

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

10:00 a.m. ~~pm~~ on February 15, 19 84 in room 514-S of the Capitol.

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

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

Conferees appearing before the committee:

Senator Nancy Parrish
Judy Culley, The Shelter, Inc., Lawrence
January Scott, Kansas Committee for Prevention of Child Abuse
Andy Kenkel, Kansas Childrens Service League
Bruce Linhos, Kansas Association of Licensed Private Child Care Agencies
Dr. Robert Harder, Department of Social and Rehabilitation Services
Craig Grant, Kansas National Education Association
Orie E. Wall, Topeka Police Department
Brenda Hoyt, Office of the Attorney General
Mike Boyer, Kansas Bureau of Investigation
Troy Hampton, Wichita Police Department

Senate Bill 644 - Payment for care of juvenile offenders.

Senator Nancy Parrish, the prime sponsor of the bill, explained this bill would place responsibility to pay for juveniles taken to a shelter designated by SRS.

Judy Culley appeared in support of the bill. A copy of her testimony is attached (See Attachment No. 1).

January Scott testified her group is in support of the bill.

Andy Kenkel testified his organization would like to support this bill strongly. Private funds are picking up their additional cost, and their ability to do so is in doubt. It is a good concept in protecting these children.

Bruce Linhos testified in support of the bill. A copy of his testimony is attached (See Attachment No. 2).

Dr. Robert Harder testified in opposition to the bill. A copy of his statement is attached (See Attachment No. 3). He stated the fiscal note is three to ten thousand dollars but if the state is going to pick up these expenses, it will be a wider door. He explained the department polled some area offices, and the counties in those areas were assuming the financial responsibility. There was difficulty in collecting from the county general fund. There is the question of being able to get money from the county.

Senate Bill 669 - Child abuse investigations conducted on school premises or alleging abuse by school personnel.

Craig Grant appeared in support of the bill. A copy of his remarks is attached (See Attachment No. 4).

Dr. Robert Harder testified on the bill, with the recommendation Youth Services can support the amendment in section (g), but would oppose the new section (h). A copy of his statement is attached (See Attachment No. 5).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~pm~~ on February 15, 1984.

Senate Bill 669 continued

The chairman noted Elizabeth Taylor would like the committee to know the Kansas Association of Domestic Violence Program is in support of the bill. She could not be present for the hearing today.

Orie Wall testified if the language in line 38 of the bill is passed, it would possibly jeopardize an ongoing investigation. The chairman pointed out that language is present law; that is not a change in the law. Lt. Wall stated he supported Dr. Harder's views on the language in line 72 of the bill. The Topeka Police Department has a good working relationship with the Topeka school system; this should be worked out with the local school agency and the law enforcement. In regard to the law enforcement officers wearing plain clothes, they don't respond to calls in uniform, and it would add more problems if an emergency might arise, because the officer would have to go home and change his clothes.

Brenda Hoyt testified her office is in support of the law enforcement officer going to the school in plain clothes. They object to subsection (h) of the bill. She then explained a proposed amendment (See Attachment No. 6). She stated the initial investigative interviews are the most important.

Senate Bill 677 - Fingerprinting of juveniles.

Mike Boyer appeared to explain this bill is a cleanup of oversights and unanticipated problems from 1983 Senate Bill 105. A copy of his explanation is attached (See Attachment No. 7).

Brenda Hoyt testified her office is in support of the bill for all the reasons Mr. Boyer gave.

Senator Nancy Parrish stated that the Juvenile Offenders Advisory Commission also support the bill.

Dr. Robert Harder testified his department supports the bill.

Orie Wall testified eliminating taking photographs will help their budget considerably. He is opposed to the word "neglect" and the refusal of the law enforcement officer to take these prints and send them in; the word "neglect" bothers him. He stated the penalty should also be in reverse. Lt. Wall stated the department is concerned that the state repository is able to make rules and regulations. The department has a lot of juveniles who are not offenders, and a lot of juveniles' parents bring them in to talk to the officers. They respond to many calls a year. A complaint that is solved by an officer on the scene would be a report which would put a heavy burden on law enforcement. The state repository developed a juvenile reporting form. This form is great for some agencies to utilize.

Troy Hampton spoke in opposition to some parts of the bill. He stated he could not see the reason why any fingerprints should be submitted to KBI. This information could keep an individual out of the service. They are opposed to fingerprinting everyone who is picked up and submitting it to the bureau.

Mr. Boyer added not one law enforcement personnel appeared when the meeting was announced for considering rules and regulations.

The meeting adjourned.

2-15-84

GUESTS

SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

Shelly McNaughton

Manhattan

KIN

Andy Kenkel

PO Box 5314 Topeka, Ks

Kc Childrens Service League

Bob Barnum

2700 SW Sixth

Topeka Ks SRS

R. Anderson

SRS

Judy Culley

The Shelta

The Shelta, Lawrence, Inc.

Jim Clark

Topeka

KCOAA

Janice Scott

"

KCOAA

Vic E. Hall

704 N 5th

Topeka Police Dept.

Lee Sipes

" "

" " "

Kathy Hawley

455 N. Main

Wichita Police Dept.

Gray Hampton

" " "

" " "

Denise Blum

Topeka

OJA

Ray Taylor

Merriam, Ks.

K-NEA

Joe Ferguson

Topeka

KASB

Ken Albrook

Topeka

Memminga Found.

Darlene Strarus

Topeka

Councilation of Churches

Craig Grant

Lawrence

K-NEA

Brenda Hoyt

Topeka

A 6

Nancy Parrish

Topeka

Senate

Mike Bayne

Topeka

KBTI/SAC

May Lou McPhail

"

KBT

Barry Massey

"

AP

Jim Kibler

Lawrence

Topeka Sen Steiner

Jan 3 1984

Topeka

AG

May Ellen Carter

Wichita

City of Wichita

GUESTS

SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

Bruce Linder
H. C. Woody

Box 1695
Cottonwood Falls

Topeka

KALPCCA

Natl. Organization for Women

2-15-84
Attach. #1

THE SHELTER inc.

P.O. BOX 647, LAWRENCE, KS. 66044
843-2085

Date: February 15, 1984

To: Senate Judiciary Committee

From: Judy Culley, The Shelter, Inc.

Re: SB 644

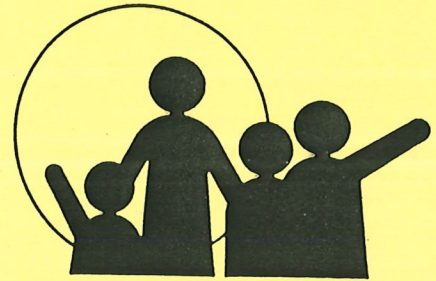
Summary of Bill: S.B. 644 allows SRS to pay for emergency group or foster home care for juvenile offenders when the offender is not in SRS custody. This is the one or two day period of time after pick-up by law enforcement but before a court hearing.

- * This bill does not represent a major policy change but is a return to a previous policy. Until recently, private group and foster homes could receive payment for juvenile offenders or children-in-need-of-care not in SRS custody through the back dating of court orders as to the time of SRS custody. During the last 2 years SRS has worked effectively to stop the practice of payment through back dated court orders. The payment problem this created for children-in-need-of-care was taken care of in the 1983 legislative session by allowing SRS payment before custody. However, the emergency care payment problem remains for juvenile offenders.
- * The payment policy proposed in S.B. 644 is consistent with the other payment policies in the code for juvenile offenders and children-in-need-of-care. The current policy of non-payment for juvenile offenders not in SRS custody is the inconsistent policy; SRS pays group and foster homes for juvenile offenders and children-in-need-of-care placed in SRS custody before adjudication. SRS pays group and foster homes for juvenile offenders and children-in-need-of-care in SRS custody after adjudication. SRS pays for children-in-need-of-care placed by law enforcement before they are in SRS custody.
- * Analogies with the adult criminal system for payment are irrelevant because the juvenile justice system is not intended to be like the adult system.
- * The types of juvenile offenders who are put in emergency care before custody hearings are those who law enforcement would have returned home but the parents can not be found, will not take the child, or are known not to provide adequate supervision.
- * Failure to establish SRS payment could result in juvenile offenders who are currently placed in emergency group or foster care being placed in jail because private providers can not be expected to absorb the costs indefinitely.

Attch. 1

- #
- * It is not feasible to expect county government to pay for youth in this one unique situation when they have not had to pay before and when they do not have to pay for any other foster or group home placements for juvenile offenders or children-in-need-of-care. This is particularly true because counties can just put a youth into jail at no cost as there are already county jail budgets.
 - * S.B. 644 should Not result in more youth being placed in emergency care than previously. Law enforcement officers place youth at facilities which will take the youth and are not involved with payment issues. There is only one emergency shelter which will not accept juvenile offenders on the basis that they are not in SRS custody. This shelter has only 6 beds and usually has no openings anyway. Therefore, payment for having a policy that SRS can pay for juvenile offenders not in SRS custody should not result in increased placements.
 - * The fiscal impact of S.B. 644 juvenile offenders should be minimal ranging from \$3,000 to \$11,000. According to the KBI's Statistical Analysis Center, over the 12 month period from October, 1982 thru September, 1983, there were 159 juvenile offenders served in emergency care. According to the emergency shelters, only a very small minority of the juvenile offenders they receive are not in SRS custody at the time of placement. Assuming conservatively that as many as 33% of the 159 offenders in emergency care were not in SRS custody initially, there would be 52 additional youth to pay one or two days for during the year. The cost for 52 youth for two days of care each before custody would be \$2,691 at the maximum emergency shelter rate of \$51.75. Even if it were assumed the number would quadruple if payment for youth not in SRS custody were assured, the cost impact would only be \$10,764.
 - * There are 11 emergency shelters in Kansas. There are also 6 regular group homes which will take emergency placements if beds are available. In addition, there are foster homes which take only emergency and temporary placements and regular foster homes which also take emergency placements.

(Data on placements, above, is collected by SRS and processed by the KBI's Statistical Analysis Center.)



KALPCCA

KANSAS ASSOCIATION OF LICENSED PRIVATE CHILD CARE AGENCIES

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POLITICAL ACTION
Judy Culley

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MEMBERSHIP

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Testimony on Senate Bill 644
by Bruce Linhos, President
Kansas Association of Licensed
Private Child Care Agencies
February 15, 1984

The Kansas Association of Licensed Private Child Care Agencies (KALPCCA) is a voluntary association of thirty-five member agencies. Members provide services to children ranging in scope from family support to residential treatment for children whose needs require out-of-home care. In addition to residential treatment, many of our members provide emergency shelter services. In all, our members provide residential services for almost 800 children in the state of Kansas. We are dedicated to providing the children entrusted to us the highest quality of care possible. In this effort, KALPCCA continues to work cooperatively with the Kansas Department of Social and Rehabilitation Services (SRS) to insure the needs of Kansas children are being met.

I am here today in my capacity as President of KALPCCA to let you know that we, as a coalition of private child care providers, support Senate Bill 644. The two areas we feel would be enhanced by passage of this Bill are as follows.

1. This Bill would create a funding mechanism which can best insure the most appropriate and least restrictive placement for a child awaiting a preadjudicatory hearing (a period which rarely exceeds forty-eight hours). Failure to provide a state-wide system to purchase emergency shelter services is likely to result in counties electing to utilize jail facilities which would free them from the need for additional county expenditures.

KALPCCA Testimony
Senate Bill 644
February 15, 1984

2. The assumption of payment for this brief period of emergency care would make the care available to the Offender Child more consistent with that currently being provided by SRS for Children in Need of Care.

From all conversations I have had with many of our member agencies which provide emergency shelter services, the fiscal impact is expected to be minimal. Currently, member agencies have to raise ten percent (10%) of their operating capital outside of governmental per diem rates just to keep their doors open. In many areas of the state shelter care is provided by foster parents who, like the private agencies, are not financially able to bear even this small additional cost.

This piece of proposed legislation will help us all continue to focus our attention on providing for the best interests of the children of this state.

BHL:jls

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding Senate Bill 644

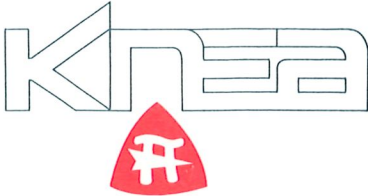
- 1. Title of the Bill:
An act amending the Kansas Juvenile Offenders Code; relating to payment of expenses of care and custody of certain juveniles; amending K.S.A. 1983 Supp. 38-1616 and 38-1624 and repealing the existing sections.
- 2. Purpose of Bill:
To shift the responsibility for payment from the county general fund to SRS for alleged juvenile offenders who are taken into custody by law enforcement officers and placed in youth residential facilities prior to their initial hearing.
- 3. Why the Bill:
This is not an SRS Bill.
- 4. Background of the Bill:
Some of the shelter facilities have had some difficulty in getting payment from the county general fund. This presents them with the problem of either providing the care without payment or turning the youth away. The problem is concentrated in a couple of areas, since most counties do comply with the law and provide funds for this purpose.
- 5. Problem with the Bill:
This bill blurs the distinction between the Kansas Juvenile Offenders Code and the Kansas Code for the Care of Children at the pre-adjudicatory level. The distinction was purposeful and is intended to mirror the adult criminal justice process, which places the expense of pre-trial costs with the county. SRS is a post-adjudicatory disposition which is available to the court after the guilt of the offender has been established. This bill would represent a major setback to the logic implied in this separation.

The use of youth residential facilities to hold youth before a hearing presents a whole new category of pre-trial detention, that has the potential of widening the net and including youth who are now returned home. The costs while currently reported as modest have the potential to escalate far beyond the projected figures. The fiscal impact for the urban shelter facilities may reach \$180,000 within three to five years based upon projected usage. This figure does not include the use of group homes and family foster homes which are currently being paid out of county funds in the rural areas.
- 6. SRS Recommendation:
SRS strongly opposes the bill.

Robert C. Harder, Secretary
 Office of the Secretary
 Social and Rehabilitation Services
 296-3271
 February 14, 1984

2-15-84

Attach. # 4



Craig Grant Testimony Before
Senate Judiciary Committee
February 15, 1984

Thank you, Mr. Chairman. Members of the committee, my name is Craig Grant and I represent Kansas-NEA. I appreciate the opportunity to speak to SB 669.

SB 669, we believe, is basically a clean up bill to follow the major changes in the Kansas code of care of children. The changes are concentrated in lines 72 through 82 of the bill. These provide that whenever possible officers who investigate a report of suspected child abuse or neglect should not be in uniform. Section (h) provides that a teacher who may be the subject of an investigation shall be notified of the investigation ahead of time and told that he or she has the right to counsel present during the investigation.

Any investigation of such a nature can be a very unnerving experience. Not only may the principal participants feel uncomfortable with uniformed personnel, but also other adults and students in the school can use the fact that uniformed officers are in the building to start and spread rumors which could be damaging to the teacher or students. Kansas-NEA also believes that if there is to be an investigation that teachers need some prior notice and certainly knowledge of their right to have counsel present.

These two points are not major policy changes in code. Kansas-NEA would ask that you report SB 669 favorably for passage.

Thank you, Mr. Chairman and members of the committee, for listening to the concerns of teachers.

Attach. # 4

Statement Regarding Senate Bill 669

1. Title of Bill:
An act amending the Kansas Code for Care of Children; relating to investigation on certain reports; amending K.S.A. 1983 Supp. 38-1523 and repealing the existing section.
2. Purpose of Bill:
To provide for the wearing of plain clothes by law enforcement officers when investigating child abuse or neglect reports on school premises; to provide notification of investigation and of the right to have counsel present during an investigation of teachers and other school employees who are alleged to be abusing or neglecting children.
3. Why the Bill:
This is not an SRS bill.
4. Background of Bill:
Same as above.
5. Possible Problems with the Bill:
The only problem we can see with the request that law enforcement officers not be in uniform when investigating child abuse or neglect reports on school premises would be the unavailability of a plain clothed officer, especially in rather emergent situations. Certainly, given the confidential nature of child abuse and neglect investigations, plain clothed officers are preferred in all joint investigations but are not always practicable. Since the language in the bill allows for "practical considerations" this should not be a problem.

We do, however, see many problems with new section (h). This would set apart as a class of people, school teachers and other school employees, from all other persons reported of suspected abuse or neglect. This in itself would appear discriminatory.

In addition new section (h) could set a precedent for prior notification of an investigation to all persons who are the subject of reports of suspected child abuse and neglect which would severely impair the ability of SRS workers to investigate reports and in some instances greatly jeopardize the safety of children.
6. SRS Recommendation:
Youth Services can support the amendment in section (g), but would oppose the new section (h).

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
2-14-84

Attch. 5

(g) Cooperation between school personnel and investigative agencies. Elementary and secondary schools, the state department of social and rehabilitation services and law enforcement agencies shall cooperate with each other in the investigation of reports of suspected child abuse or neglect. Administrators of elementary and secondary schools shall provide to employees of the state department of social and rehabilitation services and law enforcement agencies access to a child in a setting on school premises determined by school personnel for the purpose of the investigation of a report of suspected child abuse or neglect. For the purpose of providing emotional support to the child, a professional member of the school's staff of the child's choosing may attend the investigative interview with the child if, in the judgment of the investigator, the presence of such staff member will not substantially interfere with the investigation. The presence of the professional staff member shall not waive any privilege provided by law and in addition, no disclosure of the interview or the information obtained therein shall be made by the professional staff member.

PROPOSED AMENDMENT TO S.B. ⁶⁶⁹ 699
 SUBMITTED BY THE ATTORNEY GENERAL'S OFFICE

Senate Bill 677

Purpose of Bill: Cleanup of oversights and unanticipated problems from SB 105

Section 2: clerical/procedural refinement in the practical implementation of local agency record keeping. Strictly an oversight in SB 105 (reference the fingerprint charge to "readily distinguishable". Intent had been to provide same leeway for all JO records).

Section 1: Preserves "sanctity" of separate codes. With an administrative section of the codes there would be no need to labor the issue; however, currently 38-1611(a)(1) and (c)(3) address CINC's. This section returns "purity" to the codes and adds or detracts nothing from existing legislation. With its deletion from the Bill, nothing would be lost unless an interpretation of 38-1611 disallows a cross-reference to the CINC code.

Section 3: Primary essence of Bill is to clarify and "clean-up" procedural difficulties remaining from SB 105. There are 3 categories of Persons under 18.

- (1) JO's (a)(2)
- (2) CINC's (a)(1) or Could be utilized in place of Section 1
- (3) Those outside these two Codes (a)(3): 14 + Traffic; 16 + F & G; Procedurally (1636) or automatically waived (1602(b)(3)), AJD. Required BOTH FP, and Photos whereas only FP's were desired to be required.

Lines 102-106 do not change effect of current 1611(b) Sending to Repository (107-130)

- (C)(1) = (a)(1) Cincs with Judge Authorization
- (C)(2) = (a)(2) JO's
- (C)(3) = (a)(3) for all others

Sharing of Information (131-135)
No difference to current except for "juvenile justice" replacing "law enforcement"

Lines 136-139
Allows the submission to the KBI of all those FP's already taken and warehoused. Creates no new law.

Lines 140-144 Penalty Clause like in adult similar to 21-2505.

Lines 145-149 Rules and Regs for Section Make FP section consistent to 38-1618

Section 4: Inserts Penalty Clause