

House Judiciary Committee
February 6, 2025
House Bill 2173
Proponent Testimony of the
Board of Indigents' Defense Services Legislative Committee
Presented by Jennifer Roth
Proponent

Dear Committee Chair Humphries and Members of the Committee:

The Kansas Offender Registration Act used to have an early removal process for everyone. From its creation in 1993 until 2000, the Kansas Offender Registration Act (KORA) had a process by which all registrants could petition for early removal from the registry. At that time, KORA included registrants who had been convicted of sex offenses, kidnapping of a child, or homicide. From 2001 to 2010, the exit mechanism was limited to registrants who were required to register prior to July 1, 1999, but would not have been required to register on and after July 1, 1999, if it weren't for retroactive amendments to KORA.

In 2011, the Legislature made expansive changes to KORA, applied them retroactively, and completely eliminated the exit mechanism. *See* 2011 H. Sub. for SB 37. By 2011, the number of categories/ways people were obligated to register under KORA had ballooned, which is how it has been to this day. Kansas is an outlier—in 20+ years, I have never seen a registry as vast as ours.

In 2022, the Legislature restored an exit mechanism for people who register for drug offenses. *See* 2022 SB 366. **HB 2173 would continue that progress by restoring an exit mechanism for people who, because of the 2011 amendments, were retroactively ordered to register when they hadn't before, or had their registration period retroactively increased from 10 years to 15 years, 25 years, or life.**

Why the change is warranted

Although 2022 SB 66 was not a Judicial Council bill, the language for the KORA exit mechanism for drug registrants came from the Council's work. The Kansas Judicial Council Advisory Committee on Sex Offenses and Registration met 24 times over 2 ½ years, and decided on recommendations for changes to KORA, including the return of an exit mechanism for all registrants. *See* Report of the Judicial Council Advisory Committee on Sex Offenses and Registration, December 11, 2020, p. 14.¹ Consistent with that report, the Judicial Council introduced 2021 HB 2349. The reasons for the restoration of an exit mechanism are as relevant now as they were then.

¹ Available here: <https://www.kjc.ks.gov/home/showpublisheddocument/386/638624378925400000>

The reasons given for restoring an exit mechanism to KORA included: “First, the possibility of an early exit gives offenders an incentive to comply with registration requirements. Second, the hearing process allows the court to make an individual determination based on an offender’s behavior in the community over a period of years. And, finally, allowing an offender to petition for relief after a period of 5 or 10 years is evidence-based. It is consistent with the reduction in the recidivism rate that occurs after 5 and 10 years.” Testimony on HB 2349 from Kansas Judicial Council by Judge Ben Sexton (8th Jud. Dist.; DK, GE, MN, & MR COs) to House Corrections and Juvenile Justice Committee, on 2/21/21.

At that time, the Kansas Association of Chiefs of Police and the Kansas Peace Officers Association also supported HB 2349: “the proposed process for judicial review of an offender for possible release from the offender registration seems to us to be a reasonable and balanced approach to considering an individual case and the merits of shortening the length of a registration period. We believe it will provide incentives for offenders to continue in treatment and other programs.” Testimony of Ed Klumpp to House Corrections and Juvenile Justice Committee, on 2/22/21.

The sweeping, life-altering changes the Legislature made to KORA in 2011 also included barring a person from being able to expunge *any part* of their criminal record while they are registering. That means a person can meet the requirements for expungement —i.e., has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner; the circumstances and behavior of the petitioner warrant the expungement; and the expungement is consistent with the public welfare—three or five years after their supervision ends, but they have to wait another several years before being able to apply for that expungement because KORA has no early release provision and forbids expungement until the complete registration period is satisfied. And for people with two qualifying convictions (regardless of category), registration is for life—so they would never have a chance at an expungement even though they would be eligible for it if they did not have a registration requirement.

During in-person testimony, I will give examples of what KORA requires, what the punishment is for failing to meet the requirements, how registration negatively impacts people’s ability to make positive changes, and how the only way forward is for the Legislature to restore an exit mechanism. Changes to KORA are long overdue, and HB 2173 would be another step in the process. We encourage this Committee to favorably pass HB 2173 out of committee.

Sincerely,

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