

Approved _____ Date _____

MINUTES OF THE House COMMITTEE ON Judiciary

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

12:30 ~~xxx~~ a.m./p.m. on April 1, 1986 in room 313-S of the Capitol.

All members were present except:

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Mary Torrence, Revisor of Statutes' Office
Jan Sims, Committee Secretary

Conferees appearing before the committee:

Final action

HB 2458

Rep. Whiteman moved to table HB 2458. Seconded by Rep. Waggon. Motion carried on a voice vote.

SB 116

Rep. Teagarden moved to report SB116 favorable for passage. Seconded by Rep. Douville.
Rep. Walker made a substitute motion to table the bill. Seconded by Rep. Wunsch. Substitute motion carried on a voice vote.

SB 178

Rep. Waggon moved that the two amendments presented on the date of hearing of this bill by SRS concerning nudity be included in the bill. Seconded by Rep. Wunsch. Motion carried on a voice vote. Rep. Waggon moved to amend the bill at line 134 as per the balloon presented at the time of the hearing by counsel for Palmer News, Inc. regarding requiring knowledge of obscene materials before conviction of a distributor. Seconded by Rep. Adam. Motion carried on a voice vote. Rep. Duncan moved to report SB 178 as amended favorable for passage. Seconded by Rep. Waggon. Motion carried on a voice vote.

SB 278

Rep. Bideau moved to amend SB 278 by incorporating at line 78 the language on Attachment 1. Seconded by Rep. Snowbarger. Motion carried on a voice vote.
Rep. Bideau moved to report SB 278 as amended favorable for passage. Seconded by Rep. Snowbarger. Motion carried on a voice vote.

SB 415

Rep. Duncan moved to amend (7) on page 5 to include the language offered by the Kansas Association of School Boards at the time of the hearing on this bill. Seconded by Rep. Snowbarger. Motion carried on a voice vote. Rep. Duncan moved to report SB 415 as amended favorable for passage. Seconded by Rep. Fuller. Motion carried 8 votes to 7.

SB 478

Rep. Duncan moved to report SB 478 favorable for passage. Seconded by Rep. Fuller. Motion passed on a voice vote.

SB 479

Rep. Duncan moved to report SB 479 favorable for passage. Seconded by Rep. Fuller. Motion carried on a voice vote. Rep. Douville requested to be recorded as voting no.

The committee meeting recovered at 3:30 and the following action was had:

SB 509

Rep. Waggon moved to table SB 509. Seconded by Rep. Walker. Motion carried on a voice vote.

SB 587

Rep. Fuller moved to report SB 587 favorable for passage. Seconded by Rep. Adam. Rep. Vancrum made a substitute motion to strike line 26 and insert "that creates a substantial risk of causing physical harm or significant mental harm". Seconded by Rep. O'Neal. Motion carried on a voice vote. Rep. Cloud made a motion to strike Section 2. Seconded by

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Judiciary,
room 313-S, Statehouse, at 12:30 ~~xxx~~ /p.m. on April 1, 1986

Rep. Whiteman. Motion carried on a voice vote. Rep. Walker moved to report SB 587 as amended favorable for passage. Seconded by Rep. Buehler. Motion carried on a voice vote.

SB 480
Mary Torrence handed out a balloon containing amendments which would extend the provisions of the bill to include Chapter 61 (Attachment 2). Rep. Snowbarger moved to include the amendments in the bill. Seconded by Rep. O'Neal. Motion carried on a voice vote. Rep. O'Neal moved to amend SB 480 by incorporating the provisions of HB 2458 into same. Seconded by Rep. Shriver. Motion carried 9 votes to 8. Rep. Cloud moved to report SB 480 as amended favorable for passage. Seconded by Rep. Snowbarger. Motion failed 10 votes to 6. Rep. Wunsch moved to amend line 27 and wherever necessary in the bill by changing "other papers" to "other papers required under this article". Seconded by Rep. Snowbarger. Motion carried on a voice vote. Rep. O'Neal moved to report SB 480 as amended favorable for passage. Seconded by Rep. Cloud. Motion failed 9 votes to 9. Rep. Vancrum, having voted on the prevailing side on the motion amending SB 480 to include HB 2458, moved to reconsider the committee's action on that question. Motion seconded by Rep. Walker. Motion carried on a voice vote. Rep. Snowbarger moved to report SB 480 as amended favorable for passage. Seconded by Rep. O'Neal. Motion carried on a voice vote.

HB 2458
Rep. O'Neal moved to withdraw HB 2458 from the table. Seconded by Rep. Cloud. Motion carried on a voice vote. Rep. O'Neal moved to report HB 2458 favorable for passage. Seconded by Rep. Cloud. Motion carried 10 votes to 8.

SB 535
Rep. Wagnon moved to amend SB 535 by incorporating the provisions contained in a balloon she distributed (Attachment 3). Seconded by Rep. Luzzati. Motion carried on a voice vote. Rep. Wagnon moved to report SB 535 as amended favorable for passage. Seconded by Rep. Teagarden. Motion carried on a voice vote.

SB 540
Rep. Shriver moved to table SB 540. Seconded by Rep. Teagarden. Motion carried 9 votes to 7. Rep. Duncan moved to request the chairman write the Legislative Coordinating Council requesting an interim study of the merits of SB 540. Seconded by Rep. Buehler. Motion carried on a voice vote.

SB 668
Rep. Solbach moved to include the amendment presented by the Kansas Bar Association contained on Attachment 4. Seconded by Rep. O'Neal. Motion carried on a voice vote. Rep. Wunsch moved to report SB 668 as amended favorable for passage. Seconded by Rep. Cloud. Motion carried on a voice vote.

SB 704
Rep. Duncan moved to report SB 704 favorable for passage. Seconded by Rep. Wagnon. Motion carried on a voice vote.

SB 705
Rep. Wagnon moved to report SB 705 favorable for passage. Seconded by Rep. Fuller. Motion carried on a voice vote.

SB 706
Rep. Wagnon moved to amend SB 706 to provide that a child must be detained more than 72 hours before a charge of interference can be filed. Seconded by Rep. Adam. Rep. Solbach made a conceptual substitute motion that in cases involving joint custody the parties to the joint custody order will be presumed to be within the state for a period of 3 days. After 3 days the presumption will be that they have left the state. Seconded by Rep. Teagarden. Motion carried on a voice vote. Rep. Duncan moved to strike "14" in line 26 and insert "16". Seconded by Rep. Wagnon. Motion carried on a voice vote. Rep. Wagnon moved to report SB 706 as amended favorable for passage. Seconded by Rep. Fuller. Motion carried on a voice vote.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Judiciary,
room 313-S, Statehouse, at 12:30 ~~xxx~~ a.m./p.m. on April 1, 1986

SB 707
Rep. Vancrum moved to report SB 707 favorable for passage. Seconded by Rep. Wagnon. Rep. Cloud made a substitute motion to restore the original language limiting the provisions of the bill to child sexual abuse cases. Seconded by Rep. Wagnon. Motion carried on a voice vote. Rep. Snowbarger moved to report SB 707 as amended favorable for passage. Seconded by Rep. Whiteman. Motion carried on a voice vote.

SB 708
Rep. Duncan moved to report SB 708 favorable for passage. Seconded by Rep. Teagarden. Rep. Whiteman made a substitute motion to make all prostitution regardless of the age of the prostitute being promoted subject to a Class E felony. Seconded by Rep. Wagnon. Substitute motion failed on a voice vote. Rep. Duncan's motion passed on a voice vote.

SB 709
Rep. Wagnon moved to report SB 709 favorable for passage. Seconded by Rep. Teagarden. Motion carried on a voice vote.

SB 710
Rep. Wagnon moved to report SB 710 favorable for passage. Seconded by Rep. Adam. Motion carried on a voice vote.

SB 711
Rep. Teagarden moved to report SB 711 favorable for passage. Seconded by Rep. Fuller. Motion carried on a voice vote.

SB 712
Rep. Wagnon moved to report SB 712 favorable for passage. Seconded by Rep. Teagarden. Rep. Solbach made a substitute motion to change the word "immediate" to "forthwith". Seconded by Rep. Walker. Substitute motion failed 6 votes to 4. Rep. Wagnon's motion carried on a voice vote.

SB 713
Rep. Duncan moved to adopt the provisions of the balloon presented on this bill (Attachment 5) Seconded by Rep. Solbach. Motion carried on a voice vote. Rep. Duncan moved to report SB 713 as amended favorable for passage. Seconded by Rep. Adam. Motion carried on a voice vote.

Rep. Teagarden moved to approve the minutes of the meetings of the committee of February 3, 4, 5, 6, 10, 11, 12, 13, 17, 18, 19, 20, 24, 25, 26, 27, 28, March 3, 4, 5, 6, 10, 11, 17, 18, 19, 20, 24, 25, 26, 27, 31. Seconded by Rep. Snowbarger. Motion carried on a voice vote.

The Chairman announced that this is the last meeting of the committee for the session and adjourned the meeting at 5:35 P.M.

STATE OF KANSAS

EDWIN BIDEAU III
REPRESENTATIVE, FIFTH DISTRICT
NEOSHO COUNTY
123 W. MAIN
CHANUTE, KANSAS 66720



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: JUDICIARY
LABOR AND INDUSTRY
PUBLIC HEALTH AND WELFARE

PROPOSED AMENDMENT TO SB 278 lines 78-81

A homestead shall not be subject to forfeiture under this section unless the claimant of the homestead has been convicted of manufacturing, compounding, processing, importing, exporting, selling, offering for sale or having in such persons possession with intent to sell, any controlled substance listed under K.S.A. 65-4127b, or has been convicted of conspiracy to commit such a crime.

The homestead shall be subject to forfeiture under this section if the forfeiture proceedings and the conviction arise from the same violation, act, conduct or transaction and in that event the claimant so convicted shall be presumed to have consented to the forfeiture of the homestead by commission of said criminal violation or act.

*Attachment 1
House Judiciary
March 31, 1986
April 1*

SENATE BILL No. 480

By Committee on Judiciary

1-27

0018 AN ACT relating to civil procedure; amending K.S.A. 60-211,
0019 60-213, 60-216, 60-217, 60-226, 60-233, 60-234, 60-250, 60-254,
0020 60-256, 60-301, 60-302, 60-303, 60-304, 60-308, 60-312 and
0021 61-1805 and repealing the existing sections; also amending
0022 Form No. 2 and Form No. 3 in the appendix of forms following
0023 K.S.A. 60-269 and Form No. 1 in the appendix of forms
0024 following K.S.A. 61-2605, 61-1801, 61-1803

0025 *Be it enacted by the Legislature of the State of Kansas:*
0026 Section 1. K.S.A. 60-211 is hereby amended to read as fol-
0027 lows: 60-211. Every pleading, *motion and other paper* of a party
0028 represented by an attorney shall be signed by at least one
0029 attorney of record in the attorney's individual name, and the
0030 attorney's address and telephone number shall be stated. A
0031 pleading, *motion or other paper* of a party who is not repre-
0032 sented by an attorney shall be signed by the party and shall state
0033 the party's address. Except when otherwise specifically pro-
0034 vided by rule or statute, pleadings need not be verified or
0035 accompanied by an affidavit. The signature of an attorney a
0036 person constitutes a certificate by the attorney person that the
0037 attorney person has read the pleading; that to the best of the
0038 attorney's person's knowledge, information and belief there are
0039 good grounds to support it; and that it is not interposed for delay
0040 formed after reasonable inquiry it is well grounded in fact and
0041 is warranted by existing law or a good faith argument for the
0042 extension, modification or reversal of existing law, and that it is
0043 not imposed for any improper purpose, such as to harass or to
0044 cause unnecessary delay or needless increase in the cost of
0045 litigation. If a pleading, *motion or other paper* is not signed or is
0046 signed with intent to defeat the purpose of this section; it may be

Attachment 2
House Judiciary
March 31, 1986
April 1

0380 (3) *A duty to supplement responses may be imposed by order*
0381 *of the court, agreement of the parties, or at any time prior to*
0382 *trial through new requests for supplementation of prior re-*
0383 *sponses.*

0384 (f) *At any time after commencement of an action the court*
0385 *may direct the attorneys for the parties to appear before it for a*
0386 *conference on the subject of discovery. The court shall do so*
0387 *upon motion by the attorney for any party if the motion in-*
0388 *cludes: (1) a statement of the issues as they then appear; (2) a*
0389 *proposed plan and schedule of discovery; (3) any limitations*
0390 *proposed to be placed on discovery; (4) any other proposed*
0391 *orders with respect to discovery; and (5) a statement showing*
0392 *that the attorney making the motion has made a reasonable*
0393 *effort to reach agreement with opposing attorneys on the mat-*
0394 *ters set forth in the motion. Each party and his attorney are*
0395 *under a duty to participate in good faith in the framing of a*
0396 *discovery plan if a plan is proposed by the attorney for any*
0397 *party. Notice of the motion shall be served on all parties.*
0398 *Objections or additions to matters set forth in the motion shall*
0399 *be served not later than 10 days after service of the motion.*

0400 *Following the discovery conference, the court shall enter an*
0401 *order tentatively identifying the issues for discovery purposes,*
0402 *establishing a plan and schedule for discovery, setting limita-*
0403 *tions on discovery, if any; and determining such other matters,*
0404 *including the allocation of expenses, as are necessary for the*
0405 *proper management of discovery in the action. An order may be*
0406 *altered or amended whenever justice so requires.*

0407 *Subject to the right of a party who properly moves for a*
0408 *discovery conference to prompt convening of the conference, the*
0409 *court may combine the discovery conference with a pretrial*
0410 *conference authorized by K.S.A. 60-216 and amendments*
0411 *thereto.*

0412 (g) *Signing of Discovery Requests, Responses and Objec-*
0413 *tions. Every request for discovery or response or objection to*
0414 *discovery made by a party represented by an attorney shall be*
0415 *signed by at least one attorney of record in such attorney's*
0416 *individual name, whose address shall be stated. A party who is*

(f)

0417 not represented by an attorney shall sign the request, response or
 0418 objection and state such party's address. The signature of the
 0419 attorney or party constitutes a certification that he has read the
 0420 request, response or objection and that to the best of such
 0421 person's knowledge, information, and belief formed after rea-
 0422 sonable inquiry ~~(1) consistent with these statutes~~ and warranted
 0423 by existing law or good faith argument for the extension, modi-
 0424 fication or reversal of existing law; (2) not interposed for any
 0425 improper purpose, such as to harass or to cause unnecessary
 0426 delay or needless increase in the cost of litigation; and (3) not
 0427 unreasonable or unduly burdensome or expensive, given the
 0428 needs of the case, the discovery already had in the case, the
 0429 amount in controversy, and the importance of the issues at stake
 0430 in the litigation. If a request, response or objection is not signed,
 0431 it shall be stricken unless it is signed promptly after the omis-
 0432 sion is called to the attention of the party or person making the
 0433 request, response or objection and a party shall not be obligated
 0434 to take any action with respect to it until it is signed.

0435 If a certification is made in violation of the rule, the court,
 0436 upon motion or upon its own initiative, shall impose upon the
 0437 person who made the certification, the party on whose behalf
 0438 the request, response or objection is made, or both, an appro-
 0439 priate sanction, which may include an order to pay the amount
 0440 of reasonable expenses incurred because of the violation, in-
 0441 cluding a reasonable attorneys fee.

0442 Sec. 56. K.S.A. 60-233 is hereby amended to read as follows:
 0443 60-233. (a) *Availability; procedures for use.* Any party may serve
 0444 upon any other party written interrogatories to be answered by
 0445 the party served or, if the party served is a public or private
 0446 corporation, or a partnership, or association or governmental
 0447 agency by any officer or agent, who shall furnish such informa-
 0448 tion as is available to the party. Interrogatories may, without
 0449 leave of court, be served upon the plaintiff after commencement
 0450 of the action and upon any other party with or after service of
 0451 process upon that party. Each interrogatory shall be answered
 0452 separately and fully in writing under oath, unless it is objected
 0453 to, in which event the reasons for objection shall be stated in lieu

it is: (1) Consistent with the rules of
 civil procedure

this subsection

0010 follows: 60-304. The summons and petition shall be served
 0011 together. The plaintiff shall furnish the clerk such copies of the
 0012 petition as are necessary. Service shall be made as follows:

0013 (a) *Individual*. Upon an individual other than a minor or an
 0014 incapacitated person, (1) by delivering a copy of the summons
 0015 and of the petition to the individual personally; or, (2) by leaving
 0016 copies thereof at such individual's dwelling house or usual place
 0017 of abode with some person of suitable age and discretion then
 0018 residing therein; or, (3) by delivering a copy of the summons and
 0019 of the petition to an agent authorized by appointment or by law
 0020 to receive service of process, but if the agent is one designated
 0021 by statute to receive service, such further notice as the statute
 0022 requires shall be given. A judge of the district court, upon a
 0023 showing that service as prescribed above cannot be made with
 0024 due diligence, may order service to be made; or (4) if service
 0025 cannot be made in accordance with (1), (2) or (3), by leaving a
 0026 copy of the summons and of the petition at the defendant's
 0027 dwelling house or usual place of abode ~~and mailing a copy of the~~
 0028 ~~summons and petition to the individual by first-class mail.~~

0029 (b) *Minor*. Upon a minor, by delivering a copy of the sum-
 0030 mons and of the petition personally (1) to the minor and (2) also
 0031 either to the minor's guardian or conservator if the minor has one
 0032 within the state or to the minor's father or mother or other person
 0033 having the minor's care or control or with whom such minor
 0034 resides, or if service cannot be made upon any of them, then as
 0035 provided by order of the judge.

0036 (c) *Incapacitated person*. Upon an incapacitated person, by
 0037 delivering a copy of the summons and of the petition personally
 0038 (1) to such person's guardian, conservator or a competent adult
 0039 member of such person's family with whom the person resides,
 0040 or if such person is living in an institution, then to the director or
 0041 chief executive officer of the institution, or if service cannot be
 0042 made upon any of them, then as provided by order of the judge,
 0043 and (2) unless the judge otherwise orders, also to the incapaci-
 0044 tated person.

0045 (d) *Governmental bodies*. (1) Upon a county, by delivering a
 0046 copy of the summons and of the petition to one of the county

a notice that such copy has been left at such
 house or place of abode

0158 *thereto*. No order of a court is required. An affidavit of the server
0159 shall be filed stating the time, manner and place of service ~~to~~
0160 ~~which shall be attached the return receipt in the case of service~~
0161 ~~by restricted mail~~. The court may consider the affidavit, or any
0162 other competent proofs, in determining whether service has
0163 been properly made. *Service of summons by restricted mail*
0164 *shall be deemed complete on the date of delivery as shown on*
0165 *the return receipt.*

0166 (3) No default shall be entered until the expiration of at least
0167 30 days after service. A default judgment rendered on service
0168 outside this state may be set aside only on a showing which
0169 would be timely and sufficient to set aside a default judgment
0170 rendered on personal service within this state.

0171 (b) *Submitting to jurisdiction — process*. Any person,
0172 whether or not a citizen or resident of this state, who in person or
0173 through an agent or instrumentality does any of the acts herein-
0174 after enumerated, thereby submits the person and, if an individ-
0175 ual, the individual's personal representative, to the jurisdiction
0176 of the courts of this state as to any cause of action arising from the
0177 doing of any of these acts:

- 0178 (1) Transaction of any business within this state;
0179 (2) commission of a tortious act within this state;
0180 (3) ownership, use or possession of any real estate situated in
0181 this state;
0182 (4) contracting to insure any person, property or risk located
0183 within this state at the time of contracting;
0184 (5) entering into an express or implied contract, by mail or
0185 otherwise, with a resident of this state to be performed in whole
0186 or in part by either party in this state;
0187 (6) acting within this state as director, manager, trustee or
0188 other officer of any corporation organized under the laws of or
0189 having a place of business within this state or acting as executor
0190 or administrator of any estate within this state;
0191 (7) causing to persons or property within this state any injury
0192 arising out of an act or omission outside of this state by the
0193 defendant if, at the time of the injury either (A) the defendant
0194 was engaged in solicitation or service activities within this state;

0269 together, and the plaintiff shall furnish the clerk of the court such
 0270 copies of the petition as are necessary. In actions where all the
 0271 defendants may be served personally in the county where the
 0272 action is commenced, service shall be effected within not more
 0273 than seven days from the date the summons is issued. When all
 0274 the defendants cannot be so served, and service is required in
 0275 another county or in another state, service shall be effected
 0276 within not more than 15 days from the date of the summons.
 0277 Service shall be as follows:

0278 (1) Service upon an individual other than a minor or an
 0279 incapacitated person shall be made (A) by delivering a copy of
 0280 the summons and of the petition to such individual personally;
 0281 or, (B) by leaving copies thereof at such individual's *dwelling*
 0282 ~~house or~~ usual place of residence *abode residence with some*
 0283 *person of suitable age and discretion then residing therein;* or,
 0284 (C) by delivering a copy of the summons and of the petition to an
 0285 agent authorized by appointment or by law to receive service of
 0286 process, but if the agent is one designated by statute to receive
 0287 service, such further notice as the statute requires shall be given;
 0288 or (D) if service cannot be made in accordance with (A), (B) or
 0289 (C), by leaving a copy of the summons and petition at the
 0290 individual's usual place of residence and mailing ~~a copy of the~~
 0291 ~~summons and petition to the individual by first-class mail.~~

a notice that such copy has been left at such residence

0292 Personal Service upon an individual outside the state shall be
 0293 made in substantial compliance with the applicable provisions of
 0294 K.S.A. 60-308 and amendments thereto.

0295 (2) Service upon a minor, incapacitated person, foreign or
 0296 domestic corporations, partnerships or insurance companies or
 0297 associations shall be made in accordance with the applicable
 0298 provisions of K.S.A. 60-304 and amendments thereto.

0299 (3) Service upon a governmental entity shall be made in
 0300 accordance with the applicable provisions of K.S.A. 60-304 and
 0301 amendments thereto.

0302 (b) An acknowledgment of service on the summons, or the
 0303 voluntary general appearance of a defendant, is equivalent to
 0304 service. In all cases when the person to be served, or an agent
 0305 authorized by such person to accept service of summonses and

0306 petitions, refuses to receive copies thereof, the offer of the duly
 0307 authorized process server to deliver copies thereof, and such
 0308 refusal, shall be a sufficient service of such summonses and
 0309 petitions. If the plaintiff, the plaintiff's agent or attorney shall file
 0310 an affidavit that to the best of the affiant's knowledge and belief
 0311 the defendant is a nonresident who is employed in this state, or
 0312 that the place of residence of the defendant is unknown, then the
 0313 affiant may direct that the service of summons or other process
 0314 shall be made by the sheriff or other duly authorized person by
 0315 directing an officer, partner, managing or general agent or the
 0316 person having charge of the office or place of employment at
 0317 which the defendant is employed, to make the defendant avail-
 0318 able for the purpose of permitting the sheriff or such other duly
 0319 authorized person to serve the summons or other process.

0320 Sec. 47 18. Form No. 2 in the appendix of forms following
 0321 K.S.A. 60-269 is hereby amended to read as follows:

0322 *Form No. 2*
 0323 (For use in action in another county)
 0324 In the District Court of _____ County, Kansas.
 0325 _____
 0326 *Plaintiff,*
 0328 vs. No. _____
 0330 _____
 0331 *Defendant.*
 0332 **SUMMONS**

0334 *To the above-named Defendant:*
 0335 You are hereby summoned to defend an action brought in the district court for
 0336 _____ county and
 0337 required to serve upon _____ plaintiff's attorney, whose address is
 0338 _____, a pleading to the petition which is herewith served
 0339 upon you, within twenty (20) days after service of this summons upon you,
 0340 exclusive of the day of service. If you fail to do so, judgment by default will be
 0341 taken against you for the relief demanded in the petition. Your pleading also must
 0342 be filed with the court in _____ county. As provided in K.S.A.
 0343 60-213(a), your answer must state as a counterclaim any related claim which you
 0344 may have against the plaintiff, or you will thereafter be barred from making such
 0345 claim in any other action.

0346 _____
 0347 *Clerk of said District Court.*
 0348 [Seal of the court]
 0349 Dated _____
 0350 _____
 0351 _____

0352 **RETURN ON SERVICE OF SUMMONS**
 0353 I hereby certify that I have served the within summons: (1) By delivering on
 0354 the _____ day of _____, 19____, a copy of the
 0355 summons and a copy of the petition to each of the within-named defendants
 0356 _____
 0357 (2) By leaving on the _____ day of _____, 19____,

Sec. 18. K.S.A. 61-1801 is hereby amended to read as follows: 61-1801. Upon the filing of the petition pursuant to this chapter, the clerk of the district court shall forthwith issue a summons and, ~~in the absence of a request of the plaintiff to the contrary,~~ shall deliver it for service to the person authorized to make such service sheriff of the county where the summons is to be served or, if requested, to a person appointed to serve process or to the plaintiff's attorney. Alias summonses may be issued as requested by a party to the action.

Sec. 19. K.S.A. 61-1803 is hereby amended to read as follows: 61-1803. Service of all process shall be made by a sheriff within the sheriff's county, by the sheriff's deputy, by an attorney admitted to the practice of law before the supreme court of Kansas or by some person specially appointed as a process server by the judge for that purpose or, ~~in the judge's absence, by or the clerk,~~ except that a subpoena may be served as provided in K.S.A. 60-245 and amendments thereto. ~~Special appointments to serve process shall be made freely. A person specially appointed to serve process~~ Process servers shall be appointed freely and may be authorized either to serve process in a single case or in cases generally during a fixed period of time. A process server or an authorized attorney may make the service anywhere in or out of the state and shall be allowed the fees prescribed in K.S.A. 28-110 and amendments thereto for the sheriff.

And renumber remaining sections.

0358 for each of the within-named defendants _____
 0359 a copy of the summons and a copy of the petition at the respective dwelling place
 0360 or usual place of abode of said defendants with some person of his or her family of
 0361 suitable age and discretion residing therein. (3) By delivering on the
 0362 _____ day of _____, 19____, a copy of the sum-
 0363 mons and a copy of the petition to each of the following agents authorized by
 0364 appointment or by law to receive service of process _____
 0366 (4) By leaving a copy of the summons and a copy of the petition at the dwelling
 0367 house or usual place of abode and mailing copies thereof by first-class mail to
 0368 each of the following defendants: _____

a notice that such copy has been so left

0369 _____
 0370 _____
 0371 on the _____ day of _____, 19____.
 0372 All done in _____ County, Kansas.
 0373 _____
 0374 Sheriff of _____ County, Kansas.
 0375 By _____

0376 Sec. 48 19. Form No. 3 in the appendix of forms following
 0377 K.S.A. 60-269 is hereby amended to read as follows:

0378 _____ Form No. 3
 0379 In the District Court of _____ County, Kansas.
 0380 _____
 0382 _____ Plaintiff,
 0384 vs. _____ No. _____
 0385 _____
 0386 Defendant _____ and Third-Party
 0388 Plaintiff,
 0389 vs. _____
 0390 _____
 0392 Third-Party Defendant

0393 THIRD-PARTY SUMMONS
 0394 The State of Kansas to Third-Party Defendant _____
 0395 _____
 0396 _____

0397 You are hereby summoned to appear before the above-named court and to file
 0398 your pleading to the petition, copy of which is attached hereto, and to file your
 0399 pleading to the third-party petition, copy of which is attached hereto, and to serve
 0400 a copy of each of your said pleadings upon _____, attorney _____ for
 0401 plaintiff _____ whose address is _____, and upon
 0402 _____, attorney _____ for defendant _____ and third-
 0403 party plaintiff _____, whose address is _____, all
 0404 within twenty (20) days after the service of this summons upon you, exclusive of
 0405 the day of service. If you fail to do so, judgment by default will be taken against
 0406 you for the relief demanded in the third-party petition.
 0407 _____

0408 _____ District Clerk.
 0410 By _____
 0412 _____ Deputy Clerk.

0413 [Seal of the district court]
 0414 Dated _____, 19____.

0415 RETURN OF SERVICE ON THIRD-PARTY
 SUMMONS

0418 I hereby certify that I have served the within third-party summons: (1) By
 0419 delivering on the _____ day of _____, 19____, a copy of the
 0420 third-party summons and a copy of the petition and a copy of the third-party
 petition to each of the within-named third-party defendants _____

0421 _____
 0422 (2) By leaving on the _____ day of _____, 19____, for each
 0423 of the within-named third-party defendants _____
 0424 _____
 0425 a copy of the summons and a copy of the petition and a copy of the third-party
 0426 petition at the respective dwelling place or usual place of abode of said third-
 0427 party defendants with some person of his or her family of suitable age and
 0428 discretion residing therein. (3) By delivering on the _____ day of
 0429 _____, 19____, a copy of the third-party summons and a copy of the
 0430 petition and a copy of the third-party petition to each of the following agents
 0431 authorized by appointment or by law to receive service of process _____
 0433 (4) By leaving a copy of the third-party summons and a copy of the petition and
 0434 a copy of the third-party petition at the dwelling house or usual place of abode
 0435 and mailing copies thereof by first-class mail to each of the following third-
 0436 party defendants _____

a notice that such copy has been so left

0437 _____
 0438 on the _____ day of _____, 19____.
 0439 All done in _____ County, Kansas.
 0440 _____ Sheriff of _____ County, Kansas.
 0441 _____ By _____
 0442 _____ Deputy Sheriff.
 0443 _____

0445 Sec. 40 20. Form No. 1 in the appendix of forms following
0446 K.S.A. 61-2605 is hereby amended to read as follows:

0447 Form No. 1: SUMMONS FOR SERVICE WITHIN STATE AND RETURN
 0448 In the _____ Court of _____ County, Kansas.
 0449 _____
 0450 _____ Plaintiff.
 0451 vs. No. _____
 0452 _____
 0453 _____
 0454 _____ Defendant.
 0455 SUMMONS
 0456 _____

0457 To the above-named defendant:
 0458 You are hereby notified that an action commenced against you will be on this
 0459 court's docket at _____ o'clock _____ M., on the _____ day of
 0460 _____, 19____. Should you either fail to appear before this
 0461 court, personally or by counsel, at said time, or prior to said time file with this
 0462 court a pleading in response to the petition which is herewith served upon you,
 0463 judgment by default will be taken against you for the relief demanded in the
 0464 petition. Any pleading filed with this court must also be served on the plaintiff or
 0465 his or her attorney, whose name and address appears below, prior to the above
 0466 time should you fail to appear at such time, and your responsive pleading may
 0467 state as a counterclaim any related claim which you may have against the
 0468 plaintiff.

0469 To the sheriff (marshal) of _____ County, Kansas:
 0470 This summons must be served by _____, 19____, and
 0471 your return made within _____ days thereafter. (Signature), Clerk

0472 _____
 0473 Dated: _____
 0474 _____
 0475 [Seal of the court]
 0476 _____
 0477 _____
 0478 _____ (Name and address of plaintiff's attorney)

RETURN ON SERVICE OF SUMMONS

0479

0480 I hereby certify that I have served this summons:
0481 (1) *Personal Service.* By delivering a copy of said summons and a copy of the
0482 petition to each of the following defendants on the dates indicated:

0483 _____, 19_____
0484 19_____

0485 (2) *Residence Service.* By leaving a copy of said summons and a copy of the
0486 petition at the usual place of residence of each of the following defendants with
0487 some person of suitable age and discretion residing therein on the dates indi-
0488 cated:

0489 _____, 10_____, _____, 10_____

0490 _____, 19_____

0491 _____, 19_____

0492 (Name) (Address) (Date)

0497 (3) *Agent Service.* By delivering a copy of said summons and a copy of the
0498 petition to each of the following agents authorized by appointment or by law to
0499 receive service of process on the dates indicated:

0500 _____, 19_____

0501 _____, 19_____

0502 (Name) (Date)

0505 (4) *Residence Service and Mailing.* By leaving a copy of said summons and a
0506 copy of the petition at the usual place of residence of each of the following
0507 defendants and mailing copies thereof by first-class mail on the dates indicated:

0508 _____, 19_____

0509 _____, 19_____

0510 (Name) (Address) (Date)

0515 (3) (5) *No Service.* The following defendants were not found in this county:

0516 _____

0517 _____

0518 _____ (Signature and Title of Officer)

0519 Dated: _____

0520 _____

0521 Fees

0522 Service, First Person \$ _____

0523 Additional persons \$ _____

0525 Persons Not Found \$ _____

0527 Miles Traveled \$ _____

0529 _____

0531 Total \$ _____

0533 Sec. 20 21. K.S.A. 60-211, 60-213, 60-216, 60-217, 60-226,
0534 60-233, 60-234, 60-250, 60-254, 60-256, 60-301, 60-302, 60-303, _____, 61-1801, 61-1803

0535 60-304, 60-308, 60-312 and 61-1805 are hereby repealed.

0536 Sec. 21 22. This act shall take effect and be in force from and
0537 after its publication in the statute book.

a notice that such copy has been so left

SENATE BILL No. 535

By Committee on Judiciary

1-31

attachment 3
House Judiciary
March 31, 1986
April 1,

021 AN ACT concerning child visitation orders; relating to proce-
022 dures for enforcement; amending K.S.A. 1985 Supp. 23-601,
023 23-602, 23-603, 38-1121 and 60-1616 and repealing the exist-
024 ing sections.

025 *Be it enacted by the Legislature of the State of Kansas;*

026 New Section 1. (a) The purpose of this section is to enhance
027 the enforcement of child visitation rights granted by court order
028 by establishing an expedited procedure which is simplified
029 enough to provide justice without necessitating the assistance of
030 legal counsel.

031 (b) If a parent has been granted visitation rights pursuant to
032 K.S.A. 60-1616 or K.S.A. 1985 Supp. 38-1121, and amendments
033 thereto, and such rights are denied or interfered with by the
034 other parent, the parent having visitation rights may file with the
035 clerk of the district court a motion for enforcement of such rights.
036 Such motion shall be filed on a form provided by the clerk of the
037 court. Upon the filing of the motion, the administrative judge of
038 the district court shall assign a judge of the district court or the
039 court trustee as a hearing officer to hear the motion. The hearing
040 officer shall immediately:

041 (1) Issue *ex parte* an order for mediation in accordance with
042 K.S.A. 1985 Supp. 23-601 *et seq.*, and amendments thereto, and
043 issue *ex parte* as a temporary order any order authorized by
044 subsection (e) (f) which the hearing officer considers appro-
045 priate; or

046 (2) set a time and place for a hearing on the motion, which
047 shall be not more than 21 days after the filing of the motion.

strike

0048 (c) If mediation ordered pursuant to subsection (b) is com-
0049 pleted, the mediator shall submit a summary of the parties'
0050 understanding to the hearing officer within five days after it is
0051 signed by the parties. Upon receipt of the summary, the hearing
0052 officer shall *[enter an order in accordance with the parties'*
0053 *agreement or]* set a time and place for a hearing on the matter,
0054 which shall be not more than 10 days after the summary is
0055 received by the hearing officer.

0056 (d) If mediation ordered pursuant to subsection (b) is termi-
0057 nated pursuant to K.S.A. 1985 Supp. 23-604 and amendments
0058 thereto, the mediator shall report the termination to the hearing
0059 officer within five days after the termination. Upon receipt of the
0060 report, if the hearing officer is a district or associate district
0061 judge, such judge shall set the matter for hearing. If the hearing
0062 officer is a district magistrate judge or a court trustee, the ad-
0063 ministrative judge shall assign the matter to a district or associate
0064 district judge who shall set the matter for hearing. Any such
0065 hearing shall be not more than 10 days after the mediator's report
0066 of termination is received by the hearing officer.

0067 ~~(e) The clerk of the district court shall notify all interested~~
0068 ~~parties by certified mail, return receipt requested, of the time~~
0069 ~~and place of any hearing to be held pursuant to this section.~~

0070 *(e) Notice of the hearing date set by the hearing officer shall*
0071 *be given to all interested parties by certified mail, return receipt*
0072 *requested, or as the court may order.*

0073 (l) If, upon a hearing pursuant to subsection (b), (c) or (d), the
0074 hearing officer or judge finds that visitation rights of one parent
0075 have been unreasonably denied or interfered with by the other
0076 parent, the hearing officer or judge may enter an order providing
0077 for one or more of the following:

- 0078 (1) A specific visitation schedule;
0079 (2) compensating visitation time for the visitation denied or
0080 interfered with, which time shall be of the same type (e.g.,
0081 holiday, weekday, weekend, summer) as that denied or inter-
0082 ferred with and shall be at the convenience of the parent whose
0083 visitation was denied or interfered with;
0084 (3) the posting of a bond, either cash or with sufficient sure-

007 Yes, conditioned upon compliance with the order granting visi-
 008. tation rights;

0087 (4) assessment of reasonable attorney fees, *mediation costs*
 0088 and costs of the proceedings to enforce visitation rights against
 0089 the parent who unreasonably denied or interfered with the other
 0090 parent's visitation rights;

0091 (5) attendance of one or both parents at counseling or educa-
 0092 tional sessions which focus on the impact of visitation disputes
 0093 on children;

0094 (6) supervised visitation; or

0095 (7) any other remedy which the hearing officer or judge
 0096 considers appropriate, except that, if a hearing officer is a district
 0097 magistrate judge or court trustee, the hearing officer shall not
 0098 enter any order which grants, or modifies a previous order
 0099 granting, child support, child custody or maintenance.

100 (g) ~~Any order of a court trustee pursuant to this section shall~~
 101 ~~be subject to approval by a judge of the district court before the~~
 102 ~~order is issued.~~

103 (h) In no case shall final disposition of a motion filed pursu-
 104 ant to this section take place more than 45 days after the filing of
 105 such motion.

106 Sec. 2. K.S.A. 1985 Supp. 23-601 is hereby amended to read
 107 as follows: 23-601. Mediation under this section is the process by
 108 which a neutral mediator appointed by the court, *or by a hearing*
 109 *officer in a proceeding pursuant to section 1*, assists the parties
 110 in reaching a mutually acceptable agreement as to issues of child
 111 custody and visitation. The role of the mediator is to aid the
 112 parties in identifying the issues, reducing misunderstandings,
 113 clarifying priorities, exploring areas of compromise and finding
 114 points of agreement. An agreement reached by the parties is to
 115 be based on the decisions of the parties and not the decisions of
 116 the mediator.

117 Sec. 3. K.S.A. 1985 Supp. 23-602 is hereby amended to read
 118 as follows: 23-602. (a) The court may order mediation of any
 119 contested issue of child custody or visitation at any time, upon
 120 the motion of a party or on the court's own motion. *A hearing*
 121 *officer in a proceeding pursuant to section 1 may order media-*

Decisions of district magistrate judges or court
 trustees appointed pursuant to this rule shall be
 subject to review by an associate district judge or
 district judge on the motion of any party filed
 within 10 days after the order was entered.

SENATE BILL No. 713

By Committee on Judiciary

2-26

0018 AN ACT relating to juveniles; concerning grounds for taking
0019 juveniles into custody; concerning the interstate compact on
0020 juveniles; amending K.S.A. 1985 Supp. 38-1527 and 38-1528
0021 and repealing the existing sections.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 1985 Supp. 38-1527 is hereby amended to
0024 read as follows: 38-1527. (a) A law enforcement officer or court
0025 services officer may take a child under 18 years of age into
0026 custody when:

0027 (1) The law enforcement officer or court services officer has a
0028 court order commanding that the child be taken into custody as a
0029 child in need of care; or

0030 (2) the law enforcement officer or court services officer has
0031 probable cause to believe that a court order commanding that the
0032 child be taken into custody as a child in need of care has been
0033 issued in this state or in another jurisdiction.

0034 (b) A law enforcement officer may take a child under 18 years
0035 of age into custody when the officer has probable cause to
0036 believe that the child is a child in need of care and that there are
0037 reasonable grounds to believe that the circumstances or condi-
0038 tion of the child is such that continuing in the place or residence
0039 in which the child has been found or in the care and custody of
0040 the person who has care or custody of the child would present a
0041 danger to the child.

0042 (c) *A law enforcement officer ~~may~~ shall take a child under 18*
0043 *years of age into custody when the officer has probable cause to*
0044 *believe that the child is a delinquent or runaway juvenile from*
0045 *another state as defined in the interstate compact on juveniles;*
0046 *K.S.A. 38-1001 et seq. and amendments thereto. the child is a*

Attachment 5
House Judiciary
Apr April 1, 1986

0047 *missing person from another state and a verified missing person*
 0048 *entry for such child can be found in the national crime infor-*
 0049 *mation center missing person system.*

0050 Sec. 2. K.S.A. 1985 Supp. 38-1528 is hereby amended to read
 0051 as follows: 38-1528. (a) *Except as provided in subsection (b),*
 0052 *when any law enforcement officer takes into custody a child*
 0053 *under the age of 18 years, without a court order, the child shall*
 0054 *forthwith be delivered to a facility or person designated by the*
 0055 *secretary or to a court designated shelter facility, court services*
 0056 *officer or other person. If, after delivery of the child to a shelter*
 0057 *facility, the person in charge of the shelter facility at that time*
 0058 *and the law enforcement officer determine that the child will not*
 0059 *remain in the shelter facility, the law enforcement officer shall*
 0060 *deliver the child to a juvenile detention facility, designated by*
 0061 *the court, where the child shall be detained for not more than 24*
 0062 *hours. It shall be the duty of the law enforcement officer to*
 0063 *furnish to the county or district attorney, without unnecessary*
 0064 *delay, all the information in the possession of the officer per-*
 0065 *taining to the child, the child's parents or other persons inter-*
 0066 *ested in or likely to be interested in the child and all other facts*
 0067 *and circumstances which caused the child to be taken into*
 0068 *custody.*

0069 *(b) When any law enforcement officer takes into custody any*
 0070 *child as provided in subsection (c) of K.S.A. 1985 Supp. 38-1527*
 0071 *and amendments thereto, proceedings shall be initiated in ac-*
 0072 *cordance with the provisions of the interstate compact on juve-*
 0073 *niles, K.S.A. 38-1001 et seq. and amendments thereto.*

0074 ~~(b)~~ (c) *Whenever a child under the age of 18 years is taken*
 0075 *into custody by a law enforcement officer without a court order*
 0076 *and is thereafter placed in the custody of a shelter facility, court*
 0077 *services officer or other person as authorized by this code, the*
 0078 *facility or person shall have physical custody and provide care*
 0079 *and supervision for the child upon written application of the law*
 0080 *enforcement officer. The application shall state:*

- 0081 (1) *The name and address of the child, if known;*
 0082 (2) *the names and addresses of the child's parents or nearest*
 0083 *relatives and persons with whom the child has been residing, if*

No child detained pursuant to the interstate compact on juveniles shall be incarcerated in an adult jail.

0084 known; and

0085 (3) the officer's belief that the child is a child in need of care
0086 and that there are reasonable grounds to believe that the cir-
0087 cumstances or condition of the child is such that, unless the child
0088 is placed in the immediate custody of the shelter facility or other
0089 person, a danger to the child would exist.

~~0090 (e)~~ (d) A copy of the application shall be furnished by the
0091 facility or person receiving the child to the county or district
0092 attorney without unnecessary delay.

~~0093 (d)~~ (e) The shelter facility or other person designated by the
0094 court who has custody of the child pursuant to this section shall
0095 discharge the child not later than 48 hours following admission,
0096 excluding Saturdays, Sundays and legal holidays, unless a court
0097 has entered an order pertaining to temporary custody or release.

~~0098 (e)~~ (f) In absence of a court order to the contrary, the county
0099 or district attorney or the placing law enforcement agency shall
0100 have the authority to direct at any time the release of the child.

0101 Sec. 3. K.S.A. 1985 Supp. 38-1527 and 38-1528 are hereby
0102 repealed.

0103 Sec. 4. This act shall take effect and be in force from and
0104 after its publication in the statute book.

Amendment to SB 668 by adding a new subsection:

"(c) This Section does not require the exclusion of evidence of a subsequent measure, if offered to impeach a witness for the manufacturer or seller of a product who has expressly denied the feasibility of such a measure."

Attachment 4
House Judiciary
~~March 31, 1986~~
April 1