



kcsdv

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

SAFETY, ACCOUNTABILITY, & JUSTICE
for victims of sexual assault and domestic violence and their children

FALL 2006



October is Domestic Violence Awareness Month

Advocates around the state are participating in Domestic Violence Awareness Month activities throughout October. KCS DV member programs are organizing candlelight vigils, awareness displays, quilts, trainings, and fundraisers to mark the importance of the month. See page 5 for more details.

U.S. Supreme Court rules on domestic violence-related cases

The opinions the Supreme Court handed down earlier this summer in the *Davis v. Washington* and *Hammon v. Indiana* provided clarification to a previous Court decision—2004’s *Crawford v. Washington*—concerning what types of evidence are “testimonial” in nature, and, therefore, inadmissible in court.

Davis v. Washington and Hammon v. Indiana

When it decided *Crawford v. Washington*, 541 U.S. 36, 124 S. Ct. 1354 (2004), the United States Supreme Court virtually threw the prosecution of domestic violence and child sexual assault cases into a legal maelstrom. Up to that point, many prosecutors across the country had begun to rely upon “evidence-based” prosecution in these types of cases, thus, bypassing the need to have the victim testify. Out-of-court statements were relied upon to get a conviction when the victim was too afraid or reluctant to testify in the state’s case. *Crawford* then held that hearsay out-of-court statements that are “testimonial” in nature are inadmissible unless the person making the statement was unavailable at trial and the defendant had had an opportunity for cross examination. Determining just what was “testimonial” then became the question.

On June 19, 2006, in the companion cases of *Davis v. Washington* and *Hammon v. Indiana* (*Davis/ Hammon*), 126 S. Ct. 2266 (2006), the Court clarified what was “testimonial,” holding that statements made to the police in a 911 call for the purpose of seeking police assistance in an emergency are not testimonial and are admissible. On the other hand, statements made to police at the crime scene, in non-emergency situations and for the purpose of collecting evidence that will be used to prosecute cases are testimonial and may be admitted only if the person making the statements has been made available for cross-examination by the defendant.

The Court made another important point, however, when it stated that cases involving domestic violence are “notoriously susceptible to intimidation and coercion of the victim to ensure that she does not testify at trial.” The Court then emphasized the possibility of prosecutors holding forfeiture hearings to determine if a defendant has waived his right to confront his accuser by intentionally preventing witness testimony through

(cont. page 2)

The Supreme Court rules that statements made to the police in a 911 call for the purpose of seeking police assistance in an emergency are not testimonial and are admissible in court.

The Court pointed out for the first time that cases involving domestic violence are “notoriously susceptible to intimidation and coercion of the victim to ensure that she does not testify at trial.”

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The Davis and Hammon decisions create some very fine lines for law enforcement officers to navigate, but a perpetrator who intimidates his victim to keep her from testifying will hopefully not “win” in the end.

Ct. 1515 (2006), on March 22. The Court considered whether the defendant’s wife, who was a victim of domestic violence, could give permission for police to search their home for evidence of a drug crime even though the husband had clearly refused to consent. The Court held that the wife’s consent was invalid and the evidence obtained during the illegal search was inadmissible.

While some believe this decision will make entry into a home where domestic violence was occurring more difficult if the perpetrator of the violence refuses entry, others believe that police still

The majority in Randolph specifically recognized that “domestic abuse is a serious problem in the United States.”

So long as the police have a good reason to believe such a threat exists, the police may enter a home to protect a resident from domestic violence. In Randolph, the police apparently could have gotten a search warrant before entering the home and should not have had to rely solely on the wife’s consent to enter over the husband’s objections.

So long as the police have a good reason to believe such a threat exists, the police may enter a home to protect a resident from domestic violence.

Find Supreme Court Opinions online:

Davis/Hammon: <http://www.supremecourtus.gov/opinions/05pdf/05-5224.pdf>

Georgia v. Randolph: <http://www.supremecourtus.gov/opinions/05pdf/04-1067.pdf>

acts of intimidation or misconduct (whether past or present). The Davis/Hammon decision creates some very fine lines for law enforcement officers to navigate but a perpetrator who intimidates his victim to keep her from testifying hopefully not “win” in the end.

Georgia v. Randolph

The Supreme Court addressed another issue involving domestic violence when it handed down its decision on Georgia v. Randolph, 126 S.

may rely on other authority for entering a home when a violent crime is taking place. The majority in Randolph specifically recognized that “domestic abuse is a serious problem in the United States” and that “this case has no bearing on the capacity of the police to protect domestic violence victims.”

Kansas Supreme Court Rules on Rape Case

In State v. Bunyard, 281 Kan 392, 133 P.3d 14 (2006), the Kansas Supreme Court reviewed a decision by the Kansas Court of Appeals in a rape conviction. In Bunyard, the defendant had been charged with three counts of rape stemming from three separate incidents occurring over a three-year period. He was acquitted on two of the charges but convicted of raping E.N. In this incident, E.N. had not objected when Bunyard began kissing her, removing her clothing and putting on a condom. However, when Bunyard penetrated E.N., she stated she “did not want to do this.” But Bunyard did not stop, replying, “just a little bit longer.” E.N. again said she did not “want to do this,” but the defendant did not stop. E.N. then tried, unsuccessfully, to sit up and roll over on her stomach to get away. After five or ten minutes passed, E.N. began to cry. Bunyard then stopped having intercourse with her and she declined his request to perform oral sex.

One of the questions before both the Kansas Court of Appeals and the Kansas Supreme Court was whether consent could be withdrawn once consensual sexual intercourse had begun.

In a split decision, the Court of Appeals agreed that sexual intercourse performed when one participant is under force or fear is rape; that it does not matter if the force or fear exists at the initiation of the act or it comes after consent is withdrawn; and that a participant in sexual intercourse may withdraw consent after penetration has occurred, with rape occurring if sexual intercourse continues with force or fear after consent has been withdrawn.

The Kansas Supreme Court, in a split decision, came to a slightly different conclusion and reversed Bunyard’s conviction, remanding for a re-trial. The Court held that a person may be convicted of rape if consent is withdrawn after the initial penetration but intercourse is continued by the use of force or fear. However, the Court went on to say that “the defendant should be entitled to a reasonable time in which to act after consent is withdrawn and communicated to the defendant . . . we conclude that the jury should determine whether the time between withdrawal of consent and the interruption of intercourse was reasonable.

This determination must be based upon the particular facts of each case, taking into account the manner in which consent was withdrawn.”

Victims can withdraw consent once consensual intercourse has begun.

A person may be convicted of rape if consent is withdrawn after the initial penetration but intercourse is continued by the use of force or fear.

In her dissent, Justice Marla Luckert, highlighted the flaw in the majority’s decision: “I would hold that a defendant has committed rape if, after consent is withdrawn, the act of intercourse continues as the result of force or fear . . . The court should not judicially add a defense allowing a reasonable time in which to commit rape.”

Find the Kansas Court Opinion online:

<http://www.kscourts.org/kscases/supct/2006/20060428/88546.htm>

KCSDV's Election Year Survey

Candidates asked about plans to address domestic and sexual violence

KCSDV recently asked all candidates running for statewide offices for their plans in addressing domestic and sexual violence if they should win their elections. Candidates for the following offices up for election this fall were given the survey: Governor, Attorney General, Secretary of State, State Treasurer, and Insurance Commissioner.

Survey Questions:

What is the appropriate role of the office you are seeking in addressing sexual and domestic violence? If elected, what are your ideas for how this office can further that role?

Candidates for the Office of the Governor

Jim Barnett Did not respond

Carl Kramer Did not respond

Richard Ranzau

The governor can ensure that there is appropriate legislation that enables law enforcement to protect victims and prosecute offenders. Additionally, the state can establish policies and incentives to community and faith-based organizations that provided assistance to victims of sexual and domestic violence. As your governor, I will look to concerned citizens like yourselves for ideas about how the state can help deal with this important issue.

Kathleen Sebelius

I am very proud of my record on sexual and domestic violence. I was one of the founders of the Battered Women's Task Force in Topeka. As a legislator, I supported proposals strengthening law enforcement's ability to combat domestic violence. As Insurance Commissioner, I introduced legislation to prevent insurance companies from discriminating against victims of domestic violence. And as Governor, I established the Governor's Domestic Violence Fatality Review Board which reviews all domestic violence-related fatalities in Kansas. Ending violence against women has been, and will always be, one of my highest priorities.

Candidates for the Office of Attorney General

Phill Kline

The Attorney General must partner with you to increase victim services, prevent further victimization and insure that justice is served. Together, we've strengthened sentences with Jessica's law and doubling rape sentences; protected victim privacy by extending the rape shield law to preliminary hearings; established the Salons of Hope program statewide; continued our statewide annual conference and grant programs.

These successes reversed the flawed policy of SB 323 passed in 2000 that reduced probation and supervision on those convicted of stalking and a host of sex crimes.

I would be honored to continue as your Attorney General.

Paul Morrison

As Attorney General, I will work to restore good judgment and the right priorities with the goal of keeping Kansans safe. As Johnson County District Attorney, I have a proven record of success in dramatically reducing domestic violence through our Domestic Violence Unit. This unit has achieved significant results by providing immediate protection for victims of abuse, aggressively prosecut-

ing cases, increasing penalties for repeat offenders, and offering assaultants an opportunity for rehabilitation. If elected, I will implement our comprehensive domestic violence program statewide, to focus exclusively on the unique circumstances of domestic violence.

Candidates for Secretary of State

David Haley Did not respond

Rob Hodgkinson Did not respond

Joseph Martin Did not respond

Ron Thornburgh Did not respond

Candidates for State Treasurer

Lynn Jenkins

Sexual and domestic violence is a tragic, all-too-frequent occurrence in our state. I am keenly aware of the dangers posed by these crimes. However, the statutory duties of the State Treasurer's office do not necessarily correlate with the topics of your survey.

Larry Wilson Did not respond

Candidates for Insurance Commissioner

Sandy Praeger Did not respond

Bonnie Sharp Did not respond

Patrick Wilbur Did not respond

Websites of Candidates for Governor

Jim Barnett www.barnettforgovernor.com
Carl Kramer no known website at press time
Richard Ranzau www.freedomforkansas.com
Kathleen Sebelius www.ks governor.com

Websites of Candidates for Attorney General

Phill Kline www.klineforag.com
Paul Morrison www.morrisonforag.com

Websites of Candidates for Secretary of State

David Haley www.haleyforkansas.com
Rob Hodgkinson www.robforkansas.com
Joseph Martin no known website at press time
Ron Thornburgh www.kansansforthornburgh.com

Websites of Candidates for State Treasurer

Lynn Jenkins www.lynnjenkins.com
Larry Wilson no known website at press time

Websites of Candidates for Insurance Commissioner

Sandy Praeger www.sandypraeger.com
Bonnie Sharp www.bonniesharp.com
Patrick Wilbur <http://candidate.lpks.org/Default.aspx?alias=candidate.lpks.org/patrickwilbur>

Immigrant Survivors the Focus of Training

Providing appropriate services to immigrant survivors was the focus of KCSDV's "Immigration Options for Immigrant Survivors: a Training on Legal and Other Considerations when Working with Survivors of Sexual and Domestic Violence, Trafficking and Other Crimes" in Topeka in May.

The training featured nationally-recognized speakers from the immigration and violence against women fields.

Topics included legal protections available to immigrant survivors in the Violence Against Women Act of 2005, immigration and

trafficking laws affecting survivors, civil protection orders, and culturally-competent services.

Throughout the training, the need for collaboration between advocates and lawyers was stressed.

"We can't do this work if we don't collaborate," said Ana Vallejo, supervising attorney with the Florida Immigrant Advocacy Center. "Collaboration is key to providing as many services as possible and to provide them in a culturally-competent way."

Trainers were Amanda Baran from the Immigrant Women Program at Legal Momentum in Washington D.C.; Marissa Dagdagan with the Immigration and International Program at the Family Violence Prevention Fund in San Francisco; Angelica Lopez, underserved communities advocacy coordinator at KCSDV; Leslye Orloff from the Immigrant Women Program at Legal Momentum in Washington D.C.; and Ana Vallejo, with Lucha: A Women's Legal Program from Florida Immigrant Advocacy Center in Miami.



From left to right, Amanda Baran, J.D., Immigrant Women Program at Legal Momentum; Leslye Orloff, J.D., Co-chairperson of the National Network to End Violence Against Immigrant Women; Marissa Dagdagan with the Immigration and International Program at the Family Violence Prevention Fund; and Ana Vallejo, J.D., with Lucha: A Women's Legal Program at the Florida Immigrant Advocacy Center.

Training for Effective Representation a Success

KCSDV held its first "Effective Representation of the Victim of Sexual and Domestic Violence" seminar in Salina in July.

Funded by the Legal Assistance to Victims grant through the Department of Justice, the training featured Robin Runge, director of the American Bar Association Commission on Domestic Violence, and Joyce Grover, legal advocacy coordinator at KCSDV. They presented on topics including collaboration between attorneys and advocates and issues of economic justice.

Important information was covered about protections in the Violence Against Women Act 2005 in public housing regulations for victims of stalking or domestic violence, the Kansas Unemployment Insurance laws relating to victims of domestic violence, and the new Kansas Workplace Protection law for victims of sexual assault and domestic violence, which will be effective on January 1, 2007.

Forty-five people attended, including Kansas Legal Services attorneys and staff, advocates, attorneys in private practice, and prosecutors from municipal and district courts.

Resources:

Commission on Domestic Violence at the American Bar Association
www.abanet.org/domviol/home.html

Resources

- ASISTA, www.asistaonline.org
- Florida Immigrant Advocacy Center, www.fiacfla.org
- Freedom Network, www.freedomnetworkusa.org
- Immigrant Women Program at Legal Momentum, www.legalmomentum.org/legalmomentum/programs/iwp
- National Network to End Violence Against Immigrant Women, www.immigrantwomensnetwork.org
- National Immigration Project, www.nationalimmigrationproject.org

Hurry! Your Chance to Buy the Family Violence Stamp Ends Soon

The U.S. Postal Service (USPS) will stop selling the "Stop Family Violence" stamp after December 31, 2006. The stamp marks just the third time USPS history to have a stamp's net proceeds earmarked for a specified cause. Eight cents from the sale of each stamp goes to the U.S. Department of Health and Human Services (HHS) for domestic violence programs. Since its release on October 11, 2003, more than 25 million stamps have been sold.



Stamp Facts:

- Price: 45 cents
- Donation: 8 cents from the sale of each stamp goes to domestic violence programs
- Purchase by phone: 1-800-STAMP-24
- Purchase online: www.usps.com/shop.
- Purchase at your local post office.



Domestic Violence Awareness Month Activities across Kansas

For more information on the following activities, contact the local program.
The numbers provided below are office numbers, not crisis lines.

Alliance Against Family Violence
Leavenworth, KS
913-682-1752

12th Annual Candlelight Vigil
Leavenworth Justice Center

Domestic Violence Association of Central Kansas
Salina, KS
785-827-5862

- Domestic violence displays at the public library, a local cafe and bakery, and the mall.
- Part of the display will be a new quilt named “Love is . . .” designed by the children who have stayed at the shelter.

**KCSDV, Kansas League of Women Voters,
and the League of Women Voters, Wichita-Metro**
785-232-9784

Attorney General Candidate Forum
7:00 p.m. October 10
Televised on Cox Cable Channel 22

Northwest Kansas Domestic and Sexual Violence Services
Hays, KS
785-625-4202

- Domestic violence awareness training at Hays Medical Center.
- DVAM proclamations for the 18 –county service area.
- Attending Oktoberfest to distribute buttons and to offer alternative beverages to alcohol.
- The Logan County Stand Against Violence task force is planning a diaper drive and a fundraiser in cooperation with Pizza Hut.
- The Decatur County Stand Against Violence is holding an “Empty Place at the Table” awareness event.

SOS, Inc.
Emporia, KS
620-343-8799

DomesticViolence Summit
“In Our Backyard: Rural Responses to Domestic Violence”
October 26-27
Features Dr. Neil Websdale and Joyce Grover, attorney and legal advocacy coordinator at KCSDV

KCSDV Welcomes...

Dodie Wellshear joined KCSDV in September with more than 15 years working in the field of government relations. She most recently worked for nearly five years for Patrick J. Hurley & Company, a private government relations firm, on many issues including funding for domestic violence programs during the 2006 Kansas legislative session. She has also worked on social services issues, primarily relating to children and families. Her areas of professional expertise include government relations, coalition building, targeted communications, and strategic planning. Dodie will be working on government relations and fund development at KCSDV.

Pam Burrough is a recent graduate of Washburn University School of Law. She comes to KCSDV with experience as a court advocate for domestic violence and sexual assault survivors as well as a community liaison for an advocacy organization. While pursuing her law degree, she worked as a law clerk for the Shawnee County judges. Prior to attending law school, she worked in non-profit administration for a women’s treatment center. Pam will be serving as the Immigration Program Attorney on the Legal Assistance to Victims Project.

Stefanie Benson joined KCSDV in August as the Protection Order Project Coordinator. As a legal intern Stefanie worked in the area of domestic law, representing clients in protection order, paternity, divorce, child custody, and child support cases. She also served as a Guardian ad Litem in truancy cases. Stefanie earned her B.S. from Vanderbilt University in 1996 and her J.D. from Washburn Law School in May 2006. In the years in between she worked in business operations for an Internet startup company and as a preschool teacher.

Live Television Forum

Featuring:

Candidates for Kansas Attorney General



Phill Kline



Paul Morrison

Hosted by:

Kansas Coalition Against Sexual and Domestic Violence
Kansas League of Women Voters
League of Women Voters, Wichita-Metro

WHEN: 7:00 p.m. Tuesday, October 10
WHERE: Television, radio and the Internet
WHO: Candidates for Kansas Attorney General
MODERATOR: Larry Hatteberg, KAKE TV anchorman

Watch Live:

Kansas Now 22
(Cox Cable Channel 22)

Streamed live on
KAKE.COM and WIBW.COM

Listen Live:

89 FM KMUW
Wichita's PBS station

Kansas Radio Network
stations across Kansas

(tentative)

This is an invitation-only event open to a limited number of people from KCSDV member programs, the League of Women Voters and a few invited guests. Admission is limited to those who have tickets. If you're not one of the few invited, please look for the forum on television, on the radio or streamed live on the Internet.

Contact Laurie Harrison at 785-232-9784 and lharrison@kcsdv.org if you have questions.

October

Domestic Violence Awareness Month Activities
(see page 5)

- 17 Protection Order Training - Location TBA
- 26-27 In Our Backyard: Rural Responses to Domestic Violence - Emporia

November

- 1-3 ED/Senior Staff Retreat - Wichita
- 29-30 Court Advocate Training - Topeka

SAVE THE DATE!
4th Annual
SAFE HOMES, SAFE STREETS
RECEPTION
February 8, 2007
Topeka
PUTTING THE SPOTLIGHT ON
SEXUAL VIOLENCE

For more information and registration for trainings and events, visit: www.kcsdv.org/train.html

kcsdv staff resources

- Sandy Barnett *Executive Director*
- Stefanie Benson *Protection Order Project Coordinator*
- Pam Burrough *Immigration Program Attorney*
- Claire Cook *Executive Staff Asst.*
- Jehan Faisal *Training Coord.*
- Joyce Grover *Attorney & Legal Advocacy Coord.*
- Laurie Harrison *Communications Coord.*
- Marie Landry *Staff Attorney*
- Shelly Lenczewski *Safety & Accountability Audit Project Asst.*
- Stacey Mann *Advocacy Services Coord.*
- Chandra McCrae *Accounting Asst.*
- Annie McKay *Child Welfare Policy Coord.*
- Kim Pentico *Economic Justice Coord.*
- Joyce Resnick *OARS Advocacy Coord.*
- Kelly Rhoades *Safety and Accountability Audit Coord.*
- Melissa Rogers *Publications and Web Specialist*
- Jean Rosenthal *Legal Services Committee Coord.*
- Rebekah Santana *Training Logistics Asst.*
- Michelle Schone *Technical Assistance Coordinator*
- Elaine Sherrick *Finance & Operations Coord.*
- Melissa Snickles *Staff Support Asst.*
- Viola Straley *Accounting Mgr.*
- Dodie Wellshear *Government Relations*
- Debby Zelli *Domestic Violence Prevention Coord.*

**Kansas Domestic & Sexual Violence
Helpline Numbers
Kansas Statewide Hotline
1-888-END ABUSE**

- Atchison / Hiawatha 913-367-0363
or 800-367-7075
- Coffeyville 888-320-7218
- Dodge City 620-225-6510
- El Dorado 316-321-7104
or 800-8870-6967
- Emporia 620-342-1870
or 800-825-1295
- Garden City 620-275-5911
- Great Bend 620-792-1885
- Hays / Goodland 785-625-3055
or 800-794-4624
- Hutchinson / McPherson 620-663-2522
or 800-701-3630
- Iola 620-365-7566
- Kansas City *Friends of Yates, Joyce Williams* 913-321-0951
El Centro Inc. ¡Si Se Puede! 913-677-0100
MOCSA 816-531-0233
Kansas City Anti-Violence Project 816-561-0550
Metro-wide 816-Hotline
- Lawrence / Ottawa *Ga Du Gi* 785-841-2345
Women's Transitional Care Services 785-843-3333
or 800-770-3030
Ottawa office 785-242-6300
- Leavenworth 913-682-9131
or 800-644-1441
- Liberal 620-624-8818
- Manhattan / Junction City 785-539-2785
or 800-727-2785
- Mayetta 888-966-2932
- Newton 316-283-0350
or 800-487-0510
- Overland Park 913-262-2868
Metro-wide 816-Hotline
Miami County 888-432-4300
- Pittsburg 800-794-9148
- Salina 800-874-1499
- Topeka *daytime* 785-354-7927
or evening & wknds. 785-234-3330
or 888-822-2983
- Ulysses 620-356-2608
- Wichita *Harbor House* 316-263-6000
Step Stone 316-265-1611
Wichita Area Sexual Assault Center 316-263-3002
YWCA Women's Crisis Center 316-267-SAFE
- Winfield 620-221-HELP
or 800-794-7672

This newsletter is published quarterly JAN, APRIL, JULY, and OCT. It is also available online at www.kcsdv.org/public. Deadlines for calendar and article submissions are DEC 1, MAR 1, JUNE 1, and SEPT 1. Submissions will be reviewed for content and space availability. Please send submissions to KCS DV, 634 SW Harrison, Topeka, KS, 66603, FAX: 785-266-1874, or coalition@kcsdv.org, attn: Communications Coordinator.

Update on the 2006 Kansas Legislative Session

Bills relating to domestic and sexual violence

PLEASE NOTE: The information below contains summaries of enrolled bills passed during the 2006 Legislative session. These summaries do not reflect the entirety of the statutory changes included in any one bill. Readers should consult an attorney and/or read the entire bill before relying on it for any legal actions.

The full text of these bills can be found at: www.kslegislature.org/legsrv-bills/enrolledBills.do

Senate Bill 261: Juvenile Justice Code

Changes to the Juvenile Justice Code, specific to sexual and domestic violence, include (1) the statutes of limitation are now generally the same as those for adult crimes; (2) rape has been added to the list of juvenile offenses that cannot be expunged; (3) a juvenile who commits a sexually violent offense may not attend the same school as the victim, however, if there is only one school in the district, school attendance for the juvenile offender shall be decided after a court hearing; (4) parents of minor victims are added to the list of people who receive notice of availability of HIV or hepatitis B infection testing and may request that the person charged be tested; and (5) the "best interests of the victim" is added to the factors to consider in deciding whether a juvenile offender's hearing should be open or closed.

Senate Bill 366: No Duty to Retreat

The law now allows a person who is not engaged in an unlawful activity and who is attacked in a place where the person has the right to be, to stand his or her ground and fight back with no duty to retreat, including occupied vehicles and dwellings.

Senate Bill 408: Cruelty to Animals

Intentional malicious killing, injuring, maiming, torturing, burning or mutilating of any animal is an off-grid nonperson felony. Courts can impose mandatory 30 days of imprisonment, psychological evaluation, and may order anger management course.

Senate Bill 418: Personal and Family Protection Act (License to Carry a Concealed Weapon)

Beginning in January of 2007, the Attorney General will be issuing licenses allowing certain persons to carry concealed handguns. In order to qualify for a license, a person has to: (1) be a U.S. citizen who is a resident of the county where the application is filed, and for at least six months, a Kansas resident; (2) be at least 21 years of age; (3) be free from any physical infirmity that prevents safe handling of a weapon; and (4) desire a legal means to carry a concealed weapon for lawful self-defense. In addition, applicants must complete a weapons safety and training course.

A person may not obtain a license if applicant has been (1) convicted, placed on diversion or adjudicated for a felony (adult or juvenile) in any jurisdiction; (2) determined to be disabled under the guardianship/conservator act unless the person was restored to capacity three or more years before applying for a license; (3) subject to a restraining order under the Protection from Abuse Act or

the Protection from Stalking Act; (4) held in contempt for non-payment of child support; (5) dishonorably discharged from the military; and (6) during the five years immediately preceding the date of application, had been: (a) A mentally ill person or involuntary patient, as defined in KSA 59-2946; (b) Committed for abuse of a controlled substance; (c) Convicted, placed on diversion or adjudicated (adult or juvenile) in any jurisdiction for a misdemeanor under the Uniform Controlled Substances Act; (d) Committed for abuse of alcohol; (e) Placed on a diversion or convicted two or more times for driving under the influence of alcohol or drugs; or (f) Convicted, placed on diversion or adjudicated (adult or juvenile) of a domestic violence misdemeanor under any municipal ordinance or under Articles 34 (crimes against persons) or 35 (sex offenses) of Chapter 21 of the Kansas Statutes Annotated or a similar law in any jurisdiction.

Public or private employers or businesses open to the public may prohibit licensees from carrying concealed weapons on the premises of the business or while engaging in duties of employment. House Bill 2118 further clarified some concealed carry provisions, specifically, a person who has a license to carry a concealed weapon but who becomes disqualified to carry the weapon shall have the license suspended until the charge against the person is disposed of as long as the person is otherwise eligible for a license. This last requirement could involve protection orders and charges of sexual and domestic violence that are dismissed.

Senate Bill 506: Sex Offender Registration Changes

Facilities that house sexually violent predators on conditional or transitional release may not be within 2,000 feet of facilities where children are located or churches. Cities and counties are prohibited from adopting residential restrictions on sex offenders. This provision expires on June 30, 2008. Sex offenders will now be issued "readily distinguishable" identification cards or drivers' licenses on an annual basis. Registered offenders must have an updated photograph every 6 months.

When the victim is less than 14 years of age, the following crimes require lifetime registration for the offender: (1) Aggravated trafficking; (2) Rape; (3) Aggravated indecent liberties with a child; (4) Aggravated criminal sodomy; (5) Promoting prostitution; and (6) Sexual exploitation of a child. Persons who commit person felonies with a deadly weapon are now required to register; this is known as "Miki's law."

A juvenile offender who is adjudicated for a sexually violent crime when the crime is not an off-grid felony or a severity level one felony, may or may not be required to register by the court or may be required to register with the sheriff without the information being public or posted to the Internet.

House Bill 2576: Sex Offender Crimes and Penalties

First time sex offenders over 18 years of age will have a mandatory minimum sentence of 25 years without parole when the victim is a child; a minimum 40-year sentence for second-time sex offenders; and a life sentence without the possibility of parole for third-time and subsequent sex offenders, i.e. aggravated habitual sex offenders. However, these mandatory minimum requirements may not apply if a judge determines that there are substantial and compelling reasons to impose a departure. Factors to be considered

are listed in the statute. These sex offenders are also subject to additional monitoring when released from prison.

A prosecutor is required to notify the victim or the victim's family in criminal cases involving person, sex and family crimes when the prosecutor dismisses or declines to file charges, when there is any proposed plea agreement, of their rights to attend any hearing where a plea agreement is reviewed or accepted and to make written arguments prior to the hearing.

The bill creates the new crime of electronic solicitation defined to include communication conducted through the telephone, Internet or by other electronic means which involves enticing or soliciting a person whom the offender believes to be a child to commit or submit to an unlawful sexual act.

Diversions for domestic battery are limited to two during a three-year period. Mandatory treatment or jail time is required for a person convicted of three or subsequent domestic battery crimes.

House Bill 2617: Violation of Protective Orders

Violation of a protective order (K.S.A. 21-3843) now includes a clear provision that allows enforcement of a criminal no contact order at any time during a criminal case. This amendment addresses the "jail house" calls to the victim.

House Bill 2626: Missing Persons

The amendments to the missing persons law outline guidelines and procedures for reporting missing persons. The bill provides that the law enforcement agency investigating the report shall not give information to the reporting party if the law enforcement agency has reason to believe the missing person is an adult or an emancipated minor and is staying at, or has made contact with, a domestic violence or sexual assault program and the missing person does not expressly consent to the release of this information.

House Bill 2761: Crime Victim Compensation

The victim compensation law now includes a provision that would allow compensation to be reduced or denied if the Crime Victim Compensation Board believes the victim was likely engaging in or attempting to engage in an unlawful activity at the time the crime occurred. The new provision shall not be construed to reduce or deny compensation to a victim of domestic violence or sexual assault.

House Bill 2928: Address Confidentiality Program and Workplace Protections

This bill includes two separate and virtually unrelated new protections for victims. The Address Confidentiality Program was amended into the workplace protections bill and both remained in the final version. Both become effective January 1, 2007.

Address Confidentiality Program.

Kansas will now have an address confidentiality program. A person attempting to escape from actual or threatened domestic violence, sexual assault, trafficking, or stalking may apply for a confidential address to be used as a substitute mailing address. The application for a substitute address will be made through an enrolling agent to the Secretary of State's Office. The enrolling agents will be designated by the Secretary of State's Office. The bill also requires that when the victim is a child and there are court orders

or court actions such as child support, child custody or child visitation involving the applicant, the Secretary of State must, within 10 days, notify the other parent or parents of the address designated by the Secretary of State for the program participant. More information will be available when the rules and regulations are completed.

Workplace Protections.

An employer is now prohibited from discharging or in any manner discriminating or retaliating against an employee who is a victim of domestic violence or sexual assault for taking time off from work to obtain or attempt to obtain any relief. Relief includes seeking: (1) A temporary restraining order, restraining order or other injunctive relief; (2) medical attention for injuries caused by domestic violence or sexual assault; (3) services from a domestic violence shelter program or rape crisis center; or (4) making court appearances in the aftermath of domestic violence or sexual assault.

As a condition of taking time off, the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless such advance notice is not feasible. Within 48 hours after returning from the requested time off, the employee is required to provide documentation of the domestic violence or sexual assault. When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within 48 hours after the beginning of the unscheduled absence, provides a certification to the employer in the form of any of the following: (1) A police report indicating that the employee was a victim of domestic violence or sexual assault; (2) A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault; (3) evidence from the court or prosecuting attorney that the employee has appeared in court; or (4) documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence or sexual assault. To the extent allowed by law, the employer shall maintain the confidentiality of an employee requesting leave and any supporting documentation. An employee may use any accrued paid leave or, if paid leave is unavailable to the employee, unpaid leave, not to exceed a total of eight days per calendar year, unless a longer period of time is available to an employee under the terms of employment or is provided by a collective bargaining agreement.

SAVE THE DATE!

**4th Annual
SAFE HOMES, SAFE STREETS
RECEPTION
February 8, 2007
Topeka**

**PUTTING THE SPOTLIGHT ON
SEXUAL VIOLENCE**



KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

634 SW Harrison, Topeka, KS 66603
(785) 232-9784 • FAX (785) 266-1874 • coalition@kcsdv.org • www.kcsdv.org

YES! I would like to be on the KCSDV mailing list.

Name _____
Address _____
City, State, Zip _____
E-Mail _____

YES! I would like to be a member of KCSDV.

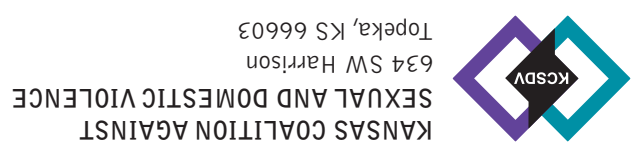
I want to become a member of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV) in support of the statewide effort to end violence against the women, men, and children of Kansas.

I am enclosing a check made out to KCSDV.

- ___ Ally Organization: \$100.00 (Any organization or group of three or more persons whose primary purpose is other than providing services to victims of sexual and/or domestic violence.)
- ___ Individual member: \$20.00 (Any person who subscribes to the purpose of the Coalition and who pays annual dues.)
- ___ Program Advocate or Survivor: \$5.00
- ___ I wish to make an additional contribution of _____ to KCSDV.
- ___ I wish to make a pledge of \$_____ to KCSDV. The first installment of my pledge is enclosed. Please bill me (monthly, quarterly, semi-annually, or annually) for the balance.

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