

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Elwaine F. Pomeroy at
Chairperson

10:00 a.m. ~~p.m.~~ on February 23, 1983 in room 514-S of the Capitol.

All members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaines, Hein, Hess, Mulich and Werts.

Committee staff present: Mary Torrence, Revisor of Statutes
Mike Heim, Legislative Research Department

Conferees appearing before the committee:

Judge Robert L. Morrison, Juvenile Code Advisory Committee, Kansas Judicial Council
Senator Nancy Parrish
Brenda Hoyt, Office of the Attorney General
Marjorie Van Buren, Office of Judicial Administrator
Mike Boyer, Kansas Bureau of Investigation
Pat Baker, Kansas Association of School Boards

Senate Bill 105 - Amendments relating to Code for Care of Children and Juvenile Offender Code.

The chairman reviewed the bill and presented background information on it.

Judge Robert Morrison presented an explanation of his suggested cleanup amendments to the bill (See Attachment #1). Committee discussion with him followed.

Senator Nancy Parrish appeared on behalf of the Advisory Commission on Juvenile Offenders Programs. A copy of her remarks and a copy of the commission's recommendations are attached (See Attachments #2, #3).

Brenda Hoyt testified the FBI is collecting data, and they are now being able to see trends of what causes offenders in the first place. They believe the only way to evaluate whether or not certain punishments for juveniles are effective or not is to gather this statistical data. They need central information. She suggested providing sanctions in the bill for failure of school officials to cooperate. A committee member inquired if she were aware of school teachers not reporting child abuse. She answered, there is some discouragement in reporting this. She related one instance where an interview was not allowed with a child at the school.

Marjorie Van Buren testified people she has talked to are generally supportive of this bill. They support the provision that provides for custody for a child when the child should remain in a sheltered facility. She stated another change they support is the information system.

Mike Boyer stated he is not officially representing the bureau at this time. His purpose in appearing today is to discuss the impact of this bill. He referred the committee to Section 4 of the bill and suggested the data reporting system be moved back to the county and district attorneys association personnel and the law enforcement community. Committee discussion with him followed.

Pat Baker testified on the bill and presented substitute wording for Section 16(g) of the bill. A copy of her remarks is attached (See Attachment #4). She stated school officials have the interest of the child, and they are asking some discretion on the administrator to schedule that interview. They are asking for cooperaton

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 23, 1983

Senate Bill 105 continued

in assisting the school administrators in carrying out their duties in a less disruptive manner.

A copy of a letter from Dennis McFall, Staff Legal Counsel, of the Kansas Association of School Boards is attached (See Attachment #5).

A copy of testimony from Bill Hull, The Wichita Children's Home, is attached (See Attachment #6).

The chairman announced the hearings on Senate Bill 105 will be continued at 2:30 P.M. today in Room 123-S.

The meeting adjourned.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Bruna Vaughn	Emporia	Project Close Up
Pam Brown	Emporia	Project Close Up
Jennifer Baker	El Dorado	Project Close Up
Julie Sander	El Dorado	Project Close Up
Kassie Stiegel	El Dorado	Project Close Up
Vanine Bland	El Dorado	Close Up
Beth Hanna	El Dorado	Close Up
Richard Tolans	Goodland	Close - Up
Elliot Jusu	Goodland	Close - Up
Timothy Lillich	Goodland	Close - Up
Clinton Brown	Wichita	Close - Up
Ratucia Baker	Topeka	KASB
Dorris Ray	Wichita	Close - Up
Steve Wicks	Council Grove High Sch	Close - Up
Tracey Davis-Cauch	Concordia	Close Up
Lynada Ukens	Concordia	Close - Up
Ellen Fiedler	Wichita	" "
Teresa Jacks	Wichita	" "
Karl Smiley	"	" "
Doug Clarke	Wichita	Close - up
Incia Steger	Wichita	Topeka Close-up
Susan Reines	Wichita	" "
Rene' Robertson	Wichita	" "
Anja Schuette	Wichita	"
Elizabeth Aronsson	Wichita (from Sweden)	"
Vigil W Dean	Emporia	Kns. Close up

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Lenei Bowles	Wichita South H.S.	Close-Up
Lori Clair	Wichita Metro	Close-up
Marilyn Durocher	Wichita Metro	Close-up
Bill Oswalt	Teacher Wichita South H.S.	Close-up
M. D. McKENNEY	TOPEKA	UNITED SCHOOL ADMINISTRATOR
Luis Julio	P.O. Box 5283, Topeka 66605	Ks. Action for Children
Andy Kerbel	PO Box 5314 Topeka 66605	Ks. Children Services Council
January H. Scott	214 W. 6, Suite 301, Topeka	Ks. Com. Pres. of AASA
Bill Hull	810 N Holjorce Wichita	Wichita Children Home
PATRICIA WILSON	231 N. DELLROSE WICHITA	Wichita Children Home (Board of Directors)
Elizabeth L. Taylor	Topeka	Ks. Assn for the Education of Yielding Children & OJA
Marjorie Van Buren	Topeka	
Judy Zimmerman	teacher USD333 Concordia, KS	Close Up Ks.
Steve	Concordia, Ks.	Close Up Ks.
Mike	Concordia, Ks.	Close Up Kansas
Nick Bombardier	Concordia, Ks.	Close Up Kansas
Clarence Boyer	Osaka Ks	
Mike Boyer	Topeka	KBI
Brenda Hoyt	Topeka	Attorney General

2-23-83
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AN EXPLANATION OF SENATE BILL 105

(Session of 1983)

By Judge Robert L. Morrison,
(A member of the Juvenile Code Advisory Committee of the
Kansas Judicial Council.)

Section 1. In the 1982 session incarceration of up to 10 days was authorized. This section would allow that offender to be held in a juvenile detention facility where such is available.

Section 2. Restricts incarceration of a fish and game violator under 18 to 10 days and authorizes use of a juvenile detention facility.

Section 3. A cleanup to change authorization for a district magistrate to hear actions under the Kansas code for care of children and juvenile offender code.

Section 4. Report of a recommendation regarding data collection that I understand came from the new Advisory Commission on Juvenile Offender Programs. I'll express my personal concerns on this at the conclusion of my explanation of the bill.

Section 5,6,7 More cleanup section to incorporate the new terminology.

Section 9 & 10 Amendments to the uniform child custody jurisdiction act.

Section 11. Amends the Kansas code for care of children regarding transfer of venue to (1) require notice to all interested that the court has received a request to transfer venue, and (2) some coordination and communication between the transferring court and the receiving court.

Section 12 Clarifies that the county is not responsible for the expense of foster care for an alleged or adjudged child in need of care when the child has been placed in SRS custody. A similar amendment relating to the juvenile offender code is contained in Section 27 (on page 31).

Section 13 (a) (3) Authorizes a designated agent of the custodian to consent to medical treatment of a child in need of care.
(b) (1) Allows the court to authorize or direct that the county or district attorney file an application for mental care and treatment.

Similar amendments of the juvenile offender code are contained in Section 26 (on page 30).

Atch. 1

Section 14 This amendment slightly modifies the restriction against placing a nonoffender in a juvenile detention facility. Section 19 also deals with the problem.

Section 15,16, & 17 The 3 section deal with (1) the reporting of child abuse or neglect, (2) responsibility for investigation of such reports, & (3) the action to be taken following such investigation. KSA38-1523 (Section 16) was the section that left the greatest doubt regarding responsibility and authority, but it was really necessary to amend all 3 sections so that each section would deal with a single phase; i.e. (1) reporting, (2) investigation, and (3) action indicated.

Subsection (g) of Section 16 (page 21) was added in an attempt to resolve the problem of whether or not school personnel must obtain parental consent before authorizing the investigator access to the child. The Court-Education-SRS Liaison Committee is submitting a suggested amendment to this subsection.

Section 18. Clarifies that "investigation" is a "follow-up activity".

Section 19. Grants the law enforcement officer limited authority to place a child in need of care in a juvenile detention facility without waiting for the court to order it in an order of protective custody (KSA38-1542) or an order of temporary custody (KSA38-1543).

(e) Grants the placing law enforcement agency, as well as the county or district attorney, the authority to release a child from the facility where placed.

Section 20 & 21 Amendments are intended to more clearly state what was originally intended.

Section 22 Is intended to correct an omission and oversight by failing to designate the secretary as the guardian and conservator of a child in the custody of the secretary after parental rights have been terminated.

Section 23 (c) Intended to clarify that records of juvenile offenders over 16 years of age are subject to the same disclosure restrictions as adults.

Section 24 (c) (2) Allows the court to require payment of assessed costs, fees and restitution before granting expungement.

Section 23 (a) (5) Section 24 (g) & Section 25 Were not part of the juvenile code advisory committees recommendations.

Section 26 & 27 Similare to Section 12 & 13.

Section 28, 29, 30, & 35 Are additional sections relating to the collection of data.

Section 31 Allows use of certified psychologist to determine competency.

Section 32. Two of the state youth may attach and preclude further proceeding in a juvenile offender case.

Section 33. Clarifies that jeopardy may attach and preclude further proceeding in a juvenile offender case.

Section 34, 35, 36, 37, 38, & 39 Are addition cleanup amendments to make other statutes compatible with the new codes.

#2

NANCY PARRISH
STATE SENATOR, NINETEENTH DISTRICT
SHAWNEE COUNTY
3632 S. E. TOMAHAWK DR.
TOPEKA, KANSAS 66605
913-379-0702 HOME
913-296-7373 BUSINESS



TOPEKA

SENATE CHAMBER
February 23, 1983

COMMITTEE ASSIGNMENTS
CHAIRMAN: SHAWNEE COUNTY LEGISLATIVE
DELEGATION
ADVISORY COMMISSION ON JUVENILE
OFFENDER PROGRAMS
MEMBER: EDUCATION
FEDERAL AND STATE AFFAIRS
LOCAL GOVERNMENT
JOINT COMMITTEE ON SPECIAL CLAIMS
LEGISLATIVE AND CONGRESSIONAL
APPORTIONMENT
CONFIRMATIONS

Testimony given to the Senate Judiciary Committee on
Wednesday, February 23, 1983

As chairperson of the Advisory Commission on Juvenile
Offender programs, I'm appearing as a proponent of S.B. 105.
The Advisory Commission was created by the 1982 legislature
to oversee Juvenile Offender Programs. The membership on
the Commission includes 4 legislators, the Secretary of SRS
or the secretary's designee, the Commissioner of Education
or the commissioner's designee, the Attorney General or his
designee, 2 judges appointed by the Chief Justice, and 4 mem-
bers appointed by the governor, one representing law enforce-
ment, one representing the field of corrections, and 2 persons
actively involved in providing services for juvenile offenders.

The Advisory Commission on Juvenile Offender Programs
first met last October to begin on-site visits to the Youth
Centers and to review Juvenile Offender Programs and policies.
The first issue that the Juvenile Offender's Commission con-
fronted was the problem of retaining all the juvenile justice
statistics that had been reported prior to the implementation
of the new Juvenile Code. Prior to January 1 two sets of rec-
ords on juveniles were sent to the Statistical Analysis Center
of the KBI.

Atch. 2

The first set was the standard offense report which includes reported police contacts and arrests and is prepared by law enforcement officers. The second set of data is data that had been reported by the Court Service Officers in each judicial district and was compiled on a form called the Juvenile Court Statistical Card. The problem that occurs with the implementation of the new juvenile code is that now the court is not involved prior to the filing of charges by the County and District Attorneys. The records received by the court services officers would only pertain to those cases where a formal complaint is filed which according to the information I have received amounts to only around 30% of the cases. Another 30% of the cases are handled through diversion or through informal disposition. In order to salvage the information on informal dispositions and diversions that used to be reported by the Court Service Officers, the Juvenile Offender Commission recommends that the responsibility for reporting dispositions be shifted to the County or District Attorney's office. The language requiring the County or district attorneys to file reports on the dispositions of reported offenses appears in Section 25 of the bill on p. 29.

The second policy change recommended by the Juvenile Offenders Commission is to allow the maintenance and collection of personally identifiable information or name-based information by the Juvenile Justice Information System for statistical purposes. This second change we proposed goes beyond preserving the status quo of the Juvenile Justice Information System prior to the implementation of the new juvenile code.

Allowing the Juvenile Justice Information System to maintain personally identifiable information would enable statistics to be compiled that would tie the information received on the standard offense report to the information received as to the disposition. The reports are separate now and there is no way to determine if there are 10 kids each committing 1 crime or 1 kid committing 10 different crimes. When Mike Boyer, director of SAC, was asked last year during the discussion of the new juvenile code about the number of juveniles that the "3 strikes-you're out" provision would have applied to, Mike was unable to answer because his statistics were tabulated according to separate incidents and the disposition of cases and not according to individual records. The Juvenile Offenders Commission did recommend an important limitation on the dissemination of this information. The limitation is that accessibility be limited in the same way as the Social file is limited under 38-1607(b). In other words, the information is privileged and is open to inspection only by an attorney for the party or upon order by the judge.

Why is it important to collect statistical information within the juvenile justice system? The simplistic answer is ~~what~~ if statistical information is collected the information should be complete and accurate. But the Juvenile Offenders Commission tried to analyze the need for collecting this information and also the benefits that would be derived from the information.

Generally, the information will be invaluable in analyzing trends in the juvenile justice area which will be used for planning purposes by SRS and other agencies. The information will be helpful in evaluating our juvenile justice system. Accurate Statistical information is a necessary projective component in planning and implementing policy changes.

Section 4 deletes reference to the responsibility of the courts to furnish information to the Statistical Analysis Center.

Section 23 allows law enforcement records of juveniles under age 16 to be disclosed to the central repository for use in the juvenile justice information system.

Section 24 provides that the expungement section doesn't prohibit maintenance of expunged records in the juvenile justice information system.

Section 25 requires county and district attorneys to report the disposition of reported juvenile offenses.

Section 28 formally defines and establishes the Kansas juvenile justice information system.

Section 29 will be assigned to the central repository statute as a cross-reference to clarify that juvenile justice information can be collected in the central repository.

Section 30 requires the reporting to the central repository of the detention of a juvenile in either a detention facility or a youth residential facility.

Section 35 provides that the information maintained by the Kansas juvenile justice information system is an exception to the Open Records Law.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

2-27-83
#4

Testimony before the Senate Judiciary Committee
regarding S.B. 105

by

Patricia Baker, Senior Legal Counsel
Kansas Association of School Boards

Mr. Chairman, members of the committee, I appreciate the opportunity to appear before you on a matter of importance to the public schools in Kansas.

Members of the Kansas Association of School Boards appreciate the efforts put forth by this committee and others in revising the juvenile code. Most of the changes made in that code have facilitated the work of school administrators in carrying out their duties.

Our concern today is with one section of the proposed amendments under Senate Bill 105. Section 16(g) would require school administrators to allow SRS employees and law enforcement officials to have carte blanche access to children on school premises. While there is no objection to cooperating with investigators on the issue of child abuse, the role of the school and school administrators should be taken into account.

School officials act in loco parentis to the children in their care. Fulfillment of this role requires the officials to make daily decisions regarding children's well-being. Experience indicates that complete blind faith in the judgment of investigators does not always work towards the best-interest of the child.

Schools are not "neutral ground". School officials are not "neutral parties". School officials are continually called upon to deal with outside

Atch. 4

agencies. These facts should be taken into account in passing laws dealing with the rights and responsibilities of the agencies, the schools and most of all - the children.

In hopes of solving the concerns of all parties we offer a substitute for Section 16(g) as follows:

"(g) Cooperation of school personnel . . .

"Upon receipt of a written statement from the director of an area office of the state department of social and rehabilitation services that a child abuse case has been opened with respect to a particular child, administrators of primary and secondary schools shall allow employees of the department to interview that child on school premises, at such time and place and under such other conditions as the principal of the child's school shall determine in his sole discretion as being necessary to avoid disruption of the school and of the child's educational activities.

"Administrators of primary and secondary schools shall cooperate with law enforcement agencies in the investigation of a report of child abuse or neglect by allowing law enforcement officers to interview the child on school premises at such time and place and under such other conditions as the principal of the child's school shall determine in his sole discretion as being necessary to avoid disruption of the school and of the child's educational activities."

5 2-23-83

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

February 8, 1983

Senator Elwaine Pomeroy
State House
Topeka, Kansas 66612

Re: S.B. 105

Dear Senator Pomeroy:

Subsection (g) of S.B. 105 would require school administrators to allow SRS employees and law enforcement officials to have access to children while on school premises for the purpose of investigating a report of child abuse or neglect. To prevent abuse of the school's role in loco parentis, we believe that the time, place, and manner of any outsider's intervention in a child's life at school should be under the control of the school administrators. The proposed amendment to K.S.A. 38-1523 does not establish a way for the educators to be assured that a report has been filed, nor to limit the disruption of the school day caused by the sudden appearance of civil and criminal investigators in the classroom doorway. Experience has shown that we cannot rely upon the unbridled judgment of the investigators themselves to avoid abuse of their positions.

School people have an obligation to protect the children in their charge, and this legislation inappropriately assumes that SRS's interest in investigations is always carried out in the best interest of the child. It provides no role for the school in controlling these outside agents, regardless of the status of a report or investigation, or the family background, age, or level of maturity of a child proposed to be interrogated.

School people are interested in the welfare of the children they serve, and this proposed amendment unnecessarily ignores their role in caring for those children, in favor of apparently broad discretion in the hands of outside investigatory agents.

Thank you for your consideration of these issues.

Very truly yours,

Dennis McFall
Staff Legal Counsel

DM/ogl

Attch. 5

2-23-83
#6

THE WICHITA CHILDREN'S HOME
810 NORTH HOLYOKE • WICHITA, KANSAS 67208 • PHONE 684-6581

February 22, 1983

Senate Judiciary Committee
State Capital Building
Topeka, Kansas

Testimony, S.B. 105

Mr. Chairman and members of the Committee, my name is Bill Hull. I am representing the Wichita Children's Home in Wichita. The staff and Board of Directors of Wichita Children's Home understand and support the recently enacted Juvenile Code. We also support the proposed revisions of the bill as projected in Senate Bill 105.

There is one area of particular concern to Wichita Children's Home. Due to the fact that Wichita Children's Home has been designated as the facility in the Sedgwick County area to receive emergency referrals from the local law enforcement agencies, we have seen a substantial increase in emergency referrals. While the Children's Home is certainly willing to accept the emergency referrals, we also realize the necessity of being reimbursed for these services. During the fiscal month, January 20, 1983 - February 19, 1983, Wichita Children's Home accepted 29 emergency referrals that totalled 72 days of care. Based on the rate of payment from S.R.S., these services cost \$3,451.00. On page 13 of proposed S.B. 105, the proposal addresses the responsibility of payment for these emergency referrals. It is our opinion that the payment for these services should be equal to the payment received by Wichita Children's Home from the Department of S.R.S. for like services.

If the admission of emergency referrals remain constant for one year, the cost of serving these children/youth would be \$42,595. Being a private non-profit agency, Wichita Children's Home can not afford an additional deficit of this proportion.

Thank you for your consideration on this portion of S.B. 105.

Sincerely,



Bill Hull
Director, Wichita Children's Home

BH vs



Atch. 6