

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

Held in Room 519 S, at the Statehouse at 11:00 a. m. ~~xxxx~~, on February 21, 19 78.

All members were present except: Senators Steineger, Gaar and Hess

The next meeting of the Committee will be held at 11:00 a. m. ~~xxxx~~, on February 22, 19 78.

~~These minutes of the meeting held on xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx were considered, corrected and approved~~


Chairman

The conferees appearing before the Committee were:

Representative Don E. Crumbaker

Staff present:

- Art Griggs - Revisor of Statutes
- Paul Purcell - Legislative Research Department
- Jerry Stephens - Legislative Research Department

House Bill 3207 - District courts, residency requirements and nominations of judges. The chairman explained the purpose of the bill, which would alleviate the problem that has occurred in the seventeenth judicial district. Representative Crumbaker appeared to request the bill be amended to permit the nominating commission to meet earlier than present law permits. Following committee discussion, Senator Burke moved to strike the time limitation prior to the time of the vacancy; Senator Hein seconded the motion, and the motion carried. Senator Parrish moved to report the bill favorably as amended; Senator Burke seconded the motion, and the motion carried, with Senator Gaines being recorded as voting "No."

Senate Bill 905 - Hearings in aid of executions. Senator Parrish explained this bill and the difficulties that some attorneys have been experiencing in the enforcement of judgments. Committee discussion followed. Senator Simpson moved to report the bill adversely; Senator Everett seconded the motion. Following further committee discussion, Senator Parrish made a substitute motion to strike the amendatory language on lines 50 to 59; Senator Mulich seconded the motion, and the motion carried. Senator Parrish moved to report the bill favorably as amended; Senator Mulich seconded the motion, and the motion carried, with Senator Simpson being recorded as voting "No."

Senate Bill 908 - District court, procedure for change of judge. Senator Parrish explained this bill. Following committee discussion, Senator Parrish moved to amend the bill to provide for an amendment to a different section of the statute; Senator Burke seconded the motion, and the motion carried. Senator Parrish

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the Senate Committee on Judiciary February 21, 1978.

SB 908 continued -

moved to report the bill favorably as amended; Senator Hein seconded the motion, and the motion carried.

Senate Bill 584 - Proceedings in aid of execution. Following committee discussion, Senator Hein moved to report the bill adversely; Senator Simpson seconded the motion, and the motion carried.

Senate Bill 579 - Protection of adults and children from abuse by persons residing with them, tax levy authorization. The chairman reviewed prior action on this bill. The committee reviewed suggested language for an amendment to the bill to provide for a peace bond. It was suggested that several changes should be made in the proposed language. Senator Berman moved to adopt the proposed amendment relating to the peace bond; Senator Gaines seconded the motion, and the motion carried. Senator Berman moved to report the bill favorable as amended; Senator Parrish seconded the motion, and the motion carried.

Senator Parrish moved to approve the minutes of February 6, 17, and 8; Senator Simpson seconded the motion, and the motion carried.

The meeting adjourned.

These minutes were read and approved by the committee on 4-24-78.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

J.P. Betten

Topeka

Coyk

William A. Hall

Leawood, Kans

Kiwanis

Dale Cantrell

Overland Park, Ks

Kiwanis

A.W. Sikes

Overland Park, Kansas

Kiwanis

Richard E. Sanders

Overland Park, Ks

Kiwanis

New Sec. ____ (a) When a party to a divorce, separate maintenance or annulment action requests a restraining order as authorized by paragraph (2) of subsection (a) of K.S.A. 1977 Supp. 60-1607, and such request is accompanied by an affidavit by such party stating that he or she is in fear of physical abuse to himself or herself by the other party to the action, then the court may issue an order requiring such other party to appear before the court at the time stated in the order for a hearing to determine whether or not such party should be required to enter into a recognizance as provided in this act.

(b) At the hearing it shall be the duty of the judge to examine the parties and their witnesses. The parties may present and cross-examine witnesses. If it appears to the satisfaction of the judge that there is reason to fear the abuse as alleged in the affidavit, such judge shall require the party complained of to enter into a recognizance with security and in such sum, not exceeding five thousand dollars (\$5,000), as the judge may direct, conditioned that the person will faithfully abide by the terms of the restraining order. If the party complained of shall fail to find surety and the court is satisfied that the party is not capable of providing the same, then the judge shall permit the recognizance to be given without surety and upon the party's signature only. If the judge finds that the party complained of refuses to give security or refuses to give recognizance on his or her own signature, then the judge shall order the party committed to the county jail.

(c) When a recognizance has been given, the same shall be discharged in one year or such earlier time as permitted by the court. At the end of such one-year period the court may require a new recognizance to be given in the same manner as provided above, if the judge, after hearing, shall be satisfied that the circumstances so require.

(d) When a recognizance has been given and it is alleged by the party requesting the same that such party has suffered physical abuse by the party giving the recognizance, the court shall give notice to both parties of the time when a hearing on the alleged breach will be held. Such hearing shall be held in the same manner as other civil actions. If the trier of fact

finds that there is a breach of the recognizance without reasonable cause for such breach, the recognizance shall be deemed forfeited. When a recognizance has been forfeited, proceeds therefrom shall be paid to the county general fund. If there be no security or insufficient security to satisfy the recognizance then the unsatisfied portion shall be deemed a judgment in favor of the county and such judgment may be enforced as other civil judgments in proceedings commenced by the county or district attorney.

SENATE BILL No. 553

By Special Committee on Judiciary—B

Re Proposal No. 37

12-7

0017 AN ACT amending and supplementing the Kansas juvenile code;
0018 amending K.S.A. 38-811 and 38-829 and K.S.A. 1977 Supp.
0019 38-802, 38-805, 38-806, 38-807, 38-812, 38-815, 38-815a, 38-
0020 815b, 38-816 to 38-820, inclusive, 38-824 to 38-827, inclusive,
0021 38-828 and 38-834 and repealing the existing sections; also
0022 repealing K.S.A. 1977 Supp. 38-810.

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 Section 1. K.S.A. 1977 Supp. 38-802 is hereby amended to
0025 read as follows: 38-802. As used in this act, unless the context
0026 otherwise indicates:

0027 (a) "Children's aid society" means any organization having
0028 among its objectives the care, control or protection of ~~dependent~~
0029 ~~and neglected~~ *deprived, miscreant, wayward, truant, or delin-*
0030 *quent children or traffic offenders.*

0031 (b) "Delinquent child" means a child less than eighteen (18)
0032 years of age: ~~(1)~~ who does an act, other than one defined in
0033 subsection (e) ~~of this section~~, which if done by a person eighteen
0034 (18) years of age or over, would make such person liable to be
0035 arrested and prosecuted for the commission of a felony as defined
0036 by K.S.A. 21-3105; ~~or~~

0037 ~~(2) who has been adjudged a miscreant child under this act~~
0038 ~~three (3) or more times.~~

0039 (c) "Miscreant child" means a child less than eighteen (18)
0040 years of age:

0041 (1) Who does an act, other than one defined in subsection (e)
0042 ~~of this section~~, which if done by a person eighteen (18) years of
0043 age or over, would make such person liable to be arrested and
0044 prosecuted for t^e commission of a misdemeanor as defined by

AMENDMENTS PROPOSED BY THE GOVERNOR'S COMMITTEE

ON CRIMINAL ADMINISTRATION

0045 K.S.A. 21-3105;

0046 (2) who does an act, other than one defined in subsection (e)
 0047 of this section, which, if done by a person eighteen (18) years of
 0048 age or over, would make such person liable to be arrested and
 0049 prosecuted for or the violation of any ordinance, police regula-
 0050 tion, order, rule or regulation adopted by any authority, city,
 0051 county, township or other political subdivision of this state; city
 0052 ordinance or county resolution; or

0053 (3) who does an act, other than one defined in subsection (e)
 0054 of this section, the commission of which by persons under the age
 0055 of eighteen (18) years, is specifically prohibited and made un-
 0056 lawful by state law, city ordinance, police regulation, order, rule
 0057 or regulation adopted by any authority, city, county, township or
 0058 other political subdivision of this state;

0059 (4) who has been adjudged a wayward child under this act
 0060 three (3) or more times; or

0061 (5) (2) who escapes from or runs away from any juvenile
 0062 detention home or farm or other juvenile center after lawful court
 0063 ordered placement therein by an order of a court of competent
 0064 jurisdiction.

0065 (d) "Wayward child" means a child less than eighteen (18)
 0066 years of age:

0067 (1) Whose behavior is injurious to his or her welfare;

0068 (2) who has deserted his or her home without good or suffi-
 0069 cient cause; or

0070 (3) who is habitually disobedient to the reasonable and lawful
 0071 commands of his or her parent, guardian or other lawful custo-
 0072 dian; or

0073 (4) who does an act, other than one defined in subsection (e),
 0074 the commission of which by persons under the age of eighteen (18)
 0075 years, is specifically prohibited and made unlawful by state law,
 0076 city ordinance or county resolution.

0077 (e) "Traffic offender" means a child under sixteen (16) four-
 0078 teen (14) years of age who does an act which, if done by a person
 0079 sixteen (16) fourteen (14) years of age or over, would make such
 0080 person liable to be arrested and prosecuted for the violation of
 0081 any of the following traffic offenses:

and who was an alleged or adjudicated delinquent, miscreant or traffic of-
 fender at the time of the court's order of placement

0785 name of the court and shall contain notice of the time and place of
0786 the hearing and a statement requiring the person named in the
0787 summons to appear and there show cause why he or she should
0788 not be deprived of the permanent custody of
0789 _____ (name of child). Such summons
0790 shall be served as provided by ~~K.S.A. 1976 Supp. 38-810.~~

0791 Sec. 17. K.S.A. 1977 Supp. 38-819 is hereby amended to read
0792 as follows: 38-819. (a) Prior to or during the pendency of a
0793 hearing on a petition to declare a child to be a delinquent,
0794 miscreant, wayward, or *deprived child* or a traffic offender, ~~a~~ or
0795 truant or dependent and neglected, filed, *commenced* pursuant to
0796 K.S.A. ~~1976~~ 1977 Supp. 38-816, *as amended*, the district court
0797 may order that such child be placed in some form of temporary
0798 detention or custody as provided in this section; ~~but only after.~~
0799 *Any such detention or custody shall not exceed forty-eight (48)*
0800 *hours, excluding Sundays and legal holidays, unless within such*
0801 *forty-eight-hour period* a determination is made as to the neces-
0802 sity therefor in a detention hearing as provided by K.S.A. ~~1976~~
0803 1977 Supp. 38-815b, *as amended. If the hearing on the petition*
0804 *results in the child being adjudged a delinquent, miscreant,*
0805 *wayward or deprived child or a traffic offender or truant, the*
0806 *court may order that the child be placed in some form of tempo-*
0807 *rary detention or custody as provided by this section pending*
0808 *execution of the order of disposition.*

0809 (b) ~~Upon such a determination, Pursuant to subsection (a),~~ the
0810 court may make an order temporarily granting the custody of such
0811 child to some person, other than the parent, guardian or other
0812 person having legal custody, ~~or who shall not be required to be~~
0813 *licensed under article 5 of chapter 65 of the Kansas Statutes*
0814 *Annotated, but who shall become licensed thereunder within thirty*
0815 *(30) days of the entry of the court order if the child remains in such*
0816 *person's custody; to a children's aid society; or; to a public or*
0817 *private institution used as a home or place of detention or cor-*
0818 *rection; or to the secretary of social and rehabilitation services.*

0819 (c) ~~Upon such a determination, Pursuant to subsection (a),~~ the
0820 court may order any such child who is alleged or *adjudged* to be a
0821 delinquent or miscreant child to be placed in detention in the

0822 county jail or police station in quarters separate from adult
0823 prisoners. In such cases, the court, if it deems it advisable, may
0824 order such child confined in a jail or police station prior to or
0825 during the pendency of the hearing on the petition. When such
0826 provisions for separate quarters have not been made for the care
0827 and custody of the child in such detention, the court may order
0828 such child to be kept in some suitable place of detention provided
0829 by the county other than the county jail or police station.

0830 (d) Unless otherwise provided for, and subject to payment or
0831 reimbursement as required by K.S.A. 1976 1977 Supp. 38-828, as
0832 amended, the expenses of any temporary detention or custody
0833 ordered by the district court pursuant to this section shall be paid
0834 out of the state social welfare fund if the child is determined by
0835 the secretary of social and rehabilitation services to be eligible for
0836 assistance under K.S.A. 1976 1977 Supp. 39-709 otherwise such
0837 expenses shall be paid from the county general fund of the county
0838 in which the matter or proceeding is pending.

0839 Sec. 18. K.S.A. 1977 Supp. 38-820 is hereby amended to read
0840 as follows: 38-820. No order or decree permanently depriving a
0841 parent of his or her parental rights in a dependent and neglected
0842 deprived child under subsection (c) of K.S.A. 1976 1977 Supp.
0843 38-824, as amended, shall be made unless such parent is repre-
0844 sented by counsel and present in district court or has been served
0845 with summons as provided by K.S.A. 1976 Supp. 38-810. The
0846 judge of the district court shall assign an attorney to any such
0847 parent who is unable to employ counsel and may award a rea-
0848 sonable fee to said counsel to be paid from the general fund of the
0849 county.

0850 Sec. 19. K.S.A. 1977 Supp. 38-824 is hereby amended to read
0851 as follows: 38-824. (a) The provisions of this section shall apply
0852 to any child under the age of eighteen (18) years found to be
0853 dependent and neglected a deprived child, within the meaning of
0854 this act, either at the initial hearing or any subsequent hearing.

0855 (b) In the absence of an order depriving parental rights, the
0856 district court may make such dependent and neglected deprived
0857 child a ward of the court and commit the child to:

0858 (1) The custody of either or both of the child's parents;

(e) On and after January 1, 1980, any order authorized by this section for temporary placement or custody of a child shall be subject to the limitations provided in section 32.

0859 (2) the care, custody and control of a juvenile probation of-
0860 ficer duly appointed by the court or other individual;

0861 (3) the care of some children's aid society; or

0862 (4) the secretary of social and rehabilitation services.

0863 *In addition to the foregoing provisions of this section, the court*
0864 *may order the parents of any child who has been adjudicated a*
0865 *deprived child to attend such counseling sessions as the court may*
0866 *direct. The costs of any such counseling may be assessed as costs*
0867 *in the case.*

0868 (c) When the parents, or parent in case there is one parent
0869 only, are found and adjudged to be unfit to have the custody of
0870 such ~~dependent and neglected~~ *deprived* child, K.S.A. ~~1976~~ 1977
0871 Supp. 38-820, *as amended*, and other applicable provisions of
0872 this act having been fully complied with, the district court may
0873 make an order permanently depriving such parents, or parent, of
0874 parental rights and commit the child:

0875 (1) To the care of some reputable citizen of good moral
0876 character;

0877 (2) to the care of some suitable public or private institution
0878 used as a home or place of detention ~~or correction~~;

0879 (3) to the care of some association willing to receive the child,
0880 embracing in its objects the purpose of caring for or obtaining
0881 homes for ~~dependent and neglected~~ *deprived* children;

0882 (4) to the secretary of social and rehabilitation services.

0883 (d) In any case where the court shall award a child to the care
0884 of an individual or association, in accordance with clause (1) or
0885 (3) of subsection (c) of this section, the child shall, unless other-
0886 wise ordered, become a ward of, and be subject to the guardian-
0887 ship of the individual or association to whose care the child is
0888 committed. Such individual or association shall have authority to
0889 place such child in a family home, give consent for the adoption
0890 of such child, and be party to proceedings for the legal adoption
0891 of the child, and such consent shall be the only consent required
0892 to authorize the court to enter proper order or decree of adoption.
0893 In any case where the court shall award a child to the care of the
0894 secretary of social and rehabilitation services, in accordance with
0895 clause (4) of subsection (c) of this section, the secretary of social

0896 and rehabilitation services shall be the guardian of the person and
0897 the estate of said child and shall be empowered to place such
0898 child for adoption and give consent therefor, or to make transfer
0899 of such child for adoption and give consent therefor, or to make
0900 transfer of such child as provided for by K.S.A. ~~1976~~ 1977 Supp.
0901 38-825, *as amended*. In any such case, upon the filing of the
0902 application provided for in K.S.A. ~~1976~~ 1977 Supp. 59-3009 by
0903 the secretary of social and rehabilitation services, the court shall
0904 forthwith appoint the secretary of social and rehabilitation ser-
0905 vices the "conservator" of such child.

0906 (e) When the health or condition of such ~~dependent and~~
0907 ~~neglected deprived~~ child shall require it, the district court may
0908 cause the child to be placed in a public or private hospital under
0909 the care of a competent physician. In cases other than those
0910 provided for in subsection (d) above, the court may delegate the
0911 authority to issue consents to the performance and furnishing of
0912 hospital, medical or surgical treatment or procedures to the indi-
0913 vidual, association, or agency to whom the court has granted
0914 custody of such child.

0915 Sec. 20. K.S.A. 1977 Supp. 38-825 is hereby amended to read
0916 as follows: 38-825. (a) When a ~~dependent and neglected deprived~~
0917 child has been committed to the secretary of social and rehabili-
0918 tation services, said secretary, if he or she deems it to be in the
0919 best interest of the child, may place the child in the youth center
0920 at Atchison or in a foster care facility, or may transfer such child
0921 to the jurisdiction of a children's aid society willing to accept the
0922 child, or with the written consent of the judge of the district court
0923 to the home of the parent, or parents, who have not been deprived
0924 of parental rights.

0925 (b) A parent or parents of a child under the jurisdiction of the
0926 secretary of social and rehabilitation services, who has not been
0927 deprived of parental rights, may file with the district court having
0928 jurisdiction, a petition in writing for the return of such child to
0929 such parent or parents. Such petition shall be verified by affidavit
0930 and shall state the name, age and residence of the child and name
0931 and residence of each petitioner. The court shall fix a time and
0932 place for a hearing on such petition and shall notify each peti-

(f) On and after January 1, 1978, any order authorized by this sec-
tion relating to placement or custody of a child shall be subject to the
limitations provided in section 32.

0933 tioner and the secretary of social and rehabilitation services of
0934 such time and place. If after the hearing, the court shall determine
0935 from the evidence that it would be in the best interests of the
0936 child to be returned to his or her parents, the court shall so order.

0937 New Sec. 21. (a) At any time after the entry of any final order
0938 by the district court placing or committing a child pursuant to
0939 subsection (a) of K.S.A. 1977 Supp. 38-824, as amended, or
0940 pursuant to K.S.A. 1977 Supp. 38-826, *as amended*, the secretary
0941 of social and rehabilitation services, the guardian *ad litem* for the
0942 child, the child's parent, guardian or other legal custodian or any
0943 party to the original proceeding may file a motion with the
0944 district court for a rehearing on the issue of such placement or
0945 commitment. Upon such motion, the court shall rehear the matter
0946 without unnecessary delay.

0947 (b) Any appeal from any final order by the district court
0948 placing or committing a child pursuant to subsection (a) of K.S.A.
0949 1977 Supp. 38-824, as amended, or pursuant to K.S.A. 1977 Supp.
0950 38-826, *as amended*, shall be allowed by the secretary of social
0951 and rehabilitation services, the guardian *ad litem* for the child,
0952 the child's parent, guardian or other legal custodian or any party
0953 to the original proceeding. Such appeal shall be taken in the
0954 manner provided by K.S.A. 1977 Supp. 38-834, as amended.

0955 New Sec. 22. (a) In the case of an alleged violation of a
0956 condition of probation or condition of a court ordered placement
0957 that would not constitute grounds for commencing an action
0958 pursuant to the juvenile code the county or district attorney, the
0959 assigned juvenile probation officer or the person to whom care,
0960 custody and control of a child has been placed may file a motion
0961 with the court describing the alleged violation and requesting a
0962 hearing thereon. When any such motion is filed, the court shall
0963 proceed in the same manner and under the same procedure as
0964 provided in the juvenile code for a hearing on a petition filed
0965 pursuant to K.S.A. 1977 Supp. 38-816, as amended. If the court
0966 finds at the hearing that the juvenile violated a condition of
0967 probation or placement, the court may make any order that the
0968 court ~~was~~ empowered to make at ~~the~~ original dispositional pro-
0969 ceeding.

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0970 (b) If it is alleged that a violation of a condition of release,
0971 which would not constitute grounds for commencing an action
0972 pursuant to the juvenile code or K.S.A. 1977 Supp. 21-3611, has
0973 been committed by a child who was committed to a state juvenile
0974 facility pursuant to paragraph (7) of subsection (a) of K.S.A. 1977
0975 Supp. 38-826, *as amended*, and who was thereafter permitted to
0976 leave such facility under specified conditions of release, the
0977 director of the facility, the supervisor of the social worker as-
0978 signed by the department of social and rehabilitation services or
0979 the county or district attorney may file a motion with the court
0980 that ordered the commitment. The motion shall describe the
0981 alleged violation and request a hearing thereon. When any such
0982 motion is filed, the court shall proceed in the same manner and
0983 under the same procedure as provided in the juvenile code for a
0984 hearing on a petition filed pursuant to K.S.A. 1977 Supp. 38-816,
0985 as amended. If the court finds that a condition of release has been
0986 violated the court may impose such additional conditions of
0987 release as the court may deem necessary or the court may order
0988 that the juvenile be returned to the facility until discharged by the
0989 director thereof.

0990 Sec. 23. K.S.A. 1977 Supp. 38-826 is hereby amended to read
0991 as follows: 38-826. (a) When a child has been adjudged to be a
0992 delinquent child or a miscreant child under the provisions of this
0993 act, the judge of the district court may make an order to:

0994 (1) Place such child on probation in the care, custody and
0995 control of either or both parents, subject to such terms and
0996 conditions as the court may deem proper, and may make such
0997 additional orders directed to the juvenile or the juvenile's parents
0998 or both as may be deemed necessary to effectively carry out the
0999 probation;

1000 (2) place such child in the care, custody and control of a duly
1001 appointed juvenile probation officer or other suitable person,
1002 subject to such terms and conditions as the court may deem
1003 proper;

1004 (3) place such child in a detention home, parental home or
1005 farm, subject to such terms and conditions as the court may deem
1006 proper;

1007 (4) place such child in the care of a children's aid society,
1008 subject to such terms and conditions as the court may deem
1009 proper;

1010 (5) place such child, if sixteen (16) years of age or over, in the
1011 county jail pending final disposition or on probation on such
1012 terms and conditions as the court may deem proper;

1013 (6) commit such child to the state secretary of social and
1014 rehabilitation services; or

1015 (7) commit such child, if a boy thirteen (13) years of age or
1016 older, to the youth center at Topeka or other training or rehabili-
1017 tation facility for juveniles or, if a girl thirteen (13) years of age or
1018 older, to the youth center at Beloit or other training or rehabilita-
1019 tion facility for juveniles; or

1020 (8) *require the child to make restitution in an amount fixed by*
1021 *the court to persons whose property has been damaged by reason*
1022 *of acts of the child or to require the child to accept employment*
1023 *approved by the court for the purpose of providing funds to make*
1024 *restitution or to work for the person whose property has been*
1025 *damaged in order to make restitution for such damage.*

1026 (b) When a child has been adjudged to be a wayward child or
1027 a truant under the provisions of this act, the judge of the district
1028 court may make an order to place such child in the same manner
1029 as provided in paragraphs (1), (2), (3), (4), (5) and (6) of subsection
1030 (a) of this section.

1031 (c) When a child has been adjudged to be a traffic offender
1032 under the provisions of this act, the judge of the district court may
1033 make an order:

1034 (1) Imposing a penalty of not more than one hundred fifty
1035 dollars (\$150) for each offense, which penalty shall be in addition
1036 to any costs adjudged against such offender in the discretion of
1037 the court;

1038 (2) suspending or revoking such offender's motor vehicle
1039 operator's license and requiring a copy of the order to be for-
1040 ward by certified mail, to the division of vehicles of the
1041 department of revenue together with a statement of the fact
1042 showing that such offender has committed an act making him or
1043 her a traffic offender under the provisions of this act, and the

1044 division of vehicles of the department of revenue shall forthwith
1045 comply with said order by suspending or revoking such of-
1046 fender's motor vehicle operator's license;

1047 (3) directing such offender to attend a police department
1048 traffic school in a city of the county in which such offender has
1049 residence; or

1050 (4) placing such offender in the same manner as provided in
1051 paragraphs (1), (2), (3), (4) and (5) of subsection (a) of this section.

1052 (d) When a child has been committed to the state secretary of
1053 social and rehabilitation services, pursuant to paragraph (6) of
1054 subsection (a) or subsection (b) of this section, said secretary may
1055 place the child in any institution operated by the director of
1056 mental health and retardation services, or it may contract and pay
1057 for the placement of the child in a county detention home or in a
1058 private children's home, as defined by K.S.A. ~~1076~~ ^{Supp. 75-}
1059 ³³²⁹, or for the placement of such child in a child care facility, or
1060 boarding home for children, or in a community mental health
1061 clinic. *Notwithstanding the foregoing, no wayward or truant child*
1062 *shall be placed in the youth center at Topeka or the youth center at*
1063 *Beloit.*

1064 (e) *In addition to the orders authorized pursuant to the fore-*
1065 *going provisions of this section, the court may order the parents of*
1066 *any child who has been adjudicated a delinquent, miscreant or*
1067 *wayward child or a traffic offender or truant to attend such*
1068 *counseling sessions as the court may direct. The costs of any such*
1069 *counseling may be assessed as costs in the case.*

1070 (e) (f) After placement of a child, the secretary of social and
1071 rehabilitation services shall retain jurisdiction over the child and
1072 may transfer such child at any time to any institution, detention
1073 home, mental health clinic, private children's home, child care
1074 facility or boarding home for children.

1075 Sec. 24. K.S.A. 1977 Supp. 38-827 is hereby amended to read
1076 as follows: 38-827. (a) Unless otherwise provided for, and subject
1077 to payment or reimbursement as required by K.S.A. ~~1076~~ ¹⁹⁷⁷
1078 ^{Supp. 38-828}, or any amendments thereto, the expenses of the
1079 care and custody of a ~~dependent and neglected~~ *deprived* child,
1080 committed under clauses (2), (3) and (4) of subsection (b) of

(g) From and after January 1, 1980, any order authorized by this section relating to placement or custody of a child shall be subject to the limitations provided in section 32.

92 (c) An appeal pursuant to subsection (a) or (b) shall not stay
93 any order or proceeding so appealed but the court to which the
94 appeal is taken may make such temporary orders for care and
95 custody of the child as it may deem advisable.

96 (d) Except as otherwise provided by this section or rule of the
97 supreme court, any appeal pursuant to this section shall be taken
98 in accordance with article 21 of chapter 60 of the Kansas Statutes
99 Annotated. Costs on appeal shall be assessed in accordance with
200 the provisions of the juvenile code.

201 New Sec. 28. Whenever an appeal is taken pursuant to the
202 juvenile code, other than appeals from prosecutions pursuant to
203 K.S.A. 1977 Supp. 38-830, expenses incurred on appeal for fees of
204 the guardian *ad litem* and costs of transcripts and records on
205 appeal shall be taxed as costs on appeal. The court to which the
206 appeal is taken may assess such costs against the parent, guardian
207 or conservator of the child or order that they be paid from the
208 general fund of the county. When the court orders such costs
209 assessed against the parent, guardian or conservator of a child:

210 (a) The costs shall be paid from the county general fund,
211 subject to reimbursement by such parent, guardian or conserva-
212 tor.

213 (b) The county may enforce such order in the same manner as
214 enforcement of a civil judgment in the district court, except that
215 the court shall not require the county to pay any docket fee or
216 other fee for execution.

217 Sec. 29. K.S.A. 38-829 is hereby amended to read as follows:
218 38-829. In any proceedings where a ~~dependent and neglected~~
219 ~~deprived~~, delinquent, miscreant, wayward or a truant child has
220 been placed in the care and custody of any children's aid society
221 or individual by the court, the court may cause the child to be
222 brought before it, together with the person or persons in whose
223 custody he may be, and if it shall appear that a continuance of
224 such custody is not for the best interests of such child, the court
225 may revoke and set aside the order giving such custody and make
226 such further orders in the premises as to the future custody of the
227 child as shall seem best. /

228 Sec. 30. K.S.A. 1977 Supp. 38-834 is hereby amended to read

On and after January 1, 1980, the provisions of this section shall be sub-
ject to the limitations provided in section 32.

1266 (f) A record of the proceedings upon appeal shall be filed and
1267 made a part of the files of the case.

1268 (g) If the effective date of this act occurs within the time
1269 allowed for appeal from any order, judgment, decision or decree
1270 of a juvenile court, any appeal thereof shall be taken to a district
1271 judge of the county in which such juvenile court was located.

1272 ~~New Sec. [31]~~ New sections 4, 8, 10, 12, 21, 22, 26, 27 ~~and 28~~
1273 shall be a part of and supplemental to the Kansas juvenile code.

1274 Sec. ~~32~~ K.S.A. 38-811 and 38-829 and K.S.A. 1977 Supp.
1275 38-802, 38-805, 38-806, 38-807, 38-810, 38-812, 38-815, 38-815a,
1276 38-815b, 38-816 to 38-820, inclusive, 38-824 to 38-827, inclusive,
1277 38-828 and 38-834 are hereby repealed.

1278 Sec. ~~33~~ This act shall take effect and be in force from and
1279 after its publication in the statute book.

Insert Here--New Sec. 31 and New Sec. 32 (Attached).

33

31 and 32

34

35

New Sec.31. As used in this section and section 32, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them herein:

(a) "Community-based facility" means a facility located near the juvenile's home or family which maintains community and consumer participating in the planning, operation and evaluation of their programs and which may include, but are not limited to, medical, educational, vocational, social and psychological guidance, training, counseling, alcoholism treatment, drug treatment and other rehabilitative services.

(b) "Criminal offender" means an individual, adult or minor, who has been charged with or convicted of a criminal offense in a court exercising criminal jurisdiction.

(c) "Criminal-type offender" means a child who has been charged with, or adjudicated as, being a delinquent or miscreant child.

(d) "Juvenile detention or correctional facility" means:

(1) Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders; or

(2) Any public or private facility used primarily (more than fifty percent (50%) of the facility's population during any consecutive thirty-day period) for the lawful custody of accused or adjudicated criminal-type offenders even if the facility is a non-secure facility; or

(3) Any public or private facility that has the bed capacity to house twenty (20) or more accused or adjudicated juvenile offenders, even if the facility is a non-secure facility, unless used exclusively for the lawful custody of status offenders or is a community-based facility; or

(4) Any public or private facility which is also used for the lawful custody of criminal offenders.

(e) "Juvenile offender" means an individual, subject to the jurisdiction of the Kansas juvenile code, that is an accused or adjudicated delinquent, miscreant, wayward or deprived child or a traffic offender or truant.

(f) "Non-secure facility" means a facility not characterized by the use of physically restricting construction, hardware and procedures and which provides its residents access to the surrounding community with minimal supervision.

(g) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from such facility are under the exclusive control of the staff of such facility, whether or not the person being detained has freedom of movement within the perimeters of the facility or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents.

(h) "Shelter facility" means any public or private facility, other than a juvenile detention or correctional facility, that may be used in accordance with the juvenile code for the purpose of providing either temporary placement for the care of alleged or adjudicated status offenders prior to the issuance of a dispositional order, or for providing longer term care under a juvenile code dispositional order.

(i) "Status offender" means a child alleged or adjudicated to be a wayward or deprived child or a truant.

New Sec.32. (a) Subject to the provisions of subsection (b), from and after January 1, 1980, no status offender shall be ordered placed in a juvenile detention or correctional facility. If the court orders a status offender to be committed to the custody of the secretary of social and rehabilitation services or otherwise orders a status offender to custody outside the child's home, the status offender shall not be placed in a facility other than a shelter facility, except as permitted by subsection (b).

(b) A status offender may be placed in a juvenile detention or correctional facility pending a detention hearing provided for by K.S.A. 1977 Supp. 38-815b. Pursuant to a detention hearing a court may order a child to remain in a juvenile detention or correctional facility for not to exceed twenty-four (24) hours following the detention hearing, excluding Saturday, Sundays and other days when the district court is not open for the regular conduct of business.

(c) This section shall not take effect or be in force until on and after January 1, 1980.