

HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE
Representative J. Russell Jennings, Chairman

KANSAS SENTENCING COMMISSION
Scott M. Schultz, Executive Director
February 6, 2018

Proponent Testimony – HB 2565

On behalf of the Kansas Sentencing Commission (KSSC), thank you for the opportunity to present testimony in favor of this legislation. This bill was introduced by the KSSC to amend portions of the Kansas Offender Registration Act, specifically K.S.A. 22-4902, 22-4905, 22-4906 and 22-4909.

Section 1 amends K.S.A. 2017 Supp. K.S.A. 22-4902 by removing drug offenders as registerable offenders in the Kansas Offender Registration Act. It is first eliminated from the initial definition of offender, and then the various types of drug offenders that currently are required to register is also eliminated later in the statute.

Section 2 amends K.S.A. 2017 Supp. 22-4905. Currently, the statute provides the requirements for registration. HB 2565 amends this statute to remove drug offenders from the requirements.

Section 3 amends K.S.A. 2017 Supp. 22-4906 by removing drug offenses from the list of offenses requiring registration for 15 years.

Section 4 amends K.S.A. 2017 Supp. 22-4909 by removing drug offender information from internet websites maintained by law enforcement agencies.

The KSSC is concerned with the use of the registry for three reasons. First, those with substance abuse problems may utilize the online registry to find previous dealers in their neighborhood. Due to the convenience of the Kansas Bureau of Investigation's Public Offender Registry, potential offenders can perform online searches by zip code, county or address proximity to find an offender that has previously been convicted and associated with the drug trade. For example, Attachment 1 contains an online KBI map that identifies offenders living or attending school within one mile of the statehouse. Twenty-nine offenders are required to register due to drug violations. Offenders are listed by name, address, offense description and a recent picture of them is available. Due to the registry the state has unintentionally become an online shopping portal for methamphetamine and other drugs. Second, publicizing the whereabouts of former drug offenders after they are released from prison could put them at risk, including former

gang members or others simply trying avoid getting pulled back into the drug lifestyle. Finally, offenders attempting to be successful at reentry into their community are stymied with this public record for 15 years. Jonathan Turley, a criminal defense attorney and law professor at George Washington University has cautioned, "The problem with these registries is that we're creating a class of untouchables within our society who cannot rent apartments or secure employment. When you diminish the likelihood that ex-felons can live and work in society, you increase the chances that they will return to criminal behavior." Continuing this registration requirement for drug offenders also runs counter to KDOC efforts to reintegrate them back into our communities.

Due to an oversight, we would respectfully request an amendment to the bill, specifically K.S.A. 2017 Supp. 22-4903(c)(3), similar to the amendment made in 2017 HB 2086, that removes the felony violation in subsection (B), making all violations of failing to remit a \$20 payment to the sheriff's office a class A misdemeanor. Current law provides for a severity level 9 felony, if within 15 days of the most recent registration, two or more full payments have not been remitted to the sheriff's office. Failure to remit a single full payment within that time is a class A misdemeanor. See Attachment 2. The KSSC recommends that failing to pay as little as a \$40 and incurring a misdemeanor violation is more proportional than an offender being charged with a felony crime.

It is important to note that registration of drug offenders is not required by the Sex Offender Registration and Notification Act, the federal act in which Kansas receives federal funding for being in substantial compliance. SORNA provides a comprehensive set of minimum standards for sex offender registration and notification in the United States. Kansas is one of only 18 states that participate. The question then becomes whether policy interests in tracking offenders for 15 years for certain drug offenses after they have served their time is reasonable. It also brings into question whether the registry is a deterrent, provides public safety or effective in decreasing recidivism.

I appreciate your time and attention to the Kansas Sentencing Commission testimony, ask for your support, and would be happy to answer questions. Thank you.



Kansas Bureau of Investigation

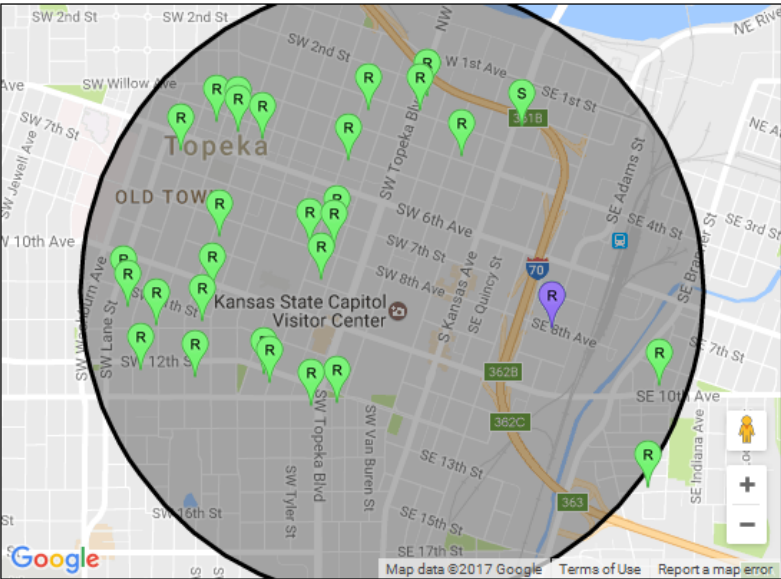
Derek Schmidt, Attorney General
Kirk Thompson, Director

- [Name Search](#)
- [Geographical Search](#)
- [Other Search](#)
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Geographical Search Results

Be advised that the geographical search results may not include addresses for all offenders listed in the search of a given area. If a residential or school address is incomplete, it may not be recognized by the mapping feature used on this website. In addition, the information on this website is compiled based, in part, upon information provided by the registered offender. Therefore, the geographical search results are dependent, in part, on the offender providing the address information required by the Kansas Offender Registration Act (KORA).

Map and Legend



Offender Types

- Green - Drug Offender
- Pink - Sex Offender
- Cyan - Violent Offender
- Purple - Multiple Offender
- Yellow - General Offender

Address Types

- R - Residence
- S - School

1 days shall, upon the 181st consecutive day, constitute a new and separate
 2 offense, and shall continue to constitute a new and separate violation of the
 3 Kansas offender registration act every 30 days thereafter, or a new and
 4 separate aggravated violation of the Kansas offender registration act every
 5 180 days thereafter, for as long as the violation continues.

6 (c) (1) Except as provided in subsection (c)(3), violation of the
 7 Kansas offender registration act is:

8 (A) Upon a first conviction, a severity level 6 felony;

9 (B) upon a second conviction, a severity level 5 felony; and

10 (C) upon a third or subsequent conviction, a severity level 3 felony.

11 Such violation shall be designated as a person or nonperson crime in
 12 accordance with the designation assigned to the underlying crime for
 13 which the offender is required to be registered under the Kansas offender
 14 registration act. If the offender is required to be registered under both a
 15 person and nonperson underlying crime, the violation shall be designated
 16 as a person crime.

17 (2) Except as provided in subsection (c)(3), aggravated violation of
 18 the Kansas offender registration act is a severity level 3 felony.

19 Such violation shall be designated as a person or nonperson crime in
 20 accordance with the designation assigned to the underlying crime for
 21 which the offender is required to be registered under the Kansas offender
 22 registration act. If the offender is required to be registered under both a
 23 person and nonperson underlying crime, the violation shall be designated
 24 as a person crime.

25 (3) Violation of the Kansas offender registration act or aggravated
 26 violation of the Kansas offender registration act consisting only of failing
 27 to remit payment to the sheriff's office as required in K.S.A. 22-4905(A)(1),
 28 and amendments thereto, is:

29 (A) Except as provided in subsection (e)(3)(B), a class A
 30 misdemeanor if, within 15 days of registration, full payment is not
 31 remitted to the sheriff's office;

32 (B) a severity level 9 felony if, within 15 days of the most recent
 33 registration, two or more full payments have not been remitted to the
 34 sheriff's office.

35 Such violation shall be designated as a person or nonperson crime, in
 36 accordance with the designation assigned to the underlying crime, for
 37 which the offender is required to be registered under the Kansas offender
 38 registration act. If the offender is required to be registered under both a
 39 person and nonperson underlying crime, the violation shall be designated
 40 as a person crime.

41 (d) Prosecution of violations of this section may be held:

42 (1) In any county in which the offender resides;

43 (2) in any county in which the offender is required to be registered