

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 January 30, 1984 in room 526-S of the Capitol.

All members were present except:

Representative Justice was excused. Representative Erne was absent.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes' Office
Nedra Spingler, Secretary

Conferees appearing before the committee:

Ann Smith, Assistant Shawnee County District Attorney
Mary Ellen Conlee, City of Wichita
Gene Johnson, Designee for Kansas Community Alcohol Safety Action Project Coordinators
Association
Ronald Eisenbarth, Kansas Citizens Advisory Committee on Alcohol and Other Drug Abuse
Glenn Leonardi, Kansas Alcoholism and Drug Abuse Counselor's Association
Brian Moline, State Corporation Commission
Don Schnacke, Kansas Independent Oil and Gas Association

The minutes of January 25, 1984, were approved.

Hearings were held on HB 2671, HB 2750 and HB 2600.

HB 2671 - An act relating to contributing to a child's misconduct.

Representative Vic Miller, sponsor of the bill, introduced Ann Smith, Assistant District Attorney, Shawnee County, who requested the bill.

Ms. Smith said the wording in current law regarding contributing to a child's misconduct is difficult to prove when prosecuting cases where children are encouraged to remain a delinquent. A distinction was needed between encouraging them to become and to remain delinquent.

A member questioned if a person who takes in a runaway child and protects them temporarily could be prosecuted under the bill. Ms. Smith said they probably could be, but she did not believe this would happen as the judge would take this into consideration.

HB 2750 - An act relating to alcohol treatment facilities.

Chairman Frey, author of the bill, said it was a followup to 1983 Substitute HB 2132 that provided for certification of alcohol safety action programs (ASAP) by the courts with no further involvement with SRS if certified by the court. An Attorney General's opinion issued after Substitute HB 2132 was passed states that these ASAP programs must be licensed by SRS. HB 2750 provides that, if the program is certified by the administrative judge, it is exempt from SRS licensing as a treatment facility.

Mary Ellen Conlee, representing the City of Wichita and the Municipal Court Judge, Robert Thiessen, who is president of the Municipal Court Judges Association, said the Judge and the Association supports HB 2750. In Wichita, Judge Thiessen has certified the Probation Office to do the work required by the DWI law, and this has worked well for a long time. The Probation Office does not want to be involved with SRS licensing and regulation.

Gene Johnson spoke for David Gorrell, president of the Kansas Community Alcohol Safety Action Project Coordinators Association, and gave a statement in support of HB 2750 (Attachment No. 1).

During questioning, Mr. Johnson said his group meets quarterly to review programs to assure that they meet necessary standards. The group is a professional association but operates with a volunteer staff. He noted the problems with SRS certification and licensing and its complicated contract requirements. In order to receive a license from SRS, alcohol

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MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 526-S, Statehouse, at 3:30 ~~xxx~~ p.m. on January 30, 1984.

safety action programs are subjected to several guidelines that are contrary to the judicial system. SRS guidelines would not apply the same to urban and rural areas. Local input from judges and prosecuting attorneys who run the DWI diversion program was needed.

The Chairman noted the input that is needed is between SRS and the courts. Historically, there has been no interaction between them. Although the courts do not feel they are subject to SRS, SRS regulates them anyway. He believed, if SRS licensing is required, SRS will, through rules and regulations, implement the requirements contained in the former contract. Chairman Frey said HB 2750 reflects what in reality is being done.

Ronald Eisenbarth, representing the Kansas Citizens Advisory Committee on Alcohol and Other Drug Abuse, opposed HB 2750. His statement is attached (Attachment No. 2). In additional remarks, he said exempting certain type services from licensing would be getting away from assuring that minimum standards are met. Licensing should not be confused with certification. He did not believe administrative judges who do not spend a lot of time on this type of program should be certifying them. His program, re-integration and social detoxification, would not be certified by a judge because it is not an ASAP program and is not in competition with those programs. Mr. Eisenbarth said the licensing requirement should be uniform for all types of alcohol treatment groups, educational as well as treatment.

Glenn Leonardi, representing the Kansas Alcoholism and Drug Abuse Counselor's Association, gave a statement (Attachment No. 3) expressing concerns with HB 2750. He requested that no action be taken on the bill this session to give members a chance to work with legislators to work out agreements.

HB 2600 - An act relating to KCC orders.

Brian Moline, KCC, said the bill was introduced at the request of the Garden City city commission who believed the ten-day period for filing motions for rehearings on rate cases was too short. The bill changes the period to 30 days. He said the KCC does not oppose the bill but requests that, regardless of what the extension might be, the same time extension should be given to the KCC to act. The KCC has had no problems with other cities regarding the 10-day limit.

Don Schnacke, Kansas Independent Oil and Gas Association, said the industry is not asking for the bill, and there have been no complaints with the 10-day period because members are familiar with it whereas the Garden City attorney may not have been. He believed 30 days was too long, and, since the industry favored 10-days, he suggested 15 days would be a good compromise.

The Committee discussed or acted upon several bills previously heard.

HB 2182 - An act relating to gifts to minors.

The Chairman noted the bill had been passed out of Committee in 1983 and re-referred because of lack of time on the House Calendar. Representative Wagnon moved to report the bill favorable for passage, seconded by Representative Douville. Following discussion, the motion carried.

HB 2219 - An act relating to qualifications for judges.

Representative Patrick moved to report the bill favorably, seconded by Representative Harper. Representative Solbach made a substitute motion, seconded by Representative Miller, to amend the bill by striking the language on line 32, starting with the semi-colon, and to the period on line 37. The language is no longer necessary because there are no longer associate district judges who have not practiced for five years before being appointed to courts. The substitute motion carried. Representative Miller made a motion to bring municipal judges under provision of the bill, seconded by Representative Blumenthal. The motion carried. Staff noted a suggestion made by the Judicial Administration Office to amend the bill on line 61 to reference the state constitution instead of the code of ethics in the statutes because judges might be removed through impeachment. Representative Vancrum made a motion that this be done, seconded by Representative Patrick. The motion carried.

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There was discussion regarding the lack of standards being set in the bill that determine whether judges who have been removed by the Supreme Court are re-instated and eligible to run for office, and concern was expressed that there was no definition for "eligible". A member said "eligible" was the standard set by the canon of ethics used by the Supreme Court. The point was made that the word "eligible" in this bill means a certain amount of faith must be given to the discretion of the Supreme Court. Representative Miller made a motion that HB 2219 be reported favorable for passage, as amended, seconded by Representative Patrick. The motion carried.

SB 346 - An act relating to marketable record title.

Representative Ediger moved to amend the bill on page 5, lines 164 and 165, to update the year to 1986. The motion was seconded by Representative Wagon, and it carried. Representative Patrick moved to report SB 346 favorably, as amended, seconded by Representative Douville. Motion carried.

HB 2222 - An act relating to clerks of the district courts.

A member said HB 2222 was approximately the same as SB 348, also in Committee. He suggested the Senate Bill be recommended for passage instead. The Chairman objected to this since SB 348 has not been heard. Representative Miller moved to report HB 2222 adversely, seconded by Representative Patrick. There was discussion regarding the clerk's role in assisting people in small claims court procedures. HB 2222 would allow them to give any kind of advice including legal advice without being liable. Representative Solbach made a substitute motion to amend the bill by adding language to the effect that clerks could provide routine, out-of-court assistance to litigants when legal advice is not available. There was no second to the substitute motion. Representative Cloud made a substitute motion to amend the bill on line 36 to add "information" to "advice and assistance", seconded by Representative Buehler. In discussion, it was noted this word added nothing that was not already allowed, and the objection was to clerks giving legal advice. Representative Blumenthal moved to table HB 2222, seconded by Representative Douville. Motion carried 9 to 6. It was clarified that Representative Cloud's substitute motion was still on the table if HB 2222 is removed from the table.

The meeting was adjourned at 5:25 p.m.

ASAP

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Attachment # 1

RICHARD D. LOFFSWOLD
Administrative Judge
Project Director

E. DAVID GORRELL C.A.C.
Coordinator

BARRY A. HEITMAN
Coordinator

January 27, 1984

The Honorable Robert G. Frey
Chairman
House Judiciary Committee
Kansas House of Representatives
115 South
State Capitol Building
Topeka, Kansas 66612

RE: House Bill 2750

Dear Representative Frey:

As President of the Kansas Community ADSAP Coordinators Association, representing 27 ADSAP Programs through the state of Kansas, I am writing to express KCADSAP support for House Bill 2750.

Prior commitments prevent my appearing before the Judiciary Committee hearing on Monday, January 30, 1984.

Designee for the KCADSAP Association will be Mr. Gene Johnson.

Rest assured that KCADSAP appreciates the support received during the 1983 legislative session and we solícite your continued support of the community based ADSAP Programs. "Local control does work".

Yours very truly,

A handwritten signature in cursive script, appearing to read 'E. David Gorrell'.

E. David Gorrell, C.A.C.
President
KCADSAP Coordinators Association

EDG/pr

cc: The Honorable Larry Erne
The Honorable Jim Patterson
Mr. Gene Johnson

TESTIMONY ON H.B. 2750

HOUSE JUDICIARY COMMITTEE

January 30, 1984

My name is Gene Johnson and I am representing the Kansas Community Alcohol Safety Action Project Coordinators Association. Our membership consists of 27 organizations serving all of the Judicial Districts in the State of Kansas.

We support H.B. 2750 as a continuation of our successful support of H.B. 2132 last session. It is our belief that Certification of the Community Alcohol and Drug Safety Action Projects should be the responsibility of the Administrative Judge of each Judicial District with the approval of all of the Judges within that district. In the event that the Administrative Judge chooses not to certify an Alcohol and Drug Safety Action Project within his district, he must notify the Secretary of Social Rehabilitation Services who then must be responsible for the certification of local qualified programs.

Our Association in the 1983 session supported H.B. 2132 on the basis that each Judicial District had a choice of performing their own certification or referring the matter back to the Secretary of Social Rehabilitation Services. A large majority of Judicial Districts chose to perform their own certification process.

Shortly after the legislature adjourned, a request was presented to the Attorney General from the general counsel of Social Rehabilitation Services for an opinion of whether the Alcohol and Drug Safety Action Project would subject to licensing under K.S.A. 65-4001 and 65-4601. This legislation had been passed in the 1972 session. The Attorney General's opinion was that all Alcohol and Drug Safety Action Projects would have to be licensed irregardless of whether the Administrative Judge had already granted them a certification. This opinion set aside most of the objectives that were contained in H.B. 2132 which passed by a large majority last session.

Now, based on this opinion, all Alcohol and Drug Safety Action Projects must be certified by either the Administrative Judge or the Secretary of Social Rehabilitation Services and licensed by the Secretary of Social Rehabilitation Services. We do not believe that it was the intent of the legislature to require both certification and licensing of these programs.

Our membership supports the passage of H.B. 2750 unanimously in our continuing efforts to rid the murder and mayhem on our streets and highways by the drinking driver.

Thank you.

Respectfully,


Gene Johnson

**Kansas
Citizens
Advisory
Committee on Alcohol and other Drug Abuse**

*Attachment No. 2
1-30-84*

Attachment # 2

P.O. BOX 4052 TOPEKA, KANSAS 66604

January 30, 1984

TO: House Judiciary Committee

FROM: Ronald L. Eisenbarth, *RLE* Representing The Kansas Citizens Advisory Committee
on Alcohol and other Drug Abuse

SUBJECT: House Bill 2750

Dear Chairman and Committee Members:

I appear before you on behalf of the Kansas Citizens Committee on Alcohol and other Drug Abuse to express our concerns and opposition to House Bill 2750. The Citizens Committee has consistently opposed similar legislative proposals in the past.

Section 1, number 4, of this proposed legislation would add "community based alcohol and drug safety action programs certified by an administrative judge" to a list of exemptions already covered by K.S.A. 65-4003. All other exemptions in Section 1, number 4 of House Bill 2750 are licensed under another state law.

An important priority of the Citizens Committee is that a high quality of services be provided to citizens of Kansas who have alcohol and/or drug abuse problems. In order to accomplish this, all programs providing services should be required to meet a list of minimum standards. Presently all community based alcohol and drug services are required by K.S.A. 65-4001 (et. seq.) to be licensed by the State of Kansas. This proposed legislation exempting community based alcohol-drug safety action programs from state licensure would allow these programs to provide services without having to meet any specific criteria.

We feel an obligation to the citizens of Kansas to insure that service delivery for alcohol and drug abuse problems statewide is provided with a consistency with the same minimum requirements for all services.

It is with these concerns the Kansas Citizens Committee on Alcohol and other Drug Abuse express our opposition to House Bill 2750.

Att. h. 2

KANSAS ALCOHOLISM AND DRUG ABUSE COUNSELOR'S ASSOCIATION

TESTIMONY

TO: House Judiciary Committee

FROM: Glenn Leonardi, Representing the Kansas Alcoholism and Drug Abuse Counselor's Association *G.L.*

SUBJECT: House Bill No. 2750

DATE: January 30, 1984

I appear before you today on behalf of the Kansas Alcoholism and Drug Abuse Counselor's Association (KADACA) to voice our association's concerns about House Bill No. 2750.

KADACA is a professional organization of over two hundred and fifty certified alcoholism and drug abuse counselors representing the entire state of Kansas. The association's purpose is to develop and maintain professional standards and to insure delivery of quality services by the members of this profession.

Prior to January 20, 1984 alcohol and other drug abuse professionals in Kansas were served by two professional organizations, the Kansas Alcoholism Counselor's Association (KACA) and the Kansas Association of Drug Abuse Counselors (KADAC). In order to better meet the needs of our profession and ultimately the clients that we serve, the two associations have merged and on January 20, 1984, KADACA held its Charter meeting. *270 members w/for it's*

In the legislative session of 1982, the members of both associations were encouraged by the significant steps that were taken by Senator Myers to incorporate technical assistance for professionals throughout the field during preparation of the original legislation, Senate Bill No. 699. We saw this inclusion of input from the field as an effort to develop a piece of legislation that would effectively meet the social and administrative needs of Kansas. We all knew at that time that there would be problems with SB-699 that would require attention and resolution in the future. Our membership was not then nor is it now opposed to amendments that will improve upon the implementation of legislative intent.

In the legislative session of 1983 amendments were made to the original legislation via the passage of Substitute for House Bill No. 2132. The main concerns that were expressed by our membership at that time which relate specifically to House Bill No. 2750 centered around the issue of professional accountability. The optional removal of Social and Rehabilitation Services/Alcohol and Drug Abuse Services (SRS/ADAS)

from the process of certifying Alcohol and Drug Safety Action Programs (ADSAP) eliminates the standardized accounting of quality assurance that is essential for all programs within the field of human services.

House Bill No. 2750 goes a step further in its provision to totally exempt ADSAP programs from state licensure.

On December 14, 1984, the legislative committee of KADACA recommended that a position of strong opposition be adopted relative to House Bill No. 2750. At the Charter meeting of the full membership on January 20, 1984, however, the committee amended its recommendation due to the introduction of related legislation that is in itself strong opposition to HB-2750.

In view of the quantity and especially the diversity of interest and concern that is already present in the 1984 legislative session relative to Alcohol and Drug Safety Action Programs, KADACA recommends that no change in the current legislation be implemented this year.