

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

10:00 a.m./p.m. on January 31, 1985 in room 514-S of the Capitol.

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

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:

Ron Smith, Kansas Bar Association  
Representative Joe Knopp  
Jim Clark, Kansas County and District Attorneys Association  
Commissioner Robert Barnum, Social and Rehabilitation Services

Senator Audrey Langworthy presented a proposal for request as a committee bill relating to self defense. Senator Feleciano moved that the committee request the introduction of the bill. Senator Yost seconded the motion, and the motion carried. (Attachment I)

The chairman noted Superintendent Bert Cantwell of the highway patrol would not be appearing to testify on the bill. Superintendent Cantwell testified this summer at the interim meetings in support of the bill.

Ron Smith testified the Kansas Bar Association supports any legislation designed to give local prosecutors the best possible administrative system to protect the citizens of Kansas from criminal action. A copy of the testimony is attached (See Attachment II).

Staff presented background information to the bill.

Representative Joe Knopp, chairman of the House Judiciary Committee, reviewed the conclusions and recommendations of the interim committee. He stated the interim committee worked out a system that will work for all districts.

Jim Clark testified the Kansas County and District Attorneys Association are opposed to the bill for two reasons, financing and loss of local autonomy. They do support the concept of attempting to establish the district attorney system in the state and abolishing the county attorney system. He stated crime is not a local county problem; there are not that many county issues. There needs to be some state control of the office, and state control of financing is the best. The two areas of child support the district and county attorneys are involved in are maternity actions and out of state actions. Mr. Clark stated with the present system, the county attorneys are inexperienced and the salary is low. They had a turnover in 70 counties in this term. The district attorney system is the most efficient way criminal law can be prosecuted. He recommended as one possible method of financing statewide district attorneys system is to expand the obligations of district attorneys to include child support enforcement and obtain state funding for support enforcement.

Commissioner Robert Barnum appeared as chairman of the Supreme Court Permanency Planning Task Force. He explained the members of the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 514-S, Statehouse, at 10:00 a.m.~~pm~~ on January 31, 1985

Senate Bill 3

committee are people who are interested or involved with child welfare. The goal of the task force is to try to look at and streamline their social services to help the child who comes into their custody. Their goals are to find resources and a way not to remove the child from the home; and if they do remove the child, they would like to return that child as soon as possible. They find the prosecuting county the key to what happens to the child. Prosecuting attorneys come before their task force. They find there is a lot of turnover, and they don't get to the priorities as fast in certain areas. The petitions are delayed and are not acted upon in termination of parental rights and child in need of care. The task force feels this bill proposes a remedy; it may not be a total remedy. Child support enforcement is beyond the scope of their task force. During discussion, the chairman inquired if it wouldn't make a big difference if adequate funds were available to staff county attorney's office to provide the prosecution it merits? Commissioner Barnum replied, yes.

The meeting adjourned.

Copy of guest list attached (See Attachment III).



CHAPTER \_\_\_\_\_

An act to add Section 198.5 to the Penal Code, relating to self-defense.

LEGISLATIVE COUNSEL'S DIGEST

SB 1134, Richardson. Self-defense.

Existing law provides that homicide is justifiable when committed in defense of habitation, property, or person against one who manifestly intends and endeavors in a violent, riotous, or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein, or when committed in lawful defense of the person or of a spouse, parent or child where there is reasonable ground to apprehend a design to do some great bodily injury and imminent danger of the design being accomplished. Resistance sufficient to prevent the offense may lawfully be made by the person about to be injured to prevent an offense against his person, or his family or a member thereof, or to prevent an illegal attempt by force to take or injure property in his lawful possession.

This bill would provide that any person using force intended or likely to cause death or great bodily injury shall be presumed to have held a reasonable fear of imminent peril of death or great bodily injury to self, family, or a member of the household when that force is used against another person, not a member of the family or household, who unlawfully and forcibly enters or has unlawfully and forcibly entered the person's residence and the person using the force knew or had reason to believe that an unlawful and forcible entry occurred.

The people of the State of California do enact as follows:

SECTION 1. Section 198.5 is added to the Penal Code, to read:

198.5 Any person using force intended or likely to cause death or great bodily injury within his or her residence shall be presumed to have held a reasonable

fear of imminent peril of death or great bodily injury to self, family, or a member of the household when that force is used against another person, not a member of the family or household, who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence and the person using the force knew or had reason to believe that an unlawful and forcible entry occurred.

As used in this section, great bodily injury means a significant or substantial physical injury.

SEC. 2. This act shall be known and may be cited as the Home Protection Bill of Rights.

1/31/85

CH. II

1-31-85

RON SMITH  
Legislative Counsel



KANSAS BAR ASSOCIATION

SB 3  
Senate Judiciary Committee  
January 31, 1985

Mr. Chairman and committee members. I am Ron Smith, Legislative Counsel for the Kansas Bar Association. KBA is a professional association of more than 4,000 attorney members.

Senate Bill 3 is an interim proposal which sets up a system of permissive switchovers to a district attorney system should the voters in a judicial district vote to do so.

The Kansas Bar Association, last fall, approved a policy position on a statewide district attorney system. The Kansas Bar Association supports any legislation designed to give local prosecutors the best possible administrative system to protect the citizens of Kansas from criminal action.

We believe that strong consistent prosecution is the centerpiece in our criminal justice system. Kansans have been well-served by their county attorneys. However, we believe in this day and age that a statewide district attorneys system gives more uniformity to the prosecutorial functions and promotes a more proficient and professional approach to the administration of criminal justice. KBA therefore supports this legislation.

1/31/85  
Attch. II