

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARYThe meeting was called to order by Representative Bob Frey at
Chairperson3:30 ~~xxx~~/p.m. on March 1, 1983 in room 526-S of the Capitol.

All members were present except:

Representatives Justice and Peterson were excused.

Committee staff present:

Mark Burghart, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Ann Torrence, Revisor or Statutes Office
Nedra Spingler, Secretary

Conferees appearing before the committee:

Representative Leary Johnson
Randall Weller, Attorney, Hill City
Phyllis Madden, Dodge City
Ethel May Miller, Kansas Association for Retarded Citizens
Catherine Wahlmeier, Member of a Group for Retarded Citizens, Hays
Gerald Hannah, Ph.D., Commissioner, Division of Mental Health and Mental Retardation, SRS
Bryan Krantz, American Civil Liberties Union
Bill Edds, Department of Revenue
John Wine, Office of the Secretary of State

The minutes of the meeting of February 24, 1983, were approved.

HB 2318 - An act concerning sterilization of certain persons.A hearing was held on the bill. Representative Leary Johnson, sponsor, gave a statement (Attachment No.1) explaining and supporting the bill.Randall Weller, attorney, Hill City, gave the history of the case that prompted introduction of the bill (Attachment No.2).

There was discussion regarding whether the intent of the bill was to apply only to pregnancies that would result in death. Potential abuse by doctors and judges in making the decision was mentioned. Mr. Weller believed safeguards were in the bill to protect against this and prohibit mass sterilization. He had no objection to amendments to make provisions for testing very strict or in limiting cases to district court judges rather than magistrate judges.

Phyllis Madden, Dodge City, mother of a retarded daughter, supported the bill, stating she did not want anything in the bill that would cause mass sterilization or cause persons to be sterilized against their wills, but help was needed for cases such as her daughter's which she described. She noted, if her daughter was not retarded, she would have no problem, because of her physical condition, in being sterilized. Ms. Madden did not believe it was possible to teach some retarded people the use of contraceptives nor do these always work. She believed her daughter's rights were being violated.

Ethel May Miller, KARC, gave the position of that organization and of herself as the mother or a retarded daughter in her statement (Attachment No.3). She noted SB 11, introduced as the result of a Judicial Council study on guardianship laws, and believed the issue addressed by HB 2318 was included in SB 11. She urged no action on the House bill until the Senate bill can be considered.Catherine Wahlmeier, member of a group for retarded children in Hays, distributed a statement from Helen DeWitt, R.N., Hays, in opposition to HB 2318 (Attachment No.4) and gave her own statement opposing the bill (Attachment No.5). Copies of the Hutchinson News of March 28, 1980, telling of mass sterilization by the state of "undesirables" (Attachment No.6) were distributed.Dr. Gerald Hannah, Commissioner, Mental Health and Mental Retardation Division of SRS, said SRS opposed the bill as written. His objections and recommendations are contained in Attachment No.7. In additional remarks, Dr. Hannah said SB 11 should be considered before amend-

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 526-S, Statehouse, at 3:30 ~~a.m.~~^{XX}/p.m. on March 1, 1983.

ments are considered for HB 2318. He was not against sterilization in cases where a person's life was in danger but it was not the position of SRS that compulsory sterilization be done under certain circumstances.

Bryan Krantz, ACLU, agreed with statements of Dr. Hannah and also believed the court should be instructed to appoint a guardian ad litem. Someone should be at hearings to argue the other side. Because of different degrees of retardation, he questioned where a line could be drawn. He said additional safeguards should be added, and the method of sterilization should be stated.

HB 2475 - An act concerning articles of incorporation.

Bill Edds, Department of Revenue, said the bill was requested by IRS and requires liquidation of a corporation's assets to be accomplished in a manner pursuant to the work of the corporation. The constitutionality of line 34 was questioned. Mr. Edds said language of the bill is almost identical to Oklahoma and Arkansas laws and was suggested by IRS.

John Wine, Office of the Secretary of State, suggested a technical amendment on line 22 to insert "otherwise" before "qualifies".

HB 2163 - An act relating to traffic laws.

Representative Ediger reported for the subcommittee and reviewed conceptional amendments to the bill (Attachment No.8). The structure for and the inequity of the fines were discussed, it being noted that the Highway Patrol wants them to be uniform. Cities may want to charter out from this uniformity. The suggestion was made that amendments could be included in a bill dealing with bonding forfeiture which is in the Transportation Committee.

The meeting was adjourned at 5:10 p.m.



DOPLFA

HOUSE OF
REPRESENTATIVESCOMMITTEE ASSIGNMENTS
MEMBER AGRICULTURE AND LIVESTOCK,
INSURANCE
TRANSPORTATIONATTACHMENT # 1LEARY J. JOHNSON
REPRESENTATIVE TO THE SENATE
LOGAN, GOVE, GRAHAM, TREGG,
AND PARTS OF NESS AND PROKINS COUNTIES,
1000 WARREN BLVD.
WAKEENEY, KANSAS 67672

Subject: HB 2318

By: State Representative Leary J. Johnson

Mr. Chairman, members of the committee, we are assembled here today to discuss an issue that doesn't affect many. In fact it will probably affect very few. However, for the ones it does affect it represents a very serious problem which needs to be addressed and resolved.

There are currently 25 states which have previously spoken to this problem area and have provided legislative guidance to those in need.

I am sure all in attendance share a concern about the potential for abuse in this area. I believe we have incorporated sufficient safeguards in the bill to prevent this from happening. You will note that first the guardian has to make the decision to initiate the process. Then a competent physician must certify to the court that pregnancy would be harmful or fatal to the involved person's health. The court, after notice and hearing may then order such person sterilized based upon medical evidence.

As with any parent, we all are deeply concerned about the welfare of our children. We try, in the best way we can, to administer to all their needs. It is through this love and care for our children that we unselfishly and devotedly provide for their welfare and future. We have to keep in mind that

Leary J. Johnson

these parental decisions are in the best interest of the ones we love, especially when their lives are at stake.

I personally had to make such a decision recently when my oldest son was inflicted with cancer. Initially there was a certain amount of disbelief and uncertainty associated with unwillingness to accept that this could be happening to a member of my family. The reality of the situation finally set in and it was abundantly clear that medical attention was required to save his life. Prompted by a deep conviction in God and an extreme confidence in the attending physician a decision was made, a decision which proved successful. This personal encounter relates to the fact that a life or death situation isn't debatable.

I believe that to fully understand the situation each of us must place ourselves in the position of parents of retarded children. We must understand the physical, emotional, and financial stress involved and realize that a decision of this nature only comes from a genuine love and care of the one most involved.

In conclusion, Mr. Chairman, members of the committee, let me acquaint you with a question so bluntly put to me immediately after submitting this bill. I was asked that if I had a retarded child who kept sticking their hand in a bucket of hot water would I cut off their hand to prevent recurrence? My answer, fellow colleagues, was a blunt "NO". The obvious answer is to simply remove the bucket.

JONES, WELLER & ELLIOTT

ATTORNEYS-AT-LAW

105 East Cherry — Hill City, Kansas 67642

Phone (913) 674-2144

ATTACHMENT # 2

CASEY JONES
(Retired)

RANDALL W. WELLER
Res. Ph. 674-5772

WILLIAM B. ELLIOTT
Res. Ph. 674-5702

March 1, 1983

House Judiciary Committee
House of Representatives
State of Kansas

Dear Chairman Frey:

Thank you for giving me the opportunity to testify before this committee. My clients, Mr. and Mrs. Randall Law, are the parents of a nineteen year old retarded female. She and her parents have been advised by medical personnel that in the event she would get pregnant it would mean death.

This young lady attends a work shop-school for handicapped individuals at a town some seventy miles from her home. On occasions she has to walk from building to building which is along streets and a chance of exposure to boys exists.

The parents came to me quite concerned for her as she is unable to take care of a child should she have one but most importantly is the medical advice of almost certain death.

Her parents requested that I look into obtaining sterilization for her. Her retardation is sufficiently severe that she would not comprehend what a sterilization is all about and would not know the consequences of it. It would simply be completely immaterial to her. She lacks sufficient capacity to intelligently make that decision on her own.

I searched the law books but found absolutely no procedure available for sterilization even when a guardian and conservator is appointed. Incidentally, her mother is her guardian and conservator.

I asked the Judge if she would approve a petition to allow the sterilization and if she would issue an order for a doctor to do the same and the Judge refused.

At that point, I contacted our hospital administrator and visited with him about the problem and he in turn contacted a law firm in Topeka who represents the Kansas Board of Hospitals. This law firm advised that no procedure is available.

At that time I contacted Leary Johnson to introduce legislation

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Chairman Frey
House Judiciary Committee
Page 2

setting up some sort of structure to allow the sterilization.

Representative Johnson and I agreed that the procedure should be very strict and well supervised. That it should be written in such a manner so as not to allow sterilization on a mass basis. I included the following provisions in hopes of restricting it to the very few necessary cases:

1. That it be restricted to females since obviously pregnancy cannot affect the male.
2. That it be done only upon a doctor's diagnosis and recommendation that a pregnancy is harmful to the health of the female or might cause death.
 - a. That the degree of retardation and/or handicap be on the sole discretion of the medical doctor.
3. That a guardian and conservator be appointed who must act in the best interests of the ward and conservatee.
4. That the surgery only be authorized after a court order is issued which of course would follow a court hearing.

I felt that these safe guards would be sufficient to keep sterilization from occurring on a mass basis.

It is my opinion that some form of procedure is necessary although I strongly urge it to be in terms to limit it very strictly to those few who absolutely need it for preservation of their health or life and I would urge this committee to support Mr. Johnson's bill which I think does show that.

I remain

Sincerely yours,

JONES, WELLER & ELLIOTT

By: 

RWW:ac



KANSAS ASSOCIATION FOR RETARDED CITIZENS, INC.

ATTACHMENT # 3

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SHAWNEE, KANSAS 66203
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BRENT GLAZIER
Executive Director

To: Judiciary Committee
House of Representatives
Rep. Robert Frey, Chairperson

Date: 3/1/83

Re: House Bill 2318

Introduction: We appreciate having the opportunity of appearing, representing the some 5,000 parents and friends of persons who happen to be mentally retarded, belonging to the some 50 local associations located thruout the state who make up the Kansas Association for Retarded Citizens. I am also speaking as the parent of a profoundly retarded daughter who is an adult in age, and for whom we have been determined legal guardian.

1. Our Association recognizes the importance of the issue addressed in H.B. 2318. We especially appreciate the statement we understand was given by Rep. Johnson who introduced the legislation: (Wichita Beacon, 2/9/83)

"It's not the intent to force this decision on anybody. But it does need to be addressed. There are people who need this help."

However, because we are not far removed from the days of the many myths and misconceptions which surround mental retardation, and from the days of almost automatic sterilization of retarded persons, with little or no regard for human and legal rights, we believe the issue should be addressed within the broader aspects of guardianship with protection of judicial process rather than singling out this issue alone as does H.B. 2318. ("retarded", "sterilization", "females".)

2. As indicated in the 1979 document LEGAL RIGHTS, a "Kansas Guide To Developmental Disabilities Law"

"In the absence of an emergency, no medical procedures can be performed on a competent adult without his or her informed consent. But if an individual does not have the capacity to understand the risks involved in the treatment, physicians will most often turn to a third person, such as the guardian, for the necessary consent. Normally there is no question about the guardian's legal or moral right to consent to surgical procedures. But when the anticipated treatment is as personal and irreversible as sterilization, organ transplants, or mercy killing it is imperative that the courts make the final decision, assuring that the best interests of the ward

are protected."

3. Since Senate Bill 11, introduced in the Senate Public Health and Welfare Committee, does address the issue on broader aspects of powers and limitations of Guardianships and Conservatorships relating to disabled (incapacitated) persons, we support the wording that addresses the issue as recommended by the Judicial Council at the hearings on S.B. 11:

"A guardian shall not have the power". . . ."to consent on behalf of a ward, to sterilization, psychosurgery, removal of a bodily organ, or amputation of a limb, unless the procedure is first approved by order of the court or is necessary, in an emergency, to preserve the life or prevent serious impairment of the physical health of the ward."

S.B. 11 grew from the Interim Study by the Special Committee on Public Health and Welfare regarding the broad aspects of Guardianship (Proposal No. 28) which took place this past summer and early fall. During the same period the Kansas Judicial Council appointed a Judicial Council Guardianship and Conservatorship Advisory Committee to "review and study the present guardianship-conservatorship code contained in Article 30 of Chapter 59 of Kansas statutes and recommend appropriate legislative changes for improvement of the code."

Representatives of our Association as well as those from the various disability groups have presented testimony and followed both the Interim Study and the hearings on S.B. 11. Recommendations have been presented by representatives of the Judicial Council, the Advisory Committee, plus representatives of the Kansas Advocacy and Protective Services for the Developmentally Disabled.

We have marveled at the patience and attention given to the various testimonies and recommendations by the members of the committee and sub-committee regarding S.B. 11, as well as the time and effort expended by the Special Committee on Public Health and Welfare which studied the broad issues during the interim.

4. We believe the issue addressed by H.B. 2318 is being included within S.B. 11 and would urge that this committee defer action on H.B. 2318, pending the consideration of S.B. 11.

Respectfully submitted,

Ethel May Miller, Volunteer

Kansas Association for
Retarded Citizens, Inc.

Testimony presented to the Kansas House of Representatives,
Judiciary Committee--Rep. Robert Frey, Chairman

Re: H.B. 2318---3/1/83

By: Helen DeWitt, R.N.

ATTACHMENT # 4

Mr. Chairman and members of this committee, I am Helen DeWitt, a resident and taxpayer of Hays, in Ellis County, Kansas. I am also a registered nurse and a member of the Kansas Association of Retarded Citizens. I am here today to speak in opposition to H.B. 2318, a bill concerning sterilization of certain persons; conditions; court order; amending K.S.A. 50-3018 and repealing the existing section.

Mr. Chairman, the first duty of the State is to protect the fundamental rights of its citizens regardless of their age, health, or condition of dependency. Every human being possesses a fundamental right to bodily integrity. This is a moral truth arising out of the Natural law itself. Public officials therefore have no direct power over the bodies of their subjects and, where no crime has taken place, they can never directly harm or tamper with the integrity of the body. It is for this reason, it is a grave injustice to subject an innocent person to serious bodily mutilation by sterilization for the sake of expediency or for the attaining of objectives which can be procured just as effectively in a humane, decent, and moral manner.

Opposition to H.B. 2318 must not be construed to mean one would advocate a policy of permitting those who are mentally defective to exercise sexual activity indiscriminately. Those who lack the requisite mental ability to contract marriage and to fulfill its obligations, should not be allowed opportunities which might furnish them with the occasion to employ their reproductive powers. But supervision, segregation, and protective custody are the remedies against such consequences, not a physical mutilation that degrades the dignity of human nature and places man in the same class as a diseased animal which is not to be allowed to propagate its kind.

H.B. 2318, and court ordered sterilization upon certain female citizens, for whatever so-called humane reason this act was introduced will most certainly lead to abuses of state power over those selected persons addressed, namely mentally defective women. This point requires very little amplification today. The ruthless invasion and destruction of all individual rights by the Nazi and Communist states remains fresh in our minds. If the state of Kansas is granted the power to do with the body of certain of its citizens whatever it believes to be in the interests of its collectivity, then we as individual persons will surely become defenseless pawns of the state. For when one class of citizens' rights are denied, there is no longer a basis for any inalienable rights, there is no longer any aspect of our nature which remains sacred and inviolable.

Mr. Chairman, sterilization by its very nature is a desperate act of despair when all else seems to fail. It must therefore not be imposed upon innocent persons simply on the basis of the opinion of a single physician. Surely modern medical technology can provide more hopeful solutions to difficult pregnancies than to violate the bodies of defenseless women and girls by sterilization, simply because they are judged by the state to be less than perfect.

H.B. 2318 in addition to being a serious violation of the basic human rights belonging to each person regardless of his condition in life, is discriminatory on the basis of sex, age, health, and condition of dependency. In the interest of all Kansans, in order to assure that the state protect the fundamental rights of us all, H.B. 2318 must be withdrawn from consideration by this committee. It is unworthy of your support as elected representatives of the people.

Thank you Mr. Chairman for allowing me the freedom to speak.

Helen DeWitt, R.N.

Helen DeWitt, RN

Chairman Frey, members of the committee. I am the mother of 13 children, ten are living, and I do have 11 stepchildren. My firstborn, a girl, was diagnosed as being a mongoloid--she lived to be 5½. As a mother, registered nurse, non-practicing and an active member of the Right to Life of Kansas Inc. I wish to thank-you for allowing me to present testimony opposing H.B. 2318.

In this day and age, we see men and women seeking voluntary sterilization in unprecedented numbers. Thus, in opposing a bill that would allow sterilization 'because a doctor said it was necessary' is an unpopular stand. Not being aware of the particular case which has brought this bill to life, I must deal with sterilization in a broader spectrum.

Let me first say, so-called 'hard cases' make for very poor laws. As the most prominent example, those doctors testifying for the 'life of the mother' as a necessity for laws allowing abortion has given us ABORTION ON DEMAND in this State and in our Nation.

Serving as a board member of a small school for the retarded, I am aware of the many things these individuals can be taught as far as what is and is not socially acceptable. Is it not possible that we teach them as well what is and is not acceptable in their sexual behavior outside of marriage? Those who teach these retarded in Sunday religion classes, testify that they definitely DO know right from wrong and want to do what is right in God's eyes. Can we, who consider ourselves 'normal' do any less that help them to live their lives to the fullest?

A 1973-74 report on pending legislation across this nation offers the following, with reasons for sterilization following into three categories: coercive, permissive, or prohibitive. Georgia requiring the sterilization of mentally retarded or incompetent persons prior to marriage is a form of coercive (may I say that many people who are not considered retarded, are most incompetent in many ways--thus the definition of 'retarded' is a vital part of a law). Ohio would require the sterilization of any unmarried woman receiving state aid who has more than two children and Tennessee offered a bill that would stop welfare payments to any mother with two illegitimate children unless she submits to sterilization. Those states that offer bills providing for the sterilization of mentally retarded persons and are eugenic in their scope, imply that mentally retarded persons are incapable of parenthood, and they make no distinction regarding the degree of retardation. When the term mentally 'defective' is used, it is seen as prejudicial and is reminiscent of the labelling of persons that took place in Germany prior to the Third Reich.

Wording of bills that would be prohibitive sees Massachusetts which does prohibit the sterilization of welfare recipients, and a bill in Rhode Island which makes the sterilization of minors a criminal offense.

Despite the fact that some bills are described as voluntary, the purpose is to set up criteria under which some sterilizations will be accepted as legally justifiable. This is a distortion of the role of law, for it attempts to justify a procedure that is contrary to human dignity. It is immoral because it justifies the destruction of a natural right, the right to procreate, for reason of personal convenience. But the right to procreate

can be reduced simply to private or personal decision-making, because it has a social purpose and because society is obligated to assist persons in the fulfillment of that right.

Headlines in the Hutchinson News, March 28, 1980, state "Kansas Sterilized 3000 'undesirables'". It seems that sterilizations were performed under the 1917 Sterilization Act. In 1937, Time magazine carried a story which quoted the Superintendent of the Girls Industrial Reformatory in Beloit as saying "Now I hope we can buy some rugs for the school since we won't have to pay so much for sterilizations." And records at the Winfield State Hospital proved the many sterilizations done on both men and women. It was once praised in a medical journal as 'possessing the greatest collection of eunuchs in the world for study purposes.'

Another case making headlines throughout the nation is that of the 15 year old girl, who in 1971 was sterilized after her mother petitioned the court to perform a tubal ligation on her because she was somewhat retarded and sexually promiscuous. She was told she had to have her appendix removed and it wasn't until after she married that she learned the truth. She and her husband sued the court, along with the lawyers who prepared the petition and the doctors who performed the operation contending they conspired to violate her civil rights. The judge never saw her, never heard a witness, never conducted a hearing or performed any other act in the case that any layman with a sense of fair play would recognize as the workings of justice." Yet this judge was held immune from being sued for damages even for his 'lawless conduct'.

Constitutional lawyer, Charles E. Rice wrote a book 'The Vanishing Right to Live' and in the chapter on sterilization he offers the following; "The popularity of sterilization stems from the prevalent abdication of personal accountability for one's acts. Our generation, too, is unwilling to take responsibility for others, whether their neighbors or the unborn. As long as sterilization is compulsorily imposed upon 'defectives' or freely available for contraceptive purposes, it will feed the growth of irresponsibility. In other words, it is inconceivable that we can ever restore personal responsibility as long as we condone an act so symbolic of the shirking of obligation in an era saturated with self-indulgence. Sterilization also can readily be used as a tool of oppression. It must be curtailed, even when it is voluntary, or else we shall have to contend with an expansion of it as a compulsory weapon in the arsenal of the caretaker state."

I oppose this bill, based on the clearly constituted danger to human rights as well as to the possible immoral results which seem inherent in sterilization legislation. Let there be help for the retarded which is deserving of public support and the expenditure of our tax dollars. Thank-you!

The Hutchinson News

h Year

No. 269

Friday, March 28, 1980

Hutchinson, Kansas (67501) 662-3311

16 Pages

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Kansas sterilized 3,000 'undesirables'

KA, Kan. (UPI) — To weed "undesirable" members of future generations, the state of Kansas subjected 3,032 prison inmates and mental patients to involuntary sterilization operations authorized by a congressional act. Most of the sterilizations were performed in Hutchinson.

James V. Hamm, chief attorney of the Department of Social and Rehabilitation Institutions said Thursday sterilization operations continued in Hutchinson.

Sterilization records still exist in Winfield State Hospital, which Hamm said was once praised in a national journal as "possessing the largest collection of eunuchs in the country for study purposes."

Hospital's staff said 369 men

and 274 women were sterilized at Winfield between 1923 and 1950. In 1931 — the record year — operations were performed on 64 men and 39 women. The operations were authorized under the 1917 Sterilization Act.

Among the institutions involved was Kansas State Industrial Reformatory. Attempts Friday to locate records which would show the extent of sterilization operations at KSIR were unsuccessful.

Other institutions involved in the sterilizations included three State Hospitals for the Insane, the State Hospital for Epileptics (now Parsons State Hospital) and the Industrial School for Girls (now the Youth Center at Beloit).

A list prepared by the Richmond-Times Dispatch ranked Kansas fifth

in the United States in the number of sterilizations performed before 1963.

Aimed at preventing "procreation likely to result in defective or feeble-minded children with criminal tendencies," the law directed wardens and superintendents to recommend names of likely inmates to a sterilization board.

The law provided a choice between castration and vasectomy for males and between cutting Fallopian tubes and removing ovaries for women.

The Kansas Supreme Court upheld the constitutionality of the act in 1928, holding that a doctor at Topeka State Hospital was out of line in refusing to perform the operation.

"Procreation of defective and feeble-minded children with criminal tendencies" endangers the race, the high court said, "and such progeny

may be prevented in the interest of higher general welfare."

Under the statute, a sterilization board at each institution was required to hold hearings and keep records of all operations performed.

Horrified in 1937 at a suggestion by the new superintendent of the Girls' Industrial Reformatory that the previous administrator had been sterilizing girls capriciously, Kathryn O'Loughlin McCarthy, a Democratic U.S. Representative for Kansas from 1933-1935, called for an investigation that made national headlines.

Time magazine published a story explaining that an offhand remark from the Beloit superintendent set off the former congresswoman.

"Now I hope we can buy some new rugs for the school, since we won't have to pay so much for ster-

ilizations," the magazine quoted Supt. Blanche Peterson as saying.

Mrs. Peterson said the former superintendent, an appointee of Republican Governor Alf Landon, had spent over \$4,000 during the preceding two years on sterilizations for 62 girls. Twenty-two more sterilizations were scheduled to be performed when the new administration took over.

Records revealed at that time that girls were being sterilized for arbitrary reasons and without the mandatory hearing.

"Bad temper," "incorrigible," "obstreperous" and "partial to fights," were listed among reasons for ordering the operations.

"All us girls had been threatened before with sterilization unless we behaved ourselves. I knew it wouldn't do any good to kick, although I didn't

want it done... My mother heard... after it was over and protested.... I thought for a while that life had very little left for me but I have since changed and want to be a beauty operator...." Time quoted a Kansas City Star interview with an 18-year old who described her experience at the reformatory.

SRS attorney Hamm said the State Board of Social Welfare approved no sterilizations after 1951 although the law remained on the books until 1965.

Hamm defended the state in 1952 in a \$1 million suit brought on behalf of Paul Jacob Brown, a 35-year-old patient who had been sterilized at Osawatomie State Hospital.

His mother claimed she was not properly notified of the hearing. The Browns lost the suit and the appeal.

House Bill 2318, as proposed, does not have the support of SRS MH&RS. We ⁽¹⁾agree with the intent of the bill, i.e. prevention of a fatal or harmful pregnancy. However, we believe ⁽²⁾the bill fails to provide sufficient safeguards for the mentally retarded ward. The Supreme Court and many state courts ^{MSRS} have upheld the constitutionality of compulsory sterilization provided due process procedures are included as part of the law. ⁽³⁾House Bill 2318 states a sterilization order could be issued "after notice and hearing." This is viewed by SRS MH&RS as inadequate due process protection of the mentally ⁽⁴⁾retarded ward. An acceptable bill would require at a minumum that the person for whom the sterilization order is being requested be represented by counsel and that the petitioner, before a sterilization request is ordered by the court, be required to present evidence that the person cannot be protected from pregnancy by other means of contraception.

0047 (c) The following uniform fine schedule shall apply uni-
 0048 formly throughout the state but shall not limit the fine which may
 0049 be imposed following a court appearance, except an appearance
 0050 made for the purpose of paying the fine as permitted by subsec-
 0051 tion (a). The description of offense contained in the following
 0052 uniform fine schedule is for reference only and is not a legal
 0053 definition.

<i>here on many years chart</i>	<i>(1) Any act may occur under these rules</i>	Statute	Fine
0059	Description of Offense		
0063	Unsafe speed for prevailing conditions	8-1335	\$11
0065		or	
0066		8-1557	
0068	Exceeding maximum speed limit; or	8-1336	1-10 mph over the limit:
0069	speeding in zone posted by the state	or	\$1 per mph over the limit
0070	department of transportation; or	8-1558	
0071	speeding in locally posted zone		
0072		8-1337	11-20 mph over the limit:
0073		or	\$2 per mph over the limit
0074		8-1559	
0075			
0076		8-1338	21-30 mph over the limit:
0077		or	\$3 per mph over the limit
0078		8-1560	31 and more mph over the
0079			limit: \$5 per mph over the
0080			limit
0081	Disobeying traffic control device	8-1507	\$11
0082	Violating traffic control signal	8-1508	\$11
0083	Violating pedestrian control signal	8-1509	\$11
0084	Violating flashing traffic signal	8-1510	\$11
0085	Violating lane-control signal	8-1511	\$11
0086	Unauthorized sign, signal, marking or	8-1512	\$11
0087	device		
0088	Driving on left side of roadway	8-1514	\$11
0089	Failure to keep right to pass oncoming	8-1515	\$11
0090	vehicle		
0091	Improper passing; increasing speed	8-1516	\$11
0092	when passed		
0093	Improper passing on right	8-1517	\$11
0094	Passing on left with insufficient clear-	8-1518	\$11
0095	ance		
0096	Driving on left side where curve,	8-1519	\$11
0097	grade, intersection railroad cross-		
0098	ing, or obstructed view		
0099	Driving on left in no-passing zone	8-1520	\$11
0100	Driving wrong direction on one-way	8-1521	\$11
0101	road		
0102	Improper driving on laned roadway	8-1522	\$11
0103	Following too close	8-1523	\$11
0104	Improper crossover on divided high-	8-1524	\$11
0105	way		
0106	Failure to yield right-of-way at uncon-	8-1526	\$11
0107	trolled intersection		
0108	Failure to yield to approaching vehicle	8-1527	\$11
0109	when turning left		

0221	Failure to yield at stop or yield sign	8-1528	\$11
0231	Failure to yield from private road or	8-1529	\$11
0236	driveway		
0241	Failure to yield to emergency vehicle	8-1530	\$11
0245	Failure to yield to pedestrian or vehicle	8-1531	\$11
0249	working on roadway		
0251	Disobeying pedestrian traffic control	8-1532	\$11
0256	device		
0258	Failure to yield to pedestrian in cross-	8-1533	\$11
0259	walk; pedestrian suddenly entering		
0265	roadway; passing vehicle stopped		
0266	for pedestrian at crosswalk		
0271	Improper pedestrian crossing	8-1534	\$11
0278	Failure to exercise due care in regard to	8-1535	\$11
0281	pedestrian		
0285	Improper pedestrian movement in	8-1536	\$11
0286	crosswalk		
0288	Improper use of roadway by pedestrian	8-1537	\$11
0291	Soliciting ride or business on roadway	8-1538	\$11
0301	Driving through safety zone	8-1539	\$11
0306	Failure to yield to pedestrian on sid-	8-1540	\$11
0308	walk		
0311	Failure of pedestrian to yield to emer-	8-1541	\$11
0312	gency vehicle		
0321	Failure to yield to blind pedestrian	8-1542	\$11
0325	Pedestrian disobeying bridge or	8-1544	\$11
0335	railroad signal		
0336	Improper turn or approach	8-1545	\$11
0341	Improper "U" turn	8-1546	\$11
0345	Unsafe starting of stopped vehicle	8-1547	\$11
0351	Unsafe turning or stopping, failure to	8-1548	\$11
0356	give proper signal; using turn signal		
0358	unlawfully		
0361	Improper method of giving notice of	8-1549	\$11
0368	intention to turn		
0371	Improper hand signal	8-1550	\$11
0376	Failure to stop or obey railroad cross-	8-1551	\$11
0381	ing signal		
0385	Failure to stop at railroad crossing stop	8-1552	\$11
0388	sign		
0391	Certain hazardous vehicles failure to	8-1553	\$11
0395	stop at railroad crossing		
0396	Improper moving of heavy equipment	8-1554	\$11
0399	at railroad crossing		
0401	Vehicle emerging from alley, private	8-1555	\$11
0406	roadway, building or driveway		
0408	Improper passing of school bus; im-	8-1556	\$11
0411	proper use of school bus signals		
0415	Improper passing of church or day-care	8-1556a	\$11
0418	bus; improper use of signals		
0421	Impeding normal traffic by slow speed	8-1561	\$11
0425	Speeding on motor-driven cycle	8-1562	\$11
0431	Speeding in certain vehicles or on	8-1563	\$11
0432	posted bridge		
0435	Improper stopping, standing or park-	8-1569	\$11
0438	ing on roadway		
0445	Parking, standing or stopping in pro-	8-1571	\$11
0446	hibited area		

0450	Improper parking	8-1572	\$11
0460	Unattended vehicle	8-1573	\$11
0460	Improper backing	8-1574	\$11
0470	Driving on sidewalk	8-1575	\$11
0470	Driving with view or driving mechanism obstructed	8-1576	\$11
0478	Unsafe opening of vehicle door	8-1577	\$11
0480	Riding in house trailer	8-1578	\$11
0490	Improper driving in defiles, canyons, or on grades	8-1579	\$11
0490	Coasting	8-1580	\$11
0500	Following fire apparatus too closely	8-1581	\$11
0500	Driving over fire hose	8-1582	\$11
0510	Putting glass, etc., on highway	8-1583	\$11
0520	Driving into intersection, crosswalk, or crossing without sufficient space on other side	8-1584	\$11
0520	Improper operation of snowmobile on highway	8-1585	\$11
0530	Parental responsibility of child riding bicycle	8-1586	\$11
0540	Not riding on bicycle seat; too many persons on bicycle	8-1588	\$11
0542	Clinging to other vehicle	8-1589	\$11
0550	Improper riding of bicycle on roadway	8-1590	\$11
0560	Carrying articles on bicycle; one hand on handlebars	8-1591	\$11
0560	Improper bicycle lamps, brakes or reflectors	8-1592	\$11
0570	Improper operation of motorcycle; seats; passengers, bundles	8-1594	\$11
0580	Improper operation of motorcycle on laned roadway	8-1595	\$11
0580	Motorcycle clinging to other vehicle	8-1596	\$11
0590	Improper motorcycle handlebars or passenger equipment	8-1597	\$11
0600	Motorcycle helmet and eye-protection requirements	8-1598	\$11
0602	Driving without lights when needed	8-1703	\$11
0610	Defective headlamps	8-1705	\$11
0620	Defective tail lamp	8-1706	\$11
0620	Defective reflector	8-1707	\$11
0630	Improper stop lamp or turn signal	8-1708	\$11
0630	Improper lighting equipment on certain vehicles	8-1710	\$11
0640	Improper lamp color on certain vehicles	8-1711	\$11
0648	Improper mounting of reflectors and lamps on certain vehicles	8-1712	\$11
0650	Improper visibility of reflectors and lamps on certain vehicles	8-1713	\$11
0652	No lamp or flag on projecting load	8-1715	\$11
0660	Improper lamps on parked vehicle	8-1716	\$11
0670	Improper lights, lamps, reflectors and emblems on farm tractors or slow-moving vehicles	8-1717	\$11
0683	Improper lamps and equipment on implements of husbandry, road ma-	8-1718	\$11
0684			

0600	chinery or animal-drawn vehicles	8-1719	\$11
0600	Unlawful use of spot, fog, or auxiliary lamp	8-1720	\$11
0600	Improper lamps or lights on emergency vehicle	8-1721	\$11
0700	Improper stop or turn signal	8-1722	\$11
0710	Improper vehicular hazard warning lamp	8-1723	\$11
0720	Unauthorized additional lighting equipment	8-1724	\$11
0720	Improper multiple-beam lights	8-1725	\$11
0730	Failure to dim headlights	8-1726	\$11
0730	Improper single-beam headlights	8-1727	\$11
0740	Improper speed with alternate lighting	8-1728	\$11
0750	Improper number of driving lamps	8-1729	\$11
0750	Unauthorized lights and signals	8-1730	\$11
0760	Improper school bus lighting equipment and warning devices	8-1730a	\$11
0760	Unauthorized lights and devices on church or day-care bus	8-1731	\$11
0770	Improper lights on highway construction or maintenance vehicles	8-1734	\$11
0780	Defective brakes	8-1738	\$11
0780	Defective or improper use of horn or warning device	8-1739	\$11
0790	Defective muffler	8-1740	\$11
0800	Defective mirror	8-1741	\$11
0800	Defective wipers; obstructed windshield or windows	8-1742	\$11
0810	Improper tires	8-1744	\$11
0820	Improper flares or warning devices	8-1745	\$11
0820	Improper use of vehicular hazard warning lamps and devices	8-1747	\$11
0830	Improper air-conditioning equipment	8-1748	\$11
0830	TV screen visible to driver	8-1749	\$11
0840	Improper safety belt or shoulder harness	8-1749a	\$11
0840	Use of one-way glass on windshields, windows or headlamps	8-1801	\$11
0850	Defective motorcycle headlamp	8-1802	\$11
0860	Defective motorcycle tail lamp	8-1803	\$11
0870	Defective motorcycle reflector	8-1804	\$11
0870	Defective motorcycle stop lamps and turn signals	8-1805	\$11
0878	Defective multiple-beam lighting	8-1806	\$11
0880	Improper road-lighting equipment on motor-driven cycles	8-1807	\$11
0890	Defective motorcycle or motor-driven cycle brakes	8-1808	\$11
0900	Improper performance ability of brakes	8-1809	\$11
0900	Operating motorcycle with disapproved braking system	8-1810	\$11
0902	Defective horn, muffler, mirrors or tires		

*5. ASD - new rule
Driving with
speed
headphones
C/D*

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Sec. 2. K.S.A. 8-1503 is hereby amended to read as follows:
8-1503. No person shall willfully fail or refuse to comply with

0996 K.S.A. 68-2001; and said. The turnpike authority is hereby au-
 0997 thorized and empowered may, by resolution, to fix maximum and
 0998 minimum speed limits for vehicles upon a highway or any part
 0999 thereof under the authority's jurisdiction, which speed limits
 1000 shall be effective when appropriate signs giving notice thereof
 1001 are erected upon such highway or any part thereof; and any
 1002 person violating any such speed limit shall be guilty of a mis-
 1003 demeanor and, upon conviction, shall be subject to the penalties
 1004 prescribed by K.S.A. 8-2116.

1005 (f) Notwithstanding amendments to this section, the suspen-
 1006 sion provided for in K.S.A. 8-1340 shall remain in effect in
 1007 accordance with the terms thereof.

1008 Sec. 7. K.S.A. 8-1565 is hereby amended to read as follows:
 1009 8-1565. (a) No person shall drive any vehicle in any race, speed
 1010 competition or contest, drag race or acceleration contest, test of
 1011 physical endurance, exhibition of speed or acceleration, or for the
 1012 purpose of making a speed record, and no person shall in any
 1013 manner participate in any such race, competition, contest, test or
 1014 exhibition.

1015 (b) For the purpose of As used in this section, the term drag
 1016 race "drag race" means the operation of two (2) or more vehicles
 1017 from a point side by side at accelerating speeds in a competitive
 1018 attempt to out-distance each other, or the operation of one (1)
 1019 more vehicles over a common selected course, from the same
 1020 point to the same point, for the purpose of comparing the relative
 1021 speeds or power of acceleration of such vehicle or vehicles within
 1022 a certain distance or time limit.

1023 (c) For the purpose of As used in this section, the term racing
 1024 "racing" means the use of one (1) or more vehicles in an attempt
 1025 to out-gain, out-distance or prevent another vehicle from passing,
 1026 to arrive at a given destination ahead of another vehicle or
 1027 vehicles, or to test the physical stamina or endurance of drivers
 1028 over long distance driving routes.

1029 (d) Any person convicted of violating this section shall be
 1030 punished as provided in K.S.A. 8-2116. Violation of this section is
 1031 a misdemeanor.

1032 Sec. 8. K.S.A. 8-1566 is hereby amended to read as follows:

*Refer to
 definition
 of traffic
 offenses
 in rules*

1033 8-1566. (a) Any person who drives any vehicle in willful
 1034 wanton disregard for the safety of persons or property i. lity
 1035 reckless driving.

1036 (b) Every person convicted of reckless driving shall be pe-
 1037 nished upon Violation of this section is a misdemeanor. Upon
 1038 first conviction by imprisonment for a period of of a violation
 1039 this section, a person shall be sentenced to not less than five (5)
 1040 days nor more than ninety (90) days, or by fine of 90 da
 1041 imprisonment or fined not less than twenty-five dollars (\$25) \$
 1042 nor more than five hundred dollars (\$500) \$500, or by both suc
 1043 fine and imprisonment; and on. On a second or subsequent
 1044 conviction shall be punished by imprisonment for of a violatio
 1045 of this section, a person shall be sentenced to not less than ten (10)
 1046 10 days nor more than six (6) months; or by a fine of impriso
 1047 ment, or fined not less than fifty dollars (\$50) \$50 nor more tha
 1048 five hundred dollars (\$500) \$500 or by both such fine an
 1049 imprisonment.

1050 Sec. 9. K.S.A. 8-1567 is hereby amended to read as follows:
 1051 8-1567. (a) No person shall operate any vehicle within this stat
 1052 while under the influence of alcohol.

1053 (b) No person shall operate any vehicle within this state if the
 1054 person is a habitual user of or under the influence of any narcotic
 1055 hypnotic, somnifacient or stimulating drug or is under the influ
 1056 ence of any other drug to a degree which renders such person
 1057 incapable of safely driving a vehicle. The fact that any person
 1058 charged with a violation of this subsection is or has been entitled
 1059 to use the drug under the laws of this state shall not constitute a
 1060 defense against any charge of violating this subsection.

1061 (c) Violation of this section is a misdemeanor. Upon a first
 1062 conviction of a violation of this section, a person shall be sen-
 1063 tenced to not less than 48 hours' imprisonment or 100 hours of
 1064 public service nor more than 6 months' imprisonment and fined
 1065 not less than \$200 nor more than \$500, or by both such fine and
 1066 imprisonment. The person convicted shall not be eligible for
 1067 release on probation or suspension or reduction of sentence until
 1068 the minimum sentence has been satisfied. In addition, the court
 1069 shall enter an order which (1) restricts the person convicted to

1218 of this state has been suspended or revoked prior thereto. If any
 1219 person violates any of the conditions imposed, the person's
 1220 driver's license or privilege to operate a motor vehicle on the
 1221 highways of this state shall be revoked for a period of not less
 1222 than 60 days nor more than one year by the judge of the court in
 1223 which such person is convicted of violating such conditions.

1224 (n) Nothing contained in this section shall be construed as
 1225 preventing any city from enacting ordinances declaring acts pro-
 1226 hibited or made unlawful by this act as unlawful or prohibited in
 1227 such city and prescribing penalties for violation thereof, but the
 1228 minimum penalty in any such ordinance shall not be less than nor
 1229 exceed the minimum penalty prescribed by this act for the same
 1230 violation, nor shall the maximum penalty in any such ordinance
 1231 exceed the maximum penalty prescribed for the same violation.

1232 Sec. 10. K.S.A. 8-1586 is hereby amended to read as follows:
 1233 8-1586. (a) ~~It is a misdemeanor for any person to do any act~~
 1234 ~~forbidden or fail to perform any act required in~~ *Violation of any*
 1235 *provision of K.S.A. 8-1587 to 8-1592, inclusive, is a traffic in-*
 1236 *fraction.*

1237 (b) The parent of any child and the guardian of any ward shall
 1238 not authorize or knowingly permit any such child or ward to
 1239 violate any of the provisions of K.S.A. 8-1587 to 8-1592, inclusive.

1240 (c) The provisions of K.S.A. 8-1587 to 8-1592, inclusive,
 1241 which are applicable to bicycles shall apply whenever a bicycle is
 1242 operated upon any highway or upon any path set aside for the
 1243 exclusive use of bicycles, subject to those exceptions stated
 1244 herein.

1245 Sec. 11. K.S.A. 8-1605 is hereby amended to read as follows:
 1246 8-1605. The driver of any vehicle which collides with or is
 1247 involved in an accident with any vehicle or other property which
 1248 is unattended, resulting in any damage to such other vehicle or
 1249 property, shall immediately stop and shall then and there either
 1250 locate and notify the operator or owner of such vehicle or other
 1251 property of ~~his or her~~ *such person's* name, address and the
 1252 registration number of the vehicle ~~he or she is such person was~~
 1253 driving, or shall attach securely in a conspicuous place in or on
 1254 such vehicle or other property a written notice giving ~~his or her~~

1255 *such person's* name, address and the registration number or the
 1256 vehicle ~~he or she is such person was~~ driving, and without unnec-
 1257 essary delay shall notify the nearest office of a duly authorized
 1258 police authority. Every such stop shall be made without ob-
 1259 structing traffic more than is necessary. *Violation of this section is*
 1260 *a misdemeanor.*

1261 Sec. 12. K.S.A. 8-1606 is hereby amended to read as follows:
 1262 8-1606. (a) The driver of a vehicle involved in an accident
 1263 resulting in injury to or death of any person or total damage to all
 1264 property to an apparent extent of ~~three hundred dollars (\$300)~~
 1265 ~~\$300~~ or more shall give notice immediately of such accident, by
 1266 the quickest means of communication, to the nearest office of a
 1267 duly authorized police authority.

1268 (b) Whenever the driver of a vehicle is physically incapable of
 1269 giving an immediate notice of an accident as required in subsec-
 1270 tion (a) and there was another occupant in the vehicle at the time
 1271 of the accident capable of doing so, such occupant shall make or
 1272 cause to be given the notice not given by the driver.

1273 (c) *Violation of this section is a misdemeanor.*

1274 Sec. 13. K.S.A. 8-1608 is hereby amended to read as follows:
 1275 8-1608. A person shall not give information in oral or written
 1276 reports, as required in this article, knowing or having reason to
 1277 believe that such information is false. *Violation of this section is a*
 1278 *misdemeanor.*

1279 Sec. 14. K.S.A. 8-1701 is hereby amended to read as follows:
 1280 8-1701. (a) It is a ~~misdemeanor~~ *unlawful* for any person to drive or
 1281 move or for the owner to cause or knowingly permit to be driven
 1282 or moved on any highway any vehicle or combination of vehicles
 1283 ~~which is in such unsafe condition as to endanger any person, or~~
 1284 which does not contain those parts or is not at all times equipped
 1285 with such lamps and other equipment in proper condition and
 1286 adjustment as required in this article, or which is equipped in any
 1287 manner in violation of *any provision of any section of this article*
 1288 *17, or for any person to do any act forbidden or fail to perform any*
 1289 *act required under by any provision of any section of this art*
 1290 *17. Except as otherwise provided in this article 17, violation of*
 1291 *this subsection (a) is a traffic infraction.*

0159 filled and ready for immediate use, and placed at a convenient
0160 point on the vehicle so used.

0161 (e) Violation of this section is a ^{Class A} misdemeanor.

0162 Sec. 20. K.S.A. 8-1749a is hereby amended to read as follows:
0163 8-1749a. (a) ~~From and after July 1, 1978, no~~ No motor vehicle
0164 required to be registered in this state and which is operated on the
0165 highways of this state shall be equipped with one-way glass or
0166 any adhesive film or other glaze or application on or in the front
0167 windshield, side wings or side windows on either side forward of
0168 or adjacent to the operator's seat, which prohibits or substantially
0169 impairs the ability to see into such motor vehicle from the
0170 outside, nor shall any new motor vehicle which is sold in this
0171 state be so equipped.

0172 (b) ~~From and after July 1, 1978, no~~ No motor vehicle required
0173 to be registered in this state which is operated on the highways of
0174 this state shall be equipped with one-way glass or any adhesive
0175 film or other glaze or application on or in the rear window, which
0176 prohibits or substantially impairs the ability to see into such
0177 motor vehicle from the outside but does not prohibit the ability to
0178 see out from the inside of such motor vehicle, nor shall any new
0179 motor vehicle which is sold in this state be so equipped. Nothing
0180 in this subsection shall be deemed to prohibit rear window glass
0181 which is tinted or smoked.

0182 (c) ~~From and after July 1, 1978, no~~ No motor vehicle required
0183 to be registered in this state which is operated on the highways of
0184 this state shall be equipped with head lamps which are covered
0185 with any adhesive film or other glaze or application which, when
0186 such lamps are not in operation, is highly reflective or otherwise
0187 nontransparent.

0188 (d) Any person convicted of violating any of the provisions of
0189 this act shall be guilty of a class C misdemeanor, except that upon
0190 a second conviction within one (1) year thereafter, such person
0191 shall be guilty of a class B misdemeanor, and upon a third or
0192 subsequent conviction within one (1) year after the first convic-
0193 tion, such person shall be guilty of a class A misdemeanor.

0194 Sec. 21. K.S.A. 8-2104 is hereby amended to read as follows:
0195 8-2104. Whenever any person is halted (a) When a person is

0196 stopped by a police officer for any violation of this act any
0197 provision of K.S.A. 8-1334 to 8-1341, inclusive, and articles 10
0198 and 14 to 22, inclusive, of chapter 8 of the Kansas Statutes
0199 Annotated and amendments to any of the sections in such statutes
0200 not amounting to a felony and such person demands an immedi-
0201 ate appearance before a judge, such person shall be taken into
0202 custody and taken without unnecessary delay before a judge of
0203 the district court, as specified in subsection (c) of K.S.A. 8-2106
0204 Supp. 8-2106; in either of the following cases:

0205 (a) When the person demands an immediate appearance be-
0206 fore a judge of the district court; or

0207 (b) In any other event when the person is issued a traffic
0208 citation by an authorized person and refuses to give written
0209 promise to appear in court as hereinafter provided and amend-
0210 ments thereto.

0211 (b) When any person is stopped by a police officer for an
0212 violation of any provision of K.S.A. 8-1334 to 8-1341, inclusive
0213 and articles 10 and 14 to 22, inclusive, of chapter 8 of the Kansas
0214 Statutes Annotated and amendments to any of the sections in such
0215 statutes, which violation is a misdemeanor, and is not required to
0216 be taken before a judge of the district court as provided in
0217 subsection (a), the person may, in the discretion of the police
0218 officer, either be given a traffic citation as provided in K.S.A.
0219 8-2106 and amendments thereto, or be taken into custody and
0220 taken without unnecessary delay before a judge of the district
0221 court, as specified in subsection (c) of K.S.A. 8-2106 and amend-
0222 ments thereto.

0223 (c) When any person is stopped by a police officer for an
0224 violation of any provision of K.S.A. 8-1334 to 8-1341, inclusive
0225 and articles 10 and 14 to 22, inclusive, of chapter 8 of the Kansas
0226 Statutes Annotated and amendments to any of the sections in such
0227 statutes, which violation is a traffic infraction, and is not required
0228 to be taken before a judge of the district court as provided in
0229 subsection (a), the person may be issued a traffic citation as
0230 provided in K.S.A. 8-2106 and amendments thereto, and shall not
0231 be taken before a judge of the district court.

0232 Sec. 22. K.S.A. 8-2106 is hereby amended to read as follows:

person. If the person halted stopped furnishes the police officer with a guaranteed arrest bond certificate or bank card draft, the police officer shall give such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person halted stopped. Such person need not sign the written notice to appear, and the police officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

(d) Whenever When any motor carrier, truck or truck tractor is halted stopped by an agent or employee of the department of revenue duly authorized under K.S.A. 8-1910 or 66-1319 to stop such motor carrier, truck or truck tractor for those any violations described in subsection (e) of this section which relate to the regulation of motor carriers, trucks or truck tractors, such agent or employee may require the driver of the motor carrier, truck or truck tractor so halted stopped to give a driver's license or bond in the same manner and to the same extent as in subsections (a) and (c).

(e) The offenses for which appearance bonds may be required as provided in subsection (c) and the amounts thereof shall be as follows:

Speeding, minimum bond	\$20
Eleven to fifteen over limit	30
Sixteen to twenty over limit	40
Twenty-one to twenty-five over limit	50
Twenty-six to thirty over limit	60
Thirty-one to forty over limit	80
Forty-one and over the limit	100
Reckless driving	50
Fail Failure to comply with lawful order of officer	25
Fail to yield right-of-way to emergency vehicle	25
Fail to obey official traffic control signal	20
Driving less than posted minimum speed, or impeding the normal and reasonable flow of traffic	20
Driving left of center, in wrong lane or in wrong direction on one-way	20
Illegal passing	20
Failure to yield right of way	20
Failure to stop at stop sign	20
Illegal turn, turn approach or failure to signal	20
Following too close	20
Illegal stop, stand or park	20
Illegal backing	20
Fail to stop for railroad electric or mechanical signal devices	20

0447 Depositing or throwing trash or destructive or injurious material on highway	50
0448	25
0450 Passing school bus which is displaying stop signal	20
0452 Brakes inadequate or defective	20
0454 Registration violation	20
0456 No operator's or chauffeur's license driver's license for the class of vehicle operated or violation of restrictions	20
0457	50
0459 First offense of driving while license suspended or revoked	100
0461 Spilling load on highway	20
0463 Failure to dim headlights	20
0465 Illegal or defective lights	20
0467 Overload:	
0468 Gross weight of vehicle or combination of vehicles	an amount equal to the fine plus court costs to be imposed if convicted
0469	
0470	
0471	
0472 Gross weight upon any axle or tandem, triple or quad axles	an amount equal to the fine plus court costs to be imposed if convicted
0473	
0474	
0475	
0476	
0477 Failure to obtain proper registration, clearance or to have current certification as required by K.S.A. 66-1324	250
0478	
0480 Improper equipment (horn, muffler, rear vision mirror, wiper, glass, safety devices, and fire extinguishers, flares, reflectors, flags, or other required equipment)	20
0481	
0482	
0484 No authority as private, contract or common carrier	20
0486 No drivers daily log	20
0488 Invalid or no physical examination card	20
0490 Transporting open container of alcoholic liquor or cereal malt beverage accessible while vehicle in motion	20
0491	

(f) In the event of forfeiture of any of the bonds set forth in this section, then \$10 of said bond under this section, \$19 of the amount forfeited bond shall be regarded as court costs in any court having jurisdiction over said such violation of state law.

Sec. 24. K.S.A. 8-2109 is hereby amended to read as follows: 8-2109. (a) Except for felonies, a police officer at the scene of a traffic accident may issue a written traffic citation, as provided in K.S.A. 8-2106 and amendments thereto, to any driver of a vehicle involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this act in connection with the accident.

(b) A police officer at the scene of a traffic accident may arrest any driver of a vehicle involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of the uniform vehicle code in connection

Double
Double
100
100
30
100
30
200
8-75
(c) - 21
- None
M.N.
could not
w/ 8-2109
et seq

0511 *infraction.*

0512 Sec. 25. K.S.A. 8-2110 is hereby amended to read as follows:

0513 8-2110. (a) ~~It shall be unlawful for any person to violate such~~
0514 ~~person's written promise to appear, given to an officer upon the~~
0515 ~~issuance of a traffic citation Except when the violation is for~~
0516 ~~illegal parking, standing or stopping, if a person fails to appear as~~
0517 ~~directed in a traffic citation or as further ordered by the court and~~
0518 ~~has not otherwise complied with the citation as provided in~~
0519 ~~section 1, the court shall notify the person by mail to the address~~
0520 ~~contained in the traffic citation that if the person does not comply~~
0521 ~~with the terms of the traffic citation or other order of the court,~~
0522 ~~within 15 days after the date of the notice, the court may order that~~
0523 ~~the driver's license of the person be suspended. The notice shall~~
0524 ~~also state that failure to appear or otherwise comply with the~~
0525 ~~citation within 15 days after the date of the notice is a misde-~~
0526 ~~meanor for which a warrant for arrest may be issued. After the~~
0527 ~~expiration of the fifteen-day period, the court may suspend the~~
0528 ~~person's driver's license and shall notify the division of vehicles~~
0529 ~~of the suspension. Upon compliance with the terms of the traffic~~
0530 ~~citation or order of the court, the court shall terminate the sus-~~
0531 ~~pension and immediately notify the division of vehicles of the~~
0532 ~~termination.~~

*Substantive
Pt. 245
for
this
language*

0533 (b) *Failure either to appear or otherwise comply with a traffic*
0534 *citation within 15 days after the date of the notice provided for in*
0535 *subsection (a) of this section is a misdemeanor, regardless of the*
0536 *disposition of the charge for which such citation was originally*
0537 *issued.*

0538 (b) *In addition to penalties of law applicable under subsec-*
0539 *tion (a), when a person violates a written promise to appear, given*
0540 *to an officer upon the issuance of a traffic citation, except for*
0541 *illegal parking, standing or stopping, the court in which such*
0542 *person should have appeared shall inform the division of vehicles*
0543 *of such violation. Upon receipt of a report of a violation under*
0544 *this subsection, pursuant to K.S.A. 8-255, and amendments*
0545 *thereto, the division of vehicles shall notify the violator and*
0546 *initiate an action to suspend the license of the violator until*
0547 *satisfactory evidence of compliance with the terms of the traffic*

0548 *citation has been furnished the informing court. Upon such*
0549 *compliance the informing court shall notify the division of vehi-*
0550 *cles and the suspension or suspension action shall be terminated.*

0551 Sec. 26. K.S.A. 8-2116 is hereby amended to read as follows:
0552 8-2116. (a) Every person convicted of violating any of the provi-
0553 sions of this act for which another penalty is not provided
0554 sections listed in the uniform fine schedule in section 1 is guilty of
0555 a traffic infraction.

0556 (b) *Except where another penalty or class of misdemeanor is*
0557 *provided by statute, every person convicted of violating any*
0558 *provision of K.S.A. 8-1334 to 8-1341, inclusive, and articles 10*
0559 *and 14 to 22, inclusive, of chapter 8 of the Kansas Statutes*
0560 *Annotated and amendments to any of the sections in such statutes*
0561 *designated as a misdemeanor shall be is guilty of a class C*
0562 *misdemeanor, except that upon a second such conviction offense*
0563 *committed within one (1) year thereafter after the date of the first*
0564 *such offense, upon conviction thereof, such person shall be is*
0565 *guilty of a class B misdemeanor, and upon a third or subsequent*
0566 *conviction such offense committed within one (1) year after the*
0567 *first conviction such offense, upon conviction thereof, such per-*
0568 *son shall be is guilty of a class A misdemeanor.*

0569 Sec. 27. K.S.A. 20-302b is hereby amended to read as follows:
0570 20-302b. (a) A district magistrate judge shall have the jurisdiction,
0571 power and duty, in any case in which a violation of the laws of the
0572 state is charged, to conduct the trial of *traffic infraction or*
0573 *misdemeanor charges and the preliminary examination of felony*
0574 *charges. In civil cases, a district magistrate judge shall have*
0575 *concurrent jurisdiction, powers and duties with a district judge,*
0576 *except that, unless otherwise specifically provided in subsection*
0577 *(b), a district magistrate judge shall not have jurisdiction or*
0578 *cognizance over the following actions:*

0579 (1) Any action in which the amount in controversy, exclusive
0580 of interests and costs, exceeds ~~five thousand dollars~~ *(\$5,000)*
0581 *\$5,000, except that in actions of replevin, the affidavit in replevin*
0582 *or the verified petition fixing the value of the property*
0583 *govern the jurisdiction; nothing in this paragraph shall be con-*
0584 *strued as limiting the power of a district magistrate judge to hear*

0881 (b) In felony cases the defendant must appear and ~~plea~~ *plead*
 0882 personally and a verbatim record of all proceedings at the plea
 0883 and entry of judgment thereon shall be made.

0884 (c) In *traffic infraction and* misdemeanor cases the court may
 0885 allow the defendant to appear and plead by counsel.

0886 (d) A plea of guilty or *nolo contendere*, for good cause shown
 0887 and within the discretion of the court, may be withdrawn at any
 0888 time before sentence is adjudged. To correct manifest injustice
 0889 the court after sentence may set aside the judgment of conviction
 0890 and permit the defendant to withdraw the plea.

0891 Sec. 36. K.S.A. 22-3404 is hereby amended to read as follows:
 0892 22-3404. (1) The trial of misdemeanor *and traffic infraction* cases
 0893 shall be to the court unless a jury trial is requested in writing by
 0894 the defendant not later than 48 hours prior to the trial.

0895 (2) A jury in a misdemeanor *or traffic infraction* case shall
 0896 consist of six members.

0897 (3) Trials in the municipal court of a city shall be to the court.

0898 (4) Except as otherwise provided by law, the rules and pro-
 0899 cedures applicable to jury trials in felony cases shall apply to jury
 0900 trials in misdemeanor *and traffic infraction* cases.

0901 Sec. 37. K.S.A. 22-3405 is hereby amended to read as follows:
 0902 22-3405. (1) The defendant in a felony case shall be present at the
 0903 arraignment, at every stage of the trial including the impaneling
 0904 of the jury and the return of the verdict, and at the imposition of
 0905 sentence, except as otherwise provided by law. In prosecutions
 0906 for crimes not punishable by death, the defendant's voluntary
 0907 absence after the trial has been commenced in ~~his~~ *such person's*
 0908 presence shall not prevent continuing the trial to and including
 0909 the return of the verdict. A corporation may appear by counsel for
 0910 all purposes.

0911 (2) The defendant must be present, either personally or by
 0912 counsel, at every stage of the trial of a *traffic infraction and*
 0913 *misdemeanor case cases*.

0914 Sec. 38. K.S.A. 22-3409 is hereby amended to read as follows:
 0915 22-3409. When a jury trial is demanded, as provided by law, for a
 0916 *traffic infraction or* misdemeanor *case cases*, the judge shall
 0917 summon not less than 12 prospective jurors from the source and

0918 in the manner provided for the summoning of other petit jurors in
 0919 the district court in the county.

0920 Sec. 39. K.S.A. 22-3412 is hereby amended to read as follows:
 0921 22-3412. (1) Peremptory challenges shall be allowed as follows:

0922 (a) Each defendant charged with a class A felony shall be
 0923 allowed 12 peremptory challenges.

0924 (b) Each defendant charged with a class B felony shall be
 0925 allowed eight peremptory challenges.

0926 (c) Each defendant charged with a felony other than class A or
 0927 class B felony shall be allowed six peremptory challenges.

0928 (d) Each defendant charged with a misdemeanor *or traffic*
 0929 *infraction* shall be allowed ~~four~~ ^{three} peremptory challenges.

0930 (e) Additional peremptory challenges shall not be allowed on
 0931 account of separate counts charged in the complaint, information
 0932 or indictment.

0933 (f) The prosecution shall be allowed the same number of
 0934 peremptory challenges as all the defendants.

0935 (2) After the parties have interposed all of their challenges to
 0936 jurors, or have waived further challenges, the jury shall be sworn
 0937 to try the case.

0938 (3) Immediately after the jury is empaneled and sworn, a trial
 0939 judge may empanel one or more alternate or additional jurors
 0940 whenever, in the judge's discretion, the judge believes it advis-
 0941 able to have such jurors available to replace jurors who, prior to
 0942 the time the jury retires to consider its verdict, become or are
 0943 found to be unable to perform their duties. Such jurors shall be
 0944 selected in the same manner, have the same qualifications, and be
 0945 subject to the same examination and challenges and take the same
 0946 oath and have the same functions, powers and privileges as the
 0947 regular jurors. Each party shall be entitled to one peremptory
 0948 challenge to such alternate jurors. Such alternate jurors shall be
 0949 seated near the other jurors, with equal power and facilities for
 0950 seeing and hearing the proceedings in the case, and they must
 0951 attend at all times upon the trial of the cause in company with the
 0952 other jurors. They shall obey the orders of and be bound by the
 0953 admonition of the court upon each adjournment, but if the regular
 0954 jurors are ordered to be kept in custody during the trial of the