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**Testimony in Support of Senate Bill 179
Presented to the Senate Judiciary Committee
By Attorney General Derek Schmidt**

March 7, 2017

Chairman Wilborn, members of the Committee:

Thank you for this opportunity to testify in support of Senate Bill 179, which would further strengthen our State's response to the scourge of human trafficking. Kansas enacted its first anti-human trafficking law in 2005. Working together, we have made numerous changes since then and have continuously strengthened our law.

The overall arc of our efforts has been positive. As one point of reference, Shared Hope International – a respected international anti-human trafficking organization – gave Kansas a grade of “F” for our anti-human trafficking efforts in 2011. By 2015, we had raised our grade to a “B”. Similarly, in 2009, the grantee agencies of the attorney general's office self-reported serving only two victims of human trafficking statewide. In FY 2016, that same universe of service agencies self-reported serving 463 victims statewide.

So we have made tremendous progress. But we can do better. Senate Bill 179 is intended to build upon our work to date and to help move Kansas to the top tier of states nationwide in our efforts to combat human trafficking. To that end, Senate Bill 179 is designed to fill gaps in the structure of our current anti-human trafficking efforts. Its key provisions include the following:

Support For Victims

- The bill would eliminate the one-year waiting period to allow child human trafficking victims immediately to seek expungement of convictions related to their being trafficked. [Section 11].
- It would allow victims of human trafficking to be more readily eligible for crime victims compensation. It accomplishes this by eliminating “contributory misconduct” as a disqualification for compensation for this group of victims. [Section 12].
- It makes a technical change to the statute requiring posting of the National Human Trafficking Hotline phone number in certain situations. [Section 13].

Target Demand for Unlawful Sex with Children

- The bill would create a new crime of knowingly or intentionally using a communication facility to buy sexual relations (formerly known as “patronizing a prostitute”). This new crime also would apply to human trafficking, commercial sexual exploitation of a child, or promoting the sale of sexual relations. The bill deliberately proposes a two-tiered penalty structure – one a misdemeanor, the other a felony, so that this tool can be readily available, in appropriate instances, in both district court and in municipal courts. This approach would provide an additional tool for law enforcement in actions against the unlawful selling of sexual services. It is modeled on a similar approach in Kansas law involving illegal drugs (K.S.A. 21-5707) or illegal gambling (K.S.A. 21-6409). [New Section 1].
- It would create a new crime of knowingly selling travel services for child-sex tourism. [New Section 2].
- It would create new crimes of internet trading in child pornography and aggravated internet trading in child pornography. This provision would be an important tool to specifically target those who knowingly distribute pictures of child sexual abuse – i.e., child pornography – on the internet. The structure of these proposed new crimes acknowledges the multi-jurisdictional nature of publication on the Internet and is intended to help ensure that a prosecution may be brought where part of the harm occurs – at the point where the visual depictions of child pornography may be viewed. [New Section 3].
- Finally, the bill as drafted proposes certain changes to the existing crime Commercial Sexual Exploitation of a Child. The changes were intended to make clear that a person who buys sex with children is engaged in a form of human trafficking that should be subject to the heightened penalties for human trafficking, not to lesser penalties. On further review, we do not think the changes we initially proposed accomplish their intended purpose. Therefore we are developing a proposed balloon amendment that we think would better accomplish the intent. If the Committee works this bill, **I respectfully request that you consider and adopt this balloon amendment.** [Section 6].

Partner to Combat Human Trafficking Along Roads & Highways

Last year, Kansas entered into a partnership with a national organization known as Truckers Against Trafficking, which works with the trucking industry to counter human trafficking along the nation’s roads and highways, particularly the interstate highway system. This bill proposes to require that all persons who obtain a commercial driver’s license have, as part of their training, education about human trafficking. Because of the nature of their work, truckers can be an important part of the “eyes and ears” of the nation’s anti-human trafficking effort. A representative from Truckers Against Trafficking is here today to provide additional testimony in support of this effort. [New Section 4].

Further Refine the Criminal Laws Used to Combat Human Trafficking and Related Crimes

- It would modify the existing crime of Aggravated Human Trafficking to make clear that when trafficking involves a child victim, no showing of force, fraud or coercion is necessary – it is enough that the trafficked person is a child. This modification also would make explicit what we believe already is implicit in Kansas law – that a child cannot consent to being trafficked.
- It would increase penalties for the existing crime of sexual exploitation of a child – in cases in which the offender is actually producing or distributing child pornography – to a presumptive prison sentence. The presumptive probation sentence in current law would remain for possession. [Section 7].
- It would make promoting the sale of sexual relations (formerly, “promoting prostitution”) a sexually violent crime subject to registration under the offender registration act. [Section 10].

Improve Collection of Fines

When the Legislature in 2013 created the Human Trafficking Victim Assistance Fund, the intent was to have persons convicted of commercial sex crimes – such as buying sexual relations – pay fines that would then be used to support human trafficking victims. But the success of that approach has been limited. We believe overhauling the fines structure will help encourage local authorities to impose them. [New Section 5, Section 8].

Thank you for your consideration. I would stand for questions.

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