

Approved: August 25, 2011
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 A.M. on February 15, 2011, in Room 548-S of the Capitol.

All members were present, except Senators Donovan and Haley, who were 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:

Bryan Gile, Eagle County Colorado
Donna Saaibi
Keven Pellant, Kansas Department of Social and Rehabilitation Services
Helen Pedigo, Special Counsel to the Chief Justice of the Kansas Supreme Court
Bradley R. Burke, General Counsel, Juvenile Justice Authority
Heather Morgan, United Methodist Youthville
Jennifer Roth, Kansas Assn. of Criminal Defense Lawyers
Senator Petersen, Wichita
Major John Cosgrove, Kansas City, Kansas Police Department
Kyle Smith, Office of the Attorney General

Others attending:

See attached list.

The Chairman announced that **SB 107 -- Liability for medical expenses of persons in custody of law enforcement** has been withdrawn from the calendar for Wednesday.

The Chairman re-opened the hearings on **SB 39 -- Creating the classification of "aggravated sex offender;" creating additional penalties and restrictions for sex offenders.**

Jason Thompson, Staff Revisor, briefly reviewed the bill.

Bryan Gile testified in support of **SB 39 (Attachment 1)**. He stated that there is a need to create a national networking system that will require strict regulations and public alerts to provide warnings through emails, newspapers, and other media.

Keven Pellant stated that residency restrictions give a false sense of security. She suggested moving the residency restriction to 500 feet. She also expressed concern that not all day care centers are registered or licensed, which makes enforcement of the bill difficult. (No written testimony submitted.)

Senator Kelly stated that all day care centers are required to be licensed.

Senator Vratil stated that information provided on prior bills which imposed residency restrictions show that such restrictions "drive offenders underground" and often times, offenders move to rural areas where there are fewer law enforcement officers.

Senator Bruce requested copies of a report from an interim study, conducted within the past five years, relating to such residency restrictions.

Donna Saabi rose in support of SB 39. Ms. Saabi previously submitted written testimony in support of the bill. [See Minutes of February 8, 2011, Attachment 6.]

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:35 A.M. on February 15, 2011, in Room 548-S of the Capitol.

Helen Pedigo testified as a neutral party to **SB 39** (Attachment 2). She expressed two concerns with **SB 39**: The impact on juvenile offenders subject to the Kansas offender registration act, and the impact on probation supervision of adult and juvenile sex offenders relating to Halloween activities. She offered a balloon of proposed amendments to address those concerns (Attachment 3).

Bradley R. Burke, on behalf of Curtis L. Whitten testified in opposition to the provision in **SB 39** which would amend the definition of "aggravated sex offender" to include a juvenile offender (Attachment 4). He state that:

- There would not enough prison spaces to house the number of juvenile sex offenders to which the provisions of the bill apply
- Juvenile sex offenders would not be able to attend school

Heather Morgan testified in opposition to Section 7 (a) and Section 8 of **SB 39** (Attachment 5). The language prohibits sex offenders from residing within 2,000 feet of a licensed childcare facility. All existing psychiatric residential treatments facilities, foster homes, youth residential centers, emergency shelters, detention centers and maternity homes are considered child care facilities, at which juvenile sex offenders reside. Some juvenile sex offenders are educated in school district facilities.

Jennifer Roth testified in opposition to **SB 39** (Attachment 6). She opposed:

- The labeling of an offender's driver's license
- The suspension of the driver's license
- The lack of discretion when imposing a sentence for violations of K.S.A. 22-4903

Written testimony in opposition to **SB 39** was submitted by Scott Douglas, Larned, KS (Attachment 7).

Senator Umbarger reminded the committee of a provision in 2009 House Sub for SB 91, which prohibits SRS from placing more than eight sexually violent predators in any one county on transitional release or conditional release and requires these patients to be housed on state property (Attachment 8).

The Chairman called the committee's attention to the fiscal note and bed impact statement for **SB 39**.

The Chairman closed the hearings on **SB 39**.

The Chairman opened the hearings on **SB 135 -- Kansas racketeer influenced and corrupt organization act**.

Jason Thompson, Staff Revisor, reviewed the bill.

Senator King asked for a list of all offenses, by name, which are included in **SB 39**, but which are not in federal RICO law.

Senator Petersen testified in support of **SB 135** (Attachment 9). He stated the bill was the same as 2010 SB 523 and that it would create the Kansas Racketeer, Influenced and Corrupt Organization (RICO) Act. The bill is modeled after the Florida RICO Act.

Major John Cosgrove testified in support of **SB 135** (Attachment 10). He stated that the bill would enhance the ability of law enforcement to address the most violent predators in their communities.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:35 A.M. on February 15, 2011, in Room 548-S of the Capitol.

Kyle Smith testified in support of **SB 135** (Attachment 11). He stated the bill would provide enhanced penalties for participants in criminal enterprises.

Written testimony in support of **SB 135** was submitted by Ed Klumpp, Kansas Assn. of Chiefs of Police, Kansas Sheriffs Assn., Kansas Peace Officers Assn. (Attachment 12).

Senator Haley asked how frequently was the federal law used?

Major Cosgrove stated that the federal law is complicated. The proposed Kansas RICO act will enable local law enforcement to deal with the issue.

Senator Schodorf, who was a co-sponsor of the bill, expressed her support for **SB 135**.

The Chairman called the committee's attention to the fiscal note and bed impact statement for **SB 135**.

The Chairman closed the hearings on **SB 135**.

The Chairman announced that the committee would start with **SB 159** and **SB 160** at tomorrow's meeting.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for February 16, 2011.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 15, 2011

[illegible]

**Verbal testimony
Bryan E. Gile
Eagle, Colorado**

Senate Bill 39, State of Kansas

Good morning and thank you for this opportunity to share briefly my thoughts and concerns to a very tragic and life prolonged senseless crime.

My daughter and son became victims to sexual assault crimes at the ages of eight and five years old respectively.

The perpetrators that sexually assaulted my children were able to manipulate the system through wealth and reputable status to escape the public sex offender registry, despite a conviction. The Johnson County District Attorney's office, supported a motion to allow this criminal to be placed on a private registry.

The man who sexually assaulted my son was able to avoid charges and a conviction because the Johnson County District Attorney's office stated, "we don't think a jury will believe a five year olds testimony". This is the same District Attorney's office that was ready to prosecute this criminal and stated, "we must get this man off the streets".

There was compelling evidence from Detective Shannon Leeper with the Lenexa Police Department, as well as professional opinions from third party witnesses at the Sunflower House, an organization dedicated to finding evidence of sexual assault crimes committed upon children.

Despite these overwhelming facts, the Johnson County District Attorney's office decided not to pursue legal action to the criminal who sexually assaulted my son.

I have since then started a movement to bring knowledge and awareness through door to door contact and website exposure to educate and warn communities of the extreme danger sexual assault criminals impose.

My website PACMAAN.COM, "people against child molesters assault and neglect", has been able to bring public knowledge to the communities of the criminal who sexually assaulted my daughter.

People were outraged to learn that this criminal was placed on a private registry. The community he resides in is approximately 70% families with young children.

The States failure to provide public knowledge has allowed a community to become victims of uncertain and unfortunate futures.

I felt helpless as I warned a mother of three young children standing behind her with a sense of security and protection. The mother, distraught and emotional, with confusion in her eyes of the warning she was receiving. My final words to the mother before I turned to walk away, "please protect your children and keep them safe".

What I couldn't tell her, what I wanted to share with her, was this criminal resides in the home across the street from them.

Due to a court order I was unable to share the truth with this mother and her children. The truth of this sexual assault offender should have been revealed by the Johnson County District Attorney's office, after the conclusion of my daughters sexual assault.

The movement the community in Olathe, Kansas started, needs to be pushed with no delay. We must fix the system so that all sexual assault criminals are exposed and are complete public knowledge, with no exceptions.

We must do more then increase awareness, we must demand a solution to this serious crime!

If we want to keep a friend from driving under the influence of alcohol, you take their keys. If we want to keep a two year old child out of the cookie jar, you put it on the top shelf.

And if we want to protect children from sexual assault criminals, you prosecute and expose every sexual assault offender and limit their opportunities to re-offend.

Keep them away from our schools, parks, bus stops, family designated events and child based employment.

Examples,

- 1.) Disney on Ice**
- 2.) Wonderscope children's museum**
- 3.) Hallmark Kaleidoscope**

My final thoughts,

Please push and pursue every opportunity to provide as much knowledge and protection from these very dangerous criminals.

We need to create a national networking system that will require strict regulations and public alerts to provide warnings to communities through e-mail, newspaper publications, media outlets and a system with consistent updates and information.

Our children are the future, lets protect our future together!!

Thank you



SUPREME COURT OF KANSAS

KANSAS JUDICIAL CENTER

301 SW 10TH AVE.

TOPEKA, KANSAS 66612-1507

HELEN PEDIGO
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TO CHIEF JUSTICE

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SENATE JUDICIARY COMMITTEE

Honorable Senator Tim Owens, Chair

SB 39 Criminal Procedure Relating to Sex Offenders

Neutral Testimony and Amendment Request

February 8, 2011

Thank you for the opportunity to testify as a neutral party regarding two concerns with Senate Bill 39: The impact on juvenile offenders subject to the Kansas offender registration act, as well as the impact on probation supervision of adult and juvenile sex offenders relating to Halloween activities.

New Section 3, which restricts the activities of sex offenders on Halloween, may prove difficult to comply with. First, juvenile offenders subject to the offender registration act will have difficulty attending school in compliance with New Section 3 (a) (1), as this subsection requires avoidance of all Halloween-related contact with children. Schools traditionally have Halloween-related events during the regular school day and a student subject to the offender registration act would, presumably, be in violation of this section if he or she participated in Halloween-related activities held during the regular school day.

New Section 3 would also prohibit court services in at least one judicial district (Johnson County) from supervising offenders on Halloween in the same way they have supervised offenders for the past several years. Johnson County Court Services presently requires offenders to attend what is referred to as a sex offender Halloween party at the probation office every October 31. All persons convicted of a sex offense and subject to the offender registration act are required to be present during Halloween evening. Failure to attend is a violation of probation. This is not a costume party nor is it a party atmosphere. The purpose of this event is to get the offenders off the street and under the direct supervision of a probation officer during this time. New Section 3, as drafted, would eliminate this type of supervision and the assurance that the sex offender is not interacting with children during the evening. Adding a phrase on page 5, line 36 at the beginning of Subsection 3(a): "Unless otherwise ordered by the court," would provide the flexibility supervision officers need to continue to supervise sex offenders in this manner.

Senate Judiciary

2-15-11

Attachment 2

New Section 8 prohibits a juvenile aggravated sex offender from residing in a family foster home. Although placing a juvenile sex offender in a foster home is not a common occurrence, there are situations when a foster home is the most appropriate placement. New Section 8 would limit residential options for juvenile aggravated sex offenders to a group residential setting or a juvenile correctional facility. An additional subsection on page 15, line 11, New Section 8(b) may be warranted: "For any person adjudicated as a juvenile aggravated sex offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in K.S.A. 2010 Supp. 22-4902 (b), the court may approve placement of the juvenile offender in a licensed child care facility and such placement shall not be a violation of this section."

Thank you for your consideration of these amendments. I'd be happy to answer your questions.

SENATE JUDICIARY
COMMITTEEJudicial Branch
Proposed Amendment

February 8, 2011

Unless otherwise
ordered by the
court,

(f) The division, in the interest of traffic and safety, may establish or contract with a private individual, corporation, partnership or association for the services of driver improvement clinics throughout the state and, upon reviewing the driving record of a person whose driving privileges are subject to suspension under subsection (a)(2), may permit the person to retain such person's driving privileges by attending a driver improvement clinic. Any person other than a person issued a commercial driver's license under K.S.A. 8-2,125 et seq., and amendments thereto, desiring to attend a driver improvement clinic shall make application to the division and such application shall be accompanied by the required fee. The secretary of revenue shall adopt rules and regulations prescribing a driver's improvement clinic fee which shall not exceed \$500 and such rules and regulations deemed necessary for carrying out the provisions of this section, including the development of standards and criteria to be utilized by such driver improvement clinics. Amounts received under this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the same in the state treasury as prescribed by subsection (f) of K.S.A. 8-267, and amendments thereto.

(g) When the action by the division restricting a person's driving privileges is based upon certification by the secretary of social and rehabilitation services pursuant to K.S.A. 2010 Supp. 39-7,155, and amendments thereto, the person may not request a hearing but, within 30 days after notice of restriction is mailed, may submit a written request for administrative review and provide evidence to the division to show the person whose driving privileges have been restricted by the division is not the person certified by the secretary of social and rehabilitation services, did not receive timely notice of the proposed restriction from the secretary of social and rehabilitation services or has been decertified by the secretary of social and rehabilitation services. Within 30 days of its receipt of the request for administrative review, the division shall notify the person whether the restriction has been affirmed or set aside. The request for administrative review shall not stay any action taken by the division.

New Sec. 3. (a) On October 31 of each year, any person required to register as a sex offender pursuant to the Kansas offender registration act shall:

- (1) Avoid all Halloween-related contact with children;
- (2) remain inside the person's residence between the hours of 5:00 p.m. and 11:00 p.m.;
- (3) post a sign at the person's residence stating "No candy at this residence"; and

3

in which the person
by a sheriff pursuant
a fund of the
law enforcement and
be used as a source of
made available to the

y amended to read as
'011, aggravated sex
K.S.A. 22-4902, and
500 feet of any licensed
or the real property of
d by a unified school
student instruction or
enrolled in kindergarten
shall not apply to any

(c), on and after the
and counties shall be
finance, resolution or
offenders as defined by

shall not apply to any
program for correctional
or the housing of such

placement residence"
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facility due to any one

prison;
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not more than one year;
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n a facility operated by

es for alcohol or drug

or drug abuse.
clude a single or multi-
ilding that provides a
cribed in paragraphs (1)

1 New Sec. 8. (a) Any person defined as an aggravated sex offender
2 pursuant to subsection (b) of K.S.A. 22-4902, and amendments thereto,
3 shall not be present in or loiter within 500 feet of any licensed child care
4 facility, registered family day care home or the real property of any
5 school upon which is located a structure used by a unified school district
6 or an accredited nonpublic school for student instruction or attendance or
7 extracurricular activities of pupils enrolled in kindergarten or any grades
8 one through 12, unless the person is a parent, legal guardian or custodian
9 of a child present in such building and has met the conditions set forth in
10 subsection (b). ^A

11 (b) No parent, legal guardian or custodian of a child, as described in
12 subsection (a), shall be present in or loiter within 500 feet of any licensed
13 child care facility, registered family day care home or the real property of
14 any school upon which is located a structure used by a unified school
15 district or an accredited nonpublic school for student instruction or
16 attendance or extracurricular activities of pupils enrolled in kindergarten
17 or any grades one through 12 unless such parent, legal guardian or
18 custodian has written permission from the operator of the licensed child
19 care facility or registered family day care home, the superintendent or
20 school board for the unified school district, or in the case of a private
21 school, the principal. In the case of a public school, the superintendent or
22 school board shall notify the principal of the school where the parent,
23 legal guardian or custodian will be present. Permission may be granted
24 for more than one event at a time, however the parent, legal guardian or
25 custodian must obtain permission for any other event for which
26 permission has not yet been granted.

27 (c) Regardless of the person's knowledge of location, violation of
28 this section is a class A nonperson misdemeanor.

29 Sec. 9. *Section 285 of chapter 136 of the 2010 Session Laws of*
30 *Kansas is hereby amended to read as follows: Sec. 285. (a) The*
31 *provisions of this section shall be applicable to the sentencing guidelines*
32 *grid for nondrug crimes. The following sentencing guidelines grid shall*
33 *be applicable to nondrug felony crimes:*

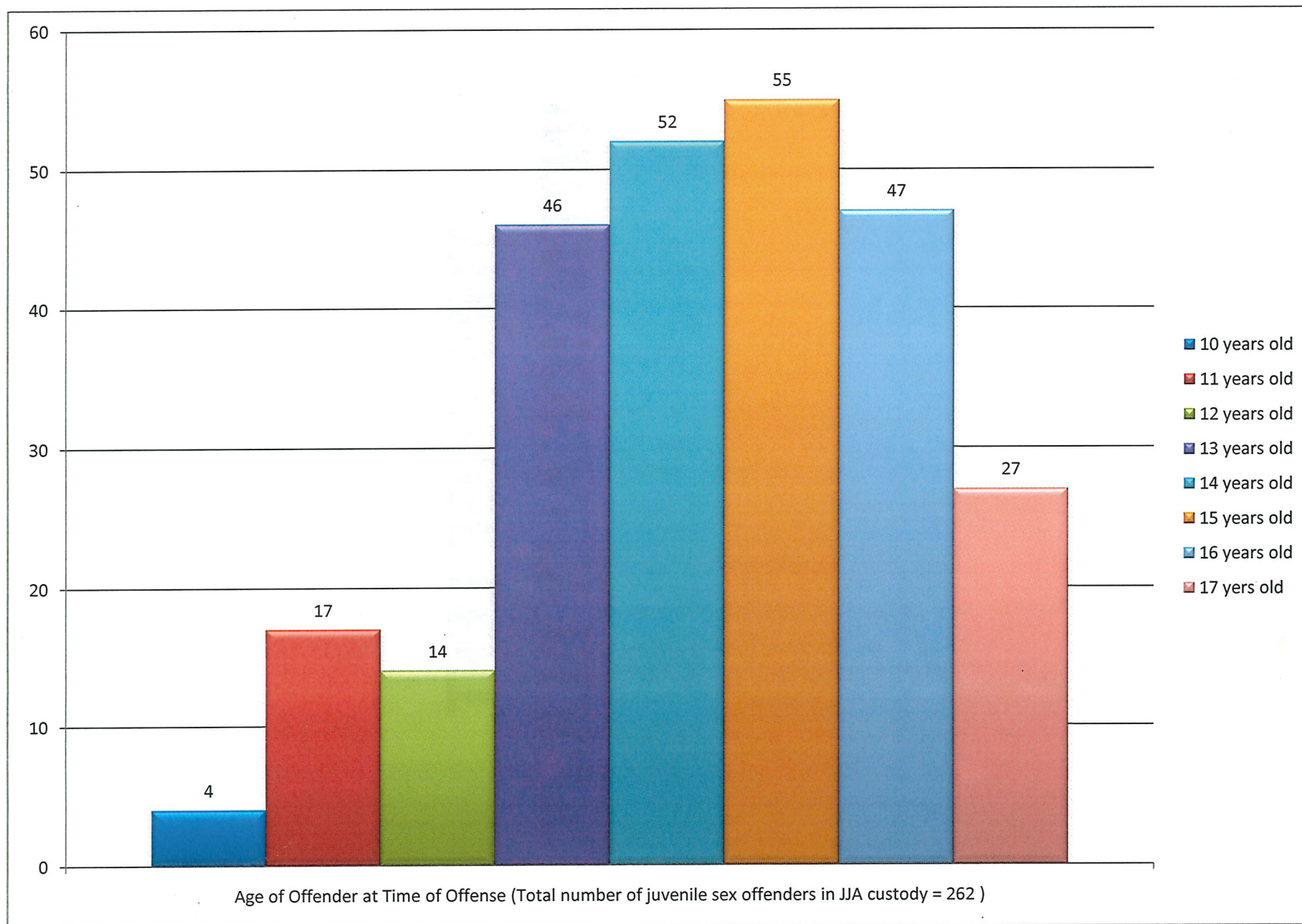
34 (b) Sentences expressed in the sentencing guidelines grid for
35 nondrug crimes represent months of imprisonment.

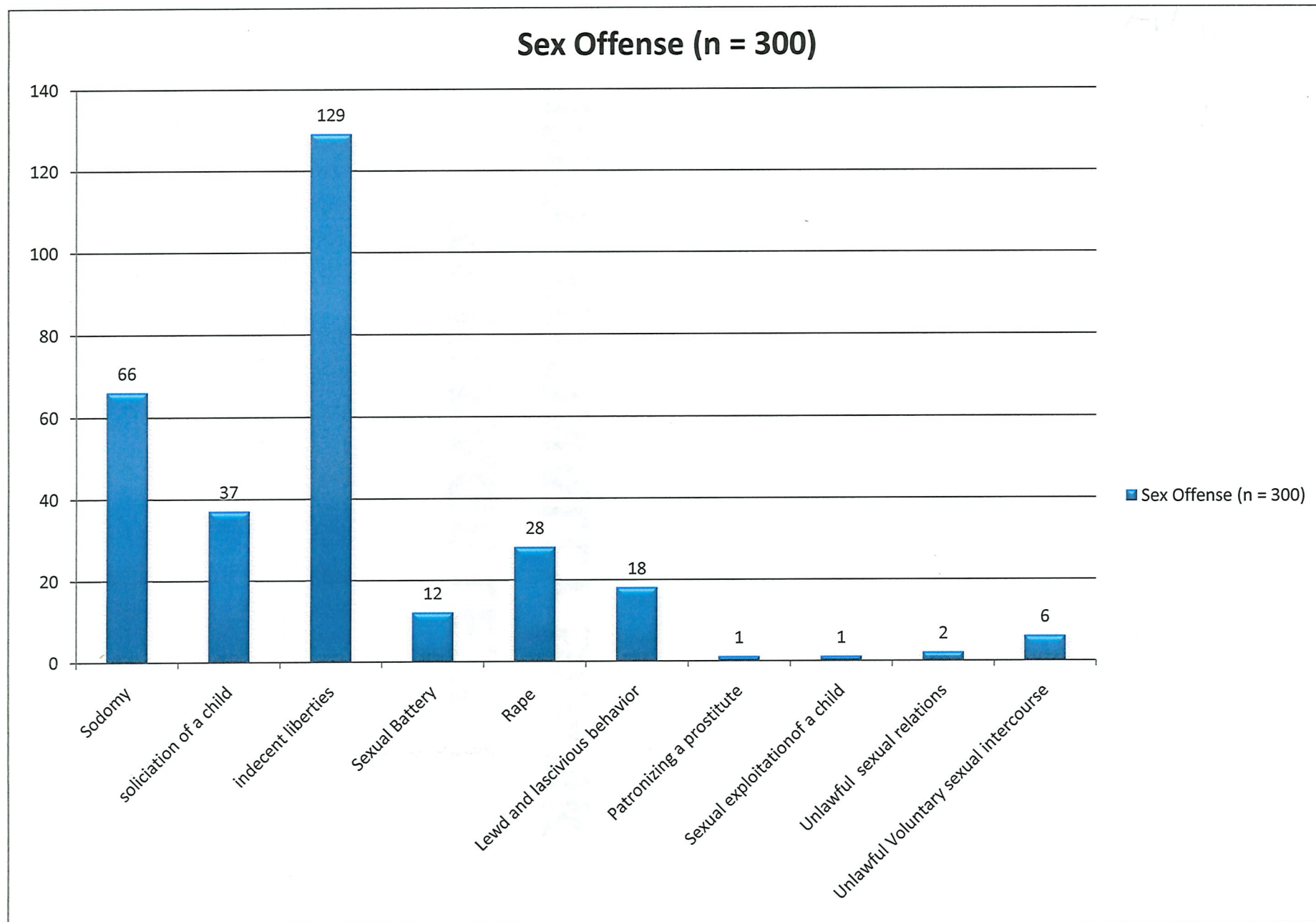
36 (c) The sentencing guidelines grid is a two-dimensional crime
37 severity and criminal history classification tool. The grid's vertical axis is
38 the crime severity scale which classifies current crimes of conviction. The
39 grid's horizontal axis is the criminal history scale which classifies
40 criminal histories.

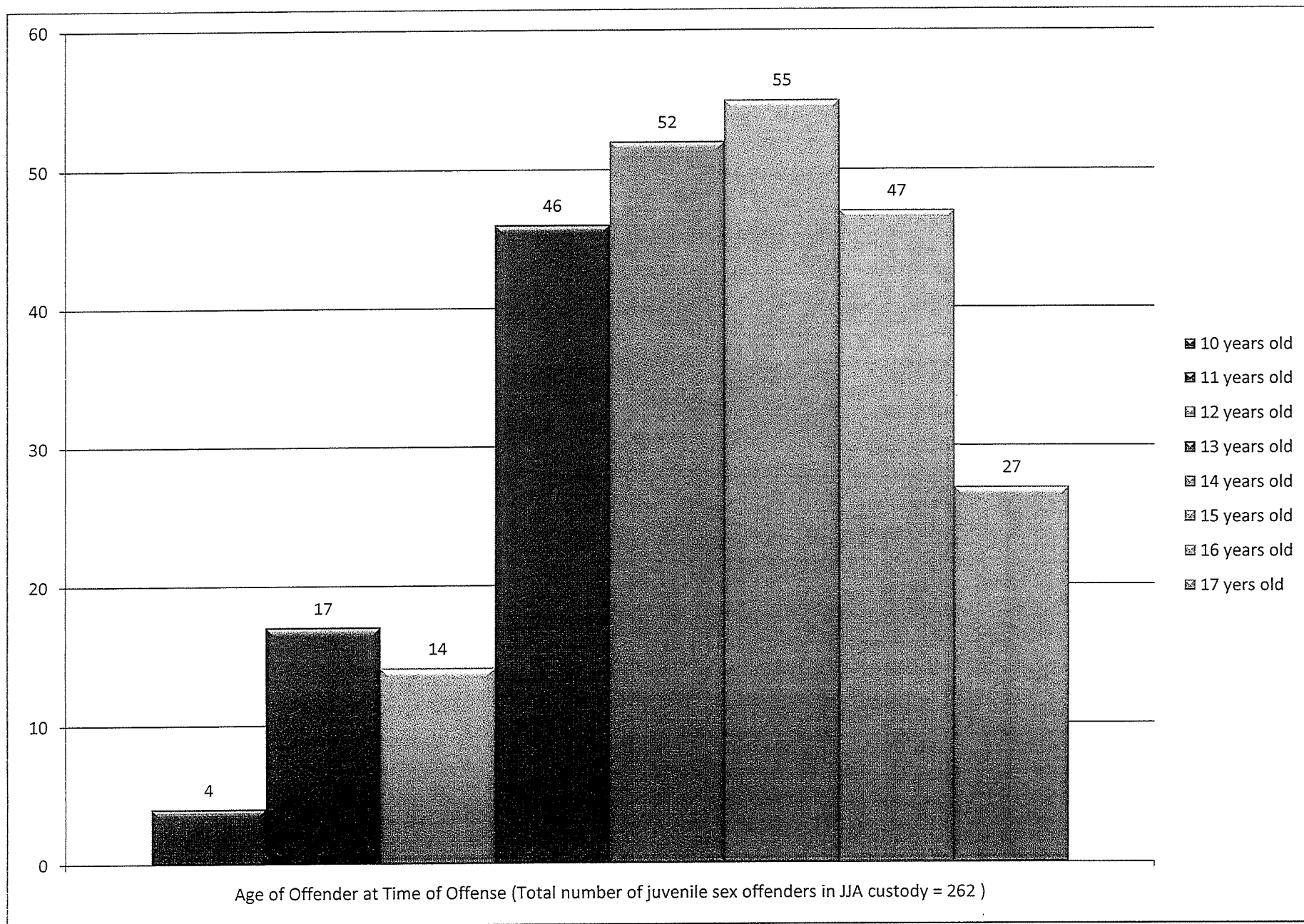
41 (d) The sentencing guidelines grid for nondrug crimes as provided in
42 this section defines presumptive punishments for felony convictions,
43 subject to the sentencing court's discretion to enter a departure sentence.

For any person adjudicated as
a juvenile aggravated sex
offender for an act which if
committed by an adult would
constitute the commission of a
sexually violent crime set forth
in K. S. A. 2010 Supp. 22-
4902(b), the court may
approve placement of the
juvenile offender in a licensed
child care facility and such
placement shall not be a
violation of this section.

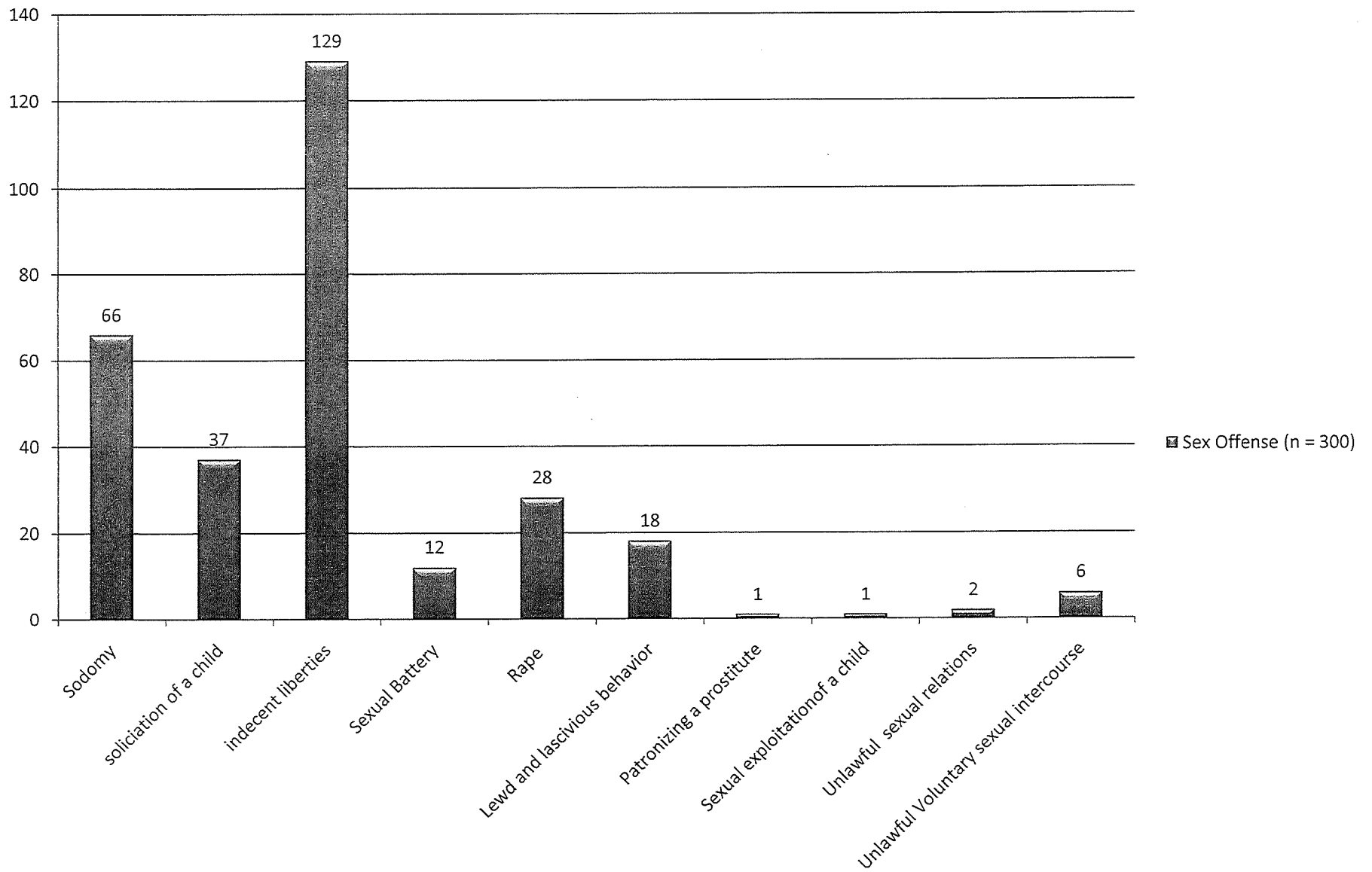
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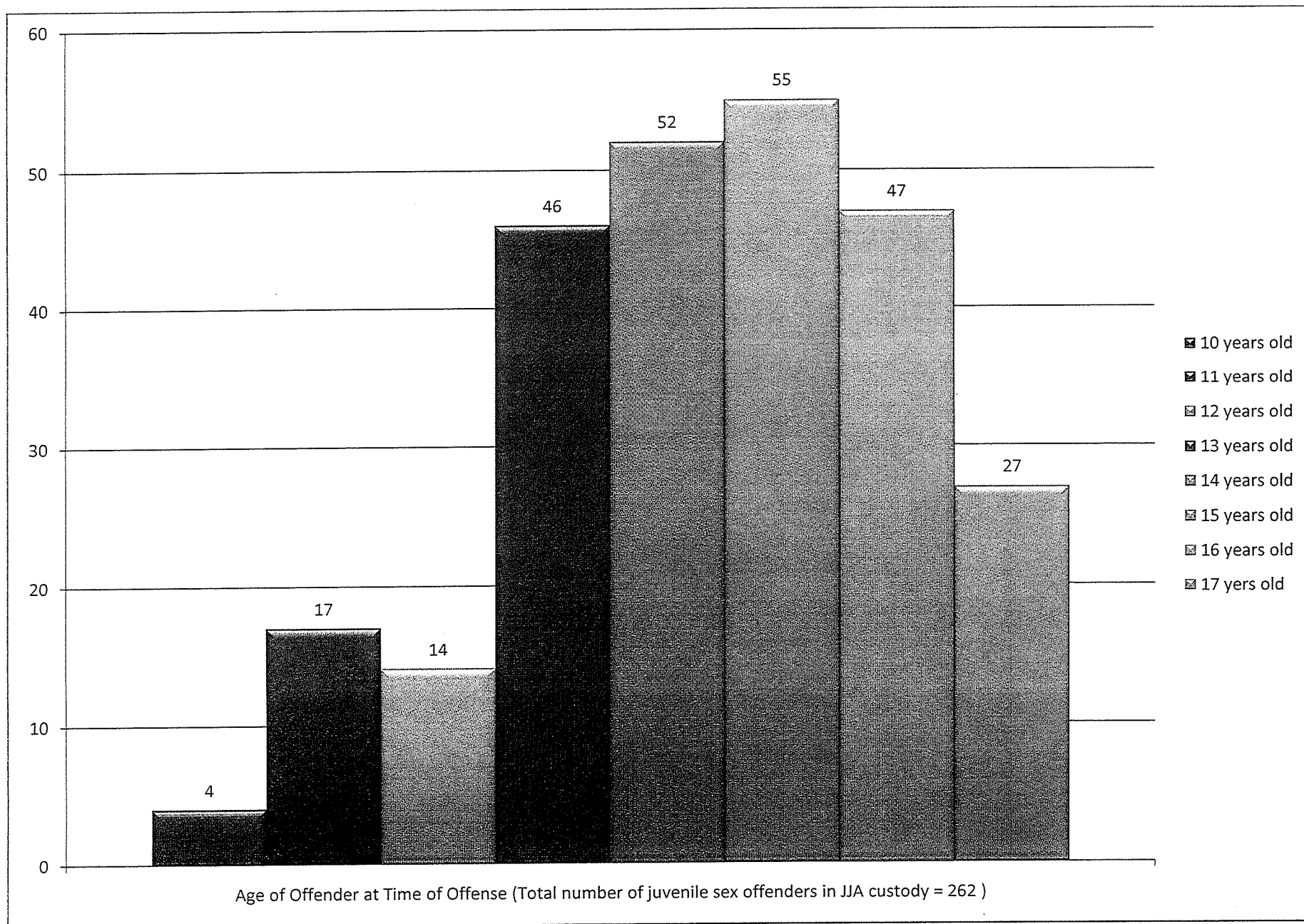




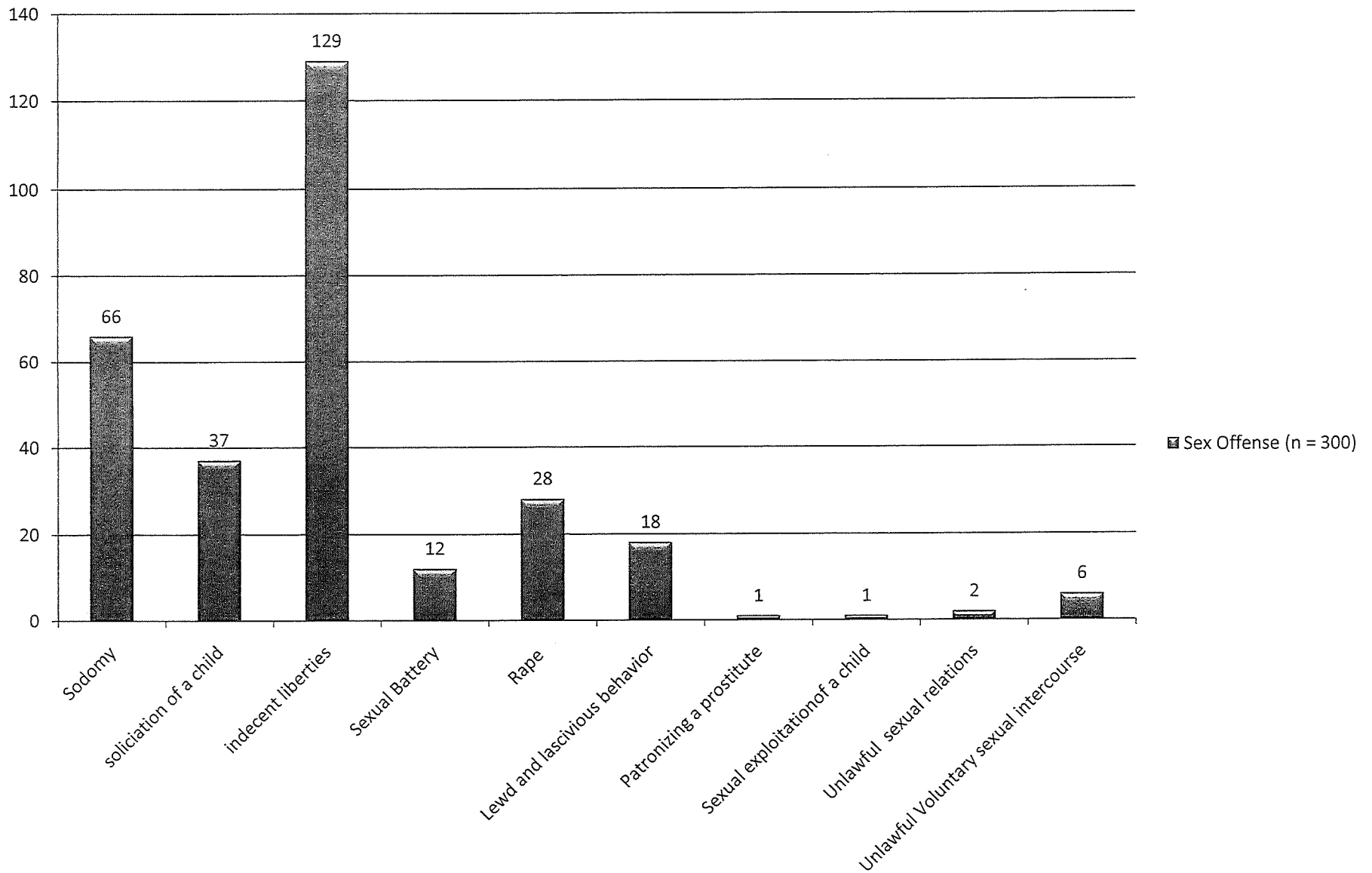


Sex Offense (n = 300)





Sex Offense (n = 300)





Curtis L. Whitten, Commissioner

Juvenile Justice Authority

Sam Brownback, Governor

Testimony for SB 39 February 8, 2011

SB 39 amends K.S.A. 22-4902 to create a new classification of "aggravated sex offender" for specified sex offenses if one of the parties involved is less than 16 years of age. Juvenile offenders are specifically included within the definition of "aggravated sex offender" (see SB 39, page 8, lines 11-15.)

SB 39 provides for two restrictions that would have significant impact on JJA's ability to make community residential placements and provide for the required and necessary educational needs of those youth falling under the "aggravated sex offender" designation.

Sec. 7 of SB 39 (page 14, starting at line 8) amends K.S.A. 2010 Supp. 22-4913 to preclude aggravated sex offenders from residing within a 2000 foot radius of schools and certain child facilities. JJA is responsible for making residential placement of youth placed by the court into JJA custody for out of home placement and for those youth leaving a juvenile correctional facility on conditional release. JJA has entered into provider agreements with numerous and various youth residential facilities and foster homes. Although JJA has not undertaken a study to see if any of our contracted residential providers are located within a 2000 foot radius of any school, child care facility or registered family day care home, if one of the residential providers are so located that would, by operation of SB 39, require that JJA no longer use that residential provider. Because of the limited number of licensed acceptable residential placements for youth, particularly youthful sex offenders, any limitation on placement options would have a negative impact on JJA's ability to meet the programmatic needs of these youths and reduce recidivism. Further, K.S.A 38-2365 requires that JJA prepare and follow a permanency plan for youth placed in JJA custody for out of home placement. The permanency plan provides for the reintegration of the youth back into the youth's family. The residency restriction would pose a significant obstacle to reintegration if the youth's family were to reside within the restriction zone and did not have the resources to relocate.

New Sec. 8 of SB 39 (page 15, starting at line 1) presents a similar problem. New Sec. 8 creates an offense of loitering within 500 feet of schools and certain child facilities by aggravated sex offenders and makes violation of this restriction a class A nonperson misdemeanor. Although new sec. 8 creates an exception for aggravated sex offenders who happen to be a parent, legal custodian or guardian of a child attending the school or child care facility, it makes no exception when the aggravated sex offender is the student. New sec. 8 prohibits aggravated sex offenders, who are also students, from attending any accredited public or nonpublic school. Adherence to this provision by those youth would require some form of alternative education that would not be situated in an accredited public or nonpublic school or within 500 feet of such building (or 2000 feet in the case of a home school).

These two issues will have a negative impact on the ability of JJA to carry out its mission and meet the programmatic and education needs of those youth who are "aggravated sex offenders." Accordingly, JJA respectfully requests the committee to strike juvenile offenders from the definition of "aggravated sex offender." Attached to this testimony is page 8 of SB 39 showing the proposed redaction beginning on line 12 and ending on line 15.

1 convicted of any sexually violent crime set forth in subsection (c) or is
2 adjudicated as a juvenile offender for an act which if committed by an
3 adult would constitute the commission of a sexually violent crime set
4 forth in subsection (c);-

5 (B) *on or after July 1, 2011, is convicted of any sexually violent*
6 *crime set forth in subsection (c), or is adjudicated as a juvenile offender*
7 *for an act which if committed by an adult would constitute the*
8 *commission of a sexually violent crime set forth in subsection (c), if none*
9 *of the parties involved is less than 16 years of age.*

10 (2) *"Aggravated sex offender" includes any person who, on or after*
11 *July 1, 2011, is convicted of any sexually violent crime set forth in*
12 *subsection (c), or is adjudicated as a juvenile offender for an act which if*
13 ~~*committed by an adult would constitute the commission of a sexually*~~
14 ~~*violent crime set forth in subsection (c), if one of the parties involved is*~~
15 ~~*less than 16 years of age.*~~

16 (c) "Sexually violent crime" means:

17 (1) Rape as defined in K.S.A. 21-3502, *prior to its repeal, or section*
18 *67 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
19 *thereto;*

20 (2) indecent liberties with a child as defined in K.S.A. 21-3503,
21 *prior to its repeal, or subsection (a) of section 70 of chapter 136 of the*
22 *2010 Session Laws of Kansas, and amendments thereto;*

23 (3) aggravated indecent liberties with a child as defined in K.S.A.
24 21-3504, *prior to its repeal, or subsection (b) of section 70 of chapter*
25 *136 of the 2010 Session Laws of Kansas, and amendments thereto;*

26 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of
27 K.S.A. 21-3505, *prior to its repeal, or subsection (a) of section 68 of*
28 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
29 *thereto;*

30 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, *prior*
31 *to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010*
32 *Session Laws of Kansas, and amendments thereto;*

33 (6) indecent solicitation of a child as defined by K.S.A. 21-3510,
34 *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the*
35 *2010 Session Laws of Kansas, and amendments thereto;*

36 (7) aggravated indecent solicitation of a child as defined by K.S.A.
37 21-3511, *prior to its repeal, or subsection (b) of section 72 of chapter 136*
38 *of the 2010 Session Laws of Kansas, and amendments thereto;*

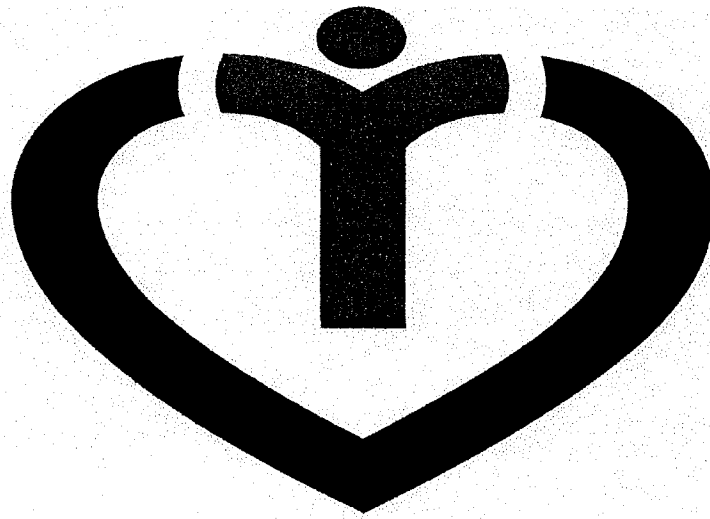
39 (8) sexual exploitation of a child as defined by K.S.A. 21-3516,
40 *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws*
41 *of Kansas, and amendments thereto;*

42 (9) sexual battery as defined by K.S.A. 21-3517, *prior to its repeal,*
43 *or subsection (a) of section 69 of chapter 136 of the 2010 Session Laws*

United Methodist Youthville

Child Welfare Services

Testimony Regarding Concerns with SB 39



Youthville

Giving Children Back Their Childhood

For More Information Contact:

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Senate Judiciary

2-15-11
Attachment 5

Chairman Owens and Committee Members, thank you for the opportunity today to testify in opposition to the residency provisions of SB 39 as they relate to persons convicted as juvenile sex offenders. Our opposition specifically relates to the language in Section 7(a) and Section 8 (Page 14, Lines 8-17 and Page 15, Lines 1-28) prohibiting sex offenders from residing within 2000 feet of a licensed child care facility or any structure used by a unified school district or accredited non-public school for student instruction.

This language is problematic because the term licensed child care facility as defined in KSA 65-503 is very broad:

(c) (1) "Child care facility" means:

- (A) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both.
- (B) a children's home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;
- (C) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or
- (D) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.

All existing Psychiatric Residential Treatment Facilities (PRTF's), Foster Homes, Youth Residential Centers (YRC's), Emergency Shelters, Detention Centers, and Maternity Homes are considered child care facilities under KSA 65-503; and today many of these settings provide some combination of housing, treatment, or education to juvenile sex offenders. These facilities may or may not have an on campus schooling program. If a facility has an on-campus school it is generally run by the local school district, meeting the definition of a structure operated by a local school district as described in this bill. If an on-campus schooling program doesn't exist the residents leave campus and are educated in the community by the local school district. If the residency provisions of this bill were enacted juvenile sex offenders, who are generally in the

custody of the state, would be prohibited from living, receiving treatment, and obtaining an education in the facilities they do today.

United Methodist Youthville currently operates two PRTF's; a 57 bed facility in Dodge City and a 56 bed facility in Newton. Both programs are accredited by The Joint Commission, certified by the Kansas Department of Social and Rehabilitation Services (SRS), and licensed by the Kansas Department of Health and Environment (KDHE). PRTF's provide comprehensive mental health treatment to children and adolescents who, due to mental illness, substance abuse, or severe emotional disturbance, cannot safely be maintained in the community. The programs are designed to offer a short term, intense, focused treatment to promote a successful return of the child to the community. To be eligible for this level of care the youth must be deemed to be at substantial risk of harming themselves or others and all other ambulatory care resources available in the community have been identified, and if not accessed, determined to not meet the immediate treatment needs of the youth. Youth only remain in the PRTF setting as long as medically necessary and then transition back to their family or a less restrictive community living situation.

The Dodge City campus features a program designed specifically to treat youth with problem sexual behaviors. Both campuses offer on ground education through a partnership with local school districts. If this bill was passed as introduced it would prevent us from serving the needs of juvenile sex offenders and would prevent us from assisting the youth in acquiring the skills they need to be productive members of society. I would be happy to work with any member to address our concerns with this bill; however, if these provisions are not corrected we urge to oppose the passage of this bill.

Senate Judiciary Committee
February 8, 2011
Testimony of Jennifer Roth
Opponent of Senate Bill 39

Chairman Owens and Members of the Committee:

As many of you know, I am a criminal defense attorney. I have proudly served indigent clients in felony cases since 1998. I also serve on the Kansas Sentencing Commission and am the legislative chair for the Kansas Association of Criminal Defense Lawyers. I oppose SB 39 for the reasons below. I will provide additional reasons and arguments during my in-person testimony.

Driver's licenses, driving privileges and Halloween. SB 39 would require that "AGGRAVATED SEX OFFENDER" be printed on people's driver's licenses. If memory serves, driver's licenses used to say "OFFENDER" but the Legislature changed the law to remove this. It should not come back into existence. This labeling, along with the Halloween provisions in SB 39, call to mind *State v. Schad*, 41 Kan.App.2d 805 (2009), in which the Kansas Court of Appeals reversed a district court judge's ruling that Mr. Schad, as a condition of his probation, post a sign in his yard that read: "SEXUAL PREDATOR LIVES HERE". As the Court said, "the signage conditions exact a very harsh censure against Schad. Although Schad had been convicted of a sexual offense, the imposed signage conditions would work against any rehabilitation while on probation because wherever Schad would be, he would be 'branded.' The signage conditions would not be helpful in restoring Schad to the ranks of society's productive citizens."

SB 39 also requires that ANY offender (not just sex offenders) convicted of violating the offender registration act would have his/her driver's license suspended for six months. This penalty has no relation to the offense of failing to register and puts up an additional barrier for people struggling to be in "the ranks of society's productive citizens."

No discretion in sentencing ANY registered offender convicted of violating KORA. Under SB 39, the "sentence for a violation of K.S.A. 22-4903 [the Kansas offender registration act], and amendments thereto, shall be presumptive imprisonment." Furthermore, SB 39 also provides "[t]he sentencing judge shall not impose a downward dispositional departure sentence for a violation of K.S.A. 22-4903 . . ." This means ANYONE convicted, regardless of why he/she is on the registry, goes to prison. The prison bed impact will be huge (and the prison stays quite long, since violation of the registration act is a severity level 5 person felony for ANY violator). It is important to note we will have arguably hundreds of people who did not go to prison for their underlying offense but who now face prison time for not registering.

Sincerely,-



Jennifer Roth

rothjennifer@yahoo.com

(785) 550-5365

Senate Judiciary

2-15-11

Attachment 6

February 1, 2011

Honorable Senator Tim Owens
Chairman Senate Judiciary Committee

Dear sir

Subject: Judiciary Committee hearing on Senate Bill 39 scheduled for 2/4/11

Senator I wish to offer "Official testimony" on Senate Bill 39. Since I am unable to appear in person before the Judiciary Committee to testify in opposition to this bill, I ask that you amend the official record of the hearing on this bill scheduled for February 4th, so that my testimony(enclosed) may be included in the official record of that hearing. If you have any questions for me, or need clarification on anything I am testifying to in opposition to this bill, I can be contacted at the below listed address. I would appreciate a brief response from you, indicating you received my testimony and that you will include it in the official record of the Judiciary Committee hearing on this bill.

Sincerely, Scott Douglas

Scott Douglas

cc: My files
Scott Douglas
1301 KS. Hwy. 264
Larned, KS 67550-5353
(620) 285-4660 EXT #6

Senate Judiciary

2-15-11
Attachment 7

February 4, 2011

Members of the Senate Judiciary Committee, I come before you today to state my opposition to Senate Bill 39 "AN ACT concerning criminal procedure; relating to sex offenders ;amending K.S.A. 22-4903 and K.S.A. 2010 Supp.8-243, 8-255, 22 4902, 22-4904 and 22-4913 and sections 285 and 299 of chapter 136 of the 2010 Sessions Laws of Kansas and repealing the existing sections." Please allow me to begin with a little background on myself. I am responsible for victimizing four innocent persons and forever horrifically changing their lives. The four persons did nothing to entice me, or encourage me to manipulate them and control the situations, so I could put myself in a position where I could sexually abuse each one of them. I chose to plan and execute my abuse of these four individuals purely for my own satisfaction. Nothing I say here today will change the fact that these four persons had their lives altered because of my selfish need to feel loved and accepted. I am a repeat sex offender, and would be effected by S.B. 39 and the changes it makes in the KS statutes. I am in opposition to the proposed changes S.B. 39 would make to the KS statutes, because the changes would cause more difficulties and cost more money to citizens of Kansas, than they would do to protect our citizens from persons like myself. I urge the members of this committee to vote down this bill and allow it to die in committee. My concerns with S.B. 39 start with the new requirement to have drivers licenses of "persons defined as an aggravated sex offender under subsection (b) of K.S.A. 22-4902, and amendments thereto" to "Include an aggravated sex offender label." The clerk at the grocery store, the bank teller, or whomever requires a form of picture ID does not have a right to know I am an "aggravated" sex offender. This comes close to violating my rights under HIPPA laws to have my name and identifying information kept confidential. I accept responsibility for the consequences that come as a result of my criminal behavior, being harassed continually for behavior I have completed a criminal sentence for, is not a consequences that I should have to endure as a result of the actions I took in the past. By placing a label of aggravated sex offender on my drivers license, I could be subjected to physical harm by anyone who saw my photo ID while I was using it for identification, and those waiting in line behind me or those around me, can see the aggravated sex offender label on my photo id. The current standard of placing a label of "registered offender" on photo id's without listing the specific offense should remain in place. Legislating Halloween is a bad idea. While I agree sex offenders should not be having contact with children on Halloween legislating it, will not stop someone from sexually offending, if that's what they intend to do. The threat of a "none person misdemeanor" for violation of this section is no deterrent to a sex offender. If you mean to put fear into an offender sexual or otherwise, raise the penalty to a person felony, and maybe someone will reconsider before doing something on Halloween they wish they hadn't. I believe that telling someone that they must remain inside their

residence between certain hours on Halloween is also a bad idea. An offender will not necessarily victimize someone on Halloween, because they are outside of their residence. There is no exception for an offender who has to be at work on Halloween between 5:00 p.m. and 11:00 p.m.. Technically an offender would be in violation of this section just by being at work. A high risk for many offenders is isolating themselves, and by requiring someone to remain in a residence on Halloween night offenders would have forced isolation on themselves, which brings with it more problems for the offender, and society in general. A sign "No candy at this residence" is also of concern to me. There is no specific location listed in this section that says where to place this sign at the residence. Say someone places the sign in the back yard of their residence, they would technically be in compliance with this requirement, while children may come to their residence from the front, where there is no sign. If your going to require a sign be placed at the residence, please give a specific place at the residence, where the sign must be placed, so their can be no mistake where the sign must go. Another area of concern in this bill is Sec. 6 where it would require an aggravated sex offender to notify local law enforcement and the K B I, within 24 hours of a change of address. I would urge you to change that requirement from 24 hours to 3 days. When someone moves to a new residence they don't know where many of the local law enforcement buildings are located. By limiting someone to only 24 hours to notify the proper authorities of their new location, you could be setting an offender up for failure. Give a person an opportunity to get their feet on the ground first and to get a sense of direction at their new residence, before you require them to notify law enforcement of a change of address. A 3 day requirement is reasonable and would allow someone to locate where they have to go to register at the new residence, without feeling overwhelmed by being in a new location and having to do so many things all at one time or within 24 hours. One of the most difficult things for me to understand in S.B. 39 is the increase from 1,000 to 2,000 feet in Sec.7 where an aggravated sex offender can reside. I believe SORNA (Sex offender Registration & Notification Act) places the limit at between 500 and 1,000 feet where a sex offender can reside. I would submit that Kansas can not make a requirement for an aggravated sex offender to reside greater than that allowed in SORNA. One thing vital to a sex offender or an offender in general is the ability to use and have reasonable access to community resources. (Mental health treatment, public mass transit, employment, leisure activities, etc.) If Kansas like other states are now doing legislates how far an aggravated sex offender must reside from places where children are likely to be at, there will be no place for a sex offender to reside except far out in the countryside, away from mental health treatment, public transportation, and employment. I believe that this would have a negative impact on Kansas and cost the state more money in the long run, than they would save by having sex offenders living within the borders of towns and cities, where they can be employed, use mass transit, and most importantly have a support network, and effective therapy available to them.

In conclusion, I wish to thank the members of the Senate Judiciary Committee for allowing me to speak to you today. I again for the reasons stated in my "Official testimony" urge the Judiciary Committee to vote this bill down, and allow it to die in committee.

Sincerely, Scott Douglas

Scott Douglas

cc: My files

LARNED STATE HOSPITAL

DRAFT

Expenditure	Actual FY 2010	Agency Est. FY 2011	Gov. Rec. FY 2011	Agency Req. FY 2012	Gov. Rec. FY 2012
Operating Expenditures:					
State General Fund	\$ 42,466,987	\$ 43,155,120	\$ 43,155,120	\$ 46,956,870	\$ 44,465,747
Other Funds	13,830,856	14,383,828	14,383,828	14,383,828	14,383,828
TOTAL	\$ 56,297,843	\$ 57,538,948	\$ 57,538,948	\$ 61,340,698	\$ 58,849,575
Capital Improvements:					
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Other Funds	4,174	0	0	0	0
TOTAL	\$ 4,174	\$ 0	\$ 0	\$ 0	\$ 0
GRAND TOTAL	\$ 56,302,017	\$ 57,538,948	\$ 57,538,948	\$ 61,340,698	\$ 58,849,575

Percentage Change:

Operating Expenditures:					
State General Fund	4.9%	1.6%	1.6%	8.8%	3.0%
All Funds	5.6	2.2	2.2	6.6	2.3
FTE Positions	975.2	975.2	975.2	1,005.0	838.2
Non-FTE Perm. Uncl. Pos.	23.0	23.0	23.0	23.0	23.0
TOTAL	998.2	998.2	998.2	1,028.0	861.2

AGENCY OVERVIEW

Larned State Hospital (LSH) provides psychiatric treatment and limited detox facilities to adults from the 59 western counties of the state through collaborative efforts with consumers, community based mental health providers, the judicial system, and Department of Corrections. The State Security Hospital serves the entire state as a secure setting for criminal forensic patients during evaluation and treatment, and non-forensic patients with severe behavioral problems who may be transferred from other hospitals. The Sexual Predator Treatment Program (SPTP) provides treatment for convicted sex offenders who have completed their prison sentences and have been civilly committed under the Kansas Sexual Predator Law because of ongoing danger to the community. The Sexual Predator Transition House Program is located on the grounds of Osawatimie State Hospital, but is funded in the LSH budget. The Transition House Program accepts clients in Phases 6 and 7 of their treatment and who have been deemed ready for transition from the treatment program. Larned State Hospital also provides various

support services for Larned Juvenile Correctional Facility, Larned Correctional Mental Health Facility, and the Kansas Soldiers' Home at Fort Dodge.

MAJOR ISSUES FROM PRIOR YEARS

The **2006 Legislature** authorized three additions to the State Security Program for FY 2007. First, \$2,674,854 was added to partially annualize the costs of a 90-bed expansion implemented in the last quarter of FY 2006. Second, \$376,425 from the State General Fund and 12.0 FTE positions were added to address staffing issues at the Isaac Ray building. Finally, the Legislature added \$1.6 million to the hospital budget, a portion of which was to fully annualize the additional beds.

Sexual Predator Treatment Program (SPTP). Since 1994, 246 persons have been committed to the SPTP. Of the residents presently assigned to the SPTP, more than two thirds have been received within the past five years. According to the agency, the steady increase in referrals to the program and the length of time it takes to complete the program combine to create a continuing budget and public policy challenge.

In April 2005, Legislative Post Audit concluded that the state will either have to change policies to commit fewer sex offenders to the SPTP, allow clients to be released sooner, or commit to supporting a new class of institutionalized individuals. The report recommended that the Legislature examine these issues and that the Department of Social and Rehabilitation Services (SRS) should develop multi-year forecasts based on several scenarios to address resident capacity, housing costs and staffing costs. The **2005 Legislature** added \$597,665 from the State General Fund and 22.0 FTE positions to address staffing issues. Additionally, the Legislature added \$1,116,296 from the State General Fund and 41.0 FTE positions to address growth in the program with staff being hired gradually as additional clients enter the program. The **2006 Legislature** added 14.0 FTE positions and \$390,145 to reoccupy the Dillon building after remodeling was completed in Spring 2006. **The following summarizes the status of the 246 persons committed to the SPTP:**

- 2 persons have completed the final conditional release stage;
- 3 persons are on conditional release;
- 13 persons were released by the courts due to timely filing issues (these issues were later corrected by legislative action);
- 14 persons have died;
- 15 new commitments have been made so far in FY 2011; and
- 214 persons are currently in the SPTP as of November 30th, 2010:
 - 200 on the campus of Larned State Hospital;
 - 6 in DOC (due to parole violations); and
 - 8 residing at the Transition House on the campus of Osawatomie State Hospital

The **2009 Legislature** passed House Substitute for SB 91 that prohibits the Department of Social and Rehabilitation Services from placing more than eight sexually violent predators in any one county on transitional release or conditional release; stated that these patients be housed only on state property; and required a report to the Governor every year on the status of



transitional persons. The Department of Social and Rehabilitation Services testified that House Substitute for SB 91 created both programmatic and fiscal challenges for the Sexual Predator Treatment Program. The more populated counties such as Johnson, Wyandotte, Shawnee, and Sedgwick typically have the optimal resources for affordable housing, employment, and follow-up sex offender treatment, which are critical elements to reduce the risk for reoffending and increase successful reintegration into the community. In addition, current zoning and residency restrictions make it more difficult to place offenders back into the community after treatment. According to the Department, if a court orders an individual to transitional or conditional release and that person cannot be placed because the counties that offer the needed resources have reached the eight person maximum, and no other county can be found to provide the needed services for that individual, the Department of Social and Rehabilitation Services and the State of Kansas risk contempt of court charges and lawsuits.

Title XIX (Medicaid) Funding Issues. Federal Title XIX funding comprises approximately half of all funding for state hospitals. Currently, all Title XIX payments for state hospitals are placed in a central account and funds are then transferred to the five state hospitals in amounts equal to their approved appropriations. State developmental disabilities (DD) hospitals are Medicaid certified as intermediate care facilities for persons with mental retardation (ICFs/MR) and nearly all of the people living in the facilities are covered by Medicaid. The state DD hospitals submit annual cost reports that establish per diem rates which they charge to Medicaid for each day a person covered by Medicaid lives in the facility. LSH is a mental health hospital.

The state MH hospitals establish per diem rates in much the same way as the state DD hospitals but are classified as institutions for mental disease (IMDs). The result is that, due to federal rules, most patients are not eligible for standard Medicaid match but the hospitals are eligible for Medicaid payments through the Disproportionate Share Hospital (DSH) program. This program assists all acute care hospitals that serve a disproportionately high number of indigent persons. Over the last decade, the amount of DSH funding available to the hospitals has decreased which decreases receipts into the central fund.

As part of a submitted ten percent reduced resources options prepared at the direction of the Senate Ways and Means Committee in 2009, SRS included the closure of the Inpatient Psychiatric Treatment Unit for Youth located on the LSH campus and the option to contract out these services to a private facility. In **FY 2009**, the LSH children/adolescent program experienced 150 days when the census exceeded eight, 26 days when the census exceeded 12, and nine days that the census was less than four. The Request for Proposal (RFP) was issued and two entities submitted proposals. No preference was to be given to any applicant based on location. However, the services must be provided within the LSH catchment area as indicated in the RFP. After an evaluation of the proposals, SRS selected KVC Behavioral HealthCare to provide the private service. The new private program began operation in Spring 2010 in Hays, Kansas. When the space reserved for the Inpatient Psychiatric Treatment Unit for Youth was vacated during the Summer of 2010 eleven additional Adult Civil Psychiatric Service beds were opened in the building complex. Funding for the staffing of the newly opened eleven bed unit at LSH is from the savings realized from contracting out of the youth beds at LSH. The opening of the additional adult beds was determined necessary by the Department of Social and Rehabilitation Services (SRS) temporarily suspended voluntary admissions to the three Kansas mental health hospitals during May 2010 and July 2010. The hospitals continued to accept people ordered to the facilities by the courts or escorted by police. Voluntary admissions require a referral by one of the state's 27 Community Mental Health Centers and involve adults who must have the capacity to consent to care, have a treatment facility that agrees the person is in need of services offered by a facility and are mentally ill as defined by law and medical understanding. When the hospitals are full, the community centers are expected to find placement alternatives for people who otherwise would be admitted. According to SRS, all three facilities were full beyond licensed capacities and the agency did not have additional resources to serve persons seeking voluntary

admissions. Additional actions were taken such as initiating agreements with community partner... to establish alternative inpatient resources but SRS expects census issues to continue in FY 2011 and FY 2012.

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

SENATOR MIKE PETERSEN

February 15, 2011

SB 135

Chairman Owens, Members of the Committee,

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

SB 135 is the same as SB523 (2010) which we passed late last year 38 -1 in the Senate updated for statute changes we made. 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 29 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 the 28 years I have found data on. 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.

Attached is a copy of arrests and violations from Florida's criminal history files.

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

Senate Judiciary

2-15-11
Attachment 9

RECORDS FROM FLORIDA'S CRIMINAL HISTORY FILES, 1982 - PRESENT
Arrests and Convictions for violation of Florida Statutes 895.01 - 895.06

	Individuals	Events	Charges
Arrests	3,115	3,441	4,233
Convictions	1,007	1,021	1,258
Convictions resulting in sentence to State Prison*	487	494	621

* This is a subset of Convictions.

FLORIDA
 Population 18,7

KANSAS 2.7m

14.5%

Florida's Computerized Criminal History (CCH) is fingerprint-based and, unless prints were taken at a later stage in the criminal justice process, does not include records involving a notice to appear, direct files or sworn complaints where no physical arrest was made. FDLE does not warrant that the records provided are comprehensive or accurate as of the date they are provided, only that they contain information received by FDLE from contributing agencies, and that any errors or omissions brought to FDLE's attention are investigated and, as needed, corrected. Note that Florida Statute is an optional field for the Arrest segment. As such, approximately 25 percent of arrest entries do not contain statute reference. CCH data is as of February 2, 2010.

Data prepared and provided by the Florida Statistical Analysis Center, February 5, 2010.
 Prepared for Athena Andaya, Kansas Legislature Research Department (785-296-4420),



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



together, 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





STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

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Senate Judiciary Committee
Kyle Smith, Assistant Attorney General
In Support of SB 135
February 15, 2011

Chairman Owens 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.

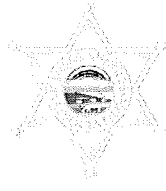
We urge you to support the favorable consideration of this bill.

Senate Judiciary
2-15-11
Attachment 11



**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
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**Testimony to the Senate Judiciary Committee
In Support of SB 135
February 15, 2011**

Chairman Owens 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. 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
Phone: (785) 235-5619
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