

HOUSE BILL No. 2567

House Corrections and Juvenile
Justice Committee
2012 Session
Date 2-13-12
Attachment #

**Testimony
of Victor Riggin**

Topeka Police Narcotics Officer and
Kansas Narcotics officer's Association
Board Member

In regards House Bill 2567:

An act concerning crimes and punishments; relating to aggravated
endangering a child; amending K.S.A. 2011 Supp. 21-5419 and 21-
5601 and repealing the existing sections.

February 13th 2012

**Comments of Victor Riggin
Before the Juvenile Justice and Corrections
Committee
February 13th 2012**

Chairman Colloton, and members of the Committee, thank you for allowing me to appear before you today.

My name is Victor Riggin, and I have been a Topeka Police Officer since January 2000 and assigned to the Narcotics Unit since 2005. I come before you today as a citizen with a concern regarding how a current criminal statute is written. The current child endangerment statute:

21-5601. Endangering a child.

(a) Endangering a child is knowingly and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health may be endangered.

(b) Aggravated endangering a child is:

(1) Recklessly causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health is endangered;

(2) causing or permitting such child to be in an environment where the person knows or reasonably should know that any person is distributing, possessing with intent to distribute, manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; or

(3) causing or permitting such child to be in an environment where the person knows or reasonably should know that drug paraphernalia or volatile, toxic or flammable chemicals are

stored for the purpose of manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.

(c) (1) Endangering a child is a class A person misdemeanor.

(2) Aggravated endangering a child is a severity level 9, person felony. The sentence for a violation of aggravated endangering a child shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(d) Nothing in subsection (a) shall be construed to mean a child is endangered for the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(e) As used in this section:

(1) "Manufacture" means the same as in K.S.A. 2010 Supp. 21-5701, and amendments thereto; and

(2) "drug paraphernalia" means the same as in K.S.A. 2010 Supp. 21-5701, and amendments thereto.

As you can see as recent as 2011 you recognized the inherent dangers of methamphetamine and sought fit to add the manufacture of methamphetamine to the current language of the criminal statute. Which brings me to why I am here today.

BACKGROUND:

Bare with me for a moment as I tell you a story about how Trenton C Wyatt was born on September 4th 2011. Trenton Wyatt was born a meth addict. On September 8th 2011, I was contacted by the Shawnee County Communications Center about assistance regards to a suspicious liquid found in a residence. I met with Cpl. Cortez advised that he had tested a liquid contained in a glass pickle jar with a lid on it that had been discovered by Intensive Supervision Officer Karen Greene, Shawnee County Community Corrections. Cpl. Cortez told me that he

used a field-test kit for amphetamine and that he was unsure of the result. Field test that I conducted later on the substance indicated that the substance was ammonia.

ISP Officer Karen Greene along with her partner Joel Manzanares, also with Shawnee County Community Corrections, conducted a home visit on three persons on probation in Shawnee County. When Ms Greene arrived at the residence, 316 SW Roosevelt, at approximately 1040 hrs and she were let inside. Once inside a female, Iraiah L Wyatt W/F 09/07/1989 and Douglas C Wyatt Jr W/M 03/18/1987 were found inside both of whom reside at the residence. Ms advised that the reason for the home visit was due to the last time Iraiah Wyatt reported, Tuesday 09/06/2011 she sounded intoxicated on the telephone. Ms Greene told Officer Ladd that as a condition of her probation she was to have no alcohol. Officer Greene located alcohol in the residence which was a violation of her probation. The other reason for the visit was because Iraiah Wyatt gave birth four days prior and her baby, Trenton Wyatt, tested positive for methamphetamine.

I spoke with one of the residents, Douglas C Wyatt Jr. W/M 3/18/87. When I first started talking to Wyatt I recognized him and his name but did not immediately place where from. Wyatt advised me that he lives at the residence with his wife, Iraiah L Wyatt. As I chatted with Wyatt in the backyard of the residence I told him that I was concerned about the liquid in the jar. I told Wyatt that I wanted to make sure that there wasn't an active lab in the residence and he replied that he took the fall once for that and was on probation for possession on anhydrous ammonia for a lab in Silver Lake, KS. At that point is when the light bulb went on and I recognized Wyatt from when I worked the methamphetamine lab and assisted in dismantling a methamphetamine lab in Silver Lake during February 2010 where both Wyatts were involved.

I asked Wyatt for consent to search the residence to search for items related to the manufacture of methamphetamine. Wyatt consented to the search and myself and Wyatt conducted a walkthrough of the residence and search of the residence. During a walkthrough the residence I noticed baby chairs, stroller, and other baby items in the living room of the residence.

As we approached the dining room I opened up a drawer and inside of the drawer was a hypodermic needle with an off color yellow substance in it. Based on my training and experience I immediately recognize that as methamphetamine.

Wyatt started to get physically upset and told me that he was not taking the fall for that. I told Wyatt that it was no big deal and asked that we continue to look in the residence and go to the basement.

Wyatt led me to the basement. As we went down to the basement Wyatt turned on a light for me. I asked Wyatt again if we could continue to look into the different cabinets and he said yes.

I opened up one cabinet and found a tin box. Inside of the tin box was a plastic baggie with a corner knot on it. Also in the tin box was a cigarette box with multiple hypodermic needle caps in it. I told Wyatt that there was methamphetamine in the residence based on what I had already seen. Wyatt became nervous and started to walk towards the door. I followed Wyatt and he said that he wanted to wait to look around anymore until his mom got there. He also gave a motion with his hands in a horizontal fashion like he was done with me searching the residence. I walked out with Wyatt. Once outside I told officers to place both Iraiah I Wyatt W/F 9/7/89 and Douglas Wyatt into custody for possession of methamphetamine and transport them to the LEC.

A search warrant was later obtained for the residence and evidence was collected that lead to charges of possession of methamphetamine, possession of drug paraphernalia associated with the manufacture of methamphetamine and other drug related charges.

During a post-Miranda interview Ms. Wyatt denied any involvement with any drug paraphernalia, methamphetamine or anything else illegal in her residence. One thing Ms. Wyatt had no problem admitting to was use of methamphetamine during the late term of her pregnancy. She can be described as coldly admitting to smoking "a bowl" of methamphetamine three days prior to the birth of her child Trenton Wyatt on September 4th 2012. In a report from the Kansas Department of Social and Rehabilitation Services she advised that she even used methamphetamine the day prior to the birth of her child.

CASE OUTCOME:

I contacted the Kansas Attorney's General Office and the Shawnee County District Attorney's Office regarding charging considerations for child endangerment against Ms. Wyatt. Both offices denied any charging considerations due to Trenton Wyatt not being born at the time of the incident.

On October 26th 2011 Douglas C Wyatt plead guilty to Possession of drug paraphernalia associated with the manufacture of methamphetamine and possession of stolen property. Mr. Wyatt is currently serving a 12 month sentence as a part of his plea deal.

On November 22nd 2011 Iraiah Wyatt plead guilty (no contest) to possession of methamphetamine (found in the residence) and was sentenced to 16 months in jail.

Trenton C Wyatt is currently in the foster care system and currently resides with his grandmother, Dianne Wyatt.

EFFECTS OF METHAMPHETAMINE TO NEWBORNS:

In May 2011 a report was compiled by Dr. Barry M Lester, PhD and published in the May 1st edition of the Science Daily. Dr. Lester is the professor of psychiatry and pediatrics and director of the Center for the study of Children at Risk at the Warren Alpert Medial School of Brown University and Women and Infants Hospital. Dr. Lester conducted the Infant Development Environment and Lifestyle study to look at the neurobehavioral effects of prenatal meth exposure in 185 newborns from four different clinics. The same study was also performed on a comparison group of newborns exposed to alcohol, marijuana and/or tobacco. The assessment was based upon muscle tone, reflexes, behavioral state, motor development, and stress. Results from the testing indicated that newborns whose mothers abused meth were hard to arouse and once they were aroused they could not be calmed down easily. After one month improvements were seen in some of the newborns whose mothers abused meth but no all newborns experienced the same type of improvement and were labeled as high risk kids. For those high risk kids there are not enough resources to provide treatment services to all of them.

In a March 2010 article in the Journal of Neuroscience a study was conducted that children whose mothers abused meth prenatally show brain abnormalities that may be more severe than that of children exposed to alcohol prenatally. Dr. Elizabeth Sowell, PhD, of the University of California, Los Angeles said in the article, "We know that alcohol exposure is toxic to the developing fetus and can result in lifelong brain, cognitive, and behavioral problems. In this study we show that the effects of prenatal meth exposure, or the combination of meth and alcohol exposure may actually be worse." Sowell also added that a structure called the caudate nucleus, which is important for learning and memory, motor control, and motivation, was one of

the regions of the brain more reduced by meth rather than alcohol. Sowell's study was conducted by conducting 61 MRI scans on newborn children; 21 children with meth and alcohol exposure, 13 with heavy alcohol exposure and 27 unexposed newborns.

Study's on the use of meth and it's effects are hard to compile due to the statistics are primarily self-reported. However, of the more than 16 million Americans who abuse meth over the age of 12 about 19,000 are pregnant women. About half of those women who admitted to using meth during their pregnancy also admitted to alcohol abuse which makes isolating the effects on meth alone even more difficult.

EXPOSED NEWBORNS:

According to a national study, 11% of infants are born prenatally exposed to substances. If that figure holds true in Kansas, than close to 4,599 infants fall into this category. According to the list of exposed substances meth was the fourth leading cause of admission of pregnant women to state-funded treatment in FY2004. Since the FY04 meth has maintained a steady number while other stimulants have declined over the past seven years. In FY10 meth is now the third leading cause of admission of pregnant women to state-funded treatment falling behind only marijuana and alcohol.

PLACEMENTS:

The Kansas Department of Social and Rehabilitation Services (SRS) reports that in the FY10 649 children in the state of Kansas were placed into out of home placement. Of that 649 children 111 of the children were cases were with the parental meth use was the primary reason which accounts for 17% of all the FY10 cases. Of that 111 children 26% of those children were under the age of one. There is no specific data that specifies what percentage were removed for prenatal meth exposure. In comparison alcohol accounted for only 9% of the cases. The number has risen each of the last two years with a 29% increase since FY2008. A child that is placed in an out of home placement also cost for the state of Kansas. According to the Kansas Department of Social and Rehabilitation Services during the FY11 the actual cost to place a child in out of home care is \$2,277 for a total cost of \$137,029,648.

CONCLUSION:

I appreciate the time you have given me today. Like I said before I come to you as a citizen of the state of Kansas with some experience in the proposed revised Child Endangerment bill. As the bill is currently written it covers children exposed to toxic fumes or other items associated with a meth lab. The number of meth labs goes up and down each year similar to a roller coaster. One thing that seemingly hasn't changed is the use of meth. I would ask that you would consider amending the current statute and add the new amended language to include protection for the unborn child. I also come to you today with no other political agendas. What I ask is to think about Trenton Wyatt. He is one of many who didn't stand a chance when he was born. Trenton was born a meth addict and some of his first moments in this world were going through withdrawal of being a meth addict. If we could get one mother to second guess using meth while being pregnant we win by starting to not only reduce the rising cost what the state spends each and every year for care and placement of the child but we also start to change lives.

References:

Kansas Social and Rehabilitation Services, Children and family services data unit, 2010.

Topeka Police Department

The Journal of Neuroscience (Mar 2010)

Science Daily (May 2011)

Kansas Alliance for drug Endangered Children Data Report

HOUSE BILL No. 2567

By Committee on Corrections and Juvenile Justice

1-27

1 AN ACT concerning crimes and punishments; relating to aggravated
2 endangering a child; amending K.S.A. 2011 Supp. 21-5419 and 21-
3 5601 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 21-5419 is hereby amended to read as
7 follows: 21-5419. (a) As used in this section:

8 (1) "Abortion" means an abortion as defined by K.S.A. 65-6701, and
9 amendments thereto; and

10 (2) "unborn child" means a living individual organism of the species
11 homo sapiens, in utero, at any stage of gestation from fertilization to birth.

12 (b) This section shall not apply to:

13 (1) Any act committed by the mother of the unborn child;

14 (2) any medical procedure, including abortion, performed by a
15 physician or other licensed medical professional at the request of the
16 pregnant woman or her legal guardian; or

17 (3) the lawful dispensation or administration of lawfully prescribed
18 medication.

19 (c) As used in K.S.A. 2011 Supp. 21-5401, 21-5402, 21-5403, 21-
20 5404, 21-5405, 21-5406 and, subsections (a) and (b) of 21-5413; and
21 subsections (b)(2), (3), (4) and (5) of 21-5601, and amendments thereto,
22 "child," "person" and "human being" also mean an unborn child.

23 (d) This section shall be known as Alexa's law.

24 Sec. 2. K.S.A. 2011 Supp. 21-5601 is hereby amended to read as
25 follows: 21-5601. (a) Endangering a child is knowingly and unreasonably
26 causing or permitting a child under the age of 18 years to be placed in a
27 situation in which the child's life, body or health may be endangered.

28 (b) Aggravated endangering a child is:

29 (1) Recklessly causing or permitting a child under the age of 18 years
30 to be placed in a situation in which the child's life, body or health is
31 endangered;

32 (2) causing or permitting such child to be in an environment where
33 the person knows or reasonably should know that any person is
34 distributing, possessing with intent to distribute, manufacturing or
35 attempting to manufacture any methamphetamine, or analog thereof, as
36 defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments

1 thereto; or

2 (3) causing or permitting such child to be in an environment where
3 the person knows or reasonably should know that drug paraphernalia or
4 volatile, toxic or flammable chemicals are stored for the purpose of
5 manufacturing or attempting to manufacture any methamphetamine, or
6 analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107,
7 and amendments thereto;

8 (4) *causing or permitting such child to be in an environment where*
9 *the person knows or reasonably should know any person injected,*
10 *ingested, inhaled or otherwise introduced any methamphetamine, or*
11 *analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107,*
12 *and amendments thereto, into the human body; or*

13 (5) *causing or permitting such child to be in an environment where*
14 *the person knows or reasonably should know any person is in possession*
15 *of any methamphetamine, or analog thereof, as defined by subsection (d)*
16 *(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.*

17 (c) (1) Endangering a child is a class A person misdemeanor.

18 (2) Aggravated endangering a child is a severity level 9, person
19 felony. The sentence for a violation of aggravated endangering a child
20 shall be served consecutively to any other term or terms of imprisonment
21 imposed. Such sentence shall not be considered a departure and shall not
22 be subject to appeal.

23 (d) Nothing in subsection (a) shall be construed to mean a child is
24 endangered for the sole reason the child's parent or guardian, in good faith,
25 selects and depends upon spiritual means alone through prayer, in
26 accordance with the tenets and practice of a recognized church or religious
27 denomination, for the treatment or cure of disease or remedial care of such
28 child.

29 (e) As used in this section:

30 (1) "Manufacture" means the same as in K.S.A. 2011 Supp. 21-5701,
31 and amendments thereto; ~~and~~

32 (2) "drug paraphernalia" means the same as in K.S.A. 2011 Supp. 21-
33 5701, and amendments thereto; *and*

34 (3) *"possession" means the same as in K.S.A. 2011 Supp. 21-5701,*
35 *and amendments thereto.*

36 Sec. 3. K.S.A. 2011 Supp. 21-5419 and 21-5601 are hereby repealed.

37 Sec. 4. This act shall take effect and be in force from and after its
38 publication in the statute book.

39

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

AGENCY NAME: KS Department of Social and Rehabilitation Services
PROGRAM TITLE: Integrated Service Delivery
SUBPROGRAM TITLE: CFS – OOH/Reintegration/FC Contracts

EXPENDITURE JUSTIFICATION - Reintegration/Foster Care Contracts for Children Receiving Out-of-Home Services – 27500

Program Overview: Foster care services are provided to children and families when the court has found the child to be in need of care and the parents are not able to meet the safety and care needs of the child. Most children who require foster care have been abused or neglected and have significant developmental, physical, and emotional needs, which require an array of services and care options. However, some children who are not abused or neglected may be placed in foster care for reasons such as out-of-control behavior, overwhelmed parents, and running away from home. Their needs can range from placement with a relative to inpatient psychiatric care. Family foster homes are the most frequently used placement resources, but some children require more structured settings, such as a group home, or residential center, including Medicaid funded inpatient Psychiatric Residential Treatment Facilities (PRTFs). CFS’ partners in service delivery are the Child Welfare Case Management Providers (CWCMP) whom are responsible for providing foster care services including case planning, placement, life skills and foster parent recruitment and training. SRS social workers are responsible for monitoring the safety of the children and monitoring the progress made toward permanency. The cost of the PRTF placements and other medical costs are included in the Disability and Behavioral Health Services budget. New contracts were awarded effective July 1, 2009. The initial contract period is for four years with options for two 2-year extensions.

Object Code 5500: Grants and Assistance

Summary: The following table details the Reintegration/Foster Care Out-of-Home Contracts budget.

Reintegration/Foster Care Services Caseload

Item	FY 2011 Actual	FY 2012 Request	FY 2013 Allocated Budget	Reduced Resource 13 & older NAN's	Reduced Resource 1.83% rate adjustment	Reduced Resource Add'l 2.72% rate adjustment	FY 2013 Revised Budget
Average Monthly Children	5,015	5,218	5,218	(156)	N/A	N/A	5,062
Monthly Cost Per Child	\$2,277	\$2,256	\$2,256	(\$1,304)	(\$506)	(\$754)	\$2,177
Total Expenditures	\$137,029,648	\$141,245,479	\$141,245,479	(\$2,440,253)	(\$2,641,260)	(\$3,935,300)	\$132,228,666
<i>Financing</i>							
State General Funds	\$88,952,881	\$77,445,509	\$83,637,225	(\$2,051,815)	(2,258,277)	(3,364,682)	\$75,962,451
Fee Fund	\$21,767	\$14,195,410	\$7,875,678				\$7,875,678
Federal Title IV-B Grant Funds	\$886,778	\$881,224	\$881,224				\$881,224
Social Service Block Grant Funds	\$13,356,934	\$16,358,786	\$16,358,786				\$16,358,786
Federal IV-E Foster Care Funds	\$19,820,364	\$17,580,793	\$17,493,751	(\$388,438)	(382,983)	(570,618)	\$16,151,712
Federal IV-E Adoption Funds	\$714,537	\$0	\$0				\$0
Federal IV-E Independent Living Funds	\$145,321	\$10,409	\$10,409				\$10,409
TANF Funds	\$500,000	\$500,000	\$500,000				\$500,000
TANF Funds	\$12,631,066	\$14,273,348	\$14,488,406				\$14,488,406
Total	\$137,029,648	\$141,245,479	\$141,245,479	(\$2,440,253)	(\$2,641,260)	(\$3,935,300)	\$132,228,666

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

AGENCY NAME: KS Department of Social and Rehabilitation Services
PROGRAM TITLE: Integrated Service Delivery
SUBPROGRAM TITLE: CFS – OOH/Reintegration/FC Contracts

FY 2012: \$141,245,479 – This reflects the Fall 2010 Consensus Caseload Estimate. Any changes in projections will be addressed in the Fall 2011 Consensus Caseload process and reflected in the FY 2013 Governor’s Budget Report.

FY 2013: \$141,245,479 - The FY 2013 budget repeats the prior year estimate, which reflects the budgeting convention of the Consensus Caseload estimating process. The next caseload estimate will be held in Fall of 2011. The first FY 2013 estimate will be made at this meeting and will appear in the FY 2013 Governor’s Budget Report. Three reduced resource packages have been submitted, which combined reduce the budget by \$9,016,813 to a revised total of \$132,228,666.

Funding Changes from the Approved Budget

- In FY 2012, a 3 percent reduction totaling \$6,833 was made to the Female Secure Care contract. This is part of the overall Foster Care Services Caseload.
- Also, in FY 2012, \$6,319,732 of fee funds and \$3,001,852 of SSBG funds were substituted for \$9,321,584 of TANF.
- In FY 2013, \$87,042 of SGF was used to replace Title IV-E that was lost due to a reduction in the FMAP.
- Also, in FY 2013, \$6,104,674 of SGF and \$215,058 of TANF was substituted for \$6,319,732 of fee funds.

Reintegration/Foster Care Services Caseload

Item	FY 2012 Current Year Base	3% Grant & Contract Reduction	Funding Shifts	FY 2012 Request	FY 2013 Allocated Base	FMAP adjustment	Funding Shifts	FY 2013 Allocated Budget
<i>Financing</i>								
State General Funds	\$77,452,342	(\$6,833)		\$77,445,509	\$77,445,509			\$83,637,225
Fee Fund	\$7,875,678		\$6,319,732	\$14,195,410	\$14,195,410	\$87,042	\$6,104,674	\$7,875,678
Federal Title IV-B Grant Funds	\$881,224			\$881,224	\$881,224			\$881,224
Social Service Block Grant Funds	\$13,356,934		\$3,001,852	\$16,358,786	\$16,358,786			\$16,358,786
Federal IV-E Foster Care Funds	\$17,580,793			\$17,580,793	\$17,580,793	(\$87,042)		\$17,493,751
Federal IV-E Foster Care (ARRA) Funds	\$0			\$0	\$0			\$0
Federal IV-E Adoption Funds	\$10,409			\$10,409	\$10,409			\$10,409
Federal IV-E Independent Living Funds	\$500,000			\$500,000	\$500,000			\$500,000
TANF Funds	\$23,594,932		(\$9,321,584)	\$14,273,348	\$14,273,348		\$215,058	\$14,488,406
Total	\$141,252,312	(\$6,833)	\$0	\$141,245,479	\$141,245,479	\$0	\$0	\$141,245,479