

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m. ~~pm~~ on January 30, 1985 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Frey, Burke, Feleciano, Gaines, Langworthy, Parrish, Talkington, Winter, and Yost.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Bud Grant, Kansas Chamber of Commerce and Industry
Leland Atteberry, Research & Data, Inc.
Frances Kastner, Kansas Food Dealers Association, Inc.
Ron Smith, Kansas Bar Association

Senate Bill 44 - Civil remedies for theft.

Bud Grant appeared on behalf of the Kansas Retail Council in support of the bill. He testified few realize that the crime of shoplifting and employee theft costs retailers nationally a total of \$1.73 billion annually, or two percent of gross sales. A copy of his testimony is attached (See Attachment I).

Leland Atteberry, Research & Data, Inc., testified in support of the bill. He stated the bill will be of benefit to businesses in helping them recover some of their losses from thefts. A copy of his testimony is attached (See Attachment II).

Frances Kastner testified the Kansas Food Dealers' Association is in support of the bill. She stated their position on shoplifting, bad checks, and all types of theft has been long-standing. The honest consumer pays for the losses suffered by businesses. A copy of her testimony is attached (See Attachment III).

Ron Smith testified the Kansas Bar Association has taken no position on this issue. They understand the business community does have a problem; however, they are concerned with the technical aspects of the bill. It is not really criminal law and not really civil law. He referred to line 27 of the bill and suggested inserting "custodial parent" in place of "parent". Mr. Smith commented when the law gets on the books, what better way to get back at the parents.

Senate Bill 38 - Procedure for change of judge.

Following committee discussion, Senator Gaines moved to report the bill favorably. Senator Burke seconded the motion. Following further discussion, Senator Gaines made a substitute motion to amend the bill in line 57, following "party" by adding "or party's attorney"; in line 34, correct spelling of attorney. Senator Burke seconded the motion. The motion carried. Senator Gaines moved to report the bill favorably as amended. Senator Burke seconded the motion. The motion carried.

Senate Bill 33 - Court-ordered mediation of child custody and visitation issues.

Following review of the bill, Senator Gaines moved to adopt the amendments proposed by the Kansas Judicial Council. Senator Yost seconded the motion. The motion carried. Senator Gaines moved to

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~pm~~ on January 30, 1985.

Senate Bill 33 continued

amend the bill on page 4, lines 48 and 49, by striking "Christian Science practitioners". Senator Yost seconded the motion. The motion carried. Senator Gaines moved to report the bill favorably as amended; Senator Winter seconded the motion, and the motion carried.

Senate Bill 44 - Civil remedies for theft.

Senator Gaines moved to report the bill adversely. Senator Winter seconded the motion. Senator Talkington made a substitute motion to amend the bill by striking all of lines 31 through 34; in line 27, add "the custodial parents as guardian". Senator Gaines seconded the motion, and the motion carried. Senator Winter moved to amend the bill by striking lines 27 through 30 and renumber appropriately. Senator Feleciano seconded the motion, and the motion carried. Senator Talkington moved to report the bill favorably as amended; Senator Gaines seconded the motion, and the motion carried.

The meeting adjourned.

Copies of letters in support of Senate Bill 33 are attached (See Attachments IV).

The guest list is attached (See Attachment V).

LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

SB 47

January 30, 1985

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the Senate Judiciary Committee

Mr. Chairman and Members of the Committee:

My name is Bud Grant and I am appearing on behalf of the Kansas Retail Council, a major division of the Kansas Chamber of Commerce and Industry. I very much appreciate the opportunity of appearing before the committee today to discuss with you some possible steps which the state of Kansas can take to address the problems associated with shoplifting.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses plus 215 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Few realize that the crime of shoplifting and employee theft costs retailers nationally a total of \$1.73 billion annually - or two percent of gross sales. This

Attach. I 1/30/85

according to the International Council of Shopping Centers. That's money right off the bottom line and represents one of the factors which contribute to the cost of virtually every product which you and I buy. What it means is that in real terms, if someone steals one coat, the store must sell 23 coats to make up for the loss, and an additional two coats must be sold for the profit lost on the one stolen item.

According to the national coalition to prevent shoplifting, the loss in Kansas in 1980, which are the latest figures which I have seen filed, was \$239 million. This problem of shoplifting is dealt with by statute in most every state. These range from those which provide detailed definitions of the elements of the crime, the activities and rights of the merchant and the peace officer with regard to those suspected of shoplifting, the use of photographic evidence of allegedly stolen items, the punishments imposed on criminal conviction, and the civil liability of the one accused of shoplifting.

The language contained in SB 42, which the committee has under consideration today, was taken basically from the approach now being used in the state of Illinois. It also is very similar to that of Washington and California as well as several other states.

In reviewing the summary of state shoplifting laws as presented by the Association of General Merchandise Chains in its publication of January 1984, I did notice that some laws deal with the crime of retail theft, as opposed to the broad question of theft. It may very well be that if the committee feels that the proposed legislation is too broad in its application, it may want to be more specific in its limitations and provide that it be limited to retail theft.

Kansas retailers very much appreciate the past support of this committee Mr. Chairman, in attempting to formulate solutions to the very expensive problem of retail shoplifting. I respectfully request that the committee give favorable consideration to SB ~~42~~ and that it recommend its passage to the full Senate.

Thank you very much for the opportunity of appearing before the committee I would be pleased to attempt to answer any questions the committee might have.

Jan 30, 1985

To: SENATE JUDICIARY COMMITTEE

RE: SENATE BILL 44 concerning CRIMES AND PUNISHMENTS--

We believe this Senate Bill #44 will be of benefit to businesses in helping them recover some of their losses from thefts. It would also help in deterring some of the thefts because that thief would know it could cost MORE than just the COURTS FINES or penalties and restitution of what he steals.

The losses in Topeka for a year from thefts in businesses--shoplifting, employee thefts-- total over \$10,500,000.

One grocery store loses 1% of his total sales per year to theft.

Other self service type stores lose up to 5%, some more, as high as 10%.

One discount store lost \$77,000 in 1983 in thefts in Topeka.

In 1960 one out of every 60 customers were shoplifters. Now it is ONE OUT OF EVERY TEN CUSTOMERS that steals from a store. You can see the growing COSTS of merchandise to HONEST customers if these businesses are going to stay in business.

The cost of ONE average shoplifting case averages \$100 to \$150. You have the apprehension, which may involve watching the suspect for an hour or so on several different occasions when he shops in the store. Watching a suspected employee may involve 15 or more hours before he is caught stealing. Then the report writing, labeling the evidence storing the merchandise for evidence (which may be outdated by the time the court is over with on that case). Then the court trials which could involve several hours and several different times. You may have 2 employees as witnesses.

So one shoplifting case may easily involve at least 4 to 6 hours of employees time before the trial is over.

One Topeka store spends \$4000 in wages (including taxes, insurance and employee benefits) per MONTH for MANPOWER in SECURITY. Also they have an additional investment in over \$50,000 in cameras and other shoplifting EQUIPMENT used to SPOT the shoplifter or EMPLOYEE thief. This store catches an average of 34 shoplifters a month and the average loss is \$40 per shoplifter.

This figure does NOT include the bodily harm, hospital and doctor bills that some of the victims have encountered because of the assaults on them by the thieves. And these types of offenses are increasing constantly.

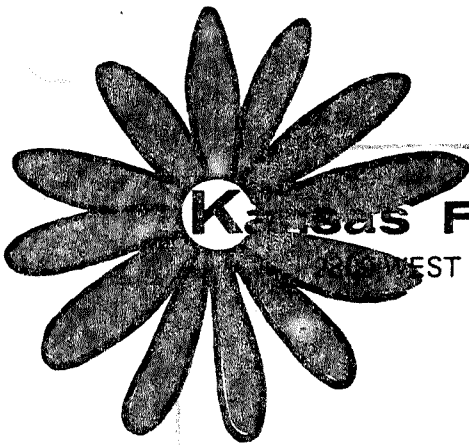
This bill would also benefit other victims of thefts besides businesses, the costs going back on the thief.

The thief needs MORE COSTS TO HIS BUSINESS so it will NOT THRIVE SO MUCH.

We support this bill.

Thank you,
Leland W. Atteberry
Leland W Atteberry

Attch. II 1/30/85



Kansas Food Dealers' Association, Inc.

WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

January 30, 1985

OFFICERS

PRESIDENT
CHUCK MALLORY
Topeka

VICE-PRES., TREASURER
AND SECRETARY
LEONARD McKINZIE
Overland Park

CHAIRMAN OF THE BOARD
JOE WHITE
Kingman

SENATE JUDICIARY COMMITTEE SB 44

EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership includes wholesalers, distributors and retailers of food products throughout the state.

Our retailers are plagued with shoplifters, as are other merchants, and we are in SUPPORT of SB 44.

BOARD OF DIRECTORS

CHARLES BALLOU
Chanute

BOB BAYOUTH
Wichita

DONALD CALL
Cedar Vale

MIKE DONELAN
Colby

JOE ENSLINGER
Wichita

ROY FRIESEN
Syracuse

STAN HAYES
Manhattan

SKIP KLEIER
Carbondale

DELL KLEMA
Russell

BOB MACE
Topeka

JOHN McKEEVER
Louisburg

J.R. WAYMIRE
Leavenworth

BILL WEST
Abilene

LEROY WHEELER
Winfield

Leo K. Mintz, Associate Publisher of the GROCER'S SPOTLIGHT, said in the December 15, 1984 issue: "It is estimated that shoplifting cost the nation's supermarkets an estimated \$1.6 BILLION in 1982. That is more than HALF of the industry's before tax profits which are estimated at about \$2.8 billion by the Food Marketing Industry."

His statistics indicate that the average shoplifter is 19-29 years old, over half are male, 6 to 7% are senior citizens.

Although we do not have a breakdown such as this for our state-wide supermarkets, we do know that the cost is tremendous.

Our position on shoplifting, bad checks, and all types of theft has been long-standing. The HONEST consumer pays for the losses suffered by businesses. Anytime a business has a theft loss, THAT loss has to be added to the cost of doing business.

As honest consumers we should object to having to pay for higher priced goods because of failure to recover theft losses, and required restitution.

We urge your favorable recommendation of SB 44 in the hopes that theft losses will be recoverable, and thereby cut the costs of doing business in Kansas. Thank you for the opportunity to appear before you today to express out support of SB 44.

DIRECTOR OF GOVERNMENTAL AFFAIRS

FRANCES KASTNER

Frances Kastner, Director
Governmental Affairs, KFSA
(913) 232-3310 Topeka, Ks.

1/30/85 attch. III

1-30-85

January 25, 1985

Dear Senator,

I am writing to express my strong support of Senate Bill 33, scheduled to be introduced Tuesday, January 29, 1985. This bill, proposed by the Family Law Committee, provides for court ordered mediation of child custody and visitation issues. It would provide a viable alternative to the adversarial court battle over custody and visitation. It has been shown that parents concerned about the best welfare of their children can, with the help of a qualified mediator, resolve these issues without the intense battle for win or loss of the children. Parents can work out a plan, often for shared legal custody, be it with shared physical custody or one primary custodial parent and the other with acceptable access to the children such that the children are assured continued relationships with both parents. This is crucial if the children are to make a healthy adjustment to the divorce of their parents. It has also been shown that parents actively involved in the resolution of such issues are more likely to comply, thus often averting any need for future litigation or post-divorce disputes. This would certainly be in the best interest of all parties involved.

I therefore urge you to support this significant piece of legislation.

Sincerely,

RE Moss-Alken, MS CSW
clinical social worker

1/30/85

attch. IV

January 28, 1985

Members of the Senate Judiciary Committee:

Dear Senator,

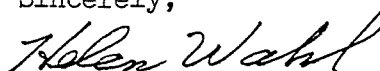
I am writing to express my strong support of Senate Bill # 33, scheduled to be introduced Tuesday, January 29, 1985.

This bill, proposed by the Family Law Committee, provides for court ordered mediation of child custody and visitation issues. I believe it will provide a viable alternative to the frequent adversarial court battle over custody and visitation.

It has been shown that parents concerned about the welfare of their children can, with the help of a qualified mediator, resolve these issues. It has also been shown that parents actively involved in the resolution of such issues are more likely to comply, thereby returning much less often for future child custody matters.

The Kansas City Association of Divorce and Family Mediators has studied this bill and we urge you to support this legislation. In so doing we believe Kansas will remain in a leadership position in regard to domestic relations and in particular to child custody provisions.

Sincerely,



Helen Wahl, Member
Academy of Family Mediators
K.C. Assoc. of Divorce & Family Mediators

5010 Rock Creek Lane
Shawnee Mission,
Ks. 66205
(913-831-2524)

Attch. IV²

January 25, 1985

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I am writing to express my strong support of Senate Bill 33, scheduled to be introduced Tuesday, January 29, 1985. This bill, proposed by the Family Law Committee, provides for court ordered mediation of child custody and visitation issues. It would provide a viable alternative to the adversarial court battle over custody and visitation. It has been shown that parents concerned about the best welfare of their children can, with the help of a qualified mediator, resolve these issues without the intense battle for win or loss of the children. Parents can work out a plan, often for shared legal custody, be it with shared physical custody or one primary custodial parent and the other with acceptable access to the children such that the children are assured continued relationships with both parents. This is crucial if the children are to make a healthy adjustment to the divorce of their parents. It has also been shown that parents actively involved in the resolution of such issues are more likely to comply, thus often averting any need for future litigation or post-divorce disputes. This would certainly be in the best interest of all parties involved.

I therefore urge you to support this significant piece of legislation.

Sincerely,

Nancy Quinn

Nancy Quinn
7807 West 65th St.
Overland Park, Kansas 66202

Attch. IV