

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

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

3:30 ~~XXX~~/p.m. on March 16, 1983 in room 526-S of the Capitol.

All members were present except:

Representatives Cloud, Peterson, and Whitaker

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:

Representative James Lowther
Marjorie Van Buren, Office of the Judicial Administrator
Alan Alderson, Chief Attorney, Department of Revenue
Jim Clark, Kansas County and District Attorneys Association
Phil Magathan, Kansas Association of Court Services Officers
Dean Strickland, Chief of Court Services for Shawnee County and representing the District Court Judges Association

SB 154 - An act concerning preparation of jury lists.

Representative Lowther, sponsor of a bill in Committee, HB 2213, essentially the same as SB 154, supported both bills. He noted the need for a broader list of prospective jurors. Using only the voter registration list may cause people not to register to vote. He said the Senate's amendments to include non-driver identification cards might cause fiscal problems.

Marjorie Van Buren gave a statement in support of SB 154 (Attachment No.1).

Alan Alderson said the Department of Revenue did not request the bill. The request came through the office of the Judicial Administrator. He noted a similar bill, SB 310, addresses the confidentiality of vehicle records, and Section 2 of SB 154 could be deleted if SB 310 passes. SB 310 allows the Department to supply lists for jurors. It would be fiscally more efficient if the Department could make a computer run for every county annually, charging \$40 a county rather than sorting out lists by county upon request. Mr. Alderson believed the fiscal note on SB 154 (Attachment No.2) was in error as being too high. In regard to non-driver IDs, he said this list of 30,000 would have to be sorted manually, increasing costs. Ms. Van Buren said her office had no objection to an annual run of drivers license names.

Representative Knopp moved to strike, throughout the bill, the language added by amendments regarding non-driver identification cards, seconded by Representative Patrick. Motion carried. Representative Miller moved to report SB 154, as amended, favorable for passage, seconded by Representative Douville. Motion carried.

SB 347 - An act relating to juries and peremptory challenges.

Ms. Van Buren stated the bill was a cleanup and was supported by the District Judges Association. Her statement is attached (Attachment No.3).

Representative Schweiker moved to change two challenges to three in line 31, seconded by Representative Solbach. Motion carried. Representative Douville moved to recommend SB 347, as amended, favorable for passage, seconded by Representative Harper. Motion carried.

SB 312 - An act relating to requiring notice to certain persons of grant of parole.

Jim Clark said the Adult Authority publishes notices of parole hearings (example in Attachment No.4), but county and district attorneys, especially in remote areas, are not notified if parole is granted. SB 312 would require the Adult Authority to do so.

The Chairman read a letter from the Adult Authority (Attachment No.5). The Adult Authority does not object to the bill but notes a fiscal impact of \$600 annually.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

room 526-S, Statehouse, at 3:30 ~~am~~ p.m. on March 16, 1983.

Representative Patrick moved to report SB 312 favorable for passage, to be placed on the Consent Calendar, seconded by Representative Matlack. Motion carried.

SB 318 - An act relating to presentence investigation reports.

The Chairman noted the bill was similar to HB 2494 which was tabled by the Committee.

Phil Magathan gave a statement with suggested amendments (Attachment No.6). They would make it a suggestion that information be obtained from the victim, but sentencing is not precluded if the information is not available.

Dean Strickland said, under the mandate of the bill, judges are concerned that sentences will not be legal if the court does not have the victim's statement. He noted problems court services officers might have in obtaining the information. The bill would require additional staff. Mr. Strickland said the judges support the amendments suggested in Attachment No.6. Information from victims is being obtained presently when it is available and used by the courts. He had no statistics to support this, but most CSOs say it is being done.

Mr. Clark distributed a news article (Attachment No.7) which quotes the Attorney General as being in favor of the bill's concept. Language for the bill was taken from the federal act. He questioned that CSOs were obtaining victim statements and why judges would be concerned when the bill applies only to CSOs. When information from the victim was not available, CSOs should be required to give a reason for this.

Ms. Van Buren said CSOs were obtaining more victim impact statements, and a mandatory requirement would create problems in locating victims.

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

Representative Solbach moved to change "probation officer" to "court services officer" throughout the bill, seconded by Representative Erne. Motion carried. Representative Duncan moved to report SB 83, as amended, favorable for passage, seconded by Representative Harper. Motion carried.

SB 4 - An act relating to grain warehouses and embezzlement.

There was discussion regarding the definition of warehouse receipts. The points were made that the purpose of the bill addresses forgery and not the paper upon which it is done; and, if this bill is not passed, its provisions will still be in effect. Representative Patrick moved to strike Sections 1 through 12 and leave new Section 13, making the necessary title and repealer corrections. Representative Knopp seconded the motion, and it carried. Representative Harper moved to recommend SB 4, as amended, favorable for passage, seconded by Representative Knopp. Motion carried.

The Chairman adjourned the meeting at 5:00 p.m.

TESTIMONY BEFORE HOUSE JUDICIARY COMMITTEE

March 16, 1983

SENATE BILL 154

Marjorie Van Buren
Office of Judicial Administration
Unified Court System

This bill amends K.S.A. 43-162 and K.S.A. 74-2012 to allow the use of driver's license lists as sole source lists in the preparation of jury lists.

Many counties in the state no longer conduct a population census; therefore, these counties have only outdated census records and voter registration records available for use in jury list preparation. The use of the driver's license lists as a sole source or in combination with the voter registration records and the census records will provide a broader and more accurate list of potential jurors than is now obtainable in most counties. The Senate Committee's amendment to add non-driver I.D. holders broadens the base even further.

Section 1 amends K.S.A. 43-162 to provide statutory language for the use of driver's license lists, and jury commissioner access to the records of the division of vehicles pertaining to licensed drivers.

Section 2 amends the vehicle records confidentiality statute to allow copies of the lists to be provided for jury source list purposes.

ATTACHMENT # 2

The Honorable Elwaine Pomeroy, Chairperson
Committee on Judiciary
Senate Chamber
Third Floor, Statehouse

Dear Senator Pomeroy:

SUBJECT: Fiscal Note for Senate Bill No. 154 by Committee
on Judiciary

In accordance with K.S.A. 75-3715a, the following fiscal note concerning Senate Bill No. 154 is respectfully submitted to your committee.

Senate Bill No. 154, as introduced, amends K.S.A. 43-162 and K.S.A. 1982 Supp. 74-2012. This bill would permit jury lists to be accessed and extracted from drivers license records of the Division of Vehicles.

The Department of Revenue estimates that the primary effect of Senate Bill No. 154 as introduced would be on the Data Processing Services Bureau. In 1982, the Drivers License Statistical Report shows that there are 1,620,000 drivers 18 and over in Kansas.

To support implementation of Senate Bill No. 154, the Department of Revenue states it will be necessary to write and maintain two new batch programs. The following costs are based on an estimated quarterly listing furnished to the jury commissioners. If the report is made in any other time specification, the costs need to be adjusted accordingly.

	<u>FY 1984 (Annual Costs)</u>
Salaries and Wages	\$623
Contractual Services	\$8,813
	 <u>FY 1983 (one-time costs)</u>
Salaries and Wages	\$1,608
Contractual Services	\$2,336
Total Annual Costs (FY 1984)	\$8,813
Total One-Time Costs (FY 1983)	\$3,944

This act shall take effect after its publication in the statute book.

Susan K. Schroeder

Susan K. Schroeder
Budget Analyst
For the Director of the Budget

SKS:bj

TESTIMONY BEFORE HOUSE JUDICIARY COMMITTEE

March 16, 1983

ATTACHMENT # 3

SENATE BILL 347

Marjorie Van Buren
Office of Judicial Administration
Unified Court System

This bill amends Section 1 of K.S.A. 22-3412 relating to peremptory challenges. The number of peremptory challenges is reduced from four to two in jury cases where a defendant is charged with a misdemeanor.

The bill is a follow-up to earlier legislation (L. 1981, ch. 154) reducing from twelve to six the number of jurors required to conduct a misdemeanor trial. The same legislation reduced the number of persons required to be summoned to twelve. However, the number of peremptory challenges was not changed. The result is a logical conflict, since if each side were to use its four peremptory changes the remaining four jurors would not be adequate to form a jury.



MEMBERS

Simon Roth, Jr.
Chairman
Keith R. Henley
Vice-Chairman
Benjamin H. Day
Carrol Mills, Ph.D.
Alfredo R. Calvillo, Ph.D.

KANSAS ADULT AUTHORITY
Room 910 — 535 Kansas Avenue
TOPEKA, KANSAS 66603
(913) 296-3469

Elizabeth A. Denny
Director
Keith E. Magers
Assistant Director

March 8, 1983

ANNOUNCEMENT OF
PUBLIC COMMENT SESSIONS

The Kansas Adult Authority hereby announces the schedule of public comment sessions to be held in March. The Adult Authority is conducting public comment sessions for the purpose of accepting oral and/or written comments from citizens regarding the consideration of parole for the attached list of inmates. The inmates named on the attached list have been certified by the Department of Corrections to be eligible for a parole hearing before the Adult Authority in April, 1983. The county of conviction is not necessarily the individual's home nor the county to which the inmate will return.

Meetings will be conducted on the following dates and at the respective locations and times indicated below:

March 28, 1983 - KANSAS CITY, KANSAS
(9:30 - 11:30 a.m.)

Commissioner's Room, 2nd Floor
Wyandotte County Court House
710 North 7th Street

March 28, 1983 - WICHITA, KANSAS
(9:30 - 11:00 a.m.)

Board Room, 2nd Floor
Wichita Public Library
223 South Main Street

March 24, 1983 - TOPEKA, KANSAS
(9:30 - 11:00 a.m.)

Meeting Room #2 (Upper Level)
Topeka Public Library
1515 West 10th Street

EAD:yvm
Attachment



ATTACHMENT # 5

MEMBERS

Simon Roth, Jr.
Chairman
Keith R. Henley
Vice-Chairman
Benjamin H. Day
Carrol Mills, Ph.D.
Alfredo R. Calvillo, Ph.D.

KANSAS ADULT AUTHORITY
Room 910 — 535 Kansas Avenue
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Elizabeth A. Denney
Director
Keith E. Magers
Assistant Director


March 15, 1983

SENATE BILL NO. 312

The Honorable Robert Frey, Chairman
and Members of the House Judiciary Committee:

Senate Bill No. 312 amends K.S.A. 1982 Supp. 22-3717 by requiring the Kansas Adult Authority to provide written notice of the decision to parole an inmate within ten (10) days of the date of the decision to the county or district attorney of the county where the inmate was sentenced.

The Kansas Adult Authority expresses no objection to this proposed amendment. We have, however, submitted fiscal note data amounting to \$600 per annum for the implementation of the proposed amendment. If the legislature determines to enact Senate Bill No. 312, the Adult Authority will appreciate the intent of the legislature and comply accordingly.


Simon Roth, Jr., Chairman

SR:ymv



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.A.C.S.O. Legislative Committee has reviewed House Bill 2494, Senate Bill 318, and will support this legislation with the amendments that I have submitted to you. The reason for these amendments is that the Court Service officer should only function as the liaison between the victims and the courts. We do not have the time or the expertise to verify or assess claims submitted by victims of crime. We also need flexibility with the type and use of a victim impact statement provided to the victim. For example, it would not be appropriate or necessary to assess the social or psychological impact of a crime on an indirect victim such as an insurance company or large financial institution. Impact statements need to be voluntarily submitted by the victim or otherwise the Court Service officer would be obligated to continue to contact the victim until they submitted a statement.

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 Service officer.

March 16, 1983
PM/bn



Kansas Association of Court Services Officers

PROPOSED AMENDMENTS

LINE 24 and 27, Strike-Probation Officer,
Insert-Court Services Officer

Line 31 and 32, Strike-Probation Officer,
Insert-Court Services Officer

Line 33,34,35, ^{just the} ~~the~~ ^{wording} Strike-the attitude of the complainant or victim,
and of the victim's immediate family, where
possible, in cases of homicide; and

Line 44, Strike-in addition, each report shall contain
Insert-in addition, each report may contain any

Line 48, Strike-victim's immediate family,
Insert-victim's immediate family where possible

Statements allow crime victims their day in court

By Fred Mares
Of the Mid-America Staff

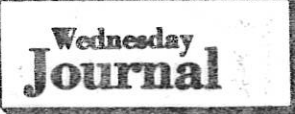
ST. JOSEPH — Documents are stacked high on the desk of Debbie Burich.

Each tells a story, often of bottled emotions released in words that fill the black lines on the page. They are not very pretty stories.

"It is hard to describe the mental anguish and humiliation I have suffered because of this man," one St. Joseph man wrote about a burglar who invaded his business. "I have suffered because this man ... took advantage of my trusting belief in humanity. Because of this incident, I feel that I have aged 10 years."

A St. Joseph woman who was assaulted and suffered a black eye wrote, "I'm scared to be by myself at night and afraid to talk to guys, afraid to be touched by anyone."

These are just two examples of the thoughts expressed by crime victims in victim impact statements, a sometimes controversial new tool used increasingly nationwide to let victims have their day in court. Buchanan County evidently is the first to use such statements in Missouri; in Kansas, at least four coun-



ties use the statements. And federal courts recently were required to use them.

"Victims are totally ignored," said Buchanan County Prosecutor Mike Insko. "Part of the problem is we need to treat victims as clients instead of pieces of evidence. ... Lawyers aren't the only ones who know what justice is."

The victim impact statement is a form filled out by crime victims detailing how the crime — from simple theft to assault — affected their lives. The form is submitted to a judge before the sentencing of an offender.

Among questions on the standard, single-page form in Buchanan County are: "Please state what impact this crime has had on your life or

your family life." "Were you injured?" "Was your life or physical well-being threatened?" "Do you have a suggestion as to the appropriate punishment for the defendant?"

Interestingly, officials said, victims often suggest a lesser penalty than a prosecutor would seek.

Use of the statements has emerged in the last decade of a victim rights movement, said John Stein, the director of public affairs for the National Organization for Victim Assistance in Washington.

Mr. Stein said that about 12 states are using victim impact statements as part of the pre-

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VICTIMS

Continued from Page A-1

sentencing report. A bill in Kansas that would require such a statement in the pre-sentencing phase of a trial already has passed in the Senate and is in the House Judiciary Committee.

"I guess change happens slowly," Mr. Stein said. "But if the federal system has already done it, logic should tell you the states should have one. There is no difference between a federal and a state victim."

Indeed, President Reagan signed into law the Victim and Witness Protection Act of 1982, which requires among other things that a victim impact statement be filed in federal court to aid the judge in sentencing an offender.

Kansas Attorney General Robert T. Stephan supports such a law in his state. About a year ago, Mr. Stephan said, he stuffed into envelopes sample victim impact statement forms and sent them to each county attorney and district attorney in the state.

"The system doesn't give that big of a damn about the victim," Mr. Stephan said in an interview. "Why should a defendant have a right to bring in every sad story in the book and all of the family in tears, yet the victim doesn't have a say-so?"

Georgia Nesselrode is the Johnson County victim-witness coordinator in Olathe, where the statements have been used for about three months. The prosecutor's office submits copies of the victim's statement to the judge and the defense attorney, Ms. Nesselrode said.

"I would say that these statements are helping ... our system of justice," she said.

She said that about 60 percent of the 100 to 150 statement forms the county has sent to victims have been returned.

Ms. Burich, who runs Buchanan County's victim statement program, said that about 30 of the 116 statement forms that her office has mailed have been returned. Ms. Burich said that she and several volunteers soon will begin following up to find out why a victim has not returned a statement.

Mr. Stein said victims may not make a statement for several reasons:

- Fear of retaliation by the offender once he is released. "At least half of the violent crimes committed are done by acquaintances or those close to the victim," Mr. Stein said.

- Interpreting a victim impact statement as just another form to fill out. "Victims already have to sign insurance forms and police statements," he noted.

- Putting aside the statement dur-

ing the long wait while an offender goes through the trial process. Eventually, Mr. Stein said, some victims try to put the crime out of their minds.

In Jackson County, Assistant Prosecutor Bill Welch said that as "a matter of policy" officials try to find the victim and learn the emotional impact of a crime. He said, however, that the county does not use a standard victim impact statement.

"A victim impact statement would definitely be of help. The first bridge that it would have to cross is the support of judges to actually read it," said Mr. Welch, who is the supervisor of the victim-witness program for the county and chief warrant officer.

Ted Smith, the director of the Missouri Office of Prosecution Services, said about the statements: "I can't see that it would be used as anything other than a mechanism to allow the victim to communicate his thoughts."

In St. Joseph, Ms. Burich said that perhaps others will watch how the county's program works and then develop one of their own.

"The memories are part of the crime," she said. "People don't want to hear about crime — until it happens to them."

"You know people who are victimized, it stays with them."

After a pause she added, "At least this is an opportunity to do something with their anger."