

M I N U T E S

SPECIAL COMMITTEE ON JUDICIARY - HOUSE

September 25, 1975

Members Present

Representative John Hayes, Chairman
Representative David Heinemann, Vice-Chairman
Representative William Cather
Representative Ben Foster
Representative Robert Frey
Representative Eugene Gastl
Representative Mike Glover
Representative Ronald Hein
Representative Joseph Hoagland
Representative Patrick J. Hurley
Representative Fred Lorentz
Representative David P. Mikesic
Representative Ted Templar
Representative Richard Walker
Representative Neal Whitaker

Staff Present

Walter L. Smiley, Jr., Legislative Research Department
Bob Alderson, Revisor of Statutes Office
Art Griggs, Revisor of Statutes Office

Others Present

Mr. Jerry Kuban, Public Administration Services
Mr. Jim James, Judicial Administrator
Judge Phil Woodworth, Johnson County
Mr. Charles Hamm, SRS
Ms. Joan Upshaw, Mental Patients' Support Committee
Mr. Charles Bea, Mental Patients' Support Committee
Mr. Frank Gentry, Kansas Hospital Association
Ms. Marilyn Bradt, League of Women Voters
Ms. Ann Heberger, League of Women Voters

Proposal No. 25 - Judicial
Reform

The Chairman called the meeting to order and introduced Mr. Jerry Kuban. Recalling the three-pronged approach to the study of the Kansas Judicial system, outlined at the June meeting, Mr. Kuban advised the Committee that the personnel inventory in 103 counties is now complete. The municipal court phase is on schedule but incomplete.

In response to the chairman's question as to an estimate of the total fiscal impact, Mr. Kuban said that personnel services usually represent 80 to 90 percent of the total cost. He added that data analysis will begin as soon as figures are received from Sedgwick County. The mid-November completion date is still the goal, he noted, and a rough draft should be ready by then which will include more complete figures.

Mr. Kuban stated that the response from municipal courts had been good so far but no exact count was available yet.

Mr. Jim James, Judicial Administrator, said he had no further report on this subject at the present time. He noted that several municipal courts (e.g., Kincaid, Kansas) have been recently phased out.

Proposal No. 24 - Mental Patients'
Rights

Mr. Alderson advised the Committee members that this study began in 1973 when the Special Committee on Health, chaired by then-Representative Brauchi studied the treatment of the mentally ill and recommended S.B. 765 to the 1974 Legislature. The Senate Judiciary Committee requested a 1974 interim study, and S.B. 26 was thus recommended to the 1975 Session. Since this bill passed the Senate in the 1975 Session, it was assigned to the House Committee for interim study this year.

Staff reviewed S.B. 26, and discussed the various changes.

A Committee member made a motion directing staff to remove the provisos and "his" and "her" references from the bill. This was seconded and approved by the Committee on a voice vote.

The Chairman then directed the Committee's attention to the minutes of the June 30 meeting and asked for changes or corrections. A Committee member recommended that the reference to Sumner County "Car" Association be changed to Sumner County "Bar" Association and moved that the minutes be approved with this change. The motion received a second and it passed on a voice vote.

Mr. Hamm of SRS distributed copies of a report on a survey on S.B. 26 done by the Psychiatric Department at the Osawatomie State Hospital. A copy of this report is on file with the Research Department.

Afternoon Session

Proposal No. 25 - Judicial Reform

Judge Phil Woodworth was introduced, and he told the Committee that his principle concerns regarding Proposal No. 25 were fiscal in nature. He observed that S.B. 284 did not treat equally single- and multi-county judicial districts.

Judge Woodworth reminded the Committee that all the major counties have a history of special legislation to remedy their problems. He said Johnson County has a court trustee program and a well-staffed probation program, and employees are required to have a masters' degree. Sedgwick County has a bailiff program, and Wyandotte County has a computerized docket and employs a court administrator.

Judge Woodworth expressed a concern about state funding of judicial districts-- he felt that no funding penalties should be incurred because of court reform.

Regarding judicial selection, Judge Woodworth said he did not believe every judge should be a career judge and asked what the criteria for selecting a judge should be. He questioned where career judges could be found for all judgeships. He asked whether judges would be selected right out of school or whether care would be taken to obtain experienced attorneys.

Also of concern to Judge Woodworth was the judges' retirement system -- the addition of 49 judges should not affect any present judge's retirement, he noted.

He asked the Committee if it did not seem appropriate to remove the four largest counties from the bill until funding could be worked out. He felt there should be state funding but not if this means lowering the level of service or justice available.

Proposal No. 24 - Mental Patients' Rights

A Committee member moved to amend S.B. 26 by striking the phrase "or probably will become" on page 1, line 10 and page 2, line 3 and 4. The motion received a second and carried on a voice vote.

A motion was made in reference to page 17, line 13 -- additional language should be inserted to require a hearing at the medical facility where the patient is located if the patient is unable to attend elsewhere.

After brief discussion, the Committee agreed that staff would draft appropriate language for the Committee's review. A Committee member seconded the motion, which carried on a voice vote.

A Committee member referred to page 37, lines 8 through 11. It was moved that the sole consent of the patient not be adequate for any of the procedures mentioned. Lengthy Committee discussion was held. Motion was amended to say that the procedures mentioned in lines 8 through 11 may be administered only upon written consent of the patient and a guardian or parent or person in loco parentis.

A representative of SRS told the Committee that no electro-shock therapy was done in state institutions without the consent of both the patient and guardian of patients between 16 and 18 and either the patient or guardian of patients over 18.

After further discussion, the Chairman ruled the motion failed for lack of a second.

A motion was made to change the word "shall" to "may" in line 21, page 14. This motion was seconded, but failed on a voice vote.

A Committee member moved to include the Governor and members of the legislature on page 37, subsection 8. The Chairman ruled this motion lost for lack of a second.

Another motion would delete the words "reputable person" on page 15, line 25 or wherever it appears in the bill. Upon receiving a second, this motion carried on a voice vote.

A panel member referred to page 28, line 22 and moved that the patient's nearest relative be included in the people to be notified of the patients' release. The motion was seconded, yet failed on a voice vote.

A Committee member referred to page 28, line 17 and moved to strike the words "that the" in line 17 and all of lines 18 and 19 through the word "finds" in line 20. Motion was seconded and carried on a voice vote.

Proposal No. 25 - Judicial
Reform

A tentative draft on the Probate Code was reviewed by the Committee and staff. It was agreed the staff would send the complete draft with amendments to the Committee

The Chairman announced that the next meeting will be November 13-14, and then adjourned the meeting.

Prepared by Walt Smiley

Approved by Committee on:

Date