

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:37 A.M. on February 16, 2007, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department  
Bruce Kinzie, Office of Revisor of Statutes  
Nobuko Folmsbee, Office of Revisor of Statutes  
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Michael Sharma-Crawford, Attorney  
Melissa Wangeman, Legal Counsel, Secretary of State's Office  
Jerome Gorman, District Attorney, Wyandotte County  
Senator Peggy Palmer  
Ervin Grant, Attorney, El Dorado  
Jayme Collins, Assistant Director, Mental Health Center of East Central Kansas  
Shannon Spradlin

Others attending:

See attached list.

The Chairman opened the hearing on **SB 125--Illegal aliens, bail for certain crimes.**

Senator Journey testified in support, providing background on the intent of the bill (Attachment 1). The Senator indicated illegal aliens do not have their identity verified prior to entry into the United States, have limited financial resources, and often assume false identities which makes it difficult to establish prior convictions. These people present an unique flight risk and it is becoming a growing problem.

William Sharma-Crawford appeared in opposition, voicing concerns regarding as to who would make the determination of whether a person is in violation of federal immigration law (Attachment 2). Mr. Sharma-Crawford indicated often it takes years to determine an immigrant's status.

Written testimony in support of **SB 125** was submitted by:

Ed Klumpp Kansas Association of Chiefs of Police (Attachment 3)

There being no further conferees, the hearing on **SB 125** was closed.

The hearing on **SB 259--Secretary of state, corporations and partnerships** was opened.

Melissa Wangeman spoke in favor, stating **SB 259** is intended to create uniform standards among the different business entities with regard to resident agents and signature requirements (Attachment 4). Ms. Wangeman also requested an amendment to clarify that reinstatements are allowed for nonpayment of the annual report fee.

There being no further conferees, the hearing on **SB 259** was closed.

The Chairman opened the hearing on **SB 253--Public offices of district and county attorney and district court judge; ineligibility to hold offices based on criminal record.**

Jerome Gorman appeared as a proponent, indicating prosecutors and judges require the highest standards of qualifications and integrity and should be held to the same standard as sworn law enforcement officers (Attachment 5).

There being no further conferees, the hearing on **SB 253** was closed.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:37 A.M. on February 16, 2007, in Room 123-S of the Capitol.

The hearing on **SB 233--Aggravated incest; increasing penalties** was opened.

Representative Peggy Palmer testified in support of increasing penalties for the crime of incest to the same severity as those for rape (Attachment 6).

Ervin E. Grant appeared in support, indicating this bill would address a gap in penalties for sexual offenses regarding incest (Attachment 7). Mr. Grant provided information from several victims of incest demonstrating the devastating effect of such sexual assaults.

Jayne Collins spoke as a proponent, relating her experience with incest victims and provided background on the evolution of treatments and the State's response (Attachment 8).

Shannon Spradlin, proponent, provided the committee with her personal experience as a victim of incest (Attachment 9).

Written testimony in support of **SB 233** was submitted by:

Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence (Attachment 10)

There being no further conferees, the hearing on **SB 233** was closed.

The meeting adjourned at 10:33 A.M. The next scheduled meeting is February 19, 2007.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/16/07

NAME	REPRESENTING
Michelle Ponce	SRS
Shannon Spradlin	AREA
CHUCK SPRADLIN	"
MICHAEL FRITSCHEN	AREA
Paula Fritschen	AREA
Mary Jo Grant	AREA
Erwin E Grant	AREA <i>alliance to recognize and end abuse</i>
Jayme Collins	AREA
Whitney Damron	KS Bar Assn.
Helen Pedigo	KSC
Brenda Harmon	KSC
JIM CLARK	KBA
KARIE FIREBAUGH	Kearney & Associates
Nebissa Wagemann	Sec of State
Jesse Boyer	Sec. of State
Stephani Mickelsen	Sec of State
Jerome Gorman	Wyandotte County D. A.
Michael Stumm	self immigrant

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-16-07

NAME	REPRESENTING
Peggy Paesee	Senata - AREA
Richard Somunigo	KBAK

**SENATOR PHILLIP B. JOURNEY**

STATE SENATOR, 26TH DISTRICT  
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TOPEKA

SENATE CHAMBER

**COMMITTEE ASSIGNMENTS**

VICECHAIR: SPECIAL CLAIMS AGAINST THE STATE  
(JOINT), VICECHAIR  
MEMBER: HEALTH CARE STRATEGIES  
JUDICIARY  
PUBLIC HEALTH AND WELFARE  
TRANSPORTATION  
CORRECTIONS AND JUVENILE JUSTICE  
OVERSIGHT (JOINT)

**Testimony Before the Kansas Senate Judiciary Committee  
Presented on February 16<sup>th</sup>, 2007  
In Support of Senate Bill 125**

Mr. Chairman, members of the Committee thank you for the opportunity to testify in support of Senate Bill 125 which establishes bail requirements for individuals found to be in violation of immigration laws while being prosecuted for state criminal law violations.

In a manner similar to legislation passed last year and signed into law by Governor Sebelius involving bond amounts for gang members, illegal aliens would have imposed upon them a graduated schedule of surety or cash bond requirements depending on the classification of crime they are charged with ranging from class A misdemeanors with bonds at \$10,000 or more to nonperson felonies with bonds of at least \$25,000, person felonies with bonds of \$50,000, level 1, 2, or 3 person felonies, severity level 1 or 2 drug felonies having bonds of at least \$250,000 and all off-grid felonies having no bail or bond allowed.

Senate Bill 125 attempts to aid the court by establishing a schedule of bonds taking into account the factors listed in K.S.A. 22-2802. Individuals in the United States illegally have not had their identity verified prior to entry into the United States, in almost all cases, they live in this country under an assumed identity. They have few if any ties other than their employment to the community. They have limited financial resources, have an undetermined character, have a limited length of residency in the community. It is difficult due to their assumption of a false identity to establish their record of convictions. They present a unique risk of flight to avoid prosecution because of the inability of the criminal justice system to confidently establish an identity. Even misdemeanors such as domestic violence, misdemeanor marijuana possession in excess of 30 grams, theft, prostitution, and nearly all felony convictions are deportable offenses. That additional condition is not contemplated by current Kansas law and is the motivation for increasing the schedule of required bonds.

As was shown earlier this week in the testimony with Senate Bill 124, I recognize that the vast majority of aliens here residing in the United States without authority of law generally seek a better life for themselves and their families, there is a small minority of criminal aliens who present a substantial risk to public safety.

This bill is an attempt to balance all of those factors in giving guidance to the court. It is important to note that in Section B of the Act while the default position is for these moderate to high bonds requiring surety or cash as a guarantor of their future appearance, the courts do have discretion when

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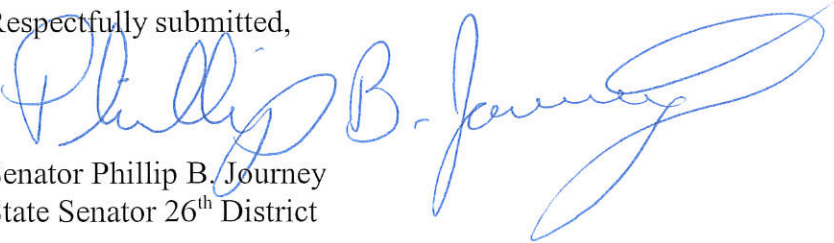
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Attachment 1

the court determines that the defendant is not likely to reoffend, that an appropriate intensive pre-trial supervision program is available, and that the defendant agrees to comply with pre-trial supervision and that the defendant will remain in the jurisdiction by a showing of clear and convincing evidence. The court may modify the bond to amounts less than those mandated by the act even giving the court the discretion to allow an O.R. bond in these cases where that burden of proof is met.

As with many of the issues we deal with on a daily basis in the legislature, this bill attempts to bring into balance the choices we have available to us, balancing the needs of the defendant, their duties, obligations and rights versus our duty to insure the criminal justice system in Kansas affords the highest degree of safety and reliability possible within the confines and constraints of our system of government.

I would urge the Committee to review the testimony on Senate Bill 124, the companion bill to this one, reviewing the number of crimes committed by this small minority of criminal aliens the burden it places on our sister states such as Texas, Arizona, and California and finds that this bill in its current form meets the requirements of balancing public safety versus individual rights in these circumstances and recommends that this bill be passed out favorably.

Respectfully submitted,



Senator Phillip B. Journey  
State Senator 26<sup>th</sup> District

SB125

February 16, 2007

William Sharma-Crawford  
Sharma-Crawford Attorney's at Law LLC  
7208 W. 80<sup>th</sup> Ste 202  
Overland Park, KS 66204  
913-385-9821  
913-385-9964

Senators,

I am an attorney whose practice focuses on immigration litigation. My clients are those persons who are in or out of the United States and their immigration status is in question or in jeopardy.

To assist my clients I file applications with United States Citizenship and Immigration Services (USCIS). If USCIS denies the application I can appeal to the Administrative Appeals Unit (AAU). An AAU appeal can take 2-3 years before a decision is rendered. If USCIS takes too long in adjudicating my application I can file a Writ of Mandamus in the appropriate Federal District Court.

I also defend my clients in Immigration Court, whose jurisdiction arises from the Department of Justice (DOJ) under the Executive Office for Immigration Review (EOIR). I defend them against charges levied by attorneys and agents working for United States Immigration and Customs Enforcement (USICE). If the Immigration Judge rules against me I appeal to the Board of Immigration Appeals (BIA). The Board's jurisdiction also arises under EOIR. If the Board rules against me then I can appeal to the Federal Circuit Court in which the Immigration Judge issued his decision. I am currently a member of the 10<sup>th</sup>, 8<sup>th</sup>, 7<sup>th</sup> and 2<sup>nd</sup> Circuit Courts of Appeal. My partner is a member of the 10<sup>th</sup>, 8<sup>th</sup>, 7<sup>th</sup>, 5<sup>th</sup> and 11<sup>th</sup> Circuit Courts of Appeal. We have filed appeals in all of these jurisdictions and two Petitions for Certiorari to the United States Supreme Court.

In Senator Journey's proposed bills SB124 and 125, he begins with the statement "any person whose presence in the United States is in violation of federal immigration laws..." In many cases it is not until I reach the Circuit Court level does my client obtain relief. At that point we may have been litigating for 6+ years. A case in California just ended after 20 years of litigation, in favor of the immigrants. (See the attached article about the L.A. 8)

Who will determine "any person whose presence in the United States is in violation of federal immigration law." A municipal or district court Judge? A police officer? If the persons trained in immigration law, the lawyers who litigate the cases on behalf of the government and the judges who sit in immigration courtrooms don't always

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Attachment 2

know who's "presence in the United States is in violation of federal immigration law" then how will those persons not trained in the law make that determination?

Notwithstanding that confusion, this bill and its companion SB124 do not make sense procedurally and would place a tremendous handicap on Kansas families

When a person is arrested, usually their immigration status is unknown. They may have a detainer, issued by USICE, to place them in immigration proceedings, but their status is, at that moment, undetermined. Therefore, when they are before the criminal judge no finding as to their status has been made and thus SB125's mandate regarding bail is moot. If those persons do end up in immigration court they are eligible for bond there as well. See INA §236

Likewise, in SB124, many people who may be on probation, suspended sentence, conditional release, community service or diversion, have the ability to repair or defend their immigration status. SB124's affect would be to imprison those persons who can legitimately show their status. Additionally, since these proceedings can take many years many diversionary or probationary terms would have ended before a decision regarding the immigrant's status can be finalized. Thus, at the time of probation or diversion they do not yet fit "any person whose presence in the United States is in violation of federal immigration law" and would be unaffected by SB124.

Kansas families, your constituents, would be significantly affected by either SB124 or 125. Many immigrants' status is either reparable or determinable by their family ties. The affect of these measures would be incredibly harsh on those family members. Additional bail requirements and/or mandatory jail sentences would place enormous pressure on those families, especially the Kansas residents who's loved ones are being disparately treated.

Immigration reform is a political minefield. We expect the U.S. House and Senate to introduce massive comprehensive immigration reform bills at the end of February or the beginning of March 2007. All indications are that comprehensive immigration reform will either succeed or die by August 2007. Prior immigration reform occurred in 1990 and most notably in 1996. In several instances regulations still have not been drafted to enforce or enact that legislation. Those regulations that have been drafted are still the subject of heated ongoing litigation. With immigration reform potentially months away, SB124 and 125 would place an additional and continually changing burden on Kansas' judicial system.

The legal landscape for US Citizens is confusing and complex. The Immigration and Nationality Act is arguably more complex than the IRS' tax code. Combining them only weakens them.



**WORKERS WORLD****Victory at last for Los Angeles 8**

By John Catalinotto

Published Feb 1, 2007 12:53 AM

Justice delayed may be justice denied, and in the 20-year-old case of the Los Angeles 8 it was denied with a vengeance. But a strongly worded Jan. 30 decision by Judge Bruce Einhorn to dismiss charges against the remaining two defendants was still a victory.

The immigration court in Los Angeles "finds that the government has failed to carry its burden of proving respondents deportable based on clear, unequivocal and convincing evidence. Therefore, the proceedings against [Khader] Hamide and [Michel] Shehadeh are terminated."

Judge Einhorn wrote in the decision that "the attenuation of these proceedings is a festering wound on the body of these respondents, and an embarrassment to the rule of law."

A release from the LA 8 said, "This is a clear recognition by the court of the suffering of the respondents and their families unjustly for more than 20 years. Moreover, it is recognition that the government has nothing against the respondents except that it does not like their political views."



The Los Angeles 8 and supporters in 1987.  
Photo: [www.committee4justice.com](http://www.committee4justice.com)

"On behalf of the LA 8 and their families, a big thank you and gratitude to each and everyone who helped us in any way to make this win possible," said Michel Shehadeh.

The LA 8 first consisted of seven Palestinian men and one Kenyan woman. In 1987, armed FBI agents raided their southern California homes in the middle of the night and arrested them. The arrests culminated a long witch-hunt-type investigation.

Initially, the charges against them were based exclusively on the McCarran-Walter Act of the Red-scare era: that the eight supported the Popular Front for the Liberation of Palestine, and had raised funds and passed out literature that aided that Marxist group.

Decisions in the case have already had a significant legal impact, both progressive and regressive. Based on the case, in 1988 a federal district judge made a progressive ruling that the McCarran-Walter Act was unconstitutional because it denied immigrants their First Amendment rights.

On the reactionary side, a Supreme Court opinion that came about as a result of this case stated, "An alien unlawfully in this country has no constitutional right to assert selective enforcement as a defense against his deportation." This was exactly what the lawyers for the LA 8 had argued.

In 1987, no one—citizen or not—could be prosecuted for association with an organization, regardless of the group's relationship with the U.S. government. Yet the case proceeded—first based on the PFLP's Marxist character, then on the FBI's assertion that the PFLP intends "destruction of property," and, still later, on the government's accusation that the PFLP intends to do violence and assassinate leaders of states.

While the LA 8's supporters consider this latest decision a victory, they warn, "It is not over yet. The government most likely will appeal the decision; there is no indication that they will let this go despite all the legal and political embarrassment. Therefore, we have to stay alert and ready to move forward in supporting this important case whenever and for whatever needed to end this injustice."

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**TESTIMONY TO THE SENATE JUDICIARY COMMITTEE  
IN SUPPORT OF SB 125  
Presented by Ed Klumpp  
On behalf of the  
Kansas Association of Chiefs of Police**

February 16, 2007

This testimony is in support of the provisions of SB125 establishing bond requirements for persons in the country illegally.

It is not uncommon, especially in cases of drug trafficking and violent crimes, for persons who are in this country illegally to be released on bond only to have them flee the country. Often times the identity of a person in the country illegally is difficult, at best, to verify. Although modern electronic fingerprint systems are getting better and quicker, too many times these systems are not available or simply don't respond quickly enough to identify a person using false identities or minor deviations in their names. As a result, some of these criminals are actually wanted on multiple charges stemming from cases where they used various identities. It appears to us this problem is growing.

The provisions of this bill should assure a person is kept in custody long enough to assure their identity, evaluate their flight risk, and determined if they are wanted on other charges listed under aliases.

We support a Committee recommendation for SB 125 to be passed.



Ed Klumpp  
Chief of Police-Retired  
Topeka Police Department

Legislative Committee Chair  
Kansas Association of Chiefs of Police  
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Senate Judiciary

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Attachment 3

**RON THORNBURGH**  
Secretary of State



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## STATE OF KANSAS

### TESTIMONY OF THE SECRETARY OF STATE TO THE SENATE JUDICIARY COMMITTEE ON SB 259

FEBRUARY 16, 2007

Mr. Chairman and Members of the Committee:

The Secretary of State appreciates the opportunity to appear today to brief the committee and answer questions relating to SB 259, a bill requested by the Secretary of State.

SB 259 is intended to create uniform standards among the different business entities with regard to resident agents and signature requirements. The bill also contains some cleanup provisions to add clarity to the law.

1. Resident Agents. All business entity types are required to maintain a resident agent for the purpose of accepting service of process for the business entity. The standard for who may serve as resident agent varies from entity to entity, depending on how recently the law pertaining to that type of entity has been amended. The Corporate Code and the LLC Act were both amended in recent years and the lists of potential agents were expanded for those two types. LPs and others who have not seen recent amendments to the law are restricted on who may serve as resident agent. SB 259 creates a uniform standard – an individual, the entity itself, or a domestic or foreign corporation, limited partnership, limited liability company or business trust may serve as resident agent.
2. Signature Requirements. Documents signed by business entities and filed with the Secretary of State are dated and signed by an officer under penalty of perjury in most cases; however, a few of the entities do not contain these requirements. These requirements are added to all business entities so that the standard for signatures is uniform from entity to entity.
3. Professional Associations. The Secretary of State is required under current law to provide a duplicate copy of a professional association's annual report to the regulatory board that oversees the PA. Some boards have notified the Secretary of State they do not want to receive these copies; however, the law requires that we forward them. SB 259 would require us to forward a copy of the report only upon request. It is our intent to honor a standing request from any regulatory board for annual report copies – we will not require renewed requests every year.
4. Agricultural Partnerships. The term "limited corporate partnerships" was replaced by "limited agricultural partnerships" in Kansas laws pertaining to agricultural business entities in 1986. Two references to the outdated term are cleaned up in sections 13 and 14 of the bill.

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Attachment 4

5. Reinstatements. An entity may reinstate its existence with the Secretary of State after it has forfeited, which generally occurs for failing to file the annual report and/or paying the annual report fee. The statute is amended to clarify that reinstatement may occur after failing to file reports or pay the annual report fee – the current language indicates that reinstatement is available for entities that failed to pay taxes, a reference to the former franchise tax that was paid to the Secretary of State. Also, the term reinstatement is added throughout the statute because cross references in other statutes use that term and not “restoration” or “revival.”

I would request one minor amendment to section 6 on reinstatements. The phrase “; or fees, or” should be inserted on page 6, line 29 after “nonpayment of taxes. . .” This amendment clarifies that reinstatements are allowed for nonpayment of the annual report fee.

I appreciate the opportunity to appear today and would be happy to answer questions.

Melissa A. Wangemann, Legal Counsel  
Deputy Assistant Secretary of State

1 (6) that the certificate for ~~revival~~ *reinstatement* is filed by authority  
 2 of those who were directors or members of the governing body of the  
 3 corporation at the time its articles of incorporation or the authority to  
 4 engage in business expired, or who were elected directors or members  
 5 of the governing body of the corporation as provided in subsection (g).

6 (d) Upon the filing of the certificate in accordance with K.S.A. 17-  
 7 6003, and amendments thereto, the corporation shall be renewed ~~and~~  
 8 ~~revived or reinstated~~ with the same force and effect as if its articles of  
 9 incorporation had not become inoperative and void or had not expired  
 10 by limitation. Such reinstatement shall validate all contracts, acts, matters  
 11 and things made, done and performed within the scope of its articles of  
 12 incorporation by the corporation, its officers and agents during the time  
 13 when its articles of incorporation were inoperative or void or after their  
 14 expiration by limitation, with the same force and effect and to all intents  
 15 and purposes as if the articles of incorporation had at all times remained  
 16 in full force and effect. All real and personal property, rights and credits,  
 17 which belonged to the corporation at the time its articles of incorporation  
 18 became inoperative or void, or expired by limitation and which were not  
 19 disposed of prior to the time of its ~~revival~~ or renewal or *reinstatement*  
 20 shall be vested in the corporation after its ~~revival~~ or renewal or *reinstatement*  
 21 *ment*, as fully and amply as they were held by the corporation at and  
 22 before the time its articles of incorporation became inoperative or void  
 23 or expired by limitation, and the corporation after its renewal or ~~revival~~  
 24 *reinstatement* shall be as exclusively liable for all contracts, acts, matters  
 25 and things made, done or performed in its name and on its behalf by its  
 26 officers and agents prior to its reinstatement, as if its articles of incor-  
 27 poration had remained at all times in full force and effect.

28 (e) If, since the articles of incorporation became inoperative or void  
 29 for nonpayment of taxes, ~~failure to file annual reports~~ or expired by lim-  
 30 itation, any other corporation organized under the laws of this state shall  
 31 have adopted the same name as the corporation sought to be renewed or  
 32 ~~revived~~ *reinstated* or shall have adopted a name so nearly similar thereto  
 33 as not to distinguish it from the corporation to be renewed or ~~revived~~  
 34 *reinstated*, or any foreign corporation qualified in accordance with K.S.A.  
 35 17-7301, and amendments thereto, shall have adopted the same name as  
 36 the corporation sought to be renewed or ~~revived~~ *reinstated*, or shall have  
 37 adopted a name so nearly similar thereto as not to distinguish it from the  
 38 corporation to be renewed or ~~revived~~ *reinstated*, then in such case the  
 39 corporation to be renewed or ~~revived~~ *reinstated* shall not be renewed  
 40 under the same name which it bore when its articles of incorporation  
 41 became inoperative or void or expired, but shall ~~adopt~~ or be renewed  
 42 under some other name; and in such case the certificate to be filed under  
 43 the provisions of this section shall set forth the name borne by the cor-

or fees, or



## Kansas County & District Attorneys Association

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Senate Judiciary Committee  
February 16, 2007

### Testimony in Support of SB 253

Good morning Chairman Vratil and members of the Committee. I am Jerome Gorman, District Attorney in Wyandotte County and a Past President of the Kansas County and District Attorneys Association. I am here in support of Senate Bill 253 which would prohibit a convicted felon from being appointed or elected to the office of County or District Attorney as well as District Judge positions.

I have been a professional prosecutor for 25 and 1/2 years and was recently elected as District Attorney in Wyandotte County. Imagine my surprise when running for elected office for the first time to discover that there is no prohibition on convicted felons being elected or appointed as the Chief Prosecutor of a County or Judicial District. I was of course prompted to look into the matter further and discovered that the concern also exists for the positions of District Judge.

While I am well aware that there are many circumstances that can cause an individual perhaps during some youthful indiscretion to be convicted of a felony, only to find themselves banned from a chosen profession later, I believe that these two positions are ones for which no exception should be made.

These positions of public trust require the highest standards of qualifications and integrity and I believe demand these changes to safeguard that trust.

The bill itself utilizes language from our statutes governing the qualifications of law enforcement officers to effect the changes I am requesting. Certainly holding our Prosecutors and Judges to the same standard as our sworn law enforcements officers would be good public policy from my perspective.

Thank you for your consideration of this measure. I would be happy to answer any questions from the Committee.

Senate Judiciary

2-16-07

Attachment 5

State of Kansas  
Senate Chamber



PEGGY R. PALMER  
Sixteenth District

Testimony Supporting Senate Bill 233  
An Act Concerning Crimes and Punishment

The Senate Judiciary Committee  
by Senator Peggy Palmer  
16<sup>th</sup> District

February 16, 2007

Good Morning. Thank you for the opportunity to come before the Senate Judiciary Committee to support Senate Bill 233 on behalf of a statewide coalition of professionals and lay citizens called Alliance to Recognize the End of Abuse (A.R.E.A.).

I have had the privilege of working with the A.R.E.A. group in El Dorado whose mission is to help recognize, educate, and end child abuse and its long-term consequences.

The intention of this legislation is to make the incest laws the same as rape laws.

I support this concept and ask that you give this important matter your expertise and consideration.

Thank you.

Respectfully,

  
Peggy Palmer  
Kansas State Senator





January 25, 2007

To all Kansas Legislators and Other Interested Persons:

Are you aware that in Kansas it is less of a crime to sexually abuse your own child than your neighbor's child?

At this time, the Alliance to Recognize and End Abuse is actively working to change part of the criminal statute which covers incest. We feel that this legislation would provide justice to victims not protected by Jessica's Law. Legislation regarding this issue will be introduced during this session.

We believe that the penalties for incest should be the same as for rape. Children who are incested suffer unique psychological and physical damage as a result of being deceived and betrayed by someone who should have protected and cherished them. Recent statistics show that up to 50% of child sexual abuse victims are abused by family members. The crime should be called what it is -incest. It should carry the same penalty as rape.

A.R.E.A. is a statewide coalition of professional and lay citizens who believe that abuse of any kind is wrong but the abuse of children is intolerable. We further believe that perpetrators of child abuse should be held fully accountable for their crimes and should be required to make restitution to the victims for the devastating emotional, physical, psychological and economic damage inflicted by their behavior.

Our Alliance has made extensive studies of the incredible costs of not preventing child abuse which amount to over \$400 million annually in Kansas. (See [www.area-ks.net](http://www.area-ks.net)). At the same time, we acknowledge the potential costs in changing the statute. However, the cost of abuse to even one child cannot be measured in dollars and cents. We are a civilized and compassionate society and we simply cannot allow the continued abuse of our children. Nor should we continue to tolerate and overlook this terrible crime of incest.

With respect,  
Alliance to Recognize and End Abuse (A.R.E.A.)

Peggy Mast, State Representative

Peggy Palmer, State Senator

Mary Jo Grant, Ph.D.

T E S T I M O N Y O F

Ervin E. Grant  
Attorney and former legislator  
El Dorado, Kansas  
Member Alliance To Recognize and End Abuse

Senate Judiciary

2-17-07  
Attachment 7

It appears that the 2006 legislature took some giant steps towards solving problems that had arisen because of sexual predators. Penalties for sexual offenses were increased and repeat offender were removed from society. In this process a number of sexual offense statute were amended but an opportunity was missed to fix a glaring gap in our statutes and that is the law relating to incest.

This situation is not unique to Kansas. New York has recently wrestled with this problem of what it calls the “incest loophole”. Also North Carolina. And Oregon calls it the “incest exception” On the national level, U. S. Representative Robert Ney from Ohio introduced legislation to eliminate the :”incest exception” in every state where it exists.

In Kansas we have a long history of looking the other way when the offender is a family member and when the arena where the sexual offense takes place is the home. In fact, many of our citizens consider this a dirty subject and would rather not discuss it. In 1994 the Kansas Supreme Court recognized this inequity when it held in Carmichael v. State, 255 Kan 10:

“The legislature also intended that aggravated incest, a crime committed by a person related to the victim, constitutes a less serious offense than when a similar prohibited act is perpetrated by a defendant against a child with whom he or she has no family relationship.”

We see legislative outrage against the sexual predator in the ski mask. We are in danger of failing to see the sex offender who grows their own victim—the parent who incests a child. We are outraged against :sex slavery” and those who traffic in human beings. But how much of that outrage has been focused on those children who are sex slaves in their own homes? We worry about how many feet a sexual predator should be allowed to live from a school ground, when the largest percentage of sexual assaults on children occur in the home.

I stand before you admitting that I bear some degree of fault for not addressing this problem sooner. Thirty-five years ago I served in this legislature in the House of Representatives for six years and sat on the Judiciary Committee. I can only say that I had not been made aware of the problem. Today, I know from the experience of my wife serving as group counselor for over 12 years to women who were abused as children that the problem is very real and the experience is very devastating.

Dan Cook writing in the Portland Oregon Business Journal writes:

“The incest exception not only allows birth parents to mess with their kids with virtual impunity, but it creates another evil scenario. Predatory pedophiles can marry into fatherless families. Then, as a stepparent, they have the opportunity to have sex with the stepchildren.”

A number of statutes concerning sexual exploitation of children were upgraded by the legislature in 2006 to level 1, such as aggravated criminal sodomy (21-3506) and aggravated trafficking (21-3447) but aggravated incest (21-3603) has remained a severity level 5 in which case a court could grant probation. Surely the act of incest of a member of one's family, which usually involves repeated offenses over a period of time, is a more serious crime than sodomy or rape, which may occur only once and which may have a less devastating psychological effect

While I won't take time to read it to you, I call your attention to the third paragraph of Giovanna McQuillen's testimony of an incest survivor in regard to the devastating effect of incest as compared to other types of sexual assault.

I would call your attention to the fact that the incest law as it now stands on the books applies only to those 18 or over and the aggravated incest law applies only to those 16 or older but under 18. The law should be amended to apply to anyone under 18 years of age.as many

Are 14 or under.

In most cases, the sexual exploitation of the child is so devastating that it takes them years to deal with the trauma. In most cases they suffer physical results and loss of jobs and are destined to be disabled with society paying the disability tab in the form of taxes while the perpetrator goes scot free and with the tendency to commit the crime time and time again.

2/8/2007

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SENATE BILL NO. 233

By Senator Palmer

AN ACT concerning crimes and punishment; amending K.S.A. 21-3603 and repealing the existing section.

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

1 Section . K.S.A. 21-3603 is hereby amended to read as follows: 21-3603. (a) Aggravated incest is: (1) Marriage to a person who is under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece; or

(2) engaging in: (A) Otherwise lawful sexual intercourse or sodomy as defined by K.S.A. 21-3501 and amendments thereto; or (B) any lewd fondling, as described in subsection (a)(1) of K.S.A. 21-3503 and amendments thereto, with a person who is ~~16 or more years of age~~ but under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

(b) Aggravated incest as described in subsection (a)(2)(A) and (a)(2)(B) is a severity level ~~5~~ 1, person felony. Aggravated incest as described in subsections (a)(1) ~~and (a)(2)(B)~~ is a severity level 7, person felony.

1 Sec. . K.S.A. 21-3603 is hereby repealed.

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

[Redacted Box]

*Alliance to Recognize and End Abuse*

January 25, 2007

To all Kansas Legislators and Other Interested Persons:

Are you aware that in Kansas it is less of a crime to sexually abuse your own child than your neighbor's child?

At this time, the Alliance to Recognize and End Abuse is actively working to change part of the criminal statute which covers incest. We feel that this legislation would provide justice to victims not protected by Jessica's Law. Legislation regarding this issue will be introduced during this session.

We believe that the penalties for incest should be the same as for rape. Children who are incested suffer unique psychological and physical damage as a result of being deceived and betrayed by someone who should have protected and cherished them. Recent statistics show that up to 50% of child sexual abuse victims are abused by family members. The crime should be called what it is -incest. It should carry the same penalty as rape.

A.R.E.A. is a statewide coalition of professional and lay citizens who believe that abuse of any kind is wrong but the abuse of children is intolerable. We further believe that perpetrators of child abuse should be held fully accountable for their crimes and should be required to make restitution to the victims for the devastating emotional, physical, psychological and economic damage inflicted by their behavior.

Our Alliance has made extensive studies of the incredible costs of not preventing child abuse which amount to over \$400 million annually in Kansas. (See [www.area-ks.net](http://www.area-ks.net)). At the same time, we acknowledge the potential costs in changing the statute. However, the cost of abuse to even one child cannot be measured in dollars and cents. We are a civilized and compassionate society and we simply cannot allow the continued abuse of our children. Nor should we continue to tolerate and overlook this terrible crime of incest.

With respect,  
Alliance to Recognize and End Abuse (A.R.E.A.)

Peggy Mast, State Representative

Peggy Palmer, State Senator

Mary Jo Grant, Ph.D.



[www.area-ks.net](http://www.area-ks.net)—[area.ks@cox.net](mailto:area.ks@cox.net)—116 W. Pine—P.O. Box 162—El Dorado, Kansas 67042



1994 DA

The case of Carmichael v. State (255 Kan. 10), 872 P2nd 240, was a case where the jury found defendant guilty of rape. The victim was his daughter. He appealed the conviction.

The State had charged defendant with a general sexual offense, rape, and the evidence established that the victim was within the degree of kinship defined by the specific offense of aggravated incest. Rape is a level 2 offense, whereas aggravated incest is a level 7.

The Kansas Supreme Court cited the earlier case of State vs. Williams, 250 Kan. 730, holding that:

"From a reading of these statutes, it is clear that the legislature intended to establish certain sex offenses applicable where family relationships are not involved. The legislature also intended that aggravated incest, a crime committed by a person related to the victim, constitutes a less serious offense than when a similar prohibited act is perpetrated by defendant against a child with whom he or she has no family relationship.

The Supreme Court vacated the sentence for rape, the more serious offense, and sent the case back to the District Court to be re-sentenced for the lesser crime of aggravated incest.

This well illustrates the inequity of the criminal statutes of this state, which rewards the sexual predator who commits the act against a child member of his family over the predator who molests the children of others or who rapes a victim. This disparity of severity of offenses should be corrected and incest treated as the shocking crime that it is.

---

Case that  
shows a bias  
tween familial rape  
& stranger rape

2005

***The Cost of Not Preventing Child Abuse***

A Position Paper

By

Alliance to Recognize and End Abuse

E-mail: [Area.ks@cox.net](mailto:Area.ks@cox.net)

Website: [www.area-ks.net](http://www.area-ks.net)

Each year in this country, more than three million children are reported as abused or neglected with close to 1,100 of these children dying. A Conservative estimate of \$94 billion is the annual cost of child abuse and neglect in the United States based on 1996 studies, according to a 2001 copyrighted report by Suzette Fromm, found on the Prevent Child Abuse America website. Applying the Consumer Price Index conversion factor for 2005, this cost would be \$115.9 billion, without considering any increase (or decrease) in cases.

(See appendix A regarding applying the consumer price index)

**A.R.E.A.'s mission** is to help recognize and end abuse and its long term consequences for the human family by focusing on these dimensions of abuse:

**Emotional/Psychological**—A.R.E.A. seeks to educate society regarding the lasting effects child abuse has on a survivor's body, mind, and spirit.

**Legal**—A.R.E.A. seeks to change the statute of limitations to enable survivors to pursue legal remedies for the devastating lifelong effects that occur from child abuse.

**Physical/Medical**—A.R.E.A. seeks change in the law so that perpetrators are held liable for the financial burden of any and all treatment incurred by their acts of abuse.

**Sexual**—A.R.E.A. seeks to educate society on the social and political importance of respectfully and sensitively upholding, protecting and validating the dignity of all survivors.

**Societal**—A.R.E.A. seeks to educate society about all child abuse and its devastating consequences, both financial and emotional.

**Spiritual**—A.R.E.A. seeks to teach that damage to an individual's spirit occurs when any form of abuse takes place.

**We believe that education and legislation regarding the long term effects of child abuse, could, over time, be deterrents to these financially and emotionally devastating acts.**

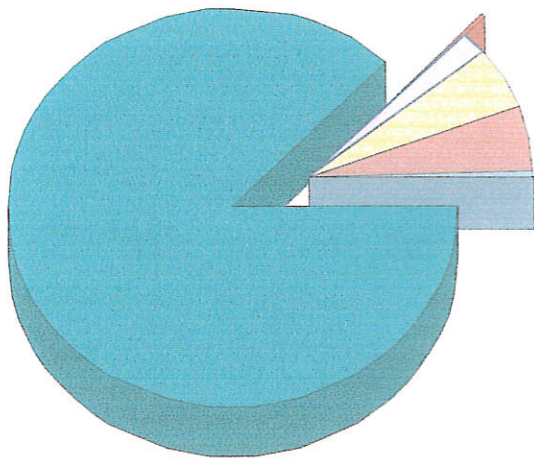
**The proposed legislation has 2 facets:**

- (1) Criminal legislation that recognizes incest as a level 1 felony.
- (2) Civil legislation that (a) extends the statute of limitations for bringing suit against the perpetrator of child abuse, and (b) requires the perpetrator to pay for costs incurred by survivors and, ultimately, by society because of that abuse.

**A.R.E.A. believes that the cost of not preventing child abuse far exceeds the costs that would be incurred if the civil legislation we propose were enacted.**

The following cost data has two emphases: (1) costs incurred because of abuse of today’s children; and, (2) costs incurred because of abuse in years past to today’s adult survivors.

**STATE OF KANSAS: ECONOMIC ANALYSIS--CHILD ABUSE AND NEGLECT**



TYPE OF SERVICE	COST
Medical Spending	\$ 2,916,000.00
Mental Health	\$ 23,159,000.00
Victim Work/School Loss	\$ 21,780,000.00
Public Programs	\$9,087,000.00
Property Damage	\$ 60,000.00
Total Monetary	\$ 57,002,000.00
Quality of Life	\$ 381,150,000.00
Total Comprehensive	\$ 438,152,000.00

See appendix B for definitions of “types of service”.

The above cost analysis was taken in part from the Economics and Data Analysis Resource Center of the Children’s Safety Network. The center helps public health professionals assess injury-related problems and risks, set priorities, analyze legislation and advocate for improvements, and evaluate injury prevention programs. The center’s analyses are frequently used to shape policy and legislation at federal and state levels.

This information is based on the actual number of child abuse and neglect cases that were worked in the state of Kansas in the year 1996 and has been updated using the consumer price index to reflect 2005 dollars. In no way does this include the abused and neglected children who are UNREPORTED. Several estimates show that as few as 1 in 5 cases are reported. *To give you just a sampling of current abuse cases reported:*

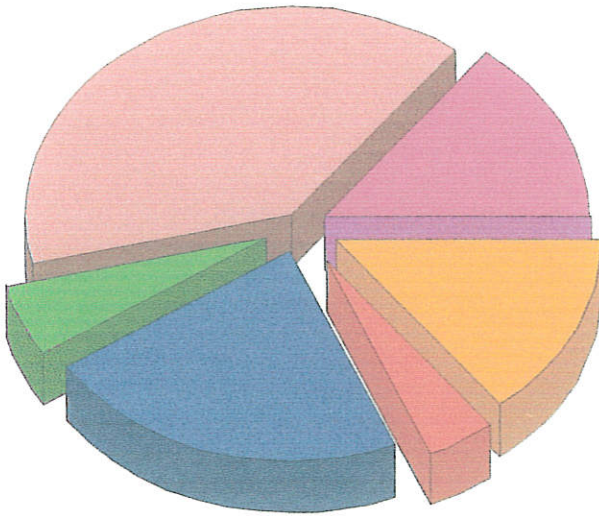
*The Mental Health Center of East Central Kansas, serving 7 counties, reported 1,765 open/active cases, both adult and children, in August, 2005. Of these, 710 (over 40%) were being treated for abuse-related issues. You can find out what the figures are for your constituents by contacting the mental health centers serving your area.*

**KANSAS COUNTIES: REPORTED CASES OF CHILD ABUSE AND NEGLECT IN 2003 PER 1000 CHILDREN** (see appendix C for figures of all 105 Kansas counties)

**Total number of children in Kansas** in 2002 under age 18 as cited by the Child Welfare League of America, [www.cwla.org](http://www.cwla.org), **714,000**

**Kansas average reported cases** child abuse/neglect in 2003 according to Kansas Action for Children-member of National Association Child Advocates: **59.8children/1000.**

**KANSAS SURROUNDING STATES: CHILD ABUSE AND NEGLECT**



STATE	TOTAL COMPREHENSIVE COST
Colorado	\$ 1,159,712,400.00
Illinois	\$ 3,097,963,000.00
Kansas	\$ 438,152,000.00
Missouri	\$ 1,757,222,500.00
Nebraska	\$ 330,818,840.00
Oklahoma	\$ 1,138,416,400.00

The total cost of child abuse and neglect in Kansas and the surrounding states exceeded 6.5 billion dollars annually in 1996. In 2005 dollars, the total for the same number of cases would approach 8 billion dollars. Taxpayers bear much of the burden of these costs. It is imperative that concerned lawmakers, civic leaders, educators, and willing citizens recognize the epidemic proportions of abuse and move forward with initiatives that begin to force perpetrators to pay for these escalating costs.

**CONCLUSION:**

A.R.E.A. seeks to recognize and end abuse and its long term consequences to the human family. We are committed to attacking abuse through comprehensive programs of education and advocacy. In the United States this year, childhood abuse and neglect will cost taxpayers over 115 billion dollars. In Kansas and the five surrounding states, we will be forced to spend over 8 billion dollars attempting to put back together lives that have been destroyed by this rising epidemic. In Kansas alone, we will spend over 400 million dollars. It is time to recognize the burden we as taxpayers are unfairly bearing in the fight against this violence. It is time to recognize that this burden must be shifted to the individuals who perpetrate these heinous crimes against children. Perpetrators must pay in much the same way as absentee fathers are made to pay child support.

While it is time to shift the burden of cost to those who perpetrate crimes, A.R.E.A. recognizes that the total cost of childhood abuse and neglect can not be measured in dollars and cents. It is impossible to quantify the devastation and emotional trauma suffered by even one victim. For this reason, A.R.E.A. seeks to break the cycle of abuse that is often times perpetrated from generation to generation. We urge concerned and conscientious people to stand with adult survivors of childhood abuse as advocates for education and awareness of the problems of childhood abuse. A.R.E.A. seeks to engage concerned leaders in raising awareness of spiritual, emotional/psychological, sexual, physical/medical, and legal fields of expertise in rigorous educational programs that will ultimately break the downward spiral that results from societal ignorance of this issue.

### APPLYING THE CONSUMER PRICE INDEX (CPI)

The consumer price index conversion factor has been applied to the 1996 dollar figures in this report in an attempt to equate 2005 dollars. We feel, however, that this still gives an understated picture of the current day cost ramifications of child abuse and should be viewed only as an estimate for the following reasons:

1. These figures are based on reported cases only. It is commonly believed that only about 1 in 5 cases are reported.
2. The CPI is a percentage applied evenly across the board to a number of consumer costs and while this brings us closer to today's figures it does not recognize that some costs, such as costs in the health industry, have grown more rapidly than other costs.

If we are to seriously look at the savings to the abused, their families, and, society in general, that could occur over the long term with legislation designed to make the perpetrator pay and, eventually, reduce the incidences of child abuse, we must recognize that the figures in this report, staggering though they are, in reality are even higher than stated.

**DEFINITIONS FOR KANSAS “TYPES OF SERVICE”**

The following definitions were taken from the Economics and Data Analysis Resource Center of the Children’s Safety Network and can be viewed at the source at <http://www.edarc.org/pubs/can/ks-can.htm>.

**Medical Care** includes payments for hospital and physician care, as well as emergency medical transport, rehabilitation, prescriptions, allied health services, medical devices, insurance claims processing and coroner and premature burial costs when fatalities were involved.

**Mental Health Care** includes payments for services by psychiatrists, psychologists, social workers, pastoral counselors, and insurance claims processing.

**Future Earnings (Victim Work/School Loss)** includes wages, fringe benefits, schoolwork, and housework lost by the injured. This estimate excludes earnings lost by family and friends caring for the injured.

**Public Programs** include police, fire, paramedic, ambulance, and helicopter transport costs. Victim Services and Child Protective Services Agencies costs are also included in this category. It excludes mental health services costs.

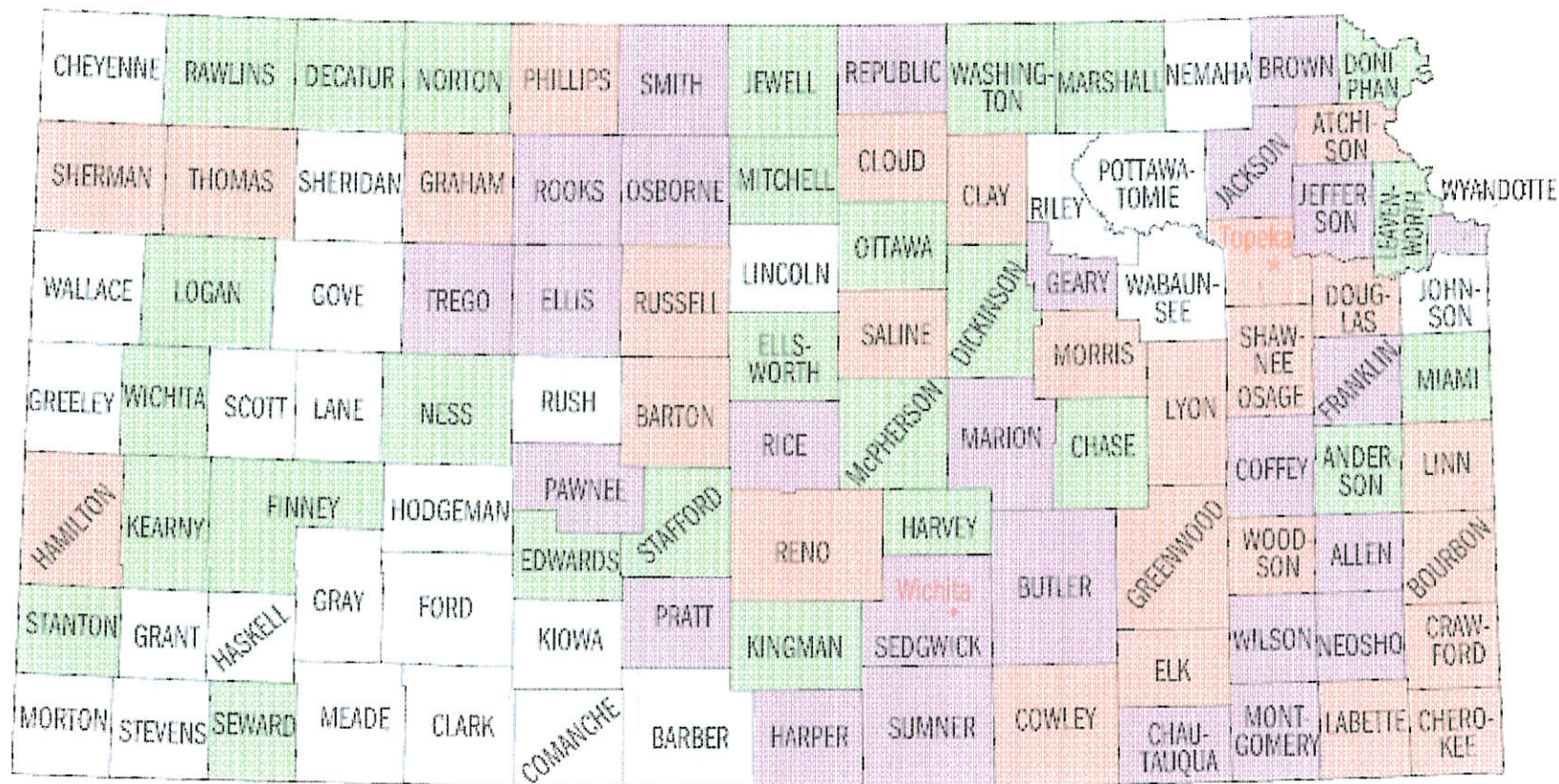
**Property Damage and Loss** is the value of property damage and of property taken and not recovered.

**Quality of Life** places a dollar value on pain, suffering and lost quality of life to the victim and their family. The value is computed from jury awards for pain, suffering, and lost quality of life due to physical injuries and fear. For murders, this value is computed from the amount people routinely spend (in dollars or time) to reduce their risk of death.

**Make the Perpetrator Pay!**

7-14

**Kansas Counties: Reported Child Abuse and Neglect cases per 1,000 children in 2003**



39.8 and lower reported cases per 1000 children
  39.9 to 56.4 per 1000 children  
 56.5 to 75.2 per 1000 children
  75.3 and higher per 1000 children  
 See alphabetical listing on next page to locate your County's reported cases in 2003

**KANSAS 2003 REPORTED CHILD ABUSE/NEGLECT CASES PER 1,000 CHILDREN UNDER 18**

Kansas	state	59.8	(Average per 1000 children)					
Allen	county	74.2	Kingman	county	42.7	Sherman	county	102.6
Anderson	county	52.3	Jewell	county	46.2	Smith	county	67.4
Atchison	county	75.9	Johnson	county	26.5	Stafford	county	50.2
Barber	county	19.6	Kiowa	county	38.8	Stanton	county	43.2
Barton	county	84	Labette	county	113.3	Stevens	county	30.5
Bourbon	county	76.1	Lane	county	27.5	Sumner	county	59.8
Brown	county	73.8	Leavenworth	county	51.6	Thomas	county	80.2
Butler	county	64	Lincoln	county	37.5	Trego	county	69.1
Chase	county	54.7	Linn	county	76.1	Wabaunsee	county	31.1
Chautauqua	county	59.1	Logan	county	47.8	Wallace	county	33.6
Cherokee	county	91.8	Lyon	county	112.2	Washington	county	40
Cheyenne	county	38.8	Marion	county	71.9	Wichita	county	51.4
Clark	county	16.1	Marshall	county	50.9	Wilson	county	61
Clay	county	101.2	McPherson	county	48.9	Woodson	county	84.3
Cloud	county	84.6	Meade	county	15	Wyandotte	county	70.7
Coffey	county	70	Miami	county	46.7			
Comanche	county	23.9	Mitchell	county	45.4			
Cowley	county	101.4	Montgomery	county	74.1			
Crawford	county	77.5	Morris	county	105.5			
Decatur	county	41	Morton	county	29			
Dickinson	county	53	Nemaha	county	39.2			
Doniphan	county	55.6	Neosho	county	67.6			
Douglas	county	83.1	Ness	county	44.1			
Edwards	county	45.3	Norton	county	56.4			
Elk	county	103.3	Osage	county	104.1			
Ellis	county	72.7	Osborne	county	69.9			
Ellsworth	county	55.4	Ottawa	county	50.9			
Finney	county	53.4	Pawnee	county	74.5			
Ford	county	39.7	Phillips	county	79.6			
Franklin	county	72.7	Pottawatomie	county	38.3			
Geary	county	73.1	Pratt	county	70			
Gove	county	22.8	Rawlins	county	45.8			
Graham	county	80.3	Reno	county	92.8			
Grant	county	30.2	Republic	county	59.9			
Gray	county	15.4	Rice	county	65.3			
Greeley	county	34.9	Riley	county	38.9			
Greenwood	county	121.7	Rooks	county	74.5			
Hamilton	county	81.9	Rush	county	35.1			
Harper	county	66.7	Russell	county	84.4			
Harvey	county	52.9	Saline	county	88.8			
Haskell	county	18.2	Scott	county	39.7			
Hodgeman	county	22.7	Sedgwick	county	60.8			
Jackson	county	60.4	Seward	county	44.4			
Jefferson	county	61	Shawnee	county	86.5			
Kearny	county	40	Sheridan	county	26.5			

*Color reproductions  
of this paper can be  
downloaded from  
our website at:  
[www.area-ks.net](http://www.area-ks.net)*

Data Source: Kansas Department Social Rehabilitation Services; U.S. Census Bureau



MARY JO GRANT PhD  
525 Harvard El Dorado, KS

Dear Representative or Senator.

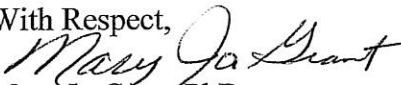
Those of us who have been fortunate enough to have "normal" childhood experiences need to become aware of the hundreds of people who have had to live with the devastating lifelong effects of childhood abuse which stunts all normal physical, social, spiritual, psychological and sexual developmental stages.

I am a PhD Psychologist who has worked with adult survivors of childhood sexual abuse for the last 15 years. My first reaction when I began working with survivors was, "How did you ever survive?" I learned that many survived by dissociating and repressing the memories of the abuse or by developing other coping behaviors (including addictions). All of the survivors I know have some symptoms of Post Traumatic Stress Disorder. Many also developed grave physical conditions later in life which can be directly related to abuse in childhood. My second reaction was, "Why isn't your abuser in jail?" The answer was often, "You don't understand. My abuser was a family member! I was just a kid. He said I deserved it and that I had to keep it a secret. I never told anybody until I was hospitalized for attempted suicide at age 40".

We must do better for the hundreds of Kansans among us who have been abused as children. In addition to the recently passed Jessica's Law, we need to amend the criminal law to make the penalty for the crime of incest consistent with the crime of rape. The penalty for the rape of a stranger is far more severe than the penalty for the rape (incest) of a child in the family, but incest is often more than a one time event and the damage is often more devastating for the child!

According to 2002 Department of Justice statistics, 1 in three females and 1 in 5 males will be abused by age 18. This is unacceptable for any society; but especially one that professes to be justice-based and compassionate. We must make ALL perpetrators pay for ALL crimes. We must protect ALL children in Kansas by holding ALL perpetrators accountable. We must make the penalties and statutes of limitations more nearly fit the seriousness of ALL kinds of abuse. We must make these changes because ALL children deserve abuse-free childhoods. It should not hurt to be a child, nor should so many grown-up survivors have to silently endure the lifelong devastating effects of childhood abuse.

If any of you have questions about what NOT preventing child abuse costs, please contact me, or go to [www.area-ks.net](http://www.area-ks.net) to read our Alliance to Recognize and End Abuse position paper. The cost exceeds \$400 million in Kansas every year!  
<http://www.area-ks.net>.

With Respect,  
  
Mary Jo Grant PhD  
<mailto:crone@southwind.net>  
316 321 2964

To whom it may concern:

I am an adult survivor of child abuse (sexual, physical and emotional) with my father being my abuser. The abuse was so severe, intense, frequent and prolonged that I unconsciously chose two common methods of coping: Multiple Personality Disorder/Dissociative Identity Disorder (MPD/DID) and memory repression, to be able to survive these experiences.

I have been physically disabled since January of 1996 and live on Social Security Disability Income. My doctor has attributed my different and many severe physical problems as either directly or indirectly caused by the abuse I suffered as a child. Since I qualify for Medicare, the government must cover the cost of my medical expenses which run into thousands of dollars each year.

I was 35 years old before I had my first conscious memory of the abuse. I was 40 years old before I was correctly diagnosed with MPD/DID. After five years of treatment (age 40), I was able to integrate all of my different personalities into one. It took another five years (age 45) before I was able to speak publicly about the abuse and at least another five years (age 50) before I would have been emotionally stable enough to withstand a court battle over suing my abuser. Unfortunately for me, by the time enough psychological healing occurred where I knew that I wanted to live, the abuse had taken its toll on my body and it cost me my health. By this time, three different doctors independently of each other, had declared me completely physically disabled at the age of 50.

**Kansas Civil Statute 60-523. Limitations on actions for recovery of damages suffered as a result of childhood sexual abuse**

This current law allows a person to civilly sue their perpetrator by “three years after the date the person attains 18 years of age or more then three years from the date the person discovers or reasonably should have discovered the injury or illness was caused by childhood sexual abuse, whichever occurs later.” As you can see, I clearly could not have sued my father by the age of 21 because I had no memory of the abuse until I was 35 years old. Likewise, the second part of that law, known as the ‘tolling factor’, would not have placed me within the appropriate time frame. As you can tell by the information stated above, there were 15 years between the time I remembered being abused and the time I feel that I would have been able to file a lawsuit against my abuser which exceeds the statute of limitations by 12 years. With the ‘tolling factor’ I would also have to go to court first to prove that I have the right to sue my abuser before I could actually file a suit against him. With this added requirement, I would be forced to pay for an attorney for two trials. How do I, a disabled person living on Social Security Disability Income afford to do this? The answer is, I don’t. Even with the ‘tolling factor’ in this statute, the law clearly does not address the special psychological issues that all victims of incest must face.

Personally, I feel that the law should be changed to allow 23 years after the person attains 18 years of age as well as 23 years in the ‘tolling factor’ provision. However, I recognize that asking for 23 years in the ‘tolling factor’ may be expecting far too much, so I will not ask for this. Since K.S.A. 60-508 allows a child 23 years to file a property recovery claim, you should at least allow a person 23 years to file a child sexual abuse claim against their perpetrator. Surely you would agree with me that my body is worth as much as the dirt in my back yard and vote to change this law.

**Kansas Criminal Statute 21-3603. Aggravated Incest**

Years ago, the mental health professionals believed that when a child was sexually abused by a family member (incest), it did not cause as much damage to the child as it would if the child was sexually abused by a stranger (rape). However, after many years of treating incest victims, these

same mental health professionals have found that children who are incested suffer all of the problems that a child who was raped suffer, and more. According to the National Center for Victims of Crime, up to 50% of all children who are sexually abused have a family member as their perpetrator and that children are most vulnerable to abuse between the ages of seven and 13. Additionally, they also state that there is no question that incest is more likely to go on over a longer period of time and it has been shown to have more serious consequences for the child than stranger rape.

As the laws of Kansas stand now, there is not a specific law against incest before the age of 16. Statute 21-3603, aggravated incest currently applies only to 16 and 17 year olds and provides only a severity level of a 5 or 7 person felony with rape being a severity level 1 person felony. It seems to me like Kansas is saying that if you sexually abuse your neighbor's child it is totally unacceptable. However, if you stay at home and do the same thing to your own child, it's not a big deal. In fact, if your child is under 16, we won't even say it's against the law. Many will say that statute 21-3502, rape or statute 21-3504, aggravated indecent liberties with a child covers incest of a child under 16 years of age, but I completely disagree. I have looked very hard at these two statutes, but nowhere do I see the word 'incest' in either one of them. Having sex with a relative by definition is incest and not rape. See Carmichael v. State, 225 Kan. 10' 1994 where the state supreme court ruled this to be true. As a survivor of incest, I truly do not understand why Kansas can not call it what it really is, INCEST and not rape or indecent liberties or anything else. I was not raped by my father, and he didn't take indecent liberties with me, it was incest, again and again and again and again and again and again and again and again and again and again and again for over 16 years.

The way the laws are in Kansas regarding incest, it makes me feel like Kansas is totally discounting what happened to me and that I am not worth being protected like other little girls were just because they had a stranger who abused them and not a family member. My heart aches each time I think about this loophole in the law. I truly do not understand the disparities that exist between the law against/the punishment of rape and incest of a child? We MUST close this loophole! I pray that you will now change this law as we are requesting and protect all of the children of Kansas. Please feel free to contact me if you have any questions.

Thank you for your time,

**Arllys-Marie Gilchrist**

Arllys-Marie Gilchrist  
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Calling a spade a spade: Testimony of an incest survivor

Giovanna S. McQuillen, R.N., B.S.N., C.C.R.N.

Some wise leaders once wrote, "We hold these truths to be self-evident, that all men [persons] are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness." (The Declaration of Independence, July 4, 1776).

As elected congressional leaders, you are charged with enacting laws that protect the safety and happiness of all the citizens that you govern, especially of those who lack power to stand up and protect themselves. It is my testimony before you today as a survivor of child sexual abuse that current statutes not only fail to provide adequate protections under law, but fail to provide equal protection under the law for the child victims of sexual abuse. Current Kansas Statute does not assign the same degree of criminality to rape or to sexual assault perpetrated by a family member as it does to the same acts perpetrated by a stranger. In the eyes of Kansas law, sexual crimes perpetrated against children by strangers are subject to more severe consequences than are the same crimes perpetrated by family members.

While I do not wish in any way to belittle the traumas suffered by any sexual assault victim, I do wish to point out that the damages inflicted to the victims of incest are much more complicated and long-standing. Victims of incest are not sexually assaulted by strangers whom they can later avoid. Victims of incest are not survivors of one-time incidents. We who survive incest are often sexually assaulted multiple times in our own beds by members of the same household whom we must continue to face on a daily basis until we are old enough or strong enough to establish our own households, unless an outside entity intervenes on our behalf. We are further abused emotionally by family members who call us liars when we try to call a spade a spade and reveal the ugly truth. Having been violated by those we love and trust most, we learn not to trust anyone. The damaging consequences to victims of incest are long-term and are very expensive. As a group, we have a very high incidence of substance abuse. Many of us self-medicate to numb the pain of traumas we have suffered. Many of us drop out of school. Emotional learning readiness is impaired by trying to cope with the incest experience. Because

we have failed to successfully achieve normal educational goals, many of us work in low-paying jobs. Many do not have a stable employment history. Many of us have great difficulty maintaining normal, healthy interpersonal relationships as adults, and the divorce rate among us is very high. Sexual promiscuity and risky sexual behavior from a young age is also common among victims of incest. Many of us experience long-term physical and mental ailments that require extensive medical and mental health care.

Our abusers are motivated by the power they wield over us. Perpetrators of incest are not easily rehabilitated. The current mechanisms are not adequate to end incest. In order to change the abusive patterns of behavior, it is necessary for the perpetrators of incest to experience severe consequences of their actions imposed by an authoritative, external source. The persons who sexually abuse children are masters at rationalizing their abuses as justified actions or actions solicited by their victims. First, incest needs to be recognized and named as serious crime, not pushed aside and ignored by the law. The Alliance to Recognize and End Abuse has proposed legislation to do that. Second, the limitations on actions for recovery of damages suffered as a result of childhood sexual abuse need to be increased. Many of us take a long time in our recovery process to fully comprehend the injuries we have suffered as a result of incest, and the time to gather the personal inner strength to go after our abusers in court to recover civil damages can be even longer.

I experienced sexual abuses perpetrated by my father from the time I was about 7 or 8 years old that continued until I was in college. I always had a "gut feeling" that things in my home were not quite right, and that was confirmed for me by a friend when I was 17. She advised me to talk to a teacher, or to speak with a guidance counselor at school. I was not able to take my friend's advice because my father was a school teacher, and I felt that no one would believe me over him. So I kept quiet. When I went away to college, I tried to talk with Christian friends and clergy about the abuse. But the response I got was that it was wrong to be angry with my father and that I must forgive him. Balderdash! I have since learned in my faith walk that true forgiveness comes **after** working through the anger and grief that are normal, healthy responses to abuse. It was not until I was a senior in college, and my pediatric nursing class was visited by a specialist from children's services who came to speak to us about abuse, that I was accurately able to name and fully comprehend the extent of my abuse experiences and recognize my need

for professional help. Because emotional issues interfered with my ability to study, it took me seven years to complete my nursing degree. But I thank God for the strength to finish my studies, and to work, because I then had medical insurance that afforded me the mental health services that I needed to achieve a full recovery from the experience of surviving incest. My out-of-pocket expenses for professional mental health services were \$20 per session. I started with weekly individual counseling sessions which eventually spaced out to twice a month. I also participated in weekly group therapy sessions. Of my therapy group comprised of six members, I was the only client who had not abused alcohol nor drugs, who had successfully completed a college education and was steadily employed in a professional capacity, who had not married and divorced multiple times, and who had not reproduced with multiple partners. I received professional mental health services for about three years. My costs of \$40 per week reflected here (excluding additional costs paid by my medical insurance) do not include the free self-help services I obtained through attending an Adult Survivors group, nor the numerous free sessions of support I had as a college student through the local Catholic parish. I have never found the inner strength to go after my abuser in court for civil damages, and current statutes in Kansas would not have enabled me to do so at the time my therapist suggested it in my recovery process.

Changing Kansas law to recognize incest as a serious crime and to extend the limitations on actions for recovery of damages suffered as a result of childhood sexual abuse will help to validate the victims as truly equal citizens whose Rights to Life, Liberty, and the pursuit of Happiness are valued and protected in this state. Instituting such changes will only be one part of the comprehensive, multi-pronged approaches that are necessary to break and put an end to the pervasive cycles of child abuse that are rampant in our society today.

Untitled

05/15/05

When I was a child I had a secret life. I went to church everyday, participated in the services, attended Sunday School, ate at the potlucks. I loved church because the people there loved me. They were kind and gentle, and encouraged me to use my talents. Church, in a way, was my refuge. For a little while each week I could be loved and treated well....but on the other hand...Why didn't those people who loved me see what was happening to me? How could they not know that the person preaching to them and counseling them to lead Godly lives was sexually abusing his daughter. They didn't know because they made a choice not to see. I didn't tell them because they never spoke about the kind of things that were happening to me, and I thought I was the only one with secrets. Had I had a name for what was happening, had I known it happened to other children and that it was the fault of the abuser, not the abused, I might have found the courage to tell my secret and ask for help.

Although such things as sexual abuse are spoken of more openly than in the past, I believe most congregations are still making the choice not to see what is happening to the victims in our midst. Today in congregations all across this city there are children and adults with secret lives who do not feel they can ask for help. We may be kind and loving, and offer brief refuge from troubled lives, but we are not doing what we should to change those lives. In congregations today there are children who were emotionally, physically or sexually abused last night. There are women hiding bruises from the beatings they endured. There are men who will go home to be degraded and humiliated by the caustic words from their spouses. In congregations today are men and women, and children, who cannot break free from their addictions and do not think they can ask for help from us. Do we see them? No, because we have chosen not to. We may talk about the problems in the abstract, as in "What's wrong with the world today?" but we do not offer a safe place for the victims in our midst to tell their secrets and ask for help.

We should be doing much more than talking about the problems. We should be studying the problems, learning the dynamics, developing strategies to help the victims. Every child that goes to Sunday School should be told who to go to in the congregation if they are being harmed. They should be told it happens to other children, and that it is never the child's fault. Every spouse that is being abused should know that he or she can count on the loving brothers and sisters in the congregation to stand by them and help them find their way. If a spouse needs to leave an abusive home, we should help them find a safe place to go, and we should stand by them in their decision. Every congregation in the city should know what resources are available. We should all learn how to call the safe houses for battered women, how to report child abuse, where to refer addicts for detox and treatment, and how and when to intervene in all these situations.

When I was a child my church family offered brief refuge from my hard life. For that I am grateful, and I believe it may have saved my life... But if they had chosen to see, if they had told me I didn't have to live the life I led, if they had shown me the way out...that would have given me back my childhood. What a precious gift that would have been.



Untitled

I have heard it said more than once that problems such as abuse and addiction are growing because the world is becoming more secular. I understand what is being said, and I agree that people need God in their lives and need the communion that a good church family offers. But I also believe the world has become more secular because churches have failed to deal with these problems effectively. Generations of children may have found brief refuge from the reality of their hard lives when they went to Sunday School and church, but they needed more. They needed someone to listen to their stories and to tell them they were not the only one. They needed someone to stand up for them and to tell the perpetrators their abuses would no longer be tolerated. Generations of children needed sanctuary and found only brief moments in time when they could forget what their lives were like. As these children got older they found they could also find these moments of forgetfulness in a bottle or a pill, or by experiencing the rush of illicit sex. We failed them. They went to church, where they thought God was, and all they got was a little break. They could get that any number of ways. Worse yet, many children were, and are, not safe in our churches. Not only have we chosen not to see the abuse going on in our children's homes and communities; we have allowed this same abuse to happen in our churches, where all children should be safe from harm.

We are called to offer more than brief refuge. We are called to offer sanctuary from harm. It takes much more than kind words once a week to save a child or an abused adult. We are called to see what is happening, and to take a stand against it. We are called to learn all that we can learn about abuse and addictions. We are called to tell every member of our congregation that it is safe to tell what is happening, and that we will do all we can to see that he or she is safe. We are called to stand up to the abusers and stop enabling them to continue the abuse. We are called to love and forgive the abusers, but we are not called to tolerate the abuses. We are called to tell them to stop, and to take the steps necessary to see that they do stop. We are called to offer their victims a place where they are safe, where they can talk about what has happened to them, and where they can begin to heal.

We can start by learning all we can learn about the dynamics of abuse and addiction. We can find out what signs to look for, how to be available to victims when they need someone to talk to, what services are in place in our community to assist victims of abuse and addiction. While we are learning, we can also develop a plan at the congregational level. We can talk openly about abuse and addiction and acknowledge that it is happening to our members. We can tell child victims that it happens to other children, and that no matter what the abuser has said, they can tell someone. We can teach them who to go to, and we can prepare ourselves to do what is needed to protect them.

I believe if churches begin to offer more than brief refuge from the problems in people's lives, people will return to church.

*Lynn Shannon*

## “M’s” STORY

Not all children survive incestuous sexual abuse.

Not all live to deal with the adult adjustments and struggles of life after an abusive childhood.

There are those children, no less brave than the others, who decide “...if this is life, I don’t want any part of it.”

M’s story is just such a sad and inexplicable one—the stuff of which TV movies are made but without any happy ending-- a senseless waste of life.

“M” was 17 when she sat in her car off the side of a Kansas highway waiting for a semi truck, any semi truck, to come off the turnpike. This was early one fall morning when she should have been on her way to school. She should have been thinking ahead a few months to prom, high school graduation, summer vacation and college. But she must have been thinking back to years of incest by an extended family member. Maybe she was thinking about the mental health facility where she had stayed from time to time for depression brought on by this secret—this incest. She was smart and knew what she had to say to them in order to be released even though her meds for this depression, maybe, weren’t quite stabilized. The meds, of course, weren’t the source of the problem—the incest was. Whatever she was thinking, she took her own life that fall morning. She drove her car under that unsuspecting semi-truck that did, eventually, come her way.

“M” and her group of friends were good students, active in sports, music, student politics—several were valedictorian candidates, including “M”. She should have lived a long and productive life.

There were signs that all was not quite as it appeared. “M” did share her secret with a best friend and the friend shared it with an adult she trusted. But, nothing was done. *Surely, it couldn’t be true. Surely her parents were aware and dealing with it. Surely, it wasn’t an outsider’s place. Surely it will all blow over.*

If her story helps to inform and bring about awareness that the consequences of childhood sexual abuse do not just go away; that children do not just get over it; that incestuous sexual abuse, from fondling to rape, has long term affects on the child whether they’re 2 or 12 or 17, then, perhaps, we can overcome our preconceived notions and pass a Kansas incest statute that does not lessen or forgive the act because it was perpetrated by a family member.

“M” is gone. “M’s” promise is gone. The funeral is over. The secret is, essentially, preserved. The perpetrator is still out there protected by our silence and our laws.

To All Who Are Concerned About Keeping Children Safe in Kansas:

As a survivor of childhood incest I feel that I can speak to the need for greater legal protection for Kansas children. My abuse started as an infant and continued intermittently into adulthood. In addition to the incest by my father, other males in the family and in the community were involved in the abuse which ranged from unbearable humiliation and rape to ritual abuse. In my case, I survived by dissociating and this is when I developed different parts to isolate the memories and pain. After many years of therapy and several hospitalizations for depression and suicide attempts, the memories of the abuse gradually surfaced.

The present criminal laws do not carry penalties for incest that acknowledge the devastation that incest causes to the child, and the civil statute of limitations for childhood abuse is far too strict. It took years to heal enough to know what happened, to realize that no one protected me or knew what was happening. I tried telling, in my childish way, but no one paid attention. I learned that it wasn't safe to trust anyone. Being quiet and keeping the focus off of me was necessary. Sometimes when the pain was so great, I would melt into the floor, ceiling or object to avoid the depth of the pain.

Unfortunately, my story is only one of hundreds! There are so many survivors among us who have not been protected from abuse by those who are closest to us. We also realize laws protect the perpetrator and prevent the survivor from being able to receive justice.

I was one of the lucky ones who found hope in my faith, and I thank God every day that I am continuing to heal! Please consider carefully the changes in laws that would make it easier for all survivors in Kansas to heal from incest and other childhood abuse by giving them more time and making the abusers accountable by making the penalties for incest the same as for rape.

Respectfully,

Mary

Kansas State Legislators:

As a survivor of incest from the age of 3-12 years (my sister also) I finally feel as though I can do something positive about this subject. Few people have known of my history besides my family. I grew up in western Kansas and lived most of my married life in that area but my childhood was spent in Garden City. When I read what A.R.E.A. was doing I joined them. The laws for both civil restitution and criminal accountability need to be changed. There is such misinformation about incest and who commits it. My parents were Methodists and active in Church and Sunday school. My father was respected, a Boy Scout leader for many years, active in Methodist Men. My mother says she didn't know the extent of what he was doing. I was 40 when I wrote a poem and gave it to my brother and sister about abuse. My sister (7 yr. younger than I) broke down and cried. She told me he had abused her for the same amount of time or longer and she had repressed it until her marriage was heading for divorce and she began counseling. I thought I had been protecting her and the guilt was unbearable. I thought he had only abused me. Recently I've been told he abused some extended family also. In my own family, my children suffered emotional and some physical abuse by me as a result of my sexual abuse and the resulting behaviors I developed. My youngest daughter was sexually abused by my father and continues to struggle with being in one abusive situation after the other so her three children are always at risk. This is how the cycle continues. From 1976-1992, I was in counseling most of the time and on medication for depression. Only because my husband and I had good health insurance was this possible for almost 16 yrs. I was born in 1946 so began counseling at the age of 30. This is why the age limit and the statute of limitations for restitution needs to be changed.

As with rape, incest is about power and who has it, the adult not the child. Because the perpetrator is a family member whom the child trusts and is dependent upon, the emotional trauma is severe. I didn't learn until in my 6th grade sex education class at school that this behavior was wrong. It was feeling wrong to me but I thought this was happening in all families. There are thousands of stories like mine. Even with my background as a nurse and all the therapy for years, it wasn't until my husband became a social worker and we read many books did we fully understand the horrific impact the abuse had on my life and therefore my families. My sister, who is married to a minister, and I have worked hard to overcome the "side effects" and it is a never ending battle. We managed to have productive lives but there are many who do not. I realize that even if I had told anyone almost 50 yr ago, nothing would have been done to him and that's still pretty much true today.

Recovery is a long process which includes intensive counseling, medication and the perpetrator to accept responsibility for what was done to the child so the survivor can begin healing. Having the ability to start the healing process by confronting the perpetrator and afford the counseling and medication are the reasons for the extended period of time to recover restitution. Getting "Jessica's Law" passed was a wonderful thing but that won't help the 75-80% of sexual abuse by non-strangers; passing the revised incest bill and extending the statute of limitations might. I respectfully request your support of HB# and SB#. Thank you for your time.

Respectfully,

Sandy Estabrook

Member of A.R.E.A.

From: <TWalton@npdks.org

To: "Carl & Marilyn Wolgemuth" <wolgemuth@courtownusa.net>  
Sent: Tuesday, March 14, 2006 1:22 PM  
Subject: Re: A.R.E.A meeting

You asked about situations where family offenders are treated differently than stranger offenders. I recall one case in particular that I had investigated. Prior to having the Child Advocacy Center, I interviewed a 6 year old girl who told me about how her father would have her take showers with him. While they were in the shower, he would have her touch him and have her perform oral sex on him. After interviewing the child, I went to her home and picked up her father, brought him back to the Police Department and interviewed him. He confessed that what his 6 year old daughter had told me was true. I placed him under arrest.

During the eventual court proceedings, a deal was worked out between his Attorney and the County Attorney. The father did 30 days in the County Jail and then was to enter a sex offender therapy group at Prairie View. The father was not to live in the same home with his daughter. I was never told of the "deal" or what had happened in regards to the outcome of this case.

Six years later, I was interviewing another child at Heart to Heart Advocacy Center. The child told me of a witness who saw what had happened to her. The witness was the same 6 year old girl I had interviewed previously, she was now 12 years old. At the end of the interview I inquired how things were going for her at her home. She told me things were alright except that her father was "raping" her almost every night. To say the least, I was shocked, and very upset that this kind of thing could happen again.

I did a complete interview of the child, it was video taped as is the protocol of the Child Advocacy Center. After the interview I drove to her home and met with her father. Her father was a tall man, about 6'8" tall, but I assure you, he was not going to be a match for me. I drove him to the Police Station and had him watch the tape of the interview of his daughter. I asked him, at the end of the tape, if his daughter had told me the truth. He replied she had.

He told me he had stayed away from the home for about 2 years after the first incident. He eventually moved back in and the molestation began shortly after. He told me he was still attending the sexual offenders program at Prairie View. I confirmed that he had been in the offenders program, and the Director was not aware of the father offending again.

This time the Court sentenced him to a lengthy time in prison. Had the original deal not been made, and had the sentence been consistent with the crime that occurred, would his daughter had to have suffered a second time?

There are other cases that deals were struck between the County Attorney and the Defendants Attorney because the perpetrator was a family member.

Sometimes deals are made so the victim does not have to go through the judicial system and be subjected to further victimization. Family members don't become miraculously cured and cause no further harm, they do reoffend. I believe, they must be judged on the crimes they commit not on their relationship to the victim. To me it seems even more egregious that the perpetrators of these crimes would create victims of their own family.

Thank you for all the great work you and your organization, A.R.E.A., have been doing. Keep up the good fight.

Det. LT. T. Walton  
Newton Police Department  
316-284-6030

7-30

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Advocacy with Integrity

Camie R. Baker • Chad M. Crum • Richard C. King • Joshua S. Andrews  
Ervin E. Grant, of counsel

January 27, 2007

Honorable Peggy Palmer  
State Capitol Building  
300 S.W. 10<sup>th</sup> Avenue, Room 523 S  
Topeka, KS 66612

Dear Senator Palmer:

As you requested, I am writing this letter in support of the bill changing the aggravated incest statute which you are introducing at our request. There will be a packet of other letters and written testimonies provided to you and to Peggy Mast in the House and the rationale of taking this action at this time is as follows.

It appears the 2006 Legislature took some giant steps towards solving problems that had arisen because of sexual predators. Penalties for sexual offenses were increased and repeat offenders were removed from society. In this process a number of sexual offense statutes were amended but an opportunity was missed to fix a glaring gap in our statutes, and that is the laws relating to incest.

We have a long history of looking the other way when the offender is a family member and when the arena where the sexual offense takes place is the home. In fact, many of our citizens consider this a dirty subject and would rather not discuss it. In 1994 the Kansas Supreme Court recognized this inequity when it held in *Carmichael v. State*, 255 Kan 10:

“The legislature also intended that aggravated incest, a crime committed by a person related to the victim, constitutes a less serious offense than when a similar prohibited act is perpetrated by a defendant against a child with whom he or she has no family relationship.”

A number of statutes concerning sexual exploitation of children were upgraded by the legislature in 2006 to level 1, such as aggravated criminal sodomy (21-3506) and aggravated trafficking (21-3447) but aggravated incest (21-3603) has remained a severity level 5 in which case a court could grant probation. Surely the act of incest of a member of one's family, which usually involves repeated offenses over a period of time, is a more serious crime than sodomy or rape, which may occur only once and which may have a less devastating psychological effect. The law as it stands now says that rape and sodomy are level 1 felony but incest is a level 5.

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7-31



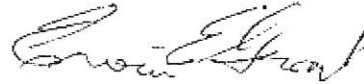
January 26, 2007

Page 2

If the predator commits a sex crime with a neighbor's child it is a level 1 felony but if it is committed with one's own child it is usually prosecuted as aggravated incest, a level 5 felony with presumed probation. We hear talk of not allowing sexual predators within so many hundred feet of the school ground, while the majority of offenses are committed in the home. The Alliance to Recognize and end Abuse is engaged in a statewide effort to make perpetrators accountable for their abuse and to make the public aware of the pervasive presence of incest in our society. In most cases, the sexual exploitation of the child is so devastating that it takes them years to deal with the trauma. In most cases they suffer physical results and loss of jobs and are destined to be disabled with society paying the disability tab in the form of taxes while the perpetrator goes scot free and with the tendency to commit the crime time and time again.

Thank you for helping us try to correct this inequity in the law.

Sincerely,

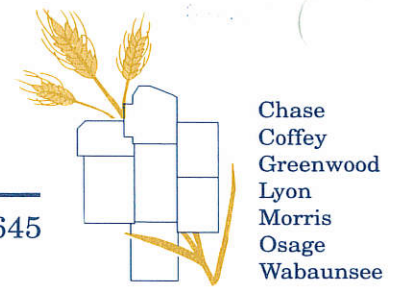


Ervin E. Grant  
Former Kansas Legislator  
Member, Alliance to Recognize and end Abuse  
Box 162, El Dorado, Kansas 67042

EEG/pch

7-32

# Mental Health Center of East Central Kansas



1000 Lincoln St. ♦ Emporia, KS 66801 ♦ 620-343-2211 or 800-279-3645  
Fax: 620-342-1021 ♦ After Hours Emergency: 620-343-2626

*Jayme Collins, MS, LMLP, LCP, Assistant Director*  
Testimony Outline of a Reluctant  
Mental Health Sex Abuse Expert

- I. Twenty years of direct treatment/supervision of sexual abuse victims and treatment programs (1985 to 2005)
  - A. 1984 – Survivors of Incest  
“The Oprah Phenomenon”  
– prior to that , silence
  - B. 1989 – Intra-Family Sexual Abuse Treatment  
“Keep the family intact”
  - C. 1999 – Sex Offender Treatment Program for 5<sup>th</sup> Judicial District – if offense qualified for probation on sentencing grid and if treatment was available
  
- II. Incest has the single most damaging and complicated psychological recovery second only to other trauma and brain disease like schizophrenia
  
- III. Psychological treatment is not a deterrent to sexual offenders  
Personal accountability inspired by serious legal consequences is most effective
  
- IV. The Evolution of Kansans response to Incest
  - A. 30 years ago – incest mostly a secret, rarely exposed
  - B. 20 years ago – victims started to speak, treat the family and re-integrate the offender before probation ends
  - C. Today, 2007 – incest is a serious felony, offenders are held accountable



LADIES AND GENTLEMEN OF THE LEGISLATURE,

**My Name is Shannon Spradlin**

I want to thank you in advance for hearing my testimony today.

**I AM A VICTIM OF INCEST.**

**The difference between me and the perpetrator of this crime is that the criminal lives free, while I am serving a Life Sentence without Parole!**

I grew up believing I was the criminal, because I **MUST** have **done** something, or **been** something **very very bad...** to be subjected to this horrible, **soul-deadening abuse on a daily basis year after year, until I was 14.**

YET the only crime I was guilty of was that of being born the daughter of a sexual predator. As a child, I knew it was **my** fault, that somehow **I** had caused the perversion I endured, and the **fighting, dysfunction, chaos and rage** in my house was because of me. Help was out of the question, because I **KNEW** it was **MY JOB** to keep the secret and protect the abuser at all costs! Mind-Control, another by-product of my pain.

**In the Interest of Time Today, I will list some of the basic human rights I was forced to forfeit:**

1. **A SAFE HAVEN:** Never a safe moment for me. Incest took place in every room of the house except the kitchen, at any time of the day or night. Sometimes my mother and siblings were in another part of the house.
2. **NIGHTMARES:** More accurately defined as NIGHT TERRORS, fear of being chased, and tremendous fear of the dark. To this day, I require night lights throughout our home.
3. **EMOTIONAL ABANDONMENT:** No trustworthy person in my childhood. No adult, or peer. No Sibling Relationships. I was unable to feel or process healthy emotions. I was Governed by inner rage, frozen tears, and a steel emotional cage to imprison my emotions.
4. **INABILITY TO TRUST:** Which translates into inability to have close relationships without a lot of conscious effort.
5. **IRRATIONAL FEAR OF GOD:** Though we were in church every time the doors opened, I knew I was so **BAD** God could never love me or see good in me. After all, isn't our earthly Father supposed to be a parallel to our Heavenly Father?
6. **INABILITY TO SHOW OR RECEIVE LOVE:** Even after marrying my High School Sweetheart and having 2 beautiful children, I was still frozen in uncontrollable anger outbursts and irrational demands. This created a life-long emotional barrier between my children and I. I grieve this loss even today. My husband is a Saint of a Life-Partner, and living and helping me work through years of turmoil, we have built a wonderful marriage.
7. **PHYSICAL HANDICAPS:** I have spent my life in a rigid, painful body, unable to run free, enjoy athletics, or live in health. The body stores many of the memories too painful for the mind to address, and it is a life-long process trying to heal that condition.

Senate Judiciary

2-16-07

Attachment 9

**These are only some of the results of the horrors of incest. I am 63 years old, and will never forget.**

**There is not time to share with you the depth of destruction involved in the rape of the very soul of small children exposed to the sexual demands of an adult long before that child is emotionally, physically, spiritually, and mentally equipped to handle such experiences.**

**But we must acknowledge this:**

- 1. As long as there are people, there will be crime.**
- 2. As long as there is crime, we will have criminals.**
- 3. As long as there are criminals, we must be prisons.**
- 4. The need for prisons will never, never, never end!**

**IF A SEXUAL PERPETRATOR IS NOT IN A PRISON BED,**

**HE WILL BE IN A VICTIMS' BED!**

**AS OUR ELECTED LEGISLATORS, PLEASE DO WHATEVER YOU CAN TO HELP THE INNOCENT, AGONIZING CHILDREN!  
They are depending on all of us to reach out to them !**

**THANK YOU.**

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TO: Senator Vratil and Members of the Senate Judiciary Committee  
FROM: Sandra Barnett, Executive Director  
RE: Senate Bill 233  
DATE: February 16, 2007

The concerns prompting this bill amending the incest statute (K.S.A. 21-3603) are shared by KCSDV.

The current law makes some sex crimes perpetrated against a relative a less serious offense than a similar act perpetrated against a child who is not a relative. In Carmichael v. Kansas, 255 Kan 10, 872 p.2d 240 (1994), the defendant received a lesser sentence (based on a conviction of aggravated incest rather than a conviction of rape) because the victim was a relative. The defendant was in the special relationship class of persons – relative - and therefore could only be charged and convicted of aggravated incest.

The proposed amendments to part (a)(2) of this statute, as set out in this bill, have similar elements to the sex offenses of indecent liberties with a child (KSA 21-3503) and aggravated indecent liberties with a child (KSA 21-3504). The incest statute, located in Article 36 of Chapter 21, has two distinct prohibitions. It prohibits marriage between relatives and also prohibits sex crimes against children. All other laws regarding sex crimes against children are located in Article 35, Sex Offenses. A more comprehensive approach to this would be to look at these statutes together to minimize confusion.

Recent legislative changes reflect a clear intent to enhance criminal penalties for sex offenses against children. The lesser penalty for conviction of sex crimes against children who are relatives of the perpetrator is a recurring issue before the legislature. Last year this concern was introduced in HB 2769. We therefore recommend this issue be referred to the Judicial Counsel for further consideration and recommendations.