



THE STATE OF KANSAS

24th Judicial District

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~Bruce T. Gatterman, Chief Judge~

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House Judiciary Committee

Honorable Representative Lance Kinzer, Chair

Written Testimony in Support of House Bill 2313

Exhaustion of Administrative Remedies for Patients in SRS Custody

Chief Judge, Bruce T. Gatterman, 24th Judicial District

January 25, 2012

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to provide written testimony in support of House Bill 2313. This bill would assist in the resolution of regular civil actions filed by individuals in the custody of the Kansas Secretary of Social and Rehabilitation Services pursuant to K.S.A. 59-29a01, et. seq. (Commitment of Sexually Violent Predators). Residents of the Kansas Sexual Predator Treatment Program (SPTP) routinely file suit in actions seeking declaratory judgment, replevin, damages, and other relief. This bill would provide for an orderly grievance procedure requiring exhaustion of administrative remedies prior to the filing of a civil action in the District Court by a resident of SPTP.

HB2313 would also amend K.S.A. 60-1501, Habeas Corpus. A habeas action is generally filed in the District Court of the county where the alleged restraint is taking place. In 2011, 116 K.S.A. 60-1501 actions were filed in the District Court of Pawnee County, Kansas by residents of SPTP. Each habeas Petition must be reviewed by a District Judge. If the Petition is not subject to summary dismissal, the judge must issue a Writ of Habeas Corpus requiring response from Kansas Department of Social and Rehabilitation Services.

Habeas Petitions which survive summary dismissal involve allegations of shocking and intolerable conduct, or continuing mistreatment of a constitutional stature. In your consideration of HB2313, because of the underlying constitutional issues, I would respectfully request a clear expression of legislative intent requiring exhaustion of administrative remedies prior to the filing of any habeas action.

If passed, this bill would potentially result in savings of judicial resources in reviewing, responding, and ultimately hearing habeas Petitions. In addition, the appellate caseload may be reduced to some extent, as many District Court decisions in SPTP habeas actions are currently appealed. Finally, justice would be served as many claims could be resolved through an expedient and fair grievance procedure at the administrative level.

Thank you for the opportunity to present testimony to the committee.

Respectfully submitted this 25th day of January, 2012

Bruce T. Gatterman, Chief Judge
24th Judicial District