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Testimony in Support of Senate Bill 20
An act concerning civil procedure; relating to docket fees and costs; poverty affidavit;
amending K.S.A. 2012 Supp. 60-2001 and repealing the existing section.

Presented to the Senate Judiciary Committee
By Assistant Attorney General Steve Phillips

January 23, 2013

Chairman King and Members of the Committee:

I am Steve Phillips, a long time employee of the Kansas Attorney General's office. On behalf of the Office of Attorney General Derek Schmidt, I offer the following written testimony in favor of Senate Bill 20.

Senate Bill 20 reforms Kansas' statutes for persons bringing civil actions in court who cannot pay a filing fee—proceeding *in forma pauperis* (*IFP*). The right to bring an action in court cannot and should not be denied persons who cannot afford the filing fee. But that right is subject to reasonable restriction and regulation to prevent abuse of the right; restriction and regulation which is not present in current law.

Currently, K.S.A. 60-2001 allows anyone to proceed in court without paying the filing fee if that person simply files an affidavit testifying generally to indigency. There is no requirement in the statute for the person to document the extent of his/her indigency. One of the proposed changes is to require judges to request more financial information, and to give judges discretion to order the payment of a partial filing fee.

As a practical matter, many suits filed *IFP* are frivolous. Often persons filing such suits are judgment proof, so the threat of monetary sanctions for filing a frivolous action is meaningless. The second proposed change to K.S.A. 60-2001 is to require judges to do some basic screening of cases filed *IFP* and to dismiss ones that are frivolous on their face. This change is patterned after a federal statute requiring similar screening in federal court, 29 U.S.C. § 1915(e)(2).