

Before the Senate Committee on Judiciary

Testimony in support of HB 2128

Presented on March 16, 2017

By: **Bradley R. Burke,**
General Counsel for the Kansas Governor's Grants Program

Mr. Chairman and Honorable Members of the Committee:

Thank you for the opportunity to appear before you today on behalf of the Kansas Governor's Grants Program to testify in support of HB 2128.

The Governor's Domestic Violence Fatality Review Board (DVFRB) was established on October 8, 2004 by Executive Order 04-11. The board is charged with reviewing all adult domestic violence-related fatalities in Kansas, describing trends and patterns regarding the facts and circumstances of these fatalities, recommending improvements to prevent future fatalities and determining if adequate resources and trainings are in place for those who respond to domestic violence crimes. In order to fulfill the board's charge, the board conducts case reviews including interviews with witnesses and a review of records and other evidence relating to domestic violence related homicides in Kansas. A typical case review by the board includes presentations by surviving members of the victim's family, law enforcement and community members affected by the homicide.

The membership of the DVFRB is set forth in the executive order. I have attached a copy of Executive Order 04-11 to this testimony for your convenience.

Presently, the DVFRB consists of the following members:

Mark Malick, Kansas Bureau of Investigation, Chair of Board
Dave Warry, Kansas Law Enforcement Training Center
Steven Halley, Family Peace Initiative
Joyce Grover, Kansas Coalition Against Sexual and Domestic Violence
Michael Radke, Garden City Police Department
Curt Brungardt, Jana's Campaign
Paula Taylor, Newman Regional Health
Audrey Cress, Kansas Department of Corrections
Rev. David Meier, St. Peter's Lutheran Church

In previous years, the DVFRB relied on the language of Executive Order 04-11, specifically paragraph 10 of the executive order, to go into executive/closed session to conduct case reviews. After a review of the Kansas Open Meetings Act was conducted by present legal counsel, a decision was made by the board to cease the practice of going into executive/closed session under the sole authority of Executive Order 04-11, until K.S.A. 75-4319 can be amended to specifically permit such action. It should be noted that I have been advised by members of the board that the board felt strongly in the past, and still does today, that the ability to go into executive/closed session to conduct case reviews is a very important aspect of fulfilling the board's mission.

Please do not hesitate to reach out to me or the grants program administrator if you have any questions regarding this testimony or HB 2128.

Respectfully submitted,



Brad Burke
Kansas Governor's Grants Program
General Counsel

KANSAS

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

EXECUTIVE ORDER 04-11

WHEREAS, Kansans are being affected by crimes related to domestic violence; and

WHEREAS, as Governor, I have a deep commitment to improving services to victims/survivors of domestic violence; and

WHEREAS, domestic violence devastates its victims and threatens the health and safety of families; and

WHEREAS, domestic violence imposes staggering costs on society associated with legal and medical expenses, law enforcement, social services, the courts and lost productivity in the workplace; and

WHEREAS, people die each year in Kansas as a result of domestic violence that may be preventable;

NOW THEREFORE, pursuant to the authority vested in me as the Governor of the State of Kansas, I hereby create the Governor's Domestic Violence Fatality Review Board ("Board") with the following purposes and charges:

1. The Board will be made up of fourteen representatives who have a working knowledge of domestic violence appointed by the Governor. The Governor shall designate one of the members as Chairperson. The Committee shall meet on call of the Chairperson.
2. The Board will develop a protocol for its use. The protocol may include written guidelines for coroners to use in identifying any domestic violence related fatalities, procedures to be used by the Board in investigating domestic violence related fatalities, methods to ensure coordination and cooperation among all agencies involved in domestic violence related fatalities and procedures for facilitating prosecution of perpetrators when it appears the cause of death was related to domestic violence. The protocol shall be adopted by the Board by rules and regulations.
3. The Board will review all adult fatalities related to domestic violence and work in conjunction with the Child Death Review Board regarding children killed in these fatalities.
4. The Board will describe trends and patterns of domestic violence related fatalities regarding the facts and circumstances of these fatalities and to perform other research as necessary toward the prevention of domestic violence.
5. The Board will develop a process for change in policies, procedures and protocols necessary to accomplish improvement in the prevention of domestic violence and which hold the perpetrator accountable and provide for victim safety.
6. The Board will determine if adequate resources and training are in place for those who respond to crimes of domestic violence.
7. The Board will collect, review and analyze information including death certificates and death data, investigative reports, law enforcement, medical and counseling records, victim service records, employment records, or other information concerning domestic violence fatalities, and any other information deemed by the Board as necessary and appropriate concerning the causes and manner of domestic violence fatalities.
8. The Board will determine whether domestic violence related fatalities might have been prevented with improved policies or procedures of the health care system, social services system, law enforcement, the courts or any other public or private entity.

9. The Board is authorized to call upon a department, office, division, or agency of this State to supply it with data and access records it deems necessary to discharge its duties under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Board and to furnish it with such information and assistance as necessary. No domestic violence related fatality may be reviewed if there is an on-going investigation or prosecution.
10. Information acquired by, and records of, the Board shall be confidential, shall not be disclosed and shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding, except in an aggregated form for research purposes by the Board and its members. Meetings of the Board will be open to the public except when the Board is discussing confidential information or records. Then a formal motion shall be made, seconded and carried, so the Board may recess, but not adjourn, an open meeting for a closed or executive meeting. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the Board. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.
11. The Board may form additional advisory groups to assist them with their review and recommendations. Members may include, state agency representatives, local government agencies and other entities that will be of benefit to the work of the Board.
12. The Board shall report to the Governor, no later than one year from the date of this Executive Order, on the Board's progress and findings and to make any recommendations regarding the Board's operation, including whether legislative authority would enhance the operation of the Board.
13. Members of the Board may receive subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223 and amendments thereto for attending meetings or subcommittee meetings of the board to be paid from the administrative expense budget of the Governor's Federal and Other Grants Program contingent upon receipt of adequate funds.
14. The Governor's Federal and Other Grants Program shall provide the staffing for the Board.

This document shall be filed with the Secretary of State as Executive Order No. 04-11 and shall become effective immediately.

Governor Kathleen Sebelius

October 8, 2004