

Held in Room 519 S, at the Statehouse at 11:30 a. m./p. m., on March 30, 19 79

All members were present except: Senators Allegrucci, Gaar and Hein

The next meeting of the Committee will be held at 3:00 a. m./p. m., on April 3, 19 79

~~These minutes of the meeting held on xxxxxxxxxxxxxxxxxxxxxxxx 19 xxx were considered, corrected and approved.~~

Clarence J. Henderson
Chairman

The conferees appearing before the Committee were:

Judge Robert L. Morrison - Sedgwick County District Court

Staff present:

- Art Griggs - Revisor of Statutes
- Jerry Stephens - Legislative Research Department
- Wayne Morris - Legislative Research Department

House Bill No. 2059 - Require district courts to submit juvenile statistics to SRS. The chairman distributed to members of the committee copies of the letter he had received from the chief justice; a copy is attached. Committee discussion followed.

Senator Gaines requested Judge Morrison, who was waiting to testify on another matter, to comment on the difficulties involved in filling out the stat card. Judge Morrison replied that it does take time to fill out the forms, and the problem is if the information is not in their files. He also stated that there is no uniformity in filling out the stat cards. He urged the committee not to saddle the courts with something that is not defined. Senator Hess inquired as to why the courts do not require the attorneys to fill out the stat card. Judge Morrison replied that there are very few privately retained attorneys in juvenile hearings, and since the court has to pay 98% of the attorneys who appear in juvenile court, it would be much more expensive to require the attorney to prepare the cards rather than having the clerk do it. Judge Morrison indicated that some reports didn't really provide accurate information, and a lot of the information was not necessary.

Following further committee discussion, Senator Hess moved to report the bill favorably; Senator Gaines seconded the motion. Following further committee discussion, Senator Parrish moved to amend the bill in line 61; Senator Gaines seconded the motion. Following further committee discussion, the motion carried on a vote of three in favor and two opposed. Senator Parrish moved to report the bill favorably as amended; Senator Gaines seconded the motion, and the motion carried. Senator Werts requested that his "No" vote be recorded.

continued -

House Bill No. 2010 - Juvenile code, limitation on direct placements in state facilities. The chairman pointed out to the committee that the contents of this bill had been amended into House Bill 2012, and so this bill is available as a vehicle. The chairman then gave background on House Bill 2122 and House Bill 2659, dealing with consents for medical treatment of juveniles. Following committee discussion, Senator Berman moved to strike the contents of this bill and insert the provisions of House Bill 2659. Senator Parrish seconded the motion, and after committee discussion, the motion carried. Senator Berman moved to report the bill favorably as amended; Senator Burke seconded the motion, and the motion carried.

House Bill No. 2643 - Photographs of wrongfully taken property for use as evidence in certain criminal prosecutions. The chairman announced that there would be a meeting of the committee on either Monday or Tuesday to consider this bill.

The meeting adjourned.

These minutes were read and approved
by the committee on 4-25-79.

3-20-79

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Robert H. Morris	1015 S. Minnesota, Wichita	District Court
James R. Lusk	SRS Div CE7	SRS
David GRANT	TOPEKA	KAEI
Charles A. Hamm	SOB	SRS
Lovely Ulmer	516 Mississippi	-
Judith McConnell	Statehouse	Leg. Research
Maurice Penner	Topeka	St Planning Research



Supreme Court of Kansas

Kansas Judicial Center
Topeka, Kansas 66612

ALFRED G. SCHROEDER,
Chief Justice

(913) 296-3807

March 29, 1979

Senator Elwaine Pomeroy
Room 141-N, State Capitol
Topeka, Kansas 66612

Re: H.B. 2059

Dear Senator Pomeroy:

Responding to your letter to the Judicial Administrator, I wish to advise as follows:

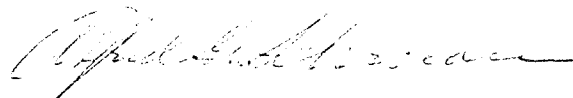
- (1) The House Ways and Means Subcommittee has denied our request for a modest amount of funds to bring about an improvement in our electronic data processing capability. If this short-sightedness remains the legislative policy, we will be forced to continue to "farm out" all computer work in order both to maintain our existing programs and to establish computer-based personnel records as necessitated by state assumption of district court personnel.
- (2) The establishment of a records system for personnel must take priority over expansion of our statistical information system.
- (3) Without additional funding, it is impossible to incorporate juvenile "stat card" information into our information system.

I do not know the final outcome of our budgetary requests for automation and for new personnel, particularly in the court services area. Therefore, I can advise only that if an appropriate

Sen. Pomeroy
March 29, 1979
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"stats card" can be devised through a cooperative effort by representatives of this department and the administrative agencies and if it appears that the utilization of such form will not cause a major impact on the workload of trial court personnel, I will authorize its distribution to the district courts in FY 1980 and direct that it be completed and forwarded to the appropriate state agency.

Yours very truly,



Alfred G. Schroeder,
Chief Justice

AGS:dm

3-20-79
3-30-79

PROPOSED AMENDMENT TO H.B. 2059, Section C

In order to provide the three (3) branches of both state and local government, program planners, evaluators or researchers needed statistical information, the judicial administrator shall cause to be collected and provided, such information regarding juveniles coming to the attention of the various courts, pursuant to the Kansas juvenile code, as is determined necessary cooperatively by the judicial administrator as the designated coordinator for the unified court system in Kansas, the executive director of the Governor's Committee on Criminal Administration as the designated state planning agency (KSA 74-6201 et seq.) for criminal justice programs, and the secretary of social and rehabilitation services as a representative of the state's social agencies maintaining programs for youth.

Said data shall be collected and provided in a timely fashion with procedures for collection processing and maintenance of the data base to be established by the aforementioned parties.

Dave O'Brien - GCCA

HOUSE BILL No. 2122

Representatives Brewster and Farrar

1-17

0016 AN ACT relating to children; authorizing district courts to place
0017 certain children in hospitals and consent to medical care or
0018 treatment or to delegate the authority therefor under certain
0019 circumstances; authorizing certain medical matters involving
0020 children placed outside their home without obtaining parental
0021 consent.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. (a) Upon reasonable information that a child is in
0024 need of immediate medical care or treatment and that a parent or
0025 guardian is not immediately available to provide consent thereto,
0026 or, if available, refuses to provide such consent, any judge of the
0027 district court of the county in which such child is found may
0028 assume jurisdiction. Such jurisdiction may be assumed with or
0029 without a petition being filed. The court may proceed upon its
0030 own motion at whatever time and place the judge deems neces-
0031 sary under the circumstances and shall make an inquiry in ac-
0032 cordance with subsection (c) to determine: (1) Whether the health
0033 or condition of such child requires immediate medical care or
0034 treatment, and (2) whether a parent or guardian is immediately
0035 available to provide consent, or if available, refuses to provide
0036 such consent.

0037 (b) All reasonable efforts shall be made to serve notice on a
0038 parent or guardian of the child. Notice may be oral or written and
0039 shall be made or attempted in such manner as the court shall
0040 direct. The court shall appoint a guardian *ad litem*, who shall be
0041 an attorney, to represent the best interests of the child in all
0042 proceedings held pursuant to this section. The costs of such
0043 guardian's services shall be paid as provided in K.S.A. 1978 Supp.
0044 38-821.

0045 (c) The court may conduct such inquiry in the manner and by

0046 such procedures as are found to be necessary and may administer
0047 oaths, examine witnesses and receive evidence. Any statement
0048 which is made orally shall be sworn to under oath and shall be
0049 taken down by either a certified shorthand reporter or recording
0050 equipment and made a part of the record of such inquiry.

0051 (d) If the judge of the district court finds, after inquiry, that
0052 the evidence is clear and convincing that the child is in need of
0053 immediate medical care or treatment and that a parent or guardian
0054 is not immediately available to consent thereto, or, if available,
0055 refuses to provide such consent, the judge may order that such
0056 child become a ward of the court and cause the child to be placed
0057 in a public or private hospital under the care of a competent
0058 physician and issue consents to the performance and furnishing
0059 of medical care or treatment. Failure of a parent or guardian to
0060 appear and testify shall constitute sufficient grounds for a finding
0061 that the parent or guardian is not immediately available.

0062 (e) Within seventy-two (72) hours after an order is entered
0063 pursuant to subsection (d), excluding Saturdays, Sundays and
0064 legal holidays, the judge shall cause to be filed a record of the
0065 inquiry with the clerk of the district court, which shall state the
0066 date, time and place of such inquiry, the parties present, the
0067 evidence relied upon by the court and the findings and orders
0068 made and consents issued. Failure to comply with this subsection
0069 shall not operate to invalidate any orders entered or consents
0070 issued pursuant to this section. All records, files, orders and
0071 reports filed hereunder shall be kept and maintained in the same
0072 manner as records, files and reports kept pursuant to the juvenile
0073 code.

0074 (f) Nothing herein shall be construed to amend or modify the
0075 provisions of K.S.A. 1978 Supp. 65-2891, commonly known as the
0076 good samaritan law.

0077 Sec. 2. Whenever a child is placed outside his or her own
0078 home pursuant to K.S.A. 1978 Supp. 38-819 or 38-823, the person
0079 having lawful custody of such child may give consent to the
0080 performance of the following:

0081 (1) Dental treatment to the child by a licensed dentist;

0082 (2) diagnostic examinations of the child, including but not

0083 limited to the withdrawal of blood or other body fluids, X-rays
0084 and other laboratory examinations;

0085 (3) releases and inspections of the child's medical history
0086 records;

0087 (4) immunizations for the child; and

0088 (5) administering drugs to the child which have been pre-
0089 scribed by a physician licensed to practice medicine and surgery.

0090 Sec. 3. (a) Whenever a delinquent, miscreant, wayward or
0091 truant child or a traffic offender has been placed with or com-
0092 mitted to an individual, association or agency pursuant to K.S.A.
0093 1978 Supp. 38-826 and the health or condition of the child shall
0094 require it, the court may cause the child to be placed in a public or
0095 private hospital under the care of a physician. The court may
0096 delegate the authority to issue consents to the performance and
0097 furnishing of hospital, medical or surgical treatment or proce-
0098 dures to such individual, association or agency.

0099 (b) This section shall be supplemental to the Kansas juvenile
0100 code.

0101 Sec. 4. Whenever the district court places the custody of a
0102 child with an agency, association or individual other than a
0103 parent pursuant to K.S.A. 1978 Supp. 60-1610, the court may
0104 delegate the authority to issue consents for the performance and
0105 furnishing of hospital, medical or surgical treatment or proce-
0106 dures to the individual, association or agency to whom the court
0107 has granted custody.

0108 Sec. 5. (a) Any health care provider who in good faith renders
0109 medical care or treatment to any child after a consent has been
0110 obtained as authorized by sections 1, 2, 3 or 4 of this act without
0111 first obtaining the consent of a parent or guardian of such child
0112 shall not be liable in any civil or criminal action for any failure to
0113 obtain consent of a parent or guardian.

0114 (b) Nothing in this act shall be construed to mean that any
0115 person shall be relieved of legal responsibility to provide care and
0116 support for a child.

0117 Sec. 6. This act shall take effect and be in force from and after
0118 its publication in the official state paper.

As Amended by House Committee

Session of 1979

HOUSE BILL No. 2659

By Committee on Federal and State Affairs

3-20

0017 AN ACT relating to children; authorizing district courts to place
0018 certain children in hospitals and to delegate the authority to
0019 consent to medical care or treatment or to delegate the author-
0020 ity therefor under certain circumstances; authorizing certain
0021 medical matters involving children placed outside their home
0022 without obtaining parental consent.

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

0024 Section 1. (a) Upon reasonable information that a child is in
0025 need of immediate medical care or treatment and that a parent or
0026 guardian is not immediately available to provide consent thereto;
0027 or, if available, refuses to provide such consent, any judge of the
0028 district court of the county in which such child is found may
0029 assume jurisdiction. Such jurisdiction may be assumed with or
0030 without a petition being filed. The court may proceed upon its
0031 own motion at whatever time and place the judge deems neces-
0032 sary under the circumstances and shall make an inquiry in ac-
0033 cordance with subsection (c) to determine: (1) Whether the health
0034 or condition of such child requires immediate medical care or
0035 treatment, and (2) whether a parent or guardian is immediately
0036 available to provide consent, or if available, refuses to provide
0037 such consent.

0038 (b) All reasonable efforts shall be made to serve notice on a
0039 parent or guardian of the child. Notice may be oral or written and
0040 shall be made or attempted in such manner as the court shall
0041 direct. The court shall appoint a guardian *ad litem*, who shall be
0042 an attorney, to represent the best interests of the child in all
0043 proceedings held pursuant to this section. The costs of such
0044 guardian's services shall be paid as provided in K.S.A. 1978 Supp.
0045 38-821.

0046 (e) The court may conduct such inquiry in the manner and by
0047 such procedures as are found to be necessary and may administer
0048 oaths, examine witnesses and receive evidence. Any statement
0049 which is made orally shall be sworn to under oath and shall be
0050 taken down by either a certified shorthand reporter or recording
0051 equipment and made a part of the record of such inquiry.

0052 (d) If the judge of the district court finds, after inquiry, that
0053 the evidence is clear and convincing that the child is in need of
0054 immediate medical care or treatment and that a parent or guardian
0055 is not immediately available to consent thereto, or, if available,
0056 refuses to provide such consent, the judge may order that such
0057 child become a ward of the court and cause the child to be placed
0058 in a public or private hospital under the care of a competent
0059 physician and issue consents to the performance and furnishing
0060 of medical care or treatment. Failure of a parent or guardian to
0061 appear and testify shall constitute sufficient grounds for a finding
0062 that the parent or guardian is not immediately available.

0063 (e) Within seventy-two (72) hours after an order is entered
0064 pursuant to subsection (d), excluding Saturdays, Sundays and
0065 legal holidays, the judge shall cause to be filed a record of the
0066 inquiry with the clerk of the district court, which shall state the
0067 date, time and place of such inquiry, the parties present, the
0068 evidence relied upon by the court and the findings and orders
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0074 code.

0075 (f) Nothing herein shall be construed to amend or modify the
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0078 See. 2 Section 1. (a) Whenever a child is placed outside his or
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0084 limited to the withdrawal of blood or other body fluids, X-rays
0085 and other laboratory examinations;

0086 (3) releases and inspections of the child's medical history
0087 records;

0088 (4) immunizations for the child; and

0089 (5) administering drugs to the child which have been pre-
0090 scribed by a physician licensed to practice medicine and surgery.

0091 (b) A child, or parent of any child who is an adherent of a
0092 religious denomination whose religious teachings are opposed to
0093 certain medical procedures authorized by this section may re-
0094 quest an opportunity for a hearing thereon before the district
0095 court. Pursuant to any such hearing, the court may: (1) Limit the
0096 performance of matters provided for in subsection (a), or (2)
0097 authorize the performance of such matters subject to such terms
0098 and conditions as the court may deem proper.

0099 Sec. 3 2. (a) Whenever a delinquent, miscreant, wayward or
0100 truant child or a traffic offender has been placed with or com-
0101 mitted to an individual, association or agency pursuant to K.S.A.
0102 1978 Supp. 38-826 and the health or condition of the child shall
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0111 child with an agency, association or individual other than a
0112 parent pursuant to K.S.A. 1978 Supp. 60-1610, the court may
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