



Kansas Bureau of Investigation

Kirk D. Thompson
Director

Derek Schmidt
Attorney General

Senate Judiciary Committee

Testimony of Kyle Smith, Assistant Attorney General
Deputy Director, Kansas Bureau of Investigation

In Support of SB 167

February 20, 2013

Chairman King and Members of the Committee,

I appear today on behalf of Attorney General Derek Schmidt and KBI Director Kirk Thompson in support of SB 167, a bill that recognizes the realities of today's world and science in the context of fair prosecution of rape and crimes against children.

The concept of prohibiting a criminal from being brought to justice due to the passage of time was an outgrowth of common law in the middle ages. At that time, most people could not read, there were not written records or victim statements, let alone photographs, fingerprints or DNA. Memories fade and identity was difficult to prove. Reasonable for such times, the rule developed that prosecution had to begin within 2 years of the crime.

States have been recognizing that times have changed and with modern technology the justification for letting such criminals go free, i.e., that the identification and proof after the lapse of time was unreliable, simply makes no sense in this age when everything is recorded and DNA can identify biological samples to the exclusion of everyone else on earth.

SB 167 also helps in our efforts to protect children. Given that children have limited ability to act independently or grasp the criminal nature or process when they are victimized, the current restrictions on bringing charges leaves many children unprotected and offenders free. As I testified last year on a similar bill, this procedural loophole lets real rapists go free. A detective was interviewing a 6 year old molestation victim in 2010, the victim disclosed that she knew of another relative that had been molested by the offender. That victim, then 18 years of age, was interviewed and confirmed her own rape when she was 6-7. While her parents never left her alone with him after that, it was not reported. When interviewed, the defendant admitted both crimes, and 10-20 more children, many of which he identified.

This bill improves on our bill from last year by extending the statute of limitations for child crimes to 10 years from the victims' 18th birthday. Practical limitations will limit how many of these cases will be brought, as absent DNA and/or confessions, stale memories and lack of physical evidence will reduce the number of cases that have a chance of being proved beyond a reasonable doubt.

However, there are cases where there is forensic evidence, maybe new offenses which tie the two together or confessions, where this legislation would make all the difference in whether a person who rapes or attacks a child goes free or goes to prison.

On behalf of Attorney General Schmidt, Director Thompson and the victims of Kansas, we would ask your support of SB 167. Thank you.

I would be happy to stand for questions.