

STATE OF KANSAS  
Tenth Judicial District

OFFICE OF DISTRICT ATTORNEY  
STEPHEN M. HOWE, DISTRICT ATTORNEY

February 28, 2011

Senate Judiciary Committee  
Attention: Tim Owens, Chairman  
300 SW 10<sup>th</sup> St., Room 536N  
Topeka, Kansas 66612

Re: House Bill 2010

Dear Chairman Owens,

Thank you for the opportunity to submit our written response in support of HB 2010.

Over the last several years, our office has prosecuted numerous fraud cases where we were unable to seize assets that were used to facilitate the crime and/or were derived directly from the crime due to the lack of an asset forfeiture statute to cover these types of cases. Perpetrators use computers, printers, check or credit card software, scanners, cameras, shredders, skimmers and electronic storage devices to obtain and use victim's personal information and or financial information to steal from them. Many times these perpetrators use these monies to purchase personal property or deposit them into their shell companies' bank accounts.

During many of these large scale embezzlement cases, we are able to freeze bank accounts with cash obtained from the defendant's illegal acts. However, we are unable to identify all of the victims of the crime due to a variety of factors. Thus, funds remain in the account after the restitution has been paid out. The forfeiture statute would allow us to seize the cash or property obtained from their illegal acts. This would prevent the perpetrator from profiting from their criminal conduct. The forfeiture statute could be used for the benefit of the law enforcement agencies and county and district attorney's offices.

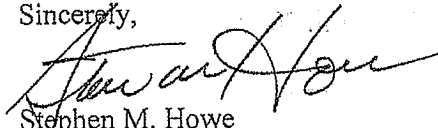
A good example of the potential benefits of this amendment to the current forfeiture statute is our prosecution of the company ASP in 2009. This company legally obtained bank routing information, primarily from senior citizens, for the purpose of providing health discount cards. They would then repeatedly transfer money from the victim's account without their permission. We were able to seize approximately \$270,000 worth of assets from a multi-million dollar fraud scam. Approximately \$76,000 could be directly traced to victims. We have been able to secure the remaining \$194,000 through an inter-agency agreement with the United States Secret Service by utilizing the federal forfeiture process.

This bill would allow us to do what the federal law enforcement officers already have authority to do, while keeping the proceeds at the state and local level. This would allow us to quickly reimburse victims and also move forward with a state forfeiture action.

There are numerous cases throughout the year that law enforcement and prosecutors could benefit from this amendment. It would have little, if any, negative impact financially on the State or local governments. In fact, it could insure that victims are paid in full; result in a windfall to those same law enforcement agencies, and eliminate the perpetrators ability to profit from their illegal activity.

We would ask this committee to support this bill as drafted. I thank you for your time and would be happy to answer any questions you may have regarding the proposed legislation.

Sincerely,



Stephen M. Howe  
Johnson County District Attorney  
P.O. Box 728  
Olathe, KS 66051

1-2