

Approved April 1, 1986  
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by SENATOR JOSEPH C. HARDER at  
Chairperson

1:30 ~~a.m.~~ p.m. on THURSDAY, MARCH 27, 1986 in room 254-E of the Capitol.

All members were present except:

Senator Anderson, excused                      Senator Kerr, excused  
Senator Karr, excused                              Senator Warren, 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:

HB 2795 - Schools, attendance by children, reports to SRS eliminated  
(Education)

Mr. Austin Vincent, Topeka attorney, speaking on behalf of himself  
Ms. Lois Jebo, Topeka, Executive Director, Kansas Action for  
Children, Inc.

The Chairman called the meeting to order and announced that the hearing on HB 2795 would be continued. He thanked the conferees who had been unable to testify yesterday because of a time constraint for returning today. He then recognized Mr. Austin Vincent, a Topeka attorney. Mr. Vincent explained that his interest in HB 2795 results partly because of the families he has represented in cases involving children in home schools. He then described what he believes would be one of two potential effects on education in Kansas should HB 2795 be passed. He predicted that either the bill would have no effect at all, or it could threaten and disrupt some of the best families in the state. Mr. Austin said that although he believes investigations are the quickest and least expensive way to resolve an issue, he believed they could also present a potential problem when a family being investigated would have children in two different age groups as described in the bill; for this, in turn, he said, would mean that two agencies would be involved in the case. Mr. Austin also questioned the provision that would allow legal action to be taken against a family without prior notice and without a hearing and assessed that a home environment situation could possibly evoke this action. He also questioned the rationale whereby a law enforcement officer could make a determination as to an "alleged" juvenile offender before an investigation should have taken place. Mr. Austin stated that his concerns were to be found basically on page 9, Section 5 (Attachment 1) of the bill and further stated that he questions the propriety of the state spending money to investigate some of the best families in Kansas because of a poor law. He described the compulsory attendance law as being vague when applied to home schools and felt that HB 2795 would present problems when attempting to apply the provisions of it to children attending home schools.

When Ms. Lois Jebo from Kansas Action for Children, Inc. testified, she said that she would support HB 2795 with the amendments that had been proposed by SRS. Ms. Jebo said that she disagrees with the comments made by Mr. Johnston from Garden City in his testimony yesterday and that she supports the provision recommended by SRS that parents should bring their child to school if such action is mandated by law. Ms. Jebo said she felt this would have a lasting impact on the grave importance of the child's truancy and that the parents would probably not have to experience this situation more than once. Ms. Jebo said she agrees with previous testimony that additional assistance is needed in the effort to help solve the truancy problem but that she does have concerns relating to the treatment of special education students who are truant and with the 13-15-year olds being considered juvenile offenders. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,  
room 254-E, Statehouse, at 1:30 ~~am~~ p.m. on THURSDAY, MARCH 27, 1986

Following testimony by Ms. Jebo, and hearing no response after asking if there were more conferees to testify on HB 2795, the Chair announced that the hearing on HB 2795 was concluded. The Chairman, however, said he felt the need for assessing the information presented by the conferees on HB 2795 before the Committee should take action on the bill, and he appointed a subcommittee of Senator Salisbury, chairman; and Senators Allen and Parrish to accomplish this purpose. He requested the subcommittee to make its report at the next committee meeting on Tuesday, April 1.

HB 2266 - The Chair then referred the Committee's attention to action it took on HB 2266 at the March 20 committee meeting. The Chair said that although the Committee had amended and passed the bill at that time, he did not report it. He explained that after the meeting he learned that the present statute makes no reference to "compensation" of hearing panel members but that the language in the amendment made reference to "compensation". The Chair said that after conferring with representatives of both KASB and K-NEA, he was told that it was agreeable to them that "compensation" become part of the statute. Mr. John Koepke of KASB and Mr. Craig Grant of K-NEA, both of whom were in attendance, confirmed this. The Chairman continued his explanation by saying that an additional amendment was needed to rectify the inconsistency between the amendment passed by the Committee and current law. He then asked the Committee's pleasure. Senator Arasmith moved that the word "compensation" be included in the amendment to HB 2266 as passed by the Committee on March 20. This motion was seconded by Senator Allen, and the motion carried. (Attachment 3)

When the Chair called for a motion to approve the minutes, Senator Arasmith moved that the Committee minutes of March 25 be approved. This was seconded by Senator Montgomery, and the motion carried.

The Chair adjourned the meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 254-E DATE: Thursday, March 27, 1986

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Roberta Sue McKenna	2700 W 6 <sup>th</sup> Smith-Wilson	SRS - Y.S.
Bobt Hardin	Topeka	SRS
Bill Lister	Wichita	U.S. H. 259
Craig Grant	Lawrence	IT-NEA
May Ellen Simon	Topeka	KS. L.G. of Women Voters
Grace Henderson	Topeka	USA
Connie Russell	Topeka	St Bd of Ed

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 254-E DATE: Thursday, March 27, 1986

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Peter E. Rinn	Topeka	SRS
Kent Ragg	Paola	SBE
Walter Waters	Topeka	OJA
Arthur R. Hunt	"	INDIV.
Jim Yanally	Shannon Mission	USD #512
Bill Curtis	Topeka	KASB
Jay Cokus	Topeka	KNCA

**38-1624. Juvenile taken into custody.**

(a) *By a law enforcement officer.* A law enforcement officer may take an alleged juvenile offender into custody when:

(1) Any offense has been or is being committed by the juvenile in the officer's view;

(2) the officer has a warrant commanding that the juvenile be taken into custody;

(3) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein; or

(4) the officer has probable cause to believe that the juvenile is committing or has committed an act which, if committed by an adult, would constitute:

(A) A felony; or

(B) a misdemeanor and (i) the juvenile will not be apprehended or evidence of the offense will be irretrievably lost unless the juvenile is immediately taken into custody; or (ii) the juvenile may cause injury to self or others or damage to property or may be injured unless immediately taken into custody.

(b) *By a court services officer.* A court services officer may take a juvenile into custody when there is a warrant commanding that the juvenile be taken into custody or when the court services officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein.

(c) *Procedure.* When any law enforcement officer takes an alleged juvenile offender into custody pursuant to subsection (a) without a warrant or court order and

determines that the juvenile shall be detained or placed outside the juvenile's home, the juvenile shall be taken without unnecessary delay before the court for proceedings in accordance with this code or, if the court is not open for the regular conduct of business, to a court services officer, a juvenile detention facility or youth residential facility which the court or the secretary of social and rehabilitation services shall have designated. It shall be the duty of the officer to furnish the county or district attorney with all of the information in the possession of the officer pertaining to the juvenile; the juvenile's parents, or other persons interested in or likely to be interested in the juvenile; and all other facts and circumstances which caused the juvenile to be arrested or taken into custody.

(d) *Release prior to detention hearing.* In the absence of a court order to the contrary, the court, the county or district attorney or the law enforcement agency taking a juvenile into custody shall have the authority to direct the release of the juvenile prior to the time specified by subsection (a) of K.S.A. 1983 Supp. 38-1632 and amendments thereto.

(e) *Person 18 or over taken into custody; detention and release.* Whenever a person 18 years of age or more is taken into custody by a law enforcement officer for an alleged offense which was committed prior to the time the person reached the age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to this code, except that the provisions of this code relating to detention hearings shall not apply to that person. Unless the law enforcement officer took the person into custody pursuant to a warrant issued by the court and the warrant specifies the amount of bond or indicates that the person may be released on personal recognizance, the person shall be taken before the court of the county where the alleged act took place or, at the request of the person, the person shall be taken, without delay, before the nearest court. The court shall fix the terms and conditions of an appearance bond upon which the person may be released from custody. The provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901 and amendments thereto relating to appearance bonds and review of conditions and release shall be

applicable to appearance bonds provided for in this section.

History: L. 1982, ch. 182, § 78; L. 1983, ch. 140, § 37; L. 1984, ch. 157, § 6; July 1





Because all children need someone who cares . . .

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

701 Jackson, B-2  
Box 463  
Topeka, Kansas 66601  
913 232-0550  
LOIS JEBO  
Executive Director

Testimony on HB 2795

given before the

Senate Committee on Education

**ADVISORY COMMITTEE:**

- Don Adams**  
First National Bank  
of Hutchinson
- Richard Bond**  
Home State Bank  
of Kansas City
- James Lynn Casey, M.D.**  
Pediatric Endocrinology
- H. Edward Flentje**  
Wichita State University
- Suellen Fried**  
National Committee for the  
Prevention of Child Abuse
- Russell Getter, Ph.D.**  
University of Kansas
- Richard A. Guthrie, M.D.**  
KU School of Medicine
- Marvin Harder, Ph.D.**  
Secretary of Administration  
State of Kansas
- E. Kent Hayes**  
The Menninger Foundation
- Erv Janssen, M.D.**  
The Menninger Foundation
- Betty Keim**  
Founding President, KAC
- Ellen Laner**  
Metropolitan Child Abuse  
and Neglect Network Project
- Marla Mack**  
Wichita State University
- Melissa P. Masoner**  
Topeka Youth Project, Inc.
- Karl Menninger, M.D., F.A.P.A.**  
The Villages, Inc.
- Bette Morris**  
Governor's Commission on  
Education for Parenthood
- Judge Lee Nusser**  
20th Judicial District
- Sue Parcell**  
WDAF-TV
- Gina Pulliam**  
Johnson County  
United Community Services
- Alicia Salisbury**  
Founder, KAC
- Patricia T. Schloesser, M.D.**  
Kansas Dept. of Health  
and Environment
- Terry Showalter**  
Wyandotte County District Court
- Lucy Nichols Stein, M.ED., R.N.**  
Kansas State Nurses Association

Kansas Action for Children (KAC) supports the amendments proposed to this Committee by Dr. Harder of Social and Rehabilitation Services.

KAC is adamantly opposed to older truants being labeled Juvenile Offenders solely for the purpose of bringing them to the attention of the court. As the bill was being worked in the House subcommittee, we contacted most of the other organizations involved in the subcommittee about our concern over the Juvenile Offender issue. Nearly all of them agreed that their preference would be to handle older youth not attending school without making them juvenile offenders. However, they could not agree on a procedure that would get the child into court. Getting the child to court was their main objective.

I agree with Jim Clark that putting truancy into the offender code is a step backward.

Whether the court finds a youth to be a Child in Need of Care or a Juvenile Offender, the finding does not dictate the intervention that may be used with the child. Making a child an offender does not guarantee that they will be supervised by a Court Services Officer. They may be put in the custody of SRS. Conversely, a Child in Need of Care may be supervised by a Court Services Officer or may be put in the custody of SRS.

I think the most important provision of HB 2795, as it is currently written, is the initial responsibility of the school. Much of the testimony has indicated that timely intervention is very important. The schools are obviously more able to intervene early than any other agency.

The schools also have a role in helping parents be responsible for ensuring that children are attending school. While this role may be uncomfortable, it is an important role.

Kansas Action for Children urges the Education Committee to recommend this bill for passage including the proposed amendments submitted by SRS.

**OFFICERS AND BOARD OF DIRECTORS**

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Senate Education 3/27/86  
Attachment II



## REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Education

Recommends that House Bill No. 2266 (As Amended by House Committee)

"AN ACT concerning teachers; relating to hearings provided for upon contract termination or nonrenewal; appointment of hearing committee members; amending K.S.A. 72-5438 and repealing the existing section."

Be amended:

On page 2, following line 59, by inserting a new section as follows:

"Sec. 2. K.S.A. 72-5440 is hereby amended to read as follows: 72-5440. (a) For attending before the hearing committee at a hearing hereunder, witnesses who are subpoenaed shall receive ~~five--dollars--(\$5)~~ \$5 per day and mileage at the rate prescribed under K.S.A. ~~1976--Supp.--75-3203a~~ 75-3203, and amendments thereto, for miles actually traveled in going to and returning from attendance at ~~such~~ the hearing. The fees and mileage for the attendance of witnesses shall be borne by the party calling the witness, except that fees and mileage of witnesses subpoenaed by the hearing committee shall be borne equally by the parties. Witnesses voluntarily attending before the hearing committee shall not receive fees or mileage for attendance at ~~such~~ the hearing.

(b) Each member of the hearing committee shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. ~~1976-Supp-~~ 75-3223, and amendments thereto. The costs for the services of members of the hearing committee shall be borne equally by the parties as follows: (1) For each member who is designated by a party, the party designating the member; and (2) for the third member, by the parties equally.

(c) Testimony at a hearing hereunder may, and upon the

request of either party shall, be taken by a certified shorthand reporter or electronically recorded, and shall be transcribed upon request of either party or upon direction by a court. ~~The costs-for-any-such-transcription-shall-be-borne-by-the-board-~~

(d) All ~~other~~ costs of a hearing ~~hereunder~~ which are not specifically allocated in this section shall be borne equally by the parties.";

By renumbering sections 2 and 3 as sections 3 and 4, respectively;

Also on page 2, in line 60, by striking "is" and inserting "and 72-5440 are";

In the title, in line 21, after the semicolon, by inserting "allocation of costs;"; also in line 21, after "72-5438", by inserting "and 72-5440,"; in line 22, by striking "section" and inserting "sections";

And the bill be passed as amended.

\_\_\_\_\_  
Chairperson