

TESTIMONY

STATE BOARD OF INDIGENTS' DEFENSE SERVICES ON HOUSE BILL NUMBER 2413 SENATE JUDICIARY COMMITTEE

March 1, 2012

Good Morning Chairman Owens, Members of the Committee and Staff:

My name is Patricia Scalia and I serve as state director for the Board of Indigents' Defense Services.

House Bill No. 2413 would amend the income taxpayer information confidentiality statute, K.S.A. 79-3234, to require the Department to provide information from tax returns to the Board of Indigents' Defense Services for purposes of determining whether an individual is eligible financially to receive appointed counsel to defend against an allegation that the individual committed a felony.

This proposed legislation is made by the Legislative Post Audit Committee to provide a tool for the court and for the Board of Indigents' Defense Services to review the financial status of the individual beyond their responses on the BIDS Financial Affidavit, which the individual usually completes on the spot in the courtroom without access to their records.

There will be approximately 26,000 cases in FY 2013 with appointed counsel statewide. The court collects the name and social security number of each person receiving appointed counsel. That information will be sent to the Department of Revenue and any "matches" will be sent to BIDS.

An auditor for BIDS will compile the information and forward it to the Department of Revenue for a record search. All information received by the auditor would be reported to the state director for appropriate action. BIDS has requested a budget enhancement to fund the auditor position, however that budget enhancement was not recommended by either our Senate or house budget subcommittees.

In cases where the tax return lists assets that would disqualify an individual from receiving appointed counsel, a motion would be filed asking the court to reconsider the appointment of counsel and would list the assets discovered. If the court determines the individual does not qualify for appointed counsel, the appointed defense attorney will move to withdraw from the case.

BIDS will collect data and report at the next legislative session regarding savings experienced through the use this procedure. A new request for an auditor may be made in the FY 2014 budget cycle.