

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

10:00 a.m./~~p.m.~~ on March 14, 1984 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaar,
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:

Representative W. Edgar Moore
Commissioner Robert Barnum, Social and Rehabilitation Services
Jim Clark, Kansas County and District Attorneys Association
Scott Lambers, Overland Park

House Bill 2796 - Care of children, relating to custody.

Representative Edgar Moore, the prime sponsor of the bill, explained the bill to the committee. A copy of Representative Vancrum's testimony was handed out by Representative Moore (See Attachment No. 1). Representative Moore explained this bill was introduced at the request of police departments of several cities that have had problems with runaway juveniles.

Commissioner Robert Barnum testified in support of the bill. He said this is one of three bills that deal with the issue of allowing law enforcement better tools in dealing with the runaway child. The other two bills dealing with this issue are Senate Bill 802, which is now in House Judiciary Committee, and House Bill 3047, which has passed out of the House.

House Bill 2694 - Interference with parental custody.

Commissioner Robert Barnum testified in support of the bill. A copy of Secretary Harder's statement is attached (See Attachment No. 2). Commissioner Barnum explained the bill and the changes made to the bill. He stated the bill strengthens the standards for child protection, and it is an improvement over the present statutes. The chairman referred to line 33, using the word "minor" rather than "person". The chairman noted Senate Bill 368, which has had a hearing in this committee concerns the same subject as this bill. Commissioner Barnum recommended the term "permanently" in new Section (1) be stricken.

Jim Clark testified his association has some concerns with this bill. He stated this bill is an improvement over Senate Bill 368. He suggested the penalty be a class A misdemeanor. Mr. Clark pointed out the language in line 32 competes directly with the kidnapping statutes, and suggested adding the age limit provision. In line 35, he noted the wording "permanently deprived" is difficult to define. Committee discussion with him followed.

House Bill 2796 - Care of children, relating to custody.

Scott Lambers testified the Overland Park Police Department had requested this bill because of the problem with reporting runaway children. A copy of Sgt. Larry Dixon's testimony is attached (See Attachment No. 3). Mr. Lambers read Sgt. Dixon's written testimony. Mr. Lambers suggested deleting the word "imminent" from the bill, and explained this would give the police officer a clearer understanding of the circumstances for taking the child into custody. The chairman referred to language contained in Senate Bill 802 in lines 41 and 42 "the law enforcement agency has a report that the child is missing or a runaway". Mr. Lambers responded the House was reluctant to have that language in, but that is the wording the department wanted.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m. ~~xxx~~ on March 14, 1984

House Bill 2709 - Child abuse or neglect definitions, records and reports.

Commissioner Robert Barnum testified in support of the bill. A copy of a statement from Dr. Robert Harder is attached (See Attachment No. 4). Commissioner Barnum referred to the changes made in the bill on page 4, and explained they felt this would broaden the scope to fit the federal regulations. The chairman inquired, what is wrong with permitting records to be available under court order? The chairman inquired, how much federal money is involved? Commissioner Barnum replied, we are dealing with approximately \$90,000 a year. The chairman inquired, do federal regulations have similar problems with restrictions of confidential information of juvenile offenders? He replied, no.

This concluded the hearings on House Bills 2694, 2796 and 2709.

Senator Mulich made a motion to approve the minutes of February 28, 1984; Senator Feleciano seconded the motion, and the motion carried.

Senate Bill 803 - Repository of information on missing and unidentified deceased persons.

The chairman reviewed the bill. Senator Gaar moved to amend the bill to allow one year lead time to set up methodology for collecting this information and provide rules and regulations. Senator Mulich seconded the motion, and the motion carried. Following committee discussion, Senator Gaar made a motion to allow imposition of a civil fine, up to \$500 per occasion; Senator Mulich seconded the motion, and the motion carried. Senator Gaar moved to report the bill favorably as amended; Senator Mulich seconded the motion, and the motion carried.

House Bill 2846 - Municipal court complaint signed by police not required to be sworn.

The chairman reviewed the bill. Senator Feleciano moved to report the bill favorably; Senator Gaar seconded the motion, and the motion carried.

House Bill 2835 - Sex offenses involving family members.

Following committee discussion, Senator Gaar moved to amend the bill by defining unlawful sexual act as defined in K.S.A. 21-3501; Senator Werts seconded the motion, and the motion carried. Senator Mulich made a motion to amend the bill in Section 4 to make it consistent with the changes made in the Uniform Parentage Act; Senator Winter seconded the motion, and the motion carried. Senator Mulich moved to report the bill favorably as amended; Senator Winter seconded the motion, and the motion carried.

House Bill 2796 - Care of children, relating to custody.

Senator Gaar moved to amend the bill by amending the language in Senate Bill 802 into this bill; Senator Winter seconded the motion, and the motion carried. Senator Gaar moved to report the bill favorably as amended; Senator Winter seconded the motion, and the motion carried.

House Bill 2709 - Child abuse or neglect definitions, records and reports.

Following staff's explanation of the House committee's action on House Bill 2832, Senator Gaar moved to report the bill favorably; Senator Mulich seconded the motion, and the motion carried.

House Bill 2694 - Interference with parental custody.

Following the chairman's review of the bill, Senator Winter moved to amend the bill as proposed by the Kansas County and District Attorney's Association by deleting new Section (1) and inserting an amendment to the kidnapping statute; Senator Mulich seconded the motion. Time for adjournment had arrived, and the chairman held the motion in abeyance for discussion later.

The meeting adjourned.

3-14-84

GUESTS

SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

Jim Cree

Topeka

KC DAA

KATH R LADDIS

TOPEKA

CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATION FOR KANSAS

Lee Sipes

Topeka

Topeka Police Dept.

Joe Ethel

"

"

Bob Hammel

Topeka

AG's office

Or Edgar Moore

Olatch

Legislature

Nadine P. Barnhill

Topeka

Washburn Univ.

Jim 17-Bridge

Topeka

United Way

Kate Ann Hackler

Olatch

KASB

Bob Grimm

TOPEKA

SRS

Allan L. Hurlburt

"

SRS Legal

Miss Khan

Yamund

See Steiner

Donna H. Scott

Topeka

KCPA

Barry Massey

"

Press

Deanna Hunter-Blank

~~KS~~ Prairie Village KS

K-NEA

Linda Carol Woody

Collinsville Fall KS

KS. Nat'l Organization for P

Amy Lopez

Overland Park, KS

O.P.D.

Scott Lambers

Overland Park

OVERLAND PARK



TOPEKA

HOUSE OF
REPRESENTATIVES

BOB VANCURUM
REPRESENTATIVE, TWENTY-NINTH DISTRICT
OVERLAND PARK
9004 W 104TH STREET
OVERLAND PARK, KANSAS 66212
(913) 341-2609
STATE CAPITOL, ROOM 115-S
TOPEKA, KANSAS 66612
(913) 296-7655

3-14-87
Cowan #1

COMMITTEE ASSIGNMENTS
VICE-CHAIRMAN: FEDERAL AND STATE AFFAIRS
MEMBER: ASSESSMENT AND TAXATION
JUDICIARY

TESTIMONY TO SENATE JUDICIARY COMMITTEE

FROM REPRESENTATIVE BOB VANCURUM

MARCH 14, 1984

HB 2796 - JUVENILE RUNAWAYS

HB 2796 was introduced to address a problem which has arisen under the Juvenile Code Revisions of 1983. Law enforcement officers in several parts of the state feel that they cannot take a child into custody unless they believe the child was both in "need of care" as defined under KSA 38-1502, Section 2, and that the child was found by the officer in such place or in such care as to present a danger to the child. In short, if the child appears to be in safe circumstances at the moment he is observed, the officer can do nothing until he can observe the child in imminent danger.

Many people have argued that this is not a necessary interpretation of KSA 38-1527. I suggest that it is what the words literally mean even though I will admit that many law enforcement officers would stretch a point and find imminent danger anyway. Other people have argued that in most parts of the state there is not an adequate or suitable place to hold children in custody and that we shouldn't allow officers to take the child into custody. This is simply not an acceptable

Atch. 1

#1

Testimony of Rep. Bob Vancrum
March 14, 1984
Page 2

response. I feel confident our law enforcement officers will not place a runaway in a cell with a hardened criminal. As amended, the bill still requires the officer to find the child in "danger", but this is at least a step in the right direction.

I have with me today an officer with the Overland Park Police Department who will be happy to provide further information.

3-14-84
Attach. # 2

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding House Bill 2694

1. Title of Bill:
An act concerning the crimes of interference with parental custody and child stealing.

2. Purpose of Bill:
To strengthen the Kansas law for interfering with parental custody, and implementing a crime of child stealing.

3. Why the Bill:
This law will increase the attention focused on the perpetrators of this crime after they have left the state and are under the legal jurisdiction of another state. The severity of the penalty also enhances the ability of another state to deal with the perpetrator.

Implementing the crime of child stealing provides protection to children who have been taken or confined within the state of Kansas.

The severity of the penalty for both crimes allow easier access to law enforcements' NCIC computer to help locate children.

4. Background of the Bill:
Nationwide, children are being removed from the care of their lawful custodian which places the health and welfare of that child in jeopardy. By increasing the penalty for interfering with parental custody, children will be less at risk of illegal removal and Kansas will affirm the intent of the state to protect the children who reside within its boundaries.

5. Possible Problems with the Bill:
The term "permanently" in new Section I will seriously hamper the enforcement of this section. SRS recommends this term be stricken. It is expected that it would be exceptionally difficult to prove that the intent was to "permanently" deprive a parent.

6. SRS Recommendation:
Youth Services recommends full SRS support.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
3-14-84

Attch. 2

TESTIMONY ON HOUSE BILL 2796

BY LARRY R. DIXON

SERGEANT, JUVENILE UNIT, OVERLAND PARK POLICE DEPARTMENT

MY NAME IS LARRY DIXON. I AM A MEMBER OF THE OVERLAND PARK POLICE DEPARTMENT. I AM HERE TODAY ON BEHALF OF MYRON E. SCAFE, CHIEF OF POLICE, TO SPEAK IN SUPPORT OF HOUSE BILL NO. 2796. THIS BILL, IF ENACTED, WOULD ENABLE A POLICE OFFICER TO PROVIDE BETTER SERVICE TO THE JUVENILE, FAMILY, AND COMMUNITY.

DURING 1983, WE PROCESSED 145 RUNAWAY REPORTS THROUGH THE JUVENILE UNIT. NEEDLESS TO SAY, PARENTS OF RUNAWAYS ARE STILL CONCERNED ABOUT THEIR CHILDREN'S WELFARE REGARDLESS OF THE CHANGE OF LAW IN 1983. THESE PARENTS EXPECT (SOMETIMES DEMAND) THEIR LOCAL POLICE TO MAKE MORE OF AN EFFORT THAN THE PRESENT LAW ALLOWS TO FIND THEIR CHILD. WHEN WE AS POLICE OFFICERS EXPLAIN THE PRESENT K.S.A. 38-1527 "IMMINENT DANGER" REQUIREMENT, THE PARENT IS NOT TOO IMPRESSED. THEY OBVIOUSLY EXPECT US TO BE OF MORE ASSISTANCE TO THEIR PLIGHT.

OUR REQUEST IS TO DELETE ONE WORD IN THE AFOREMENTIONED STATUTE. DELETE THE WORD "IMMINENT" IN DESCRIBING DANGER. BY MAKING THIS CHANGE, IT WILL GIVE THE POLICE OFFICER A CLEARER UNDERSTANDING OF THE CIRCUMSTANCES FOR TAKING THE CHILD INTO CUSTODY.

TESTIMONY HOUSE BILL 2796
LARRY R. DIXON
PAGE 2
MARCH 14, 1984

WE WOULD THEN HAVE A BETTER DEFINED OPTION TO TAKE THE CHILD INTO CUSTODY FOR BEING A RUNAWAY FOR EXAMPLE, AND NOT HAVE TO HAVE THE ADDITIONAL ELEMENT OF "IMMINENT" ATTACHED TO DANGER.

THIS CHANGE WOULD SERVE ALL INVOLVED (JUVENILE, FAMILY, LAW ENFORCEMENT, S.R.S., AND COURT SERVICES PERSONNEL) PARTICIPANTS MUCH BETTER, I BELIEVE.

ONCE AGAIN, ON BEHALF OF THE OVERLAND PARK POLICE DEPARTMENT, I SPEAK IN FAVOR OF THIS BILL. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS THAT YOU MIGHT HAVE.

Statement Regarding House Bill 2709*Attach. #4*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 commission 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.

Atch. 4

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