

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 March 20, 1985 in room 514-S of the Capitol.

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

Committee staff present:

Mary Torrence, Office of Revisor of Statutes  
Mary Sue Hack, Office of Revisor of Statutes  
Mike Heim, Legislative Research Department  
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Robert Barnum, Social and Rehabilitation Services  
Marjorie Van Buren, Office of Judicial Administrator

House bill 2054 - Cooperation with child abuse investigations, protections.

Robert Barnum, Social and Rehabilitation Services, appeared in support of the bill. He stated the primary purpose of this bill is to amend K.S.A. 38-1525(a) by adding language which specifies that employers may not sanction employees who cooperate in the ongoing investigation of child abuse/neglect. The current statute provides this protection to employees who report suspected incidents of child abuse/neglect; however, some employers/employees do not believe that this protection from sanctions extends beyond the initial report. A copy of the statement from Robert C. Harder is attached (See Attachment I).

House Bill 2055 - Children in need of care; record; reintegration plans.

Robert Barnum appeared in support of the bill. He stated the purpose of this bill is to amend the Kansas Code for Care of Children to allow SRS to share confidential information on a child with a court appointed volunteer and allow SRS and/or the court to develop placement plans for children other than reintegration, when return to parents is not a viable alternative. A copy of a statement from Robert C. Harder is attached (See Attachment II).

Marjorie Van Buren, Office of Judicial Administrator, testified her office supports the bill. She said it is consistent with the testimony that Chief Justice Schroeder brought to the committee on Senate Bill 265.

During committee discussion Marjorie Van Buren explained the volunteer in the CASA program is an advocate for the child, and this information needs to be available to that person. These are people who will be providing information to the court. She explained the CASA volunteer is providing social and emotional kind of support, and they report to the court and advise the court as to kind of approach to the child. A committee member stated they had worked hard to close these records, now the pendulum is going the other way. Another committee member pointed out, this is not opening up the records; the Chief Justice spoke in support of the CASA Program and the background the court receives from these people about the child. Robert Barnum explained how SRS worked with the CASA Program, Roots and Wings in Wichita. These volunteers are screened and trained. They monitor what the courts and SRS are doing. This person only looks to the child.

Following committee discussion, Senator Gaines made a conceptual motion to amend the bill to provide the volunteer only has access to the files

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 20, 1985

House Bill 2055 continued

that immediately relate to their client unless otherwise ordered by the court. Senator Parrish seconded the motion. The motion carried.

Senator Winter moved to amend the bill by amending Senate Bill 265 into House Bill 2055. Senator Parrish seconded the motion. The motion carried.

Senator Winter moved to amend the bill in lines 44 and 45 by adding the language "and court appointed ad litem." Senator Parrish seconded the motion. The motion carried.

Senator Gaines moved to report the bill favorably as amended. Senator Burke seconded the motion. The motion carried.

House Bill 2054 - Cooperation with child abuse investigations, protections.

Senator Gaines moved to report the bill favorably. Senator Hoferer seconded the motion. The motion carried.

House Bill 2452 - Penalties for theft.

The chairman referred the committee to a letter from the Department of Corrections (See Attachment III).

Senator Gaines moved to report the bill adversely. Senator Feleciano seconded the motion. The motion carried.

The meeting adjourned.

Copy of the guest list is attached (See Attachment IV).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-20-85

| NAME (PLEASE PRINT)   | ADDRESS                  | COMPANY/ORGANIZATION   |
|-----------------------|--------------------------|------------------------|
| BOB BARNUM            | TOPEKA                   | SRS/YS                 |
| Jim Johnson           | Topeka                   | KAJW                   |
| Joe FURJANIC          | TOPEKA                   | KASB                   |
| John C. Botterly      | Topeka                   | Multi. States Assoc.   |
| Marjorie VanBurke     | Topeka                   | OJA                    |
| Ron Jett              | "                        | KS BAR Assn            |
| Mike Statney          | Lawrence                 | Intern. En. Pers.      |
| Ruth Graves           | Topeka                   | KEEY                   |
| Lana Meyer            | Lawrence                 | League of Women Voters |
| Laura Meyer           | Lawrence                 |                        |
| Sylvie Heyert         | Lawrence                 |                        |
| Janis Roth            | Lawrence                 | League of Women Voters |
| Cindy Schendel        | <del>Lawrence</del> K.C. | "                      |
| Linda Johnson         | Overland Park            | "                      |
| Carolyn Long          | Leawood                  | LWV-JC                 |
| <del>Pat Meckel</del> | Stilwell-Oxford Township | LWV-JC                 |
| Judy Haas             | MISSION KS               | LWV-JoCo.              |
| Sulia Langworthy      | Prairie Village, KS      |                        |
| Lynne Bodle           | Lawrence, KS             | L.W.V. - Lawrence      |
| Hilda Enoch           | "                        | "                      |
| Barb Reinert          | Topeka                   | Planned Parenthood     |
|                       |                          |                        |
|                       |                          |                        |
|                       |                          |                        |
|                       |                          |                        |

3/20/85  
Attach. IV

3-20-85

State Department of Social and Rehabilitation Services  
Statement Regarding H.B. 2054

1. Title

An act concerning juveniles; amending the Kansas Code for Care of Children; amending KSA 1983 Supp 38-1525 and 38-1584 and repealing the existing sections.

2. Purpose

The primary purpose of this bill is to amend KSA 38-1525(a) by adding language which specifies that employers may not sanction employees who cooperate in the ongoing investigation of child abuse/neglect. The current statute provides this protection to employees who report suspected incidents of child abuse/neglect; however, some employers/employees do not believe that this protection from sanctions extends beyond the initial report.

In addition, this bill amends KSA 38-1584 to delete the erroneous reference to KSA 38-119 and inserts KSA 38-112 et. seq.

3. Background

This bill is needed because certain administrative situations require employees to notify their administrator of suspected abuse/neglect and the administrator makes the report. The Kansas Code for Care of Children specifies mandated reporters and to whom they are to report (SRS or law enforcement). Mandated reporters are any of the following persons who have reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse: persons licensed to practice the healing arts or dentistry; persons licensed to practice optometry; persons engaged in postgraduate training programs approved by the state board of healing arts; certified psychologists; Christian Science practitioners; licensed professional or practical nurses; teachers, school administrators or other employees of a school; chief administrative officers of medical care facilities; persons licensed by the secretary of health and environment to provide child care services to the employees of persons so licensed at the place where the child care services are being provided; licensed social workers; firefighters; emergency medical services personnel; and law enforcement officers. Mandating reporters and specifying to whom they are to report guards against any intentional or unintentional screening of what gets reported by the administrator. Recognizing the importance of direct reporting of suspected child abuse/neglect by the person with the most direct information, the legislature provided employees freedom from negative sanction by employers. This amendment broadens that protection to include employees who cooperate in an ongoing investigation of child abuse/neglect. These persons may or may not be the reporter but may have information related to the incident being investigated.

An erroneous citation is contained in KSA 38-1584 and this amendment would correct this error. Due to a typographical error in KSA 38-1584, a reference is made to KSA 38-119 rather than KSA 38-112. Section 38-119 was repealed in 1983. This amendment would delete KSA 38-119 and insert KSA 38-112 which refers to the care for and surrender of children for adoption by an authorized agent of a corporation that is organized under the laws of Kansas.

4. Effect of Passage

The amendments contained in this bill make no substantive changes in the Code or in program and they have no fiscal impact.

5. Recommendation:

SRS recommends passage of this bill.

Robert C. Harder, Secretary  
Office of the Secretary  
Social and Rehabilitation Services  
296-3271  
January 24, 1985

3/20/85  
Attch. I

State Department of Social and Rehabilitation Services  
YOUTH SERVICES

Statement Regarding H.B. 2055

1. Title

An act concerning the Kansas Code for Care of Children; relating to reports, records and reintegration plans; amending KSA 1984 Supp 38-1507 and 38-1565 and repealing the existing sections.

2. Purpose

The purpose of this bill is to amend the Kansas Code for Care of Children to: (a) allow SRS to share confidential information on a child with a court appointed volunteer and (b) allow SRS and/or the court to develop placement plans for children other than reintegration, when return to parents is not a viable alternative.

3. Background

(a) In order to carry out the state mandates contained in the Kansas Code for Care of Children and the federal mandates in Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, which assures that children do not get placed or remain unnecessarily in foster care placements, all available public, private and volunteer resources must be utilized. As a part of this state's expanded effort to assure that permanent plans are made for children who are in foster care, a federal grant has been received and a task force has been appointed by the Kansas Supreme Court which includes representation from the legislative, judiciary, and executive branches of government as well as volunteer advocates and interested groups. The task force was formed to insure that actions are taken to preclude children becoming lost in the judicial or social service systems. The task force focuses on decision points in the permanency planning process of both the judicial and social service systems in order to encourage that actions are timely and consistent. The permanency planning process consists of those activities which establish a goal and time lines to assure that children who are in out-of-home placement will either be returned to the parental home or placed for adoption without delay. For some of the older children the most appropriate permanency plan is to assist the youth in becoming self supporting and independent. This Permanency Planning Task Force recommends the expansion in Kansas of the usage of court appointed special advocates (CASA). CASA is a term coined by the National Council of Juvenile and Family Court Judges, Children In Placement Project to describe volunteers who function as a child's advocate. Throughout the United States more than 100 CASA groups have been formed. Each is tailored to fit the laws of the state and the community they serve. Currently in Kansas there are operational CASA programs in Wichita and Hutchinson. At least two other communities (Topeka and Olathe) are in the process of developing such programs. These specially trained volunteers take on the responsibility of advocating for individual children and assist in the development and implementation of permanency plans. To perform their functions effectively these volunteers must have access to information contained in SRS records. SRS has no statutory authority to share this information.

3/20/85  
Attch. II

The passage of this amendment would make it possible for SRS to share confidential information with the court appointed special advocate without the necessity of obtaining a court order, thus streamlining court and SRS functions.

(b) SRS and the courts need to have flexibility to make plans for children in the custody of the Secretary that are in line with the reality of individual case situations. Currently, the Kansas Code for Care of Children requires that when parental rights have not been terminated, the permanency plan for the child must be reintegration with family. This is not a realistic plan for all children; neither is the termination of parental rights when adoption is not the goal. For some children the most realistic and appropriate plan for permanency is continued placement with relatives; long term foster care; or self-support and independence.

Following the letter of the law puts the courts and SRS in a position of having to prepare plans to reintegrate a child with family when this is not a realistic goal. The request for this amendment in no way lessens the commitment to maintaining a child in or returning children to their parental home. It does, however, recognize the need for more flexible alternatives for some children.

At any given time there are about 2800 children in the custody of SRS who are in out of home placements and for whom parental rights have not been terminated. For most of these children reintegration is the appropriate plan but for a small percentage (less than 10%) greater flexibility is needed.

#### 4. Effect of Passage

Neither of these amendments make a substantial change in the Code or program but they would assist the implementors in assuring that children are appropriately cared for. This bill has no fiscal impact.

#### 5. SRS Recommendation

SRS recommends passage of this bill.

Robert C. Harder  
Office of Secretary  
Social and Rehabilitation Services  
296-3271  
January 24, 1985

Attch. II

DEC 1 1984

COURT APPOINTED SPECIAL ADVOCATE

JOB DESCRIPTION

REQUIREMENTS:

1. Must be at least 21 years old.
2. Must complete application providing 3 references other than relatives.
3. Must participate in pre-training interview.
4. Must participate in at least 75% of training.
5. Application, references, and interview must indicate an ability to be objective, to function professionally, and a concern for the welfare of our children as the primary motivation.
6. Must observe in Court for a minimum of two hours.
7. Must respect confidentially of all parties.
8. Must be committed to serving as a CASA for at least one year.
9. Must not discriminate or display attitudes of a discriminatory nature.

DUTIES:

1. Advocate for best interests of the child(ren) at all times.
2. Sign oath of appointment as soon as possible after accepting case.
3. Read social and legal files pertaining to case.
4. Interview court services officer, placement and protective services workers, parents, foster parents, child, and other interested parties.
5. Explain role to all parties unfamiliar with the CASA project.
6. Be aware if court's instructions are being followed.
7. Maintain regular contact with the child.
8. Consult with staff if problems occur.
9. Report any concerns that you have not been able to resolve with the appropriate parties to the Guardian Ad Litem.
10. Maintain record of all contacts and interviews.
11. Submit Report to Court at least 3 days in advance of hearing.
12. Be available to testify in court and attend staffings.
13. Encourage permanency planning.
14. Follow-up on case until a permanent solution has been reached (i.e. adoption or return to a rehabilitated home or long-term foster care in some cases).
15. Attend in-service trainings.
16. Return monthly time sheets to CASA office.

HOURS:

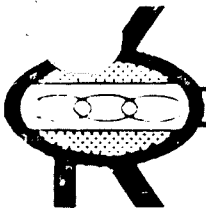
At the CASA's discretion, with the exception of Court and SRS staffings.

RESPONSIBLE TO:

CASA director and ultimately to the judge.

*Attch. II*  
7/02





# KANSAS DEPARTMENT OF CORRECTIONS

JOHN CARLIN — GOVERNOR

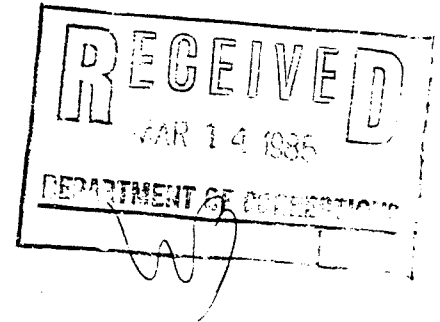
MICHAEL A. BARBARA — SECRETARY

JAYHAWK TOWERS • 700 JACKSON • TOPEKA, KANSAS • 66603  
• 913-296-3317 •

3-20-85

March 13, 1985

Mr. Alden K. Shields  
Director of the Budget  
Division of the Budget  
1st Floor, Statehouse  
Topeka, Kansas 66612



RE: House Bill 2452

FISCAL NOTE 85-13

Dear Mr. Shields:

As per your request, information is provided concerning the cited bill. House Bill 2452 amends the Kansas Code of Criminal Procedure to specify that commission of the crime of theft, as contained in K.S.A. 1984 Supp. 21-3701, would be a class D felony if the crime involved property of the value of \$3,000 or more. The rest of the statutory provisions remain intact. If passed and signed into law, the bill would take effect and be in force upon and after July 1, 1985.

The bill provides for a higher felony class for those offenders whose commission of the crime of theft involves property valued at \$3,000 or more. By establishing this monetary threshold for a class D felony, some increased time served in the correctional system might be expected for these offenders since the sentencing judge would have the option to sentence to a two or three year minimum, rather than a one year minimum in accordance with the current law as a class E felony. During FY 84 the cost to keep an inmate in prison was approximately \$11,000.

Additional information would be required to determine the exact number of individuals who have convictions involving theft of property in excess of \$3,000. A sample survey of criminal filings in Shawnee County found 105 felony theft charges filed during the period July 1, 1982 to July 1, 1983. Of this number there were 34 cases which involved thefts of \$3,000 or more. The number of these offenders that were sentenced to prison is unknown at this time. Also, since the survey was limited to Shawnee County it may or may not be representative of statewide practice. One thing that is fairly certain, however, is that a relatively high proportion of theft offenders filed upon are charged with theft of property in excess of \$3,000. Thus, this group would be exposed to stiffer penalties than under current law and may pose an increased burden on the prison population.

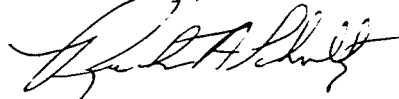
3/20/85  
Attch. III



March 13, 1985  
Page Two

Should you have any questions or comments concerning the above, please do not hesitate to inquire.

Sincerely,



RICHARD A. SCHULTZ,  
Deputy Secretary for  
Management Services

RAS:ssw

Attch. III

