

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Thomas C. (Tim) Owens at 9:38 a.m. on February 12, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator Les Donovan- excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes

Doug Taylor, Office of the Revisor of Statutes

Athena Andaya, Kansas Legislative Research Department

Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Daric Smith, Staff Attorney, Kansas Department of Health and Environment

Donna Calabrese, Director, Office of Vital Statistics

Irv Hoffmann, President, Kansas Silver Haired Legislators

Kent Cornish, Kansas Association of Broadcasters

David Schroeder, Special Agent in Charge, Kansas Bureau of Investigation

Others attending:

See attached list.

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

Daric Smith testified in support indicating the bill amends K.S.A. 60-1505 on summary proceedings in a habeas corpus action to delete the provision requiring a judge to appoint a board of at least two competent physicians to make an examination of any person restrained because of an alleged infectious or communicable disease. It is a clean up of a statute that was overlooked when the new isolation & quarantine statutes were adopted in 2005. (Attachment 1)

Written testimony in support of **SB 154** was submitted by:

Randy Mettner, Executive Officer to the Adjutant General (Attachment 2)

Judge James F. Vano, District Judge, 10th Judicial District (Attachment 3)

There being no further conferees, the hearing on **SB 154** was closed.

The Chairman opened the hearing on **SB 155 - Center for health and environmental statistics employees; fingerprinting, criminal history record checks.**

Donna Calabrese appeared in support stating vital records contain confidential and sensitive information which can be used for fraudulent purposes. **SB 155** will help provide reasonable security for internal access of documents within the Department of Health and Environment by allowing a criminal history check based on a fingerprint search of certain employees. (Attachment 4)

There being no further conferees, the hearing on **SB 155** was closed.

The Chairman opened the hearing on **SB 148 - Kansas silver alert plan.** Senator Haley reviewed the bill.

Irv Hoffmann appeared in support stating as the population ages it is important to protect citizens with cognitive impairments who are lost. The Kansas Silver Alert Program would provide public notice of a missing elderly person. The bill authorizes but does not mandate a prompt broadcast or a timely search based on a plan to be implemented by the Kansas Attorney General's Office. (Attachment 5)

Kent Cornish provided neutral testimony indicating support of the bill provided it remains a voluntary measure based on requests from law enforcement. (Attachment 6)

David Schroeder provided neutral testimony on behalf of the Kansas Bureau of Investigation. (Attachment 7)

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:38 a.m. on February 12, 2009, in Room 545-N of the Capitol.

There being no further conferees, the hearing on **SB 148** was closed.

The Chairman called for final action on **SB 28 - Transportation of controlled substances; same penalty as open container of liquor.**

Senator Schmidt distributed a draft substitute bill addressing the language concern regarding the merger issue brought up following an earlier discussion of the bill (Attachment 8)

Senator Schmidt moved, Senator Umbarger seconded, to amend SB 29 by striking the contents and inserting the substitute language in the distributed draft as Sen Sub 29. Motion carried.

Senator Schmidt moved, Senator Schodorf seconded, to recommend Sub SB 29 favorably for passage. Motion carried.

The next meeting is scheduled for February 13, 2009.

The meeting was adjourned at 10:31 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-12-09

NAME	REPRESENTING
DAVE SCHROEDER	KBI
Jim Snyder	KSHL
REV Hoffmann	KSHL
Barb Coxart	KDOA
Cynthia Smith	SOL Health
Alonna Calabrese	KDHE
Wale Saadi	KDHE
Daric Smith	KDHE
Charles Hunt	KDHE
Dick Morrissey	KDHE
Doug Cruce	
Ed Kwiat	KAPD KPOD
JOSEPH Molur	KS Bar Assoc.



DEPARTMENT OF HEALTH
AND ENVIRONMENT

Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

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Senate Bill 154

**Presented to
Senate Judiciary Committee**

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

February 12, 2009

Good Morning, Mr. Chairman Owens 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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Attachment 1

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.

Testimony on Senate Bill 154
To the Senate Judiciary Committee

Randy Mettner
Executive officer to the Adjutant General
February 12, 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



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.

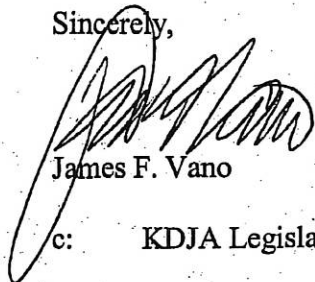
Second, a problem going hand-in-hand with the first, is how much would such physicians be paid to physically examine the individual(s) and prepare a report for the court. It seems doubtful that competent physicians would willingly accept pay at the low rates we currently pay appointed counsel. Would 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



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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Division of Health

Senate Bill 155

**Presented To
Senate Judiciary Committee**

**Presented by Donna Calabrese
Director, Office of Vital Statistics
Center for Health and Environmental Statistics**

February 12, 2009

Chairperson Owens and members of the Senate Judiciary Committee, I am pleased to appear before you today to discuss Senate Bill 155 which would provide the Kansas Department of Health and Environment (KDHE) authority to conduct criminal background checks on Center for Health and Environmental Statistics (CHES) employees.

Vital records contain confidential and sensitive information which can be used for fraudulent purposes. Identity theft and fraud is a serious and growing crime. Vital record information can be used to commit identity theft for the purpose of financial gain, to conceal true identity for eluding detection and apprehension by law enforcement, to create fictitious records for the gain of benefits from government programs and insurance companies, and to elude detection by creditors. Vital record data and certificates can be sold to individuals who conduct large scale operations for creating and selling fraudulent identification documents. The going rate for vital record data and/or certificates varies from \$100 to several thousand dollars per record.

The Kansas Department of Health and Environment (KDHE) focuses significant resources on securing our documents from external access such as breaches and hacking. We believe tools, including background checks, need to also be available for our use to provide reasonable security for internal access of documents.

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Attachment 4

Employees with access to vital record data and certificates must not pose a risk to the security of that data and prior criminal behavior is one indicator of that risk.

Research and studies on the national level have led to the repeated conclusion that vital record data is subject to fraudulent use:

- The Department of Health and Human Services, Office of Inspector General reported in a September 2000 report on Birth Certificate Fraud, OEI-07-99-00570, "As we previously reported in 1988, 1991, and 1996, birth certificates continue to be used as 'breeder documents' from which other supporting documents can be secured to alter identities and fraudulently obtain services and benefits. Virtually all Federal and State agencies agree that fraudulent birth certificates are used to obtain genuine documents, and in concert with other fraudulent documents, to create new identities."
- The U.S. Department of Justice Report on the Security of State-Issued Documents, chapter 4, Key Findings and Conclusions states, "Increased attention needs to be given to initiatives affecting birth certificates because of their frequent use to obtain other key documents which affect not only the employment process, but also a range of other benefit programs and services."

For a non-criminal justice agency to have access to the FBI's national criminal history data, state law must clearly specify that the criminal history check is authorized and is based on a fingerprint search. Therefore, CHES is submitting proposed language that will allow employees to be fingerprinted and the fingerprints will be submitted to the Kansas Bureau of Investigation (KBI) and FBI for a criminal history record check. We will run this check on new employees and in correlation with KDHE Human Resources, we are determining procedures for evaluation of existing employees.

Thank you for the opportunity to appear before the Senate Judiciary Committee today. I will now stand for questions.

SB 148 Silver Alert Plan

Testimony by Irv Hoffmann

President Kansas Silver Haired Legislature

With the elderly making up the fastest-growing segment of the U.S. population, police and caregivers will have to spend ever-increasing time and money in coming years to keep tabs on older Americans with Alzheimer's disease, lawmakers and advocates for the elderly warn.

The number of Americans living with Alzheimer's is expected to triple by 2050 — to more than 16 million. About 60 percent of such patients wander away from their homes or care facilities at some point, according to the Alzheimer's Association; about half of those who are not found within 24 hours suffer serious injury or even death.

11 states have implemented Silver Alert Programs. These include California, Colorado, Georgia, Illinois, Kentucky, Louisiana, Michigan, North Carolina, Ohio, Texas, and Virginia.

To help protect an increasing number of citizens with cognitive impairments who are lost, several states have initiated "Silver Alert" programs. Silver Alert programs are modeled after the Amber Alert programs now present in all 50 states. The Amber Alert programs can quickly distribute information about missing persons to law enforcement, radio, and television stations. It is designed to alert the public and law enforcement agencies so that citizens can be on the look out for missing adults. Silver Alert programs are targeted for adults with Alzheimer's disease or other forms of dementia.

Colorado

In February 2007, Colorado's governor signed the Silver Alert program into law, creating an alert program for senior citizens and people with developmental disabilities. Colorado's program requires that the caretakers provide evidence to law enforcement officials of the impaired mental condition. Once the information is verified, the information is sent out to designated media outlets in Colorado including radio stations, television stations, and other media outlets that will issue the alert at designated intervals.

Georgia

Georgia's Silver Alert Program is called "Maddie's Call." The program is for Older Persons with Alzheimer's disease and/or dementia. Maddie's call was established by the Georgia General Assembly in 2006 and provides an emergency missing alert for disabled or elderly persons. Georgia law defines "disabled adults" as individuals who are developmentally impaired or who suffer from dementia or some other cognitive impairment. The Georgia Bureau of Investigations runs the program and several criteria are in place for activation of the call including:

1. A local law enforcement agency believes a disabled person is missing and is in immediate danger of serious bodily injury or death.
2. Through its own investigation, the law enforcement agency verifies the disappearance and eliminates alternative explanations for the disabled person's disappearance.
3. Sufficient information is available to disseminate to the public that could assist in locating the disabled person.
4. The missing disabled person is entered into the National Crime Information Center (NCIC) database.
5. The law enforcement agency must issue a statewide broadcast to law enforcement/911 centers and contact local media regarding the missing person.

Missouri

Missouri has an Endangered Persons Advisory that is similar to the Amber Alert system. The Endangered Persons Advisory is used to develop and coordinate the efforts of law enforcement and the media in order to increase public participation in safely recovering endangered missing person by increased communication and effective resources sharing. The Advisory is used when a person is missing under unexplained circumstances (not just suspicious) and is an at-risk adult or the circumstances fail to meet the criteria for an Amber Alert for a missing child. Information is disseminated to law enforcement agencies, broadcasters, and the public using the same methods as the Amber Alert with the exception of electronic signs, communication capabilities of private entities, and a portal that allows law enforcement to directly issue and update Alerts to any subscribing individual or agency. The Endangered Person Advisory Program is initiated solely by Missouri law enforcement agencies using the following criteria:

1. Is the person missing under unexplained, involuntary, or suspicious circumstances?
2. Is the person believed to be in danger because of age, health, mental or physical disability, environment or weather conditions?
3. Is the person in the company of a potentially dangerous person or some other factor that might put the person in peril?
4. Is there information that could assist the public in the safe recovery of the person?

Missouri's Endangered Person Advisory is a cooperative effort between the Missouri Department of Public Safety, the Missouri State Highway Patrol, the Missouri Department of Health and Senior Services, the Missouri Police Chiefs Association,

the Missouri Sheriffs Association, and the Missouri Broadcasters Association. Missouri reported that there are no costs associated with the program.

North Carolina - 143B-499.8. North Carolina Silver Alert System established.

North Carolina has a Silver Alert program that was established by the General Assembly to locate individuals suffering from dementia or other cognitive impairments. The North Carolina Silver Alert program is operated through the North Carolina Center for Missing Persons with voluntary participation by radio and television broadcasters and the North Carolina Department of Transportation. The North Carolina model is designed to protect the rights of the missing individual by not releasing specific health information about the missing person that may subject the individual to potential harm, abuse, or exploitations.

The criteria for the North Carolina Silver Alert program are as follows:

1. The person is 18 years or older.
2. The person is believed to be suffering from dementia or other cognitive impairment.
3. The person is believed to be missing-regardless of circumstance
4. A legal custodian of the missing person has submitted a missing person's report to the local law enforcement agency where the person went missing.
5. Law enforcement reports the incident to the NC Center for Missing Persons.

Oklahoma

The Oklahoma House of Representatives passed a resolution calling for a Silver Alert system in 2006 to find missing seniors. As a resolution, the Silver Alert program is not required by law, according to the Department of Public Safety that is responsible for implementing the program. The alert system is issued for patients with Alzheimer's Disease, dementia or other health issues. The key difference in the Amber Alert system and the Silver Alert program in Oklahoma is that the Silver Alert program does not interrupt broadcast programming like the Amber Alert program.

The Oklahoma Department of Public Safety reports that so far the system does not seem to be overused. This was a concern about the program before its implementation. About 10 seniors have been found since that time.

Texas

The Texas Silver Alert is integrated with the Texas AMBER Alert system to make up the Texas AMBER/Silver Alert Network. The program is administered through the Texas Department of Public safety, and is funded through the Office of the Governor, Criminal Justice Division. The Silver Alert system implemented September 1, 2007 is the result of state legislation that Governor Perry signed on May 14, 2007.

The Texas system requires the following:

1. The person must be a senior age 65 or older,
2. The person must have Texas as their primary residence,
3. The person must have a written diagnosis from a medical or mental health professional stating the senior has an impaired mental condition. The disappearance

- must pose a credible threat to the senior's health and safety,
4. The report must be filed within 72 hours of the disappearance, and
 5. There must be sufficient information to disseminate to the public that could assist in locating the missing senior.

Since inception of the Program on September 1, 2007, there have been 31 activations of the Texas Silver Alert Network.

Virginia

Virginia has a Senior Alert Program that is administered through the Virginia State Police. No funding was offered by the state, but the police department offered to absorb the costs of administering the program.

The program is new, so it is too early to report if they have had success stories or if residents are utilizing the service. This was bi-partisan legislation developed by Virginia's Alzheimer's Association chapters and Virginia's Office of the Attorney General.

Issues and Concerns

National Association of State Units on Aging

Several concerns were raised by the state unit directors who completed the survey. The top concern raised by the states was that the alerts would be overused. One state reported that the police in their state "feel as though the families and caregivers repeatedly allow individuals to wander because they know that law enforcement officials will find them." Former New York State Governor Pataki vetoed their silver alert system

with a veto message that indicated that the silver alert system would weaken the Amber Alert system by making the alerts "too common".

Another concern expressed by states was that the cost of the programs would be high. Of the states responding to the survey, however, most of the states indicated that the costs associated with the program were minimal. West Virginia is considering legislation and is anticipating that the initial costs of a Silver Alert Program in West Virginia would be used to establish a photo center at senior centers, and enter the data into a database. Ongoing costs would cover the expense of entering new photos into the database, which could also be done at minimal cost. Protecting the rights of the missing seniors was also a concern raised by several states that fear that the individual's privacy will be violated. The states with Silver Alert systems in place indicated that they had tight controls in place to guard against further exploitation but it was something that needed to be monitored.

Recommendations

The local law enforcement agency is responsible for contacting their local and regional media outlets. The dynamic message signs will be activated regionally or statewide when criteria are met.

What are the criteria?

1. The missing person must be 60 years or older and there must be a clear indication that the individual has an irreversible deterioration of intellectual faculties (i.e., dementia). This must be verified by law enforcement

or;

under extraordinary circumstances when a person age 18 to 59 has irreversible deterioration of intellectual faculties and law enforcement has determined the missing person lacks the capacity to consent, and that the use of dynamic message signs may be the only possible way to rescue the missing person;

2. The law enforcement agency's investigation must conclude that the disappearance poses a credible threat to the person's welfare and safety;

3. If a vehicle is involved and the statewide messaging system is requested, there must be a description of the vehicle, and a tag number to display on the Kansas Department of Transportation dynamic message signs; and

o Local law enforcement must verify vehicle and tag information;

o The law enforcement agency must have entered the missing person into the Information Center and issued a statewide Alert to other law enforcement/911 centers;

4. Local law enforcement has already activated a local or regional Alert by contacting media outlets in theirs and/or surrounding jurisdictions.

How does the Silver Alert get activated?

If you have a loved one missing you should contact your local law enforcement agency immediately. Only a law enforcement agency may activate a Silver Alert. Local law enforcement will take a report, issue a Silver Alert if the criteria are met and in turn, will notify the if the person is driving a vehicle. (Copy of North Carolina Report form is in your packet)

How long does a Silver Alert stay activated?

The Local Law Enforcement Agency will determine the status of the Alert. If road signs are used, they will remain activated for a maximum of 6 hours unless the missing elderly person is rescued, or unless DOT is otherwise instructed.

What is the role of the public during a Silver Alert?

The public can play an important role in the rescue of missing elderly persons with a cognitive impairment. According to the Alzheimer's Association, 95% of persons who go missing in these situations are found within a quarter mile from their place of residence or last location seen. When they hear about a Silver Alert in their area, they should actively make note of the description of the person and any additional information provided. If the public encounters or believes they see the vehicle or the missing person they should immediately call 911 to respond. They should make note of the person's whereabouts, and if applicable, the vehicle tag, direction of travel and location observation (highway/street, city and county).

What is the role of the media?

Media outlets have the option on whether or not to broadcast Silver Alert information. Large audiences can be reached through the media, thereby enhancing

everyone's efforts in safely recovering a cognitively impaired missing person.

Does a caretaker, physician, or psychologist first have to verify or attest that the person has a cognitive impairment?

The reporting party must articulate to the local law enforcement taking the report the fact that the missing person has a diagnosed cognitive impairment. The local law enforcement agency will determine whether the criteria are met.

What are the "extraordinary circumstances" for persons under the age of 60?

Law enforcement has various search and tracking tools to find missing persons. To maintain integrity of the system and not dilute its effectiveness, the road signs will be used primarily for persons with irreversible deterioration of intellectual faculties 60 years and older. However, road signs may be used in rare instances when that is the only viable method to locate a missing person under the age of 60 who otherwise meet criteria.

How does one file a missing person report?

Contact the local law enforcement agency of jurisdiction where the missing person was last seen.

Do you use the EAS, as you do with AMBER Alerts?

No, the EAS is restricted to child abductions, and is not used for any other cases involving missing children. However, just like with Missing Child Alerts, television and radio stations will be notified and the information can be broadcasted to the viewing or listening public.

We have coordinated the Silver Alert proposal with the Kansas Alzheimers Association, Kansas AG Office, Kansas Broadcasters Association, Kansas Bureau of Investigation, JOCO Sheriff's Office, Lenexa Police Department, and several care facilities.

NORTH CAROLINA SILVER ALERT INFORMATION FORM

(Please complete this form and Contact the NC Center for Missing Persons for further instruction at 1(800) 522-5437.)

Reporting Law Enforcement agency: _____

Investigating Detective: _____ Supervisor: _____

Telephone Number: _____ Fax Number: _____

Pager Number: _____ Cellular Number: _____

Date of Notification: _____ Time of Notification: _____

Date of Incident: _____ Time of Incident: _____

Location of Incident: _____

Location Last Seen: _____

(If different from location of Incident)

Direction of Travel:

Possible Destination:

Vehicle Description:

(Make, Model, Year, Color, License Plate Number and State of Issue)

How many individuals are missing ____? For more than one missing person, use additional page(s)

Name: _____
(Last) (First) (Middle) (Nickname)

Gender: ____ DOB: ____ Age: ____ Race: ____ Height: ____ Weight: ____

Hair Color: _____ Hair Length: _____ Eyes: _____

Other Distinguishing Physical Characteristics:

Give clothing description:

(Type, Color, Sleeve Length, Pullover, Buttoned, etc.)

Pants or skirt:

Shoes/socks: _____

Outerwear: _____

In possession of:

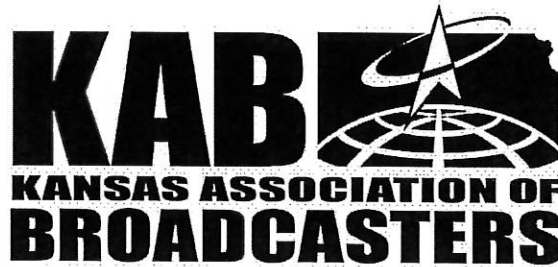
(Credit Cards, Cash, Pet, etc.)

Other: _____

Circumstances of Missing Person:

Specific health information about the missing person, beyond the fact that the missing person is believed to be suffering from dementia or some other cognitive impairment, is not made public.

11/28/2007



2709 SW 29th Street Topeka, KS 66614
785-235-1307 www.kab.net

Testimony on SB 148
Thursday, February 12, 2009
Senate Judiciary Committee

Good Morning Mr. Chairman and members of the Committee. I am Kent Cornish, President/Executive Director of the Kansas Association of Broadcasters, representing nearly 300 radio and television stations across the state.

As written, SB 148 states that news media shall promptly broadcast information on a missing elderly person upon the request of law enforcement. That procedure currently exists. Our stations and local law enforcement have worked together to form a relationship that when asked to assist, stations comply.

One of the principles of broadcasting is serving the community and certainly a request from law enforcement to help in locating a missing person of any age falls under that principle. Most newsroom policies do require the request come from law enforcement and not from the general public.

There are privacy issues as well as investigative issues that law enforcement considers before making the request to broadcast missing persons information and we believe those are properly discussed before contacting the station.

Since this is still voluntary on the part of broadcasters, the KAB has no problem with the bill as written. However if it's the committee's desire to establish a formal plan of this kind, perhaps it should be called an "Endangered Persons Alert" that includes all age ranges.

Thank you.

Senate Judiciary
2-12-09
Attachment 6



Kansas Bureau of Investigation

Robert E. Blecha
Director

Stephen N. Six
Attorney General

**TESTIMONY
BEFORE THE SENATE JUDICIARY COMMITTEE
REGARDING SB 148
DAVID J. SCHROEDER
SPECIAL AGENT IN CHARGE
KANSAS BUREAU OF INVESTIGATION
FEBRUARY 12, 2009**

Chairman Owens and Members of the Committee,

I appear today on behalf of the KBI to speak regarding SB 148 which addresses the establishment of a Silver Alert Plan in Kansas.

I serve as the law enforcement coordinator for the statewide Kansas AMBER Plan and I am an active member of Attorney General Steve Six's AMBER Alert Task Force. Our task force is comprised of representatives from state and local law enforcement, Department of Transportation, media representatives and other dedicated stakeholders.

The mission of the Kansas AMBER Plan is to quickly broadcast emergency information to the public that assists law enforcement in the safe recovery of an abducted child.

The KBI and local law enforcement strive for the safe recovery of all missing persons. As written, the KBI stands neutral on SB 148.

Thank you for your attention and time. I would be happy to try and answer any questions.

Senate Judiciary

2-12-09

Attachment 7

PROPOSED Substitute for SENATE BILL NO. 28

By

AN ACT concerning crimes, criminal procedure and punishment; relating to unlawful possession of a controlled substance or controlled substance analog; amending K.S.A. 21-4603d and repealing the existing section.

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

Section 1. K.S.A. 21-4603d is hereby amended to read as follows: 21-4603d. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons

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subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape, as defined in K.S.A. 21-3809, and amendments thereto, or aggravated escape, as defined in K.S.A. 21-3810, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses

incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10);

or

(12) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 21-4018, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil

cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502, and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In imposing a fine the court may authorize the payment thereof in installments. In

releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671 prior to its repeal or K.S.A. 2007 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(3) When a new felony is committed while the offender is on release for a felony pursuant

to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendment thereto or a community intermediate sanction center. Pursuant to this paragraph the

defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and

amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or for an offense which is classified in gridblocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and such offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The

court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 65-4160 or 65-4162, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 21-4729, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2007 Supp. 75-52,144, and amendments thereto, including but not limited to, an approved after-care plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 21-4705, and amendments thereto. For those offenders who are convicted on or after the effective date of this act, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of postrelease supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 65-4160, 65-4162 or 65-4164, and amendments thereto, in which the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege

to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this

state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.

Sec. 2. K.S.A. 21-4603d is hereby repealed.

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