

Approved February 25, 1986
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by SENATOR ALICIA SALISBURY at
Chairperson

1:30 ~~xxx~~/p.m. on MONDAY, FEBRUARY 17, 1986 in room 254-E of the Capitol.

All members were present except:

Senator Harder, excused
Senator Allen, excused

Committee staff present:

Mr. Ben Barrett, Legislative Research Department
Ms. Avis Swartzman, Legislative Revisor's Office
Mrs. Millie Randell, Secretary

Conferees appearing before the committee:

SB 593 - An act concerning schools; requiring certain proof of a child's identity upon first enrollment in or transfer to a school.
(Johnston)

Proponents:

Senator Michael Johnston, sponsor of SB 593
Ms. Elizabeth Arthurs, Cherryvale, a student at Pittsburg State University
Representative Joan Wagon, member of the Attorney General's Task Force on Missing and Exploited Children
Senator Nancy Parrish, member of the Attorney General's Task Force on Missing and Exploited Children
Mr. Mike Boyer, Kansas Bureau of Investigation, in charge of the Missing Persons Program for the state of Kansas; member of the Attorney General's Task Force on Missing and Exploited Children
Mr. Marc Marcano, Executive Director, Advisory Committee on Mexican-American Affairs, Department of Human Resources
Ms. Barbara Sabol, Secretary, Kansas Department of Health and Environment
Mr. Robert Barnum, Commissioner of Youth Services, Social and Rehabilitation Services
Mr. Craig Grant, Director of Political Action, Kansas-National Education Association
Mr. Richard Funk, Asst. Executive Director, Kansas Association of School Boards
Ms. Brenda Braden, Attorney General's office

SB 565 - An act concerning school districts, area vocational-technical schools and school district interlocal cooperatives; procedures relating to nonrenewal and termination of contracts of certain administrators employed thereby (Arasmith, by request)

Proponents:

Senator Neil Arasmith, sponsor of SB 565

Opponents:

Dr. Bill Curtis, Asst. Executive Director, Kansas Association of School Boards
Mr. Gerald W. Henderson, Executive Director, United School Administrators

After Vice-chairperson Alicia Salisbury called the meeting to order, she recognized Senator Michael Johnston, sponsor of SB 593, who described his bill as being a means for locating and tracing missing children. (Attachment 1) Following his testimony, Senator Johnston introduced Ms. Elizabeth Arthurs, a student from Pittsburg State University, and said that it was Ms. Arthurs who originated the concept for the bill. Ms. Arthurs reinforced the testimony given by Senator Johnston.

When the Chair called upon Representative Joan Wagon to testify, Representative Wagon related that she had been a member of the Attorney General's Task Force on Missing and Exploited Children. She distributed copies of an excerpt from the Task Force committee's report of December 18, 1985, (Attachment 2), which, she said, includes recommendations which address SB 593.

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 SENATE COMMITTEE ON EDUCATION,
room 254-E, Statehouse, at 1:30 ~~a.m.~~/p.m. on MONDAY, FEBRUARY 17, 1986.

Representative Wagnon said she felt both the birth certificate and school records are needed for identification purposes. Representative Wagnon concluded her testimony by recommending that the concept of SB 593 be studied by an interim committee.

Senator Nancy Parrish, who had also been a member of the Attorney General's Task Force on Missing and Exploited Children, emphasized the Task Force's concern that the statutes more clearly define what proof of identity is required upon initial enrollment of a child in school and what specific action should be taken if that identification is unavailable. Senator Parrish said she would reserve further comments until when the Senate Education Committee should consider the bill for possible action.

Mr. Mike Boyer of the Kansas Bureau of Investigation, also a member of the Attorney General's Task Force Committee on Missing and Exploited Children, asked the Committee to consider expanding the bill so as to include school records as a document for identification. He, too, distributed copies of an excerpt from the Attorney General's Task Force report. (See Attachment 3)

Although Mr. Marc Marcano of the Department of Human Resources said he agreed with the concept of SB 593, he cautioned the Committee to consider what the possible impact of this bill could have on Hispanic migrants who have come with their children to work in western Kansas. He explained that since they probably would not be carrying birth certificates with them, it would be difficult for the parents to enroll their children in school according to the present language of the bill. Because the Hispanics would have fear of reprisal by authorities if they did not produce birth certificates, they likely would not send their children to school at all; and this would precipitate a tremendous number of dropouts among the approximately 8,000 Hispanic migrants who come to Kansas to work. Mr. Marcano reminded the Committee that the Constitution guarantees that all children in this country are entitled to an education and suggested that an alternative form of identification, such as school records, be adopted.

Secretary of the Kansas Department of Health and Environment Ms. Barbara Sabol testified that her department supports SB 593 and that she does not feel the passage of SB 593 would have a negative impact in the department. Ms. Sabol said she was present to respond to any questions the Committee might have.

Commissioner of Youth Services, Social and Rehabilitation Services, Mr. Robert Barnum stated that he is supporting SB 593 on behalf of SRS. Mr. Barnum requested that the Committee consider an amendment to SB 593 and this, he explained, relates to a child who is in the custody of the Secretary of the Department of SRS (Attachment 4). Mr. Barnum said he would, also, support an amendment whereby school records could be used as a means of identification. Mr. Barnum, also a member of the Attorney General's Task Force on Missing and Exploited Children, said he felt the bill with these two amendments would adequately address the concerns of the AG's Task Force committee.

Although Mr. Craig Grant of K-NEA testified in support of SB 593, he recommended amending the bill so as to change the language on line 0039 by striking "Administrators of schools" and inserting in lieu thereof, "School personnel", so that a person such as a guidance counselor or teacher could be in attendance during an investigative proceeding for the purpose of identity.

When Mr. Richard Funk of the Kansas Association of School Boards testified in support of SB 593, he recommended revising the bill with two amendments which are to be found in his testimony in Attachment 5.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,
room 254-E, Statehouse, at 1:30 ~~xxx~~/p.m. on MONDAY, FEBRUARY 17, 1986

After Ms. Brenda Braden of the Attorney General's office, who was in attendance, requested permission to speak, she expressed concern regarding a child's right to confidentiality during an investigative proceeding attended by school personnel. Following further comments by Ms. Braden, the Committee requested Ms. Braden to furnish written testimony to the Committee, and Ms. Braden agreed to do this. (Attachment 6)

SB 565 - The Chair recognized Senator Arasmith, who briefly addressed his bill by explaining a problem which had occurred in one of his school districts. The bill, he continued, is intended to clarify the procedure for dismissal of an administrator. He said the bill should, also, help to avoid similar problems that might develop in the future.

Opposition to SB 565 was voiced by Dr. Bill Curtis of the Kansas Association of School Boards in his testimony found in Attachment 7.

Also opposing SB 565 was Mr. Gerald Henderson of the United School Administrators, and his testimony is found in Attachment 8.

Following testimony by Mr. Henderson, the Chair announced that the hearing on SB 565 was concluded.

When the Chair called for a motion on the minutes, Senator Warren moved, and Senator Karr seconded the motion to approve minutes of the February 11 and February 13 Committee meetings. The motion carried.

Vice-chairperson Salisbury then adjourned the meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 254-E DATE: Monday, February 17, 1986

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Cathy Strickler	347-N	Sen. Johnston
B. J. Sabol	TOPEKA, KS	KDHS
Robert Brennan	" "	SRS Youth Svc
Donna Voth	347-N	Sen. Johnston
Alice Marciano	Merriam Ks.	KACMAA
Arita Barker	Topka, KS	KACMAA
M. Hanna	"	Coa-Sun
Ken Reggy	Paola	SCE
Jim Zindally	Overland Park	USD #512
Craig Grant	Lawrence	H-NEA
Bill Curtis	Topeka	KASB
L. Ferguson	Quess	Topeka
Richard Lomb	Topeka	KASB
Paul E. Fleener	Manhattan	Kansas Farm Bureau
Ruth Weibin	Topeka	AAETP

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 254-E DATE: Monday, February 17, 1986

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Liz Arthur	730 C. 14 th Street Cheryvale, Ks.	
Marilyn Flanders	730 E 6th Cheryvale, Kansas	
Leggie Henderson	509 E 3rd, Cheryvale, Kansas	
Sherid Henderson	Topoka	USA
Harold G. Pitts	Topoka	TARTA
Merle Hice	Topoka	KACC
Kay Coloss	Topoka	K-NEA
Chas Burnett	Topoka	USD 501#
Brenda Braden	Topoka	A.G.'s Office
Julene L Miller	Topoka	A.G.'s office
W. A. Beary	Topoka	FBI
Karen Kimm	Missouri Hills	Sen Gangwerty

State of Kansas

ATTACHMENT 1

MICHAEL L. JOHNSTON
SENATE MINORITY LEADER
SENATOR, FOURTEENTH DISTRICT
LABETTE COUNTY AND PARTS OF
CRAWFORD, MONTGOMERY AND
NEOSHO COUNTIES
P.O. BOX A
PARSONS, KANSAS 67357-0040

Senate Chamber



COMMITTEE ASSIGNMENTS
MEMBER: ELECTIONS
GOVERNMENTAL ORGANIZATION
INTERSTATE COOPERATION
LEGISLATIVE BUDGET
LEGISLATIVE AND CONGRESSIONAL
APPORTIONMENT
LEGISLATIVE COORDINATING COUNCIL
WAYS AND MEANS

Office of Minority Leader

STATE CAPITOL
TOPEKA, KANSAS 66612-1565
913-296-3245

Senate Education Committee

Senate Bill 593, Locating Missing Children

February 17, 1986

Statement by Senator Michael Johnston

Thank you, Mr. Chairman, and members of the Committee for affording me the opportunity to appear today.

As sponsor of the bill under consideration today, I offer Senate Bill 593 as a means of locating and tracing missing children. Only recently has the problem of children abducted by non-custodial parents or strangers come to the attention of the general public. Only now are we beginning to understand the depth and prevalence of this problem. For too long, many of these missing children have gone through our educational system, their identities unquestioned. I suggest that we challenge and reform such a system.

Under the proposed act, children enrolling for the first time or transferring from schools outside the school district would be required to present birth certificates as a condition of enrollment. Currently, the requirement of birth certificates is not a state-wide practice. If this

information is not provided to the schools within thirty days, school boards shall promptly notify the law enforcement agency. An investigation shall ensue to determine the child's identity without the knowledge of the custodians.

The purpose of this measure is to positively identify all students in the Kansas school system and provide a starting point for investigation when identification fails to materialize indicating possible abduction. Such a starting point is essential in the timing of investigations to prevent integration of "missing" children into our schools where their true identities may never surface.

Mr. Chairman, Members of the Committee, it is my fervent hope that members of the Kansas Legislature will look favorably on and support Senate Bill 593. I believe we need a state-wide policy to prevent missing children from becoming lost forever through the enrollment practices of our public and private schools.

THE REPORT
OF THE
ATTORNEY GENERAL'S TASK FORCE
ON
MISSING AND EXPLOITED CHILDREN
DECEMBER 18, 1985

disappearance of the child. In Kansas, efforts to encourage and assist parents in this regard have been organized and operated at the community level.

FINDINGS: Some of the individuals and organizations offering programs to assist parents record, assemble and preserve good identifying information for use in the event a child disappears have rendered a real service and are to be commended for their efforts.

For the most part the persons so involved are public-spirited and well-intentioned people who are donating their time and efforts. However, such good intentions do not always assure that they have the experience or training necessary to accomplish their goals. In many communities individuals and organizations are fingerprinting children which is, of course, the best means of positive identification. Unfortunately, fingerprinting requires more training and skill to produce fingerprints that are clear enough for classification and use in making a future identification than many of them possess. This can easily result in a parent, who is also unskilled and untrained on this subject, thinking that they now have the best means of identifying their child only to discover, at some later date, that what they possess is of little or no value. It can also result in conscientious parents failing to take steps to record other available identifying information because they now possess what they believe to be a good set of their child's fingerprints.

Unfortunately, there are also those who do not have such high intentions and are more interested in generating monetary returns. Parents, public-minded citizens and even large companies may fall prey to the unscrupulous promoter and contribute to nonproductive or even counterproductive programs.

CONCLUSION: Many well-intentioned Kansans attempt to assist in these activities without first making sure that their efforts will accomplish the desired results.

RECOMMENDATION #1: The state should conduct, or provide the resources for conducting, community based programs to adequately acquaint parents and others with appropriate means of preserving information that will assist in identifying a child should that child disappear.

RECOMMENDATION #2: Programs to record personal identifying information of children offered to the public should be registered with and approved by an appropriate agency having jurisdiction over the area in which the program is to be offered.

THE SCHOOL'S ROLE IN LOCATING MISSING CHILDREN

BACKGROUND: K.S.A. 1984 Supp. 72-1111 requires the attendance in school of "...any child who has reached the age of 7 years and is under the age of 16 years...". K.S.A. 1984 Supp. 72-1046(a) provides, "Any child who has attained the age of eligibility for school attendance may attend school in the district in which the child lives...". These provisions require that a child be accepted in school by the school district residence even though there may be inadequate information as to true identity, age or progress in the school last attended.

FINDINGS: Children who are abducted are often taken from the school setting. This is particularly true in parental abduction cases. Much precious time in locating the child may be lost if the child's absence is not discovered for several hours. Parents or legal guardians should always notify the school if the child is to be absent with the permission or knowledge of the parent or legal guardian. If the child does not arrive at school and the school has not heard from the parent or legal guardian, the school should immediately contact the parent or legal guardian. Some schools have recruited volunteers who perform this service.

Throughout Kansas educators, including administrators, counselors, teachers, school nurses, etc., have doubts about whether or not they are or should be active participants in efforts to locate missing children. Even though a child is presented for enrollment without adequate identification or records of prior school attendance, principals seem to feel that the state's mandatory education laws require that the child be accepted for enrollment. Principals do make some effort to obtain the child's prior school records but, if those efforts are unsuccessful, few make any further inquiry or demands in the case. Principals will acknowledge that they sometimes enroll students under circumstances that leave many questions unanswered, even to the point of raising suspicions. It is therefore possible for a child who has been abducted, either by a noncustodial parent or a stranger, to be enrolled in a Kansas public school with relative anonymity and immunity.

CONCLUSION: When a child is abducted either on the way to school or from the school setting, the highly important early discovery of the abduction can only be facilitated by the school communicating the absence of the child to the parent. The school can perform a vital service in locating a missing child by informing other appropriate agencies when a child is presented for enrollment without the required or expected information regarding identity or prior school attendance.

RECOMMENDATION #1: The state should require that all schools attempt to contact a custodial parent or legal guardian when a child under 16 years of age does not attend school if the custodial parent or legal guardian has not contacted the school.

RECOMMENDATION #2: Kansas statutes should more clearly state what proof of identity is to be required upon the initial enrollment of a child in either kindergarten or first grade and should provide that, if the purported parent or guardian is unable to provide such identification, the school give written notice of such fact to the appropriate law enforcement agency. That law enforcement agency should then conduct an investigation to determine the true identity of the child.

RECOMMENDATION #3: When a child is enrolled as a transfer from another school or school district, Kansas statutes should specify the minimum information required to establish the true identity of the child. If the purported parent or guardian fails to provide such information, the school should notify the appropriate law enforcement agency. The notice to the law enforcement agency should be within a reasonable period of time after the child's enrollment, taking into consideration that records from the school last attended do not usually accompany the child upon enrollment in

a new school. The law enforcement agency should investigate to determine the true identity of the child and the school should provide access to the child in a setting on the premises determined by school personnel for the purpose of an interview of the child in question. The school should not give prior notification of such action or interview to the child's purported parent or custodian.

RECOMMENDATION #4: When a child is reported as missing to a law enforcement agency and remains missing for a reasonable period of time, the law enforcement agency should be required to give notice of such fact to the school last attended by the child. The school, upon receiving such notice, should be required to note that the child is missing on the school's records of that child. If the school last attended receives a request from another school for a transcript or other information regarding said child, the school last attended should be required to immediately notify the appropriate law enforcement agency of the receipt of such a request.

RECOMMENDATION #5: Require that the Kansas Department of Education distribute a list of all reported missing children as provided by the KBI to every Kansas public school and that children identified from the list be reported to the appropriate law enforcement agency.

EDUCATIONAL PROGRAMS REGARDING CHILD SEXUAL ABUSE

BACKGROUND: While presenting informational programs outside the home relating to human sexual activity can be a very controversial and emotional issue, most experts have agreed that it is only just and proper that children be made fully aware of what is not acceptable conduct on the part of adults and older children. Many children have submitted to illicit sexual activities either because they were informed by someone they trusted that it was the thing they were expected to do or because of threats of violence to themselves or a close family member.

FINDINGS: Many communities are conducting educational programs, usually in the schools, so that children will be informed as to what is acceptable conduct on the part of adults and what sexual advances are unacceptable. This education of the molested child causes reporting of such incidents. Unfortunately in some instances, such reports have produced less than desired results because those expected to react in such situations have been totally unprepared. Law enforcement officers and even social workers have not understood how to react to such a report from a child. This is particularly true in many of the rural and less populated areas.

Many prosecutors and judges have failed to appreciate the delicate nature of cases where the perpetrator is a member of the household and continues to have the love and affection of the victim. The child victim typically feels a great amount of guilt and responsibility for the illicit activities. Incarcerating the perpetrator may only add to the guilt feelings of the victim without providing a solution to the underlying problem.

There have been a multitude of films, video tapes and other educational aids produced by various agencies and organizations throughout the country. While The Department of Social and Rehabilitation Services,

RECOMMENDATION #2: Programs to record personal identifying information of children offered to the public should be registered with and approved by an appropriate agency having jurisdiction over the area in which the program is to be offered.

THE SCHOOL'S ROLE IN LOCATING MISSING CHILDREN

BACKGROUND: K.S.A. 1984 Supp. 72-1111 requires the attendance in school of "...any child who has reached the age of 7 years and is under the age of 16 years...". K.S.A. 1984 Supp. 72-1046(a) provides, "Any child who has attained the age of eligibility for school attendance may attend school in the district in which the child lives...". These provisions require that a child be accepted in school by the school district residence even though there may be inadequate information as to true identity, age or progress in the school last attended.

FINDINGS: Children who are abducted are often taken from the school setting. This is particularly true in parental abduction cases. Much precious time in locating the child may be lost if the child's absence is not discovered for several hours. Parents or legal guardians should always notify the school if the child is to be absent with the permission or knowledge of the parent or legal guardian. If the child does not arrive at school and the school has not heard from the parent or legal guardian, the school should immediately contact the parent or legal guardian. Some schools have recruited volunteers who perform this service.

Throughout Kansas, educators, including administrators, counselors, teachers, school nurses, etc., have doubts about whether or not they are or should be active participants in efforts to locate missing children. Even though a child is presented for enrollment without adequate identification or records of prior school attendance, principals seem to feel that the state's mandatory education laws require that the child be accepted for enrollment. Principals do make some effort to obtain the child's prior school records but, if those efforts are unsuccessful, few make any further inquiry or demands in the case. Principals will acknowledge that they sometimes enroll students under circumstances that leave many questions unanswered, even to the point of raising suspicions. It is therefore possible for a child who has been abducted, either by a non-custodial parent or a stranger, to be enrolled in a Kansas public school with relative anonymity and immunity.

CONCLUSION: When a child is abducted either on the way to school or from the school setting, the highly important early discovery of the abduction can only be facilitated by the school communicating the absence of the child to the parent. The school can perform a vital service in locating a missing child by informing other appropriate agencies when a child is presented for enrollment without the required or expected information regarding identity or prior school attendance.

RECOMMENDATION #1: The state should require that all schools attempt to contact a custodial parent or legal guardian when a child under 16 years of age does not attend school if the custodial parent or legal guardian has not contacted the school.

*should also
use these
ASB +
ask for
volunteer
efforts*

RECOMMENDATION #2: Kansas statutes should more clearly state what proof of identity is to be required upon the initial enrollment of a child in either kindergarten or first grade and should provide that, if the purported parent or guardian is unable to provide such identification, the school give written notice of such fact to the appropriate law enforcement agency. That law enforcement agency should then conduct an investigation to determine the true identity of the child.

RECOMMENDATION #3: When a child is enrolled as a transfer from another school or school district, Kansas statutes should specify the minimum information required to establish the true identity of the child. If the purported parent or guardian fails to provide such information, the school should notify the appropriate law enforcement agency. The notice to the law enforcement agency should be within a reasonable period of time after the child's enrollment, taking into consideration that records from the school last attended do not usually accompany the child upon enrollment in a new school. The law enforcement agency should investigate to determine the true identity of the child and the school should provide access to the child in a setting on the premises determined by school personnel for the purpose of an interview of the child in question. The school should not give prior notification of such action or interview to the child's purported parent or custodian.

RECOMMENDATION #4: When a child is reported as missing to a law enforcement agency and remains missing for a reasonable period of time, the law enforcement agency should be required to give notice of such fact to the school last attended by the child. The school, upon receiving such notice, should be required to note that the child is missing on the school's records of that child. If the school last attended receives a request from another school for a transcript or other information regarding said child, the school last attended should be required to immediately notify the appropriate law enforcement agency of the receipt of such a request.

RECOMMENDATION #5: Require that the Kansas department of education distribute a list of all reported missing children as provided by the KBI to every Kansas public school and that children identified from the list be reported to the appropriate law enforcement agency.

EDUCATIONAL PROGRAMS REGARDING CHILD SEXUAL ABUSE

BACKGROUND: While presenting informational programs outside the home relating to human sexual activity can be a very controversial and emotional issue, most experts have agreed that it is only just and proper that children be made fully aware of what is not acceptable conduct on the part of adults and older children. Many children have submitted to illicit sexual activities either because they were informed by someone they trusted that it was the thing they were expected to do or because of threats of violence to themselves or a close family member.

FINDINGS: Many communities are conducting educational programs, usually in the schools, so that children will be informed as to what is acceptable conduct on the part of adults and what sexual advances are unacceptable.

CONCLUSION: Kansas has long been considered a leader in the subject of mental health but does not appear to have done enough in the area of child sexual abusers and pedophilia.

RECOMMENDATION: In addition to the educational programs recommended later in this report, the state needs to develop adequate programs to identify, treat and monitor the location of pedophiles and hebephiles.

THE RUNAWAY

CONCLUSION: Kansas statutes do not adequately address the problem of how to help the runaway nor does the state have enough facilities or programs to deal with this type of child in need of care.

RECOMMENDATION #1: K.S.A. 1984 Supp. 38-1502(a) should be amended by adding "is willfully and voluntarily absent from the child's home without the consent of the child's parent, legal guardian or other custodian" to the other definitions of "child in need of care".

RECOMMENDATION #2: Add a subsection (c) to K.S.A. 1984 Supp. 38-1527 to make it a clear statutory duty of a law enforcement officer to take into custody any child who has been officially reported as a runaway or missing child to an appropriate local law enforcement agency or the Kansas Bureau of Investigation (KBI) and the National Crime Information Center (NCIC).

RECOMMENDATION #3: Amend K.S.A. 1984 Supp. 38-1528 to make it clear that upon taking a child into custody without a court order the law enforcement officer should return the child to the child's parents unless the law enforcement officer has reasonable grounds to believe that such action is not in the best interest of the child, in which case the present provisions of this section would apply.

RECOMMENDATION #4: K.S.A. 1984 Supp. 38-1528(a) should be amended by adding the phrase "excluding Saturdays, Sundays and legal holidays" as an extension of the 24 hours a child may be detained when picked up by law enforcement officers without a court order and it has been determined that the child will not remain in a shelter facility.

RECOMMENDATION #5: Add to the procedural statutes in the Kansas code for care of children to provide clearly that, once a petition has been filed and a proceeding commenced, the court has authority to issue an order (or writ of attachment) directing law enforcement officers to take an alleged or adjudicated child in need of care into custody and bring that child before the court. The statute authorizing the issuance of such a writ should also state under what circumstances it may be issued. The procedure should authorize the involuntary restraint of the child for a reasonable period of time in the event the child is apprehended at a time when the court is not open for business.

RECOMMENDATION #6: There needs to be an ability to "hang onto" some children to allow time for an adequate evaluation as well as to facilitate an appropriate treatment program. We recommend that SRS provide for closed treatment programs, in either state-operated or private facilities, for this category of child. The Task Force does not feel that the procedure of adjudicating a runaway as a juvenile offender by reason of criminal contempt of court is any more desirable than the present practice of waiting until the child has violated the law and been adjudicated as a juvenile offender. The creation of another category such as Oklahoma's "child in need of treatment" with a provision for containment in a treatment setting may be a more rational and humane solution to this problem.

RECOMMENDATION #7: Establish a uniform state-wide policy that each law enforcement agency immediately accept a parent's or guardian's report that a child is missing or a runaway and, without unnecessary delay, enter such report in the computers of NCIC and KBI.

THE INTERSTATE RUNAWAY

CONCLUSION: While Kansas cannot control how and when officers of other states react to the report of a child missing from Kansas, we should at least clarify for Kansas law enforcement officers how they are expected to react to locating a child reported missing from another state.

RECOMMENDATION #1: Add a section to the Kansas code for care of children which clarifies that a child located in this state who has been reported missing or a runaway from another state is to be processed under the provisions of the Interstate Compact on Juveniles.

RECOMMENDATION #2: Kansas should take the steps necessary to obtain a study, review and update of the Interstate Compact on Juveniles to bring it more in line with present day requirements and rearrange it so as to make it easier to read and understand.

UNAUTHORIZED HARBORING OR TRANSPORTING OF A RUNAWAY

CONCLUSION: Kansas statutes do not adequately provide law enforcement officers and prosecutors with the tools necessary to deal with those who harbor or transport runaways.

RECOMMENDATION #1: It should be made a statutory duty for one who provides unauthorized shelter to a minor who is a runaway to report the location of such runaway to either the child's parents or the local law enforcement agency. Law enforcement should then be authorized to leave the child in the place where shelter is being provided if such appears to be appropriate and then report the facts and circumstances to SRS.

RECOMMENDATION #2: It should be made a class E felony for a person to provide unauthorized shelter or assistance to a minor who has run away from the parental home or from a court-ordered or approved placement for the purpose of aiding the runaway from being located or detected.

RECOMMENDATION #3: It should be made a class E felony for one to provide unauthorized transportation to a runaway for the purpose of assisting that runaway in avoiding apprehension or detection.

RECOMMENDATION #4: It should also be made an offense for a person with knowledge of the location of a runaway child to refuse to provide such information to a law enforcement officer upon inquiry by such officer.

PARENTAL ABDUCTIONS

CONCLUSION: While the Task Force has been unable to determine the true magnitude of this problem in Kansas or the number of cases in which there are valid indications that the missing child is actually only missing as to

one parent and is in the company of the other parent, it would appear that the present statutes and manner of handling of such cases is grossly inadequate.

RECOMMENDATION #1: Amend K.S.A. 21-3422, Interference with parental custody, to make it an offense for one parent to deprive the other parent of equal custody when the parents have equal rights to custody, whether the equal rights are based on a court order granting joint custody or the fact that no custody order is in effect, and make a violation of this section a class E felony and raise the age to 16. K.S.A. 21-3422a, Aggravated interference with parental custody should be upgraded to a class D felony.

RECOMMENDATION #2: That there be further study to develop a solution to the problem created when the custodial parent without just cause deprives the other parent from visiting or having contact with the child.

RECOMMENDATION #3: Arrange for the state to provide assistance to a Kansas parent who is seeking the enforcement of a valid custody order when that parent is without the necessary funds to pursue the matter.

RECOMMENDATION #4: Amend K.S.A. 21-3827, Unlawful disclosure of a warrant, to permit the disclosure of a warrant having been issued in those cases involving abduction of a child unless such disclosure is specifically prohibited by the court issuing the warrant.

RECOMMENDATION #5: The state should conduct continuing educational programs for appropriate parties; i.e., law enforcement officers, prosecutors, judges, parents, etc. so that each party will better understand his or her duties, responsibilities and authority with regard to parental abductions.

RECOMMENDATION #6: The state should establish a central repository of resources available to inform a parent of the parent's rights and obligations regarding parental abduction. This repository should be adequately staffed and should have written materials available to distribute to a parent experiencing the loss of a child due to an abduction by the other parent.

RECOMMENDATION #7: The Task Force urges the governor to take those steps necessary to make Kansas a full participant in the Federal Parent Locator Service.

LACK OF COOPERATION AND UNIFORMITY BETWEEN STATES

CONCLUSION: The laws of Kansas, as well as other states, do not adequately provide satisfactory solutions for the locating and retrieval of missing children.

RECOMMENDATION #1: Kansas should pass legislation which will authorize and direct Kansas law enforcement officers to assist a parent who is a resident of another state in the locating and retrieval of a child from this state.

RECOMMENDATION #2: Let Kansas take the steps necessary to request that the National Conference of Commissioners on Uniform State Laws undertake a study of this problem, review and revise the interstate compact on juveniles, the uniform child custody jurisdiction act and/or draft an adequate uniform law to be adopted by all states.

STRANGER ABDUCTION

BACKGROUND: K.S.A. 21-3420, Kidnapping, and K.S.A. 21-3421, Aggravated kidnapping, are the statutes addressing this problem. In either case the taking or confining must have been for one of several enumerated purposes.

FINDINGS: Many training programs have been developed which focus on the problem of small children being abducted by strangers. Many Kansas communities are taking advantage of these and are presenting training to our children regarding the danger of trusting and going with a stranger. There appears to have been an increase nationally of cases in which a child is "snatched" by an adult because that adult wants a child to raise and none of the enumerated purposes to make it kidnapping under the Kansas statute could be proved. A case of this type occurred in Great Bend where a lady slipped into the hospital and took a newborn child home with her.

CONCLUSION: The Kansas criminal code does not adequately cover this type of abduction.

RECOMMENDATION #1: The act of kidnapping a child for the purpose of keeping the child and secreting it from the child's parents should be made a felony offense but of a lesser degree than a class B felony. Upgrading "Interference with parental custody" to a class E felony as previously recommended would perhaps provide a sufficient penalty.

RECOMMENDATION #2: The state should encourage schools and community-based organizations to conduct educational programs on this subject and to utilize the resources available through the KBI or local law enforcement agencies.

MISSING CHILD IDENTIFICATION PROGRAMS

CONCLUSION: Many well-intentioned Kansans attempt to assist in these activities without first making sure that their efforts will accomplish the desired results.

RECOMMENDATION #1: The state should conduct, or provide the resources for conducting, community based programs to adequately acquaint parents and others with appropriate means of preserving information that will assist in identifying a child should that child disappear.

RECOMMENDATION #2: Programs to record personal identifying information of children offered to the public should be registered with and approved by an appropriate agency having jurisdiction over the area in which the program is to be offered.

THE SCHOOL'S ROLE IN LOCATING MISSING CHILDREN

CONCLUSION: When a child is abducted either on the way to school or from the school setting, the highly important early discovery of the abduction can only be facilitated by the school communicating the absence of the child to the parent. The school can perform a vital service in locating a missing child by informing other appropriate agencies when a child is presented for enrollment without the required or expected information regarding identity or prior school attendance.

RECOMMENDATION #1: The state should require that all schools attempt to contact a custodial parent or legal guardian when a child under 16 years of age does not attend school if the custodial parent or legal guardian has not contacted the school.

RECOMMENDATION #2: Kansas statutes should more clearly state what proof of identity is to be required upon the initial enrollment of a child in either kindergarten or first grade and should provide that, if the purported parent or guardian is unable to provide such identification, the school give written notice of such fact to the appropriate law enforcement agency. That law enforcement agency should then conduct an investigation to determine the true identity of the child.

RECOMMENDATION #3: When a child is enrolled as a transfer from another school or school district, Kansas statutes should specify the minimum information required to establish the true identity of the child. If the purported parent or guardian fails to provide such information, the school should notify the appropriate law enforcement agency. The notice to the law enforcement agency should be within a reasonable period of time after the child's enrollment, taking into consideration that records from the school last attended do not usually accompany the child upon enrollment in a new school. The law enforcement agency should investigate to determine the true identity of the child and the school should provide access to the child in a setting on the premises determined by school personnel for the purpose of an interview of the child in question. The school should not give prior notification of such action or interview to the child's purported parent or custodian.

RECOMMENDATION #4: When a child is reported as missing to a law enforcement agency and remains missing for a reasonable period of time, the law enforcement agency should be required to give notice of such fact to the school last attended by the child. The school, upon receiving such notice, should be required to note that the child is missing on the school's records of that child. If the school last attended receives a request from another school for a transcript or other information regarding said child, the school last attended should be required to immediately notify the appropriate law enforcement agency of the receipt of such a request.

RECOMMENDATION #5: Require that the Kansas department of education distribute a list of all reported missing children as provided by the KBI to every Kansas public school and that children identified from the list be reported to the appropriate law enforcement agency.

EDUCATIONAL PROGRAMS REGARDING CHILD SEXUAL ABUSE

CONCLUSION: The state of Kansas needs a better organized program to disseminate information about available resources to respond to this need.

RECOMMENDATION #1: The state should establish a central directory of available resources to inform children and parents about child sexual abuse/exploitation. Each school district and other community group should be strongly urged to avail themselves of this information. The responsibility for maintaining this directory should be assigned to a particular state agency and must be adequately staffed and financed. This may be an appropriate task for the state library with all other state agencies being required to keep the library informed of all educational aids available in their offices. Local community groups with training aids and materials available for loan should be encouraged to register such information with the agency performing this function.

RECOMMENDATION #2: Professionals in certain fields should be required to receive a state specified minimum amount of training on how they should react to the child who reports sexual abuse. Persons engaged in any profession which places the person in a position to receive the child's initial report of sexual abuse are particularly in need of this training. Since it is not possible to anticipate when a person in one of those professions may become involved in such a sexual abuse report, the training should be required before or within a specified time of entry into their respective service. The initial training should then be followed up by certain minimum requirements of periodic in-service training for each field.

RECOMMENDATION #3: All prosecuting attorneys and judges should receive state specified basic training in the dynamics of child sexual abuse cases. Such training should be required before a prosecutor is allowed to prosecute or a judge is allowed to preside in such a case. If a prosecutor or a judge in a given area has not received such training, that official should be replaced with one who has been properly trained.

REPORTING OF CHILD SEXUAL ABUSE

CONCLUSIONS: There still appears to be some problem in accomplishing adequate reporting of situations that should suggest child sexual abuse.

RECOMMENDATION: The statute should be amended to prevent supervisory personnel of any school, school district, hospital or health care facility from interfering with the reporting of suspected child abuse or neglect and provide that any such interference would constitute a violation of K.S.A. 21-3808, Obstructing legal process or official duty.

STATEWIDE INFORMATION NETWORK

CONCLUSION: Kansas has taken inadequate steps to make information concerning a pedophile who leaves one community readily available to other communities where the pedophile may locate.

RECOMMENDATION: Kansas should develop an emphasis in the central repository of intelligence type information concerning sexual abuse or exploitation and suspicions of sexual abuse and exploitation and make that information available to any law enforcement agency or other agency or political subdivision of the state upon request.

QUALITY OF INVESTIGATIVE TECHNIQUES AND PROSECUTION

CONCLUSION: While the thrust of recent Kansas legislation is to eliminate duplication of effort between SRS and law enforcement agencies and protect the child victim from repetitive interviews, still more needs to be done.

RECOMMENDATION #1: Require that the response to a report of child sexual abuse be made by a team composed of a representative from SRS and a representative from law enforcement who should coordinate their efforts and arrange to conduct one interview of the child in such manner as to serve the needs of both the agencies.

RECOMMENDATION #2: Require that reports of sexual abuse be answered and interviews of the child victim be conducted only by persons who have been properly trained to state specification in the appropriate techniques of interviewing a child sexual abuse victim. If any agency does not have available such a properly trained representative, that agency should be precluded from participating in the child's interview. Such a restriction would make it necessary for each area of SRS and each law enforcement agency either to obtain proper training for at least one of their employees or make arrangements to call in someone from the outside who has been properly trained.

RECOMMENDATION #3: Amend K.S.A. 22-2301, K.S.A. 1984 Supp. 38-1510 and 1529 and K.S.A. 1984 Supp. 38-1612 to grant the Kansas Attorney General the authority to investigate, file and prosecute cases involving child sexual abuse or exploitation in those instances in which the local county or district attorney refuses or has failed to act without undue delay or just cause.

RECOMMENDATION #4: The Task Force endorses the adoption of the district attorney plan or any other plan that will provide a sufficient number of full-time prosecutors to perform adequately all of the statutory duties placed on that office.

RECOMMENDATION #5: Amend K.S.A. 60-460(dd) and chapter 112, 1985 Session Laws of Kansas to make these rules of evidence also applicable to proceedings under the Kansas juvenile offenders code and make the amendment effective upon publication in the Kansas Register.

SCREENING OF PERSONS WORKING WITH CHILDREN

RECOMMENDATION #1: State licensing or certification requirements for professions or programs involved with children should be expanded to require extensive background checks through the central repository to include fingerprints submission. The cost of submitting and classifying fingerprints should be borne by the program or the individual.

RECOMMENDATION #2: The Task Force encourages all unlicensed youth programs to screen the volunteers who work with youth and to investigate their background using the central repository resources of the KBI for information regarding prior convictions. Examples of such unlicensed programs are the Boy Scouts, Girl Scouts, YMCA's, Big Brothers/Big Sisters, etc. The KBI should contact all youth program providers in Kansas and make them aware of the services of the KBI.

PROMOTING PROSTITUTION OF A MINOR

CONCLUSION: The Task Force agrees that promoting prostitution should be a felony when a minor is the prostitute.

RECOMMENDATION: Amend K.S.A. 21-3513 to make the offense at least a class E felony if a minor is involved as the prostitute.

PROVIDING A CONTROLLED SUBSTANCE OR INTOXICANT TO A MINOR

CONCLUSION: The Task Force feels present statutes regarding controlled substances, simulated controlled substances, drug paraphernalia and intoxicants do not adequately protect the children of this state.

RECOMMENDATION: The above mentioned statutes should be amended to make it a felony offense for any person to provide a minor with a controlled substance, simulated controlled substance, drug paraphernalia, intoxicating liquor or cereal malt beverage for the purpose of sexual exploitation.

STATUTE OF LIMITATIONS

CONCLUSION: The Task Force feels that the statute of limitations on criminal prosecution should not commence running until the crime has been revealed by the minor reporting such fact to an adult.

RECOMMENDATION: K.S.A. 21-3106, Time limitations, should be amended so that when the victim is a minor and the crime charged is a sex offense enumerated in Article 35, Chapter 21, K.S.A. or incest (K.S.A. 21-3602) or aggravated incest (K.S.A. 21-3603) the time during which the child victim conceals the fact of the crime should not be counted.

SENTENCING AND ACCEPTABLE ALTERNATIVES

CONCLUSION: Except as indicated earlier in this report, the Kansas classification of crimes and penalties is sufficient in most cases of child sexual abuse and exploitation. However, when the defendant is the type of pedophile likely not to be impacted by treatment (fixated pedophile), mandatory sentencing may be the best alternative to ensure that this individual will be prevented from victimizing other children. The Task Force discussed at length the advantages and disadvantages of recommending mandatory sentencing and concluded it was appropriate in certain circumstances described in the following recommendation.

The Task Force also concluded that mandatory sentencing is inappropriate in cases of incest or intrafamilial abuse, and that diversion programs may be more effective. The Task Force supports allowing judicial discretion to grant probation or suspension of sentencing when the judge takes into consideration whether; (1) the defendant is a natural parent, stepparent, adoptive parent, relative or guardian or a member of the victim's household who has lived in the household; (2) it is in the victim's best interest that the defendant not be incarcerated; (3) there is no continuing threat of physical harm to the victim or other children if the defendant is not incarcerated; and (4) the defendant has been accepted for treatment in a recognized program that provides therapy for the kind of offense committed. Any sentencing should be examined in light of the best interests of the child victim and possible victimization or exploitation of other children.

Finally, the Task Force concludes that increased education about child sexual abusers for prosecutors and judges will improve prosecution and sentencing of these offenders.

RECOMMENDATION #1: Enact legislation to provide that upon conviction of Rape, Indecent liberties with a child, Aggravated indecent liberties with a child or Aggravated criminal sodomy the defendant must be sentenced and may not be granted probation when the defendant has had a prior conviction of a sexual offense against a child or when the present convictions are for offenses against more than one child.

RECOMMENDATION #2: If mandatory sentence legislation is enacted, that the Department of Corrections be allowed to prioritize the treatment of sexual offenders within the state prison facilities and given the resources needed to offer such treatment.

EXPUNGEMENT STATUTES

CONCLUSION: Kansas expungement statutes make it quite possible for the pedophile to have a conviction of such crimes erased and, unless applying for a job in certain enumerated fields, make the fact of such conviction virtually unobtainable upon inquiry.

RECOMMENDATION: K.S.A. 1984 Supp. 21-4619, as amended, and K.S.A. 1984 Supp. 38-1610 should be amended so as to make expungement unavailable to a person who has been convicted of a crime or adjudicated as a juvenile offender for acts arising out of the sexual abuse/exploitation of a child.

SENATE BILL No. 593

By Senator Johnston

2-11

If birth certificate is not available and the child is in the custody of the Secretary of the Department of Social and Rehabilitation Services, then a certified copy of the court order placing the child in the care, custody, and control of the Secretary shall be sufficient.

0017 AN ACT concerning schools; requiring certain proof of a child's
0018 identity upon first enrollment in or transfer to a school.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. (a) As used in this section:

0021 (1) "School" means any public or private elementary or sec-
0022 ondary school.

0023 (2) "School board" means the board of education of a school
0024 district or the governing authority of any private school.

0025 (b) Any child enrolled or enrolling in a school in this state for
0026 the first time or as a transfer student from another school outside
0027 the school district shall present to the school board of the district
0028 or school in which the child is enrolled or enrolling a certified

0029 copy of the child's birth certificate. If such certificate is not
0030 presented to such school board within 30 days after enrollment
0031 of the child, such school board shall immediately give written
0032 notice of the failure to present such certificate to the law en-
0033 forcement agency having jurisdiction. Such law enforcement
0034 agency shall promptly conduct an investigation to determine the
0035 identity of the child. The custodians of the child shall not be
0036 informed of such investigation while it is pending.

0037 (c) Schools and law enforcement agencies shall cooperate
0038 with each other in any investigation required by this section.
0039 Administrators of schools shall provide to law enforcement
0040 agencies access to a child in a setting on school premises deter-
0041 mined by school personnel for the purpose of the investigation.

0042 Sec. 2. This act shall take effect and be in force from and
0043 after its publication in the statute book.



TESTIMONY ON S.B. 593

by

Richard S. Funk, Assistant Executive Director
Kansas Association of School Boards

February 17, 1986

Mr. Chairman and members of the committee, I appreciate the opportunity to testify today on behalf of the 303 members of the Kansas Association of School Boards. KASB supports S.B. 593 which would provide a means of helping to locate and trace missing children. We feel that requiring a certified copy of a child's birth certificate at the time of enrollment and/or transfer is a good practice.

I would recommend two amendments to S.B. 593 that would help strengthen the procedure and help all parties understand what their roles should be.

I would recommend that on Line 39 the words "Administrators of schools" be replaced with "School personnel."

The second amendment would be to add the sentence: "School personnel shall be present with the representatives of the law enforcement agency during such investigations," after the last sentence on Line 41.

I would be glad to answer questions and provide the rationale for the requested amendments.



FEB 24 1986
ATTACHMENT 6

STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL
2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

February 24, 1986

The Honorable Alicia L. Salisbury
Senator, Twentieth District
Senate Education Committee
Statehouse, Room 143 N

Re: Proposed Amendment to SB 593

Dear Senator Salisbury:

Our office would like to respond to the amendment to SB 593 offered by KNEA and the Association of School Boards, which would include school personnel in interviews with children who are listed as "missing."

We believe that the issue of whether school personnel should be permitted to be involved in the criminal and/or the child in need of care investigation should be more thoroughly explored before such action is adopted. However, if the Committee decides that school personnel should be included, we ask that the Committee also include school personnel under K.S.A. 1985 Supp. 38-1507. That statute requires that all records and reports concerning child abuse or neglect be confidential and not disclosed except under specific conditions specified in that statute. Unless such a requirement is also imposed upon school personnel, an investigation could be jeopardized and could result in subjecting a child to more abuse or to be taken to yet another place by the person who took the child initially.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN

Brenda L. Braden
Deputy Attorney General

BLB:may

Senate Education
Attachment VI 2/17/86



5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

TESTIMONY ON S.B. 565
before the
Senate Education Committee
by
Bill Curtis, Assistant Executive Director
Kansas Association of School Boards

February 17, 1986

Mr. Chairman and members of the committee, we appreciate the opportunity to present the views of the school board members of Kansas. Although the Kansas Association of School Boards has long opposed any attempt to extend the concept of tenure to administrators in public schools, we must appear in opposition to S.B. 565. The major change proposed by that bill would remove any due process rights of an administrator when he has been terminated.

The Kansas Association of School Boards has not changed any of its policy positions on the dismissal of administrators. However, S.B. 565 is too severe and removes the right to due process which is protected by the U.S. Constitution. If it becomes necessary for a board of education to terminate the contract of an administrator, then due process ought to be followed. Not to do so would surely result in litigation. It is now possible to terminate the contract of any school district employee when certain procedures are followed. When an existing contract is interrupted, the Kansas Association of School Boards feels quite certain that the courts would insist upon due process for the employee.

Thank you for your attention. We would urge you not to give favorable consideration to S.B. 565.



Testimony Presented to the
Senate Education Committee
by Gerald W. Henderson, Executive Director
United School Administrators of Kansas

Concerning SB 565

Mr. Chairman and members of the committee. We appreciate the opportunity to visit with you concerning SB 565. USA appreciates Senator Arasmith's position in trying to assist a board of education in his district. We believe, however, that SB 565 will not solve the problem which generated that request.

The portion of the bill that would include superintendents in the definition of administrator is a step in the right direction. The remainder of the bill causes us some concern, especially the language which denies the right of counsel even in cases involving termination. If the bill proposed ~~giving~~ *gives* administrators the right to be given reasons for termination or nonrenewal and the interaction between a board and an administrator were subject to the advice of counsel, the USA would wholeheartedly support it. As the bill reads, we cannot.

2-17-86