

STATE OF KANSAS

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JOINT COMMITTEE ON
ADMINISTRATIVE RULES AND REGULATIONS

February 13, 2018

Hon. Russell Jennings, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 151-S
Topeka, Kansas 66612

Re: Proponent Testimony, HB 2581

Dear Chairperson Jennings and Members of the Committee:

Thank you for permitting me to address the committee in support of HB 2581 amending the current "False Alarm" statute, K.S.A. 21-6207. As the committee no doubt knows, recently a false report to the Wichita Police Department resulted in an emergency response culminating in the death of a citizen. Similarly, in Overland Park another false call also resulted in an unnecessary emergency response. Along with Representatives Whitmer and Markley, I was pleased to introduce this legislation, and I extend my thanks to the chairperson and committee for hearing the bill.

False requests for emergency assistance are on the increase. Generally, the intent of the perpetrator is to cause an emergency response by a special weapons and tactics team (SWAT team) where no emergency is in fact taking place. This practice is known as "Swatting." In addition, persons making these false requests for assistance often seek to electronically conceal their identity by changing the caller identification number appearing on emergency dispatcher's displays. This is known as "Spoofing."

In 2014 the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association and the Kansas Peace Officers Association were successful in amending HB 2298 to extend the Kansas false alarm statute (originally designed to punish false fire alarms) to include Swatting and Spoofing calls. Accordingly, when the tragic incident occurred in Wichita this past December, the state was able to extradite the defendant on a felony charge of giving a false alarm, a severity level seven, nonperson, felony. The defendant was later charged with involuntary manslaughter, and presently awaits trial on those charges.* Nothing HB 2581 will affect the prosecution in the pending action, since the bill is purely prospective in its application.

The purpose of this bill is to better define a crime which is becoming more frequent, with tragic consequences, likely not fully contemplated when our giving a false alarm statute was drafted. Specifically, the bill replaces the concept of a "false alarm" with "making an unlawful request for emergency service assistance" which is defined in the bill as:

Transmitting or communicating false or misleading information in any manner to request emergency service assistance including law enforcement, fire, medical or other emergency service... knowing at the time of such request that there is no reasonable ground for believing such assistance is needed.

This definition was in part borrowed from pending federal legislation which sadly has been delayed in congress. In addition, the bill provides for enhanced penalties when the source of the request or the identity of the person making the request is altered, concealed or disguised.

The bill also provides for a sliding scale of penalties ranging from a class A nonperson misdemeanor to a severity level 2 person felony, carrying a penalty of between nine and forty years, when death results from the response by emergency services.

The purpose of this legislation is to provide prosecutors with the tools necessary to properly charge this increasingly frequent crime and to enhance the penalties for those who make Swatting and/or Spoofing requests for emergency assistance.

I appreciate the committee giving this legislation it's careful attention and I look forward to the bill being reported favorably for passage.

Sincerely,



John Carmichael
Kansas State Representative
District 92

*I am "Of Counsel" to the law firm of Conlee, Schmidt & Emerson, LLP of Wichita which presently serves as co-counsel in civil litigation arising out of the death of Andrew Finch in the Wichita Swatting tragedy.