

Approved _____

Date

2/9/1984
sh

MINUTES OF THE _____ HOUSE COMMITTEE ON _____ PUBLIC HEALTH AND WELFARE _____.

The meeting was called to order by _____ Marvin L. Littlejohn _____ at _____
Chairperson

_____ 1:30 a.m./p.m. on _____ February 2, _____, 1984 in room _____ 423-S _____ of the Capitol.

All members were present except:

Representative Ken King, excused

Committee staff present:

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

Conferees appearing before the committee:

Dr. Robert Harder, Department of SRS

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

Chairman called meeting to order, calling attention to committee housekeeping items. Chair asked wishes of committee on committee minutes. Rep. Green moved that minutes of January 26, 30, 31, February 1st, be approved, motion seconded by Rep. Cribbs, motion carried.

Chair called attention to handouts before committee. (See Attachment No. 2.), for details regarding a Johnson County architect being dis-qualified from jury duty in early January, 1984. (See Attachment No. 3.), for details from Topeka Resource Center for the Handicapped, written by Michael J. Byington. These have been presented for members to study in regard to HB 2715. Members so noted.

Chairman stated there will be discussion and possible action on HB 2715 next week.

Chairman noted that HB 2683 automatically comes off the table today, (day-certain) and is open for discussion and possible action.

Motion made to pass HB 2683 out of committee adversely made by Rep. Roenbaugh, motion seconded by Rep. Williams. Motion carried.

HB 2710

Chairman noted the Advisory Committee on Juvenile Offender Program needed some clarification, and Dr. Harder then spoke to committee to explain questions still leaving concern. Rep. Wagon asked to have the question of children in jail spoken to, and Dr. Harder replied the Juvenile Commission is doing a survey and their goal is to accomplish a plan insuring that we have other means for taking care of children other than placing them in jail. This goal is hoped to be reached within 2 years. Further, he spoke to costs of this commission. A handout was distributed, (See Attachment No. 4.), for details. Further questioning from committee, i.e., yes, a good indicator of when to terminate a commission would be when they fail to come up with reasonable and responsible reporting of their findings.

Rep. Niles then spoke to committee that she is a member of this commission, and briefed them on when the commission began, what they had accomplished, what they still had hopes of doing. A vocational training program is a top priority, since most of these youngsters are not high school graduates. She stated, if we do not want them to become wards of the state eventually, then they must have some technical/vocational training. Further, she told about the good mix of members on their commission.

Rep. Buehler expressed his concern this commission was simply a duplication of what the Department of SRS was doing, and somewhere we need to stop the long arm of government.

Differences of views of committee members were discussed at length at this point.

Rep. Wagon then moved HB 2710 be reported out favorably. Rep. Harder seconded. More discussion.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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 2, 19 84

HB 2710 - continues:

Rep. Buehler made a substitute motion to amend line 23 in HB 2710 to read, July 1, 1985, rather than 1986. Motion seconded by Rep. Friedeman. Discussion. Question called on substitute motion. Vote taken, chair in doubt, show of hands indicated 8 for, 9 against. Rep. Buehler asked for a recount, which showed 8 for, and 9 against. Substitute motion failed.

Chair directed committee back to original motion, question called, voice vote indicated motion carried. HB 2710 reported out of committee favorably. Rep. Friedeman and Rep. Buehler to be recorded as no votes. Rep. Blumenthal recorded as yes vote.

HB 2091

Committee was briefed by revisor, Norm Furse in some substantive changes in balloon copy of HB 2091, and some clean up language as well. (See Attachment No. 5.), for details. Questions and answers at this point, i.e., surrogate mother situation.

Rep. Green moved to adopt balloon on HB 2091 and amend it into the bill. Motion seconded by Rep. Walker, question called, motion carried.

Rep. Green then moved to adopt HB 2091 as amended and passed out of committee favorably. Seconded by Rep. Cribbs, question called, motion carried.

HB 2098 - Health and Environment are conferring on this bill.

A balloon on this bill had been presented to committee for consideration at an earlier date. (See Attachment No. 6.), for details. Extensive discussion took place in reference to the direct advertising referred to in HB 2098, and that there is no real conflict with the surrogate mother situation. Title of bill suggested change was, to delete "disposition of", to, "prohibiting certain advertising by other than licensed child placing agencies."

Rep. Hassler moved to adopt the amendments as shown in the balloon of HB 2098, and change the title of the bill as suggested. Motion seconded by Rep. Wagnon, motion carried.

Rep. Walker moved that HB 2098 be passed out favorably, seconded by Rep. Wagnon, motion carried.

HB 2510

Rep. Walker moved HB 2510 be passed out of committee adversely, seconded by Rep. Williams, question called, motion carried.

Meeting adjourned at 2:30 p.m. until Monday, February 6, 1984, at 1:30 p.m.

Date: 2-2-1984

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE

Please Print

NAME	ORGANIZATION	ADDRESS
Paul Spangley	A.C.C.H.	Rt 1 Perky KS
Allen L. Hurlburt	SRS Legal	Topeka
James Levenberg	Lehab - SRS	Topeka
Deacon Terrully	APicare SRS	Topeka
Myra Palmer	Attorney SRS	"
Vicki Arnett	" "	"
Elizabeth Taylor	K.A.E.Y.C.	Topeka
Travis Botter	KSNA	"
Barb Reinert	KWPC	"
Melissa Hingerford	KS Hospital	"
DML FARAH	UPI	"
Harold Kienon	Ks Assn Osteopathic Med	"
Palmer Schickly Wood	SELF	K.C.K.
FRY SCHWARTZ	157 MEDICAL STUDY	TOPEKA
W. I. Schmitt Reuver	Ks Dental Assn	o.p.k.

Attn. #1
2-2-1984

Att # 2
2-2-4

Judge disqualifies deaf man from jury

Removal from panel prompted by 'practical' considerations

By Elaine Adams

staff writer

After lawyers selected him as a juror, a deaf Johnson County architect was disqualified from service this week by the judge involved in the case.

Associate Judge Gerald L. Houglund of Johnson County District Court said he told E. Harley Holmes Jr. of Overland Park that practical problems associated with his deafness would prevent him from sitting on the jury.

"It really caused me a great deal of consternation," Judge Houglund said. He added that his chief concern was to ensure a fair trial for the defendant. "To me it's not practical or realistic for a deaf person to serve," the judge said.

The criminal trial ended late Thursday in a hung jury.

Mr. Holmes declined comment, but his wife said he was not upset by the exclusion.

Although the judge's decision was supported by some judicial officials who said they could appreciate the difficulties a deaf person would encounter, advocates for the deaf criticized the decision.

"The deaf or hearing-impaired

have the right to serve on juries," said Fred R. Murphy of Olathe, president of the Kansas Association of the Deaf and a member of the Kansas Commission for the Hearing-Impaired.

Asked whether he would fault Judge Houglund for excluding a deaf juror with whom both attorneys apparently were comfortable, Mr. Murphy said: "I most certainly would fault the judge because it is apparent that he was biased."

Deaf persons have served on juries in at least nine states, but in Oregon and Massachusetts they had to pay for their own interpreters, said Sy DuBow, legal director of the National Center for Law and the Deaf at Gallaudet College in Washington. Only in California, he said, does state law provide that deafness alone does not preclude jury service and authorize interpreters in the jury room.

Mr. DuBow said about 30 states specifically exclude the deaf from jury service. Kansas and Missouri do not prohibit deaf jurors but give the court discretion to disqualify someone with a physical or mental infirmity that would interfere with the task.

Gerry Buckley, program

director for the Gallaudet College Extension Center at Johnson County Community College, said jury service "has been a source of concern among the deaf community for some time." He added that participation by the deaf in the legal system will become an increasingly important issue now that a generation of deaf youngsters, born during the 1960s rubella epidemic, is coming of age.

The question may arise frequently in Johnson County where the Kansas School for the Deaf is located. Mr. Buckley said 2,600 deaf persons live in the county.

The Johnson County case began Monday when the jury was selected. Neither prosecutor Steve Tatum nor defense attorney Michael Reed struck the architect from the jury in the rape case.

"To my knowledge, this is the first time any (Kansas) court has had a deaf juror left on the panel by counsel," Judge Houglund said.

The judge said he was not concerned with the man's ability, but said his deafness presented "some impossible practical situations."

Among the problems Judge

Houglund said he foresaw:

- Simultaneous conversations in the jury room, forcing the interpreter to relay only one.

- The need for the defendant to receive a "fair trial by a jury a his peers who are on an equal footing to hear evidence." If one juror is deaf, he said, all are not on an equal footing.

- The juror's inability to weigh testimony word for word. Judge Hoagland said the architect could have received 90 percent of the testimony verbatim through lip-reading, but a literal translation would have been impossible when sign language was used.

- The presence of an interpreter as the 13th person in the jury room, which is contrary to law.

- The lack of a provision in state law allowing courts to pay for interpreters for deaf jurors.

The Johnson County District Court has established a policy, however, that interpreters for deaf persons called for jury duty be paid by the court. Administrative Judge Herbert W. Walton said money is earmarked for that purpose in the court budget.

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MITCH COOPER, L.M.S.W.
Executive Director

TOPEKA RESOURCE CENTER FOR THE HANDICAPPED

West Tenth Professional Building
1119 West Tenth Topeka, Kansas 66604

Telephone
913-233-6323
TTY-233-6788

February 1, 1984

TO: House Committee on Public Health and Welfare

FROM: Michael J. Byington

SUBJECT: HB 2715

I am Case Manager, and thus in charge of direct services, for a center for independent living serving disabled people in the Topeka Community. A significant portion of the people we serve are deaf or hearing impaired.

I am writing in support of HB 2715. I was present at the February 1, 1984 hearing concerning this bill, but did not speak. My comments presented here mainly deal with testimony presented by conferees at that hearing.

I fail to understand Mr. Eannie Moshier's charge that the bill would be destructive to volunteerism. The fact that an interpreter is on a list maintained by the Kansas Commission for the Deaf and Hearing Impaired, and the fact that a pay scale has been set for the interpreter by the Commission, would not prevent the interpreter in question from donating his/her pay back to the appointing authority if he/she prefers to work on a volunteer basis.

Mr. Moshier stated that family members are often used as interpreters. He seemed to feel nothing was wrong with this. I strongly disagree. When another non-related interpreter can be made available, this person should be used. Our center often deals with such issues as rape, spouse abuse, sexuality related counseling, and some extremely personal legal and advocacy related problems. Personally, I would not wish to discuss such issues before my mother, father, sister, brother, uncle, aunt, etc. I do not believe that you who are committee members would want to do so either.

I greatly doubt that this legislation, when passed, will end up costing the municipalities as much as Mr. Moshier seems to think it will. If the municipalities, however, are not currently doing their utmost, including making payment for interpreters when necessary, to assure their deaf residents an opportunity to fully participate in the business of the community, then the need for the legislation to facilitate this happening is indeed documented. Human potential is a terrible thing to waste due to a lack of communication. Please keep in mind that this legislation is expected to actually lessen total per

hour costs for interpreters.

Ms. Cooke raised an interesting point in reference to jury duty. I do believe it should be made possible for all mentally competent handicapped individuals to have equal opportunity to serve their justice system through potential for jury participation. I therefore believe that accommodations should be made for hearing, visually and othopedically impaired in reference to this service. In the case of the hearing impaired, this obviously means the provision of interpreters.

Thank you for your consideration of these comments.

INTRODUCTION

The Advisory Commission on Juvenile Offender Programs was created under K.S.A. 75-5388, by the 1982 session of the Kansas legislature. The provisions of the act are due to expire on July 1, 1984, (K.S.A. 75-5390). Commission membership includes:

- The Secretary of SRS or a designee
- The Commissioner of Education or a designee
- The Attorney General or a designee
- Two Judges of the district court appointed by the Chief Justice of the Supreme Court
- One person actively engaged in law enforcement, appointed by the Governor
- One person from the Field of Corrections, appointed by the Governor
- Two representatives of organizations or private agencies which are actively involved in providing services or programs for juvenile offenders, appointed by the Governor
- Four legislators, one each appointed by the Speaker and Minority Leader of the House of Representatives and by the President and Minority Leader of the Senate

This Commission was established to confer, advise and consult with the Director of Juvenile Offender Programs with respect to the policies governing the management and operation of the services, programs or institutions under the jurisdiction of the Commissioner. Additionally, the Commission shall:

- Consult with and advise the Governor on matters related to institutions and programs for juvenile offenders;
- Visit and inspect the youth centers;
- Prepare an annual report to the Governor, the Commissioner of Education, the Secretary of SRS, the Attorney General, the Chief Justice, and the members of the Legislature;
- Recommend legislation;
- Make recommendations concerning the defining of appropriate roles of other state agencies involved in the delivery of services or programs to juvenile offenders;
- Act as the supervisory board for purposes of the Juvenile Justice and Delinquency Prevention Act.

Attn. # 4
2-2-84

ACTIVITIES

Meetings Held

The Commission has held eleven meetings since October of 1982. Senator Nancy Parrish has served as chairperson for the entire period, and Representative Wanda Fuller has served as vice-chairperson since March of 1983. The meetings have been well attended; there have not been any meetings that had to be cancelled due to a lack of a quorum. The table below presents a list of the meetings held and the number and percent of members attending.

Commission Meetings

<u>Date</u>	<u>Members Present</u>	<u>Percent</u>
October 11, 1982 (first meeting)	9	70
October 29, 1982	10	77
November 29, 1982	10	77
January 7, 1983	13	100
February 11, 1983	12	92
March 11, 1983	10	77
May 6, 1983	13	100
June 28, 1983	9	70
August 26, 1983	11	85
September 23, 1983	10	77
October 21, 1983	10	77

The attendance level has averaged better than 80 percent for the entire period. This is a notable accomplishment considering the busy schedules of the members and the amount of travel involved.

Cost

The Commission spent \$2,319 during FY 1983 to reimburse individual members for travel and per diem. This represents an average of \$290 per meeting.

Youth Center Tours

The Commission toured and inspected all five youth centers during their first full year of operation. The visits were primarily information-seeking to develop a perspective on the current operational practices and procedures. The tours included:

1. Program overviews by the superintendent
2. A review of the clinical program
3. A review of the education program
4. A review of the cottage living program
5. A review of recreational and leisure-time programs
6. A tour of the physical facilities
7. Conversations with line staff
8. Conversations with residents
9. A debriefing by senior staff to address issues and concerns

The visits took place on:

October 11, 1982	Youth Center at Topeka
October 29, 1982	Youth Center at Osawatomie
November 29, 1982	Youth Center at Beloit
June 28-29, 1983	Youth Center at Larned
September 23, 1983	Youth Center at Atchison

Review of Other Residential Programs

The Commission also gathered information concerning residential programs that have been developed by private providers. These facilities provide services to a significant number of juvenile offenders; in fact 22 percent of all those offenders placed in the custody of the Secretary of SRS were in private provider facilities as of October of 1983. The following providers made presentations to the Commission:

- St. Francis Boys Home #2, Ellsworth
- St. Francis Boys Home, Salina
- Achievement Place, Olathe
- H.A.R.T.S., Topeka
- Argentine Youth, Inc., Kansas City
- Wyandotte County Community Corrections, Kansas City

Grant Awards

The Commission held three joint meetings with the State Advisory Group to discuss priorities for targeting the federal Juvenile Justice and Delinquency Prevention Act (JJDP) funds. The Commission received and approved the State Plan and went on record as endorsing a study to investigate the cost involved in removing all youth from adult jails.

The Commission, in its role as the supervisory board, reviewed ten proposals and awarded federal JJDP funds to eight of them:

- October 11, 1982
 - Planning Support Program, SRS Youth Services, \$17,700
 - Juvenile Code Training Project, SRS Youth Services, \$5,515.90
 - Youth Crisis Shelter, Labette County, \$65,294
 - Family Focus, Wyandotte County, \$78,294
 - Temp. Care and Diagnostic Center for Troubled Youth, Reno County, \$55,000

- May 6, 1983
 - Family Focus, Douglas County, \$28,117.69
 - Status Offender Project, Finney County, \$29,172.08

- August 26, 1983
 - Wyandotte House, City of Kansas City, \$5,726.26

The other two proposals were not funded because the Commission felt they did not address critical needs.

At the May 6, 1983 joint meeting with the State Advisory Group, it was decided that JJDP funds would not be awarded to any new projects until a joint committee appointed to study the impact of removing all juveniles from adult jails makes its report. Therefore until this report is submitted funds will only be awarded to on-going projects. This move was made to insure that funds would be available to assist areas develop model programs in line with the committee's recommendation.

Other Activities

The Commission reviewed the status of diversion projects for juveniles that were operating in Kansas. This review included a survey of diversion projects in the state, conducted with the assistance of the KBI Statistical Analysis Center and Kansas Action for Children, Inc. The survey was analyzed and reports were prepared and distributed to the Commission.

There was an intensive briefing on the issues involved in planning for the removal of juveniles from adult jails. The session provided an overview of the legal, fiscal, and technical issues that must be addressed. This briefing was conducted via a technical assistance contact with JJDP. James Brown and Rod Shroust from the University of Illinois Community Research Center presented their findings from a recently completed national research effort. Doyle Wood, a staff representative from the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, provided an overview of current and pending federal policy.

Individual members of the Commission have participated in a variety of activities related to juvenile offender issues. These activities have involved statewide conferences on restitution, preparing older adolescents for independent living; providing input into the SRS budget process; attending legislative hearings; and providing members for a panel at the 1983 Judicial Conference.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
February 2, 1984

Action # 5
2-2-84

HOUSE BILL No. 2091

By Committee on Public Health and Welfare

(By request)

1-25

0019 AN ACT relating to [the probate code; concerning venue of
0020 proceedings for] adoption [of children]; amending K.S.A. 59-
0021 2203 and repealing the existing [section].

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 [Section 1.] K.S.A. 59-2203 is hereby amended to read as fol-
0024 lows: 59-2203. Proceedings for the probate of a will or for
0025 administration shall be had in the county of the residence of the
0026 decedent at the time of his or her death; if the decedent was not a
0027 resident of this state, proceedings may be had in any county
0028 wherein said decedent left any estate to be administered as
0029 provided in K.S.A. 59-805 and amendments thereto. Proceedings
0030 for the appointment of a guardian may be had in the county of the
0031 proposed ward's residence or where the proposed ward may be
0032 found. Proceedings for the appointment of a conservator shall be
0033 had in the county of the proposed conservatee's residence; if the
0034 proposed conservatee resides without this state, proceedings may
0035 be had in any county in which any of the proposed conservatee's
0036 property is situated. Proceedings for the administration of a
0037 partnership estate by the surviving partner shall be had in the
0038 county of the residence of the deceased partner at the time. If the
0039 deceased partner is a nonresident of the state the proceedings may
0040 be had in any county in which any of the partnership property is
0041 situated. Such proceedings first legally commenced shall extend
0042 to all of the property of the decedent or proposed conservatee in
0043 this state.

0044 If the proceedings are instituted in more than one county, they
0045 shall be stayed except in the county where first commenced until

concerning persons who may adopt and the venue of
proceedings for adoption;

-2101 and 59-
sections

Section 1. K.S.A. 59-2101 is hereby amended to read
as follows: 59-2101. Any adult, or husband and wife
jointly, may adopt any minor or adult ~~as his or her~~
into the relation of child in the manner herein pro-
vided~~;~~, but one spouse ~~cannot do so~~ may not adopt
without the consent of the other. A nonresident of
this state may adopt a child in this state only if
the child is in the custody of an institution or
agency authorized by the laws of this state to place
children for adoption.

Sec. 2.

0046 final determination of venue. If the proper venue is determined to
 0047 be in another county, the district court, after making and retain-
 0048 ing a true copy of the entire file, shall transmit the original to the
 0049 proper county. Proceedings by a person seeking to adopt a child
 0050 shall be had in the county of the residence of ~~such that~~ person if
 0051 ~~such person is a resident of the state. If such person is a nonresi-~~
 0052 ~~dent of the state such proceedings shall be had in the county in~~
 0053 ~~which the child to be adopted resides, except that if the child is in~~
 0054 ~~the custody of an institution or agency authorized by the laws of~~
 0055 ~~this state to place children for adoption such proceedings shall be~~
 0056 ~~had in the county in which such institution or agency is located.~~
 0057 ~~If~~ the child is in the custody of an institution or agency autho-
 0058 rized by the laws of this state to place children for adoption, the
 0059 proceedings shall be had in the county in which the institution or
 0060 agency is located. If ~~such a~~ person resides upon or is stationed at
 0061 a United States military post or reservation within this state, and
 0062 the child to be adopted is then residing with ~~such that~~ person,
 0063 adoption proceedings may be had in the district court of the
 0064 county in which ~~such the~~ post or reservation is located; or in the
 0065 district court of any county located immediately adjacent to such
 0066 county.

, except that if

3.
 59-2101 and
 are
 4.

0067 Sec. [2.] K.S.A. [59-2203] [is] hereby repealed.
 0068 Sec. [3.] This act shall take effect and be in force from and after
 0069 its publication in the statute book.

Attn #6
2-2-84

HOUSE BILL No. 2098

By Committee on Public Health and Welfare

(By request)

1-25

0018 AN ACT relating to the ~~disposition of~~ children; amending K.S.A.
0019 65-509 and repealing the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 65-509 is hereby amended to read as fol-
0022 lows: 65-509. No person, firm, corporation or association shall,
0023 *except those licensed as child placing agencies as authorized by*
0024 *law, shall promote by any form of news media or public dis-*
0025 *semination or offer to adopt, find a home for, or in any manner*
0026 *offer to dispose of or offer to take possession of any child as an*

Add: "either before or after the birth of a child"

Delete

0027 inducement to a woman to come to his or its place during
0028 pregnancy, or at, or after delivery; or shall offer such as an
0029 inducement to any parent, guardian or custodian of an infant or
0030 child to place such infant or child in his or its home, institution or
0031 establishment *either before or after the birth of a child. Any*
0032 *such violation shall be prosecuted as provided in K.S.A. 65-515.*

Delete

0033 Sec. 2. K.S.A. 65-509 is hereby repealed.
0034 Sec. 3. This act shall take effect and be in force from and
0035 after its publication in the statute book.