

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:33 a.m. on February 26, 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  
Lauren Douglass, Kansas Legislative Research Department  
Karen Clowers, Committee Assistant

Conferees appearing before the Committee:

C. W. Klebe, Assistant Attorney General  
Patricia Stoneking, Kansas Rifle Association  
Jordan Austin, National Rifle Association  
Sandy Jacquot, Kansas League of Municipalities  
Ed Klumpp, Kansas Association of Chiefs of Police  
Kyle Smith, Kansas Peace Officers Association  
Melissa Wangemann, Kansas Association of Counties  
Matthew Goddard, Vice-President, Heartland Community Bankers Association  
Senator Mike Petersen  
Tom Stoltz, Deputy Chief, Wichita Police Department  
Capt. John Cosgrove, Kansas City Police Department

Others attending:

See attached list.

The Chairman announced the Committee would not be hearing **SB 524 - Increasing penalties for unlawful sexual relations and requiring offender registration; increasing penalties when staff traffic in dangerous contraband in a correctional facility**. The Committee has favorably passed out **SB 434 - Increasing criminal penalties for unlawful sexual relations** and there is no need to hear a duplicate bill.

The Chairman opened the hearing on **SB 504 - Personal and family protection act; amendments**. Jason Thompson, staff revisor, reviewed the bill.

C. W. Klebe appeared in support stating the Attorney General supports the underlying concept of this legislation but believes there are components that require further deliberation. Mr. Klebe noted specifically:\

- language that would allow individuals with violent criminal histories to eventually become eligible for a concealed carry license,
- reductions in fees for first and renewal applications,
- conflicts with recognized jurisdictions regarding presumptions of reasonableness, and
- waivers of confidentiality. (Attachment 1)

Patricia Stoneking spoke in support, stating several issues have surfaced since the inception of the original concealed carry bill was passed. These include:

- allowing dependents of active military personnel to obtain a Kansas permit without obtaining a Kansas drivers license.
- elimination of the six month residency requirement,
- allow continued concealed carry of permit carriers with whom Kansas has reciprocity,
- reduction in cost of concealed carry permits,
- guidelines for the posting of No Carry signs and reduction in severity of charges when signs have been improperly posted, and
- establishes new guidelines for the renewal of permits. (Attachment 2)

Jordan Austin appeared in favor, indicating some of the changes are minor changes while others may be more substantial, especially regarding the price for a concealed carry permit. Kansas has one of the most costly

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:33 a.m. on February 26, 2010, in Room 548-S of the Capitol.

permits in the country and it should not be used as a revenue generating program. ([Attachment 3](#))

Sandy Jacquot appeared as an opponent, stating as written this bill would allow concealed carry in city council meetings, city halls and public libraries. The bill preserves the ability of cities to prohibit, by posting, concealed carry in any building and questioned the removal of exceptions. The decision to allow concealed carry on city properties should not be taken away without a showing that there is some problem that needs to be addressed. ([Attachment 4](#))

Ed Klumpp spoke in opposition, stating there has been an overwhelming response from law enforcement to the changes proposed in **SB 504**. The current act appropriately balances the needs of licensees and applicants with public safety concerns. The Association supports the Kansas Personal and Family Protection Act and feels the current system is working well. If the State fails to weed out the truly bad apples, then public trust and support for concealed carry can become damages which ultimately could jeopardize the ability to have concealed carry in Kansas. ([Attachment 5](#))

Kyle Smith appeared as an opponent, stating **SB 504** is an emaciation of the safeguards in Kansas law and increases the potential for the wrong people obtaining permits with tragic results. Current law denies a permit to persons who have a history of attempting suicide. "Suicide by cop" where a subject shoots at or threatens officers in an attempt to force their own death is a sad but fairly common phenomenon. This prohibition is a reasonable safeguard but would be struck under this bill. The reduction in safeguards in this bill is even more problematic when considered in connection with **HB 2685** which would allow concealed carry at virtually all public buildings, universities, mental health centers, courts and the state fair unless millions of dollars are spent on magnetometers and security staff. Each bill in isolation is a concern but one bill to reduce restrictions and another expanding the places permit holders can carry is much worse in combination. ([Attachment 6](#))

Melissa Wangemann spoke in opposition, voicing concern regarding the reduction in fees payable to counties and the ability to take handguns into county commissioner meetings and public libraries. The amount of fees should be based on the costs of the work conducted by the Sheriff under this Act, and reduction in fees should only be allowed if costs have decreased since enactment of the law. Of greater concern is the bill deletes the reference to meetings of local government governing bodies. The KAC also questioned why the bill allows concealed carry in local libraries but retains the prohibition for state libraries and requested local libraries be exempted. ([Attachment 7](#))

Matthew Goddard provided neutral testimony regarding language pertaining to the requirements of concealed carry signs. Businesses should be allowed to establish policies that they deem appropriate for their premises with maximum ease and minimum hassle. The current regulations achieves this while providing discretion that allows the business to meet the aesthetic or security needs of the building. There is no need for a one size fits all government mandate that infringes on the rights of business owners. The right to concealed carry licensees should be balanced with the right of Kansas businesses. ([Attachment 8](#))

Written testimony in opposition to **SB 504** was submitted by:

- Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence ([Attachment 9](#))
- Steve Claassen, Facilities Director, Sedgwick County ([Attachment 10](#))
- Robert Hinshaw, Sheriff, Sedgwick County ([Attachment 11](#))
- Melissa Johnson, Assistant Seward County Attorney ([Attachment 12](#))

Neutral written testimony to **SB 504** was submitted by:

- Doug Wareham, Kansas Bankers Association ([Attachment 13](#))

There being no further conferees, the hearing on **SB 504** was closed.

The Chairman opened the hearing on **SB 523 - Enacting the Kansas racketeer influenced and corrupt organization act (Kansas RICO act)**.

Tom Stoltz appeared in support, relating tactics used by the Wichita Police Department in addressing the drug crimes, gun sales, Medicaid fraud, robbery, human trafficking, aggravated assault, and other offenses by

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Minutes of the Senate Judiciary Committee at 9:33 a.m. on February 26, 2010, in Room 548-S of the Capitol.

organized gangs. Since the State has no racketeering law, the Department got a federal law enforcement entity to “adopt” the case and process all documents. By indicting the suspects under the federal Racketeer Influenced and Corrupt Organization Act (RICO) their total criminal history and continued involvement in crime resulted in enhanced prison sentences. This has tangibly reduced street crimes committed by gangs. SB 523 would provide a State remedy to deal with our recidivist criminals who operate in all areas of the State. Local law enforcement would no longer need federal “adoption” and could be more efficient in conducting these investigations through our local courts. The enactment of this bill will send a clear message to “career” criminals to pay heed and to the public that Kansas is aggressively protecting its law abiding citizens. (Attachment 14)

John Cosgrove testified in support, stating a RICO act would be a powerful tool for Kansas law enforcement. It would afford the police departments the opportunity to address the most violent predators in their communities by targeting gangs, gang members, and other criminal associations as well as have a deterrent effect on gang activity. (Attachment 15)

The Chairman announced the hearing on **SB 523 - Enacting the Kansas racketeer influenced and corrupt organization act (Kansas RICO act)** would be continued until the next meeting of the Committee.

The next meeting is scheduled for February 27, 2010.

The meeting was adjourned at 10:32 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 26, 2010

NAME	REPRESENTING
Dale Bowman	DA/DFM
Tim Wright	DA/DFM
Leslie Moore	KBI
CHARLES SEXSON	ATTORNEY GENERAL
CHARLES KLEBE	" "
Patricia Coneking	KSRA
Travis Lowe	LITTLE COURT RELATIONS
Sandy Jacquast	LKM
Kyle Smith	KPOA
Tom Stolz	Wichita Police Dept / MACP
MIKE PETERSEN	SENATE 28 <sup>TH</sup>
Matthew Goddard	Heartland Community Bankers Assoc.
Jay Hall	KRGC
Joseph Mlyn	KS BAR ASSN
John Cosgrove	KC KS Police Dept
Bob Keller	JCSO
D. Reese	JCSO
DAVID BURBER	JCSO

**PLEASE CONTINUE TO ROUTE TO NEXT GUEST**

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb. 26, 2010

NAME	REPRESENTING
Levi Henry	Sandsone Group LLC
SEAN MILLER	CAPITOL STRATEGIES
Allen Pedigo	Ks Sentencing Comm.



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

**STEVE SIX**  
ATTORNEY GENERAL

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**Senate Judiciary Committee**

SB 504

Assistant Attorney General C.W. Klebe

Concealed Carry Unit

February 26, 2010

Mr. Chairman and members of the committee, thank you for allowing me to provide testimony on behalf of Attorney General Steve Six regarding Senate Bill 504.

Senate Bill 504 would overhaul the Kansas Personal and Family Protection Act ("KPFPA"). Attorney General Six supports the underlying concept of this legislation, but believes there are components in the bill that require further deliberation by the Committee.

This testimony will only address the larger issues which the Attorney General foresees as needing further analysis. We have provided a short synopsis of the larger issues in this testimony. We are able to provide a more detailed explanation of each issue should the Committee seek further clarification. Our office is also available for further questions following the hearing.

**1. Striking provisions of K.S.A. 75-7c04 in favor of referencing Federal language.**

The amendments to K.S.A. 75-7c04(a) (§ 3, ppg. 2-4) as suggested by SB 504 could allow individuals with violent criminal histories to eventually become eligible for a Kansas concealed carry license.

**2. Reductions in fees for first application and renewal applications.**

The Attorney General believes the cost of obtaining a CCH license is too high. SB 504 would lower the costs of obtaining a concealed carry license and renewing a license. However, without a corresponding reduction in costs to the CCU, within the next two fiscal years, the monies reserved to the Attorney General through the reduction in initial applications would cause a shortfall in revenue and the program would fall in

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Attachment 1

negative balance (even with the intake of monies from renewal applications at the recommended \$25 level).

**3. Allowances for a recognized and valid non-Kansas CCH license or permit to be used as a bypass for the Kansas CCH training course.**

Individuals moving to Kansas from recognized jurisdictions would be allowed to use their former jurisdiction's training requirements to bypass Kansas' 8 hour training course. Certain members of Kansas' 22 recognized jurisdictions (e.g., Florida and Texas) have in place laws regarding presumptions of reasonableness (reasonable fear of imminent death or great bodily harm) when an individual uses deadly force to repel, for instance, a home intrusion.

\*\*There are pending bills (SB 381 and HB 2432) which address these presumptions of reasonableness and seek to incorporate them into Kansas law.

**4. Waivers of confidentiality**

Under SB 504 § 4, lines 29-31, the proponent is seeking to remove the requirement that applicants for a concealed carry license are to waive the confidentiality of their medical and mental records. This makes is highly problematic, if not impossible, to verify the mental health history of an applicant should concerns of such a disability arise. And also, if being free of physical infirmity, under 75-7c04, is not stricken as a requirement for eligibility, then obtaining medical records can be equally difficult.

**SENATE JUDICIARY COMMITTEE  
SENATE BILL NO. 504 HEARING  
FEBRUARY 26, 2010**

Thank you Mr. Chairman and honorable members of the Committee, for allowing me to testify before you today. My name is Patricia Stoneking and I am from Bonner Springs, KS. I am the President and official lobbyist for The Kansas State Rifle Association and I represent over 3400 members as well as myself. I am a proponent of Senate Bill Number 504.

As a concealed carry instructor and permit licensee since the inception of this law, I have seen several issues come up that were not considered in the original concealed carry bill. Most of those issues have been dealt with the past three years but we still have some work to do. I would like to highlight some of the most important issues this bill deals with.

Last year we passed an amendment to allow active duty military personnel to obtain a Kansas permit without obtaining a Kansas drivers license. It just makes sense to afford their dependents the same right. This bill provides for that.

This bill also provides elimination of the 6 month residency requirement as there is just no logical reason for it. It also allows someone who moves here from a state we have reciprocity with and has a concealed carry permit to continue to carry while they are waiting to obtain their Kansas permit. Why would we strip the rights of someone for 6 months who has been lawfully carrying when visiting Kansas just because they have moved to Kansas?

Back in 2006 it was estimated that at least 30,000 residents would obtain their permit the first year. As it turned out, only about 8,000 residents obtained their permit the first 12 months. The underlying reason I heard repeatedly was that the permit fees were just too expensive. This bill will reduce those fees by \$50.00 to assist lower income and senior citizens on fixed incomes a more affordable opportunity to get their permits. A great number of these folks live in higher crime neighborhoods just by virtue of their income brackets and probably need the permit more than those who can afford the original fees. Only one other state has a higher fee than Kansas and that is Colorado! I averaged all the state fees which basically ranged from \$10.00 to \$100.00 and the average is \$77.00. It is also notable that many of those states have 5 to 7 years designated as permit length making the Kansas fees even more out of line with other states. In most of those states the fee covered the cost of the actual permit card. In Kansas we pay yet another \$18.00 for the permit card itself. Fees were intended only to cover the expense of administering the program. Not be a cash cow for the state or the sheriff.

This bill lays out guidelines for the posting of No Carry signs. We have received hundreds of complaints about signs being obstructed, being placed on inner doors so entry was made before seeing the signs, and signs not compliant with the Attorney General approved sign. This is a complete disservice to permit holders who are trying to abide by the law and comply with those signs. It reduces the severity of the charge and penalty for a violation of the sign. Permit holders should not be faced with a Class A or B misdemeanor because signs were improperly posted. There also seems to be some confusion as to the validity of signs not matching the Attorney General specifications. In one case, a permit holder was visiting someone in a hospital. The front door where she entered was not posted. She went to the cafeteria to eat lunch and while she was eating, noticed the sign on the outside entry door to the cafeteria. Should that person be charged with a misdemeanor? In fact, she shouldn't be charged at all! She looked for a sign upon entry to the facility in good faith and saw none. Now she is in the building and see's one on a door in a different location. That is not fair.

When concealed carry was originally passed, renewal requirements were not thought through well. Now that we are on the brink of beginning renewals a lot of discussion has taken place with the Attorney Generals office as to what they really need. This bill eliminates the original provisions for renewals and establishes those which are deemed necessary and reasonable such as reducing the renewal fee and allowing for the mailing of applications as there is no need for a personal appearance at the Sheriff's office.

I urge you to pass this amendment bill so that our law reflects the true spirit in which the legislators passed it with. Thank you for allowing me this time to speak to you today and I will be happy to stand for questions at the appropriate time.

Respectfully Submitted,

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(316) 264-2727  
Email: ksramembership@cox.net

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Attachment 2





## NATIONAL RIFLE ASSOCIATION OF AMERICA

INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030-7400

Chairman Tim Owens  
Senate Judiciary Committee  
548-S  
State Capitol  
Topeka, KS 66612

Dear Chairman Owens,

February 25, 2010

My name is Jordan Austin and I am a registered lobbyist speaking on behalf of the National Rifle Association. I come before you today to express our support for SB 504.

This bill is making a number of technical changes to the state's concealed carry laws. Throughout the past several years, NRA has been listening to our members as to what various aspects of the state law bothered them or they felt were burdensome. Our state Association the Kansas State Rifle Association was doing the same. This summer both organizations discovered that the Attorney General's office had been getting similar complaints from Kansas citizens. We all compiled our lists and assembled what you have before you in SB 504. I will not speak for either the KSRA or the AG's office in regard to their support for this bill as it was our organization that ultimately requested this bill be drafted.

As for the changes that are taking place in the bill, I have provided the committee with an additional document listing bullet points for each item in the bill that is either being changed, addressed, added, or deleted.

Some of these changes are very minor and will not be either objectionable or of consequence to the committee. Some of the other changes may appear to be more substantial and I would be happy to elaborate on any of the items listed and explain the need for the change.

One of the main points that I would like to touch on in my testimony would be the price for the permits. Kansas has one of the most expensive permits in the state. There has to be a way to address this problem. Perhaps it was nothing more than overestimating the cost for setting up and running a program like this. Perhaps some agencies involved in the process have been using this as a revenue stream instead of using the fees for running this program. Our organization is struggling to comprehend how it costs the KBI \$50 to check someone's fingerprints. That is the cost of the entire permit in VA. Perhaps one problem could be that there are three agencies involved in the application process: the Attorney General's office, the KBI, and the sheriff's department. Concealed Carry permit fees should not be a revenue generating program. The fee should only cover the cost and it can't possibly cost \$150 per person.

Since this law was put in place, there have been no incidents involving permit holders committing crimes with their firearms. This is a great track record and something the state should be proud of, and this legislature should be proud of itself too.

The National Rifle Association would urge this committee to support SB 504 and I'd be happy to answer any questions you may have.

Sincerely,

Jordan A. Austin

Kansas State Lobbyist  
NRA-ILA

Senate Judiciary

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Attachment 3

## KS RTC Reform bill overview 2010

1. Redefine “dependent” – allows non-resident military dependents to apply for RTC permits
2. Loosen reciprocity language by changing “equal” to “reasonably similar”
3. New state residents can carry on their old reciprocal permits until their new permit is issued by state of KS.
4. Removes 6 month waiting period for new KS residents
5. Removing the state prohibition on individuals with “diversions” from applying for RTC permits.
6. Strike repetitive language for disqualifiers in statute and insert federal language.
7. Removes all state disqualifiers that are inconsistent with state firearms possession laws K.S.A 21-4204. (reduced fees)
8. RTC permit from recognized state will satisfy training requirement.
9. Lower fees by removing KBI background checks. (Federal NICS check includes all state disqualifiers)
10. Requires that fees collected by sheriffs can only be used to administer this act.
11. Limit access to RTC permit records to “legitimate law enforcement use”.
12. No fingerprint requirement for renewal.
13. Establish specific limitations for prohibited places – only buildings, no parking lots.
14. Lower penalties for fines for prohibited places violations.
15. Specific definition for buildings and parking lots.
16. Establish specific limitations for carrying prohibitions in federally restricted areas.
17. Set new standard for size of signs and positioning of them in visible areas.
18. Remove implied consent provisions with regard to DUI’s.
19. Address inconsistencies to KPFFPA that exist in K.S.A 21-4218 with regard to firearms possession prohibitions.



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League of Kansas Municipalities

TO: Senate Judiciary Committee

FROM: Sandy Jacquot, Director of Law/General Counsel

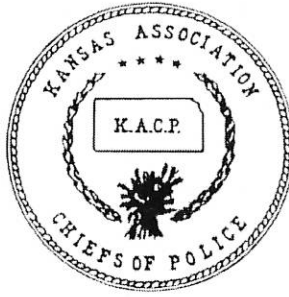
DATE: February 26, 2010

RE: Opposition to SB 504

I want to thank the Committee for allowing the League of Kansas Municipalities to testify in opposition to SB 504. We believe that cities should have the right to control the concealed carry of firearms in our communities, but understand that the Legislature has made a policy choice to the contrary. This bill, however, would allow permit holders to carry concealed in city council meetings, city halls and public libraries. The bill does preserve the ability of cities to prohibit, by posting, concealed carry in any city building. It also preserves the ability of cities to prohibit city employees from carrying concealed while on the premises of the city. One must wonder, then, why taking out the exceptions for city halls, city governing body meetings and public libraries is even in the proposed bill.

Currently there is a bill in the House, HB 2685, that would take away all public facility and premise exceptions unless such facilities and premises have taken "adequate security measures." This means that everyone who enters must be electronically screened, either with a magnetometer or a screening wand. Thus, public entities would have to purchase and staff such screening equipment for any building in which they wanted to disallow concealed carry. If this committee passes SB 503, it becomes conferenceable with a Senate position that cities should not be able to prohibit concealed carry in city halls, city governing body meetings and libraries. Married with the House position, if such bill gets out of committee, cities could lose the ability to determine the advisability of carrying concealed in their facilities.

Already, if cities want to allow concealed carry on their premises, they can simply decline to post the facility as a no-carry facility. That is the local choice of the city, based upon what is consistent with the values and will of the citizens in that community. The decision, however, should not be taken away from cities without a showing that there is some problem that needs to be addressed. LKM knows of no such necessity. LKM respectfully urges this Committee to **not** report SB 504 favorably for passage or in the alternative, to amend the provisions taking away the exceptions for city halls, city governing body meetings and city libraries.



## OFFICERS

Todd Ackerman  
President  
Marysville Police Dept.

Ron Olin  
Vice President  
Lawrence Police Dept.

Frank Gent  
Sergeant at Arms  
Beloit Police Dept.

Mike Keller  
Treasurer  
Andover Police Dept.

Sean Wallace  
Secretary/Parliamentarian  
Ark City Police Dept.

James Hill  
SACOP Representative  
Salina Police Dept.

Bob Sage  
Immediate Past President  
Rose Hill Police Dept.

Doyle King  
Executive Director  
KACP

## REGIONAL REPRESENTATIVES

Ralph Oliver  
Region I  
KU Public Safety Dept.

Sam Budreau  
Region II  
Chanute Police Dept.

Ronnie Grice  
Region III  
KSU Public Safety Dept.

John Daily  
Region IV  
Bel Aire Police Dept.

James Braun  
Region V  
Hays Police Dept.

Vernon Ralston  
Region VI  
St. John Police Dept.

## Testimony to the Senate Judiciary Committee In Opposition to SB 504

February 26, 2010

Mr. Chairman and Committee Members,

The Kansas Association of Chiefs of Police opposes SB504. To be clear, our association does not oppose the Kansas Personal and Family Protection Act. But we do believe the current act appropriately balances the needs of licensees and applicants with the public safety concerns. We believe it is critical to have the checks and balances currently in place. If we fail to weed out the truly bad apples, then public trust and support for concealed carry can become damaged which ultimately could jeopardize the ability to have concealed carry in Kansas.

This bill makes dramatic changes to the personal and family protection act which we believe to be unnecessary and ill advised. It appears to us the existing law is working well. We are not aware of any major problems being encountered with the current system.

The response from our association on this position was strong. Even our members who are involved in concealed carry training and very strong supporters of concealed carry requested we oppose this bill. No member suggested we should remain neutral or support the bill.

Some of the areas which concern us include:

1. The elimination of several license disqualifiers and relying on the federal firearms purchasing disqualifiers. There is a big difference between the concerns with permitting a person to purchase a firearm and the concerns with permitting a person to carry a firearm concealed. The current restrictions are not over inclusive and certainly are not problematic enough to justify scrapping them. If there are problematic restrictions they should be examined individually evaluating the problem they reportedly create and seeking solutions that balance the valid needs of license applicants with the valid needs to protect the public and the integrity of the KPFPA. It is very important bad apples not be granted licenses or have the ability to retain a license. To do so will jeopardize the entire concealed carry program. A review of the annual reports from the Attorney General's Office do not reveal excessive rejection of applicants nor rejections that are based

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on reasons that don't reveal obvious concerns for carrying a concealed weapon.

2. The elimination of the provisions on pages 15-17 for implied consent for testing relative to carrying under the influence of alcohol or drugs appears very problematic to us. Again, we are not aware of any abuses of this provision. The only rational reason for trying to change this is to protect licensees who are carrying while under the influence from detection that can support an administrative or criminal action against the violator. We strongly recommend these provisions be kept intact. Without implied consent few people will agree to take the test which will require obtaining a search warrant and a resulting forced sample collection.

3. We also feel the fee restructuring is problematic. It does not appear the lower fees will cover the operational costs of the attorney general's office. We also disagree with the proposal to lower the amount retained by Sheriffs and the new restrictions on use of those funds.

4. We struggle with the reason for changing the language on page 7, line 43 eliminating the state records check and replacing it with a local records check. A records check for this purpose needs to be as thorough as possible. Local records checks in Kansas will generally only reveal those arrests and convictions in the local jurisdiction and nothing more. In Kansas, the official records repository for all criminal records is the state repository at the KBI. It makes absolutely no sense to not use the official state records repository for these checks.

5. The proposed changes in training issues are also problematic. As law enforcement professionals we know the importance of firearms training. Training on Kansas laws and requirements as well as general firearms use is critical to not only protect the public but to also protect the licensee from bad outcomes, accidents, and criminal and civil liability.

6. The elimination of some of the specific areas where licensees are not allowed to carry are also problematic. For example, we believe the restrictions are appropriate for school athletic events, professional athletic events, meetings of a local governing body, and courtrooms. We are particularly concerned with the elimination of the prohibition for city hall or local public libraries. The change on page 11, line 33 striking the word "building" and just leaving "state office" will mean a licensee could carry into state buildings, just not into an office within those buildings. This also seems ill advised.

7. The changes to the penalties found on page 12, lines 23-31 and page 13, lines 24-28 also concern us. In our opinion the violation should be a misdemeanor. The language as presented does not seem to be clear on whether the violation as proposed is a crime or an administrative violation.

In our opinion, this bill makes too many sweeping changes to a program that appears to be functioning well. For these reasons we strongly encourage the committee to not recommend this bill favorably.

Ed Klumpp  
Legislative Committee Chair  
eklumpp@cox.net  
(785) 640-1102

# Kansas Peace Officers' Association



INCORPORATED

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www.kpoa.org kpoa@kpoa.org

P.O. Box 2592 · WICHITA, KANSAS 67201

## Testimony in Opposition to SB 504

Kyle Smith, Legislative Chair

Senate Judiciary Committee

February 26, 2010

Chairman Owens and Members of the Committee,

I appear today on behalf of the men and women of the Kansas Peace Officers Association in opposition to SB 504. Kansas law enforcement officers understand all too well the awesome responsibility involved in carrying and using firearms. A large number of officers are enthusiastic 2<sup>nd</sup> amendment proponents and members of the NRA. We understand the reasons why people want Concealed Carry Permits and, as long as they are provided in a thoughtful and deliberate manner, have no objection. SB 504 however is an emaciation of the safeguards in the Kansas law and increases the potential for the wrong people obtaining permits with tragic results.

Other conferees have spelled out the numerous changes eliminating safeguards currently found in the law but let me just hit on a couple. Current law provides for denial of a permit for persons who have a history of attempting suicide. "Suicide by cop" where a subject shoots at or threatens officers in an attempt to force their own death is a sad but fairly common phenomenon. This prohibition is a reasonable safeguard but would be struck from the act, as well as the mental health waiver which might disclose this condition. Under SB 504 the Kansas legislature would be abdicating any restrictions on new residents and letting another state's standards apply to people who have moved to Kansas for 6 months. Diversions are not convictions, but they are strong indications that someone committed the acts and are a proper foundation for denying a permit.

The reduction in safeguards in this bill is even more problematic when considered in connection with HB 2685 which would allow CCW permit holders to carry at virtually all public buildings, including universities, mental health centers, courts and the state fair unless millions of dollars are spent on magnetometers and security staff. Each bill in isolation is a concern to the KPOA but having one bill reduce the restrictions on who can get a permit and another expand the places these less qualified permit holders can carry their guns is much worse in combination.

CCW proponents are justifiably proud of the small number of incidents involving permit holders since its inception. About 60 permits, of the thousands issued, have been revoked or suspended but they include offenses such as aggravated battery, aggravated assault, domestic battery and robbery. Loosening the criteria, or in the case of new residents, removing the criteria completely for six months, will only increase the number of incidents. The law enforcement officers of Kansas urge you to vote no.

I would be happy to stand for any questions.

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Attachment 6



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

TESTIMONY TO THE SENATE JUDICIARY COMMITTEE  
ON SB 504  
FEBRUARY 26, 2010

Chairman Owens and Members of the Committee:

Thank you for the opportunity to testify in opposition to SB 504.

The Kansas Association of Counties is unsure of the purpose of SB 504 and we are concerned that the many amendments contained in the bill will have unintended consequences. We believe the current law is working and question the reasons behind this legislation.

KAC is concerned about two primary points of the bill: the reduction in fees payable to counties, and the ability to take handguns into county commissioner meetings and public libraries.

SB 504, Section 4 drops the amount of fees payable to the Sheriff's Office to process the concealed carry application. It also deletes the requirement that payment be made in the form of a cashier's check or money order. KAC believes the amount of the fees should be based on the costs of the work conducted by the Sheriff under this Act, and reduction in fees should only be allowed if costs have decreased since enactment of the law.

I would note that the change in penalties found in Section 8 results in a loss of revenues to counties. Instead of a class A misdemeanor which carries a potential fine of \$2,500, the first offense now carries a \$50 fine; the second offense carries a \$100 fine; and the third offense is now a class B misdemeanor. Other violations are similarly reduced in Section 9.

Our bigger concern is found in Section 8, which lists the locations in which a concealed carry weapon cannot be carried. The bill deletes the reference to meetings of local government governing bodies in subsection (a)(7). Thus, we are concerned whether the bill allows concealed weapons to be carried into county commissioner meetings. I would note that Section 9 of the bill allows a county to prohibit concealed carry guns in county buildings by posting a sign. Still, our comfort level would be higher if the language of subsection (a)(7) were returned to Section 8 to make it clear that concealed guns are not allowed at county commissioner meetings.

Section 8 also allows concealed carried guns in local libraries, although it retains the prohibition for state libraries. KAC questions why this reference to local libraries needs to be removed from the law.

We appreciate the committee's careful consideration of this legislation.

Melissa A. Wangemann  
General Counsel/Director of Legislat

Senate Judiciary

2-26-10

Attachment 7

300 SW 8th Avenue  
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Fax 785•272•3585



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512  
Topeka, Kansas 66603  
Office (785) 232-8215 • Fax (785) 232-9320  
mgoddard@hcbankers.com

To: Senate Judiciary Committee  
From: Matthew Goddard  
Heartland Community Bankers Association  
Date: February 26, 2010  
Re: Senate Bill 504

The Heartland Community Bankers Association appreciates the opportunity to share our concern regarding Senate Bill 504 with the Senate Committee on Judiciary. Our concern with SB 504 should not in any way be construed as opposition to the right of Kansas citizens to carry concealed weapons. Rather, HCBA believes that businesses should be allowed to establish policies that they deem appropriate for their premises with maximum ease and minimum hassle.

After enactment of the Personal and Family Protection Act in 2006, HCBA worked with other business interests and the Attorney General to develop K.A.R. 16-11-7 which governs the signs a private business must post in order to prohibit concealed weapons or handguns from its premises. Some of our members chose to post the signs while others did not. Many businesses across Kansas faced the same decision.

Section 9 of SB 504 would have the effect of rewriting K.A.R. 16-11-7. The bill mandates that the regulations adopted by the Attorney General prescribe new requirements that are currently neither in law nor regulation. This means that businesses that have been in compliance with state law since 2006 will suddenly find themselves out of compliance through no fault of their own. Among the new signage requirements in Senate Bill 504 is a minimum size of eight inches tall by 10 inches wide, a sign must be posted at adult eye level at every exterior entrance and the signs must be within 12 inches to the right or left of the entrance.

HCBA understands the value of uniformity in posting a sign. However, we believe the current regulation already achieves this. Yet it also provides discretion that allows the business to meet the aesthetic or security needs of the building. For example, posting signs at eye level may obstruct the view into a building from the outside that some financial institutions believe is necessary for security reasons. If the problem this bill seeks to address is businesses not posting the proper sign in a proper manner then any problems would seem to rest with those businesses and not the regulation.

Finally, we fail to see the need for a one-size-fits-all government mandate that infringes on the rights of business owners. Government micromanagement is unnecessary in these circumstances. K.S.A. 21-4011 requires the posting of a sign at public places "clearly stating that smoking is prohibited by state law" without other prescribed requirements but that apparent lack of direction does not appear to have resulted in widespread confusion on the part of the public or an ineffective communicating of the intended message.

The rights of concealed carry licensees should be balanced with the rights of Kansas businesses. HCBA would encourage the Committee not to amend Subsection (c) of Section 9 of Senate Bill 504. We appreciate the consideration of our concern by the Senate Committee on Judiciary. Thank you.



**K.A.R. 16-11-7. Signs.** (a) Each sign posted pursuant to either paragraph (a)(2) or paragraph (a)(3) of L. 2006, ch. 210, § 8, and amendments thereto, shall contain the graphic in the document titled "personal and family protection act:: required signage for K.A.R. 16-11-7," dated October 19, 2006, and hereby adopted by reference.

(b) The size of the sign shall be eight inches by eight inches or larger. If the sign is eight inches by eight inches, the size of the graphic adopted by reference in subsection (a) shall be six inches in diameter. If the sign is larger than eight inches by eight inches, the size of the graphic shall be proportional to the size of the sign.

(c) Each sign shall meet all of the following requirements:

(1) The background shall be white.

(2) The portion of the graphic depicting the handgun shall be black.

(3) The portion of the graphic depicting the circle and diagonal slash across the handgun shall be red.

(4) No text shall be placed within the one-inch area surrounding the graphic.

(d) Each sign shall be displayed in a manner that makes the sign reasonably likely to come to the attention of persons entering the premises. (Authorized by L. 2006, Ch. 32, § 16 and L. 2006, Ch. 210, § 8; implementing L. 2006, Ch. 210, § 8; effective P- \_\_\_\_\_.)

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

## Senate Judiciary Committee

SB 504  
February 28, 2010

### OPPONENT

Chairman Owens and Members of the Committee:

Senate Bill 504 makes sweeping changes to the Kansas personal and family protection act; commonly called the concealed carry law. Our concerns are specific to the amendments that change the reasons related to domestic violence and stalking that allow the Kansas Attorney General to not issue a concealed carry license. Rather than use Kansas law, Senate Bill 504 proposes using the federal gun prohibitions in 18 U.S.C. 922(g) to outline crimes or other court orders that would disqualify an applicant (p.2, line 38).

The inclusion of Kansas specific crimes and protective orders in the original personal and family protection act recognized the dangerous, perhaps even lethal, nature of domestic violence and stalking. 2009 was one of the deadliest years in Kansas: 34 adults and 14 children were murdered as a result of domestic violence – this is NOT the time to reduce gun restrictions for abusers and stalkers.

Using 18 U.S.C. 922(g) to determine Kansas prohibitions for a license to carry a concealed handgun is insufficient. Kansas crimes and protective orders are what we should be looking at when deciding what should disqualify an applicant from receiving a concealed carry license.

Our state laws do not mirror federal law on these issues. 18 U.S.C. 922(g) is specific about the elements of both misdemeanor crimes of domestic violence and protection orders that are subject to Federal firearms prohibitions. However, 18 U.S.C. 922(g) is too narrow to capture the range of crimes and unlawful conduct articulated in Kansas law.

Brief information sheets developed by the Bureau of Alcohol Tobacco and Firearms regarding 18 U.S. 922(g) (9) are attached.

Specifically, our concerns include the following:

**1. Section 3 (a) (1) and (a) (2) should be clarified or amended to make sure 18 through 20 year olds are also included as prohibited licensees in these circumstances.**

- Section 3 (a) (1) and (a) (2) on page 2, lines 37 – 40 are linked together, which indicates that the provisions of 18 U.S.C. 922(g) would not apply to anyone who is 18 through 20 years of age. In Kansas, 18, 19, and 20 year olds can also be charged and convicted of domestic violence crimes and can be subject to a protection from abuse or protection from stalking order. If we are reading this section of SB 504 correctly, it would allow 18 through 20 year olds to have access to concealed carry gun licenses after engaging in conduct that would disqualify a person who is 21 years of age or older.

**2. The circumstances that would disqualify an applicant for a concealed handgun license related to domestic violence and stalking are being deleted in Section 3 (a) (5) and (6) and (14) on page 3, lines 12 – 17 and 26 – 33; and page 4, lines 23 – 27 respectively. These deletions are concerning.**

- Not all misdemeanor crimes of domestic violence covered by Kansas law are covered by the Federal firearms prohibitions. For example, federal law requires an element of physical force or threatened use of a deadly weapon. Federal law only includes certain relationships. In fact, it is possible that certain domestic battery convictions under K.S.A. 21-3412a would not qualify under the Federal provisions because the Kansas conviction may include a relationship not covered under federal law.
- Diversions for domestic violence-related crimes and stalking are commonly used in Kansas for numerous reasons. Those diversions would not be covered under 18 U.S.C. 922(g), as they are now.
- Restraining orders issued under the Kansas Revised Code for the Care of Children (e.g., K.S.A. 2008 Supp. 38-2242[e]; K.S.A. 2008 Supp. 38-2243[h]; K.S.A. 2008 Supp. 38-2244[e]) would not be covered under 18 U.S.C. 922(g), as they are now.
- Dating partners are allowed to get a protection order in Kansas. 18 U.S.C. 922(g) does not recognize these relationships in protection orders subject to its provisions.
- Kansas Protection from Stalking (PFS) orders are generally not covered by 18 U.S.C. 922(g) unless the parties have a relationship that is included in 18 U.S.C. 922(g). Further, the PFS act does not require the parties to have any relationship at all so even if there was a relationship between the parties, it would

likely not be included in the order. The Kansas PFS act does not require the plaintiff to make a showing or a court to make a finding that there was a credible threat or use of physical force. Findings and a covered relationships are both required for 18 U.S.C. 922(g) to apply.

- The violation of a protection order (K.S.A. 21-3843) is not recognized as a domestic violence crime under 18 U.S.C. 922(g).
- All of the concerns above are also applicable to the subsequent decision to revoke or suspend the license once it is issued. This is specifically addressed in Section 6 (b), page 10, lines 1 – 7, which allows for the revocation of a concealed carry license upon the arrest of a person who is alleged to have committed a crime that would have disqualified that person from having a license in the first place. And, in Section 6 (c), page 10, lines 8 – 19 the sheriff is directed to give notice to the Attorney General when a qualifying restraining order is issued so the Attorney General can revoke or suspend the concealed carry license.

Although KCSDV's concerns are limited to the sections of SB 504 that are related to the crimes focusing on domestic violence and stalking and on protection orders, these concerns are significant. Replacing the list of Kansas specific crimes and orders with the federal law will significantly reduce the crimes and orders limiting the issuance of these licenses in Kansas.

Finally, it will potentially be an administrative nightmare for the Attorney General's office to determine which crimes and protective orders would qualify under the provisions of 18 U.S.C. 922(g). That office will have to read each order to determine if the federal elements have been met based on the specifics of each crime, any court findings, and a determination of the relationship between the victim and perpetrator.

KCSDV strongly urges the Senate Judiciary Committee to reject the use of 18 U.S.C. 922(g) as a replacement of the Kansas specific crimes and court orders when determining if an applicant is qualified for a license or should be subject to a revocation or suspension.

Kansas law, instead of federal law, should apply.

Respectfully submitted,

Sandy Barnett  
Executive Director

# PROTECTION ORDERS AND FEDERAL FIREARMS PROHIBITIONS

Persons subject to a qualifying protection order under federal law are generally prohibited from possessing any firearm or ammunition in or affecting commerce (or shipping or transporting any firearm or ammunition in interstate or foreign commerce, or receiving any such firearm or ammunition). Violation of this prohibition while the order remains in effect is a federal offense punishable by up to ten years imprisonment. 18 U.S.C. §§ 922(g)(8), 924(a)(2).

The following list enumerates the elements that define a qualifying protection order under the federal firearms prohibition. **Generally, a defendant/respondent subject to a protection order that includes one element (indicated by a diamond) from each section listed below is covered by the federal firearms prohibition.**

## I. HEARING

- ❖ Defendant/Respondent received **actual notice** and had an **opportunity to participate**.

## II. INTIMATE PARTNER

Plaintiff/Petitioner is an **intimate partner** of the Defendant/Respondent, (18 U.S.C. § 921(a)(32)) that is:

- ❖ a **spouse** of Defendant/Respondent;
- ❖ a **former spouse** of Defendant/Respondent;
- ❖ an individual who is a **parent** of a child of Defendant/Respondent; **or**
- ❖ an individual who **cohabitates or has cohabited** with Defendant/Respondent.

## III. RESTRAINS FUTURE CONDUCT

- ❖ The order **restrains** Defendant/Respondent from **harassing, stalking, or threatening** the intimate partner, child of the Defendant/Respondent, or child of the Defendant/Respondent's intimate partner; **or**
- ❖ The order **restrains** Defendant/Respondent from engaging in other conduct that would place the intimate partner in **reasonable fear of bodily injury** to the partner or child.

## IV. CREDIBLE THREAT OR PHYSICAL FORCE

- ❖ The order includes a finding that Defendant/Respondent is a **credible threat** to the physical safety of the intimate partner or child; **or**
- ❖ The order, by its terms, explicitly prohibits the use, attempted use, or threatened use of **physical force** against the intimate partner or child that would reasonably be expected to cause bodily injury.

**For further information about firearms prohibitions or section 922(g)(8), contact your local Field Division of the Bureau of Alcohol, Tobacco and Firearms by calling (800) 800-3855. For general information about protection orders and firearms, contact the Full Faith and Credit Project at (800) 256-5883.**

## MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE AND FEDERAL FIREARMS PROHIBITIONS

Persons who have been convicted in any court of a qualifying misdemeanor crime of domestic violence (MCDV) generally are prohibited under federal law from possessing any firearm or ammunition in or affecting commerce (or shipping or transporting any firearm or ammunition in interstate or foreign commerce, or receiving any such firearm or ammunition). This prohibition also applies to federal, state, and local governmental employees in both their official and private capacities. Violation of this prohibition is a federal offense punishable by up to ten years imprisonment. See 18 U.S.C. § 922(g)(9); see also 18 U.S.C. §§ 921(a)(33), 924(a)(2), 925(a)(1); 27 C.F.R. §§ 178.11, 178.32.

### ***A qualifying MCDV is an offense that:***

- ❖ Is a federal, state, or local offense that is a misdemeanor under federal or state law;
- ❖ Has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon; and,
- ❖ At the time the MCDV was committed, the defendant was:
  - ◆ A current or former spouse, parent, or guardian of the victim;
  - ◆ A person with whom the victim shared a child in common;
  - ◆ A person who was cohabiting with or had cohabited with the victim as a spouse, parent, or guardian; or,
  - ◆ A person who was or had been similarly situated to a spouse, parent, or guardian of the victim.

### ***EXCEPTIONS: A person has not been convicted of a qualifying MCDV:***

- ❖ IF the person was not represented by counsel — unless he or she knowingly and intelligently waived the right to counsel;
- ❖ IF the person was entitled to a jury trial AND the case was not tried by a jury — unless the person knowingly and intelligently waived the right to jury trial; or,
- ❖ IF the conviction was set aside or expunged; the person was pardoned; or, the person's civil rights — the right to vote, sit on a jury, and hold elected office — were restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense).

***BUT:*** This exception does NOT lift the federal firearms prohibition if:

- ◆ the expungement, pardon, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms; or,
- ◆ the person is otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

FOR FURTHER INFORMATION ABOUT SECTION 922(g)(9) OR FEDERAL FIREARMS PROHIBITIONS GENERALLY, CONTACT YOUR LOCAL FIELD DIVISION OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS BY CALLING (800) 800-3855. FOR FURTHER INFORMATION ABOUT DOMESTIC VIOLENCE GENERALLY, CONTACT THE NATIONAL CENTER ON FULL FAITH AND CREDIT AT (800) 256-5883 EXT. 2.



## FACILITIES

Sedgwick County Courthouse  
525 N. Main, Suite 135  
Wichita, KS 67203  
Phone (316) 660-9975

**Steve Claassen**  
Facilities Director

**TESTIMONY SB 504**  
**Senate Committee on Judiciary**  
**February 26, 2010**

Chairperson Owens and members of the committee, my name is Steve Claassen, Facilities Director for Sedgwick County. Thank you for the opportunity to provide this testimony on behalf of the Sedgwick County Board of County Commissioners (the Board). The Board opposes the provisions in SB 504 that would reduce the Board's authority to set standards of conduct for its meetings, and the meetings of subordinate boards.

The 2010 Sedgwick County platform strongly supports local decision-making for local issues, including the control of conduct of its meetings. HB 2685 would significantly reduce the Board of County Commissioners control over county board and committee meetings.

SB 504 eliminates the provision in K.S.A. 2009 Supp. 75-7c10 which allows county commissions to restrict the concealed carry of weapons into "any meeting of the governing body of a county, . . . or any committee or subcommittee thereof; . . ." Although the County Commission would retain the authority to restrict concealed carry in the courthouse, where almost all of the commission meetings are held, the change in SB 504 would no longer allow the Board to control the conditions for meetings held away from the courthouse in buildings not owned by the County.

The Board also believes the current signage used to inform persons that concealed carry is not allowed in county buildings is sufficient, and the more detailed requirements included at lines 3-9, page 14 of SB 504 are unnecessary. This would result in added costs to the County for replacing existing signage, and yield no appreciable benefit to persons using County buildings.

Thank you again, Chairperson Owens for this opportunity to present testimony.



## SEDGWICK COUNTY, KANSAS

SHERIFF'S OFFICE  
ROBERT HINSHAW  
Sheriff

141 WEST ELM \* WICHITA, KANSAS 67203 \* TELEPHONE: (316) 660-3900 \* FAX: (316) 660-3248

**TESTIMONY SB 504**  
**Senate Committee on Judiciary**  
**February 26, 2010**

Honorable Chairman Tim Owens and members of the committee, my name is Robert Hinshaw, Sheriff of Sedgwick County. Thank you for the opportunity to provide this written testimony in **opposition to SB 504**.

The Sedgwick County Sheriff's Office strongly opposes the apparent relaxation of standards for denial of carry concealed licenses and the reduction of state control of said standards. The recent focus of legislative concerns has been to address safety concerns by taking measures to prevent domestic violence, reduce alcohol and substance abuse, treat mental illness, and increase protections from stalking behavior; however, the proposed amendment is counter to those concerns in that it significantly relaxes the standards for obtaining a permit.

Section 3 of the bill appears to require the attorney general to issue CCW permits to those under age 21 even when federal law would prohibit the individual from 'shipping, transporting, possession or receiving a firearm or ammunition.'

Section 3 requires the attorney general to issue CCW permits to those who have been placed on diversion for felonies.

Section 3 would allow more mentally ill persons to receive CCW permits than is currently allowed. Further, statutory definitions and interests, rather than federal considerations, should be paramount in determining whether a person is mentally capable of responsibility carrying a weapon. This bill would wipe out the statutory considerations and rely on federal law alone.

Removal of the restriction in section KSA 2009 Supp. 75-7c04(a)(3) which prevents licensure for those not physically capable of safely handling a weapon is obviously detrimental to public safety.

Those convicted of misdemeanors under KSA 2009 Supp. 75-7c04(a)(5) and (6) would be allowed CCW permits under the proposed changes.

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The amendments proposed would result in the state ignoring potential accelerants to violent crime and allowing more violent, mentally ill and/or infirm persons to legally carry a lethal weapon. The Sedgwick County Sheriff's Office strongly opposes such proposed action as it would be detrimental to public safety. In summary, the greatly reduced requirements for qualification for a CCW permit put public safety at risk and reduce the state's ability to regulate its own affairs by applying federal law.

Within the Sedgwick County Sheriff's Office, we have processed in excess of 5300 carry concealed license applications since inception in 2006. With an ever increasing license count from year to year, we expect to have over 1700 applicants this year. Within the proposed amendment in section 4, there is a reduction in license fees. The Sedgwick County Sheriff's Office is opposed to such reduction of fees due to the documentable increase in license applications and eventual increased workload attributed to license renewals. The users of such services are the most appropriate persons for absorbing those costs rather than forcing the burden onto the taxpayers at large.

Proposed in SB 504 is the elimination of the implied consent criteria for the testing of alcohol or drugs of the licensee. I strongly believe that the elimination of these provisions will greatly reduce the effectiveness of local law enforcement in identifying those in violation of the statute and create additional safety concerns for law enforcement, the general public, and potentially the licensee. The Sedgwick County Sheriff's Office opposes the elimination of this section of the statute as it would be detrimental to public safety.

Although they vary in levels of safety and security concerns, the proposed amendments of SB 504 create a plethora of issues throughout many levels of the Sheriff's Office and Sedgwick County government.

Thank you again, Chairman Owens for this opportunity to present testimony.



**Kansas County & District Attorneys Association**

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www.kcdaa.org

**Senate Judiciary Committee  
February 26, 2010**

**Written Testimony in Opposition to Senate 504  
Submitted by Melissa Johnson, Melissa G. Johnson, Assistant Seward County Attorney  
& KCDA Board Member**

Chairman Owens and Committee Members:

This testimony is submitted on behalf of the Kansas County and District Attorney's Association (KCDA) in opposition to Senate Bill 504. The KCDA is opposed to this potential legislation for public safety reasons.

Primarily, this legislation seeks to abolish many of the safeguards put in place to prevent certain groups of persons from being able to carry a concealed weapon. These safeguards are necessary to protect law enforcement officers as well as society in general. By more broadly defining those persons who are allowed to carry concealed weapons, this legislation would actually have the effect of making the citizens of Kansas less safe. Further, it eliminates the requirement of a waiver of confidentiality for health records to determine the person's eligibility.

In addition, this legislation would seek to reward those who violate the law by reducing the punishment from a class A Misdemeanor, which would be punishable by up to twelve (12) months in jail, to a fine of not more than \$50.00 for a first violation in many circumstances.

For these reasons, we respectfully request that Senate Bill 504 not be passed into legislation. We would be happy to provide additional information upon request.

Senate Judiciary

2-26-10  
Attachment 12



**Date:** February 26, 2010

**To:** Senate Judiciary Committee

**From:** Doug Wareham, Senior Vice President-Government Relations

**Re:** Senate Bill 504 – (Amending the Personal and Family Protection Act)

The Kansas Bankers Association (KBA) appreciates the opportunity to share this written statement expressing our concerns regarding S.B. 504, which modifies the Personal and Family Protection Act. For the record, KBA's official position has been, and continues to be, neutral on the issue of concealed carry. KBA's concern with this proposal is not with the ability of individual Kansans to carry concealed weapons, but with the changes proposed in this bill that would disrupt the current standards utilized by private property owners, including Kansas banks, that choose to prohibit the carrying of concealed firearms on their premises.

Following the adoption of the Personal and Family Protection Act in 2006, KBA participated in a series of stakeholder meetings to develop regulations (K.A.R. 16-11-7), which govern the posting of signs by private businesses that choose to prohibit concealed weapons from their premises. The stakeholder meetings, which were hosted by the Kansas Attorney General's Office, included various banking and private business interests.

KBA believes the business-supported posting requirements found in K.A.R. 16-11-7 have worked well, and we object to redefining those standards as described in Section 9 (Page 14 – lines 3 thru 9) of Senate Bill 504. Enacting the changes proposed in Section 9 would negatively impact every private-sector business owner that has elected to prohibit concealed carry weapons from their premises. Changing the current standards found in K.A.R. 16-11-7 will increase confusion among businesses attempting to comply with posting standards, and will bring added costs as well. **KBA respectfully requests the Senate Judiciary Committee consider striking the changes found in Section 9, should the committee choose to advance S.B. 504.**

Once again, thank you for the opportunity to share our concerns with Senate Bill 504. For additional information please feel free to contact me at (785) 232-3444 or at [dwareham@ksbankers.com](mailto:dwareham@ksbankers.com).

# Kansas Senate Judiciary Committee

Friday, Feb. 26, 2010, 9:30 AM

## **SB523 Kansas RICO Act**

### TESTIMONY OF DEPUTY CHIEF TOM STOLZ WICHITA POLICE DEPARTMENT

I am here today to testify on behalf of the Wichita Police Department, the City of Wichita and the Kansas Association of Chiefs of Police, all in support of Senate Bill 523.

It is a well known adage in law enforcement that 5% of society creates 95% of the crime. There are certain people in society who literally try to "make a living" out of crime. Instead of looking for work or improving their education, these people spend their time selling drugs, committing fraud, stealing identities, committing robbery, or running with gangs.

Current budget constraints demand that law enforcement operates at the most efficient level possible while meeting the public safety demands of our society. Law enforcement across the state recognizes that we must be more focused and efficient as we work to remove "career" criminals from the street who create the 95% crime in our towns and cities.

No one wants to create laws that will simply fill prison beds. The valuable resource of a prison bed should be filled with violent criminals and those who choose to make "a living" committing crime in our communities. Our current laws regarding murderers and violent criminals are sufficient. SB 523 will allow us to more successfully prosecute those who have chosen to make crime their "career".

In the middle of 2006, the Wichita Police Department discovered a group of criminals involved in the neighborhood CRIPS gang who were committing crimes such as drug and gun sales, Medicaid fraud, robbery, human trafficking, aggravated assault, and others. When investigators reviewed the criminal history of this group, it became clear they represented a criminal enterprise. In other words, we saw multiple and repeated trips into the criminal justice system for this group accompanied with sporadic incarceration times, probation, and parole.

And after each of these trips into the justice system, they went right back to the business of committing crimes for the gang. Based on this information, we decided to use this historical information and attempt new prosecution under federal racketeering laws. Because there was no State law for us to use, the Wichita Police Department had to get a federal law enforcement entity to "adopt" the case and process all documents.

Senate Judiciary

2-26-10

Attachment 14

After some initial challenges, the FBI agreed to do this. In years 2006 and 2007, the investigation federally indicted about 30 individuals who were involved in the criminal enterprise.

Every single one of these suspects had lengthy criminal records and had received multiple chances in the criminal justice system. Despite this, they chose to purposely continue lives of crime. By indicting these suspects under the federal Racketeer Influenced and Corrupt Organization Act (RICO), we were able remove these subjects from the street, present to a judge their total criminal history and continued involvement in crime, and gain enhanced prison sentences which removed them from the city streets. The result of this effort tangibly reduced street crimes being committed by the CRIPS gang organization which saved lives and property as well as the accompanying criminal justice time that would have been spent dealing with these crimes.

Many of our cities and counties in the State of Kansas do not have the access to the federal system that Wichita had to work to attain in the above example. SB 523 would provide a State remedy to deal with our recidivist criminals who operate in all areas of our State. Local law enforcement would no longer need federal "adoption" and could be more efficient in conducting these investigations through our local courts. Passing this type of law would also send a clear message to the criminals of this State that "career" criminals need to pay heed and would also send a message to all law abiding citizens that this State is going to aggressively protect their safety.

I encourage you to support SB 523.



# POLICE DEPARTMENT

## STAFF SUPPORT DIVISION

### Professional Standards Unit



**Samuel F. Breshears**  
Chief of Police

**Captain John F. Cosgrove**  
Professional Standards Unit

Date: February 26, 2010

To: Chairperson Owens, Vice Chairperson Schmidt, and distinguished members of the Senate Judiciary Committee:

Chairperson Owens,

My name is John Cosgrove, and I am the Commander of the Professional Standards Unit within the Kansas City, Kansas Police Department. I am submitting the following written testimony in support of Senate Bill 523.

I have worked for the Kansas City, Kansas Police Department for over 25 years. During that time I have had numerous assignments, including being the Commander of our Homicide Unit for several years, as well as serving as the Community Policing Commander for several years. I mention this information to let you know that I have worked closely in the area of gang-related crimes, as well as organized narcotic enterprises. I have personally been involved in hundreds of homicide investigations and my experience is that a large proportion of the homicides which occur in our City have a direct link to gang and drug organizations. For example, in 2009, 17 out of our 39 homicides were identified as being directly related to gangs and or drugs.

The Kansas City, Kansas Police Department does not have a specialized gang unit, but instead implements the philosophy that the Department as a whole addresses gang related issues. We do have a Threat Assessment Unit that identifies and links together known criminal associates and gang members. The valuable information this Unit obtains could benefit greatly if we had a Kansas RICO law on the books.

A Kansas RICO act would be a powerful tool for Kansas law enforcement. It would afford police departments the opportunity to address the most violent predators in their communities. The RICO act would do this by serving as a very effective tool in targeting known gangs, gang members, as well as other criminal associations; effectively providing the ability to 'decapitate' the hierarchy within those entities. A secondary benefit would be its deterrent effect on gang activity. Presently, one of the only options for local law enforcement agencies to address gangs is to seek enhanced sentencing at the federal level through the RICO act. The RICO act has proven to be an effective tool at the federal level in providing federal law enforcement agencies with the 'extra teeth' needed to deal with organized groups of criminal activity. A Kansas RICO act would provide the additional teeth needed to address these types of organizations by providing longer incarceration periods as well as making the assets of those involved subject to seizure and forfeiture through the courts.

About 13 years ago, the State of California implemented their version of the RICO act, the California Street Terrorism Enforcement and Prevention Act, which provided the California criminal justice system with a more effective means to address street level gangs, i.e. the Bloods and the Crips. The California



Legislature enacted the laws with the intent to seek the eradication of criminal activity by street gangs by focusing upon patterns of criminal gang activity and upon the organized nature of street gangs, which together, were the chief source of terror created by street gangs. The California Legislature also found that an effective means of punishing and deterring the criminal activities of street gangs was through forfeiture of the profits, proceeds, and instrumentalities acquired, accumulated, or used by street gangs. The resulting reduction in the extent and level of criminal activity by California gangs was felt nationally.

Two examples come to mind where a Kansas RICO act would have been beneficial to our community. One involved an infamous local family whose drug enterprise operated out of their residences in KCK. This drug enterprise had and continues to be a constant problem for our Department. This organized criminal enterprise had many violent crimes associated with their illegal drug business. At that time, the assistance of federal law enforcement was required to effectively address and prosecute the investigation under federal drug laws that carried longer sentences and the lack of parole. This helped eliminate for a time several members of this group. However, if we had in place a Kansas RICO Statute, this would have allowed us to more effectively address and end the entire group's reign of terror on our Community.

The other example has been during the past two years, a joint task force involving the Kansas City, Kansas Police Department and federal law enforcement agencies was created to address multiple instances of violent crimes committed by two identified rival gangs; both deeply entrenched in illegal narcotics sales. A federal RICO act prosecution was turned down by the USDA office due to the process being too labor intensive. One of the USADA advised that due to the amount of manpower and resources required, pursuit of a RICO prosecution at the federal level was not feasible. At that time, she said that the KCKPD would have to dedicate 6 full-time detectives for at least one year to proceed with a Federal RICO prosecution. With the enactment of a Kansas RICO act, the personnel requirement would be reduced due to the fact that documentation would already exist and be contained within the investigating agency.

These are just two of the more prominent investigations the Kansas City, Kansas Police Department has handled where a Kansas RICO act would have been beneficial. However, it should be noted that the KCKPD has had several instances in recent years where a group of criminal associates has been identified but had to be prosecuted individually.

I thank you for your time and consideration in this matter and strongly request that you support the measures submitted in Senate Bill 523.

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