

Approved 4/9/85 Date

MINUTES OF THE House COMMITTEE ON Judiciary

The meeting was called to order by Representative Joe Knopp at
Chairperson

3:30 ~~am~~/p.m. on March 21, 1985 in room 526-S of the Capitol.

All members were present except:

Representative Snowbarger was excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department

Mike Heim, Legislative Research Department

Mary Ann Torrence, Revisor of Statutes Office

Mary Hack, Revisor of Statutes Office

Becca Conrad, Secretary

Conferees appearing before the committee:

Elwaine Pomeroy, Kansas Adult Authority

Chuck Simmons, Department of Corrections

Phil Megathan, Legislative Chairman of Kansas Association of Court
Services Officers

Jim Clark, Kansas County and District Attorney Association

Marjorie Van Buren, Office of Judicial Administration

Elizabeth Taylor, Kansas Association of Domestic Violence Program

Representative Wanda Fuller

Lynn Barclay, Kansas Children Service League

Cindy Robinson, Kansas Action for Children, Inc.

Judy Pfannenstiel, Planning Consultant for JRISC

Judge Allegrucci, Legislative Coordinating Committee of Kansas

District Judges Association

Judge Lee Nusser, District Magistrate Judges Association

Judge Thomas Graber, Sumner County

Judge Robert Morrison, Sedgwick County

SB 282 - Relating to crimes, punishments and criminal procedure; relating to sentencing and parole.

Elwaine Pomeroy, Kansas Adult Authority, explained the procedures of the parole board. He said they need the language changed in Section 2, lines 136-141. He said they need some language to make it clear that they can impose the penalty for the parolee violating the parole by committing a new crime comparable to the penalty that they could have imposed upon them if they had violated their parole for some other reason.

Mr. Pomeroy also said they would like to change on page 5, lines 164-170 which talks about establishing a parole eligibility date which would say that the initial hearing would be an informational hearing. Another change they would like would be on page 6, lines 214-215. This would give clear authority to require someone who is on parole, who violates the term of the parole, and is in another state and who has to be brought back, to reimburse the state for the transportation expenses involved. He said it would read "paying transportation expenses resulting from returning the parolee to this state to answer criminal charges for a probation parole or conditional release violation form".

Chuck Simmons, Department of Corrections, said they would like a change on page 3, lines 89-92, which would clarify the amount of credit given to an individual that is serving a sentence and who comes back with a subsequent second sentence. He said they don't think they should be rewarded for not earning good-time credit. He said also that they do agree with Mr. Pomeroy concerning lines 136-141. Attachment No. 1 shows the proposed language change they would like in lines 214-215.

Representative Wunsch made a motion to approve the proposed amendments and it was seconded by Representative Duncan. The motion carried.

Representative Duncan made a motion to report SB 282 as amended. It was seconded by Representative Walker and carried.

SB 64 - Relating to crimes and punishments; concerning pre-sentence investigations.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Judiciary,
room 526-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on March 21, 1985.

Phil Megathan, Legislative Chairman of Kansas Association of Court Services Officers, spoke in favor of this bill as shown in Attachment No. 2.

Jim Clark, Kansas County and District Attorney Association, spoke in favor of this bill.

Marjorie Van Buren, Office of Judicial Administration, said they requested introduction of this bill for the reasons stated in Attachment 3.

Elizabeth Taylor, Kansas Association of Domestic Violence Program, was not able to appear in person, but they did want it to be announced that they are in support of SB 282.

Representative Duncan made a motion to pass this bill favorably and it was seconded by Representative Douville. The motion carried.

SB 2 - Concerning juveniles; prohibiting detention in adult jails; providing exceptions; relating to development of alternatives to detention.

Representative Wanda Fuller spoke in favor of this bill as shown in Attachment No. 4.

Lynn Barclay, Kansas Children Service League, spoke in favor of SB 2 and explained changes they proposed as shown in Attachment No. 5.

Cindy Robinson, Kansas Action for Children, Inc., spoke in favor of this bill, and gave ten reasons for juveniles being removed from adult jails as shown on page 4 of Attachment No. 5. She also referred to Attachments No. 6 and 7.

Judy Pfannenstiel, Planning Consultant for JRISC, spoke in favor of this bill. She was in charge of implementing jail removal projects in nine counties in Kansas. The purpose of this was to see if it is feasible and possible to remove juveniles from jails and she explained the results of this study.

Judge Allegrucci, Legislative Coordinating Committee of Kansas District Judges Association, said they support the primary objective of SB 2 but said they cannot support it unless conforming juvenile detention facilities are in place and reasonably available to the courts on the date this bill is to become effective. See Attachment No. 8.

Judge Lee Nusser, District Magistrate Judges Association, said they had serious concerns about SB 2. See Attachment No. 9.

Judge Thomas Graber, Sumner County, spoke in opposition of SB 2. He said there is already a shortage of facilities, that the \$700,000 would only go towards providing those facilities that are already needed. He said there are many counties which do not have any kind of shelter facility or foster homes. Another problem is that there is no provision in this statute for them to hold a traffic offender for up to 48 hours or 24 hours in a jail. He also stated that in the "child in need of care" portion on page 6, lines 212, the amended language is different than that which is found in Section 4 of page 8. He said specifically the language in the first line which says "or on the same grounds" should be removed. He said he would also request that if the committee is going to pass this legislation, they need to include a similar type language which allows the rural communities to detain the runaway in the jail which meets the standard as set out for a juvenile offender. The language to use would be in Subsection b, line 302, page 8 - insert this under Section 2 but the language should be changed to fit child in need of care.

Judge Graber also said that the definition of jail starting on page 8, line 287, needs to be clarified. On page 9, line 316, he said the definition needs to be clear on which counties are included in the reporting area. In regard to the language on the 24 hours, page 10, line 356, when the bill says notice must be within 8 hours and it doesn't give them Saturdays, Sundays and holidays -- this presents a problem. He also pointed out that on line 578 there is a reference to Section 6 which is not appropriate. He said he is not in favor of this bill.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Judiciary,
room 526-S, Statehouse, at 3:30 ~~a.m.~~ p.m. on March 21, 19 85

Judge Robert Morrison, Sedgwick County, also spoke in opposition to this bill. He said he agrees with the premise that youthful offenders should not be mixed with hardened criminals. He said he does not agree with the premise that there is something magic about the 18th birthday and that all violent offenders are at least 18 years old. He said he thought it should be referred to an interim committee.

The Chairman announced they would take committee action on this bill on Monday.

Representative Cloud made a motion to approve the minutes on March 19, 1985 and it was seconded by Representative Wunsch. The motion carried.

The meeting adjourned at 6:00 p.m.

S.B. 282

Lines 214/215

pay any transportation expenses resulting from returning the parolee to this state to answer criminal charges or a probation, parole or conditional release violation warrant.

KANSAS ASSOCIATION OF COURT SERVICES OFFICERS

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TESTIMONY BY PHIL MAGATHAN

Our association represents professionals who work with adult and juvenile offenders in providing presentence investigations, predispositions investigations, probation supervision, restitution for crime victims, and many other services for the court, clients and communities we serve.

Statewide court services officers are provided supervision to Kansas probation population that has increased to approximately 19,000. Well over 50% of the adult probation population are felony cases, and over 50% of the juvenile cases are offender type cases. During fiscal year 1984, court services officers statewide prepared 13,600 formal reports to eight judges in determining the most appropriate sentence in correctional plan for the offender. In addition, during fiscal year 1984, court services officer monitored 7,821 court ordered restitution cases statewide.

The Kansas Association of Court Services Officers are in support of senate bill 64. This legislation provides workable language detailing a procedure currently performed by court services officers when conducting a presentence investigation. Court services officers throughout the State of Kansas recognize and are sensitive to the needs of victims of crime. The court services officer functions as a liaison between the victim of the criminal offense and the court. This allows the victim, during the presentence investigation process, to present a statement of financial, social, psychological, and medical impact of the crime.

Attachment No. 2
House Judiciary
March 21, 1985



Kansas Unified Court System

COURT SERVICES OFFICER MANUAL

TOPIC: Presentence Investigation
Report (Continued)

Where possible each presentence report shall contain a crime victim impact statement if one is submitted by the victim or, in the case homicide, by the victim's immediate family.

The following guidelines will assist court services officers in assuring that a victim's complete statement is prepared. Use these during information gathering stages and if they are applicable to the offense:

1. Name of victim or person interviewed along with address and age if possible.
2. A description of the nature of the incident as related by the victim.
3. A description and the extent of any physical injuries to the victim.
4. Was medical treatment required for the injuries sustained? If so, describe the treatment received and the length of time treatment was or will be required.
5. A description and extent of any psychological (emotional) injuries or impact the incident had upon the victim as described by the victim and observed by the CSO. Has the victim received or is the victim receiving any counseling or therapy as a result of the incident?
6. Cite the amount of expenses incurred to date or being anticipated as a result of medical and psychological treatment received. Indicate whether any insurance claims have been made, including the name and address of the company and amount of benefits paid thus far, and listing any deductibles paid by the victim.
7. Describe any changes in the victim's or the victim's family life style as a result of this incident. Include such things as effects on employment, residence, and social relationships.



Kansas Unified Court System

COURT SERVICES OFFICER MANUAL

TOPIC: Presentence Investigation
Report (Continued)

8. Describe expenses or loss of property damage. Indicate whether any insurance claim has been made including the name and address of the company and amount of benefits received. List any deductibles paid by the victim.
9. Have the victim relate what being the victim of a crime has meant to the victim and family and any thoughts or suggestions they may have on sentencing for the defendant(s).
10. Describe any feelings the victim may have as to the overall criminal justice system. Have the victim's feelings changed as a result of this incident?
11. If it exists, indicate any community sentiment toward the offense(s) and the defendant(s).

It is recommended that each chief court services officer develop in conjunction with the administrative district judge any forms or other investigative tools which may be required to assist an investigating court services officer in ascertaining the information required for this section of the presentence report.

TESTIMONY ON SENATE BILL NO. 64
OFFERED BY MARJORIE VAN BUREN
OFFICE OF JUDICIAL ADMINISTRATION
MARCH 21, 1985

SB 64 expands the statutory mandate for collection and reporting of victim information. Current law recognizes this factor and CSO's routinely inquire into victim impact in their presentence investigations. The procedures manual used by our state's CSOs make clear the importance of such information.

The Judges' Sentencing Committee, appointed by the Judicial Administrator, recommended these changes to strengthen the statutory basis for consideration of victim information in sentencing decisions. At the same time, the judges recognized that there may be instances in which the victim is unidentifiable, uncooperative, or otherwise unavailable. Thus the provision for a showing of good cause why certain information is not secured.

STATE OF KANSAS

WANDA FULLER
REPRESENTATIVE, EIGHTY-SEVENTH DISTRICT
2808 SENNETT
WICHITA, KANSAS 67211



TOPEKA

HOUSE OF
REPRESENTATIVES

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NATIONAL CONFERENCE OF STATE LEGISLATURES—
STATE AND FEDERAL ASSEMBLY—FEDERAL
TAXATION, TRADE AND ECONOMIC
DEVELOPMENT COMMITTEE

TO: House Judiciary Committee

FROM: Representative Wanda Fuller

RE: Senate Bill 2

Objective: To prevail upon the committee to pass favorably Senate Bill 2,
prohibiting the detention of juveniles in adult jails.

Mr. Chairman and members of the House Judiciary Committee, I come before you today to give my support for Senate Bill 2 and to give a brief background as to how and why it came about.

In June, 1983, the Advisory Commission on Juvenile Offender Programs adopted the philosophy of removing youth from adult jails while recognizing the need to study the fiscal and social impact of implementing the philosophy. To that end, the Juvenile Jail Removal Impact Study Committee was created and charged with developing a report exploring the issues surrounding removal of youth from Kansas jails.

Shortly after its creation, the committee undertook its mission by analyzing the situation in Kansas with regard to state juvenile justice options, available resources, and available data. This was followed by review of national legislative and judicial actions, as well as experiences of other states and regions with removing youngsters from secure detention settings in adult jails.

The Committee determined that any assessment had to answer a primary question: Can juvenile jail removal be accomplished in Kansas within acceptable parameters and, if so, in what manner?

The Committee became united in its belief that youth should be removed from jails and that Kansas can solve the problems involved in removal. It was felt that successful change would require (1) extensive cooperation from and planning by a number of people representing state and local agencies involved in the juvenile justice and child protection systems; (2) a commitment to changes for reasons other than protecting Kansas' participation in the federal Justice and Delinquency Prevention Act; (3) that any plan examine the complete pretrial

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system for youth and not just the jail removal issue; and (4) an understanding that "jail removal" does not mean that secure detention is not an appropriate placement for some alleged juvenile offenders.

Numerous questions arose in the course of the Committee's work. (1) Who is responsible for the pre-trial stage of the juvenile justice system; (2) How can low population areas be best served at a reasonable cost; (3) How can current space in the existing juvenile detention centers best be utilized; (4) What type of changes should be made in statutory language; and (5) What type of timetable should be established for any mandatory changes?

The Committee sought information and gained education through a variety of activities such as: (1) assistance and information from national experts; (2) extensive study and analysis of data prepared by the Kansas Bureau of Investigation; (3) visits to local sites; (4) the study of other states' experiences related to changes resulting from jail removal; and (5) communication with experts from Kansas including judges, sheriffs, detention staff, court services officers, child advocates, and social service administrators.

The Jail Removal Impact Study Committee spent a year preparing a report entitled "Juveniles in Jail in Kansas" aimed at reforming juvenile detention practices in Kansas. Based on KBI statistics, analyzed by the committee, the group found that as many as 1,500 youths are placed in jail in Kansas in a year's time. Approximately 1,800 additional juveniles are detained in secure detention facilities which means that around 3,000 youths are annually locked up in Kansas. Of these, approximately 60 percent are released within 48 hours. The committee surveyed Kansas judges regarding the placement of juveniles brought before them. Responses of the judges surveyed indicated a need for access to secure detention facilities for youth as well as concern for the difficulties of transportation to current facilities, the cost of new facilities, and the limited space currently available. The judges also cited a need for more foster homes and runaway and emergency shelters.

The Jail Removal Impact Study Committee hired the Community Research Center of the University of Illinois as a consultant. Using Kansas data, the research center determined that it would be possible to reduce significantly the number of youths in secure detention by removing status and nonoffenders and minor offenders. Preliminarily the Community Research Center indicated that part of the solution in Kansas may lie in the provision of nonsecure alternatives to jail rather than the construction of new secure facilities.

As a result of the study by the Jail Removal Study Committee and the Interim Judiciary Committee, you have before you today for your consideration, Senate Bill 2.

ADVISORY COMMISSION ON JUVENILE OFFENDERS PROGRAMS

The Advisory Commission on Juvenile Offender Programs was created under K.S.A. 75-5388, by the 1982 session of the Kansas legislature. 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.

CURRENT MEMBERS

Statutory Members

Robert C. Barnum
Commissioner of Youth Services
SRS Designee

Brenda Hoyt
Asst. Attorney General
Attorney General Designee

Warren Bell
Director, State & Federal Programs
Administration Section
KSDE Designee

Appointees of the Chief of Justice

The Honorable Richard Loffswold
Associate District Judge
Girard, Kansas

The Honorable Lee Nusser
District Magistrate Judge
St. John, Kansas

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The Honorable Nancy Parrish
State Senator
Topeka, Kansas

The Honorable Alicia Salisbury
State Senator
Topeka, Kansas

Members of the House of Representatives

The Honorable Donna Whiteman
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The Honorable Wanda Fuller
State Representative
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JUVENILE JAIL REMOVAL IMPACT STUDY COMMITTEE

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JUVENILE JAIL REMOVAL IMPACT STUDY COMMITTEE
House Judiciary Testimony on March 21, 1985

SUMMARY OF SB 2

The Juvenile Jail Removal Impact Study Committee (JRISC) supports SB 2.

I. Major features of SB 2:

A. As of July 1, 1987, youths under 18 could not be held in an adult jail unless they are:

1. being waived into adult court, once charges and motion have been filed;
2. charged with the crime of aggravated juvenile delinquency (which is handled in adult court);
3. charged with a third felony (which is handled in adult court).

B. Placement in adult jails or lock-ups would be completely prohibited for:

1. alleged children in need of care;
2. adjudicated children in need of care;
3. alleged juvenile offenders, except that placement in a jail could be allowed for a period of up to 24 hours when:

- a. in a rural area outside of a "standard metropolitan statistical area" (Johnson, Wyandotte, Sedgwick and Shawnee counties);
- b. no acceptable alternative placement is available;
- c. there is sight and sound separation of juveniles and adults; and
- d. a detention hearing is held within 24 hours.

4. adjudicated juvenile offenders;
5. traffic offenders; and
6. fish and game violators.

C. Juveniles could be held in a facility in the same building as an adult jail if:

1. the facility meets standards and licensure requirements;
2. there is no haphazard or accidental contact between juveniles & adults; and
3. juvenile and adult program activities are totally separated.

D. The Advisory Commission on Juvenile Offender Programs "shall oversee the implementation of the mandated removal of juveniles from jails...and shall assist in the development of nonsecure local or regional alternatives to detention of juveniles."

II. JRISC supports using state general fund money for nonsecure alternatives to jail. The fiscal note for the first year of nonsecure alternatives is \$772,711. New juvenile detention centers should not be built until nonsecure alternatives have been tried. After at least one year, the need for new juvenile detention centers can be reassessed.

III. JRISC supports legislated criteria for the screening, release or detention of accused juvenile offenders to ensure that juvenile detention centers are used only when necessary. The Advisory Commission on Juvenile Offender Programs will ask the 1986 Legislature to adopt criteria.

JUVENILES IN JAIL IN KANSAS
SUMMARY OF DATA

12/85 - 5/84

These figures are based on reports by Kansas jails to the Kansas Bureau of Investigation. In instances where such reports were not filed or were incomplete, the Juvenile Jail Removal Impact Study Committee (JRISC) sought out and obtained much of the missing data. Reports obtained since JRISC completed its analysis of the data indicate that the actual number of juveniles detained in adult jails (726) is greater than the initial reports (635). This summary is based on the initial reports of 635 juveniles held in adult jails over approximately 6 months.

	ADULT JAIL	JUV. DETENTION CENTER
TOTAL DETAINED: 1,346	635	711
OFFENSE		
ABC Felony	3.5%	4.6%
Other Felony	32.3%	25.4%
Runaway	21.0%	18.6%
Traffic/Fish & Game	8.2%	0.7%
Other (misdemeanor, status offender, etc.)	55.0%	52.8%
	100.0%	100.1%
TIME SPENT IN DETENTION		
0-6 hours	25.5%	17.4%
6-48 hours	41.9%	31.6%
48 hours - 30 days	31.0%	39.2%
over 30 days	1.6%	11.7%
	100.0%	99.9%

Prepared by JRISC
February 1985

JUVENILES IN JAIL IN KANSAS - ESTIMATES OF ANNUAL JAIL USAGE

From 12/83 to 5/84, a reported 726 juveniles were held in adult jails in Kansas. This chart uses those figures to show the estimated number and average daily population of juveniles in jail in 1 year in each of 7 regions of the state. It also gives an estimate of the average daily population that would result if 1/2 of the juveniles were placed in alternatives to jail. These figures do not include any juveniles held in the 4 county juvenile detention centers.

REGION	JUVENILES IN JAIL 1 YEAR EST.	AVG. LGTH. OF STAY	ADP* OF JUVENILES	ADP* IF ONE-HALF REMOVED
REGION I Made up of: • 24 counties in SW Kansas • 16th, 24th, 25th & 26th Judicial Districts	134	2.9 days	1.06	.53
REGION II Made up of: • 17 counties in NW Kansas • 15th, 17th & 23rd Judicial Districts	72	2.3 days	.45	.23
REGION III Made up of: • 11 counties in South Central Kansas • 13th, 18th, 19th, 27th, & 30th Judicial Districts	198	4.2 days	2.28	1.14
REGION IV Made up of: • 21 counties in North Central Kansas • 8th, 9th, 12th, 20th, 21st & 28th Judicial Districts	280	2.9 days	2.22	1.11
REGION V Made up of: • 11 counties in NE Kansas • 2nd, 3rd, 5th & 22nd Judicial Districts	132	6.9 days	2.50	1.25
REGION VI Made up of: • 9 counties in NE Kansas • 1st, 4th, 7th, 10th & 29th Judicial Districts	316	4.3 days	3.72	1.86
REGION VII Made up of: • 12 counties in SE Kansas • 6th, 11th, 14th & 31st Judicial Districts	320	3.2 days	2.81	1.41
TOTAL 105 counties	1,452	3.8 days	15.12	7.56

*ADP= Average Daily Population (Based on # in jail x avg. length of stay ÷ 365 days)

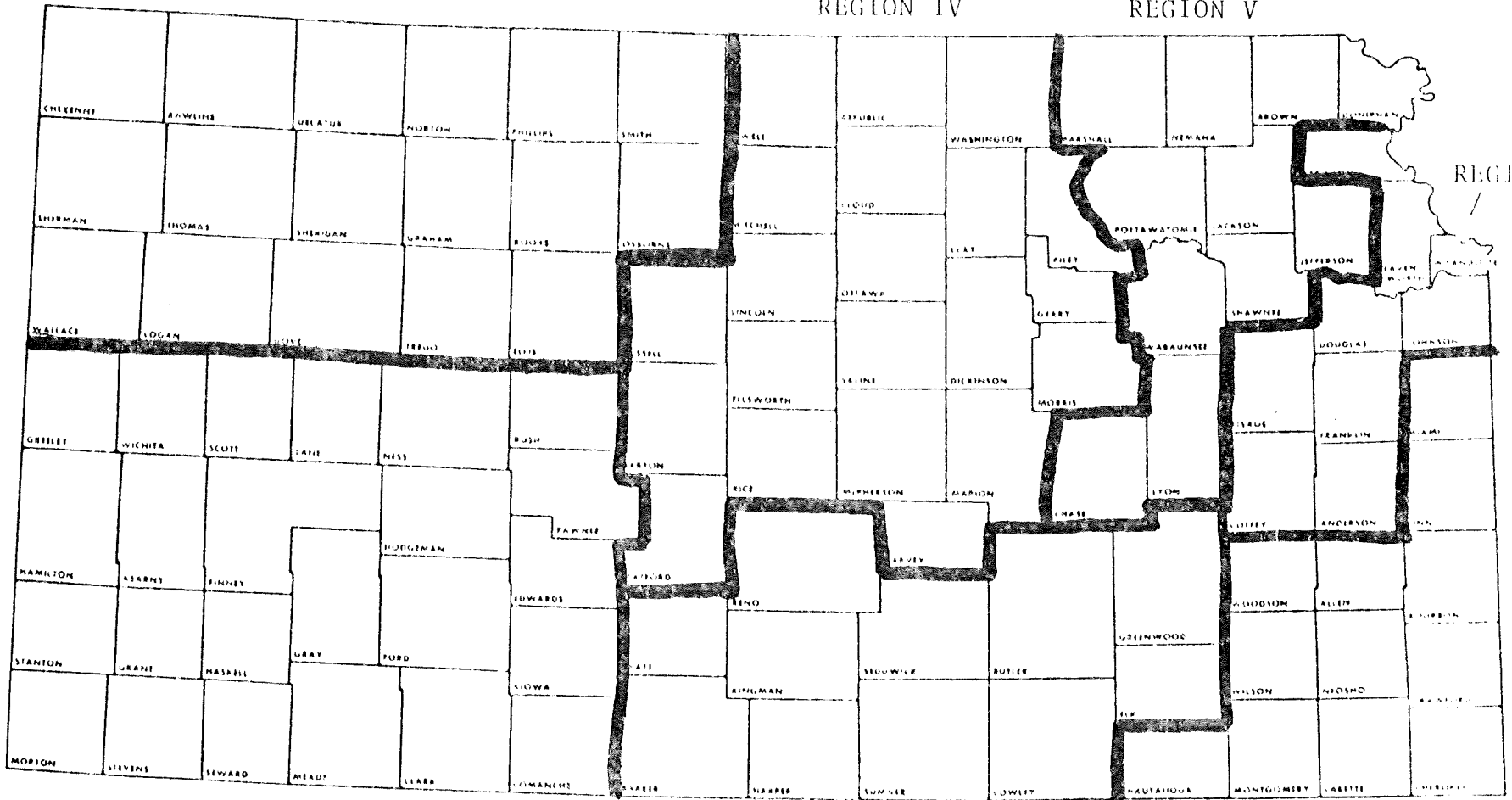
STATE OF KANSAS

REGION II

REGION IV

REGION V

REGION VI



REGION I

REGION III

REGION VII

WHY SHOULD JUVENILES BE REMOVED FROM ADULT JAILS?

1. Most juveniles who are jailed are not dangerous to themselves or to others and those who are dangerous can be safely held in secure juvenile detention centers.
2. The main reason given by judges and law enforcement for jailing juveniles is that they had no alternative available. Yet, alternatives to jailing juveniles are effective and can be developed at a reasonable price.
3. Successful "sight and sound" separation of juveniles from adults in Kansas jails has not been achieved despite many years of effort.
4. Juveniles in adult jails are either exposed to adult inmates, which can result in abuse, or isolated from other inmates, which can result in severe stress and self-destructive actions.
5. Youths in jail commit suicide at a rate 5 times that of children in society and 8 times that for children in juvenile detention facilities.
6. Juveniles in jail cause management problems for jailers who generally have neither services nor space available for juvenile inmates.
7. Jailers increasingly face lawsuits in which they may be held liable for damages inflicted on a youth held in an adult jail.
8. In 1982, a federal court in Oregon ruled that holding juveniles in any adult jail was, per se, unconstitutional.
9. The "shock" impact of jail most often has negative consequences for youth; there are other less damaging and more positive ways to achieve a shock impact.
10. Physical and emotional damage to youth should not be inflicted or allowed by the state.

March 1985

Prepared by JRISC

KANSAS ACTION FOR CHILDREN

P.O. BOX 5283. TOPEKA, KANSAS 66605 913/232-0550

JUVENILES IN ADULT JAILS

Each year Kansas detains around 3,000 youths. Nearly half of them are held in adult jails and lockups. The other half are in juvenile detention centers in four urban counties. The 1985 Kansas legislature is considering Senate Bill 2, to remove most juveniles from adult jails.

Q. *Should youths be held in adult jails?*

A. Most of them should not.

- 1) When youths are held separately from other prisoners, they have an extraordinarily high suicide rate. Two youths have killed themselves in Kansas jails in recent years.
- 2) When youths are held with other prisoners, they are easily victimized or taught anti-social lessons.
- 3) Holding youths and adults in separate quarters, as required under state laws and federal rules, is difficult or impossible in many Kansas jails.
- 4) Jail personnel in other states have been sued by juveniles. A federal judge in Oregon declared unconstitutional the holding of juveniles in adult jails.
- 5) Many juveniles are jailed for things for which no adult could be jailed. Many youths are jailed for running away, or because they are abused or neglected.

Q. *How many youths are held in Kansas jails?*

A. About 1500 per year is a well educated guess. After the figures were hand checked there were minor changes in some categories, but

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as the reporting system improves more reports continue to come in.

Of the 1500 youths about two-thirds are charged with minor (misdemeanor) offenses or running away, or they are victims of abuse or neglect. Most youths were held less than 48 hours. Most were released before seeing a judge--which suggests they weren't violent or dangerous.

Other states have shown that careful screening of youths placed in alternative programs can eliminate jailing without danger. Dangerous youths or youths who would run away should still be locked up in juvenile detention centers, just not adult jails.

Q. *Why are so many nondangerous youths held in jails?*

A. Primarily because police and judges have no other alternatives. In some cases, alternative programs may already be full.

Alternative programs haven't been a funding priority. Programs could be started if there were funds to pay for them.

Q. *Are the horror stories about adult jails commonplace or isolated incidents?*

A. There's no way to know. Recently 16 youths were interviewed about their jail experiences. These 16 were chosen at random from students at two state youth centers for convicted youths. Among the 16, were:

- five who shared cells with adults
- four who were within sight and sound of adults
- one who attempted suicide
- two who were held at age 12; one hallucinated after a month alone
- one who was in a serious fight with an adult
- one whose cellmate became very ill but the jailers refused to respond for over an hour
- one whose cellmate was locked in a mesh pen "like a dog cage" for discipline; the existence of the cage was confirmed by Kansas jail inspectors.

Q. *What is being done about youths in jail?*

A. The 1985 Kansas legislature is considering Senate Bill 2. The bill would remove nearly all youths from adult jails. If SB 2 becomes law, there would be only two groups of youths left in jail:

- 1) Youths charged with criminal-type offenses held up to 24 hours for investigation and processing in rural areas; and
- 2) Youths being processed in adult court for serious/violent offenses, for a third felony, or for "aggravated juvenile delinquency." These youths, though under 18, fall under the adult criminal system.

By the time SB 2 becomes law, alternative programs and transportation should be in place. The 1985 Kansas legislature is considering funding for alternatives to jail.

Q. *What are alternatives to jail?*

A. A number of things. One sheriff has just opened a temporary holding center where youths are supervised by officers. Others can be beds in a children's emergency shelter, intensive in-home supervision, "youth attendants" who work only as needed, and of course transportation to juvenile detention centers.

Q. *How much would it cost to get youths out of jail?*

A. About \$772,711 or less the first year. This includes several items:

- transportation to juvenile detention centers for serious offenders,
- alternative programs and transportation for minor offenders who need supervision but not secure detention,
- alternative programs for minor offenders and nonoffenders who would be moved from juvenile detention centers, and
- personnel to make sure the programs run well throughout the state.

Q. *If Kansas already requires separation of juveniles and adults in jails, why bother to transport youths to a separate detention center?*

A. The law isn't always followed. Of 16 youths interviewed about their jail experiences, five reported sharing cells with adults and four more could see or hear adult prisoners. In addition, jail prisoners are routinely left alone and unoccupied. Youths in juvenile detention centers are supervised. They have school work, recreation, therapy, joint meals, study hall, etc. The old maxim, "The devil finds work for idle hands," is true of jails but generally not of juvenile detention centers.

Q. *But there are only four juvenile detention centers in the state. Won't we need more?*

A. Probably not. Juvenile detention centers currently hold many youths who are waiting for a long-term placement. Like jails, they also hold minor offenders and nonoffenders. By handling these youths in other ways, space in the four detention centers would be available for serious offenders from across the state.

A combination of new programs and transportation could work. Juvenile detention centers can cost half a million dollars a year, much more than other alternatives.

Q. *How can you insure that only serious offenders are held in juvenile detention centers?*

A. By making sure there are other programs for lesser offenders, and by using "detention criteria"--specific rules about who can be held.

Kansas already has general criteria for detention: "...dangerous to self or others...not likely to appear for further proceedings." Some jail removal projects have successfully used specific criteria about the crime charged, past history of offenses, past record of running away and other items. The 1986 legislature will be asked to adopt specific criteria.

kansas action for children, inc.

2053 kansas avenue • p.o. box 5283 • topeka, Kansas 66605 • 913/232-0550

House Judiciary Hearing on SB 2

March 21, 1985

Testimony of Cynthia A. Robinson, attorney and
juvenile justice specialist for Kansas Action for Children

Results of interviews with 16 youths who have been in adult jails
in Kansas:

- * Twelve youths had been in one or two jails; four youths had been in three or four jails
- * Five youths shared cells with adults; an additional four were held within sight or sound of adults
- * The two youngest were 12 years old; most were 14 or older when jailed
- * None were given schoolwork or regular recreation periods
- * None of the jails had any programming to occupy time. Some had one or more of the following: radio, TV, cards, books, magazines, games.

Examples of dangerous or inappropriate experiences reported by
the 16 youths:

- * One youth attempted suicide after 10 days in isolation. He was later moved in with adults because the sheriff believed that was better than another suicide attempt.
- * One city jail has a steel mesh pen "like a dog cage" in the middle of a cell. One teenager reported incarceration in the pen. The existence of the pen was confirmed after a jail inspector phoned the city.
- * A 12 year old reported hallucinations after 29 days in isolation.
- * A prisoner became very ill. Juvenile cellmates attempted to call jailers, who responded "Shut up." It took over an hour to get the jailers to investigate. The ill prisoner was then hospitalized.

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Attachment No. 7
House Judiciary
March 21, 1985

A non-profit, tax exempt organization

DISTRICT COURT
ELEVENTH JUDICIAL DISTRICT

DIVISION ONE, JUDICIAL CENTER

P. O. BOX 1348

PITTSBURG, KANSAS 66762

CHAMBERS OF
DONALD L. ALLEGRUCCI
JUDGE

March 19, 1985

TO: House Judiciary Committee

FROM: Donald L. Allegrucci, Chairman
Legislative Coordinating Committee of
Kansas District Judges Association

RE: Senate Bill No. 2

I have attached a copy of the material which I submitted to the Senate Judiciary Committee on February 27, 1985. The position of the Judges' Association, as set out in the accompanying material, related to Senate Bill 2 before it was amended by the Senate Judiciary Committee and the Senate Committee of the whole. However, the Senate amendments addressed only some of the concerns which we originally had with Senate Bill No. 2.

Attachment No. 8
House Judiciary
March 21, 1985

TO: Senate Judiciary Committee

FROM: Donald L. Allegrucci, Chairman
Legislative Coordinating Committee of
Kansas District Judges Association

RE: Senate Bill No. 2

The District Judges Association supports the primary objective of Senate Bill No. 2, which is to remove juveniles from adult jails. However, we cannot support Senate Bill No. 2 unless conforming juvenile detention facilities are in place and reasonably available to the courts on the date that Senate Bill No. 2 is to become effective.

The following are submitted as examples of problems which Senate Bill No. 2 does not address and which, therefore, are of concern to the judges:

1. Chronic runners. Senate Bill 2 does not give adequate protection to youngsters that have chronic running problems. Let us take a hypothetical example of a teenage girl who is a child in need of care who has a chronic running problem. At times, youth will run in order to avoid what they perceive to be an unpleasant situation. Say for example, that a hypothetical youth got consequented for an inappropriate behavior, was angry at the staff, had a history of temper tantrums and running as a way of dealing with such stresses. If apprehended by the police and returned to the facility, she might run again within ten minutes. She could very easily get as far as 100 miles away in a few hours. Once apprehended by the police, she would have to be returned again, only to run immediately upon her return to the facility. This scenario could be repeated and, in fact, has been, many times. Obviously, such a child presents great difficulty for those people entrusted with acting in the best interest of the child. Are they to continue returning her to the foster placement even though there is a high probability she will continue to run? What impact will this have on the juvenile who is a chronic runner? Is the inability to detain these youngsters serving the best interest of the child? Is short term detention for children of this nature more harmful to the youth than allowing them to run and expose themselves to the dangers of hitch-hiking, the availability of drugs, finding a place to stay wherever possible at whatever cost, no resources for food, clothing and crisis counseling, along with an added incentive to resort to breaking the law to survive. How would Senate Bill 2 protect the interests of these children?

2. Alcohol, Drug Affected Behavior. Often times youth exhibit behavior that is drug and alcohol affected, or is otherwise out of control, even though they have not committed an offense that would allow them to be detained under the

provision of Senate Bill 2. Having these youth out on their own presents a great danger to them. For example, one girl who has a chronic chemical dependency problem, stated her intention to run off with an employee of a carnival. She ran several times from our facility only to be returned. Each time, she clearly stated her intention that, if returned, she would simply run again. Finally, she was apprehended by police officers and group home employees in the trailer of a carnival employee and was taken into protective custody, against her will, for her protection. My understanding is that under Senate Bill 2, we would not have been able to afford this youngster any protection. Although she had not broken any adult laws, are we adequately insuring her right to a safe and secure environment by allowing her to make this choice. Several days later, when she became more rational and her judgment more sound, the youth was able to better assess her lack of judgment with regard to this incident. Another hypothetical example would pertain to a youth who is out of control and presenting a clear danger to others and to the personal property of others. Under Senate Bill 2, what provisions would be made for a youth who is so out of control that he is physically damaging a youth care facility or foster home? If this youth could not be picked up and detained by police upon the filing of charges, what recourse would the youth home, youth shelter or foster placement have? Would they be expected to allow the youth to continue in his unrestrained, out of control destructiveness, with no immediate consequences? Obviously, they would not want to have the youth removed from the facility with no provisions for environmental protection. However, what are the other alternatives without available detention?

3. If an alleged juvenile offender is apprehended at midnight for a felony offense, then by 6:00 a.m. the sheriff will have to transport the juvenile offender to Olathe, Wichita, etc. The detention hearing may be set for 3:00 p.m. that day. The sheriff's office will have to transport the juvenile offender back for the hearing. If the court determines that detention is required, the sheriff will have to transport one more time. Thus, in less than 24 hours, the sheriff's department will have made three round trips and the juvenile offender has yet his first appearance, trial and, if convicted, adjudication, usually all separate hearings.

4. Another common event occurs where the police apprehend the juvenile offender and the parents, for one reason or another, refuse custody. The same scenario as above occurs, but at the time of the detention hearing the parents have a change of heart and the juvenile offender is placed in his parents' custody. The family gets home and sometimes that very night, "things blow up" and police apprehend juvenile offender again and we have an immediate repeat, so that there has now been five to six trips and we're still not to the first appearance. This happens quite often.

Some of the immediate side effects would be the prolonging of setting the detention hearings the full 48 hours. Now, the court sets the detention hearing the very next day. With Senate Bill 2, the tendency would be to delay as long as possible to blunt some of the concentrated strain on the sheriff's department manpower within that first 24 hours. I can also envision the sheriff's department "taking the juvenile offender into custody", releasing at the end of six hours and then re-apprehending. The ultimate abuse here is obvious. The tendency to look for outs to ease the strain will be less desirable than the present system.

DISTRICT MAGISTRATE JUDGES ASSOCIATION

Mr. Chairman and Members of the Committee:

My name is Lee Nusser, I am a District Magistrate Judge from St. John, and I represent the District Magistrate Judges Association. There are 71 magistrates in the state, and as part of our jurisdiction is to deal with traffic violators and the Kansas Juvenile Code.

Our association has some grave concerns with Senate Bill No. 2 as amended:

In regards to Section #1, which deals with a child 14 to 18 years who have committed a traffic offense, and which would now prohibit the placing of a child in an adult jail. If passed in this present wording, it would include the youth convicted of:

- (1) D.U.I
- (2) Fleeing and elude
- (3) Driving while suspended

and these are just a few that are now classified as traffic misdemeanors and carry a possibility of a jail sentence as part of the penalty provision.

8-2117 is further amended by stating the child be only placed in a detention facility . The statute or present law allows only a 10 day jail sentence for any traffic offense committed by a child of 14 to 18 years of age.

The concerns we have are as follows:

- (1) Does this mean the child can be placed in a detention facility up to (1) year for a jailable offense, (now to 10 days)?
- (2) *Do the statistics that have been compiled include these youths?

*I have served on the JRISC Committee in the past and my understanding is these statistics were compiled only from the Kansas Juvenile Code.

Attachment No. 9
House Judiciary
March 21, 1985

- (3) Do Municipal Judges have the Authority to place a traffic offender in a detention facility?
- (4) There are not enough detention facilities available to the courts to include the traffic offender.
 - (a) There are four in the eastern part of the state (Wichita, Topeka, Johnson County & Wyandotte County).
- (5) Cost of manpower and transportation to and from the detention facility.
 - (a) Consider from the extreme edge of Western Kansas what this cost would be.

Do we wish to add an additional burden to the already overcrowded detention facilities? The traffic offenders were taken out of the Juvenile Code effective in 1983 so the courts could effectively deal with the traffic offender. Is this a step backwards?

Our Association urges that you not pass Section 1 of this bill as amended.

Sections 3 and 4 amends the code for care of children

Our association totally agrees that no child in need of care should be held in an adult jail, but we do have a major concern that is the habitual runaway, either from their home or a court ordered placement. In many rural communities, jail is the only option till other placement can be established. (Can now be detained up to 24 hours) Many times these children are very young, and can either be physically or sexually abused if they are not detained. Please consider the crisis in our nation about missing children! The courts are not trying to punish these children for running away but are trying to help them. Detaining children in jails has always been the last option for the court.

Section 7 deals with the juvenile offender and when he/she may be detained in a detention facility:

The concerns we have is for the violent or aggressive juvenile who is combative, destructive and in general cannot be controlled. The problems about detention facilities I alluded to earlier are now possibly doubled now as the detention hearing must be held for the detained youth.*

*From the area I live in the cost of a trip would be approximately \$60.00 per trip, not counting the time the youth is incarcerated.

These are our concerns that the District Magistrate's Judges Association have with Senate Bill No. 2 in its present form. The courts enforce the laws of the state of Kansas and must abide by the statutes as write . Please consider what is practical and what is not.