



Chairman Wilborn and members of the Committee on  
Judiciary;

February 19, 2019

Good morning Mr. Chairman and members of the committee. I appreciate the opportunity to come before the committee today. I am Kathy Keck, a citizen highly involved with vulnerable children and individuals with disabilities. I am here to talk to you today about the disparity that exists between the severity of outcomes for victims of child abuse and the severity of punishment for the perpetrators.

## **Current Statute on Abuse of a Child**

**21-5602. Abuse of a child. (a) Abuse of a child is knowingly:**

**(1) Torturing or cruelly beating any child under the age of 18 years;**

**(2) shaking any child under the age of 18 years which results in great bodily harm to the child; or**

**(3) inflicting cruel and inhuman corporal punishment upon any child under the age of 18 years.**

**(b) Abuse of a child is a severity level 5, person felony.**

**(c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.**

**History: L. 2010, ch. 136, § 79; L. 2011, ch. 30, § 285; July 1.**

Parents can be fearful of being accused of child abuse for spanking or disciplining their children and may be apprehensive of changing this law. However, to be charged and convicted of child abuse is much more than spanking, In Kansas it is defined as torturing or cruelly beating, shaking resulting in great bodily harm or inflicting cruel and inhumane punishment.

## **Current Statute on Involuntary Manslaughter**

**21-5405. Involuntary manslaughter. (a) Involuntary manslaughter is the killing of a human being committed:**

**(1) Recklessly;**

**(2) in the commission of, or attempt to commit, or flight from any felony, other than an inherently dangerous felony as defined in K.S.A. 2012 Supp. 21-5402, and amendments thereto, that is enacted for the protection of human life or safety or a misdemeanor that is enacted for the protection of human life or safety, including acts described in K.S.A. 8-1566 and subsection (a) of 8-1568, and amendments thereto, but excluding the acts described in K.S.A. 8-1567, and amendments thereto;**

**(3) in the commission of, or attempt to commit, or flight from an act described in K.S.A. 8-1567, and amendments thereto; or**

**(4) during the commission of a lawful act in an unlawful manner.**

**(b) Involuntary manslaughter as defined in:**

**(1) Subsection (a)(1), (a)(2) or (a)(4) is a severity level 5, person felony; and**

**(2) subsection (a)(3) is a severity level 4, person felony.**

**History: L. 2010, ch. 136, § 40; July 1, 2011.**

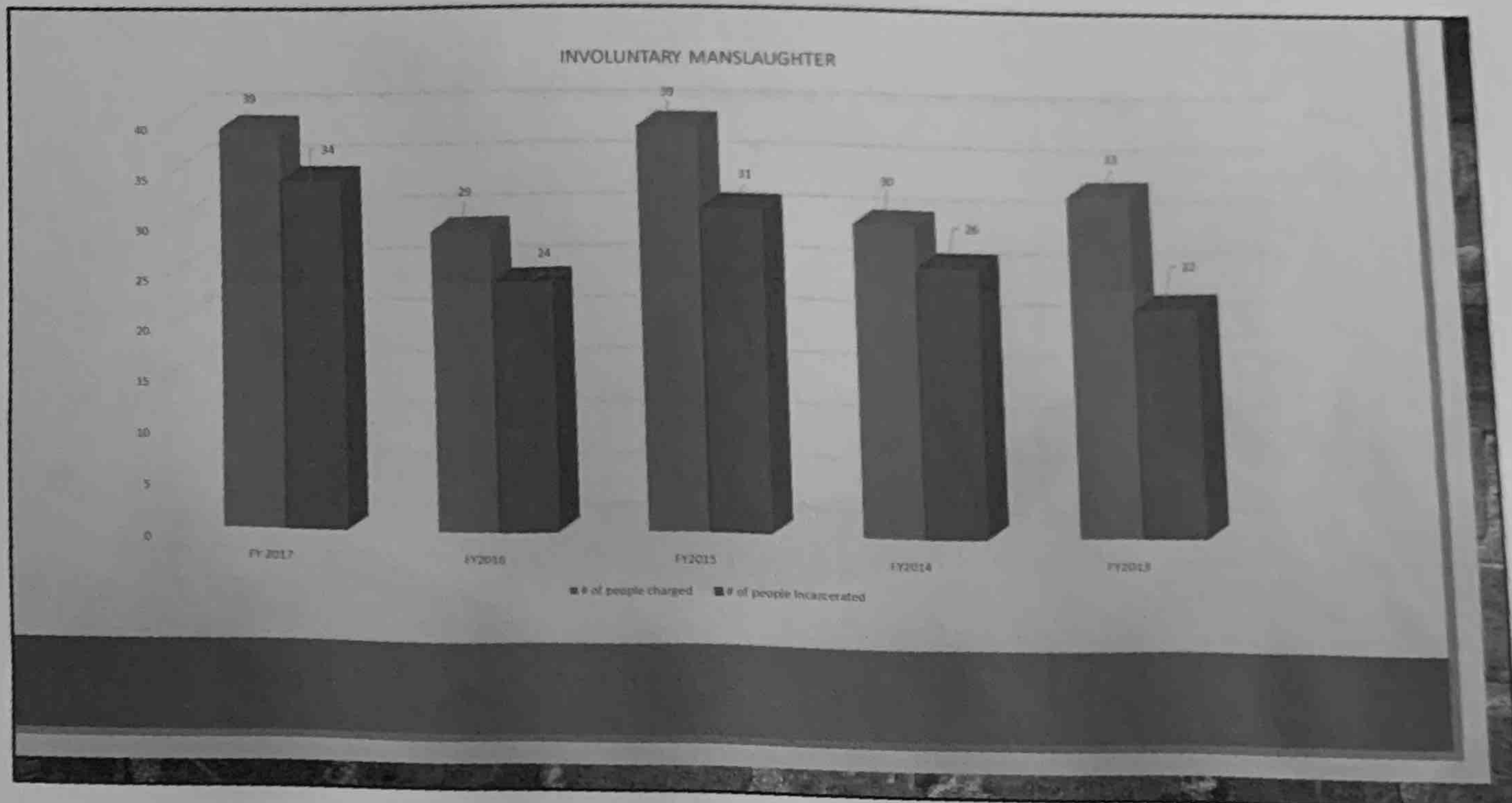
I was shocked to learn that the punishment for the recent death of a 2 year old who was smothered to death was the same as Abuse of a Child. Involuntary manslaughter and abuse of a child are both level 5 felonies in our state.

## **Kansas Sentencing Guidelines**

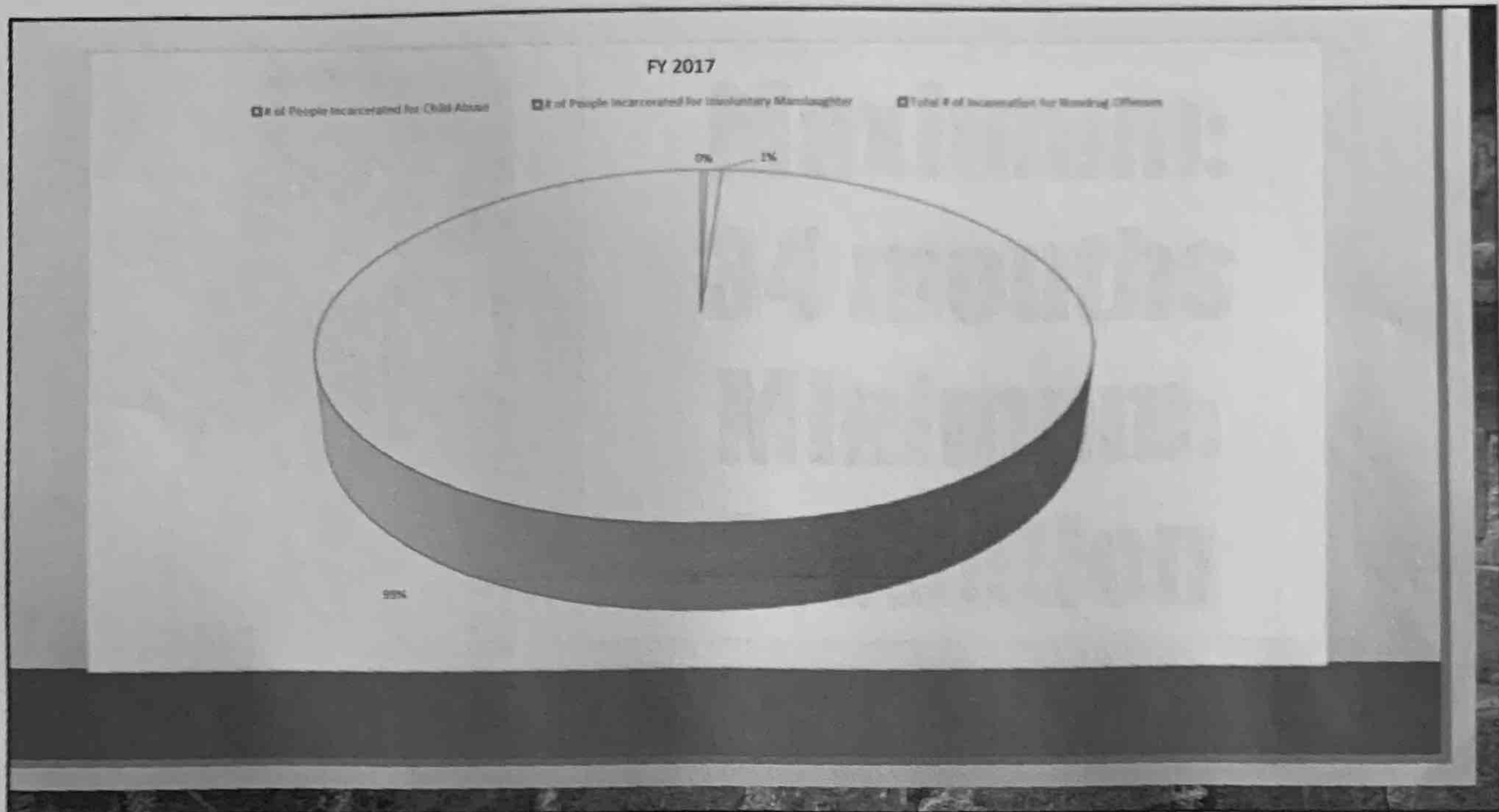
The sentencing guidelines for this crime is a maximum of 34 months for individual with no prior record. Additionally, because this falls into a border box, the judge can use discretion and sentence probation.



The victims of child abuse can result in life altering, permanent disabilities. The impact to the state to care for these children can be very high with many qualifying to receive services on the technology assistance waiver. This chart demonstrates that the bed impact to state prisons would be low.



These numbers reflect the total number of involuntary manslaughter convictions in the designated years. This includes victims who are under 6 years old. These are innocent, dependent children who suffer the ultimate consequence, death.



This chart depicts the number of individuals incarcerated for abuse of a child and involuntary manslaughter which makes up less than 1% of all individuals incarcerated for nondrug offenses. Changing the severity level of these two crimes would not negatively impact prison census in fact based on the FN would be less than 20K. This is a minuscule price for the horrific and unnecessary outcome for these children.

...for those who are getting... shouldn't the...  
 ...be... to the crime? Today...  
 ...available...  
 ...





**Maximum:  
34 months  
Minimum:  
Probation**

Currently the maximum penalty is 34 months with good time is 2.5 years. Results for a child who has been shaken range from mild disabilities to severe life-altering, permanent conditions. While not all shaken baby cases result in death many cases result in a loss of the life that would have been. These children are living with g-tubes, ventilators, and tracheostomy tubes requiring 24 hour nursing care. Many incidents of child abuse are not prosecuted to a criminal level. But for those who are guilty, shouldn't the punishment be commensurate to the crime? Today I am asking you to Support SB 108 and HOLD Abusive ADULTS Accountable for inflicting permanent and severe injuries upon innocent children

# Thank You

For your time and I will stand for any questions