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To: Kansas House of Representatives Judiciary Committee
From: Todd Thompson, Leavenworth County
Attorney Date: February 22, 2021

Re: Testimony in support of HB 2362 regarding child abuse

Chairman Patton and members of the House Judiciary Committee:

HB 2362 amends the current child abuse statute to provide for more appropriate sentencing ranges for those who commit acts against some of our most vulnerable victims.

At this time, we have K.S.A. 21-5601, Abuse of a Child. As it is written, this statute allows prosecutors to file charges against adults who abuse a child in one of three ways:

1. Those who torture or cruelly beat a child,
2. Those who shake a child which results in great bodily harm (to the child), or
3. Those who inflict cruel and inhumane corporal punishment upon a child.

In any of those situations, a person would face a level 5 person felony. Yet, many acts of abuse perpetrated on children are overlooked by this statute. Furthermore, many acts of abuse against children vary in the nature of their severity, a consideration also not taken into account by our current statutory language.

HB 2362 allows for higher penalties to account for longer lasting impacts of the crime a child endures. HB 2362 breaks down abuse of a child into two major categories: Abuse of a Child and Aggravated Abuse of a Child. Presently, the law does not have an "Aggravated" option.

The first major category, Abuse of a Child, is broken up into two sentencing tiers: Section (a)(1) of HB 2362 addresses the ability to prosecute an offender who knowingly causes physical contact with a child that could reasonably result in bodily harm to a child. Just like the crime of Aggravated Child Endangerment, in which an offender places a child in a position where their body or health is in danger, an individual charged with a crime under (a)(1) faces a level 9 person felony.

Section (a)(2) of Abuse of a Child addresses an offender who recklessly causes bodily harm to a child. This act is a level 7 person felony. The reason this action is treated with higher severity than (a)(1) is due to the fact in (a)(2), the child has actually suffered some form of bodily injury.

The second major category, Aggravated Abuse of a Child, is also broken up into two sentencing tiers. Sections (b)(1) – (b)(4) provide for crimes of cruelly beating, torturing, inflicting cruel and inhuman corporal punishment that results in bodily harm or with a deadly weapon, inflicting cruel and inhuman corporal punishment done in a way in which disfigurement or death could occur, or using unreasonable physical restraint on a child. Many of these crimes were already in the current statute. The prescribed sentencing range is still a severity level 5 person felony.

Section (b)(5) is key to this bill. With the addition of (b)(5), we would now be able to charge an individual who causes great bodily harm or permanent disfigurement of a child with a severity level 3 crime. This is one level higher than the aggravated battery statute, 21-5413, which allows a charge of severity level 4 for great bodily harm. This statute is important because it elevates the severity level and consequence for someone who causes great bodily harm to a child rather than to an adult. A child is a vulnerable victim. They deserve more protection.

Thank you for your time and attention to this very important matter. I ask that the committee pass this bill favorably, with the addition of “knowingly or” to section (b)(5) of the bill, and work for its passage from the legislature during the 2021 session.

Respectfully submitted,

Todd Thompson
Leavenworth County Attorney