

**Pastor Herman Hicks
Testimony to the
Kansas House
Corrections and Juvenile Justice Committee
Monday, Feb 20, 2017**

Thank you for the opportunity to be here today to testify on behalf of House Bill 2352. If it is okay with you Mr Chairman, I would like to read my testimony for today.

I am Pastor Herman Hicks, the pastor of Greater Pentecostal COGIC in Wichita, KS. I have served as the Pastor of Greater Pentecostal for almost 14 years. I came to Kansas by way of the United States Air Forces. I was stationed at McConnell Air Force Base in 2003 as the Mission Support Group Commander. I retired from the Air Force in 2005 in the rank of Colonel and decided to make Kansas my home state and full time ministry my new occupation.

I am blessed to hold a Bachelor's Degree in Political Science from the University of Mississippi and a Master's Degree in Political Science and Criminal Justice from the University of South Dakota. So my focus today is based on my educational background, my experiences and my desire is to help individuals in my community reach their goals and full potential.

Over the past 12 Years, I have had the opportunity to serve in many capacities in the Wichita community. That includes 3 years as the President of the Greater Wichita Ministerial League. In that capacity and in my current capacity as a community leader I have had the opportunity to work with the Wichita Chief of Police, Sedgwick County Sheriff, the District Attorney for Sedgwick County and the Wichita Community on a number of issues that affects our community.

I am here today to encourage you to support House Bill 2352. From what I understand portions of the proposed bill states: "Evidence of an adjudication for a crime, which, if committed by an adult, would constitute a misdemeanor involving dishonesty or false statement, shall not be admissible for impeachment of a witness."

I personally got involved in this issue when a young man in the church I pastor applied for a police officer job in the Wichita Police Department. He is a sharp

young man who would make an outstanding Police officer. He passed all the requirements to become a police officer. However, the Chief of Police, although desiring to hire him, could not hire him because of a current Kansas law concerning juvenile records being disclosed. As explained to me by our District Attorney, the issue is State v. Wilkins, 215 Kan. 145, 148-49 (1974): in which it states in part ". . . the state's policy interest in protecting the confidentiality of a juvenile offender's record . . . must yield to the constitutional right of effective cross-examination to test the credibility of a witness."

My understanding is that under case law dating back 40 years, a witness can not only be asked questions on the stand about their adult convictions for crimes of dishonesty, **but also about juvenile adjudications**. As such, people applying for jobs as police officers in Kansas are, in many cases, not being hired due to concerns that they will have to be identified as having disclosable credibility issues under the Brady and Giglio line of cases from the US Supreme Court.

The individual from my church had a juvenile record when he was 14 years of age for shoplifting. He was encouraged to sign up for the diversion program (without admission of guilt). He and his parents were under the impression that if he completed the diversion program his juvenile record would be wiped clean and could not be used against him as an adult. Whether they received the wrong information or not is irrelevant. Even if this individual's minor juvenile record was not wiped cleaned, it should have been sealed after his 18th birthday, and thus not cause him any problem as an adult.

However, today, his youthful indiscretion has come back to prevent him from joining one of Kansas's finest Police Forces (Wichita Police Department). Our community needs more minority officers. So yes, the community I represent in Wichita has a vested interest in this proposed change to the law. From what I understand there are a few officers on the Wichita Police Department who are not able to perform all of their duties due to this law and the need to sign affidavits. I also understand there are a number of individuals who have applied to the Wichita Police Department, but have minor juvenile records, but cannot join the Police Force due to the current law. I have discovered that some District Attorneys and Chief of Police in Kansas interprets the current law in different ways. That tells me that everyone does not understand the

current law (in the same manner). Furthermore, many states do not allow cross-examination of juvenile adjudications or diversions.

There are individuals who did a minor indiscretion when he or she were young, but have turned their lives around for the better. However, they are now trapped in an issue in which the police department wants to hire them and our DA has to disclose their juvenile offence to a Defense Attorney.

One such case is the young man in the church I serve as pastor. This young man has succeeded in everything he puts his heart to perform. He has a Bachelor's in Criminal Justice/Sociology degree, and a Master's degree in Psychology. And with all of that, he desires to join the Wichita Police Department to make a difference in his community. As his pastor, I am so proud of the man he has become and it would be such a blessing to see him in a Wichita Police Department uniform. My main goal for being here today is to ask you to change the current law and allow young people who have an interest in a law enforcement career the ability to pursue the career without having a juvenile adjudication for relatively minor misdemeanors.

Our District Attorney thought that the changes should be to KSA 60-421 instead of KSA 60-420 or KSA 60-422. He suggested the following be added to KSA 60- 421: "Evidence of a misdemeanor juvenile adjudication (of a crime of dishonesty) shall not be admissible for impeachment of a witness five years following the 18th birthday of the witness." I concur with our District Attorney's recommendation. His point is that if an individual who commits crimes of dishonesty and turns 18 he or she couldn't be questioned about it the day after he or she was convicted (if there is no time limit). Our District Attorney felt that could cause constitutional problems as a defendant has a right to go into that prior history up to a point. According to our District Attorney if you say 21 years of age or 5 Years after they turn 18 there is a stronger argument that it's no longer material and therefore it stands a better chance of passing constitutional muster. I am not a lawyer; I am just providing you with the discussion I have had with our well-respected District Attorney whom I agree with in this case.

I am not asking you to change the law when it comes to felonies, just eliminating juvenile misdemeanor priors from the list of impeachment evidence after the individual has stayed clean up to their 21st birthday or for 5 years after their 18th birthday. As our District Attorney stated: "If you are now

21 or 23 and you haven't been in trouble since you were a juvenile, your juvenile misdemeanor record is not material/instructive to your ongoing credibility. If you picked up more crimes of dishonesty after you turned 18, then that's far more relevant than any misdemeanor you may have had before you turned 18. Conversely, if you committed felony crimes of dishonesty as a juvenile (robbery, home burglaries, forging documents, etc.) that is probably material for a longer period of time.”

Current Kansas case law allows a witness to be cross-examined about both juvenile adjudications and dictates that diversions, even an adult diversion, must be disclosed. The balance to be struck is between a defendant's right to cross examine witnesses called against him or her and society's interest in the rehabilitation of juvenile offenders without having their juvenile indiscretion held against them for the rest of their life. Adding the 21st birthday or 5 Years after their 18th birthday (23) would make sure we aren't ignoring the defendant's rights, but at the same time allow juvenile offenders an opportunity for a fresh start in life as an adult. **I personally see this as criminal justice reform.** You have an opportunity with this bill to reform criminal justice for juveniles and those who had minor juvenile offenses.

Thank you for this opportunity to be before you today.