivors' needs for information by giving them the right to view the scene of the death and have access to law enforcement reports and pictures that will provide them understanding and help for healing.

HOUSE BILL No. 2911

By Committee on Judiciary

2-14

9 AN ACT concerning victims of crime; relating to suicide; amending
10 K.S.A. 2005 Supp. 74-7301 and repealing the existing section.

11

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

13 Section 1. K.S.A. 2005 Supp. 74-7301 is hereby amended to read as
14 follows: 74-7301. As used in this act:

15 (a) "Allowance expense" means reasonable charges incurred for rea-
16 sonably needed products, services and accommodations, including those
17 for medical care, rehabilitation, rehabilitative occupational training and
18 other remedial treatment and care and for the replacement of items of
19 clothing or bedding which were seized for evidence. Such term includes
20 a total charge not in excess of \$5,000 for expenses in any way related to
21 funeral, cremation or burial; but such term shall not include that portion
22 of a charge for a room in a hospital, clinic, convalescent or nursing home
23 or any other institution engaged in providing nursing care and related
24 services, in excess of a reasonable and customary charge for semi-private
25 accommodations, unless other accommodations are medically required.

26 (b) "Board" means the crime victims compensation board established
27 under K.S.A. 74-7303 and amendments thereto.

28 (c) "Claimant" means any of the following persons claiming compen-
29 sation under this act: A victim; a dependent of a deceased victim; a third
30 person other than a collateral source; or an authorized person acting on
31 behalf of any of them.

32 (d) "Collateral source" means a source of benefits or advantages for
33 economic loss otherwise reparable under this act which the victim or
34 claimant has received, or which is readily available to the victim or claim-
35 ant, from:

36 (1) The offender;

37 (2) the government of the United States or any agency thereof, a state
38 or any of its political subdivisions or an instrumentality or two or more
39 states, unless the law providing for the benefits or advantages makes them
40 excess or secondary to benefits under this act;

41 (3) social security, medicare and medicaid;

42 (4) state-required temporary nonoccupational disability insurance;

43 (5) workers' compensation;

- 1 (6) wage continuation programs of any employer;
- 2 (7) proceeds of a contract of insurance payable to the victim for loss
3 which the victim sustained because of the criminally injurious conduct;
4 or
- 5 (8) a contract providing prepaid hospital and other health care serv-
6 ices or benefits for disability.
- 7 (e) "Criminally injurious conduct" means conduct that: (1) (A) Oc-
8 curs or is attempted in this state or occurs to a person whose domicile is
9 in Kansas who is the victim of a violent crime which occurs in another
10 state, possession, or territory of the United States of America may make
11 an application for compensation if:
- 12 (i) The crimes would be compensable had it occurred in the state of
13 Kansas; and
- 14 (ii) the places the crimes occurred are states, possessions or territories
15 of the United States of America not having eligible crime victim com-
16 pensation programs;
- 17 (B) poses a substantial threat or personal injury or death; and
- 18 (C) either is punishable by fine, imprisonment or death or would be
19 so punishable but for the fact that the person engaging in the conduct
20 lacked capacity to commit the crime under the laws of this state; or
- 21 (2) is an act of terrorism, as defined in 18 U.S.C. 2331, or a violent
22 crime that posed a substantial threat or caused personal injury or death,
23 committed outside of the United States against a person whose domicile
24 is in Kansas, except that criminally injurious conduct does not include
25 any conduct resulting in injury or death sustained as a member of the
26 United States armed forces while serving on active duty.
- 27 Such term shall not include conduct arising out of the ownership, main-
28 tenance or use of a motor vehicle, except for violations of K.S.A. 8-1567
29 and amendments thereto, or violations of municipal ordinances prohib-
30 iting the acts prohibited by that statute, or violations of K.S.A. 8-1602,
31 21-3404, 21-3405 and 21-3414 and amendments thereto or when such
32 conduct was intended to cause personal injury or death; *or*
- 33 (3) *is determined to be a suicide by a law enforcement agency.*
- 34 (f) "Dependent" means a natural person wholly or partially depend-
35 ent upon the victim for care or support, and includes a child of the victim
36 born after the victim's death.
- 37 (g) "Dependent's economic loss" means loss after decedent's death
38 of contributions of things of economic value to the decedent's depend-
39 ents, not including services they would have received from the decedent
40 if the decedent had not suffered the fatal injury, less expenses of the
41 dependents avoided by reason of decedent's death.
- 42 (h) "Dependent's replacement services loss" means loss reasonably
43 incurred by dependents after decedent's death in obtaining ordinary and

1 necessary services in lieu of those the decedent would have performed
2 for their benefit if the decedent had not suffered the fatal injury, less
3 expenses of the dependents avoided by reason of decedent's death and
4 not subtracted in calculating dependent's economic loss.

5 (i) "Economic loss" means economic detriment consisting only of al-
6 lowable expense, work loss, replacement services loss and, if injury causes
7 death, dependent's economic loss and dependent's replacement service
8 loss. Noneconomic detriment is not loss, but economic detriment is loss
9 although caused by pain and suffering or physical impairment.

10 (j) "Noneconomic detriment" means pain, suffering, inconvenience,
11 physical impairment and nonpecuniary damage.

12 (k) "Replacement services loss" means expenses reasonably incurred
13 in obtaining ordinary and necessary services in lieu of those the injured
14 person would have performed, not for income, but for the benefit of self
15 or family, if such person had not been injured.

16 (l) "Work loss" means loss of income from work the injured person
17 would have performed if such person had not been injured, and expenses
18 reasonably incurred by such person in obtaining services in lieu of those
19 the person would have performed for income, reduced by any income
20 from substitute work actually performed by such person or by income
21 such person would have earned in available appropriate substitute work
22 that the person was capable of performing but unreasonably failed to
23 undertake.

24 (m) "Victim" means a person who: (1) Suffers personal injury or
25 death as a result of: ~~(1)~~ (A) Criminally injurious conduct; ~~(2)~~ (B) the good
26 faith effort of any person to prevent criminally injurious conduct; or ~~(3)~~
27 (C) the good faith effort of any person to apprehend a person suspected
28 of engaging in criminally injurious conduct; or

29 (2) *is alive following the suicide death of someone with whom such*
30 *person had a significant relationship or emotional bond.*

31 Sec. 2. K.S.A. 2005 Supp. 74-7301 is hereby repealed.

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

634 SW Harrison Topeka, Kansas 66603
785-232-9784 • FAX 785-266-1874 • coalition@kcsdv.org • www.kcsdv.org

Senate Judiciary Committee
HB 2761 (2006)
OPPOSE

Chairman Vratil and Members of the Senate Judiciary Committee;

KCSDV opposes HB 2761 because Section (1) (c) (3) is overly broad.

A crime victim must currently meet two criteria, the first that they have suffered an economic loss and the second that they did not engage in contributory misconduct. The Crime Victims' Compensation Board has, over some years, developed a good understanding of the dynamics of sexual assault and domestic violence and specifically allow an exclusion under contributory misconduct in their regulations. The exclusion itself is problematic because it implies, by its very presence, that victims invite or deserve victimization, but it is the commonly held belief of myths that prompted the exclusion to make it clear that victim behavior is not contributory misconduct.

In the Fisher case, 124 P.3d74, Dec. 09, 2005, the Kansas Supreme Court reversed the Crime Victims' Compensation Board and the Shawnee District Court when it determined that the conduct of 15 year old Jeremy Fisher, although not legal, did not contribute to a crash when a drunk driver crossed the median, crashed head on and killed Fisher. The Kansas Supreme Court narrowed the Crime Victims' Compensation Board's interpretation of "contributory misconduct."

The amendment to current law being requested by the Crime Victims Compensation board is section (C) (3), which allows the Board to apply the broadest interpretation of someone's behavior even when it did not contribute to the crime. Our concern lies primarily in typical cases of sexual assault. Consider the following:

- The Crime Victimization Report, Department of Justice (2002) indicates that females in the 16 to 19 year age group experienced overall violence, rape/sexual assault, and assault at rates at least slightly higher than rates of persons in other age categories
 - Age 12 –15 2.1/1000
 - Age 16 –19 5.5/1000
 - Age 20 –24 2.9/1000

- Rape reports to Kansas law enforcement agencies show an identical curve
 - Under 10 7.0% (of 845)
 - Age 10 – 14 21.1%
 - Age 15 – 19 27.6%
 - Age 20 – 24 16.6%
 - All others 27.7%

- In a National Sample of College Women study (2004), 72% of those experiencing rape were intoxicated.

That means that a 17 or 19 year old female who has had a drink, or more, who reports rape may be ineligible for victims compensation for actual economic loss or counseling caused by the rape.

Having said that, I would like to assure the Committee that we know the Crime Victims Compensation Board does not intend to use the amended language in this way. Rather, their interest as expressed by the Director, Frank Henderson, is to reduce or deny claims where clear illegal behavior, most commonly associated with drugs, is present.

However, the language is vague and certainly does allow it to be applied in any number of cases by future boards.

KCSDV urges the Senate Judiciary Committee to substantially tighten the language or reject HB 2761.

Submitted,

Sandy Barnett
Executive Director

BECKY HUTCHINS
REPRESENTATIVE, FIFTIETH DISTRICT
JACKSON AND SHAWNEE COUNTIES
700 WYOMING
HOLTON, KANSAS 66436
(785) 364-2612



TOPEKA

HOUSE OF
REPRESENTATIVES

ROOM 502-S
STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(785) 296-7698

COMMITTEE ASSIGNMENTS
CHAIR: TOURISM AND PARKS
MEMBER: EDUCATION
FEDERAL AND STATE AFFAIRS
JOINT COMMITTEE ON STATE
TRIBAL RELATIONS

TESTIMONY ON HB 2748
March 8, 2006

Senator Vratil and members of the Senate Judiciary Committee:

Thank you for the opportunity to come before you today to speak in support of HB 2748.

HB 2748 relates to duties of drivers or occupants to report accidents and leaving the scene of an accident. This issue was first brought to my attention by District Attorney Robert D. Hecht.

People from the Topeka area may remember a vehicle accident where a driver struck an elderly woman on her way to morning church services, causing fatal injuries to the woman, and leaving the scene of the accident. Afterwards, the family was shocked to discover the possible penalty to be assessed was no more than if the person had scraped the fender of a parked car and had left the scene.

HB 2748 would make it a class A, person misdemeanor to leave the scene of an injury accident or an accident with property damage in excess of \$1,000. The bill would also increase the crime to a severity level 10, person felony to leave the scene of an accident with serious bodily injury. The crime of leaving the scene of an accident involving a death would be considered a severity level 9, person felony.

I think this is an issue of justice and common sense, and ask for your favorable consideration of HB 2748.

Respectfully submitted,

Becky Hutchins

Rep. Becky Hutchins.

Senate Judiciary
3-8-06
Attachment 7

Rep. Becky Hatcher
Rep. Becky Hatcher
50th District

Law Offices of
DISTRICT ATTORNEY
Third Judicial District
Shawnee Co. Courthouse, 200 SE 7th Street
Second Floor, Suite 214
TOPEKA, KANSAS 66603

Robert D. Hecht
District Attorney

Karen C. Wittman
Senior Assistant District Attorney
Traffic Division
785 233-8200 x4330
www.shawneecountyda.org

February 13, 2006

TESTIMONY-HB 2748
Amending K.S.A. 8-1602 and K.S.A. 8-1606
HIT AND RUN, FAILING TO REPORT ACCIDENT

Good Afternoon, Mr. Chairman and Members of the Judiciary Committee.

My name is Karen Wittman. I am a Senior Assistant District Attorney in Shawnee County under District Attorney Robert Hecht. I am the attorney in charge of all traffic related offenses.

HB 2748 is a necessary change to the current law.

EXAMPLE:

Under current law, K.S.A. 8-1606, Failing to report an accident:

Having a **fender bender** and failed to report accident---C misdemeanor
Hitting a **parked car or sign** and failed to report accident---C misdemeanor
Having an collision resulting in the **death** of a person and failed to report ---C misdemeanor

Under current law, K.S.A. 8-1602 and K.S.A. 8-1603 Leaving the Scene:

Having a **fender bender** and leaving the scene---C misdemeanor
Hitting a **parked car or a sign** and leaving the scene---C misdemeanor
Having a collision where person has **scratch and cuts**-leave the scene---A misdemeanor
Having a collision and person is **disfigured** and leave the scene---A misdemeanor
Having a collision resulting in **death** of a person and left---A misdemeanor

There should be a severe consequence to a person who strikes and severely injures or kills another when they fail to call for help and remain at the scene.

Senate Judiciary
3-8-06
Attachment 8

JUDICIARY COMMITTEE MEMBERS
HOUSE BILL #2748

MR. & MRS. CLAYTON D. GURWELL SR.
2142 SW JEWELL
TOPEKA, KS. 66611
785-235-5388

COMMITTEE MEMBERS.

WE WISH TO STAND IN SUPORT OF HOUSE BILL 2748. THE REASON FOR THIS IS THAT ON DEC.16,2005 OUR SON BRENT GURWELL WAS HIT BY MR. ROBERT BANKS. HE WAS DRUNK AND HE DIDN,T STOP.

OUR SON WAS STANDING BY A FRIENDS TRUCK. BOTH HE AND THE TRUCK WERE HIT.

MR. BANKS DIDN'T STOP, HE DIDN'T CALL AN AMBULANCE, HE DIDN'T CALL THE POLICE. HE LEFT HIM LYING IN THE STREET WITH A RUPTURED SPLEEN. THE MUSCLES AND TENDONS OF BOTH LEGS TORN AND BLEEDING. HAD IT NOT BEEN FOR HIS FRIEND HE WOULD HAVE DIED IN THE STREET. OR POSSIBLY HIT BY ANOTHER CAR.

BECAUSE OF MR. BANKS OUR SON HAS HAD NUMEROUS OPERATIONS. HIS SPLEEN HAS BEEN REMOVED. HE HAS HAD SKIN GRAFTS.HE HAS HAD NUMEROUS SURGERYS. HE HAD TO BE PUT UNDER AN ANESTHETIC JUST TO CHANGE HIS BANDAGES.HE IS NOW GOING THROUGH PHYSICAL THERAPY BECAUSE HE CAN'T WALK PROPERLY AND HE IS STILL IN PAIN.

THE NEXT DAY(WE WERE TOLD BY THE POLICE) THAT HIS FRIENDS WHO WERE IN THE CAR WITH HIM AT THE TIME OF THE ACCIDENT WENT TO THE POLICE STATION AND TURNED HIM IN. THEY SAID THAT WHEN HE HIT OUR SON AND HIS FRIENDS TRUCK HE WAS DRUNK.

WHEN THE POLICE GOT TO TALK TO HIM HE WAS SOBER AND DENIED EVERYTHING.

UNLESS YOU HAVE BEEN THROUGH A THING LIKE THIS YOU CAN'T UNDERSTAND HOW WE AS PARENTS FELT STANDING IN A HOSPITAL WITH A SON IN I.C.U. AND BEING TOLD BY A POLICEMAN THAT THE ONLY THING THEY COULD DO WAS TO ISSUE A TICKET FOR A TRAFFIC VIOLATION.

WE THINK IT IS TIME THAT THE STATE OF KANSAS CHANGES IT'S LAWS TO PROTECT IT'S CITIZENS. A HIT AND RUN SHOULD BE A CRIMINAL OFFENCE NOT A TRAFFIC VIOLATION. WE WOULD LIKE TO SEE YOU CHANGE THE LAW TO DO JUST THAT.

THANK YOU FOR YOUR TIME AND WE HOPE YOUR SUPPORT.

MR.& MRS CLAYTON GURWELL SR.

Senate Judiciary

3-8-06

Attachment 9



Thomas L. Bell
President

TO: Senate Committee on Judiciary
FROM: Fred J. Lucky, Senior Vice President
DATE: March 8, 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. 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 and during the time that this bill was being considered in the House, we worked 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. Hospitals across the state feel the need to work cooperatively with local law enforcement agencies, county sheriffs and the Highway Patrol to provide needed medical care for individuals in their custody in a cost efficient and safe manner. Therefore, we would encourage this committee to pass the bill out of committee favorably.

DATE: March 8th, 2006

TO: Kansas Senate Judiciary Committee

SUBJECT: HB 2893

FROM: Crawford County Sheriff Sandy Horton

On March 7th, 2005 the Crawford County Jail had a 52 year old inmate receive treatment at our local hospital for a heart related procedure. The total bill for the procedure was \$121,663.25. The hospital discounted the bill by approximately 20% leaving a balance of \$98,992 but refused to negotiate any further. For the calendar year 2005 I had budgeted \$250,000 for inmate medical care roughly 18% of the \$1,391,568 jail budget. Through June 30th, 2005 we had already spent \$213,600, clearly the budget was in trouble and I approached the Board of Crawford County Commissioners.

The Joplin Globe newspaper did an article on the regional concept of inmate medical care. They quoted Edward Harrison the president of the National Commission on Correctional Health Care as saying many counties have turned to State Legislators for help. He said that in one state legislators passed a law limiting what hospitals could charge a county for health care to the Medicaid rate, rather than what he called the "retail" rate.

That state was Colorado and the law was Senate bill 03-141 which passed unanimously in both the senate and the house-an event unprecedented in Colorado history. I contacted the lady primarily responsible for the Colorado law, Rita DeHerrera she said it was really quite simple. That jails should be treated as for what they really are and that is a government agency. Therefore they should be afforded the government rate for inmate medical care and that is Medicaid.

Why should taxpayers carry the full burden of inmate medical costs? It is not the taxpayer's fault that the situation has occurred requiring the care. If these inmates were on the streets it is highly likely that he/she would be receiving Medicaid benefits and if not, the medical provider would work very hard to get this person on Medicaid.

This concept makes sense for all the taxpayers of Kansas. It is fair to them, the government entity, and the provider. The local taxpayers would no longer be burdened by paying more than what the government already pays.

Finally, at the request of the County/State Healthcare Cost Breakthrough Team (an effort of the Kansas Collaborative) Kansas Medicaid officials did a cost comparison on several county inmate bills. They compared my bill at \$121,663.25. If payment would have been made at the Medicaid rate the payment would have been \$61,803.03 a projected savings of \$59,860.22 or 49.2%.

Senate Judiciary

3-8-06

Attachment 11

A summary of claims for seven counties will be presented to you by Betsy Gillespie with the Shawnee County Department of Corrections. The total billed amounted compared was \$268,614.82. The Medicaid reimbursement amount would have been \$104,218.65. A projected savings for the taxpayers in the amount of \$158,480.20 or 59%.

Respectfully submitted,

Sandy Horton
Sheriff
Crawford County, Kansas



Sisters of Charity
of Leavenworth
Health System

Testimony on H 2893

Kansas Senate Judiciary Committee
March 8, 2006

Greg Madsen
Administrator, Saint John Hospital

I am Greg Madsen, Administrator of Saint John Hospital in Leavenworth. I am here today to represent Saint John as well as Providence Medical Center in Kansas City. Both hospitals are part of the Sisters of Charity of Leavenworth Health System, a faith-based hospital system which has existed in Kansas since the mid-1800's.

You have heard from others about the origins and negotiations between the sheriff's representatives and the Kansas Hospital Association which resulted in this bill. It is a good compromise for handling medical treatment for offenders in custody, and we are proponents of the bill. However, we are concerned about potential amendments which would cause us to change that position.

We were disappointed to learn that the Department of Corrections and the Juvenile Justice Authority intends to use this bill as an opportunity to secure further reductions in what the state pays for health care for prisoners at our hospitals. The state should not seek to reduce its costs on the backs of community hospitals like Saint John Hospital and Providence Medical Center, which have stepped up to provide health services at a discounted rate to persons jailed in state prisons. They are not easy patients to serve.

Providence Medical Center and Saint John Hospital have contracts with CCS to provide both inpatient and outpatient care to prisoners at Lansing Correctional and other state prison facilities. These contracts were signed in October 2003, and are extended annually unless either party gives 30 days notice of termination.

Reimbursement rates were set well below charges, at 52 percent of billed charges for inpatient care, and 65 percent of billed charges for outpatient surgery and emergency room services. In 2005, the two hospitals' charges for these patients totaled \$2.136 million, and under the contract the CCS paid \$1.173 million. Medicaid rates would be more than 60 percent lower, or only \$427,000 in reimbursement to the hospitals for more than \$2 million in charges.

DOC representatives testified last month that the amendments they propose would save them from \$250,000 to \$500,000 in health care expenses – on the backs of your community hospitals – by paying Medicaid rates. Our hospitals alone would lose almost \$750,000 in revenue, as the attached chart shows.

No community hospital can survive on Medicaid rates. Frankly, we would be unlikely to continue our relationship with CCS and Lansing at those rates.

We urge you to reject amendments proposed by the Department of Corrections Juvenile Justice Authority. I stand for questions.

Senate Judiciary

3-8-06

Attachment 12

12-2

IMPACT IF STATE OF KANSAS PRISON BUSINESS PAYMENTS TRANSITION TO MEDICAID

PROVIDENCE MEDICAL CENTER (Kansas City)

	CCS <u>2005 Charges</u>	CCS <u>Reimbursement</u>	Current <u>Net Revenue</u>	Medicaid <u>Reimbursement</u>	Medicaid <u>Net Revenue</u>	Change In Net Revenue <u>Per Year</u>	Percent <u>Change</u>
Inpatient	\$ 942,182	52.0%	\$ 489,935	31.0%	\$ 292,076	\$ (197,857)	-40.4%
Outpatient	\$ 710,060	61.9%	\$ 439,527	8.6%	\$ 61,065	\$ (378,461)	-86.1%
Total	\$ 1,652,242		\$ 929,462		\$ 353,142	\$ (576,319)	-62.0%

SAINT JOHN HOSPITAL (Leavenworth)

	CCS <u>2005 Charges</u>	CCS <u>Reimbursement</u>	Current <u>Net Revenue</u>	Medicaid <u>Reimbursement</u>	Medicaid <u>Net Revenue</u>	Change In Net Revenue <u>Per Year</u>	Percent <u>Change</u>
Inpatient	\$ 129,107	52.0%	\$ 67,136	30.7%	\$ 39,636	\$ (27,499)	-41.0%
Outpatient	\$ 316,339	49.2%	\$ 155,639	7.7%	\$ 24,358	\$ (131,280)	-84.3%
Total	\$ 445,446		\$ 222,774		\$ 63,994	\$ (158,779)	-71.3%

PROVIDENCE & SAINT JOHN COMBINED

			\$ 1,152,236		\$ 417,136	\$ (735,099)	-63.8%
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2-2



KANSAS

KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on HB 2893
to
The Senate Judiciary Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections
and
Don Jordan
Commissioner
Kansas Juvenile Justice Authority

March 8, 2006

The Department of Corrections and the Juvenile Justice Authority support the use of Medicaid rates in establishing the medical costs charged for prisoners and believe that the savings for the taxpayers of the State should be extended to cover inmates in the department's and authority's custody. HB 2893 as passed out of the House establishes Medicaid rates for prisoners in the custody of county or city law enforcement agencies, county department of corrections and the Highway Patrol. HB 2893 was passed by the House by a vote of 121 to 4. The Department of Corrections and the Juvenile Justice Authority urge this Committee to extend the savings provided by HB 2893 to all taxpayers through inclusion of the Medicaid rates to prisoners confined by the department and authority. The Kansas Sheriff's Association supports inclusion of the department and authority.

The application of Medicaid rates for the Department of Corrections is estimated to result in a savings in medical costs for its inmates of \$270,000 to \$525,000 per year. The department's medical care provider, Correct Care Solutions, in addition to agreeing to amend its contract with the department to reflect those savings, is willing to process and compute the Medicaid rates for all of the other law enforcement agencies entitled to that rate.

HB 2893 would put the medical expenses incurred by state governmental entities for the treatment of prisoners on par with the medical expenses paid for by the state for indigent citizens in the community. As it is now, hospitals provide discounts to health insurance companies and to the state for the treatment of indigent persons in the community, but not to governmental entities

that are constitutionally required to provide medical care to prisoners in their custody. As an example, the Hutchinson Community Hospital charges the department and its vendor 100% of its billable rate. The Hutchinson Hospital does not offer the department the rate it charges insurance companies. Therefore, the department only utilizes the hospital services of the Hutchinson Community Hospital for emergency services which entails additional costs for the State in the transportation of inmates to distant hospitals and the increased costs of providing security during transportation and posting of officers to guard an inmate hospitalized in a distant city. For three inmate patients admitted into the Hutchinson Community Hospital in 2005, the total hospital billing was \$69,750. The Medicaid rate for the hospitalization for those three inmates would have been \$13,865 resulting in a savings of \$55,885 as well as the cost of transporting the inmates and overtime required for the posting of correctional officers at a hospital in Wichita. In the first seven months of this fiscal year, Hutchinson Correctional Facility has made 195 trips to transport inmates most often to Wichita because of the charges imposed for comparable services by the local hospital. Similarly, when Lansing Correctional Facility inmates require medical services that cannot be provided by Providence Hospital, those inmates are transferred to El Dorado Correctional Facility for non-emergency services because of the charges imposed by KU Hospital. Since FY 2003, the number of medical trips performed by EDCF (often for more than one inmate at a time) has increased by 33%.

In our discussions with the Kansas Hospital Association, at the request of the Senate Ways and Means Committee, we heard the objection that the KDOC already has a managed care provider to negotiate contractual rates. We would note that the current version of the bill endorsed by the Hospital Association includes county jails that have similar managed care contracts, one with KDOC's current health care provider and two with KDOC's previous health care provider. Likewise, the current version of the bill endorsed by the Hospital Association includes another state agency, the Kansas Highway Patrol.

The department believes that it and its vendor's contractual leverage is significantly overstated by the Hospital Association. The department and the authority are obligated by both the Kansas and United States Constitutions to provide medical care to persons in its custody irrespective of cost.

To accomplish the inclusion of the Department of Corrections and the Juvenile Justice Authority for eligibility for Medicaid rates, the department is proposing amendments to HB 2893 set out in the attached balloon. Additionally, the department has become aware of concerns on the part of Riley County officials as to whether the references to "county or city law enforcement agency" would include the consolidated law enforcement agency adopted in that county. The proposed amendment to HB 2893 addresses that concern and is understood by the department to be acceptable to Riley County. Those amendments provide:

- Insertion of references to the Department of Corrections and the Juvenile Justice Authority and specifically including law enforcement agencies and departments established pursuant to K.S.A. 19-4401 et seq. at page 1, lines 17, 25, and 40; and at page 2, lines 3 and 12.

- Clarification to the language regarding situations where the prisoner has a personal health insurance policy which would be responsible for the payment of medical expenses to clearly exclude contracts between a law enforcement agency and a vendor for the provision of medical care to inmates in that agency's custody at page 1 line 29.

The Department of Corrections and the Juvenile Justice Authority support application of Medicaid rates for persons in custody and urge the Committee to adopt the balloon amendments proposed by the department and authority.

HOUSE BILL No. 2893

By Committee on Judiciary

2-13

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

11

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

13 Section 1. (a) ~~A health care provider that has a current approved~~
14 ~~provider agreement with the Kansas health policy authority shall accept~~
15 ~~payment for health care services provided to a person in the custody of~~
16 ~~Except as otherwise provided in this section, a county or city law~~
17 ~~enforcement agency, a county department of corrections or the Kansas~~
18 ~~highway patrol, at the same rate that the provider would have received if~~
19 ~~such health care service was paid by the authority pursuant to such pro-~~
20 ~~vider agreement shall be liable to pay a health care provider for~~
21 ~~health care services rendered to persons in the custody of such~~
22 ~~agencies the lesser of the actual amount billed by such health care~~
23 ~~provider or the medicaid rate. The provisions of this section shall not~~
24 ~~apply if a person in the custody of a county or city law enforcement~~
25 ~~agency, a county department of corrections or the Kansas highway patrol~~
26 ~~is covered under a current individual or group accident and health insur-~~
27 ~~ance policy, medical service plan contract, hospital service corporation~~
28 ~~contract, hospital and medical service corporation contract, fraternal ben-~~
29 ~~efit society or health maintenance organization contract.~~

30 (b) ~~Except as provided further, a county or city law enforcement~~
31 ~~agency, a county department of corrections or the Kansas highway patrol~~
32 ~~shall not pay less than the rate the provider would have received if such~~
33 ~~health care service was paid by the authority pursuant to such provider~~
34 ~~agreement. A county law enforcement agency or a county department of~~
35 ~~corrections, or its authorized vendor, may enter into an agreement with~~
36 ~~such a provider which is not based upon reimbursement for specific serv-~~
37 ~~ices performed but is based upon a weekly, monthly or annual lump-sum~~
38 ~~payment for all services regardless of the rates pursuant to the provider~~
39 ~~agreement. Nothing in this section shall prevent a county or city law~~
40 ~~enforcement agency, a county department of corrections, the Kan-~~
41 ~~sas highway patrol or such agencies authorized vendors from enter-~~
42 ~~ing into agreements with health care providers for the provision~~
43 ~~of health care services at terms, conditions and amounts which are~~

including county law enforcement agencies and departments established pursuant to K.S.A. 19-4401 et seq., Kansas department of corrections, juvenile justice authority,

including county law enforcement agencies and departments established pursuant to K.S.A. 19-4401 et seq., Kansas department of corrections, juvenile justice authority,

; other than any obligation, policy, contract or agreement for the provision of health care services to persons in custody by their custodian.

including county law enforcement agencies and departments established pursuant to K.S.A. 19-4401 et seq., Kansas department of corrections, juvenile justice authority,

13-4

13-4

1 different than the medicaid rate.

2 (c) It shall be the responsibility of the custodial county or city
3 law enforcement agency, county department of corrections or the
4 Kansas highway patrol or such agencies' agents, to determine, un-
5 der agreement with the Kansas health policy authority, the amount
6 payable for the services provided and to communicate that deter-
7 mination along with the remittance advice and payment for the
8 services provided.

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

14 (e) (e) As used in this section: (1) "Health care provider" means a
15 person licensed to practice any branch of the healing arts by the state
16 board of healing arts or the behavioral sciences regulatory board, a person
17 who holds a temporary permit to practice any branch of the healing arts
18 issued by the state board of healing arts, a person engaged in a postgrad-
19 uate training program approved by the state board of healing arts, a li-
20 censed physician assistant, a person licensed by the behavioral sci-
21 ences regulatory board, a medical care facility licensed by the
22 department of health and environment, a podiatrist licensed by the state
23 board of healing arts, an optometrist licensed by the board of examiners
24 in optometry, a pharmacist licensed by the state board of pharmacy, a
25 registered nurse, and advanced nurse practitioner, a licensed professional
26 nurse who is authorized to practice as a registered nurse anesthetist, a
27 licensed practical nurse, a licensed physical therapist, a professional cor-
28 poration organized pursuant to the professional corporation law of Kansas
29 by persons who are authorized by such law to form such a corporation
30 and who are health care providers as defined by this subsection, a Kansas
31 limited liability company organized for the purpose of rendering profes-
32 sional services by its members who are health care providers as defined
33 by this subsection and who are legally authorized to render the profes-
34 sional services for which the limited liability company is organized, a part-
35 nership of persons who are health care providers under this subsection,
36 a Kansas not-for-profit corporation organized for the purpose of render-
37 ing professional services by persons who are health care providers as de-
38 fined by this subsection, a dentist certified by the state board of healing
39 arts to administer anesthetics under K.S.A. 65-2890, and amendments
40 thereto, a psychiatric hospital licensed under K.S.A. 75-3307b, and
41 amendments thereto, a licensed social worker or a mental health center
42 or mental health clinic licensed by the secretary of social and rehabilita-
43 tion services and any health care provider licensed by the appropriate

including county law enforcement agencies and
departments established pursuant to K.S.A. 19-4401 et seq.,
Kansas department of corrections, juvenile justice
authority,

including county law enforcement agencies and
departments established pursuant to K.S.A. 19-4401 et seq.,
Kansas department of corrections, juvenile justice
authority,

13-5

13-5

1 regulatory body in another state that has a current approved provider
2 agreement with the Kansas health policy authority.

3 (2) "Medicaid rate" means the terms, conditions and amounts
4 a health care provider would be paid for health care services ren-
5 dered pursuant to a contract or provider agreement with the Kan-
6 sas health policy authority.

7 Sec. 2. (a) A law enforcement officer having custody of a person ar-
8 rested ~~without a warrant~~ shall not release such person from custody
9 merely to avoid the cost of necessary medical treatment while the person
10 is receiving treatment from a health care provider unless the health care
11 provider consents to such release, or unless the release is ordered by a
12 court of competent jurisdiction. When the law enforcement officer is
13 satisfied that probable cause no longer exists to believe the suspect com-
14 mitted a crime based upon the ongoing investigation, or the prosecuting
15 attorney gives notice that no prosecution will be forthcoming at this time,
16 the law enforcement officer may release such person from custody. Upon
17 the date of notification to the health care provider that the person is being
18 released from custody because the ongoing investigation indicates that
19 probable cause no longer exists or a decision by the prosecuting attorney
20 that no charges will be filed, the ~~arresting~~ law enforcement agency shall
21 no longer be responsible for the cost of such person's medical treatment.

22 (b) As used in this section:

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

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

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

13-6

13-6

KANSAS

KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

March 10, 2006

William W. Sneed
Attorney at Law
555 Kansas Avenue, Suite 301
Topeka, Kansas 66603-3443

Dear Mr. Sneed:


On Wednesday, March 9, 2006 during a hearing before the Senate Judiciary Committee on HB 2893 you stated to the committee that the Department of Corrections had never informed KU Hospital of any concerns regarding access to services or cost of services nor had we ever bothered to meet with officials of the hospital. As I stated to you after the hearing, that is incorrect. I advised you that I had personally attended one of those meetings. You requested names of those who participated in order to verify the veracity of my statement to you.

Attending on behalf of the Department of Corrections were Viola Riggan, Larry Perry, M.D., Roger Haden, Dr. Robert Day and myself. Attending on behalf of KU hospital were Scott Helt, Shelley Gebar, Jill Ebbers, Allen Bishoff, Patricia Saunders-Hall, and Joshua Freeman, M.D. Meetings have occurred in person or by phone on the following dates:

10-03 to 03-04	Multiple phone calls and phone conferences to KU to discuss issues regarding patient care, appropriate fee charges, and access to hospital services Viola Riggan, Roger Haden
04-15-04	On site meeting with large group at KU Hospital Conference Room, Roger Werholtz, Bob Day, and others as listed above.
04-13-04	Follow up meeting to work with physician groups and inpatient services, Viola Riggan, Joshua Freeman, M.D., and Belinda Vail, M.D.
07-28-04	Telephone and email communication Roger Haden, Viola Riggan, Jill Ebbers, Scott Helt
10-8-04	Telephone call and email communication Jill Ebbers, Viola Riggan
11-16-04	Telephone call and email communication, Jill Ebbers, Viola Riggan
12-3-04	Telephone call and email communication, Jill Ebbers, Viola Riggan
02-05-05	Telephone conference call at KU Hosp with onsite Hospitalist at KU, Dr. Josie Norris, Bonnie Schmidt, and Viola Riggan
08-16-05	Telephone and email communication Kathy Kolwick CCS on behalf of KDOC and Jill Ebbers

I trust this responds to your request and that you will correct the record with the committee.

Sincerely,


Roger Werholtz
Secretary of Corrections

Cc: Senate Judiciary Committee



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR
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WWW.KSAG.ORG

March 7, 2006

SENATE JUDICIARY COMMITTEE
Testimony of Kevin A. Graham
in support of
House Bill No. 2893

Dear Chairman Vratil and Members of the Senate Judiciary Committee:

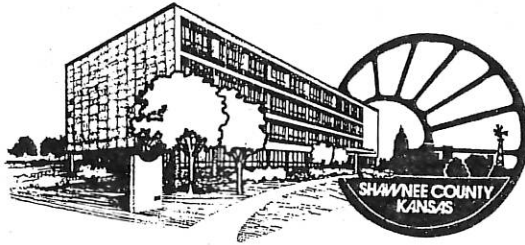
I am pleased to submit this written testimony on behalf of Kansas Attorney General Phill Kline in support of HB 2893, a bill designed to assist law enforcement and local governmental agencies across the State of Kansas by establishing reasonable and fair payment rates for medical services provided to offenders who are in custody. HB 2893 was originally requested by the Kansas Sheriff's Association and has been endorsed by all of the members of Attorney General Kline's Task Force on Crime and Sentencing.

Numerous county sheriff's and municipalities have offered accounts of cases where inmates in custody have required medical care and the bills for that medical care have created significant financial burdens for the sheriff's office or local governmental body. In a number of these cases the sheriffs/units of government have been billed at the "full price" rate for the medical services provided and not at a reduced Medicaid approved rate. It is estimated that local units of government stand to save substantial amounts of money over time if medical care for inmates in their custody is billed at the Medicaid rate. In simple terms, HB 2893 requires that a health care provider who provides medical care to an offender who is in custody may only bill the governmental entity holding the offender at no more than the Medicaid rate for the services provided. However, the bill would not prohibit a unit of government from entering into a contract with a medical provider for other rates. The result of passage of this bill is anticipated to be financial savings for local units of government (as well as the Kansas Highway Patrol) while still assuring that inmates in Kansas facilities will reserve the medical care they require.

On behalf of Attorney General Kline, I encourage the committee to support HB 2893 and recommend this bill favorably for passage.

Respectfully,
OFFICE OF THE ATTORNEY GENERAL
PHILL KLINE

Kevin A. Graham
Assistant Attorney General
Director of Legislative Affairs



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: March 8, 2006

TO: Honorable Members
Senate 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 submitting written testimony **in support** of House Bill No. 2893 as amended by the House Committee on Judiciary. This bill will require medical, dental, and mental health providers 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. A segment of the March 5, 2006 "60 Minutes" television show highlighted this problem.** The amounts charged 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

Senate Judiciary

3-8-06

Attachment 16

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 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.**

It should also be noted that through the Hospitalization Breakthrough Team previously mentioned, the Kansas Department of Corrections (KDOC) has worked with its contract medical provider to offer the processing of medical claims at a very reasonable cost to the counties. The KDOC's medical provider, Correct Care Solutions, will process medical claims for the counties, ensuring that the county is paying the Medicaid rate for services as well as ensuring that the county is not paying for duplicate or inappropriate services. With this process, the state's Medicaid Office will not need to be involved other than to provide updated Medicaid rates to Correct Care Solutions.

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

16-3

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%

16-3



KANSAS
ASSOCIATION OF
COUNTIES

WRITTEN TESTIMONY
concerning House Bill No. 2893
re. Health Care Costs for Jail Inmates
Senate Judiciary Committee
Submitted by Randall Allen, Executive Director
Kansas Association of Counties
March 8, 2006

Chairman Vratil and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I appreciate the opportunity to submit written testimony *in support of* HB 2893, concerning health care costs for jail inmates.

Over the past several years, operational costs for county jails have consumed a steadily increasing share of counties' general fund budgets. The average daily population in many of our county jails throughout Kansas has grown significantly. With the large increase in jail population, costs associated thereto have increased accordingly. In the past year, the Kansas Association of Counties working with The Kansas Collaborative; county sheriffs and detention facility directors; county commissioners; the Kansas Department of Corrections, State Medicaid office, and the Health and Human Services cabinet of Governor Kathleen Sebelius, have cooperated together to reduce the cost of prescription drug costs for jail inmates and juvenile offenders. We have experienced significant success in this regard, by providing counties better data on drug prices under several different contracts which are available to counties and jail administrators.

More recently, the breakthrough work team of The Kansas Collaborative dealing with medical costs of jail inmates has concentrated its efforts on the costs billed counties for hospitalization (inpatient and outpatient) as well as the charges of service providers (hospitals, doctors, *et al*) for services rendered to jail inmates.

We want to stress that, under federal law, inmates' Medicare and/or Medicaid benefits are suspended (ceased) once they are booked into a county jail. While counties can bill private insurance carriers for medical services rendered while an inmate is in jail, the fact is that most inmates do not have private medical insurance. As such, the responsibility for paying for necessary medical services to jail inmates falls to counties, and counties' general fund budgets.

While counties are not overjoyed with this burden, we understand our statutory responsibility at present and will continue to provide medical services as necessary to jail inmates. What we do object to is paying rates for medical services in excess of what the federal government would pay if they were legally obligated to pick up these costs.

HB 2893 would impose a cap on what counties pay providers for medical services to jail inmates in an amount equal to what Medicaid would reimburse for the exact same services. We think this is fair – not just to counties and county taxpayers who pick up the tab for medical care costs of incarcerated

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Senate Judiciary
3-8-06
Attachment 17

persons – but also to health care service providers. As data included in other testimony offered by the Kansas Sheriffs Association, Kansas Jail Association, and Shawnee County verify, this will result in significant savings to counties and county general funds. This will make it financially easier for counties to offer services (e.g. mental health services) to jail inmates who need such services to hopefully avoid recidivism. It will also make it more feasible and practical for counties to make adjustments and improvements in other aspects of the judicial system, such as the daily rate paid for juror fees, which have not been adjusted for many years.

In summary, we ask the committee to recommend HB 2893 favorably for passage. We support the work of our sheriffs and jail administrators and their work to bring this proposal forward. We pledge to work with county commissioners in all counties to help ensure that payments made to providers are done so on a prompt and business-like basis. Thank you for considering our testimony.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

ALLEN COUNTY LAW ENFORCEMENT CENTER

March 6, 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

1 NORTH WASHINGTON • IOLA/KANSAS • 66749
PHONE: 620-365-1400 • FAX: 620-365-1455
TWILLIAMS101@ALLENCOUNTY.ORG

Senate Judiciary

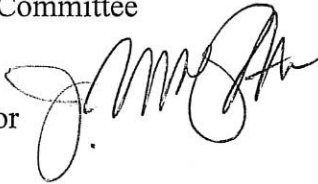
3-8-06
Attachment 18



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800.332.0156
fax 785.235.5114

www.KMSonline.org

To: Senate Judiciary Committee

From: Jerry Slaughter
Executive Director 

Date: March 8, 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 limits the amounts that certain law enforcement agencies are obligated to pay health care providers for services rendered to individuals in custody. Under the bill as it was amended by the House, that limit would be the applicable Medicaid rate. As you consider this legislation, we would also direct your attention to SB 565, which is currently pending in the Ways and Means Committee. SB 565 amends two existing statutes which deal with the same topic: K.S.A. 19-1910 and K.S.A. 19-4444. The intent of that bill is essentially identical to HB 2893, and if you decide to work this bill you may want to make sure that these provisions are not inconsistent with any Senate action on SB 565.

Our principal concerns with the bill were addressed by the House Judiciary Committee. The first related to the language in Section 1 of the bill, which may be unintended, but appeared 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. The House committee adopted the amendment we offered to clarify that nothing in this act shall be construed to create a new legal duty on the part of a health care provider (page 2, lines 9-13).

Our other amendments clarified language in Section 1 that seemed 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 the original language would be that non-Medicaid contracting providers would be paid on

Senate Judiciary

3-8-06

Attachment 19

one basis, while Medicaid contracting providers would be paid on another. The amendments that now appear in Section 1 (a) address that point. The House Committee also adopted our suggested definition of "Medicaid rate," which appears on page 3, lines 3-6 of the bill. The other amendment adopted by the House committee appears on page 1, lines 39-43, and it 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.

We understand the challenges faced by county commissions in having to provide all necessary medical care to persons in their custody. It is very difficult to budget for such expenditures when the county doesn't have any way to know who will be in their jails from one year to the next, and what their medical needs will be. The available information seems to confirm that the number of individuals in the custody of the law enforcement agencies covered in the bill is relatively small statewide, so we do not oppose its provisions. If the bill was expanded to cover other populations, we would have concerns. As the scope of the bill is expanded to potentially cover more individuals, we would urge you to consider setting the reimbursement standard higher than Medicaid rates, possibly to rates comparable to that paid health care providers under programs that cover state and county employees, for example. Another approach that might be fair to all involved would be to set the standard at the "*Medicaid rate, plus 30%*," or some other reasonable level. Thank you for considering our comments.