



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY TO THE SENATE JUDICIARY COMMITTEE
ON SB 217
MARCH 10, 2011

Chairman Owens and Members of the Committee:

I appreciate the opportunity to offer testimony in opposition to SB 217.

The Kansas Association of Counties opposes SB 217 because it continues the trend of assigning costs associated with committed sexually violent predators to Kansas counties. Kansas counties are responsible for the costs of the commitment proceedings for sexually violent predators, and SB 217 adds the costs of habeas corpus appeals to the list.

KAC recognizes the importance of enforcing the Sexually Violent Predator Act; however, we do not believe counties should pay the costs. The State, via the Attorney General, initiates the procedure to legally determine whether a person is a sexually violent predator. Current statute assigns all costs associated with these proceedings to the county where the criminal conviction occurred, which includes costs of investigation, prosecution, defense, juries, witness and expert fees.

Legislation in 2007 creates a Sexually Violent Predator Expense Fund, which is intended to reimburse counties for the costs associated with these type cases. The Attorney General administers the fund. However, there is no incentive for the Attorney General to seek an appropriation for this fund; it increases his budget yet provides no money to the operations of his office. The statute directs counties to seek reimbursement by filing a special claim if there are no monies in the fund. This is not a workable solution.

County resources are scarce at the moment, making it difficult to cover an unforeseen and unpredictable bill that arises when a sexually violent predator is convicted in a county. We believe the better policy is that all Kansas taxpayers share the cost of enforcing this state law. The State budget should cover all costs associated with enforcing this Act, and we have attached an amendment to that effect.

We appreciate your listening to our comments on SB 217, and ask that you consider adoption of our amendment.

300 SW 8th Avenue
3rd Floor
Topeka, KS 66603-3912
785•272•2585
Fax 785•272•3585

Randall Allen
Executive Director

Senate Judiciary
3-10-11
Attachment 5

K.S.A. 59-29a04. Same; petition, time, contents; provisions of section are not jurisdictional; county reimbursed for costs. (a) When it appears that the person presently confined may be a sexually violent predator and the prosecutor's review committee appointed as provided in subsection (e) of K.S.A. 59-29a03, and amendments thereto, has determined that the person meets the definition of a sexually violent predator, the attorney general, within 75 days of the date the attorney general received the written notice by the agency of jurisdiction as provided in subsection (a) of K.S.A. 59-29a03, and amendments thereto, may file a petition in the county where the person was convicted of or charged with a sexually violent offense alleging that the person is a sexually violent predator and stating sufficient facts to support such allegation.

(b) The provisions of this section are not jurisdictional, and failure to comply with such provisions in no way prevents the attorney general from proceeding against a person otherwise subject to the provision of K.S.A. 59-29a01 et seq., and amendments thereto.

~~(c) Whenever a determination is made regarding whether a person may be a sexually violent predator, the county responsible for the costs incurred, including, but not limited to costs of investigation, prosecution, defense, juries, witness fees and expenses, expert fees and expenses and other expenses related to determining whether a person may be a sexually violent predator shall be reimbursed for such costs by the office of the attorney general from the sexually violent predator expense fund. The attorney general shall develop and implement a procedure to provide such reimbursements. If there are no moneys available in such fund to pay any such reimbursements, the county may file a claim against the state pursuant to article 9 of chapter 46, of the Kansas Statutes Annotated, and amendments thereto.~~

— **REPLACE (c)**

(c) All costs incurred, including but not limited to the costs of the investigation, litigation, attorney fees, jury fees, fees and mileage for the attendance of witnesses, qualified experts and professional persons, appeals, annual examinations, and any other services, to determine whether a person is a sexually violent predator shall be the responsibility of and paid by the Attorney General.

and **REPEAL** K.S.A. 59-29a04a creating the Sexually Violent Predator Expense Fund to reimburse counties.