

Approved: 4-3-09  
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 12, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Jason Long, Office of the Revisor of Statutes  
Dennis Hodgins, Kansas Legislative Research Department  
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Senator Haley  
Senator Faust-Goudeau

Others attending:

See attached list.

Chairman Brungardt called for approval of minutes for February 24, 25, and 26, distributed on March 5, 2009.

Senator Faust-Goudeau made a motion to approve the minutes as written. Senator Reitz seconded the motion. The motion carried.

**SB 201 - Display of U.S. flag at half-staff for veterans killed.**

Chairman Brungardt opened the hearing on **SB 201**.

Staff provided an overview of the bill.

Senator Haley spoke in favor of the bill. (Attachment 1) Senator Haley stated that by displaying the flag of the United States at half-staff, all Kansas can acknowledge the death of a citizen in the armed services, slain in the line of duty. Currently this can be done only by Executive Order.

Senator Faust-Goudeau appeared in favor of the bill. (Attachment 2) The bill asks to put into law something that is already done to honor the men and women of Kansas who serve in our armed services and are killed while in the line of duty.

Chairman Brungardt closed the hearing on **SB 201**

**Final Action:**

**SB 75 - Municipalities; consolidation and reorganization; political and taxing subdivisions.**

Senator Francisco offered a balloon that adds language on page 1 line 27 after the word county “, or the consolidation of offices, functions, services and operations” (Attachment 3)

Senator Francisco moved the balloon. Senator Owens seconded the motion. The motion carried.

Senator Reitz moved to pass SB 75 out favorably as amended. Senator Morris seconded the motion. The motion carried.

The Chairman asked the committee to work **HB 2171**, **HB 2085**, and **HB 2267** and fold the contents into **HB 2171**.

**HB 2171 - Veterans; Vietnam war medallion program.**

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on March 12, 2009, in Room 136-N of the Capitol.

Senator Morris moved to pass **HB 2171** out favorably. Senator Reitz seconded the motion. The motion carried.

**HB 2085 - An act relating to the veterans claims assistance program; service grant eligibility requirements.**

Senator Ostmeyer moved to pass **HB 2085** out favorably. Senator Pyle seconded the motion. The motion carried.

**HB 2267 - Requires senate confirmation of KCVA appointees.**

Senator Francisco moved to strike language on page 1, lines 17 and 18, on Senate confirmation. Senator Abrams seconded the motion. The motion carried.

Senator Ostmeyer moved to pass **HB 2267** out favorably as amended. Senator Reitz seconded the motion. The motion carried.

Senator Reitz moved to pass **HB 2171** with the contents of **HB 2085** and **HB 2267** folded in. Senator Morris seconded the motion. The motion carried.

**SB 179 - Racial profiling; definition thereof, required policies by law enforcement agencies; investigation of complaints.**

A balloon was provided that would re-authorize the Task Force, the discipline hearings at KCPOST, which is the normal place for hearings for law enforcement, and encourage cooperation between the Task Force and Law Enforcement for implementation, data collection and analyzation. (Attachment 4)

Senator Francisco moved the balloon. Senator Reitz seconded the motion. The motion carried.

Senator Reitz moved to pass **SB 179** out favorably as amended. Senator Faust-Goudeau seconded the motion. The motion carried.

**HB 2308 - Personal and family protection act, military.**

A balloon was provided that; on page 1 and 4, adds statute KSA 75-7c04 ,on page 1, line nineteen strikes language after license and adds the word "shall", technical clean up on page 2, and the last page is language lifted from Federal Law. (Attachment 5)

Senator Ostmeyer moved to adopt the balloon. Senator Reitz seconded the motion. The motion carried.

Senator Francisco moved to pass **HB 2308** out favorably as amended. Senator Reitz seconded the motion. The motion carried.

**SB 247 - Authorizing requests by local governing bodies for hearings by director to revoke or suspend a club or drinking establishment license.**

Senator Owens moved to pass **SB 247** out favorably. Senator Faust-Goudeau seconded the motion. The motion carried.

**SB 246 - Allowing the issuance of a special permit to conduct tastings of alcoholic beverages.**

Committee discussion and concerns: would like to see the bill more restrictive, what types of alcohol, concerns about purchased and promotional products, the measuring size millimeter or ounces, limitations on mom and pop stores, and does contain the amendment on limitation of the number of samplings.

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on March 12, 2009, in Room 136-N of the Capitol.

No motion being presented bill remains in committee.

**SB 218 - Farm wineries; allowing farmers' market sales permits, allowing issuance of manufacturer's license, allowing manufacture by wine outlet licensees.**

Senator Francisco would like to see the bill amended that only original unopened bottles of wine could be sold.

Senator Francisco moved the amendment. Senator Owens seconded the motion. The motion carried.

Senator Owens moved to pass **SB 218** out favorably as amended. Senator Reitz seconded the motion. The motion carried.

The next meeting is scheduled for March 17, 2009. The meeting was adjourned at 11:38 am

Sign IW - March 12, 2009  
SENATE FED + State

PhD Bradley  
Spencer Duncan

Brenda Lewis

Sylvia Chapman

CHARLES SEXSON

C.W. KLEBE

Sharon Joseph

Jeremiah O'Dell

Mary Lyons

Elizabeth Bossell

Tina Wood

Wagner Bullig  
KEN STODGELL

KLBA

Capitol Connection KS

CWA

CWA

ATTORNEY GENERAL

" "

KS ADAPT

KS ADAPT

Sen. Faust-Gondeau

" "

Fausa-Gondeau

KEVA

VFW





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TOPEKA  
**SENATE CHAMBER**

**COMMITTEE ASSIGNMENTS**

RANKING MINORITY MEMBER: FEDERAL AND STATE AFFAIRS  
ETHICS AND ELECTIONS  
MEMBER: COMMERCE  
LOCAL GOVERNMENT  
JOINT COMMITTEE ON ARTS AND  
CULTURAL RESOURCES

email: Oletha.Faust-Goudeau@senate.ks.gov

# Testimony

## SB 201

Senate Federal and State Affairs Committee

March 12, 2009

Chairman Brungardt, esteemed colleagues,

SB 201 is a very simple bill. It merely asks us to put into law something we already do to honor the men and women of Kansas who serve in our armed services and are killed while in the line of duty. What we do, at the direction of the Governor, is fly our American and Kansas flags at half-staff for at least a day. The bill merely takes this custom and makes it law.

There is no greater honor in our society than to have the flags flown at half-staff. We reserve it for the deaths of great men, but we also accord it to the deaths of good men whose deeds deserve that mark of respect. Who deserves it more than the men and women killed in our defense while serving on active duty?

Thomas Jefferson once said, "The tree of liberty must be refreshed from time to time with the blood of patriots." There is no more patriotic act than the laying down of a life for the good of the country. SB 201 merely seeks to make sure that that patriotism is recognized by all.

Thank you for your time and consideration.

Oletha Faust-Goudeau  
Senator, 29<sup>th</sup> District

SENATE BILL No. 75

By Committee on Federal and State Affairs

1-22

9 AN ACT concerning governmental consolidation and reorganization;
10 amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and
11 19-205 and repealing the existing sections.

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

14 New Section 1. As used in this act:

15 (a) "Board" means the board of county commissioners.

16 (b) "City" means any city.

17 (c) "Commission" means a consolidation study commission selected
18 pursuant to section 2, and amendments thereto.

19 (d) "County" means any county.

20 (e) "Political and taxing subdivision" means those subdivisions listed
21 in K.S.A. 12-3902, and amendments thereto, which are located entirely
22 within a county.

23 New Sec. 2. (a) The board of county commissioners of a county and
24 the governing body of any city or cities located within such county may
25 adopt a joint resolution providing for the establishment of a consolidation
26 study commission to prepare a plan for the reorganization of the county
27 and such city or cities located in such county. If the governing body of a
28 city within the county does not adopt such joint resolution, such city shall
29 not be included within nor subject to the provisions of any reorganization
30 plan in regard to the status of such city as a separate entity from the
31 county.

32 (b) As an alternative to subsection (a), the board of county commis-
33 sioners of a county and the governing body of any city or cities located
34 therein shall adopt a joint resolution providing for the establishment of a
35 consolidation study commission to prepare a plan as provided in subsec-
36 tion (a) whenever the county election officer is presented with a petition
37 signed by not less than 10% of the qualified electors of the county re-
38 questing a consolidation study commission be appointed. The governing
39 body of any city shall be required to adopt the joint resolution whenever
40 the petition presented to the county clerk contains signatures of not less
41 than 10% of the qualified electors of the city. The petition shall contain
42 the method to be used for the appointment and the number of members
43 of the consolidation study commission.

Senate Federal and State Affairs
Amendment to Sec. 2

, or the consolidation of offices, functions, services and
operations

Sn Fed & State
Attachment 3
3-12-09

**SENATE BILL No. 179**

By Committee on Federal and State Affairs

2-3

9 AN ACT concerning racial and other profiling; relating to the governor's  
10 task force, adoption of policies against and investigation of complaint;  
11 amending K.S.A. 22-4606, 22-4607, 22-4609, 22-4610 and 22-4611~~and~~  
12 ~~K.S.A. 2008 Supp. 74-950~~] and repealing the existing sections.

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

15 Section 1. K.S.A. 22-4606 is hereby amended to read as follows: 22-  
16 4606. As used in this act:

17 (a) "Collection of data" means that information collected by Kansas  
18 law enforcement officers after each traffic stop.

19 (a) (b) "Governmental unit" means the state, or any county, city or  
20 other political subdivision thereof, or any department, division, board or  
21 other agency of any of the foregoing.

22 (b) (c) "Law enforcement agency" means the governmental unit em-  
23 ploying the law enforcement officer.

24 (c) (d) "Law enforcement officer" has the meaning ascribed thereto  
25 in K.S.A. 74-5602, and amendments thereto.

26 (e) "Profiling on the basis of ethnicity" means the practice of unlaw-  
27 fully utilizing information regarding members of a cultural group with a  
28 shared identity, ancestry or linguistic characteristics common to the mem-  
29 bers or their affiliates. Ethnic groups may also have a common religious  
30 association or history.

31 (d) (f) (1) "Racial profiling" means the practice of a law enforcement  
32 officer or agency relying, as the sole factor, on race, ethnicity, national  
33 origin, gender or religious dress in selecting which individuals to subject  
34 to routine investigatory activities, or in deciding upon the scope and sub-  
35 stance of law enforcement activity following the initial routine investiga-  
36 tory activity. Racial profiling does not include reliance on such criteria in  
37 combination with other identifying factors when the law enforcement  
38 officer or agency is seeking to apprehend a specific suspect whose race,  
39 ethnicity, national origin, gender or religious dress is part of the descrip-  
40 tion of the suspect ~~unlawfully~~ selecting or subjecting an individual to  
41 routine investigatory activities, or in deciding upon the scope and sub-  
42 stance of law enforcement activity based upon the individual's race, eth-  
43 nicity or gender ~~when~~: (A) The ~~law enforcement officer does not have a~~

Senate Federal and State Affairs

Governor's Task Force Balloon  
(includes requested amendment by KHRC)

Sn Fed & State  
Attachment 4  
3-12-09

, in whole or in part,

except when the officer has reason to believe



1 ~~[reason to believe the]~~ person has committed a violation of traffic laws or  
 2 ordinances; (B) ~~[the law enforcement officer does not have trustworthy~~  
 3 ~~information leading a reasonable law enforcement officer to believe]~~ the  
 4 person stopped is committing, has committed or is about to commit a  
 5 crime as provided in K.S.A. 22-2402, and amendments thereto; (C) ~~[the~~  
 6 ~~law enforcement officer does not have trustworthy information leading a~~  
 7 ~~reasonable law enforcement officer to believe]~~ probable cause exists to ar-  
 8 rest the person as provided in K.S.A. 22-2401, and amendments thereto;  
 9 or (D) the law enforcement officer or agency is ~~[not]~~ seeking to apprehend  
 10 a suspect whose race, ethnicity, gender ~~[or religious dress]~~ is part of the  
 11 description of a suspect.

or

12 (2) "Racial profiling" does not include a contact by a law enforcement  
 13 officer of a person when the contact is only for the purpose of asking the  
 14 person if they have information regarding the investigation of a complaint,  
 15 crime or suspicious activity, checking a person's welfare or as part of  
 16 community outreach or community policing.

17 (e) (g) "Routine investigatory activities" includes, but is not limited  
 18 to, the following activities conducted by law enforcement officers and  
 19 agencies in conjunction with traffic stops: (1) Frisks and other types of  
 20 body searches; and (2) consensual or nonconsensual searches of persons  
 21 or possessions, including vehicles, dormitory rooms, school lockers,  
 22 homes and apartments and domiciles.

23 (f) "Collection of data" means that information collected by Kansas  
 24 law enforcement officers after each traffic stop.

25 Sec. 2. K.S.A. 22-4607 is hereby amended to read as follows: 22-  
 26 4607. (a) A 15-member task force on racial profiling shall be appointed  
 27 by the governor. The task force shall include representatives of the Kansas  
 28 attorney general's office, the Kansas highway patrol, city and county law  
 29 enforcement agencies, the Kansas state lodge of the fraternal order of  
 30 police, the Hispanic and Latino American affairs commission, the advisory  
 31 commission on African-American affairs, the department of revenue,  
 32 Kansas human rights commission, Kansas district courts, Kansas civil  
 33 rights advocates and others who can assist in the performance of the  
 34 functions of the task force.

35 (b) The governor's task force on racial profiling shall work in part-  
 36 nership with local and state law enforcement agencies to review current  
 37 policies and make recommendations for training programs and for future  
 38 policies and procedures statewide for the full implementation of the pro-  
 39 visions of K.S.A. 22-4606 through 22-4611, and amendments thereto. The  
 40 task force shall work in partnership with law enforcement and the public  
 41 to design methods for the collection, analysis and public dissemination of  
 42 data regarding traffic stops utilizing the uniform traffic citation. The  
 43 methods for collection, analysis and dissemination of data required by

, develop and implement

of motorists and passengers.



1 ~~[this subsection shall be designed no later than January 1, 2010.]~~ The task  
2 force shall hold public hearings and meetings as needed to involve and  
3 inform the public on issues related to racial profiling.

4 (c) Members of the task force serving on the effective date of this act  
5 shall continue to serve terms until July 1, 2007. Thereafter, members shall  
6 be appointed for terms of two years. Vacancies shall be filled by appoint-  
7 ment for the unexpired term. Upon expiration of a member's term, the  
8 member shall serve until a successor is appointed and qualifies. ~~No mem-  
9 ber shall serve more than two consecutive full terms.~~

10 (d) The chairperson of the task force shall be designated by the gov-  
11 ernor. The task force shall meet at the call of the chairperson at least  
12 quarterly or as often as necessary to carry out the functions of the task  
13 force.

14 (e) The staff of the Kansas advisory commission on African-American  
15 affairs and the Kansas Hispanic/Latino American affairs commission shall  
16 provide administrative support to the task force and its chairperson.

17 (f) Members of the task force attending a meeting of the task force,  
18 or any subcommittee meeting authorized by the task force, shall receive  
19 amounts provided for in subsection (e) of K.S.A. 75-3223, and amend-  
20 ments thereto.

21 (g) The task force shall make a report of its activity to the public each  
22 calendar year.

23 ~~(h) The provisions of this section shall expire on July 1, 2009.~~

(h) The provisions of this section shall expire on July 1, 2011.

24 Sec. 3. K.S.A. 22-4609 is hereby amended to read as follows: 22-  
25 4609. ~~The race, ethnicity, national origin, gender or religious dress~~ *Racial*  
26 *profiling* of an individual or group shall not be ~~the sole factor~~ *used* in  
27 determining the existence of probable cause to take into custody or to  
28 arrest an individual or in constituting a reasonable and articulable suspi-  
29 cion that an offense has been or is being committed so as to justify the  
30 detention of an individual or the investigatory stop of a vehicle.

(a)

a factor

or pedestrian  
(b) No law enforcement officer shall use violations of the traffic laws as a pretext  
for racial profiling.

31 Sec. 4. K.S.A. 22-4610 is hereby amended to read as follows: 22-  
32 4610. (a) All law enforcement agencies in this state shall adopt a detailed,  
33 written policy to preempt racial profiling. Each agency's policy shall in-  
34 clude the definition of racial profiling found in K.S.A. 22-4606, and  
35 amendments thereto.

36 (b) Policies adopted pursuant to this section shall be implemented by  
37 all Kansas law enforcement agencies within one year after the effective  
38 date of this act. The policies and data collection procedures shall be avail-  
39 able for public inspection during normal business hours.

40 (c) The policies adopted pursuant to this section shall include, but  
41 not be limited to, the following:

- 42 (1) A prohibition of racial profiling.
- 43 (2) Annual educational training which shall include, but not be lim-

1 ited to, an understanding of the historical and cultural systems that per-  
2 petuate racial profiling, assistance in identifying racial profiling practices,  
3 and providing officers with self-evaluation strategies to preempt racial  
4 profiling prior to stopping a citizen.

5 (3) For law enforcement agencies of cities of the first class with more  
6 than 10 full-time certified law enforcement officers, establishment or use  
7 of current independent citizen advisory boards which include participants  
8 who reflect represent the racial and ethnic community, to advise and assist  
9 in policy development, education and community outreach and commu-  
10 nications related to racial profiling by law enforcement officers and  
11 agencies.

12 (4) Policies for discipline of law enforcement officers and agencies  
13 who engage in racial profiling.

14 (5) A provision that, if the investigation of a complaint of racial pro-  
15 filing reveals the officer was in direct violation of the law enforcement  
16 agency's written policies regarding racial profiling, the employing law en-  
17 forcement agency shall take appropriate disciplinary action consistent  
18 with applicable laws, rules and regulations, resolutions, ~~and~~ ordinances,  
19 or policies, including demerits, suspension or removal of the officer from  
20 the agency.

and labor contracts

21 (6) Provisions for community outreach and communications efforts  
22 to inform the public of the individual's right to file with the law enforce-  
23 ment agency or the Kansas human rights commission complaints regard-  
24 ing racial profiling, which outreach and communications to the commu-  
25 nity shall include ongoing efforts to notify the public of the law  
26 enforcement agency's complaint process.

27 (7) Procedures for individuals to file complaints of racial profiling  
28 with the agency, which, if appropriate, may provide for use of current  
29 procedures for addressing such complaints.

30 (d) ~~Each law enforcement agency shall compile an annual report of~~  
31 ~~all complaints of racial profiling received and shall submit the report on~~  
32 ~~or before January 31 to the office of the attorney general for review. Each~~  
33 ~~law enforcement agency shall compile and submit an annual report on or~~  
34 ~~before August 1 of each year to the attorney general regardless of whether~~  
35 ~~the agency received any racial profiling complaints between July 1 of the~~  
36 ~~previous year and June 30 of the current year. The annual report shall~~  
37 ~~include: (1) The date the complaint is filed; (2) action taken in response~~  
38 ~~to the complaint; (3) the decision upon disposition of the complaint; and~~  
39 ~~(4) the date the complaint is closed; (5) whether all officers employed by~~  
40 ~~the agency received the statutorily required annual racial profiling train-~~  
41 ~~ing for the prior training year running from July 1 of the previous year~~  
42 ~~to June 30 of the current year; (6) whether the agency has a written policy~~  
43 ~~that prohibits racial profiling; (7) whether the agency mandates specific~~

1 discipline of law enforcement officers who engage in racial profiling; (8)  
 2 whether the policy details the discipline to be administered for racial  
 3 profiling; (9) whether the policy includes provisions outlining the individ-  
 4 ual's right to file complaints with the agency or with the Kansas human  
 5 rights commission, or both, and the specific procedures for individuals to  
 6 file complaints with the agency; and (10) whether the agency has a citizen  
 7 advisory board. Annual reports filed pursuant to this subsection shall be  
 8 open public records and shall be posted on the official website of the  
 9 attorney general.

10 Sec. 5. K.S.A. 22-4611 is hereby amended to read as follows: 22-  
 11 4611. (a) Any person who believes such person has been subjected to  
 12 racial profiling by a law enforcement officer or agency may file a com-  
 13 plaint with the law enforcement agency. The complainant may also file a  
 14 complaint with the Kansas human rights commission. The commission  
 15 shall review and, if necessary, investigate the complaint. The commission's  
 16 designee shall consult with the head of the law enforcement agency be-  
 17 fore making final recommendations regarding discipline of any law en-  
 18 forcement officer or other disposition of the complaint.

19 (b) ~~The Kansas human rights commission shall forward all findings~~  
 20 ~~of probable cause to the Kansas commission on peace officer standards~~  
 21 ~~and training. The Kansas human rights commission shall inform the com-~~  
 22 ~~plainant, officer or officers, as the case may be, and the law enforcement~~  
 23 ~~agency of the outcome or disposition of the complaint in writing. [Nothing~~  
 24 ~~in such outcome or disposition shall be deemed an exception to the Kansas~~  
 25 ~~open records act.] Kansas commission on peace officer standards and train-~~  
 26 ~~ing shall review the findings of the Kansas human rights commission and~~  
 27 ~~initiate further investigation if necessary. Pursuant to K.S.A. 74-5616, and~~  
 28 ~~amendments thereto, Kansas commission on peace officer standards and~~  
 29 ~~training shall make a determination regarding the certification of any law~~  
 30 ~~enforcement officer engaged in unlawful profiling. This complaint process~~  
 31 ~~shall not prevent [a motorist] who feels that their rights have been violated~~  
 32 ~~[to file] a civil law suit against the law enforcement officer or agency.~~

33 (b) (c) Upon disposition of a complaint as provided for in subsection  
 34 (a) the complainant shall have a civil cause of action in the district court  
 35 against the law enforcement officer or law enforcement agency, or both,  
 36 and shall be entitled to recover damages if it is determined by the court  
 37 that such persons or agency engaged in racial profiling. The court may  
 38 allow the prevailing party reasonable attorney fees and court costs.

39 [See: 6. K.S.A. 2008 Supp. 74-9501 is hereby amended to read as  
 40 follows: 74-9501. (a) There is hereby established the Kansas criminal jus-  
 41 tice coordinating council.

42 (b) The council shall consist of the governor or designee, the chief  
 43 justice of the supreme court or designee, the attorney general or designee.]

(b) Upon finding that an investigation is necessary, the commission shall be responsible for timely notification of the law enforcement officer or officers and their respective law enforcement agency that an investigation has been initiated and shall provide: (1) A copy of the signed complaint; (2) a copy of any and all documentation and evidence provided in support of the claim of racial profiling; and (3) the factors considered by the commission specific to the incident which support the necessity to investigate the claim of racial profiling.

and supporting investigative reports

to the head of the law enforcement agency. Such writing shall include a summary of the rationale for the finding and shall be made in accordance with K.S.A. 45-221, and amendments thereto

(d) The

the

an individual

from filing

(f) Upon the disposition of a complaint as provided for in subsection (a), the respondent may appeal a finding of probable cause by the Kansas human rights commission to the district court and shall have a civil cause of action against the complainant and shall be entitled to recover damages if it is determined by the court that the complainant knowingly made a false complaint.

(g)



1 [the secretary of corrections, the superintendent of the highway patrol,  
2 the commissioner of juvenile justice and the director of the Kansas bureau  
3 of investigation.

4 (e) The governor shall designate staff to the Kansas criminal justice  
5 coordinating council. The staff shall attend all meetings of the council,  
6 be responsible for keeping a record of council meetings, prepare reports  
7 of the council and perform such other duties as directed by the council.

8 (d) The council shall elect a chairperson and vice chairperson from  
9 among the members of the council.

10 (e) The council shall:

11 (1) Appoint a standing local government advisory group to consult  
12 and advise the council concerning local government criminal justice issues  
13 and the impact of state criminal justice policy and decisions on local units  
14 of government. The advisory group shall consist of a sheriff, chief of  
15 police, county or district attorney, a member of a city governing body and  
16 a county commissioner. Appointees to such advisory group shall serve  
17 without compensation or reimbursement for travel and subsistence or any  
18 other expenses.

19 (2) Define and analyze issues and processes in the criminal justice  
20 system, identify alternative solutions and make recommendations for  
21 improvements.

22 (3) Perform such criminal justice studies or tasks as requested by the  
23 governor, the attorney general, the legislature or the chief justice, as  
24 deemed appropriate or feasible by the council.

25 (4) Oversee development and management of a criminal justice da-  
26 tabase. All criminal justice agencies as defined in subsection (c) of K.S.A.  
27 22-1701, and amendments thereto, and the juvenile justice authority shall  
28 provide any data or information, including juvenile offender information  
29 which is requested by the council, in a form and manner established by  
30 the council, in order to facilitate the development and management of  
31 the criminal justice council database.

32 (5) *Oversee the development, implementation and management of a*  
33 *uniform traffic citation for use by all Kansas law enforcement agencies to*  
34 *collect data on traffic stops. The collection of data shall include informa-*  
35 *tion necessary to conduct analysis of traffic stops with regard to race,*  
36 *gender and ethnicity of drivers. The uniform traffic citation shall be avail-*  
37 *able for use by law enforcement agencies not later than January 1, 2011.*

38 (5) (6) Develop and oversee reporting of all criminal justice federal  
39 funding available to the state or local units of government including as-  
40 suming the designation and functions of administering the United States  
41 bureau of justice assistance grants.

42 (6) (7) Form such task groups as necessary and appoint individuals  
43 who appropriately represent law enforcement, the judiciary, legal profes-]

1 [sion, state, local, or federal government, the public, or other professions  
2 or groups as determined by the council, to represent the various aspects  
3 of the issue being analyzed or studied, when analyzing criminal justice  
4 issues and performing criminal justice studies. Members of the legislature  
5 may be appointed ex officio members to such task groups. A member of  
6 the council shall serve as the chairperson of each task group appointed  
7 by the council. The council may appoint other members of the council  
8 to any task group formed by the council.

9 ~~(7) (8)~~ Review reports submitted by each task group named by the  
10 council and shall submit the report with the council's recommendations  
11 pertaining thereto to the governor, the attorney general, the chief justice  
12 of the supreme court, the chief clerk of the house of representatives and  
13 the secretary of the senate.

14 ~~(8) (9) (A)~~ Establish the sex offender policy board to consult and  
15 advise the council concerning issues and policies pertaining to the treat-  
16 ment, sentencing, rehabilitation, reintegration and supervision of sex  
17 offenders.

18 ~~(B)~~ The sex offender policy board shall consist of the secretary of  
19 corrections, the commissioner of juvenile justice, the secretary of social  
20 and rehabilitation services, the director of the Kansas bureau of investi-  
21 gation and the chief justice of the supreme court or the chief justice's  
22 designee and two persons appointed by the criminal justice coordinating  
23 council. Of the persons appointed by the criminal justice coordinating  
24 council, one shall be a mental health service provider and the other shall  
25 be engaged in the provision of services involving child welfare or crime  
26 victims.

27 ~~(C)~~ Each member of the board shall receive compensation, subsis-  
28 tence allowances, mileage and other expenses as provided for in K.S.A.  
29 75-3223, and amendments thereto, except that the public members of  
30 the board shall receive compensation in the amount provided for legis-  
31 lators pursuant to K.S.A. 75-3212, and amendments thereto, for each day  
32 or part thereof actually spent on board activities. No per diem compen-  
33 sation shall be paid under this subsection to salaried state, county or city  
34 officers or employees.

35 ~~(D)~~ The sex offender policy board shall elect a chairperson from its  
36 membership and shall meet upon the call of its chairperson as necessary  
37 to carry out its duties.

38 ~~(E)~~ Each appointed member of the sex offender policy board shall  
39 be appointed for a term of two years and shall continue to serve during  
40 that time as long as the member occupies the position which made the  
41 member eligible for the appointment. Each member shall continue in  
42 office until a successor is appointed and qualifies. Members shall be eli-  
43 gible for reappointment, and appointment may be made to fill an unex-



1 [pired term.

2 (F) The board shall submit its reports to the criminal justice coordi-  
3 nating council and to the governor, the attorney general, the chief justice  
4 of the supreme court, the chief clerk of the house of representatives and  
5 the secretary of the senate.

6 (i) The board shall submit a report regarding public notification per-  
7 taining to sex offenders, restrictions on the residence of released sex of-  
8 fenders, utilization of electronic monitoring, and the management of ju-  
9 venile sex offenders by the first day of the 2007 legislative session.

10 (ii) The board shall submit a report regarding treatment and super-  
11 vision standards for sex offenders, suitability of lifetime release super-  
12 vision and safety education and prevention strategies for the public by the  
13 first day of the 2008 legislative session.

14 (iii) The board shall submit reports regarding any other studies, issues  
15 or policy recommendations as completed.

16 (G) The sex offender policy board established pursuant to subsection  
17 (e)(8) (9) (A) of this section shall expire on June 30, 2011.

18 (9) (10) (A) Establish the substance abuse policy board to consult  
19 and advise the council concerning issues and policies pertaining to the  
20 treatment, sentencing, rehabilitation and supervision of substance abuse  
21 offenders. The board shall specifically analyze and study driving under  
22 the influence and the use of drug courts by other states.

23 (B) The substance abuse policy board shall consist of the secretary of  
24 corrections, the commissioner of juvenile justice, the secretary of social  
25 and rehabilitation services, the director of the Kansas bureau of investi-  
26 gation, the chief justice of the supreme court or the chief justice's des-  
27 ignee, a member of the Kansas sentencing commission, a prosecutor ap-  
28 pointed by the Kansas county and district attorneys association, and two  
29 persons appointed by the Kansas association of addiction professionals.  
30 Of the persons appointed by the Kansas association of addiction profes-  
31 sionals, one shall be an addiction counselor and the other shall be a pro-  
32 fessional program administrator.

33 (C) Each member of the board shall receive compensation, subsis-  
34 tence allowances, mileage and other expenses as provided for in K.S.A.  
35 75-3223, and amendments thereto, except that the public members of  
36 the board shall receive compensation in the amount provided for legis-  
37 lators pursuant to K.S.A. 75-3212, and amendments thereto, for each day  
38 or part thereof actually spent on board activities. No per diem compen-  
39 sation shall be paid under this subsection to salaried state, county or city  
40 officers or employees.

41 (D) The substance abuse policy board shall elect a chairperson from  
42 its membership and shall meet upon the call of its chairperson as nec-  
43 essary to carry out its duties.]

1 ~~[(E) Each appointed member of the substance abuse policy board~~  
2 ~~shall be appointed for a term of two years and shall continue to serve~~  
3 ~~during that time as long as the member occupies the position which made~~  
4 ~~the member eligible for the appointment. Each member shall continue~~  
5 ~~in office until a successor is appointed and qualifies. Members shall be~~  
6 ~~eligible for reappointment, and appointment may be made to fill an unex-~~  
7 ~~pired term.~~

8 ~~(F) The board shall submit its reports to the criminal justice coordi-~~  
9 ~~nating council and to the governor, the attorney general, the chief justice~~  
10 ~~of the supreme court, the chief clerk of the house of representatives and~~  
11 ~~the secretary of the senate.]~~

12 Sec. 7. K.S.A. 22-4606, 22-4607, 22-4609, 22-4610 and 22-4611 ~~[and~~  
13 ~~K.S.A. 2008 Supp. 74-9501]~~ are hereby repealed.

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

**HOUSE BILL No. 2308**

By Committee on Veterans, Military and Homeland Security

2-6

9 AN ACT concerning the personal and family protection act; amending  
10 K.S.A. 2008 Supp. 75-7c03 and 75-7c05 and repealing the existing  
11 sections.

75-7c04

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

14 Section 1. K.S.A. 2008 Supp. 75-7c03 is hereby amended to read as  
15 follows: 75-7c03. (a) ~~On and after January 1, 2007,~~ The attorney general  
16 shall issue licenses to carry concealed weapons to persons qualified as  
17 provided by this act. Such licenses shall be valid throughout the state for  
18 a period of four years from the date of issuance.

shall

19 (b) The license ~~[at the option of the licensee: (1) Shall]~~ be a separate  
20 card, in a form prescribed by the attorney general, that is approximately  
21 the size of a Kansas driver's license and shall bear the licensee's signature,  
22 name, address, date of birth and driver's license number or nondriver's  
23 identification card number *except that the attorney general shall assign a*  
24 *unique number for military applicants described in subsection (a)(1)(B)*  
25 *of K.S.A. 2008 Supp. 75-7c05, and amendments thereto* ~~[or (2) shall be~~  
26 ~~noted on the licensee's valid Kansas driver's license or valid Kansas non-~~  
27 ~~driver's identification license or card]~~ At all times when the licensee is in  
28 actual possession of a concealed weapon, the licensee shall carry the li-  
29 cense to carry concealed weapons ~~[or a valid Kansas driver's license or~~  
30 ~~Kansas nondriver's identification card with the license to carry a con-~~  
31 ~~cealed weapon noted thereon]~~ which shall constitute the license to carry  
32 a concealed weapon. On demand of a law enforcement officer, the li-  
33 censee shall display the license to carry a concealed weapon and proper  
34 identification ~~[or, if such license is noted on the person's driver's license~~  
35 ~~or nondriver's identification card, shall display such driver's license or~~  
36 ~~nondriver's identification card]~~ Verification by a law enforcement officer  
37 that a person holds a valid license to carry a concealed weapon may be  
38 accomplished by a record check using the person's driver's license infor-  
39 mation *or the person's concealed carry license number.*

40 The license of any person who violates the provisions of this subsection  
41 shall be suspended for not less than 30 days upon the first violation and  
42 shall be revoked for not less than five years upon the second or a sub-  
43 sequent violation.

1 (c) A valid license, issued by any other state or the District of Colum-  
 2 bia, to carry concealed weapons shall be recognized as valid in this state,  
 3 but only while the holder is not a resident of Kansas, if the attorney  
 4 general determines that standards for issuance of such license or permit  
 5 by such state or district are equal to or greater than the standards imposed  
 6 by this act. The attorney general shall maintain and publish a list of such  
 7 states and district which the attorney general determines have standards  
 8 equal to or greater than the standards imposed by this act.

9 ~~The provisions of this subsection shall take effect and be in force from~~  
 10 ~~and after January 1, 2007.~~

11 Sec. 2. K.S.A. 2008 Supp. 75-7c05 is hereby amended to read as  
 12 follows: 75-7c05. (a) The application for a license pursuant to this act shall  
 13 be completed, under oath, on a form prescribed by the attorney general  
 14 and shall only include:

15 (1) (A) *Subject to the provisions of subsection (a)(1)(B), the name,*  
 16 *address, social security number, Kansas driver's license number or Kansas*  
 17 *nondriver's license identification number, place and date of birth and*  
 18 *occupation of the applicant; (B) in the case of an applicant who presents*  
 19 *proof that such person is on active duty with any branch of the armed*  
 20 *forces of the United States and who does not possess a Kansas driver's*  
 21 *license or Kansas nondriver's license identification, the number of such*  
 22 *license or identification shall not be required;*

23 (2) a statement that the applicant is in compliance with criteria con-  
 24 tained within K.S.A. 2008 Supp. 75-7c04, and amendments thereto;

25 (3) a waiver of the confidentiality of such mental health and medical  
 26 records as necessary to determine the applicant's qualifications under  
 27 subsection (a) ~~(7)~~ of K.S.A. 2008 Supp. 75-7c04, and amendments thereto;

28 (4) a statement that the applicant has been furnished a copy of this  
 29 act and is knowledgeable of its provisions;

30 (5) a conspicuous warning that the application is executed under oath  
 31 and that a false answer to any question, or the submission of any false  
 32 document by the applicant, subjects the applicant to criminal prosecution  
 33 under K.S.A. 21-3805, and amendments thereto; and

34 (6) a statement that the applicant desires a concealed weapon license  
 35 as a means of lawful self-defense.

36 (b) The applicant shall submit to the sheriff of the county where the  
 37 applicant resides, during any normal business hours:

38 (1) A completed application described in subsection (a);

39 (2) except as provided by subsection (g), a nonrefundable license fee  
 40 of \$150, if the applicant has not previously been issued a statewide license  
 41 or if the applicant's license has permanently expired, which fee shall be  
 42 in the form of two cashier checks or money orders of \$40 payable to the  
 43 sheriff of the county where the applicant resides and \$110 payable to the

Sec. 2. K.S.A. 2008 Supp. 74-7c04 is hereby amended to read as follows: 75-7c04. (see attached) and by renumbering the remaining sections accordingly.

(8)



1 attorney general;  
 2 (3) a photocopy of a certificate or an affidavit or document as de-  
 3 scribed in subsection (b) of K.S.A. 2008 Supp. 75-7c04, and amendments  
 4 thereto; and

5 (4) a full frontal view photograph of the applicant taken within the  
 6 preceding 30 days.

7 (c) (1) The sheriff, upon receipt of the items listed in subsection (b)  
 8 of this section or subsection (a) of K.S.A. 2008 Supp. 75-7c08, and amend-  
 9 ments thereto, shall provide for the full set of fingerprints of the applicant  
 10 to be taken and forwarded to the attorney general for purposes of a crim-  
 11 inal history records check as provided by subsection (d). In addition, the  
 12 sheriff shall forward to the attorney general a copy of the application and  
 13 the portion of the original or renewal license fee which is payable to the  
 14 attorney general. The cost of taking such fingerprints shall be included  
 15 in the portion of the fee retained by the sheriff.

16 (2) The sheriff of the applicant's county of residence or the chief law  
 17 enforcement officer of any law enforcement agency, at the sheriff's or  
 18 chief law enforcement officer's discretion, may participate in the process  
 19 by submitting a voluntary report to the attorney general containing readily  
 20 discoverable information, corroborated through public records, which,  
 21 when combined with another enumerated factor, establishes that the ap-  
 22 plicant poses a significantly greater threat to law enforcement or the pub-  
 23 lic at large than the average citizen. Any such voluntary reporting shall  
 24 be made within 45 days after the date the sheriff receives the application.  
 25 Any sheriff or chief law enforcement officer submitting a voluntary report  
 26 shall not incur any civil or criminal liability as the result of the good faith  
 27 submission of such report.

28 (3) All funds retained by the sheriff pursuant to the provisions of this  
 29 section shall be credited to a special fund of the sheriff's office which  
 30 shall be used solely for law enforcement and criminal prosecution pur-  
 31 poses and which shall not be used as a source of revenue to meet normal  
 32 operating expenses of the sheriff's office.

33 (d) Each applicant shall be subject to a state and national criminal  
 34 history records check which conforms to applicable federal standards for  
 35 the purpose of verifying the identity of the applicant and whether the  
 36 applicant has been convicted of any crime that would disqualify the ap-  
 37 plicant from holding a license under this act. The attorney general is  
 38 authorized to use the information obtained from the national criminal  
 39 history record check to determine the applicant's eligibility for such  
 40 license.

41 (e) ~~Within 180 days after the date of receipt of the items listed in~~  
 42 ~~subsection (b), for applications received before July 1, 2007, and within~~  
 43 90 days after the date of receipt of the items listed in subsection (b), ~~for~~



1 applications received on or after July 1, 2007, the attorney general shall:

2 (1) Issue the license and certify the issuance to the department of  
3 revenue; or

4 (2) deny the application based solely on: (A) The report submitted  
5 by the sheriff or other chief law enforcement officer under subsection  
6 (c)(2) for good cause shown therein; or (B) the ground that the applicant  
7 fails to qualify under the criteria listed in K.S.A. 2008 Supp. 75-7c04, and  
8 amendments thereto. If the attorney general denies the application, the  
9 attorney general shall notify the applicant in writing, stating the ground  
10 for denial and informing the applicant the opportunity for a hearing pur-  
11 suant to the Kansas administrative procedure act.

12 (f) Each person issued a license shall pay to the department of rev-  
13 enue fees for the cost of the license and the photograph to be placed on  
14 the license, which shall be in amounts equal to the fees required pursuant  
15 to K.S.A. 8-243 and 8-246, and amendments thereto, for a driver's license  
16 photograph and replacement of a driver's license.

17 (g) A person who is a retired law enforcement officer, as defined in  
18 K.S.A. 21-3110, and amendments thereto, shall be: (1) Required to pay  
19 an original license fee of \$100, which fee shall be in the form of two  
20 cashier checks or money orders, \$40 payable to the sheriff of the county  
21 where the applicant resides and \$60 payable to the attorney general, to  
22 be forwarded by the sheriff to the attorney general; (2) exempt from the  
23 required completion of a weapons safety and training course if such per-  
24 son was certified by the Kansas law enforcement training commission not  
25 more than eight years prior to submission of the application; (3) required  
26 to pay the license renewal fee; (4) required to pay to the department of  
27 revenue the fees required by subsection (f); and (5) required to comply  
28 with the criminal history records check requirement of this section.

29 Sec. 3. K.S.A. 2008 Supp. 75-7c03, and 75-7c05 are hereby repealed.

75-7c04

30 Sec. 4. This act shall take effect and be in force from and after its  
31 publication in the statute book.

**75-7c04. Same; qualifications; weapons safety and training course.** (a) The attorney general shall issue a license pursuant to this act if the applicant:

(1) Is a resident of the county where application for licensure is made and has been a resident of the state for six months or more immediately preceding the filing of the application, residency to be determined in accordance with K.S.A. 77-201, and amendments thereto;

(2) is 21 years or more of age;

(3) does not suffer from a physical infirmity which prevents the safe handling of a weapon;

(4) (A) has been convicted or placed on diversion for an act that constitutes a felony under the laws of this state or any other jurisdiction and: (i) Such felony is expungeable pursuant to K.S.A. 21-4619, and amendments thereto, or similar provision from another jurisdiction; (ii) such felony has been expunged; and (iii) the requirements of subsection (d) are otherwise met;

(B) has not been convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a felony under the laws of this state and such felony is not subject to expungement pursuant to K.S.A. 21-4619, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a felony under the laws of this state if committed by an adult;

(5) has never been convicted, in this or any other jurisdiction, for an act that constitutes a misdemeanor crime of domestic violence, as defined by 18 U.S.C. 921(a)(33)(A) or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor crime of domestic violence under 18 U.S.C. 921(a)(33)(A) if committed by an adult;

(6) has not been, during the five years immediately preceding the date the application is submitted: (A) Convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a misdemeanor under the provisions of the uniform controlled substances act or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor under such act if committed by an adult; (B) convicted or placed on diversion, in this or any other jurisdiction, two or more times for an act that constitutes a violation of K.S.A. 8-1567, and amendments thereto; (C) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a domestic violence misdemeanor under any municipal ordinance or article 34 or 35 of chapter 21 of the Kansas Statutes Annotated or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a domestic violence misdemeanor under article 34 or 35 of chapter 21 of the Kansas Statutes Annotated if committed by an adult; or (D) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a violation of K.S.A. 2008 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a violation of K.S.A. 2008 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, if committed by an adult;

(7) has not been charged with a crime which would render the applicant, if convicted, ineligible for a license or, if so charged, final disposition of the charge has occurred and no other charges are pending which would cause the applicant to be ineligible for a license;

(8) has not been ordered by a court to receive treatment for mental illness pursuant to K.S.A. 59-2966, and amendments thereto, or for an alcohol or substance abuse problem pursuant to K.S.A. 59-29b66, and amendments thereto, or, if a court has ordered such treatment, has not been issued a certificate of restoration pursuant to K.S.A. 2008 Supp. 75-7c26, and amendments thereto, not less than five years before the date of the application;



(9) desires a legal means to carry a concealed weapon for lawful self-defense;

(10) except as provided by subsection (g) of K.S.A. 2008 Supp. 75-7c05, and amendments thereto, presents evidence satisfactory to the attorney general that the applicant has satisfactorily completed a weapons safety and training course approved by the attorney general pursuant to subsection (b);

(11) has not been adjudged a disabled person under the act for obtaining a guardian or conservator, or both, or under a similar law of another state or the District of Columbia, unless the applicant was ordered restored to capacity three or more years before the date on which the application is submitted;

(12) has not been dishonorably discharged from military service;

(13) is a citizen of the United States;

(14) is not subject to a restraining order issued under the protection from abuse act, under the protection from stalking act or pursuant to K.S.A. 60-1607, K.S.A. 2008 Supp. 38-2242, 38-2243 or 38-2255, and amendments thereto, or any equivalent order entered in another state or jurisdiction which is entitled to full faith and credit in Kansas; and

(15) is not in contempt of court in a child support proceeding; ;

(16) *has not attempted to commit suicide in the five years immediately preceding application; and*

(17) *has not been adjudicated as a mental defective or committed to a mental institution.*

(b) (1) The attorney general shall adopt rules and regulations establishing procedures and standards as authorized by this act for an eight-hour weapons safety and training course required by this section. Such standards shall include: (A) A requirement that trainees receive training in the safe storage of weapons, actual firing of weapons and instruction in the laws of this state governing the carrying of a concealed weapon and the use of deadly force; (B) general guidelines for courses which are compatible with the industry standard for basic firearms training for civilians; (C) qualifications of instructors; and (D) a requirement that the course be: (i) A weapons course certified or sponsored by the attorney general; or (ii) a weapons course certified or sponsored by the national rifle association or by a law enforcement agency, college, private or public institution or organization or weapons training school, if the attorney general determines that such course meets or exceeds the standards required by rules and regulations adopted by the attorney general and is taught by instructors certified by the attorney general or by the national rifle association, if the attorney general determines that the requirements for certification of instructors by such association meet or exceed the standards required by rules and regulations adopted by the attorney general. Any person wanting to be certified by the attorney general as an instructor shall submit to the attorney general an application in the form required by the attorney general and a fee not to exceed \$150.

(2) The cost of the weapons safety and training course required by this section shall be paid by the applicant. The following shall constitute satisfactory evidence of satisfactory completion of an approved weapons safety and training course: (A) Evidence of completion of the course, in the form provided by rules and regulations adopted by the attorney general; or (B) an affidavit from the instructor, school, club, organization or group that conducted or taught such course attesting to the completion of the course by the applicant.

(c) In addition to the requirements of subsection (a), a person holding a license pursuant to this act, prior to renewal of the license provided herein, shall submit evidence satisfactory to the attorney general that the licensee has requalified by completion of an approved course given by an instructor of an approved weapons safety and training course under subsection (b).

(d) If an applicant has had a conviction or diversion described in subsection (a)(4)(A) or (a)(6) expunged pursuant to K.S.A. 12-4516 or 21-4619, and amendments thereto, or similar provision from another jurisdiction, and the applicant has been eligible for expungement for five years or more immediately preceding the date the application for licensure is submitted, the applicant shall not be disqualified from being issued a license if the applicant is otherwise qualified for licensure pursuant to this section *and eligible to possess a firearm under state and federal law.*

(e) *For purposes of this section: (1) "Adjudicated as a mental defective" means a determination by a court, board, commission or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition or disease: (A) Is a danger to himself or to others; or (B) lacks the mental capacity to contract or manage his own affairs. "Adjudicated as a mental defective" shall include a finding of insanity by a court in a criminal case, and those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the United States uniform code of military justice.*

(2)(A) *"Committed to a mental institution" means a formal commitment of a person to a mental institution by a court, board, commission or other lawful authority. "Committed to a mental institution" includes a commitment to a mental institution involuntarily, commitment for mental defectiveness or mental illness and commitments for other reasons, such as for drug use.*

(B) *"Committed to a mental institution" shall not include a person in a mental institution for observation or a voluntary admission to a mental institution.*