



Kansas Sheriffs' Association

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Testimony to House Corrections and Juvenile Justice Committee
Opponent Testimony on HB 2349
February 22, 2021

Committee Members,

The Kansas Sheriff's Association is providing testimony as an opponent to HB 2349.

In House Bill No. 2349, starting on line 23 (c) states: "If it appears to the satisfaction of the court that requiring the payment will impose manifest hardship on the offender or the offender's immediate family, the court may:

1. Waive the current payment owed by the offender;
2. Extend the time in which the offender has to make the payment; or
3. *Waive the payment for a specified period of time, not to exceed three years.*"

Current statute allows for a waiver of payment for one year. We believe this should not change. We believe the courts have a lot of latitude after proof is given to the courts of being indigent including a judge can waive current payment in year two or year three if evidence is given to the courts to make that decision.

Page 19, starting on line 24 through line 28, strikes juvenile offenders who have been adjudicated from having to register for any type of crime. This is including the crime of rape of a child and other violent sex crimes.

Pages 39 and 40 strikes current law requiring juvenile offenders who have been adjudicated from having to register for any type of crime. The State of Kansas has many juveniles that have committed heinous sexual offenses to children. We are not talking about a 16-year-old having sex with a 14-year-old, we have cases where 14 year olds have raped 2 year olds and we believe they should have to register. Also juveniles being placed on the public view registration website is at the discretion of the courts. This means they can be told to register by the courts and that registration would be private and not open to the public but allows law enforcement to ensure they are abiding by the Kansas Offender Registration Act.

KSA is opposed to the proposed changes of striking juveniles from registering. Page 25, starting on line 7, discusses Aggravated Violation of the Kansas offender registration act. Starting on line 8, most of the current statute is being struck. This includes if an offender has not registered in 180 days, on 181st day the offender has committed a violation and every 30 days thereafter, a new violation has occurred if the offender does not register.

Line 16, (1), states: "Continues for one year or more; or." This language strikes the 180-day rule for offenders to register before it is considered a "Aggravated Violation." We do not support this change due to the offender can go 1 year without registering before it is considered an "Aggravated Violation." The committee has to understand offenders on this list have committed the crimes of rape, sex crimes on children and violent person's crimes. Most of these offenders are not living or working at the addresses they provided when they were released from prison, thus, why they are not registering.

We are not comfortable with allowing these types of offenders to be allowed to go unchecked for one year.

Currently, if an offender has not registered within 180 days, the investigator will present the case for charging and an arrest warrant is obtained. This gives us the opportunity to locate the individual and arrest them for violation of the Offender Registration Act, hopefully, before they have committed another crime.

Page 25, starting on line 21, states:

“(A) Upon a first conviction, a severity level 6 felony,” was struck and replaced with: “class B nonperson misdemeanor; and”

“(B) upon a second conviction, a severity level 5 felony” was struck and replaced with: “Class A nonperson misdemeanor.”

On page 25, line 25, the language currently addresses a third conviction for a violation is a severity level 3 felony. In the proposed language on line 32 states: “(2) Except as provided in subsections (c) (3) and (c) (4), aggravated violation of the Kansas offender registration act is a severity level 8, nonperson felony.” Starting on line 35, current language defines that the offender shall be designated as a person or nonperson crime in accordance with the designation assigned to the underlying crime for which the offender is required to be registered. All of this language is being struck, which means if an offender is required to register for the crimes of rape or child sex crimes, which are felonies, they will only be charged with a misdemeanor.

On page 25 and 26, starting on line 41, “(3) Violation of the Kansas offender registration act or aggravated violation of the Kansas offender registration act consisting only of failing to remit payment to the sheriff’s office as required in K.S.A. 22-4905.” The proposed language reduces the crime from a class A misdemeanor to a class C misdemeanor.

On page 26, starting on line 14: “(4) Aggravated violation of the Kansas offender registration act is a class A nonperson misdemeanor when the underlying crime for which the offender is required to be registered under the Kansas offender registration act is a misdemeanor.” KSA does not have any issues with this portion of the proposed language. In fact, it is fair and equitable. However, we believe an offender whose underlying crime is felony should be charged as a felony and not as a misdemeanor as this bill is proposing.

KSA cannot support a bill that allows for offenders convicted of heinous felonious sex crimes to not abide by the Offender Registration Act and be charged with misdemeanor crimes.

KSA would like to present an option or amendment.

- (A) If underlying charge is a felony, upon a first conviction a severity level 8 felony instead of a class B nonperson misdemeanor.
- (B) If underlying charge is a felony, upon a second conviction a severity level 6 felony instead of a class A nonperson misdemeanor.
- (C) If underlying charge is a felony, upon a third conviction a severity level 3 felony instead of a severity level 8, nonperson felony.

This amendment allows for offenders who have committed felony violations to still be charged as felonies for not abiding by the Kansas Offender Registration Act. Making a first offense a level 8 felony, is a probation offense and will not occupy prison bed space. Making a second offense a level 6 felony is a border box conviction and allows the courts to decide if the offender shall receive probation or prison time. A third conviction would remain the same as current language as

a level 3 felony. KSA truly believes these types of offenders should be incarcerated after two chances of not abiding by the Kansas Offender Registration Act.

This bill as proposed and if passed will make Kansas not in compliance with the Adam Walsh Child Protection and Safety ACT of 2006 which is the Sex Offender Registration and Notification Act. Due to not being in compliance it would cause the State of Kansas to lose 10% of Byrne-JAG grant funding. This funding is distributed to law enforcement agencies by the State of Kansas to purchase officer safety items such as bullet resistant vests, traffic vests, cages for vehicles, and other much needed equipment.

In closing, I want to illustrate the number of registered offenders in Sedgwick County and what they are required to register for.

The total amount of active Registered Offenders in Sedgwick County is 3,336.

This breaks down to 1,671 active sexual offenders. Of those, 52 are dual-registrants with another county/jurisdiction, and 15 currently have active cases pending against them for various ORU violations. 26 of the sexual offenders have warrants (both misdemeanor and felony), and 35 of those are non-compliant through the state.

The total number of violent offenders is 959 individuals. Of those, 18 are dual-registrants with another county/jurisdiction, and 9 currently have active cases pending against them for various ORU violations. 27 of the violent offenders have warrants (both misdemeanor and felony), and 43 of those are non-compliant through the state.

The total number of drug offenders is 827. Of those, 22 are dual-registrants with another county/jurisdiction, and 7 currently have active cases pending against them for various ORU violations. 28 of the drug offenders have warrants (both misdemeanor and felony), and 42 of those are non-compliant through the state.

The total numbers of "other" or "No risk assigned" offenders are 2. No dual-registrants, cases pending, or warrants are showing for these two individuals. These are individuals that have to register due to a misdemeanor conviction. Both are compliant.

We also have a total number of 1,127 registered offenders that are currently incarcerated that we still track. Those listed are of all registration types and are located in various county jails, state prisons, or federal prisons.

The last point illustrates why we are not in favor of the proposed changes. Sedgwick County has 1,127 registered offenders that are either back in prison or sitting in jail for new crimes, probation/parole violations or Kansas Offender Registration Act violations. Just in Sedgwick County 34% of registered offenders have been re-incarcerated. This means they are not complying with rules or laws after their convictions and release from prison.

KSA opposes this bill as written.

Thank you.

Sheriff Jeffrey T. Easter
Legislative Chair for the Kansas Sheriff's Association