

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:30 a.m. on February 10, 2010, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Doug Taylor, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Athena Andaya, Kansas Legislative Research Department  
Karen Clowers, Committee Assistant

Conferees appearing before the Committee:

Harold T. Walker, Chief Counsel, Unified Government of Wyandotte County  
Melissa Wangemann, Kansas Association of Counties  
Jerry Gorman, Wyandotte County District Attorney  
Sandy Jacquot, Kansas League of Municipalities  
Andy Huckaba, Lenexa City Councilman  
Eric Satorious, City of Overland Park

Others attending:

See attached list.

The Chairman reopened the hearing on **SB 468 - Amending petition requirements for summoning a grand jury.**

Harold Walker continued his testimony supporting **SB 468** . (Testimony attachment 7, February 9 minutes)

Melissa Wangemann appeared in support stating in addition to increasing the number of signatures needed for a citizen-initiated petition the bill adds requirements that are consistent with current Kansas statutes pertaining to other petitions and a verification process which protects against forged signatures. Ms. Wangemann indicted grand juries are expensive for counties, between \$15,000 and \$40,000 per case. Enactment of the bill will assure the public that the grand jury will be used for legitimate purposes and not a method of harassment. (Attachment 1)

Jerry Gorman spoke in favor, stating that while not opposed to citizen petitioned grand juries. Historically, grand juries have been seldom used but in the last few years Wyandotte County has had a number of citizen petitioned grand juries. This bill will address three areas where the present statute fails: the number of signatures required, a time limitation for collection of signatures, and the form and nature of the petition. (Attachment 2)

Written testimony in support of **SB 468** was submitted by:

Sandy Jacquot, League of Kansas Municipalities (Attachment 3)

There being no further conferees, the hearing on **SB 468** was closed.

The Chairman called for final action on **SB 369 - Open records; reconciling a conflict.**

Senator Schmidt noted that **SB 369** was a technical correction without any opposition. Senator Schmidt moved, Senator Bruce seconded, to recommend SB 369 favorably and place it on the consent calendar. Motion carried.

The Chairman called for final action on **SB 373 - Clarifying which municipal ordinance violations require the payment of an assessment.**

Senator Bruce moved, Senator Schmidt seconded, to recommend SB 373 favorably for passage. Motion carried.

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on February 10, 2010, in Room 548-S of the Capitol.

The Chairman called for final action on **SB 234 - Civil procedure; garnishment.**

Senator Schmidt moved, Senator Vratil seconded, to recommend SB 234 favorably for passage. Motion carried.

The Chairman called for final action on **SB 353 - Coercing employment; peonage; human trafficking; aggravated human trafficking; forfeiture.** Senator Schmidt distributed a substitute bill and reviewed the changes it contained. (Attachment 4)

Senator Vratil noted a technical correction required on Page 2, Section 3.

Senator Schmidt moved, Senator Bruce seconded, to amend SB 353 with the substitute bill distributed, including the technical corrections noted by Senator Vratil. Motion carried.

Senator Schmidt moved, Senator Pilcher-Cook seconded, to recommend SB 353, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SCR 1622 - State constitutional amendment; repealing legislative authority to exclude persons with mental illness from voting.**

Senator Bruce moved, Senator Schmidt seconded, to recommend SCR 1622 favorably for passage. Motion carried.

The Chairman called for final action on **SB 363 - Allowing debtors to exempt earned income tax credits during bankruptcy proceedings.**

Senator Vratil moved, Senator Kelly seconded, to recommend SB 363 favorably for passage. Motion carried. Senator Donovan and Senator Pilcher-Cook voted no, and requested their votes recorded.

The next meeting is scheduled for February 11, 2010.

The meeting was adjourned at 10:15 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/10/2010

NAME	REPRESENTING
Pat Habbell	Tyson
Doug Smith	KCAA / KCA
Whitney Jann	KS Bar Assn
Allie Wilson	Ks. Lincoln Assoc.
Debbie Murray	LMC
Lori May	LMC
Katie Cherey	LMC - Leadership Mitchell County
Michelle Droegemeler	
Jeni Moss	
Catie Rech	KNASW
JEAN MILLER	CAPITOL STRATEGIES
Joseph Molina	KS BAR ASSN.
Richard Samaniego	Kenney & Assoc.
Ed Klump	KACP / KPOA / KSA
Kevin Baneone	CLG, IC
Natalie Haug	Security Benefit
Heslie Kaufman	Ks Co-op Council

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-10-10

NAME	REPRESENTING
Mr Balster	KDOR DMV
Kelly Beckett	KDOR DMV
Rep. Delia Garcia	House Member
RICK CASH	NAMI Kansas
JAC WALKER	Unified Government
Jerome Gorman	Wp. Co. DA
Levi Henry	Sandstone Group LLC
Gonna Schmitt	LMC
Juni Kelley	LMC
Kare Reiman	smc
Gina Chitty	LMC
Tracy D. Dapson	LMC
J M	LMC
Melissa Weyer	KAC
Nick Wood	DRC
Lana WBSL	Juk. Braker
Ray Dalton	SRS
Patricia Woods	SRS



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

TESTIMONY TO THE SENATE JUDICIARY COMMITTEE  
ON SB 468  
FEBRUARY 9, 2010

Chairman Owens and Members of the Committee:

Thank you for the opportunity to offer testimony in support of SB 468.

SB 468 would increase the threshold of signatures needed for a citizen-initiated petition calling a grand jury. The bill also adds requirements to this type of petition that are consistent with the current Kansas statutes pertaining to other petitions. SB 468 requires that the chief judge review an affidavit to determine whether the allegations are supported by fact. This review process is similar to the review process found in recall petitions, and ensures against misuse and abuse of this process. The bill also adds a requirement that the circulator verify that the other petitioners signed the document in his presence, similar to the requirement in the recall petition statutes, which protects against forged signatures.

Grand juries are expensive for Kansas counties. A survey of KAC members indicates that a 30 day grand jury runs \$15,000 - \$40,000. Counties may be willing to incur this cost for the efficiencies gained by a prosecutor using a grand jury; however, we want assurance that the grand jury will be used for legitimate crime-fighting purposes and not a method of harassment.

Every county has a prosecutor who handles criminal cases. Only when and if the county prosecutor fails to do his or her job should a grand jury be summoned by citizens. We support SB 468 because it offers safeguards to ensure that citizen-initiated grand juries will be rare and reserved for egregious situations, which is exactly when they should be used.

We ask for your support. I would be happy to stand for questions.

Respectfully Submitted,

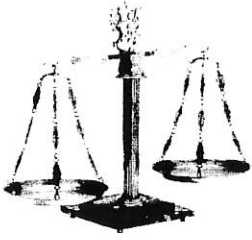
Melissa A. Wangemann

General Counsel/Director of Legislative Services

300 SW 8th Avenue  
3rd Floor  
Topeka, KS 66603-3912  
785•272•2585  
Fax 785•272•3585

Senate Judiciary

2-10-10  
Attachment 1



Office of The  
**DISTRICT ATTORNEY**  
JEROME A. GORMAN

Twenty-Ninth Judicial District of Kansas  
Wyandotte County Criminal Justice Complex  
710 North 7th Street, Suite 10 - Kansas City, Kansas 66101-3051  
Telephone: 913-573-2851

Fax:  
913-573-2948  
913-573-2860  
913-573-8151

February 8, 2010

Senator Tim Owens  
Senate Judiciary Committee, Chairman  
Kansas State Senate  
Capitol Building, Room 559-S  
Topeka, Kansas 66612

Re: Testimony in Support of SB 468

Dear Senator Owens:

I would like to offer this testimony in support of Senate Bill 468. This bill amends the current K.S.A. 22-3001, particularly in relation to citizen called grand juries. K.S.A. 22-3001(2) allows for the citizenry to gather a sufficient number of signatures and therefore require the District Court to summon and empanel a grand jury. The purpose of this bill is to offer some controls on a valuable tool for criminal prosecutions. Currently only five states besides Kansas have a statutory provision for citizens to cause a grand jury to be summoned and seated. I would like to emphatically state that I am not opposed to citizen petitioned grand juries.

Historically, grand juries in Kansas have been seldom used in comparison to other means of investigating and charging crimes. Between 1942 and 2006 no grand juries, citizen petition led or otherwise, were summoned in Wyandotte County District Courts. No information is available for the period prior to 1942. Many other states and the federal government regularly use grand juries to decide whether a particular crime should be charged. Most of these grand juries are court summoned and not citizen led petitions.

Since 2007 two grand juries have been summoned and empanelled in Wyandotte County. Both were citizen led petition drives. In 2007 a statewide coalition against pornography filed a petition in the District Court of Wyandotte County causing a grand jury to be summoned and empanelled.

Senate Judiciary  
2-10-10  
Attachment 2

A second grand jury was summoned and empanelled in 2008. Commonly referred to as the BPU grand jury it ran for the maximum period of time (six months) and resulted in two indictments related to the subject matter. The Unified Government of Wyandotte County/Kansas City, Kansas and Board of Public Utilities endured large amounts of expenses related to the seating, conducting and defense of the grand jury. Other conferees are providing this committee the costs associated with that grand jury. The costs to the incurred solely by the Wyandotte County District Attorney's Office exceeded \$78,000. It broke down as follows:

Transcription of testimony costs	\$ 4,084
Bank records	13,588
Forensic accountant	28,829
Staff time	<u>31,657</u>
Total District Attorney Costs	78,158

A third grand jury was attempted to be petitioned for in 2009. The District Court dismissed the petition for fraud prior to requiring that grand jurors be summoned and empanelled.

Any criminal investigation and ensuing charges should only be brought after careful determination that just cause exists to investigate and sufficient probable cause exists to charge. No tool, a grand jury or otherwise, should be used to harass or abuse any person, business or government entity. Shortcomings in K.S.A. 22-3001 have allowed in the past and continue allow this to occur.

The proposed legislation addressed three main areas where I believe the present statute fails: the number of signatures required, time limitation for collection of signatures, and the form and nature of the petition.

K.S.A. 22-3001 requires that the petition is presented to the District Court, "bearing the signatures of a number of electors equal to 100 plus 2% of the total number of votes cast for governor in the county in the last preceding election." Two problems arise with this statutory computation.

The statutory number would change every four years depending upon the number of people that vote for the governor's race. If the governor's race is not particularly contested in a particular gubernatorial election then the number of required signatures on a petition would be low. Likewise, if the governor's race was hotly contested, more voters would turn out to vote and a larger number of signatures on a grand jury Petition would be required.

In 2006 32,761 (38.9% of registered voters) voters cast ballots in Wyandotte County for the Governor's race and therefore 756 signatures (100 + 2% of the actual

voters) are presently required for a grand jury petition. Also in 2006 there were 84,300 registered voters. If 50% cast ballots, the law would require 943 signatures, if 70% of the registered voters cast ballots, the law would require 1280 signatures.

Use of the number of ballots cast in the last gubernatorial election as the determining factor for the number of signatures for a petition creates an easily fluctuating number depending every four years.

Further using 2% as the relevant percentage is not a very representative percentage of a population of a county. In Wyandotte County, which has a 2008 estimated population of 154,000 requires that approximately .5% of the people can force a grand jury to be summoned and empanelled. Calling a citizen grand jury is a serious move by citizens of a county. Such action should require a substantial number that is more representative of the population. Using 10% of the registered voters is a representative sampling of the county's population.

Secondly, the present statute is silent as to any period of time required to gather the statutory number of signatures. One could argue under the present language that the last petition signor could come two years after the first signature is collected. In any petition that is intended to force some sort of action as serious as a grand jury, the signors should be of the same frame of mind at one time, or as nearly the same time as is possible. Using a time frame of 180 days to collect the signatures would require some sort of meeting of the minds of the petitioners.

Finally, the statute is mostly silent as to the content of the petition. The statute bears some language as to procedure, but is silent as to the substance of the petition. In both the 2008 and 2009 grand jury petitions, the carrier of the petition threw in a hodge-podge of claims, some of which are not even understandable. The issue requiring a grand jury to be called should be definite, narrow and understandable to the general public. The grand jury should not be a fishing expedition going where the grand jurors are trying to figure out the intent of the carrier of the petition. The 2008 petition (Exhibit A) and the attempted 2009 petition (Exhibit B) have been attached for your review.

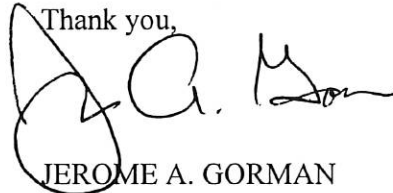
Having the District Court pre-review petitions for substantive content would prevent fishing expeditions and ensure the clarity of the issues raised by the carrier of the petition.

I should also point out that the proposed legislation contains language to expand grand juries to be called by a prosecutor. The language is the same in HB 2226 proposed by Representative Lance Kinzer, Chairman of the House Judiciary Committee.



Senator Tim Owens  
February 5, 2010  
Page 4

In summation, I support citizen led grand juries, however any citizen petition should be substantial and controlled to prevent abuse and harassment of citizens, businesses and governmental entities. Thank you for the opportunity to appear before and present this testimony.

Thank you,  
  
JEROME A. GORMAN  
District Attorney

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**BACKGROUND - Crimes Affecting Public Trusts.**

We the undersigned people have concerns of continued wrong doing by City Officials and the BPU. The BPU is an administrative agency of the Unified Government of Wyandotte County/Kansas City, Kansas. In the past years many unjust and unlawful things have happened under the umbrella of Unified Government (UG). Ethics issues at the BPU are between the Executive Staff and the Elected Board all influenced by the UG. Politicians and/or Public Employees are put into leadership to serve the public not to fill their pocket from the public. Sadly these people act as they are above the law and do anything they wish without punishment.

We the undersigned wish to convene a Grand Jury to investigate these and all unlawful acts done in this County by City and County and BPU Elected Official, Managers and Executives of said UG.

- BPU bought 3 houses in Piper and 3 friends/good old' boys lived in for free, NO rent, utilities or taxes. (Exposed by TV 5).
- Misappropriation of Public Funds by BPU management and elected board members. Evidenced by the credit card receipts (Pitch newspaper)
- Utility rate fixing is against the law. BPU Utility Rates fluctuate with the General Manager and Board Directors mood. 2007 before the BPU Election for Board Members rates were the highest in the metro area. During the election rates were the lowest in the metro. After the election rates have returned to the highest in Metro.
- Electric Rates from 2001 to 2006 have raised 71% & Water Rates are up 155%
- Our non-profit BPU Utility in 2006 raised the incoming revenue \$36.5 million and claimed \$14.5 million in profit. This profit results from over charging us the owners.
- BPU no-bid contracts and fixing with possible bribery charges should be investigated.
- Wind Power was a no bid contract and without an engineering study. Board vote 6-0
- Falsifying reports, as to the EPA that involve environmental disregard to public safety is a felony. (KC Star Newspaper) The BPU failed to report 73 projects in violation Under Clean Air Act Section 114(a), 42 U.S.C. § 7414(a) & 40 C.F.R. Part 52
- Falsifying Reports as appraised values or appraised value tampering.

**CRIMES AFFECTING PUBLIC TRUSTS Alleged Violation of Kansas Statutes:**

**Misappropriation of Public Funds.** \* *Wikipedia, the free encyclopedia*

In law, misappropriation is the intentional, illegal use of the property or funds of another person for one's own use or other unauthorized purpose, particularly by a public official, or by any person with a responsibility to care for and protect another's assets.

**KSA 21-3910. Misuse of public funds.** (a) Misuse or Misappropriation of public funds is knowingly using, lending or permitting another to use public money in a manner not authorized by law, by a custodian or other person having control of public money by virtue of such person's official position.

**KSA 21-4403. Deceptive commercial practice.** (a) A deceptive commercial practice is the act, use or employment by any person of any deception, fraud, false pretense, false promise, or knowing misrepresentation of a material fact, with the intent that others shall rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived or damaged thereby.

**KSA 21-3902. Official misconduct.** (a) Official misconduct is any of the following acts committed by a public officer or employee in the officer or employee's public capacity or under color of the officer or employee's office or employment.

**KSA 21-3903. Compensation for past official acts.** (a) Compensation for past official acts is giving or offering to give to any public officer or employee any benefit, reward or consideration for having given, in such official capacity as public officer or employee, a decision, opinion, recommendation or vote favorable to the person giving or offering such benefit, reward or consideration. Any act of official misconduct.

**KSA 21-3904. Presenting a false claim.** (a) Presenting a false claim is knowingly and with intent to defraud presenting a claim or demand which is false in whole or in part, to a public officer or body authorized to audit, allow or pay such claim.

**KSA 21-3905. Permitting a false claim.** (a) Permitting a false claim is the auditing, allowing, or paying of any claim or demand made upon the state or any subdivision within the state by a public officer or public employee who knows such claim or demand is false or fraudulent in whole or in part.

**KSA 21-3901. Bribery.** Bribery is: Offering, giving or promising to give, directly or indirectly, to any person who is a public officer, candidate for public office or public employee any benefit, reward or consideration to which the person is not legally entitled with intent thereby to influence the person with respect to the performance of the person's powers or duties as a public officer or employee.

**KSA 21-4401. Racketeering.** (a) Racketeering is demanding, soliciting or receiving anything of value from the owner, proprietor, or other person having a financial interest in a business, by means of either a threat, express or implied, or a promise, express or implied, that the person so demanding, soliciting or receiving such thing of value will: (1) Cause the competition of the person from whom the payment is demanded, solicited or received to be diminished or eliminated; (2) Cause the price of goods or services purchased or sold in the business to be increased, decreased or maintained at a stated level; or (3) Protect the property used in the business or the person or family of the owner, proprietor or other interested person from injury by violence or other unlawful means.

**KSA 79-5a03. Same; contract by director for appraisal of property; annual determination of fair market value; records; investigations; unlawful acts.** The director of property valuation shall contract with a qualified appraiser or appraisal company or companies to appraise the property of public utilities as defined in this act for the purpose of taxation for the year. The contract for said appraisal shall include the training of property valuation utility appraisal personnel. The director of property valuation shall annually determine the fair market value of the property of all public utilities and shall keep a complete record of how such valuations were determined. The director is authorized to make any investigations and findings to properly arrive at the fair market value of the property of each of the public utilities to be appraised. Any public utility or representative shall upon request of the director furnish any records or files of said utility material to such investigation. Any utility or representative who shall furnish false information shall be guilty of perjury.

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EXHIBIT A

Wyandotte County citizens have only the Open Records Act to acquire information about the illegalities above stated. However, the same officials listed above illegally abuse the ORA to either refuse to provide requested information or to charge excessive and illegal amounts to provide legally obtainable information. This, too, is an issue to be investigated by the requested Grand Jury and to demand Transparency of all records of Information.

- Executives & County Commissioners are under suspect due to TIF projects and by "NSP" (Neighborhood Stabilization Programs), "ANDA" (Argentine Neighborhood Development Association), "MAC" (Morris Area Citizens), Backroom Deals & Corp/Wal-Mart Giveaways
  - TIF districts and Star Bond developments are illegally completed due to improper means of Land buying, combination and resaling and prohibited acts under the Real Estate Brokers Act. Condemnation Laws K.S.A. 26-101 to 26-501a & K.S.A. 58-3062 Taxations deferred.
  - Misappropriation of Public Funds by management and elected boards & politicians Evidenced by the continual receipts for traveling, excessive convention expenses and per diems, access to sporting events, credit card expenses and any or all paid expenses or Gratuities or Kickbacks.
  - The UG, BPU, and KCKCC is in many violations of the "Unified Government Ordinances"
  - UG, BPU and KCKCC officials, employees and contracting parties have engaged in a common plan or scheme to create false and fraudulent billings, illegal 'obligations' to pay false, inflated and undocumented claims that result in illegal gratuities and kickbacks to private parties; also a common plan or scheme to permit no-bid contracts, bond issues and other public obligations that are excessive, illegal and violation of K.S.A. 21-3901 and other statutes. Parties participating in this plan or scheme include but are not limited to Rodney Lee Turner, Harold T. Walker, Jerome Gorman, Patrick Scherzer, Eric Worner, Dennis Hays, Tom Burke, Clay (Bud) Roberts, Jerry Toney, Brian Bode and dozens of other public officers and/or employees and third parties.
  - Shortly after T.J. Reardon, circulator of the previous Grand Jury Petition, finally filed the petition as required by law [See below], District Attorney Jerome Gorman ordered Reardon to appear in his office in the presence of K.B.I. agent William Delaney, Assistant DA Kristine Gray and others. Gorman was impolite and abusive toward Reardon, aggressively stating, in part, "no one told you to file a grand jury petition," and also admitting that he had gotten political favors similar or identical to those received by individuals who would become subjects of Grand Jury Investigation. In part favors included free tickets to sports events provided by City, BPU and other public entities.
  - In illegal conflict with their public employment, officers/employees and family / relatives of UG, BPU and KCKCC have engaged in common plans or schemes with themselves or their fellow public officers/employees to create business operating under fictional or 'shell' corporate names for the purpose of becoming parties to illegal pre-conspired contracts with said public entities with the objective of obtaining illegal private profit.; Violating Supreme Court Rules of Professional Procedure; Kansas law of Civil Conspiracy; Kansas Consumer Protection Act;
  - Eric Worner, realtor Diana Bryan-Smith, and possibly other Kansas licensed realtors and third parties, have created and carried out illegal civil conspiracies to obtain illegal profits by making illegal and factually unfounded representations in violation of the Kansas Consumer Protection act and other Kansas laws; creating and using 'shell' corporations as a deceptive business practice; creation of false real estate documentation for the purpose of carrying out conspiracies to obtain illegal profits in real estate transactions arising out of eminent domain proceedings undertaken by UG over a period of many years.
  - Cronyism and political relationships/obligations superceding judicial duty and legal mandates under law by judge Philip Sieve tainted the previous grand jury. Political conduct by this and other district court judges should be a subject of this Grand Jury Investigation. While, required by law, T.J. Reardon attempted to file the petition he was ordered removed from the courthouse by Philip Sieve, then Head Judge of the 29<sup>th</sup> Judicial District using security personnel.
  - Failures to find fair market values. Falsifying Reports as appraised values or appraised value tampering to raise the City loan/borrowing amount by means of exaggerated and inflated property tax values should be investigated and corrected.
- Due to unacceptable conditions past, current and other. We the people feel that a change of venue is warranted K.S.A. 61-707 & Judicial Review K.S.A. 77-605.

CRIMES AFFECTING TAXATION, APPRAISALS & BONDING et K.S.A. 79-408, 79-411, 79-421 79-501, 79-503a 79-504, 79-505, 79-5a02-03-04 & 79-5a05, 79-1439

**RULES FOR VALUING PROPERTY .** Fair market value defined; allowable variance; factors to be considered in determining fair market value; generally accepted appraisal procedures to be utilized. "Fair market value" means the amount in terms of money that a well-informed buyer is justified in paying and a well-informed seller is justified in accepting for property in an open and competitive market.

**K.S.A. 10-306 Chapter 10.--BONDS AND WARRANTS K.S.A. 10-301 tp 10-306-Article 3.--LIMITATION OF BONDED INDEBTEDNESS Counties; limitations. (b) Wyandotte county shall not exceed 30% of the assessed value of all tangible taxable property within such county. The UG, BPU & KCKCC are in violation of Star Bond Indebtedness violations due to exaggerated and inflated appraisals and collateral use.**

**CRIMES AFFECTING PUBLIC TRUSTS Alleged Violation of Kansas Statutes:**

**KSA 21-3910. Misuse of public funds.** (a) Misuse or Misappropriation of public funds is knowingly using, lending or permitting another to use public money in a manner not authorized by law, by a custodian or other person having control of public money by virtue of such person's official position. E.g. Mayor Reardon's permission to Rick Worner for General Obligation Debt.

**KSA 21-4403. Deceptive commercial practice.** (a) The act, use or employment by any person of any deception, fraud, false pretense, false promise, or knowing misrepresentation of a material fact, with the intent that others shall rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived or damaged thereby.

**KSA 21-3902. Official misconduct.** (a) Any of the following acts committed by a public officer or employee in the officer or employee's public capacity or under color of the officer or employee's office or employment.

**KSA 21-3903. Compensation for past official acts.** (a) Giving or offering to give to any public officer or employee any benefit, reward or compensation..

**KSA 21-3904. Presenting a false claim.** (a) Knowingly and with intent to defraud presenting a claim or demanding which is false in whole or in part, to a public officer.

**KSA 21-3905. Permitting a false claim.** (a) The auditing, allowing, or paying of any such claim by a public officer or public employee.

**KSA 21-3901. Bribery.** Bribery is: Offering, giving or promising to give, reward or consideration directly or indirectly, to any person who is a public officer, candidate for public office or public employee any benefit.

**KSA 21-4401. Racketeering.** (a) Demanding, soliciting or receiving anything of value from the owner, proprietor, or other person having a financial interest in a business, by means of either a threat, express or implied, or a promise, express or implied, that the person so demanding, soliciting or receiving such thing of value. (1) - (2) - (3)

**K.S.A. 58-3062, prohibited acts under the Real Estate Brokers Act.**

**K.S.A. 29-101 to 29-501a Condemnation Laws - Illegal Condemnations**

**Acts of Civil and/or Criminal Conspiracy by the City, Rick Worner and Partners.** Dealing with buying and selling of properties owned privately or by City or by State in a deceptive act or practice as insider trading, exaggeration, falsehood, innuendo, or ambiguity as to material fact and by acting in a willful or fraudulent manner in a partnership to deceive the public. Thus violating the Law, KRPC and the Kansas Consumer Protection Act.

**City of the UG Sec. 2-202. Nepotism - Cronyism (Ord. No. 0-25-98, § 1, 5-21-98)**

No person shall be employed by the unified government if that person's spouse, child, sibling, or parent is an employee, the chief executive or a member of the commission or on a Board.

**City of the UG Sec. 2-198. Gratuities and kickbacks. (a)**

**Gratuities.** In addition to violating any other ordinances or any state or federal criminal statute, it shall be a violation of this division and a breach of ethical standards for any person to offer, give, or agree to give any elected official, official or employee or former elected official, or to solicit, demand, accept, or agree to accept from another person; a gratuity or an offer of employment.



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League of Kansas Municipalities

**To:** Senate Judiciary Committee  
**From:** Sandy Jacquot, Director of Law/General Counsel  
**Re:** Support for SB 468  
**Date:** February 9, 2010

Thank you for allowing the League of Kansas Municipalities to testify in support of SB 468. This bill sets forth, in more detail, the methodology for summoning a grand jury. In the case of grand jury petitions, it would increase the number of signatures needed. Grand juries in Kansas are used for extraordinary circumstances and are both time consuming and expensive to convene. The current petition requirement of 100 signatures plus 2% of the voters who voted in the last election for governor is a very low threshold. Increasing that threshold to 10% will more appropriately recognize the extraordinary nature of convening a grand jury, but still allow for a grass roots effort to address perceived violations of law.

The League of Kansas Municipalities urges this committee to report SB 468 favorably for passage.

## PROPOSED Substitute for SENATE BILL NO. 353

By

AN ACT concerning trafficking; relating to human trafficking; aggravated human trafficking; forfeiture; amending K.S.A. 21-3446, 21-3447, 21-4643 and 22-4906 and K.S.A. 2009 Supp. 22-4902, 38-2361, 60-4104, 75-451, 75-452 and 75-453 and repealing the existing sections.

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

Section 1. K.S.A. 21-3446 is hereby amended to read as follows: 21-3446. (a) Human trafficking is:

(1) ~~Recruiting, harboring, transporting, providing or obtaining by any means, another person knowing that force, fraud, threat or coercion will be used to cause the person to engage in forced labor or involuntary servitude, or~~ The recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude or forced labor;

(2) ~~benefitting financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in subsection (a) paragraph (1);~~

(3) coercing employment by obtaining or maintaining labor or services that are performed or provided by another person through any of the following:

(A) Causing or threatening to cause physical injury to any person;

(B) physically restraining or threatening to physically restrain another person;

(C) abusing or threatening to abuse the law or legal process;

(D) threatening to withhold food, lodging or clothing; or

(E) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported government identification document of another person; or

(4) knowingly holding another person in a condition of peonage in satisfaction of a debt owed the person who is holding such other person. "Peonage" means a condition of involuntary servitude in which the victim is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.

(b) Human trafficking is a severity level 2, person felony.

(c) The provisions of this section shall not apply to the use of the labor of any person incarcerated in a state or county correctional facility or city jail.

~~(e)~~ (d) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 2. K.S.A. 21-3447 is hereby amended to read as follows:  
21-3447. (a) Aggravated human trafficking is:

(1) Human trafficking, as defined in K.S.A. 21-3446, and amendments thereto:

(A) Involving the commission or attempted commission of kidnapping, as defined in K.S.A. 21-3420, and amendments thereto;

(B) committed in whole or in part for the purpose of the

sexual gratification of the defendant or another; or

(C) resulting in a death; or

(2) recruiting, harboring, transporting, providing or obtaining, by any means, a person under 18 years of age knowing that the person, with or without force, fraud, threat or coercion, will be used to engage in forced labor, involuntary servitude or sexual gratification of the defendant or another.

(b) Except as provided further, aggravated human trafficking is a severity level 1, person felony. When the offender is 18 years of age or older, aggravated human trafficking, if the victim is less than 14 years of age, is an off-grid person felony.

(c) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 3. K.S.A. 21-4643 is hereby amended to read as follows: 21-4643. (a) (1) Except as provided in subsection (b) or (d), a defendant who is 18 years of age or older and is convicted of the following crimes committed on or after July 1, 2006, shall be sentenced to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 25 years unless the court determines that the defendant should be sentenced as determined in paragraph (2):

(A) Aggravated human trafficking, as defined in K.S.A. 21-3447, and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in subsection (a)(2) of K.S.A. 21-3502,

and amendments thereto;

(C) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto;

(D) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto;

(E) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age;

(F) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto; and

(G) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in paragraphs (A) through (F).

(2) The provision of paragraph (1) requiring a mandatory minimum term of imprisonment of not less than 25 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 21-4642, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 300 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(b) (1) On and after July 1, 2006, if a defendant who is 18 years of age or older is convicted of a crime listed in



subsection (a)(1) and such defendant has previously been convicted of a crime listed in subsection (a)(1), a crime in effect at any time prior to the effective date of this act which is substantially the same as a crime listed in subsection (a)(1) or a crime under a law of another jurisdiction which is substantially the same as a crime listed in subsection (a)(1), the court shall sentence the defendant to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 40 years. The provisions of this paragraph shall not apply to a crime committed under K.S.A. 21-3522, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A. 21-3522, and amendments thereto.

(2) The provision of paragraph (1) requiring a mandatory minimum term of imprisonment of not less than 40 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 21-4642, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 480 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(c) When a person is sentenced pursuant to subsection (a) or (b), such person shall be sentenced to a mandatory minimum term of imprisonment of not less than 25 years, 40 years or be

sentenced as determined in subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving such mandatory term of imprisonment, and such imprisonment shall not be reduced by the application of good time credits.

(d) On or after July 1, 2006, for a first time conviction of an offense listed in paragraph (a)(1), the sentencing judge shall impose the mandatory minimum term of imprisonment provided by subsection (a), unless the judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose a departure. If the sentencing judge departs from such mandatory minimum term of imprisonment, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. The departure sentence shall be the sentence pursuant to the sentencing guidelines act, K. S. A. 21-4701 et seq., and amendments thereto, and no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder. as used in this subsection, mitigating circumstances shall include, but are not limited to, the following:

(1) The defendant has no significant history of prior criminal activity.

(2) The crime was committed while the defendant was under the influence of extreme mental or emotional disturbances.

(3) The victim was an accomplice in the crime committed by

another person, and the defendant's participation was relatively minor.

(4) The defendant acted under extreme distress or under the substantial domination of another person.

(5) The capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired.

(6) The age of the defendant at the time of the crime.

Sec. 4. K.S.A. 2009 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

(a) "Offender" means: (1) A sex offender as defined in subsection (b);

(2) a violent offender as defined in subsection (d);

(3) a sexually violent predator as defined in subsection (f);

(4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or

(C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(8) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4), (5), (7) or (11), or any federal, military or other state conviction for an

offense that under the laws of this state would be an offense defined in subsection (4), (5), (7) or (11);

(9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4), (5), (7) or (10);

(10) any person who has been convicted of aggravated human trafficking as defined in K.S.A. 21-3447, and amendments thereto; or

(11) any person who has been convicted of: (A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined by K.S.A. 65-4159, prior to its repeal or K.S.A. 2009 Supp. 21-36a03, and amendments thereto, unless the court makes a finding on the record that the manufacturing or attempting to manufacture such controlled substance was for such person's personal use;

(B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by K.S.A. 65-7006, prior to its repeal or K.S.A. 2009 Supp. 21-36a09 or 21-36a10, and amendments thereto, unless the court makes a finding on the record that the possession of such product was intended to be used to manufacture a controlled substance for such person's personal use; or

(C) K.S.A. 65-4161, prior to its repeal or K.S.A. 2009 Supp. 21-36a05, and amendments thereto.

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A.

21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;

(10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;

(11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or

(12) electronic solicitation as defined by K.S.A. 21-3523, and amendments thereto, committed on and after the effective date of this act;

(13) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(14) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(15) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been

sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

(1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;

(2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;

(3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;

(4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;

(5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the



sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq. and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.

Sec. 5. K.S.A. 22-4906 is hereby amended to read as follows:

22-4906. (a) Except as provided in subsection (d), any person required to register as provided in this act shall be required to register: (1) Upon the first conviction of a sexually violent crime as defined in subsection (c) of K.S.A. 22-4902, and amendments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902, and amendments thereto, or any offense as defined in subsection (d) of K.S.A. 22-4902, and amendments thereto, if not confined, for a period of 10 years after conviction, or, if confined, for a period of 10 years after paroled, discharged or released, whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement; or (2) upon a second or subsequent conviction for such person's lifetime.

(b) Upon the first conviction, liability for registration terminates, if not confined, at the expiration of 10 years from the date of conviction, or, if confined, at the expiration of 10 years from the date of parole, discharge or release, whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply

with the registration requirement. Liability for registration does not terminate if the convicted offender again becomes liable to register as provided by this act during that period.

(c) Any person who has been convicted of an aggravated offense shall be required to register for such person's lifetime.

(d) Any person who has been convicted of any of the following offenses shall be required to register for such person's lifetime:

(1) Aggravated human trafficking, as defined in K.S.A. 21-3447, and amendments thereto, if the victim is less than 14 years of age;

(2) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto;

(4) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto;

(5) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age; or

(6) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(f) Any nonresident worker shall register for the duration

of such person's employment. The provisions of this subsection are in addition to subsections (a) and (b).

(g) Any nonresident student shall register for the duration of such person's attendance at a school or educational institution as provided in this act. The provisions of this subsection are in addition to subsections (a) and (b).

(h) (1) Notwithstanding any other provisions of this section, a person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, and amendments thereto, shall be required to register until such person reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. The five-year period shall not apply to any person while that person is incarcerated in any jail, juvenile facility or correctional facility. The five-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement.

(2) (A) A person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is

not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, and amendments thereto, may, by the court:

(i) Be required to register pursuant to the provisions of paragraph (1);

(ii) not be required to register if the judge, on the record, finds substantial and compelling reasons therefor; or

(iii) be required to register with the sheriff pursuant to K.S.A. 22-4904, and amendments thereto, but such registration information shall not be open to inspection by the public or posted on any internet emp, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires the juvenile to register but such registration is not open to the public, the juvenile shall provide a copy of such court order to the sheriff at the time of registration. The sheriff shall forward a copy of such court order to the Kansas bureau of investigation.

(B) If such juvenile offender violates a condition of release during the term of the conditional release, the judge may require the juvenile offender to register pursuant to paragraph (1).

(3) Liability for registration does not terminate if the adjudicated offender again becomes liable to register as provided by this act during the required period.

(4) The provisions of paragraph (2)(A)(ii) shall apply to adjudications on and after the effective date of this act and retroactively to adjudications prior to July 1, 2007.

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(i) Any person moving to the state of Kansas who has been convicted in another state, and who was required to register under that state's laws, shall register for the same length of time required by that state or Kansas, whichever length of time is longer. The provisions of this subsection shall apply to convictions prior to June 1, 2006 and to persons who moved to Kansas prior to June 1, 2006.

Sec. 6. K.S.A. 2009 Supp. 38-2361 is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2009 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2009 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2009 Supp. 38-2368, and amendments thereto, and subject to subsection (a) of K.S.A. 2009 Supp. 38-2365, and amendments thereto, the court may impose one or more of the following sentencing alternatives. In the event that any sentencing alternative chosen constitutes an order authorizing or requiring removal of the juvenile from the juvenile's home and such findings either have not previously been made or the findings are not or may no longer be current, the court shall make determinations as required by K.S.A. 2009 Supp. 38-2334 and 38-2335, and amendments thereto.

(1) Place the juvenile on probation through court services or community corrections for a fixed period, subject to terms and conditions the court deems appropriate consistent with juvenile justice programs in the community.

(2) Order the juvenile to participate in a community based program available in such judicial district subject to the terms and conditions the court deems appropriate. This alternative shall not be ordered with the alternative in paragraph (12) and when ordered with the alternative in paragraph (10) shall constitute a recommendation. Requirements pertaining to child support may apply if custody is vested with other than a parent.

(3) Place the juvenile in the custody of a parent or other suitable person, subject to terms and conditions consistent with juvenile justice programs in the community. This alternative shall not be ordered with the alternative in paragraph (10) or (12). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(4) Order the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug evaluation pursuant to subsection (b).

(5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (c).

(6) Order the juvenile to perform charitable or community service work.

(7) Order the juvenile to make appropriate reparation or restitution pursuant to subsection (d).

(8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to subsection (e).

(9) Place the juvenile under a house arrest program

administered by the court pursuant to K.S.A. 21-4603b, and amendments thereto.

(10) Place the juvenile in the custody of the commissioner as provided in K.S.A. 2009 Supp. 38-2365, and amendments thereto. This alternative shall not be ordered with the alternative in paragraph (3) or (12). Except for a mandatory drug and alcohol evaluation, when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such orders shall constitute a recommendation by the court. Requirements pertaining to child support shall apply under this alternative.

(11) Commit the juvenile to a sanctions house for a period no longer than 28 days subject to the provisions of subsection (f).

(12) Commit the juvenile directly to the custody of the commissioner for a period of confinement in a juvenile correctional facility and a period of aftercare pursuant to K.S.A. 2009 Supp. 38-2369, and amendments thereto. The provisions of K.S.A. 2009 Supp. 38-2365, and amendments thereto, shall not apply to juveniles committed pursuant to this provision. This alternative may be ordered with the alternative in paragraph (7). Requirements pertaining to child support shall apply under this alternative.

(b) If the court orders the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a)(4), the following provisions apply:



(1) The court may order the juvenile offender to participate in counseling or mediation sessions or a program of education, including placement in an alternative educational program approved by a local school board. The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative. Mediation may include the victim but shall not be mandatory for the victim; and

(2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a statute that makes such a requirement, the court shall order and, if adjudicated for any other offense, the court may order the juvenile to submit to and complete a drug and alcohol evaluation by a community-based drug and alcohol safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive the mandatory evaluation if the court finds that the juvenile completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If the evaluation occurred more than 12

months before sentencing, the court shall order the juvenile to resubmit to and complete the evaluation and program as provided herein. If the court finds that the juvenile and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the commissioner or the juvenile justice authority nor shall the fee be assessed against the secretary of social and rehabilitation services or the department of social and rehabilitation services if the juvenile is in the secretary's care, custody and control.

(c) If the court orders suspension or restriction of a juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (a)(5), the following provisions apply:

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

motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any juvenile offender who does not have a driver's license may have driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court; and

(2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a motor vehicle on the highways of this state, the court may enter an order which places conditions on the juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which the juvenile offender shall be required to carry any time the juvenile offender is operating a motor vehicle on the streets and highways of this state. The order shall prescribe a definite time period for the conditions imposed. Upon entering an order restricting a juvenile offender's license, the court shall require the juvenile offender to surrender such juvenile offender's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on the juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing the

conditions is required to be carried by the juvenile offender when operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of the juvenile offender's state of issuance. The court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until the division issues the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the juvenile offender may apply to the division for the return of the license previously surrendered by the juvenile offender. In the event the license has expired, the juvenile offender may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law unless such juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender violates any of the conditions imposed under this subsection, the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which the juvenile offender is convicted of violating such conditions.

(d) The following provisions apply to the court's determination of whether to order reparation or restitution pursuant to subsection (a)(7):

(1) The court shall order the juvenile to make reparation or restitution to the aggrieved party for the damage or loss caused by the juvenile offender's offense unless it finds compelling circumstances that would render a plan of reparation or restitution unworkable. If the court finds compelling circumstances that would render a plan of reparation or restitution unworkable, the court shall enter such findings with particularity on the record. In lieu of reparation or restitution, the court may order the juvenile to perform charitable or social service for organizations performing services for the community; and

(2) restitution may include, but shall not be limited to, the amount of damage or loss caused by the juvenile's offense. Restitution may be made by payment of an amount fixed by the court or by working for the parties sustaining loss in the manner ordered by the court. An order of monetary restitution shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile offender.

(e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions apply:

(1) The amount of the fine may not exceed \$1,000 for each

offense. The amount of the fine should be related to the seriousness of the offense and the juvenile's ability to pay. Payment of a fine may be required in a lump sum or installments;

(2) in determining whether to impose a fine and the amount to be imposed, the court shall consider that imposition of a fine is most appropriate in cases where the juvenile has derived pecuniary gain from the offense and that imposition of a restitution order is preferable to imposition of a fine; and

(3) any fine imposed by court shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile.

(f) If the court commits the juvenile to a sanctions house pursuant to subsection (a)(11), the following provisions shall apply:

(1) The court may order commitment for up to 28 days for the same offense or violation of sentencing condition. The court shall review the commitment every seven days and, may shorten the initial commitment or, if the initial term is less than 28 days, may extend the commitment;

(2) if, in the sentencing order, the court orders a sanctions house placement for a verifiable probation violation and such probation violation occurs, the juvenile may immediately be taken to a sanctions house and detained for no more than 48 hours, excluding Saturdays, Sundays and holidays, prior to court

review of the placement. The court and all parties shall be notified of the sanctions house placement; and

(3) a juvenile over 18 years of age and less than 23 years of age at sentencing shall be committed to a county jail, in lieu of a sanctions house, under the same time restrictions imposed by paragraph (1), but shall not be committed to or confined in a juvenile detention facility.

(g) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's minutes.

(h) In addition to the requirements of K.S.A. 2009 Supp. 38-2373, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the commissioner within 30 days of final disposition.

(i) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an offense that if committed by an adult would constitute the commission of: (1) Aggravated human trafficking, as defined in K.S.A. 2009 Supp. 21-3447, and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and amendments thereto; (3) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto; (4) aggravated criminal sodomy,

as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto; (5) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age; (6) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto; or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in parts (1) through (6); the court shall issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends. If only one attendance center exists, for which the victim and juvenile are eligible to attend, in the school district where the victim and the juvenile reside, the court shall hear testimony and take evidence from the victim, the juvenile, their families and a representative of the school district as to why the juvenile should or should not be allowed to remain at the attendance center attended by the victim. After such hearing, the court may issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends.

(j) The sentencing hearing shall be open to the public as provided in K.S.A. 2009 Supp. 38-2353, and amendments thereto.

Sec. 7. K.S.A. 2009 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:



(a) All offenses which statutorily and specifically authorize forfeiture;

(b) violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto;

(c) theft which is classified as a felony violation pursuant to K.S.A. 21-3701, and amendments thereto, in which the property taken was livestock;

(d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments thereto;

(e) violations of K.S.A. 2009 Supp. 21-36a16, and amendments thereto;

(f) gambling, K.S.A. 21-4303, and amendments thereto, and commercial gambling, K.S.A. 21-4304, and amendments thereto;

(g) counterfeiting, K.S.A. 21-3763, and amendments thereto;

(h) violations of K.S.A. 21-4019, and amendments thereto;

(i) medicaid fraud, K.S.A. 21-3844 et seq., and amendments thereto;

(j) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;

(k) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;

(l) any solicitation or conspiracy to commit any act or

omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;

(m) furtherance of terrorism or illegal use of weapons of mass destruction, K.S.A. 21-3451, and amendments thereto;

(n) unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, K.S.A. 21-4315, and amendments thereto;

(o) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, K.S.A. 21-4319, and amendments thereto; and

(p) prostitution, K.S.A. 21-3512, and amendments thereto, promoting prostitution, K.S.A. 21-3513, and amendments thereto, and patronizing a prostitute, K.S.A. 21-3515, and amendments thereto; and

(q) human trafficking, K.S.A. 21-3446, and amendments thereto, and aggravated human trafficking, K.S.A. 21-3447, and amendments thereto.

Sec. 8. K.S.A. 2009 Supp. 75-451 is hereby amended to read as follows: 75-451. The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, human trafficking or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of K.S.A. 2009 Supp. 75-451 to 75-458, inclusive, and amendments thereto, is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic

violence, sexual assault, human trafficking or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, human trafficking or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address.

Sec. 9. K.S.A. 2009 Supp. 75-452 is hereby amended to read as follows: 75-452. The following words and phrases when used in K.S.A. 2009 Supp. 75-451 to 75-458, inclusive, and amendments thereto, shall have the meanings respectively ascribed to them herein, unless the context clearly requires otherwise:

(a) "Abuse" means:

- (1) Causing or attempting to cause physical harm;
- (2) placing another person in fear of imminent physical harm;
- (3) causing another person to engage involuntarily in sexual relations by force, threats or duress, or threatening to do so;
- (4) engaging in mental abuse, which includes threats, intimidation and acts designed to induce terror;
- (5) depriving another person of necessary health care, housing or food; or
- (6) unreasonably and forcibly restraining the physical movement of another.

(b) "Confidential address" means a residential street address, school street address or work street address of an

individual, as specified on the individual's application to be a program participant under K.S.A. 2009 Supp. 75-451 to 75-458, inclusive, and amendments thereto.

(c) "Confidential mailing address" means an address that is recognized for delivery by the United States postal service.

(d) "Domestic violence" means abuse committed against a victim or the victim's spouse or dependent child by:

(1) A current or former spouse of the victim;

(2) a person with whom the victim shares parentage of a child in common;

(3) a person who is cohabitating with, or has cohabitated with, the victim;

(4) a person who is related by blood or marriage; or

(5) a person with whom the victim has or had a dating or engagement relationship.

(e) "Program participant" means a person certified as a program participant under K.S.A. 2009 Supp. 75-453, and amendments thereto.

(f) "Enrolling agent" means state and local agencies, law enforcement offices, nonprofit agencies and any others designated by the secretary of state that provide counseling and shelter services to victims of domestic violence, sexual assault, human trafficking or stalking.

(g) "Sexual assault" means an act which if committed in this state would constitute any crime defined in article 35 of chapter 21 of the Kansas Statutes Annotated.

(h) "Stalking" means an act which if committed in this state would constitute "stalking" as defined by K.S.A. 60-31a01, and amendments thereto.

(i) "Human trafficking" means an act which if committed in this state would constitute the crime of human trafficking as defined by K.S.A. 21-3446, and amendments thereto.

Sec. 10. K.S.A. 2009 Supp. 75-453 is hereby amended to read as follows: 75-453. (a) An adult person, an adult family member residing with the victim, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply by and through an enrolling agent to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. Program participants shall not apply directly to the secretary of state. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state signed by the applicant and enrolling agent under penalty of perjury and providing:

(1) A statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, human trafficking or stalking and:

(i) That the applicant fears for the applicant's safety or the applicant's children's safety or the safety of the minor or incapacitated person on whose behalf the application is made; or

(ii) that by virtue of living with an enrolled program participant, the applicant fears that the knowledge or publication of the applicants' whereabouts will put the enrolled participant in danger.

(2) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail.

(3) The confidential mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state.

(4) The confidential address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, human trafficking or stalking.

(5) Evidence that the applicant or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, human trafficking or stalking, or is an adult family member residing with the victim. This evidence may include any of the following:

(A) Law enforcement, court or other federal, state or local government records or files.

(B) Documentation from a public or private entity that provides assistance to victims of domestic violence, sexual assault, human trafficking or stalking.

(C) Documentation from a religious, medical or other

professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual assault, human trafficking or stalking.

(D) Other forms of evidence as determined by the secretary of state.

(6) A statement of whether there are any existing court orders involving the applicant for child support, child custody or child visitation and whether there are any active court actions involving the applicant for child support, child custody or child visitation, the name and address of legal counsel of record and the last known address of the other parent or parents involved in those court orders or court actions.

(7) The signature of the applicant and of any individual or representative of any enrolling agent who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed in accordance with procedures prescribed by the secretary of state.

(c) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule and regulation establish a renewal procedure.

(d) Upon certification in the program, in any case where there are court orders or court actions identified in subsection

(a)(6), the secretary of state shall, within 10 days, notify the other parent or parents of the address designated by the secretary of state for the program participant and the designation of the secretary of state as agent for purpose of service of process. The notice shall be given by mail, return receipt requested, postage prepaid, to the last known address of the other parent to be notified. A copy shall also be sent to that parent's counsel of record.

(e) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under K.S.A. 21-3711, and amendments thereto, or other applicable statutes.

Sec. 11. K.S.A. 21-3446, 21-3447, 21-4643 and 22-4906 and K.S.A. 2009 Supp. 22-4902, 38-2361, 60-4104, 75-451, 75-452 and 75-453 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.