

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Bob Frey at
Chairperson

3:30 ~~am~~/p.m. on March 15, 1983 in room 526-S of the Capitol.

All members were present except:

Representatives Erne, Peterson, and Miller.
Representative Wunsch was excused.

Committee staff present:

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

Conferees appearing before the committee:

John Crofoot, Kansas Grain and Feed Dealers Association
John Blythe, Kansas Farm Bureau
Dee Likes, Kansas Livestock Association
Becky Crenshaw, Committee of Kansas Farm Organizations
Ivan Wyatt, Kansas Farmers Union
Marvin Webb, State Grain Inspector
Gerald Riley, Kansas Association of Wheat Growers
Representative Jack Shriver
Ron Miles, Director, State Board of Indigents Defense Services
Phil Magathan, Kansas Association of Court Services Officers
Marjorie Van Buren, Office of the Judicial Administrator

SB 4 - An Act relating to grain embezzlement.

The Chairman said the bill was the result of an interim study, Proposal No.1.

John Crofoot, Kansas Grain and Feed Dealers Association, supported the bill and its Senate amendments and noted the concern of grain dealers with fraud.

A member expressed concern that there was no definition in statutes of what constituted a warehouse receipt which, in a criminal statute, may be needed. He raised the question if the bill would affect a Supreme Court ruling that allows scale tickets to be used as evidence of ownership.

John Blythe, Kansas Farm Bureau, said SB 4 was one of a package of six bills resulting from Proposal No.1. His group supports the bill and its amendments. He noted instances in the state of grain embezzlement which have resulted in very little punishment. He supported severer penalties. Mr. Blythe said it was not the intent of the interim committee to change the scale ticket and warehouse receipt concepts.

It was noted the language in the bill for penalties was taken from the banking code laws on embezzlement which may not be appropriate for the grain business.

Dee Likes, Kansas Livestock Association, supported the bill. His group believes stiffer penalties are necessary to deter theft, and SB 4 speaks to that which present law does not do. He noted the stricken language in lines 367-368 regarding 3 to 50 years jail sentences and requested this be reinserted, to be used at the discretion of the court.

Becky Crenshaw, Committee of Kansas Farm Organizations which represents 20 different groups, said these groups support the bill and stronger penalties, noting SB 4 was essential to the entire package of Proposal No.1 bills.

Ivan Wyatt, representing the Kansas Farmers Union, said the purpose of the bill was to deter theft. In regard to scale tickets and warehouse receipts, he compared the ticket to a bank deposit slip which cannot be transferred to another party. He supported FSLIC insurance against theft which would be better for Kansas than a state law in this regard.

Marvin Webb, State Grain Inspector, supported the bill. He did not know if the penalties would deter embezzlement but should be given the chance. He noted an instance of a conviction for embezzlement involving a large sum of money where the defendant has not served a day in jail.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

room 526-S, Statehouse, at 3:30 ~~am~~/p.m. on March 15, 1983.

Gerald Riley, Kansas Association of Wheat Growers, supported the bill and believed it addressed the problem of elevator bankruptcy and embezzlement.

SB 83 - An act relating to probation and suspension of sentence.

Representative Shriver, sponsor, explained the bill, noting it would mandate that probationers who are not really indigent repay defense fees to the state general fund. New language is the result of an Oregon Supreme Court ruling. Representative Shriver believed the language met constitutional requirements. He noted there are approximately 6,000 cases for which the state supplies counsel, and, if only \$20 was paid back, it would result in a substantial amount. He had no objection to changing "shall" to "may" in line 82.

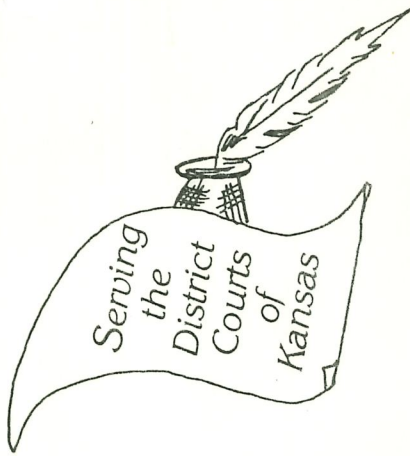
Ron Miles, Director of the State Board of Indigents Defense Services, supported the bill. Present law has not been adequate to enable his office to recoup many fees. He supported a mandatory requirement as judges do not want to use this discretion because of a person's right to counsel.

Phil Magathan, Kansas Association of Court Services Officers, gave a statement (Attachment No.1) supporting the bill but noted additional staff would be necessary to implement it efficiently. He requested that the words "probation officer" be stricken throughout the bill and "court services officer" be substituted.

Marjorie Van Buren, Office of the Court Administrator, said courts do not have enough funds for additional court services officer positions.

The Chairman said the Committee would meet on March 25 in order to meet the bill action deadline. He noted a number of bills would be held in Committee and asked members to let him know if there were objections.

The meeting was adjourned at 4:45 p.m.



Kansas Association of Court Services Officers

TESTIMONY PRESENTED BY PHIL MAGATHAN

Our association represents professionals who work with adult and juvenile offenders in providing presentence investigations, pre-disposition investigations, probation supervision, restitution for crime victims, and many other services for the Court, clients, and the community that we serve.

The K.S.C.S.O. Legislative Committee has reviewed Senate Bill 83 and will support this legislation. However, this will result in additional workload for C.S.O.'s. Whenever the Court orders costs in a criminal case a C.S.O. is normally assigned to monitor the payment of those costs such as: court costs, restitution and fines. This often involves an ongoing review of the offender's financial status and setting up a payment plan based on their ability to pay. It also involves the filing of revocation of probation for non-payment of costs ordered as a condition of probation.

I must point out that without additional personnel, this task in addition to statutorily mandated functions cannot continue to be performed effectively. As you are well aware of, the 1981 legislative session mandated restitution as a condition of probation, case loads have continued to rise, Court Service officer positions were lost to the Dept. of S.R.S. due to the new juvenile code, non-judicial personnel positions are frozen, and there is currently other pending legislation that will add additional duties to a Court Services officer.

March 15, 1983
PM/dsc