

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 9, 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:

Others attending:

See attached list.

HB 2502 - Child witness protection act.

Chairperson Colloton called the meeting to order and opened the hearing on **HB 2502**. She introduced State Representative Annie Teitz to give her testimony as a proponent of the bill. Representative Teitz presented written copy of her testimony. (Attachment 1) She stated when she was approached with this issue, she saw the need to protect our children and yet assure that they are the most accurate and honest they can be when appearing in court. She feels that **HB 2502** will accomplish this.

A short question and answer session followed.

Chairperson Colloton introduced Gail Cozadd, N. Central Regional Director, Kansas Children's Services League, to give her testimony as a proponent of **HB 2502**. Ms. Cozadd presented written copy of her testimony. (Attachment 2) She stated she agreed with Representative Teitz. The bill sets forth certain practices to be followed when children are testifying in court that are intended to make the experience less traumatic and help them provide better testimony.

A short question and answer session followed.

Chairperson Colloton introduced Dr. Susan Voorhees, Kansas Chapter of Children's Advocacy Centers, to give her testimony as a proponent of the bill. Dr. Voorhees presented written copy of her testimony. (Attachment 3) She stated this legislation would essentially level the playing field for child witnesses across the state to better insure that testimonial conditions in all jurisdictions are comparable. Passage of this legislation will help children tell the court what they saw, heard, witnessed or experienced.

A question and answer session followed.

Chairperson Colloton introduced Suzanne Wikle, Director of Health Policy, Kansas Action for Children, to give her testimony as a proponent of the bill. Ms. Wikle presented written copy of her testimony. (Attachment 4) She stated while at first it may not seem that this is an issue that impacts large numbers of Kansas children, the reality is that thousands of children are witnesses or victims of crimes each year. For that reason, we must ensure that safeguards are in place that allow the full participation of children in the legal process and, at the same time, protect them from further harm. In closing she stated this legislation will do this.

A question and answer session followed.

Chairperson Colloton called to the Committee's attention the "written only" proponent testimony of Sandy Barnett, Kansas Coalition Against Sexual & Domestic Violence. (Attachment 5)

A discussion followed with Chairperson Colloton requesting Jason Thompson, Office of the Revisor of

CONTINUATION SHEET

Minutes of the House Corrections and Juvenile Justice Committee at 1:30 p.m. on February 9, 2010, in Room 144-S of the Capitol.

Statutes, get copies of the statutes regarding the bill and requested that Athena Andaya, Legislative Research, get a copy of the Arkansas law regarding this bill for the Committee.

Chairperson called for any others, wishing to speak to the bill and Kyle Smith asked to be recognized. Mr. Smith representing the Kansas Police Officers Association stated they are in support of the bill.

A question and answer session followed.

With no others to speak to the bill, Chairperson Colloton closed the hearing on **HB 2502** and opened the hearing on **HB 2605**.

HB 2605 - Clarifying the investigation fees for services rendered by the KBI and other regional forensic and scientific laboratories.

Chairperson Colloton introduced David Hutchins, KBI, to give his testimony as a proponent of **HB 2605**. Mr. Hutchins presented written copy of his testimony. (Attachment 6) He stated by strengthening the language of the present law with this bill, revenue may be brought more closely to those projected. This bill provides stronger language to the courts requiring that the court costs be ordered and that any finding of indigence be placed on the record with a basis for the finding. It clarifies that, when a forensic examination supported the investigation, the court costs shall be ordered regardless of whether they supported the specific offense of conviction. And, it adds computer forensic examinations that are presently performed by KBI agents outside of its forensic laboratory. Mr. Hutchins stated that he had made a mistake on the bill and there was a balloon to correct his mistake. (Attachment 7)

Questions and answers followed.

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of Ed Klumpp, Kansas Associations of Chiefs of Police Association and the Kansas Peace Officers association. (Attachment 8)

With no others to speak on the bill, Chairperson Colloton closed the hearing on **HB 2605** and opened the hearing on **HB 2637**.

Chairperson Colloton called on David Hutchins, KBI, to give a brief report on the backlog of the KBI Labs. Rachael Harmon from the KBI Labs joined in presenting additional information.

A question and answer session followed regarding the KBI backlog.

HB 2637 - Requiring the court to charge a \$100 fee for collection of defendant's DNA information for storage in the KBI DNA database.

Chairperson Colloton opened the hearing on **HB 2637** and called on Jason Thompson, Office of the Revisor of Statutes, to explain the bill. Mr. Thompson stated present law states that any person upon conviction of adjudication is required to submit a DNA sample and pay a separate court cost of \$100.00 for a KBI DNA database fee. The bill would require a court to order the fee even if the person's DNA sample is already on file with the KBI. Also, the court could not lessen or waive the fee unless the court determines that the person cannot pay and the basis for the court's determination is reflected in the court's order.

Dave Hutchins, KBI to give his testimony as a proponent of the bill. Mr. Hutchins presented written copy of his testimony. (Attachment 9) He stated present language requires those persons convicted or adjudicated of certain offenses pay a separate court cost of \$100.00. This is presently a one time payment and a burden is functionally placed upon the court to research whether the payment has ever been made on a prior case. This bill provides stronger language to the courts requiring that the court costs be ordered and that any finding of indigence be placed on the record with a basis for the funding. It also relieves the court of the responsibility to determine if the fees have already been paid on a prior offence and requires convicted persons addressed to pay each time they appear before the court with a new conviction.

CONTINUATION SHEET

Minutes of the House Corrections and Juvenile Justice Committee at 1:30 p.m. on February 9, 2010, in Room 144-S of the Capitol.

A question and answer session followed.

A discussion followed.

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of Ed Klumpp, Kansas Association of Chiefs of Police and the Kansas Peace Officers Association. (Attachment 10) and the "written only" opponent testimony of Kansas Attorney General, Steve Six. (Attachment 11)

With no others to speak to the bill, Chairperson Colloton closed the hearing on **HB 2637**.

HB 2661 - Further amendments to the recodification of the criminal controlled substances provisions.

Chairperson Colloton opened the hearing on **HB 2661** and called on Jason Thompson, Office of the Revisor of Statutes, to explain **HB 2661**. Mr. Thompson presented written copy of a memorandum regarding **HB 2661**. (Attachment 12) He explained that the bill was requested by the Office of the Revisor of Statutes to correct errors made in the recodification of the drug code in **2009 HB 2332**. He gave a brief explanation of the provisions of the bill.

A question and answer session followed.

With no others to speak to the bill, Chairperson Colloton closed the hearing on **HB 2661**.

Chairperson Colloton adjourned the meeting at 3:00 p.m. with the next scheduled meeting for February 10, 2009 at 1:30 p.m. in room 144S.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

STATE CAPITOL
300 S.W. TENTH AVENUE
TOPEKA, KANSAS 66612
(785) 296-7669
annie.tietze@house.ks.gov



329 SW YORKSHIRE ROAD
TOPEKA, KANSAS 66606
(785) 273-5296

ANNIE TIETZE
56TH DISTRICT

Chairperson Pat Colloton

House Committee on Corrections and Juvenile Justice

HB2502 Child Witness Bill of Rights

Thank you for your time in considering this bill. I appreciate the opportunity to appear in support.

When I was approached with this issue, I saw the need to protect our children and yet assure that they are the most accurate and honest they can be when appearing in court. Through HB2502, this will be accomplished by addressing the language level used in administering the oath and asking questions, allowing provisions for them to have a comfort item, designating a support person who will be in the courtroom, adjusting the layout of the courtroom to accommodate their size, and relaxing the formalities.

There are already statutes addressing our children in the courtroom on the Federal level, in many states, and within Kansas statute. However they are neither brought together in one bill nor do they cover each of these concerns. I would like to be able to say all judges take into consideration the witnesses age, but this is not the case.

I see this as desirable both for the benefit of our children and also for the uniformity of these issues in courtrooms across the state.

Representative Annie Tietze

Corrections and Juvenile Justice
Date: 2-9-10
Attachment # 1



Kansas Children's Service League

Giving Kids Our Best. For Over 100 Years.

Toll-free
877-530-5275
www.kcsl.org

3545 SW 5th
P.O. Box 5268
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Kansas Children's Service League is the Kansas Chapter of Prevent Child Abuse America, a member of the Child Welfare League of America and the United Way. Accredited by the Council on Accreditation.

The Honorable Pat Colloton, Chair
House Committee on Corrections and Juvenile Justice
Room 144-S, Statehouse

February 9, 2010

Re: H.B. 2502

Chair Colloton and Members of the Committee:

I am Gail Cozadd, North Central Region Director for the Kansas Children's Service League. Thank you for the opportunity to provide testimony regarding H.B. 2502.

This bill sets forth certain practices to be followed when children are testifying in court that are intended to make the experience less traumatic and help them provide better testimony.

The Kansas Children's Service League's mission is to protect and promote the well-being of children. Therefore, we support the adoption of policies and practices that would foster the protection of children in difficult circumstances, such as those included in H.B. 2502.

Generally, when it is necessary for children to appear in court, it is in relation to negative events that have already occurred in their lives. They may have been traumatized by those events, and it is important that they not be re-traumatized by the courtroom experience. Having access to a support person, a comfort object, and the additional accommodations provided for in Section 4 of this bill could make the experience of testifying substantially less intimidating and difficult for children. KCSL supports the passage of H.B. 2502.

This concludes my testimony, but I would be happy to address any questions you may have.



Corrections and Juvenile Justice

Date: 2-9-10

Attachment # 2



House Corrections and JJA Committee
February 9th, 2010
Testimony in Support of HB 2502

Thank you Madam Chairman and members of the committee.

My name is Dr. Susan Voorhees and I am appearing on behalf of the Kansas Chapter of Children's Advocacy Centers in support of the passage of HB 2502.

CACs represent centers of excellence in the professional response to child abuse through use of multidisciplinary teams to provide coordinated, individualized services to abused children and their families. These multidisciplinary teams, including law enforcement, child protective services (SRS), prosecution, mental health, medicine, victim advocacy and children's advocacy center staff work together to improve the investigation, prosecution and treatment systems designed to protect children. By using such a team-based, this model has been shown to achieve significant outcomes:

- Systems of response that are child-centered and less traumatic for children involved in abuse allegations.
- Improved coordination between law enforcement and child protection services.
- Improved access to specialized medical / mental health care and to support resources.

CACs are a recognized best practice model of intervention and support and as such appear today before this committee by asking for your support of HB 2502 which we think will improve best practice as it relates to children in court.

As a licensed psychologist in the State of Kansas, my professional work for over 25 years has been primarily with children and adolescents. I also want to express my gratitude to Representative Annie Tietze for bringing this legislation forward on behalf of the hundreds of Kansas children who are called on to give testimony in courts each year.

The intent of this legislation is quite simple. It proposes accommodations to courtroom procedure which will enable children to more fully provide valid, truthful, and competent testimony. It would essentially level the playing field for child witnesses across the state to better insure that testimonial conditions in all jurisdictions are comparable. This legislation makes the assumption that the mere fact you are a child does not assume incompetence. It merely acknowledges that you are not an adult. The bill recognizes that a child witness presents special circumstances to the court, which can be accommodated for and thus allow the child to more fully and competently participate in the legal process; just as a non-English-speaking witness or deaf witness is provided a translator so that they can participate.

Thousands of children are witnesses to crimes each year across Kansas. Hundreds of children are victims of crimes each year, even in Kansas. Passage of this legislation will help these children tell the court what they saw, heard, witnessed, or experienced. And, it does not cost us anything to do so.

The following scenario provides a context for why this bill is needed. I could ask you to sit on the floor, so a speaker would tower over you; I could ask speakers to talk very fast and in complex sentences and loud voices; I could remind you of what it is like to be afraid or to have to be in the

presence of someone who has hurt you or someone you love. But I won't. What I will ask you is to imagine this:

Johnny has to have a complicated and highly personal medical procedure. He knows it is coming and has been dreading it. He doesn't know the doctors or technicians, he's never been to a hospital but he's heard lots of stories or seen hospital scenes on TV and for weeks he's overheard his parents talking about his impending procedure. He knows his Mom is scared for him and sometimes cries about it and his Dad gets angry. He has to go to school and he had to wear his good clothes and everyone asked him about that, and if that wasn't bad enough he was called out of his favorite class, recess, when his Mom came to pick him up. She drove him to the hospital and parked and walked in with him, through the metal detectors and by some police that were there. Then they had to wait a really long time and he was bored and tired and his Mom was really jumpy. Then he had to go by himself with a stranger into a big room filled with more strangers, and it was really scary – but Mom smiled and said to go along and Dad said “do a good job.” No – that wouldn't happen. Yet that is what going to court is too often like for too many Kansas children. They've never been in a courthouse or courtroom. They don't know who all the people are, they have to follow rules they don't know, they are separated from the people who make them feel safe and who best understand them, and they have to talk about stuff that might be hard to talk about, often in front of someone who hurt them or someone they love, who may have threatened them. And they don't understand the questions and they can't just shake their head. And it seems like people don't believe them because they keep asking things like “are you sure”, “couldn't it have been”, “remember you promised to tell the truth”... etc.

This legislation would bring consistency to court procedure thus ensuring children are treated equally from jurisdiction to jurisdiction. HB 2502 acknowledges that testifying can be a stressful and frightening experience and when children are given adequate support, treated in a developmentally appropriate manner, and asked questions they understand, they are fully capable of participating competently in the legal process. I would however like to offer four recommendations which I think will strengthen this bill and the protections offered for children as well as reflect good public policy:

1) Accommodations in this bill should be extended to children age 13-17 by motion of the court. Currently, the bill addresses children under age 13. As a psychologist, I urge you to include adolescents in these accommodations. I can assure you that there is nothing magical that occurs at 13 that makes a child better able to process complex language, adversarial challenges, or stressful situations. In fact, as parents you may have had the opposite experience that your teenager is less able to be truthful, be verbal, and to deal with stress, than they were as younger children, and certainly more likely to cop an attitude or shut down rather than admit they don't understand what is asked of them.

It is my understanding that under the 13 year old age limit in this bill was proposed to bring it in line with the use of video-taped testimony in preliminary hearings and to side-step issues of children being tried as adults. However, the accommodations in this bill are aimed at helping children and adolescents be more available to participate in the courtroom and be physically present, to help with the stress of the experience and to support their being better able to truthfully and accurately say what they know or experienced in the presence of the accused. Additionally, the modifications proposed would have no effect on the legal status of the child in the court proceedings. Rather it would allow for an individual who is chronologically and developmentally still a child to be

questioned in a manner that is more likely to facilitate their participation, regardless of the severity of the crime involved. The likelihood is actually that testimony provided will be more accurate if a witness is asked questions that they understand. As a result the best interests of everyone are served. As a psychologist I know that frontal lobe development, therefore executive functioning and impulse control, is not complete until age 25. Why would we not want to facilitate even teenagers to fully and competently participate in the legal system? And, why would the judicial system not want to be sure the truth can be told. Medicine makes accommodations in the "tools of their trade" to insure accuracy in the evaluation of children; do we not expect the same of the legal system?

2) Add specific language aimed at preventing intimidation or harassment of the child witness.

When a child witness answers are challenged, voices are raised by court officers, or challenges are made, it can scare, confuse or threaten them and thus affect their ability to fully participate and be accurate in their statements. By way of example the following language could prevent this.

"The court shall prevent intimidation or harassment of the child witness by the parties or their attorneys. Insofar as it is consistent with the constitutional rights of the parties to confront and cross-examine adverse witnesses, the judge may rephrase any questions in order to prevent any such intimidation or harassment." While this may put a burden on a defense attorney, children and adolescents do not understand the adversarial nature of the courtroom which members of the bar often enjoy.

3) Children's testimony should be limited in duration, limited to normal school hours and the court should be allowed to order a recess in their judgment if the child's behavior warrants it. Children are used to doing their hard work, focusing their attention and following rules during school hours. Because they are children, society structures their day to accommodate for limited attention span and the effects of fatigue. Limiting testimony in duration and to a child or adolescent's "work day" simply allows for maximum opportunity for optimal participation.

4) These provisions should be applied in any court proceeding in which a child is called as a witness and not limited to a competency hearing or trial. (Section 1, subsection1) It is well known in the arena of child advocacy that most abuses of children will occur outside of a jury's sight, and during the formative stages of a case.

All we are asking is for you to help children out. Protect children in the courtroom so they can tell what they know, saw, heard, felt, experienced. Help them participate – but as children, not as the adults they can't be yet. Yes, they are incompetent as adults, but let Kansas courts lead the way in letting children be competent as children.

Thank you for this opportunity to talk to you. I am happy to answer any questions you might have.

Respectfully Submitted,
Dr. Susan Voorhees PhD
For the Kansas Chapter of Child Advocacy Centers



Shaping policy that puts children first

To: Corrections and Juvenile Justice
Re: HB 2502

My name is Suzanne Wikle and I serve as the Director of Health Policy at Kansas Action for Children. It is my pleasure to be here today to stand in support of House Bill 2502, the Child Witness Protection Act.

Kansas Action for Children is a nonpartisan, nonprofit organization dedicated to shaping health, education and economic policy that improves the lives of Kansas children and their families. Kansas Action for Children works to address issues that affect the more than 700,000 children who call Kansas home.

While at first it may not seem that this is an issue that impacts large numbers of Kansas children, the reality is that thousands of children are witnesses or victims of crimes each year. For that reason, we must ensure that safeguards are in place that allow the full participation of children in the legal process and, at the same time, protect them from further harm.

More specifically, I would offer three reasons that HB 2502 is good public policy. First, passage of HB 2502 will ensure that safeguards are afforded to all Kansas children under the age of 13 who must testify, regardless of the attorneys involved or the jurisdiction in which the legal proceeding takes place. All children should be afforded the opportunity to fully participate in the legal process without being subjected to further harm regardless of where they live and/or regardless of the parties involved.

Second, it is imperative that we protect the physical and mental of health of children who have been witnesses or victims of a crime. In many cases, these children have already suffered physically and emotionally before ever setting foot in a courtroom. Participation in a legal proceeding is stressful for children, which may further compromise their well-being if the appropriate safeguards are not in place. These safeguards have the potential to mitigate any long-term damage as a result of their participation in the legal process.

Third, safeguards that ensure children are treated in a way that is developmentally appropriate, levels the playing field for children in the legal process. Children, particularly those who have been victimized, should not be disadvantaged in the legal system simply because it was not designed with them in mind. However, the truth is, this isn't just in the best interests of children, it is in all of our best interests to ensure that we maximize the ability of children to fully participate in the legal process, thereby increasing the likelihood that the end result will serve the best interests of the child and the broader community.

Kansas Action for Children Inc.
720 SW Jackson | Suite 201
Topeka, KS 66603

P 785-232-0550 | F 785-232-0699
kac@kac.org | www.kac.org

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A Member of Voices
for America's Children

Corrections and Juvenile Justice

Date: 2-9-10

Attachment # 4

634 SW Harrison Topeka, Kansas 66603
785-232-9784 • FAX 785-266-1874 • coalition@kcsdv.org • www.kcsdv.org

HB 2502
House Committee on Corrections and Juvenile Justice
February 9, 2010

PROPONENT

Chairperson Colloton and Members of the Committee:

I am Sandy Barnett, Executive Director for the Kansas Coalition Against Sexual and Domestic Violence (KCSDV). KCSDV is a statewide non-profit organization whose membership is the 30 domestic violence and sexual assault programs serving victims across Kansas.

Testifying in court is often stressful for children. Children have little, if any, knowledge and understanding of the legal process. The environment of the courtroom alone can be confusing and intimidating for children.

For child victims of sexual abuse, testifying in court can be even more intimidating. Perpetrators of child sexual abuse often threaten, "If you tell anyone what happened, no one will believe you." This threat is exacerbated and validated when child victims or witnesses testify in court and are asked questions they cannot understand, and worse, when asked questions designed to confuse them.

HB 2502 provides necessary safeguards to protect children from intimidating, confusing, and abusive practices while testifying. Additionally, these safeguards help facilitate more fair and accurate testimony.

The needs of child victims and witnesses should be forefront, and Kansas should join other states that have similar safeguards in place designed to protect child victims and witnesses who participate in the legal process.



Kansas Bureau of Investigation

Robert E. Blecha
Director

Stephen N. Six
Attorney General

Testimony in Support of HB 2637
Before the House Committee on Corrections and Juvenile Justice
David Hutchings, Special Agent in Charge
Kansas Bureau of Investigation
February 9, 2010

Chairperson Colloton and Members of the Committee,

I appear today on behalf of the Kansas Bureau of Investigation in support of immediate passage of HB 2637. This bill would amend KSA 2009 Supp. 75-724.

Present language requires those persons convicted or adjudicated of certain offenses, as outlined in KSA 21-2511, pay a separate court cost of \$100. This is presently a one time payment and a burden is functionally placed upon the court to research whether the payment has ever been made on a prior case.

In determining the amount of funds that should have been received by the KBI in 2009, some statistics must be considered and some assumptions made.

- The number of felony convictions reported to the KBI central repository averages about 10,000 annually. Based upon anecdotal information from the Criminal Records Section of the KBI's Information Services Division, only about half of dispositions (including felony convictions) are reported.
- According to anecdotal information from prosecutors, approximately 30% of persons convicted are not required to pay court costs due to indigence. The assumption is that the other 70% would pay the court costs.

With these statistics and assumptions in mind, revenue from present legislation arguably should have been approximately \$1,400,000. Revenue in 2009 pursuant to KSA 2009 Supp. 75-724 was \$94,219. This was \$1,305,781 less than what could arguably have been expected.

The KBI hopes that, by strengthening the language of the present law with HB 2637, revenues may be brought more closely to those projected. This bill provides stronger language to the courts requiring that the court costs be ordered and that any finding of indigence be placed on the record with a basis for the finding. It also relieves the court of the responsibility to determine if the fees have already been paid on a prior offense and requires convicted persons addressed in KSA 21-2511 to pay the fee each time they appear before the court with a new conviction.

The KBI sincerely hopes that your efforts to pass this legislation will result in a more equitable receipt of revenue to the KBI Forensic Laboratory's DNA efforts as intended by the legislature when this law was originally passed.

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

II 1

HOUSE BILL No. 2605

By Committee on Corrections and Juvenile Justice

2-2

9 AN ACT concerning court fees; relating to fees for investigations con-
10 ducted by the Kansas bureau of investigation and other forensic and
11 scientific laboratories; amending K.S.A. 2009 Supp. 28-176 and re-
12 pealing the existing section.

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

15 Section 1. K.S.A. 2009 Supp. 28-176 is hereby amended to read as
16 follows: 28-176. ~~(a) Any person convicted or diverted, or adjudicated or~~
17 ~~diverted under a preadjudication program, pursuant to K.S.A. 22-2006 et~~
18 ~~seq., K.S.A. 2009 Supp. 38-2346 et seq., or 12-4414 et seq., and amend-~~
19 ~~ments thereto, of a misdemeanor or felony contained in chapters 21, 41~~
20 ~~or 65 of the Kansas Statutes Annotated, or a violation of K.S.A. 8-1567~~
21 ~~and amendments thereto, shall pay a separate court cost of: (1) \$400 as~~
22 ~~a Kansas bureau of investigation laboratory analysis fee for each offense~~
23 ~~if forensic science or laboratory services are rendered or administered by~~
24 ~~the Kansas bureau of investigation in connection with the case; and (2)~~
25 ~~\$400 for each offense if forensic science or laboratory services are ren-~~
26 ~~dered or administered by the Sedgwick county regional forensic science~~
27 ~~center, the Johnson county sheriff's laboratory or the heart of America~~
28 ~~regional computer forensics laboratory.~~

29 ~~—(b) Such fees shall be in addition to and not in substitution for any~~
30 ~~and all fines and penalties otherwise provided for by law for such offense.~~

31 ~~—(c) Disbursements from the Kansas bureau of investigation laboratory~~
32 ~~analysis fee deposited into the forensic laboratory and materials fee fund~~
33 ~~of the Kansas bureau of investigation shall be made for the following:~~

- 34 ~~—(1) Providing criminalistic laboratory services;~~
- 35 ~~—(2) the purchase and maintenance of equipment for use by the lab-~~
36 ~~oratory in performing analysis;~~
- 37 ~~—(3) education, training and scientific development of Kansas bureau~~
38 ~~of investigation personnel; and~~
- 39 ~~—(4) the destruction of seized property and chemicals as prescribed in~~
40 ~~K.S.A. 22-2512 and 60-4117, and amendments thereto.~~

41 ~~—(d) Fees received into this fund shall be supplemental to regular ap-~~
42 ~~propriations to the Kansas bureau of investigation.~~

43 ~~—(e) The fee for services rendered or administered by the Sedgwick~~

Corrections and Juvenile Justice
Date: 2-9-10
Attachment # 7

1 county regional forensic science center shall be deposited in the Sedgwick
2 county general fund, the fee for services rendered or administered by the
3 Johnson county sheriff's laboratory shall be deposited in the Johnson
4 county general fund and the fee for services rendered or administered by
5 the heart of America regional computer forensics laboratory shall be de-
6 posited in the general treasury account maintained by the heart of Amer-
7 ica regional computer forensics laboratory and disbursed for the
8 following:

9 —(1) ~~Providing criminalistic laboratory services;~~
10 —(2) ~~the purchase and maintenance of equipment for use by the center~~
11 ~~or laboratory in performing analysis; and~~
12 —(3) ~~education, training and scientific development of the center's or~~
13 ~~laboratory's personnel.~~ (a) *The court shall order any person convicted or*
14 *diverted, or adjudicated or diverted under a preadjudication program*
15 *pursuant to K.S.A. 22-2906 et seq., K.S.A. 2009 Supp. 38-2346 et seq., or*
16 *12-4414, and amendments thereto, of a misdemeanor or felony to pay a*
17 *separate court cost of \$400 for every individual offense if forensic science*
18 *or laboratory services or forensic computer examination services are ren-*
19 *dered or administered in connection with the investigation by:*

- 20 (1) *The Kansas bureau of investigation;*
- 21 (2) *the Sedgwick county regional forensic science center;*
- 22 (3) *the Johnson county sheriff's laboratory;*
- 23 (4) *the heart of America regional computer forensics laboratory; or*
- 24 (5) *the Wichita-Sedgwick county computer forensics crimes unit.*
- 25 (b) *Such fees shall be ordered if the services rendered or administered*
26 *support an investigation leading to the filing of charges, regardless of*
27 *whether the person is ultimately convicted, adjudicated or diverted of*
28 *such specific charged offense.*

29 (c) *Such fees shall be in addition to and not in substitution for any*
30 *and all fines and penalties otherwise provided for by law for such offense.*

31 (d) *The court shall not lessen or waive such fees unless the court has*
32 *determined such person is indigent and the basis for the court's deter-*
33 *mination is reflected in the court's order.*

34 (e) ~~The fees for services rendered or administered by:~~

- 35 (1) *The Kansas bureau of investigation shall be deposited in the Kan-*
36 *sas bureau of investigation laboratory analysis fee fund;*
- 37 (2) *the Sedgwick county regional forensic science center shall be de-*
38 *posited in the Sedgwick county general fund;*
- 39 (3) *the Johnson county sheriff's laboratory shall be deposited in the*
40 *Johnson county general fund;*
- 41 (4) *the heart of America regional computer forensics laboratory shall*
42 *be deposited in the general treasury account maintained by such labo-*
43 *ratory; and*

provided

provided

Such fees shall be deposited into the designated fund of the laboratory or forensic science or computer center that performed such services. Fees for services performed by:

Forensic Laboratory and Materials Fee Fund

1 (5) *the Wichita-Sedgwick county computer forensic crimes unit shall*
2 *be deposited in the Sedgwick county general fund.*

3 (f) *Disbursements from the funds and accounts described in subsec-*
4 *tion (e) shall be made for the following:*

5 (1) *Forensic science or laboratory services;*

6 (2) *forensic computer examination services;*

7 (3) *purchase and maintenance of laboratory equipment and supplies;*

8 (4) *education, training and scientific development of personnel; and*

9 (5) *from the Kansas bureau of investigation lab analysis fee fund, the*
10 *destruction of seized property and chemicals as described in K.S.A. 22-*
11 *2512 and 60-4117, and amendments thereto.*

12 Sec. 2. K.S.A. 2009 Supp. 28-176 is hereby repealed.

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

73

1 (5) the Wichita-Sedgwick county computer forensic crimes unit shall
2 be deposited in the ~~Sedgwick county general fund.~~ ←

equipment reserve
account of the
Wichita-Sedgwick
county forensic
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4 tion (e) shall be made for the following:

- 5 (1) Forensic science or laboratory services;
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10 destruction of seized property and chemicals as described in K.S.A. 22-
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**Kansas Association of
Chiefs of Police**

PO Box 780603
Wichita, KS 67278
(316)733-7301



**Kansas Sheriffs
Association**

PO Box 1853
Salina, KS 67402
(785)827-2222



**Kansas Peace Officers
Association**

PO Box 2592
Wichita, KS 67201
(316)722-8433

**Testimony to the House Corrections Juvenile Justice Committee
in Support of HB2637 Collection of DNA Processing Fees**

February 9, 2010

Chairperson Colloton and Committee Members,

The Kansas Association of Chiefs of Police, the Kansas Sheriff's Association, and the Kansas Peace Officers Association support HB2637. DNA evidence is expected by jurors more and more. The collection of DNA samples at time of arrest can lead to identifying criminals whose identity is not known in cases where DNA evidence is collected. But this can only work when the known samples, taken at the time of arrest, have been entered into the database. In many cases the progress and efficiency of our criminal investigations is highly dependent on this DNA analysis and comparisons to known samples. When this system fails it results in some suspects remaining free to commit further crimes victimizing more Kansans. We simply must find ways to better address the fiscal support to process these DNA samples and get them entered into the database.

At the legislative conference held last week with the three law enforcement associations, the impact on local law enforcement caused by the current state fiscal crisis was heavily discussed. This led to the three associations including legislation improving the KBI ability to support local law enforcement as a priority issue for this legislative session. We simply must find ways to support the KBI laboratories so they can support our local crime fighting efforts.

This bill is just one attempt to improve this situation in the face of the fiscal challenges of the state general fund. While we recognize this bill will not result in the collection of all of the funds that should be received, clearly it has a strong likelihood charges will be imposed on the defendant by the court as intended in current law and also result in an improved opportunity to collect more of those fees. There is no doubt this bill will result in some increased funds to support the KBI labs. Of course it is difficult, at best, to determine how much of an increase that will be.

This bill creates no additional cost to the state. It simply makes the fee easier to administer and encourages the courts to assess the fees and to collect the fees whenever possible.

Supporting this bill is supporting public safety in Kansas and supporting local law enforcement. We encourage you to recommend this bill favorably to pass.

Ed Klumpp

Kansas Association of Chiefs of Police, Legislative Committee Chair

Kansas Sheriffs Association. Legislative Liaison

Kansas Peace Officers Association, Legislative Liaison

E-mail: eklumpp@cox.net

Phone: (785) 235-5619

Cell: (785) 640-1102

Corrections and Juvenile Justice

Date: 2-9-10

Attachment # 8



Kansas Bureau of Investigation

Robert E. Blecha
Director

Stephen N. Six
Attorney General

Testimony in Support of HB 2637
Before the House Committee on Corrections and Juvenile Justice
David Hutchings, Special Agent in Charge
Kansas Bureau of Investigation
February 9, 2010

Chairperson Colloton and Members of the Committee,

I appear today on behalf of the Kansas Bureau of Investigation in support of immediate passage of HB 2637. This bill would amend KSA 2009 Supp. 75-724.

Present language requires those persons convicted or adjudicated of certain offenses, as outlined in KSA 21-2511, pay a separate court cost of \$100. This is presently a one time payment and a burden is functionally placed upon the court to research whether the payment has ever been made on a prior case.

In determining the amount of funds that should have been received by the KBI in 2009, some statistics must be considered and some assumptions made.

- The number of felony convictions reported to the KBI central repository averages about 10,000 annually. Based upon anecdotal information from the Criminal Records Section of the KBI's Information Services Division, only about half of dispositions (including felony convictions) are reported.
- According to anecdotal information from prosecutors, approximately 30% of persons convicted are not required to pay court costs due to indigence. The assumption is that the other 70% would pay the court costs.

With these statistics and assumptions in mind, revenue from present legislation arguably should have been approximately \$1,400,000. Revenue in 2009 pursuant to KSA 2009 Supp. 75-724 was \$94,219. This was \$1,305,781 less than what could arguably have been expected.

The KBI hopes that, by strengthening the language of the present law with HB 2637, revenues may be brought more closely to those projected. This bill provides stronger language to the courts requiring that the court costs be ordered and that any finding of indigence be placed on the record with a basis for the finding. It also relieves the court of the responsibility to determine if the fees have already been paid on a prior offense and requires convicted persons addressed in KSA 21-2511 to pay the fee each time they appear before the court with a new conviction.

Corrections and Juvenile Justice

Date: 2-9-10

Attachment # 9

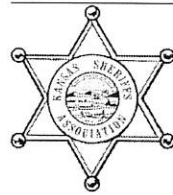
The KBI sincerely hopes that your efforts to pass this legislation will result in a more equitable receipt of revenue to the KBI Forensic Laboratory's DNA efforts as intended by the legislature when this law was originally passed.

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



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Supporting this bill is supporting public safety in Kansas and supporting local law enforcement. We encourage you to recommend this bill favorably to pass.

Ed Klumpp
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Phone: (785) 235-5619
Cell: (785) 640-1102

Corrections and Juvenile Justice
Date: 2-9-10
Attachment # 10



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

STEVE SIX
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KSAG.ORG

House Corrections and Juvenile Justice Committee

HB 2637

February 9, 2010

Madam Chair and members of the committee, thank you for considering my written testimony in support of House Bill 2637. I view this as another opportunity to alert you to a very important public safety issue. There is a significant backlog of DNA samples waiting to be tested at the Kansas Bureau of Investigation (KBI). The reasons for the backlog include an increase in DNA sample submissions due to legislative mandates and an insufficient number of qualified forensic scientists on staff due to chronic underfunding. This issue can only be addressed with increased funding.

As you know, DNA testing is a vital component of the law enforcement process. Legislators will face tough budgetary considerations this legislative session and the KBI's DNA backlog issue will be one of many deserving appropriation requests up for consideration. I hope that the Legislature recognizes the value of timely DNA processing and provides the KBI with the funding to reduce this backlog.

HB 2637 would amend the law that requires persons convicted of certain offenses to pay \$100 as a separate court cost to the KBI DNA database fee fund. Under current law, the court must determine if the individual has already paid this fee and not impose it a second time. Unfortunately, very few individuals have actually been ordered to pay the fee. This legislation relieves the court of the need to determine whether the fee has ever previously been paid and requires payment for any persons convicted of the listed offenses.

Sponsorship of this legislation is just one of the many ways my office is working to address the DNA backlog issue. Although I believe passage of this bill will be a step in the right direction, much more must be done to ensure that the KBI has the funding to reduce the backlog.

Corrections and Juvenile Justice

Date: 2-9-10

Attachment # 11

MEMORANDUM

To: Chairperson Colloton and Members of the
House Corrections and Juvenile Justice Committee

From: Jason Thompson, Assistant Revisor (JT)

Date: February 9, 2010

Subject: HB 2661 - Further amendments to the drug code recodification.

HB 2661 was requested by the Office of Revisor of Statutes to correct errors made in the recodification of the drug code in 2009 HB 2332. Below is a brief explanation of the provisions of HB 2661.

- Section 1, municipal court jurisdiction (p. 1, l. 30): adds specific reference to subsection (b)(3) of K.S.A. 21-36a06 where possession of marijuana is located.
- Section 2, distribution (p. 2, l. 16-20): adds the age 18 of the offender requirement back into law, inadvertently left out in recodification.
- Section 3, possession (p. 3, l. 13-14): adds subsection (b)(6) to cover schedule V controlled substances, inadvertently left out in recodification.
- Section 4, prescription-only drug violations (p. 4): cleans up penalty provisions.
- Section 5, precursor violations (p. 4, l. 2-3, 20-23, 27-37): uses terms defined in the recodified drug code; adds the age 18 of the offender requirement back into law, inadvertently left out in recodification.
- Section 6 through 17: adds references to the uniform controlled substances act provisions repealed in recodification; makes clear that old law violations and new law violations are treated the same.
- Section 11, offender registration (p. 19, l. 24-28): reference to K.S.A. 21-36a05 is too broad, corrected to reflect only subsection (a)(1); provision is explicitly retroactive to remove registration requirement for anyone affected by the error.

Corrections and Juvenile Justice

Date: 2-9-10

Attachment # 12