

Approved: 12-18-2010

Date

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Pat Colloton at 1:30 p.m. on February 3, 2010, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Stuart Little, Kansas Association of Addiction Professionals,
Dr. Jason Everhart-Phillips, Director, KDHE
State Representative Virgil Peck,
Detective Sgt. Bromley, Coffeyville Police Department
Joseph Kroll, Director, Bureau of Child Care & Health Facilities
Commander Mike Brown, Coffeyville Police Department
Kyle G. Smith, Topeka Police Department , & Kansas Peace Officers Association
Tom Stanton, Deputy Reno County District Attorney,

Others attending:

See attached list.

Stuart Little, Kansas Association of Addiction Professionals,
Dr. Jason Everhart-Phillips, Director, KDHE
State Representative Virgil Peck,
Detective Sgt. Bromley, Coffeyville Police Department
Joseph Kroll, Director, Bureau of Child Care & Health Facilities
Commander Mike Brown, Coffeyville Police Department
Kyle G. Smith, Topeka Police Department , & Kansas Peace Officers Association
Tom Stanton, Deputy Reno County District Attorney,

HB 2413 - Sub for H 2413 by Committee on Corrections and Juvenile Justice - Increasing traffic fines to fund increases in alcohol and drug therapy program for DUI offenders.

Chairperson Colloton called the meeting to order and moved the Committee's attention to a letter from Office of Judicial Administration regarding increasing traffic fines to fund the Department of Corrections Drug and Alcohol Fund. (Attachment 1) She introduced Sean Ostrow, Office of the Revisor of Statutes to explain the Sub for **HB 2413**. Mr. Ostrow explained if traffic fines were raised \$10.00 on each, that would come up with the 1.2 million needed for the Department of Corrections Drug and Alcohol Fund (Attachment 2) Next, Jarod Waltner, Legislative Research, to explain the percentages. (Attachment 3) and (Attachment 4) Mr. Waltner reviewed an explanation of funds an approximate remittances of District Court Fines, Penalties and Forfeitures to the Committee.

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of the following:

Stuart Little, Kansas Association of Addictions Professionals (Attachment 5)
Dr. Jason Everhart-Phillips, Director, KDHE (Attachment 6)

HB 2453 - Enhanced penalties for certain drug crimes on or within 1,000 feet of a child care facility.

Chairperson Colloton closed the hearing on **HB 2413** and opened the hearing on **HB 2453**. She introduced State Representative Virgil Peck to give his testimony as a proponent of the bill. Representative Peck

CONTINUATION SHEET

presented written copy of his testimony. (Attachment 7) Representative Peck stated the bill is designed to reduce the risk of illegal drug transactions occurring near young children, thus reducing the risk of harm to children. To pass the bill would aid law enforcement officers in their battle to rid our streets of illegal drug activity.

Chairperson Colloton called on Jason Thompson, Office of the Revisor of Statutes, to explain the bill. Mr. Thompson stated the bill is concerning crimes and punishment; relating to controlled substances; child care facilities and the penalties.

A question and answer session followed.

Chairperson Colloton introduced Detective Bromley, Coffeyville Police Department, to give his testimony as a proponent of **HB 2453**. Detective Bromley presented written copy of his testimony. (Attachment 8) He stated while conducting narcotics investigations he discovered a large number of private residences that were near elementary schools, junior high and high school that were being used to sell illegal narcotics. He would like to see that childcare facilities are provided with the same level of protection as provided to K through 12 by passing this bill.

A question and answer session followed.

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of Joseph F. Knoll, Director, Bureau of Child Care and Health Facilities, Kansas Department of Health and Environment. (Attachment 9)

Chairperson Colloton called for any others wishing to testify, being none, she closed the hearing on **HB 2453** and opened the hearing on **HB 2454**.

HB 2454 - Enhanced criminal penalty for felonies committed while wearing or using ballistic resistant material.

Chairperson Colloton introduced State Representative Virgil Peck to give his testimony as a proponent of **HB 2454**. Representative Peck presented written copy of his testimony. (Attachment 10) He stated the bill would add 30 months to the sentence of a person convicted of a felony who was wearing body armor during the commission of that felony, fleeing, etc. In closing, he stated he supported the bill and urged the Committee to pass it out favorably.

Chairperson Colloton introduced Commander Mike Brown, Coffeyville Police Department to give his testimony as a proponent of **HB 2454**. Commander Brown presented written copy of his testimony. (Attachment 11) Commander Brown stated that body armor has evolved from extremely expensive and cumbersome to affordable, lightweight and comfortable life-saving equipment. The availability of new and surplus body armor to the general public has increased. The use of body armor by a criminal puts the law enforcement at risk along with the general public. In closing, he stated the Coffeyville Police Department and the Kansas Association of Chiefs of Police, feel that **HB 2454** appropriately addresses the criminal use of body armor.

Chairperson Colloton introduced Detective Sargent Bromley, Coffeyville Police Department to give his testimony as a proponent of the bill. Detective Bromley presented written copy of his testimony. (Attachment 12) Detective Bromley told the Committee of an incident in Coffeyville where the criminal was wearing body armor similar to that worn by law enforcement when he was finally apprehended. In closing, he stated other states have taken steps to address criminals using, ballistic restraint material while in the commission of, attempted commission of, flight from a felony. He urged the Committee to consider taking similar necessary steps forward to add the language in **HB 2454** into Kansas law.

A question and answer session followed.

Chairperson Colloton introduced Kyle G. Smith, Topeka Police Department & Kansas Peace Officers Association to give his testimony as a proponent of the bill. Mr. Smith presented written copy of his testimony. (Attachment 13) He stated that he feels the word will get around regarding criminals wearing body armor and the penalty and it will deter some criminals.

CONTINUATION SHEET

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of the following:

Samuel Breshears, Chief of Police, Kansas City, Kansas Police Department. (Attachment 14)
Tom Stanton, Deputy Reno County District Attorney. (Attachment 15)

Chairperson Colloton called for others wishing to testify, being none, she closed the hearing on **HB 2454**.

HB 2430 - H Sub for H 2430 by Committee on Corrections and Juvenile Justice - Allowing the court to sentence a defendant with PTSD caused by action in a combat zone while in the United States armed forces to receive mental health treatment as part of the defendant's probationary sentence

Next, she turned the Committee's attention to **HB 2430** and opened the floor for consideration. She called on Sean Ostrow, Office of the Revisor of Statutes, to explain the balloon for the bill. Mr. Ostrow presented written copy of the balloon. (Attachment 16) He reviewed the balloon which contained the changes the Committee had agreed on early.

A question and answer session followed.

Chairperson Colloton called on Athena Andaya, Legislative Research, to review her report on how other states address post traumatic disorder. Ms. Andaya stated she had an intern do a statute search for aggravating and mitigating circumstances. She located one state, Massachusetts who list post traumatic stress disorder as a mitigating factor for the death penalty. There were a few states that passed laws in 2009 related to sentencing veterans or active military with diagnosed mental illness.

Representative Kinzer moved to adopt the balloon with the appropriate change on "post traumatic stress syndrome" to "post traumatic stress disorder." Representative Brookens seconded. Motion carried.

A discussion followed back on the bill with the majority of the Committee not wanting to move forward with the bill at this time.

Chairperson Colloton adjourned the meeting at 3:00 p.m. with the next scheduled meeting to be on February 4, 2010, at 1:30 p.m. in room 144-S.

CORRECTIONS & JUVENILE JUSTICE GUEST LIST

DATE: 2-3-10

| NAME | REPRESENTING |
|-------------------|-------------------------|
| Liza Webb | Judicial Administration |
| TRAVIS LOWE | Little Court Relations |
| Chris Tilden | KDHE |
| JEREMY BARCLAY | KDOC |
| DENNIS WILLIAMS | KDOC |
| CHARLES BARILETTI | AAPS/SRS |
| Wigh Keck | Hein Law firm |
| Katie Long | Rep. Bethell |
| Pete Bodyk | KDOT |
| RON BROWN | FOP |
| Helen Perlgo | Sentencing Commission |
| DAVID HUTCHINGS | KBI |
| Kern Brown | VCOM. |
| Richard Sannig | Kenn & Assoc. |
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State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

January 29, 2010

To: Representative Pat Colloton

From: Jerry Sloan *JS* and Kathy Porter *KP*

Re: Increasing Fines to fund the Department of Corrections Drug and Alcohol Fund

You have asked how much fines could be increased to generate an additional \$1,325,229 for the Department of Corrections Alcohol and Drug Abuse Treatment Program. As we have noted, in addition to traffic fines, the amounts remitted to the State Treasurer from fines, penalties, and forfeitures pursuant to K.S.A. 74-7336 include bond forfeitures, civil and criminal penalties, and criminal fines. We are unable to segregate the amounts generated by any of those individual sources, with the exception of bond forfeitures, of which the State General Fund portion included in "fines, penalties, and forfeitures" in FY 2009 was \$343,205.05.

We analyzed several methods through which the amount requested could be generated. A quick review of criminal statutes shows that there are many statutes that impose fines, but many provide only a ceiling, and not a floor for the fine. Fines may be imposed up to a certain amount, but there is no minimum fine amount specified in statute. Therefore, the majority of these types of fines do not appear to be a source from which the increase you seek could be generated. We have discussed this issue with the Revisor's Office, and it is our understanding that they are looking for statutory fines with a specified floor so that these could be adjusted.

We looked at fines that offer a reasonable opportunity for accuracy which also could be related to the program you are trying to fund. We know the number of traffic violations that result in guilty pleas in any given year, and traffic violations often come to mind when discussing drug and alcohol programs. We calculated the amount that would be generated if every fine were collected, and then we applied an estimated collection rate.

In reviewing traffic driving under the influence (DUI) cases, there were 2,539 guilty plea, trial to court, or jury trial terminations in FY 2009. Increasing the fine by \$200 would generate half a million dollars. There were 143,910 traffic guilty pleas in FY 2009. A \$10 increase in traffic fines (both those included in the Uniform Fine Schedule for Infractions [K.S.A. 8-2118] and other statutory traffic fines not included in the Uniform Fine Schedule) would generate

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Attachment # 1

Rep. Pat Colloton
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approximately \$1.4 million. Diversions are another area that can be explored. There were 2,972 misdemeanor and 849 felony diversions last year. It would appear that substantive law would need to be amended to impose a \$100 penalty that shall be paid along with the docket fee prior to the court granting a diversion. This would generate over \$382,000 and would also increase the collection rate for the docket fee in those cases.

The total amount possible generated from implementing the three suggestions is \$2.3 million. The total potential revenue in these cases is not generally realized. Therefore, a sixty percent collection rate has been applied. This is a lower collection rate than we generally apply, but this was deemed to be prudent because of delayed collections in the first year of implementation (because we will not begin to collect these fines for weeks after the tickets have been written) and the possibility that collections will be lower than normal on the higher DUI fines. Should the estimates be accurate, implementation could generate \$1,397,400 for the Department of Corrections Drug and Alcohol Program in the first year of implementation.

JS/KP:mr

Substitute for HOUSE BILL NO. 2413

By Committee on Corrections and Juvenile Justice

AN ACT concerning district court fines, penalties and forfeitures; relating to traffic fines; relating to funding of the alcohol and drug abuse treatment fund; amending K.S.A. 2009 Supp. 8-2118 and 74-7336 and repealing the existing sections.

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

Section 1. K.S.A. 2009 Supp. 8-2118 is hereby amended to read as follows: 8-2118. (a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.

(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made by mail or in person and may be by personal check. The traffic citation shall not have been complied with if a check is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest, the payment shall be deemed such an appearance, waiver of right to trial and plea of no contest.

(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine which may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense

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contained in the following uniform fine schedule is for reference only and is not a legal definition.

| <i>Description of Offense</i> | <i>Statute</i> | <i>Fine</i> |
|---|--------------------|---|
| Refusal to submit to a preliminary breath test | 8-1012 | \$90 <u>\$100</u> |
| Unsafe speed for prevailing conditions | 8-1557 | \$60 <u>\$70</u> |
| Exceeding maximum speed limit; or speeding in zone posted by the state department of transportation; or speeding in locally posted zone | 8-1558 to 8-1560 | 1-10 mph over the limit, \$30 <u>\$40</u> |
| | 8-1560a or 8-1560b | 11-20 mph over the limit, \$30 <u>\$40</u> plus \$6 per mph over 10 mph over the limit; |
| | | 21-30 mph over the limit, \$90 <u>\$100</u> plus \$9 per mph over 20 mph over the limit; |
| | | 31 and more mph over the limit, \$180 <u>\$190</u> plus \$15 per mph over 30 mph over the limit; |
| Disobeying traffic control device | 8-1507 | \$60 <u>\$70</u> |
| Violating traffic control signal | 8-1508 | \$60 <u>\$70</u> |
| Violating pedestrian control signal | 8-1509 | \$30 <u>\$40</u> |
| Violating flashing traffic signals | 8-1510 | \$60 <u>\$70</u> |
| Violating lane-control signal | 8-1511 | \$60 <u>\$70</u> |
| Unauthorized sign, signal, marking or device | 8-1512 | \$30 <u>\$40</u> |
| Driving on left side of roadway | 8-1514 | \$60 <u>\$70</u> |
| Failure to keep right to pass oncoming vehicle | 8-1515 | \$60 <u>\$70</u> |
| Improper passing; increasing speed when passed | 8-1516 | \$60 <u>\$70</u> |
| Improper passing on right | 8-1517 | \$60 <u>\$70</u> |
| Passing on left with insufficient clearance | 8-1518 | \$60 <u>\$70</u> |
| Driving on left side where curve, grade, intersection railroad crossing, or obstructed view | 8-1519 | \$60 <u>\$70</u> |
| Driving on left in no-passing zone | 8-1520 | \$60 <u>\$70</u> |
| Unlawful passing of stopped emergency vehicle | 8-1520a | \$60 <u>\$70</u> |
| Driving wrong direction on one-way road | 8-1521 | \$60 <u>\$70</u> |
| Improper driving on lane roadway | 8-1522 | \$60 <u>\$70</u> |
| Following too close | 8-1523 | \$60 <u>\$70</u> |

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| Improper crossover on divided highway | 8-1524 | \$30 <u>\$40</u> |
| Failure to yield right-of-way at uncontrolled intersection | 8-1526 | \$60 <u>\$70</u> |
| Failure to yield to approaching vehicle when turning left | 8-1527 | \$60 <u>\$70</u> |
| Failure to yield at stop or yield sign | 8-1528 | \$60 <u>\$70</u> |
| Failure to yield from private road or driveway | 8-1529 | \$60 <u>\$70</u> |
| Failure to yield to emergency vehicle | 8-1530 | \$180 <u>\$190</u> |
| Failure to yield to pedestrian or vehicle working on roadway | 8-1531 | \$90 <u>\$100</u> |
| Failure to comply with restrictions in road construction zone | 8-1531a | \$30 <u>\$40</u> |
| Disobeying pedestrian traffic control device | 8-1532 | \$30 <u>\$40</u> |
| Failure to yield to pedestrian in crosswalk; pedestrian suddenly entering roadway; passing vehicle stopped for pedestrian at crosswalk | 8-1533 | \$60 <u>\$70</u> |
| Improper pedestrian crossing | 8-1534 | \$30 <u>\$40</u> |
| Failure to exercise due care in regard to pedestrian | 8-1535 | \$30 <u>\$40</u> |
| Improper pedestrian movement in crosswalk | 8-1536 | \$30 <u>\$40</u> |
| Improper use of roadway by pedestrian | 8-1537 | \$30 <u>\$40</u> |
| Soliciting ride or business on roadway | 8-1538 | \$30 <u>\$40</u> |
| Driving through safety zone | 8-1539 | \$30 <u>\$40</u> |
| Failure to yield to pedestrian on sidewalk | 8-1540 | \$30 <u>\$40</u> |
| Failure of pedestrian to yield to emergency vehicle | 8-1541 | \$30 <u>\$40</u> |
| Failure to yield to blind pedestrian | 8-1542 | \$30 <u>\$40</u> |
| Pedestrian disobeying bridge or railroad signal | 8-1544 | \$30 <u>\$40</u> |
| Improper turn or approach | 8-1545 | \$60 <u>\$70</u> |
| Improper "U" turn | 8-1546 | \$60 <u>\$70</u> |
| Unsafe starting of stopped vehicle | 8-1547 | \$30 <u>\$40</u> |
| Unsafe turning or stopping, failure to give proper signal; using turn signal unlawfully | 8-1548 | \$60 <u>\$70</u> |
| Improper method of giving notice of intention to turn | 8-1549 | \$30 <u>\$40</u> |

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| Improper hand signal | 8-1550 | \$30 <u>\$40</u> |
| Failure to stop or obey railroad crossing signal | 8-1551 | \$180 <u>\$190</u> |
| Failure to stop at railroad crossing stop sign | 8-1552 | \$120 <u>\$130</u> |
| Certain hazardous vehicles failure to stop at railroad crossing | 8-1553 | \$180 <u>\$190</u> |
| Improper moving of heavy equipment at railroad crossing | 8-1554 | \$60 <u>\$70</u> |
| Vehicle emerging from alley, private roadway, building or driveway | 8-1555 | \$60 <u>\$70</u> |
| Improper passing of school bus; improper use of school bus signals | 8-1556 | \$300 <u>\$310</u> |
| Improper passing of church or day-care bus; improper use of signals | 8-1556a | \$180 <u>\$190</u> |
| Impeding normal traffic by slow speed | 8-1561 | \$30 <u>\$40</u> |
| Speeding on motor-driven cycle | 8-1562 | \$60 <u>\$70</u> |
| Speeding in certain vehicles or on posted bridge | 8-1563 | \$30 <u>\$40</u> |
| Improper stopping, standing or parking on roadway | 8-1569 | \$30 <u>\$40</u> |
| Parking, standing or stopping in prohibited area | 8-1571 | \$30 <u>\$40</u> |
| Improper parking | 8-1572 | \$30 <u>\$40</u> |
| Unattended vehicle | 8-1573 | \$30 <u>\$40</u> |
| Improper backing | 8-1574 | \$30 <u>\$40</u> |
| Driving on sidewalk | 8-1575 | \$30 <u>\$40</u> |
| Driving with view or driving mechanism obstructed | 8-1576 | \$30 <u>\$40</u> |
| Unsafe opening of vehicle door | 8-1577 | \$30 <u>\$40</u> |
| Riding in house trailer | 8-1578 | \$30 <u>\$40</u> |
| Improper driving in defiles, canyons, or on grades | 8-1579 | \$30 <u>\$40</u> |
| Coasting | 8-1580 | \$30 <u>\$40</u> |
| Following fire apparatus too closely | 8-1581 | \$60 <u>\$70</u> |
| Driving over fire hose | 8-1582 | \$30 <u>\$40</u> |
| Putting glass, etc., on highway | 8-1583 | \$90 <u>\$100</u> |
| Driving into intersection, crosswalk, or crossing without sufficient space on other side | 8-1584 | \$30 <u>\$40</u> |

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| Improper operation of snowmobile on highway | 8-1585 | \$30 <u>\$40</u> |
| Parental responsibility of child riding bicycle | 8-1586 | \$30 <u>\$40</u> |
| Not riding on bicycle seat; too many persons on bicycle | 8-1588 | \$30 <u>\$40</u> |
| Clinging to other vehicle | 8-1589 | \$30 <u>\$40</u> |
| Improper riding of bicycle on roadway | 8-1590 | \$30 <u>\$40</u> |
| Carrying articles on bicycle; one hand on handlebars | 8-1591 | \$30 <u>\$40</u> |
| Improper bicycle lamps, brakes or reflectors | 8-1592 | \$30 <u>\$40</u> |
| Improper operation of motorcycle; seats; passengers, bundles | 8-1594 | \$30 <u>\$40</u> |
| Improper operation of motorcycle on lane roadway | 8-1595 | \$60 <u>\$70</u> |
| Motorcycle clinging to other vehicle | 8-1596 | \$30 <u>\$40</u> |
| Improper motorcycle handlebars or passenger equipment | 8-1597 | \$60 <u>\$70</u> |
| Motorcycle helmet and eye-protection requirements | 8-1598 | \$30 <u>\$40</u> |
| Unlawful riding on vehicle | 8-1578a | \$60 <u>\$70</u> |
| Unlawful operation of all-terrain vehicle | 8-15,100 | \$60 <u>\$70</u> |
| Unlawful operation of low-speed vehicle | 8-15,101 | \$60 <u>\$70</u> |
| Littering | 8-15,102 | \$100 <u>\$110</u> |
| Disobeying school crossing guard | 8-15,103 | \$60 <u>\$70</u> |
| Unlawful operation of micro utility truck | 8-15,106 | \$60 <u>\$70</u> |
| Failure to remove vehicles in accidents | 8-15,107 | \$60 <u>\$70</u> |
| Unlawful operation of golf cart | 8-15,108 | \$60 <u>\$70</u> |
| Unlawful operation of work-site utility vehicle | 8-15,109 | \$60 <u>\$70</u> |
| Equipment offenses that are not misdemeanors | 8-1701 | \$60 <u>\$70</u> |
| Driving without lights when needed | 8-1703 | \$30 <u>\$40</u> |
| Defective headlamps | 8-1705 | \$30 <u>\$40</u> |
| Defective tail lamps | 8-1706 | \$30 <u>\$40</u> |
| Defective reflector | 8-1707 | \$30 <u>\$40</u> |

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| Improper stop lamp or turnsignal | 8-1708 | \$30 <u>\$40</u> |
| Improper lighting equipment on certainvehicles | 8-1710 | \$30 <u>\$40</u> |
| Improper lamp color on certainvehicles | 8-1711 | \$30 <u>\$40</u> |
| Improper mounting of reflectors and lamps on certainvehicles | 8-1712 | \$30 <u>\$40</u> |
| Improper visibility of reflectors and lamps on certainvehicles | 8-1713 | \$30 <u>\$40</u> |
| No lamp or flag on projectingload | 8-1715 | \$60 <u>\$70</u> |
| Improper lamps on parkedvehicle | 8-1716 | \$30 <u>\$40</u> |
| Improper lights, lamps, reflectors and emblems on farm tractors or slow-movingvehicles | 8-1717 | \$30 <u>\$40</u> |
| Improper lamps and equipment on implements of husbandry, road machineryor animal-drawn vehicles | 8-1718 | \$30 <u>\$40</u> |
| Unlawful use of spot, fog, or auxiliarylamp | 8-1719 | \$30 <u>\$40</u> |
| Improper lamps or lights on emergencyvehicle | 8-1720 | \$30 <u>\$40</u> |
| Improper stop or turnsignal | 8-1721 | \$30 <u>\$40</u> |
| Improper vehicular hazard warninglamp | 8-1722 | \$30 <u>\$40</u> |
| Unauthorized additional lightingequipment | 8-1723 | \$30 <u>\$40</u> |
| Improper multiple-beamlights | 8-1724 | \$30 <u>\$40</u> |
| Failure to dim headlights | 8-1725 | \$60 <u>\$70</u> |
| Improper single-beamheadlights | 8-1726 | \$30 <u>\$40</u> |
| Improper speed with alternatelighting | 8-1727 | \$30 <u>\$40</u> |
| Improper number of drivinglamps | 8-1728 | \$30 <u>\$40</u> |
| Unauthorized lights andsignals | 8-1729 | \$30 <u>\$40</u> |
| Improper school bus lighting equipment and warningdevices | 8-1730 | \$30 <u>\$40</u> |
| Unauthorized lights and devices on church or day-carebus | 8-1730a | \$30 <u>\$40</u> |
| Improper lights on highway construction or maintenancevehicles | 8-1731 | \$30 <u>\$40</u> |
| Defective brakes | 8-1734 | \$30 <u>\$40</u> |
| Defective or improper use of horn orwarning device | 8-1738 | \$30 <u>\$40</u> |
| Defective muffler | 8-1739 | \$30 <u>\$40</u> |

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| Defective mirror | 8-1740 | \$30 <u>\$40</u> | |
| Defective wipers; obstructed windshield or windows | 8-1741 | \$30 <u>\$40</u> | |
| Improper tires | 8-1742 | \$30 <u>\$40</u> | |
| Improper flares or warning devices | 8-1744 | \$30 <u>\$40</u> | |
| Improper use of vehicular hazard warning lamps and devices | 8-1745 | \$30 <u>\$40</u> | |
| Improper air-conditioning equipment | 8-1747 | \$30 <u>\$40</u> | |
| Improper safety belt or shoulder harness | 8-1749 | \$30 <u>\$40</u> | |
| Improper wide-based single tires | 8-1742b | \$60 <u>\$70</u> | |
| Improper compression release engine braking system | 8-1761 | \$60 <u>\$70</u> | |
| Defective motorcycle headlamp | 8-1801 | \$30 <u>\$40</u> | |
| Defective motorcycle taillamp | 8-1802 | \$30 <u>\$40</u> | |
| Defective motorcycle reflector | 8-1803 | \$30 <u>\$40</u> | |
| Defective motorcycle stop lamps and turn signals | 8-1804 | \$30 <u>\$40</u> | |
| Defective multiple-beam lighting | 8-1805 | \$30 <u>\$40</u> | |
| Improper road-lighting equipment on motor-driven cycles | 8-1806 | \$30 <u>\$40</u> | |
| Defective motorcycle or motor-driven cycle brakes | 8-1807 | \$30 <u>\$40</u> | |
| Improper performance ability of brakes | 8-1808 | \$30 <u>\$40</u> | |
| Operating motorcycle with disapproved braking system | 8-1809 | \$30 <u>\$40</u> | |
| Defective horn, muffler, mirrors or tires | 8-1810 | \$30 <u>\$40</u> | |
| Unlawful state house parking | 75-4510a | \$15 <u>\$25</u> | |
| Exceeding gross weight of vehicle or combination | 8-1909 | Pounds | Overweight |
| | | up to 1000. | \$25 <u>\$35</u> |
| | | 1001 to 2000. | 3¢ per pound |
| | | 2001 to 5000. | 5¢ per pound |
| | | 5001 to 7500. | 7¢ per pound |

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| | | 7501 and over..... | 10¢ per pound |
| Exceeding gross weight on any axle or tandem, triple or quad axles | 8-1908 | Pounds | Overweight |
| | | up to 1000. | \$25 <u>\$35</u> |
| | | 1001 to 2000. | 3¢ per pound |
| | | 2001 to 5000. | 5¢ per pound |
| | | 5001 to 7500. | 7¢ per pound |
| | | 7501 and over..... | 10¢ per pound |
| Failure to obtain proper registration, clearance or to have current certification | 66-1324 | \$272 | <u>\$282</u> |
| Insufficient liability insurance for motor carriers | 66-1,128 or 66-1314 | \$122 | <u>\$132</u> |
| Failure to obtain interstate motor fuel tax authorization | 79-34,122 | \$122 | <u>\$132</u> |
| No authority as private or common carrier | 66-1,111 | \$122 | <u>\$132</u> |
| Violation of motor carrier safety rules and regulations, except for violations specified in subsection (b)(2) of K.S.A. 66-1,130, and amendments thereto | 66-1,129 | \$100 | <u>\$110</u> |

(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).

(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.

(f) For a second violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two

years after a prior conviction of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 1 1/2 times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years, after two prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined two times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 2 1/2 times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c).

(g) Fines listed in the uniform fine schedule contained in subsection (c) relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in a school zone authorized under subsection (a)(4) of K.S.A. 8-1560, and amendments thereto.

Sec. 2. K.S.A. 2009 Supp. 74-7336 is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit:

- (1) ~~11.99%~~ 11.27% to the crime victims compensation fund;
- (2) ~~2.45%~~ 2.30% to the crime victims assistance fund;
- (3) ~~3.01%~~ 2.83% to the community alcoholism and intoxication programs fund;
- (4) ~~2.01%~~ 7.89% to the department of corrections alcohol and drug abuse treatment fund;
- (5) ~~0.17%~~ 0.16% to the boating fee fund;

- (6) ~~0.12%~~ 0.11% to the children's advocacy center fund;
- (7) ~~2.50%~~ 2.35% to the EMS revolving fund;
- (8) ~~2.50%~~ 2.35% to the trauma fund;
- (9) ~~2.50%~~ 2.35% to the traffic records enhancement fund; and
- (10) the remainder of the remittances to the state general fund.

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

Sec. 3. K.S.A. 2009 Supp. 8-2118 and 74-7336 are hereby repealed.

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

| Approximate Remittances of District Court Fines, Penalties, and Forfeitures | | | | | | | |
|---|---|--------------------|---------------|-------------------------|---------------|-------------------------|------------------------|
| Agency | Fund | FY 2009 | | FY 2009 + \$1.3 million | | Difference | |
| | | Percent Remittance | Dollar Amount | Percent Remittance | Dollar Amount | Proposed Percent Change | Proposed Dollar Change |
| Attorney General | Crime Victims Compensation Fund | 11.99 % | \$ 2,444,537 | 11.27 % | \$ 2,444,253 | (0.72) % | \$ (285) |
| Attorney General | Crime Victims Assistance Fund | 2.45 | 499,509 | 2.30 | 498,827 | (0.15) | (682) |
| Department of Social and Rehabilitation Services | Community Alcoholism and Intoxication Programs Fund | 3.01 | 613,683 | 2.83 | 613,774 | (0.18) | 91 |
| Corrections, Department of | Department of Corrections Alcohol and Drug Abuse Treatment Fund | 2.01 | 409,802 | 7.89 | 1,711,194 | 5.88 | 1,301,392 |
| Department of Wildlife and Parks | Boating Fee Fund | 0.17 | 34,660 | 0.16 | 34,701 | (0.01) | 41 |
| Attorney General | Children's Advocacy Center Fund | 0.12 | 24,466 | 0.11 | 23,857 | (0.01) | (609) |
| Emergency Medical Services Board | EMS Revolving Fund | 2.50 | 509,703 | 2.35 | 509,671 | (0.15) | (32) |
| Department of Health and Environment - Health | Trauma Fund | 2.50 | 509,703 | 2.35 | 509,671 | (0.15) | (32) |
| Department of Transportation | Traffic Records Enhancement Fund | 2.50 | 509,703 | 2.35 | 509,671 | (0.15) | (32) |
| | State General Fund | 72.75 % | 14,832,368 | 68.39 % | \$ 14,832,516 | (4.36) % | \$ 147 |
| | Total | 100.00 % | \$ 20,388,135 | 100.00 % | \$ 21,688,135 | - % | \$ 1,300,000 |

Explanation of Funds included in KSA 74-7336

| | | |
|--|---|--|
| Attorney General | Crime Victims Compensation Fund | Payments from the Crime Victims Compensation Fund are governed by KSA 74-7301 et. seq. The fund is used to provide grants to victims of crime upon a finding that without the award, the claimant will suffer financial stress as the result of economic loss because of the crime committed against them. By statute, a victim suffers financial stress only if they cannot maintain their "customary level of health, safety and education for self and dependents without undue financial hardship." For example, someone who is rendered unable to work as the result of the crime committed against them would be an eligible claimant. |
| Attorney General | Crime Victims Assistance Fund | Statutory provisions regarding the Crime Victims Assistance Fund are included in KSA 74-7334. All moneys credited to the fund are to be used for the purpose of making grants for on-going operating expenses of programs, including court-appointed special advocate programs, providing temporary emergency shelter for victims of child abuse and neglect, counseling and assistance to those victims, or educational services directed at reducing the incidence of child abuse and neglect. Any remaining moneys in the fund are required to be used for the purpose of supporting the operation of state agency programs which provide services to the victims of crime and making grants to existing programs or to establish and maintain new programs providing services to the victims of crime. Funding could be granted, for example, to a shelter that provides housing for a child who is a victim of physical abuse. |
| Department of Social and Rehabilitation Services | Community Alcoholism and Intoxication Programs Fund | SRS is designated to receive 3.01% of the remittance of fines, penalties and forfeitures received from clerks of the district court. Funds received are deposited in the community alcoholism and intoxication program fund, 2220-1130 DUI-KDOC. This funding is used by SRS to fulfill the conditions of administration, care coordination and treatment of 4th and sequential DUI offenders under the provisions of K.S.A.8-1567 as defined in the MOA between SRS and KDOC. SRS provides all administrative duties including the contracting for services that include assessment and referral to substance use disorder treatment, contracting with substance use disorder treatment providers, providing of continued stay utilization management, and reimbursement for treatment services. SRS also contracts for ongoing care coordination for each offender throughout post release supervision which includes case management, recovery support services, monitoring of recovery, and multi-disciplinary team coordination with parole, treatment providers, the offenders, and other stakeholders. SRS also maintains outcome data for services provided. |
| Department of Corrections | Department of Corrections Alcohol and Drug Abuse Treatment Fund | The Department of Corrections uses the funds remitted from District Court fines, penalties, and forfeitures to reimburse the Department of Social and Rehabilitation Services for DUI treatment for 4th and subsequent DUI offenders as required under current state law. |

Explanation of Funds included in KSA 74-7336

| | | |
|---|----------------------------------|---|
| Department of Wildlife and Parks | Boating Fee Fund | <p>The Boating Fee Fund was created by KSA 1992 Supp. 32-1173. The Secretary of Wildlife and Parks is authorized to adopt rules and regulations, upon approval of the Kansas Wildlife and Parks Commission, that fix the amount of fees for boat registration. Effective January 1, 2006, the three-year boat registration fee for all boats is \$30. For FY 2010 and FY 2011, approximately 37,000 permits are estimated to be sold. This estimate does not imply that 37,000 boats will be sold, but that 37,000 changes of ownership will take place. Each time a boat changes ownership, it must be re-registered. In addition to boat registration fees, the agency receives federal aid from the US Coast Guard for boating safety and regulation programs (which is the Boating Fee Fund – Federal Fund, which often provides matching funding for the Boating Fee Fund). The Boating Fee Fund is used in the majority of the agency's programs to support administrative expenses, grants, law enforcement activities, the State Parks, and capital improvements. An example of a project that the Boating Fee Fund would pay for would be: providing river/boat access – Wildlife and Parks builds boat ramps and maintains them for access to rivers/lakes; they also fund the salaries and wages and equipment for law enforcement officers to enforce boat regulations.</p> |
| Attorney General | Children's Advocacy Center Fund | <p>Payments from the Children's Advocacy Center Fund are governed by KSA 20-370. All expenditures from the fund are to be used for grants to children's advocacy centers in the state that are eligible for funding pursuant to statute. KSA 38-2227 provides that an eligible Child Advocacy Center must be a private nonprofit entity that provides services for children in cases of suspected or alleged physical, mental, or emotional abuse. A nonprofit center that provides forensic interviews with children who are victims of suspected child abuse is an example of a center that would qualify for funding from the Children's Advocacy Center Fund.</p> |
| Emergency Medical Services Board | EMS Revolving Fund | <p>The EMS Revolving Grant fund is a state funded grant program for Kansas EMS agencies and organization to provide financial assistance based on demonstrated financial need. Funding is also recommended on the documented need of the specific item being requested. The primary goal of this program is to financially assist EMS agencies and organizations to purchase EMS equipment, vehicles and assist in education and training.</p> |
| Department of Health and Environment - Health | Trauma Fund | <p>Recognizing death and disability from injuries as a major public health problem, the Kansas Legislature in 1999 authorized KDHE to undertake development of a statewide trauma system. The KDHE Kansas Trauma Program was established as a public/private partnership to establish trauma systems across the state so that each patient is properly triaged and matched to the hospital with the most appropriate resources as quickly as possible. Funding to the Trauma Program supports a wide range of strategic efforts including injury prevention programs, trauma education for health care professionals, a statewide hospital data collection system used to improve the quality of trauma care, and designation of hospitals as trauma centers. Funding to the trauma program through this source was \$517,215 in 2007, which is approximately half of total funding for state trauma program.</p> |
| Department of Transportation | Traffic Records Enhancement Fund | <p>The Traffic Records Enhancement Fund (TREF) was established to provide funding to improve the completeness, accuracy and number of traffic crash records that are collected and disseminated electronically to various local and state agencies. It is also utilized to improve any other traffic related system that collects data that can be used to improve safety on Kansas roads.</p> |

STUART J. LITTLE, Ph.D.
Little Government Relations, LLC

House Corrections and Juvenile Justice Committee

Testimony on House Bill 2413

February 3, 2010

Chairwoman Colloton and Members of the Committee.

I apologize that I am unable to attend the hearing today, but I would like to provide the committee written testimony in support of House Bill 2413 on behalf of the Kansas Association of Addiction Professionals (KAAP).

House Bill 2413 would increase from 2.01 to 8.51 percent the fines, penalties and other revenue that would fund the alcohol and drug abuse treatment fund. The total amount of revenue generated would be \$1,736,000.

These funds would be used to reestablish the necessary funding for the 4th and now after the 2009 session, 3rd time DUI treatment programs. The Kansas Department of Corrections reduced the core funding for this program in 2009 by \$538,000. The treatment programs have been modified to fit the available dollars, not always to the benefit of treatment.

The Governor's budget reductions in 2009 of over \$2.0 million for substance abuse treatment and the loss of additional treatment revenue due to the 10 percent Medicaid cuts imposed by the Governor have hurt the system.

Passage of HB 2413 will make a small but significant impact on needed treatment funding and we urge your support for the bill.

Corrections and Juvenile Justice

Date: 2-3-10

Attachment # 5



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Written Testimony on House Bill 2413

Presented to
House Corrections and Juvenile Justice Committee

By
Dr. Jason Eberhart-Phillips
State Health Officer and Director, Division of Health
Kansas Department of Health and Environment

February 3, 2010

Chairwoman Colloton and members of the committee, I am Dr. Jason Eberhart-Phillips, State Health Officer and Director of Health for the Kansas Department of Health and Environment. Thank you for the opportunity to present written testimony on the use of funds from district court fines that are allocated to the state trauma program.

In 1999 the Kansas legislature recognized that injuries were a significant public health threat to Kansans, and established the Kansas Trauma Program. The legislation established an Advisory Committee on Trauma (ACT) to provide input to KDHE on the development of this system.

In 2006 a statewide citizen task force known as the "Driving Force" proposed to increase fines for failure to use seatbelts, in order to reduce the number of people killed and injured on Kansas roadways. House Bill 2136, approved in 2007, put those recommendations into law (K.S.A. 74-7336). The Kansas Department of Transportation, the Kansas Board of EMS, and the KDHE Trauma Program all receive a portion of the revenues resulting from these fines. These three agencies work closely with one another to reduce injury and death on Kansas roadways. Our purpose is to provide you with information on the specific uses of the funds by the trauma program.

Before the trauma program was created, a trauma system in Kansas was virtually non-existent. Today we have a state trauma plan that includes training and education of emergency personnel, a statewide trauma registry, and six regional trauma councils that meet to explore means to improve the quality of emergency care in their respective areas. Regional trauma council membership includes over 850 members representing 409 organizations. Regional trauma councils receive trauma program funds to support their activities, which includes regional trauma plan development, education, training and injury prevention programs. Funding is also used to maintain the statewide trauma registry, to which all hospitals in the state with emergency

OFFICE OF THE DIRECTOR OF HEALTH
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 300, TO

Voice 785-296-1086 Fax 785-296-1562

Corrections and Juvenile Justice

Date: 2-3-10

Attachment # 6

departments report data. There are over 43,000 records in the trauma registry, of which 9,000 were reported in 2009.

Funds have also been used to support trauma center development. When the trauma program began in 1999, there were no trauma centers in the state outside of Kansas City and Wichita. Research showed, however, that high-performing trauma systems were “inclusive” systems, systems that employed multiple levels of trauma designation to encourage formal involvement by even the smallest community hospitals. Today we have seven verified trauma centers in the state in Wichita, Kansas City, Overland Park, Topeka, Parsons and Pittsburg. Hospitals in Salina, Hays and Hutchinson are currently working towards trauma center designation. We are excited to now be poised to move ahead with development of Level IV trauma centers in more rural areas of our state, where more than 70% of the road traffic deaths occur.

KDHE receives approximately \$500,000 a year from this revenue source to manage the state trauma program. These funds represent approximately half of the annual trauma program budget. Stable funding is critical in order to continue the work that has evolved over the last nine years. We’re grateful for the legislature’s demonstrated interest in advancing trauma care in Kansas.

Thank you for your continued support.

STATE OF KANSAS

VIRGIL PECK, JR.

REPRESENTATIVE, DISTRICT 11

BOX 277

TYRO, KANSAS 67364

STATE CAPITOL

TOPEKA, KANSAS 66612

(785) 296-7641



COMMITTEE ASSIGNMENTS:

VICE-CHAIRMAN: INSURANCE

MEMBER: TAXATION
TRANSPORTATION
FINANCIAL INSTITUTIONS
LEGISLATIVE POST AUDIT

HOUSE OF REPRESENTATIVES

MAJORITY CAUCUS CHAIRMAN

Testimony in support of HB 2453

February 1, 2010

Chairman Colloton and Committee members, thank you for this hearing on HB 2453.

HB2453 is a bill designed to reduce the risk of illegal drug transactions occurring near young children, thus reducing the risk of harm to these children.

Thugs, such as drug dealers, usually know the law and word will get around among them that this bill has passed and they need to try to avoid conducting their "business" in close proximity of a Day Care.

I believe passage of HB2453 will aid law enforcement officers in their battle to rid our streets of illegal drug activity.

I think HB2453 is a straight-forward bill but I'll be happy to answer any questions the Committee may have.

Corrections and Juvenile Justice

Date: 2-3-10

Attachment # 1

To: Chairman Colloton, Corrections and juvenile Justice Committee
From: Kwin Bromley, Detective Sgt. Coffeyville Police Department
Appearing on behalf of the Coffeyville Police Department
Re: HB 2453

Chairman Colloton and Members of the Corrections and Juvenile Justice Committee, thank you for the opportunity to appear before you today to provide testimony in support of HB 2453.

Several years ago, former Coffeyville Chief of Police, Richard McEachen identified the need to have a fulltime drug detective to investigate drug activity and tasked me with creating a narcotics unit in Coffeyville. Prior to 1997 the Coffeyville Police Department did not have anyone solely dedicated to the investigation of illegal narcotics. I quickly reached out to other law enforcement agencies and modeled our department's narcotics unit after a number of drug units throughout the State of Kansas that were successful in the identification, investigation, and eventual prosecution of clandestine drug use and sales.

While conducting narcotics investigations, I discovered a large number of private residences that were near our elementary schools, junior high, and high school that were being used to sell illegal narcotics. In addition of the standard criminal drug statutes, I utilized the "selling drugs with in a 1000' of a school statute as a very effective tool to drive drug houses away from the local schools. Like a wild fire, word spread very quickly throughout the criminal element in Coffeyville, not to live near a school if you were going to sell drugs due to the increased penalties. However, during some criminal drug investigations I was puzzled to learn that our Kansas Statute did not provide the same level of protection to childcare facilities that is provided to K through 12 facilities.

Thinking about it, childcare facilities are where preschool aged children are taken by working parents to be safely cared for in the parents absence. These children are the ones that are most likely to become innocent victims of the by-products of the drug trade near the facility due to their innocence and curiosity. If a drug house is near a childcare facility, there is a high degree of probability that drug users/manufacturers will use needles, pipes, chemicals and other paraphernalia in inject, ingest, sell and/or manufacture illegal drugs. Moreover, those drug paraphernalia items and illegal narcotics could end up on the ground in or around the childcare facility and are therefore potentially dangerous to the preschool aged children associated with the care facility. The dangers of intravenous drug users using needles and discarding them onto the ground are extremely high. These drug users commonly have health issues like, AIDS, HIV,

Corrections and Juvenile Justice

Date: 2-3-10

Attachment # 8

Hepatitis, and other communicable diseases. I would hate to be the parent of a child that picked up a needle off the grounds of their day care facility, accidentally poked themselves and contracted an infectious disease. Additionally, the chemicals, by-products, narcotics themselves and the propensity for violence associated with the manufacture and use of illegal narcotics are all cause for great concern when in close proximity to a childcare facility.

I wondered if perhaps the omission of childcare facilities from the current Kansas Statute was a simple oversight, or if there were valid reasons for child care facilities to be omitted from the language. Either way, this bothered me due to the following reasons:

In 1999, Agents with the Kansas Bureau of Investigation, and Officers from the Coffeyville Police Department arrested two neighbors who had been distributing large amounts of methamphetamine from their residences. These residences were located directly across the street from a Head Start facility and playground where neighborhood children frequented. Another drug dealer operated out of her apartment behind another childcare facility in Coffeyville for several years, until her eventual arrest in late 2008. The childcare facility closed just prior to her arrest. In 2008, another known drug dealer was operating a "crack house" directly across the street from another childcare facility in Coffeyville. I had been told that the drug dealer became nervous after learning that law enforcement had been asking questions about him and moved out. These are just a few examples of investigations that identified drug dealers within 1000' of licensed childcare facilities in Coffeyville.

I, along with other law enforcement officers believe that there is an obvious need to have childcare facilities added into the language in the Kansas Drug Statute. I feel the intent of the current Kansas Statute was to protect children from the dangers associated with illegal narcotic activity. If we are going to afford that protection to children in the K – 12 age range, I feel that the same protections should be offered to preschool aged children at childcare facilities as well. After all, which age group is more susceptible to accidental exposure due to innocence and curiosity?

Respectfully,

Detective Sgt. Kwin Bromley
Coffeyville Police Department
7th & Walnut
Coffeyville, Kansas 67337
(620) 252-6194
kwin.bromley@coffeyvillepd.org



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

February 2, 2010

Representative Pat Colloton
Kansas State Capitol
300 SW 10th St. Rm 151-S
Topeka, KS 66612

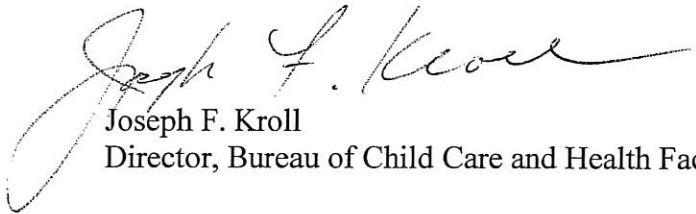
Dear Representative Colloton,

I am writing on behalf of the Kansas Department of Health and Environment in support of HB 2453. This bill would increase the severity level for certain drug related crimes if the crime occurs within 1,000 feet of a child care facility.

Although this bill has no direct impact on KDHE regulation of child care facilities, we believe increasing the severity level in the way proposed by HB 2453 will enhance the safety of children in child care facilities across the state.

Thank you for the opportunity to endorse HB 2453.

Sincerely,



Joseph F. Kroll
Director, Bureau of Child Care and Health Facilities

BUREAU OF CHILD CARE AND HEALTH FACILITIES
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 200, TOPEKA KS 66612-1260

Voice 785-296-1270 Fax 785-296-3075

Corrections and Juvenile Justice

Date: 2-3-10

Attachment # 9

STATE OF KANSAS

VIRGIL PECK, JR.

REPRESENTATIVE, DISTRICT 11

Box 277

TYRO, KANSAS 67364

STATE CAPITOL

TOPEKA, KANSAS 66612

(785) 296-7641



COMMITTEE ASSIGNMENTS:

VICE-CHAIRMAN: INSURANCE

MEMBER: TAXATION
TRANSPORTATION
FINANCIAL INSTITUTIONS
LEGISLATIVE POST AUDIT

HOUSE OF REPRESENTATIVES

MAJORITY CAUCUS CHAIRMAN

Testimony in support of HB 2454

February 1, 2010

Chairman Colloton and Committee members, thank you for this hearing on HB2454.

The idea for such legislation was first brought to me by Detective Sergeant Kwin Bromley, of the Coffeyville Police Department.

Sergeant Bromley is a man any of us would appreciate having with us in any threatening situation. In February 2009, he again showed why the residents of Coffeyville and the State of Kansas are fortunate to have him as a Law Enforcement Officer.

I will let him tell his story and I think you will agree with me that passing HB2454 is the right thing to do; not only for Sergeant Bromley, but for all law enforcement officers in Kansas.

I not only worked with Sergeant Bromley, but also Commander Mike Brown of the Coffeyville Police Department in developing language for HB2454. Commander Brown was very instrumental in 2006 in helping pass legislation to increase the penalty for Battery LEO to a felony.

Passage of HB2454 would add 30 months to the sentence of a person convicted of a felony who was wearing body armor during the commission of that felony, fleeing, etc. Common sense tells us that anyone who straps on body armor, such as a bulletproof vest and then commits a felony, such as bank robbery, was looking for a fight with law enforcement officers and hoping to increase the odds of saving their sorry butt.

Attached to my testimony is a copy of the story that appeared in the Coffeyville Journal about the incident that got us thinking about this piece of legislation.

I'll be happy to stand for questions.

Corrections and Juvenile Justice

Date: 2-3-10

Attachment # 10

**Get the 2nd One
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Virgil Peck Jr.
P.O. Box 277
Tyro, Ks 67364

Ross

V.V.

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The Journal

Coffeyville

50
CENTS

September 8, 2009

Serving the area since 1875

Vol. 120, No. 178

Ross pleads guilty of Coffeyville February bank robbery

The man accused of robbing the Bank of America, which used to be located at 1401 W. Eighth Street (the location has since closed for reasons unrelated to the robbery) has pled guilty to killing Willie Neal, Jr., an innocent bystander.

Ross Williams, 39 of Claremore, Oklahoma was charged in federal court with bank robbery, murder, and trying to kill police officers during a bank robbery in Coffeyville, Kansas,

Ross is scheduled for sentencing at a later date but could

receive up to life in prison.

The original indictment was issued on February 17, 2009, and stated that Williams robbed the Bank of America located at 1401 W. Eighth. Williams entered the bank, demanded money at knife point and took \$7,549 from the bank before fleeing the scene on a bicycle.

A witness followed Williams and saw him put the bike into the back of an SUV and drive away and while he attempting to escape arrest from ensuing officers, he fired

shots from a ROMARM assault rifle, which is when Neal was struck in the upper thigh.

A high speed chase with police started in the 1200 block of West 10th Street and the chased ended when Williams' SUV struck a tree. He then fled on foot to a wooded area. After looking for Williams for over three hours, officers finally located him when he attempted to cross a field and arrested him. He was wearing a bullet proof vest and carrying a pistol when they located him.

No officers were injured in the incident and the autopsy on Neal concluded the type of bullet shot from Williams' assault rifle was consistent with the bullet found in Neal.

Williams original indict-

ment and charges included:

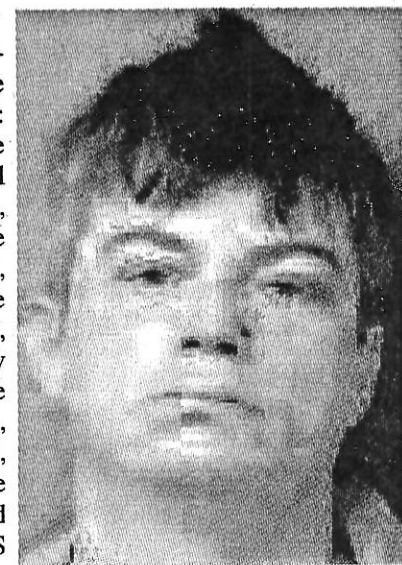
- Maximum penalty of one count of bank robbery--20 years, and a fine of up to \$250,000
- One count of killing a person while attempting to escape arrest--death, or life in federal prison
- One count of carrying a firearm in furtherance of a bank robber--life in federal prison
- One count of unlawful possession of a firearm after a felony conviction--10 years and a fine of up to \$250,000

Williams was no stranger to trouble. According to Tulsa District Court records, he was sentenced in December 2007 to seven years in jail for first degree burglary. That sentence was later suspended and he

was put on supervised probation. He had also been charged with knowingly concealing stolen property.

Agencies who conducted or assisted in the investigation included: Coffeyville Police Department, Federal Bureau of Investigation, Caney Police Department, Independence Police Department, Montgomery County Sheriff's Office, Labette County Sheriff's Office, Kansas Highway Patrol, Coffeyville Fire Department and Coffeyville EMS

Matt Treaster and Assistant U.S. Attorney Lanny Welch.



MONTGOMERY COUNTY CORRECTIONS PHOTO
Ross A. Williams

Prosecuting attorneys are Assistant U.S. Attorney



Coffeyville Police Department

7th/Walnut • P.O. Box 1629 • Coffeyville, KS 67337

620-252-6160

Joe Humble • Chief of Police

To: Chairperson Colloton – Corrections and Juvenile Justice Committee
From: Commander Mike Brown – Coffeyville Police Department
Re: Support of HB2454

Chairperson Colloton,

My name is Mike Brown and I am a Commander with the Coffeyville Police Department and I have been involved in Kansas law enforcement for over 18 years. On behalf of the Coffeyville Police Department and the Kansas Association of Chiefs of Police I would like to submit the following testimony in support of HB2454 for your consideration.

During the course of my career, body armor has evolved from extremely expensive and cumbersome to affordable, lightweight and comfortable life-saving equipment. As a result of this evolution, the availability of new and surplus body armor to the general public has increased. Many law-abiding citizens own body armor for their own protection and we, in no uncertain terms, wish to limit the ability of the citizens of Kansas to purchase and utilize body armor for legitimate purposes. Our support of HB2454 is due to the alarming trend we have seen developing among the criminal element in which criminals are utilizing body armor or other forms of ballistic protection during the commission of crimes. The use of body armor by a person who is committing or attempting to commit a crime serves one and only one purpose. That purpose is to thwart the efforts of law enforcement or citizens in the application of deadly force to protect themselves or others from great bodily harm or death.

The criminal use of body armor not only puts law enforcement at risk but also puts the general public at risk as well. The much-publicized Bank of America Robbery in North Hollywood, Los Angeles on February 28, 1997 is a perfect example. The gun battle between LAPD officers and the two suspects, who were wearing body armor and heavily armed, lasted approximately 24 minutes. The suspects brazenly fired indiscriminately at officers. This reckless disregard for human life was undoubtedly bolstered by the suspects' knowledge that their body armor would protect them from a majority of the rounds fired at them by law enforcement. During these 24 minutes, 10 officers and seven civilians were injured due to the fact that traditional law enforcement handguns and shotguns could not penetrate the body armor worn by the suspects and end the threat. The criminal use of body armor in this case substantially increased the risk to

Corrections and Juvenile Justice

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Attachment # 11

everyone involved and even those who were simply in the vicinity, by hampering the efforts of law enforcement to quickly end the threat.

The North Hollywood Robbery is not just a west coast anomaly, it just received incredible media coverage. In a moment, Detective Sergeant Bromley will offer testimony also supporting HB2454 based on another Bank of America robbery that also occurred in February. This bank robbery involved another heavily armed suspect wearing body armor who actively engaged law enforcement officers with gunfire. This Bank of America robbery and gun battle occurred in Coffeyville, Kansas.

The Coffeyville Police Department and the Kansas Association of Chiefs of Police feel that HB2454 appropriately addresses the criminal use of body armor and applies an appropriate enhancement to the established sentencing guidelines to punish those that utilize this life-saving technology for criminal purposes.

Thank you for your time and the opportunity to offer testimony in support of HB2454.

Sincerely,

A handwritten signature in black ink that reads "Mike Brown". The signature is written in a cursive style with a large, stylized "M" and "B".

Mike Brown – Commander
Coffeyville Police Department

12

To: Chairman Colloton, Corrections and Juvenile Justice Committee
From: Kwin Bromley, Detective Sgt. Coffeyville Police Department
Appearing on behalf of the Coffeyville Police Department, and the
Kansas Association of Chief's of Police
Re: HB 2454

Chairman Colloton and Members of the Corrections and Juvenile Justice Committee, thank you for the opportunity to appear before you today to provide testimony in support of HB 2454.

On October 5th, 1892, The Dalton gang made a bold, and futile attempt to rob two banks simultaneously in Coffeyville. Alert citizens saw the gang of robbers and sounded the alert to local townspeople. A furious and bloody shootout took place between the Dalton gang, city marshal, and townspeople. When the smoke cleared, the city marshal laid dead, along with three citizens who were killed defending the City of Coffeyville. Four of the five members of the Dalton gang were killed; the fifth was wounded and was later sentenced to life in prison.

A little over one hundred and sixteen years later, on February 17th, 2009, at approximately 4:55pm, a citizen of Coffeyville called the Coffeyville Police Department to report an armed robbery in progress at the Bank of America, 8th & Buckeye branch office. The alert citizen remained on the telephone and provided police dispatch with critical updated information pertaining to the bank robber's clothing description, vehicle description, and direction of travel.

Responding police officers quickly honed in on the bank robber's location and attempted to stop him. A high speed chase then ensued. The bank robber led pursuing law enforcement officers in a winding chase through business and residential neighborhoods. The bank robber passed by a large low income apartment complex and drove through a barricade, which caused him to lose control of his vehicle, go off the road, and crash into a tree.

The bank robber immediately exited his vehicle and began engaging pursuing officers with rapid gunfire from a handgun. Lieutenant Colbert, who was in the lead patrol car radioed "shots fired" and placed his patrol car into reverse to put some distance between the suspect and his vehicle. The bank robber retrieved an AK-47 assault rifle from his vehicle and continued to fire at officers.

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Sergeant Daily had stopped directly behind Lieutenant Colbert and was out of his patrol car; crossing between Lt. Colbert's vehicle and the front of his patrol car when he was inadvertently backed over by Lt. Colbert. I had stopped behind and to the right of Sergeant Daily's vehicle, and observed Lt. Colbert backing over Sgt. Daily. I quickly got out of my unmarked detective's unit, and drew my Glock 9mm handgun. Hearing the glass shattering, and metallic sounds of the patrol cars getting hit by multiple rounds from the bank robber, I returned fire at the suspect as I ran towards where I had seen Sgt. Daily go down. Once there, I found Sgt. Daily crawling out from under Lt. Colbert's patrol car, and drawing his weapon. The bank robber continued to engage us in heavy rifle fire while Sgt. Daily and I returned fired, eventually driving him back behind the cover of his vehicle, where he then fled into a heavily wooded area.

Sgt. Daily and I, both members of our department's Special Operation Team, quickly formed up a six man contact team comprised of police and sheriff's deputies, and utilizing Sgt. Daily's Police Service Dog, Arco, tracked the suspect to a remote area Northeast of Coffeyville. Hours later, the bank robber, unknowingly had been spotted by the contact team, and approached our position where he was apprehended without further incident. During his arrest, officers quickly noticed that the bank robber had been wearing body armor, similar to the body armor currently worn by law enforcement nationwide.

A subsequent investigation, revealed that the suspect had prepared himself for a possible encounter with law enforcement. In addition to the AK-47 assault rifle, the suspect had taped together two 30 round magazines for his AK rifle, he had weapon mounted flashlights, several different handguns, including numerous loaded high capacity magazines, several knives, pepper spray, a stun gun, handcuffs, tape, several changes of clothing, flashlights, a GPS system for his vehicle, magnetic business vehicle decals, and several different automobile license plates.

Obviously, our times have certainly changed from the era of bank robbers of the old west, to the evolving modern bank robber who utilize ballistic vests for protection, modern technology, and superior firepower to aggressively fight law enforcement to avoid arrest.

Kansas law currently has no language addressing criminals who don or use ballistic restraint material in the commission of, or attempt to commit, or flight from any felony. The growing expansion and use of the world wide web, gun & trade shows, mail order, military surplus stores, and even burglaries and thefts of police and military residences allows criminal easy access to an unlimited market of current issue, and surplus police and military body armor, trauma plates, rifle grade ceramic trauma plates, helmets, and other ballistic garments.

Other states have taken steps to address criminals using, ballistic restraint material while in the commission of, attempted commission of, or flight from a felony. I am asking that you consider taking a similar necessary step forward to add this language into Kansas law.

Respectfully,

Detective Sgt. Kwin Bromley
Coffeyville Police Department
7th & Walnut
Coffeyville, Kansas 67337
(620) 252-6194
kwin.bromley@coffeyvillepd.org

House Corrections and Juvenile Justice

February 3, 2010

Testimony in Support of HB 2454

Kyle G. Smith

Topeka Police Department

Kansas Peace Officers' Association

Chairman Colloton and Members of the Committee,

I appear today on behalf of the City of Topeka Police Department and Kansas Peace Officers' Association in support of HB 2454.

This legislation addresses a very serious, but fortunately fairly uncommon, problem – the premeditated use of body armor by criminals. Criminals wear body armor for the same reason law enforcement officers wear it – in anticipation of life threatening activity. By donning 'ballistic resistant material' the criminal is manifesting the premeditation and intent to engage in life threatening activity.

HB 2454 provides for an additional, consecutive, 30 months' imprisonment for any felon wearing ballistic resistant material in the commission or flight from a felony. Bank robbers, such as in the infamous Bank of America robbery, February 28, 1997 in North Hollywood, California or in Coffeerville, Kansas last year, are escalating the violence of crimes by wearing body armor and using more powerful weapons. Other violent criminals, who can expect armed intervention by law enforcement, such a terrorists, are also potential violators.

Anything we can do to discourage this practice needs to be done. Given the premeditation and additional risks this escalation presents to both officers and the public, I can't think of a better, or more prudent use of prison space.

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

Corrections and Juvenile Justice

Date: 2-3-10

Attachment # 13

13



POLICE DEPARTMENT

OFFICE OF THE CHIEF OF POLICE



Samuel F. Breshears
Chief of Police

February 1, 2010

Dear Committee Members,

My name is Samuel Breshears, and I am the Chief of Police for the Kansas City, Kansas Police Department. I am submitting the following written testimony on behalf of the Kansas Chiefs of Police Association, in support of House Bill 2454.

Early in the evening on March 26, 2003, Kansas City Police Officers Ryan Fincher and Phillip Trusskey responded to a domestic disturbance call, what later turned out to be an ambush situation. They were on the residence's front porch attempting to talk with the occupants when an unknown subject started firing on them from within the house with an Assault Rifle.

The sudden gunshots left both officers seriously wounded. Officer Fincher had sustained several potentially life-threatening wounds, but still, as he lay on the ground in front of the porch, he used his radio to calmly call for assistance. Even while he made the call, Officer Fincher returned fire as the suspect maneuvered several times in an apparent attempt to exit the front door. Officer Fincher managed to keep the assailant contained inside the house.

Officer Trusskey was also seriously wounded, but he too, reported the situation on his radio. As he called, the suspect's 11 year old daughter escaped from the house while the suspect fired at her, striking her in the leg. Officer Trusskey left an area of concealment and covered her with his body to physically protect her. The officer exhausted his own ammunition supply, yet continued to shield the girl as the assailant continued to fire shots at them.

Kansas City Police Sergeant Michael Hughes was the first to respond to the fallen officers' calls. He arrived with the firefight still in progress, found a good vantage point with his shotgun, and soon forced the subject to drop his weapon and plead for surrender. A subsequent search found a second handgun in the man's waistband.

Sergeant Hughes and Officer Sandra Carrera turned to the badly wounded Officer Fincher. Officer Carrera worked hard to keep him conscious and optimistic, personally guaranteeing him that he would survive his very serious wounds.

Officers LeeAnn Shelton, Scott Ladish, and Romulo O'Reilly then arrived. They assisted in securing the residence and the suspect, who was now found to have been wearing two protective vests during the confrontation.



700 Minnesota Avenue Kansas City, Kansas 66101-2704 (913) 573-60:

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More than 100 rounds were fired during the nearly four-minute firefight.

The suspect was prosecuted for two counts of attempted murder along with other charges.

Officer Trusskey recovered from two gunshot wounds, while Officer Fincher recovered from four. Both have returned to full duty.

A more recent event occurred in Kansas City, Kansas involving both the Kansas City, Kansas Police Department and the Federal Bureau of Investigation when information that a bank in KCK was the intended target of some career criminals.

On October 22, 2009, agents from the FBI and members of the KCKPD were conducting surveillance at a local bank in the area of 77th and Parallel Parkway. They had information that the bank was the intended target of a crew of "holdup men."

At approximately 1045 am, two suspects were observed pulling into the lot of the bank and parked in front of the bank doors. As they exited the vehicle they had on masks, wearing bullet proof vests, carrying police scanners and two-way radios, and Glock pistols. Officers on the scene, inside the bank, had secured the doors to prevent any employees from being placed in harm's way.

Upon finding the doors locked, the suspects returned to their vehicle and attempted to flee when they were rammed by a vehicle driven by officers. The driver was pinned in the vehicle, but the passenger fled a short distance before being apprehended by officers. Both were taken into custody without any shots being fired or dangerous pursuits occurring.

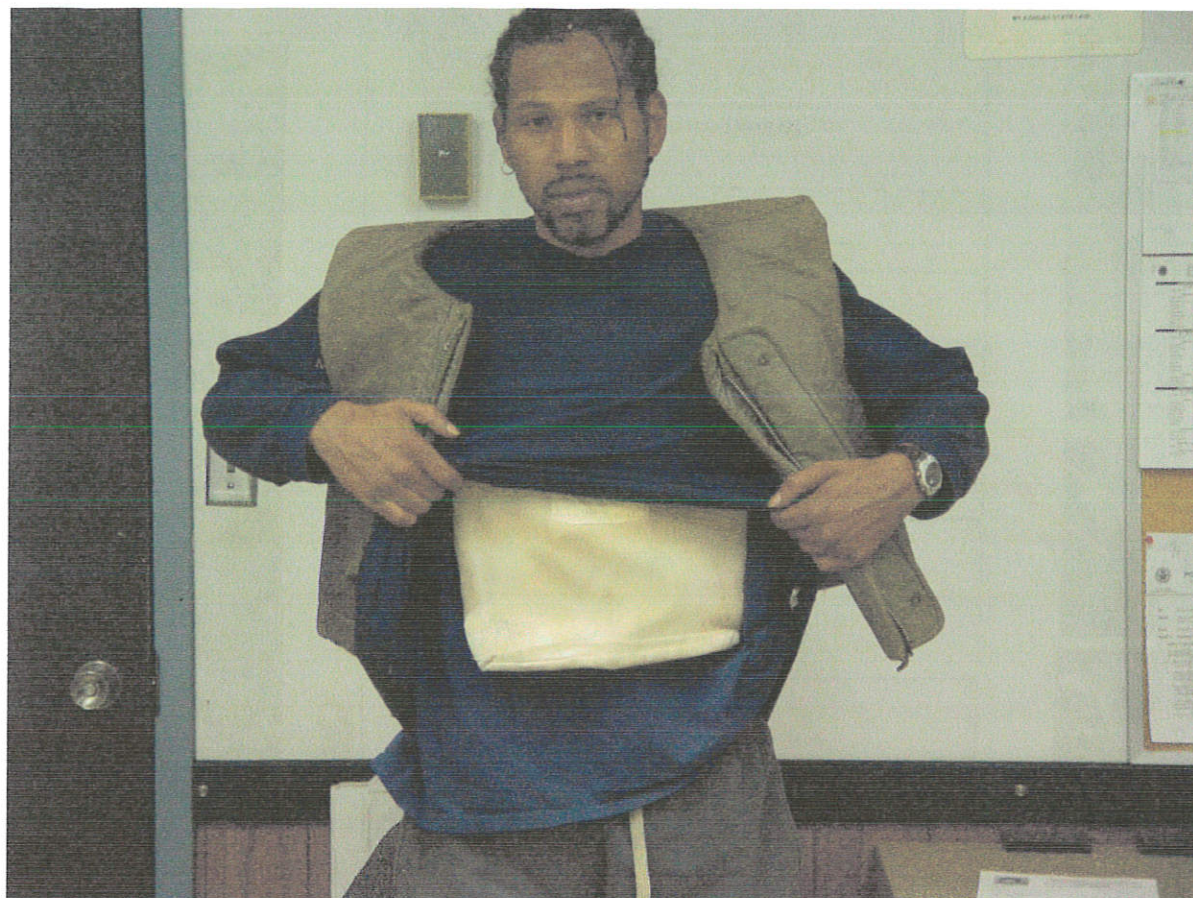
This is only two examples that clearly describe the mindset many felons perpetrating crimes in our community have. They are sending a message that they are prepared for armed encounters and continue to plan for ways to have an advantage over law enforcement when such encounters occur.

These are just two of the more "high profile" events the Kansas City, Kansas Police Department has been exposed to. However, it should be noted that officers of the KCKPD have made contact with several individuals in recent years while executing high risk search warrants and that these are not rare incidents.

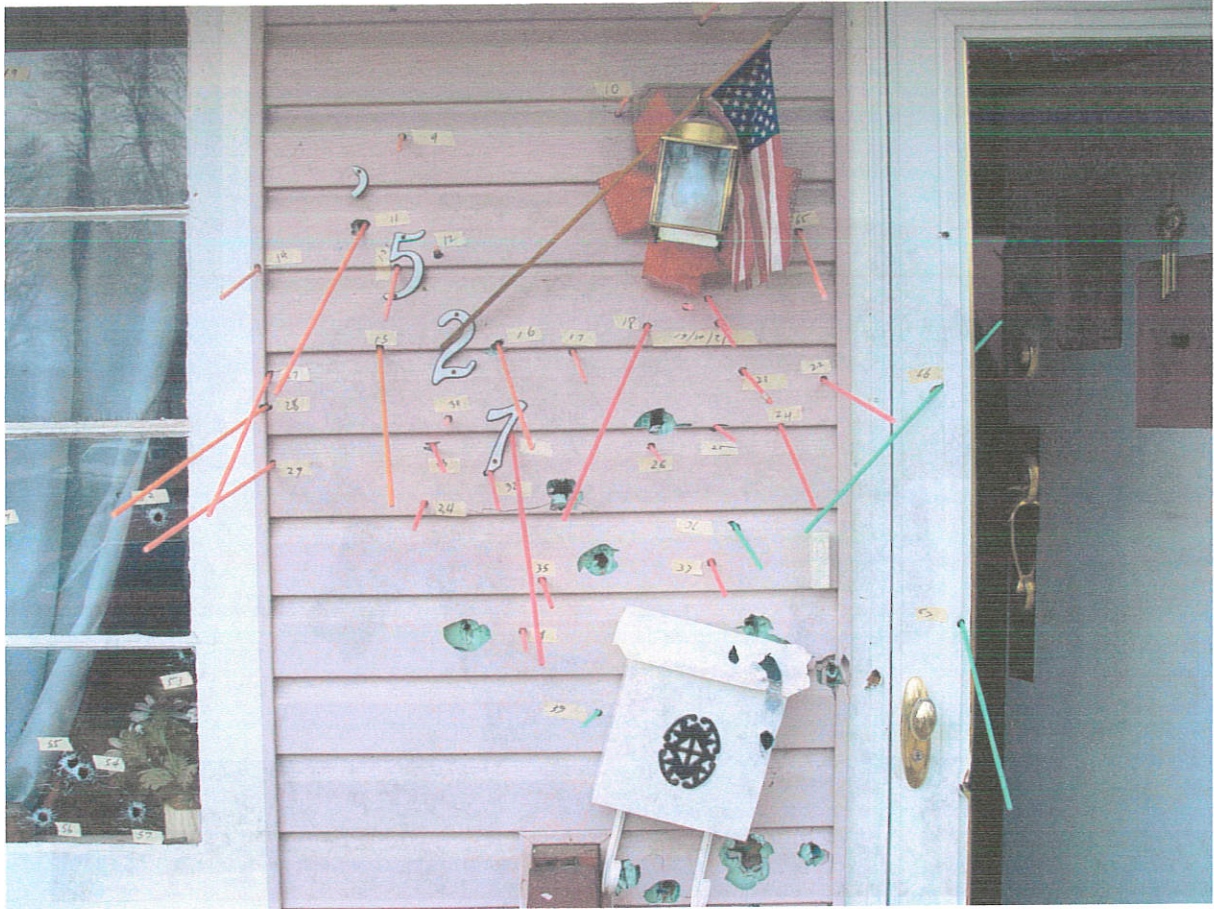
I thank you for your time and consideration in this matter and strongly request that you support the measures submitted in House Bill 2454.

Samuel F Breshears
Chief of Police
Kansas City Kansas Police Department
Kansas City, Kansas
66101
913-573-6010





14-3





Kansas County & District Attorneys Association

1200 SW 10th Avenue
Topeka, KS 66604
(78.5) 232-5822 Fax: (78.5) 234-2433
www.kcdaa.org

TO: Representative Colloton, Chair
The Honorable Representatives of the Committee on Corrections and Juvenile Justice

FROM: Thomas R. Stanton
Deputy Reno County District Attorney
Past President, KCDA

RE: Written Testimony in Support of House Bill 2454

DATE: February 3, 2010

Chairman Colloton and Committee Members:

Thank you for giving me the opportunity to testify regarding this bill. Subsection (r) adds language that would add thirty months imprisonment to the sentence of any defendant convicted of a felony when a jury has found beyond a reasonable doubt that the defendant wore or used ballistic resistant material in the commission of the felony. The Kansas County and District Attorney's Association supports this legislation.

I am the Deputy Reno County District Attorney, and I have been a prosecutor for nearly nineteen years. I was also trained as a police officer, and was employed as such for six years prior to going to law school. The use of ballistic materials in the commission of an offense puts both citizens and police officers at a strategic disadvantage. Citizens protecting themselves, their families or their homes will generally defend themselves by attempting to incapacitate their attacker. Valuable time and effort are wasted when the attempt at self-defense is thwarted by the attacker's undisclosed use of body armor. The use of said materials give the attacker the advantage of surviving otherwise incapacitating responses, and gives the attacker the ability to inflict greater damage on his or her victims.

Law enforcement officers are also placed at greater risk when confronting suspects using ballistic materials. Officers are trained to fire at center mass, action which would be ineffective if the suspect is wearing body armor. Many dedicated criminals, however, train themselves to fire both at center of mass and at the head, knowing that there is a high probability the officer is wearing ballistic protection. Officers do not train to fire at the head of a suspect for several reasons. First, it is the duty of an officer to stop a suspect, and training to fire at a suspect's

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head would insure death to the suspect in every case. Second, the head is a much smaller target than the body; the possibility of a miss, and the subsequent danger to any innocent citizen standing nearby becomes greater. Finally, there is no general expectation on the part of law enforcement that a suspect would be using protective ballistic materials unless there has been specific intelligence received regarding the use of said materials by a specific individual. It would be unreasonable for officers to treat every situation as if the suspect was using ballistic materials.

The increased penalty for use of ballistic materials is appropriate for the situation. The use of these materials by persons intentionally committing felonies in Kansas evidences a depraved, violent mind. The criminal using ballistic materials obviously expects to be involved in a situation where he or she would need such protection. The use of the materials is generally intended, therefore, to give the suspect the ability to inflict damage to law enforcement or citizens, while allowing the suspect to survive the encounter. This type of individual is a clear danger to the citizens of the State of Kansas.

The fiscal note accompanying the bill suggests costs that seem greater than reasonable. The Director of Budget candidly admits a lack of information regarding the number of cases which would be affected by this legislation. We submit the number would be relatively low. A financial impact based on no data cannot be considered as determinative of this issue. It should be noted that the increased penalty would always be attached to another sentence.; therefore the number of beds would not be impacted except for the fact a bed would not be freed up as early as it would in the absence of the increased penalty.

There are times when the policy behind a piece of legislation is proper, in spite of the fiscal impact it may have. This is one of those cases. The KCDAA requests that this legislation be favorably considered by this body.

HOUSE BILL No. 2430

By Committee on Vision 2020

1-12

9 AN ACT concerning veterans; relating to post-traumatic stress disorder;
10 relating to sentencing guidelines; amending K.S.A. 21-4703 and 21-
11 4716 and K.S.A. 2009 Supp. 73-1209 and repealing the existing
12 sections.

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

15 Section 1. K.S.A. 21-4703 is hereby amended to read as follows: 21-
16 4703. As used in this act:

17 (a) "Aggravating factors" mean substantial and compelling reasons
18 justifying an exceptional sentence whereby the sentencing court may im-
19 pose a departure sentence outside the standard sentencing range for a
20 crime. Aggravating factors may result in dispositional or durational de-
21 partures and shall be stated on the record by the court;

22 (b) "commission" means the Kansas sentencing commission;

23 (c) "criminal history" means and includes adult felony, class A mis-
24 demeanor, class B person misdemeanor, or select misdemeanor convic-
25 tions and comparable juvenile adjudications possessed by an offender at
26 the time such offender is sentenced;

27 (d) "criminal history score" means the summation of the convictions
28 described as criminal history that place an offender in one of the criminal
29 history score categories listed on the horizontal axis of the sentencing
30 guidelines grid for nondrug crimes and the sentencing guidelines grid for
31 drug crimes;

32 (e) "decay factor" means prior convictions that are no longer consid-
33 ered as part of an offender's criminal history score;

34 (f) "departure" means a sentence which is inconsistent with the pre-
35 sumptive sentence for an offender;

36 (g) "dispositional departure" means a sentence which is inconsistent
37 with the presumptive sentence by imposing a nonprison sanction when
38 the presumptive sentence is prison or prison when the presumptive sen-
39 tence is nonimprisonment;

40 (h) "dispositional line" means the solid black line on the sentencing
41 guidelines grid for nondrug crimes and the sentencing guidelines grid for
42 drug crimes which separates the grid blocks in which the presumptive
43 sentence is a term of imprisonment and postrelease supervision from the

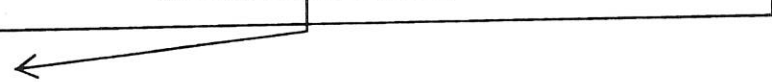
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1 grid blocks in which the presumptive sentence is nonimprisonment which
 2 may include local custodial sanctions;
 3 (i) "durational departure" means a sentence which is inconsistent
 4 with the presumptive sentence as to term of imprisonment, or term of
 5 nonimprisonment;
 6 (j) "good time" means a method of behavior control or sanctions util-
 7 ized by the department of corrections. Good time can result in a decrease
 8 of up to 20% of the prison part of the sentence;
 9 (k) "grid" means the sentencing guidelines grid for nondrug crimes
 10 as provided in K.S.A. 21-4704 or the sentencing guidelines grid for drug
 11 crimes as provided in K.S.A. 21-4705, or both;
 12 (l) "grid block" means a box on the grid formed by the intersection
 13 of the crime severity ranking of a current crime of conviction and an
 14 offender's criminal history classification;
 15 (m) "imprisonment" means imprisonment in a facility operated by
 16 the Kansas department of corrections;
 17 (n) "mitigating factors" means substantial and compelling reasons jus-
 18 tifying an exceptional sentence whereby the sentencing court may impose
 19 a departure sentence outside of the standard sentencing range for an
 20 offense. Mitigating factors may result in dispositional or durational de-
 21 partures and shall be stated on the record by the court;
 22 (o) "nonimprisonment," "nonprison" or "nonprison sanction" means
 23 probation, community corrections, conservation camp, house arrest or
 24 any other community based disposition;
 25 (p) "postrelease supervision" means the release of a prisoner to the
 26 community after having served a period of imprisonment or equivalent
 27 time served in a facility where credit for time served is awarded as set
 28 forth by the court, subject to conditions imposed by the Kansas parole
 29 board and to the secretary of correction's supervision;
 30 (q) "presumptive sentence" means the sentence provided in a grid
 31 block for an offender classified in that grid block by the combined effect
 32 of the crime severity ranking of the current crime of conviction and the
 33 offender's criminal history;
 34 (r) "prison" means a facility operated by the Kansas department of
 35 corrections; and
 36 (s) "sentencing range" means the sentencing court's discretionary
 37 range in imposing a nonappealable sentence; and
 38 (t) ~~"post traumatic stress disorder" means a psychological reaction~~
 39 ~~occurring after experiencing a highly stressing event outside the range of~~
 40 ~~normal human experience and that is usually characterized by depression,~~
 41 ~~anxiety, flashbacks, recurrent nightmares and avoidance of reminders of~~
 42 ~~the event.~~

43 Sec. 2. K.S.A. 21-4716 is hereby amended to read as follows: 21-

means
 posttraumatic
 stress disorder as
 defined in the
 diagnostic and
 statistical manual
 of mental
 disorders, fourth
 edition, (DSM-IV,
 2000) of the
 American
 psychiatric
 association.

posttraumatic



16-2

1 4716. (a) Except as provided in subsection (b), the sentencing judge shall
 2 impose the presumptive sentence provided by the sentencing guidelines
 3 for crimes committed on or after July 1, 1993, unless the judge finds
 4 substantial and compelling reasons to impose a departure. If the sen-
 5 tencing judge departs from the presumptive sentence, the judge shall
 6 state on the record at the time of sentencing the substantial and com-
 7 pelling reasons for the departure.

8 (b) Subject to the provisions of subsection (b) of K.S.A. 21-4718, and
 9 amendments thereto, any fact that would increase the penalty for a crime
 10 beyond the statutory maximum, other than a prior conviction, shall be
 11 submitted to a jury and proved beyond a reasonable doubt.

12 (c) (1) Subject to the provisions of subsections (c)(3) and (e), the
 13 following nonexclusive list of mitigating factors may be considered in de-
 14 termining whether substantial and compelling reasons for a departure
 15 exist:

16 (A) The victim was an aggressor or participant in the criminal conduct
 17 associated with the crime of conviction.

18 (B) The offender played a minor or passive role in the crime or par-
 19 ticipated under circumstances of duress or compulsion. This factor is not
 20 sufficient as a complete defense.

21 (C) The offender, because of physical or mental impairment, lacked
 22 substantial capacity for judgment when the offense was committed. The
 23 voluntary use of intoxicants, drugs or alcohol does not fall within the
 24 purview of this factor.

25 (D) The defendant, or the defendant's children, suffered a continuing
 26 pattern of physical or sexual abuse by the victim of the offense and the
 27 offense is a response to that abuse.

28 (E) The degree of harm or loss attributed to the current crime of
 29 conviction was significantly less than typical for such an offense.

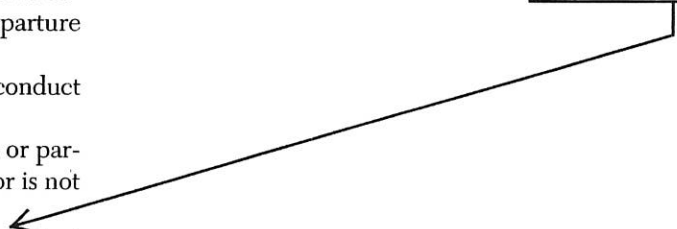
30 ~~(F) The defendant has been diagnosed by a physician or licensed psy-~~
 31 ~~chologist as having post traumatic stress disorder and has been certified~~
 32 ~~by the executive director of the Kansas commission on veterans affairs as~~
 33 ~~having served in the armed forces of the United States of America in a~~
 34 ~~combat zone, as defined in section 112 of the federal internal revenue code~~
 35 ~~of 1996, as amended.~~

36 (2) Subject to the provisions of subsection (c)(3), the following no-
 37 nexclusive list of aggravating factors may be considered in determining
 38 whether substantial and compelling reasons for departure exist:

39 (A) The victim was particularly vulnerable due to age, infirmity, or
 40 reduced physical or mental capacity which was known or should have
 41 been known to the offender.

42 (B) The defendant's conduct during the commission of the current
 offense manifested excessive brutality to the victim in a manner not nor-

including
 posttraumatic
 stress syndrome,



STRIKE (F)



1 mally present in that offense.

2 (C) The offense was motivated entirely or in part by the race, color,
3 religion, ethnicity, national origin or sexual orientation of the victim or
4 the offense was motivated by the defendant's belief or perception, entirely
5 or in part, of the race, color, religion, ethnicity, national origin or sexual
6 orientation of the victim whether or not the defendant's belief or per-
7 ception was correct.

8 (D) The offense involved a fiduciary relationship which existed be-
9 tween the defendant and the victim.

10 (E) The defendant, 18 or more years of age, employed, hired, used,
11 persuaded, induced, enticed or coerced any individual under 16 years of
12 age to commit or assist in avoiding detection or apprehension for com-
13 mission of any person felony or any attempt, conspiracy or solicitation as
14 defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto,
15 to commit any person felony regardless of whether the defendant knew
16 the age of the individual under 16 years of age.

17 (F) The defendant's current crime of conviction is a crime of extreme
18 sexual violence and the defendant is a predatory sex offender. As used in
19 this subsection:

20 (i) "Crime of extreme sexual violence" is a felony limited to the
21 following:

22 (a) A crime involving a nonconsensual act of sexual intercourse or
23 sodomy with any person;

24 (b) a crime involving an act of sexual intercourse, sodomy or lewd
25 fondling and touching with any child who is 14 or more years of age but
26 less than 16 years of age and with whom a relationship has been estab-
27 lished or promoted for the primary purpose of victimization; or

28 (c) a crime involving an act of sexual intercourse, sodomy or lewd
29 fondling and touching with any child who is less than 14 years of age.

30 (ii) "Predatory sex offender" is an offender who has been convicted
31 of a crime of extreme sexual violence as the current crime of conviction
32 and who:

33 (a) Has one or more prior convictions of any crimes of extreme sexual
34 violence. Any prior conviction used to establish the defendant as a pred-
35 atory sex offender pursuant to this subsection shall also be counted in
36 determining the criminal history category; or

37 (b) suffers from a mental condition or personality disorder which
38 makes the offender likely to engage in additional acts constituting crimes
39 of extreme sexual violence.

40 (iii) "Mental condition or personality disorder" means an emotional,
41 mental or physical illness, disease, abnormality, disorder, pathology or
42 condition which motivates the person, affects the predisposition or desires
43 of the person, or interferes with the capacity of the person to control

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H-91

1 impulses to commit crimes of extreme sexual violence.

2 (G) The defendant was incarcerated during the commission of the
3 offense.

4 (H) The crime involved two or more participants in the criminal con-
5 duct, and the defendant played a major role in the crime as the organizer,
6 leader, recruiter, manager or supervisor.

7 In determining whether aggravating factors exist as provided in this
8 section, the court shall review the victim impact statement.

9 (3) If a factual aspect of a crime is a statutory element of the crime
10 or is used to subclassify the crime on the crime severity scale, that aspect
11 of the current crime of conviction may be used as an aggravating or mit-
12 igating factor only if the criminal conduct constituting that aspect of the
13 current crime of conviction is significantly different from the usual crim-
14 inal conduct captured by the aspect of the crime.

15 (d) In determining aggravating or mitigating circumstances, the court
16 shall consider:

17 (1) Any evidence received during the proceeding;

18 (2) the presentence report;

19 (3) written briefs and oral arguments of either the state or counsel
20 for the defendant; and

21 (4) any other evidence relevant to such aggravating or mitigating cir-
22 cumstances that the court finds trustworthy and reliable.

23 (e) Upon motion of the prosecutor stating that the defendant has
24 provided substantial assistance in the investigation or prosecution of an-
25 other person who is alleged to have committed an offense, the court may
26 consider such mitigation in determining whether substantial and com-
27 pelling reasons for a departure exist. In considering this mitigating factor,
28 the court may consider the following:

29 (i) (1) The court's evaluation of the significance and usefulness of the
30 defendant's assistance, taking into consideration the prosecutor's evalu-
31 ation of the assistance rendered;

32 (ii) (2) the truthfulness, completeness and reliability of any informa-
33 tion or testimony provided by the defendant;

34 (iii) (3) the nature and extent of the defendant's assistance;

35 (iv) (4) any injury suffered, or any danger or risk of injury to the
36 defendant or the defendant's family resulting from such assistance; and

37 (v) (5) the timeliness of the defendant's assistance.

38 Sec. 3. K.S.A. 2009 Supp. 73-1209 is hereby amended to read as
39 follows: 73-1209. The executive director of the Kansas veterans' commis-
40 sion, in accordance with general policies established by the commission,
41 shall:

42 (H) (a) Collect data and information as to the facilities, benefits and
} services now or hereafter available to veterans and their relatives and

16-6

1 dependents of veterans, and furnish such information to veterans and
2 their relatives and dependents of veterans and local service officers of
3 veterans' organizations.

4 (2) (b) Prepare plans for a comprehensive statewide veterans' service
5 program.

6 (3) (c) Coordinate the program of state agencies which may properly
7 be utilized in the administration of various aspects of the problems of
8 veterans, and relatives and dependents of veterans, such as the depart-
9 ment of social and rehabilitation services, the department of labor, the
10 state board of education, the board of regents and any other state office,
11 department, board or commission furnishing service to veterans or their
12 relatives or dependents of veterans.

13 (4) (d) Provide a central contact between federal and state agencies
14 dealing with the problems of veterans and their relatives and dependents
15 of veterans.

16 (5) (e) Maintain records of cases handled by the executive director
17 which shall show at least the following information: (a) (1) The name of
18 the veteran; (b) (2) claim or case number of the veteran; and (c) (3)
19 amount of monthly benefit received by the veteran, so as to facilitate the
20 necessary interchange of case histories among state administrative agen-
21 cies and provide a clearinghouse of information.

22 (6) (f) Provide such services to veterans and their relatives and de-
23 pendents of veterans as are not otherwise offered by federal agencies.

24 (7) (g) Provide a central agency to which veterans and their relatives
25 and dependents of veterans may turn for information and assistance.

26 (8) (h) Provide and maintain such field services as shall be necessary
27 to properly care for the needs of veterans and their relatives and de-
28 pendents of veterans which shall not be operated in connection with the
29 social and rehabilitation services.

30 (i) ~~Provide certification of service of a veteran of the armed forces of~~
31 ~~the United States of America in a combat zone to any sentencing judge~~
32 ~~requesting such certification pursuant to K.S.A. 21-4716, and amend-~~
33 ~~ments thereto.~~

34 Sec. 4. K.S.A. 21-4703 and 21-4716 and K.S.A. 2009 Supp. 73-1209
35 are hereby repealed.

36 Sec. 5. This act shall take effect and be in force from and after its
37 publication in the statute book.

16-6