



UNITED  
AGAINST  
VIOLENCE

# Newsletter

SUMMER  
2005

## Kansas Coalition Against Sexual and Domestic Violence SAFETY • ACCOUNTABILITY • JUSTICE

### KCSDV Moves to its New Location Celebrates with a Building Dedication and Open House

Nearly 100 people attended KCSDV's Open House and Building Dedication Ceremony July 14 at its new downtown location.

"Today we are here to dedicate the building to the memory of those who have died and to the future of those who have survived," said Sarah Terwelp, KCSDV board president, during her remarks at the building dedication. "We at KCSDV pledge to continue our work until Kansas is violence-free and until every home and every street is safe."

Planning to move to the new building began in 2004, when KCSDV hired the Topeka-based firm e.architects to do the renovation. The letter "e" reflects a progressive vision at the company, which also symbolizes its commitment to excellence as well as its previous name, Ekdahl, Davis, Depew, Persson/Architects, P.A.

Because the former tenant was a day care facility, the architects had to navigate many challenges such as the excessive plumbing necessary for a day care, sprinkler systems, and dismantling child-sized hardware such as miniature toilets.

"It's not uncommon for our firm to do office remodeling projects, but it is not usual to go from one type of use that's so dissimilar," said Pete Gierer, president of e.architects. "Going from a day care facility to an office facility is very different."

Linda Lee, interior designer for e.architects, worked closely with KCSDV staff to incorporate its requests into the redesigned space, a space that had to incorporate the existing blue cabinetry, door knobs and frames – all remnants from its previous tenants that could not be changed due to budget constraints.

She chose the carpet not only because its multi-color scheme matched the existing cabinetry and hardware, but also because it could be placed in a way that reminded her of quilts.

"The most loving thing I think a person could give to someone is a quilt," Lee said, adding that quilts represent a strong and familial sentiment. "I wanted to provide an almost residential feel to this corporate kind of setting, so the carpet was everything."

"It's a really good color story that's told in the building," Gierer said, adding that he was most impressed by the cooperation and integration of ideas between Lee and the KCSDV staff. "It's got Linda's mark on it, but every staff member's mark on it, too. It's difficult to do but she did it."

**KCSDV thanks Bed, Bath & Beyond for providing free labor in the assembly of cupboards for our new location.**



The ceremony's speakers were (from left to right), **Julienne Maska**, who served as KCSDV's first board president; **Kathy Greenlee**, who was KCSDV's first non-volunteer executive director; and **Sarah Terwelp**, KCSDV's current board president.



After brief comments from the three guest speakers, Kathy Greenlee (left) and Julienne Maska cut the ribbon.

## Legislator Recognized as "Superhero"

A Kansas legislator was honored in June for his work on legislation that benefits KCSDV's member programs.

David Huff, Republican Representative serving the Johnson County area, was recognized for his work on House Bill 2550, which allows domestic violence and sexual assault programs an exemption from state sales taxes.

He was presented with the Superhero Award at a fundraiser for Safehome, a KCSDV member program located in Overland Park.

"Safehome and KCSDV are very appreciative to Representative David Huff for his tenacity in ensuring that domestic violence and sexual assault programs would not have to pay sales tax. He wanted to do something that would truly help us financially and it did. We thank him very much," said Sharon Katz, executive director of Safehome.

"We are thrilled at Representative Huff's persistence at getting this bill to pass in order for member programs to redirect their grant dollars from paying sales tax to providing more life-saving and life-transforming programs," said Sandy Barnett, executive director of KCSDV.



David Huff (right) receives the Superhero Award in recognition for his work in helping KCSDV member programs redirect grant funds to direct services by savings realized from not paying Kansas sales tax on purchases.

## Preventing Domestic and Sexual Violence in One Kansas Community

*by Debby Zelli, DELTA Coordinator for SOS, Inc. in Emporia, a KCSDV member program*

There's an old story about a group of people who are walking past a river when they hear a baby crying. When they look at the river, there's a stream of children floating past. Alarmed, the group jumps in and starts trying to save the infants. Drawn by cries for help, others begin arriving and soon many have gathered and are working furiously to save the children. So much so that no one has time to go upstream to see where the babies are coming from.

By necessity, this approach has largely characterized our efforts to end sexual and domestic violence. Since the 1970s, the movement has been so overwhelmed with providing services to victims that we simply have not had the time or resources to go upstream and deal with the source of the violence.

The situation has begun to change in recent years, however, with programs that focus on the prevention of sexual and domestic violence, such as the Domestic Violence Prevention Enhancement and Leadership Through Alliances Program (DELTA). Funded by the Centers for Disease Control and Prevention, DELTA seeks to create community-based, sustainable intimate partner violence prevention programs through the development of local collaborations. KCSDV coordinates the five DELTA sites in Kansas.

Although the work on this project has not been easy, our efforts to begin prevention programs are paying off. Within the SOS service area, five schools are now implementing comprehensive programs to help prevent intimate partner domestic violence and promote healthy relationships based on respect. In Olpe, for example, teachers and staff have been planning how to change their whole school environment to encourage greater respect among students. Beginning this fall, students in all grades will see additions to the curriculum that focus on relationship skills. Olpe schools will also work on a social marketing campaign within their buildings to educate students about healthy relationships.

Although the path ahead of us will be difficult, we are off to a wonderful start. Even as we continue to pull victims from the stream, we have begun the journey upriver to the source.

### Domestic and Sexual Violence Prevention

- **DELTA:** Domestic Violence Prevention Enhancement and Leadership Through Alliances Program
- 5 DELTA sites in the following counties: Bourbon/Crawford, Geary, Lyon, Sedgwick, and Seward
- Contact Marilyn Ault at KCSDV, 785-232-9784 or [mault@kcsdv.org](mailto:mault@kcsdv.org).

# Immigration Training and Resources Available from KCSDV

In order to address the issues facing the increasing numbers of foreign-born victims of domestic violence, sexual assault, and stalking living in Kansas, KCSDV is involved in a statewide immigration network as well as trainings on these issues.

KCSDV hosted a collaborative training on the intersections between foreign-born victims and immigration issues in June that drew a wide array of participants, including attorneys, advocates, and immigration experts from across the state.

“As more and more battered immigrant women turn to our local programs for assistance, it becomes imperative that advocates are aware of basic immigration laws and special remedies available to them,” said Angelica Lopez, underserved communities advocacy coordinator at KCSDV.

When a foreign-born woman is a victim of domestic violence, sexual assault, or stalking, immigration becomes an integral part of the violence. Batterers or rapists will threaten their victims with deportation or being reported to immigration officials. Even if the victims are legally in the country, these threats may keep them from seeking help, calling police, or accessing resources. Immigration law is complicated and victims are in danger. Cross training of helpers is critical.

Angela Ferguson, an immigration attorney practicing in both Kansas and Missouri, was one of the trainers.

“While many of us, attorneys and advocates alike, have helpful information and advice for foreign-born victims, few of us are cross-trained on the issues of sexual assault, domestic violence, stalking, trafficking and immigration,” said Joyce Grover, KCSDV attorney and legal advocacy coordinator. “Angela made those important connections.”

The training, titled, *VAWA Self-Petitions and Other Immigration Remedies*, included information about self-petitions, the dynamics of domestic violence in the lives of immigrant women, and basic immigration remedies available to them. In recent years Congress has included several immigration provisions in both the Violence Against Women Act and the Trafficking Victims Protection Act.

“It is critical that advocates and attorneys work together for victims because each has a special skill and knowledge base beneficial for the foreign-born victim,” Grover said. “KCSDV hopes that through its statewide Immigration Network and training sessions like this one, victims will have competent, compassionate services.”

KCSDV’s statewide Immigration Network began in 2004 as a way to connect advocates, immigrant and refugee services providers and immigration attorneys from across the state. Its 45 members hold monthly conference calls in order to stay abreast of immigration-related topics affecting foreign-born victims of domestic violence, sexual assault, and stalking.

“The immigration network is a great way for advocates and attorneys to connect and keep up-to-date on the immigration trends throughout Kansas,” Lopez said.

## How to Join the KCSDV Immigration Network

- Open to domestic violence and sexual assault advocates, immigrant and refugee service providers, attorneys, and other interested parties.
- Your name will be added to the group email and mailing list.
- You will be notified of upcoming conference calls, trainings, resources, and legislation.
- Contact Angelica Lopez at: 785-232-9784 or alopez@kcsdv.org.

## kcsdv staff resources

Sandy Barnett .....	<i>Executive Director</i>
Marilynn Ault .....	<i>Domestic Violence Prevention Coord.</i>
Marilee Brown .....	<i>Disabilities Advo. Coord.</i>
Claire Cook .....	<i>Data Support Asst.</i>
Jehan Faisal .....	<i>OARS Training Coord.</i>
Joyce Grover .....	<i>Attorney &amp; Legal Advo. Coord.</i>
Laurie Harrison .....	<i>Communications Coord.</i>
Marie Landry .....	<i>Staff Attorney</i>
Angelica Lopez .....	<i>Underserved Communities Advo. Coord.</i>
Stacey Mann .....	<i>Advocacy Services Coord.</i>
Sarah Morrison .....	<i>Training Coord.</i>
Kim Pentico .....	<i>Economic Justice Coord.</i>
Kelly Rhoades .....	<i>Safety and Accountability Audit Proj. Coord.</i>
Melissa Rogers .....	<i>Publications Specialist</i>
Rebekah Santana .....	<i>Staff Support Asst.</i>
Almas Sayeed .....	<i>Child Welfare Policy Coord.</i>
Elaine Sherrick .....	<i>Development &amp; Finance Coord.</i>
Michelle Schone .....	<i>Safety and Accountability Audit Asst.</i>
Viola Straley .....	<i>Accounting Asst.</i>
Sarah Thomas .....	<i>OARS Advocacy Coord.</i>
Sarah Valenzano .....	<i>Safety and Accountability Audit Support Staff</i>

## Violence Against Women Act Expires this September

The Violence Against Women Act was a landmark piece of legislation that sought to improve criminal justice and community-based responses to domestic violence, dating violence, sexual assault, and stalking in the United States. It needs to be reauthorized by Congress or it will expire September 30.

Its passage in 1994 and its reauthorization in 2000 have changed the landscape for victims who once suffered in silence. It has supported services for women, men, and children.

VAWA funds numerous programs in Kansas. These include STOP Grants (Services, Training, Officers and Prosecution); Rape Prevention and Services Grants; Grants to Encourage Arrest Policies and Enforcement of Protection Orders; Rural Domestic Violence Grants; Grants to State Sexual Assault and Domestic Violence Coalitions; and Grants to End Violence Against Women with Disabilities.

In Kansas, VAWA has made it possible to have the statewide hotline; local hotlines; trainings for law enforcement about domestic violence, sexual assault, and enforcing protection orders; rape crisis centers; shelters; crisis services to victims living in rural areas, Spanish-speaking victims, and services for people with disabilities; support groups; counseling; rape prevention education; and much more.

### Violence Against Women Act

- **Funding:** more than \$5.5 billion nationwide since 1994 for services addressing domestic violence, dating violence, sexual assault, and stalking
- **Savings:** \$12.6 Billion (\$123 per U.S. woman) in averted victimization costs since 1994
- **VAWA-funded programs in Kansas:** the statewide hotline, shelters, rape crisis centers, advocates, outreach to rural, disability, and non-English speaking communities, and much more
- **Visit [www.VAWA2005.org](http://www.VAWA2005.org)** for more information on how you can help in nationwide efforts to reauthorize VAWA

## Supreme Court Rules on Town of Castle Rock, Colorado v. Gonzales *KCSDV Disappointed With Court's Decision*

KCSDV expresses its disappointment at the June 27 opinion by the Supreme Court in the in Town of Castle Rock, Colorado v. Gonzales case. The Court decided that domestic violence victims cannot sue if the police do not enforce protection orders.

“The legal issue being argued in this case is not about whether police have to enforce protection orders or not,” said Sandy Barnett, executive director of KCSDV. “The legal issue is whether a victim can sue the police department when it doesn’t enforce a protection order.”

“We are extremely disappointed with the Supreme Court’s decision that victims do not have a federal constitutional right to due process when their protection orders are not enforced,” Barnett said. “Protection orders are still important tools for women who are seeking safety and protection, and we encourage women to continue to seek help from law enforcement when the orders are being violated.”

“The Supreme Court has made a determination based on a very specific legal principle, and the Court’s decision is not based on the importance of protection orders as a tool of safety for victims of domestic violence, sexual assault, and stalking,” Barnett said. “This case shows the real dangers victims and their families face when protection orders are not enforced.”

The case was brought by Jessica Gonzales, whose estranged husband murdered their daughters, Rebecca, Kathryn, and Leslie, hours after he abducted them from their front yard. During the eight hours in which the girls were missing, the Castle Rock police department refused to enforce the protection order that Jessica Gonzales had against her husband.

# Kansas Legislation Review

KCSDV thanks Hawver News Company for permission to use a portion of its *Capital Report*.

## Admission to Practice Law; Child in Need of Care Proceedings

Sub. for HB 2261 authorizes the Kansas Supreme Court to require applicants for admission to practice law in Kansas to be fingerprinted and to submit to a national criminal history record check.

In addition, the bill extends to all judicial districts what had been a pilot project in two judicial districts and now requires the Office of Judicial Administration to implement a policy in each Kansas judicial district regarding who can be present during proceedings under the Child in Need of Care (CINC) Code. The law now provides the following individuals cannot be excluded from CINC hearings:

- guardian ad litem;
- interested parties and their attorneys;
- officers of the court;
- testifying witnesses;
- foster parents of the child;
- parent allies (formerly referred to as advocates).

## Charitable Organizations

SB 121 amends the Charitable Organizations and Solicitations Act.

The bill requires charitable organizations to file additional registration information with the Secretary of State's Office if those organizations want to solicit funds in Kansas.

Organizations that receive contributions in excess of \$500,000 shall be required to file a copy of the federal income tax return and an audited financial statement for the organization's most recently completed fiscal year.

The bill deals with the Corporation Code by adding the term "university" to the list of words, one of which a corporation needs to include in its name. Other words a corporation may consider are terms such as "association," "church," "college," "company," "corporation," "club," "foundation," "fund," "incorporated," "institute," "society," "union," "syndicate," or "limited."

## Child Rape Protection Act

HB 2380 enacts the Child Rape Protection Act and changes certain duties of the Kansas Attorney General.

The bill requires any physician who performs an abortion on a minor who was less than 14 years of age at the time of the abortion to preserve fetal tissue extracted during the abortion. The physician shall submit the tissue to the Kansas Bureau of Investigation (KBI) or to a laboratory designated by the Director of the KBI.

Failure to comply with any provision of the act shall con-

stitute unprofessional conduct under the Board of Healing Arts law and a class A nonperson misdemeanor upon a first conviction and a severity level 10, nonperson felony upon a second or subsequent conviction.

## Community Service Immunity

SB 161 provides immunity from civil liability for governmental entities, private not-for-profit corporations, charitable or social service organizations and their employees, for actions of adult offenders and juvenile offenders who injure others and who have been sentenced to perform community service work by the court for these entities. The bill also provides immunity for claims of injured offenders against these entities.

Civil immunity would not apply for actions constituting willful or wanton misconduct or intentional tortuous conduct or for damages arising out of the operation of a motor vehicle.

The Kansas Tort Claims Act is amended to delete immunity provisions for negligent or other wrongful acts or omissions which now apply for claims arising out of performance of community service work.

## Disclosure of Psychiatric Evaluations

HB 2147 provides that psychiatric evaluation reports of correctional facilities may be disclosed to additional individuals by including members of the defendant's family, the defendant's friends, when authorized by the defendant or inmate or, when authorized by the defendant's or inmate's family.

## Expungement Restrictions; Access to Criminal History

HB 2128 amends the expungement statutes that apply to adults and to juveniles.

The bill also authorizes the Secretary of Social and Rehabilitation Services to receive from the Kansas Bureau of Investigation (KBI), criminal history records in order to evaluate the qualifications of job applicants or employees connected with any program administered by the Secretary for the purpose of placement, safety, protection, or treatment of vulnerable children or adults.

The bill provides that all forms of the crime of rape, committed by an adult, cannot be expunged. Prior law permitted expungement of this crime unless the victim was under 14 years old. Prior law prohibited the expungement of all sexual battery crimes. Under the bill, sexual battery could be expunged when committed by a juvenile.

## Investigation of Reports of Abuse, Neglect, or Exploitation

SB 115 concerns the investigation by the Department of  
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Social and Rehabilitation Services of reports of abuse, neglect, or exploitation of certain adults. The prior law required that an investigation and evaluation must be completed within 30 working days of receiving a report of abuse, neglect, or exploitation. The bill extends the investigation and evaluation time period to 90 working days if conducting the investigation within 30 working days would interfere with an ongoing criminal investigation. If a finding is made prior to the conclusion of a criminal investigation, the bill will allow an investigation and evaluation to be reopened, and a new finding made, based on any additional evidence provided as a result of the criminal investigation.

### **Offender Registration Act**

HB 2314 changes the Offender Registration Act, as follows:

Clarification is made that the required ten-year registration period for a conviction of a sexually violent crime does not apply while the person is incarcerated. The ten-year registration requirement does not include any time in which the person who is required to register knowingly or willfully fails to comply with the registration requirement.

Liability for registration does not terminate if the convicted offender again becomes liable to register during that period.

A juvenile offender adjudicated of a sexually violent offense is required to register under the Offender Registration Act until the offender reaches 18 years of age at the expiration of five years, or if confined, from release of confinement which ever occurs later. The five-year period also would not apply while the juvenile is incarcerated. The five-year period does not include any time period when the person required to register knowingly or willfully fails to register.

The State Department of Education is required to annually notify schools of the Kansas Bureau of Investigation's Internet website and any Internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the school is located for the purposes of locating offenders who reside near the school.

The Secretary of Health and Environment is required to annually notify any licensed child care facility of the Kansas Bureau of Investigation's Internet website and any Internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the facility is located for the purposes of locating offenders who reside near the facility.

The notification requirement must include information that the sheriff of the county where the school or childcare facility is located is available to schools and child care facilities to assist in using the registry and in providing additional information on the registered offenders.

The offender registration websites must clearly distinguish

sex offenders from non-sex offenders.

### **Open Records**

With regards to the Kansas Open Records Act, among many other provisions, the bill:

Requires each non-profit entity that receives public funds of at least, except for those listed below, to:

For fiscal years beginning on or after July 1, 2005, document the receipt and expenditure of the public funds.

This requirement is deemed fulfilled if the entity is required by law, grant, contract, or other agreement to file a written financial report, which includes the same type of public funds information, with a federal or state agency or local political or taxing subdivision that provided the public money to the entity.

### **Privileged Communications-Treatment Information**

HB 2130 deals with the privileged communication statutes to provide for the exchange of treatment information and confidential communications by and between treatment facilities, correctional institutions, jails, juvenile detention facilities, or juvenile correctional facilities without patient consent. Under prior law, this information could be shared only by state psychiatric hospitals and community mental health centers.

### **Racial Profiling**

House Sub. for SB 77 makes racial and other profiling unlawful. Racial profiling is defined as the practice of a law enforcement officer or agency relying, as the sole factor, on race, ethnicity, national origin, gender, or religious dress in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity.

### **Seizure and Disposal of Firearms**

Sub. for SB 195 amends statutes dealing with seizure and disposal of firearms, training in a course of fire for active and qualified retired law enforcement officers in order to carry a firearm, and restrictions of city and county ordinances involving firearms.

### **Severity Levels of Crimes**

SB 147 extends to five years the statute of limitations for all crimes now covered by a two-year period, provides a more severe penalty for the crimes of indecent solicitation of a child and aggravated indecent solicitation of a child and expands the scope of the crime of sexual exploitation of a child.

The bill increases the severity levels of the crimes of indecent solicitation of a child from a level 7 to a level 6 person felony and the crime of aggravated indecent solicitation of a child from level 6 to a level 5 person felony.

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# Legislation Concerning Sexual Violence

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## SB 83: Sexual Battery Bill Fails

Alas, it is still legal to sexually batter your spouse in Kansas. K.S.A. 21-3517 makes sexual battery a crime, except if you are married to the offender. Thinking that this was an outdated law, KCSDV asked for introduction of Senate Bill 83 and advocated removal of the marital exemption. KCSDV was disappointed and surprised to learn that legislators did not agree with this change. SB83 failed to gain support in the Senate, the originating House.

## SB 82: Rape Shield Law Amended

In Kansas, the rape shield law is intended to prohibit the introduction of irrelevant information about the prior sexual conduct of the victim. Prior to July 1, 2005, this prohibition only applied to information presented in the presence of the jury. Today, that protection has been expanded.

In the past, information about the prior sexual conduct of the victim could be presented at a preliminary hearing or any other hearing prior to trial. These hearings are public and often covered by the press, especially in high profile cases. Even if the information is ultimately deemed to be irrelevant and/or inadmissible at trial, the victim has been humiliated, the jury pool has been tainted, and false impressions have been planted. Certainly, this cannot improve the rate at which victims report sexual assaults in Kansas.

Senate Bill 82 amended the rape shield statute, K.S.A. 21-3525. Effective July 1, 2005, information concerning the prior sexual conduct of the victim may not be publicly presented during any hearing before the court. The court will first determine if the information is relevant and otherwise admissible before the defendant is allowed to present it at trial. KCSDV applauds the Kansas Legislature for taking this important step in expanding protections for sexual assault victims.

## SB 72: Human Trafficking Now a State Crime

Kansas has joined the federal government and a few other states in making human trafficking a crime. The new Kansas law prohibits trafficking in persons for the purpose of sex, forced labor, or involuntary servitude. KCSDV supported this legislation believing that trafficking in persons is happening in Kansas and often does not reach the level of attention required by the federal government. This new crime will allow local law enforcement officers to investigate and interrupt the flow of human trafficking in Kansas.

For more information, contact Joyce Grover at 785-232-9784 or [joyceg@kcsdv.org](mailto:joyceg@kcsdv.org).

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## Legislation Review *cont. from page 6*

The bill also amends the crime of sexual exploitation of a child to allow one count of sexual exploitation of a child to be filed for each individual image of child pornography an offender possesses and makes other language changes to update the language of the crime.

## Unlawful Sexual Relations

HB 2386 expands the provisions of the crime of unlawful sexual relations by adding Court Services Officers, Community Corrections Officers, employees of the Juvenile Justice Authority or Juvenile Community Supervision Agency, and employees of a contractor who provides supervision services for persons under Court Services or Community Corrections supervision to the list of offenders of this crime.

The bill requires the offender have knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy currently is under the supervision of Court Services, Community Correction, Juvenile Justice Authority, or the Juvenile Community Supervision Agency.

The bill also adds the definition of "Community Corrections," "Court Services," "Law Enforcement Officer," and "Juvenile Community Supervision Agency."

## HB 2268:

# Uniform Interstate Enforcement of Protection Orders

Kansas judges have been issuing protection orders for victims of abuse since the Protection from Abuse Act was passed in 1979. But what happens if you have a protection order and you move to another state? Or, for example, you live in Kansas City, Missouri, but work in Kansas City, Kansas? Will your protection order issued in another state be enforced in Kansas? The Kansas Legislature answered these questions and more when it passed the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (HB2268). The Uniform Act, effective July 1, 2005, does not significantly change Kansas law but rather provides more clarity around this incredibly important issue.

As with every good law, the Uniform Act begins with a set of definitions, including definitions for “foreign protection order,” “mutual foreign protection orders,” “protected individual,” and more.<sup>1</sup> Readers of this law should look closely at these definitions, as they will be useful throughout.

The real substance of the Uniform Act provides that a foreign protection order shall be enforced as if it were an order of a Kansas court.<sup>2</sup> The Uniform Act also describes a valid foreign protection order as an order that:

- Identifies the protected individual and the respondent
- Is currently in effect
- Was issued by a tribunal that had jurisdiction over the parties and subject matter under the laws of the issuing state; and
- Was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an ex parte order, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued<sup>3</sup>

A protection order that identifies the parties and, on its face, is currently in effect, constitutes probable cause that a protection order exists.<sup>4</sup> The Uniform Act asks the law enforcement officer to err on the side of safety and enforcement.

If the law enforcement officer decides that the foreign protection order is otherwise valid but cannot be enforced because it has not been served, he or she may serve it on the respondent and then allow a reasonable time for the respondent to comply with the order before enforcing it.<sup>5</sup>

The Uniform Act clearly states that “registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order. . . .” (Emphasis added.)<sup>6</sup> However, should the petitioner decide that she or he would like to register the order in Kansas they need only take a certified copy of the protection order to the sheriff’s office in the county where it is to be enforced. The sheriff will check to see if it is entered into the national database and will call the issuing jurisdiction if it is not entered. There is no fee and the respondent is not to be notified that the order has been registered in Kansas. Again, registration in Kansas is completely optional.<sup>7</sup>

The Uniform Act also provides broad immunity for “conduct arising” out of the registration or enforcement of these orders or the detention or arrest of an alleged violator of an order.<sup>8</sup> Again, the Uniform Act is erring on the side of safety and enforcement and supporting law enforcement officers for doing so.

Finally, HB2268 also amended K.S.A. 21-3843 (violation of a protection order) in order to make it a crime to knowingly violate an out-of-state criminal no contact order.<sup>9</sup>

Overall, the Uniform Act should serve to greatly improve the enforcement of foreign protection orders in Kansas. Though it did not really change the law, the Uniform Act did clarify it and encourages law enforcement officers to err on the side of safety and enforcement. Full faith and credit of protection orders should now be a reality in Kansas, providing more safety for victims visiting, working, or living in Kansas.

1. HB2268, New Sec. 2.
2. HB2268, New Sec. 3(a); New Sec. 4(a).
3. HB2268, New Sec. 3(d).
4. HB2268, New Sec. 4(a).
5. HB2268, New Sec. 4(c).
6. HB2268, New Sec. 4(d). See also New Sec. 5
7. HB2268, New Sec. 5.
8. HB2268, New Sec. 6.
9. HB2268, Sec. 11.

### HB 2268

- Clarifies existing law regarding protection orders
- States that a foreign protection order (from another state) shall be enforced as if it were an order from a Kansas court
- Contact Joyce Grover at 785-232-9784 or [joyceg@kcsdv.org](mailto:joyceg@kcsdv.org)

# Kansas Legislature Amends Child Custody & Residency Law

Courts will be subjecting parents to extra scrutiny under a new law passed by the Kansas Legislature, effective July 1, 2005. Senate Bill 7 amends the law regarding child custody and residency determinations in divorce and paternity actions by adding another element to the list of factors to be considered in reaching those decisions. Additionally, this law establishes another basis for requesting a change in existing custody or visitation orders and tacks on a presumption for the court to apply.

## Material Change in Circumstances & Written Notice

Existing orders regarding custody or visitation will not generally be changed unless the parent can show there has been a "material change in circumstances" since the last order. Under this new addition to the law, a parent who has custody, residency or parenting time (visitation), must notify the other parent in writing (by registered mail) if either:

- the parent himself or herself has become a registered offender or has been convicted of child abuse, or
- the parent is living with someone who is a registered offender or who has been convicted of child abuse.

These events will be considered a material change of circumstances, or a basis for the court to change custody, residency, child support, or parenting time. The parent who fails to notify the other parent may be held in contempt and/or may be ordered to pay the other parent's attorney's fees and expenses.<sup>1</sup>

## Rebuttable Presumption

When the court finds there has been a material change of circumstances, the court must consider the statutory factors to determine if it is in the best interest of the child to change custody, residency and parenting time.<sup>2</sup> The Legislature has, for the first time, added a presumption in the custody and residency laws, requiring the court to give more weight to one factor than any other. There is now a presumption that it is not in the best interest of the child to live with a parent who is living with a registered offender or a convicted child abuser. The presumption can be "rebutted" but the Legislature has not provided any guidance to the courts on what it takes to overcome the presumption and what standard of proof is required.<sup>3</sup> Much is left unanswered here.

Curiously, this presumption does not apply to the parent who is the actual registered offender or who is the convicted child abuser. The fact that this parent is a sex offender or child abuser becomes just another factor for the court to consider.<sup>4</sup> The Legislature has not required the courts to give it any greater weight than the other factors. In effect, the Legislature has exposed children to the possibility that they will have to live with the parent who actually abused them or sexually assaulted them, while the non-offending parent may lose custody because he or she lives with someone who was convicted of a crime that did not involve children at all, since not all registered offenders have committed crimes against children. This law creates a major safety gap for kids.

## Conclusion

SB 7 raises some red flags for kids' safety. While the bill was intended to protect children, and it may do so, it clearly will not do so in other cases. Close monitoring of this new law will be required to determine its full impact on the safety of children.

1. SB7, New Sec. 1
2. K.S.A. 2004 Supp. 60-1610(a)(2) & (a)(3).
3. SB7, Sec. 2(a)(3)(D).
4. See SB7, Sec 2(a)(3)(B).

For more information, contact Marie Landry at 785-232-9784 or [mlandry@kcsdv.org](mailto:mlandry@kcsdv.org).

## **GENETIC FINGERPRINTING: Using DNA to Solve Crimes**

The collection and use of DNA is rapidly becoming an important tool for law enforcement and prosecution in the investigation of sexually violent crimes. The DNA can establish the perpetrator of the crime, establish a link between different crimes, or even exonerate suspects.

Kansas utilizes the Combined DNA Index System (CODIS), an automated DNA information processing system overseen by the Kansas Bureau of Investigation. This system maintains a database of DNA profiles of people convicted of violent crimes in every state as well as a database of forensic evidence, or evidence obtained from the crime scene. Virginia, one of the first states to use the DNA database, reports an increase in the number of hits or matches between the evidence collected and a person on their database; 50% of sex offenses without suspects were linked to someone with a prior burglary conviction. Kansas has collected DNA from all persons convicted of felonies since 2002. Other states are considering legislation allowing the collection of DNA evidence from all persons arrested, not just persons convicted of felonies.

### **Background**

DNA is the genetic material found in every cell of a person's body. Every person's DNA is different, except for identical twins. It can be obtained from several types of evidence at a crime scene, such as the murder weapon, any object the perpetrator touched, and anything the perpetrator left at the scene, including cigarette butts, hair, semen, and blood. Some studies have found that victims did not know or could not identify the perpetrator in approximately 30% of sexual assault cases. Comparing the DNA collected at the crime scene with a search of the database system of offenders may identify the perpetrator. Even if the perpetrator is not identified, the DNA may establish that the same unknown perpetrator has committed other unsolved crimes.

### **Prosecution**

Prosecution of sexual assault cases is limited by the statute of limitations, which is the time limit set by the legislature in which a prosecutor must bring charges of a crime against a suspect or be forever barred. The statute of limitations for rape varies nationwide from between 3 and 20 years. The statute of limitation for rape in Kansas is 5 years.

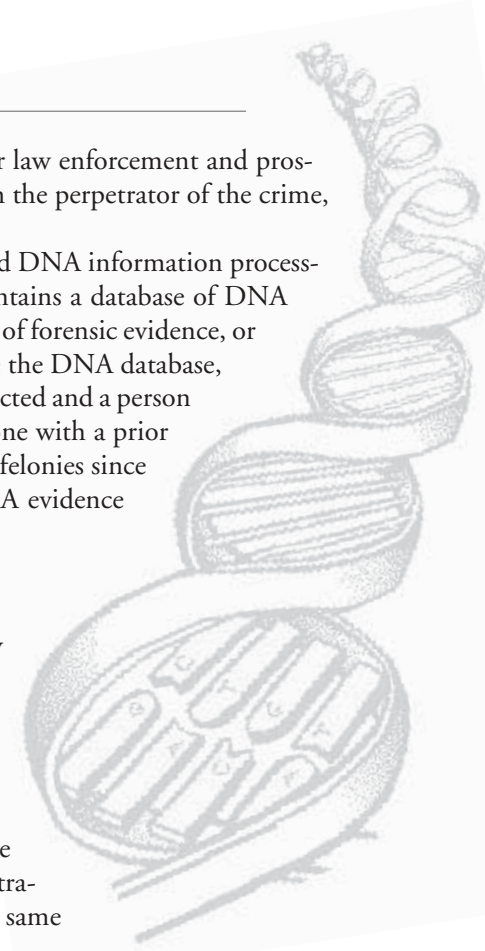
Kansas is one of the states that have filed "John Doe" warrants charging a perpetrator of a crime before the end of the statute of limitations. For example, a John Doe warrant was filed in McPherson County and the rapist was later identified after he killed a woman in Sedgwick County. Although prosecutors do not know the name of the person, which is typically how a warrant is written, they have identified this person by their DNA, a unique identifier. Later, when the person is identified and arrested, the warrant can be amended to include the person's name in addition to the DNA information.

Other states have passed legislation allowing the statute of limitations to stop running until the database search establishes the identification of the person whose genetic material was collected at the crime scene. Prosecutors then must charge the person with the crime within the remaining time of their particular statute of limitations.

### **Collection Backlog**

Although DNA is relatively easy to collect, there have been significant backlogs in the time it takes for the evidence to be processed to identify DNA. Samples can be collected quickly but it can take several weeks for the sample to be processed after it gets to the lab. Considerable progress has been made to reduce that backlog, but it is not entirely eliminated. Recently the KBI received \$342,000 from the Department of Justice to pay for staff overtime salaries related to DNA evidence analysis. Some studies have found that a significant part of the backlog also lies in getting the samples to the state labs for analysis. Some law enforcement offices may simply wait to submit the DNA evidence until a suspect is identified.

For more information, contact Marie Landry at 785-232-9784 or [mlandry@kcsdv.org](mailto:mlandry@kcsdv.org).



**TRAININGS & EVENTS**

**August**

**22-26 Sexual Assault Advocacy Course – Ulysses**  
 Audience: KCSDV member program advocates, social services workers, court personnel, law enforcement, victim witness coordinators

**September**

**13-16 Domestic Violence Advocacy Course – Wichita**  
 Audience: KCSDV member program advocates

**TBA Trauma Related to Domestic and Sexual Violence**  
**Location TBA**  
 Audience: mental health workers and private practice therapists

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**23 Children’s Advocate Peer Meeting – Salina**  
 Audience: KCSDV member program advocates

**26-30 Sexual Assault Advocacy Course – Topeka**  
 Audience: KCSDV member program advocates, social services workers, court personnel, law enforcement, victim witness coordinators

**October**

**18-19 Domestic Violence: Emerging Issues and Intervention– Topeka**  
 Audience: social services workers, court personnel, law enforcement, advocates, victim witness coordinators

**21 Monthly Board Meeting – Salina**  
 Audience: KCSDV board members

**For further information and registration for KCSDV and other trainings, visit:**  
[www.kcsdv.org/train.html](http://www.kcsdv.org/train.html)

This newsletter is published quarterly JAN, APRIL, JULY, and OCT. It is also available online at [www.kcsdv.org/public](http://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 KCSDV, 634 SW Harrison, Topeka, KS, 66611, FAX: 785-232-9784, or [coalition@kcsdv.org](mailto:coalition@kcsdv.org), attn: Communications Coordinator.

**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
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	<i>Friends of Yates, Joyce Williams</i> 913-321-0951
	<i>El Centro Inc. ¡Si Se Puede!</i> 913-677-0100
	MOCSA 816-531-0233
	Metro-wide 816-Hotline
Lawrence	<i>Ga Du Gi</i> 785-841-2345
	<i>Women's Transitional Care Services</i> 785-843-3333
	or 800-770-3030
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
	<i>Miami County</i> 888-432-4300
Pittsburg	800-794-9148
Reserve	785-742-0053
Salina	800-874-1499
Topeka	daytime 785-354-7927
	or evening & wknds. 785-234-3330
	or 888-822-2983
Ulysses	620-356-2608
Wichita	<i>Harbor House</i> 316-263-6000
	<i>Step Stone</i> 316-265-1611
	<i>Wichita Area Sexual Assault Center</i> 316-263-3002
	<i>YWCA Women's Crisis Center</i> 316-267-SAFE
Winfield	620-221-HELP
	or 800-794-7672

**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.

\_\_\_\_ Benefactor: \$100.00      \_\_\_\_ Patron: \$50.00      \_\_\_\_ Individual membership: \$10.00

\_\_\_\_ Supportive organizations (not a domestic violence or sexual assault program): \$50.00

\_\_\_\_ 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.



UNITED AGAINST VIOLENCE

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

634 SW Harrison, Topeka, KS 66603

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