



## **Kansas Sheriffs Association**

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### **Testimony to the Senate Judiciary Committee In Support of HB2209 March 11, 2013**

Chairman King and Committee Members,

The Kansas Sheriffs Association is in support of HB2209. These are reasonable amendments improving the administration of the offender registry act. However, there is an additional issue we would like to address.

Sheriff's Offices across the state are confronted with the problem of collecting the offender registration fee. In some cases we have offenders who have never paid the fee. It has been our position to collect the registration information and complete the process even if the fee is not paid. We do this realizing the ultimate goal of the act is to have the information about the offender kept on file and up-to-date.

When the offender does not pay we then continue to bill the offender for the fee. However, there is no teeth in the statute we can use to push them to pay. In general, many of them don't pay because they know nothing will happen to them. The process of offender registration is both time consuming and has substantial costs for sheriff's offices. That is the reason the fee was established. However, if we have no mechanism to enforce the fee payment then our costs are not being covered.

To address this we are offering an amendment which is attached. This amendment will provide a specific sanction for failing to pay the fee. We realize it is unreasonable to sanction an offender at the same level as an offender who refuses or fails to register. What we propose is a misdemeanor violation if the fee is not paid within 15 days of registration and a low level felony if the fee remains unpaid for two consecutive registrations. We have submitted this amendment to the revisor so they can polish the language as needed.

Your consideration of this amendment is appreciated. We encourage you to adopt the attached amendment and recommend the bill favorably for passage.

## **K.S.A. 22-4905**

Any offender required to register as provided in the Kansas offender registration act shall:

(a) Except as otherwise provided in this subsection, register in person with the registering law enforcement agency within three business days of coming into any county or location of jurisdiction in which the offender resides or intends to reside, maintains employment or intends to maintain employment, or attends school or intends to attend school. Any such offender who cannot physically register in person with the registering law enforcement agency for such reasons including, but not limited to, incapacitation or hospitalization, as determined by a person licensed to practice medicine or surgery, shall be subject to verification requirements other than in-person registration, as determined by the registering law enforcement agency having jurisdiction;

(b) except as provided further, for any: (1) Sex offender, including a violent offender or drug offender who is also a sex offender, report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school; and (2) violent offender or drug offender, report in person four times each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school, except that, at the discretion of the registering law enforcement agency, one of the four required reports may be conducted by certified letter. When utilized, the certified letter for reporting shall be sent by the registering law enforcement agency to the reported residence of the offender. The offender shall indicate any changes in information as required for reporting in person. The offender shall respond by returning the certified letter to the registering law enforcement agency within 10 business days by certified mail. The offender shall be required to report to the registering agency once during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday. The registering law enforcement agency may determine the appropriate times and days for reporting by the offender, consistent with this subsection. Nothing contained in this subsection shall be construed to alleviate any offender from meeting the requirements prescribed in the Kansas offender registration act;

(c) provide the information required for registration as provided in K.S.A. 22-4907, and amendments thereto, and verify all information previously provided is accurate;

(d) if in the custody of a correctional facility, register with the correctional facility within three business days of initial custody and shall not be required to update such registration until released from custody, granted work release or otherwise allowed to leave the grounds of the correctional facility;

(e) notwithstanding subsections (a) and (b), if the offender is transient, report in person to the registering law enforcement agency of such county or location of jurisdiction in which the offender is physically present within three business days of arrival in the county or location of jurisdiction. Such offender shall be required to register in person with the registering law enforcement agency every 30 days, or more often at the discretion of the registering law enforcement agency. Such offender shall comply with the provisions of the Kansas offender registration act and, in addition, shall:

(1) Provide a list of places where the offender has slept and otherwise frequented during the period of time since the last date of registration; and

(2) provide a list of places where the offender may be contacted and where the offender intends to sleep and otherwise frequent during the period of time prior to the next required date of registration;

(f) if required by out of state law, register in any out of state jurisdiction, where the offender resides, maintains employment or attends school;

(g) register in person upon any commencement, change or termination of residence location, employment status, school attendance or other information as provided in K.S.A. 22-4907, and amendments thereto, within three business days of such commencement, change or termination, to

the registering law enforcement agency or agencies where last registered and provide written notice to the Kansas bureau of investigation;

(h) report in person to the registering law enforcement agency or agencies within three business days of any change in name;

(i) if receiving inpatient treatment at any treatment facility, inform the treatment facility of the offender's status as an offender and inform the registering law enforcement agency of the county or location of jurisdiction in which the treatment facility is located of the offender's presence at the treatment facility and the expected duration of the treatment;

(j) submit to the taking of an updated photograph by the registering law enforcement agency on each occasion when the offender registers with or reports to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or attends school. In addition, such offender shall submit to the taking of a photograph to document any changes in identifying characteristics, including, but not limited to, scars, marks and tattoos;

(k) remit payment to the sheriff's office in the amount of \$20 as part of the registration process as required in subsection (b) during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday in each county in which the offender resides, maintains employment or is attending school. As provided in K.S.A. 22-4902(d)(6), registration will be completed whether or not the offender remits payment. Failure to remit payment is a violation of the Kansas offender registration act and is subject to prosecution pursuant to K.S.A. 22-4903 subsection (c)(3) and amendments thereto. Notwithstanding other provisions herein, payment of this fee is not required:

(1) When an offender provides updates or changes in information or during an initial registration unless such updates, changes or initial registration is during the month of such offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday;

(2) when an offender is transient and is required to register every 30 days, or more frequently as ordered by the registering law enforcement agency, except during the month of the offender's birthday and every third, sixth and ninth month occurring before and after the month of the offender's birthday; or

(3) if an offender has, prior to the required reporting and within the last three years, been determined to be indigent by a court of law, and the basis for that finding is recorded by the court;

(l) annually renew any driver's license pursuant to K.S.A. 8-247, and amendments thereto, and annually renew any identification card pursuant to K.S.A. 2010 Supp. 8-1325a, and amendments thereto;

(m) if maintaining primary residence in this state, surrender all driver's licenses and identification cards from other states, territories and the District of Columbia, except if the offender is presently serving and maintaining active duty in any branch of the United States military or the offender is an immediate family member of a person presently serving and maintaining active duty in any branch of the United States military;

(n) read and sign the registration form noting whether the requirements provided in this section have been explained to the offender; and

(o) report in person to the registering law enforcement agency in the jurisdiction of the offender's residence and provide written notice to the Kansas bureau of investigation 21 days prior to any travel outside of the United States, and provide an itinerary including, but not limited to, destination, means of transport and duration of travel, or if under emergency circumstances, within three business days of making travel arrangements.

22-4903. Violation of act; aggravated violation; penalties; new and separate offense; prosecution, venue.

- (a) Violation of the Kansas offender registration act is the failure by an offender, as defined in K.S.A. 22-4902, and amendments thereto, to comply with any and all provisions of such act, including any and all duties set forth in K.S.A. 22-4905 through 22-4907, and amendments thereto. Any violation of the Kansas offender registration act which continues for more than 30 consecutive days shall, upon the 31st consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate offense every 30 days thereafter for as long as the violation continues.
- (b) Aggravated violation of the Kansas offender registration act is violation of the Kansas offender registration act which continues for more than 180 consecutive days. Any aggravated violation of the Kansas offender registration act which continues for more than 180 consecutive days shall, upon the 181st consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate violation of the Kansas offender registration act every 30 days thereafter, or a new and separate aggravated violation of the Kansas offender registration act every 180 days thereafter, for as long as the violation continues.
- (c) (1) Except as provided in subsection (c)(3), a ~~Violation-violation~~ of the Kansas offender registration act is:
  - (A) Upon a first conviction, a severity level 6, person felony;
  - (B) upon a second conviction, a severity level 5, person felony; and
  - (C) upon a third or subsequent conviction, a severity level 3, person felony.
  - (2) Except as provided in subsection (c)(3), an ~~Aggravated-aggravated~~ violation of the Kansas offender registration act is a severity level 3, person felony.
  - (3) A violation of the act consisting only of failing to pay the fee required in subsection (k) of KSA 22-4905 is:
    - (A) a class A misdemeanor if not paid within 15 days of registration;
    - (B) a severity level 9 person felony if not paid in full within 15 days of second or subsequent registration without payment of the fee for two or more consecutive registration periods.
- (d) Prosecution of violations of this section may be held:
  - (1) In any county in which the offender resides;
  - (2) in any county in which the offender is required to be registered under the Kansas offender registration act;
  - (3) in any county in which the offender is located during which time the offender is not in compliance with the Kansas offender registration act; or
  - (4) in the county in which any conviction or adjudication occurred for which the offender is required to be registered under the Kansas offender registration act.