

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

10:00 a.m./~~p.m.~~ on February 13, 1984 in room 514-S of the Capitol.

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

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

Conferees appearing before the committee:

Senator Nancy Parrish
Lee Sipes, Topeka Police Department
Rick Fahy, Topeka Police Department
Jim Clark, Kansas County and District Attorneys Association
Bud Grant, Kansas Association of Commerce and Industry
Shirley Atteberry, Research and Data, Inc.
Martin Baker, Sears Roebuck and Company
Frances Kastner, Kansas Food Dealers Association
Keith Hamilton, ALCO/Duckwall Company

Senate Bill 639 - Admissibility of forensic examiner's report.

Senator Nancy Parrish, the prime sponsor of the bill explained this request was brought before the Shawnee County Delegation by the mayor of Topeka as requested by the Topeka Police Department and has been endorsed by the Shawnee County Delegation.

Lee Sipes testified the police department did request this bill be introduced. He then introduced Lt. Rick Fahy to explain why the department needs the bill.

Lt. Fahy explained why the department would like to be included in the law. Their caseload and the qualifications are the same as KBI lab, Johnson County lab and the Wichita Police Department lab. They do not work a consistent shift; they work swing shifts and weekends. The reason they propose to be included is to cut down on their court time. It will be an increase in savings of time and money. They offer services to other agencies. He extended an invitation to the committee members to visit their lab. The chairman inquired to whom they offer services other than their department? Lt. Fahy replied, they do work for Shawnee County, Public Defenders Office of Shawnee County, Kansas Bureau of Investigation, Jackson County and Jefferson County.

Jim Clark testified his organization supports the bill. A committee member inquired, are there other forensic offices in the state now or will there be? Why put a laundry list of entities? Why not use a definition of forensic facility? Mr. Clark replied, not sure what Wyandotte does now; have not heard that other labs would want to come in under this bill. They are not pushing any particular lab. They feel this is sound policy. The committee member inquired, is everything always done in-house? You don't farm out any lab work? Mr. Clark replied, I don't think so. There is independent lab testing. There are defense testing labs. Not sure there are any available that do forensic testing. Lt. Fahy reported, yes, we do in certain areas. We do not have a firearms examiner. We send those matters to KBI, Johnson County lab, FBI lab. We don't have a forensic chemist in our lab. We send it to the state lab or KBI lab.

Senate Bill 648 - Increased penalties for third conviction of theft under \$100.

Senator Hein explained this matter came to his attention after meeting with people involved in law enforcement, and concern was raised concerning the habitual violator.

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room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 13, 1984.

Senate Bill 648 continued

He wanted to raise the concept that individual who has abused the system on several occasions can be dealt with, with a more serious offense.

Lee Sipes testified in support of the concept of the bill. He stated he hopes it will serve as some deterrent value.

Bud Grant testified in support of the bill. He stated the problem of shoplifting isn't any better than it has been in the past, in fact, it may be worse. If raising the penalty has a deterrence, we are certainly supportive of it. The chairman pointed out the problem the legislature is facing with increasing overcrowding of the prisons, how do you view this bill with regard to that? Mr. Grant replied, I hope it will be a deterrent and will see less occasions to use such a law. I hope it reduces cases. I will leave it up to committee what penalty would be appropriate. There was a similar law passed last year in Illinois that is working very well.

Shirley Atteberry testified in support of the bill. A copy of her testimony is attached (See Attachment No. 1). During committee discussion, a committee member inquired, with the apprehension of these people and the treatment these people are getting by the county attorney and district attorney and by the judges, and if they are not enforcing what we already have, what is this bill going to do? She replied, shoplifters here in town know it is just a misdemeanor. They just get maybe two or three days. The chairman inquired what the penalty is for violating in Topeka? Senator Hein replied, 179 days, \$500 fine.

Martin Baker testified in support of the bill. He stated he has observed theft to retail merchants as becoming a serious problem; it has resulted in wholesale theft. The thief frequently knows how far he can go before he will face a felony charge. This bill would give the law enforcement community an additional edge to help stop this problem. They found items in a trunk and none of the items were valued above one hundred dollars. Mr. Baker reported the people they pick up will tell them, it is their philosophy, what you have is theirs, if they can figure out how to get it. The chairman inquired, what do they do with the merchandise? Mr. Baker replied, you can find it in flea markets and garage sales. It is being fenced off. A committee member inquired, how many states do you work? Mr. Baker replied, he only works Kansas, in Manhattan, Salina and Topeka. The committee member inquired, do you know other states that have laws similar to this one? Mr. Baker replied, he thinks Missouri has one similar to this one. He stated the professionals are good, and they are hard to catch; more than half of the shoplifting is the professional shoplifter. A committee member inquired, in your experience, how does the district attorney and judge handle these? Mr. Baker replied, very little is happening to them. I realize these are nonviolent offenders.

Frances Kastner testified in support of the bill. A copy of her testimony is attached (See Attachment No. 2).

Keith Hamilton testified in support of the bill. He reported in 1983 they had a loss from shoplifting of \$280,000 and made 110 arrests. They have three security guards who are off duty deputy sheriffs. Younger offenders get a fine. When an arrest is made, the security guard often gets physically abused. These people think a one hundred dollar fine is like a traffic ticket, and they will go back and do it again.

Jim Clark testified his organization does not have a position on the bill. He wanted to point out the kinds of crimes this bill deals with does not involve the county and district attorneys. Because these crimes do occur in the cities, some kind of identification is important. There is no method of checking on municipal convictions. This bill would involve the county and district attorneys, and they are reluctant to take on additional workload without compensation. The chairman

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inquired what kind of report goes to KBI on city arrests? Lee Sipes replied, it is handled by records section. He will check and let the committee know. Mr. Clark reported there is no fingerprinting or mugging. Lt. Fahy reported, if the subject is processed into jail, they fingerprint and photograph the person. He explained the dissemination of the information. The chairman inquired, is that common to most police departments? Lt. Fahy replied, if they are charged and booked in. A committee member inquired of Jim Clark, can you provide the committee with your own personal thoughts on what we might do with this problem? Mr. Clark replied, it is a policy decision. From an association point of view, they would not like to increase workload; not sure of the dollar amount concept; not sure how these people work the dollar limits. There may be some effect. There was some movement to make repeat offenders be felons. There is a big fiscal impact when a preliminary hearing is required.

Senator Gaines moved that the minutes of February 1, 1984, be approved; Senator Mulich seconded the motion. The motion carried.

The meeting adjourned.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
James Kastner	Topeka	Ks Food Dealers Assn
Shirley Atteberry	Topeka	Research & Data Inc
Roland Atteberry	Topeka	" "
Lee Lipes	Topeka	Topeka Police Dept.
Rick Kaby	Topeka	Topeka Police Dept.
Martin Baker	Topeka	Sears Roebuck & Co.
Bob & Carol	Oxford, Mo	Sears Roebuck & Co.
Mr. Nelson	Lawrence	Mr. Higgins
Keith J. Homler	Topeka	ALCO/Duckwall Co.
Jim Clark	"	KC DAA
Rich Atteberry	"	Self
Ed Bulber	"	Budget Division
Nancy Parrish	"	Senate -
M. Hoover	"	Unidat - Jovvay
Dr. Daniel	Topeka	Senate
Bro. GRAM	TOPEKA	KCCI
Tom Fritzer	Lawrence	Sen Hess
Mary Winkler	MO	B MED. STAFF

Research & Data, Inc.

Attach. #1

2-13-84
200 WEST 30TH
VAN BUREN BLDG.
SUITE 204
TOPEKA, KAN. 66611

2-13-84

PHONES
TOPEKA, KAN. (913) 267-4931
LAWRENCE, KAN. (913) 841-3902
LELAND W. ATTEBERRY, President

TO: SENATE JUDICIARY COMMITTEE

RE: SENATE BILL 648--concerning CRIMES AND PUNISHMENTS--

Three big black trash bags containing over \$1000 in stolen merchandise shoplifted from 4 Topeka stores were found in a shoplifter's car one night recently when she was finally caught in Topeka--with a \$66 item. Only the \$66 item could be prosecuted on-- a misdemeanor crime. She may get a fine of \$50 or so, or placed on a diversionary sentence BECAUSE SHE DID NOT USE HER TRUE NAME WHEN CAUGHT. She had several pieces of ID in DIFFERENT NAMES, but none showed WHO SHE REALLY WAS. She did NOT get mugged and FINGERPRINTED at the time of the arrest--which is the usually procedure in a misdemeanor shoplifting arrest in Topeka and some other Kansas towns.. However the alert security officer who caught her remembered he had previously caught her at another store about 4 years before and from that name her true identity was found. A search of records however, showed she had been convicted of that theft--under the other name--but only fined \$25 (the court did NOT know her previous record as she still had used another different name).. It was found that she had been arrested numerous times in Missouri as well as Kansas since the 1960s. She had used at least 33 names, numerous drivers licenses and social security numbers in various names. She had spent very little time incarcerated in jail or elsewhere. However, she was on PAROLE from Missouri Pen at this time. (Missouri does have a law similar to this bill). She was wanted on MISDEMEANOR THEFTS in 2 other Kansas counties under different names. At \$1000 a day, this lady has quite a profitable business going. A fine of \$25 or \$50 is small expense for one day in \$1000 in thefts. WHAT IS THIS UNSEEN SHOPLIFTING COSTING THESE BUSINESSES & CONSUMERS???

"I've been arrested for shoplifting 2 times and they didn't do anything to me. And I've shoplifted at least 100 times since and not got caught. I don't think they can put me in the PEN. My buddies and I go from one shopping center to another taking what we can steal. We shoplift about \$100 a day.. We don't need what we steal. And I'll pay those bad checks when I feel like it. I admit I wrote all those forged checks in 5 different names in 6 different Kansas towns", this Topeka man told R&D. "With my shoplifting and forgery games, I am doing "OK" considering I don't have to work much to make my profits. Yes, the forgery profits totaled about \$300." BUT this man did get 2 years in the PEN for FORGERY. He was put on diversionary once as a juvenile & fined \$50 as an adult for shoplifting.

The value was less than \$5.00 for the shoplifted item. BUT the employee lay quite ill in the hospital for several weeks because he apprehended this shoplifter and the shoplifter knocked the employee to the ground causing serious injury.

"Go ahead, have me arrested. My sister got arrested for the same crime and they didn't do anything to her. I can get away with up to \$99.99 in shoplifting and the first time I get CAUGHT I may only get a lecture or two. I will have shoplifted many more times before I get caught. I know a lot of others who did, and only got a lecture." This statement is just another of the many we get from the shoplifters themselves..

Research & Data is a Crime Prevention agency and is supported by various types of businesses who are continually victims of crimes such as shoplifting, bad checks, embezzlements and other thefts.

We and our clients strongly support this bill as there is a definite need for tougher laws against the criminal. We know it is a determent to crimes. Many criminals have told us so..

Feb. 1

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p.2 from Research & Data, Inc
TO: KANSAS JUDICIARY COMMITTEE
RE: SENATE BILL 648.

\$10,500,000 is the annual estimated loss in Topeka for shoplifting each year. Some stores the size of K-Mart loses \$50,000 per year per store. Shoplifting-thefts losses are the second cause for bankruptcy in businesses. One out of every 10 customers are now estimated to be a shoplifter. Only 10 years ago it was one out of every 60 customers. 75% of all crimes excluding vice and car thefts, are against businesses.

A survey of high school students showed that out of 1000 interviewed--472 students admitted to shoplifting. 27% were caught. Out of this 27% caught, 73% said they did it again. Only 25% said they only shoplifted once. The others averaged 27 times each.

Losses in some stores equals .7% to 4.5% of total sales. In some self service stores it is 10% of sales. Some stores the PROFITS equals the LOSSES. Some stores the LOSSES have been greater than the profits and those stores are no longer in business.

These losses definitely have an affect on the increases in the prices of merchandise to the customers--you the public.

AGAIN, TOUGHER LAWS ARE A DETERMENT TO CRIMES.

We appreciate your consideration to this bill and hope you will continue to follow the trend it is showing towards being "tougher" on the CRIMINAL.

Leland Atteberry and

Leland

Shirley Atteberry

Shirley

2-13-84
Attach # 2



Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

February 13, 1984

SENATE JUDICIARY COMMITTEE -- SB 648

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KINGMAN

VICE-PRESIDENT
CHUCK MALLORY
TOPEKA

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BOB MACE
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**DIRECTOR OF
GOVERNMENTAL AFFAIRS**

FRANCES KASTNER

EXECUTIVE DIRECTOR
JIM SHEEHAN
SHAWNEE MISSION

Mr. Chairman, and members of the Committee, I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership consists of retailers, distributors and wholesalers of food products throughout the State of Kansas.

All of you have heard me speak out against any bill that would make it easier for the criminal to continue committing the same crime without suitable punishment, or in any way coddle them. Our membership has a firm policy of trying to make laws more beneficial to the honest consumer than to the criminal.

We see the enactment of SB 648 as a major step in letting the criminal element of Kansas know that their actions are NOT going to be condoned or punished with just a mere slap on the wrist. Sometimes diversion does work with the first-time offender, but we wonder if you have considered taking SB 648 one step farther by including those who break probation and commit shoplifting or other thefts two or more times. SB 648 addresses convictions of two or more crimes and we are wondering if some method could be used to verify that they were on a diversionary program at the time the second or third offenses were committed.

We would certainly endorse an amendment to that effect. However, if there is some legal reason, or if this Committee does not believe this should be done, we also SUPPORT SB 648 in the current form.

Thank you for the opportunity to appear before you today, and I will try to answer any questions you may have.

Atch. 2