

Approved April 1, 1986  
Date

MINUTES OF THE House COMMITTEE ON Judiciary

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

3:30 ~~am~~ p.m. on February 6, 1986 in room 313-S of the Capitol.

All members were present except:  
Representatives Buehler, Bideau and Shriver were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department

Jan Smis, Committee Secretary

Conferees appearing before the committee:

Lois Jebo, Kansas Action for Children, Inc.  
Hon. Tom Graber, Sumner County District Court  
Jim Clark, Kansas County and District Attorneys Association  
Phil Magathan, Kansas Association of Court Service Officers  
Jim Fountain, Reno County Sheriff  
Richard Funk, Kansas Association of School Boards  
Mike Boyer, Kansas Bureau of Investigation  
Nancy Kantola, Kansas Cooperative Council  
Jim Yonally, National Federation of Small and Independent Business  
Marjorie Van Buren, Judicial Administrator's Office  
Sherlyn Sampson, Clerk of the Douglas County District Court  
Rod Lewis, Judicial Administrator, Johnson County District Court  
Don Farr, Court Administrator of Sedgwick County, Kansas  
Ron Smith, Kansas Bar Association

HB 2773- An act concerning juvenile offenders; relating to the use of secure detention therefor.

HB 2743-An act concerning juveniles; relating to detention in jail.

Lois Jebo of Kansas Action for Children, Inc. appeared before the committee presenting Attachments 1 and 2. Kansas Action for Children, Inc. supports HB 2773. She offered some amendments for HB 2773 of a technical nature. With regard to HB 2743 Kansas Action for Children, Inc. guardedly supports the bill. Ms. Jebo's concern is that as it is now written she is not sure HB 2743 would safeguard against the negative things found in field visits to juvenile detention facilities. She feels that 2743 should have added to it a provision for child in need of care, total sight and sound separation, enforceable standards and provisions for phasing in of sanitary requirements and adequate supervision of those held.

Judge Tom Graber appeared before the Committee in support of HB 2773. He offered some amendments (Attachment 3). He pointed out some situations unique to his jurisdiction relative to juveniles crossing into Oklahoma and failing to appear at subsequent hearings. Judge Graber expressed a concern that for this bill to be effective a good method of communication of information is necessary.

Phil Magathan of the Kansas Association of Court Services Officers appeared in support of HB 2773 and HB 2743, stating that HB 2773 is a good alternative to SB 2.

Sheriff Jim Fountain of Reno County appeared before the Committee stating that in his facility total sight and sound separation will be impossible.

Jim Clark of the Kasnas County and District Attorneys Association appeared before the committee in support of both bills.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Judiciary,  
room 313-S, Statehouse, at 3:30 ~~xxx~~/p.m. on February 6, 1986.

Richard Funk of the Kansas Association of School Boards appeared before the Committee relative to the provisions of HB 2743 providing for educational services to juveniles held in jail. Nowhere in the bill is a responsible party for the notification of the school named. There are problems involved when a juvenile is held in an area away from his home school district. The Kansas Association of School Boards would prefer that this provision be amended to be handled similar to a home bound instructional program.

Mike Boyer of the Kansas Bureau of Investigation appeared before the committee and expressed concern about the data necessary to make the provisions of this bill effective. He stated that some law enforcement offices are dilatory in providing data to the Bureau and without immediate reporting the criteria cannot be met because the data will not be available when needed. He stated that there will be a negative fiscal impact upon the Bureau in the approximate amount of \$31,000.

HB 2678 - An act concerning civil procedure; relating to small claims procedures.

Representative DeBaun appeared before the Committee explaining the basic provisions of HB 2678 raising the limits of small claims actions from \$500 to \$2000 and increasing the number of annual filings from 5 to 10. He presented an amendment to the bill. (Attachments 4, 5 and 6)

Nancy Kantola of the Kansas Cooperative Council appeared before the Committee in support of HB 2678 (Attachment 7). She stated that farmer cooperatives sometimes do not know that an account is going to need to be prosecuted in court until the amount has exceeded \$500 due to the nature of their products. She stated that attorneys are scarce in some of the rural areas where these businesses have this concern and those available are not always interested in pursuing a claim under \$2,000.

Jim Yonally of the National Federation of Small and Independent Business appeared in support of HB 2678.

Marjorie Van Buren of the Judicial Administrator's Office appeared before the Committee and spoke to the fiscal impact of HB 2678. (Attachment 8).

Sherlyn Sampson, Clerk of the Douglas County District Court appeared before the Committee. She indicated that court officials are not allowed to give legal advice but are required to help citizens in the filing of their claims and post judgment pleadings. She explained that the line between being helpful to citizens and giving legal advice becomes very thin in small claims actions. She said that if the increases proposed were allowed the staff of the clerks' offices would need to be increased to handle the additional work.

Rod Lewis, Judicial Administrator of the Johnson County District Court appeared before the Committee stating that the majority of actions currently filed in limited actions could have been filed in small claims courts. He stated that if this bill is passed more small claims business will be had with the increase in number of cases allowed than from the increase in the amount allowed.

Don Farr, Court Administrator of the Sedgwick County District Court appeared before the Committee stating that since Sedgwick County has no magistrate judges passage of HB 2678 will result in an increased workload on the judicial members in Sedgwick county.

Ron Smith of the Kansas Bar Association stated that the Bar Association opposes HB 2678.

The Chairman adjourned the meeting at 5:40 P.M.

Jebo 2/6 #1



Because all children need someone who cares . . .

**Kansas Action  
for Children, inc.**  
A non-profit, tax-exempt organization.

TESTIMONY GIVEN BEFORE THE HOUSE COMMITTEE ON JUDICIARY

HB 2773

The Purpose of HB 2773 is to decrease the number of youths held in jails and detention facilities.

Kansas policy states that juveniles charged with an offense should be held if they are a danger to themselves or the community. It is necessary for some youths to be held securely. However, lasting behavior change seldom results from having a juvenile sit in a cell. Thus, the chance for destructive influence occurring during that holding time must be weighted against why the youth is held, and for how long.

The data gathered by the KBI shows that 2/3 of youths held in any secure detention setting are released before they see a judge. The choice to hold the youth was made by a law enforcement officer. Kansas law sets policy for which youths should be arrested but no guidance on which youth should continue to be securely detained. The criteria listed in HB 2773 sets those guidelines. It does not mandate who must be held.

JRISC research found that in other states detention criteria have reduced detention populations by 50% to 90% and have resulted in lowered detention costs. These states have documented that use of detention criteria has not resulted in any increased danger to society as measured by similiar or lower re-arrest rates and no significant difference in failure to appear in court.

To develop the criteria for Kansas, JRISC created a special subcommittee composed of a district judge, magistrate judge from a rural county, a county attorney, a sheriff, a court service officer, a detention center director, a group home provider, a legislator, and two child advocates.

After several day long working sessions, the criteria in this bill was agreed upon by all participants.

The criteria will allow the following arrested youths to be held:

- 1) Runaways with warrents or pick up orders, whether in or out of state; kids who are "AWOL" or have escaped from a detention center or state youth center

Attachment 1  
House Judiciary  
2-6-84

- 2) Those charged with an A, B, C, Felony or sex offense;
- 3) Those awaiting court appearance on a previous felony charge;
- 4) Those whose record shows a failure to appear in court;
- 5) Those with a history of violent behavior;
- 6) Youths who remain seriously assaultive or destructive after arrest;
- 7) Youths exhibiting self-destructive behavior;
- 8) Youths who have been adjudicated on one or more previous felony charges; or
- 9) Youths expelled from current non-secure placement as a result of this arrest.

Juveniles meeting this criteria need not be held automatically. The officer is to consider whether the youth can stay in a non-secure alternative.

When the detention hearing is held, judges shall consider the same criteria in making their decision whether or not to detain the juvenile in a detention facility or jail. Judges will not be bound to follow the criteria. However, if a youth not meeting the criteria is securely held, the judge must put in the court record why the youth was held.

We know that some youths need to be securely held. But, jail or detention is a frightening, demeaning experience for anyone, particularly kids. This bill was constructed to give direct guidance on who should be locked up.

Children should not be locked up except in those few cases where self or community protection is needed.

HOUSE BILL 2773

Criteria for securely detaining juveniles

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Vol. 5, Issue 4

HB 2773 - Criteria for securely detaining juveniles

Sponsor: House Judiciary

Assigned to House Judiciary

A law officer who arrests a juvenile must follow certain rules. He must have either a warrant, or probable cause that a felony was committed. He can judge that the juvenile involved in a misdemeanor "may cause injury to self or others or damage to property or may be injured."

The arresting officer decides whether the juvenile can return home. He can take the juvenile to court, a court services officer, a juvenile detention facility, or a youth residential facility.

HB 2773 would put even more limits on the arresting officer. The bill says a juvenile could be taken to a secure facility, such as a juvenile detention center, only on certain conditions.

HB 2773 lists nine criteria. A juvenile would have to fit at least one of these criteria to be securely detained.

1. Is there verification that he is a fugitive from some other place, or has escaped from a secure facility?
2. Is he charged with an offense that would be a class A, B or C felony or a sex offense if committed by an adult?
3. Is he awaiting court action for an offense that would be a felony if committed by an adult?
4. Does his record show failure to appear in court?
5. Does he have a history of violent behavior?
6. Was he seriously assaultive or destructive and continue so after being taken into custody?
7. Is he self-destructive?
8. Does he have a record of adjudications or convictions for offenses equivalent to felonies?
9. Is he a juvenile offender who has been expelled from a nonsecure facility as a result of this offense?

These nine criteria would also have to be considered by a judge who wished to place a juvenile in secure detention. Unlike the arresting officer, the judge could overrule the criteria as long as he recorded his reasons for detaining a juvenile who did not fit any criteria.

In other words, the nine criteria would be mandatory for arresting officers but only advisory for judges.

Jeko 2/6 #2



Because all children need someone who cares . . .

**Kansas Action  
for Children, inc.**  
A non-profit, tax-exempt organization.

TESTIMONY GIVEN BEFORE THE HOUSE COMMITTEE ON JUDICIARY

HB 2743

Kansas Action for Children supports the upgrading of jails, especially those quarters used to house juveniles.

However, in our work on the issue of juveniles who are incarcerated, we have discovered practices, some legal and some prohibited, that endanger youth. To understand how juveniles are handled in jails, we visited nine jails and three detention centers. The following is a listing of some of the worst conditions we found:

Separate quarters that were no more than a wire cage in a larger area holding adults.

Stinking dirty toilets and showers, some marginally functional.

Steel cells with no direct source of heat or light.

Exposed overhead pipes, making hanging a distinct danger.

No adequate exercise area.

Many of the jails had no way to prevent haphazard interaction between youths and adults, such as common hallways leading to cells and booking areas.

Walls that were dirty and filled with obscene graffiti.

We interviewed sixteen youths held in jails. They were randomly selected by the staff at two youth centers. Among the sixteen 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 of whom suffered hallucinations after being held a month alone in a cell;

*Attachment 2  
Abuse Judiciary  
2-6-80*

One who was in a serious fight with an adult,

One whose cellmate became very ill but the jailers refused to respond to calls for help 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 the jail inspectors,

One who complained about adult trustees watching him shower

Most of these youths expressed great fear of attack. They spoke of the lack of regular supervision by jail guards. Several complained of being cold and sick.

If we are to utilize the county jails for juveniles, we must ensure that adequate standards are set and enforced.

This bill gives counties until July, 1988 to correct deficiencies. While Kansas Action for Children, Inc., understands upgrading will take time, we abhor that juveniles are being held currently in such substandard conditions.

Kansas Action for Children asks that changes be made in this bill to provide the following:

Include the child in need of care under the protections; under this bill they could be held in jails not certified, where offenders could not.

Hold juveniles in quarters that are sight and sound separated from adults;

Set enforcable standards for all jails holding juveniles;

Provide phase in timelines for jails currently substandard in safety and sanitation;

Put in penalties for jails that allow interaction between juveniles and adults;

Provide for adequate supervision of juveniles held alone or isolated areas;

No child should be subjected to the horrors currently found in some of our county jails. They are there at a crisis time in their life. The state has an obligation to ensure their physical and emotional needs.

HOUSE BILL 2743

Separating juvenile and adult prisoners

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Vol. 5, Issue 4

HB 2743 - Separating juvenile and adult prisoners  
Sponsor: R.H. Miller, Heinemann  
Assigned to House Judiciary

Current law requires that juveniles in jails must be in "quarters separate from adult prisoners." Jails cannot be "unsanitary, unsafe or a detriment to human life."

Department of corrections inspectors check jails to see if sanitation and safety standards have been followed. If the jail violates state standards, the jail inspectors submit their findings to a committee of local officials. These officials can agree to repairs or can decide to keep the jail open as is. In effect, the state jail standards are not mandatory. Some jails have been cited by inspectors for years, yet remain open.

This bill would require the secretary of corrections to inspect any jail in which juveniles were held. If juveniles were held with adult prisoners, the problem would have to be corrected or else "the use of such quarters for juvenile detention shall be abandoned on and after July 1, 1988." In effect, the bill restates the current law which forbids mingling of adults and juveniles, gives jails until 1988 to comply, and requires jailers to voluntarily stop holding juveniles. There is no penalty for noncompliance. There is no supervisory body to force compliance. Both of these problems exist at present and are not solved by HB 2743.

This bill does not mention youths held under the code for care of children. Presumably they would still be held under the current law which allows status offenders and abused and neglected children to spend up to 24 hours in jail. Unfortunately, figures reported by sheriffs to the state show widespread violations of the 24-hour limitation. Of 207 children in need of care held in a year, only 139 of them were released within 24 hours. Nearly a third of these children in "protective" custody were held longer than the law allows. These violations were reported to the Kansas Bureau of Investigation by the law enforcement agencies holding these children.

HB 2743 does improve the lot of a jailed juvenile in two ways. It guarantees juvenile prisoners the right to daily visits by parents and friends. It requires the youth's school district to "furnish instruction" during incarceration.

HB 2743 was introduced in reaction to SB 2, which seeks to ban jailings of any juveniles except those charged in adult criminal courts. Among professional groups which opposed SB 2, some sheriffs and judges have argued that preventing local jails from holding juveniles would create money and transportation problems.

Though HB 2743 and SB 2 both address juveniles in jail, they share at least one failing. Neither one has a penalty for noncompliance nor an advisory body to force compliance. The argument for omitting these from SB 2 is that a total prohibition is less likely to be violated than the partial prohibition of HB 2743, though this reasoning has yet to be tested.



2/6 Greber

PROPOSED AMENDMENTS HOUSE BILL NO. 2773

New Sec. 2, pg. 3 Subsection (3) line 0095 amended to read as follows:

" (3) The juvenile is awaiting court action on an offense which if committed by an adult would constitute a felony or misdemeanor."

New Sec. 2, pg. 3 Subsection (4) line 0097 amended to read as follows:

" (4) The juvenile has a record of failure to appear in court or there is probable cause to believe the juvenile is not likely to appear for future proceedings."

New Sec. 2, pg. 3 Subsection (8) line 0106 amended to read as follows:

" (8) The juvenile has a record of adjudication or conviction of one or more offenses which if committed by an adult would constitute felonies or misdemeanors."

Section 3, pg. 4 Subsection (3) line 0149 amended to read as follows:

" officer, a juvenile detention facility, a secure facility or youth residential facility"

Section 4, pg. 7 Subsection (e) line 0327 amended to read as follows:

" detained in a juvenile detention facility, a secure facility or youth residential"

Section 4, pg. 8 Subsection (e) line 0338 amended to read as follows:

" In determining whether to place a juvenile in a juvenile detention facility or a secure facility"

Attachment 3  
Abuse Judiciary  
2-6-86

PROPOSED AMENDMENTS HOUSE BILL NO. 2773

New Sec. 2, pg. 3, (a) (9) amend to read as follows:

- " (9) The juvenile is a juvenile offender who has been expelled from placement in a nonsecure facility as a result of the current alleged offense or has absconded from a current nonsecure placement.

Proposed Amendment to House Bill 2678

Be amended:

On page 2, following line 53, by inserting two new sections as follows:

"Sec. 3. K.S.A. 61-2706 is hereby amended to read as follows: 61-2706. (a) Whenever a plaintiff demands judgment beyond the scope of the small claims jurisdiction of the court, the court shall either: (1) Dismiss the action without prejudice at the cost of the plaintiff; (2) allow the plaintiff to amend ~~his-or-her~~ the pleadings and service of process to bring ~~his--or--her~~ her the demand for judgment within the scope of the court's small claims jurisdiction and thereby waive ~~his-or-her~~ the right to recover any excess, assessing the costs accrued to the plaintiff; or (3) if the plaintiff's demand for judgment is within the scope of the court's general jurisdiction, allow the plaintiff to amend ~~his-or-her~~ the pleadings and service of process so as to commence an action in such court in compliance with K.S.A. 61-1703, and amendments thereto, assessing the costs accrued to the plaintiff.

(b) Whenever a defendant asserts a claim beyond the scope of the court's small claims jurisdiction, but within the scope of the court's general jurisdiction, the court may determine the validity of defendant's entire claim. If the court refuses to determine the entirety of any such claim, the court must allow the defendant to: (1) Make no demand for judgment and reserve the right to pursue ~~his--or--her~~ the entire claim in a court of competent jurisdiction; (2) make demand for judgment of that portion of ~~his--or--her~~ the claim not exceeding ~~five-hundred dollars-(\$500)~~ \$2,000 and reserve the right to bring an action in a court of competent jurisdiction for any amount in excess thereof; or (3) make demand for judgment of that portion of ~~his~~ er-her the claim not exceeding ~~five-hundred-dollars-(\$500)~~ \$2,000 and waive ~~his-or-her~~ the right to recover any excess.

Attachment 4  
House Judiciary  
2-6-80

"Sec. 4. K.S.A. 61-2713 is hereby amended to read as follows: 61-2713. (a) The petition shall be in substantially the following form:

In the District Court of \_\_\_\_\_ County, Kansas.

\_\_\_\_\_  
Plaintiff

vs.

No. \_\_\_\_\_

\_\_\_\_\_  
Defendant

PETITION PURSUANT TO CHAPTER 61 OF THE KANSAS STATUTES ANNOTATED  
Statement of claim:

I, \_\_\_\_\_, having read the instruction below, hereby assert the following claim against \_\_\_\_\_, defendant:

Demand for judgment:

Based on the claim stated above, judgment is demanded against defendant as follows:

1. Payment of \$\_\_\_\_\_, plus interest and costs.
2. Recovery of the following described personal property, plus costs: \_\_\_\_\_. ~~Said~~ Such property has an estimated value of \$\_\_\_\_\_.

Instructions to plaintiff:

1. State the claim you have against the defendant in the space provided. Be clear and concise.
2. Your total claim against defendant may not exceed \$500 \$2,000, not including interest and costs. If you are seeking the recovery of personal property, the value of that property shall be based on your estimate of its value under oath.
3. You must be present in person at the hearing in order to avoid default judgment against you on any claim defendant may have which arises out of the transaction or occurrence which is the subject to your claim against ~~him-or-her~~ the defendant.
4. You must make demand for judgment in one or both of the spaces provided above.

5. Neither you nor the defendant are permitted to appear with an attorney at the hearing.

6. You may not file more than ~~five~~ 10 small claims under the small claims procedure act in this court during any calendar year.

7. After completing this form, you must subscribe to the following oath:

I, \_\_\_\_\_, hereby swear that, to the best of my knowledge and belief, the foregoing claim asserted against the defendant (including the estimate of value of any property sought to be recovered) is a just and true statement, exclusive of any valid claim or defense which defendant may have.

[Signature] \_\_\_\_\_  
Plaintiff

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

[Signature] \_\_\_\_\_  
Judge (clerk or notary)

(b) The summons shall be in substantially the following form:

In the District Court of \_\_\_\_\_ County, Kansas.

\_\_\_\_\_  
Plaintiff

vs.

No. \_\_\_\_\_

\_\_\_\_\_  
Defendant

SUMMONS

(Small Claims Procedure)

To the above-named defendant:

You are hereby notified that the above-named plaintiff has filed a claim against you under the small claims procedure of this court. The statement of plaintiff's claim and ~~his-er-her~~ the plaintiff's demand for judgment against you are set forth in the

petition which is herewith served upon you.

A trial will be held on this matter at \_\_\_o'clock \_\_\_m., on the \_\_\_ day of \_\_\_\_\_, 19\_\_\_, at

\_\_\_\_\_.

(Place of hearing and address)

You must be present in person at the trial or a judgment by default will be entered against you. Neither you nor the plaintiff are permitted to appear with an attorney.

If your defense is supported by witnesses, books, receipts or other papers, you should bring them with you at the time of the hearing. If you wish to have witnesses summoned, see the judge or clerk of the court at once for assistance.

If you admit the claim, but desire additional time to satisfy plaintiff's demands, you must be present at the trial and explain the circumstances to the court.

If you have a claim against the plaintiff, which arises out of the transaction or occurrence which is the subject of plaintiff's claim, you must complete the form for "Defendant's Claim," which accompanies this summons, and return it to the judge or clerk of the court on or before the time set for the trial.

RETURN ON SERVICE OF SUMMONS

I hereby certify that I have served this summons:

(1) Personal service. By delivering a copy of said such summons and a copy of the petition to each of the following defendants on the dates indicated:

\_\_\_\_\_, 19\_\_\_ \_\_\_\_\_, 19\_\_\_

(2) Residence service. By leaving a copy of said such summons and a copy of the petition at the usual place of residence of each of the following defendants on the dates indicated:

\_\_\_\_\_, 19\_\_\_ \_\_\_\_\_, 19\_\_\_

(3) No service. The following defendants were not found in this county:

Dated: \_\_\_\_\_.

\_\_\_\_\_  
(Signature and Title of Officer)

(c) The defendant's claim shall be in substantially the following form:

In the District Court of \_\_\_\_\_ County, Kansas.

\_\_\_\_\_  
Plaintiff

vs.

No. \_\_\_\_\_

\_\_\_\_\_  
Defendant

DEFENDANT'S CLAIM

Instructions:

1. As stated in the Summons, if you have a claim against the plaintiff which arises out of the transaction or occurrence which is the subject of plaintiff's claim, you must state your claim in the space provided below.

2. Be clear and concise in stating your claim.

3. If the value of your claim exceeds ~~\$500~~ \$2,000 (including the value of any personal property sought to be recovered, as determined by your estimate of its value under oath), the court must decide whether you may pursue your entire claim or only that portion not exceeding ~~\$500~~ \$2,000.

4. If your claim exceeds ~~\$500~~ \$2,000 and the court determines that you may not pursue the entire claim at the hearing, you have three alternatives: (1) Make no demand for judgment and reserve the right to pursue your entire claim in a court of competent jurisdiction; or (2) make demand for judgment of that portion of your claim which does not exceed ~~\$500~~ \$2,000 and reserve the right to bring an action in a court of competent jurisdiction for any amount in excess thereof; or (3) make demand for judgment of that portion of your claim which does not exceed ~~\$500~~ \$2,000 and waive your right to recover any excess.

5. When completed, this form must be filed with the judge or the clerk of the court on or before the time stated in the summons for the trial.

Statement of claim:

I, \_\_\_\_\_, having read the instructions above, hereby assert the following claim against \_\_\_\_\_, plaintiff:

Demand for judgment:

Based on the claim stated above, judgment is demanded against plaintiff as follows:

1. Payment of \$\_\_\_\_, plus interest and costs.
2. Recovery of the following described personal property,

plus costs:

Said Such property has an estimated value of \$\_\_\_\_\_.

I, \_\_\_\_\_, hereby swear that, to the best of my knowledge and belief, the foregoing claim asserted against the plaintiff (including the estimate of value of any property sought to be recovered) is a just and true statement.

[Signature] \_\_\_\_\_  
Plaintiff

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

[Signature] \_\_\_\_\_  
Judge (clerk or notary)";

Also on page 2, by striking all in line 54 and inserting the following:

"Sec. 5. K.S.A. 61-2703, 61-2704, 61-2706 and 61-2713 are hereby repealed.";

By renumbering section 4 as section 6;

In the title, in line 17, by striking "and 61-2704" and inserting ", 61-2704, 61-2706 and 61-2713";



BURT DEBAUN  
REPRESENTATIVE, THIRTEENTH DISTRICT  
OSAGE AND PART  
OF LYON COUNTY  
726 S 9TH  
OSAGE CITY, KANSAS 66523



TOPEKA

HOUSE OF  
REPRESENTATIVESCOMMITTEE ASSIGNMENTS  
MEMBER: INSURANCE  
LABOR AND INDUSTRY  
LOCAL GOVERNMENT

February 6, 1986

To: House Judiciary Committee

Re: House Bill 2678 relating to small claims procedure.

Mr. Chairman and members of the committee

House bill 2678 would revise the small claims procedure to increase the maximum amount claimed from \$500. to \$2,000 and also increase the number of claims that may be filed in a calendar year from 5 to 10.

I believe that it could best be described as a part of a small business economic development plan. My personal experience has been that lawyers generally do not want to handle claims as small as \$2,000.

The Revisors office advised me this week that an amendment is necessary to complete this bill.

Attached you will find a news article by a district court clerk encouraging the use of the small claims court and also some relative data from 2 courts in the 13th district.

Your favorable consideration would be appreciated.

Are there any question ?

*Attachment 5  
House Judiciary  
2-6-86*

## Small Claims deadline nears

The deadline for filing petitions in Small Claims court for 1985 is Dec. 31, according to Joyce Reeves, clerk of the district court.

Each business or individual may file only up to five Small Claims petitions a year, Reeves said. If you fail for any reason to file the petition by the close of business on Dec. 31, it will count against the five-peti-

tion limit for 1986.

Small Claims petitions are available in Room 305 of the Shawnee County Courthouse.

Reeves said that bad weather stopped some people from filing Small Claims petitions on time last year because they waited until the last day of the year. Reeves recommended filing as soon as possible.

*Burt DeBaun*

STATE OF KANSAS

BURT DEBAUN  
REPRESENTATIVE, THIRTEENTH DISTRICT  
OSAGE AND PART  
OF LYON COUNTY  
726 S 9TH  
OSAGE CITY, KANSAS 66523



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER INSURANCE  
LABOR AND INDUSTRY  
LOCAL GOVERNMENT

Small Claims Court (1985)

	# of claims	settled prior to hearing	# not found	#not prosecuted	# to court
Osage County	73	25	4	7	37
Lyon County	<u>231</u>	<u>58</u>	<u>6</u>	<u>10</u>	<u>157</u>
Total	304	83	10	17	194

64% of those filed actually went to trial.  
27% settled prior to hearing  
3% not found  
6% not prosecuted

*Attachment to  
Abuse Judiciary  
2-6-80*

*Kantola 2/6*

Testimony of  
Nancy E. Kantola  
Executive Vice President  
Kansas Cooperative Council  
to  
House Judiciary Committee  
February 6, 1986  
HB 2678

Mr. Chairman, members of the committee. I am here on behalf of the 200 plus cooperatives who make up the membership of the Council. These cooperatives buy grain and sell farm inputs such as fuel, fertilizer, chemicals and sometimes hardware. In many cases they are the only, or one of a very few, small businesses serving a rural community. Citizens depend on them for tires, batteries, service work as well as home heating fuel and petroleum products.

Managers tell me that very often an account is over \$500 before they know it's in trouble. Example: billing is done on a 30 day cycle, many have policies of cash only if not paid in 45 days. A set of tires plus 45 days of gas for their vehicles could put an account over \$500 before credit is cut off.

Lawyers are scarce in many of these areas, and those that are in practice frequently don't like to mess with small claims, under \$2,000.

It was also related to me that often just filing the papers for Small Claims Court will bring the customer in to work out arrangements for settling the account.

Many more are negotiated in court, which may be the first chance the manager has had to talk face to face with the person whose account is delinquent.

Mr. Chairman, HB 2678 would help small businesses keep costs down and would provide support for keeping services, including credit, available to our rural population. We ask your favorable recommendation for HB 2678.

*Attachment 7  
House Judiciary  
2-6-86*

CONGRESSIONAL DISTRICT 1

2

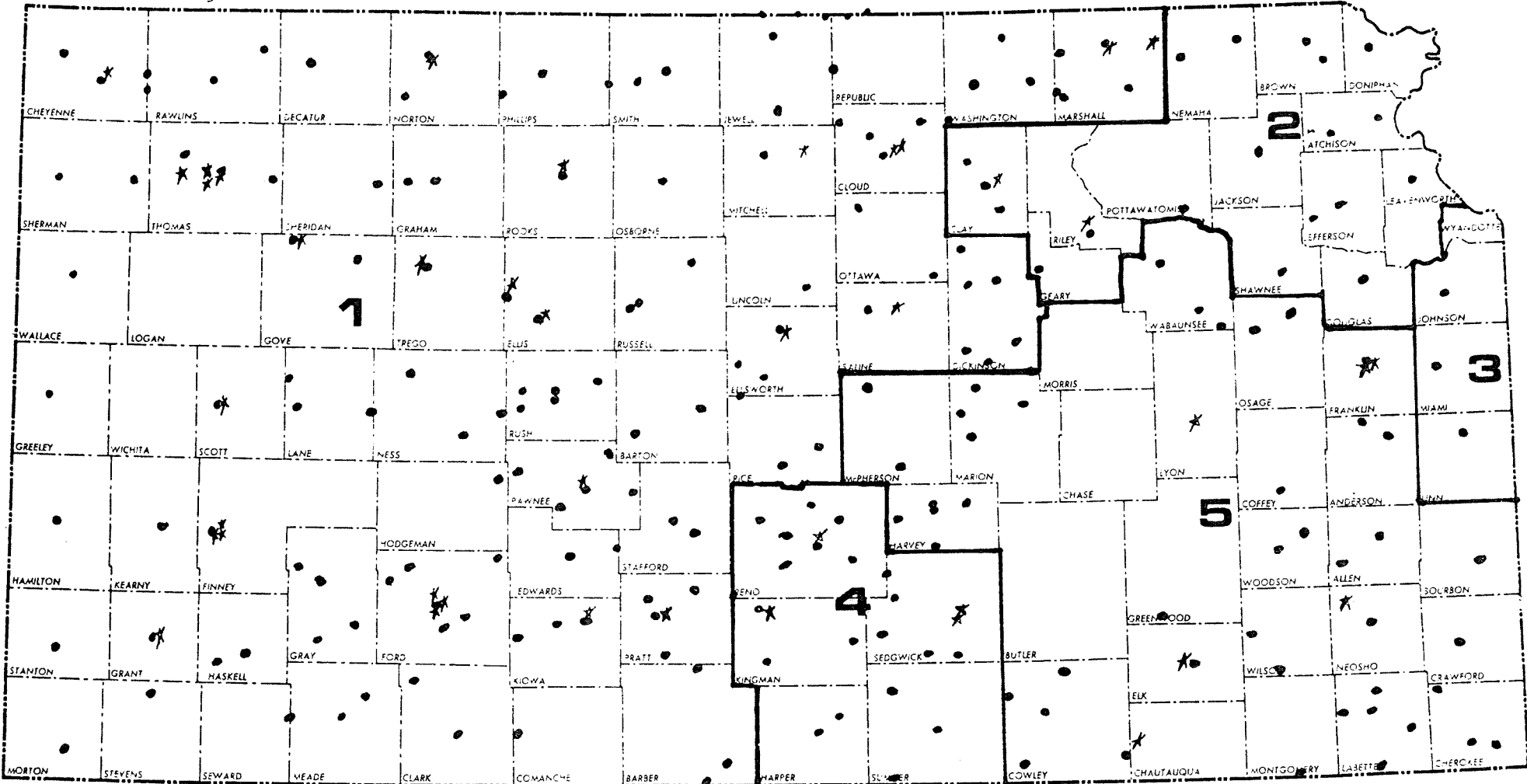
3

4

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- SUPPLY & MARKETING CO-OPS
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# KANSAS



MAPPED BY THE STATE HIGHWAY COMMISSION OF KANSAS DEPARTMENT OF PLANNING AND DEVELOPMENT

KANSAS COOPERATIVE

COUNCIL MEMBERSHIP



*216 Van Buren*

State of Kansas

## Office of Judicial Administration

Kansas Judicial Center  
301 West 10th  
Topeka, Kansas 66612-1507

(913) 296-2256

January 21, 1986

To: Gary Stotts, Acting Director of the Budget  
From: Jerry Sloan, Budget and Fiscal Officer  
Re: House Bill No. 2678

This bill would raise the limit for a claim to be filed under the small claims procedure from \$500 to \$2,000. It would also raise the maximum number of small claims that may be filed by a person annually from 5 to 10.

The 1979 Legislature raised the limit for the small claims procedure from \$300 to \$500 (see Chapter 187, Session Laws of 1979). At the same time (see Chapter 80, Session Laws of 1979), the jurisdictional limit in Chapter 61 cases was increased from \$3,000 to \$5,000. Following this action, it was found that case filings in both small claims and Chapter 61 increased dramatically, the former by 26.7% and the latter by 18.8%. At the same time, Chapter 60 case filings also increased, but at a more normal 3.8%. Thus the increase in small claims and Chapter 61 case filings does not appear to have been caused merely by regular civil cases being filed under simpler procedures. We could anticipate this historical phenomenon to again occur with small claims filings with this bill.

During FY 1985, 14,429 small claims cases were filed. While the jurisdictional limit increase proposed is more, both in amount and percentage, than the increase that occurred in 1979, if we use a conservative estimate of the same percentage increase in case filings, we would expect about 3,852 more small claims cases from only the jurisdictional limitation increase. Historically, we would expect this to occur without a decrease in other civil filings, except for any impact the filing fee differential might have.

Changing the maximum number of cases a person may file annually from 5 to 10 would also impact the caseload. In reviewing the caseload in Shawnee County, 896 small claims cases were filed during calendar year 1985. During this period

*Attachment 8  
House Judiciary  
2-6-86*

39 individuals or businesses filed the maximum five cases. If each of these were to file ten cases, which is not unlikely, this would add 195 cases to the caseload, or an increase of 22%. If this were extrapolated statewide to the increased estimate noted above, it would add an additional 4,022 cases.

Thus, the total impact of this bill would be to increase small claims filings from 14,429 in FY 1985 to an estimated 22,303 in FY 1987 or a 55% increase.

Small claims cases often take more clerical time than other cases, since the people filing and responding to these cases are less familiar with court forms and procedures than attorneys. It is estimated that this increase would require an additional 6 clerical positions, either in additional positions or an equivalent in temporary help. The cost for this additional staff in FY 1987 would be \$86,409, including fringe benefits. There would also be an impact on judicial work load with this caseload increase. Estimating 30 minutes per case of judge time, this would require almost the equivalent of two full-time judges. While this increase would be statewide, it would require the additional useage of retired judges, if available, or more cross-assignments. It is estimated that the cost to provide this additional judicial time would be approximately \$50,000, which would include travel.

This additional caseload would generate additional revenues from more filing fees being collected. For the increase in filings noted above, an additional \$78,738 would be generated. Of this amount, an estimated \$27,558 would go to the State General Fund, \$39,369 to the Counties' general funds and \$11,811 to the counties' law libraries. The on-going revenues might decrease somewhat if some cases having a claim between \$500 and \$2,000, that would be normally filed under Chapter 61 with a docket fee of \$30, were filed as small claims cases with a docket fee of \$10. I do not have an estimate on this impact.

There would also be an additional cost to the counties. Since most district courts order their forms on an annual basis, if this bill were to become law on July 1, the remainder of the existing forms would have to be discarded and new forms purchased. For small claims cases, it is estimated this would cost, in the aggregate, \$7,500.

JS:myb

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
LIMITED ACTIONS DIVISION - SMALL CLAIMS

\_\_\_\_\_  
Plaintiff(s)

vs. Case No. \_\_\_\_\_

\_\_\_\_\_  
Defendant(s)

JUDGMENT DEBTOR'S STATEMENT OF ASSETS  
(Small Claims Procedure)

TO THE JUDGMENT CREDITOR:

If the judgment debtor has not paid you or the Clerk of the Court the amount of the judgment with costs and interest due within 15 days of the date that the judgment was entered, mail a copy of the judgment form and this form to the judgment debtor. You must also get a certificate of mailing from the post office (P.S. Form 3817) and file that with the Clerk of the Court to show that you have made the mailing.

TO THE JUDGMENT DEBTOR:

A judgment has been entered against you and unless you pay the judgment, you must fill out this form and mail it or bring it to the Clerk of the District Court within 30 days of the time you received it. If you fail to complete and return this form, the court may impose penalties on you.

EMPLOYMENT

1. What is your occupation? \_\_\_\_\_
2. Name and address of your business or employer: \_\_\_\_\_  
\_\_\_\_\_
3. How often are you paid?  
 Daily     Weekly     Every Two Weeks     Twice a Month     Monthly  
 Other (Explain): \_\_\_\_\_
4. What is your gross pay each pay period? \_\_\_\_\_
5. What is your take home pay each pay period? (i.e. gross pay less state and federal income tax withholding and FICA) \_\_\_\_\_

CASH, BANK DEPOSITS

6. How much money do you have in cash? \_\_\_\_\_
7. How much other money do you have in banks, savings and loans, credit unions, and other financial institutions either in your own name or jointly (list):

<u>Name and Address of Financial Institution</u>	<u>Account Number</u>	<u>Individual/Joint</u>	<u>Balance</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____



PROPERTY

8. List all automobiles, other vehicles, and boats owned in your name or jointly:

<u>Make and Year</u>	<u>Value</u>	<u>Legal Owner if Different from Registered Owner</u>	<u>Amount Owed</u>
a. _____	\$ _____	_____	\$ _____
b. _____	\$ _____	_____	\$ _____
c. _____	\$ _____	_____	\$ _____

9. List all real estate owned in your name or jointly and place a check by your residence:

<u>Address of Real Estate</u>	<u>Fair Market Value</u>	<u>Amount Owed</u>
a. _____	\$ _____	\$ _____
b. _____	\$ _____	\$ _____
c. _____	\$ _____	\$ _____

OTHER PERSONAL PROPERTY (Do not list household furniture and furnishings, appliances or clothing.)

10. List anything of value not listed above owned in your name or jointly:

<u>Description</u>	<u>Value</u>	<u>Address Where Property is Located</u>
a. _____	\$ _____	_____
b. _____	\$ _____	_____
c. _____	\$ _____	_____
d. _____	\$ _____	_____

CORPORATION OR PARTNERSHIP JUDGMENT DEBTOR: Attach to this form a statement describing the nature, value, and exact location of all assets of the corporation or the partners, and a statement showing that the person signing this form is authorized to submit this form on behalf of the corporation or partnership.

I declare under penalty of perjury under the laws of the State of Kansas that the foregoing is true and correct.

Date \_\_\_\_\_

.....  
(Type or Print Name)

\_\_\_\_\_  
(Signature)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_, 19\_\_.

Mail or deliver this completed form to: Clerk of the District Court  
Limited Actions Division - Small Claims  
200 East 7th, Room 305  
Topeka, Kansas 66603

SUMMARY OF DISTRICT COURT CASELOAD FOR THE STATE  
YEAR ENDING JUNE 30, 1985

	<u>Cases Filed</u>	<u>Cases Terminated</u>	<u>Pending 6-30-85</u>
<b>Civil Cases:</b>			
Regular Actions	22,316	21,177	12,014
Domestic Relations	23,484	23,107	7,235
Limited Actions	<u>47,319</u>	<u>46,278</u>	<u>9,964</u>
Total, Civil	93,119	90,562	29,213
<b>Criminal Cases:</b>			
Felonies	10,470	11,670	2,963
Misdemeanors	<u>11,846</u>	<u>13,507</u>	<u>1,328</u>
Total, Criminal	22,316	25,177	4,291
SUBTOTAL	115,435	115,739	33,504
Traffic Cases	224,885	225,048	
Formal Juvenile Cases	11,177	9,039	
Decedent Estates	5,654	5,272	
Fish and Game Cases	4,309	2,743	
Guardianship/ Conservatorship Estates	2,276	2,070	
Trusts	284	163	
Other Actions*	<u>23,321</u>	<u>23,321</u>	
TOTAL	387,341	383,395	
<b>*Other Actions:</b>			
Small Claims	14,429	Determinations of Descent	1,625
Adoptions	1,951		
Treatment Proceedings	3,176	Miscellaneous Probate Actions	2,140

CHAPTER 61 LIMITED ACTION  
RANDOM SAMPLE OF CASES FOR 1985

Douglas County

Sample of 300 Cases

\$1-500	161	53.7%
\$500-1000	70	23.3%
\$1000-2000	44	14.7%
\$2000-5000	25	8.3%

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300

Lyon County

Sample of 300 Cases

\$1-500	202	67.3%
\$500-1000	56	18.7%
\$1000-2000	24	8.0%
\$2000-5000	18	6.0%

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300

Chase County

Sample of 80 Cases

\$1-500	40	50.0%
\$500-1000	13	16.3%
\$1000-2000	16	20.0%
\$2000-5000	11	13.8%

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80

Finney County

Sample of 300 Cases

\$1-500	148	49.3%
\$500-1000	65	21.7%
\$1000-2000	57	19.0%
\$2000-5000	30	10.0%

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300

Shawnee County

Sample of 200 Cases

\$1-500	123	61.5%
\$500-1000	35	17.5%
\$1000-2000	29	14.5%
\$2000-5000	13	6.5%

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200

Pawnee County

Sample of 100 Cases		
\$1-500	41	41.0%
\$500-1000	25	25.0%
\$1000-2000	21	21.0%
\$2000-5000	13	13.0%
	-----	
	100	

Sedgwick County

Sample of 300 Cases		
\$1-500	166	55.3%
\$500-1000	53	17.7%
\$1000-2000	43	14.3%
\$2000-5000	38	12.7%
	-----	
	300	

Johnson County

Sample of 366 Cases		
\$1-500	154	42.1%
\$500-1000	78	21.3%
\$1000-2000	91	24.9%
\$2000-5000	43	11.7%
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	366	

During 1985,

- There were 1,814 small claims cases filed in the 18th Judicial District, Sedgwick County.

Small claims cases are heard approximately 50 weeks out of each year in Sedgwick County.

There are approximately 36 cases for trial each week.

There are approximately 21 trials per week or an average of 7 trials per day, 3 days per week.

There is approximately 30 days from the time of filing to date of disposition in the average small claims case. (Maximum 90 days.)

- There were 10,309 civil limited actions filed in the 18th Judicial District.

There was a total of 10,259 dispositions in these cases, leaving a total year carry-over of 50 cases. There was a total of 53% of these cases uncontested--wherein, for example, judgment would have been granted by default. The median disposition time on this type of case is 34 days statewide.

Based upon figures from the Office of Judicial Administration, the 18th Judicial District does not have any civil limited action case over 24 months in age.

- There would be additional costs incurred by each county in changing the forms.
- There would be an increase in time spent by the clerks explaining to litigants what they are not supposed to explain.