

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

Chairman Owens and Members of the Committee:

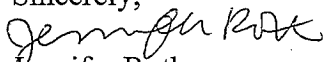
As many of you know, I am a criminal defense attorney. I have proudly served indigent clients in felony cases since 1998. I also serve on the Kansas Sentencing Commission and am the legislative chair for the Kansas Association of Criminal Defense Lawyers. I oppose SB 39 for the reasons below. I will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


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2-15-11

Attachment 6