

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:30 a.m. on March 5, 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:

Patricia Biggs, Member of the Kansas Parole Board
Lawrence P. Daniels, Member of the State Board of Indigents' Defense Services
Representative Lance Kinzer
Marc Bennett, Deputy District Attorney, 18th Judicial District, KCDA
Mark Knackendoffle, Kansas Judicial Council Probate Law Advisory Committee
Eric Anderson, Kansas Judicial Council Probate Law Advisory Committee

Others attending:

See attached list.

Chairman Owens opened the confirmation hearing for Patricia Biggs, Member of the Kansas Parole Board. (Attachment 1)

Senator Haley moved, Senator Lynn seconded, to recommend Ms. Biggs favorably for confirmation. Motion carried.

Chairman Owens opened the confirmation hearing for Lawrence P. Daniels, Member of the State Board of Indigents' Defense Services. (Attachment 2) An opinion from the Kansas Governmental Ethics Commission was distributed regarding the state level conflict of interest laws. (Attachment 3)

Senator Haley moved, Senator Schodorf seconded, to recommend Mr. Daniels favorably for confirmation. Motion carried.

The Committee minutes of February 9, February 10 and February 11 were distributed for review.

Senator Haley moved, Senator Lynn seconded, to approve the Committee minutes of February 9, February 10 and February 11. Motion carried.

The Chairman opened the hearing on **HB 2435 - Certain crimes in which the penalty is an offgrid felony, attempt, conspiracy and criminal solicitation are also offgrid; aggravated habitual sex offender.** Jason Thompson, staff revisor, reviewed the bill.

Representative Lance Kinzer testified as a proponent and sponsor of the bill. The bill is in response to two recent Kansas Supreme Court decisions that reduced criminal sentences for sex offenders in Kansas. These decisions have made it imperative that the Legislature ensures that Kansas has a law in place that protects the public, especially children, by appropriately punishing those who prey on them. (Attachment 4)

Marc Bennett appeared in support, stating recent Kansas Supreme Court decisions clearly runs counter to the intent of the Legislature when K.S.A. 21-4643 went into effect in 2006. This bill reflects the specific intent of the Kansas Legislature and correct the inconsistency found by the court. (Attachment 5)

Written testimony in opposition to **HB 2435** was submitted by:

Jennifer Roth & Stacy Donovan (Attachment 6)

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on March 5, 2010, in Room 548-S of the Capitol.

There being no further conferees, the hearing on **HB 2435** was closed.

The Chairman opened the hearing on **HB 2455 - Amendments to uniform principal and income act.** Doug Taylor, staff revisor, reviewed the bill.

Mark Knackendoffle appeared in support as a representative of the Kansas Judicial Probate Law Advisory Committee. Mr. Knackendoffle stated the proposed legislation will implement technical changes related to developments and interpretations relating to tax matters. (Attachment 7)

There being no further conferees, the hearing on **HB 2455** was closed.

The hearing on **HB 2456 - Probate; filing of affidavits regarding decedent's probate estate** was opened. Doug Taylor, staff revisor, reviewed the bill.

Eric Anderson appeared in support as a representative of the Kansas Judicial Probate Law Advisory Committee. Mr. Anderson stated the bill addressed inconsistencies among District Courts in Kansas in the interpretation of K.S.A. 59-618a. The proposed changes will preserve a record of the wishes of the testator which is a concept the courts strive to preserve. The ability to preserve the will, in case any property is missed, is an extremely important "insurance policy" to preserve the intent of the testator. The proposed changes will solve this problem without any adverse consequences. (Attachment 8)

There being no further conferees, the hearing on **HB 2456** was closed.

The Chairman opened the hearing on **HB 2468 - Requiring offenders guilty of attempt, conspiracy or solicitation to commit any crime requiring offender registration for life to register as an offender.** Jason Thompson, staff revisor, reviewed the bill.

Marc Bennett appeared in support stating the proposed legislation addresses the omission of attempts, conspiracies and solicitations of certain crimes enumerated in a list of aggravated crimes requiring lifetime registration upon conviction. This bill appropriately corrects inconsistencies in the Sexual Offender Registration Act. (Attachment 9)

The next meeting is scheduled for March 6, 2010.

The meeting was adjourned at 10:30 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 5, 2010

NAME	REPRESENTING
Lance Kinzer	House Dist 14
Richard Samaniego	KCDAA

Senate Confirmation Information Summary
Prepared and Submitted by the Office of Governor Mark Parkinson

Appointee: Patricia Ann Biggs

Position: Member, Kansas Parole Board

Term Length: Four years

Expiration Date: January 15, 2014

Statutory Authority: K.S.A. 22-3707

Party Affiliation: Republican

⇒ Statutory geographic representation:

Congressional District:

⇒ Requirements *(insert any that apply)*

County:

Size requirement *(if any)*:

Other, specify:

⇒ Statutory party affiliation requirement:

Not more than two members of the board shall be members of the same political party.

⇒ Statutory industry or occupation

Salary:

Predecessor: Herself - Reappointed

Board Composition Prior to Confirmation of New Appointee:
(SEE ATTACHED LIST)

Senate Judiciary

3-5-10

Attachment 1

Kansas Parole Board

Gov Appts: 3

Term Length: Four Years

Contact: Robert Sanders, Chair

Total Appts: 3

Notes: Governor designates the Chair and Vice-Chair

LSOB, Rm 452-S
900 Jackson
Topeka, KS 66612-1220
785/296-3469

Statute: KSA 22-3707

Confirmation:

Gov Appt Counts Male/Female 1st--2nd--3rd--4th R/D/U Board Active

Party Ratio: 2:1

Term Limit:

Reg Board

2:1 0:2:0:1 1:2:0

** Member fully assumed duties but awaits confirmation by the Full Senate

	<u>County</u>	<u>Affiliation</u>	<u>CD</u>	<u>H</u>	<u>S</u>	<u>Appointment Date</u>	<u>Expiration Date</u>	<u>Reapt</u>
Biggs, Ms. Patricia A. 1302 NW 52nd Terr Topeka, KS 66618 patriciab@kpb.ks.gov	Shawnee	R	2	50h	18s	9/12/2006	1/15/2010	<input checked="" type="checkbox"/>

Position: a member
Succeeds: Marilyn Scafe

Appointed By: Governor

Nominations:

Statutory Remarks:

Seat #: 001

Feleciano, Mr. Paul
815 Barbara Street
Wichita, KS 67217
nrp@sbcglobal.net

Sedgwick	D	4	96h	28s	9/17/2003	1/15/2007	<input checked="" type="checkbox"/>
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Position: a member
Succeeds: Carl Cushinberry

Appointed By: Governor

Nominations:

Statutory Remarks:

Seat #: 003

Sanders, Mr. Robert
4326 SE Oakwood St.
Topeka, KS 66609
roberts@kpb.ks.gov or jcrs1973@aol.com

Shawnee	D	2	54h	20s	9/23/2004	1/15/2008	<input checked="" type="checkbox"/>
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Position: a member and Chair
Succeeds: Larry D. Woodward

Appointed By: Governor

Nominations:

Statutory Remarks:

Seat #: 002

1-2

Patricia Ann Biggs

Topeka, Kansas 785 221 2130

EDUCATION

Doctor of Philosophy-ABD (*all but dissertation*) Business Administration – Marketing
The University of Connecticut, Storrs, Connecticut
Master of Arts, Economics
George Mason University, Fairfax, Virginia
Bachelor of Science, Economics & Business Administration
West Chester University of Pennsylvania, West Chester, Pennsylvania

EMPLOYMENT

Member, Kansas Parole Board

State of Kansas, Kansas Parole Board, Topeka, Kansas September 2006-present
Member of Kansas' paroling authority; assess criminogenic risk through file review and motivational interviews yielding decisions regarding release from prison; Conduct final violation and revocation hearings, consistent with Constitutionally derived due process, for offenders in alleged violation of community behavioral conditions; perform other duties consistent with the Agency discharge of duties and obligations; Produce and provide legislative testimony; Active member of Association of Paroling Authorities International; Consult and Cooperate with National Institute of Corrections, Center for Effective Public Policy and others in advancing the field of paroling authorities.

Executive Director, Kansas Sentencing Commission

State of Kansas, Kansas Sentencing Commission, Topeka, Kansas August 2003-August 2006
Preparation and presentation of Adult Inmate Population Projections; Assess impact of proposed legislation on prison population Development of Juvenile Population Projections; Assess impact of proposed legislation on juvenile incarcerated population; Implementation, Operation, and Evaluation of 2003-SB 123 Alternative Sentencing Policy for Drug Offenders; Agency Operations and Oversight of staff who provide support to the Commission

Director of Research and Planning

Special Assistant to the Secretary of Corrections

Kansas Department of Corrections, Topeka, Kansas January 1996 – July 2003
Statistical Projections & Planning: in conjunction with the Kansas Sentencing Commission, develop and refine data required to project prison population and custody (Monte Carlo simulation methodology); Serve as liaison to the Sentencing Commission; Centrally involved in the Strategic Planning Initiative, departmental strategic direction and assessment of strategic achievements
Evaluative Analysis: Design, conduct, publish, and present evaluative analysis regarding offender program services; Design and conduct analysis in application for – and follow-up during – federal grant awards; Compile statistical data in response to legislative inquiries; Assess proposed legislation for impact on prison population; Consider impact of modifications to sentencing guidelines; Various ad-hoc analyses in compliance with Open Records requirements; Various ad hoc analyses for support of managerial decision-making, policy, and strategic direction
Project Management: Completed 40 hours Information Technology Project Manager training; direct the biennial Offender Programs Evaluation project; Key in establishing the random UA testing protocols project
Systems Analysis and Design: Collaborate with Information Technology staff in the design of data collection and reporting protocols; Solicit end-user requirements to submit as parameters to computer programmers in the design of data collection through business processes; Assess impact of policy changes on the organization; With team, analyze present status of information system, identify requirements to enhance usability of systems, present findings; develop the conceptual parameters and create the department's initial data warehouse; Participate in team designing and refining data collection mechanism, definitions, and protocols for state's parole and community corrections supervised populations.
Supervise: Lead Department's Research and Quality Management sections; briefly supervised departmental training.

Adjunct Faculty, School of Business Administration

Washburn University and Friends University, Topeka, Kansas August 1995 – December 1997
Adjunct Professor of Economics, Marketing, Promotional Strategy, Advertising, Sales Communication and Public Relations

Adjunct Faculty and Doctoral Candidate, Department of Marketing, School of Business

The University of Connecticut, Storrs, Connecticut September 1990 – May 1995
Adjunct Faculty and Graduate Student; Instructor of Marketing Management, Consumer Behavior and Promotional Strategy; Conduct and publish independent research; Research Assistant to Faculty.

Economist: Law Firm (Anti-Trust)

Capital Economics, Howrey & Simon, Washington, DC August 1988 – August 1990
Perform research and analysis of economic issues for consulting subsidiary of a large Washington D.C. law firm specializing in anti-trust, merger and acquisition, and international trade cases for Fortune 500 clientele. Conduct research quantifying level of competition exhibited in various industries; Employ U.S. census and other government data to develop databases, analysis of same; Publish on-going statistical reports for trade associations.

CONSULTATIONS, PROJECTS AND PUBLICATIONS

U.S. Department of Justice, National Institute of Corrections Development Team for Parole Board Member Training	February 2009 - Present
The Center for Effective Public Policy Five Papers for Advancing the Field of Paroling Authorities - Reviewer	Fall 2008 - Present
Association for Paroling Authorities International Development Team for Improved Business Operations and Organizational Growth	Spring 2009
US Department of Justice, National Institute of Corrections Video Training Series <i>Better Corrections through Information</i>	March 2000
US Department of Justice, National Institute of Corrections Instructor, Evaluation and Accountability Strategies in Correctional Programs	1997 - 1999
Harvard Business School - Product Line and Consumer Perception Analysis: ZMET Analysis Gerald Zaltman, Ph.D., Project Director	1993 - 1995
"The Impact of Temporal Orientation on Higher Order Choices: A Phenomenological Investigation" in <i>Advances in Consumer Research</i> , Volume 22, Association for Consumer Research.	1995
"Consumer Spending Patterns: Dimensions and Dichotomies" with Susan Spiggle in <i>Advances in Consumer Research</i> , Volume 21, Association for Consumer Research.	1994
Promotional Campaign Evaluation, Susan Spiggle, Ph.D., Project Director	1994

PRESENTATIONS, EVENTS AND AWARDS

- National Association of Sentencing Commissions - Conference Presenter 2001
- American Parole and Probation Association - Winter Training Institute Presenter 2001 & 2000
- Kansas Correctional Association - Fall Training Conference - Annual Presenter 1998 - 2003
- Ad Astra, Kansas Department of Corrections Quality Management Award
- YWCA's Leadership Luncheon Honoree

ORGANIZATIONAL MEMBERSHIPS

- Association of Paroling Authorities, International
- American Probation and Parole Association
- American Correctional Association
- Kansas Correctional Association
- National Association of Sentencing Commissions
- Justice Research and Statistics Association

TECHNICAL SKILLS ~ COMPUTER PROFICIENCIES AND ANALYTIC SKILLS

Statistical Package Software Proficiencies

SPSS PC-based	SPSS Mainframe-based
SAS PC-based	SAS Mainframe-based

Statistical Methods

Multiple Regression	Canonical Correlation	Factor Analysis
ANOVA, MANOVA	ANCOVA, MANCOVA	Multidimensional Scaling
Conjoint Analysis	Lisrel (Simultaneous Equation Modeling)	Monte Carlo Simulation

Data Collection Techniques

Survey Design and Administration	Focus Groups	Personal Interviews - Including Motivational Interview Techniques
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**Kansas
Senate**

CONFIRMATION OVERSIGHT COMMITTEE

Acknowledgment of Release of Tax and Criminal Records Information Form

I, Patricia Ann Biggs acknowledge that as part of the
(print name)

Senate Confirmation Oversight Committee process I will:

- be subject to a criminal records background investigation by the Kansas Bureau of Investigation; and
- have my tax records released by the Kansas Department of Revenue.

Such information will not be released to the general public, but will be made available for review at the appropriate time by:

- Myself;
- My appointing authority;
- Chairperson of the Senate Confirmation Oversight Committee; and
- The Vice Chair of the Senate Confirmations Oversight Committee.

By signing the "Authorization and Certification" section (on page 8) of the Senate Confirmation Oversight Committee questionnaire, the Kansas Department of Revenue will be authorized to release my tax information and the Kansas Bureau of Investigation will be authorized to conduct a criminal background investigation on me and provide that information to the appropriate individuals.

Signature

Patricia Ann Biggs

Date

11-17-09

Form 08/08



**Kansas
Senate**
CONFIRMATION OVERSIGHT COMMITTEE
APPOINTMENT QUESTIONNAIRE

Full Name: Patricia Ann Biggs; Patti; Walsh
(please include title and middle name along with any names previously used)

Home Address: 1302 NW 52nd Terrace Topeka KS 66618
(Street Address) (City, State, Zip)

Driver's License Number: 1 Social Security Number: [REDACTED]

Position to which Appointed: Member, Kansas Parole Board

Appointing Authority: Governor Parkinson

* Information on this page will not be made public but is used by the KBI and Department of Revenue.

(for Committee use only)		
KBI Check: N/A	In-Process	Complete
DOR Check: N/A	In-Process	Complete

This Questionnaire is to be fully completed by each appointee appearing before the Senate Confirmation Oversight Committee (Committee) and returned to the Committee Chairman's Office. A meeting of the Committee to consider an appointee will not be scheduled until a completed questionnaire and other forms are received by the Chairman. Please answer each question completely to the best of your knowledge. Should a question not be applicable, please so state. Hand-written responses are strongly discouraged. If filling out this form electronically, "☐" should be replaced with "X" by the appropriate response on the form. Please contact your appointing authority if you have questions when completing the form.

Full Name: Patricia Ann Biggs; Patti; Walsh
(please include title and middle name along with any names previously used)

Position to which Appointed: Member, Kansas Parole Board

Appointing Authority: Governor Parkinson

Home Address: PO Box 8790 Topeka KS 66608
(Street Address) (City, State, Zip)

Business Name: Kansas Parole Board

Business Address: 900 SW Jackson St. #452-S Topeka KS 66612
(Street Address) (City, State, Zip)

Position Title: Member, Kansas Parole Board

Home Phone: 785-221-2130 Business Phone: 785-368-7252 Cell Phone: 785-221-2130

Fax Number: 785-296-7949 E-Mail Address: patriciab@kpb.ks.gov

Kansas resident? Yes / No Date of Birth: 10/09/63 Place of Birth: Scranton, PA

Registered Voter? Yes Party Affiliation: Republican

Congressional District: 2nd Kansas Senate District: 18th Kansas Representative District: 50th

Do you have the legal right to live and work in the United States? Yes / No

Please answer the following questions numbered 1 – 43. Each question **MUST BE ANSWERED ON THIS ORIGINAL FORM.** If the answers the question are provided on your resume, please state "See Resume" or if you supply additional attachment(s) with answers, please state "See Attachment(s)" on this form.

1. What is your educational background?
ABD/PhD The University of Connecticut - Business Administration
Master of Arts George Mason University - Economics
Bachelor of Science West Chester University of Pennsylvania-Econ & Busin.Admin.
2. Describe your employment experience. Include any expertise related to the position to which you were appointed.
Please "See Resume"

3. List any professional licenses that you have obtained and include the number for each license.
none

4. Why do you feel you are a good candidate for the position to which you have been appointed?
Demonstrated ability to make evidence-based decisions, expertise in multi-disciplinary approach to criminogenic assessment, evaluation, and need; national and international involvement in the field of paroling authorities.

5. What do you see as the purpose or mission of the role to which you have been appointed?
Pursuant to K.S.A. 22-3717 and in conjunction with this agency's mission: to determine offender parole suitability where revictimization is minimized and offender rehabilitation and successful reentry are maximized and, when offender's demonstrated risk in the community is increasing to rescind community liberty.

6. **Military Service:** List rank, date and type of discharge from active service.

None No Military Service

7. **Government Experience:** List any experience or association with local, state or federal government (exclusive of elective public office but including advisory, consulting, honorary, appointed or other part-time service or positions) and include dates of service.

None Please "See Resume"

8. **Elective Public Office:** List all elective public offices sought and/or held with dates of service.

None No Elective Public Office

9. **Campaigns:** Have you ever played a role or held a position in a political campaign? If so, please identify the candidate(s), the dates of the campaign and describe your involvement.

No Yes Have never played a role in a political campaign (exclusive of yard signs)
Have never held a position in a political campaign

10. **Honors and Awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships and any other special recognition for outstanding service or achievements.
YWCA Leadership Luncheon Honoree; KS Dept. Corrections' Ad Astra (quality improvement) Award;
None Scholarship -Scranton Women Teachers; Scholarship - Dale Carnegie; Dioceses of Scranton Knights of Columbus Essay Award

11. **Organization Affiliations:** List all civic, cultural, educational, charitable, or work-related organizations that you have been associated with in the past ten years. Include any position held in the organization and the dates of service.

None Please see Resume Attachment

12. **Organization Restrictions:** To your knowledge, is any organization listed above restricted on the basis of race, color, religion, sex, national origin, disability, marital status or veteran status? If so, please describe.

No Yes

13. **Issues:** Have you ever been publicly identified, in person or by organizational membership, with a particularly controversial national or local issue? If so, please describe.

No Yes

14. **Submission of Views:** Have you ever submitted oral or written views to any governmental authority, whether executive or legislative, or to the news media on any particularly controversial issue other than in an official governmental capacity? If so, please describe.

No Yes

15. **Associations:** Have you ever had any association with any person, group or business venture that could be used, even unfairly, to impugn or attack your character and qualifications for the position to which you seek to be appointed? If so, please describe.

No Yes

16. **Opposition:** Do you know of any person or group who might take overt or covert steps to attack, even unfairly, your appointment? If so, please identify and explain the basis for the potential attack.
 No Yes There exists potential for a small but vocal cohort of offenders who desire release to take such steps; my perception of the basis of such potential attack is that there is an impression that I am married to a former prosecutor (untrue); this cohort of offenders has been very prolific in letter writing campaigns which include opposition to the entire parole board & its members.
17. **Miscellaneous:** List any factors, other than the information provided above, which particularly qualifies you or is relevant to the position to which you are seeking appointment? Include any special skills.
 None Employed by the Department of Corrections 7.5 years in administrative positions where the application of academic knowledge in corrections was critical; three years' experience at the KS Sentencing Commission gaining a firm foundation in KS' sentencing practices; three years' experience on the Kansas Parole Board; experience with the National Institute of Corrections, Assoc. of Paroling Authorities Internat'l, Center for Effective Public Policy & others.
18. **Relationship to Governmental Employees:** Are you or your spouse or other close family members related to any state governmental official or employee? If so, please provide details.
 No Yes
19. **Compensation:** During the past five years, have you or your spouse or other close family members received any compensation or been involved in any financial transaction with the State of Kansas? If so, please explain.
 No Yes I have been employed by the State of Kansas for more than the past five years and, as such, have been compensated for my work.
20. **Business Relationships:** Describe any business relationship, dealing or financial transaction which you have had during the last five years, whether for yourself, on behalf of a client or acting as an agent, which you believe may constitute an appearance of impropriety or result in a potential conflict of interest in the position to which you want to be appointed. If none, please so state.
 None
21. **Transactions with Officials:** During the past five years, have you or your spouse or other close family members received any compensation or been involved in any financial transaction with any state government official? If so, please explain.
 No Yes
22. **Spouse or Other Family Members:** If the nature of employment for your spouse or other close family member is related in any way to the position to which you have been appointed, please indicate the employer, the position and the length of time it has been held. If not, please so state.
 No Yes My husband is a Police Detective with the Topeka Police Department. He has been employed by the Topeka Police Department since 1994.
23. **Lobbying Activities:** Describe any lobbying activity during the past ten years in which you and/or your spouse have engaged for the purpose of influencing the passage, defeat or modification of any legislative or administrative action. Lobbying activity includes any activity performed as an individual or agent of another individual, or of any organization that involves direct communication with an official in the executive branch of state government or any official of the legislative branch. If none, please so state.
 None No Lobbying; testimony has been presented regarding bills heard during legislative session that directly were related to my performance of my employment both in the capacity of Executive Director of Kansas Sentencing Commission and as a Member of the Kansas Parole Board.
24. **Regulated Activities:** Describe any interest that you, your spouse or other close family member may have (whether as an officer, owner, director, trustee, or partner) in any corporation, firm, partnership or other business enterprise and any non-profit organization or other institution that is regulated by or receives direct financial benefits from any department or agency of the State of Kansas. If none, please so state.
 None

25. **Other:** Please describe any other matter in which you are involved that is or may be incompatible or in conflict with the discharge of the duties of the position to which you have been appointed or which may impair or tend to impair your independence of judgment or action in the performance of the duties of that position. If none, please so state.
None
26. **Conflict of Interest:** How would you resolve any potential conflicts of interest that, while maybe unforeseen at this point in time, could arise?
 In the event of conflict of interest, or in the event of any situation which could be perceived as a conflict of interest, I recuse myself from the deliberation and decision making process.
27. **Citations:** Have you ever been cited for a breach of ethics for unprofessional conduct, or been named in a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please provide details.
No Yes As a member of the Kansas Parole Board, I have been named in a substantial number of court proceedings related to job function. As the Executive Director of the Kansas Sentencing Commission, I was named in one personnel complaint (which was alleged to have occurred prior to my employ in that position).
28. **Convictions:** Have you ever been convicted of or entered a plea of guilty or nolo contendere or forfeited collateral for any criminal violation other than a traffic infraction? (Please include any offenses of driving under the influence, operating while impaired, reckless driving, or the equivalent offenses in other states.) If so, please explain.
No Yes
29. **U.S. Military Convictions:** Have you ever been convicted by any military court? If so, please provide details.
No Yes
30. **Imprisonment:** Have you ever been imprisoned, been on probation or been on parole? If so, please provide details.
No Yes
31. **Agency Proceedings/Civil Litigation:** Are you presently, or have you ever been, a party in interest in any administrative agency proceeding or civil litigation that is related in any way to the position to which you are seeking appointment? If so, please provide details.
No Yes
32. **Agency Proceedings and Civil Litigation of Affiliates and Family:** a.) Is your spouse or other close family member currently, or ever been, a party in interest in any administrative agency proceeding or civil litigation that is related in any way to the position to which you are seeking appointment? If so, please provide details.
No Yes
- b.) Has any business in which you, your spouse, close family member or business associate are or were an officer, director or partner been a party to any administrative agency proceeding or civil litigation relevant to the position to which you are seeking appointment? If so, please provide details. (With respect to this question, you need only consider proceedings and litigation that occurred while you, your spouse, close family member, or business associate were an officer of that business.)
No Yes

33. **Other Litigation:** a.) Other than the litigation described in question 32, have you or any business in which you are or were an officer, director, or partner been a plaintiff or a defendant in a civil lawsuit? If so, please describe.
 No Yes
- b.) Are you aware of any pending or anticipated litigation against you or any business in which you are an officer, director, or partner? If so, please describe.
 No Yes
34. **Drivers License:** Has your driver's license ever been suspended or revoked? If so, please describe.
 No Yes
35. **Parking Tickets:** Do you have outstanding parking tickets from any jurisdiction that have remained unpaid for more than 60 days? If so, please explain.
 No Yes
36. **Security Clearance Denial:** Have you ever been denied a military or other governmental clearance? If so, please explain.
 No Yes
37. **Firings:** a.) During the past ten years, have you been fired from a job for any reason? If so, please explain.
 No Yes
- b.) During the past ten years, have you quit a job after being told that you would be fired? If so, please explain.
 No Yes
- c.) During the past ten years, did you leave a job by mutual agreement because of specific problems? If so, please explain.
 No Yes
38. **Alimony and Child Support:** Are you now, or have you ever been, delinquent in the payment of alimony or child support? If so, please explain.
 No Yes
39. **Consumption of Alcohol:** Have you ever or are you currently abusing alcohol? If so, please explain.
 No Yes
40. **Controlled Substances:** Have you ever or are you currently engaged in the illegal use of a controlled substance or abusing the use of a prescribed controlled substance? If so, please explain.
 No Yes
41. **Physical Examination:** If you receive a conditional offer of appointment or employment, would you be willing to take a physical examination, which may include a drug test?
 No Yes

42. **Governmental Delinquencies:** Are you delinquent in the payment of any obligation owed to the federal or state government or any political or taxing subdivision or any instrumentality thereof? (Include delinquencies in the payment of: Income, property, or other taxes; exactions, fees or special assessments; loans, including any defaults, on or under loans which are or were made by, guaranteed, insured or subsidized by any unit of government or instrumentality thereof; overpayment of benefits; required payments into or under governmental programs; payments under a diversion arrangement or other repayment schedule.) If applicable, please state whether such delinquency is under formal appeal.
 No Yes

43. **Other:** Please provide any additional information, favorable or unfavorable, which you feel should be considered in connection with your appointment. If none, please so state.
 None

Please include resume and completed Statement of Substantial Interest not more than twelve months old.

REFERENCES

Name: Father Bill Bruning Knows you how?: Pastor

Address: 4609 NW Kendall Dr. Topeka KS 66618
(City, State, Zip)

Home Phone: 785-283-2113 Business Phone: 785-286-2188

Name: Steve & Janice Purney Knows you how?: Family Friends

Address: 2636 SE Croco Topeka KS 66605
(City, State, Zip)

Home Phone: 785-224-1785 Business Phone: 785-368-9495

Name: Mike & Martha Burge Knows you how?: Family Friends

Address: 3212 SE 28th Ter Topeka KS 66605
(City, State, Zip)

Home Phone: 913-515-8699 Business Phone: 785-969-1952

Name: Brad & Jennifer Stallbuamer Knows you how?: Family Friends

Address: 4222 NW Walnut Topeka KS 66618
(City, State, Zip)

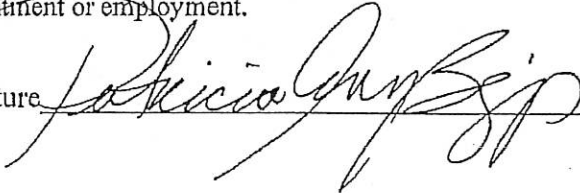
Home Phone: 785-286-3088 Business Phone: 785-438-4220

AUTHORIZATION AND CERTIFICATION:

The facts set forth in my application are true and complete. False statements, answers, or omissions on this application shall be sufficient cause for nonconsideration or for dismissal after appointment or employment. I also recognize that my selection is based on receipt of satisfactory information from former employers and references, and upon my ability to perform the essential elements, with or without reasonable accommodations, for the position for which I am applying. I herein authorize investigation, without liability, of the information supplied by me in this application for employment or appointment including academic, occupational, health, law enforcement, and government records. I also authorize listed employers and references, without liability, to make full response to any inquiries in connection with this application for appointment or employment. I understand and agree that the terms, conditions, compensation, benefits, hours, schedule, and duration of my appointment or employment may be determined, changed, or modified from time to time at the will of the appointing authority or designee without limitation or condition. I FURTHER CERTIFY THAT I HAVE READ THE FOREGOING PARAGRAPH AND KNOWINGLY MAKE THIS AUTHORIZATION BY SETTING FORTH MY SIGNATURE.

I understand that if I am required to be registered, licensed, or certified by federal or state law or regulation for the position I seek, I will notify the appointing authority immediately if any investigation, limitation, or cancellation of my registration, licensure, or certification occurs. If any investigation, probation, limitation, or cancellation occurs, I understand that my failure to notify my appointing authority as described above will result in the termination of my appointment or employment.

Signature



Date

11-17-09

1-13

STATE OF KANSAS



KANSAS GOVERNMENTAL ETHICS COMMISSION

ELECTRONIC STATEMENT OF SUBSTANTIAL INTERESTS FORM

INSTRUCTIONS: This statement must be completed by individuals who are required to do so by law. Any individual who intentionally fails to file as required by law, or intentionally files a false statement, is subject to prosecution for a class B misdemeanor.

Please read the "Guide" and "Definition" section provided with this form for additional assistance in completing sections "C" through "G". If you have questions or wish assistance, please contact the Commission office at 109 West 9th, Topeka, KS or call 785-296-4219.

A. IDENTIFICATION:

Biggs
Last Name

Patricia
First Name

A
MI

G. Kent Biggs
Spouse's Name

PO Box 8790
Number & Street Name, Apartment Number, Rural Route, or P.O. Box Number
Topeka, KS 66608
City, State, Zip Code

Home Phone Number

(785) 368-7252
Business Phone Number

B. THIS FORM IS REQUIRED TO BE FILED BECAUSE YOU ARE:

(check one or more of the following)

- 1. State Elected Official (Governor, Lt. Governor, Attorney General, Commissioner of Insurance, State Treasurer, Secretary of State, State Senator, State Representative, Member of State Board of Education or District Attorney);
- 2. Appointed Member of a State Board, Council, Commission or Authority;
- 3. Appointed State Position is Subject to Senate Confirmation;
- 4. Employee of a State Agency or University;
- 5. General Counsel for a State Agency;
- 6. Candidate for State Office.
- 7. Other (Contractor / Member of Compact)

Kansas Parole Board

List the Name of Agency, Board, University or Elected Position (You may use abbreviations but not acronyms)

Member, Kansas Parole Board

Division if applicable (May use acronyms)

Position

* The last four digits of your social security number will aid in identifying you from others with the same name on the computer list. This information is optional. *

□ □ □ □

1-14

C. OWNERSHIP INTERESTS: List any corporation, partnership, proprietorship, trust, joint venture and every other business including land used for income, and specific stocks, mutual funds or retirement accounts in which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "C", check here

BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	PERCENT OF OWNERSHIP INTERESTS	HELD BY WHOM
1. ING 457 Gov't Retirement Deferred Comp 8th Street, Topeka KS 66603	457 Gov't Retirement, Deferred Comp.	Mutual Funds from list authorized through KPERS	0%	self
2. ING 457 Gov't Retirement Deferred Comp 8th Street, Topeka KS 66603	457 Gov't Retirement, Deferred Comp.	Mutual Funds from list authorized through KPERS	0%	spouse
3. AT & T Inc Delaware	Stock	Stock	0%	self
4. TOPEKA KANS PUB BLDG COMMN REVREF REV BDS 2007A Topeka KS	Municipal Bond	Municipal Bond	0%	both

D. GIFTS OR HONORARIA: List any person or business from whom you or your spouse either individually or collectively, have received gift or honoraria having an aggregate value of \$500 or more in the preceding 12 months.

If you have nothing to report in Section "D", check here

NAME OF PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY
1.		

E. RECEIPT OF COMPENSATION: (Part 1) List all places of employment in the last calendar year, and any other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered, or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR. IF SAME AS SECTION "B", CHECK HERE

If you have nothing to report in Section "E"1, check here

NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1. Kansas Parole Board, State of Kansas	900 SW Jackson St. Suite 452S, Topeka KS 66612	State Government

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.

If you have nothing to report in Section "E"2, check here

NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1. Topeka Police Department, City of Topeka	320 S Kansas Ave, Topeka KS 66603	City Government, Police Department

F. OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS: List any organization or business in which you or your spouse hold a position of officer, director, associate, partner or proprietor at the time of filing, irrespective of the amount of compensation received for holding such position. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "F", check here

1-15

BUSINESS NAME AND ADDRESS		POSITION HELD	RECEIVED BY WHOM
1.	North Pointe Ridge Home Owners Assn. PO Box 8704 Topeka KS 66608	Board Member	spouse

G. RECEIPT OF FEES AND COMMISSIONS: List each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "G", check here

NAME OF CLIENT / CUSTOMER		ADDRESS	RECEIVED BY
1.			

H. DECLARATION: I declare that this statement of substantial interests (including any accompanying pages and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

Date Electronically Filed: 04/29/2009
 Name of Person Making Statement: Patricia Ann Biggs

1-16

Senate Confirmation Information Summary
Prepared and Submitted by the Office of Governor Mark Parkinson

Appointee: Lawrence P. Daniels

Position: Member, State Board of Indigent Services

Term Length: Three years

Expiration Date: March 15, 2012

Statutory Authority: KSA 22-4519

Party Affiliation: Democrat

⇒ Statutory geographic representation

Congressional District: 1st Congressional District Attorney

Requirements (*insert any that apply*)

County:

Size requirement (*if any*):

Other, specify:

⇒ Statutory party affiliation requirement:

5:4

⇒ Statutory industry or occupation requirements:

Two members from each Congressional District – one attorney and one public member who cannot be an attorney. One attorney member from each county > 100,000; however, no more than five such members. No judicial/law enforcement officers. Limit of two consecutive three year terms.

Salary: NA

Predecessor: Himself - Reappointed

Board Composition Prior to Confirmation of New Appointee:

(SEE ATTACHED LIST)

Senate Judiciary

3-5-10

Attachment 2

State Board of Indigents' Defense Services

2-2

Gov Appts: 9
Total Appts: 9

Term Length: Three Years
Notes: At least one member from each Congressional District. One attorney member from each county > 100,000; but not more than five of such members. One attorney member for the 1st Congressional District. Four public members; one for each Congressional District. Limit of two consecutive 3 year terms

Contact: Pat Scalia, Executive Director
714 SW Jackson, Suite 200
Topeka, KS 66603-3714
785/296-4505

Statute: KSA 22-4519 et seq.

Party Ratio: 5:4

Term Limit:

Confirmation:

Gov Appt Counts Male/Female

1st-2nd-3rd-4th

R/D/U

Board Active

Reg Board

6:2

2:1:3:2

3:5:0

** Member fully assumed duties but awaits confirmation by the Full Senate

	<u>County</u>	<u>Affiliation</u>	<u>CD</u>	<u>H</u>	<u>S</u>	<u>Appointment Date</u>	<u>Expiration Date</u>	<u>Reapt</u>
Daniels, Mr. Lawrence P. 1501 Avenue A Dodge City, KS 67801 danlun00@yahoo.com	Ford	D	1	119h	38s	6/18/2008	1/15/2009	<input type="checkbox"/>
Graham, Ms. Ruth E. 3010 Lydia Topeka, KS 66614	Shawnee	R	2	52h	20s	3/20/2002	1/15/2005	<input type="checkbox"/>

Position: a member

Succeeds: himself -- reappointment

Appointed By: Governor

Nominations:

Statutory Remarks: 1st CD Attorney Member

Seat #: 006

Position: a member

Succeeds: herself -- reappointed

Appointed By: Governor

Nominations:

Statutory Remarks: Attorney representing county w/population exceeding 100,000 (Shawnee)

Seat #: 003

2-3

	<u>County</u>	<u>Affiliation</u>	<u>CD</u>	<u>H</u>	<u>S</u>	<u>Appointment Date</u>	<u>Expiration Date</u>	<u>Reapt</u>
Herndon, Mr. David L. President, First State Bank □ 650 Kansas Avenue Kansas City, KS 66105	Wyandotte	R	3	18h	10s	3/20/2002	1/15/2005	<input type="checkbox"/>

Resign Note:

Position: a member
Succeeds: himself -- reappointed
Appointed By: Governor
Nominations:
Statutory Remarks: Public Member - 3rd CD
Seat #: 004

Holliday, Mr. Roy 25900 W. 127th Street Olathe, KS 66061-9213	Johnson	D	3	15h	9s	4/10/2002	1/15/2005	<input type="checkbox"/>
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Position: a member
Succeeds: Bruce Beye
Appointed By: Governor
Nominations:
Statutory Remarks: Attorney representing county w/population exceeding 100,000 (Johnson)
Seat #: 001

Terrell, Dr. Nathaniel E. 2025 Schaeffer Way Emporia, KS 66801 terrelln@esumail.emporia.edu	Lyon	D	1	60h	17s	11/9/2004	1/15/2007	<input type="checkbox"/>
--	------	---	---	-----	-----	-----------	-----------	--------------------------

Position: a member
Succeeds: himself -- reappointed
Appointed By: Governor
Nominations:
Statutory Remarks: Public Member - 1st CD
Seat #: 007

Tomasic, Ms. Denise E. 3228 North 110th Street Kansas City, KS 66109	Wyandotte	D	3	36h	5s	5/2/2003	1/15/2006	<input type="checkbox"/>
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Position: a member
Succeeds: herself -- reappointed
Appointed By: Governor
Nominations:
Statutory Remarks: Attorney representing county w/population exceeding 100,000 (Wyandotte)
Seat #: 005

Vacant, Position

<u>County</u>	<u>Affiliation</u>	<u>CD</u>	<u>H</u>	<u>S</u>	<u>Appointment Date</u>	<u>Expiration Date</u>	<u>Reapt</u>
		0					<input type="checkbox"/>

2-4

Position: Public member; county > 100,000; or Attorney member

Succeeds:

Appointed By:

Nominations:

Statutory Remarks: Public Member - 2nd CD

Seat #:

Wachtel, IV, Mr. John V
 12741 Bradford Cr.
 Wichita, KS 67206
 jvwachtel@kmazlaw.com

Sedgwick	D	4	87h	30s	11/9/2004	1/15/2007	<input type="checkbox"/>
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Position: a member

Succeeds: Lynn Ward

Appointed By: Governor

Nominations:

Statutory Remarks: Attorney representing county w/population exceeding 100,000 (Sedgwick)

Seat #: 009

Weber, Mr. John R.
 10514 W. Millpond
 Wichita, KS 67212
 jweber@weber-corp.com

Sedgwick	R	4	94h	27s	12/17/2008	1/15/2010	<input type="checkbox"/>
----------	---	---	-----	-----	------------	-----------	--------------------------

Position: a member

Succeeds: Mary Rubeck

Appointed By: Governor

Nominations:

Statutory Remarks: Public Member - 4th CD

Seat #:

LAWRENCE P. DANIELS

EDUCATION

Bachelor of Arts, Pittsburg State University, Pittsburg, Kansas, 1965,
Major – Economics

Juris Doctor, George Washington University, Washington D.C., 1972

PROFESSIONAL EXPERIENCE

Partner, LUNDIN & DANIELS, Dodge City, Kansas 2005 to present

Partner, LUNDIN, DANIELS & KNAPP, Dodge City, Kansas, 2003-
2005

Partner, LUNDIN & DANIELS, Dodge City, Kansas, 1993 to 2003

Managing Attorney, Kansas Rural legal Services, Garden City, Kansas,
1984-1992

Supervising Attorney, Southwest Kansas Senior Citizens Law Project,
Garden City, Kansas, 1984-1992

Assistant County Attorney, Crawford County, Kansas, 1982-1984

Partner, Grotheer, Grotheer, & Daniels, Pittsburg, Kansas 1974-1979

Economist, Postal Rate Division, U.S. Postal Service, 1969-1974

Management Intern, U.S. Postal Service, 1965-1966

PROFESSIONAL MEMBERSHIPS

Kansas Bar Association

Ford/Gray County Bar Association

Admitted to practice law before the Supreme Court of Kansas, the
U.S. District Court for the District of Kansas, and the U.S. Circuit
Court of Appeals for the Tenth Circuit



CONFIRMATION OVERSIGHT COMMITTEE

Acknowledgment of Release of Tax and Criminal Records Information Form

I, Lawrence P. Daniels acknowledge that as part of the
(print name)

Senate Confirmation Oversight Committee process I will:

- be subject to a criminal records background investigation by the Kansas Bureau of Investigation; and
- have my tax records released by the Kansas Department of Revenue.

Such information will not be released to the general public, but will be made available for review at the appropriate time by:

- Myself;
- My appointing authority;
- Chairperson of the Senate Confirmation Oversight Committee; and
- The Vice Chair of the Senate Confirmations Oversight Committee.

By signing the "Authorization and Certification" section (on page 8) of the Senate Confirmation Oversight Committee questionnaire, the Kansas Department of Revenue will be authorized to release my tax information and the Kansas Bureau of Investigation will be authorized to conduct a criminal background investigation on me and provide that information to the appropriate individuals.

Signature

Handwritten signature of Lawrence P. Daniels.

Date

1-5-10



Kansas Senate

CONFIRMATION OVERSIGHT COMMITTEE APPOINTMENT QUESTIONNAIRE

Full Name: Lawrence Phillip Daniels a/k/a Larry Daniels
(please include title and middle name along with any names previously used)

Home Address: 1501 Avenue A, Dodge City, KS 67801
(Street Address) (City, State, Zip)

Driver's License Number: [REDACTED] Social Security Number: [REDACTED]

Position to which Appointed: Board Member, Board of Indigents' Defense Services

Appointing Authority: Governor of the State of Kansas

* Information on this page will not be made public but is used by the KBI and Department of Revenue.

(for Committee use only)

KBI Check: N/A ___ In-Process ___ Complete ___

DOR Check: N/A ___ In-Process ___ Complete ___

This Questionnaire is to be fully completed by each appointee appearing before the Senate Confirmation Oversight Committee (Committee) and returned to the Committee Chairman's Office. A meeting of the Committee to consider an appointee will not be scheduled until a completed questionnaire and other forms are received by the Chairman. Please answer each question completely to the best of your knowledge. Should a question not be applicable, please so state. Hand-written responses are strongly discouraged. If filling out this form electronically, "□" should be replaced with "X" by the appropriate response on the form. Please contact your appointing authority if you have questions when completing the form.

Full Name: Lawrence Phillips Daniels a/k/a Larry Daniels

(please include title and middle name along with any names previously used)

Position to which Appointed: Board Member, Board of Indigents' Defense Services

Appointing Authority: Governor of the State of Kansas

Home Address: 1501 Avenue A, Dodge City, KS 67801
(Street Address) (City, State, Zip)

Business Name: Lundin & Daniels

Business Address: 209 West Spruce, Dodge City, KS 67801
(Street Address) (City, State, Zip)

Position Title: Partner

Home Phone: 620-225-1488 Business Phone: 620-227-7411 Cell Phone: 620-255-4301

Fax Number: 620-227-0701 E-Mail Address: danlun00@yahoo.com

Kansas resident? Yes / No Date of Birth: 10-14-43 Place of Birth: Joplin, MO

Registered Voter? Yes Party Affiliation: Democtatic

Congressional District: 1st Kansas Senate District: 38th Kansas Representative District: 119th

Do you have the legal right to live and work in the United States? Yes / No

Please answer the following questions numbered 1 – 43. Each question **MUST BE ANSWERED ON THIS ORIGINAL FORM.** If the answers the question are provided on your resume, please state "See Resume" or if you supply additional attachment(s) with answers, please state "See Attachment(s)" on this form.

1. What is your educational background? BA, 1965, Pittsburg State University, Pittsburg, KS;
JD, 1972, George Washington University, Washington, D.C.
2. Describe your employment experience. Include any expertise related to the position to which you were appointed.
Much of my work has been in the area of criminal defense.

3. List any professional licenses that you have obtained and include the number for each license.
Supreme Court #08691
4. Why do you feel you are a good candidate for the position to which you have been appointed?
I have a lot of work experience that is related to the Board's functions.
5. What do you see as the purpose or mission of the role to which you have been appointed?
To help the agency provide cost effective and professional legal services to indigent defendants
6. **Military Service:** List rank, date and type of discharge from active service.
 None U.S. Army; Specialist E5; Transfer to U.S. Army Reserves 01-25-68
Honorable discharge upon completion of time in inactive reserves on 02-13-72
7. **Government Experience:** List any experience or association with local, state or federal government (exclusive of elective public office but including advisory, consulting, honorary, appointed or other part-time service or positions) and include dates of service.
 None U.S. Postal Service 1965-1966, 1969-1974
8. **Elective Public Office:** List all elective public offices sought and/or held with dates of service.
 None Ran for County Attorney in Finney County, KS in 1992, Ran for State Senate, 38th District in 1996, Ran for County Attorney in Ford County, KS in 2008
9. **Campaigns:** Have you ever played a role or held a position in a political campaign? If so, please identify the candidate(s), the dates of the campaign and describe your involvement.
 No Yes I have worked at the local party level for the election of Democratic candidates much of my adult life.
10. **Honors and Awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships and any other special recognition for outstanding service or achievements.
 None
11. **Organization Affiliations:** List all civic, cultural, educational, charitable, or work-related organizations that you have been associated with in the past ten years. Include any position held in the organization and the dates of service.
 None Kansas Bar Association, Southwest Kansas Bar Association, Ford/Gray County Bar Association
12. **Organization Restrictions:** To your knowledge, is any organization listed above restricted on the basis of race, color, religion, sex, national origin, disability, marital status or veteran status? If so, please describe.
 No Yes
13. **Issues:** Have you ever been publicly identified, in person or by organizational membership, with a particularly controversial national or local issue? If so, please describe.
 No Yes
14. **Submission of Views:** Have you ever submitted oral or written views to any governmental authority, whether executive or legislative, or to the news media on any particularly controversial issue other than in an official governmental capacity? If so, please describe.
 No Yes
15. **Associations:** Have you ever had any association with any person, group or business venture that could be used, even unfairly, to impugn or attack your character and qualifications for the position to which you seek to be appointed? If so, please describe.
 No Yes

16. **Opposition:** Do you know of any person or group who might take overt or covert steps to attack, even unfairly, your appointment? If so, please identify and explain the basis for the potential attack.
 No Yes
17. **Miscellaneous:** List any factors, other than the information provided above, which particularly qualifies you or is relevant to the position to which you are seeking appointment? Include any special skills.
 None
18. **Relationship to Governmental Employees:** Are you or your spouse or other close family members related to any state governmental official or employee? If so, please provide details.
 No Yes Spouse-Barbara A. Lundin
 Unemployment Insurance Judge, Kansas Department of Labor
19. **Compensation:** During the past five years, have you or your spouse or other close family members received any compensation or been involved in any financial transaction with the State of Kansas? If so, please explain. Spouse is an employee of the State of Kansas and i receive
 No Yes compensation for Court appointed felony criminal cases and small
 compensation for being a BIDS board member.
20. **Business Relationships:** Describe any business relationship, dealing or financial transaction which you have had during the last five years, whether for yourself, on behalf of a client or acting as an agent, which you believe may constitute an appearance of impropriety or result in a potential conflict of interest in the position to which you want to be appointed. If none, please so state.
 None
21. **Transactions with Officials:** During the past five years, have you or your spouse or other close family members received any compensation or been involved in any financial transaction with any state government official? If so, please explain.
 No Yes
22. **Spouse or Other Family Members:** If the nature of employment for your spouse or other close family member is related in any way to the position to which you have been appointed, please indicate the employer, the position and the length of time it has been held. If not, please so state.
 No Yes
23. **Lobbying Activities:** Describe any lobbying activity during the past ten years in which you and/or your spouse have engaged for the purpose of influencing the passage, defeat or modification of any legislative or administrative action. Lobbying activity includes any activity performed as an individual or agent of another individual, or of any organization that involves direct communication with an official in the executive branch of state government or any official of the legislative branch. If none, please so state.
 None
24. **Regulated Activities:** Describe any interest that you, your spouse or other close family member may have (whether as an officer, owner, director, trustee, or partner) in any corporation, firm, partnership or other business enterprise and any non-profit organization or other institution that is regulated by or receives direct financial benefits from any department or agency of the State of Kansas. If none, please so state.
 None My law partnership receives compensation from the Board of Indigents' Defense
 Services for Court appointed felony work.

2-10

25. **Other:** Please describe any other matter in which you are involved that is or may be incompatible or in conflict with the discharge of the duties of the position to which you have been appointed or which may impair or tend to impair your independence of judgment or action in the performance of the duties of that position. If none, please so state.
None
26. **Conflict of Interest:** How would you resolve any potential conflicts of interest that, while maybe unforeseen at this point in time, could arise? I would recuse myself from consideration of the matter after full disclosure to the Board.
27. **Citations:** Have you ever been cited for a breach of ethics for unprofessional conduct, or been named in a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please provide details.
No Yes Over the years I have had 3 - 4 complaints filed against me with the disciplinary administrator. None resulted in disciplinary action.
28. **Convictions:** Have you ever been convicted of or entered a plea of guilty or nolo contendere or forfeited collateral for any criminal violation other than a traffic infraction? (Please include any offenses of driving under the influence, operating while impaired, reckless driving, or the equivalent offenses in other states.) If so, please explain.
No Yes
29. **U.S. Military Convictions:** Have you ever been convicted by any military court? If so, please provide details.
No Yes
30. **Imprisonment:** Have you ever been imprisoned, been on probation or been on parole? If so, please provide details.
No Yes
31. **Agency Proceedings/Civil Litigation:** Are you presently, or have you ever been, a party in interest in any administrative agency proceeding or civil litigation that is related in any way to the position to which you are seeking appointment? If so, please provide details.
No Yes
32. **Agency Proceedings and Civil Litigation of Affiliates and Family:** a.) Is your spouse or other close family member currently, or ever been, a party in interest in any administrative agency proceeding or civil litigation that is related in any way to the position to which you are seeking appointment? If so, please provide details.
No Yes
- b.) Has any business in which you, your spouse, close family member or business associate are or were an officer, director or partner been a party to any administrative agency proceeding or civil litigation relevant to the position to which you are seeking appointment? If so, please provide details. (With respect to this question, you need only consider proceedings and litigation that occurred while you, your spouse, close family member, or business associate were an officer of that business.)
No Yes

33. **Other Litigation:** a.) Other than the litigation described in question 32, have you or any business in which you are or were an officer, director, or partner been a plaintiff or a defendant in a civil lawsuit? If so, please describe.
 No Yes Two Divorces
 b.) Are you aware of any pending or anticipated litigation against you or any business in which you are an officer, director, or partner? If so, please describe.
 No Yes
34. **Drivers License:** Has your driver's license ever been suspended or revoked? If so, please describe.
 No Yes
35. **Parking Tickets:** Do you have outstanding parking tickets from any jurisdiction that have remained unpaid for more than 60 days? If so, please explain.
 No Yes
36. **Security Clearance Denial:** Have you ever been denied a military or other governmental clearance? If so, please explain.
 No Yes
37. **Firings:** a.) During the past ten years, have you been fired from a job for any reason? If so, please explain.
 No Yes
 b.) During the past ten years, have you quit a job after being told that you would be fired? If so, please explain.
 No Yes
 c.) During the past ten years, did you leave a job by mutual agreement because of specific problems? If so, please explain.
 No Yes
38. **Alimony and Child Support:** Are you now, or have you ever been, delinquent in the payment of alimony or child support? If so, please explain
 No Yes
39. **Consumption of Alcohol:** Have you ever or are you currently abusing alcohol? If so, please explain.
 No Yes
40. **Controlled Substances:** Have you ever or are you currently engaged in the illegal use of a controlled substance or abusing the use of a prescribed controlled substance? If so, please explain.
 No Yes
41. **Physical Examination:** If you receive a conditional offer of appointment or employment, would you be willing to take a physical examination, which may include a drug test?
 No Yes

42. **Governmental Delinquencies:** Are you delinquent in the payment of any obligation owed to the federal or state government or any political or taxing subdivision or any instrumentality thereof? (Include delinquencies in the payment of: Income, property, or other taxes; exactions, fees or special assessments; loans, including any defaults, on or under loans which are or were made by, guaranteed, insured or subsidized by any unit of government or instrumentality thereof; overpayment of benefits; required payments into or under governmental programs; payments under a diversion arrangement or other repayment schedule.) If applicable, please state whether such delinquency is under formal appeal.

No Yes

43. **Other:** Please provide any additional information, favorable or unfavorable, which you feel should be considered in connection with your appointment. If none, please so state.

None

Please include resume and completed Statement of Substantial Interest not more than twelve months old.

REFERENCES

Name: Ethel Peterson Knows you how?: Friend

Address: 2315 Melencamp Ave., Dodge City, Kansas 67801
(City, State, Zip)

Home Phone: 620-227-6849 Business Phone: _____

Name: Honorable Van Z. Hampton Knows you how?: I appear before him in Court

Address: 101 West Spruce, P.O. Box 197, Dodge City, Kansas 67801
(City, State, Zip)

Home Phone: _____ Business Phone: 620-227-4561

Name: Honorable Daniel L. Love Knows you how?: I appear before him in Court

Address: 101 West Spruce, P.O. Box 197, Dodge City, Kansas 67801
(City, State, Zip)

Home Phone: _____ Business Phone: 620-227-4620

Name: Honorable Peter J. Ramirez Knows you how?: Friend-Former Coworker

Address: 1411 North B St., Garden City, Kansas 67846
(City, State, Zip)

Home Phone: 620-275-0878 Business Phone: 620-276-1151

2-13

AUTHORIZATION AND CERTIFICATION:

The facts set forth in my application are true and complete. False statements, answers, or omissions on this application shall be sufficient cause for nonconsideration or for dismissal after appointment or employment. I also recognize that my selection is based on receipt of satisfactory information from former employers and references, and upon my ability to perform the essential elements, with or without reasonable accommodations, for the position for which I am applying. I herein authorize investigation, without liability, of the information supplied by me in this application for employment or appointment including academic, occupational, health, law enforcement, and government records. I also authorize listed employers and references, without liability, to make full response to any inquiries in connection with this application for appointment or employment. I understand and agree that the terms, conditions, compensation, benefits, hours, schedule, and duration of my appointment or employment may be determined, changed, or modified from time to time at the will of the appointing authority or designee without limitation or condition. I FURTHER CERTIFY THAT I HAVE READ THE FOREGOING PARAGRAPH AND KNOWINGLY MAKE THIS AUTHORIZATION BY SETTING FORTH MY SIGNATURE.

I understand that if I am required to be registered, licensed, or certified by federal or state law or regulation for the position I seek, I will notify the appointing authority immediately if any investigation, limitation, or cancellation of my registration, licensure, or certification occurs. If any investigation, probation, limitation, or cancellation occurs, I understand that my failure to notify my appointing authority as described above will result in the termination of my appointment or employment.

Signature 

Date 11-13-09

STATE OF KANSAS



KANSAS GOVERNMENTAL ETHICS COMMISSION

ELECTRONIC STATEMENT OF SUBSTANTIAL INTERESTS FORM

INSTRUCTIONS: This statement must be completed by individuals who are required to do so by law. Any individual who intentionally fails to file as required by law, or intentionally files a false statement, is subject to prosecution for a class B misdemeanor.

Please read the "Guide" and "Definition" section provided with this form for additional assistance in completing sections "C" through "G". If you have questions or wish assistance, please contact the Commission office at 109 West 9th, Topeka, KS or call 785-296-4219.

A. IDENTIFICATION:

Daniels
Last Name

Lawrence
First Name

P
MI

Barbara A. Lundin
Spouse's Name

1501 Avenue A
Number & Street Name, Apartment Number, Rural Route, or P.O. Box Number

Dodge City, KS 67801
City, State, Zip Code

(620) 225-1488
Home Phone Number

(620) 227-7411
Business Phone Number

B. THIS FORM IS REQUIRED TO BE FILED BECAUSE YOU ARE:

(check one or more of the following)

- 1. State Elected Official (Governor, Lt. Governor, Attorney General, Commissioner of Insurance, State Treasurer, Secretary of State, State Senator, State Representative, Member of State Board of Education or District Attorney);
- 2. Appointed Member of a State Board, Council, Commission or Authority;
- 3. Appointed State Position is Subject to Senate Confirmation;
- 4. Employee of a State Agency or University;
- 5. General Counsel for a State Agency;
- 6. Candidate for State Office.
- 7. Other (Contractor / Member of Compact)

Board of Indigents Defense Services

List the Name of Agency, Board, University or Elected Position (You may use abbreviations but not acronyms)

Board Member

Division if applicable (May use acronyms)

Position

* The last four digits of your social security number will aid in identifying you from others with the same name on the computer list. This information is optional. *

--	--	--	--

C. OWNERSHIP INTERESTS: List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for income, and specific stocks, mutual funds or retirement accounts in which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "C", check here

	BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	PERCENT OF OWNERSHIP INTERESTS	HELD BY WHOM
1.	Lundin & Daniels 209 W. Spruce, Dodge City, KS 67801	Law Practice	Partnership	100%	both
2.	Business Building 209 W. Spruce, Dodge City, KS 67801	Rental of Office Building	Ownership of Building	100%	both
3.	Vanguard International Growth P. O. Box 7800, Philadelphia, PA 19101	Mutual Fund - IRA	Sole Owner	100%	self
4.	Dodge City Credit Union Dodge City, KS 67801	IRA Account	Sole Owner	100%	self
5.	Prudential Insurance Co. P. O. Box 7390, Philadelphia, PA 19176	Common Stock	Sole owner	100%	self
6.	Sharebuilder 1445 - 120th Ave, N.E., Bellevue, WA 98005	IRA Account	Sole Owner	100%	spouse
7.	T. Rowe Price P. O. Box 17406, Baltimore, MD 21297-1406	IRA	Sole owner	100%	spouse
8.	Bank of the West Dodge City, KA 67801	Savings Account	Sole owner	100%	both
9.	T. D. Ameritrade P. O. Box 2209, Omaha, NE 68103-2209	Investment Account	Sole Owner	100%	both
10.	Edward D. Jones P. O. Box 66906, St. Louis, MO 63166-6909	Annuity-Mutual funds	Sole owner	100%	spouse
11.	Allianz Global Investors Distributors 2187 Atlantic St., Stamford, CT 06902	Commodity Fund	Sole owner	100%	spouse
12.	ING 151 Farmington, Ave., Hartford, CT 06156-0104	Kansas Deferred Comp.	Sole Owner	100%	spouse

D. GIFTS OR HONORARIA: List any person or business from whom you or your spouse either individually or collectively, have received gifts or honoraria having an aggregate value of \$500 or more in the preceding 12 months.

If you have nothing to report in Section "D", check here

	NAME OF PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY
1.			

E. RECEIPT OF COMPENSATION: (Part 1) List all places of employment in the last calendar year, and any other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered, or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR. IF SAME AS SECTION "B", CHECK HERE

If you have nothing to report in Section "E"1, check here

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	Lundin & Daniels	P. O. Box 742, Dodge City, KS 67801	Law Practice

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.

If you have nothing to report in Section "E"2, check here

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	Kansas Department of Labor	410 Topeka Blvd., Topeka, KS	State Agency

F. OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS: List any organization or business in which you or your spouse hold a position of officer, director, associate, partner or proprietor at the time of filing, irrespective of the amount of compensation received for holding such position. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "F", check here

	BUSINESS NAME AND ADDRESS	POSITION HELD	HELD BY WHOM
1.	Lundin & Daniels P. O.Box 742, Dodge City, KS 67801	Partner	both

G. RECEIPT OF FEES AND COMMISSIONS: List each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "G", check here

	NAME OF CLIENT / CUSTOMER	ADDRESS	RECEIVED BY
1.	Board of Indigents Defense Services	Topeka, KS	self
2.	Ford County, KS	Dodge City, KS	self
3.	Meade County, KS	Meade, KS	self
4.	Gray County, KS	Cimarron, KS	self
5.	Various individual Clients (Attorney-Client confidentiality)	Various	self
6.	Clark County, Kansas	Ashland, KS	self

H. **DECLARATION:** I declare that this statement of substantial interests (including any accompanying pages and statements)

has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

Date Electronically Filed: 04/15/2009

Name of Person Making Statement: Lawrence P. Daniels

18, 2006-11

Opinion No. 2006-11

Patricia A. Scalia
Board of Indigents' Defense Services
714 SW Jackson, Suite 200
Topeka, Kansas 66603-3714

Dear Ms. Scalia:

This opinion is in response to your letter dated June 28, 2006, requesting an opinion from the Kansas Governmental Ethics Commission concerning the state level conflict of interest laws, K.S.A. 46-215 *et seq.* We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

FACTUAL STATEMENT:

You request this opinion in your capacity as state director of the Board of Indigents' Defense Services (Board). You state that the Board has authorized the state director to enter into contracts with private attorneys and experts to provide defense services in cases involving a potential sentence of death without obtaining Board approval for the contract. You explain that there are few Kansas attorneys who are qualified and experienced in handling the defense of death penalty cases, and even fewer who are willing to accept contracts at the hourly rate paid by the Board.

There is a case in Sedgwick County where persons charged will face a potential sentence of death. Due to a conflict of interest for the attorneys of the Wichita Public Defender's Office, private attorneys must be contracted to defend those persons. A current member of the Board is a qualified, experienced death penalty defense attorney who would accept a contract to provide criminal defense services for one of the persons charged. As such, the board member would be an independent contractor and not an employee of the Board.

QUESTION:

May the state director of the Board of Indigents' Defense Services contract with a member of that Board to provide defense services for a person who will face a potential sentence of death?

OPINION:

K.S.A. 2005 Supp. 46-233 regulates a state officer's participation in the making of contracts as follows:

“(a)(1) No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed”

According to this statute, the board member may not participate on behalf of the Board in determining whether to contract with himself, and must avoid any decision, approval, disapproval, or advice regarding said contract. You have indicated that the director may enter into contracts without obtaining Board approval. However, if any Board action is taken concerning this contract, the board member must abstain from such action.

We have reviewed K.S.A. 45-215 *et seq.* and find no other conflict of interest statutes that address your question. Therefore, so long as the member of the Board does not participate in any fashion in his capacity as a board member in the contract with himself as a private individual, the conflict of interest statutes do not prohibit the Board from contracting with the board member.

Senate Judiciary

3-5-10Attachment 3

Sincerely,

Sabrina K. Standifer, Chairwoman
By Direction of the Commission

SKS:DV:dlw

3-2

STATE OF KANSAS

LANCE KINZER
REPRESENTATIVE, 14TH DISTRICT
12549 S. BROUGHAM DRIVE
OLATHE, KS 66062

STATE CAPITOL, ROOM 165-W
TOPEKA, KANSAS 66612-1504
785-296-7692



HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIR: JUDICIARY

MEMBER: CORRECTIONS
& JUVENILE JUSTICE

TESTIMONY REGARDING HB 2435

HB 2435 responds to two recent Kansas Supreme Court decisions that had the effect of reducing criminal sentences for sex offenders in Kansas. In May, 2009 in the case of State v. Horn the Kansas Supreme invalidated the imposition of enhanced sentences for individuals convicted of attempting to commit a sexually violent crime against a child. This decision was followed by an October 2009 opinion in the case of State v. Trautloff in which the Court ruled that the Kansas habitual sex offender statute does not apply to individuals who were convicted of multiple sex offenses on the same day.

Horn was convicted of attempted aggravated criminal sodomy of a child under the age of 14 and was sentenced to a minimum 25 years under Jessica's law. The Kansas Supreme Court invalidated this sentence and required that Horn be re-sentenced under a more lenient general attempts statute. The Court reached this conclusion despite the fact that K.S.A. 21-4643 clearly and unambiguously provides that Jessica's law applies to "an attempt, conspiracy or criminal solicitation..." HB 2435 would restore the clear intent of the legislature to impose significant mandatory minimum sentences for attempted child sex offenders. In understanding the type of behavior at issue here it is helpful to recognize that pursuant to K.S.A. 21-3301 attempt is defined as "any overt act toward the perpetration of a crime done by a person who intends to commit such crime but fails in the perpetration thereof or is prevented or intercepted in executing such crime." The legislature has been clear in the past, and should be clear again now, that mandatory minimum sentencing for adults who attempt to commit sex crimes against children under the age of 14 is justified.

As to the second case dealt with in HB 2435, in 1996 Melvin Trautloff was convicted of rape of an 8-year old, aggravated indecent liberties with another 8-year old, and a further count of aggravated indecent liberties with a 9-year old. (One of the aggravated indecent liberties convictions was subsequently overturned). More than a decade later Trautloff was convicted of rape, aggravated sodomy, aggravated indecent liberties with a child and sexual exploitation of a child all resulting from a scheme in which Trautloff paid for sex with a seven year old girl. He was sentenced to life in prison without the possibility of parole under the Kansas habitual sex offender statute (K.S.A. 21-4642). Under this law a person who is convicted of three sexually violent crimes receives a mandatory life sentence. The Kansas Supreme Court invalidated this sentence because Trautloff's 1996 convictions had

Senate Judiciary

3-5-10

Attachment 4

been adjudicated on the same day and as such, in the view of the Court, were not separate conviction events. HB 2435 will make it clear that this any person convicted of two or more sexually violent crimes is a habitual sex offender.

As I said at the time I introduced this bill, I think it is extremely unfortunate that this bill is even necessary. The legislature, with the support of the people of Kansas, has said clearly, unequivocally and repeatedly that the days of lenient sentencing for child sex offenders is over. Recent Court opinions have made it imperative that we again join together to make sure that we have a law in place that protects Kansans, and especially children, by appropriately punishing those who prey upon them.



Kansas County & District Attorneys Association

1200 SW 10th Avenue
Topeka, KS 66604
(785) 232-5822 Fax: (785) 234-2433
www.kcdaa.org

Senate Judiciary Committee
March 5, 2010

Testimony in Support of HB 2435

Submitted by Marc Bennett, Deputy District Attorney 18th Judicial District
On behalf of the Kansas County and District Attorneys Association

Honorable Chairman Owens and Members of the Senate Judiciary Committee,

Thank you for the opportunity to address you regarding House Bill 2435. On behalf of Nola Tedesco Foulston, District Attorney, Eighteenth Judicial District, and the Kansas County and District Attorneys Association, I would like to bring to your attention issues related to K.S.A. 21-4643, generally known as "Jessica's Law," and the effect of the decision in State v. Horn, ___ Kan. ___, 206 P.3d 526 (May 8, 2009) on anticipatory (attempts, conspiracies and solicitations) sexual crimes committed against children under the age of 14.

When "Jessica's Law" went into effect in Kansas on July 1, 2006, K.S.A. 21-4643 explicitly stated that sex crimes enumerated in the statute would be off-grid offenses when committed against children under the age of 14, and would therefore carry a penalty of life in prison with parole eligibility after 25 years. The statute took deliberate pains to state that the inmate would not be eligible for good time credit (K.S.A. 21-4643[c]), and that attempts, conspiracies and solicitations of off-grid offenses would, likewise, remain off-grid offenses, see 21-4643(a)(1)(G).

In State v. Horn, the Kansas Supreme Court recognized the language in 21-4643(a)(1)(G), but found that a conflict existed between 21-4643(a)(1)(G) and K.S.A. 21-3301, 3302 and 3303 which state, respectively, that an attempt, conspiracy or solicitation of an off-grid offense is either a severity level 1 offense (attempts) or severity level 2 offense (conspiracies and solicitations).

Senate Judiciary

3-5-10

Attachment 5

Given this conflict, the Horn court held that a defendant could not be subject to 21-4643, and “Jessica’s Law” Off-grid penalties if he was convicted or plead to one of the three delineated anticipatory crimes. A collateral consequence is that, because the sentence in such cases is imposed pursuant to 21-3301, 3302 or 3303 and NOT 21-4643, these defendants are subject to lifetime post-release NOT lifetime parole or lifetime EMD, see K.S.A. 22-3717(d)(1)(G) & (u).

Because the Horn decision so clearly runs counter to the intent of the legislature – i.e., that all sexual crimes committed against children under the age of 14 should be off-grid offenses, whether the acts were attempted, completed, acted-out in isolation or carried out with others in a conspiracy or solicitation – the Kansas County and District Attorney’s Association supports HB 2435.

HB 2435 clarifies in a near-plenary manner, every statute required to be either included or excised from the scope of K.S.A. 21-3301, 3302 and 3003, so as to eliminate any conflict thereafter.

Two final issues: First, HB 2435 contains a proposed change to 21-4642(c)(1) & (c)(2) (page 20) that is unnecessary to effectuate the change to Horn. This language seeks to impose a life without parole sentence for anyone with two prior convictions for enumerated sex crimes, rather than two prior “conviction events.” The KCDAA does not oppose this change but does want to make clear it is collateral to the Horn fix. Secondly, when K.S.A. 21-4719 (capping departures at 50% of the mid number on sex crimes) went into effect on July 1, 2008, no change was made to 21-4643(d) (lines 18 to 21), which is arguably a conflict. Because HB 2435 is being proposed to rid Jessica’s Law of conflicts, the following change may need to be made: (at line 18 and 19) “. . . and no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder, **except as set forth in K.S.A. 21-4719**. As used in this subsection . . .”

We believe the proposed legislation accurately reflects the specific intent of the Kansas Legislature when Jessica’s Law went into effect on July 1, 2006 and, further, corrects the inconsistency found by the court in State v. Horn.

Thank you for your time, attention and consideration in this matter. We urge your favorable recommendation and support of this legislation. I would be happy to stand for questions.

Senate Judiciary Committee
House Bill 2435
Opponents
March 5, 2010

Chairman Owens and Members of the Committee:

Four years ago, we testified against Jessica's Law (HB 2576) and pleaded for changes, only a few of which were adopted. Now we have spent four years watching HB 2576 unfold and have seen many of our fears come true.

Since we were there, we know it was the Legislature's intent to punish attempts, conspiracies and solicitations the same as completed offenses. We know this bill is "fixing" an issue resulting from *State v. Horn*, 288 Kan. 690 (2009). However, this bill presents an opportunity to revisit Jessica's Law, specifically as it relates to treating completed offenses the same as attempted ones. We maintain, as we did four years ago, that taking offenses that were severity levels 1-6 (or 1-8 if you take into account that attempt/conspiracy/solicitation drops it two levels) and grouping them together as offgrid offenses is unwise public policy and grossly disproportionate. Would the Legislature consider taking all killings and attempted killings (currently ranging from offgrid to severity level 7) and making them all offgrids?

While there are certainly many sex offenders who belong in prison for life, we have seen in real human terms that Jessica's Law casts too broad a net. One example among many: a man convicted of electronic solicitation for online contact he had with an adult pretending to be a 13-year-old girl in an internet sting. That conviction is a severity level 1 felony (also part of Jessica's Law) but he was also convicted of attempted rape, the overt act being driving to the fictional girl's house and knocking on the door. That is an offgrid offense.

The number of inmates serving offgrid sentences on 6/30/2009 was 891; the projected number for 2019 is 1,675. (Kansas Sentencing Commission, FY 2010 Adult Inmate Prison Population Projections, p. 20). There is no question most of these are Jessica's Law sentences. Imagine if there was a 25-year projection (the minimum offgrid sentence in Jessica's Law)? If attempts, solicitations and conspiracies were not included, it would reduce that number, as well as other costs (both monetary and human).

All of this said, we do not expect change to occur this session. The lack of political will around this issue crushes us, personally and professionally. We can only put this testimony into the record and hope that one day this Committee, and the Legislature as a whole, will revisit Jessica's Law sentences and proportionality.

Respectfully submitted,


Stacey Donovan
stacey@sunflower.com


Jennifer Roth
rothjennifer@yahoo.com



KANSAS JUDICIAL COUNCIL

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MEMORANDUM

TO: Senate Judiciary Committee
FROM: Kansas Judicial Council
DATE: March 5, 2010
RE: Judicial Council Testimony on 2010 HB 2455 Relating to the Uniform Principal and Income Act

In 2008 the Uniform Law Commissioners adopted amendments to the Uniform Principal and Income Act to provide procedures for trusts administering an estate to separate principal from income, and to insure that the intention of the trust creator is the guiding principal for trustees. These 2008 amendments reflect the current policy of the Internal Revenue Service and clarify technical language regarding withholdings.

These 2008 amendments have been adopted in 17 states; Arizona, California, Colorado, Delaware, Idaho, Indiana, Iowa, Nebraska, Nevada, North Dakota, Oklahoma, South Dakota, Texas, Virginia, Utah, Washington and West Virginia.

At its Annual Meeting in 2008, the Uniform Law Commission approved amendments to Sections 409 and 505 of the Uniform Principal & Income Act (UPIA), to implement technical changes related to developments and interpretations relating to tax matters. The amendments are described as follows:

Amendment to Uniform Principal and Income Act Section 409:

Sometimes a person leaves his or her IRA or similar retirement plan to a trust for his or her spouse instead of to the spouse outright. This is not uncommon when the person has children by a prior marriage or has a spouse who is incapable or unwilling to manage money. Qualifying this trust for the federal estate tax marital deduction prevents estate tax from being incurred until the surviving spouse dies.

Revenue Ruling 2006-26 sets forth the Internal Revenue Service's view of when a Plan payable to a trust will qualify for the marital deduction. The spouse must have the right to require that the Plan's income be distributed to the spouse. To the extent that the Plan earns income (as defined in the UPIA), the trustee must pay to the spouse any distributions received from the Plan.

This IRS ruling directly criticizes the UPIA's formula for allocating IRA distributions between principal and income. The changes to this section are designed to bring the UPIA into compliance with the IRS' position, to ensure that the trust qualifies for the marital deduction to minimize estate taxes in accordance with the decedent's plans. These changes also address the policies underlying the ruling-that might cause concern in other situations.

Amendment to Uniform Principal and Income Act Section 505:

It is not uncommon for trusts that are required to pay income to a beneficiary to own an interest in a closely-held business ("entity"). Often, the trust needs to report its share of the entity's income, whether or not the trust actually receives all of this income. A limited liability company taxed as a partnership is a common example of such an entity.

Many such entities distribute to their owners only enough income to enable the owners to pay their tax obligations. They commonly reinvest the rest of the income in business operations. This strategy works well when the owners are individuals, but it can cause problems when the owners are mandatory income trusts, as described below.

Take, for example, a trust that has a 40% combined federal and state income tax rate and it is to be taxed on \$100 of the entity's income. The entity distributes \$40 to the trust to fund the tax obligation. If the trust is required to distribute the full \$40 to the beneficiary, the trust will be taxed on \$60 of income (\$100 minus the \$40 that was distributable to the beneficiary), but will have no money remaining to pay its taxes. The beneficiary would be liable for the taxes on the \$40 distribution.

UPIA section 505 provides a formula for calculating how much the trust needs to distribute and how much it can use to pay taxes. The existing language is ambiguous and has led to litigation. The proposed change clarifies that the trust will keep enough money to pay its taxes and distribute the balance of the income to the mandatory income beneficiary.

Comment to Section 1 of HB 2455

The Uniform Law Commissioners suggest this section relating to "transitional matters" be adopted along with the amendments to K.S.A. 58-9-409 and 58-9-505. The Uniform Law Commissioners suggest this section be numbered "Section 606."

Uniform Law Commissioner's Comment to Section 2 of HB 2455

Marital deduction requirements. When an IRA or other retirement arrangement (a "plan") is payable to a marital deduction trust, the IRS treats the plan as a separate property interest that itself

must qualify for the marital deduction. IRS Revenue Ruling 2006-26 said that, as written, Section 409 does not cause a trust to qualify for the IRS' safe harbors. Revenue Ruling 2006-26 was limited in scope to certain situations involving IRAs and defined contribution retirement plans. Without necessarily agreeing with the IRS' position in that ruling, the revision to this section is designed to satisfy the IRS' safe harbor and to address concerns that might be raised for similar assets. No IRS pronouncements have addressed the scope of Code § 2056(b)(7)(C).

Subsection (f) requires the trustee to demand certain distributions if the surviving spouse so requests. The safe harbor of Revenue Ruling 2006-26 requires that the surviving spouse be separately entitled to demand the fund's income (without regard to the income from the trust's other assets) and the income from the other assets (without regard to the fund's income). In any event, the surviving spouse is not required to demand that the trustee distribute all of the fund's income from the fund or from other trust assets. Treas. Reg. § 20.2056(b)-5(f)(8).

Subsection (f) also recognizes that the trustee might not control the payments that the trustee receives and provides a remedy to the surviving spouse if the distributions under subsection (d)(1) are insufficient.

Subsection (g) addresses situations where, due to lack of information provided by the fund's administrator, the trustee is unable to determine the fund's actual income. The bracketed language is the range approved for unitrust payments by Treas. Reg. § 1.643(b)-1. In determining the value for purposes of applying the unitrust percentage, the trustee would seek to obtain the value of the assets as of the most recent statement of value immediately preceding the beginning of the year. For example, suppose a trust's accounting period is January 1 through December 31. If a retirement plan administrator furnishes information annually each September 30 and declines to provide information as of December 31, then the trustee may rely on the September 30 value to determine the distribution for the following year. For funds whose values are not readily available, subsection (g) relies on Code section 7520 valuation methods because many funds described in Section 409 are annuities, and one consistent set of valuation principles should apply whether or not the fund is, in fact, an annuity.

Uniform Law Commissioner's Comment to Section 3 of HB 2455

Taxes on Undistributed Entity Taxable Income. When a trust owns an interest in a pass-through entity, such as a partnership or S corporation, it must report its share of the entity's taxable income regardless of how much the entity distributes to the trust. Whether the entity distributes more or less than the trust's tax on its share of the entity's taxable income, the trust must pay the taxes and allocate them between income and principal.

Subsection (c) requires the trust to pay the taxes on its share of an entity's taxable income from income or principal receipts to the extent that receipts from the entity are allocable to each. This assures the trust a source of cash to pay some or all of the taxes on its share of the entity's taxable income. Subsection 505(d) recognizes that, except in the case of an Electing Small Business Trust (ESBT), a trust normally receives a deduction for amounts distributed to a beneficiary. Accordingly, subsection 505(d) requires the trust to increase receipts payable to a beneficiary as determined under

subsection (c) to the extent the trust's taxes are reduced by distributing those receipts to the beneficiary.

Because the trust's taxes and amounts distributed to a beneficiary are interrelated, the trust may be required to apply a formula to determine the correct amount payable to a beneficiary. This formula should take into account that each time a distribution is made to a beneficiary, the trust taxes are reduced and amounts distributable to a beneficiary are increased. The formula assures that after deducting distributions to a beneficiary, the trust has enough to satisfy its taxes on its share of the entity's taxable income as reduced by distributions to beneficiaries.

Example (1) – Trust T receives a Schedule K-1 from Partnership P reflecting taxable income of \$1 million. Partnership P distributes \$100,000 to T, which allocates the receipts to income. Both Trust T and income Beneficiary B are in the 35 percent tax bracket.

Trust T's tax on \$1 million of taxable income is \$350,000. Under Subsection (c) T's tax must be paid from income receipts because receipts from the entity are allocated only to income. Therefore, T must apply the entire \$100,000 of income receipts to pay its tax. In this case, Beneficiary B receives nothing.

Example (2) - Trust T receives a Schedule K-1 from Partnership P reflecting taxable income of \$1 million. Partnership P distributes \$500,000 to T, which allocates the receipts to income. Both Trust T and income Beneficiary B are in the 35 percent tax bracket.

Trust T's tax on \$1 million of taxable income is \$350,000. Under Subsection (c), T's tax must be paid from income receipts because receipts from P are allocated only to income. Therefore, T uses \$350,000 of the \$500,000 to pay its taxes and distributes the remaining \$150,000 to B. The \$150,000 payment to B reduces T's taxes by \$52,500, which it must pay to B. But the \$52,500 further reduces T's taxes by \$18,375, which it also must pay to B. In fact, each time T makes a distribution to B, its taxes are further reduced, causing another payment to be due B.

Alternatively, T can apply the following algebraic formula to determine the amount payable to B:

$$D = (C - R * K) / (1 - R)$$

D = Distribution to income beneficiary

C = Cash paid by the entity to the trust

R = tax rate on income

K = entity's K-1 taxable income

Applying the formula to Example (2) above, Trust T must pay \$230,769 to B so that after deducting the payment, T has exactly enough to pay its tax on the remaining taxable income from P.

Taxable Income per K-1	\$1,000,000
Payment to beneficiary	\$ 230,769 ¹

¹ $D = (C - R * K) / (1 - R) = (500,000 - 350,000) / (1 - .35) = \$230,769$. (D is the amount payable to the income beneficiary, K is the entity's K-1 taxable income, R is the trust ordinary tax rate, and C is the cash distributed by the entity).

Trust Taxable Income	\$ 769,231
35 percent tax	\$ 269,231
Partnership Distribution	\$ 500,000
Fiduciary's Tax Liability	\$(269,231)
Payable to the Beneficiary	\$ 230,769

In addition, B will report \$230,769 on his or her own personal income tax return, paying taxes of \$80,769. Because Trust T withheld \$269,231 to pay its taxes and B paid \$80,769 taxes of its own, B bore the entire \$350,000 tax burden on the \$1 million of entity taxable income, including the \$500,000 that the entity retained that presumably increased the value of the trust's investment entity.

If a trustee determines that it is appropriate to so, it should consider exercising the discretion granted in UPIA section 506 to adjust between income and principal. Alternatively, the trustee may exercise the power to adjust under UPIA section 104 to the extent it is available and appropriate under the circumstances, including whether a future distribution from the entity that would be allocated to principal should be reallocated to income because the income beneficiary already bore the burden of taxes on the reinvested income. In exercising the power, the trust should consider the impact that future distributions will have on any current adjustments.

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MEMORANDUM

TO: Senate Judiciary Committee
FROM: Kansas Judicial Council
DATE: March 5, 2010
**RE: Judicial Council Testimony on 2010 HB 2456 Amending K.S.A. 59-618a
Relating to Filing of Certain Wills**

Currently K.S.A. 59-618a allows a person to execute an affidavit to file a decedent's Will to preserve its integrity for possible future probate only if the "decedent's estate contains no real property." An issue arises if a person files an affidavit pursuant to K.S.A. 59-618a stating that there is no real property in the decedent's estate, but then later discovers real property. There are inconsistencies among District Courts in Kansas in the interpretation of this statute in such an instance. Some courts in Kansas will permit the Will to be probated even if that probate action occurs more than six months after the decedent's date of death. However, there are other Kansas courts that will not permit the Will to be filed to administer the distribution of the newly discovered real property.

By enacting 2010 HB 2456 the following will be accomplished:

1. If there is real and/or personal property in the probate estate with a value in excess of the value of claims under K.S.A. 59-1301, then K.S.A. 59-618a is not available to preserve the Will. The will must be probated, the creditors notified, and the remaining assets are distributed accordingly.
2. If there is real and/or personal property in the probate estate with a value less than the value of claims under K.S.A. 59-1301, then the Will can be filed, but no probate administration started. It would then be up to creditors to proceed to open an estate. This provides the identical outcome as the current situation whereby if there is no real property, but there is personal property having a value less than the

Senate Judiciary
3-5-10
Attachment 8

value of claims under K.S.A. 59-1301, the Will can be filed of record, but it is up to creditors to open an estate.

3. If there is no real and/or personal property in the probate estate, then by definition the probate estate will be less than the value of all claims under K.S.A. 59-1301. But, on the chance that property – real and/or personal – is found at a later date, the ability to have that property pass in accordance with the terms of the testator's Will is preserved.

The purpose of the proposed changes are to preserve a record of the wishes of the testator by allowing the Will to be filed of record in the county of his or her domicile. The "intent of the testator" is a concept that the courts strive to preserve and enacting this amendment to K.S.A. 59-618a will extend that concept to later discovered real property.

Such a change will not create real property title problems. Generally, if a decedent dies in Kansas, a probate procedure is initiated in the county of the decedent's domicile. If there is real property in a county different from that of the decedent's domicile, an authenticated copy of the probate administration procedures from the domicile county are filed in the second county. In that way, the testator's intent is preserved as to real property located in more than one county. In addition, the proposed legislation has been reviewed and approved by representatives of the K.B.A. Title Standards Committee

Creditors be not be prejudiced in any way by filing the Will under K.S.A. 59-618a and potentially not probating it until a later date. There is no change being proposed to the concept that creditors have six months from the date of death to initiate a probate procedure if a creditor believes there is property in the probate estate to satisfy a debt owed to a creditor.

Given the proliferation of Revocable Living Trusts and the good faith attempts to title property in trusts – both real and personal – the ability to preserve the will, in case any such property is missed, is an extremely important "insurance policy" to preserve the intent of the testator on the chance a tract of real property was missed in the trust funding process. The proposed changes will solve this problem without any adverse consequences.

Amendments

The Judicial Council supports the clarifying amendments made by the House.



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Senate Judiciary Committee
March 5, 2010

Testimony in Support of HB 2468

Submitted by Marc Bennett, Deputy District Attorney 18th Judicial District
On behalf of the Kansas County and District Attorneys Association

Honorable Chairman Owens and Members of the Senate Judiciary Committee:

Thank you for the opportunity to address you regarding House Bill 2468. On behalf of Nola Tedesco Foulston, District Attorney, Eighteenth Judicial District, and the Kansas County and District Attorneys Association, I would like to bring to your attention issues related to the Kansas Sexual Offender Registration Act and the likely inadvertent omission of attempts, conspiracies and solicitations of certain crimes enumerated in a list of aggravated crimes requiring lifetime registration under K.S.A. 22-4906(d) upon conviction.

As K.S.A. 22-4906 currently reads, anyone convicted of the following aggravated crimes is required to register as a sex offender for the remainder of the offender's life: Aggravated Trafficking in violation of K.S.A. 21-3447; Rape, in violation of K.S.A. 21-3402(a)(2); Aggravated Indecent Liberties, in violation of K.S.A. 21-3504(a)(3); Aggravated Criminal Sodomy, in violation of 3506(a)(2); Promoting Prostitution, in violation of 21-3513 (when the prostitute is under 14 years of age); or Sexual Exploitation of a Child, in violation of 21-3516(a)(5) or (a)(6) (distribution of child pornography of children under 14 years of age). K.S.A. 22-4906 currently does NOT include attempts, conspiracies or solicitations of the crimes set forth above. HB 2468 simply seeks to correct this omission.

If left as is, an individual convicted of Attempted Aggravated Criminal Sodomy, for instance, could argue that he is only obligated to register for 10 years under the general catch-all that he or she committed a "sexually violent crime" as set forth in K.S.A. 22-4902(c), because, the definition of "sexually violent crimes" set

Senate Judiciary

3-5-10

Attachment 9

forth in K.S.A. 21-4902(c) does include attempts, conspiracies and solicitations at §(13). However, K.S.A. 22-4906(c) would arguably obligate the same defendant to lifetime registration under the definition of "aggravated offenses" set forth in 22-4902(h).

We believe the proposed legislation appropriately corrects this inconsistency in the Sexual Offender Registration Act.

Thank you for your time, attention and consideration in this matter. We respectfully request your favorable recommendation and support of HB 2468. I would be happy to stand for any questions from the committee.