

MINUTES OF THE House COMMITTEE ON Federal & State AffairsThe meeting was called to order by Rep. Neal D. Whitaker at
Chairperson1:30 ~~xxx~~ a.m./p.m. on March 3, 1983 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Russ Mills, Legislative Research
Mary Torrence, Revisor of Statute's Office
Nora Crouch, Committee Secretary

Conferees appearing before the committee:

Richard von Ende, University of Kansas
Henri Fournier, Executive Director, Board of Cosmetology
David Barclay, Special Assistant to the Secretary, Department of Corrections
Preston Barton, Ombudsman for Corrections

Chairman Whitaker called the meeting to order and announced that the Board of Cosmetology had a proposal to bring before the Committee for possible introduction and that an agreement had been reached on HB 2184 between the Ombudsman and the Department of Corrections.

Henri Fournier, Executive Director, Board of Cosmetology, appeared explaining some changes needed to be made to the statute governing the Board. (See Attachments A, B, & C) Rep. Brady moved, Rep. Ott seconding that the clean up measures for the Board of Cosmetology be introduced as a Committee bill. The motion carried.

David Barclay, Special Assistant to the Secretary, Department of Corrections, appeared on HB 2184 providing for the Committee copies of the recommended compromise language regarding the Ombudsman's access to institutions. (See Attachments D & E) He further informed the Committee that the Governor's office is comfortable with the bill in the form that is presently being submitted.

Preston Barton, Ombudsman for Corrections, appeared on HB 2184 stating that this compromise is the result of some long hard work on the part of both agencies and that it is acceptable to his Board.

Rep. Ott moved, Rep. Matlack seconding, that the proposed amendments to HB 2184 be adopted. The motion carried. Rep. Sughrue moved, Rep. Murphy seconding, that HB 2184 be reported favorably for passage as amended. The motion carried.

Rep. Peterson moved, Rep. Eckert seconding that HB 2228 be reported favorably for passage. The motion carried.

Rep. Vancrum and Rep. Matlack expressed their concerns about the action taken on the House floor on HB 2269 and that the State is sending the wrong kind of message on parimilitary activity.

Chairman Whitaker expressed the concern that extremist groups could get the wrong impression from the House's defeat of the bill on parimilitary training. There is no one in the Legislature that wants to take away individual rights but at the same time we do not want extremist groups to think that the State condones such actions. He requested the bill be reintroduced so that the Committee can take another look at the issue and see what can be come up with. Rep. Ediger moved, Rep. Vancrum seconding, that HB 2269 be reintroduced as a Committee bill. The Committee's concensus was that whether or the problems were addressed in this Committee or another the issue deserved further serious consideration. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal & State Affairs,
 room 526-S, Statehouse, at 1:30 ~~XXXX~~ a.m./p.m. on March 3, 1983.

Rep. Mike Peterson, Chairman of the Sub-committee on HB 2327, appeared before the Committee to present a revised version of HB 2327. He stated they took all of the amendments that were offered by all of the conferees and then adopted some broad rules they felt they could operate under. They looked very carefully at the reasons why some people wanted to have their records closed. Version #2 presented to the Committee (See Attachment F) is the result of those deliberations and the Sub-committee action is reflected by each of the amendments.

Rep. Hensley moved, Rep. Cobb seconding that the amendments to Page 1, Lines 17, 22, and after the word "criminal" on Line 34 be adopted. The motion carried.

Rep. Peterson moved, Rep. Eckert seconding, that the bracketed language on Lines 136 through 139 be reinstated on Page 4. Rep. Vancrum made a substitute motion, Rep. Barr seconding, that included in that bracketed language be "the first \$20 of computer time be waived". The motion carried.

Rep. Peterson moved, Rep. Cobb seconding that on Page 7 on Line 231 and 234 the language be adopted. The motion carried. Rep. Cobb moved, Rep. Murphy seconding that on Page 7, the language on Line 249 be adopted to confirm with Page 1. The motion carried.

Rep. Peterson moved, Rep. Eckert seconding that on Page 8, Line 304, the clean up language be adopted. The motion carried. Rep. Vancrum moved, Rep. Barr seconding, that on Page 8, Line 273, the word "water" be inserted after the word "power". The motion carried.

Rep. Cobb moved, Rep. Vancrum seconding, that on Page 9, New Sec 26, the section be adopted with the inclusion of the words "except for voluntary discontinuance." The motion carried. Rep. Peterson moved, Rep. Cobb seconding that New Sec. 27 and New Sec 28 be adopted on Page 9. The motion carried.

Rep. Peterson moved, Rep. Eckert seconding, that on Page 11, Line 393, New Sec. 9 be adopted. The motion carried.

Rep. Peterson moved, Rep. Eckert seconding, that on Page 14 the changes to Lines 481, 483, 486, and 487 be adopted. The motion carried.

Rep. Peterson moved, Rep. Ott seconding, that on Lines 504 through 507 on Page 14, the amendments be adopted. Rep. Vancrum made a substitute motion, Rep. Ott seconding, that on Line 491, Page 14, that language be inserted to exempt motor vehicles. The motion lost.

Rep. Peterson moved, Rep. Hensley seconding, that New Sec. 15 on trade secrets be adopted. The motion carried.

Rep. Peterson moved, Rep. Hensley seconding, that New Sec. 16 on definition of values be adopted. The motion carried. A division was called for. 11 voted yes.

Rep. Peterson moved, Rep. Hensley seconding, that on Lines 290 and 291 on Page 8, the words "and documentation thereof" be deleted. The motion failed.

Rep. Peterson moved, Rep. Hensley seconding, that in New Sec. 7 amendments proposed by the Department of Corrections (See Attachment G) be adopted. Rep. Vancrum made a substitute motion, Rep. Eckert seconding, that language be adopted that in New Sec. 7 that the people who have access to Corrections records include the Ombudsman, the Attorney General, law enforcement agencies, counsel for the inmate to whom the record pertains, and any county or district attorney. The motion carried.

Rep. Barr moved, Rep. Vancrum seconding, requesting reconsideration of new Sec 14 with the striking of the words "the functions of that office or board" and inserting the word "complaints". The motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal and State Affairs,
 room 526-S Statehouse, at 1:30 ~~xx~~ p.m. on March 3, 19 83

Rick von Ende, University of Kansas, appeared on HB 2327 expressing some concerns of the University. (See Attachment H) Rep. Vancrum moved, Rep. Peterson seconding, that in Sec 5(d) a new sentence be added "Those public agencies entitled to expenditure of funds in accordance with KSA 75-4215 shall be entitled to deposit all monies received and expend such funds." The motion carried. Rep. Vancrum moved, Rep. Sughrue seconding, that in Sec. 7, subsection (a)(20) the words "Data in the process of analysis, unfunded grant proposals ..." be added. The motion carried.

Mr. von Ende further expressed University concerns about the security of museum collections and other security. Rep. Ramirez moved. Rep. Vancrum seconding, that language be added requiring any person requesting records on any facet of an agency may be required to provide the agency with proof of their name and address. The motion carried.

Rep. Peterson moved, Rep. Fuller seconding, that HB 2327 be reported favorably for passage as amended. The motion carried.

Chairman Whitaker advised the Committee that a memorandum from Tom Kennedy, Director, Alcoholic Beverage Control Division, on the False ID Crime Control Act was at their places.

Rep. Barr moved, Rep. Ramirez seconding, that the Minutes of February 14, 21 and 22, 1983, be adopted. The motion carried.

The meeting adjourned.

KANSAS STATE BOARD OF COSMETOLOGY

---PROPOSED CHANGES TO THE STATUTES---

Laws Relating To the Examination and Registration of Cosmetologists and Beauty Shops.

65-1902. Definitions; senior cosmetology license, criteria and fees; apprentice license, fee. The profession of cosmetology and apprentice, as applied in this act, shall be defined as follows:

(a) For the purpose of this act, the term cosmetology shall be designated as the profession which includes the practice known as "hair dresser," "beauty culturist," "cosmetician," ~~"cosmetologist"~~ cosmetology technician, and "manicurist." "Cosmetologist" is a person who, for profit, does or performs any one or more of the following: (1) Arranges, dresses, permanent curls, curls, waves, singes, cleanses, dyes or bobs the hair; (2) massages, cleanses, stimulates, or manipulates, or performs similar work on the scalp, face, neck, arms, hands, ~~chest or upper part of the body~~ or removes superfluous hair from the face or any part of the body with the hands or mechanical or electrical appliances; (3) makes use of cosmetic preparations, antiseptics, lotions, creams or other preparations in performing any one or more of the practices described in clauses (1) and (2) of this subsection; (4) ~~manicures the nails of the hands or removes superfluous hair from the face or any part of the body;~~ manicuring, pedicuring, sculptured nails; or (5) any other beautifying process on any person. ~~"Cosmetologist"~~ Cosmetology technician is a person who for profit does or performs the following services: Manicuring, pedicuring, sculptured nails, hand and arm massage, shampooing, temporary color rinse, scalp treatments, skin care, eyebrow and eyelash services, removes superfluous hair from the face or any part of the body with the hands or mechanical or electrical appliance, and sanitation. Provided, Any person who practices the manicuring of the nails only is defined as a "manicurist." Licensed cosmetologists may apply to the state board of cosmetology for a three-year senior cosmetology license by meeting the following criteria: Pay the fee established under K.S.A. 65-1904; show proof of having actually been employed in a registered beauty salon or school for a minimum of one hundred twenty (120) days over the past three-year period; furnish evidence, to the satisfaction of the state board of cosmetology, of participation in "continual education activities." Applications for a senior cosmetology license may be made with the cosmetologist license renewal.

(b) "Apprentice" is a person engaged in learning or acquiring any of the arts or practices of the profession of cosmetology, as herein defined, within a duly registered licensed school, or under the immediate direction and supervision of a licensed cosmetologist, who preparing for the profession of cosmetology shall practice as such apprentice for eighteen (18) months 1,500 hours or more, and who, preparing for the profession of ~~cosmetologist~~ cosmetology technician shall practice as an apprentice for six (6) months-1000 hours or more, and who, preparing for the profession of manicurist shall practice as such apprentice for three (3) months 225 hours or more. A shop apprentice shall practice in an approved shop under a qualified cosmetologist for eighteen (18) months or more for a cosmetologist and twelve (12) weeks or more for a manicurist. Upon completion of such requirements any such apprentice shall be eligible for examination for licensure. No apprentice shall be allowed to make any charge for his or her services: Provided,etc.

65-1903.....(end of a) A course of 1,500 hours of training in a registered licensed school, or its equivalent, shall be the equivalent of 18 months of apprenticeship in a shop or establishment. ~~Where the course is taught in a tax-supported school, the course of nine months of instruction may be extended, and the students shall be eligible for examination after the completion of the prescribed course of study and the required period of time.~~

Atch. A

65-1904.....

(delete b as written, new section (b) Effective July 1, 1984, each person that has been licensed to practice cosmetology in this state, after June 30, 1969, shall complete during each licensing period, a minimum of (16) sixteen clock hours of continuing education. These hours must be board approved and written verification of attendance shall be held by the cosmetologist until time for renewal. Compliance with the requirements of continual education is a prerequisite for license renewal in the next renewal period.

It is the responsibility of each licensee to finance their own costs of continuing education.

The Kansas board of cosmetology is hereby authorized to adopt rules and regulations for approval of the program, sponsors and activities.

(c) (New section) Inactive practitioners may obtain a current cosmetology license by paying the fee and furnishing evidence of one of the following:

1. Obtain 8 clock hours at a licensed Kansas school of cosmetology for each year they are delinquent.
2. Successful completion of the Kansas state practical examination.

Section (b) as it now reads is deleted.

Section (c) becomes (d) (With the exception..

Cosmetology license renewal ~~---not more than-----\$15.00-~~
2 year license - not more than..... \$30.00

- Section (d) becomes (e)
- Section (e) becomes (f)
- Section (f) becomes (g)

69-1904b.....(a) That such person is not less than ~~18~~ 17 years of age;.....

69-1905.....All examinations held or conducted by the board shall be under such rules and regulations as the board may adopt, and shall include practical demonstrations, written and oral tests; and such applicant applying therefor shall: (1) Have attained the age of 17 years and be a graduate of an accredited high school, or equivalent thereof, ~~or has completed the cosmetology course at the state industrial school for girls at Beloit or at the Kansas correctional institution for women at Lansing,~~ or have attained the age of 25 years and have such education as is required for completion of the eighth grade in the public schools of this state; (2) have a certificate.....etc.

KANSAS SCHOOLS OF COSMETOLOGY COMPARISON CHART

STUDENTS ENROLLED IN SCHOOL

YEAR	JAN.	FEB.	MARCH	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	TOTAL
1980	93	36	78	47	42	128	94	149	237	95	77	46	1,122
1981	123	64	104	42	52	92	103	136	291	69	94	31	1,201
1982	80	60	108	49	40	92	104	170	294	76	118	43	1,234
TOTAL	296	160	290	138	134	312	301	455	822	240	289	120	3,557

STUDENTS TERMINATED FROM SCHOOL

YEAR	JAN.	FEB.	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT.	OCT.	NOV.	DEC.	TOTAL
1980	14	19	25	10	49	17	14	13	28	27	23	30	269
1981	27	35	50	28	18	24	17	30	26	26	33	27	341
1982	21	22	32	13	25	11	15	11	30	18	22	10	230
TOTAL	62	76	107	51	92	52	46	54	84	71	78	67	840

Atch. B

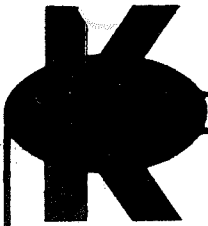
KANSAS STATE BOARD OF COSMETOLOGY

- FACT SHEET -

LICENSING FIGURES FOR JULY 1, 1981 TO JUNE 30, 1982

COSMETOLOGY LICENSES.....	18,640
3 YEAR SENIOR COSMETOLOGY LICENSES.....	343
MANICURIST LICENSES.....	149
SCHOOL APPRENTICES.....	1,201
SHOP APPRENTICES.....	5
PRIVATE SCHOOLS.....	19
VOCATIONAL SCHOOLS.....	9
INSTITUTIONAL SCHOOLS.....	0
BEAUTY SALONS.....	4,110
PRIVATE SCHOOL TEACHERS.....	95
VOCATIONAL SCHOOL TEACHERS.....	29

Atch. c



KANSAS DEPARTMENT OF CORRECTIONS

JOHN CARLIN — GOVERNOR

PATRICK McMANUS — SECRETARY

535 KANSAS AVENUE • TOPEKA, KANSAS • 66603
• 913-296-3317 •

March 2, 1983

Representative Neal Whitaker
State Capitol - Room 112-S
Topeka, Kansas 66612

Dear Representative Whitaker:

Attached, for you and the Federal and State Affairs Committee, are copies of the recommended compromise language on HB 2184 regarding the corrections ombudsman's access to institutions, confiscation of materials, handling of official correspondence, and the administering of oaths.

This language was prepared by the Department of Corrections and the corrections ombudsman. Both support the recommendation.

Also attached is a proposed change in the Department's regulations regarding legal and official mail (which includes the ombudsman's mail). In lieu of handling the portion of HB 2184 regarding mail through legislation, we have agreed to modify the Department's regulation on the handling of mail. In short, the proposal provides that official and legal mail outgoing from the institution shall not be opened, unless requested by the addressee. Incoming official and legal mail would continue to be handled as it is currently: It may be inspected but not read or censored. The Department will file this amendment as a permanent regulation after May 1, 1983.

Sincerely yours,

DAVID BARCLAY
Special Assistant
to the Secretary

DB:dja
Enclosures

Atch. 0

HOUSE BILL No. 2184

By Committee on Federal and State Affairs

2-1

0017 AN ACT concerning the corrections ombudsman board and the
0018 ombudsman of corrections; relating to certain powers, docu-
0019 ments and correspondence thereof.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. ~~The ombudsman of corrections shall have the~~
0022 ~~power to enter and inspect at any time any premises under the~~
0023 ~~control of the secretary of corrections and may delegate that~~
0024 ~~power in writing to any ombudsman associate.~~

0025 Sec. 2. (a) No documents relating to complaints, investiga-
0026 tions or studies in the possession of the ombudsman of correc-
0027 tions or any employee of the ombudsman shall be read or
0028 confiscated by any officer or employee of the department of
0029 corrections.

0030 (b) ~~Correspondence between a person who is in the custody~~
0031 ~~of the secretary of corrections and the ombudsman of corrections~~
0032 ~~or the corrections ombudsman board shall be forwarded at once,~~
0033 ~~unopened, to the addressee.~~

0034 Sec. 3. The ombudsman of corrections shall have the power
0035 to administer oaths ~~and take testimony~~ and may delegate such
0036 power in writing to any ombudsman associate.

0037 Sec. 4. This act shall take effect and be in force from and
0038 after its publication in the statute book.

(a) The ombudsman of corrections may enter and inspect at any reasonable time any premises under the control of the secretary of corrections and may delegate that power in writing to any employee of the office acting as an ombudsman.

(b) If the ombudsman of corrections is denied access to any premises under the control of the secretary of corrections, the secretary of his or her designee, within 24 hours after the denial, shall give the ombudsman a written statement of the reason for the denial of access.

as specified by rules and regulations of the corrections ombudsman board

Atch. E

DEPT. OF CORRECTIONS REGULATION

INMATE WRITING AND OTHER INMATE COMMUNICATIONS OR PUBLICATIONS

44-12-601. Mail. (a) Definitions. (1) *Legal mail* is mail which effects the inmate's right of access to the courts or legal counsel. It includes letters between the inmate and his or her lawyer, a judge, a clerk of a court, any lawyer, and any intern or employee of legal services for prisoners.

(2) *Official mail* is any mail to an official of the state or federal government who has authority to control or to obtain or conduct an investigation of the custody or conditions of confinement of the inmate.

(3) *Privileged mail* is any mail between the inmate and his or her doctor.

(4) *Censor* means to remove or change any part or all of the correspondence or literature.

(5) *Read* means to read the contents of correspondence or literature to ascertain the content.

(6) *Inspect* means to open, shake out, look through, feel or otherwise check for contraband without reading or censoring.

(b) Inmates shall comply with the mail procedures and restrictions established by the order of the institution director or facility supervisor. Failure to comply, or making any circumvention or attempt to circumvent mail procedures or restrictions by any means, including any deliveries through an employee, volunteer, teacher, or any other person not acting in the established mail handling system is prohibited.

(c) *Contraband*. Items identified as contraband items shall be removed from any incoming mail and returned at state expense to the sender and the inmate shall be notified, in writing, by the mail officer with a list of the items returned, the date, and the name of the sender to whom they were returned. Items which are illegal under Kansas or U.S. law shall be seized and held as evidence for other law enforcement officers.

~~(d) Incoming mail which is clearly identified as legal, official, or privileged mail shall be opened only in the inmate's presence and inspected for contraband but not read or censored, except as otherwise provided for in these regulations.~~

~~(e) Violation of mail regulations of the department of corrections, orders of the principal administrator, or the laws of Kansas or the United States may result in an investigation and an increase of restrictions of mail of the offender sufficient to remedy the continuation or prevent reoccurrence of the violation.~~

~~(f) Incoming or outgoing legal or official mail may be read and censored only if there is documented and shown to have been an abuse of the right in the recent and related past, or if probable cause exists to believe a crime is being committed through such mail, and only for a time period and to an extent necessary to remedy the abuse.~~

(g) Incoming or outgoing *privileged* mail shall not be censored or read unless a previous abuse of the right, or other good cause is shown, and documented.

(d) Direct communication with officials. Outgoing official or legal mail sent by any inmate to the inmate's attorney, the courts, an elected official, the secretary of corrections, the principal administrator of the facility, the governor's pardon attorney, ombudsman for corrections, or any other public official who is responsible for such matters as the inmate is concerned about shall not be opened; provided, if any inmate threatens or terrorizes any person through such mail, subsequent mail from the inmate, including official or legal mail, to the person threatened or terrorized may, at the request of the person, be read and censored for a time period and to an extent necessary to remedy the abuse.

(e)

(f)

(h) Funds sent to inmates must be in the form of a money order, a cashier's check, or a certified check.

(i) All incoming or outgoing mail other than legal, or official or privileged mail, may be inspected and read at any time at the discretion of the principal administrator. Such mail shall not be censored unless it presents a clear and present threat to security and control or can be shown to be a serious interference with the operation and function of the institution or facility, or constitutes a crime. Such mail may also be censored if it is obscene and the principal administrator has on file a written complaint from the addressee or responsible parent, or guardian, of such addressee, if a minor, regarding previous communications requesting they be stopped or if it constitutes a threat.

(j) In the event of any censorship of a communication to or from an inmate following procedures shall be conducted: (1) The inmate shall be given a written notice of the censorship and the reason therefor without disclosing the censored material.

(2) The inmate shall be given the name and address of the sender of incoming or addressee of outgoing mail and the date the item was received in the mail room.

(3) The author of that letter shall be given a reasonable opportunity to protest that decision; and

(4) Complaints shall be referred to a prison official other than the person who originally disapproved the correspondence.

(k) Incoming bulk mail will not be delivered unless each piece is individually addressed to the inmate by conviction name.

(l) Outgoing letters, first class, may be sent to as many people and to whomever the inmate chooses.

(m) Outgoing mail must bear the full conviction name and address of the sender.

(n) The facility shall provide free writing paper and envelopes to all inmates in a reasonable amount. Inmates may also purchase stationery from the inmate canteen. The facility shall pay postage for the initial two (2) pieces of first class domestic mail weighing one (1) ounce or less each per week for all individual inmates, but not for groups or organizations. Any postage in excess of two (2) per week must be paid by the inmate. All postage for legal and official mail shall be paid by the institution or facility.

(o) Inmates may not correspond with minors whose parent or guardian has objected, in writing, to the institution director or facility supervisor regarding such correspondence. The inmate shall be notified of such objection when it is received, but need not be informed of the exact contents.

44-15202- Direct communication to officials: (a) Notwithstanding the grievance procedure, any inmate may send a sealed letter as official or legal mail to the inmate's attorney, the courts, his legislator, the secretary of corrections, the principal administrator of the facility, the governor's pardon attorney, or any other public official who is responsible for such matters as the inmate is concerned about.

(b) All communication concerning parole or clemency shall be addressed to the Pardon Attorney, Statehouse, Topeka, Kansas 66612, or the Director, Kansas Adult Authority (Parole Board), 535 Kansas Avenue, Room 400, Topeka, Kansas 66603. (Authorized by K.S.A. 75-5251, K.S.A. 1079 Supp. 75-5210, 75-5210(f); effective May 1, 1986.)

(p) Publications. (1) Inmates may receive books, newspapers, and periodicals except inmates at the reception center for evaluation purposes may receive newspaper publication only.

(2) The same procedure mentioned in mail rule to be followed when censorship occurs (section (j) above) shall be followed when a publication is censored.

(3) Inmates shall have the option of mailing censored publications out of the facility at their own expense, or discarding them.

(4) Publications which are obscene or are otherwise illegal or meet the test for censorship of mail in section (i) above, shall not be allowed into the facility.

(5) On transfer between institutions or facilities, the inmate shall arrange change of address for newspapers and periodicals.

(q) Packages. Procedure for the handling of packages, both incoming and outgoing, will be established by order of the principal administrator to be consistent with other rules and policies. Violation of this rule shall be a class II offense. (Authorized by K.S.A. 1980 Supp. 75-5210, 75-5210(f); effective May 1, 1980; amended May 1, 1981.)

HOUSE BILL No. 2327

By Representatives Whitaker and Louis

2-9

0017 AN ACT concerning public records; amending ~~K.S.A. 1982~~ K.S.A. 58-2223b and ^{1c}
0018 Supp. 75-104 and repealing the existing section; also repeal-
0019 ing K.S.A. 45-202, 45-203 and 45-204 and K.S.A. 1982 Supp.
0020 45-201.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 New Section 1. Sections 1 through 8 ~~shall be known and may~~ 907
0023 be cited as the open records act.

0024 New Sec. 2. It is declared to be the public policy of this state
0025 that public records shall be open for inspection by any person
0026 unless otherwise provided by this act, and this act shall be
0027 liberally construed and applied to promote such policy.

0028 New Sec. 3. As used in the open records act, unless the
0029 context otherwise requires:

0030 (a) "Business day" means any day other than a Saturday,
0031 Sunday or day designated as a holiday by the congress of the
0032 United States, by the legislature or governor of this state or by
0033 the respective political subdivision of this state.

0034 (b) ~~"Criminal investigation records" means records of an~~
0035 ~~investigatory agency or criminal justice agency as defined by~~
0036 ~~subsection (c) of K.S.A. 22-4701 and amendments thereto, com-~~
0037 ~~plied in the process of preventing, detecting or investigating~~
0038 ~~violations of criminal law, but does not include records of arrests,~~
0039 ~~police blotter entries, court records, rosters of inmates of jails or~~
0040 ~~other correctional or detention facilities or records pertaining to~~
0041 ~~violations of any traffic law other than vehicular homicide as~~
0042 ~~defined by K.S.A. 21-3405 and amendments thereto.~~

0043 (c) "Custodian" means the official custodian or any person
0044 designated by the official custodian to carry out the duties of
0045 custodian under this act.

adopt
history record information" has the meaning provided by K.S.A. 22-4701 and
amendments thereto (Highway Patrol; Attorney General)

*Criminal
code*

Atch. F

0046 (d) "Official custodian" means any officer or employee of a
0047 public agency who is responsible for the maintenance of public
0048 records, regardless of whether such records are in the officer's or
0049 employee's actual personal custody and control.

0050 (e) (1) "Public agency" means the state or any political or
0051 taxing subdivision of the state, or any office, officer, agency or
0052 instrumentality thereof, or any other entity receiving or expend-
0053 ing and supported in whole or in part by public funds appro-
0054 priated by the state or by public funds of any political or taxing
0055 subdivision of the state.

0056 (2) "Public agency" shall not include any entity solely by
0057 reason of payment from public funds for property, goods or
0058 services of such entity.

0059 (f) "Public record" means any recorded information, regard-
0060 less of form or characteristics, which is made, maintained or kept
0061 by or is in the possession of any public agency, but shall not
0062 include records which are owned by a private person or entity
0063 and are not related to functions, activities, programs or opera-
0064 tions funded by public funds.

0065 (g) "Undercover agent" means an employee of a public
0066 agency responsible for criminal law enforcement who is engaged
0067 in the detection or investigation of violations of criminal law in a
0068 capacity where such employee's identity or employment by the
0069 public agency is secret.

0070 New Sec. 4. (a) All public records shall be open for inspec-
0071 tion by any person, except as otherwise provided by this act, and
0072 suitable facilities shall be made available by each public agency
0073 for this purpose. No person shall remove original copies of
0074 public records from the office of any public agency without the
0075 written permission of the custodian of the record.

0076 (b) Upon request in accordance with procedures adopted
0077 under section 6, any person may inspect public records during
0078 the regular office hours of the public agency and during any
0079 additional hours established by the public agency pursuant to
0080 section 6.

0081 (c) If the person to whom the request is directed is not the
0082 custodian of the public record requested, such person shall so

; (1)

; or (2) copyrighted and protected under federal law from unauthorized reproduction and distribution (Topeka Computer Dept.)

reject as not needed

0083 notify the requester and shall furnish the name and location of
0084 the custodian of the public record, if known to or readily ascer-
0085 tainable by such person.

0086 (d) Each request for access to a public record shall be acted
0087 upon as soon as possible, but not later than the end of the second
0088 business day following the date that the request is received. If
0089 the request is not acted upon immediately, the custodian shall
0090 give an explanation of the cause for delay. If the request is
0091 granted, the custodian shall make the record available for in-
0092 spection at the time the request is granted unless the custodian
0093 gives a detailed explanation of the cause for further delay and the
0094 place and earliest time and date that the record will be available
0095 for inspection. If the request for access is denied, the custodian
0096 shall provide, upon request, a written statement of the grounds
0097 for the denial. Such statement shall cite the specific provision of
0098 law under which access is denied and shall be furnished to the
0099 requester not later than the end of the first business day follow-
0100 ing the date that the request for the statement is received.

0101 (e) If a request places an unreasonable burden in producing
0102 public records or if the custodian has reason to believe that
0103 repeated requests are intended to disrupt other essential func-
0104 tions of the public agency, the custodian may refuse to permit
0105 inspection of the public records. However, refusal under this
0106 subsection must be sustained by a preponderance of the evi-
0107 dence.

0108 ~~(f)~~ A public agency may charge and require advance payment
0109 of a fee for inspection of public records, subject to section 5.
0110 New Sec. 5. (a) Any person may make abstracts or obtain
0111 copies of any public record to which such person has access
0112 under this act. If copies are requested, the public agency may
0113 require a written request and advance payment of the prescribed
0114 fee.

0115 (b) Copies of public records shall be made while the records
0116 are in the possession, custody and control of the custodian or a
0117 person designated by the custodian and shall be made under the
0118 supervision of such custodian or person. When practical, copies
0119 shall be made in the place where the records are kept. If it is

reject
(f) Computer based data shall be available only in the format, sequence
and detail normally reported and utilized by the governmental entity for
which it is maintained.

(g) (Topeka Computer Dept.)

Dept of Administration

0120 impractical to do so, the custodian may allow arrangements to be
0121 made for use of other facilities. If it is necessary to use other
0122 facilities for copying, the cost thereof shall be paid by the person
0123 desiring a copy of the records. In addition, the public agency
0124 may charge the same fee for the services rendered in supervising
0125 the copying as for furnishing copies under subsection (c) and
0126 may establish a reasonable schedule of times for making copies
0127 at other facilities.

0128 (c) Except as provided by subsection (f) or where fees for
0129 inspection or for copies of a public record are prescribed by
0130 statute, each public agency may prescribe reasonable fees for
0131 providing access to or furnishing copies of public records, sub-
0132 ject to the following:

0133 (1) In the case of fees for copies of records, the fees shall not
0134 exceed the actual cost of furnishing copies, including the cost of
0135 staff time required.

0136 (2) [In the case of fees for providing access to records, the fees
0137 shall include only the cost of any computer services required in
0138 excess of one hour or the cost of any staff time required in excess
0139 of one hour.]

0140 (3) Fees for access to or copies of public records of public
0141 agencies within the legislative branch of the state government
0142 shall be established in accordance with K.S.A. 46-1207a and
0143 amendments thereto.

0144 (4) Fees for access to or copies of public records of public
0145 agencies within the judicial branch of the state government shall
0146 be established in accordance with rules of the supreme court.

0147 (5) Fees for access to or copies of public records of a public
0148 agency within the executive branch of the state government shall
0149 be subject to approval by the director of accounts and reports.

0150 (d) Each public agency within the executive branch of the
0151 state government shall remit all moneys received by or for it from
0152 fees charged pursuant to this section to the state treasurer in
0153 accordance with K.S.A. 75-4215 and amendments thereto. Unless
0154 otherwise specifically provided by law, the state treasurer shall
0155 deposit the entire amount thereof in the state treasury and credit
0156 the same to the state general fund, except that the cost of charges

*Good language if we
need any change
adviser
in excess of \$20.*

In the case of fees for providing access to records maintained on computer facilities, the fees shall include the cost of any computer services and staff time required. In cases where the requested information is not to be used for commercial purposes and the person seeking information from a public agency has not utilized the provisions of this sentence within thirty days prior to a request for information, then the first \$___ of costs incurred for providing access to information maintained on computer facilities, including staff time involved, shall be provided without any charge.

*Pg 4
Language in brackets for line 136*

0120 impractical to do so, the custodian may allow arrangements to be
0121 made for use of other facilities. If it is necessary to use other
0122 facilities for copying, the cost thereof shall be paid by the person
0123 desiring a copy of the records. In addition, the public agency
0124 may charge the same fee for the services rendered in supervising
0125 the copying as for furnishing copies under subsection (c) and
0126 may establish a reasonable schedule of times for making copies
0127 at other facilities.

0128 (c) Except as provided by subsection (f) or where fees for
0129 inspection or for copies of a public record are prescribed by
0130 statute, each public agency may prescribe reasonable fees for
0131 providing access to or furnishing copies of public records, sub-
0132 ject to the following:

0133 (1) In the case of fees for copies of records, the fees shall not
0134 exceed the actual cost of furnishing copies, including the cost of
0135 staff time required.

0136 ~~(2) In the case of fees for providing access to records, the fees~~
0137 ~~shall include only the cost of any computer services required in~~
0138 ~~excess of one hour or the cost of any staff time required in excess~~
0139 ~~of one hour.~~

0140 (3) Fees for access to or copies of public records of public
0141 agencies within the legislative branch of the state government
0142 shall be established in accordance with K.S.A. 46-1207a and
0143 amendments thereto.

0144 (4) Fees for access to or copies of public records of public
0145 agencies within the judicial branch of the state government shall
0146 be established in accordance with rules of the supreme court.

0147 (5) Fees for access to or copies of public records of a public
0148 agency within the executive branch of the state government shall
0149 be subject to approval by the director of accounts and reports.

0150 (d) Each public agency within the executive branch of the
0151 state government shall remit all moneys received by or for it from
0152 fees charged pursuant to this section to the state treasurer in
0153 accordance with K.S.A. 75-4215 and amendments thereto. Unless
0154 otherwise specifically provided by law, the state treasurer shall
0155 deposit the entire amount thereof in the state treasury and credit
0156 the same to the state general fund, except that the cost of charges

reject and

#1 (2) In the case of fees for providing access to records, the fees shall include only the cost of any computer services required in excess of one hour and shall not include any staff time required. (Assoc. of News Broadcasters)

#2 (2) In the case of fees for providing access to records, the fees shall include only the cost of any computer services required in excess of one hour or the cost of any staff time required in excess of one hour per request. (Assoc. of News Broadcasters)

#3 (2) In the case of fees for providing access to records, the fees shall include only the cost of:
(A) Computer services required in excess of 15 minutes or a request for 30 items, for on-line access, or \$10, for batch processing; or
(B) staff time required in excess of one hour.
(Topeka Computer Dept.)

#4 (2) In the case of fees for providing access to records, the fees shall include the cost of any computer services and staff time required, except a person shall not be charged for the first \$ of the cost of providing access to records, including computer services and staff time involved, if

the person has not utilized the provisions of this ^{sub}section within the preceding 30 days to obtain access to public records at no cost or at a reduced cost.

(Dept. of Admin.)

0157 for the services of the division of computer services may be
0158 credited to the fee fund of the agency to defray such cost.

0159 (e) Each public agency of a political or taxing subdivision
0160 shall remit all moneys received by or for it from fees charged
0161 pursuant to this section to the treasurer of such political or taxing
0162 subdivision at least monthly. Upon receipt of any such moneys,
0163 such treasurer shall deposit the entire amount thereof in the
0164 treasury of the political or taxing subdivision and credit the same
0165 to the general fund thereof, unless otherwise specifically pro-
0166 vided by law.

0167 (f) Any person who is a certified shorthand reporter may
0168 charge fees for transcripts of such person's notes of judicial or
0169 administrative proceedings in accordance with rates established
0170 pursuant to rules of the Kansas supreme court.

0171 New Sec. 6. (a) Each public agency shall adopt procedures
0172 to be followed in requesting access to and obtaining copies of
0173 public records, which procedures shall provide full access to
0174 public records, protect public records from damage and disorga-
0175 nization, prevent excessive disruption of the agency's essential
0176 functions, provide assistance and information upon request and
0177 insure efficient and timely action in response to applications for
0178 inspection of public records.

0179 (b) A public agency may require a written request for in-
0180 spection of public records but shall not otherwise require a
0181 request to be made in any particular form. A public agency shall
0182 not require that a request contain more information than neces-
0183 sary to properly identify the requester and ascertain the records
0184 to which the requester desires access. No request shall be
0185 returned, delayed or denied because of any technicality unless it
0186 is impossible to determine the records to which the requester
0187 desires access.

0188 (c) A public agency shall establish, for weeks when it does
0189 not maintain regular office hours, reasonable hours when per-
0190 sons may inspect and obtain copies of the agency's records. The
0191 public agency may require that any person desiring to inspect or
0192 obtain copies of the agency's records during such hours so notify
0193 the agency, but such notice shall not be required to be in writing

House Committee on Federal &
State Affairs
March 2, 1983
Page 3

Accordingly, because of these concerns, the Department suggests that limitations, in addition to existing privileges, be placed on the public access to information and records kept on an inmate. The following language is suggested for this purpose:

Add to New Sec. 7, paragraph 26 as follows:

Correctional records maintained on an identifiable individual, except that this exemption shall not apply to the name, sentence data, parole eligibility date, disciplinary record, custody level and location of an inmate. Records accessible under this provision shall not be provided to another inmate. This provision shall not limit access by the ombudsman for corrections, attorney general, and law enforcement agencies to correctional records to the extent otherwise permitted by law.

Such a provision would close to public access all records on an identifiable inmate except his name, information about his sentence, parole eligibility date, his disciplinary record, custody level and location.



MICHAEL A. BARBARA
Secretary of Corrections

MAB/pa

0194 and shall not be required to be given more than 24 hours prior to
0195 the hours established for inspection and obtaining copies.

0196 (d) Each official custodian of public records shall designate
0197 such persons as necessary to carry out the duties of custodian
0198 under this act and shall ensure that a custodian is available
0199 during regular business hours of the public agency to carry out
0200 such duties.

0201 (e) Each public agency shall provide, upon request of any
0202 person, the following information:

0203 (1) The principal office of the agency, its regular office hours
0204 and any additional hours established by the agency pursuant to
0205 subsection (c).

0206 (2) The title and address of the official custodian of the
0207 agency's records and of any other custodian who is ordinarily
0208 available to act on requests made at the location where the
0209 information is displayed.

0210 (3) The fees, if any, charged for copies of the agency's rec-
0211 ords.

0212 (4) The procedures to be followed in requesting access to and
0213 obtaining copies of the agency's records, including procedures
0214 for giving notice of a desire to inspect or obtain copies of records
0215 during hours established by the agency pursuant to subsection
0216 (c).

0217 New Sec. 7. (a) Except to the extent disclosure is otherwise
0218 required by law, a public agency shall not be required to dis-
0219 close:

0220 (1) Records the disclosure of which is specifically prohibited
0221 or restricted by federal law, state statute or rule of the Kansas
0222 supreme court or the disclosure of which is prohibited or re-
0223 stricted pursuant to specific authorization of federal law, state
0224 statute or rule of the Kansas supreme court to restrict or prohibit
0225 disclosure.

0226 (2) Records which are privileged under the rules of evidence,
0227 unless the holder of the privilege consents to the disclosure.

0228 (3) Medical, psychiatric, psychological or alcoholism or drug
0229 dependency treatment records which pertain to identifiable pa-
0230 tients.

0231 (4) Personnel records and performance ratings, except that
0232 this exemption shall not apply to the names, positions, salaries
0233 and lengths of service of officers and employees of public agen-
0234 cies.

or individually identifiable records pertaining ^{To} applicants for employment
(Bd. of Regents)

0235 (5) Information which would reveal the identity of any un-
0236 dercover agent.

0237 (6) Letters of reference or recommendation pertaining to the
0238 character or qualifications of an identifiable individual.

0239 (7) Library, archive and museum materials contributed by
0240 private persons, to the extent of any limitations imposed as
0241 conditions of the contribution.

0242 (8) Information which would reveal the identity of an indi-
0243 vidual who lawfully makes a donation to a public agency, if
0244 anonymity of the donor is a condition of the donation.

0245 (9) Testing and examination materials, before the test or
0246 examination is given or if it is to be given again, or records of
0247 individual test or examination scores, other than records which
0248 show only passage or failure and not specific scores.

once they are employed (Bd. of Regents)

0249 (10) ~~Criminal investigation records~~, except that the district
0250 court, in an action brought pursuant to section 8, may order
0251 disclosure of such records, subject to such conditions as the court
0252 may impose, if the court finds that disclosure:

history record information ^{adopt} (Highway Patrol; Attorney General)

0253 (A) Is in the public interest;

0254 (B) would not interfere with any prospective law enforce-
0255 ment action;

0256 (C) would not reveal the identity of any confidential source
0257 or undercover agent;

0258 (D) would not reveal confidential investigative techniques or
0259 procedures not known to the general public; and

0260 (E) would not endanger the life or physical safety of any
0261 person.

0262 (11) Records of agencies involved in administrative adjudi-
0263 cation or civil litigation, compiled in the process of detecting or
0264 investigating violations of civil law or administrative rules and
0265 regulations, if disclosure would interfere with a prospective
0266 administrative adjudication or civil litigation or reveal the iden-
0267 tity of a confidential source or undercover agent.

Water District No. 1 of Johnson County
Bill Anderson
Director of Public Affairs

Suggested amendment to HB 2327:

Insert the word "water," after the word "power" on line 273
in subsection (12) of subsection (a) of New Sec. 7. to make it
read: *(page 8)*

(12) Records of emergency or security information or procedures of a
public agency, or plans, drawings, specifications or related information
for any building or facility which is used for purposes requiring security
measures in or around the building or facility or which is used for the
generation or transmission of power, water, fuels or communications, if
disclosure would jeopardize security of the public agency, building
or facility.

0268 (12) Records of emergency or security information or pro-
 0269 cedures of a public agency, or plans, drawings, specifications or
 0270 related information for any building or facility which is used for
 0271 purposes requiring security measures in or around the building
 0272 or facility or which is used for the generation or transmission of
 0273 power, fuels or communications, if disclosure would jeopardize
 0274 security of the public agency, building or facility.

0275 (13) The contents of real estate appraisals or engineering or
 0276 feasibility estimates or evaluations made by or for a public
 0277 agency relative to the acquisition of real property, prior to the
 0278 award of formal contracts therefor.

0279 (14) Correspondence between a public agency and a private
 0280 individual, other than correspondence which is intended to give
 0281 notice of an action, policy or determination relating to any
 0282 regulatory, supervisory or enforcement responsibility of the
 0283 public agency or which is widely distributed to the public by a
 0284 public agency and is not specifically in response to communica-
 0285 tions from the individuals to whom distributed.

0286 (15) Records pertaining to employer-employee negotiations,
 0287 if disclosure would reveal information discussed in a lawful
 0288 executive session under K.S.A. 75-4319 and amendments
 0289 thereto.

0290 (16) Software programs for electronic data processing ^{and}
 0291 documentation thereof.

0292 (17) Applications, financial statements and other information
 0293 submitted in connection with applications for student financial
 0294 assistance where financial need is a consideration for the award.

0295 (18) Plans, designs, drawings or specifications which are
 0296 prepared by a person other than an employee of a public agency
 0297 or records which are the property of a private person.

0298 (19) Well samples, logs or surveys which the state corpora-
 0299 tion commission requires to be filed by persons who have drilled
 0300 or caused to be drilled, or are drilling or causing to be drilled,
 0301 holes for the purpose of discovery or production of oil or gas, to
 0302 the extent that disclosure is limited by rules and regulations of
 0303 the state corporation commission.

0304 (20) ~~Preliminary drafts, notes,~~ memoranda, recommendations

request
 and computer instructions required to initiate or execute a computer program,
 (Topeka Computer Dept.)

subject
 Notes, preliminary drafts (Dept. of Admin.)

0305 or other records in which opinions are expressed or policies or
0306 actions are proposed, except that this exemption shall not apply
0307 when such records are:

0308 ~~(A) Publicly cited or identified in an open meeting or in an
0309 agenda of an open meeting; or~~

0310 ~~(B) distributed to a majority of a quorum of any body which
0311 has authority to take action or make recommendations to a public
0312 agency with regard to the matters to which such records pertain,
0313 if the body is required to discuss such matters in an open
0314 meeting pursuant to K.S.A. 75-4317 et seq. and amendments
0315 thereto.~~

0316 (21) Records of a public agency having legislative powers,
0317 which records pertain to proposed legislation or amendments to
0318 proposed legislation, except that this exemption shall not apply
0319 when such records are:

0320 (A) Publicly cited or identified in an open meeting or in an
0321 agenda of an open meeting; or

0322 (B) distributed to a majority of a quorum of any body which
0323 has authority to take action or make recommendations to the
0324 public agency with regard to the matters to which such records
0325 pertain.

0326 (22) Records of a public agency having legislative powers,
0327 which records pertain to research prepared for one or more
0328 members of such agency, except that this exemption shall not
0329 apply when such records are:

0330 (A) Publicly cited or identified in an open meeting or in an
0331 agenda of an open meeting; or

0332 (B) distributed to a majority of a quorum of any body which
0333 has authority to take action or make recommendations to the
0334 public agency with regard to the matters to which such records
0335 pertain.

0336 (23) Library patron and circulation records which pertain to
0337 identifiable individuals.

0338 (24) Records which are compiled for census or research pur-
0339 poses and which pertain to identifiable individuals.

0340 (25) Records which represent and constitute the work prod-
0341 uct of an attorney.

reject
Delete lines 310-315. (School Bd. Assoc.; Bd. of Regents)

*Voluntary temporary
discontinuance for a period of time*

- (26) Financial records pertaining to individual billing and payment transactions for utility services.
(Topeka Computer Dept.)
- adopt* (27) Specifications for sealed competitive bidding, until the specifications are officially approved by the public agency.
(Topeka Computer Dept.; Dept. of Admin.)
- adopt* (28) Sealed bids and related documents, until a bid is accepted or all bids rejected.
(Dept. of Admin.)
- (29) Correctional records pertaining to an individually identifiable individual.
(Dept. of Corrections)

0342 (b) As used in this section, the term "cited or identified"
0343 shall not include a request to an employee of a public agency that
0344 a document be prepared.

0345 (c) If a public record contains material which is not subject to
0346 disclosure pursuant to this act, the public agency shall separate
0347 or delete such material and make available to the requester that
0348 material in the public record which is subject to disclosure
0349 pursuant to this act. If a public record is not subject to disclosure
0350 because it pertains to an identifiable individual, the public
0351 agency shall delete the identifying portions of the record and
0352 make available to the requester any remaining portions which
0353 are subject to disclosure pursuant to this act, unless the request is
0354 for a record pertaining to a specific individual or to such a limited
0355 group of individuals that the individuals' identities are reason-
0356 ably ascertainable, the public agency shall not be required to
0357 disclose those portions of the record which pertain to such
0358 individual or individuals.

0359 (d) The provisions of this section shall not be construed to
0360 exempt from public disclosure statistical information not de-
0361 scriptive of any identifiable person.

0362 (e) Notwithstanding the provisions of subsection (a), any
0363 public record which has been in existence more than 70 years
0364 shall be open for inspection by any person unless disclosure of
0365 the record is specifically prohibited or restricted by federal law,
0366 state statute or rule of the Kansas supreme court or by a policy
0367 adopted pursuant to K.S.A. 72-6214 and amendments thereto.

0368 New Sec. 8. (a) The district court of any county in which
0369 public records are located shall have jurisdiction to enforce the
0370 purposes of this act with respect to such records, by injunction,
0371 mandamus or other appropriate order, on application of any
0372 person.

0373 (b) In any action hereunder, the court shall determine the
0374 matter *de novo*, and the burden of proof shall be on the official
0375 custodian of the record to sustain the action of the public agency.
0376 The court on its own motion, or on motion of either party, may
0377 view the records in controversy *in camera* before reaching a
0378 decision.

0370 (c) In any action hereunder, the court may award court costs
0380 and attorney fees to the person seeking access to a public record
0381 if the court finds that such person's access was denied in viola-
0382 tion of this act. The award shall be assessed against the public
0383 agency that the court determines to be responsible for the viola-
0384 tion.

P. reject
denial of the person's access was frivolous, not in good faith and without
a reasonable basis in fact or law (Dept. of Admin.)

0385 (d) In any action hereunder in which the defendant is the
0386 prevailing party, the court may award to the defendant court
0387 costs and attorney fees if the court finds that the plaintiff main-
0388 tained the action frivolously, not in good faith or without a
0389 reasonable basis in fact or law.

? reject
and (Dept. of Admin.)

0390 (e) Except as otherwise provided by law, proceedings arising
0391 under this section shall take precedence over all other cases and
0392 shall be assigned for hearing and trial at the earliest practicable
0393 date.

adopt
New Sec. 9. No public agency or any officer or employee of a public agency
shall be liable for damages resulting from the failure to provide access to
a public record in violation of this act.
(Wichita Eagle-Beacon)

0394 Sec. 9. K.S.A. 1982 Supp. 75-104 is hereby amended to read
0395 as follows: 75-104. (a) The governor shall keep and maintain a
0396 full and complete record of the following applications or peti-
0397 tions made to the governor:

10

- 0398 (1) Applications or petitions for executive pardon, commuta-
- 0399 tion of sentence or clemency;
- 0400 (2) applications or petitions for the appointment of a named
- 0401 individual to public office when a vacancy occurs and when the
- 0402 governor is restricted to the appointment of nominees so sub-
- 0403 mitted;
- 0404 (3) applications or petitions for the appointment of a person
- 0405 from a list of persons submitted by an association, agency or
- 0406 committee where the governor is limited to make an appoint-
- 0407 ment only from that list;
- 0408 (4) applications for the approval of grants where the gover-
- 0409 nor's approval is a condition precedent to the making of such
- 0410 grants either by a state agency or by the federal government;
- 0411 (5) applications or petitions for declarations of emergency;
- 0412 (6) petitions for the calling of a special session of the legisla-
- 0413 ture pursuant to section 5 of article 1 of the constitution of the
- 0414 state of Kansas; and
- 0415 (7) applications or petitions directed to the governor and

0416 requesting that he or she take action in accordance with subsec-
0417 tion (c) of K.S.A. 75-3711 *and amendments thereto* and exercise a
0418 function otherwise specified by statute for the state finance
0419 council.

0420 (b) The record required to be kept under subsection (a) and
0421 all records of the financial affairs and transactions regarding the
0422 receipt and expenditure of state moneys shall remain on file in
0423 the office of each governor during the governor's term of office
0424 and for a period of three years following the expiration of such
0425 term.

0426 (c) Following the three-year period prescribed in subsection
0427 (b), all records kept and maintained pursuant to subsection (a)
0428 shall be transferred to the custody of the state historical society
0429 and the records of the financial affairs and transactions kept and
0430 maintained pursuant to subsection (b) shall be kept in the office
0431 of the governor, subject to disposal as may be authorized by the
0432 state records board.

0433 (d) ~~All records, correspondence and other papers of the gov-~~
0434 ~~ernor which are not required to be kept and maintained under~~
0435 ~~subsections (a) or (b) shall be the personal property of the~~
0436 ~~governor and shall not constitute official public records of the~~
0437 ~~state. No person shall have access to such records, correspon-~~
0438 ~~dence or other papers during the governor's term of office except~~
0439 ~~upon the consent of the governor.~~

0440 (d) *Records, correspondence and other papers of the gover-*
0441 *nor which are not required to be kept and maintained under*
0442 *subsection (a) or (b) shall not be subject to review or audit by the*
0443 *legislative post auditor under the legislative post audit act.*

0444 (e) Upon completion of the term of office ~~as of a governor, a~~
0445 ~~former governor shall determine which all records, correspon-~~
0446 ~~dence and other papers not required to be kept and maintained~~
0447 ~~under subsections (a) or (b) which relate to the former governor's~~
0448 ~~public duties while governor. The records, correspondence and~~
0449 ~~other papers which the former governor determines relate to the~~
0450 ~~former governor's public duties while governor shall be trans-~~
0451 ~~ferred to the custody of an institution of higher education in the~~
0452 ~~regents system of state universities in Kansas designated by the~~

0453 former governor or, if the former governor does not designate an
 0454 institution of higher education in the regent system of state
 0455 universities in Kansas as the depository, such records, corre-
 0456 spondence and other papers shall be transferred to the custody of
 0457 the state historical society. During the lifetime of the former
 0458 governor, no person shall have access to such records, corre-
 0459 spondence and other papers except upon the consent of the
 0460 former governor. Two years after the death of the former gover-
 0461 nor, such records, correspondence and other papers shall be-
 0462 come public records. *During the lifetime of the former governor,*
 0463 *no person shall have access to any such records, correspondence*
 0464 *or other papers which are not required to be disclosed under*
 0465 *section 7, except upon consent of the former governor, and the*
 0466 *former governor shall be considered the official custodian of*
 0467 *such records, correspondence and other papers which are not*
 0468 *required to be disclosed.*

0469 (f) Upon the death of a governor while in office, all records,
 0470 correspondence and other papers of such deceased governor not
 0471 required to be kept and maintained under subsections (a) or (b)
 0472 which relate to such governor's duties while governor shall be
 0473 transferred to the custody of the institution of higher education
 0474 in Kansas designated by such governor or, if such governor did
 0475 not designate an institution of higher education in Kansas as the
 0476 depository, such records, correspondence and other papers shall
 0477 be transferred to the custody of the state historical society. Two
 0478 years after the death of such governor, such records, correspon-
 0479 dence and other papers shall become public records.

0480 (g) *The provisions of this section, as amended on January 1,*
 0481 *1982,* _____ 1984
 0482 *shall apply only to persons elected or succeeding to the*
 0483 *office of governor on or after that date. Any person elected or*
 0484 *succeeding to the office of governor prior to January 1, 1982,* _____ 1984
 0485 *shall be governed by the provisions of this section prior to its*
 0486 *amendment on that date.*

0486 New Sec. 49. (a) Except to the extent otherwise authorized _____ 11
 0487 by law, no person shall knowingly sell, give or receive, for the _____ ; (1)
 0488 purpose of selling or offering for sale any property or service to
 0489 persons listed therein, any list of names and addresses contained

Delete language as shown in ll. 490 & 491. (Dept. of Admin.)

0490 in or derived from public records of the division of motor vehi-
0491 cles of the department of revenue.

0492 (b) Violation of this section is a class C misdemeanor.

0493 New Sec. 11. (a) All records provided to be maintained
0494 under K.S.A. 44-550 and amendments thereto shall be open to
0495 public inspection.

0496 (b) This section shall be part of and supplemental to the
0497 workmen's compensation act.

0498 New Sec. 12. If any provisions of this act or the application
0499 thereof to any person or circumstances is held invalid, the
0500 invalidity shall not affect other provisions or applications of the
0501 act which can be given effect without the invalid provisions or
0502 application and, to this end, the provisions of this act are sever-
0503 able.

0504 Sec. 13. K.S.A. 45-202, 45-203 and 45-204 and K.S.A. 1982
0505 Supp. 45-201 and 75-104 are hereby repealed.

0506 Sec. 14. This act shall take effect and be in force on and after
0507 January 1, 1984, and its publication in the statute book.

OK
; or (2) use any list of names and addresses contained in or derived from
public records for the person's private or personal financial gain
(Topeka Computer Dept.)

subsection (a)

request
(c) If a public agency reasonably believes that a person's request for access
to public records is for a purpose prohibited by subsection (a), the agency may
deny the person access to the records. (Dept. of Admin.)

13
Insert §§ 14-16, attached

17
45-204 and 58-2223b

18

New Sec. 14. Records of the office of the ombudsman of corrections or of the corrections ombudsman board which relate to ^{Complaints} ~~the functions of that office or board~~ shall not be disclosed directly or indirectly to any person except as authorized by the ombudsman of corrections or by a majority vote of the corrections ombudsman board. (Ombudsman of Corrections)

New Sec. 15. (a) The state corporation commission shall not disclose to anyone any trade secret or confidential commercial information of a corporation, partnership or individual proprietorship regulated by the commission unless the commission finds that disclosure is warranted after consideration of the following factors:

(1) Whether disclosure will significantly aid the commission in fulfilling its functions;

(2) the harm or benefit which disclosure will cause to the public interest;

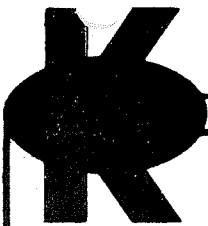
(3) the harm which disclosure will cause to the corporation, partnership or sole proprietorship; and

(4) alternatives to disclosure that will serve the public interest and protect the corporation, partnership or sole proprietorship.

(b) The state corporation commission shall adopt rules and regulations classifying by subject matter those records which are open to public disclosure pursuant to this section and those records which are not subject to public disclosure pursuant to this section.

Sec. 16. K.S.A. 58-2223b is hereby amended to read as follows: 58-2223b. "Value shall," in the case of any deed not a gift, be is the amount of the full actual consideration ~~thereof~~, paid or to be paid, including the amount of any lien or liens assumed. ~~Sueh~~ The certificate of value shall contain a statement of the classification and subclassification to which ~~sueh~~ the property belongs for the purpose of determining the fair market value of the property. ~~Sueh~~ The certificate shall not be filed of

record but shall be retained for a period of two (2) years at which time they it shall be destroyed. The--contents--of--said certificate--shall-be-made-available-not-only-to-the-county-clerk for-the-purpose-of--preparing--the--report--to--the--director--of property-valuation-but-the-information-in-such-certificates-shall be--made-available-to-the-county-assessor-and-appraisers-employed by-the-county--for--appraisal--of--property--located--within--the county,--if--any,--and--to--the-board-of-county-commissioners-but shall-not-be-otherwise-disclosed-by-any-party--having--access--to them--to--anyone-other-than-the-director-of-property-valuation-or to-the-board-of-tax-appeals-in-the-event--of--proceedings--before that-board. (Wichita Egel-Beacon)



KANSAS DEPARTMENT OF CORRECTIONS

JOHN CARLIN — GOVERNOR

PATRICK McMANUS — SECRETARY

535 KANSAS AVENUE • TOPEKA, KANSAS • 66603
• 913-296-3317 •

March 2, 1983

TO: HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
FROM: SECRETARY OF CORRECTIONS
RE: HOUSE BILL 2327

House Bill 2327 in its present form provides that any recorded information maintained, kept or in the possession of a public agency is a public record and is therefore open for inspection by any person unless otherwise provided in the bill. The Department of Corrections feels that this provision is too broad with respect to records maintained on inmates and submits that such a broad provision increases the potential for increased security problems in the institutions, infringes on the privacy rights of inmates, their families and others and is counterproductive to rehabilitation purposes.

The Department of Corrections maintains numerous records on each inmate. Some of these records would remain closed under provisions of H.B. 2327. Those remaining closed include:

- medical records
- psychiatric records
- psychological records
- social worker records
- alcohol and drug dependency treatment records
- educational records
- criminal investigation records
- KRDC evaluation reports
- presentence reports, parole reports and supervision history.

Other records maintained by the Department of Corrections appear to fall within the open records definition of H.B. 2327. These include for each inmate:

- Financial records from the inmate trust account and any individual bank accounts of an inmate.
- Property ownership and inventory records.
- Visitation questionnaires completed by family and friends.

Atch. G

- Visiting lists detailing dates, times, person visiting and relationship to the inmate.
- Disciplinary records, including those dismissed or resulting in not guilty findings.
- Supervision notes prepared by correctional counselors, correctional officers and work supervisors.
- Custody and classification materials.
- Sentence data.
- Reports from county attorney and defense attorney.
- Administrative segregation reports.
- Military records.

The above list is not inclusive but is provided to assist the committee in understanding the variety of records maintained on each inmate.

In opposing a broad opening of inmate records, the Department of Corrections does not want to appear to be wanting to operate in secrecy or to be beyond the reach of those who have a legitimate need to know. The Department has no hesitation in permitting the Attorney General, the Ombudsman for Corrections, and law enforcement personnel access to inmate files where such access is not otherwise prohibited or restricted by statute. However, the need of the general public for access to information of a personal nature of an inmate or his family is questioned.

Further, the present language of the bill would permit an inmate to gain access to another inmate's file or the family or friends of an inmate to do so. This presents an obvious potential for a security problem and increased threat of violence in the institutions. Access to information about another inmate sets the stage for extortion demands, blackmail and retaliation within the prison walls. Violence, injury and deaths could be the result.

Public access to information on an inmate and his visitors could result in those visitors being the targets of harassment, thus inhibiting the visitation program. Visitors could well decide not to visit an inmate if they know that their visits will be recorded and available to the public and media.

An additional concern is that staff members who supervise and observe inmates will be less candid in their remarks and observations if they believe their comments will be public information. This would obviously inhibit the free flow of information and present an inaccurate picture of the inmate's real attitude, conduct and progress. This would deter proper classification and rehabilitation efforts.

House Committee on Federal &
State Affairs
March 2, 1983
Page 3

Accordingly, because of these concerns, the Department suggests that limitations, in addition to existing privileges, be placed on the public access to information and records kept on an inmate. The following language is suggested for this purpose:

Add to New Sec. 7, paragraph 26 as follows:

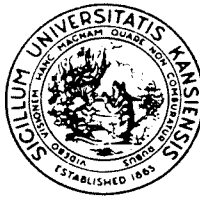
Correctional records maintained on an identifiable individual, except that this exemption shall not apply to the name, sentence data, parole eligibility date, disciplinary record, custody level and location of an inmate. Records accessible under this provision shall not be provided to another inmate. This provision shall not limit access by the ombudsman for corrections, attorney general, and law enforcement agencies to correctional records to the extent otherwise permitted by law.

Such a provision would close to public access all records on an identifiable inmate except his name, information about his sentence, parole eligibility date, his disciplinary record, custody level and location.



MICHAEL A. BARBARA
Secretary of Corrections

MAB/pa



THE UNIVERSITY OF KANSAS

Office of the Chancellor
223 Strong Hall, Lawrence, Kansas 66045
(913) 864-3131

March 3, 1983

MEMORANDUM

TO: Representative Neal Whitaker
Chairman, House Committee on
Federal and State Affairs

FROM: Richard von Ende *RVE*

We in the University of Kansas support the basic concept of open records for it is the availability of information which makes possible the advancement of knowledge. Because, however, the proposed "open records act" would affect operations of state agencies and institutions, we asked a number of persons within the University to review the proposed bill and identify areas of concern. As a result of that review, a number of suggestions have been advanced that we believe would provide protection for the state's investment in personnel and their efforts and in equipment and other resources.

The following enumerated points indicate the reasons for the universities suggested revisions. We request that the Committee on Federal and State Affairs give consideration to these suggestions for the reasons stated below.

1. Section 4, subsection (d). In the first sentence change "second business day" to "third business day."

The purpose of this proposed change is simply to recognize that some requests for records may be of such magnitude and the time and responsibilities of records custodians so committed to other activities that to comply within two business days may require a complete revision of the work schedules and responsibilities of such custodians. The provision of an additional day in which to respond could relieve such pressures on records custodians.

2. Section 5, subsection (d). Amend by inserting a second sentence as follows: "Those public agencies entitled to expenditure

of funds in accordance with KSA 75-4215 shall be entitled to deposit all monies received and expend such funds."

The purpose of this proposed amendment is to assure that University resources are not ultimately diverted from the purposes for which they were appropriated. It is conceivable that the demands for copies of records would be of such magnitude that they would represent a significant drain on the University's resources. Under the present wording of the bill, all income derived from meeting requests for copies of records must be deposited in the state treasury. If there is a significant but unreimbursed drain on resources appropriated to the University, the effect will be a diversion of funds from the purposes for which they have been appropriated.

3. Section 7, subsection (a)(20). Insert at the beginning of this subsection, the following: "Data in the process of analysis, unfunded grant proposals"

The purpose of this proposed amendment is to make it possible for faculty engaged in research to maintain, as privileged under this act, data they have obtained or recorded but have not yet analyzed and/or published. There are two principal justifications for such an exception. First, data in the process of analysis may be misleading until such time as those responsible for its collection have opportunity to determine through analysis what conclusions may reasonably be drawn. Second, the researcher, who has other demands (teaching, service, etc.) on his or her time, should be protected from having someone co-opt and publish the research--at a cost only of photo-copying the information--before he or she has opportunity to do so.

4. Section 7, subsection (a)(20)(A). Add before the semicolon: "or cited or identified in any manner for the purpose of influencing legislation, regulation, or administration."

The purpose of this proposed amendment is to assure fairness. If material otherwise exempt under the open records act is used to influence legislation, regulation, or administration, then other parties should have access to that material, if they so wish, for purposes of rebuttal or refutation.

5. Section 10, subsection (a). In lines 481 and 482, delete the words "of the division of motor vehicles of the department of revenue."

The purpose of this proposed amendment is to protect mailing lists developed by any agency or institution of the state.

Representative Neal Whitaker
March 3, 1983
Page Three

For the universities, this would protect lists of alumni, contributors, participants in continuing education programs, etc., subject to the provision that violation of such protection would be a class C misdemeanor.

Two additional concerns have arisen, but we are not sure how to address these concerns within the legislation. First, several persons within the University have expressed concerns about security of property. For example, information, supplied on request, about the location and value of equipment (or of museum collections) could conceivably be of benefit to a thief. There are of course legitimate reasons for requesting such information; hence the difficulty in protecting against illegitimate uses of such data. Perhaps the best approach is to require in the law the recording of the name and address of anyone requesting such information and supplying such names and addresses to law enforcement officials if and when any items are stolen. The law could be amended to require that persons requesting information provide on request proof of identification and address.

Second, under a literal translation of the act, it would be possible for private consulting firms to make profits at public expense by calling on the resources of, for example, university museums. The University of Kansas systematics museums, for example, contain hundreds of thousands of specimens and associated data, all of which collectively are public property or public records and presumably available to the public under the terms of the proposed open records act except when they constitute unanalyzed research data. The collection resources of a great many museums throughout the country have been used by commercial consulting firms as sources of data for environmental impact statements. Many museums in recent years have developed formal policies whereby they charge commercial firms fees for access to the collections and their data and for special reports (often computer generated) presenting collection-related data in different configurations. We are concerned about this question, because, first, we are not certain how the proposed legislation covers that particular matter with respect to future transactions involving the Museum of Natural History and commercial consulting firms, and, second, because on a more general level it seems to us that if the profit issue is not somehow dealt with in the open records act, it would be possible for private concerns to make their profits largely at public expense. Again, we are not certain how this issue might be addressed within the legislation unless perhaps there might be included in the act a general provision authorizing agencies and institutions to develop policies that would permit charging not just the costs of photocopying data but reasonable costs for the development of such information.

We hope these suggestions will be helpful and constructive, and we appreciate the Committee's consideration of them. If you would like further information about or justification for any of these suggestions, we would be glad to provide it.

RvE:dw

cc: Chancellor Budig

MEMORANDUM

TO: Honorable Neal Whitaker
Chairman, House Federal and State Affairs Committee

FROM: THOMAS J. KENNEDY, Director, ABC Division

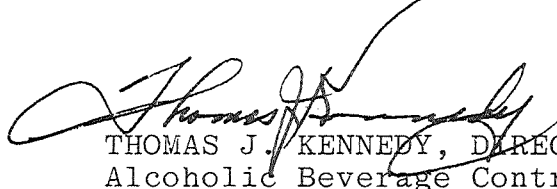
RE: False Identification Crime Control Act of 1982

DATE: March 1, 1983

Transmitted herewith is copy of letter from Senator Gordon J. Humphrey, United States Senate, concerning the 97th Congress passing of the False Identification Crime Control Act of 1982 per your request.

If we can be of further assistance, please let me know.

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division

TJK:cjk

GOVERNOR J. HUMPHREY
NEW HAMPSHIRE

6205 DIRKSEN SENATE OFFICE BUILDING
(202) 224-2841

NEW HAMPSHIRE TOLL FREE NUMBER
1-800-852-3714

United States Senate

WASHINGTON, D.C. 20510

COMMITTEES
ARMED SERVICES
CHAIRMAN: SUBCOMMITTEE ON
PREPAREDNESS

ENERGY AND NATURAL
RESOURCES

CHAIRMAN: SUBCOMMITTEE ON ENERGY
REGULATION

LABOR AND HUMAN RESOURCES
CHAIRMAN: SUBCOMMITTEE ON ALCOHOLISM
AND DRUG ABUSE

Dear Friend,

Early this past year I wrote to inform you of a bill I introduced in the U.S. Senate, S. 2043, designed to help control the growing problem of the use of false identification by minors to purchase alcoholic beverages. Many of you took the time to write expressing your comments and individual concerns regarding the false identification problem. I am happy to inform you that the 97th Congress, in last minutenegotiations, passed the False Identification Crime Control Act of 1982. This new law, signed by the President on December 31, 1982, is designed to have a direct impact upon the mass commercial availability of false identification.

For your information, I have enclosed a copy of the act. While the act covers a broad range of false identification related crime, two sections are particularly relevant to the control of false identification used by minors. Section 1028(b)(1)(A)(ii) as well as Section 1738 are the direct result of our concern over the proliferation of commercially available false identification.

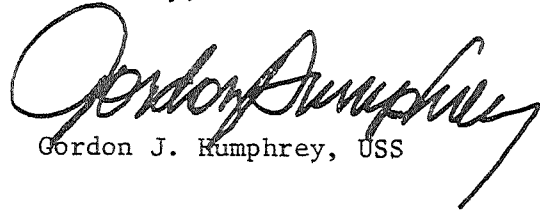
Section 1028(b)(1)(A)(ii) provides criminal penalties for the production or transfer of false identification documents that are or appear to be issued by a state, such as a driver's license or "personal I.D. card". This provision covers a great many of the commercially available false I.D.'s now used by thousands of underaged drinkers. Section 1738 goes one step further in requiring prominent disclaimers on certain private I.D.'s which might otherwise be mistaken for a form of official government identification. This provision is designed to provide some control over I.D.'s issued by companies using elusive I.D. formats which for one reason or another might not be precluded by Section 1028. It is hoped that the disclaimer requirement will also cause legitimate private I.D. manufacturers and their clients to reconsider the necessity of including age or birthdate statistics on their I.D. formats. To the extent that private identification does not incorporate an age or birthdate, that statistical information is not alterable.

While a major hurdle has been crossed with the passage of this legislation, effective enforcement will require a broad sense of public awareness of the problem and measures designed to control it. As concerned individuals, I urge you to take steps to insure that all appropriate persons within your state are made aware of the new law so as to promote its effectiveness.

As a sideline, I would like to point out that Section 1738 is not applicable to the "walk-in" sale of false identification. Congress felt that state and local governments were better equipped to deal with false identification related problems occurring solely within their own jurisdictions. Your respective state legislators are now in a better position to effectively eliminate the mass commercial distribution of false identification within their states.

I sincerely hope that our efforts in Washington will prove worthwhile in the battle against false identification and teenage alcohol abuse. Should you have any questions or desire further information, please feel free to contact my office. Thank you all for your time, consideration, and interest.

Sincerely,



Gordon J. Humphrey, USS

United States Senate

COMMITTEE ON
LABOR AND HUMAN RESOURCES
WASHINGTON, D.C. 20510
OFFICIAL BUSINESS



U.S.S.

MR. THOMAS KENNEDY
ALC. BEV. CNTRL. DIV.
ROOM 521-S - STATE OB
TOPEKA, KS 66625

Public Law 97-398
97th Congress

An Act

To amend title 18 of the United States Code to provide penalties for certain false identification related crimes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "False Identification Crime Control Act of 1982".

SEC. 2. Chapter 47 of title 18 of the United States Code is amended by adding at the end the following:

§ 1028. Fraud and related activity in connection with identification documents

(a) Whoever, in a circumstance described in subsection (c) of this section—

(1) knowingly and without lawful authority produces an identification document or a false identification document;

(2) knowingly transfers an identification document or a false identification document knowing that such document was stolen or produced without lawful authority;

(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor) or false identification documents;

(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document, with the intent such document be used to defraud the United States; or

(5) knowingly produces, transfers, or possesses a document-making implement with the intent such document-making implement will be used in the production of a false identification document or another document-making implement which will be so used;

(6) possesses an identification document that is or appears to be an identification document of the United States which is stolen or produced without authority knowing that such document was stolen or produced without authority;

attempts to do so, shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under subsection (a) of this section is—

(1) a fine of not more than \$25,000 or imprisonment for not more than five years, or both, if the offense is—

(A) the production or transfer of an identification document or false identification document that is or appears to be—

(i) an identification document issued by or under the authority of the United States; or

(ii) a birth certificate, or a driver's license or personal identification card;

(B) the production or transfer of more than five identification documents or false identification documents; or

(C) an offense under paragraph (5) of such subsection;

(2) a fine of not more than \$15,000 or imprisonment for not more than three years, or both, if the offense is—

(A) any other production or transfer of an identification document or false identification document; or

(B) an offense under paragraph (3) of such subsection; and

(3) a fine of not more than \$5,000 or imprisonment for not more than one year, or both, in any other case.

(c) The circumstance referred to in subsection (a) of this section is that—

(1) the identification document or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document or false identification document;

(2) the offense is an offense under subsection (a)(4) of this section; or

(3) the production, transfer, or possession prohibited by this section is in or affects interstate or foreign commerce, or the identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, or possession prohibited by this section.

(d) As used in this section—

(1) the term 'identification document' means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

(2) the term 'produce' includes alter, authenticate, or assemble;

(3) the term 'document-making implement' means any implement or impression specially designed or primarily used for making an identification document, a false identification document, or another document-making implement;

(4) the term 'personal identification card' means an identification document issued by a State or local government solely for the purpose of identification; and

(5) the term 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).

SEC. 3. The table of sections at the beginning of chapter 47 of title 18 of the United States Code is amended by adding at the end the following:

"1028. Fraud and related activity in connection with identification documents."

SEC. 4. (a) Chapter 83 of title 18, United States Code, is amended by adding at the end thereof the following:

§ 1738. Mailing private identification documents without a disclaimer

(a) Whoever, being in the business of furnishing identification documents for valuable consideration, and in the furtherance of that business, uses the mails for the mailing, carriage in the mails, or delivery of, or causes to be transported in interstate or foreign commerce, any identification document—

(1) which bears a birth date or age purported to be that of the person named in such identification document; and

(2) knowing that such document fails to carry diagonally printed clearly and indelibly on both the front and back "NOT A GOVERNMENT DOCUMENT" in capital letters in not less than twelve point type;

shall be fined not more than \$1,000, imprisoned not more than one year, or both.

(b) For purposes of this section the term 'identification document' means a document which is of a type intended or commonly accepted for the purpose of identification of individuals and which is not issued by or under the authority of a government."

(b) The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1738. Mailing private identification documents without a disclaimer."

SEC. 5. Section 3001(a) of title 39, United States Code, is amended by striking out "or 1718" and inserting in lieu thereof ", 1718, or 1738".

Approved December 31, 1982.

LEGISLATIVE HISTORY—H.R. 6946:

HOUSE REPORTS: No. 97-802 (Comm. on the Judiciary) and No. 97-975 (Comm. on Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 14, considered and passed House.

Oct. 1, considered and passed Senate, amended.

Dec. 17, House agreed to conference report.

Dec. 19, Senate agreed to conference report.