

Approved: 4/1/09
Date

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on March 16, 2009, in Room 143-N of the Capitol.

All members were present except:

Representative Annie Kuether- excused
Representative Milack Talia- excused
Representative Grange- excused

Committee staff present:

Melissa Doeblin, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Toni Wellshear, AARP Kansas Executive Council
Terry Sajmonds, Crime Stoppers
Barry Wilkerson, Riley County Attorney
Kathy Porter, executive Assistant to the Judicial Authority
Darc Smith, Staff Attorney-Kansas Department Health and Environment

Others attending:

See attached list.

The hearing on **SB 6 - Sub for S 6 by Committee on Judiciary – Professional fund raisers; required disclosures** was opened.

Toni Wellshear, a member of the AARP Kansas Executive Council, appeared in support of the bill. She stated that with the wide use of computerized mailing lists, unscrupulous marketers and solicitors can target specific market segments for scams, questionable products and solicitations. Older people are often the targets of telemarketing solicitors that disguise their efforts as charitable when actually most of the money they collect is not distributed to the charity. (Attachment 1)

Senator Derek Schmidt, provided written testimony in support of the bill. (Attachment 2)

Douglas Tank, Individual provided written testimony giving actual experiences with scrupulous telephone solicitations. (Attachment 3)

The hearing on **SB 6-Sub for S 6** was closed.

The hearing on **SB 69 - Crime stoppers advisory council; Kansas crime stopper trust fund** was opened.

Melissa Doeblin, Staff Revisor, gave an overview of the bill.

Terry Sajmonds, appeared before the Committee on behalf of Crime Stoppers in support of the bill. He explained the intent of this bill is to establish an Advisory Council within the Attorney General's Office and create a State Coordinator/Executive Director position and provide some financial support. This would help strengthen the Kansas Crime Stoppers Association and help keep local programs going. (Attachment 4)

Kyle Smith, was in the audience, and based on his law enforcement experience, spoke in favor of the bill and stated the Crime Stoppers is a good program and the position and funds provided by this bill would give some continuity to the program since the program relies on individual and businesses in their community to donate funds to the program and is operated by volunteers.

K.C. Blodgett, Kansas- State Lodge-Fraternal Order of Police provided written testimony in support of the bill. (Attachment 5)

Barry Wilkerson, Riley County Attorney appeared on behalf of the Kansas County and District Attorneys

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on March 16, 2009, in Room 143-N of the Capitol.

Association (KCDA) as an opponent to the bill. He stated it is another diversion fee and these people should not be viewed as a revenue source for the state to create another oversight agency. He also does not believe that state oversight is needed of a local law enforcement function. (Attachment 6)

Kathy Porter, executive Assistant to the Judicial Authority appeared as neutral on the bill. Her concern is this will increase the duties of the district court clerks as they will be required to charge, collect, and account for the \$20 fee, on behalf of and to the credit of the Crime Stoppers Council. It is difficult to estimate with any degree of certainty how much revenue this bill would generate and the bill contemplates that the amount generated by each county be returned to that county, which would require reprogramming and accounting to accommodate the new funds. If this bill were enacted, the Office of Judicial Administration would request an amendment regarding the mechanics of the collection process. (Attachment 7)

The hearing on **SB 69** was closed.

The hearing on **SB 154 - Civil procedure, habeas corpus, infectious disease** was opened.

Daric Smith, Staff Attorney for the Kansas Department Health and Environment, testified as a proponent of the bill. He explained laws were enacted in 2005 to modernize the procedure for isolating and quarantining persons who are alleged to suffer from or have been exposed to infectious and contagious disease. This bill is a cleanup of a statute that was overlooked when the new isolation and quarantine statutes were adopted in 2005. (Attachment 8)

Judge James Vano, 10th Judicial District Court, Johnson County presented written testimony in support of the bill. (Attachment 9)

Randy Mettner, Executive Officer to the Adjutant General and Director of Homeland Security for Kansas submitted written testimony in support of the bill. (Attachment 10)

There were no opponents.

The hearing on **SB 154** was closed.

SB 61 - Prison-made goods act; additional authorization to contract for certain work projects.

Representative Watkins made the motion to report SB 61 favorably for passage. Representative Kleeb seconded the motion. Motion carried.

The next meeting is scheduled for March 17, 2009.

The meeting was adjourned at 4:30 p.m.

JUDICIARY COMMITTEE GUEST LIST

DATE: 3/16/09

NAME	REPRESENTING
Jandy Jaquast	CKM
Ed Klump	KACP KPOA
Kyle Smith	KPOA
Sean Murr	CAPITOL STRATEGIES
Alicia Jones	Rep Crow's Intern
Andrea Bozarth	AARP
Joni Shellshear	AARP
Susan Kane	KDHE
Daric S. Smith	KDHE
Charles Hunt	KDHE
Terry Symonds	KCSA
Melissa Wagenmann	
Katley Pulte	Judicial Branch
B. Williams	KCDAA
Richard Sommy	Kerny ASSOC
Joseph Molin	KS BAR ASSN.



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March 16, 2009

The Honorable, Lance Kinzer Chairman
House Judiciary Committee

Reference – Sub for Senate Bill 6

Good afternoon Chairman Kinzer and Members of the House Judiciary Committee. My name is Toni Wellshear and I am a member of the AARP Kansas Executive Council. AARP Kansas represents the views of over 375,000 members in the state of Kansas. Thank you for allowing us to present our comments in support of Sub for Senate Bill 6.

Financial security is a top priority for AARP. With the wide use of computerized mailing lists, unscrupulous marketers and solicitors can target specific market segments for scams, questionable products and solicitations. Older people are often the targets of telemarketing solicitors that disguise their efforts as charitable when actually most of the money they collect is not distributed to the charity.

Herb Weisbaum, MSNBC, “Give to charity-but don’t be a sucker” reported that in December of 2007, Americans were expected to give more than \$300 billion to charity and that there were more than one million charitable organizations trying to get a share of this money. He wrote that the “vast majority of charitable organizations are honest and will put your money to good use – most, but not all. And even the legitimate ones sometimes use questionable solicitation tactics to get contributions.”

We believe that the vast majority of charitable organizations are honest and donations will be used wisely. However, AARP cautions members that before they give, they should make sure they know where their money will be going. They should ask questions to make sure contributions will support a worthwhile cause—not just the fund-raiser. (The attached list provides precautions recommended before making charitable donations.)

To further protect citizens, AARP believes that states should pass legislation to:

- deter solicitors from using solicitations that appear to come from the government,
- eliminate deceptive and misleading games-of-chance mailings, including sweepstakes,
- deter fraudulent use of charity look-alike names for solicitation,
- require all charities, and all people and entities soliciting on behalf of charities, to disclose what portion of public contributions is spent on activities related to the group's charitable purpose.

AARP believes that consumers need to have the best information available so they can manage and use their resources effectively. Therefore, AARP Kansas supports Sub for SB 6 and respectfully requests the support of the House Judiciary Committee on this important piece of legislation.

Thank you.

Resources:

http://www.aarp.org/community/AARPWA/journals/Charities_Give_but_Give_/889611

“The Policy Book”, AARP Public Policies 2009



Tips on Making Charitable Donations

To make a gift that counts, AARP encourages members to:

- Find out what percent of the donation will be spent on fundraising,
- Check with the charity directly to see if they authorized the fund raising effort,
- Watch for phony charities using names that sound like legitimate charities,
- Keep records of your donations and pledges so you can check if you are told you made a pledge and cannot recall,
- Pay by check to the charity and not to the fund-raising company.

Capitol Office

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Senator Derek Schmidt
Majority Leader

Committee Assignments

Chair: Confirmation Oversight
Vice Chair: Assessment & Taxation
Organization Calendar & Rules
Member: Judiciary
Agriculture
Legislative Post Audit

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Testimony in Support of Substitute for Senate Bill 6
Presented to the House Judiciary Committee
by Senator Derek Schmidt

March 16, 2009

Mr. Chairman, members of the committee, thank you for the opportunity to testify today in support of Substitute for Senate Bill 6.

This legislation would amend the Charitable Organizations and Solicitations Act to require that telephone solicitors raising money for charities affirmatively disclose, during their telephone solicitation, how much of each dollar donated would actually go to the charity.

I call this a 'truth in giving' proposal. This legislation is aimed at making sure good-hearted Kansans know to whom they are giving when they agree to donate to a charity. If, say, half the money goes to the charity and the other half to third-party fundraising expenses, Kansans should know that.

This problem has troubled me for almost a decade, since I served as an assistant attorney general for Kansas in the consumer protection division. But in years past, the bustle of the start of a new legislative session has pushed this issue to the back burner.

This year, I received one of these solicitation calls in late November. That story is relayed in the attached newspaper column, which was published in some of my district newspapers.

I believe it is time to act to ensure Kansans know to whom they are actually giving.

Thank you again. I would stand for questions.

House Judiciary

Date 3-16-09

Attachment # 2

DOUGLAS C. TANK
610 North 7th Street
Neodesha, KS 66757-1411
(620) 325-2093
NeodeshaDoug@aim.com

Monday, March 16, 2009
House Judiciary Committee
State Capitol – Room 143-N

This testimony concerns my experiences with charity telephone solicitations. I read a front page article in The Neodesha Derrick newspaper on 1/08/09 and was extremely pleased that Sen. Schmidt has chosen to address the much too common unscrupulous practices of telephone solicitation.

One of my experiences involved the United States Deputy Sheriff's Association and began with a solicitation call, supposedly from this association, in late December several years ago. I was told about a young deputy sheriff from Kansas who was shot and killed. The solicitor claimed that this deputy would have survived if access to a bullet proof vest had been available to him, but, due to financial restraints, this deputy's department could not afford to supply such a vest. The solicitor also claimed that this deputy left behind a wife and two young children. I certainly felt that a donation was warranted and pledged to make one. A couple of days later I received a letter supposedly from the "UNITED STATES DEPUTY SHERIFF'S ASSOCIATION" thanking me for my pledge and asking me to "Please take a moment and mail your check today." I did so.

Less than a month later in January I received another solicitation call from the same solicitor asking for another donation for the United States Deputy Sheriff's Association. I informed him that I had just made such a donation and asked why he was soliciting another donation in such a short period of time. He flippantly said, "This is a new year. Your donation was made last year." I told him not to call me until December.

That episode raised a red flag, so I decided to research this association on the internet. I found that the United States Deputy Sheriff's Association was located in Houston, TX. I then did a search for the solicitation firm and found that it was located in Kansas City. On the third or fourth page of the solicitor's web site I was astounded when I found, in small print that a donation was distributed in the following manner: 12% of the donation is sent to the charity and 88% is retained by the solicitation firm for "Fundraising and Operating Expenses."

I assumed that this had to be an error, and I contacted the United States Deputy Sheriff's Association in Houston, TX. I spoke with a woman and asked her if what I had discovered could possibly be accurate. The woman nonchalantly answered, "Yeah, that's the deal we have with them." I asked her, "Do you condone stories about a deputy losing his life because his department cannot afford a bulletproof vest, and, more importantly, do you condone the fact that some telephone solicitation organization is retaining 88% of my donation?" She replied, "It's free money for us – we don't have to do anything, and we get a check once a month." Needless to say, I have never made another donation to any charity telephone solicitor.

I only wish that my story ended here, but I came home on July 19, 2007 and my 91 year old mother informed me that she had been contacted by the United States Deputy Sheriff's Association. She told me that she pledged \$25.00. I asked her to ignore the letter that was coming, but she told me that she had given her word and had every intention of sending the pledged donation. Not too long after that, I received another call from this solicitation firm. The solicitor asked to speak to my mother. I told him to remove my telephone number from his list and to cease calling my mother. I also told him that I knew about the 12% / 88% split and had no intention of providing him with an income. That's when he used several inappropriate and highly offensive terms towards me and hung up. He continued to call on a daily basis – sometimes more often than once a day. I finally added "Caller I.D." to my phone service at a cost of \$7.00 per month to end the aggravation.

House Judiciary
Date 3-16-09
Attachment # 3

Once again, I am encouraged that Senator Schmidt is going to address this issue. My concern is that his proposed solution will rely on the very perpetrators of the problem to resolve it. I am having difficulties believing that these solicitors who are raping prospective donors are going to willingly admit their deviance. Who would have donated \$50.00 to USDOSA if they knew that USDOSA would only receive 25 cents of their donation? Secondly, legislation such as this requires adherence by those for whom this legislation was created. How and by whom is this legislation going to be enforced?

Sincerely,

Douglas C. Tank

If you visit the following:

Following I have listed some results of my recent research. In one of these it states that only ½ penny of every dollar that was raised under the receiver's supervision went to ADSA.

- **<http://www.kscharitycheck.org/results.asp?solid=2313153>**
You will find a disclosure of 35% to USDOSA and 65% (plus their operating expenses) to the fund raising organization.
- **Phone calls for sheriffs' association arouse suspicions.**
http://www2.ljworld.com/news/2003/oct/06/phone_calls_for/
- **The American Deputy Sheriff's Association was, for years, America's best-known "badge scam."**
- **For every dollar ADSA raised under the receiver's supervision in 2005 and 2006, a half-penny actually went to charity. Telemarketing fees, overhead and the receiver's investigation swallowed the rest.**
- **Lewis inherited a contract with Charitable Resource Foundation, a Greenwood, Ind., telemarketer. The contract, which expires in 2011, gives the fundraiser nearly 90 cents of every dollar it raises in ADSA's name.**
<http://www.ocregister.com/articles/adsa-lewis-ohio-1981132-charity-contract>
- **The records indicate that Gold's companies collected \$6.8 million between 1995 and 1997 on behalf of roughly a dozen charities, which received about 11% of the sum.**
<http://articles.latimes.com/1999/may/16/news/mn-37915>
- **In March, the U.S. Federal Trade Commission announced an enforcement action naming Civic Development Group involving FTC charges that CDG misrepresented to consumers nationwide that contributions they were soliciting on behalf of a non-profit organization called the American Deputy Sheriffs' Association would benefit law enforcement in their own communities.**
http://www.iowaattorneygeneral.org/consumer/press_releases/disabled.html
- **Civic Development Group is still in business.**
<http://civicdevelopment.net/>

Testimony in Support of SB 69
House Judiciary Committee
March 16, 2009
Terry Symonds

Chairman Lance Kinzer and Members of the Committee,

Crime Stoppers is based on the principal that "Someone other than the criminal has information that can solve a crime" and was created to combat the three major problems faced by law enforcement in generating that information:

Fear of REPRISAL
An attitude of APATHY
Reluctance to get INVOLVED

Crime Stoppers resolves these problems by:

Offering ANONYMITY to people who provide information about crimes.
Paying REWARDS when the information supplied leads to an arrest.

Crime Stoppers is a partnership of the community, the media and law enforcement. Concerned citizens form the non-profit corporation, provide the rewards and oversee the program. The media regularly publicizes the unsolved crimes and citizens are requested to call in anonymous tips which are provided to law enforcement to investigate. If the tip leads to an arrest the caller may be eligible for a cash reward of up to a \$1,000. The cooperation and involvement of each partner is crucial for the success of the Crime Stoppers program.

Local Crime Stoppers programs rely on individuals and businesses in their community to donate funds to the program to cover rewards and limited operating costs. There is a volunteer board of directors to oversee the program and the local law enforcement supplies a coordinator who oversees the day-to-day operations and the anonymous tips that are received.

Currently there are approximately 32 local Crime Stoppers programs within the State of Kansas. Crime Stoppers programs in Kansas have recovered over 15 million dollars in drugs and stolen property, paid out one million dollars in rewards, and helped law enforcement clear over 10,000 cases.

In 1987, local Kansas Crime Stoppers programs came together to form the Kansas Crime Stoppers Association, Inc (KCSA). The primary goal of KCSA is to substantially reduce criminal activity in Kansas through the development of community Crime Stoppers programs.

House Judiciary
Date 3-16-09
Attachment # 4

The KCSA is a nonprofit corporation organized to promote and encourage Crime Stoppers programs in the State of Kansas by serving as a functional and constitutive resource to law enforcement and community groups for program development and training. The objectives of the association are:

To provide a vehicle for the communication of information on Crime Stoppers programs, projects and techniques, between participating agencies and groups.

To develop or assist in the development of Crime Stoppers programs and projects that have both statewide and local applicability and impact.

To recommend or provide Crime Stoppers instruction upon request and assist in program implementation and uniformity.

To establish meetings to share information as it relates to Crime Stoppers activities.

To obtain funding to accomplish these goals.

The problems that have developed with the objectives of KCSA in assisting the local programs have been:

Poor communication between the state board and local programs when local volunteer board members change frequently and contacts are lost to the KCSA.

Inability to provide hands on assistance to a community that would like to start a program, and lack of funding to assist in their start up.

Inability to establish a required minimum standard for Crime Stopper programs in Kansas.

Affordability of attending the KCSA annual training conference for the smaller programs.

The goal of SB 69 is to substantially assist in reducing criminal activity in Kansas through the development and support of community Crime Stoppers programs.

I believe that this bill will provide the solutions to the problems that have faced the KCSA and local programs. The intent of SB 69 is to establish an Advisory Council within the Attorney General's Office and create a State Coordinator/Executive Director position to work on their behalf.

The Advisory Council's duties will be:

(1) Set the authority and duties of the State Coordinator/Executive Director position.

- (2) Set minimum standards for state certification of Crime Stoppers programs in Kansas.
- (3) Create a Crime Stoppers Trust Fund.
- (4) Create a method of funding the Crime Stoppers Trust Fund.
- (5) Partner with the Attorney General to oversee the following expenses:
 - (a) Cost of the Coordinator's position
 - (b) Providing registration-free annual training for local programs
 - (c) Assisting with the development of new community programs to include \$1,000 in start up reward funds, a computer, and access to Crime Stoppers database.
 - (d) Funds to grant back to the programs that meet the state certification.
- (7) Protection Crime Stoppers records concerning reports of criminal acts.

Section 4 (a) of SB 69 state "In addition to the fees provided by K.S.A. 21-4610a and 22-2909, and amendments thereto, each person who is placed on probation, is assigned to a community correctional services program or enters into a diversion agreement in lieu of further **criminal proceedings** shall pay a fee of \$20."

Funding based on statistics from OJA are 13,794 adult offenders for supervision (3,006 felony and 10,788 misdemeanor) 23,084 diversions (946 felony, 2,705 misdemeanor and 19,433 traffic)

I believe the correct estimate of possible funds collected under SB 69 would be 13,794 adult offenders for supervision (3,006 felony and 10,788 misdemeanor) and 3,651 diversions (946 felony and 2,705 misdemeanor) or $17,445 \times \$20.00 = \$348,900$

As a 26-year veteran of law enforcement, past President of the KCSA, and the current Coordinator for Crime Stoppers of Topeka, Inc., I would like to respectfully ask that consideration be given to Senate Bill 69.

Attached are requested amendments to SB 69 that have been agreed upon.

Requested amendment to SB69

Recommended change to Section 1 subsection (c)(3) located on page 1, lines 24-25.

(3) meets and maintains certification standards as ~~set forth by the Kansas crime stoppers association, inc.~~ established and approved by the association and by the council.

Associated change to Section 4, subsection (b) on page 2, lines 42-43:

The local crime stoppers program from each county that meets the ~~required certification set forth by the association~~ *requirements of section 1, subsection (a)* may make application to

Recommended change to Section 2 subsection (a) located on page 1, lines 26-29.

Replace the entire subsection (a) with:

(a) There is hereby created within the attorney general's office the crime stoppers advisory council. The council shall be composed of seven members which shall include:

(1) a sheriff to be selected by the attorney general who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas sheriffs' association;

(2) a chief of police to be selected by the attorney general who shall consider, but not be limited to, a list of three nominees submitted therefor by the Kansas association of chiefs of police; and

(3) five directors of the Kansas crime stoppers association, of which not more than one may be a law enforcement officer, appointed by the association.

NOTE: The language in (1) and (2) replicates the language in K.S.A. 74-5606 creating the commission on peace officer standards and training.

SENATE BILL No. 69

By Committee on Judiciary

1-22

9 AN ACT concerning crime stoppers; establishing an advisory council;
10 imposing certain fees; providing for certain grants; creating the Kansas
11 crime stopper trust fund.

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

14 Section 1. As used in this act:

15 (a) "Association" means Kansas crime stoppers association, inc.

16 (b) "Council" means the crime stoppers advisory council.

17 (c) "Local crime stoppers program" means the acceptance and
18 spending of donations by a private, nonprofit organization for the award-
19 ing of rewards to persons who report information concerning criminal
20 activity to the organization if the organization:

21 (1) Operates less than statewide;

22 (2) forwards reported information to the appropriate law enforce-
23 ment agency; and

24 (3) meets and maintains certification standards as set forth by the
25 Kansas crime stoppers association, inc.

26 Sec. 2. (a) There is hereby created within the attorney general's of-
27 fice the crime stoppers advisory council. The council shall be composed
28 of two persons appointed by the attorney general and the executive board
29 of directors of the association, as set forth in the by-laws of the association.

30 (b) At the first meeting of the council, which shall be called by the
31 attorney general, and at the first meeting after the beginning of each new
32 state fiscal year, the council shall elect from among its members a chair-
33 person and such other officers as the council deems necessary.

34 (c) Members of the council attending meetings of the council, or
35 attending a subcommittee meeting thereof, or performing other official
36 duties of the council, as authorized by the council, shall be paid amounts
37 provided for in subsection (e) of K.S.A. 75-3223, and amendments
38 thereto. The attorney general and the chairperson of the council shall be
39 responsible for approving all expense vouchers of members.

40 (d) The council shall meet at least once each year and may hold spe-
41 cial meetings whenever they are called by the chairperson.

42 (e) The council, in accordance with K.S.A. 75-4319, and amendments
43 thereto, may recess for a closed or executive session.

in the case of persons placed on probation or assigned to community correctional services programs, and shall be charged and collected by the county or district attorney in the case of persons entering into a diversion agreement in lieu of further criminal proceedings. The county or district attorney shall remit this fee, together with the appropriate docket fee, to the

1 Sec. 3. (a) The council may contract with a person to serve as its
2 director with the counsel of the attorney general. The council shall es-
3 tablish the authority and responsibilities of the director. The director shall
4 not hold an elected position in the association.

5 (b) The council, to the extent resources are available, shall:

6 (1) Advise and assist in the creation of local crime stoppers programs;

7 (2) foster the detection of crime and encourage persons to report
8 information about criminal acts;

9 (3) encourage news and other media to promote local crime stoppers
10 programs and to inform the public of the functions of the council;

11 (4) assist local crime stoppers programs in forwarding information
12 about criminal acts to the appropriate law enforcement agencies;

13 (5) help law enforcement agencies detect and combat crime by in-
14 creasing the flow of information to and between law enforcement
15 agencies;

16 (6) assess training needs for local crime stoppers programs and pro-
17 vide support and training to crime stoppers programs within the state;

18 (7) assist local crime stoppers programs in the acquisition of resources
19 needed to keep and report statistical data and to communicate between
20 local programs, law enforcement agencies and other crime stoppers pro-
21 grams and agencies; and

22 (8) provide other assistance as deemed appropriate to enhance public
23 safety in Kansas.

24 (c) The council may adopt rules and regulations to carry out its duties
25 under this act.

26 Sec. 4. (a) In addition to the fees provided by K.S.A. 21-4610a and
27 22-2909, and amendments thereto, each person who is placed on pro-
28 bation, is assigned to a community correctional services program or enters
29 into a diversion agreement in lieu of further criminal proceedings shall
30 pay a fee of \$20. Such fee shall be charged and collected by the clerk of
31 the district court. The clerk of the district court shall remit to the state
32 treasurer, in accordance with the provisions of K.S.A. 75-4215, and
33 amendments thereto, the balance of all moneys received by such clerk
34 from such fees. Upon receipt of the remittance, the state treasurer shall
35 deposit the entire amount in the state treasury and credit it to the Kansas
36 crime stopper trust fund created pursuant to subsection (d).

37 (b) ~~The clerk of each county shall maintain an accounting of the num-
38 ber of fees received pursuant to this section from persons who were
39 placed on probation, were assigned to a community correctional services
40 program or entered into a diversion agreement in lieu of further criminal
41 proceedings in such county and shall report that number to the council.~~

42 The local crime stoppers program from each county that meets the re-
43 quired certification set forth by the association may make application to

, who

by the court

, and shall provide the council with an accounting of the amount deposited from each county.

1 the council for a grant for reimbursement of moneys credited to the
2 Kansas crime stopper trust fund which were collected from fees received
3 pursuant to this section from persons who were placed on probation, were
4 assigned to a community correctional services program or entered into a
5 diversion agreement in lieu of further criminal proceedings in such
6 county. The council shall establish the qualifications required to receive
7 such grants. All such reimbursements shall require the approval of the
8 attorney general. The amount of any such grant shall not exceed 50% of
9 the total amount of fees received pursuant to this section from persons
10 who were placed on probation, were assigned to a community correctional
11 services program or entered into a diversion agreement in lieu of further
12 criminal proceedings in the county.

13 (c) The attorney general shall have the authority to accept, budget
14 and expend for any proper expenses of the crime stoppers advisory coun-
15 cil any special source funds made available for the purposes of the crime
16 stoppers program. Any such funds shall be deposited in the state treasury
17 and credited to the Kansas crime stopper trust fund.

18 (d) (1) There is hereby created in the state treasury the Kansas crime
19 stopper trust fund.

20 (2) Moneys in the Kansas crime stopper trust fund shall be expended
21 only for the authorized purposes set forth in this act.

22 (3) All expenditures from the Kansas crime stopper trust fund shall
23 be made in accordance with appropriation acts upon warrants of the di-
24 rector of accounts and reports issued pursuant to vouchers approved by
25 the attorney general for the purposes set forth in this act.

26 Sec. 5. (a) Council records relating to reports of criminal acts are
27 confidential.

28 (b) Evidence of a communication between a person submitting a re-
29 port of a criminal act to the council or a local crime stoppers program
30 and the person who accepted the report on behalf of the council or local
31 crime stoppers program is not admissible in a court or an administrative
32 proceeding whether the evidence is held by the council or a local crime
33 stoppers program or is held by a telecommunications service provider.

34 (c) Records of the council or a local crime stoppers program con-
35 cerning a report of a criminal activity and records of a telecommunications
36 service provider relating to a report made to the council or to a local
37 crime stoppers program may not be compelled to be produced before a
38 court or other tribunal except on the motion of a criminal defendant to
39 the court in which the offense is being tried that the records or report
40 contain evidence that is exculpatory to the defendant in the trial of that
41 offense. On motion of a defendant under this subsection, the court may
42 subpoena the record or report. The court shall conduct an in-camera
43 inspection of materials produced under subpoena to determine whether

1 the materials contain evidence that is exculpatory to the defendant. If the
2 court determines that the materials produced contain evidence that is
3 exculpatory to the defendant, the court shall present the evidence to the
4 defendant in a form that does not disclose the identity of the person who
5 was the source of the evidence, unless the court makes a finding that the
6 state or federal constitution requires the disclosure of that person's iden-
7 tity. The court shall return to the council or to the local crime stoppers
8 program materials that are produced under the section but not disclosed
9 to the defendant. The council or local crime stoppers program shall store
10 the materials until the conclusion of the criminal trial and the expiration
11 of the time for all direct appeals in the case.

12 Sec. 6. (a) A person who is a member or employee of the council or
13 who accepts a report of a criminal activity on behalf of a local crime
14 stoppers program is guilty of a class A nonperson misdemeanor if the
15 person intentionally or knowingly divulges to a person not employed by
16 the law enforcement agency the content of a report of a criminal act or
17 the identity of the person who made the report without the consent of
18 the person who made the report.

19 (b) A person convicted of an offense under this section shall not be
20 eligible for state employment during the five-year period following the
21 date that the conviction becomes final.

22 Sec. 7. (a) A county commission or governing body of a city is au-
23 thorized to contribute funds to a local crime stoppers program from the
24 general fund of the county or city or any other available source if the local
25 crime stoppers program is established to operate, in whole or in part,
26 within the boundaries of such county or city.

27 (b) This act shall not be construed to repeal any local ordinance or
28 resolution establishing a crime stoppers program, or affect any crime stop-
29 pers program established by a city, county or private entity, or the op-
30 eration or funding of such program.

31 Sec. 8. This act shall take effect and be in force from and after its
32 publication in the statute book.

Testimony in Support of SB 69
House Judiciary Committee
March 16, 2009
K.C. Blodgett

Representative Lance Kinzer
Chair, House Judiciary
143-N
Statehouse
300 SW Tenth Ave
Topeka, KS 66612-1592

Dear Chair:

As the President of the Kansas State Lodge, Fraternal Order of Police which represents more than 3,100 Law Enforcement Officers from across Kansas, we are totally in support of the Senate Bill 69 which deals with Crime Stoppers. Unfortunately I will be unable to attend this hearing however wanted to express the full support of this Bill.

The Crime Stoppers Program is extremely beneficial to all Law Enforcement Agencies and another "tool" in which we can fight the Crime War's in Kansas. I would hesitate to think of the number of crimes that would go unsolved were it not for the Crime Stoppers Program.

I would ask you and your committee to provide full support on this important piece of legislation. If you have any questions of me regarding this e-mail please do not hesitate to contact me.

Fraternally,

K. C. Blodgett
President, KS State Lodge
Fraternal Order of Police
kclodgett586@embarqmail.com

House Judiciary
Date 3-16-09
Attachment # 5



Kansas County & District Attorneys Association

1200 SW 10th Avenue
Topeka, KS 66604
(785) 232-5822 Fax: (785) 234-2433
www.kcdaa.org

TESTIMONY IN OPPOSITION TO SB 69

House Judiciary Committee

March 16, 2009

Barry Wilkerson

Riley County Attorney & KCDA Board Member

Chairman Kinzer and Members of the Committee, thank you for the opportunity to provide testimony regarding Senate Bill 69. My name is Barry Wilkerson and I am here on behalf of the Kansas County and District Attorney Association in opposition to SB 69.

The County and District Attorneys Association is opposed to the proposed legislation on a couple of grounds:

The requirement under subsection 4, which would require all diversion agreements to contain a requirement that defendants pay a \$20.00 fee

The Diversion statutes clearly leave the assessment of fines and fees up to the District or County Attorney within certain limitations as set forth in K.S.A. 22-2909(a). Certain mandated requirements are set forth under subsection (c) of 22-2909 for persons charged and diverted for a violation of K.S.A. 8-1567. Otherwise the District or County Attorney determines the fees to be paid and other conditions or requirements.

As the statute is currently written, County or District Attorney Offices would be required to order this fee that would then be sent to the State and be returned to the local Crime stoppers program only if the local Crime stoppers program meets certification requirements of the "Association". In other words we could collect money in each of our counties but not have it reimbursed because our particular program did not meet certification requirements.

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Date 3-16-09

Attachment # 6

In terms of diversions most County or District Attorneys Offices only provide diversion for people who commit lower level crimes and are unlikely to re-offend. In some instances these individuals may have committed a shop lifting in order to put food on their table or because of a financial burden that they tried to fix inappropriately through criminal activity. These people should not be viewed as a revenue source for the state to create another oversight agency.

Most prosecutors chose to prosecute so they make the community and the State of Kansas a better place to live. We file cases not for the purpose of making money but for a higher calling. Collecting money for the purpose of funding a bureaucracy is an inappropriate use of the role of a prosecutor.

Senate Bill 69 creates an Association to oversee local Crime stopper programs. Many of these programs are currently effectively and efficiently administered through local law enforcement agencies.

In addition it places a significant burden on the District Court Clerks to track the payment of a \$20 fee. Court Clerks are not probation officers and this requirement of requiring the Court clerks to track and provide accounting for the fees paid and the number of persons placed on probation or diverted will interfere with other duties and obligations that are much more important than funding another state bureaucracy.

In summary the Kansas County and District Attorneys Association does not believe that state oversight is needed of a local law enforcement function. We further do not believe that K.S.A. 22-2909 should be amended to require that certain fees be collected as part of a diversion program that is clearly within the administration of the County or District Attorney of each county or judicial district.

This bill calls for effort locally to collect money that may not be returned to the jurisdiction for a program or association that is unnecessary. I would be happy to stand for questions.



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th

Topeka, Kansas 66612-1507

(785) 296-2256

House Judiciary Committee
Monday, March 16, 2009

Neutral Testimony Concerning SB 69 and Requesting an Amendment

Kathy Porter

Senate Bill 69 establishes the Kansas Crime Stopper Advisory Council within the Attorney General's office and would create the Kansas Crime Stopper Trust Fund. Under Section 4, in addition to the fees provided by K.S.A. 21-4610a and 22-2909, each person who is placed on probation, is assigned to a community correctional services program, or enters into a diversion agreement in lieu of further criminal proceedings shall pay a fee of \$20. Such fee shall be charged and collected by the clerk of the district court. The clerk of the district court shall remit to the State Treasurer, in accordance with the provisions of K.S.A. 75-4215, the balance of all moneys received by such clerk from such fees. Upon receipt of the remittance, the State Treasurer shall deposit the entire amount in the state treasury and credit it to the Kansas Crime Stopper Trust Fund.

The clerk of each county shall maintain an accounting of the number of fees received pursuant to this section from persons who were placed on probation, were assigned to a community correctional services program, or entered into a diversion agreement in lieu of further criminal proceedings in such county and shall report that number to the council.

If passed, SB 69 will increase the duties of the clerks of the district court as they will be required to charge, collect, and account for the \$20 fee, on behalf of and to the credit of the Crime Stoppers Council. Senate Bill 69 also requires that FullCourt, the Judicial Branch case management system, be reprogrammed in order to separately account for the fee. We anticipate the reprogramming cost to be \$5,000, at a minimum. If the normal percentage split process used to distribute fines (contained in K.S.A. 2008 Supp. 74-7336, which is included as Attachment A) were used, no reprogramming cost would be incurred and the accounting required by Section 4 of the bill would not be needed. However, we understand that it is difficult to estimate with any degree of certainty how much revenue this bill would generate, and that the bill contemplates that the amount generated by each county be returned to that county. Therefore, the reprogramming and the accounting are needed.

If this bill were enacted, the Office of Judicial Administration would request an amendment regarding the mechanics of the collection process, which is included as a balloon amendment in Attachment B. The amendment would simply amend Section 4(b) to require an accounting of the **amount** collected, rather than the **number** of fees received.

House Judiciary

Date 3-16-09

Attachment # 7

fees received would not appear to be relevant to administration of the fund and reimbursing the counties, particularly given the fact that partial payments frequently occur.

In addition, Section 4 directs payment of the \$20 to the clerk of the district court in all instances. However, persons who enter into a diversion agreement pay all fees to the county or district attorney, who then should remit the amount of the docket fee to the clerk of the district court. It would be best to have the county and district attorneys follow this same model and collect the \$20, which they would then remit to the clerk, together with the docket fee, and the clerks of the district court would take care of the rest. The State Treasurer can provide the council with one report noting the amount collected from each county. If this reporting duty is left to the clerks, the council will receive 105 reports telling them the amount collected from each county. I have checked with the State Treasurer's Office, and they have agreed that they can send this report to the council.

Upon review of the Judicial Branch's FY 2008 probation data, a total of 13,794 individuals were placed on probation. If one assumes that each of these individuals paid, in full, the \$20 fee proposed in SB 69, Section 4, an estimated \$275,880 would be credited to the Council. Please note that these figures include only persons on probation with court services officers, and do not include individuals on probation in community corrections programs, who would also be required to pay the fee under the provisions of this bill.

The Judicial Branch's FY 2008 statistics on diversions indicate that a total of 23,084 persons entered into a diversion agreement. Of those 23,084 people, 19,433 were placed on diversion due to a traffic offense, 2,705 were placed on diversion because of a misdemeanor offense, and 946 persons were placed on diversion due to a felony offense. If one assumes that each of these 23,084 individuals paid, in full, the \$20 fee, an estimated \$461,680 would be credited to the Council.

Please also note that a majority of the persons required to pay the \$20 fee will likely have other items they also need to pay, including restitution, docket fees, and Board of Indigents Defense Services fees. In many criminal cases, payment in full of all of these fees occurs years after conviction, if at all. This will, of course, impact the amount to be collected. Attachment C is a page from the 2008 Kansas Sentencing Commission Journal Entry of Judgment. Section V lists a number of the statutory fines and fees that may be imposed, together with restitution, in criminal cases. Not specifically noted on the form are other expenses that may be paid by criminal defendants, such as the cost of substance abuse treatment, testing, education, and other items.

Thank you for the opportunity to testify, and I would be happy to stand for any questions.

74-7336. Disposition of district court fines, penalties and forfeitures. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit:

- (1) 11.99% to the crime victims compensation fund;
- (2) 2.45% to the crime victims assistance fund;
- (3) 3.01% to the community alcoholism and intoxication programs fund;
- (4) 2.01% to the department of corrections alcohol and drug abuse treatment fund;
- (5) 0.17% to the boating fee fund;
- (6) 0.12% to the children's advocacy center fund;
- (7) 2.50% to the EMS revolving fund;
- (8) 2.50% to the trauma fund;
- (9) 2.50% to the traffic records enhancement fund; and
- (10) the remainder of the remittances to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.

History: L. 1989, ch. 239, § 31; L. 1995, ch. 243, § 8; L. 2001, ch. 200, § 18; L. 2001, ch. 211, § 17; L. 2004, ch. 125, § 6; L. 2006, ch. 85, § 17; L. 2007, ch. 140, § 17; L. 2007, ch. 195, § 40; July 1.

Revisor's Note:

Section was also amended by L. 2007, ch. 95, § 16, but that version was repealed by L. 2007, ch. 195, § 59.

SB 69

in the case of persons placed on probation or assigned to community correctional services programs, and shall be charged and collected by the county or district attorney in the case of persons entering into a diversion agreement in lieu of further criminal proceedings. The county or district attorney shall remit this fee, together with the appropriate docket fee, to the

1 Sec. 3. (a) The council may contract with a person to serve as its
2 director with the counsel of the attorney general. The council shall es-
3 tablish the authority and responsibilities of the director. The director shall
4 not hold an elected position in the association.

5 (b) The council, to the extent resources are available, shall:

6 (1) Advise and assist in the creation of local crime stoppers programs;

7 (2) foster the detection of crime and encourage persons to report
8 information about criminal acts;

9 (3) encourage news and other media to promote local crime stoppers
10 programs and to inform the public of the functions of the council;

11 (4) assist local crime stoppers programs in forwarding information
12 about criminal acts to the appropriate law enforcement agencies;

13 (5) help law enforcement agencies detect and combat crime by in-
14 creasing the flow of information to and between law enforcement
15 agencies;

16 (6) assess training needs for local crime stoppers programs and pro-
17 vide support and training to crime stoppers programs within the state;

18 (7) assist local crime stoppers programs in the acquisition of resources
19 needed to keep and report statistical data and to communicate between
20 local programs, law enforcement agencies and other crime stoppers pro-
21 grams and agencies; and

22 (8) provide other assistance as deemed appropriate to enhance public
23 safety in Kansas.

24 (c) The council may adopt rules and regulations to carry out its duties
25 under this act.

26 Sec. 4. (a) In addition to the fees provided by K.S.A. 21-4610a and
27 22-2909, and amendments thereto, each person who is placed on pro-
28 bation, is assigned to a community correctional services program or enters
29 into a diversion agreement in lieu of further criminal proceedings shall
30 pay a fee of \$20. Such fee shall be charged and collected by the clerk of
31 the district court. The clerk of the district court shall remit to the state
32 treasurer, in accordance with the provisions of K.S.A. 75-4215, and
33 amendments thereto, the balance of all moneys received by such clerk
34 from such fees. Upon receipt of the remittance, the state treasurer shall
35 deposit the entire amount in the state treasury and credit it to the Kansas
36 crime stopper trust fund created pursuant to subsection (d).

37 (b) The clerk of each county shall maintain an accounting of the num-
38 ber of fees received pursuant to this section from persons who were
39 placed on probation, were assigned to a community correctional services
40 program or entered into a diversion agreement in lieu of further criminal
41 proceedings in such county and shall report that number to the council.
42 The local crime stoppers program from each county that meets the re-
43 quired certification set forth by the association may make application to

, who

by the court

, and shall provide the council with an accounting of the amount deposited from each county.

SECTION IV. DEPARTURE INFORMATION

(PAGE 3)

1. **Type of Departure:** (Check all that apply.)

- Downward Durational
 Upward Durational
 Downward Dispositional
 Upward Dispositional
 Postrelease Supervision (up to 60 months for sexually motivated sex offense) – K.S.A. 2006 Supp. 22-3717(d)(1)(D)(i)
 [“Sexually motivated” defined in K.S.A. 2006 Supp. 22-3717(d)(2).]

2. **Reasons Cited as Basis for Departure:**

SECTION V. OTHER CONDITIONS

1. **General/Special Conditions of Probation (COMPLETE AND ATTACH ORDER OF PROBATION TO THIS JOURNAL ENTRY)**

2. **Costs Ordered:**

Total Restitution (Please complete #3 below.)	\$ _____	Probation Fee	\$ _____
Total Court Costs	\$ _____	BIDS Attorney Fee	\$ _____
Total Fines	\$ _____	BIDS Administrative Fee	\$ _____
DNA Database Fee (K.S.A. 2006 Supp. 21-2511 & 75-724.)	\$ _____	Community Corrections Fee (offenses after 1/4/07)	\$ _____
Extradition Costs	\$ _____	Booking/Fingerprint Fee	\$ _____
Domestic Violence Special Program Fee	\$ _____	Reward Reimbursement	\$ _____
Apprehension Fee (Escape/Agg. Escape)	\$ _____	Children's Advocacy Center Assessment Fee	\$ _____
Alcohol and/or Drug Evaluation Fee	\$ _____	Medical Costs/Expenses Reimbursement	\$ _____
Witness Fee	\$ _____	Court-Appointed Attorney Fee	\$ _____
KBI Lab Fee	\$ _____	Other: _____	\$ _____
Other Lab Fee	\$ _____	Other: _____	\$ _____
TOTAL COSTS			\$ _____

3. **Restitution to be paid as follows:**

Amount	Name and Address
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Senate Bill 154

**Presented to
House Judiciary Committee**

**By
Daric S. Smith, Staff Attorney
Kansas Department of Health and Environment**

March 16, 2009

Good afternoon Chairman Kinzer and members of the committee. Thank you for the opportunity to appear and testify today. My name is Daric Smith and I am a Staff Attorney for the Kansas Department of Health and Environment. I am here to discuss the amendment of K.S.A. 60-1505, specifically by repealing subsection (b) of that statute which requires the court to appoint a board of two competent physicians to examine a person restrained because of an alleged infectious disease and for those two physicians to report their findings to the judge.

K.S.A. 65-129a through K.S.A. 65-129e concerning isolation and quarantine were enacted in 2005 in order to modernize the procedure for isolating and quarantining persons who are suspected to be suffering from or of having been exposed to infectious and contagious disease. This was done partly to update antiquated statutes but also to ensure proper and timely legal resolution of isolation or quarantine orders during epidemic or pandemic situations. The statutory scheme was meant to provide a self-contained procedure that included due process for the patient who has been isolated or quarantined. K.S.A. 60-1505(b) was overlooked when the new isolation and quarantine statutes were adopted and SB 154 represents a cleanup of that oversight.

K.S.A. 65-129c(d)(1) requires our district courts to use the procedure set forth in our statutes concerning habeas corpus when reviewing orders for isolation or quarantine. Under the isolation and quarantine statutes, the judge is required to determine if an order is necessary and reasonable to prevent or reduce the spread of infectious or contagious disease. If the judge finds that the order is reasonable and necessary, he must uphold the order. Otherwise, he must grant the petition for relief from the order.

K.S.A. 60-1505(b) requires the court to appoint at least two competent physicians to examine each person subject to an order of isolation and quarantine and to report back to the court. The statute creates several distinct impediments to the practical and efficient use of the procedure envisioned in our isolation and quarantine statutes and, therefore, K.S.A. 60-1505 should be amended by repealing subsection (b). Some examples of the barriers created include:

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1. The isolation/quarantine statutes require a hearing to be held within 72 hours (absent good cause) of a petition for relief. In small counties especially, finding two competent physicians with the time to examine the patient and present a report to the court within 72 hours will be difficult.

2. During an epidemic, every competent physician might be of better use to public health if he/she is treating patients instead of reviewing the case of an isolated/quarantined individual.

3. In small, rural counties, two physicians may not even be available for the district court to appoint.

4. Counties will bear the costs associated with the examination of and presenting the report regarding the isolated/quarantined. See, K.S.A. 65-301 and K.S.A. 65-204(a)(1) & (4).

Accordingly, Mr. Chairman and Members of the Committee, I urge you to approve Senate Bill No. 154 which amends K.S.A. 60-1505 by repealing subsection (b) of the statute.

Thank you for the opportunity to appear before the committee today. I would be happy to stand for any questions.



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

To: House Judiciary Committee

From: Susan Kang, Assistant Secretary, Policy and External Affairs

Date: March 16, 2009

Re: Judge Vano's testimony on SB 154

Chairman Kinzer and members of the committee:

Attached please find testimony on SB 154 from Judge James F. Vano, Johnson County District Judge. This is testimony that he presented to the Senate Judiciary Committee in early February. We contacted Judge Vano last Thursday when this hearing appeared on the calendar, but learned that his district is on recess until March 19, 2009. Therefore, he is unable to update his testimony for this committee. We apologize and hope that you will still consider his previous testimony.

If you have any questions, please contact Susan Kang at 785-296-0461. Thank you.



DISTRICT COURT OF KANSAS

TENTH JUDICIAL DISTRICT
JOHNSON COUNTY COURTHOUSE
OLATHE, KANSAS
66061

CHAMBERS OF:
JAMES F. VANO
DISTRICT JUDGE
Division No. 2

JILL BOREN
ADMINISTRATIVE ASSISTANT
(913) 715-3760

February 6, 2009

TO: The Kansas Senate Judiciary Committee

RE: SB 154 (Corrected)

Chairman Owens and Members of the Committee:

This testimony is submitted in regard to the issue being addressed in the corrected version of SB 154, eliminating KSA 60-1505(b), the provision requiring appointment of a board of physicians in habeas cases involving infectious diseases and directing them to report their findings to the court. The statute now in effect is problematic.

First, in reviewing procedures to implement the provisions of KSA 65-129c, in conjunction with Article 15 of KSA Chapter 60, it became apparent that we would have great difficulty locating a single, let alone a team of two independent physicians to examine and report on the condition of a quarantined or isolated individual. Contacts with the University of Kansas Medical Center and the Johnson County Health Department proved fruitless for finding a ready pool of physicians to call upon should the actual case(s) needing habeas review arise. The time available, expense and risks to the examining physicians are no small matters for them to consider.

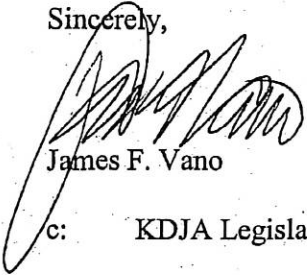
Second, a problem going hand-in-hand with the first, is how much would such physicians be paid to physically examine the individual(s) and prepare a report for the court. It seems doubtful that competent physicians would willingly accept pay at the low rates we currently pay appointed counsel. Would hearsay be relaxed? Or, would they also need to testify and be subject to cross-examination for their reports? Are they exempt from malpractice if they err? And, who pays the expenses for these physicians? The county? The quarantined or isolated person(s)? Must these physicians provide their own equipment or lab, if necessary?

Probably the most difficult problem created by this provision as it now stands, in light of KSA 65-129c, is the report of the findings of the board. Assuming such a report is contrary to that of the health officer, the court would be left making a "medical decision" based only upon opinions of opposing medical professionals. If the report of the health officer is sufficient in its objective symptoms and medical conclusions, that should be sufficient to support a quarantine or isolation order medically. What standards would the court use to make the medical safety decision when confronted with two opposing medical views? What would be the burden of proof? Would a presumption apply?

Since we have not yet been faced with this type of litigation in our local court, it is difficult to predict whether the provision in KSA 60-1505(b), as it currently stands, is workable. It appears, however, to raise more problems than it addresses. Elimination of the provision in its entirety or, at least, some clarification of the Legislature's intent in requiring this board would be helpful.

Thank you for your work on behalf of the people of Kansas and for your consideration of this testimony.

Sincerely,



James F. Vano

c: KDJA Legislative Committee

Testimony on Senate Bill 154
To the House Judiciary Committee

Randy Mettner
Executive officer to the Adjutant General
March 16, 2009

Mr. Chairman and members of the Committee:

I am Randy Mettner on behalf of Major General Tod Bunting the Adjutant General and the Director of Homeland Security for Kansas. Thank you for allowing me to comment in support of Senate Bill 154 which eliminates section (b) from KSA 60-1505 which is the Infectious Disease paragraph of the Habeas Corpus statute titled Hearing.

The reason for this recommendation is that this section is no longer needed as there is a specific statute that affects hearings concerning infectious diseases with orders of Isolation and or Quarantine. KSA 2008 Supp. 65-29c(1)(d) makes hearings under the isolation and quarantine law subject to the general habeas procedures in article 15 of chapter 60 . This bill just eliminates the requirement for the court to appoint two physicians.

This bill does not eliminate the use of expert medical witnesses if a hearing is requested. If an order for isolation and or quarantine is issued the public health officer would be the state's expert witness giving the grounds for the order. Further the court could request additional medical testimony to satisfy any concerns the court may

have in making its findings but elimination of section (b) allows for more flexibility.

The Adjutant General's Department staff has been working with The Department of Health and Environment on Pandemic Flu planning and other public health issues and sees this amendment as an improvement to Kansas law. Further we adopt the testimony of the KDHE staff attorney, Mr. Daric Smith, on this matter.

Thank You