Legislative Research Department September 25, 1975

M I N U T E S

SPECIAL COMMITTEE ON JUVENILE MATTERS

August 28 and 29, 1975

Room 517 - State House

Members Present

Representative David Heinemann, Chairman
Senator Arden Booth, Vice-Chairman
Senator Jan Meyers
Senator Robert Madden
Senator Jim Parrish
Representative Mike Glover
Representative Fred Lorentz
Representative Ardena Matlack
Representative Joe Norvell
Representative Neal Whitaker

Staff Present

Myrta Anderson, Legislative Research Department
Walter L. Smiley, Jr., Legislative Research Department
Mary Torrence, Revisor of Statutes Office

Conferees and Others Present

Mike McLain, Johnson County Juvenile Court
James H. Hays, Division of Budget
Jack Pulliam, Social and Rehabilitation Services
Diane Simpson, Kansas Council on Crime and Delinquency
Virginia Feeley, MCH
T. Wm. Goodwin, State Department of Education
Sharon Gordon, Topeka
Charles Hamm, Social and Rehabilitation Services
Forrest Swall, K.U., Social Department
Lee Watsell, Kansas Council on Children and Youth
Joe Ruskowitz, Governor's Committee on Criminal Administration

Chairman Heinemann called the meeting to order and introduced the first conferee, Mr. T. William Goodwin, Deputy Administrator, Department of Education. Chairman Heinemann stated that Mr. Goodwin would speak to the matters of truancy and other related subjects with respect to the problems of the juvenile. Mr. Goodwin stated that although the Department of Education had no direct responsibility for the problems of truancy that he had prepared a statement for the Committee which included information prepared as a result of a program audit of the Department. (See Attachment I).

The program audit had been designed to determine if there was a truancy problem, the scope or magnitude of the problem, and what was being or could be done within the Department of Education in relation to truancy.

As indicated in the statement, prior to the 1973 Session of the Legislature "truant" was defined as a child "who, being by law required to attend school, habitually absents himself or herself therefrom" (K.S.A. 1973 Supp. 38-802(f)). This definition was criticized because of vagueness and the following provisions was passed during the 1973 Session:

> "Whenever a child is required by law to attend school and such child is inexcusably absent therefrom on either (3) consecutive days or five (5) or more days in any semester, such child is a truant. A child is inexcusably absent from school if he is absent therefrom all or a significant part of a day without a valid excuse acceptable to the school employee designated by the board of education to have responsibility for the school attendance of such child." (K.S.A. 1973 Supp.72-1113 (c)).

In addition, Mr. Goodwin's statement included truancy statistics of Shawnee County, and the number of truancy cases referred to the Shawnee County Juvenile Court from Topeka USD 501, during the first quarter of 1973-74 school term. The statement included factors contributing to truancy and truancy and the Department of Education. The statement indicated that there was no statewide information relating to truancy currently available, no awareness of the frequency of truancy, no personnel engaged directly in the problem and thus no action being taken with regard to truancy. The recommendation of the audit report was that truancy statistics be collected on a statewide basis by the School Finance and Statistics Section of the Department of Education, and that a study of truancy be conducted to determine the scope and magnitude of the problem if a problem is found to exist, the Department of Education should assume responsibility for dealing with the matter.

In response to questioning, Mr. Goodwin stated that in most districts he felt truancy was not a problem. In most cases the districts were small enough that the problems could be resolved through the cooperative efforts of the parents, schools, juvenile judges and students. The principal is the primary school administrator who works with the juvenile judge. Mr. Goodwin stated that after implementation of the statutes, 20-30 monthly meetings were held with superintendents concerning this problem. In the larger school districts there may be some problems concerning truancy. Mr. Goodwin indicated that currently the schools do not collect statistics on absences but that statistics were available on pupil personnel guidance and counselling. He said the Department reviews the data collection problem annually and since they had received no statutory direction for collection of this data they had not included it. He said if the Committee directed the Department to obtain this information, they would be willing to collect it.

Discussion followed as to whether or not the problems of truancy should be handled by the court or some other agency. It was suggested the best situation is when there is counselling with the students, the parents and consultation with the court. It was suggested that usually problem students are not only truant but other factors enter in as well.

In response to a question concerning what is done about the student who attends some classes but skips others, Mr. Goodwin said it was up to the individual district to establish the policy with respect to determining what is considered an absence. The use of federal funds for alternative school programs was discussed and it was stated that some S.B. 577 money is being used at Turner House. Mr. Goodwin stated in response to questioning that no guidelines are established for districts as to what constitutes a significant part of a day and no data is collected on this matter. He said if they had specific statutory direction they would collect this data.

The problems of collecting statistics concerning dropouts was also discussed. Under current procedure a student is a dropout when he moves from one district until he is enrolled in another district, and until the school gets a request for a transcript.

Mr. McClain of the Johnson County Court stated that in many cases the court does not have access to the youth. The court only hears about the case after the child has been suspended or expelled. This creates a conflict situation when the child is required by law to be in school but has been expelled. Since only a few districts have alternative schools, problems arise.

In response to a question as to statistics available on the number of expelled or suspended students, Mr. Goodwin responded that a federal survey had been done of selected districts, in a study conducted last year.

It was stated that problems arise since juveniles that are expelled or suspended are not automatically referred to the Juvenile Court but if they are truant they are. It was stated that the grounds for suspension or expulsion are for the more serious offenses such as vandalism, etc. Sometimes the Juvenile Court reverses the decision of the school on expulsion or suspension.

Discussion followed of the problems that school districts have in education of all children and the limited facilities (such as alternative schools) available for truants. It was suggested that in some communities, alternative schools imply more restriction and not less. General problems of motivation of students was discussed. In response to a question concerning what happens when students are granted a certain number of days of unexcused absences, Mr. Goodwin suggested that during the first year of such a program results were acceptable, but the truancy problem usually returns.

Representative Heinemann indicated that the Committee would discuss the matter further and contact the Department of Education as to the information they would like to have collected, for the purposes of further study.

Chairman Heinemann then called upon the Revisor's staff to review the summary of suggested changes in the Juvenile Code. (See Attachment II). The following is a brief description of the alternatives considered by the Committee. No attempt is made to record Committee discussion in full, although Committee decisions are noted.

K.S.A. 38-801 - Discussion on the possibility of treating status offenses as civil, miscreancy and delinquency as criminal. It was suggested that there was some question as to whether or not escalation of offenses was constitutional.

K.S.A. 38-802 - Lower age of juvenile to 17. No support from the Committee.

Redefine "delinquent" as a child who commits an offense that if committed by an adult would be a felony.

Committee decided to eliminate escalation of offenses -- i.e., this section will no longer resemble an "habitual offender" statute.

K.S.A. 38-802 (3) - As this section reads, curfew violators could be sent to youth centers.

Discussion of redefining wayward in definite terms; presently too broad, vague -- Committee decided not to do this.

Remove wayward child from code; provide means for dealing with them outside of the court system -- Committee decided not to do this.

Eliminate traffic offenders from code. Committee made no decision.

Eliminate truants from code. Staff will check reasons for present definition of truancy.

K.S.A. 38-805 - Require transcript of proceedings and appeals on record. Provide for stringent enforcement.

Discussion followed as to the possibility of destroying or sealing records of juvenile offenses after a certain period of time. It was pointed out that an individual or a court may request sealing of records.

Recommendation made to consider suggestions in Model Juvenile Court Act. Also suggested some of these problems may be cleared up by Court Unificiation.

K.S.A. 38-806 - Clarify jurisdiction, commitment, custody.

806(c) - Extend to include child charged with miscreancy. It was proposed to leave jurisdiction with the Juvenile Court up to age 21.

K.S.A. 38-814 - Discussion of possible effect of Court Unification on role of probation officers.

In Iowa court probation officers are under supervision of Supreme Court. However, there is a difference in role of probation officer and that of law enforcement officer.

The Committee then recessed for lunch.

Afternoon Session

The Committee reconvened at 1:30 p.m. Committee and staff reviewed suggested changes in the Juvenile Code. The

following is a description of the suggested changes made by various conferees at previous Committee meetings. No Committee decisions were reached on these items during the afternoon.

K.S.A. 38-815 - Require probable cause to take child into custody.

Provide procedure for caseworker to take dependent and neglected child into custody.

Provide clearly defined intake procedures for when child is taken into custody.

Discussion of regional juvenile facilities that counties could share.

No decisions were made on any of these alternatives.

K.S.A. 38-815 - Provide for commitment of child to juvenile court by parent.

K.S.A. 38-816(b) - Prepare a preliminary investigation. Require a prompt investigation of reports of dependency and neglect.

K.S.A. 38-815(a) - Provide for informal proceedings for status offenders if in best interests of the child.

Clarify whether council retained by parents replaces guardian ad litem (see 38-821); if so, provide independent counsel for child in dependency and neglect actions.

(f) Clarify and distinguish the procedures, kinds of testimony reports, etc., for the adjudicatory hearing and the dispositional hearing.

K.S.A. 38-819(a) - Provide exception for pre-hearing detention pursuant to 38-815(e).

(b) Allow temporary custody for a limited time only; if custody is with SRS, provide for notice of a continuance and/or the date of the hearing on the petition within a specified time or child will be released to the parents.

Delete reference to corrections.

(c) Allow child to be held in jail if there is no alternate facility.

K.S.A. 38-820 - Discussion of deprival of parental rights.

K.S.A. 38-821 - Replace guardian ad litem with counsel that is independent of court, e.g., law guardians (New York), legal aid, public defender.

K.S.A. 38-823(b) - Allow no general continuances.

(e) Provide time limit within which child must be placed after disposition.

K.S.A. 38-824(a) - Require court to specify in journal entry its reasons for finding of dependency and neglect. If separation of dependency and neglect statutes is done this will not be necessary.

General discussion followed of detention facilities, youth center facilities and disposition of cases when present facilities filled. Discussion of need for facilities for lower age group, i.e., twelve-year-olds. Comparative costs of placement were discussed such as BIS, $10,000 a year; family foster home, $209 a month. Discussion of appeal procedure followed.

K.S.A. 38-825 (1) - Discussion of definition of terms used in Uniform Juvenile Court Act.

(2) Allow court to make placement, subject to appeal by SRS or child's parent.

(3) Allow SRS to make placement; require report on child's status every six months and provide for judicial review.

Meeting adjourned until 9:30 a.m., Friday, August 29, 1975.

August 29, 1975

Representative Heinemann called the meeting to order at 9:30 a.m. The first conferee was Mr. Brendan V. Callanan, Project Director, Interstate Compact on the Placement of Children, American Public Welfare Association, Washington, D.C.

Mr. Callanan said he brought greetings from 33 member states in the Association of Compact States. He said there had been two significant developments around the turn of the century in this field. He cited the importation and exportation statutes which had been passed restricting movement across state lines unless public authorities are notified. These statutes, however, did little to protect the interest of the child. The more positive development has been the Interstate Compact on the Placement of Children. In August, 1972, the

Child Welfare League recommended the Compact because of the administrative obstacles to interstate adoptions and because of the conflicting laws governing adoptions. Without the Compact, no one is in charge of the procedure, jurisdiction ends at the state line, and the courts cannot compel counterpart agencies in other states to do anything.

There are several reasons why the Compact is needed and one of the important ones is because of the increased mobility in population. If, for example, a family is involved in a pre-adoptive placement in a foster care situation, a required period of supervision is required. If the family is forced to transfer to another state, the placement can be supervised in the other state through cooperation with agencies under the Interstate Compact. The Compact is not a universal code but it does take one step forward. It does not solve all problems but it does facilitate placement of children across the state line.

Mr. Callanan then reviewed the major articles of the Interstate Compact on the Placement of Children. (See Attachment IV).

Article I. Sets forth the purpose and policy of the Compact.

Article II. Contains the definition section. Includes definition of child, sending agency, receiving state, and placement. Note: placement excludes education facilities and prep schools.

Article III. Contains conditions for placement. Contains provisions for what you must tell another state concerning placement. Note 3(d): the child shall not be sent, brought or caused to be sent or brought into the receiving state until the appropriate authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child. This is stated negatively since it would be virtually impossible to describe conditions which are in the best interests of the child. This kind of information is usually obtained from studies done by licensed or approved agencies.

Article IV. Penalty for Illegal Placement.

Mr. Callanan stated there has been no litigation brought under the Compact. Under this provision there is a guarantee that states belonging to the Compact conduct their placements with licensed facilities and in a manner guaranteeing due process.

Article V. Retention of Jurisdiction

This section contains the core of the Compact. It states the conditions under which the sending agency retains jurisdiction over the child. Under section (b) and (c) public and private agencies work out administrative services, provide payment, psychological testing, etc.

In response to a question Mr. Callanan stated that the Compact covered placement of children in pre-adoptive settings, in foster care which is preliminary to adoption, when no adoption is intended, family care or residential treatment situations, and institutional placement of adjudicated children.

Article VI. Covers provisions for institutional care of delinquent children.

Article VII. Compact administrator -- provides for designation of administrator by the Governor. Usually the Social Welfare Director or someone designated by him. Compact administrators have formed association and drawn up rules and regulations.

Article VIII. States the limitations of the compact.

Article IX. Contains provisions for enactment and withdrawal. No state has withdrawn from the Compact. The movement for adoption of the Compact began in New York in the 1960's. The New England states rapidly joined. The movement received impetus from the Council of State Governments, from legislative and public welfare officials. Legislature passed the legislation rapidly since members of their body had been involved in the drawing up of the legislation.

Article X. Construction and severability

In response to a question, Mr. Callanan stated that his position was that of project director under the American Public Welfare Association. His role is to attend hearings, contact agencies such as SRS, testify in U.S. Congressional Hearings, and to see that the Compact is impelented properly in states which adopt it. He has been working with the State of Missouri to implement the Compact. Missouri, Oklahoma and Nebraska have the Compact but Colorado has not.

In response to a question as to the cost of administering the Compact, Mr. Callanan stated that he could not respond definitely but that in most states existing personnel were used to administer the Compact so there was very little fiscal impact. Membership in

the Compact involved more work but other states were also obligated to cooperate so you received additional services. The annual membership fee to join the Compact Administrator's Association is $100. All states have used the same language in adopting the Compact. In Colorado the legislation passed but the Governor either vetoed it or decided not to implement it.

In response to a question, a member of the staff of SRS stated that probably implementation of the Compact would require one additional high level clerical worker.

A member of the staff of SRS then reviewed the procedures in pre-adoptive, adoptive and foster care placement and described the manner in which the Compact would facilitate placement procedures.

Representative Heinemann then introduced the next conferee, Mr. Lee Wastel, President of the Kansas Council on Children and Youth. He presented information concerning his organization's position with respect to the Compact and proposed legislation to implement the Compact for Kansas, H.B. 2561. (See Attachment VI). He briefly reviewed the legislation and its major sections. In response to a question, Mr. Callanan said he would review the legislation and send his comments to the Committee. Upon brief review, he suggested changes in the two enabling sections.

Upon response to a question, Senator Meyers stated that the legislation concerning the Children and Youth Section was being implemented. The five members (three House members and two Senate members) were meeting at 8:30, on the fourth Friday of each month with staff. At the present time the Committee was working on a statement of philosophy of better parenting and present education for better parenting. In response to a statement that there appeared to be a lack of communication among some SRS facilities, a staff member of SRS indicated that the superintendents and clinical directors now meet on a monthly basis to discuss common problems and the Division of Services to Children and Youth is included in these meetings. There is now a mechanism in operation for better communication.

Judge Haynes, Juvenile Judge, Johnson County, then presented a summary of the statutory changes which the Juvenile Judges recommended be implemented in the Juvenile Code. (See Attachment IV). Judge Haynes had agreed to summarize their discussions and Joe Parren, Assistant District Attorney of Johnson County had agreed to prepare a statement of why certain changes had been recommended. Judge Haynes stated that he had circulated the proposed changes and hoped to get feedback from other Judges. In response to a question with respect to K.S.A. 38-824 suggesting that all placement of children made under this Code shall be determined by the Court, and that such review be approved by the Court every six months, etc. Judge Haynes stated that his goal is to keep the family together.

His overriding concern is that the parent and child stay together and that although there is sometimes disagreement with other staff the Judge has the final decision.

A member of the staff of Social and Rehabilitation Services stated that appeals have to be made on behalf of a child by a child's guardian ad litem or by the parents. The parents cannot appeal severance of parental rights. In a case in Wichita, the Judge made an order retroactively assessing costs against SRS but ruled that SRS had no right to appeal on behalf of the child, concerning a placement. Judge Haynes indicated he thought the situation should remain as it is and there should not be appeal of the Judge's decision in Juvenile Court.

A member of SRS said there was only one instance where staff had disagreed with the Court's decision and they did not want to take mandamus action because this action alleges wrongdoing.

In response to a question as to whether it would be possible to leave the guilt or innocence to the court and the social work concerns to SRS, Judge Haynes cited specific cases where this would have been difficult.

Discussion followed on K.S.A. 38-811 and the problems of venue. The proposal had been made to provide venue for adjudication in the county where the offense occurred, venue for dispostion in the county that initiated the original action.

In response to a question concerning the length of time that a guardian ad litem serves, Judge Haynes stated he serves as long as the case lasts. The original hearing is held and then the determination is made. There is usually not much to do after the determination is made.

A member of the staff of SRS described the team approach that is used in the placement of children which includes the social worker, child, family, court, community and probation officer.

Discussion followed as to the difference in procedure for commitment to SRS by the courts and when specific recommendations are made for specific places. SRS notifies the Judge as to change of placement prior to the placement if possible.

It was stated by a member of SRS that the recent trend has been to emphasize that the child has a right to ask for review of disposition or challenge the position of SRS. The judge's recommendation is that a review be required every six months.

Further discussion followed on disposition of child placements, appeal process, jail standards, etc.

Diane Simpson of the Kansas Council on Crime and Delinquency presented a statement on areas of consideration for statewide standards for juvenile detention facilities (See Attachment VII).

She stated their study, implemented by the Subcommittee on Juvenile Detention, had stressed the need for legislation relating to juvenile detention. Their study indicated such legislation should include authority to establish standards, to inspect and report on deficiences, and to enforce the legislation with respect to all detention facilities or jails used for detention. KCCD feels that local government, local law enforcement agencies, the courts, appropriate state departments and agencies and citizens should be involved in the process. Minimum standards for construction, maintenance and operation were listed.

A representative of KCCD inquired about intake procedures. Mr. McClain, Probation Officer, Johnson County, discussed the difficulty in serving notice to parents. Judges and courts are not always available on Saturday.

It was pointed out by a Committee member that Kansas is rejecting $200,000 of LEAA funding because of requirements which cannot be met. A Committee member noted that the goal is to provide alternate facilities for juveniles other than jail. It was recommended that counties share regional facilities for detention of juveniles.

Committee continued review of suggested changes in the Juvenile Code. Again, the following is a summary of alternatives presented to the Committee by conferees at earlier meetings.

K.S.A. 38-815(b) - (1) Require probable cause for taking child into custody.

(2) Provide procedure for caseworker to take dependent and neglected child into custody.

(3) Provide clearly defined intake procedures for taking child into custody.

K.S.A. 38-815(b) - Make time for notices

K.S.A. 38-815 - Provide for commitment of child

(a) Require a preliminary investigation and require prompt investigation of reports of dependency and neglect

K.S.A. 38-815 - Provide for information proceedings for status offenders if in best interests of child

Clarify whether counsel retained by parents replaces guardian ad litem (see K.S.A. 38-821); if so, provide independent counsel for child in dependency and neglect actions.

K.S.A. 38-819 - Allow temproary custody for a limited time only.

K.S.A. 38-815(b) - Suggestion was made to delete reference to corrections.

K.S.A. 38-820 - Judges may allow temporary custody.

SRS pointed out that it was not in the best interests of the child in dependency and neglect cases to have a long period of detention without disposition.

Discussion followed on need to improve standards of jails.

Afternoon Session

After reviewing the suggested alternatives from prior meetings, Committee and staff discussion continued, this time with the purpose of decision-making.

K.S.A. 38-801 - Treating status offenses as civil, miscreancy and delinquency as criminal was discussed. It was suggested that the Committee return to this issue at a later date.

K.S.A. 38-802(b) - It was moved and seconded to accept the recommendation of redefining the term "delinquent" as a child who commits an offense that, if committed by an adult, would be a felony. Motion carried.

K.S.A. 38-802(d) - With respect to the problem of removing "wayward child" from code and providing means for dealing with them outside of the court system, it was decided to do nothing at the present time.

K.S.A. 38-802(3) - Discussion as to suggested change in this section since curfew violators could be sent to youth center under this section. No action.

K.S.A. 38-802 (Subsections 3 and 4) - It was moved and seconded to delete subsections 3 and 4 from the Code. Motion carried.

K.S.A. 38-802(e) - Eliminate traffic offender from Code. It was suggested that staff get more information on restricted licenses, traffic regulations, etc. Committee decided to pass over this section for now.

K.S.A. 38-802(f) - Eliminate truant from Code. After Committee discussion it was decided to contact the State Department of Education regarding:

(1) number of truants
(2) what are the policies among the school districts?
(3) what are the costs of the program?

It was suggested that the top 20 districts could be included in this study. It was agreed that Representative Heinemann would draft a letter to Mr. Goodwin of the State Department of Education requesting this information.

K.S.A. 38-802(4)(5) - Redefine as two classes: "dependent" (no one to care for, or able to care for, child), under SRS jurisdiction and "neglected" (someone able to care for child but fails to do so due to that person's fault), under the court's jurisdiction.

It was decided to hold this for further discussion. Staff was instructed to check on how other states handle this.

K.S.A. 38-805(a) - Require transcript of proceedings and appeals on record. Committee decided not to require this.

Discussion followed on records kept by juvenile courts, federal regulations governing privacy of records, etc.

Discussion also included Sections 38-815 (a), (b), (c).

Also discussion of Model Juvenile Court Act - Expungement Section.

Committee directed staff to look at federal government regulations, and Model Juvenile Court Act; Further consideration at next meeting.

It was moved and seconded to approve the minutes of the July 1 and July 22 and 23 meeting. Motion carried.

The Chairman adjounred the meeting.

Prepared by Myrta Anderson

Approved by Committee on:

September 30, 1975
(Date)

Attachment I
Goodwin 8/75

Chapter II - 8

Truancy

INTRODUCTION

During the course of the program audit of the Kansas State Department of Education, (SDE), interviews with local officials revealed their concern with a truancy problem. 1/ It was deemed desirable by the auditors to determine (1) if there was a truancy problem, (2) the scope or magnitude of the problem, and (3) what was being or could be done within the SDE in relation to truancy.

LEGAL AUTHORITY

Prior to the 1973 Session of the Kansas Legislature a "truant" was defined as a child "who, being by law required to attend school, habitually absents himself or herself therefrom" (K.S.A. 1973 Supp. 38-802(f)). In a study conducted by the Legislative Research Department for a Special Committee of the Legislative Coordinating Council, 2/ it was found that the 1972 definition of "truant" was criticized because of the vagueness of the meaning of "habitually absents." The study noted that defining "truant" too explicitly can lead to results as bad or worse than use of terminology that remains largely subjective in interpretation.

Because the definition of "truant" was considered too vague by the Committee and because school personnel wanted a more precise definition on which to rely, legislation to rectify the situation was passed in the 1973 Session of the Kansas Legislature. The new law developed a more precise standard by which to define a "truant" by the following provision:

> "Whenever a child is required by law to attend school and such child is inexcusably absent therefrom on either three (3) consecutive days or five (5) or more days in any semester, such child is a truant. A child is inexcusably absent from school if he is absent therefrom all or a significant part of a day without a valid excuse acceptable to the school employee designated by the board of education to have responsibility for the school attendance of such child." (K.S.A. 1973 Supp. 72-1113(c)).

1/ Interviews with Mr. Jack Deeter, Associate Principal of Topeka High School, Topeka, Kansas, November 8, 1973; and Mr. Jack Strukel, Principal of East Topeka Junior High School, Topeka, Kansas, November 12, 1973.

2/ Report on Kansas Legislative Interim Studies to the 1973 Legislature, Part I, Special Committees, filed with the Legislative Coordinating Council, December, 1972.

This law also (1) requires local school boards to adopt rules for determination of what shall constitute a "significant part of a day" and an "excused absence," (2) directs local school boards to designate a school official who shall report all cases of truancy to the Juvenile Court, and (3) vests with the local school boards adequate authority and responsibility for exercising judgment in individual cases. (K.S.A. 1973 Supp. 72-1113(a)(d)(e)).

TRUANCY IN SHAWNEE COUNTY, KANSAS

The scope of this audit, in determining if there is a truancy problem and if so, the magnitude of the problem, is limited to only those schools located in Shawnee County, Kansas. This limitation is imposed because there is no reporting of truancy statistics to a central authority (including the SDE) on a statewide basis, and a time constraint precludes a state-wide investigation.

In the Topeka Unified School District (USD) 501, all schools report all student absences to the Director of Pupil Accounting, Topeka USD 501. The Director stated that during the 1972-73 school year, 512 potential truancy cases were reported to his office. Of these reported cases 150 to 200 were determined to be "habitually absent" as defined by the 1972 Juvenile Code (K.S.A. 1972 Supp. 38-802(f); and were referred to the Shawnee County Juvenile Court for disposition.3/

The new truancy law, as noted above, became effective July 1, 1973; therefore, truancy statistics under the new law were only available for the first 45 days, or the first quarter, of the 1973-74 school term. During this time period there were 276 truancy cases referred to the Shawnee County Juvenile Court from Topeka USD 501. As several students were referred to the court on more than one occasion, the 276 cases affected approximately 225 students. A breakdown, by level of education, of the 276 referred cases is shown in Figure II

The above discussion and figure addresses itself to truancy information only in Topeka USD 501. It should be noted that there are four other school districts located in Shawnee County, which are:

Seaman.....	USD 345
Auburn-Washburn.....	USD 437
Silver Lake.....	USD 372
Shawnee Heights.....	USD 450

3/ Interview with Mr. Gerald Miller, Director of Pupil Accounting for Topeka USD 501, Topeka, Kansas, November 16, 1973.

Figure II - 8 - 1

Number of Truancy Cases Referred to the
Shawnee County Juvenile Court
from Topeka USD 501
During the First Quarter of 1973-74 School Term

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Level of Education	Total Enrollment	Enrollment of Students Subject to Compulsory Attendance*	Total Cases Referred to Juvenile Court	Percent of Cases Referred (Column 4 to Column 3)	Estimated Individuals Referred to Juvenile Court	Percent of Individuals Referred (Column 6 to Column 3)
High School	4,968	1,600	216	13.50%	165	10.31%
Junior High	5,321	5,321	54	1.01%	54	1.01%
Grade School	11,085	11,085	6	.05%	6	.08%
Total	21,374	18,006	276	1.54%	225	1.25%

* The truancy law applies only to those pupils who are required by law to attend school, which is defined by K.S.A. 72-1111 to be every child between 7 and up to the age of 16. Based on this definition, the Director of Pupil Accounting for Topeka USD 501 estimated that only about 1,600 of the 4,968 students enrolled in USD 501 high schools come under the compulsory attendance law.

There are about 9,000 students enrolled in these four school districts who are subject to the compulsory attendance law. During the first quarter of the 1973-74 school term there was a total of only 9 truancy referrals from the four districts to the Shawnee County Juvenile Court or approximately 1/10 of 1 percent of the 7 to under 16 year old students enrolled. At the high school level there were only 6 truancy referrals out of about 800 students required by law to attend school, i.e. a truancy rate of 3/4 of 1 percent at the high school level. 4/

A great variance is evidenced between the truancy rate at the high school level between (1) Topeka USD 501, which had 10.31 percent rate, and (2) the four other USD's in Shawnee County, which had .75 percent rate. Reasons for this variance are several and some are noted below.

First, there is a lack of uniformity among the districts in their definition of a "significant part of a day" as required by K.S.A. 1973 Supp. 72-1113(d). For example, Topeka USD 501 defines a "significant part of a day" as one class period; while Auburn-Washburn USD 437 defines the same term as an entire day.

There is also a lack of uniformity in the rules adopted by each school district for the determination of what constitutes a valid excuse for absence as required by K.S.A. 1973 Supp. 72-1113(d). The larger, urban school district is relatively more strict in its definition of what constitutes an excused absence than are its smaller, rural counterparts.

Third, there is lack of uniformity in when the various school districts determine whether or not an absence is excused or unexcused. This determination is required by K.S.A. 1973 Supp. 72-1113(e). Topeka U.S.D. 501 will, in cases of extended absence, make a determination of whether the absence will be considered excused or unexcused before the student returns to school. By contrast, Shawnee Heights USD 450 will not make such a determination until the student has returned to school.

Finally, the variance noted in this audit, between the truancy rate of the larger, urban Topeka USD 501 and its smaller, surrounding school districts is supported by the survey finding of the aforementioned Committee. In its study the Committee found:

> "The larger enrollment districts have been much more extensively involved with compulsory attendance enforcement matters than the smaller districts. For example, 10 of the 15 largest districts responding to the survey acknowledged that their districts had turancy problems. Everyone of the five largest districts acknowledged a truancy problem. Conversely, only 36 of some 236 smaller districts responding to the survey indicated existence of truancy problems." 5/

4/ Interview with Mr. David Myers, Truancy Intake Officer of the Shawnee County Juvenile Court, Topeka, Kansas, December 7, 1973.

5/ Report on Kansas Legislative Interim Studies to the 1973 Legislature, Part 1, Special Committees, pp 91-92.

Auditor's Comment: It is not the intent of this audit to imply that the above truancy figures for Shawnee County are representative of truancy figures for the entire state of Kansas.

FACTORS CONTRIBUTING TO TRUANCY

During this audit, interviews[6/] were conducted with various officials associated with the area of truancy in an attempt to identify the factors contributing to truancy. Some of these factors which were identified by the officials are set out below.

Truancy in and of itself is not caused by a single factor. Rather truancy is merely a warning signal that the student's desire or ability to learn is inhibited by some element brought about in his home and/or school environment. For the purpose of classification, truancy is deemed to result from one of these "causes," i.e. lack of student motivation, the student's poor image of himself, or his inability to cope with the school environment. In turn, these "causes" result or flow from one or more underlying "problem" areas. Following is a discussion of these "causes" and "problems."

Lack of Student Motivation

The concept of this phrase, as used in this audit is that the student places other activities on a higher priority scale than going to school. Stated differently, the student would rather be somewhere other than in school. Lack of student motivation stems from three "problem" areas. The first "problem" area is classified as lack of teacher motivation and includes (1) the teacher's inability to communicate with the students. (2) the use of ineffective teaching methods, and (3) the teacher's desire to be teaching either a different subject, a different level, or not teaching at all.

Another "problem" area is that of the inadequate curriculum. Narrowly structured curricula will not meet the needs and desires of all students and thus foster a lack of motivation in those students whose needs and desires are not being met.

A final "problem" area, the home environment, it must be noted, is primarily beyond the sphere of the school's influence.

The Student's Poor Image of Himself

This "cause" relates to the student's inability to attain a level of achievement in his school work which is acceptable to himself. This "cause"

6/ See footnotes 3 and 4.

again flows, in part, from the home environment facing the student. Another major "problem" relating to this "cause" is the inadequate curriculum. An example would be where a student is placed in a class setting in which he is unable to perform at the expected level. As a result, the student considers himself inferior to the other students and believes that the other students view him in the same light.

The Student's Inability to Cope with the School Environment

This "cause" embodies those students who, while having the desire to attend schools, are frustrated in their desire by physical or mental disabilities, whether real or imagined. Manifestations of this "cause" include situations such as (1) hearing or sight impairment undetected by the parents, teachers, or himself; (2) fear of physical abuse from other students; and (3) lack of stamina in that the student cannot maintain an effective level of concentration throughout the full school day. These "problems" may stem from ineffective and uncoordinated pupil personnel services. (Pupil personnel services are those services outside of instructional areas provided by the school).

Auditor's Comment: It must be noted that the above discussion is not intended as a complete or an exhaustive summary of the truancy related "causes" and "problems"; but, rather, is merely a recapitulation of opinions expressed in the audit interviews.

TRUANCY AND THE SDE

A detailed inquiry was conducted with SDE officials as to their knowledge of a possible statewide truancy problem and, as to what action, if any, was being taken within the SDE to alleviate truancy. It was revealed that (1) no statewide information relating to truancy is currently being received, (2) there is not SDE awareness of the frequency of truancy, (3) there are no SDE personnel directly addressing truancy, and (4) thus there is not action being taken by the SDE dealing with truancy.

While it is apparent from the above discussion that the SDE is presently doing nothing in relation to truancy, it is not to be necessarily implied that any SDE action need be taken. However, before this determination can be made, the scope and magnitude of truancy must be ascertained. In order to make this determination, data from all schools concerning truancy must first be collected. After an evaluation of this information, a decision can then be made whether or not to implement an SDE program specifically directed towards reducing or alleviating the "causes" and "problems" relating to truancy.

If it is not found necessary to implement a specific program relating to truancy, the SDE should still make its assistance available to those school districts recognizing a truancy problem within their schools. Working with local districts, on an individual basis, to solve their truancy problem would not unduly burden the SDE. Presently, the SDE has the expertise to deal with some problems relating to truancy; however, the expertise is not currently coordinated in this direction. For example, the SDE is acting to expand and improve curriculum offerings and counseling services available in Kansas schools. As expressed in the aforementioned interviews,[7/] more expansion and improvement in these areas should have a favorable impact on reducing the incidence of truancy.

CONCLUSIONS

1. This audit makes no determination as to whether or not a truancy problem exists on a statewide basis, because no central reporting of statewide truancy statistics presently exists.

2. Truancy statistics collected for the purposes of this audit indicate a wide variation in truancy rates in Shawnee County, Kansas. As an illustration, the high school truancy rate in Topeka USD 501 is 10.31 percent as compared to .00 percent in Shawnee Heights USD 450. (These figures are for the first quarter of the 1973-74 school year.)

3. Presently, there is no SDE action directed specifically towards reducing or alleviating truancy; however, it should not be implied that SDE action in this area is necessary until a further study is made to determine if a statewide truancy problem exists.

RECOMMENDATIONS

1. That truancy statistics on a statewide basis be collected by the School Finance and Statistics Section of the SDE.

2. That a study of truancy statistics be conducted to determine the scope and magnitude of the truancy problem and, if such a problem is found to exist; that the SDE assume a responsibility for dealing with the matter.

7/ See footnotes 1 and 3.

Attachment II
8-28-75

38-801. Construction of 38-801 to 38-838; proceedings not criminal. This act shall be liberally construed, to the end that each child coming within its provisions shall receive such care, custody, guidance, control and discipline, preferably in his own home, as will best serve the child's welfare and the best interests of the state. In no case shall any order, judgment or decree of the juvenile court, in any proceedings under the provisions of this act, be deemed or held to import a criminal act on the part of any child; but all proceedings, orders, judgments and decrees shall be deemed to have been taken and done in the exercise of the parental power of the state. This section shall not apply to proceedings under section 30 [38-830] of this act. [L. 1957, ch. 256, § 1; July 1.]

Treat status offenses as civil, miscreancy and delinquency as criminal

K. S. A. 38-802 is hereby amended to read as follows: 38-802. As used in this act, unless the context otherwise indicates:

(*a*) "Children's aid society" means any organization having among its objectives the care, control or protection of dependent and neglected or delinquent children.

(*b*) "Delinquent child" means a child less than eighteen (18) years of age:

(1) Who does an act, other than one defined in subsection (*e*) of this section, which if done by a person eighteen (18) years of age or over, would make him liable to be arrested and prosecuted for the commission of a felony as defined by K. S. A. ~~1972 Supp.~~ 21-3105; or

(2) who has been adjudged a miscreant child under this act three (3) or more times.

(*c*) "Miscreant child" means a child less than eighteen (18) years of age:

(1) Who does an act, other than one defined in subsection (*e*) of this section, which if done by a person eighteen (18) years of age or over, would make him liable to be arrested and prosecuted for the commission of a misdemeanor as defined by K. S. A. ~~1972 Supp.~~ 21-3105;

(2) who does an act, other than one defined in subsection (*e*) of this section, which, if done by a person eighteen (18) years of age or over, would make him liable to be arrested and prosecuted for the violation of any ordinance, police regulation, order, rule or regulation adopted by any authority, city, county, township, or other political subdivision of this state;

(3) who does an act, other than one defined in subsection (*e*) of this section, the commission of which by persons under the age of eighteen (18) years, is specifically prohibited and made unlawful by state law, city ordinance, police regulation, order, rule or regulation adopted by any authority, city, county, township, or other political subdivision of this state;

(4) who has been adjudged a wayward child under this act three (3) or more times; or

(5) who escapes from or runs away from any juvenile detention home or farm or other juvenile center after placement therein by an order of a juvenile court.

(*d*) "Wayward child" means a child less than eighteen (18) years of age:

(1) Whose behavior is injurious to his welfare;

(2) who has deserted his home without good or sufficient cause; or

(3) who is habitually disobedient to the reasonable and lawful commands of his parent, guardian, or other lawful custodian.

Lower age of juvenile to 17

Redefine "delinquent" as a child who commits an offense that, if committed by an adult, would be a felony

Eliminate escalation of offenses

Redefine "miscreant" as a child who commits an offense that, if committed by an adult, would be a misdemeanor

Eliminate escalation of offenses

Redefine in definite terms; too broad, vague

Remove wayward child from code; provide means for dealing with them outside of the court system

(*e*) "Traffic offender" means a child under sixteen (16) years of age who does an act which, if done by a person sixteen (16) years of age or over, would make him liable to be arrested and prosecuted for the violation of:

(1) Any statute relating to the regulation of traffic on the roads, highways or streets, or the operation of self-propelled or nonself-propelled vehicles of any kind except violations under K. S. A. ~~1972 Supp. 8-530 and~~ 21-3405 *and K. S. A. 1974 Supp. 8-1567*; or

(2) any ordinance, police regulation, order, rule or regulation adopted by any authority, city, county, township or other political subdivision of this state which relates to the regulation of traffic on the roads, highways or streets, or the operation of self-propelled or nonself-propelled vehicles of any kind.

Eliminate traffic offenders from code

(*f*) "Truant" means a child who, being by law required to attend school, absents himself or herself therefrom to the extent of being a truant under the provisions of K. S. A. *1974 Supp.* 72-1113, and any amendments thereto.

Eliminate truants from code

(*g*) "Dependent and neglected child" means a child less than eighteen (18) years of age:

(1) Whose parent neglects or refuses, when able so to do, to provide proper or necessary support and education required by law, or other care necessary for his well being;

(2) who is abandoned or mistreated by his parent, stepparent, foster parent, guardian, or other lawful custodian;

(3) whose occupation, environment or association is injurious to his welfare;

(4) who is otherwise without proper care, custody or support of; or

(5) who, by reason of the neglect of his parent to provide him with proper or necessary support, education or care, is in the custody of a children's aid society or is being supported by the county or state; except that a child shall not be classed as a "dependent and neglected child" under this subsection solely because of the fact that he or his parent, or both, receive assistance under the social welfare acts or otherwise receive support from public funds.

Redefine as two classes: "dependent" (no one to care for, or able to care for, child), under SRS jurisdiction, and "neglected" (someone able to care for child but fails to do so due to that person's fault), under the court's jurisdiction

(*h*) "Parent" or "parents," when used in relation to a child or children, include guardian, conservator and every person who is by law liable to maintain, care for or support a child.

38-803. Establishment; seal; court of record; dockets and supplies; office hours. There is hereby established and continued in each county of the state a juvenile court. Each juvenile court shall have a seal with which all process issuing therefrom shall be authenticated, and shall be a court of record. The seal, which shall be provided by the board of county commissioners, shall contain the words: "Juvenile court of _____ county, Kansas" (naming the county for which seal is provided). Each juvenile court shall be furnished by said board, at the expense of the county, with such dockets, journals, records and blanks upon the requisition of the court as may be necessary in the conduct of its business. Each juvenile court shall be open at all reasonable hours for the transaction of business and may make such disposition of cases as in this act provided. [L. 1957, ch. 256, § 3; July 1.]

38-804. Probate judge as judge of juve- ›ourt in counties of less than 100,000; pro juvenile judge; oath; compensation; reporters; fees. The probate judge of each county having a population of less than one hundred thousand (100,000) shall be the judge of the juvenile court of his county. The judge of the juvenile court may at any time appoint some qualified person to act as judge pro tem in the absence or incapacity of the judge of the juvenile court, who may or may not be the judge pro tem of the probate court. In any case where the judge of the juvenile court, by reason of the press of his duties in the probate court, shall be unable to hear a juvenile court case which required prompt hearing, he may appoint a judge pro tem to hear such case. The judge pro tem of the juvenile court shall take and subscribe to the same oath as required of a probate judge pro tem. The judge pro tem appointed as herein provided, unless other provision is made by statute for his compensation, shall receive the sum of not to exceed twenty-five dollars ($25) per day for each day of service as such judge pro tem to be paid from the general fund of the county: *Provided*, Unless otherwise provided by law, the board of county commissioners shall fix a reasonable sum for such service within said limit. The judge of the juvenile court may appoint a competent stenographer as reporter in any matter pending or to be heard in said court.

The reporter appointed as herein provided shall receive the sum of twelve dollars ($12) per day for each day of service as such reporter, to be paid from the general fund of the county. In appeals from misdemeanor convictions under K. S. A. 38-833, and appeals under K. S. A. 38-834 and 38-835, such reporter shall be entitled to receive the same fees for transcripts of his official notes as provided in K. S. A. 1973 Supp. 20-904 or any amendments thereto: *Provided*, The provisions of said section as to taxing costs shall not be applicable to such reporter's fees under ›ct. [K. S. A. 38-804; L. 1974, ch. 176, .arch 8.]

K. S. A. 1974 Supp. 38-804a is hereby amended to read as follows: 38-804a. In every county having a population of not less than three hundred thousand (300,000) the judge of the juvenile court shall be elected for a term of four (4) years, commencing with the general election in 1970, and shall take his office on the second Monday in January in the year following his election and shall serve until his successor is elected and qualified. The juvenile judge shall have been a regularly admitted practicing attorney for at least five (5) years immediately prior to his nomination and election. Service as a full-time referee or judge pro tem of a probate court or as a full-time judge pro tem of a juvenile court shall be considered as practice of law for the purpose of this section. The juvenile judge shall receive an annual salary for his services as judge of the juvenile court in an amount equal to the total annual compensation received from both the state and the county by a judge of the district court of the county in which the juvenile court is located. The juvenile judge may appoint a full-time juvenile judge pro tem who shall preside in his place when the juvenile judge is unavoidably absent, unavailable or otherwise unable or disqualified to sit in any case. Such full-time judge pro tem shall be an attorney regularly admitted to practice law within the state of Kansas and shall receive a salary in an amount to be fixed by resolution of the board of county commissioners of not less than seventeen thousand eight hundred eight dollars ($17,808) per annum: *Provided*, That prior to the creation of the office of such full-time juvenile judge pro tem the juvenile judge shall make his intention to create such office known to the county commissioners who shall cause to be published in the official county newspaper a notice of the juvenile judge's intention to create the office of full-time juvenile judge pro tem which notice shall describe the nature of the duties of the full-time juvenile judge pro tem and the amount of annual compensation to be paid to such appointee in accordance with the provisions of this section: *Provided, however.* If, within sixty (60) days after the publication as aforesaid of such notice, there shall be filed with the county clerk a written protest against the creation of such proposed office signed by not less than five percent

5) of the qualified electors of such county, the board of county commissioners of such county shall thereupon submit the creation of such proposed office of a full-time juvenile judge pro tem to the qualified electors of such county at a special election called for such purpose or at the next general election. In the event that a majority of such voters voting on such proposition at such election shall vote in favor thereof such office shall be created and such annual compensation as provided by statute shall be granted to such full-time juvenile judge pro tem. The juvenile judge and the full-time judge pro tem shall not practice law in any county in which they reside nor shall either of them retain any fees, costs, mileage, commissions or compensation for any services which he is authorized to perform because of his office, but shall turn over such fees to the county treasurer. The juvenile judge shall appoint a chief deputy clerk and such additional deputy clerks as may be necessary, and may also appoint a competent stenographer as reporter in any matter pending or to be heard in said court.

The juvenile judge may appoint such probation officers and investigators as are necessary to carry out the functions of the juvenile court. The juvenile judge shall designate one or more of the probation officers or investigators who shall be at the disposal of the judge of the district court to make such investigations as they or any one of them may desire. The board of county commissioners shall authorize an aggregate expenditure for the operation of automobiles by such probation officers and investigators. The board of county commissioners shall authorize the reimbursement of probation officers at not to exceed the rate prescribed under the provisions of ~~section 2 of 1974 Senate bill No. 733~~ *K. S. A. 1974 Supp. 75-3203a* and amendments thereto for each mile actually and necessarily traveled by such probation officers in the performance of their duties.

The board of county commissioners shall authorize an aggregate expenditure per annum of such sums necessary for all deputy clerks, stenographers, reporters, probation officers and investigators in the juvenile court and for such additional personnel as may be appointed by the juvenile judge to properly perform and conduct the business of his office, whose salaries shall be set by the judge, and shall further authorize an expenditure of such sums necessary for counsel and guardian *ad litem* fees in juvenile hearings. The board of county commissioners shall further authorize an expenditure per annum for allowed expenses incurred in the operation of juvenile court community based facilities and such expenses shall be paid by the juvenile judge.

In addition to other provisions herein, the judge may appoint a judge pro tem, who shall be an attorney-at-law, to serve in the juvenile court when the juvenile judge and the full-time juvenile judge pro tem are unavailable or otherwise unable or disqualified
serve, who shall receive not to exceed the sum of seventy-five
lars ($75) per day for each day of service as such judge pro tem
the proportionate portion thereof corresponding to the amount of time served if such service is for less than one day.

In all such counties in this state, the board of county commissioners of such county shall provide suitable courtrooms, offices and other facilities, as shall be necessary, for the juvenile judge to carry out the duties of his office. Said county commissioners shall furnish said judge as many copies of the session laws, general statutes, supplements, citations and Kansas reports, as the same may be published from time to time, and shall also furnish such books of records, blanks, stationery, supplies, furniture and equipment as shall be necessary for the proper conduct of the business of juvenile judge. The board of county commissioners shall set an annual budget of such costs and expenses. After said budget is established, the expenditures under said budget shall be under the control of the judge, and not subject to the control and supervision of the said county commissioners.

The operation of juvenile detention homes shall be under the supervision and control of the juvenile judge. The judge shall appoint and set salaries of such staff members of the detention homes and detention facilities as he shall deem necessary, for the proper operation of the detention homes and detention facilities. The board of county commissioners shall set an annual budget of the costs and expenses for the purchase, improvement, operation and maintenance of said detention homes and detention facilities and payment of salaries of staff members, and the county commissioners shall levy a tax as in the case of providing for other expenses of the county~~, which tax shall not exceed one and one half (1½) mill~~ on the assessed taxable valuation of said county. After the budget is established, said budget shall be under the control of the judge and not subject to the control and supervision of the said county commissioners. The provisions of K. S. A. 19-229 shall not apply to the juvenile court or the operation of the detention homes and detention facilities in counties over three hundred thousand (300,000) population. All purchases shall be made through the county purchasing agent. The judge shall direct the county purchasing agent to make such purchases and said county purchasing agent shall immediately proceed to procure bids and to purchase in conjunction with the judge the requested items.

38-804b. Same; transfer of moneys, records and facilities; employees. All moneys, records and facilities belonging to or utilized in the operation of the juvenile court of any county having a population of more than three hundred thousand (300,000), and all clerks, stenographers, reporters, probation officers and investigators employed in the operation of such court shall be transferred to the jurisdiction of the judge provided for under the provisions of section 2 [38-804a] of this act. [L. 1970, ch. 164, § 3; March 26.]

K. S. A. 1974 Supp. 38-804c is hereby amended to read as follows: 38-804c. In every county having a population of not less than one hundred eighty-five thousand (185,000) and not more than three hundred thousand (300,000) the judge of the juvenile court shall be elected for a term of four (4) years, commencing with the general election in 1972, and shall take his office on the second Monday in January in the year following his election and shall serve until his successor is elected and qualified. The juvenile judge shall have been a regularly admitted practicing attorney for at least five (5) years immediately prior to his nomination and election. Service as a full-time referee or judge pro tem of a probate court or as a full-time judge pro tem of a juvenile court shall be considered as practice of law for the purpose of this section. In such counties the juvenile judge shall receive a salary of twenty-three thousand three hundred seventy-four dollars ($23,374) per annum for his services as judge of the juvenile court. The judge shall not practice law in any county in which he resides. The juvenile judge shall not retain any fees, costs, mileage, commissions or compensation for any services which he is authorized to perform because of his office, but shall turn over such fees to the county treasurer, except that such judge may retain fees received for the performance of marriage ceremonies and judicial council fees.

The juvenile judge shall appoint a chief deputy clerk and such additional deputy clerks as may be necessary, and may also appoint a competent stenographer as reporter in any matter pending or to be heard in said court.

The juvenile judge may appoint such probation officers and investigators as are necessary to carry out the functions of the juvenile court. The juvenile judge shall designate one or more of the probation officers or investigators who shall be at the disposal of the judges of the district court to make such investigations as they or any one of them may desire. The board of county commissioners shall authorize an aggregate expenditure for the operation of automobiles by such probation officers and investigators.

The board of county commissioners shall authorize an aggregate expenditure per annum for all deputy clerks, stenographers, reporters, probation officers and investigators in the juvenile court, whose salaries shall be set by the judge, and shall further authorize an expenditure per annum for counsel and guardian *ad litem* fees in juvenile hearings.

In addition to other provisions herein, the judge may appoint a judge pro tem, who shall be an attorney-at-law, to serve in the juvenile court when the juvenile judge is unavoidably absent, unable or otherwise unable or disqualified to serve, who shall receive not to exceed the sum of fifty dollars ($50) per day for each day of service as such judge pro tem.

In all such counties in this state, the board of county commissioners of such county shall provide suitable courtrooms, offices and other facilities, as shall be necessary, for the juvenile judge to carry out the duties of his office. Said county commissioners shall furnish said judge as many copies of the session laws, general statutes, supplements, citations and Kansas reports, as the same may be published from time to time, and shall also furnish such books of records, blanks, stationery, supplies, furniture and equipment as shall be necessary for the proper conduct of the business of juvenile judge. The board of county commissioners shall set an annual budget of such costs and expenses.

The operation of juvenile detention homes shall be under the supervision and control of the juvenile judge. The judge shall appoint and set salaries of such staff members of the detention homes and detention facilities as he shall deem necessary, for the proper operation of the detention homes and detention facilities. The board of county commissioners shall set an annual budget of the costs and expenses for the purchase, improvement, operation and maintenance of said detention homes and detention facilities and payment of salaries of staff members, and the county commissioners shall levy a tax as in the case of providing for other expenses of the county~~, which tax shall not exceed one-half (½) mill~~ on the assessed taxable valuation of said county. ~~The tax levy herein authorized shall be in addition to all other tax levies authorized or limited by law.~~

38-804d. Same; transfer of moneys, records and facilities; employees. All moneys, records and facilities belonging to or utilized in the operation of the juvenile court of any county having a population of more than one hundred eighty-five thousand (185,000), and less than three hundred thousand (300,000), and all clerks, stenographers, reporters, probation officers and investigators employed in the operation of such court shall be transferred to the jurisdiction of the judge provided for under the provisions of section 2 [38-804c] of this act. [L. 1972, ch. 165, § 3; March 23.]

38-804e. Same; notice of election of judges; protest; election; failure of approval, effect. The county election officer of all counties having a population of more than one hundred eighty-five thousand (185,000) and not more than three hundred thousand (300,000) shall publish a notice of the proposal to elect a judge of the juvenile court in such county. Such notice shall be published once each week for three consecutive weeks in the official newspaper of such county and if within thirty (30) days next following the last publication of such notice a petition, signed by electors of such county equal in number to not less than five percent (5%) of the electors of such county who voted for the office of secretary of state in the last preceding general election, shall be filed in the office of the county election officer requesting an election upon such proposal, no juvenile judge shall be elected in such county without the question of electing such judge having been submitted to and having been approved by a majority of the electors of such county voting at an election called and held thereon. Such election shall be noticed, called and held in the manner provided for the giving of notice, calling and holding of elections upon the question of the issuance of bonds under the general bond law. If a valid petition is filed and a proposal to elect such juvenile judge is not approved by a majority of the electors of the county voting at such election, no juvenile judge shall be elected in such county and the probate judge of the county shall be the judge of the juvenile court in such county. [L. 1972, ch. 165, § 4; March 23.]

38-805. Records kept by juvenile court; privileged information. (*a*) The record in the juvenile court shall consist of the petition, process and the service thereof, orders and writs, and such documents shall be recorded in books kept by the juvenile court for such purpose.

(*b*) The official records of the juvenile court shall be open to inspection only by consent of the juvenile court judge, or upon order of a judge of the district court, or upon order of the supreme court.

(*c*) All information obtained and records prepared by any employee of the juvenile court shall be privileged, and shall not be disclosed, directly or indirectly, to anyone other than the juvenile court judge or others entitled under this act to receive such information, unless and until otherwise ordered by such judge. [L. 1957, ch. 256, § 5; July 1.]

Require transcript of proceedings and appeals on record

Provide for stringent enforcement

K. S. A. 38-806 is hereby amended to read as follows:

806. (*a*) Except as provided in K. S. A. ~~21-2001 to 21-2004, both sections, inclusive, and K. S. A.~~ *21-3611 and* 38-808 (*b*) and unless jurisdiction is by statute specifically conferred upon some other court or courts, the juvenile court of each county of this state shall have:

(1) Exclusive original jurisdiction in proceedings concerning the person of a child living or found within the county who appears to be delinquent, miscreant, wayward, a traffic offender, a truant or dependent and neglected, as defined in K. S. A. 38-802.

(2) Such jurisdiction over other persons as provided by law.

(*b*) When jurisdiction has been acquired by the juvenile court over the person of a dependent and neglected child, it may continue until the child has attained the age of twenty-one (21) years, and when the juvenile court has not by order retained jurisdiction, it may be reasserted at any time prior to age twenty-one (21) if such child has not been adopted or placed for the period of his minority with a children's aid society or with a public or private institution used as a home or place of detention or correction.

(*c*) When any child charged with having committed an act of delinquency before reaching the age of eighteen (18) years, is brought before the judge of the juvenile court after reaching said age, the jurisdiction of said court over such person for any such act shall not expire on account of the child arriving at the age of eighteen (18) years, but the said person shall continue under the jurisdiction of said court for such act until he is finally discharged by the juvenile court or has reached the age of twenty-one (21) years.

Sec. 2. K. S. A. 38-806 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Clarify what is meant by "jurisdiction" as opposed to "commitment" and "custody", in relationship to final placement of child (see also 38-807, 38-825, 38-826)

Extend to include child charged with miscreancy
End jurisdiction after 18 years old
Clarify legal status of child after 18 years old

38-807. Duties of courts in certain cases involving custody of child. Where any person applies to any court having jurisdiction for a writ of habeas corpus or other writ or order for the production of a child, and the court finds that such person has abandoned or deserted the child, or that he is not a fit and proper person to have the custody of the child, the court may refuse to issue the writ or make the order. If the court shall determine that no person claiming the custody of a child is a fit and proper person to have such custody, it may order said child delivered to the custody of the juvenile court and order the county attorney to cause proper proceedings to be instituted to determine whether said child is dependent and neglected. [L. 1957, ch. 258, § 7; July 1.]

Define "parental unfitness" and require the court to specify in the journal entry its reasons for a finding of unfitness
Define what is meant by "custody of the juvenile court"

A. 38-808 is hereby amended to read as follows:

3[illegible]. (a) This subsection (a) shall apply to all cases under the jurisdiction of the juvenile court involving offenses committed by a child less than eighteen (18) years of age, which, if done by a person eighteen (18) years of age or over, would make him liable to be arrested and prosecuted for the commission of a felony as defined by K. S. A. ~~1971 Supp.~~ 21-3105. In all such cases the judge of the juvenile court may refer the child apprehended to the district court for trial by jury and, upon a verdict that such child is a delinquent child as defined in K. S. A. ~~1971 Supp.~~ 38-802, the district court shall remand the case to the juvenile court for judgment.

(b) Notwithstanding any provisions of the Kansas juvenile code or any other law of this state to the contrary, ~~at any time during a hearing upon~~ *whenever* a petition *has been filed* alleging that a child is, by reason of violation of any criminal statute, a delinquent or miscreant child described in K. S. A. ~~1971 Supp.~~ 38-802, ~~when substantial evidence has been adduced to support a finding~~ *and* that the child was sixteen (16) years of age or older at the time of the alleged commission of such offense, ~~and that the child would not be amenable to the care, treatment and training program available through the facilities of the juvenile court~~ *and the petitioner, or the county or district attorney upon motion made prior to the hearing on the petition, alleges that such chid is not a fit and proper subject to be dealt with under the Kansas juvenile code, the court shall immediately set a time and place for a hearing to determine if such child is a fit and proper person to be dealt with under the Kansas juvenile code. Such hearing shall be held prior to the hearing on the petition and shall conform to the requirements for notice and appointment of a guardian ad litem as provided by K. S. A. 1974. Supp. 38-815b for detention hearings. Upon the completion of the hearing and a finding that the child was sixteen (16) years of age or older at the time of the alleged commission of the offense,* the court may make a finding, noted in the minutes of the court, that the child is not a fit and proper subject to be dealt with under the Kansas juvenile code, and *waive jurisdiction over the child. In determining whether or not such finding should be made, the juvenile court shall consider each of the following factors: (1) Whether the seriousness of the alleged offense is so great that the protection of the community requires waiver; (2) whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner; (3) the maturity of the child as determined by consideration of his home, environment, emotional attitude and pattern of living; (4) whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted; (5) the record and previous history of the child; (6) whether the child would be amenable to the care, treatme[illegible]nd training program available through the facilities of the ju[illegible] court; and (7) whether the interests of the child or of the co[illegible]nity would be better served by the juvenile court waiving its jurisdiction over the child. The insufficiency of evidence pertaining*

Eliminate waiver of jurisdiction and allow the prosecuting attorney the discretion to file in either the juvenile court or the district court

to any one or more of the factors listed in this subsection shall not in and of itself be determinative of the issue of waiver of juvenile court jurisdiction. Written reports and other materials relating to the child's mental, physical, educational and social history may be considered by the court, but the court, if so requested by the child, his parent or guardian, or other interested party, shall require the person, persons or agency preparing the report and other material to appear and be subject to both direct and cross-examination.

(c) If jurisdiction is waived under the provisions of subsection (b) of this section, the court shall direct the prosecuting attorney to prosecute the person under the applicable criminal statute or ordinance and thereafter dismiss the petition or, if a prosecution has been commenced in another court but has been suspended while juvenile court proceedings are held, shall dismiss the petition and issue its order directing that the other court proceedings resume. Any finding by a juvenile court hereunder, that a child ~~would not be amenable to the care, treatment and training program available through the facilities of the juvenile court,~~ *is not a fit and proper subject to be dealt with under the Kansas juvenile code* may, if the order so provides, thereafter attach to any future act by such child which is cognizable under the juvenile code as an act of delinquency or miscreancy, and jurisdiction over such child shall be vested in any court of appropriate jurisdiction of the county of such child's residence or of the county wherein he may be found.

Sec. 2. K. S. A. 38-808 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

38-809. General powers of juvenile courts. The juvenile court, in addition to its general jurisdiction, shall have the power to:

(*a*) Compel the attendance of witnesses, to examine them on oath, and to preserve order during proceedings before such court.

(*b*) Issue subpoenas, citations, warrants, executions, and attachments, to make orders and render judgments and decrees, and to enforce them by any process or procedure appropriate for that purpose.

(*c*) Issue commissions to take depositions of witnesses, either within or without the state, in any matter pending before it: *Provided*, That in any contested matter notice of the taking of depositions shall be given as provided by law.

(*d*) Continue or adjourn any hearing from time to time, but when objection is made the continuance or adjournment shall be only for cause.

Allow no general continuances

(*e*) Correct and amend its records to make them speak the truth.

(*f*) Vacate or modify any of its orders, judgments or decrees when such is deemed to be in the best interest of the child.

(*g*) Fine or imprison for contempts of court in the same manner and to the same extent as district courts of this state, except that, in cases of indirect contempts, the judge of such court shall assign an attorney to any person so charged who may be unable to employ counsel and may award a reasonable fee to said counsel to be paid from the general fund of the county.

(*h*) Exercise such other powers as are conferred by law. [L. 1957, ch. 258, § 9; July 1.]

38-810. Service of process. (*a*) As directed by the judge of the juvenile court, summons, writs or other process of the juvenile court shall be served by a probation officer of the court, or by the sheriff of any county in the state, or by any person appointed by the court for such purpose. Due return thereof to the court issuing same shall be made by the officer or person to whom it is delivered for service. In all cases, the return must state the time and manner of service.

(*b*) Except as otherwise provided in subsection (*c*) of this section, all summonses to appear in the juvenile court, under any section of this act requiring same to be served as provided in this section, shall be served: (1) By delivering a copy of the summons to the person named therein personally; or (2) if such personal service cannot be made, by leaving one at his usual place of residence at least forty-eight hours before the time set in the summons for his appearance at the juvenile court hearing. Due return of service made under this subsection shall be made as provided in subsection (*a*) of this section: *Provided*, That in the event of a rehearing of such matter, notice may be waived.

(*c*) When a parent of a dependent and neglected child may be deprived of his or her parental rights and when, upon proper affidavit of the officer or person making the return, the judge of the juvenile court is satisfied that it is impossible to serve the summons upon such parent pursuant to subsections (*a*) and (*b*) of this section, he may order service made by publication once a week for two (2) consecutive weeks in some newspaper of the county authorized to publish legal notices. Said publications shall state the court in which the petition is filed, the nature of the proceedings and that such parent may be deprived of his or her parental rights; and shall also state the names of the persons sought to be served, if known, and if unknown, shall describe them as unknown, and shall contain notice of the time and place of the hearing, and to there show cause, if any there be, why the judgment, the nature of which shall be stated, should not be rendered accordingly. [L. 1957, ch. 256, § 10; July 1.]

38-811. Venue. Venue of any case involving a dependent and neglected child shall be in the county of such child's residence or in the county where he may be found. Venue of any case involving a delinquent child, a miscreant child, a wayward child, a traffic offender or a truant shall be in any county where an alleged act of delinquency is committed or in the county of his residence. Venue in cases involving prosecution of persons charged under section 30 [38-830] of this act shall be in the county where the offense has been committed. [L. 1957, ch. 256, § 11; July 1.]

Provide venue for adjudication in county where offense occurred, venue for disposition in county of child's residence

38-812. Transfer of proceedings. Upon application of any interested person, an order may be made by the juvenile court in which the original proceedings are pending transferring said proceedings to the court where the child is physically present or where the parent or parents reside before or after adjudication. The court to which such case is transferred shall accept the case. An interested person, within the meaning of this section, shall be any person who would be entitled to appeal from any order of the juvenile court made in such proceedings. Any judge transferring any case to another juvenile court shall transmit to said court a complete transcript thereof and, upon receipt of such transcript, said juvenile court shall assume jurisdiction as if such proceedings were originally filed in such court. In case said child is not present in the county to which such case is transferred such juvenile court shall return the case to the court where it originated. [L. 1957, ch. 256, 12; July 1.]

38-813. Witnesses; oath; code of civil procedure to apply; fees. All witnesses shall be sworn on oath or affirmation, and the rules of the code of civil procedure relating to witnesses, including the right of cross-examination, shall apply to proceedings in the juvenile court. Only witnesses who have been subpoenaed shall be allowed witness fees and mileage. No witness shall be entitled to be paid such fee or mileage before his actual appearance in court. [L. 1957, ch. 256, § 13; L. 1969, ch. 224, § 2; July 1.]

38-814. Probation officers; appointment; compensation; expenses; duties. The judge of the juvenile court may appoint one or more competent persons of good character to serve as probation officers during his pleasure. Unless otherwise specifically provided by statute, said probation officers shall receive as compensation, to be paid from the general fund of the county, a reasonable sum to be fixed by the juvenile court. In addition to their compensation, probation officers shall receive mileage at the rate prescribed by law for each mile actually and necessarily traveled in the performance of their duties, when such travel is authorized by the judge of the juvenile court. The probation officers may be paid such other necessary traveling expenses as may be authorized by the judge of the juvenile court.

All probation officers shall furnish the court with any information that may be obtained and render any assistance requested by the juvenile court in any proceeding, which may be helpful to the court or the child. Under the direction of the court, a probation officer shall take possession and custody of any child under the court's jurisdiction and make such arrangements for the temporary care of any child as directed by the court. Such probation officers shall do and perform such other duties in connection with the work of the juvenile court as may be directed by the court. A person may serve as probation officer of more than one juvenile court and receive compensation and traveling expenses from each of the counties wherein is located a juvenile court which he shall serve. [L. 1957, ch. 258, § 14; L. 1970, ch. 165, § 3; July 1.]

Create an office of juvenile probation officers under the supreme court
Prescribe standards for education and training
Require all counties to have juvenile probation officers
Do not allow law enforcement officers to be juvenile probate officers

§15. "Peace officers" defined; child u[illegible].8 taken into custody; duty of officers; re[illegible]l of cases by other courts to juvenile

court; delivery of papers and documents; traffic offenders 16 and over, exception; limitation on detention and custody of child, determination of necessity. (*a*) As used in this section, the term "peace officers" includes sheriffs and their deputies, marshals, members of the police force of cities, highway patrolmen, and other officers whose duty it is to enforce the law and preserve the public peace.

(*b*) When any peace officer takes into custody a child under the age of eighteen (18) years, with or without a warrant or court order, such child shall not be taken before a municipal judge, district court judge or judge of any other court now or hereafter having juisdiction of the offense charged, but shall be delivered into the custody of the probation officer or be taken forthwith before the juvenile court; and it shall be the duty of such peace officer to furnish such juvenile court with all of the information in his possession pertaining to said child, its parents, guardian or other person interested in, or likely to be interested in, the child, and all other facts and circumstances which caused such child to be taken into custody.

(*c*) If a child under the age of eighteen (18) years, shall have been taken before a municipal judge, district court judge or judge of any other court, it shall be the duty of such judge to dismiss the charge or complaint and refer same to the juvenile court, and it shall be the duty of the officer having the child in charge to take such child before the juvenile court; and it shall be the duty of such judge or officer to deliver to said juvenile court all of the papers, documents, and other information in his possession pertaining to such child.

Require probable cause to take child into custody
Provide procedure for caseworker to take dependent and neglected child into custody
Provide clearly defined intake procedures for when child taken into custody

d) If during the pendency of any action, charge or complaint against a person involving a public offense or quasi-public offense, before a municipal judge, judge of the district court or judge of any other court, it shall be ascertained that such person was under the age of eighteen (18) years at the time of committing the alleged offense, it shall be the duty of such judge to forthwith dismiss such action, charge or complaint, and refer same to the juvenile court, together with all the papers, documents, and testimony connected therewith: *Provided*, No traffic offender action, charge or complaint against a child who has attained the age of sixteen (16) years shall be so dismissed and referred unless it shall be ascertained that he was under sixteen (16) years of age at the time of committing the alleged offense. The officer of the court making said referral, having charge of such child, shall forthwith take him to the place of detention designated by the juvenile court, or to that court itself, or shall release such child to the custody of a duly appointed probation officer, or other person designated by the juvenile court, to be brought before the juvenile court at a time and place designated by the judge thereof. Thereupon, the juvenile court shall proceed as provided in subsection (*d*) of K. S. A. 38-816.

(*e*) Whenever a child under the age of eighteen (18) years is taken into custody by a peace officer and is thereafter taken before or referred to the juvenile court as required by this section, such child shall not remain in any detention or custody, other than the custody of the parent, guardian or other person having legal custody of the child, for more than forty-eight (48) hours, excluding Sundays and legal holidays, from the time the initial custody was imposed by a peace officer, unless a determination is made, within such forty-eight (48) hour period, as to the necessity for any further detention or custody in a ntion hearing as provided in section 4 15b] of this act. [K. S. A. 38-815; L. ., ch. 446, § 18; L. 1974, ch. 178, § 1; July 1.]

Extend 48-hour period to 72 hours or exclude Saturdays
Provide for waiver of detention hearing
Conflicts with 38-819(a); needs to be made an exception to that section
Require probably cause to detain before detention hearing
Require investigation prior to detention hearing

38-815a. Restrictions on fingerprints, photographs and records of child; expungement. (*a*) Neither the fingerprints nor a photograph shall be taken of any child less than eighteen (18) years of age, taken into custody for any purposes, without the consent of the judge of the court having jurisdiction; and when the judge permits the fingerprinting of any such child, the prints shall be taken as a civilian and not as a criminal record.

(*b*) All records in this state concerning a public offense committed or alleged to have been committed by a child less than eighteen (18) years of age, shall be kept separate from criminal or other records, and shall not be open to inspection, except by order of the juvenile court. It shall be the duty of any peace officer, judge or other similar officer, making or causing to be made any such record, to at once report to the judge of the juvenile court of his county the fact that such record has been made and the substance thereof together with all of the information in his possession pertaining to the making of such record.

(*c*) When a record has been made by or at the instance of any peace officer, judge or other similar officer, concerning a public offense committed or alleged to have been committed by a child less than eighteen (18) years of age, the judge of the juvenile court of the county in which such record is made shall have the power to order such officer or judge to expunge such record; and, if he shall refuse or fail to do so within a reasonable time after receiving such order, he may be adjudged in contempt of court and punished accordingly.

(*d*) This section shall be construed as supplemental to and a part of the Kansas juvenile code. [L. 1974, ch. 178, § 3; July 1.]

38-815b. Detention hearings; appointment of guardian *ad litem*, costs; notice of hearing; order for temporary custody or detention, findings required; action where detention not required. (*a*) Whenever there is required to be a determination as to the need for any detention or custody of a child in a detention hearing under this act, the juvenile court shall immediately set the time and place for such hearing and shall appoint a guardian *ad litem* for the child, unless one has already been appointed or other counsel for the child has been retained in lieu thereof, to serve until such time as such other counsel may be retained. The costs of such guardian *ad litem* may be assessed to the parent, guardian or such other person having legal custody of the child as part of the costs of the case as provided in subsection (*f*) of K. S. A. 38-817, as amended.

(*b*) Notice of the detention hearing setting forth the time, place and purpose of such hearing and of the appointment of a guardian *ad litem* shall be given immediately to the child, to the guardian *ad litem* and, if he can be found, to the parent, guardian or such other person having legal custody of the child or if there is none, then to some other relative or other interested person, if there is one. Such notice shall include a statement advising such persons of the right to retain counsel of their own choosing, and that the court has appointed counsel to serve as guardian *ad litem* until such time as the court is notified of the name and address of the counsel for the child which has been retained in lieu of such guardian *ad litem*. Such notice shall set forth the name and address of such guard-

ad litem and that the cost of such guardian *ad litem* may be assessed to the parent, guardian or such other person having legal custody of the child as part of the costs of the case. Written notice of the detention hearing as provided in this subsection shall be served at least twenty-four (24) hours prior to the time set for the detention hearing, by the probation officer or by the sheriff of the county or by any other person appointed by the court for such purpose. Except as otherwise specifically provided in this section, such notice shall be served in the manner, other than by publication, provided for the service of summons in K. S. A. 38-810.

Allow more time for notice
Allow waiver of notice when parties volunteer to appear

(*c*) The juvenile court may order temporary custody or detention as provided in K. S. A. 38-819, as amended, in a detention hearing under this section after determining that: (1) The child is dangerous to himself or to others; (2) the child is not likely to appear at a hearing for adjudication on any petition filed pursuant to K. S. A. 38-816; or (3) the health or welfare of the child may be endangered without further care.

Allow temporary custody or detention for limited time only; require hearing on petition within a certain time

(*d*) When the court finds that the continued detention of the child pending adjudication in a hearing on a petition is not required to serve the welfare of the child and the best interests of the state as determined in subsection (*c*) of this section, the court shall order the child's release and in doing so may place the child in the custody of the parent, guardian or other person having legal custody of the child, or a probation officer, or may impose any other conditions which may be required subject to modification by the court.

(*e*) This section shall be construed as supplemental to and a part of the Kansas juvenile code. [L. 1974, ch. 178, § 4; July 1.]

38-815c. Duty of county, district and city attorneys. (*a*) It shall be the duty of all county attorneys within their respective counties, district attorneys within their respective judicial districts and city attorneys within their respective cities, to give to the juvenile court such aid in presenting evidence and otherwise assisting at hearings as may be requested by the juvenile judge. In judicial districts having a population of more than three hundred thousand (300,000), the district attorney shall designate one deputy or assistant district attorney who shall be at the disposal of judge of the juvenile court. Such deputy or assistant district attorney shall receive his compensation from the budget of the office of district attorney. Each county or district attorney shall prepare such petitions for the juvenile court of his county as may be requested pursuant to the provisions of subsections (*b*) and (*d*) of K. S. A. 38-816.

(*b*) This section shall be construed as supplemental to and a part of the Kansas juvenile code. [L. 1974, ch. 178, § 2; July 1.]

38-816. Proceedings by verified petition; preliminary inquiries, when; cases referred from other courts; amending petition to conform to facts. (*a*) Any reputable person eighteen (18) years of age or over having knowledge of a child who appears to be either delinquent, miscreant, wayward, a traffic offender, a truant or dependent and neglected as defined in K. S. A. 1969 Supp. 38-802 and any amendments thereto, may file with the juvenile court having jurisdiction, a petition in writing, verified by affidavit, which shall, in plain and concise language, without repetition, set forth the facts which bring the child under the jurisdiction of the juvenile court; and so far as known: (1) The name, age and residence of the child; (2) the names and residence of his parents; (3) the name and residence of his legal guardian, if there be one; or (4) the name and residence of the person or persons having custody or control of the child, or of the nearest known relative if no parent or guardian can be found.

(*b*) Whenever any reputable person shall furnish information to the juvenile court that a child appears to be either delinquent, miscreant, wayward, a traffic offender, a truant or dependent and neglected as defined in K. S. A. 1969 Supp. 38-802 and any amendments thereto, it shall be the duty of such court, or its duly appointed probation officer when requested by the judge thereof, to make a preliminary inquiry to determine whether the interest of the public or of such child requires that further action be taken. Whenever practicable, such inquiry shall include a preliminary investigation of the circumstances which were the subject of such information, including the home and environmental situation of such child, and his previous history. If, after such inquiry, the judge of the juvenile court determines that the circumstances so justify, he shall authorize a petition, in writing,

Provide for commitment of child to juvenile court by parent

Require a preliminary investigation
Require prompt investigation of reports of dependency and neglect

.o be filed in his court by the person furnishing such information, or by some other reputable person having such knowledge, or, when so requested by such judge, the county attorney shall file such petition. Such petition shall be verified and may be upon information and belief. It shall be in plain and concise language, without repetition, and shall set forth the facts enumerated in subsection (*a*) of this section, and if any of the facts therein required are not known to the petitioner, the petition shall so state. Upon the filing of such petition, the juvenile court shall proceed as provided in this act.

(*c*) The proceedings shall be entitled: "In the interest of _____, a child under eighteen (18) years of age."

(*d*) When, under subsection (*d*) of K. S. A. 1969 Supp. 38-815 and any amendments thereto, a case is referred to the juvenile court, such court may proceed to make preliminary inquiry and investigation and authorize a petition to be filed in the manner as set forth in subsection (*b*) of this section: *Provided*, The county attorney shall, when requested by the judge of such court, file such petition without such inquiry and investigation. Upon the filing of such petition, such court shall proceed as provided in this act.

(*e*) No defect in statements of jurisdictional facts actually existing shall invalidate any proceedings.

(*f*) Upon the hearings on any petition, the judge of the juvenile court may amend the petition to conform with the facts, and render judgment accordingly. [L. 1957, ch. 256, § 16; L. 1965, ch. 278, § 5; L. 1970, ch. 165, § 4; July 1.]

38-817. Proceedings upon filing of petition; content and service of notice; counsel appointed; issuance and service of summons; contempt; hearing; schedule of fees; costs. (a) Upon the filing of a petition to declare a child to be delinquent, miscreant, wayward, a traffic offender, a truant or dependent and neglected, the juvenile court shall fix the time and place for the hearing thereon. The date set for hearing shall be within two (2) weeks following the date of the filing of such petition but the court may for good and sufficient cause grant a continuance when deemed necessary. Immediately upon the filing of such petition the court shall give notice of the time and place of such hearing to the child and the parent, guardian or other person having legal custody of such child or if there be none then some relative or other interested person, if there be one. Such notice shall include a statement advising such child and the parent, guardian or other person having legal custody of such child of the right to retain counsel of their own choosing but that upon the failure to retain counsel and notify said court of the name and address of such counsel within five (5) days of the service of such notice, the court will forthwith appoint counsel for such child and the cost of appointed counsel may be assessed to the parent, guardian or other person having legal custody of the child as part of the costs of the case. Upon the expiration of such five (5) day period the court shall forthwith appoint counsel for such child and notify counsel, the child and the parent, guardian or other person having legal custody of the child thereof: *Provided, however,* In case the petition declares the child to be a traffic offender, as defined by subsection (*e*) of K. S. A. 38-802, and it is such child's first appearance in said court as a traffic offender, the court shall not be

Provide for informal proceedings for status offenders or if in best interest of child

Clarify whether counsel retained by parents replaces guardian ad litem (see 38-821); if so, provide independent counsel for child in dependency and neglect actions

juired to appoint counsel for said child less other circumstances warrant such appointment. Such notice and a copy of the petition shall be served by the probation officer of the court or by the sheriff of the county or by registered mail, return receipt requested: *Provided*, That if the judge of the juvenile court is satisfied that by reason of the fact that the whereabouts of the parent, guardian or other person having legal custody of the child is unknown, it is impossible to serve such notice in such manner, he may order service made by publication once each week for two (2) consecutive weeks in a newspaper of the county authorized to publish legal notices. Promptly upon the filing of the petition, the juvenile court may send to the secretary of social and rehabilitation services a copy thereof. If requested by the court, the secretary of social and rehabilitation services, without cost to the natural parents or to the petitioner, shall make such investigation as the court may request and be prepared to report his findings to the court upon the hearing of the petition.

(*b*) Unless the parties shall voluntarily appear or be in court, a summons shall issue in the name of the state of Kansas, requiring the child and the person having custody and control of the child or with whom the child may be, to appear with the child at the place and at the time set in the summons.

(*c*) Unless they shall voluntarily appear or be in court, summons shall also issue to the parents of the child, if living and their residence known, or his guardian, if one there be, or if there is neither parent nor guardian, or if his residence is unknown, then some relative, if there be one, and his residence is known.

(*d*) If it shall appear that a parent of the child is confined in the state penitentiary, or any of the state hospitals, or in any state charitable or penal institution, a copy of the summons for said parent shall be served upon said parent, and also upon the person having harge of said institution, by mail. Such service shall be in lieu of the service prescribed by K. S. A. 38-810. It shall be the duty of

the person having charge of said institution to confer with said parent, if said parent's mental condition is such that a conference will serve any useful purpose, and advise the court in writing as to the wishes of such parent with regard to said child. The failure of the person having charge of said institution to perform such duty shall not invalidate the proceeding.

(e) If the person summoned as herein provided shall fail without reasonable cause to appear and abide the order of the juvenile court, or to bring the child, such person may be proceeded against for contempt of court.

(f) At the time fixed in the summons, or by order of the court, the juvenile court shall proceed to hear and dispose of the case and enter judgment or decree therein. The juvenile court may apply the schedule of fees provided in K. S. A. 28-171, where appropriate, to compute the costs of all proceedings under the Kansas juvenile code and, in the discretion of the court, the costs of such proceedings may be adjudged against the person or persons so summoned or appearing, and collected as provided by law in civil cases, or charged to the county and paid out of the general fund.

(g) All summonses issued pursuant to this section shall state the court in which the petition is filed and all the information appearing in the petition pursuant to subsection (a) of K. S. A. 38-816. Except as otherwise specifically provided in this section, such summons shall be served as provided in K. S. A. 38-810. [K. S. A. 38-817; L. 1974, ch. 177, § 1; L. 1974, ch. 178, § 5; July 1.]

Clarify and distinguish the procedures, kinds of testimony, reports, etc., for the adjudicatory hearing and the dispositional hearing

38-818. Summons in cases involving permanent custody. In any proceedings in the juvenile court in which the parent, guardian, or other person having legal custody of a child may be deprived of the permanent custody of such child, summons shall issue to such parent, guardian, or other person. Such summons shall state the name of the court, and shall contain notice of the time and place of the hearing, and a statement requiring the person named in the summons to appear and there show cause, if any there be, why he should not be deprived of the permanent custody of _____ (name of child). Such summons shall be served as provided in section 10 [38-810] of this act. [L. 1957, ch. 258, § 18; July 1.]

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38-819. Temporary detention or custody child prior to and during hearing; exceptions. (*a*) Prior to or during the pendency of a hearing on a petition to declare a child to be delinquent, miscreant, wayward, a traffic offender, a truant or dependent and neglected, filed pursuant to K. S. A. 38-816, the juvenile court may order that such child be placed in some form of temporary detention or custody as provided in this section, but only after a determination is made as to the necessity therefor in a detention hearing as provided in section 4 [38-815b] of this act.

Provide exception for pre-hearing detention pursuant to 38-815(e)

(*b*) Upon such a determination, the juvenile court may make an order temporarily granting the custody of such child to some person, other than the parent, guardian or other person having legal custody, or to a children's aid society, or to a public or private institution used as a home or place of detention or correction, or to the secretary of social and rehabilitation services.

Allow temporary custody for a limited time only; if custody is with SRS, provide for notice of a continuance and/or the date of the hearing on the petition within a specified time or child will be released to the parents

(*c*) Upon such a determination, the juvenile court may order any such child who is alleged to be a delinquent or miscreant child to be placed in detention in the county jail or police station in quarters separate from adult prisoners. In such cases, the juvenile court, if it deems it advisable, may order such child confined in a jail or police station prior to or during the pendency of the hearing on the petition. When such provision for separate quarters have not been made for the care and custody of the child in such detention, the juvenile court may order such child to be kept in some suitable place of detention provided by the county other than the county jail or police station.

Allow child to be held in jail if there is no alternate facility

(*d*) Unless otherwise provided for, and subject to payment or reimbursement as required by K. S. A. 38-828, the expenses of any temporary detention or custody ordered by the juvenile court pursuant to this section shall be paid out of the state social welfare fund if the child is determined by the secretary of social and rehabilitation services to be le for assistance under K. S. A. 39-709, y amendments thereto, otherwise such expenses shall be paid from the county general fund of the county in which the matter or proceeding is pending. [K. S. A. 38-819; L. 1974, ch. 178, § 8; July 1.]

38-820. Deprival of parental rights; summons. No order or decree permanently depriving a parent of his parental rights in a dependent and neglected child under subsection (*c*) of section 24 [38-824] of this act shall be made unless such parent is present in juvenile court or has been served with summons as provided in section 10 [38-810] of this act.

The judge of the juvenile court shall assign an attorney to any such parent who is unable to employ counsel and may award a reasonable fee to said counsel to be paid from the general fund of the county. [L. 1957, ch. 256, § 20; July 1.]

38-821. Guardian *ad litem;* qualifications; duties; fee taxed as costs. In all hearings the judge of the juvenile court shall appoint a guardian *ad litem* who shall be an attorney at law to appear for, represent, and defend:

(*a*) A child who is the subject of proceedings under this act; or

(*b*) a parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings; under this act. The guardian *ad litem* shall make an independent investigation of the facts and representations made in the petition and he may be allowed a reasonable fee for such services, to be fixed by the juvenile court, and taxed as costs in such proceedings; such costs may be taxed to the parent, conservator, or custodian, or they may be taxed to the county and paid out of the county general fund. [L. 1957, ch. 256, § 21; L. 1965, ch. 280, § 1; L. 1970, ch. 165, § 5; July 1.]

Replace guardian ad litem with counsel that is independent of the court, e.g., law guardians (New York), legal aid, public defender

38-822. Exclusion of public from hearings; exceptions. The juvenile court may exclude from any hearing all persons except counsel for interested parties, officers of the court and the witness testifying. This section shall not apply in misdemeanor cases under section 30 [38-830] of this act. [L. 1957, ch. 256, § 22; July 1.]

K. S. A. 1974 Supp. 38-823 is hereby amended to read as ws: 38-823. (a) Prior to or during the pendency of a hearing o[illegible]ition filed pursuant to K. S. A. 38-816, *or any amendments thereto*, the juvenile court may allow the child named in such petition to remain in his own home in the custody of the parent, guardian or other person having legal custody of the child, place such child in the care and control of a probation officer, or order temporary detention or custody as provided in K. S. A. *1974 Supp.* 38-819, ~~as amended~~ *or any amendments thereto.*

(b) In any case the juvenile court may continue or adjourn a hearing from time to time except as otherwise provided in subsection (e) of this section.

Allow no general continuances

(c) A child, during the pendency of a hearing and before final order or decree, may be referred to the ~~Kansas children's receiving home~~ *youth center at Atchison* or supplementary branch facility thereof or to any state institution with the facilities capable of care, treatment or evaluation of children except that no child shall be referred to such ~~receiving home~~ *youth center* or facility unless the court shall have been previously advised by the secretary of social and rehabilitation services that such ~~receiving home~~ *youth center* or facility is a suitable place to care for, treat or evaluate such child and that space is available, and the expenses of transportation to and from said ~~home~~ *youth center* or facility may be so paid as part of the expenses of such temporary care and custody. Such ~~receiving home~~ *youth center* or facility to which such child has been referred may receive, detain, care for, treat and evaluate such child and shall make a report of its findings and recommendations to the juvenile court within ninety (90) days after its acceptance of such child.

(d) Nothing in this section shall be construed to mean that any person shall be relieved of ~~his~~ legal responsibility to support a child.

(e) Excluding the periods of time required for any continuances made at the request of the child or ~~his~~ *the child's* counsel, the disposition in a hearing on a petition by the juvenile court shall be made no more than thirty (30) days after adjudication, except that where a child has been referred for evaluation prior to such disposition, the disposition shall be made no more than thirty (30) days after the receipt by the juvenile court of the evaluation report.

Provide time limit within which child must be placed after final disposition

38-824. Dependent or neglected child; commitment; deprival of parental rights; placement or adoption; conservators; hospital, medical or surgical care. (*a*) The provisions of this section shall apply to any child under the age of eighteen (18) years found to be dependent and neglected, within the meaning of this act, either at the initial hearing or any subsequent hearing:

(*b*) In the absence of an order depriving parental rights, the juvenile court may make such dependent and neglected child a ward of the court and commit the child to:

(1) The custody of either or both of his parents;

(2) the care, custody and control of a probation officer duly appointed by the court, or other individual;

(3) the care of some children's aid society; or

(4) the secretary of social and rehabilitation services.

(*c*) When the parents, or parent in the case there is one parent only, are (or is) found and adjudged to be unfit persons (or an unfit person) to have the custody of such dependent and neglected child, K. S. A. 38-820 and other applicable provisions of this act having been fully complied with, the juvenile court may make an order permanently depriving such parents, or parent, of their (his or her) parental rights and commit the child:

(1) To the care of some reputable citizen of good moral character;

(2) to the care of some suitable public or private institution used as a home or place of detention or correction;

(3) to the care of some association willing to receive it, embracing in its objects the purpose of caring for or obtaining homes for dependent and neglected children;

(4) to the secretary of social and rehabilitation services.

Requiring court to specify in the journal entry its reasons for a finding of dependency and neglect

Define "parental unfitness" and require court to specify in the journal entry its reasons for a finding of unfitness

(*d*) In any case where the juvenile court shall award a child to the care of an individual or association, in accordance with clause (1) or (3) of subsection (*c*) of this section, the child shall, unless otherwise ordered, become a ward of, and be subject to the guardianship of the individual or association to whose care it is committed. Such individual or association shall have authority to place such child in a family home, give consent for the adoption of such child, and be party to proceedings for the legal adoption of the child, and such consent shall be the only consent required to authorize the probate court to enter proper order or decree of adoption. In any case where the juvenile court shall award a child to the care of the secretary of social and rehabilitation services, in accordance with clause (4) of subsection (*c*) of this section, said state secretary of social and rehabilitation services shall be the guardian of the person and the estate of said child and shall be empowered to place such child for adoption and give consent therefor, or to make transfer of such child for adoption and give consent therefor, or to make transfer of such child as provided for by K. S. A. 38-825. In any such case, upon the filing of the application provided for in K. S. A. 1972 Supp. 59-3009, of the act entitled "act for obtaining a guardian or conservator, or both" by the secretary of social and rehabilitation services, the court shall forthwith appoint the secretary of social and rehabilitation services the "conservator" of such child.

(*e*) When the health or condition of such dependent and neglected child shall require it, the juvenile court may cause the child to be placed in a public or private hospital under the care of a competent physician. In cases other than those provided for in subsection (*d*) above the juvenile court may delegate the authority to issue consents to the performance and furnishing of hospital, medical or surgical treatment or procedures to the individual, association, or agency to whom the court has granted custody of such child. [L. 1957, ch. 256, § 24; L. 1959, ch. 199, § 1; L. 1965, ch. 280, § 2; L. 1970, ch. 165, § 6; L. 1971, ch. 151, § 1; L. 1973, ch. 186, § 25; L. 1973, ch. 34, § 2; July 1.]

38-825. When secretary of social and rehabilitation services may place or transfer child; petition for return of child to parents, when. (*a*) When a dependent and neglected child has been committed to the secretary of social and rehabilitation services, said secretary, if he deems it to the best interest of the child, may place the child in the Kansas children's receiving home or in a foster care facility, or may transfer such child to the jurisdiction of a children's aid society willing to accept the child, or with the written consent of the judge of the juvenile court to the home of the parent, or parents, who have not been deprived of parental rights.

(*b*) A parent or parents of a child under the jurisdiction of the secretary of social and rehabilitation services, who has not been deprived of his parental rights, may file with the juvenile court having jurisdiction, a petition in writing for the return of such child to him or them. Such petition shall be verified by affidavit and shall state the name, age and residence of the child and name and residence of each petitioner. The court shall fix a time and place for a hearing on such petition and shall notify each petitioner and the secretary of social and rehabilitation services of such time and place. If after the hearing, the court shall determine from the evidence that it would be to the best interests of the child that he be returned to his parents, it shall so order. [L. 1957, ch. 256, § 25; L. 1959, ch. 200, § 1; June 30.]

Clarify role of court and SRS in placement of child (see also 38-826)

1. Define "jurisdiction," "custody" and "commitment
2. Allow court to make placement, subject to appeal by SRS or child's parent
3. Allow SRS to make placement; require report on child's status every six months and provide for judicial review

38-826. Child adjudged delinquent, miscreant, wayward, truant, or traffic offender; orders for placement, commitment, probation and imposing penalties. (*a*) When a child has been adjudged to be a delinquent child or a miscreant child under the provisions of this act, the judge of the juvenile court may make an order to:

(1) Place such child on probation in the care, custody and control of either or both of his parents, subject to such terms and conditions as the juvenile court may deem proper and may make such additional orders directed to the juvenile or his parents or both as may be deemed necessary to effectively carry out the probation;

(2) place such child in the care, custody and control of a duly appointed probation officer or other suitable person, subject to such terms and conditions as the juvenile court may deem proper;

(3) place such child in a detention home, parental home or farm, subject to such terms and conditions as the juvenile court may deem proper;

(4) place such child in the care of a children's aid society, subject to such terms and conditions as the juvenile court may deem proper: *Provided, however,* That if such child is sixteen (16) years of age or over, the juvenile court may place such child in the county jail pending final disposition or may place him on probation on such terms and conditions as the juvenile court may deem proper;

(5) commit such child to the state secretary of social and rehabilitation services; or

'6) commit such child, if a boy thirteen 3) years of age or older to the state industrial school for boys or other training or rehabilitation facility for juveniles, if a girl thirteen (13) years of age or older to the state industrial school for girls or other training or rehabilitation facility for juveniles: *Provided,* That from the effective date of this act and until July 1, 1975, no child sixteen (16) years of age or over shall be committed to the state industrial school for boys, state industrial school for girls or other training or rehabilitation facility for juveniles unless the court shall have been previously advised by the director of mental health and retardation services that space is available at one of such facilities for the care, treatment and training of such child.

(*b*) When a child has been adjudged to be a wayward child or a truant under the provisions of this act, the judge of the juvenile court may make an order to place such child in the same manner as provided in paragraphs (1), (2), (3), (4) and (5) of subsection (*a*) of this section.

(*c*) When a child has been adjudged to be a traffic offender under the provisions of this act, the judge of the juvenile court may make an order:

(1) Imposing a penalty of not more than one hundred fifty dollars ($150) for each offense, which penalty shall be in addition to any costs adjudged against such offender in the discretion of the juvenile court;

(2) suspending or revoking his motor vehicle operator's license and requiring a copy of the order to be forwarded by certified mail, to the division of vehicles of the department of revenue together with a statement of the fact showing that such offender has committed an act making him a traffic offender under the provisions of this act, and the division of vehicles of the department of revenue shall forthwith comply with said order by suspending or revoking his motor vehicle operator's license;

'3) directing such offender to attend a ce department traffic school in a city of the unty in which he has residence; or

!) placing such child in the same manner provided in paragraphs (1), (2), (3) and (4) of subsection (*a*) of this section.

(*d*) When a child has been committed to the state secretary of social and rehabilitation services, pursuant to subsection (*a*) (5) or subsection (*b*) of this section, said secretary may place the child in any institution operated by the director of mental health and retardation services, or it may contract and pay for the placement of the child in a county detention home or in a private children's home, as defined by K. S. A. 1972 Supp. 75-3329, or for the placement of such child in a child care facility, or boarding home for children, or in a community mental health clinic.

(*e*) After placement of a child, the secretary of social and rehabilitation services shall retain jurisdiction over the child, and it may transfer such child at any time to any institution, detention home, mental health clinic, private children's home, child care facility or boarding home for children. [L. 1957, ch. 256, § 26; L. 1965, ch. 278, § 6; L. 1969, ch. 224, § 4; 1971, ch. 151, § 2; L. 1973, ch. 184, § 3; July 1.]

K. S. A. 38-827 is hereby amended to read as follows: 38-8... (a) Unless otherwise provided for, and subject to payment or reimbursement as required by K. S. A. ~~1972 Supp.~~ 38-828, *as amended,* the expenses of the care and custody of a dependent and neglected child, committed under clauses (2) and (3) of subsection (b) of K. S. A. ~~1972 Supp.~~ 38-824, or placed in a hospital under subsection (e) of K. S. A. ~~1972 Supp.~~ 38-824, or referred to the children's receiving home or facility thereof under subsection ~~(d)~~ *(c)* of K. S. A. ~~1972~~ *1974* Supp. 38-823, shall be paid out of the state social welfare fund if such child is eligible for assistance under K. S. A. ~~1972 Supp.~~ 39-709, or any amendments thereto, otherwise out of the general fund of the county in which the proceedings are brought. For the purpose of this subsection, a child who is a nonresident of the state of Kansas or whose residence is unknown shall have residence in the county where the proceedings are instituted.

(b) Unless otherwise provided for, and subject to payment or reimbursement as required by K. S. A. ~~1972 Supp.~~ 38-828, *as amended,* the expenses of the care and custody of a child placed in accordance with the provisions of clauses (2), (3), (4) and (5) of subsection (a) of K. S. A. ~~1972 Supp.~~ 38-826, ~~as amended,~~ or referred to the children's receiving home or facility thereof under subsection ~~(d)~~ *(c)* of K. S. A. ~~1972~~ *1974* Supp. 38-823 shall be paid out of the state social welfare fund if such child is eligible for assistance under K. S. A. ~~1972 Supp.~~ 39-709, or any amendments thereto, otherwise out of the general fund of the county in which the proceedings are brought~~.~~ ~~*Provided,*~~ *except* that the expenses of the care and custody of any child committed to the secretary of social and rehabilitation services pursuant to clause (5) of *subsection (a) of* K. S. A. ~~1972 Supp.~~ 38-826, ~~as amended,~~ shall not be paid out of the county general fund.

(c) Nothing in this act shall be construed to mean that any person shall be relieved of his legal responsibility to support a child.

K. S. A. 38-827 is hereby amended to read as follows:

(a) Unless otherwise provided for, and subject to payment or reimbursement as required by K. S. A. ~~1972 Supp.~~ 38-828, *or any amendments thereto,* the expenses of the care and custody of a dependent and neglected child, committed under clauses (2) ~~and~~, (3) *and (4)* of subsection (*b*) of K. S. A. ~~1972 Supp.~~ 38-824, *or any amendments thereto,* or placed in a hospital under subsection (*e*) of K. S. A. ~~1972 Supp.~~ 38-824, *or any amendments thereto,* or referred to the ~~children's receiving home~~ *youth center at Atchison* or facility thereof under subsection ~~(*d*)~~ (*c*) of K. S. A. ~~1972~~ *1974* Supp. 38-823, or any amendments thereto, shall be paid out of the state social welfare fund if such child is eligible for assistance under K. S. A. ~~1972 Supp.~~ 39-709, or any amendments thereto, otherwise out of the general fund of the county in which the proceedings are brought. For the purpose of this subsection, a child who is a nonresident of the state of Kansas or whose residence is unknown shall have residence in the county where the proceedings are instituted.

(*b*) Unless otherwise provided for, and subject to payment or reimbursement as required by K. S. A. ~~1972 Supp.~~ 38-828, *or any amendments thereto,* the expenses of the care and custody of a child placed in accordance with the provisions of clauses (2), (3), (4) and (5) of subsection (*a*) of K. S. A. ~~1972 Supp.~~ 38-826, ~~as amended~~ *or any amendments thereto,* or referred to the ~~children's receiving home~~ *youth center at Atchison* or facility thereof *or other facility* under subsection ~~(*d*)~~ (*c*) of K. S. A. ~~1972~~ *1974* Supp. 38-823 shall be paid out of the state social welfare fund if such child is eligible for assistance under K. S. A. ~~1972 Supp.~~ 39-709, or any amendments thereto, otherwise out of the general fund of the county in which the proceedings are brought: *Provided,* That the expenses of the care and custody of any child committed to the secretary of social and rehabilitation services pursuant to clause (5) of *subsection (a) of* K. S. A. ~~1972 Supp.~~ 38-826, ~~as amended~~ *or any amendments thereto,* shall not be paid out of the county general fund.

(c) When a child is committed under clause (4) of subsection (b) of K. S. A. 38-824, or any amendments thereto, or under clause (5) of subsection (a) of K. S. A. 38-826, or any amendments thereto, the expenses of the care and custody of such child may be paid out of the state social welfare fund, subject to payment or reimbursement as required in K. S. A. 38-828, or any amendments thereto, even though the child does not meet the eligibility standards of K. S. A. 39-709, or any amendments thereto.

~~(*e*)~~ *(d)* Nothing in this act shall be construed to mean that any person shall be relieved of his legal responsibility to support a child.

K. S. A. 38-828 is hereby amended to read as follows: 38-828. (*a*) When, under the provisions of *subsection (d) of* K. S. A. ~~1972 Supp. 38-823~~ *1974 Supp. 38-819*, and *of* K. S. A. 38-827, *as amended*, expenses may be or have been paid out of the state social welfare fund or out of the county general fund, the juvenile court shall fix a time and place for a hearing on the question of requiring payment or reimbursement of all or part of such expenses by the parent or parents, conservator, or other person liable by law to maintain, care for, or support the child. The time for such hearing may be extended by the court for cause. If requested by the court, the secretary of social and rehabilitation services shall make an investigation regarding the income and resources of such parent, conservator or person, with respect to his ability to pay such expenses, and be prepared to report its findings to the juvenile court at the time of the hearing.

(*b*) Unless such parent, conservator or other person shall voluntarily appear or be in court at the time and place so fixed, summons shall be issued stating the court in which such hearing is to be held, the name and residence of each party to whom the summons is issued, and all information necessary to fully apprise such party of the nature of such hearing. Such summons shall be served as provided in K. S. A. 38-810.

(*c*) The juvenile court, at the time fixed in the summons or by its order, shall proceed to hear and dispose of the case, and may enter a final order requiring such parent, conservator or person to pay, in such manner as the court may direct, such sum, within his ability to pay, as will cover in whole or in part the expenses referred to in subsection (*a*) of this section. Any such parent, conservator or person who shall willfully fail or refuse to pay such sum may be adjudged in contempt of court and punished accordingly.

(*d*) Nothing in this section shall be construed to mean that any person shall be relieved of his legal responsibility to support a child.

38-828a. "Ward's account" established; and disposition of moneys belonging to

wards of department of social and rehabilitation services. As used in this act, "ward" means any child committed to or in the custody of the department of social and rehabilitation services. There is hereby established the "ward's account." The secretary of social and rehabilitation services shall designate one or more employees to manage and be in charge of the ward's account and subsidiary accounts thereof. All moneys in the possession of the secretary belonging to wards shall be within the ward's account. The person in charge of the ward's account shall maintain a subsidiary account for each ward having any money in the ward's account. All moneys received, that are hereby designated to be within the ward's account, shall be deposited in a bank account designated by the state board of treasury examiners until it is abolished and thereafter by the pooled money investment board. The persons in charge of the ward's account shall be the persons authorized to write checks on such bank account. Such persons in charge of the ward's account may withdraw money from such bank account and deposit the same in savings accounts of a bank or savings and loan association, insured by the federal government or agency thereof, designated by such board, and each amount so deposited shall indicate the ward's subsidiary account to which the interest thereon shall be credited. Moneys deposited in such a savings account shall be subject to withdrawal within six (6) months of deposit or interest payment. Moneys of wards' accounts shall not be in or a part of the state treasury but shall be subject to post audit under article 11 of chapter 46 of Kansas Statutes Annotated. [L. 1974, ch. 358, § 1; July 1.]

38-829. Change of custody of child. In any proceedings where a dependent and neglected, delinquent, miscreant, wayward or a truant child has been placed in the care and custody of any children's aid society or individual by the court, the court may cause the child to be brought before it, together with the person or persons in whose custody he may be, and if it shall appear that a continuance of such custody is not for the best interests of such child, the court may revoke and set aside the order giving such custody and make such further orders in the premises as to the future custody of the child as shall seem best. [L. 1957, ch. 256, § 29; L. 1969, ch. 224, § 6; July 1.]

-830. Causing, encouraging or con-
.ting to offenses, or to dependency or neglect of child; penalty; jurisdiction of juvenile court; enforcement; counsel. (*a*) In all cases where any child shall be a delinquent, a miscreant, wayward, traffic offender, truant, or a dependent and neglected child, as defined in section 38-802 of the General Statutes Supplement of 1957 or any amendments thereto, any parent or other person responsible for such child's act or for such dependency and neglect, or any parent or other person, who shall by any act have caused or encouraged same, or contributed thereto, shall be deemed guilty of a misdemeanor, and upon trial and conviction thereof shall be fined in a sum not to exceed one thousand dollars ($1,000), or imprisoned in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment.

(*b*) The juvenile court shall have jurisdiction of all cases coming within the provisions of this section; and the judge thereof may proceed to the hearing on the complaint charging that any parent or other person has violated the provisions of subsection (*a*) of this section, even though a petition has not been filed in the interest of a child under the provisions of section 38-816 of the General Statutes Supplement of 1957 or any amendments thereto.

(*c*) Upon the request of the judge of the juvenile court, the county attorney shall prosecute any parent or other person charged with violating the provisions of subsection (*a*) of this section.

(*d*) The judge of the juvenile court shall assign an attorney to any parent or other person charged under subsection (*a*) of this section who is unable to employ counsel and may award a reasonable fee to said counsel to be paid from the general fund of the county. [L. 1957, ch. 256, § 30; L. 1959, ch. 201, § 1; June 30.]

131. Same; suspension of sentence; b[illegible] The court may suspend any sentence or release any person sentenced under section 30 [38-830] of this act from custody upon such conditions as the court may prescribe, and may require such person to furnish a good and sufficient bond or undertaking to the state of Kansas in such penal sum, not to exceed two thousand dollars ($2,000), as the court shall determine, conditioned for the payment of such reasonable amount as the court may order for the support, care and maintenance of such child. [L. 1957, ch. 256, § 31, July 1.]

K. S. A. 38-832 is hereby amended to read as follows: 38-832. The procedure in the juvenile court for the trial of any person charged under ~~section 30 of this act~~ *K. S. A. 38-830* shall be the same as the procedure provided for in the trial of misdemeanors ~~before justices of the peace~~ *in a state court of limited jurisdiction except that the trial shall be to the court only.*

K. S. A. 38-833 is hereby amended to read as follows: 38-833. Any person convicted in the juvenile court under ~~section 30 of this act~~ *K. S. A. 38-830* may appeal from such judgment in the same manner as is now provided for appeals from judgments of ~~justices of the peace~~ *state courts of limited jurisdiction* in misdemeanor cases.

38-834. Appeal to district court; effect; requisites; record. (*a*) The provisions of this section shall not apply to appeals under K. S. A. 38-833.

(*b*) An appeal shall be allowed to the district court by any child from any final order made by the juvenile court, and may be demanded on the part of the child by his parent, guardian, guardian *ad litem* or custodian, or by any relative of such child within the fourth degree of kinship. Such appeal shall be taken within thirty (30) days after the making of the order complained of, by written notice of appeal filed with the judge of the juvenile court, which shall specify the order appealed from. It shall be the duty of the judge of said court, without unnecessary delay, to transmit a transcript of the record of the case to the district court of his county.

(*c*) Such appeal shall not suspend or vacate the order appealed from, but the same shall continue in force in all respects the same as if no appeal had been taken until final judgment has been rendered in the district court: *Provided*, The judge of the district court may, pending a hearing on appeal, make such modification of the order of the juvenile court, and upon such conditions, as to him may seem proper. The case shall be heard and disposed of in accordance with the provisions of this act and in the exercise of all the powers and discretion herein given to the juvenile court.

(*d*) The clerk of the district court shall certify the judgment of the district court to the juvenile court, which shall proceed in accordance therewith.

(*e*) Within the thirty (30) days specified in subsection (*b*) of this section, the appellant shall serve upon the adverse party or his attorney of record a notice of appeal. Proof of service thereof verified by affidavit shall be filed with the juvenile court.

(*f*) Whenever a party in good faith gives due notice of appeal and omits through mistake to do any other act necessary to perfect the appeal, the district court may permit an amendment on such terms as may be just.

(*g*) A record of the proceedings upon appeal in the district court shall be filed and made a part of the files of the case. [L. 1957, ch. 256, § 34; L. 1969, ch. 224, § 7; July 1.]

38-835. Appeal to supreme court; temporary orders. Appeal to the supreme court may be taken from judgments and orders of the district court made pursuant to section 34 [38-834] of this act. Such appeals may be taken as appeals in other cases. Pending such appeal the district court may make such orders for temporary care and custody of the child as it may deem advisable. Temporary orders shall be subject to modification by the supreme court during the pendency of the appeal. [L. 1957, ch. 256, § 35; July 1.]

38-836. Age of child, presumptions; proof. When a person is charged with an offense under this act with respect to a child, or when a child alleged to be under eighteen (18) years of age appears to the court to be under that age, such child shall, for the purposes of this act, be presumed to be under that age, unless the contrary is proved. [L. 1957, ch. 256, § 36; L. 1965, ch. 278, § 7; Jan. 1, 1966.]

38-837. Name of act. This act is named and may be cited as the Kansas juvenile code. [L. 1957, ch. 256, § 37; July 1.]

38-838. Statutes for support of children not repealed. Nothing in this act shall be construed to repeal any act providing for the support by parents of their minor children; nor shall anything in this act be construed to relieve any person of his legal responsibility to support a child; and nothing in said acts shall prevent proceedings under this act in any proper case. [L. 1957, ch. 256, § 38; July 1.]

38-839. Child in custody entitled to confer with counsel; appointment of counsel for indigent child; fee. When any child under the age of eighteen (18) years has been taken into custody by a law enforcement official, and such child indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking, he shall not be questioned until he has had an opportunity to consult with retained or appointed counsel. Except in cases where there is imminent danger that such child will escape, it shall be the duty of the law enforcement official having custody of the detained child to provide a suitable place where he may confer privately with his attorney without surveillance or other intrusion by the law enforcement officials. The court shall prescribe by rule the procedure to be followed in obtaining the services of counsel to represent indigent children detained by such law enforcement officials prior to appearance before the court and may award a reasonable fee to said counsel to be paid from the general fund of the county. This section shall be a part of and supplemental to the Kansas juvenile code. [L. 1969, ch. 224, § 8; July 1.]

Charges - Misc. attachment 1
8/25/15

Miscellaneous Suggestions:

1. Require appointment of guardian ad litem to represent children in divorce actions.

2. Guarantee all children equal protection under the law.

3. Transfer jurisdiction over adoption proceedings from the probate court to the juvenile court.

4. Require consent of unmarried father for adoption.

5. Prohibit placement of status offender in with more serious offenders.

6. Require each jurisdiction to have adequate detention facilities.

7. Provide a facility for 16 and 17-year-olds.

THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

AMERICAN PUBLIC WELFARE ASSOCIATION

1155 16th Street, N.W.

Washington, D.C. 20036

8-24-73

THE INTERSTATE COMPACT
ON THE
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AMERICAN PUBLIC WELFARE ASSOCIATION
Suite 201
1155 16th Street, N.W.
Washington, D.C. 20036

Brendan V. Callanan, Project Director

(202) 833-9250

THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Finding suitable homes for children who have lost or never had them is a problem with many facets. Most often it has been thought of as an illegitimate infant or one from a broken marriage. Frequently it's a child removed from parental neglect or abuse. Sometimes, it is a child who needs special care or services.

Public attention to the problem rides up and down like a roller coaster. It is intense in times of outcry against black markets in babies; it tails away to nothing when the supply of the more sought after children nears exhaustion. The belief then becomes widespread that the problem is solved because every child who can expect to have a home has been provided with one. But such thoughts are illusions. They are based on a skewed perception of the human needs involved.

The would-be parents and children have needs for love, security, and fulfillment that can be met only when children in need of placement are matched with adults who can care for them. Thus there is always a shortage. Sometimes it is of children to satisfy the needs of would-be adoptive or foster parents. At other periods the shortage is of parents for children who are less readily placed because of handicap or because they are from minority groups. There is also a continuing need to find homes for older children hitherto less often placed but who need family environments fully as much as do infants.

Satisfying the material, emotional and spiritual needs of children who must have families and of adults who want youngsters through foster parenthood or adoption produces a never ending series of searches. Most often they are carried on in the relatively small geographic areas surrounding the living places of the people immediately involved. The child caring and placement agencies (public or private) which may provide assistance or supervision are also local or those of a single state.

But experience shows that neither the needs of children nor adults can be met by restricting child placement services and supervision to the territory of any single state. A variety of circumstances makes interstate placements of children essential and offers compelling reasons for an interstate compact under which the jurisdictional, administrative and human rights and obligations involved can be protected. The Interstate Compact on the Placement of Children, which by 1974 had been enacted in 24 states, is that compact. The Compact's text is reproduced in full at the end of this statement.

The most obvious reason why interstate placements are necessary is that almost never is the number of children requiring place-

ments and the numbers and kinds of adults anxious and able to receive them in balance within any state or local area. If the surplus in either group is to be accommodated, its fulfillment must be found in another state.

Another circumstance of increasing importance is that families move, including many with children whose adoptions have not yet been perfected or who are in foster care not intended to eventuate in adoption. In the absence of the Interstate Compact on the Placement of Children such families face undesirable alternatives:

1. They may forego the move and so lose employment, career advancement or other personal benefits or necessities; or

2. They may leave the children behind thereby denying their own needs and those of the children; or

3. They may take the children with them (in some cases illegally) and create situations in which the normal legal and administrative protections surrounding the placement are lost.

The Interstate Compact on the Placement of Children is a legally and administratively sound means of permitting child placement activities to be pursued throughout the country in much the same way and with the same safeguards and services as though they were being conducted within a single state.

The Compact applies to placements preliminary to possible adoptions, placements in foster care where no adoption is contemplated, and institutional placements of adjudicated delinquents needing special services or programs not available within the state.

In brief, the Compact requires notice and ascertainment of the suitability of a placement before it is made; allocates in specific fashion the legal and administrative responsibilities during the continuance of an interstate placement; provides a better basis for enforcement of rights and responsibilities than now exists and authorizes joint actions of the administrators in all party states to further effective operations and services when either public agencies or private persons and agencies in more than one state are involved in a placement situation.

A single state acting alone is unable to effectuate similar procedures and safeguards because of its inability to give its courts and administrative agencies authority beyond its own territory. This is a jurisdictional limitation which is not overcome by the Full Faith and Credit Clause of the United States Constitution. Although Article IV, Section 1 of the Constitution provides that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State", this is not a proclamation that each state must enforce the laws of her sister states.

Full Faith and Credit applies only when a state's proceeding has had a jurisdictionally valid basis. Riley v. N. Y. Trust Co., 315 U.S.

343 (1941). It is not a grant which extends jurisdiction where none otherwise exists. In the absence of a multilateral law such as that of the Compact, jurisdistion can, in general, only be obtained when the parties and/or the subject of the controversy are within the state's territorial boundaries. McDonald v. Mabee, 243 U.S. 90 (1917). That an interstate compact can validly confer extraterritorial jurisdiction has, however, been reaffirmed many times, e.g. Gully v. Apple, 213 Ark. 350 (1948), Ex parte Tenner, 20 Ca2d 670 (1942). Accordingly, the Interstate Compact on the Placement of Children, which becomes valid law in each of the party states, grants the requisite jurisdiction to all of them to solve a number of specific problems encountered in interstate placements.

1. Unilateral laws seeking to regulate placements into other states or to restrict placements into the state from other states have no effect beyond the single state's borders. Many states, recognizing the need for some regulation of interstate placements have enacted child importation and exportation statutes. In general, these laws require that no child may be placed into or out of the state without consent of its public welfare agency. Consent is conditioned upon notification of the intended placement containing sufficient information for the agency to make a determination that it will not be undesirable. There is scant means of insuring compliance. The frequent statutory authorization for bond is largely ineffective, either because it is ignored or waived and because at best, it cannot substitute for any but the financial aspects of placement obligations.

For example, there is nothing to compel the sending agency or person located in another state to comply with notice requirements. Without prior notification, the state in which the child is placed has no opportunity to make any preplacement investigation. Thus, a child often arrives in the state without any determination being made as to the appropriateness of the environment. Such placements will frequently go entirely undetected and unsupervised until after something has gone wrong. Only then does a tragic situation come to the attention of the authorities. Often, those who should be responsible for taking remedial action are in another jurisdiction and cannot be reached by either administrative or court procedures. Furthermore, when a child is being placed out of a state, the state of origin has no assurances of the adequacy of the preplacement services in the receiving state, or even of obtaining any.

The ineffectiveness of these unilateral attempts to regulate interstate placements is indicated by the fact that although 29 states have importation statutes and 9 have exportation statutes, there have been very few attempts to enforce them. See In Re Adoption of Lunger, 28 N.J. Super. 614 (1953) (Statute making it

misdemeanor to place children in state without prior approval cannot be applied against placement agency located outside the state); In Re Blalock, 283 N.C. 493 (1951). (Had nonresident violators of exportation statute not placed themselves within the courts jurisdiction, their motion to dismiss would probably have been granted for lack of jurisdiction).

In contrast, the Compact provides a legally enforceable procedure for insuring that sufficient information is furnished for a determination as to the suitability of the placement (Art. III). Accordingly, there is assurance of having a sufficient determination that the prospects for the placement are satisfactory.

2. A state has no means of monitoring the performance of those who are caring for a child placed in another state. In the absence of the Compact, the sending state has no way of insuring that an agency or foster parents in another state are meeting their responsbilities toward the child. In general, one state cannot enforce the laws of another state in any affirmative sense. United States v. Constantine, 296 U.S. 287 (1935). The Compact provides the necessary authority for establishing legally sound agency relationships among public and private entities in the sending and receiving states and also makes valid the enforcement of the appropriate laws of either state in both the sending and receiving jurisdictions. See Bartkus v. Illinois, 359 U.S. 121 (1959), Abbate v. United States, 359 U.S. 187 (1959). (Punishing a given course of conduct in more than one jurisdiction not barred by the double jeopardy provision of the Fifth Amendment). This secures a means of assuring that information and supervision will be a practical reality. Furthermore, because the Compact becomes law in each of the party states, enforcement of its provisions by any one of them is actually enforcement of that state's own law.

3. Laws fixing responsibility for education, care or support of the child do not apply. Should a child be brought into a state without prior notification and arrangements, the state in which he is placed would ultimately bear the responsibility for meeting the child's welfare needs. Indeed, because absence of legal residence is not sufficient grounds for denying welfare assistance, the child has a right to the same basic support as would be provided a child already residing in the state. Shapiro v. Thompson, 394 U.S. 618 (1969). That support of a child placed from another state is a matter of concern is attested to by the fact that most of the importation statutes provide that the sending agency or person shall remain financially responsible for the child. Such an attempt to fix responsibility is often practically unavailing because it is unenforceable except by forfeiture of the bond. The Compact, which legally fixes financial responsiblity with the sending agency, gives the receiving

state a superior means to any other now existing of enforcing child support from the persons or agencies which should have the obligation.

4. Jurisdistion over the child ends at the state line. In the absence of the Compact, the sending state can no longer reach the child once he is placed out-of-state. Should a placement go bad, the state-of-origin has no means to effect removal of the child to a better environment or, if need be, to compel his return. Formerly, a child was considered to have no rights in regard to such a situation. He could be shifted about or placed at will but only by authorities who could assert jurisdiction over him. More recently, it has become established that, in addition, juveniles are entitled to a measure of due process. McKeiver v. Pennsylvania, 403 U.S. 528 (1971); In the Matter of Winship, 397 U.S. 358 (1970); In Re Gault, 387 U.S. 1 (1967). Consideration must now be given to the child's rights to proper procedures before he can be placed in a home or removed to another. Although this has always been desirable as good policy, it is now required by law. The Compact provides for the application of proper procedures consistent with the child's legal rights. It insures that the child's interest in protection from a bad placement situation will not go unremedied.

The Interstate Compact on the Placement of Children does not purport to supplant existing child placement laws, but rather is a valuable supplement to them. The Compact does not attempt to deal with all aspects of placements but only with those of particular significance for interstate situations. For example, although Stanley v. Illinois, 405 U.S. 645 (1972), is of great consequence in the field of child placement, it has no special bearing on the operation of the Compact. Such matters as relinquishment of parental rights or licensing of agencies, although of great concern in child placement are of equal importance whether the placement is intrastate or interstate. Those placement matters which are not uniquely of interstate concern remain within the realm of individual state action. The Compact provides the necessary legal framework for placements in which more than one state is involved, thereby improving protection for children and those who care for them.

TEXT OF INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state.

Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

STATE ENABLING LEGISLATION

Following is the draft of an enabling act. Its purpose is to put the compact into effect and to relate its provisions to the organizational structure and operating procedure of the ratifying state. To accomplish this purpose, the language of the enabling act must vary from state to state.

In contrast, the language of the compact proper—as distinguished from the enabling act—should be adopted verbatim by all ratifying states so that possible legal difficulties may be avoided.

SUGGESTED DRAFT FOR ENABLING ACT

[Title should conform to state requirements]

(Be it enacted, etc.)

Section 1. The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

[At this point insert the exact text of the compact as shown]

Section 2. Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of [State laws fixing responsibility for the support of children] also may be invoked.

Section 3. The "appropriate public authorities" as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the [insert name of appropriate state agency] and said [agency] shall receive and act with reference to notices required by said Article III. [Add such additional enforcement provisions as may be necessary.]

Section 4. As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the [insert name of appropriate official or agency].

Section 5. The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the [chief state fiscal officer] in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

Section 6. Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under [cite appropriate provisions of statute] shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph (b) of Article V of the Interstate Compact on the Placement of Children.

Section 7. The provision of [cite statutes restricting out-of-state placement] shall not apply to placements made pursuant to the Interstate Compact on the Placement of Children.

Section 8. Any court having jurisdiction to place delinquent children may place such a child in an institution in another state pursuant to Article VI of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article V thereof.

Section 9. As used in Article VII of the Interstate Compact on the Placement of Children, the term "executive head" means the [Governor]. The [Governor] is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

Section 10. [Insert effective date.]

Wastell
Attachment V
8/29/75

Kansas Council for Children and Youth

P.O. Box 4054
Topeka, Kansas 66604

Reply to:

The Interstate Compact on the Placement of Children

Proposal #30 -- Special Committee on Juvenile Matters

Re: H.B. 2561 -- 1975 session

The Kansas Council for Children and Youth (KCCY) wishes to support the favorable consideration of H.B. 2561 -- The Interstate Compact on the Placement of Children.

KCCY is a children and youth advocate organization composed of members who are individual members or representatives of agencies or organizations from across the State of Kansas.

The passage of the compact is a priority goal of KCCY and is also a priority goal of the National Council of State Committees for Children and Youth.

We want to emphasize that without this compact, Kansas does not have the ability to exercise judicial control over the out of state placement of children, or to conduct any pre-placement investigations, or to allocate legal responsibilities. The compact will provide a better basis for enforcing rules and regulations concerning the placement of children.

We should not permit placement of Kansas children in other states as if we were shipping out a product or produce never to be seen or heard from again.

We believe the compact would be advantageous to Kansas and we urge your recommending the favorable passage during the 1976 legislative session.

Respectfully submitted,

Lee A. Wastell

Lee A. Wastell, President
Kansas Council for Children and Youth

Judge Bill Hayzer
8/29/75
Attachment VI

38-824 (a) Dependent or neglected child; commitment; deprival of parental rights; placement or adoption; conservators; hospital, medical or surgical care.

(a) The provisions of this section shall apply to any child under the age of eighteen (18) years found to be a dependent and neglected, within the meaning of this act, either at the initial hearing or any subsequent hearing:

(b) In the absence of any order depriving parental rights, the juvenile court may make such dependent and neglected child a ward of the court and commit the child to:

(1) The custody of either or both of his parents;

(2) the care, custody and control of a probation officer duly appointed by the court, or other individual;

(3) the care of some children's aid society;

(4) to the care of some reputable citizen or good moral character;

(5) to the care of some suitable public or private institution used as a home or place of detention or correction;

(6) to the care of some association willing to receive it, embracing in its objects the purpose of caring for or obtaining home for dependent and neglected children; or

(7) the care, custody and control of the state department of social and rehabilitation services.

(c) When one or both of the parents of a child are (or is) found and adjudged to be unfit persons (or an unfit person) to have the custody of such dependent and neglected child, K.S.A. 38-820

and other applicable provisions of this act having been fully complied with the juvenile court may make an order permanently depriving such parents, or parent, of their (his or her) parental rights and commit the child:

(1) To the care of some reputable citizen of good moral character;

(2) to the care of some suitable public or private institution used as a home or place of detention or correction;

(3) to the care of some association willing to receive it, embracing in its objects the purpose of caring for or obtaining homes for dependent and neglected children;

(4) the state department of social and rehabilitation services.

(d) In any case where the juvenile court shall award a child to the care of an individual or association, in accordance with clause (1) or (3) of subsection (c) of this section, the child shall, unless otherwise ordered, become a ward of, and be subject to the guardianship of the individual or association to whose care it is committed. Such individual or association shall have authority to place such child in a family home, give consent for the adoption of such child, and be party to proceedings for the legal adoption of the child, and such consent shall be the only consent required to authorize the probate court to enter proper order or decree of adoption. In any case where the juvenile court shall award a child to the state department of social and rehabilitation services in accordance with clause (4) of subsection (c) of this section said state department of social and rehabilitation services shall be the guardian of the person and the estate of such child and shall

be empowered to place such child for adoption and give consent therefore, or to make transfer of such child as provided for by K.S.A. 38-825. In any such case, upon the filing of the application provided for in K.S.A. 1972 Supp. 59-3009 of the act entitled "act for obtaining a guardian or conservator, or both" by the secretary of social and rehabilitation services, the court shall forthwith appoint the secretary of social and rehabilitation services the "conservator" of such child.

(e) When the health or condition of such dependent and neglected child shall require it, the juvenile court may cause the child to be placed under the care of a competent physician and in a public or private hospital, if deemed necessary by the physician. In cases other than those provided for in subsection (d) above, the juvenile court may delegate the authority to issue consents to the performance and furnishing of hospital, medical or surgical treatment or procedures to the individual, association, or agency to whom the court has granted custody of said child.

(f) When a dependent and neglected child's care, custody and control has been placed in the state department of social and rehabilitation services, said secretary, subject to the approval of the juvenile court, may place the child in the Youth Center at Atchison or in a foster care facility, or may transfer such child to the jurisdiction of a children's aid society willing to accept the child, or with the written consent of the judge of the juvenile court to the home of the parent, or parents who have not been deprived of parental rights.

(g) A parent or parents of a child whose care custody and

control have been placed in the state department of social and rehabilitation services, who has not been deprived of their parental rights, may file with the juvenile court having jurisdiction, a petition in writing for the return of said child to one or both parents. Such petition shall be verified by affidavit and shall state the name, age and residence of the child and name and residence of each petitioner. The court shall fix a time and place for a hearing on such petition and shall notify each petitioner and the secretary of social and rehabilitation services of such time and place. If after the hearing, the court shall determine from the evidence that it would be to the best interest of the child that he be returned to his parents, it shall so order.

38-824(b) Child adjudged delinquent, miscreant, wayward, truant or traffic offender; orders for placement, commitment, probation or imposing penalities:

(a) When a child has been adjudged to be a delinquent, miscreant, wayward or truant child under the provisions of this act, the judge of the juvenile court may make an order to:

(1) Place said child on probation in the care, custody and control of either or both of his parents, subject to such terms and conditions as the juvenile court may deem proper and may make such additional orders directed to the juvenile or his parents or both as may be deemed necessary to effectively carry out the probation;

(2) place such child in the care, custody and control of a duly appointed probation officer or other suitable person, subject to such terms and conditions as the juvenile

may deem proper;

(3) place such child in a detention home, group home, parental home or farm, or other facility established for the care of minor children, subject to such terms and conditions as the juvenile court may deem proper.

(4) place such child in the care of a children's aid society, subject to such terms and conditions as the juvenile court may deem proper; provided, however, that if such child is sixteen (16) years of age or over, the juvenile court may place such child in the county jail pending final disposition or may place him on probation on such terms and conditions as the juvenile court may deem proper;

(5) place the care, custody and control of such child in the state department of social and rehabilitation services;

(6) commit such child, if a boy thirteen (13) years of age or older to the youth center for boys or other training or rehabilitation facility for juveniles, if a girl thirteen (13) years of age or older to the youth center for girls or other training or rehabilitation facility for juveniles; provided, that no child who has been adjudged to be a wayward child or a truant under this act shall be committed under this section (6) unless it is found by substantial evidence and reflected in the court's journal entry of commitment that there is no alternate community or private program or placement

which offers a reasonable change of achieving the goals of this code with said child.

(b) When a child has been adjudged to be a traffic offender under the provisions of this act, the judge of the juvenile court may make an order:

(1) Imposing a penalty of not more than one hundred fifty dollars ($150) for each offense, which penalty shall be in addition to any costs adjudged against such offender in the discretion of the juvenile court.

(2) suspending or revoking his motor vehicle operator's license and requiring a copy of the order to be forwarded by cerified mail, to the division of vehicles of the department of revenue together with a statement of the fact showing that such offender has committed an act making him a traffic offender under the provisions of this act, and the division of vehicles of the department of revenue shall forthwith comply with said order by suspending or revoking his motor vehicle operator's license;

(3) directing such offender to attend a police department traffic school in a city of the county in which he has residence; or

(4) placing such child in the same manner as provided in paragraphs (1), (2), (3) and (4) of subsection (a)

(c) When a child's care, custody and control has been placed with the state department of social and rehabilitation services, pursuant to subsection (a)-(5) or subsection (b) of this section,

the secretary may place the child in any institution operated by the director of mental health and retardation services, or it may contract and pay for the placement of the child in a county detention home, or in a private children's home, as defined by K.S.A. 1972 Supp. 75-3329, or for the placement of such child in a child care facility, or boarding home for children, in a community mental health clinic, or transfer such child at any time to any institution, detention home, mental health clinic, private children's home, child care facility or boarding home for children; provided, however, that no placement or change of placement shall be made under this section (c) in violation of K.S.A. 38-824, as amended.

(New 38-824; 38-824 (a); 38-824 (b) will replace 38-824; 38-825; and 38-826)

38-824 TREATMENT OF CHILDREN FALLING UNDER THE JURISDICTION OF THE COURT

(a) All placements of children made under this code shall be determined by the court. All such placements shall be reviewed and approved by the court every six (6) months; or each time a change of placement or the location of a placement is made; or when the best interests of the child may require. Said review shall not require a formal hearing and shall be undertaken within seven (7) days of any change of placement.

38-811 Venue Venue of any case involving a dependent and neglected child shall be in the county of such child's residence or in the county where he may be found. Venue of any case involving a delinquent child, a miscreant child, a wayward child, a traffic offender or a truant shall be in any county where such alleged act is committed or in the county of his residence. If a child whose residence is in the State of Kansas shall commit an alleged act in violation of a law of another state, the court in the county of his residence shall have venue of the action. The laws of the state wherein the alleged act occurred shall determine whether the act is a delinquent, miscreant, wayward, truant or traffic offense, based on its classification of the offense if it were committed by an adult in that state in the case of a delinquent or miscreant act, and on the juvenile code of that state if it is other than a delinquent or miscreant act. Venue in cases involving prosecution of persons charged under section 30 (38-830) of this act shall be in the county where the offense has been committed.

38-812. TRANSFER OF PROCEEDINGS Upon application of any interested person, an order may be made by the juvenile court in which the original proceedings are pending transferring said proceedings to the court where the child is physically present or where the parent or parents reside before or after adjudication. The court to which such case is transferred shall accept the case. An interested person, within the meaning of this section, shall be any person who would be entitled to appeal from any order of the juvenile court made in such proceedings, or the prosecuting attorney. Any judge transferring any case to another juvenile court shall transmit to said court a complete transcript thereof and, upon receipt of such transcript, said juvenile court shall assume jurisdiction as if such proceedings were originally filed in such court. In case said child is not present in the county to which such case is transferred such juvenile court shall return the case to the court where it originated.

Sec. 5 K.S.A. 38-817

(a) Upon the filing of a petition to declare a child to be delinquent, miscreant, wayward, a traffic offender, a truant or dependent and neglected, the juvenile court shall fix the time and place for the hearing thereon. The date set for hearing shall be within two (2) weeks following the date of the filing of such petition but the court may for good and sufficient cause grant a continuance when deemed necessary or set the matter for hearing beyond two (2) weeks if the press of the court's docket makes such extention necessary.

K.S.A. 38-803

(c) If jurisdiction is waived under the provisions of subsection (b) of this section, the court shall direct the prosecuting attorney to prosecute the person under the applicable criminal statute or ordinance and thereafter dismiss the petition or, if a prosecution has been commenced in another court but has been suspended while juvenile court proceedings are held, shall dismiss the petition and issue its order directing that the other court proceedings resume. Any finding by a juvenile court hereunder, that a child is not a fit and proper subject to be dealt with under the Kansas juvenile code may, if the order so provides, thereafter attach to any future act by such child which would constitute a felony or misdemeanor if committed by a person over the age of eighteen (18) years.

K.S.A. 38-815

New Sec. 4 (a) Whenever there is required to be a determination as to the need for any detention or custody of a child in a detention hearing under this act, the juvenile court shall immediately set the time and place for such hearing and shall appoint a guardian ad litem for the child, unless one has already been appointed or other counsel for the child has been retained in lieu thereof, to serve until such time as such other counsel may be retained. The costs of such guardian ad litem may be assessed to the parent, guardian or such other person having legal custody of the child as part of the costs of the case as provided in subsection (f) of K.S.A. 38-817, as amended.

(b) Notice of the detention hearing setting forth the time, place and purpose of such hearing and of the appointment of a guardian ad litem shall be given immediately to the child, to the guardian ad litem and, if he can be found, to the parent, guardian or such other person having legal custody of the child or if there is none, then to some other relative or other interested person, if there is one. Such notice shall include a statement advising such persons of the right to retain counsel of their own choosing, and that the court has appointed counsel to serve as guardian ad litem until such time as the court is notified of the name and address of the counsel for the child which has been retained in lieu of such guardian ad litem. Such notice shall set forth the name and address of such guardian ad litem and that the cost of such guardian ad litem may be assessed to the parent, guardian or such other person having legal custody of the child as part of the costs of the case. Written notice of the detention hearing as provided in this

subsection shall be served at least twenty-four (24) hours prior to the time set for the detention hearing, by the probation officer or by the sheriff of the county or by any other person appointed by the court for such purpose. Except as otherwise specifically provided in this section, such notice shall be served in the manner, other than by publication, provided for the service of summons in K.S.A. 38-810. If it appears that written notice may not reach the parties in time or that the parties can be informed of the notice information by telephone or other direct means, the court may instruct that notice be served in that fashion.

(c) The juvenile court may order temporary custody or detention as provided in K.S.A. 38-819, as amended, in a detention hearing under this section after determining that: (1) the child is dangerous to himself or to others; (2) the child is not likely to appear at a hearing for adjudication on any petition filed pursuant to K.S.A. 38-816; or (3) the health or welfare of the child may be endangered, without further care.

(d) When the court finds that the continued detention of the child pending adjudication in a hearing on a petition is not required to serve the welfare of the child and the best interests of the state as determined in subsection (c) of this section, the court shall order the child's release an in doing so may place the child in the custody of the parent, guardian or other person having legal custody of the child, or a probation officer, or may impose any other conditions which may be required subject to modification by the court.

(e) This section shall be construed as supplemental to and a part of the Kansas juvenile code.

Attachment VII
KCCD
8/28

Areas of Consideration for Statewide Standards for Juvenile Detention Facilities

Legislation relating to juvenile detention should clearly detail authority to establish standards, to inspect and report on deficiencies, and to enforce the legislation with respect to all detention facilities or jails used for detention. Local government, local law enforcement agencies, the courts, appropriate state departments and agencies, and citizens should be involved in this process.

Minimum standards for construction, maintenance, and operation should include the following:

(1) Intake, processing procedures, and records.
(2) Physical facilities which are secure and safe.
(3) Design of facilities.
(4) Adequacy of space per person.
(5) Staff- qualifications and selection, personnel practices, training, evaluation, and ratios.
(6) Heat, light, and ventilation.
(7) Personal supervision of juveniles detained.
(8) Personal hygiene and comfort of person detained.
(9) Medical and other health care.
(10) Sanitation.
(11) Food allowances, food preparation, and food handling.
(12) Clothing and bedding.
(13) Discipline.
(14) The juvenile's right to:

A. Counseling
B. Educational, vocational, and recreational programs
C. Work
D. Medical and psychiatric services and treatment for problems associated with alcoholism, drug addiction, mental or physical diseases or defects
E. Communication with counsel and persons outside
F. Religion
G. Protection
H. Access to books
I. Personal property
J. Privacy
K. Receive visitors

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Subcommittee on Juvenile Detention
Kansas Council on Crime and Delinquency