

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 A.M. on February 7, 2011, in Room 548-S of the Capitol.

All members were present, except Senator Donovan, who was excused

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee

Senator Tom Holland
Adam Doran, Tonganoxie, Kansas
Ed Klumpp, Kansas Assn. of Chiefs of Police and Kansas Peace Officers Assn.
Senator Faust- Goudeau
Wanda Robinson Owens, Kansas City, Kansas
Joan Jordan, Kansas City, Kansas
Jim Snyder, Topeka
Kim Saleh, Family Friends Program of Children's Mercy Hospital
Kathy Winters, Olathe, Kansas
Beverly Barker
Wendell Turner, Wichita, Kansas
Kim Strunk, Topeka, Kansas

Others attending:

See attached list.

Bill Introductions:

Senator Peterson requested introduction of a bill that would create a crime of participation in a criminal enterprise.

The Chairman opened the hearings on **SB 55 — Amending the crime of harassment by telecommunication device.**

Jason Thompson, Staff Revisor, reviewed the bill. He stated it is similar to a bill introduced during the 2010 Legislative session. He also distributed copies of an amendment prepared at the request of Senator Holland (Attachment 1).

Senator Holland, who had requested introduction of the bill, offered testimony in support of **SB 55** (Attachment 2). He stated that the bill would expand the current definition of harassment by telephone to include cell phones and any other electronic device that makes use of telephone lines or services.

Adam Doran offered testimony in support of **SB 55** (Attachment 3). He stated the current definition of telecommunication device does not include cell phones, text messaging or communication through wireless networks and other services aside from telephone lines.

Ed Klumpp testified in support of **SB 55** (Attachment 4). Mr. Klumpp expressed concern that the language may need to be broadened to cover all current methods of wireless and Internet services.

Senator Haley asked if a single text would constitute harassment. Mr. Klumpp responded that it would.

The Chairman called the committee's attention to the fiscal note for **SB 55**.

The Chairman closed the hearings on **SB 55**.

The Chairman opened the hearings on **SB 52 — Concerning grandparent's custody of children.**

CONTINUATION SHEET

The minutes of the Judiciary Committee at 10:30 a.m. on February 7, 2011, in Room 548-S of the Capitol.

Jason Thompson, staff revisor, reviewed the bill.

Senator Faust-Goudeau, who requested introduction of the bill, offered testimony in support of **SB 52** (Attachment 5). She stated the bill would help keep families together and help keep children out of foster care.

The Chairman asked the following conferees to please be mindful of the fact that it is not the committee's role to "re-try" child-placement cases that have been adjudicated by the court. The Chairman asked the conferees to limit their testimony to the policy proposed in **SB 52**, which is: The statutory designation of grandparents as interested parties in children in need of care proceedings.

Wanda Robinson Owens spoke in support of **SB 52** (Attachment 6). She stated her preference of placing children in the custody of a grandparent over foster care.

Joan Jordan spoke in support of **SB 52** (Attachment 7). She related a story of personal experience concerning the custody of her grandchildren.

Jim Snyder, presented testimony in support of **SB 52** on behalf of Dorothy Zook, President of the Kansas Silver Haired Legislature (Attachment 8). He stated that grandparents should be included in the process of determining what is in the best interest of their grandchildren in matters relating to custody, visitation and residency arrangements of the grandchildren.

Jim Snyder rose in support of **SB 52** and provided statistical data regarding grandparental care of grandchildren (Attachment 9).

Kim Saleh presented testimony in support of **SB 52** (Attachment 10). She related a story of a person who is a grandparent concerning the custody of such person's grandchildren.

Kathy Winters presented testimony in support of **SB 52** (Attachment 11). She stated that the bill is not strong enough and that it should provide grandparents special rights in these custody cases.

Beverly Barker presented testimony in support of **SB 52** (Attachment 12). She stated that the bill should provide children input in matters relating to their custody, visitation and residency arrangements. She also stated that the system needed to be changed.

Wendell Turner presented testimony in support of **SB 52** (Attachment 13). He stated that the bill does not "go as far" as proposed by the Silver Haired Legislature, but it's a start. He also stated that it would cost the state less if children were in the care of their grandparents rather than in foster care.

Kim Strunk presented testimony in support of **SB 52** (Attachment 14). She expressed frustration with the system that places children in the care and custody of strangers rather than with grandparents or other relatives. She stressed the importance of biological family connections and that placement with grandparents should be given priority over placement in foster care.

Martha Smith and Sadie Carpenter rose to offer their oral support of **SB 52**.

Written testimony in support of **SB 52** was submitted by: Theresa Mabery, (Attachment 15); Mary Tritsch, AARP Kansas, (Attachment 16); Clarence and Marian Wonsetler, Paola, Kansas (Attachment 17); and Heather Morgan, United Methodist Youthville, (Attachment 18).

The Chairman called the committee's attention to the fiscal note for **SB 52**.

The Chairman closed the hearings on **SB 52**.

Meeting adjourned at 10:25 A.M. The next meeting is scheduled for February 8, 2011.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb. 7, 2011

NAME	REPRESENTING
Mark Gleeson	Judicial Branch
Heather Morgan	JMY
Steve Solomon	TRF Family Service
Joyce Groves	KCSOV
Kern Boone	Cap Cob Gray
Doug Smith	KCA/KCAA
Jim Snyder	SHL
WENDELL TURNER	SHL
Kimi Hume	Grandparent
Laura Gilbow	Grandparent
Fran Hurnisher	Grandparents
Colleen Stovall	Grandparent
Wanda John Owens	Grandparents
Sadie Carpenter	Grandparents
Dev Borker	Grandparent
William Blackwell	" "
Kathy Winters	grandparent
Xiao Zhang	myself

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: _____

[illegible]

SENATE BILL No. 55

By Committee on Judiciary

1-25

Prepared by
Jason Thompson
Senior Assistant Revisor

Senate Judiciary
Attachment 1

1 AN ACT concerning crimes and punishment; relating to harassment by
2 telecommunication device; amending section 184 of chapter 136 of
3 the 2010 Session Laws of Kansas and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. Section 184 of chapter 136 of the 2010 Session Laws of
7 Kansas is hereby amended to read as follows: Sec. 184. (a) Harassment
8 by telecommunication device is the use of:

9 (1) ~~Telephone communication~~ *A telecommunications device to:*

10 (A) Knowingly make or transmit any comment, request, suggestion
11 or, proposal, image or text which is obscene, lewd, lascivious, filthy or
12 indecent;

13 ~~(B) make a telephone call, whether or not conversation ensues, or~~
14 ~~transmit a telefacsimile communication with intent to abuse, threaten or~~
15 ~~harass any person at the called number;~~

16 ~~(B) make or transmit any comment, request, suggestion, proposal,~~
17 ~~image or text with intent to abuse, threaten or harass any person at the~~
18 ~~receiving end;~~

19 ~~(C) make or cause the telephone of another ring a~~
20 ~~telecommunications device to repeatedly ring or activate with intent to~~
21 ~~harass any person at the called number receiving end;~~

22 ~~(D) make repeated telephone calls, during which conversation~~
23 ~~ensues, or repeatedly transmit a telefacsimile communication with intent~~
24 ~~to harass any person at the called number;~~

25 ~~(E) (D) knowingly play any recording on a telephone, except~~
26 ~~recordings such as weather information or sports information when the~~
27 ~~number thereof is dialed, unless the person or group playing the recording~~
28 ~~shall be identified and state that it is a recording; or~~

29 ~~(F) (E) knowingly permit any telephone or telefacsimile~~
30 ~~communication machine telecommunications device under one's control~~
31 ~~to be used in violation of this paragraph.~~

32 (2) Telefacsimile communication to send or transmit such
33 communication to a court in the state of Kansas for a use other than court
34 business, with no requirement of culpable mental state.

isment by telecommunication device is a class A nonperson

Senate Judiciary

2-7-11

Attachment 1

State of Kansas

Senate Chamber

TOM HOLLAND
STATE SENATOR, 3RD DISTRICT
DOUGLAS, JEFFERSON AND LEAVENWORTH COUNTIES

HOME ADDRESS:
961 E. 1600 ROAD
BALDWIN CITY, KS 66006
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ROOM 181-E, STATE CAPITOL
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COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER: ASSESSMENT AND TAXATION
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MEMBER: FINANCIAL INSTITUTIONS AND INSURANCE
INTERSTATE COOPERATION
JOINT COMMITTEE ON ECONOMIC DEVELOPMENT
JOINT COMMITTEE ON INFORMATION TECHNOLOGY

February 7, 2011

Chairman Owens and Committee Members:

Good morning! My name is Tom Holland, and I am the State Senator for the 3rd District serving portions of Douglas and Leavenworth counties and all of Jefferson County. I am here today to ask for your support of Senate Bill 55, an act concerning harassment by telecommunications.

This bill would expand the current definition of harassment by telephone as defined under K.S.A. 21-4113 to include telecommunications devices such as cell phones and any other electronic device which makes use of telephone lines or services. This bill request was brought to me by a constituent, Adam Doran, a police officer with the Bonner Springs Police Department. Officer Doran is here today to testify on behalf of the bill.

I very much appreciate the committee's consideration of this bill.

Sincerely,

A stylized handwritten signature of Tom Holland, written in dark ink.

Tom Holland
State Senator – 3rd District

Senate Judiciary
2-7-11
Attachment 2

February 4, 2011

162 S. Whilshire Dr.
Tonganoxie, KS 66086
doran50014@yahoo.com

Kansas Senate
State Capitol
300 SW 10th Street
Topeka, KS 66612

Members of the Senate,

First, let me say thank you for the work you do on a daily basis to represent your district constituents and the rest of the State of Kansas. I understand you stay very busy, so I will make this brief.

I am a Tonganoxie resident and a Bonner Springs police officer. I have been in Kansas law enforcement for more than seven years. Serving the citizens of this State by upholding the laws and protecting their rights granted under the Constitution is a responsibility that I enjoy and take very seriously. I have the great privilege of saying that my life's work is my passion. To that end, I seek out every opportunity to advance my knowledge and experience in the field. My areas of specialization are training, grant proposal development, and policy development/revision. I am a certified Police Training Officer, with instructor certifications in several areas, and considerable experience writing grant proposals and developing policies. In addition to these experiential qualifications, I am pursuing a Master's Degree in Public Administration at the University of Kansas. My goal is to be a leader in my profession, as a positive influential force that contributes to making law enforcement in Kansas the best it can be.

I'm writing you today because one of our Kansas criminal statutes needs revision. The current language of KSA 21-4113, regarding telephone harassment, only identifies two methods of telecommunication: telephone calls and facsimiles. The statute fails to mention cellular telephones or text messages, arguably the two most predominant modern methods of communication. It also fails to acknowledge telecommunications can be made through wireless

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Attachment 3

networks and other services aside from just telephone lines. Broadening the language of the statute to include today's telecommunication devices and methods, and specifically addressing harassing text messages to reflect modern times would be beneficial.

On the job, I am taking more and more reports of harassing text messages, particularly with the younger generation who relies heavily on texting as a primary mode of communication. With the popularity of texting still on the rise, I only see this problem continuing.

I have taken reports where the victim was receiving text messages threatening to kill them or "beat their face in," messages certainly sent with the intent to abuse, threaten, or harass the person on the receiving end. I have also taken reports when the messages were more along the lines of sexual harassment, when someone was making unwanted sexual advances towards the victim. Another example would be the ex-girlfriend or boyfriend who was told to stop calling the victim, so instead they resorted to repetitive text messages, in an effort to get the victim to respond simply by the sheer volume of messages sent. If done by text messaging or any other wireless telecommunication method, rather than by conventional voice telephone conversations or fax, these activities are not prohibited by the phone harassment statute (KSA 21-4113).

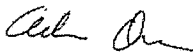
Currently, my jurisdiction charges harassing text messages under the 21-4113 statute, because nothing else fits. However, appeals by intelligent defense attorneys will render these cases dismissed. The language of the current telephone harassment statute only addresses actual phone calls and fax messages made by telephone lines. I am attempting to be forward-thinking on this, since the language of the statute does not reflect modern telecommunications trends; and I believe it's only a matter of time before defense attorneys get smart and start challenging this, much as they have with other loopholes in the law.

Senate Bill 55 has been proposed as a solution to this issue. You will notice the language of the proposed bill has broadened the language from the terms "telephone" and "telephone communication" to "telecommunications." The term "text" has been added to specifically address harassing or threatening text messages. Several other revisions bring the language of

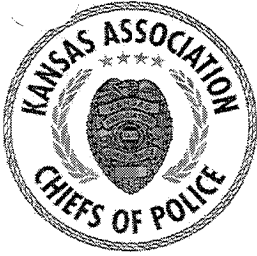
the statute up-to-date including the definition of a "telecommunications device" on page 2, lines 8-10.

I urge you to support this bill as a beneficial step towards modernization that will be of great assistance to prosecutors and the rest of the Kansas law enforcement community as we do our job. This bill is essential to ensuring the successful charging and conviction of those who violate the law. Thank you for your time and consideration.

Respectfully,

A handwritten signature in cursive script, appearing to read 'Adam Doran'.

Adam Doran
Tonganoxie, KS



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

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



**Testimony to the Senate Judiciary Committee
In Support of SB55 Harassment by Telecommunications Devices
February 7, 2011**

The Kansas Association of Chiefs of Police and the Kansas Peace Officers Association support passage of HB55. This bill modernizes the statute currently titled Harassment by Telephone. That statute, KSA 21-4113 has not been amended since 1993. Since that time, the proliferation of a multitude of electronic devices has broadened the opportunities for devious people to use other more modern electronic devices to harass others. This proposal will include the use of cell phones and so called smart phones. It also adds the transmission of images or text. These amendments are critical for law enforcement to be able to respond appropriately to the needs of victim's of this harmful behavior.

We do offer one comment for amendment consideration. On page 2, line 10 we are concerned if "makes use of telephone lines or services" captures all of the potential abuses. We would ask the committee to consider the wisdom of perhaps amending that by adding ", wireless services, or internet services." We feel this would more clearly cover text messaging and e-mail as well as the use of pagers, devices on cable networks, and developing technology such as I-pads, Skype, and VoIP phones and devices to harass another person.

Ed Klumpp
Ks Association of Chiefs of Police - Legislative Committee Chair
Ks Peace Officers Association - Legislative Liaison
eklumpp@cox.net
Phone: (785)640-1102

Senate Judiciary

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Attachment 4

1 (c) Every telephone directory published for distribution to members
2 of the general public shall contain a notice setting forth a summary of the
3 provisions of this section. Such notice shall be printed in type which is no
4 smaller than any other type on the same page and shall be preceded by the
5 word "WARNING."

6 (d) As used in this section, ~~"telefacsimile communication"~~ means the
7 ~~use of electronic equipment to send or transmit a copy of a document via~~
8 ~~telephone line~~ *"telecommunications device" includes telephones, cellular*
9 *telephones, telefacsimile machines and any other electronic device which*
10 *makes use of telephone lines or services, wireless services, or internet services.*

11 Sec. 2. Section 184 of chapter 136 of the 2010 Session Laws of
12 Kansas is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its
14 publication in the statute book.

STATE OF KANSAS

OLETHA FAUST-GOUDEAU

SENATOR, 29TH DISTRICT
PO BOX 20335
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316-652-9067

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TOPEKA

SENATE CHAMBER

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JOINT COMMITTEES: ARTS AND CULTURAL
RESOURCES

CHILDREN'S ISSUES

ECONOMIC DEVELOPMENT

Senate Bill 52

Hearing held on February 7, 2011

9:30 am

Senate Judiciary Committee

Chairman-Senator Tim Owens

Ranking Member-Senator David Haley

Honorable Members of the Committee

Good Morning,

I am testifying in support of SB-52 on behalf of the Kansas Silver Haired Legislature. In 2005, I introduced a bill that became law July 1, 2006, known as the "Grandparents As Caregivers Act", which financially assisted grandparents raising grandchildren.

SB-52 is another attempt to assist grandparents, to keep children out of foster care, and to keep families together. Over the past couple of years, I have heard from grandparents who are not informed about court hearings regarding the placement of their grandchildren. SB-52 would require the courts to consider grandparents as interested parties to a child in need of care proceeding. The bill would also require grandparents to receive notification of court hearings regarding their grandchildren.

Once again, this is an attempt to keep children out of foster care and keep families together.

I strongly urge your support for SB-52.

Thank You,

Senator Oletha Faust-Goudeau

Senate Judiciary

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Attachment 5

Wanda Robinson Owens
2940 Delavan Avenue
Kansas City, KS 66104
913-281-5961

My oldest daughter's two girls were removed from my home because the mother stated to case manager of SRS that I was not keeping the children presentable looking for their visit with her. Both girls were removed from my home and the children have not fared well. The 12 year old was molested while in state custody. The 7 year old was so hysterical when being removed from my home that they diagnosed her as Oppositional Defiant and she has been on medication ever since. she has not been right to this day.

Signed Wanda Robinson Owens

Senate Judiciary

2-711

Attachment 6

Joan & Henry Jordan
2538 North 73rd Terrace
Kansas City, KS 66109
913-766-1121

Joan & Henry Jordan was caring for four grandchildren since May of 2008. They were placed in their care by Child Protection Services via court. Three of them were there until September 2009 when they were taken from their grandparent's home and placed with their real father, who was a recovering drug addict. The fourth child, whose father was incarcerated, stayed with the Jordans until the court took her from their home and put her in the custody of the siblings father, Marcus Dodson, This was done against the advice and wishes of Joan and Henry Jordan. The grandparents applied for custody of the child and the court did not grant their petition. The person that was given custody, Marcus Dodson, did not have employment nor did he have stable housing.

It is important to note that Marcus Dodson was still in noncompliance with his drug violation; he is still going to court for this violation. He is a felon and was given food stamps and a stipend from SRS for all four children.

Signed – Joan Jordan

Senate Judiciary

2-7-11

02/03/2011 5:18PM

Attachment 7

I'm Dorothy Zook from Hesston, Ks and President of the Silver Haired Legislature

Most of us are Grandparents so we have a real interest in Grandparents rights. We want what is best for the child; When there are unfit parents not taking good care of their children and the children are taken away, usually, the Grandparents were the ones taking care of them most of the time before.

But when they go to court the grandparents don't have any say and before they know it SRS has put them into foster homes without even recognizing that Grandparents can give them a stable home also.

We have had testimony at our convention of brothers and sisters broken up because most foster homes don't want more than three. Also where Grandparents only had minimal visiting rights after they went to foster parents, this is not right.

Grandparents need to be included in evaluating what custody, visitation or residency arrangements are in the best interest of the child. Grandparents must show by clear and convincing evidence that the child has actually resided with such Grandparents in a stable relationship where they nurtured and supported the children. Also that children have permanency and stability in their situations and that the continuity of family relationships and connections is preserved.

**WHO LOVES GRANDCHILDREN MORE THAN
GRANDPARENTS**

STATISTICAL DATA REGARDING GRANDPARENTAL CARE OF GRANDCHILDREN

SB 52 - Feb. 7, 2011

Based on 2000 Census data, Kansas has 35,274 children living in households headed by grandparents or other relatives. This includes 17,873 grandparents reporting that they are providing day-to-day care to nearly 30,000 of their grandchildren. Keeping families together helps reduce disruptions for children, and that is important to their long-term success.

In the "Child and Family Services Review Statewide Assessment for Kansas (2005), SRS reported that "placement with relatives or other kin continues to be the preferred placement". Every child kept out of the foster care system in Kansas saves an average of \$24,672 a year that we all pay. (Kansas Department of Social & Rehabilitation Services, January 2007).

Child welfare agencies have discovered the advantage of placing children with extended family. These agencies have found children placed with relatives to be safe and nurtured, and to feel more like they are at home than in foster care.

Grandparents are not just providing short-term care. Three-fourths of Kansas caregiving grandparents have cared for their grandchildren for more than one year, and more than one-third have assumed this role for five years or more. (Kansas Public Health Assn. Inc., KPHA E-News Update, 6/1/06.)

Senate Judiciary

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Attachment 9

Grandchild: Tiana Garrison
Grandmother: Theresa Mabery

In December of 2007, Tiana Garrison's biological mother left Tiana, her younger sister and brother with her uncle, a licensed foster care home. It was found out, uncle was administering corporal punishment and the 3 children were removed, separated and placed in three different foster homes.

In Tiana's next home, the male figure and Tiana had conflict, by now it's 2009 and Tiana was removed again and placed with her sister in a third home. In May of 2010, it was discovered domestic violence had been occurring on a regular basis in the foster home along with the children being unkept, stinking, wearing dirty clothes, home environment dirty, and breeding animals on the property for profit. The children were removed and the Gully's license was revoked from them. Tiana had been telling her grandmother what was taking place and Theresa reported it to Tammy, KVC Therapist, and Jennifer Clark, Case Worker multiple times, but allegations were never investigated. KVC would not work with grandmother or biological father in any situation. All the while, the grandmother had been wanting and making it known to KVC she wanted her granddaughter, Tiana. The biological father's rights were severed in 2010. KVC said it was due to him not getting an apartment in Olathe. He got an apartment in Wyandotte County. They said his neighborhood was not suitable to raise a child. He had consistent daytime appointments for parenting classes which interfered with work schedule. He lost his job and they severed his rights.

Grandmother was told by KVC in 2010 if she wanted Tiana, she had to take all three children. The grandmother agreed and said she would do it. KVC still never gave her granddaughter or made arrangements for a home study or took any initiative towards this end.

Tiana and her sister has been moved to another home and have lived there since May of 2010 with a family that works with KVC and Theresa is now allowed visitation without any conflicts. When trying to visit her granddaughter when granddaughter was with the Gully family, they were always unavailable. Theresa has been in this battle for three years now.

When KVC revoked the foster care license from the Gully's, Judge Sloan ordered visitation be given to the Gully's who had neglected the children. Judge Sloan is urging the family to get their home in order, receive counseling and have their license reinstated to them. KVC stated in court they would not allow this family to get their license back. The courts are looking at other agencies to help them get it back.

The Judge told KVC if they did not give visitation to the Gully family, KVC would be in contempt of court.

Theresa Mabery has gone through the trouble to get her foster grandparent license and has had it for seven months. She has had quarterly home studies since last February and she has been approved by Missouri. She has done this to no avail. Her granddaughter is still in the custody and care of The State of Kansas. The grandmother has fought this long fight from the State of Missouri. The State of Kansas would have saved thousands and thousands of dollars had they done the right thing and given this child to her grandmother. Where her emotional and physical needs would have been met..

Signed/ Theresa Mabery

2011-02-03 23:04

Kathy

9137828642 >>

816 346 1332

P 3/5

February 4, 2011

To Whom It May Concern:

I had three grandchildren in foster care. Although I was told by SRS caseworker Brenda Fatzer that if I would bring the three children to the courtroom, that the children would be placed with me, the grandmother, in one home together instead of foster care. When I took the children to the courtroom, SRS and KVC placed the children in three SEPARATE homes: two in separate foster homes and one with a father that was on probation for domestic violence. Family placement was even ordered by the judge but was not done by SRS and KVC.

It took me a week to get the two children from the separate foster homes. One child was overdosed in foster care and he stopped breathing in my car when I received the child from foster care. I took him directly to Children's Mercy and they stated I had saved his life. Two of the children were placed with me and one was in a separate home.

16 months later, even though every KVC report was very positive regarding my care of the two boys, the boys were removed from my home due to perjury and falsification of documents by the KVC caseworker (I have evidence of this.).

One child was adopted out to a foster home that had been accused of child abuse less than a month of receiving my two grandsons. The other grandson was given to a father who it was proven in court had mental deficiencies and could not take care of the child without assistance and was bi-polar and had made a deal with KVC if he provided evidence against the mother, KVC would give him the child. This father also had been CONVICTED of two domestic violences, a Criminal Damage to Property and violating a Protection from Abuse Order during the CINC case. The third child was given custody to a father who was on probation for domestic violence.

I was denied adoption but no reason was given why I could not adopt the children even though I had asked several times why.

Kathy Winters, 605 S. Valley Rd., Olathe, Kansas, 66061, 913-782-8642

Kathy Winters

Senate Judiciary

2-7-11

Attachment 11

02/04/2011 11:25AM

2011-02-03 23:05

Kathy

9137828642 >>

816 346 1332

P 5/5

February 4, 2011

I am the grandmother to my grandson, age 8 years old. My grandson lived with me since birth with erratic visitation by his mother.

This year, my grandson was placed in the custody of his mother. Since being placed with his mother, he has run away several times from his mother. He has stated that he does not want to live with his mother.

My grandson was an A student but is now failing in school.

I was told that being a grandparent, I had no rights to adopt or even apply for custody of my grandson.

Grandparents, when they have had significant contact with their grandchildren, should be allowed rights to their grandchildren. This is definitely in the best interests of the children.

Thank you.

Beverly Barker
785-505-1768

Senate Judiciary

2-7-11

Attachment 12

02/04/2011 11:25AM

On the evening of May 4th 2007 there were 2 tragic events that happened in Kansas. The one you know about is that was the night a tornado blew Greensburg away. The other was our 2 youngest grandsons were taken into protective custody by the Wichita Police and SRS. Protective really doesn't describe what they did to those little boys.

The boy's mother had abandoned them and their dad, our son, after years of drug abuse isn't parent material so taking them out of the home seemed like the only way to go. What happened next is where things went wrong.

A neighbor who lived across the street from them called us that evening and said "the police have taken the boys". If she hadn't I don't know what would have happened, maybe no worse than what did happen. I called the Wichita Children's home the next morning because I have several friends on the Wichita Police Dept and they had told me that is where they take them. As soon as I gave my name the lady who answered said, "The boys are here and they are fine". I didn't have to tell her whom I was calling about because the key for correcting any problem for Barry the oldest boy had always been "Call my grandpa" and he was doing that at every opportunity. Everyone there knew who Wendell Turner was. She gave me a name and phone number at SRS and said I should call Monday and they would tell me what to do.

On Monday I called the number I was given and the lady asked if we wanted to be declared as interested parties. I was stunned by that question. We were grandma and grandpa. Of course we were interested parties. We were the most interested parties in the world.

We weren't real concerned yet because the boys had spent about as much time at our house as they had at home and we thought the people who had them only wanted the best for those kids. I have never been so wrong about anything in my life at a time when I needed to be right.

We were notified that the boys would be in court Wednesday and we were to appear. There was no question the boys would be coming home with us so we dusted their room, cleaned their bathroom and grandma fixed their favorite food. When we got to the court house we were in the waiting room and the boys came in with a guy we were to learn was their keeper and would be with them at all times when they were in Wichita. They broke away from their keeper and came over to us and we hugged them and Troy,

Senate Judiciary

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Attachment 13

the youngest one said how did you know we were here? That poor little boy thought he was lost forever. Their keeper said, "we have to go see the judge" and took them away. After about an hour someone called our name and escorted us into the courtroom. The judge looked up and said, "Are these the grandparents" and that was the last time we were recognized as living in the same world as the rest of that group. We were dismissed and someone gave us a business card and told us someone would be out to see if we could be considered for taking the kids and if our home was a fit place for them to live. They wouldn't be going home with us.

That was when we learned about SRS contractors. SRS had no control over the boy's case. That had been turned over to a contractor called Youthville. Their keeper worked for Youthville. The job he had prior to that was building fences and now he was in charge of our grandkids. To give you some idea what we were dealing with when our granddaughter graduated from WSU Youthville tried to hire her for a case manager. She had worked her way through collage as a receptionist for a real estate company. Youthville offered her \$2 an hour less than she had been making. What we were about to deal with were the people that finished at the bottom of their class.

The next day I called the children's home and asked if we could come see the boys. The person, who answered the phone said, "they aren't here, they have been moved to a foster home in Lyons". They had been taken from court to the foster home and no one told us. I couldn't believe it but we were to find that the courts and SRS contractors did a lot of things I couldn't believe.

We were invited to a case plan meeting at Youthville a couple of weeks later and were told we were no longer being considered for the boys being placed with us. When we objected we were told it will do you no good to object because, "GRANDPARENTS DON'T HAVE RIGHTS". We thought they were lying. They weren't. We would be allowed 1hr supervised visits once a month. I never did understand the supervised part.

I won't bore you with the details of what happened next but after writing a lawyer a rather large check the boys came to live with us after 2 ½ months.

They lived with us for 10 months and out of the blue we were ordered to appear in court. Why I don't know because we weren't allowed to say a

word. Everything our lawyer said was discounted as unimportant. The judge said the boys were going back to their dad that day and we had 8 hrs to get them moved over there.

A few weeks later we found out they were having another case plan meeting although we weren't invited which is a violation of the law since we were listed as "interested parties" so we went anyway. We were told we didn't need to be there because it was just a formality. We stayed anyway and when I objected to some of the things they were doing the Youthville case manager ordered us to leave. Since we were such bad people we were no longer allowed to see the boys.

We went back to court to gain visitation rights and were ordered to have counseling before we could see the boys and that took about 5 months and \$750. We now get to see them 6 hours on the 2nd and 4th Sundays of each month. We have spent well over \$6000 and this is all we have.

If for some reason our son loses his parental rights we won't be given a chance to gain custody, they will be taken away and we may never see them again. When parents lose their rights grandparents lose also because there is no law giving grandparents rights and they are cutoff from the children at the same time as the parents.

Barry will graduate from high school in May totally unprepared to support himself. He can't even drive a car. This is a child who had so much potential'. I know because I had him tested at WSU when he was 7 years old.

His brother Troy will be going to middle school next year and has no activities except school and video games. He lives on fast food and at 11 years old weighs 200 lbs.

Before I go further I would like to tell you about another family and about their experience with SRS and the courts. I won't give you their names because of ongoing litigation. I will call the Grandparents Larry and Mary and the children Chris a little boy and Brooklyn a little girl and they live in Coffeyville.

Larry and Mary had 2 adopted daughters and one of them was a single mom with 2 children. The single mom wanted to go to college and finish her degree so she could support her kids. She started school at Pittsburg and Mary and Larry kept the kids during the week and Mom would come home on weekends. When she got her degree she got a job in Wichita and rented an apartment and got daycare and she and the kids moved to Wichita. Three months later Mom got sick and died. Larry and Mary took their daughter and grandchildren home to Coffeyville for the funeral. After the funeral the kid's dad asked Larry if she had insurance. That was all he had to say at that point.

Chris and Brooklyn lived with Larry and Mary again until one day their dad showed up with the police and said, I have come for my kids. The grandparents could only watch because grandparents don't have rights. I won't go into all the details but the dad had a girl friend that didn't like little 22 month old Brooklyn and beat her to death. Now Larry and Mary have lost their daughter and granddaughter. But to make it worse in place of SRS taking Chris to his grandparents they took him to a foster home. Larry and Mary's lawyer did get a judge to order Chris be returned to his grandparents that night. Chris still lives with his grandparents but they have not yet been given custody of him. Grandparents don't have rights you know.

The bill before you doesn't go as far as the Silver Haired Legislature proposed but it's a start. The way the current bill is written if the neighbor hadn't called that night we may not have known what was going on with our grandkids until it was too late to be declared an interested party.

I have talked to many grandparents about this and was amazed at how often this happens. 1 in 10 children live with a grandparent but they can be taken away at anytime with no recourse for the children or grandparents.

Our lawyer told us we would need to get the law changed if we were to have any chance of staying in the grandkids lives if they were taken again so here we are.

One more thing you may want to consider, grandparents work a lot cheaper than foster-parents and with the need to cut back on cost in the state budget this is good place to start.

Unless you have been there you can't imagine how heart rending it is to have the people you love the most taken away and know there is nothing you can do about it.

Please, I urge you to give children and their grandparents some help.

SB 52
February 7, 2011

Good Morning Chairman Owen and Committee:

My name is Kim Strunk and my husband and I are raising our granddaughters. We have been raising them for 7 years. Juliana is 8 and Mayli is 7, Mayli came home from the hospital to our home and has been here ever since. Our daughter Kaci is a drug addict and an alcoholic with several mental health diagnosis, we would like to say that she is recovering with years of sobriety but we can't, only she holds the key to that future. Finally this past year we were able to financially afford and secure legal guardianship for both of the girls.

In 2003 we saw our daughter headed down a disastrous road and our granddaughters quickly falling into the hands of SRS as CINC children. We stood up to Kaci and told her Drug Rehab, a home of her own, a job with 6 months of continuous work and AA/NA classes and she could have her children back.....she walked away to do her own thing. As of today she has been to rehab twice and still not successful, she has been incarcerated several different times with one stint for almost a whole year. The last one for 5 months.

We have provided our granddaughters with a stable loving home, something foster care systems can and can not provide. They still see their great grandparents, great great grandmother, aunts, uncles, cousins and spend holidays and fun times with family who will be there the rest of their lives. Grandparents/Kinship caregivers care about their loved ones and what happens to them in the long run it's not about how much money they can make keeping them. Grandparents and Kinship providers are taking care of children at either no cost or 1/3 of the cost to the state that Foster Care services provide. At the time of this financial crisis that the state is in, I do not understand why do we continue to place children in a system that does and does not work, when children need their family. When parents are doing stupid things, children are being taken from the only "nurturing" home life as dysfunctional and illegal as it may be and given to a "family" who may or may not really care, I beg you please to have the system revamped that places children with Grandparents/Kinship providers before placing our babies with total strangers where they may be for a week, months or even years without any biological family connections.

Thank You

Kim Strunk
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Grandchild: Tiana Garrison
Grandmother: Theresa Mabery

In December of 2007, Tiana Garrison's biological mother left Tiana, her younger sister and brother with her uncle, a licensed foster care home. It was found out, uncle was administering corporal punishment and the 3 children were removed, separated and placed in three different foster homes.

In Tiana's next home, the male figure and Tiana had conflict, by now it's 2009 and Tiana was removed again and placed with her sister in a third home. In May of 2010, it was discovered domestic violence had been occurring on a regular basis in the foster home along with the children being unkept, stinking, wearing dirty clothes, home environment dirty, and breeding animals on the property for profit. The children were removed and the Gully's license was revoked from them. Tiana had been telling her grandmother what was taking place and Theresa reported it to Tammy, KVC Therapist, and Jennifer Clark, Case Worker multiple times, but allegations were never investigated. KVC would not work with grandmother or biological father in any situation. All the while, the grandmother had been wanting and making it known to KVC she wanted her granddaughter, Tiana. The biological father's rights were severed in 2010. KVC said it was due to him not getting an apartment in Olathe. He got an apartment in Wyandotte County. They said his neighborhood was not suitable to raise a child. He had consistent daytime appointments for parenting classes which interfered with work schedule. He lost his job and they severed his rights.

Grandmother was told by KVC in 2010 if she wanted Tiana, she had to take all three children. The grandmother agreed and said she would do it. KVC still never gave her granddaughter or made arrangements for a home study or took any initiative towards this end.

Tiana and her sister has been moved to another home and have lived there since May of 2010 with a family that works with KVC and Theresa is now allowed visitation without any conflicts. When trying to visit her granddaughter when granddaughter was with the Gully family, they were always unavailable. Theresa has been in this battle for three years now.

When KVC revoked the foster care license from the Gully's, Judge Sloan ordered visitation be given to the Gully's who had neglected the children. Judge Sloan is urging the family to get their home in order, receive counseling and have their license reinstated to them. KVC stated in court they would not allow this family to get their license back. The courts are looking at other agencies to help them get it back.

The Judge told KVC if they did not give visitation to the Gully family, KVC would be in contempt of court.

Theresa Mabery has gone through the trouble to get her foster grandparent license and has had it for seven months. She has had quarterly home studies since last February and she has been approved by Missouri. She has done this to no avail. Her granddaughter is still in the custody and care of The State of Kansas. The grandmother has fought this long fight from the State of Missouri. The State of Kansas would have saved thousands and thousands of dollars had they done the right thing and given this child to her grandmother. Where her emotional and physical needs would have been met..

Signed/ Theresa Mabery



February 7, 2011

The Honorable Tim Owens, Chairman
Senate Judiciary Committee

Reference: SB 52- Grandparent's Custody of Children

Good morning Chairman Owens and members of the Senate Judiciary Committee. My name is Mary Tritsch and I am the Communications Director for AARP Kansas. AARP is a nonprofit, nonpartisan membership organization dedicated to making life better for people 50 and over. AARP has more than 40 million members nationwide and more than 340,000 members in Kansas. We provide information and resources and engage in legislative, regulatory and legal advocacy. Thank you for allowing us to provide written testimony in support of SB 52.

Grandparents, like everyone, need effective mechanisms to assert their rights. These mechanisms include the enforcement of rights by federal, state, and local agencies that oversee programs for older people or that have the authority to enforce laws and regulations on behalf of older people.

An area of civil justice of particular concern to older people is the legal authority they have as grandparents. An increasing number of children are living with their grandparents or other relatives. According to the 2000 census, the number of children residing in grandparent-headed households was about 4.5 million. Another 1.5 million children are living with other relatives. More than 2.4 million grandparents report that they are responsible for most of the basic needs of grandchildren living with them. Nineteen percent of these grandparents live in poverty. About one-third of these families have no parent present in the home. These relatives are key providers of care and can be a stabilizing force for children whose parents have divorced, become incapacitated, or died.

Many such caregivers, grandparents and other relatives, have partial or total responsibility for children but none of the legal authority necessary to provide care. For example caregiver relatives do not always have the authority to enroll a child in school even if the child resides with the relative full-time. Only about half of the states have laws giving relative caregivers authority to obtain medical treatment for the children in their care; about a fifth of the states provide statutory authority for educational consent. And caregiver relatives with long experience providing full-time care frequently find themselves left out of consideration when decisions are made about permanent child placement. In some states, grandparents and other relatives may have limited standing to petition a

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court for visitation, even though it may be in the child's best interest to have a continuing relationship with these relatives.

State statutes can specify limited circumstances in which a grandparent or other relative may file a petition for visitation, such as divorce, custody proceedings, or a parent's incarceration or death. The constitutionality of visitation statutes has been challenged in numerous state courts. The U.S. Supreme Court has ruled that very broad visitation laws are unconstitutional but left open whether more narrowly drawn statutes might meet constitutional requirements.

AARP believes that states should adopt legislation that:

- provides a range of alternatives by which grandparents and other relatives may obtain and exercise the legal authority to make decisions for the children in their care; and
- allows grandparents to petition courts for visitation with grandchildren in cases of divorce, separation of parents, parental incapacity, long-term incarceration, or the death of one or both parents, particularly where the two generations have formed deep bonds critical to the children's well-being.

Therefore, we respectfully request your support for SB 52 which mandates that grandparents shall be an interested party in custody proceedings. We respectfully request this committee's support of this proposed legislation.

Mary Tritsch
555 S. Kansas Ave, Ste. 201
Topeka, KS 66603
785-234-1365

2011-02-04 13:05

Kathy

9137828642 >>

816 346 1332

P 4/5

04-04-09

To Whom It May Concern:

Regarding Cassandra Wonsetler, age 8 yrs. old, *Case #055639*

Individuals and agencies in the state of Kansas have violated our civil and constitutional rights. Even though my wife and I were approved for placement of my granddaughter, Cassie, agencies in Kansas placed her in approximately 8 different foster homes with strangers. We were told that we could not have our granddaughter because we were too old. Discrimination of any kind should not be tolerated. This is against our constitutional and civil rights and should not be tolerated by the state or federal government.

During those 8 different foster homes, our granddaughter, Cassie, told us horrible stories that happened to her while she was placed out of family care into foster care. In one foster home, Cassie was made to stay in a bedroom while the foster home family ate their meals and then when they were finished eating, Cassie was allowed to come out of the room and eat. Cassie almost drowned in a lake when she was pushed out of a boat while the foster mother was asleep in a tent. Cassie has been traumatized to this day because she told us that in one foster home, the foster children handcuffed her hands behind her back, grey tape put across her mouth and then she was placed into a dark closet for a long period of time. This is just a few of the things our granddaughter, Cassie, has told us about foster care. Cassie should have been placed in family care where she would have been loved and cared for. I do believe that Cassie was not placed in our home due to the money these individuals and agencies received from the government. This is child trafficking.

We were finally able to get Cassie back into the home but only after having to pay out approximately \$10,000.00 in legal fees in order to accomplish what should have been our and Cassie's legal rights from the very beginning. These individuals who kept Cassie from her flesh and blood family have committed kidnapping and should be stopped immediately. This is child traffic

These are crimes against humanity and should be stopped and changed so it never happens to another family.

We would like to be included in any action taken against SRS and KVC.

Our case is no longer in court. Our judge was Judge Amy Hart, Miami County in Paola. I can get the other professionals' names if you would request them.

Respectfully submitted,

Clarence and Marian Wonsetler, 32799 Manor Rd., Paola, Kansas, 66071, #913-256-2231.

Clarence Wonsetler
Marian Wonsetler

Cassie was also threatened not to tell anyone about what happened to her in foster care.

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02/04/2011 11:25AM

United Methodist Youthville

Child Welfare Services

Testimony in Support of SB 52



Giving Children Back Their Childhood

For More Information Contact:

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Chairman Owens and Committee Members, thank you for the opportunity today to testify in support of SB 52. While currently grandparents have the right to request to be an interested party in a child in need of care (CINC) proceeding, we hear repeatedly that grandparents are unaware that they need to make this request of the court, or simply fail to make this request. By not making the request of the court, grandparents are not automatically notified of all upcoming hearings and other official notifications in the case. We believe that loving grandparents should be able to play an active part in the lives of their grandchildren and are often wonderful resources in helping the child exit the system and move toward permanency.

We strongly support grandparents being granted automatic interested party status by the court, unless as stated in the bill, the court believes it would not be in the best interest of the child to grant the grandparents this status. We believe this change may eliminate some of the concerns we hear from grandparents about not receiving notifications regarding upcoming court hearings and will alleviate the need for them to make this request of the court. This bill along with others (SB 81, SB 84, and SB 94), which we hope will also be passed this session, will provide improvements for families who become involved with the child welfare system.