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**TO: Senate Judiciary Committee**

**FROM: Kansas Judicial Council – Christy Molzen**

**DATE: January 26, 2017**

**RE: Testimony in support of SB 12 amending K.S.A. 59-29a11**

The Kansas Judicial Council recommends SB 12, which amends K.S.A. 59-29a11 regarding residency restrictions for individuals who have participated in the sexually violent predator program and are on transitional or conditional release. This bill is the product of a study request from Senator Jeff King, former Senate Judiciary Chair and Judicial Council member. At Senator King's request, the Council formed an ad hoc advisory committee to review the statute. A list of the committee members is attached on the next page.

The Committee's full report is available on the Judicial Council website. The Committee's conclusion, adopted by the Judicial Council, was that some residency restrictions for persons on transitional or conditional release are necessary, but those restrictions should not be so burdensome that they make it unreasonably difficult to find housing. It is important for people on release not to become isolated from their communities; they need to be near their support systems, jobs and public transportation.

After reviewing K.S.A. 59-29a11(b) and other states' laws on residency restrictions, the Committee identified several areas where the Kansas statute could be clarified or improved. The Committee recommends proposed legislation, which accomplishes the following:

1) Clarifies that the restrictions apply to any place where a person on transitional or conditional release resides.

2) Creates a mechanism for the court to grant exceptions to the residency restrictions, but limits the court from setting a restriction less than 500 feet.

3) Provides that if a school, day care, etc. moves in within the restricted distance from a person's court-approved residence after the person has established residence, that will not constitute a violation of transitional or conditional release.

4) Requires a conditional release plan to include provisions setting out what a person should do if he loses his court-approved housing due to an emergency situation, such as a natural disaster or eviction.

The most important element of the bill is the provision allowing the court to grant exceptions to the residency restrictions down to a minimum of 500 feet after considering the recommendation of the treatment staff and the person and after making written findings on the record. Authorizing the court to grant such exceptions would allow the restrictions to be more tailored to the individual and the community. For example, not all sexually violent predators are pedophiles, so child-related restrictions are not always appropriate. Allowing individualized residency restrictions is consistent with recent proposed changes to the sexual predator treatment program that also focus on more individualized treatment.

The Committee believes that amending K.S.A. 59-29a11 to clarify the extent of its application and to allow more individualized residency restrictions should make it less vulnerable to a constitutional challenge.

### **Committee Membership**

The members of the Judicial Council Advisory Committee on K.S.A. 59-29a11 are:

Hon. Bruce Gatterman, Chair, Chief Judge of the 24<sup>th</sup> Judicial District; Larned

Wes Cole; Chairman of the Governor's Behavioral Health Services Planning Council;  
Osawatomie

Eldon Dillingham, Member of the Family, Friends and Other Concerned Citizens of SPTP  
Residents; Wamego

Dr. Mike Dixon, Director and Chief Forensic Psychologist for SPTP; Parsons

Laura Farmer, Department of Corrections Victims Services; Topeka

Mike Francis, defense attorney; Topeka

Ed Klumpp, Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association; Tecumseh

Kimberly Lynch, Senior Litigation Counsel, Kansas Department for Aging and Disability Services; Topeka

Derenda Mitchell, Director of the Attorney General's Sexually Violent Predator Unit; Topeka

Hon. William Ossmann; District Judge in the 3<sup>rd</sup> Judicial District; Topeka

Brandon Smith, Policy Director, Governor's Office; Topeka