

**Senate Judiciary Committee  
February 3, 2021**

**Senate Bill 60  
Testimony in Opposition  
Kansas Association of Criminal Defense Lawyers**

Dear Chairperson Warren and Members of the Committee:

We do not know who introduced SB 60 or why, but we deduce it is a result of a Wyandotte County criminal case: *State v. Rozell*, Wyandotte County Case No. 18 CR 653, *State v. Rozell*, 58 Kan. App. 2d 570 (August 7, 2020), *review granted* November 20, 2020. As we explain below, **KACDL opposes SB 60 because it is unnecessary and overbroad. It is also premature**, given that *Rozell* is still working its way through the appellate process.

**What K.S.A. 21-5106 currently does**

The issue in *Rozell* is with K.S.A. 21-5106, which sets out the circumstances that need to be present in order for a person to be subject to criminal prosecution in Kansas. One circumstance is when a person commits a crime “partly within this state.” K.S.A. 21-5106(b) defines “partly within this state” as: 1) the accused does an “act [in Kansas] which is a constituent and material element of the offense”; 2) the accused does an “act [in Kansas] which is a substantial and integral part of an overall continuing criminal plan”; or 3) “the proximate result of such act, occurs within [Kansas].”

Notably, the substance of our jurisdiction statute has not changed much since its passage in 1969. See K.S.A. 21-3104 (effective before 7/1/11); K.S.A. 21-5106 (effective on and after 7/1/11). **For over 50 years, this statute has not defined “proximate result,”** which is what SB 60 proposes to do.

**What *Rozell* is about**

Rozell, who lived in Missouri, was in a car accident in Missouri. While it’s unclear where the driver of the other car lived, the driver’s father lived in Wyandotte County and he carried the car insurance policy. Rozell made a claim against the insured’s policy, submitting a Missouri hospital bill to a claims agent in Tennessee. The Tennessee claims agent thought the bill looked suspicious so referred it to a different claims specialist, who lived in Sedgwick County. That person concluded Rozell altered the date on the hospital bill so that insurance would pay it as part of the Missouri car accident claim.

Rozell was charged in Wyandotte County with two crimes: making a false information (K.S.A. 21-5824) and a fraudulent insurance act (K.S.A. 40-2,118). The complaint charged that the insurance company was the victim. Rozell argued that the Wyandotte County court did not have jurisdiction because, if he did commit a crime, he did so in either Missouri or Tennessee.

The prosecution argued, both in the district court and on appeal, that K.S.A. 21-5106(b) means Kansas may prosecute any person who attempts to defraud any insurance policy issued to a Kansas resident because the “proximate result” happens in Kansas (i.e. a possible policy rate increase may be spread out among Kansas insurance policyholders). *Rozell*, 58 Kan. App. 2d at 573-74. The district court and Court of Appeals both disagreed with the prosecution’s reading of K.S.A. 21-5106. The case is pending in the KS Supreme Court.

### **What SB 60 would do**

Rather than adding language to substantive criminal statutes (i.e. the statutes setting out elements of crimes) about proximate results occurring within Kansas due to a person’s out-of-state criminal acts, SB 60 would cover all criminal offenses, without limitation. This has broad implications far outside the realm of insurance fraud.

**SB 60 is unnecessary.** There are other jurisdictions where *Rozell* could have been charged. Just because he could not be charged in Wyandotte County does not mean he could not be held accountable in Missouri, for instance.

**SB 60 would result in unintended consequences.** While the full extent this new language could have on Kansas prosecutions of alleged criminal offenses is unknown, we can foresee some consequences. For example, this language would authorize a murder prosecution in Kansas if the person who pays the victim’s funeral expenses (which are a “proximate result” of murder) lives in Kansas, but everything took place in Hawaii. Does the Legislature really want to authorize Kansas prosecutors to charge any offense where everyone involved in a case except one non-victim party lives in another state? We have been unable to find another state with jurisdictional language as broad as ours would be under SB 60, so it’s difficult to comprehend the full scope SB 60 would have if passed as proposed.

**SB 60 is overbroad.** Given what *Rozell* is about, and given that SB 60 was originally introduced in the Insurance Committee, it appears the unknown-to-us proponent is interested in being able to charge people with insurance fraud for acts committed outside of Kansas. If the Committee feels it needs to broaden the definition of proximate cause for insurance fraud, we would urge the Committee to amend K.S.A. 40-2,118 rather than placing this definition in the general criminal jurisdiction statute.

For all of these reasons, we urge this Committee to reject SB 60.

Sincerely,  
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