



State of Kansas

Office of Judicial Administration

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Senate Judiciary Committee
Monday, January 30, 2012
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Neutral Testimony on SB 304

Batterer Intervention Program Issues

Thank you for the opportunity to testify in regard to Senate Bill 304. The Office of Judicial Administration and the Kansas district courts have made domestic violence a point of emphasis over the past 18 to 24 months. With the assistance and support of S.T.O.P. Violence Against Women Act (S.T.O.P. VAWA) grants from the Office of the Governor and with collaboration with the Kansas Coalition Against Sexual and Domestic Violence, we have created domestic violence bench cards to be used by judges. These bench cards have been distributed to every judge of the district court, prosecutors, and domestic violence shelters. We have facilitated work process analysis meetings in 12 communities. In October 2011, we sponsored a workshop on Custody Orders in Domestic Violence Cases taught by the National Council of Juvenile and Family Court Judges. In addition, 13 judges from across the state attended national training on domestic violence, also taught by the National Council of Juvenile and Family Court Judges and also funded by grants from the Governor's Office. Just this week, we received notice that our office will receive an additional S.T.O.P. VAWA grant to host another workshop for judges in 2012.

Although we note that Senate Bill 304 is an important bill that provides explicit authority and direction for the Attorney General to certify Batterer Intervention Programs, we have three concerns regarding the bill. First, it will be important that the composition of the panel and advisory committees appointed by the Attorney General reflect the stakeholders impacted by domestic violence. I appreciate what may have been some of the reasons for not naming any stakeholders. It is important, however, that victim advocates, law enforcement officials, judges, prosecutors, court services officers, community corrections officers, parole officers, and defense attorneys have a voice in the rules and regulations and the content and development of batterer intervention programs.

Second, while the number of certified batterer intervention programs has increased, the original legislation will be effective only when all areas of the state have reasonable access to certified batterer intervention programs. Currently, programs are not available in all areas of the state.

Finally, domestic violence cases are often the most difficult cases before the court. We know that the best strategy for improving victim safety and holding perpetrators of domestic

violence accountable is a well coordinated community response. An assessment, in and of itself, does very little. Supervision by a court services officer without an accurate assessment provides little assurance to a victim. A domestic violence shelter provides some safety, but a shelter is not a permanent residence. Communities must create systems that instill confidence in victims and help to ensure compliance from offenders. Accessible, competent batterer intervention programs which use evidence-based assessments and treatment strategies and which work in coordination with existing stakeholders hold some promise for victims of domestic violence. It is my hope that the requirements listed in new Section 5 will incorporate the concepts of community coordination and the use of evidence-based practices for all certified batterer intervention programs once the rules and regulations are finally adopted.

Technical Issue Regarding Collection of Penalties

As drafted, New Section 7(d) of 2012 SB 304 could potentially create some additional work for the clerks of the district court and additional programming costs. That subsection provides that any civil penalty recovered pursuant to the provisions of the section shall be remitted to the State Treasurer, deposited in the state treasury, and credited to the State General Fund. It appears that the bill contemplates that civil penalties would be imposed by the Attorney General independent of any court proceeding, and that the court would not be involved in collecting those penalties. However, because a final order of the Attorney General may be appealed to the district court in the manner provided by the Kansas Judicial Review Act, it is also possible that there is an expectation that penalties could be collected by the court.

If penalties were to be collected by clerks of the district court, additional work would be required from the clerks in segregating and separately accounting for these penalties, and a cost for computer programming would be incurred so that these penalties could be directed to the State General Fund. The established method of distributing fines, penalties, and forfeitures is provided in K.S.A.20-2801 and K.S.A. 2011 Supp. 74-7336, which directs amounts collected for fines, penalties, and forfeitures to the various funds listed in K.S.A. 74-7336 in the percentages provided by that statute, with the balance credited to the State General Fund. Requiring the penalties imposed by SB 304 to be credited only to the State General Fund would require these penalties to be treated differently than the other fines, penalties, and forfeitures collected by clerks of the district court, thereby incurring additional work and computer programming costs.

A simple way to avoid this potential additional work and cost is to amend New Section 7(d) to make it clear that the penalty is to be collected by the Attorney General. A balloon amendment that would accomplish this follows.

New Sec. 7. (d) Any civil penalty ~~recovered~~ *imposed* pursuant to the provisions of this section shall be *recovered by the attorney general*, remitted to the state treasurer, deposited in the state treasury and credited to the state general fund.

Thank you very much for your consideration of these issues.