

Approved

Date

2-2-84
shMINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFAREThe meeting was called to order by Marvin Littlejohn at
Chairperson1:30 a.m./p.m. on February 1, 1984 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research
 Bill Wolff, Research
 Norm Furse, Revisor
 Sue Hill, Secy. to Committee

Conferees appearing before the committee:

Bob Barnum, Commissioner of Youth Services/SRS
 Allan L. Hurlburt, Legal Division/Youth Services/SRS
 Gabe Faiman, Rehabilitation Services/SRS
 Sharon Cook, Kansas Commission for the Hearing Impaired
 Paulette Strong, Lawrence, Kansas - Coordinating Services for Handicapped Students at K.U.
 Hap Scott, Topeka, Ks. (Parent of a young adult with hearing impairment).
 Jan Konda, Interpreter trainer, Johnson County, Kansas
 Ernie Mosher, League of Kansas Municipalities
 Rick McAdams, Executive Director of Deaf and Hard of Hearing
 Sharaine Rice, Independent Living Specialist

(Attachment No. 1.), visitor's register.

Chairman called meeting to order, calling attention to committee to the print-out before them on the SUMMARY OF ACT CONCERNING INTERSTATE COMPACT ACT ON THE PLACEMENT OF CHILDREN, that was prepared by request of Rep. Friedeman at meeting 1/31/84. Chairman asked Emalene Correll to outline this act for committee. Ms. Correll comprehensively defined the act. (See Attachment No. 2-A, and No. 2-B), for details. She then answered questions from committee.

Hearings scheduled this date on HB 2709 and HB 2715.

Hearings on HB 2709:

Commissioner Barnum, Youth Services/SRS stated their department is a proponent of this bill, and spoke to 2 issues therein they are requesting. The provision that language, "sexual exploitation" be included in the definition of child abuse and neglect. Also, requesting change to correct a disagreement the Federal authorities have with state's interpretation of state code. His department is asking for a section to be deleted from the code, i.e.-- (See Attachment No. 3.), for details.

Commissioner Barnum then asked Mr. Hurlburg to explain to committee the term "imminent danger", and what impact it constitutes; reporting of incidents in child needed care area; technical fixes they would like considered in the bill.

Mr. Hurlburg then spoke at length on these items. Further on what the balloon copies of HB 2709 really propose. (See Attachment No. 4.), for details. Balloons were then distributed to committee, (see Attachment No. 5.), for details. He noted in the bill as it was drafted, page 2, line 64, stated that the criminal code says, (sexual exploitation to mean to a child up to the age of 16.) The Federal government contends that this age should be raised to 18 years. Further, he commented on changes and technical language involved in deletions as per Attachment No. 5, in the regard to releasing records. He then detailed their recommendations in balloon copies. (See Attachments No. 6-A, and No. 6-B), for details, on language changes to strike "imminent", and add, "constitute a danger to the child". He stated this would not place as high a burden on the law enforcement officer in situations of this type. He then answered questions from committee and staff.

Rep. Kline moved to approve the adoption of the balloon copies as presented. Motion seconded by Rep. Blumenthal, lengthy discussion followed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 pm/p.m. on February 1, 19 84

Chairman then ruled the motion and motion seconded out of order since the balloon suggests elimination of a whole section of the bill, and this is disallowed. Lengthy discussion ensued. Chairman asked staff to advise on a technical point, and Norm Furse, revisor, stated it would be germane to amend these balloon suggestions into the bill, however, it does raise some different policy questions.

Rep. Kline then moved to have Balloons amended into HB 2709, and we would have a hearing again when this is completed, motion seconded by Rep. Blumenthal.

Rep. Wagnon made a substitute motion that we introduce these balloons as a separate bill, and not attach them to HB 2709 so that we could proceed with HB 2709, then later hear the other issues independently. This substitute motion seconded by Rep. Kline. Extensive discussion followed. Motion carried. Rep. Friedeman wished to be recorded as a no vote.

Hearings on HB 2709 closed.

Hearings on HB 2715 began:

Mr. Gabe Faiman of SRS distributed printed testimony to committee, see (Attachment No. 7.), for details. He stated the recommendations of their department were to more effectively recognize skills required of interpreters for the deaf, clarify language with regard to the provision of interpreter services, delete outdated deleterious language in the law. Further, they are hopeful that the hearing impaired persons will not be curbed in their participation in the community and contribution to society.

(May it be noted here that interpreters were present to interpret for hearing impaired persons who attended committee meeting this date.)

Ms. Sharon Cook, distributed her printed testimony to committee, (See Attachment No. 8.), for details. She cited recommendations, i.e., line changes; term "mute"; term, "appointing authority" of interpreters; requiring Kansas Commission to maintain a list of qualified interpreters; 48 hour notice of interpreters; etc. She then answered questions from committee and staff. Cost estimates were discussed at this point.

Ms. Paulette Strong, Lawrence, Ks. who works to coordinate services for the Hearing Impaired at the University of Kansas, stated she feels a great barrier against all hearing impaired is the threat of being unable to communicate. She explained that writing notes as a means of communication is believed to be a good means, when in fact it is not. She hopes equal treatment can be made available from professional, social and government service providers. Further, this central coordinating agency this is being discussed today, could insure a consistent application of high standards for interpreters hired for the state.

Mrs. Hap Scott, mother of a young adult with hearing impairments related some personal situations regarding her son in trying to teach him to become independent in society. How the barriers have made this difficult. Society says they cannot hire the deaf because they do not have interpreters to train them to do their jobs. When they are picked up the police and cannot communicate, the police say they are doing the best they can in these situations, --- is just isn't good enough. Further, she stated, I truly want the same rights for my son and other hearing impaired that each of us without this disability have.

Jan Kanda, a teacher of interpreters explained how 85% of the deaf use American sign language, and it is not like English or finger spelling. She spoke of their 2 year training program for interpreters, and answering questions from committee, stated it costs \$17.50 per hour for 64 hours of training, plus tex books costs. Further, she is happy about the provision in the bill for the court authority to pay for the interpreters service since many hearing impaired cannot pay for this service.

Mr. Ernie Mosher, League of Ks. Municipalities spoke to concerns on HB 2715, and is against some provisions spoken to in line 45. Provisions are going to be necessary but this means all of our cities, counties, townships, school districts, etc. Feels perhaps a deaf person's family member could be their interpreter. Someone they are used to in their daily lifestyle. Further, he has reservations about this but has no real suggestions on how to deal with it. Feels it a real problem to solve.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 423-S, Statehouse, at 1:30 a.m./p.m. on February 1, 1984

Mr. Rick McAdams, Executive Director of Deaf and Hard of Hearing Counseling Services, spoke to HB 2715, stating that he comes before the committee representing 18,400 people in his area. Due to a grave lack of deaf awareness on the part of the hearing community, the legal rights and the personal well being of the population I represent are at risk. The first step toward reducing that risk was made when Kansas Commission for the Hearing Impaired was established. Then, for the first time the hearing impaired was given a voice at the state level to assist them. The medical and legal areas are the two most crucial areas, as they deal with the life and death of these individuals. We must have the support and strength that will come from clearly defined guide lines and requirements for their protection of those rights that are now at risk. We hope, with your help that we can arrive at a time when qualified interpreter service is assured by clearly defined criteria. With this taking place, it will help to remove many of the horror stories that we have had to deal with in the past.

Sharaine Rice, Independent Living Specialist then spoke and signed, to committee her views, and asked if they would please read her printed comments. (See Attachment No. 9.), for details. She explained when she goes to the doctor, she'd like an interpreter, not her husband, or a member of her family. If she would have to go to court, she wants an interpreter. Families are very emotionally involved, and sometimes they don't wish to interpret, and have the right to refuse. I understand that she said.

Chairman then stated if anyone had further comments, they could be presented to the members of the committee in written form, and they would be considered along with the personal testimony given today. Possible action was on agenda for meeting on February 2, 1984, but if there is written testimony to be studied, that action will be deferred.

Meeting adjourned at 3:05 p.m.

#1

#1

Date: 2-1-84

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE

Please Print

NAME	ORGANIZATION	ADDRESS
Sharon K. Cook	KS. Commission of Hearing Impaired	2700 W. SIXTH Topeka, KS 66606
Bobby H. Fisher	Pres. of Topeka Assn. of Deaf	218 E. 9th St. Topeka, KS. 66612
Eugene Ash	Vice Pres of Topeka Assn of Deaf	1111 Western, Topeka KS
LISA CASPARIAN	Vocational Rehabilitation Counselor	5165 Merriam Dr. Merriam, KS 66604
Basil Kessler	Deaf + Hand of Hearing Council	1646 E. Central Wichita KS 67214
Michael Byington	TRCIT/KABVT	1119 S. W. 10th #2 Topeka 66604
Harriet	Parent	116 Clay Topeka 66606
John W. Adams	Exec Director - Deaf + Hand of Hearing Council	1646 E. Central Wichita 67214
Mitch Cooper	Topeka Independent Living Services Resource Center, Inc.	1119 W. 10th Topeka 66604
Sharaine Rice	THE WHOLE PERSON INC.	6301 Rockhill Rd, Suite 305E KC, Missouri 64131
Bob Barrman	TOPEKA YOUTH SVCS	TOPEKA KS
Allen Hurlock	Legal Div SRS	Topeka, K
Julie Hack	OBSERVER	LAWRENCE
Sheehan	SSB	Topeka
Joan Kewerenz	Rehab Soc. S.R.S.	Topeka
Gabe Farmer	Rehab. Svcs. SRS	Topeka
John Smith	ACCH	Topeka, KS
KETH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Barb Reinert	KWPCensus	"
Leonard Hall	City of Olathe	Olathe

Attn #1
2-1-1984

SUMMARY OF ACT CONCERNING THE INTERSTATE COMPACT
ON THE PLACEMENT OF CHILDREN

2-a
2-1-84

The Interstate Compact on the Placement of Children was enacted by the 1976 Legislature and appears in the Kansas statutes at K.S.A. 38-1201 et seq. The Compact language itself is totally contained in K.S.A. 38-1202.

K.S.A. 38-1201 sets out the legislative findings and declarations that led to adopting the Compact in Kansas. Among the declarations and findings are: (1) that finding suitable homes for children requires the full attention and resources of the state; (2) that the needs of children and adults cannot be met by restricting child placement services and supervision to Kansas; (3) that would-be parents and children have needs that can only be met when children in need of placement are matched with adults who can care for them; and (4) a variety of circumstances makes interstate placements of children essential and offers compelling reasons for an interstate compact. K.S.A. 38-1201 also states that it is the policy of the state to cooperate fully with other states in providing that no children shall be sent or brought into any other party state for placement in foster care or as a preliminary to possible adoption unless the sending agency shall comply with each and every requirement set forth in the Compact.

K.S.A. 38-1202 enacts the Compact into law and enters into such Compact with any other states legally joining therein.

The body of the Compact is also set out in K.S.A. 38-1202. Article I states the purpose and policy of the Compact. Article II contains definitions used in the Compact. Article III sets out conditions for the placement of children. Article IV states that bringing a child into a receiving state in violation of the terms of the Compact constitutes a violation of the laws of both the sending and receiving state. Article V specifies that a sending agency retains jurisdiction over the child in certain circumstances and sets out the rights of public and private child placing agencies. Article VI relates to the institutional placement of delinquent children. Article VII provides for the designation of a Compact administrator in each member state. Article VII sets out exceptions to the Compact, i.e., the sending or bringing a child into a receiving state by a relative or guardian or pursuant to another Compact or interstate agreement. Articles IX and X are technical articles that concern enactment and withdrawal from the Compact. A copy of the "Interstate Compact on the Placement of Children" as it appears in the Kansas statute is attached.

K.S.A. 38-1203 authorizes the Governor to designate an officer to serve as the Compact administrator for Kansas and authorizes the person so designated to promulgate rules and regulations necessary to carry out the terms of the Compact.

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K.S.A. 38-1204 authorizes the Compact administrator to enter into supplementary agreement with appropriate officials in other states.

K.S.A. 38-1205 authorizes the Kansas Compact administrator, who is the Secretary of Social and Rehabilitation Services, to make payments necessary to discharge any financial obligations of the state resulting from the Compact, subject to the approval of the Director of Accounts and Reports.

K.S.A. 38-1206 places a duty on the courts, departments, agencies, and officers of the state and its subdivisions to enforce the Compact and carry out its purposes and intent.

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sas; (2) that the needs of children and of adults cannot be met by restricting child placement services and supervision to the state of Kansas; (3) that would-be parents and children have need for love and security and fulfillment that can be met only when children in need of placement are matched with adults who can care for them; (4) a variety of circumstances makes interstate placements of children essential and offers compelling reasons for an interstate compact under which the jurisdictional, administrative and human rights and obligations involved can be protected.

It shall therefore be the policy of this state, in adopting the interstate compact on the placement of children, to cooperate fully with other states in providing that no children shall be sent or brought into any other party state for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this interstate compact.

History: L. 1976, ch. 206, § 1; July 1.

Cross References to Related Sections:

Adoption proceedings, see 59-2277 to 59-2279.

Adoption, see also ch. 59, art. 21.

38-1202. Enactment of compact. The interstate compact on the placement of children is hereby enacted into law and entered into with any other state or states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

The contracting states solemnly agree that:

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions

As used in this compact: (a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation

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of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. *Retention of Jurisdiction*

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state, nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. *Institutional Care of Delinquent Children*

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

(1) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. *Compact Administrator*

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. *Limitations*

This compact shall not apply to: (a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. *Enactment and Withdrawal*

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two (2) years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. *Construction and Severability*

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History: L. 1976, ch. 206, § 2; July 1.

Cross References to Related Sections:

Adoption proceedings, see 59-2277 to 59-2279.

Adoption, see ch. 59, art. 21.

CASE ANNOTATIONS

1. Mentioned; the state has a legitimate and compelling interest to protect children and may require private establishments which provide residential care for children to be licensed. State *ex rel.* O'Sullivan v. Heart Ministries, Inc., 227 K.224, 247, 607 P.2d 1102.

38-1203. Compact administrator; appointment; duties. Pursuant to said compact, the governor is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regula-

Section I1. Title of Bill:

Kansas Code for Care of Children regarding definitions and law enforcement records.

2. Purpose of Bill:

To ensure that sexual exploitation of a person under the age of 18 is included in the Kansas definition of child abuse or neglect.

3. Why The Bill:

To ensure that the sexual offenses described in the Criminal Code and referred to in the Kansas Code for Care of Children, K.S.A. 1983 Supp. 38-1502(c) - "Article 35, Chap. 21 of the Kansas Statutes Annotated and those acts described in K.S.A. 21-3602 or K.S.A. 21-3603 and amendments thereto" extend to include the age range of all children covered by the Kansas Code for Care of Children and bring Kansas into conformity with the federal regulations concerning sexual abuse and sexual exploitation.

4. Background of the Bill:

In Public Law 95-266, the definition of child abuse and neglect was amended to include sexual exploitation. This definition is included in 45 C.F.R. 1340.2(d) 48 Federal Register 3698 (January 26, 1983). The definition of sexual abuse in the Kansas laws is contained in Article 35, Chap. 21 of the Kansas Statutes Annotated and those acts described in K.S.A. 21-3602 or K.S.A. 21-3603. These acts are in the Criminal Code and are defined in terms of involving children under the age 16 or less, rather than below the age of 18 as required in the Kansas Code for Care of Children. The reference to the Criminal Code in regard to defining child sexual abuse requires clarification of the Kansas Code for Care of Children to ensure that all children below the age of 18 are included in the definition of sexual abuse.

A favorable Attorney General's opinion has been received confirming that youth under the age of 18 would be considered sexually abused under any of the definitions contained in the relevant sections of the Criminal Code referred to above; however this specific amendment to the Kansas Code for Care of Children will provide statutory protection for all children in need of care in regard to sexual abuse and eliminate any possible grounds for court action which could jeopardize the safety and welfare of a child in need of care.

5. Possible Problems with the Bill:

Some resistance from county or district attorneys or law enforcement personnel may be encountered when the Kansas Code for Care of Children specifically includes the 16 and 17-year old youth (girl) as a victim of child sexual abuse as young women this age may be considered seductive and as contributing to the commitment of the act.

Rebuttal:

The Kansas Code for Care of Children is designed to provide civil proceedings for the protection of children and the Code proceeds to define a child as a person "under the age of 18". The wording of this bill insures the protection of all youth under the age of 18 from sexual abuse or sexual exploitation without discrimination due to age.

6. SRS Recommendations:

Youth Services recommends full SRS support.

Section II - House Bill 2709

1. Title of Bill:
Amendment to K.S.A. 1983 Supp. 38-1508 to delete subsection (f) regarding access to child abuse/neglect reports and records.
2. Purpose of Bill:
This section deletes K.S.A. 1983 Supp. 38-1508(f) which was interpreted by the federal agencies as giving the court authority to release child abuse/neglect information to inappropriate persons.
3. Why the Bill:
Deletion of subsection (f) will eliminate the problem with eligibility for the federal child abuse formula grant money experienced this past summer regarding the confidentiality of law enforcement records. This section was seen as too broad for conformance with the federal regulations.
4. Background of the Bill:
K.S.A. 1983 Supp. 38-1507 and 38-1508 already provided that all interested parties may have access to the child abuse/neglect reports and records that they need, subsection (f) is seen as unnecessary to access child abuse/neglect information by appropriate persons.
5. Possible Problems with the Bill:
None.
6. SRS Recommendations:
Youth Services recommends full SRS supports.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
1-23-84

Statement Regarding Suggested Amendments to House Bill 2709

1. Title of Bill:

Kansas Code for Care of Children regarding definitions and law enforcement records. Provision for Child In Need of Care Information System.

Section III - House Bill 2709

Amendment to the Kansas Code for Care of Children to include a section which would:

- establish a child in need of care information system within and as a part of the central repository as defined in K.S.A. 22-4701;
- reduce from imminent danger to danger, the standard for law enforcement to take a child into custody without a court order;
- define children who are runaways as being in danger.

2. Purpose of Bill:

To provide more accurate information from Kansas juvenile justice agencies regarding children in need of care.

To clarify law enforcement responsibility to pick up for protection youth who are runaways and to provide clear statutory authority for this activity.

3. Why the Bill:

To make provision in the Kansas Code for Care of Children for a data information system for children in need of care. Such an information system will improve the accuracy of data currently available and provide more complete data concerning this juvenile population.

The bill also will enable and authorize the protective custody for a time limited period of youth who are runaways.

4. Background of the Bill:

The Kansas Juvenile Offenders Code K.S.A. 1983 Supp. 38-1617 and 1618 provides for a juvenile offender information system which becomes a part of the central repository as defined by K.S.A. 22-4707. The quantity and the quality of this information provides an accurate report of proceedings regarding the juvenile offender. A comparable system providing data concerning children in need of care is needed for accurate reporting concerning contacts of the juvenile justice agencies with these children.

The Court-Education-SRS Liaison Committee has been discussing issues related to runaway and missing children. From those discussions, it has become apparent that law enforcement agencies are not uniformly picking up for protective custody runaway youth under the current statutory language. This is directed at resolving the problem.

5. Possible Problems with the Bill:

None.

6. SRS Recommendations:

Youth Services recommends full SRS support.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
2-1-84

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~~juvenile-offender~~ information system; definitions. As used in K.S.A. 1983 Supp. 38-1618 and amendments thereto, unless the context otherwise requires:

(a) "Central repository" has the meaning provided by K.S.A. 22-4701 and amendments thereto.

(b) "Director" means the director of the Kansas bureau of investigation.

(c) "~~juvenile-offender~~ information" means data relating to juveniles alleged or adjudicated to be ~~juvenile-offenders~~ of ~~offenses committed or alleged to have been committed by juveniles in proceedings~~ pursuant to the Kansas juvenile code or Kansas ~~juvenile-offenders~~ code.

(d) "Juvenile justice agency" means any county or district attorney, law enforcement agency of this state or of any political subdivision of this state, court of this state or of a municipality of this state, administrative agency of this state or any political subdivision of this state, ~~state youth center~~ or juvenile detention facility.

(e) "Reportable event" means:
(1) Issuance of a ~~warrant~~ to take a ~~juvenile~~ into custody;
(2) taking a ~~juvenile~~ into custody pursuant to this code;
(3) release of a ~~juvenile~~ who has been taken into custody pursuant to this code, without the filing of a ~~complaint~~;
(4) dismissal of a ~~complaint~~ filed pursuant to this code;
(5) ~~an~~ adjudication in a proceeding pursuant to this code;
(6) ~~a~~ disposition in a proceeding pursuant to this code;

~~(7) commitment to or placement in a youth residential facility, juvenile detention facility or state youth center pursuant to this code;~~

(8) release or discharge from commitment or jurisdiction of the court pursuant to this code;

(9) escape from commitment or placement pursuant to this code;

Change to: Child in need of care

Change to: Section _____

Change to: Child in need of care

Change to: children

Change to: children in need of care

Delete

Change to: code for care of children

Delete

Change to "child"

Change to: an ex parte order

Add: pursuant to K.S.A. 1983 Supp. 38-1542

Change to: child

Change to: child

Change to: petition.

Change to: petition.

Add: NEW SECTION (5) entry of an order for informal supervision pursuant to K.S.A. 1983 Supp. 38-1544;

Change to: Old Section 5 to section 6.

Change to: Section 6 to Section 7.

Delete: All section 7.

Attch. 5

~~(10) entry of a judgment of an appellate court that reverses adjudication or disposition pursuant to this code;~~

Delete all Section 10 - Add NEW SECTION 10 "entry of an order terminating parental rights;"

~~(11) an order authorizing prosecution as an adult; or~~

Delete all Section 11

(12) any other event arising out of or occurring during the course of proceedings pursuant to this code and declared to be reportable by rules and regulations of the director.

Change Section 12 to Section 11

History: L. 1983, ch. 140, § 35; July 1.

~~§§ 1618~~ Same; establishment and maintenance. (a) In order to properly advise

Delete Statute number - reference New Section _____

the three branches of government on the operation of the juvenile justice system, there is hereby established within and as a part of the central repository, as defined by K.S.A. 22-4701 and amendments thereto, a ~~juvenile offender information system~~. The system shall serve as a repository of ~~juvenile offender~~ information which is collected by juvenile justice agencies and reported to the system.

Change to: child in need of care

Change to: child in need of care

(b) Except as otherwise provided by this subsection, every juvenile justice agency shall report ~~juvenile offender~~ information, whether collected manually or by means of an automated system, to the central repository, in accordance with rules and regulations adopted pursuant to this section. A juvenile justice agency shall report to the central repository those reportable events involving a violation of a county resolution or city ordinance only when required by rules and regulations adopted by the director.

Change to: child in need of care

(c) Reporting methods may include:

(1) Submission of ~~juvenile offender~~ information by a juvenile justice agency directly to the central repository;

Change to: child in need of care

(2) if the information can readily be collected and reported through the court system, submission to the central repository by the office of judicial administrator; or

(3) if the information can readily be collected and reported through juvenile justice agencies that are part of a geographically based information system, submission to the central repository by the agencies.

(d) The director may determine, by rule and regulation, the reportable events to be reported by each juvenile justice agency, in order to avoid duplication in reporting.

(e) Juvenile offender information maintained in the juvenile offender information system is confidential and shall not be disseminated or publicly disclosed in a manner which enables identification of any individual who is a subject of the information, except that the information shall be open to inspection by county and district attorneys, by attorneys for the parties to a proceeding under this code or upon order of a judge of the district court or an appellate court.

~~(f) Any journal entry of an adjudication of a juvenile to be a juvenile offender shall state the number of the statute under which the juvenile is adjudicated to be a juvenile offender and specify whether each offense, if done by an adult, would constitute a felony or misdemeanor, as defined by K.S.A. 21-3105 and amendments thereto.~~

(g) The director shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section.

~~(h) K.S.A. 1983 Supp. 38-1617 and this section shall be part of and supplemental to the Kansas juvenile offenders code.~~

History: L. 1983, ch. 140, § 36; July 1.

Cross References to Related Sections:

Information on children in need of care, see 20-319.

Delete

Delete all section (f)

Change Section (g) to (f)

Change Section (g) to (g)

Change to: New Section

Change to: code for care of children.

Attom' 6-a
2-1-84

38-1524. Same; removal of child from scene; duties of agencies. (a) When a report to a law enforcement agency indicates that a child may be in imminent danger, the law enforcement agency shall promptly initiate an investigation. If the law enforcement officer reasonably believes the child is in imminent danger, the officer shall remove the child from the location where the child is found as authorized by K.S.A. 1983 Supp. 38-1527 and amendments thereto.

Strike "imminent"

Strike "imminent"

(b) Whenever any person furnishes information to the state department of social and rehabilitation services that a child appears to be a child in need of care, the department shall make a preliminary inquiry to determine whether the interests of the child require further action be taken. Whenever practicable, the inquiry shall include a preliminary investigation of the circumstances which were the subject of the information, including the home and environmental situation and the previous history of the child. If reasonable grounds to believe abuse or neglect exist, immediate steps shall be taken to protect the health and welfare of the abused or neglected child as well as that of any other child under the same care who may be in danger of abuse or neglect. After the inquiry, if the department determines it is not possible to provide otherwise those services necessary to protect the interests of the child, the department shall recommend to the county or district attorney that a petition be filed.

History: L. 1982, ch. 182, § 21; L. 1983, ch. 140, § 21; July 1.

38-1525. Same; employer prohibited from imposing sanctions on employee making certain reports. (a) No employer shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any employee because the employee made an oral or written report to a law enforcement agency or the department of social and rehabilitation services relating to injury inflicted upon a child which was suspected by the employee of having resulted from the physical, mental or emotional abuse or neglect or sexual abuse of the child.

(b) Violation of this section is a class B misdemeanor.

History: L. 1982, ch. 182, § 22; Jan. 1, 1983.

33-1526. Same; immunity from liability. Anyone participating without malice in the making of an oral or written report to a law enforcement agency or the department of social and rehabilitation services relating to injury inflicted upon a child under 18 years of age as a result of physical, mental or emotional abuse or neglect or sexual abuse or in any follow-up activity to or investigation of the report shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from the report.

History: L. 1982, ch. 182, § 23; L. 1983, ch. 140, § 22; July 1.

33-1527. Child under 18, when law enforcement officers or court services officers may take into custody. (a) A law enforcement officer or court services officer may take a child under 18 years of age into custody when:

(1) The law enforcement officer or court services officer has a court order commanding that the child be taken into custody as a child in need of care; or

(2) the law enforcement officer or court services officer has probable cause to believe that a court order commanding that the child be taken into custody as a child in need of care has been issued in this state or in another jurisdiction.

(b) A law enforcement officer may take a child under 18 years of age into custody when the officer has probable cause to believe that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that continuing in the place or residence in which the child has been found or in the care and custody of the person who has care or custody of the child would present an imminent danger to the child.

Strike "an imminent"
Substitute "a"

Add: "For purposes of this section if the child is a runaway it shall constitute a danger to the child."

History: L. 1982, ch. 182, § 24; Jan. 1 1983.

Attn 6-B
2-1-84

38-1528. Child under 18 taken into custody; duties of officers; referral of cases for proceedings under this code. (a) When any law enforcement officer takes into custody a child under the age of 18 years, without a court order, the child shall forthwith be delivered to a facility or person designated by the secretary or to a court designated shelter facility, court services officer or other person. If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility, the law enforcement officer shall deliver the child to a juvenile detention facility, designated by the court, where the child shall be detained for not more than 24 hours. It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child to be taken into custody.

(b) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed in the custody of a shelter facility, court services officer or other person as authorized by this code, the facility or person shall have physical custody and provide care and supervision for the child upon written application of the law enforcement officer. The application shall state:

- (1) The name and address of the child, if known;
- (2) the names and addresses of the child's parents or nearest relatives and persons with whom the child has been residing, if known; and
- (3) the officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that, unless the child is placed in the immediate custody of the shelter facility or other person, an imminent danger to the child would exist

Strike - "an imminent"
Substitute- "a"

ADD: "For purposes of this section if the child is a runaway it shall constitute a danger to the child."

(c) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.

(d) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 48 hours following admission, excluding Saturdays, Sundays and legal holidays, unless a court has entered an order pertaining to temporary custody or release.

(e) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct release of the child prior to the time set out in subsection (d).

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2-1-84

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding House Bill No. 2715

I. Short Title of Bill

An Act Concerning the Appointment of Interpreters for Deaf, Hearing or Speech Impaired Persons; Amending K.S.A. 75-4351, 75-4353 and 75-4354, and Repealing the Existing Sections.

II. Background

By Statute, the Kansas Commission for the Hearing Impaired is authorized to advocate services affecting hearing impaired persons and to make recommendations for needed improvements in regard to legislation affecting hearing impaired citizens of Kansas. The Commission has received numerous expressions of concern regarding inadequacies of the Statute which governs "Interpreters appointed for deaf, mute and persons whose primary language is other than English" and the related proceedings in which such appointments are authorized. Based on this input, the Commission made recommendations to amend K.S.A. 75-4351 et. seq. to: (1) more effectively recognize the unique skills required of interpreters for the deaf; (2) clarify language with regard to the provision of interpreter services; and (3) delete outdated deleterious language in the Law.

III. Discussion

Persons who are deaf, hearing or speech impaired often require a special interpreter whose communication skills are greater than those necessary for foreign language interpreters. Interpreters for hearing impaired individuals must render information from a spoken language (i.e., English) that is standardized and fairly consistent to a visual-gestural language and reverse. A particular hearing impaired individual may be able to communicate, depending upon education, age and other factors, through a fairly consistent language with its own rules of grammar, syntax, etc., such as American Sign Language; through pantomime; through any of three major manual codes for English; through oral interpreting; or through any combination of these approaches. Written communication for persons who are hearing impaired from birth often is not adequate because such persons may have limited English reading comprehension, which is largely built on speech reception. Further complicating this situation is the fact that most hearing persons are not aware of the extent and the variety of communications needs within the hearing impaired population. Consequently, House Bill No. 2715 contains provisions to provide access to effective communication when a hearing impaired person is the plaintiff, defendant or witness in civil or criminal action or in any proceeding before a board, commission, agency or licensing authority of the State or any of its political subdivisions.

Attn #7
2-1-84

Given the complexity of the task of communicating effectively with hearing impaired individuals, the range of skills required of interpreters and the paucity of qualified interpreters, this legislation would make it easier for agencies and organizations to provide equal access for hearing impaired persons to services by bringing to bear aspects of expertise and coordination currently not existing in the Law.

IV. SRS Position

The recommendations of the Kansas Commission for the Hearing Impaired served as the basis for a legislative proposal which the Department of Social and Rehabilitation Services submitted to the House Public Health and Welfare Committee. House Bill No. 2715 reflects that legislative proposal. The Department of Social and Rehabilitation Services urges favorable consideration of this Bill.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
February 1, 1984

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2-1-84

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Testimony Concerning House Bill No. 2715

Relating to An Act Concerning the Appointment of Interpreters for Deaf, Hearing or Speech Impaired Persons; Amending K.S.A. 75-4351, 75-4353 and 75-4354, and Repealing the Existing Sections.

New Section 1 is a definition section added to help clarify language of the law. A definition of the term "appointing authority" is needed. K.S.A. 75-4352 stipulates a judge as appointing authority if the appearance is before any court then goes on to name other possible appointing authorities. This is confusing. Attorneys have misinterpreted K.S.A. 75-4352 to mean a judge must be involved anytime an interpreter is hired.

K.S.A. 75-4351 provides for interpreters for persons who are deaf, mute and other than English speaking. By using only the word "deaf" the act excludes those people who are hearing impaired. Definitions are now provided for these terms. The term "mute" is regarded by Kansas organizations representing the deaf and hearing impaired as archaic and derogatory. The term "speech impaired" has been substituted for "mute" and is defined.

There is an error in House Bill No. 2715, line 0030. It should read: to "intelligibly" instead of "intelligently".

New Section 2 identifies the instances in which an interpreter shall be appointed. These instances are compared with those enumerated in K.S.A. 75-4351. They are: (a) the same; (b) expanded to provide improved access to the judicial system by including "whether such person is the plaintiff, defendant or witness in such action" incorporating old subsection (c) from 75-4351; (c) identical to old subsection (d) in K.S.A. 75-4351 with the addition of "advisory committee" and 48 hours prior notice to the appointing authority; (d) a new subsection providing equal access to the legislature for deaf, hearing impaired and speech impaired citizens also requires 48 hours prior notice; (e) the same.

New Section 3 requires the Kansas Commission for the Hearing Impaired to maintain a listing of qualified interpreters. Persons who are deaf, hearing impaired or speech impaired often require a special interpreter whose unique communication skills are greater than those usually necessary for foreign language interpreters.

An interpreter may be required to use any of several forms of sign language (which range from American Sign Language to manually coded English) gestures and pantomime, oral interpreting or a combination of the above. This section eliminates the clause "unless the appointing authority determines that no other qualified interpreter is available" which continues an assumption that sufficient numbers of qualified interpreters would never exist. This legislation coupled with services from the Kansas Commission for the Hearing Impaired should be able to respond by providing appropriate interpreters for any potential situation covered by this act.

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2-1-84

New Section 5 resolves the confusion of payment for interpreting services by placing it with the appointing authority. This is consistent with the philosophy of equal rights to all citizens. Contracting interpreters through the Kansas Commission for the Hearing Impaired will not likely cost an appointing authority more than a few hundred dollars per year but will provide improved access to tax supported services that have been denied or severely restricted to tax payers who happen to be deaf, hearing impaired and speech impaired.

The Kansas Commission for the Hearing Impaired urges favorable consideration of this Bill.

Sharon K. Cook, Executive Director
Kansas Commission for the Hearing Impaired
Social and Rehabilitation Services
296-2874
February 1, 1984



#9-
2-1-84

February 1, 1984

The WHOLE PERSON, Inc. is an organization of and for disabled people. Set up originally in 1978 to serve groups of disabled people to work towards better accessibility in Kansas City, The WHOLE PERSON now also operates a center for independent living where disabled people can increase their level of independence to their maximum potential. At this time, twenty percent of the consumers served by The WHOLE PERSON are hearing-impaired.

The WHOLE PERSON would like to strongly encourage you to pass Kansas HB 2715 which would provide for the appointment of sign language interpreters for hearing-impaired citizens using state agencies' services. Only 20-30 percent of all speech sounds are visible on the lips. Therefore, even the most proficient lipreaders must guess when trying to understand what is being said to them. A sign language interpreter insures that the hearing-impaired person who knows sign language will understand exactly what is being said.

If state agencies are to succeed in providing optimum services to hearing-impaired consumers, they must utilize sign language interpreters. In the long run, it will cost less because hearing-impaired consumers will understand the first time they receive instructions and, thus, will not need to come back a second or third time to understand specific details. This will also afford hearing-impaired people equal access to services in Kansas.

Thank you for your consideration of HB 2715. The WHOLE PERSON hopes that you will act favorably on this very important bill. If we can be of service, or answer any questions, please feel free to contact us.

Respectfully Submitted,
Sharaine Rice
Sharaine Rice
Independent Living Specialist

Attn. #9
2-1-84