

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on March 17, 2011, in Room 346-S of the Capitol.

All members were present except:
Representative Bruchman

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Tamera Lawrence, Office of the Revisor of Statutes
Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Kevin Robertson, Kansas Dental Association
Katy Nitcher, Douglas County District court Trustee
Senator Mike Peterson, Wichita, Kansas
Captain Jeffrey Easter, on behalf of Norman Williams, Wichita Police Chief
Kyle Smith, Assistant Attorney General

Others attending:

See attached list.

The Hearing on **SB 104 - Tort claims act; dentistry by charitable health care providers** was opened.

Jill Wolters, Staff Revisor, provided an overview of the bill for the committee.

Kevin Robertson, Executive Director of the Kansas Dental Association, appeared before the committee in support of the bill and stated it is simply clean up language for the Charitable Healthcare Provider Act. He stated the Kansas Dental Board had changed the location of the relevant definitions in its regulations and these statutory references need to be revised accordingly. ([Attachment 1](#))

There were no opponents.

The Hearing on **SB 104** was closed.

The Hearing on **SB 135 - Enacting the Kansas racketeer influenced and corrupt organization act (Kansas RICO act)** was opened.

Tamera Lawrence, Assistant Staff Revisor, provided an overview of the bill for the committee. ([Attachment 2](#))

Senator Mike Peterson, Wichita, Kansas, spoke before the committee in support of the bill. He stated this Act should give State law enforcement tools to pursue criminals who engage in a pattern of criminal activity. He also stated this legislation is modeled after Florida's Racketeer Influenced and Corrupt Organization (RICO), which has been successful in reducing gang related crimes in the state of Florida. ([Attachment 3](#))

Captain Jeffrey Easter, on behalf of Norman Williams, Wichita Police Chief, addressed the committee in support of the bill. He stated this bill will allow them to more successfully prosecute those who have chosen to make crime their "career" and we must work to remove "career" criminals from the street who account for 95% of crime in our town and cities. ([Attachment 4](#))

Kyle Smith, Assistant Attorney General, appeared before the committee in support of this legislation and stated the federal government and numerous other states have utilized RICO statutes effectively against organized criminal enterprises. ([Attachment 5](#))

The following provided written only testimony in support of the bill:

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on March 17, 2011 in Room 346-S.

Ed Klumpp, Kansas Sheriff's Association, Kansas Association of Chiefs of Police, and Kansas Peace Officers Association ([Attachment 6](#))

Major John F. Cosgrove, Assistant Bureau Director for the Criminal Investigation Bureau, Kansas City Kansas Police Department ([Attachment 7](#))

There were no opponents.

The hearing on **SB 135** was closed.

The Hearing on **SB 160 - Child support; collection of child support payments** was opened.

Matt Sterling, Assistant Staff Revisor, provided an overview of the bill to the committee. ([Attachment 8](#))

Katy Nitcher, Douglas County District Court Trustee, addressed the committee in support of the bill and stated it will assist in the enforcement of child support orders across Kansas. She explained there are two primary methods of enforcement of support orders in Kansas: court trustee offices and entities that contract with the Kansas Department of Social and Rehabilitation Services (SRS) pursuant to a federally-based program referred to as "IV-D." The trustee stated there are currently some differences in the enforcement options available to court trustees versus those available to IV-D entities, and SB 160 would provide court trustees with the same tools as IV-D entities have. She stated the end result is not all children have the full complement of enforcement tools in Kansas and this bill addresses those inequities. ([Attachment 9](#))

There were no opponents.

The Hearing on **SB 160** was closed.

The next meeting is scheduled for March 18, 2011.

The meeting was adjourned at 4:10 p.m.

JUDICIARY COMMITTEE GUEST LIST

DATE: 3-17-11

NAME	REPRESENTING
Hectorino Camacho Jr	Just Faith Member
Christina Jasso	District 31
Diane Rojas	District 19
Gilbert Guerrero	District 52
Rudy Padilla	American GI Forum
Jessica Jasso	District 31
Bill Lucero	44 Fellowship of Topok
Jeff Easter	Wichita Police Department
Brent Allred	WICHITA Police Dept.
John A. Donley	KS Lost. Ass'n
Ellie Dwyer	" " "
Bob Tatham	Kansas Confidential Assoc
DAVID Young	
Fabian Gayosso	
Janey Smith	
Katy Kitcher	Douglas Co. District Court Trustee
Kevin ROBERTSON	TEXAS Dental Assn
Kyle McAllister	
Jim + Ginger Kenney	Advocates for Immigrant Rights + Reconciliation (AIRR)

JUDICIARY COMMITTEE GUEST LIST

DATE: 3-17-11

NAME	REPRESENTING
John Roper	Unitarian Fellowship of Lawrence
Valerie Roper	Unitarian Fellowship of Lawrence
Jacob Kipp	" " " "
Sherry Warren	" " " "
Bonnie Uffman	" " " "
Barbara Walker Johnston	" " " "
Jenny Tavares	Private dual vs Mexico Citizen
Robert Stiles	KDHE
BEATRICE SWOOPES	KANSAS CATHOLIC CONFERENCE
Sr. Mary Ellen Loch	Sister Mary Ellen Loch
Ricardo A. Dumones	Kansas Missouri Dream Alliance
S. Therese Banzett	Sisters of Charity of Leavenworth
Phelanie Steele	U.U. F of Topeka
Nancy Klopfe	UU F of Topeka
Rev. Lisa Schwartz	Unitarian Universalist Fellowship of Topeka
Marta Caminero-Santengelo	Unitarian Fellowship of Lawrence
Ronald Johnston	UNITARIAN FELLOWSHIP of LAWRENCE
Ed Klunpp	KACP/ KIA/ KPOP
Debra Pedigo	Court
Wigh Keck	Capitol Strategies



Date: March 17, 2011

To: House Committee on Judiciary

From: Kevin J. Robertson, CAE
Executive Director

RE: SB 104 – Charitable Healthcare Provider Act

Chairman Kinzer and members of the committee I am Kevin Robertson, executive director of the Kansas Dental Association (KDA) representing 1,250, or some 77% of the state's licensed dentists.

I am pleased to appear before you today in support of SB 104 which is simply clean up language for the Charitable Healthcare Provider Act. This is necessary to provide the proper reference since the Kansas Dental Board revised the administrative the rules and regulations regarding sedation and general anesthesia last year. The language on page 2, lines 16-28 was passed by the 2003 legislature after it had been worked out and agreed upon by the KDA and the Kansas Trial Lawyers Association prior to the first Kansas Mission of Mercy (KMOM) Dental Project in Garden City in February 2003. This language provides immunity to licensed dentists and dental hygienists working at a KMOM free dental clinic.

Since 2003 the annual KMOM free dental clinic administered by the KDA's own Kansas Dental Charitable Foundation (KDCF) has provided dental care to 19,400 patients totaling \$9.75 million. We just completed our 10th KMOM at the State Fairgrounds in Hutchinson on January 21-22, 2011. Each KMOM Dental Project consistently provides about 1,700 patients with around \$1 million in free dental care per year.

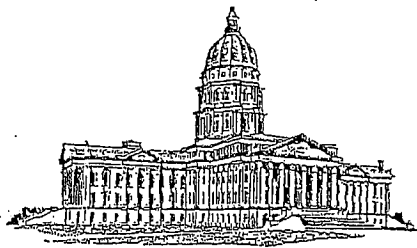
KMOM has never received a government grant or tax-based support with the exception of local law enforcement or government facilities that from time to time are donated for the event. It costs approximately \$60,000 annually to put on a KMOM and nearly half of the dentists in Kansas have participated in at least one KMOM event.

House Judiciary
Date 3-17-11
Attachment # 1

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

To: House Committee on Judiciary

From: Tamera Lawrence, Assistant Revisor of Statutes

Date: March 17, 2011

Subject: SB 135, Enacting the Kansas racketeer influenced and corrupt organization act

SB 135 enacts the Kansas RICO act. The bill lists a number of crimes that are "racketeering activity" including crimes defined as racketeering activity by federal law. Racketeering activity means "to commit, attempt to commit, conspire to commit, or solicit, coerce or intimidate another person to commit" any of those crimes listed in subsection (a)(1).

The bill defines "pattern of racketeering activity" as engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents. At least one incident has to occur after July 1, 2011 and 1 prior incident must have occurred within 5 years, excluding any period of imprisonment. A violation of this act would be a severity level 2 person felony.

The bill also adds the crime of extortion and the new crime of a RICO violation to the forfeiture statute.

2608 S.E. DRIVE
WICHITA, KANSAS 67216
(316) 264-1817

STATE CAPITOL, ROOM 224-E
TOPEKA, KANSAS 66612
(785) 296-7355
mike.petersen@senate.ks.gov



SENATOR MIKE PETERSEN

COMMITTEES
VICE CHAIR: UTILITIES
MEMBER: TRANSPORTATION
ETHICS & ELECTIONS
JOINT COMMITTEE ON
INFORMATION TECHNOLOGY

March 17 2011

SB 135

Chairman Kinzer, Members of the Committee,

SB 135 will create The Kansas Racketeer, Influenced and Corrupt Organization Act.

SB 135 is the same as SB523 (2010) Passed late last year updated for statute changes we made. The bill was amended to remove sudden crimes such as involuntary manslaughter that by definition would be difficult to conspire to commit. This Act should give our State law enforcement tools to pursue criminals who engage in a pattern of criminal activity. This legislation is modeled after Florida's R.I.C.O. Act which has been successful in reducing gang related crimes in the state of Florida. The goal of this Act is to help law enforcement prosecute the people financing and leading criminal enterprises engaged in a pattern of racketeering. "Pattern of racketeering" is defined on page four of the bill which requires two previous incidents of racketeering activity within five years. One incident must be after the enactment of this bill. This act creates a level two person felony. The high severity level felony has been used by prosecutors to encourage people charged, to provide information pertaining to those involved at higher levels in the criminal organization. Florida's successful R.I.C.O. Act was first enacted 28 years ago. Since the enactment of this act 4,233 charges have been filed, 1,258 convictions with 621 charges resulting in 487 people sentenced to the state prison. Adjusting for Kansas's population difference 18.7 million for Florida to 2.7 million for our state, Kansas has a population roughly of 14.5% of Florida and dividing by 28 years a rough estimate this impact would come out to around 3.2 per year. As noted in the bed space impact report it is very difficult to determine the actual impact. I have been told Florida has seen reductions in gang related activity since they started using their State R.I.C.O. Act to address the people financing or running gangs.

Thank you for your consideration,

A handwritten signature in black ink that reads "Mike Petersen". The signature is written in a cursive, flowing style.

Senator Mike Petersen

House Judiciary
Date 3-17-11
Attachment # 3



Dale Goter
Government Relations Manager

TESTIMONY

City of Wichita
455 N Main, Wichita, KS. 67202
Wichita Phone: 316.352.4876✓
dgoter@wichita.gov

Capt. Jeffrey Easter

Testimony of Chief of Police Norman Willams, City of Wichita

Members of the House Judiciary Committee:

Thank you for this opportunity to present supportive arguments for SB135 on behalf of the Wichita Police Department, the City of Wichita, and the Kansas Association of Chiefs of Police, all of whom support legislation proposed under SB 135.

It is a well known adage in law enforcement that 5% of society creates 95% of the crime. It seems there are certain people in society who literally try to "make a living" out of crime. Instead of looking for work or improving their education, these people spend their time selling drugs, committing fraud, stealing identities, committing robbery, or running with gangs. Some commit all of the above crimes.

We have reached a point in law enforcement and in this State that we must become more efficient with our time and resources due to budget constraints. Law enforcement can no longer afford randomization in how we do business – our work must become more focused and efficient. We must work to remove "career" criminals from the street who account for 95% of crime in our towns and cities.

No one wants to create laws that will simply fill prison beds. The valuable resource of a prison bed should be filled with violent criminals and those who choose to make "a living" committing crime in our communities. Our current laws regarding murderers and violent criminals are sufficient. The proposed SB 135 will allow us to more successfully prosecute those who have chosen to make crime their "career".

In the middle of 2006, the Wichita Police Department discovered a group of criminals involved in the Neighborhood CRIPS gang who were committing crimes such as drug and gun sales, Medicaid fraud, robbery, human trafficking, aggravated assault, and others. When investigators reviewed the criminal history of this group, it became clear they were looking at a criminal enterprise.

House Judiciary
Date 3-17-11
Attachment # 4

In other words, we saw multiple and repeated trips into the criminal justice system for this group accompanied with sporadic incarceration times, probation, and parole. After each of these trips into the justice system, they went right back to the business of committing crimes for the gang. Based on this information, we decided to use this historical information and attempt new prosecution under federal racketeering laws.

Because there was no State law for us to use, the Wichita Police Department had to get a federal law enforcement entity to "adopt" the case and run all documents and paperwork through. The FBI agreed to do this. In years 2006 and 2007, the investigation federally indicted over 28 individuals who were involved in the criminal enterprise. Every single one of these suspects had lengthy criminal records and had received multiple chances in the criminal justice system. Despite this, they chose to purposely continue lives of crime.

By indicting these suspects under the federal Racketeer Influenced and Corrupt Organization Act (RICO), we were able remove these subjects from the street, present to a judge their total criminal history and continued involvement in crime, and gain enhanced prison sentences which removed them from the city streets. This effort tangibly reduced street crimes committed by the CRIPS gang organization, saving lives and property as well as reducing the amount of time required to deal with these crimes.

Many of our cities and counties in the State of Kansas do not have the access to the federal system that was available to Wichita. Under SB 135, we would have a state remedy to deal with our recidivist criminals who operate in all areas of our State. Local law enforcement would no longer need federal "adoption" and could be more efficient in conducting these investigations through our local courts. This proposed law would also send a clear message to the criminals of this State that "career" criminals need to pay heed. It also sends a message to all law abiding citizens that this State is going to aggressively protect their safety.



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KSAG.ORG

House Judiciary Committee
Kyle Smith, Assistant Attorney General
In Support of SB 135
March 17, 2011

Chairman Kinzer and committee members,

Attorney General Derek Schmidt has asked me to appear in support of the passage of SB135 creating the Kansas racketeer influenced and corrupt organization act (RICO). The federal government and numerous other states have utilized RICO statutes effectively against organized criminal enterprises.

While any criminal or criminal act can be devastating to the victim, this approach to law enforcement recognizes that organized groups engaging in criminal activity can be more effective than the lone criminal. For good or evil, coordinated efforts by organization are generally more effective. As such, RICO statutes are the 'heavy artillery' in the list of weapons available against criminals. It is only applicable and available to be used against the organized criminals when the state can prove beyond a reasonable doubt a pattern of criminal activity.

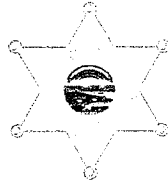
This bill will provide enhanced penalties for participants in these criminal enterprises. All too often, even if a lead person is prosecuted and incarcerated, the other participants in a criminal organization will simply fill the open position and carry on business as usual. This bill would target all those planning, conspiring and reaping the benefits of these crimes enhancing our ability to close down the entire operation.

We urge you to support the favorable consideration of this bill.

House Judiciary
Date 3-17-11
Attachment # 5



**Kansas Association of
Chiefs of Police**
PO Box 780603
Wichita, KS 67278
(316)733-7301



**Kansas Sheriffs
Association**
PO Box 1853
Salina, KS 67402
(785)827-2222



**Kansas Peace Officers
Association**
PO Box 2592
Wichita, KS 67201
(316)722-8433

**Testimony to the House Judiciary Committee
In Support of SB 135
March 17, 2011**

Chairman Kinzer and Committee Members,

The Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association supports the passage of SB135 creating the Kansas racketeer influenced and corrupt organization act. This act will provide an additional tool to Kansas law enforcement and prosecutors to address the worst of the criminals preying on Kansans. This bill will provide enhanced penalties for participants in these criminal enterprises. Group criminal activity is the worst of the criminal activity. It is often hard to stop when a case can only be made on some of the participants. When the group of those planning, conspiring and reaping the benefits of these crimes can be prosecuted, the opportunity to stop the entire criminal enterprise is enhanced.

We do not foresee this statute being used abundantly. Much like the federal RICO act is not frequently used. These cases require extensive investigations and case building. They will be aimed at groups perpetrating widespread repeated crime in our communities.

It is not our intent to have a RICO law that is too broad. But it is important to have one that will cover the most vile of criminal organizations. These laws have been found helpful in addressing criminal activity of gangs and other organized criminal groups. Especially those engaged in crimes against our children, organized financial crime, organized use of violence to intimidate victims and witnesses, and criminal organizations that don't hesitate to use violence to silence their foes.

We urge you to support the favorable recommendation of this bill.

Ed Klumpp
Kansas Association of Chiefs of Police, Legislative Committee Chair
Kansas Sheriffs Association, Legislative Liaison
Kansas Peace Officers Association, Legislative Liaison
E-mail: eklumpp@cox.net
Cell: (785) 640-1102

House Judiciary
Date 3-17-11
Attachment # 6



POLICE DEPARTMENT

Criminal Investigation Bureau



Rick L. Armstrong
Chief of Police

Major John F. Cosgrove
Assistant Bureau Director

Dear Committee Members,

My name is John Cosgrove, and I am the Assistant Bureau Director for the Criminal Investigation Bureau within the Kansas City, Kansas Police Department. I am submitting the following written testimony in support of Senate Bill 135.

I have worked for the Kansas City, Kansas Police Department for over 26 years. During that time I have had numerous assignments, including being the Commander of our Homicide Unit for several years, as well as serving as the Community Policing Commander for several years. I mention this information to let you know that I have worked closely in the area of gang-related crimes, as well as organized narcotic enterprises. I have personally been involved in hundreds of homicide investigations and my experience is that a large proportion of the homicides which occur in our City have a direct link to gang and drug organizations. For example, in 2009, 17 out of our 39 homicides were identified as being directly related to gangs and or drugs.

The Kansas City, Kansas Police Department does not have a specialized gang unit, but instead implements the philosophy that the Department as a whole addresses gang related issues. We do have a Threat Assessment Unit that identifies and links together known criminal associates and gang members. The valuable information this Unit obtains would benefit greatly if we had a Kansas RICO law on the books.

A Kansas RICO act would be a powerful tool for Kansas law enforcement. It would afford police departments the opportunity to address the most violent predators in their communities. The RICO act would do this by serving as a very effective tool in targeting known gangs, gang members, as well as other criminal associations; effectively providing the ability to 'decapitate' the hierarchy within those entities. A secondary benefit would be its deterrent effect on gang activity. Presently, one of the only options for local law enforcement agencies to address gangs is to seek enhanced sentencing at the federal level through the RICO act. The RICO act has proven to be an effective tool at the federal level in providing federal law enforcement agencies with the 'extra teeth' needed to deal with organized groups of criminal activity. A Kansas RICO act would provide the additional teeth needed to address these types of organizations by providing longer incarceration periods as well as making the assets of those involved subject to seizure and forfeiture through the courts.

About 14 years ago, the State of California implemented their version of the RICO act, the California Street Terrorism Enforcement and Prevention Act, which provided the California criminal justice system with a more effective means to address street level gangs, i.e. the Bloods and the Crips. The California Legislature enacted the laws with the intent to seek the eradication of criminal activity by street gangs by focusing upon patterns of criminal gang activity and upon the organized nature of street gangs, which



gether, were the chief source of terror created by street gangs. The California Legislature also found that an effective means of punishing and deterring the criminal activities of street gangs was through forfeiture of the profits, proceeds, and instrumentalities acquired, accumulated, or used by street gangs. The resulting reduction in the extent and level of criminal activity by California gangs was felt nationally.

Several examples come to mind where a Kansas RICO act would have been beneficial to our community. One involved an infamous local family whose drug enterprise operated out of their residences in KCK. This drug enterprise had and continues to be a constant problem for our Department. This organized criminal enterprise had many violent crimes associated with their illegal drug business. At that time, the assistance of federal law enforcement was required to effectively address and prosecute the investigation under federal drug laws that carried longer sentences and the lack of parole. This helped eliminate for a time several members of this group. However, if we had in place a Kansas RICO Statute, this would have allowed us to more effectively address and end the entire group's reign of terror on our Community.

Another example has been during the past few years, a joint task force involving the Kansas City, Kansas Police Department and federal law enforcement agencies was created to address multiple instances of violent crimes committed by two identified rival gangs; both deeply entrenched in illegal narcotics sales. A federal RICO act prosecution was turned down by the USDA office due to the process being too labor intensive. One of the USADA advised that due to the amount of manpower and resources required to pursue a RICO prosecution at the federal level that it was not feasible. At that time, she said that the KCKPD would have to dedicate 6 full-time detectives for at least one year to proceed with a Federal RICO prosecution. With the enactment of a Kansas RICO act, the personnel requirement would be reduced due to the fact that documentation would already exist and be contained within the investigating agency.

Even more recently we had a robbery at a local convenience store where the clerk shot and wounded one of the suspects. From that arrest, we have determined there is a group of between 6 and 10 individuals who have been committing armed robberies throughout the entire Metropolitan area. We have identified at least 23 robberies that this "group" has committed. At present, we need to rely on the FBI to assist us with the prosecution of these individuals so we can tie all of them together in a RICO case. If the FBI is unable to assist us on this case, then all we will be able to do at this time would be to charge for the one robbery where the suspect was shot.

These are just a few of the more prominent investigations the Kansas City, Kansas Police Department has handled where a Kansas RICO act would have been beneficial. However, it should be noted that the KCKPD has had several instances in recent years where a group of criminal associates has been identified but had to be prosecuted individually.

I thank you for your time and consideration in this matter and strongly request that you support the measures submitted in Senate Bill 135.

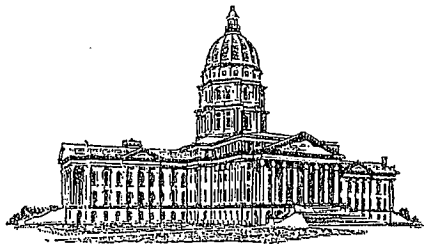
Major John F. Cosgrove
Assistant Bureau Director
Criminal Investigation Bureau
Kansas City, Kansas Police Department
Kansas City, Kansas 66101
913-573-6024



MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

MEMORANDUM

To: Chairman Kinzer and members of the House Judiciary Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: March 17, 2011
Subject: Senate Bill 160

SB 160 amends K.S.A. 2010 Supp. 23-4,107 and 75-6202 concerning collection of child support. The bill would permit the court trustee to cause a copy of any income withholding order to be served on the payor. The bill would also change the definition of debtor to include a person who is receiving assistance in collecting support owed to them under K.S.A. 23-495.

House Judiciary

Date: 3-17-11

Attachment # 8

DISTRICT COURT TRUSTEE
SEVENTH JUDICIAL DISTRICT
JUDICIAL CENTER, 111 E. 11TH
LAWRENCE, KANSAS 66044-2966
785-832-5315
Fax: 785-838-2408

March 15, 2011

Mr. Chairman Lance Kinzer and members of the House Judiciary Committee:

Thank you for this opportunity to provide testimony on behalf of the court trustees across the State of Kansas supporting the passage of Senate Bill 160 which will assist in the enforcement of child support orders across Kansas.

Two primary agencies across the State of Kansas enforce support orders, those entities that contract with SRS for enforcement services and court trustee offices. An individual who is owed child support can seek collection assistance from SRS and their contractors or from a local court trustee office. The purpose behind SB 160 is to allow all individuals owed child support to equally take advantage of enforcement measures regardless of which agency enforces their case.

There are two types of trustee offices: those who only enforce non-IV-D cases or, for lack of a better term, a regular support case, and those who enforce both IV-D cases and regular cases. To illustrate, my office, the Douglas County District Court Trustee office, only enforces regular cases; we do not have the IV-D contract. By contrast, the Johnson County District Court Trustee Office, for example, has the IV-D contract and enforces both regular cases and IV-D cases. Under the current law, children in regular cases lack certain enforcement tools available in IV-D cases. Additionally, trustee offices that have the IV-D contract cannot treat all children in their caseload equally. The end result is not all children have the full complement of enforcement tools in Kansas. Senate Bill 160 addresses these inequities.

First, I will address the proposed amendment regarding how income withholding orders are served on employers. K.S.A. 23-4,107(f)(2) currently allows only a IV-D agency to use alternate methods of service acceptable to the employer in lieu of personal service or registered mail. Current technology allows trustees to fax or e-mail income withholding orders to employers resulting in faster commencement or termination of income withholding. The court trustees are simply seeking the same tools for non-IV-D cases, i.e., regular cases, as allowed in IV-D cases. Additional smaller benefits are sheriff's offices are removed from the loop in serving orders by personal service or registered mail and courts benefit from cost savings as fewer registered mailers are purchased.

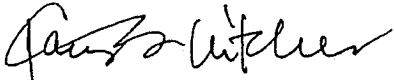
Second, current state debt setoff law, K.S.A. 75-6202(b)(2), defines a "debt" to include any amount of support owed an individual who is receiving assistance in collecting that debt through the IV-D program. K.S.A. 75-6202(a)(2) currently defines a "debtor" to include any person who owes support to an individual who is receiving assistance in collecting that support through the IV-D program. This means that a child in a IV-D case can look to state tax refund interception, for example, to pay past due support while a child in a regular case may not. Senate Bill 160 merely includes cases enforced by trustees pursuant to K.S.A. 23-495, i.e., regular cases, within the definition of "debt" and "debtor." Trustee offices similar to the Douglas County Court Trustee could then use state debt setoff for a regular case, and trustee offices similar to the Johnson County Trustee would no longer discriminate between cases when considering state debt setoff as an enforcement tool.

House Judiciary
Date 3-17-11
Attachment # 9

Passage of Senate Bill 160 will result in a level playing field for all children of Kansas regardless of which agency enforces the support order. I ask for your support of the passage of the bill.

Thank you for the honor of presenting my testimony on behalf of court trustee offices across the State of Kansas.

Respectfully,

A handwritten signature in cursive script, appearing to read "Katy S. Nitcher".

Katy S. Nitcher
Douglas County District Court Trustee