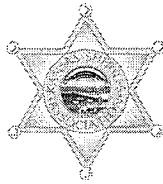


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**Testimony to the Senate Judiciary Committee
In Support of SB159
February 15, 2011**

Chairman Owens and Committee Members,

The Kansas Association of Chiefs of Police, the Kansas Sheriffs Association and the Kansas Peace Officers Association supports SB159. This bill would add the authority for law enforcement officers to search parolees of certain violent and sex crimes. This bill has been well researched and complies with existing case law on the matter. It is important as we proceed to be sure we do not cause any harm to the existing search authority of the parole officers and court services officers.

The US Supreme Court upheld a California statute providing this authority in *Samson vs. California*, 547 US 843 (2006). The Tenth Circuit ruling in *United States v. Freeman*, 479 F.3d 743, 748 (10th Cir. 2007) expresses the importance of a state statute to apply the provisions of *Samson* when they state, "*Samson* does not represent a blanket approval for warrantless parolee or probationer searches by general law enforcement officers without reasonable suspicion; rather, the Court approved the constitutionality of such searches only when authorized under state law. Kansas has not gone as far as California in authorizing such searches, and this search therefore was not permissible in the absence of reasonable suspicion." 479 F.3d at 748." (emphasis added) They also stated, "In *Samson v. California*, 126 S. Ct. 2193 (2006), the Supreme Court extended the principle of *Knights* to uphold a warrantless search of a parolee even in the absence of reasonable suspicion, where the parolee had signed a parole agreement that allowed parole officers or other peace officers to search the parolee "with or without a search warrant and with or without cause." *Id.* at 2196. . . Parolee searches are therefore an example of the rare instance in which the contours of a federal constitutional right are determined, in part, by the content of state law." (emphasis added)

The passage of this bill will provide an additional tool for law enforcement officers. Many times law enforcement confronts these parolees at odd hours of the night or on weekends when the availability of a parole officer is more scarce. Without this bill, law enforcement asking a parole officer to conduct a search can also be problematic if the court rules the search by a parole officer was conducted simply at the request of a law enforcement who otherwise did not have authority to conduct the search themselves. It appears to have no fiscal cost, it does not create a new law violation requiring DOC bed space, and it is supported by case law.

As proposed this bill restricts the application to the worst of offenders. This is a restriction case law does not require and it may be wise to consider expanding it to other felons on parole as well. It is our belief passage of this bill will encourage parolees to stay clean. The more they feel the chances are high for detection of returning to crime, the more likely they will not do so. And certainly this will give law enforcement a tool to identify a parolee that does return to the commission of crimes more quickly and thus minimize further victims.

We urge you to support SB159 and recommend it favorable for passage to the full Senate.

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Senate Judiciary
2-16-11
Attachment 3