

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 15, 2007 in Room 313-S of the Capitol.

All members were present except:
Jason Watkins- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Athena Andaya, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Duston Slinkard, Office of Revisor of Statutes
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:
Attorney General Paul Morrison
Representative Joe Patton
Sandy Jacquot, League of Kansas Municipalities
Ed Klumpp, Kansas Association of Chiefs of Police
Captain Glenn Kurtz, Sedgwick County Sheriff's Department
Dale Goter, City of Wichita
Chief Judge Michael Corrigan, 18th Judicial District, Wichita
Judge Charles Andrews, 3rd Judicial District, Shawnee County

The hearing on **HB 2318 - allowing crime scene cleanup as a compensable expense for victims**, was opened.

Attorney General Paul Morrison appeared before the committee as the sponsor of the proposed bill. He explained that the proposed bill would expand the definition of "allowance expense" to include an allowance of up to \$1000 for crime scene cleanup. Reimbursement of the costs of crime scene cleanup greatly relieves the amount of stress that is felt by the victim or their family. ([Attachment 1](#))

The hearing on **HB 2318** was closed.

The hearing on **HB 2301 - mandatory days in jail for second or subsequent theft or burglary convictions**, was opened.

Representative Joe Patton appeared before the committee as the sponsor of the proposed bill. He commented that it would not change the severity level of second or subsequent theft or burglary but would require the courts to order the time to be spent in jail. ([Attachment 2](#))

Sandy Jacquot, League of Kansas Municipalities, appeared in opposition to the bill because it would have huge fiscal impacts on municipalities. Most cities have agreements with their county to house city prisoners in the county jail for a fee. However, if this bill passes, there would be more city prisoners serving time in the county jail therefore costing city's more money. ([Attachment 3](#))

Ed Klumpp, Kansas Association of Chiefs of Police, opposed the bill because of the costs to the cities. He agreed that theft and burglary are big problems but there needs to be another solution. ([Attachment 4](#))

Captain Glenn Kurtz, Sedgwick County Sheriff's Department, commented that bed space is a major concern because most jails are currently full and/or overcrowded. ([Attachment 5](#))

The hearing on **HB 2301** was closed.

The hearing on **HB 2393 - municipal courts; fines; restitution costs; collection agents; judgements enforcement in district court**, was opened.

Dale Goter, City of Wichita, appeared as a proponent to the bill. He stated that there is a similar bill **SB 322**,

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 15, 2007 in Room 313-S of the Capitol.

which the City would prefer because it is written better. He commented on the injustice of allowing criminal court fines to go unpaid. The City of Wichita does, and will continue, to work with individuals with regard to payment plans but most are irresponsible and don't pay them. The proposed bill would require defendants to pay the entire fine plus collection costs. (Attachment 6)

Sandy Jacquot, League of Kansas Municipalities, expressed her support of the proposed bill. The collection of unpaid fines is an ongoing problem. This bill would shift the burden to pay the fines and cost of collection on the defendant instead of the city. (Attachment 7)

Written testimony in support of the bill was provided by Robert Stephen and the DUI Victim Center of Kansas. (Attachments 8 & 9)

Chief Judge Michael Corrigan, 18th Judicial District, Wichita , appeared in opposition to the bill because it would result in the filing of thousands of unpaid judgement cases and would cause extra work for the court without receiving any additional funding for handling these cases. He suggested the Legislature give authority to municipal courts to collect their own fines and collection fees. (Attachment 10)

Judge Charles Andrews, 3rd Judicial District, Shawnee County, agreed that all fines assessed by the court should be paid in full but was concerned with the demand that would be place on the district court and its staff. (Attachment 11)

The hearing on **HB 2393** was closed.

HB 2318 - allowing crime scene cleanup as a compensable expense for victims

Representative Owens made the motion to report HB 2318 favorably for passage. Representative Wolf seconded the motion. The motion carried.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for February 19, 2007.



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

PAUL J. MORRISON
ATTORNEY GENERAL

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House Judiciary Committee
House Bill 2318
Attorney General Paul Morrison
February 15, 2007

Chairman O'Neal and Members of the Committee:

Thank you for the opportunity to address the committee today and express my support of House Bill 2318. House Bill 2318 expands the definition of "allowance expense" in K.S.A. 74-7301(a) to include an allowance up to \$1000 for crime scene cleanup. This bill also provides a definition of crime scene cleanup as "the removal of blood, stains, odors or other debris caused by the crime or the processing of the crime scene."

HB 2318 increases the benefits under the Crime Victims Compensation Board, a division of the Office of the Attorney General. The Crime Victims Compensation Board was established by the 1978 Legislature, as a payer of last resort, to assist victims of violent crime with out of pocket losses. Since its inception, the Board has granted more than fifty million dollars in awards, and has operated without the commitment of the state general fund since 1986.

Throughout my career as a prosecutor, I have attended countless numbers of crime scenes, including murder scenes, where the violence and brutality of the crime was illustrated by the amount of bloodshed and debris left behind. I believe that the burden of crime scene cleanup greatly contributes to the amount of stress that a crime naturally causes and I believe that my office, through passage of HB 2318, can help ease this burden for victims' families.

Thirty-three states presently provide compensation for crime scene cleanup. The fiscal impact has been very insignificant, and generally comprises about one-half of one percent of the total awards granted. If the experience in Kansas were to be similar, the annual commitment would be approximately \$1400.

This presents an excellent opportunity to enhance the award provisions of the Crime Victims Compensation Board Act without having to ask for additional funding. I ask for your support of House Bill 2318 to enable us to better assist the innocent victims of violent crime in the state of Kansas. Thank you for your consideration.

House Judiciary
Date 2-15-07
Attachment # 1

STATE OF KANSAS

JOE PATTON
REPRESENTATIVE, 54TH DISTRICT
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TOPEKA, KANSAS 66612



COMMITTEE ASSIGNMENTS
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TOPEKA
HOUSE OF
REPRESENTATIVES

February 15, 2007

HB 2301

Mr. Chairman and Members of the Committee:

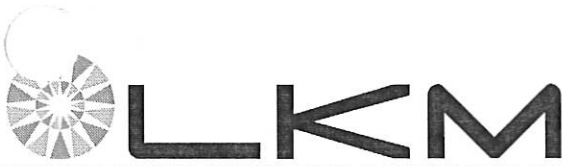
Thank you for the hearing on HB 2301. I am here in support of the bill. HB 2301 is intended to provide mandatory jail sentence for second or subsequent theft or burglary conviction using sentence modification rules.

Many constituents have indicated that property crime is a serious concern and needs to be addressed.

I would appreciate your consideration and favorable passage of HB 2301.

Joe Patton
Representative, 54th District

House Judiciary
Date 2-15-07
Attachment # 2



League of Kansas Municipalities

300 SW 8th Avenue
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Phone: (785) 354-9565
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TO: House Judiciary Committee
FROM: Sandy Jacquot, Director of Law/General Counsel
DATE: February 15, 2007
RE: Opposition to HB 2301

First, I would like to thank the Committee for allowing the League of Kansas Municipalities to testify in opposition to HB 2301, a bill that would mandate jail time for second and subsequent convictions of theft and burglary. While this bill is probably a “get tougher on crime” measure, the unintended consequence may likely be fewer convictions for theft and burglary.

Currently, over 300 cities have municipal courts and routinely prosecute violations of city ordinances. Public offenses prosecuted in municipal court equate to misdemeanors that are prosecuted in district courts. The penalties for most of the offenses adjudicated in municipal courts are fines or community service or both. Creating mandatory jail time puts cities in the quandary of whether to charge a crime as an ordinance violation or as a violation of state law. Most cities have agreements with their county to house city prisoners in the county jail for a fee. That fee can run from a modest amount to well over \$100 per day. Last year, the Legislature provided mandatory jail time of 90 days for third or subsequent convictions of driving while suspended, etc. and driving when a habitual violator. The cost to one of our larger cities if it continued to charge and convict as it had previously would have been about \$4.1 million. That city chose to repeal its ordinances for those crimes and charge all such violations as state law violations that must go to district court. Other cities have followed suit and repealed their ordinances on the same subject.

Assuming some municipalities will continue to charge mandatory jail time crimes as state law violations, district courts will see more filings and those misdemeanor cases often take a lower priority for prosecution than more serious crimes. The result, then, could actually be fewer convictions for theft and burglary. Without assistance to fund the mandatory jail time, however, cities will be in the position of having to send more criminal cases to the district court. Anytime the Legislature provides for mandatory jail time for convictions of misdemeanor offenses, there is a corresponding cost to cities to prosecute such offenses. LKM urges the committee not to report HB 2301 favorable for passage.

Thank you again for the opportunity to address the Committee on this very important policy issue and I will stand for questions at the appropriate time.

www.lkm.org

House Judiciary
Date 2-15-07
Attachment # 3

**TESTIMONY TO THE HOUSE JUDICIARY COMMITTEE
IN OPPOSITION TO HB 2301**

**Presented by Ed Klumpp
On behalf of the
Kansas Association of Chiefs of Police**

February 15, 2007

This testimony is in opposition to HB2301 which would mandate jail time in the county jails for persons convicted of theft or burglary, including certain felony convictions.

While we strongly support strengthening the sentencing for burglary and for theft, this bill is not the right path to take to accomplish that goal. We base that on the following:

1. Mandating jail time in county facilities puts a strain on already crowded county jails.
2. Mandating local jail time adds more difficulty to the process of local jails, judges, and prosecutors working together to assure local jails do not become in violation of overcrowding rules.
3. Persons who are on their second or subsequent conviction for these crimes needs to be in a rehabilitative environment. Local jails simply aren't able to provide effective assessment and treatment of underlying causes of criminal behavior such as mental health issues and drug/alcohol addiction. The sentencing at the local level simply is not for long enough periods to be conducive to treatment and rehabilitation. And, yes, we recognize that the state DOC does not have adequate funding to meet all of the treatment needs they identify.
4. Offenders on their second, third, fourth or more conviction simply are not getting the message. We are doubtful a short jail term in the local jail will accomplish the needed behavioral change. The only thing likely to be gained is their inability to victimize more people during the short time they are in jail.

We know the reality of prison bed space. And we know the reality of effective sentencing in correctional facilities is not likely to happen for theft cases. In addition, this bill mandates local jail time not only for misdemeanor violations but also for repeat felony offenders. The mandating of local jail time is probably fraught with unintended consequences to be suffered by the local jurisdictions potentially resulting in even less prosecution of these cases.

One of the things we are hearing from prosecutors, especially in the more metropolitan areas, is they cannot handle the load of theft cases they are receiving. In fact, some want the cities to handle more of those cases and remove them from the district courts. This places an increased financial burden on the cities. As an example of what can happen, last year the legislature mandated sentences to local jails for persons convicted of third and subsequent offenses for driving while their driver's license is suspended. The cost of this to the cities was so high, some cities simply abolished their city ordinances for driving while suspended and let the District Court system deal with the violations. The end result was few of these cases being filed in some jurisdictions and in effect, there is no penalty for driving while suspended.

House Judiciary

Date 2-15-07

Attachment # 4

The burglary sentencing issue is the subject of other active bills such as SB97. We are supporting SB97 for enhancing burglary sentencing. It appears to be the only active bill that balances the sentencing need with bed space issues. It does not impact the local jail bed space problems. We have not seen a bill, nor do we have a proposal to suggest, for dealing with the repeat theft offender given the current bed space concerns at both the local and state levels.

We oppose this bill and we encourage you to not vote favorably to this bill.



Ed Klumpp
Chief of Police-Retired
Topeka Police Department

Legislative Committee Chair
Kansas Association of Chiefs of Police

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SEDGWICK COUNTY, KANSAS

SHERIFF'S OFFICE
GARY STEED
Sheriff

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TESTIMONY Before the House Judiciary Committee February 15, 2007

Honorable Chairman Michael O'Neal and members of the committee, I appreciate the opportunity to testify concerning the mandatory sentences for those persons convicted of theft and burglary as proposed in House Bill 2301.

The Sedgwick County Sheriff's Office operates one of the largest detention facilities in the state with over 1500 inmates in custody everyday. Last year we booked more than 35,000 persons on charges for the State of Kansas and the various municipalities of Sedgwick County. Our main concerns with this proposed legislation is it will seriously impact our already strained jail resources and bed space that doesn't exist. Jail overcrowding has been an issue in Sedgwick County for many years and we currently have more than two hundred inmates housed in other facilities across the state.

The proposed changes in House Bill 2301 will greatly increase the number of days convicted persons must spend in the custody of the sheriffs across the state, further straining an overcrowded jail system. Sedgwick County operates a Pre-trial Release program for offenders that are presumptive probation. A carefully screened group of inmates are released by the district court judges and monitored until the inmate goes to trial. This program reduces the number of inmates in custody, but because of this proposed legislation which requires mandatory imprisonment, they would be returned to jail for ten to sixty days before being released on probation for burglary and/or theft. While in the Pre-trial program the offender is required to be employed or to be actively seek employment, ten to sixty days in jail may result in the loss of employment or the opportunity for employment. This is counter-productive in that on one hand we require them to be employed, or to seek employment. But, then put their employment in jeopardy by requiring incarceration.

Sedgwick County understands that burglary and theft are a problem in every community. In just the first forty-five days of 2007, forty people have been charged with new burglary and/or theft cases in district court in Sedgwick County. What the committee must understand is that there are no beds in the jail system now and the mandatory sentences required under this proposed legislation will further burden the local jails.

House Judiciary
Date 2-15-07
Attachment # 5



Dale Goter
Government Relations Manager

TESTIMONY

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Kansas House Judiciary Committee

House Bill 2393 Municipal Court Collections

Feb. 15, 2007

If you drink, don't drive. That's common sense advice that speaks to a major social problem in our society.

But if you're caught and convicted in Wichita Municipal Court, there is another, less desirable "common sense" alternative for persons busted for drunk driving, drug offenses or domestic violence.

THEY SIMPLY DON'T HAVE TO PAY THE FINE.

This bizarre abuse of justice has been in place for more than a decade, and defies solution each and every year.

They may not be the cream of the crop in terms of socio-economic status, but the hundreds of defendants who pass through Wichita Municipal Court aren't stupid. When it becomes obvious that the city has no recourse to collect delinquent fines, their course of action becomes obvious: Just ignore the fine and go about your business without a hint of retribution.

The financial implications are significant for the City of Wichita, as well as for the State of Kansas and its various fees attached to municipal court judgments,

But the monetary concerns are secondary to a much greater consequence. A blatant disrespect for law in this dysfunctional pocket of jurisprudence should raise an alarm with every elected official.

We watch lawlessness play out each and every day in foreign theaters, and are thankful for the protections that our judicial system provides in an orderly and law abiding society.

But freedom and security are not an entitlement. If we don't actively work to preserve them, they can easily disappear.

Well-intended laws are meaningless without proper enforcement and functional penalties. It won't solve the whole problem, but the City of Wichita's recommendation to allow conversion of criminal judgments, such as a delinquent DUI fine, to civil judgments is a significant step in the right direction.

Convicted lawbreakers will have cause to think twice before thumbing their noses at a court-ordered judgment. The prospects of wage garnishment and credit implications should prompt a more enthusiastic response in the fulfillment of court-ordered obligations.

As it has in the past, the City of Wichita will continue to bend over backwards to help individuals comply with criminal judgments. Payment plans that are both fair and lenient are available, and only the most irresponsible defendants need fear these additional penalties.

House Judiciary

Date 2-15-07

Attachment # 6

HB2393: HOW IT WOULD WORK

If Municipal Court orders were given the same treatment that District Court orders have under current law, the Municipal Court order could automatically be converted to a civil judgment, giving Court officials more effective tools, such as garnishment, to collect those debts.

While the Municipal Court does not exist to produce revenue, there is a significant financial component to this problem. The Court has assessed \$22.3 million on adjudicated cases in the last three years (2004 – 2006). Of those assessments, only 44% or \$9.8 million was collected. Of the \$9.8 million in assessments collected, included was \$2.7 million in State mandated fees; Law Enforcement Training fund, Judges Training Fund and Driver's License Reinstatement Fees. A portion of the \$2.7 million collected for the State would not have been collected but through the efforts of the City of Wichita's collection agency, which costs the City a 19.5% collection fee.

Despite efforts to work out payment plans with defendants and despite the use of a collection agency, there is a remaining balance of \$12.5 million uncollected; potentially \$3 million in state mandated fees. Given cuts in state funding and pressure to not raise taxes, being able to collect more of the money we are already owed, is a significant solution.

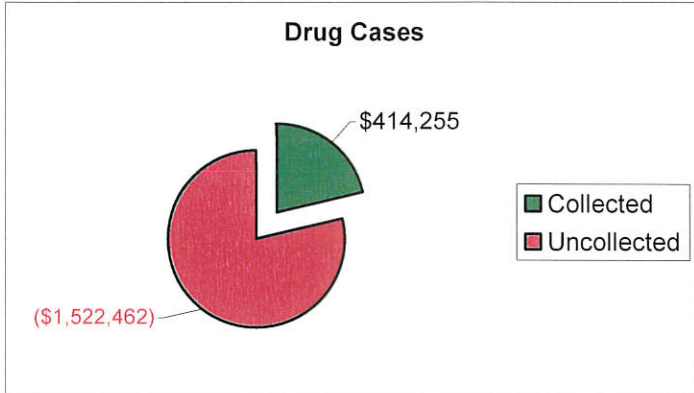
In the year 2006 alone, there were 1,000 cases with a minimum \$500 in fines, cost and fees owed where no effort has been made by these defendants to make payment. Ten percent (10%) of these defendants are known gang members. It is much simpler and less burdensome to enforce Municipal Court orders that are automatic civil judgments than it is to litigate each order to obtain a civil judgment.

From 2004 through 2006, Wichita Municipal Court sent approximately 51,000 cases to a collection agency for processing. These cases amounted to \$15.6-million in delinquent fines. The average collection rate is 22% or \$3.43-million. Under agreement with the collection agency, Municipal Court pays a fee of 19.5% of the money collected, which totaled approximately \$650,000.

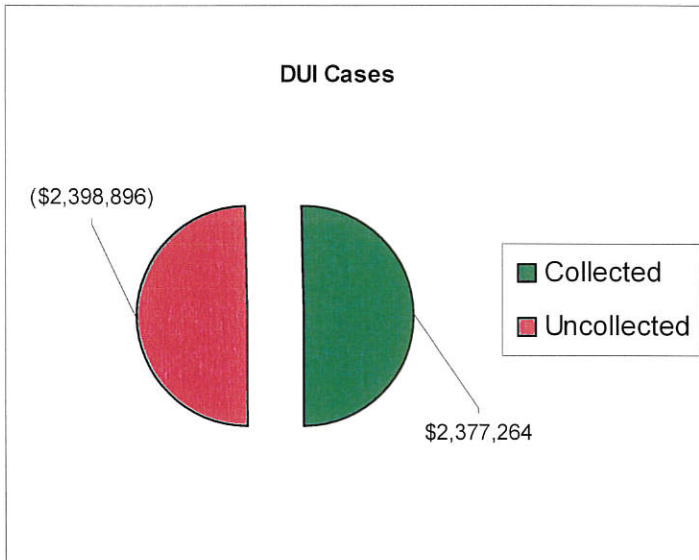
Under this proposed bill, the defendant who owes the delinquent fine would pay the full amount of the fine and, in addition, the fee which must be paid to the collection agency. In simple terms, here is how it would work. If the delinquent amount owed the court is \$100, the collection agency now keeps \$19.50 and sends \$80.50 to the court. Under this proposed bill, the delinquent defendant would pay \$119.50 and the full \$100 fine going to the court and the additional \$19.50 going to the collection agency as the cost of its fee. All this does is make the person who owes the delinquent debt pay the cost of having to collect it. Current state law allows Districts Courts to include collection fees as part of the total collection process, but the Municipal Court Procedure Act is silent on this issue. Municipal Courts should have the same authority to recoup the costs of collection as the District Courts.

The magnitude of this problem is probably surprising to many who think of Municipal Courts in a much more limited way. Many Municipal Courts are small or even part-time operations. Wichita Municipal Court however, has five appointed judges and 23 pro-tem judges. In any given year, the Court handles more than 124,000 cases including traffic infractions, driving under the influence, petty theft, prostitution, drug violations and domestic violence. Judges also hear cases dealing with Health, Fire, and Central Inspection violations. Wichita Municipal Court is the largest limited jurisdiction court in the state. If State and Local laws are to be respected,

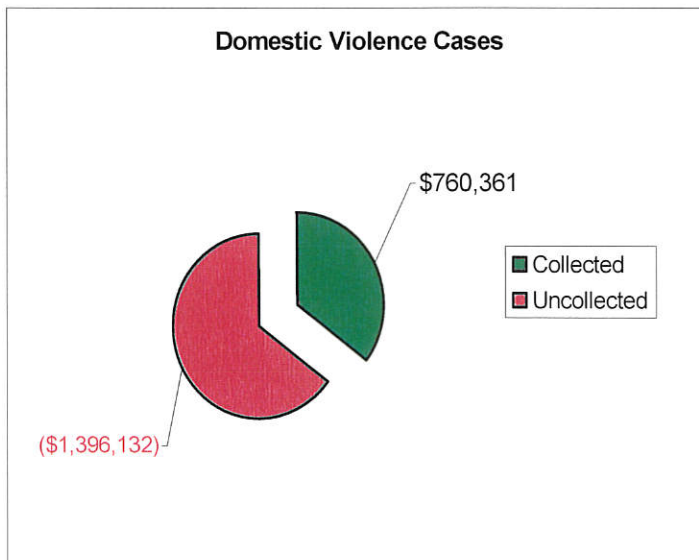
and if the Court system is to be viewed as fair and impartial in its administration of justice, there must be a more effective way to deal with people who flaunt the law and the rulings of the Court. This proposed bill does that.



Of the total \$22.3 million assessed, Wichita Municipal Court has assessed \$1.9 million on adjudicated drug cases in the last three years (2004 – 2006). Of those assessments, only 21%, or \$414,255, is collected. The remaining \$1.5 million remains uncollected.



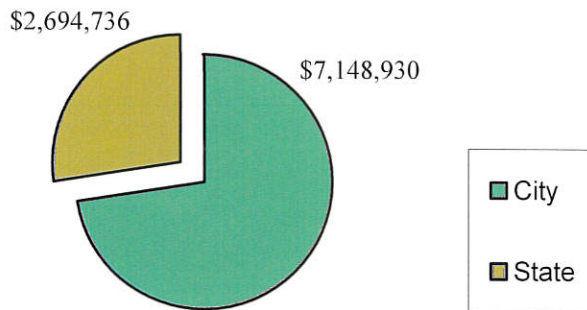
Of the total \$22.3 million assessed, Wichita Municipal Court has assessed \$4.77 million on adjudicated drive under the influence cases in the last three years (2004 – 2006). Of those assessments, 50%, or \$2,377,264, is collected. The remaining \$2.39 million remains uncollected.



Of the \$22.3 million assessed, Wichita Municipal Court has assessed \$2.15 million on adjudicated Domestic Violence cases in the last three years (2004 – 2006). Of those assessments, 35%, or \$760,360, is collected. The remaining \$1.39 million remains uncollected.



Wichita Municipal Court has assessed \$22.3 million on adjudicated cases in the last three years (2004-2006). Of those assessments, only 44%, or \$9.8 million, is collected. The remaining \$12.5 million is uncollected; potentially \$3 million in state mandated fees.



Of the \$9.8 million in assessments collected, nearly \$2.7 million was collected for the State, for State mandated court costs on municipal cases. In addition, one of the few additional collection techniques the City has available is use of a collections agency, which charges 19.5%. Hence, the City of Wichita spent \$512,000 on collections fees in order to collect \$2.7 million in revenue for the State.

Sedgwick County District Court (18th Judicial district) has a caseload of around 20,000 limited civil judgment cases annually. This figure has steadily decreased from 26,000 in 2001. Increased collections efforts by the city add an estimated 1,000 cases to District Court, or approximately 5%. However, District Court would still have a case load substantially lower than the level experienced five years ago.

Municipal Court needs additional collections tools to:

- Enhance the collections rates beyond the current compliance of 44%, which would also increase revenue to the State.
- Provide a means to assess the costs of collection to the defendant, which costs the City 19.5% of assessments collected.



Issue Update

Dale Goter, Government Relations Director
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Wichita Phone: 316.268.4351
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House Bill 2393 Delinquent Municipal Court Fines February 15, 2007

The answers to likely questions on this legislation are detailed here.

- **What type of civil judgment is being sought? Could the City attach liens on property?**

The current state statute (K.S.A. 75-719) is silent on this issue. The City suggests that language be included to clarify that this would be a Chapter 61 judgment. This is in line with the typical practice for other debt collection actions. A Chapter 61 action does not create a lien on real estate or any other property. The defendant would additionally have a right to assert most defenses and request a trial for that purpose by contesting the propriety of a garnishment or attachment.

- **What time period would Wichita Municipal Court use before going to collection?**

The current statute for districts courts is silent on this issue as well. The City proposes civil judgment conversion and collection of debts owed to the court take place 45 days after sentence is pronounced. This will give the defendant ample opportunity to satisfy the judgment before civil collection is undertaken, or make payment arrangements with the court. The City would attempt to resolve the debts owed to the court by any defendant through the least intrusive and coercive methods possible. However, should any defendant choose not to honor his or her obligations to the court, conversion to a civil judgment and collection as allowed for Chapter 61 judgments would be available any time beyond the 45 day waiting period. This process is more defendant-friendly than the practice used in districts that currently make use of the authority granted at K.S.A. 75-719.

- **How will record of payment to the collection agency be coordinated with the court and police to prevent someone who has already paid from being arrested?**

The potential for such an arrest would be eliminated if, as suggested above, there is complete separation between criminal enforcement and subsequent civil collection process. Once the criminal case is complete, with or without payment of the debts owed to the court and the restitution ordered, the defendant is no longer subject to arrest. Any suspension for moving violations, once issued by the State, must be reinstated by the State. Driving prior to receipt of the reinstatement notice from the State is unlawful.

- **Is suspension of a driver's license and taking a delinquent debt to collection a double penalty?**

This question mixes the concept of enforcement of the court's procedural requirements with enforcement of the court's final order entered after conviction for driving offenses. A defendant's driver's license is suspended by the Kansas Department of Revenue at the request of any municipal or district court only for individuals who do not respond to the court dates set on the original ticket or

subsequent intermediary order of the court. Once the dilatory person responds to the court, completes the court process and pays a \$50 reinstatement fee TO THE STATE, the driver's license is re-instated, whether the case is disposed of by a dismissal, an acquittal, or a finding of guilt. This suspension has nothing to do with guilt or innocence, but rather with recognition of and adherence to the authority of the Court. It is not a double penalty, as it is assessed only against those few persons who flaunt the authority of the Court. The suspension, and its attendant reinstatement fee, is a penalty for disobeying the rules of the court, while the separate imposition of debts owed to the court AFTER CONVICTION is the penalty for disobeying the rules of the road or the commission of other crimes. If a driver's license is suspended after conviction, it is because the legislative body has determined that such a suspension is an appropriate punishment for the offense, and is properly imposed for the safety of the motoring public.

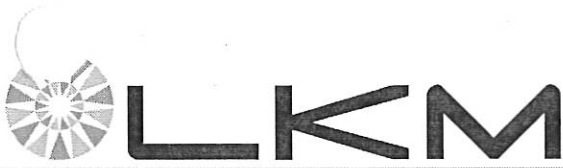
▪ **Which District Courts use this authority and what are their procedures?**

Douglas and Geary County (including Dickinson, Morris and Marian) use their court trustee's offices. Douglas County attempts a voluntary payment plan, and then if unsuccessful, does a wage garnishment or wage assignment to satisfy the judgment. Sedgwick County and Wyandotte County pursue collection in conjunction with probation supervision and a collection agency. In Harvey County, the case is not turned over for collection until the completion of probation. Apparently, other district courts have had trouble finding law firms interested in bidding for the collection work, and the statute was amended to allow the District Court Trustee to handle the collections. The Attorney General has approved a 33% collection fee, figured on the entire unpaid balance subject to collection, as an add-on to be collected by the court. The fee ranges from 25 to 33%.

▪ **What percentage of people found guilty in Wichita Municipal Court actually go delinquent?**

This statistic is variable, depending on how "delinquent" is defined. In the recent past, the City of Wichita has employed a definition that has become more restrictive over time. Currently, Wichita Municipal Court accounts are sent to a collection agency when they are inactive for 45 days. This means no payment of any kind, despite payment agreements to the contrary. The delinquency rate under these terms stands at monthly rates ranging between 40% and 60% over the last three years.

Thank you for your careful consideration of this issue. I hope this addresses your questions and concerns of the committee. Please feel free to contact me if you have additional questions or need more information.



League of Kansas Municipalities

TO: House Judiciary Committee
FROM: Sandy Jacquot, Director of Law/General Counsel
DATE: February 15, 2007
RE: HB 2393

I want to thank you on behalf of the League of Kansas Municipalities for the opportunity to testify in favor of HB 2393. This bill would convert delinquent municipal court fines to civil judgments and assess the cost of collection to the defendant when the court contracts with a collection agency. In addition, the bill would allow the victim to which restitution had been ordered to use the contracting collection agency to attempt to collect any unpaid restitution.

For some of our larger municipal courts, collection of delinquent fines and court costs is an ongoing concern. Contracting with a collection agency is often the most efficient means of collecting fines and court costs, but the end result is that the city bears the cost of collection. This bill would shift the burden to the defendant who has chosen not to pay the fine rather than the taxpayers of the city at large.

There has been some opposition to this bill in the past, because of various views held about the function of municipal courts. The simple fact is that these fines are due and owing to the municipality, they have been lawfully imposed and this bill will aid cities in the collection of such fines. The League supports HB 2393 and urges the committee to report the bill favorably for passage.

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February 15, 2007

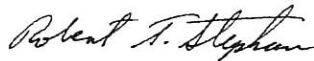
Re: HB 2393

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

As a former Judge of the District Court in Wichita, as former Kansas Attorney General, and now as Chair of the Governor's Domestic Violence Fatality Review Board, I have always been concerned about the crime of domestic violence. Those that commit this crime should be subject to appropriate civil and criminal penalties.

I am informed that of the fines imposed against perpetrators of domestic violence in Wichita's Municipal Court less than 40% are collected. Such a record makes a mockery of the justice system as it applies to those guilty of domestic violence.

HB 2393 will increase the collection of fines against a guilty party. I am pleased to be in support of HB 2393.



Robert T. Stephan

House Judiciary
Date 2-15-07
Attachment # 8



February 14, 2007

Mike O'Neal, Chairman
House Judiciary Committee
State House
Topeka, KS 66612

Mary Ann Khoury
President/CEO

Board of Directors

David Singleton
Chairperson

Gary Nye
Vice Chairperson

Tim Scanlan
Secretary/Treasurer

Mary Ann Khoury
Ex Officio

Keith Bomholt
Sue Dondlinger
Dawson Grimsley
Renee Hanrahan

RE: HB2393

Dear Chairman O'Neal and Members of the House Judiciary Committee,

I am writing in support of the above referenced House Bill that will be heard at 3:30 p.m. on Thursday, February 15. As a grassroots organization, the DUI Victim Center of Kansas has served victims of DUI and impaired drivers throughout the state for nearly 20 years. The staff assists these victim clients at the rate of more than 500 each year. It is apparent that the only way to reduce the number of victims is to reduce the number of offenders. When there is not an effective consequence there is never change.

One of the goals of the DUI Victim Center of Kansas is to educate and inform offenders about the consequences of drinking and driving, reducing the amount of repeat offenders. To that end, we are supportive of HB2393 and its potential for collecting all fines and restitution payments as ordered by the courts against DUI offenders. These financial consequences (Court ordered fines and victim restitution) are intended to have a deterrent effect on criminal behavior such as DUI, and the current system allows that deterrence to be ignored.

We encourage your support of this bill to assist the victims of DUI offenders in our state.

Thank you for your time in consideration of this request and for this very important bill.

Best Regards,
DUI Victim Center of Kansas, Inc.

Mary Ann Khoury
Mary Ann Khoury,
Founder/President/CEO

355 N. Waco, Suite 220
Wichita, KS 67202
(316) 262-1673
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1-800-873-6957 Helpline
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"Where Caring Brings Remem

House Judiciary

Date 2-15-07

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Michael Corrigan
JUDGE
Division 10



(316) 660-5610
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DISTRICT COURT
EIGHTEENTH JUDICIAL DISTRICT
SEDGWICK COUNTY COURTHOUSE
525 N. MAIN - 11TH FLOOR
WICHITA, KANSAS
67203

February 15, 2007

COMMITTEE ON JUDICIARY

RE: H.B. 2393

Comments by Michael Corrigan, Chief Judge of the District Court in Wichita

The City of Wichita seeks Legislation in this bill which would authorize Municipal Courts to use the State District Courts to collect unpaid municipal court costs, fees, fines and other "debts". This could result in the filing of thousands of these Municipal Court unpaid "judgments" in the District Court in Wichita.

It is important to note that state law exempts cities from paying court costs or paying docket fees in any District Court civil action in which a city is involved. Therefore, the entire cost of handling these countless Municipal Court judgments filed in the District Court would be placed upon the District Court.

Since the city would pay no court costs, there would be no incentive to limit these filings to cases in which there is a reasonable probability of success.

Of course, the filing of these Municipal Court judgments would just be the start of the demands made upon District Court services. Some of those services are:

(1) garnishment proceedings, (2) executions on property (3) Bench Warrant hearings (4) Contempt hearings (5) Debtor hearings and (6) Continuance hearings. All of the above could require service of process documents handled by District Court Clerks.

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These proceedings would require extensive use of District Court clerks, judges and equipment in a District Court that is already stretched to the limit.

My proposal is to enact Law giving the Municipal Courts the authority to collect their own judgments.

Attached is a copy of District Court clerical services that would be used to process these Municipal Court "judgments".

Thank you

Civil Department Clerical Procedures To Process And Collect On Chapter 61 Cases

Chapter 61 New Case:

- Pleading come in and are filed stamped by clerk.
- Clerk assigns case number and stamps Journal Entry and Coversheet.
- Data is entered on computer.
- Documents are coded, sorted and prepared for scanning.
- Documents are sent to the Records department for scanning.
- Once scanning process is complete by the records department, the civil dept. clerk transfers the information into FullCourt. This is done by the clerks accessing electronic image folders containing the imaged documents and identifying (IDM) numbers. They do the data entry to add IDM numbers to FullCourt from Imaging and mark the electronic document complete.

Order to Appear in Aid of Execution/Citations for Contempt:

- Documents are brought to clerk for processing.
- If Judge's signature has not been obtained, the document is placed in a different spot to be sent to assignment court for signature. A clerk from assignment court comes to the office daily to pick up and or drop off papers.
- All the documents are filed stamped.
- Documents are sorted accorded to document type (Order In Aid or Citation for Contempt) as well as type of service. (Personal, Special Process Server or First Class Mail.)
- Original copies of the documents are stamped and prepared for scanning.
- Additional documents, or service copies are stamped and prepared to be served.
- Any additional filed stamped copies are placed in attorney's boxes or mailed to attorneys.
- Documents are sent to the Records department for scanning.
- Once scanning is complete the civil dept. clerk transfer the information in to Fullcourt. This is done by the clerks accessing electronic image folders containing the imaged documents and identifying (IDM) numbers. The civil clerk does the data entry to add IDM numbers to Fullcourt from Imaging and mark the electronic document complete.

Bench Warrant:

- Documents are brought to clerk for processing.
- If Judge's signature has not been obtained document is sent for signature. The document is placed in a designated spot to be sent to assignment court for signature. A clerk from assignment court comes to the office daily to pick up and or drop off papers.

- Documents are file stamped & sorted .
- Information sheets are confidential and are sorted and kept separately. This document type goes through the same scanning procedures; however, they are not filed in the case file.
- Data is entered on computer.
- Documents are coded, sorted and prepared for scanning.
- Documents are sent to the Records department for scanning.
- Once scanning is complete the civil dept. clerk transfer the information in to Fullcourt. This is done by the clerks accessing electronic image folders containing the imaged documents and identifying (IDM) numbers. The civil clerk does the data entry to add IDM numbers to Fullcourt from Imaging and mark the electronic document complete.

Garnishment/Executions:

Wage garnishments:

All initial wage garnishment are filed with the clerks office. The request for garnishment and the garnishment. Wage garnishments are continuing garnishments.

- All documents are filed stamped.
- Documents are sorted according to document type (wage/non-wage/execution) and service type (Personal, Special Process Server or First Class Mail.)
- Documents are stamped with issue date and service copies are stapled for service.
- Original documents are coded and prepared to be sent to scanning.
- Once scanning is complete by the records department the civil dept. clerk transfers the information into Full Court. This is done by the clerks accessing an electronic image folders containing the imaged documents and identifying numbers. They add IDM numbers to Full Court from Imaging and mark the electronic document complete.
- The garnishment answer (for a wage garnishment) is filed with the attorneys office, the payments are sent directly to the attorneys office.
- However, once the judgment has been satisfied; the attorney files a full release or a satisfaction of judgment with the clerks office.

Non-wage garnishments:

All non-wage garnishments are filed with the clerks office and all processes for a nonwage garnishment still go through the clerks office.

- All documents are filed stamped.
- Documents are sorted according to document type (wage/non-wage/execution) and service type (Personal, SPS or First Class Mail.)
- Documents are stamped with issue date and service copies are stapled for service

- Garnishment Answer is filed with the clerks office on all non-wage garnishments, generally by mail.
- Garnishment answers are filed stamped, copied, coded and prepared for scanning.
- Copies of all answers are mailed to deft and pltf attorney by the clerks office.
- The Order to Pay is filed with the clerks office.
- If Judge's signature has not been obtained, the document is sent for signature. The document is placed in a designated spot to be sent to assignment court for signature. A clerk from assignment courts comes to the office daily to pick up and or drop off papers.
- All Documents are filed stamped .
- Document is coded and sorted and prepared for scanning.
- Once scanning is complete by the records department the civil dept. clerk transfers the information into FullCourt. This is done by the clerks accessing electronic image folders containing the imaged documents and identifying (IDM) numbers. The civil clerk does the data entry to add IDM numbers to FullCourt from Imaging and mark the electronic document complete.

Pay Out Process (for non-wage garnishments):

- Checks from the various garnishees are mailed into the Court.
- The clerk receipts each check.
- The clerks balances monies received and turns in a deposit each day.
- The department deposit is turned into the accounting department each day.
- The accounting department is responsible for the overall deposit.
- The accounting department prints court checks daily; once the checks have met the required hold days.
- Checks are mailed out daily to the various entities.

Satisfaction of Judgment;

- Document is filed stamped.
- Document is coded, sorted and prepared for scanning.
- Once scanning is complete by the records department the civil dept. clerk transfers the information into FullCourt. This is done by the clerks accessing electronic image folder containing the imaged documents and identifying (IDM) numbers. The civil clerks does the data entry to add IDM numbers to FullCourt from Imaging and mark the electronic document complete.
- File stamped copies are mailed to pltf atty when provided.

Scanning procedures in the Records Department

There are different libraries for the different departments of the Court, Civil, Probate, Family Law, Criminal, and Juvenile.

Each group of papers received by the records department is called a 'batch'. Several batches are received daily. The records department scans all the documents from each department except for Juvenile. The record clerks who are designated as 'scanners' scan the documents one batch at a time.

Each clerical office is responsible to prepare their documents for scanning before delivering them to the records dept. i.e.: making sure documents have been clocked in and initialed, staples removed; document separator sheets inserted between each document and a cover sheet.

Each batch of documents is received with a cover sheet placed on the top. The cover sheet indicates to the scanner: the department, the priority of the documents, the code assigned for the type of document and whether or not the documents are confidential. Red cover sheets are high priority--scanned within 24 hours. Blue cover sheets medium priority—scanned within 24-48 hours. White cover sheers have no or regular priority—scanned with 2-3 days.

Once logged into the correct library, the scanner names each batch, writes the name of the batch on a list, initials and writes the date the documents were scanned.

Once all the documents are scanned the images will be viewable and the pages listed in the scan window. The scanner checks each page by clicking on the page name and making sure the image matches the paper document, also the scanner is checking to see that the image is straight, readable and that the pages are not bent or folded, covering the case caption.

The indexer logs on to assemble and set the properties of the batches which consists of entering the data, by indexing the names and case numbers and setting the properties to confidential or non confidential in the imaging system.



KANSAS DISTRICT COURT

Chambers of
CHARLES R. ANDREWS, Jr.
District Judge

Shawnee County Courthouse
Division No. Nine
Topeka, Kansas 66603-3922
(785) 233-8200 Ext. 4357
Fax (785) 291-4917

Officers:
DOROTHY J. SEEL
Official Court Reporter
(785) 233-8200 Ext. 4421
TWYLA CUNNINGHAM
Administrative Assistant

Committee on Judiciary

RE: H.B. 2393

Honorable members of the Committee:

I have been a district court judge in Shawnee County for 16 years. I handled the Chapter 61 collection cases for over 5 years.

In Shawnee County, the average number of new Chapter 61 cases filed in the early 1990's was 15,000. Last year 23,686 Chapter 61 cases were filed in Shawnee County. The post-judgment pleadings exceeded 100,000.

A new filing means little in the grand scheme of things. Obtaining judgment by default is probably the norm for over 85% of the cases. It is the post-judgment activity when things heat up; i.e., become very intensive in terms of the amount of work for the clerks and judges. Post-judgment, of course, includes aids in execution, show cause and garnishment.

The point of demonstrating these numbers is to suggest that adding perhaps thousands of new cases to collect municipal court fines will add much more stress and strain on an overloaded system. With the ever increasing economic difficulties that our citizens face, along with the tremendous increase in creditors' attempt to collect what is rightfully theirs, Shawnee County feels that H.B. 2393 would only add to the frustration that exists.

We simply cannot handle a possible influx of thousands of new cases. We do, however, strongly support the idea that cities, like any other creditor, be given the tools to collect their money.

Please consider an alternate to the proposal found in H.B. 2393. One step would be to create a special court at the Municipal level to collect its own judgment. Give them the power to utilize the same process found in Chapter 61 to collect their

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money. Please do not shift that responsibility to the State Court.

I will be present at the February 15th committee meeting at 3:30 to answer any questions.

Very truly yours,



CHARLES E. ANDREWS, JR.
District Judge

CEA:tc