

Approved February 26, 1986
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m./~~pm~~ on February 14, 1986 in room 514-S of the Capitol.

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

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes

Conferees appearing before the committee:

Duane Johnson, State Librarian

Sub. for House Bill 2050 - Treatment Act for Mentally Ill Persons.

Following a review of the bill by the chairman and committee discussion, Senator Talkington moved to report the bill favorably as amended. Senator Yost seconded the motion, and the motion carried.

Senate Bill 178 - Crimes relating to obscenity and child pornography.

Duane Johnson, State Librarian, was recognized to respond to statements made at the hearing on this bill on February 11. He stated the Topeka school library collections and the Topeka Public Library are very sensitive to this type of issue. He said the book that was mentioned as being in the Topeka Public Library or school libraries never has been in any of the libraries.

Senate Bill 419 - Status of offenders in community corrections.

The chairman reviewed the bill. Following committee discussion, Senator Burke moved to report the bill favorably. Senator Hoferer seconded the motion, and the motion carried.

Senate Bill 415 - Application of act for judicial review and civil enforcement of agency actions to political subdivisions.

Following considerable committee discussion, Senator Feleciano moved to report the bill favorably. Senator Gaines seconded the motion, and the motion carried.

Senate Bill 473 - Technical amendments to act for review and enforcement of agency actions.

The chairman reviewed the bill. Following committee discussion, Senator Feleciano made a motion to amend the bill in the appropriate section to provide the answer time would be 30 days. Senator Gaines seconded the motion, and the motion carried. Following further committee discussion, Senator Feleciano moved to amend the bill in lines 110 and 111 to change "agency head" to "all parties of the proceedings". Senator Burke seconded the motion.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m. ~~pm~~ on February 14, 1986.

Senate Bill 473 continued

The motion carried. A committee member was concerned with the stricken language in lines 134 through 136 and requested staff to check on it.

The meeting adjourned.

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

A copy of proposed amendments to Sub. for House Bill 2050 from Margaret Jagger, Minneapolis, Kansas, is attached (See Attachment II).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-14-86

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
PAT BARNES	TOPEKA	Ks Motor Car Dealers
JOE JAGGER	MINNEAPOLIS	
Margaret Jagger	Minneapolis	
JOHN F. JAGGER	"	
KEITH R LANDIS	TOPEKA	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Angela Weaner	Topeka	Topeka Public Sch.
Diane Hupfel	Topeka	Topeka Public School
Gordon West	Topeka	Kansas Families for Mental Health Flourco Co. " " " "
Geoffrey Hunseler	Topeka	MARS / SPD
Bill Blair	Topeka	MARS / SPS
Richard Maxfield	Topeka	Ks Psychological Assoc
Bruce SNEED	Topeka	Ks Assoc of Defense Counsel
Pam Johnson	Topeka	Ks Insurance Dept
Jim Clare	Topeka	KC DAA
Barry W. Katz, MD	Topeka, KS	Topeka St. Hosp.
Ron Smith	Topeka	KBA
Art Gump	"	Dept of Educ
John P. H... ..	"	Ks Assoc of Psychologists
DANNIE JOHNSON	Topeka	STATE LIBRARY
Marjorie Van Buren	"	OJA
Pam Patterson	"	Assoc of CMHC
Faith Loretto	"	Dept. of Educ.
Jo Jenkins	"	KCC

Margaret Jagger (Mrs. Joe Jagger)
RR 3, Minneapolis, KS 67467

HOUSE BILL 2050

Objections to Proposed Changes

Alternate Suggestions

A serious flaw--which is surely due to oversight--exists in the proposed changes for House Bill 2050.

In the proposed bill the DEFINITION of what constitutes a mentally ill person has been changed in such a way that the law would apply to non-emergency situations (someone who is likely to cause harm, rather than someone who is dangerous). However, the METHODS which were obviously designed to deal with an emergency (to deal with someone who is dangerous) have not been changed.

If the definition of what constitutes mental illness is changed to include those persons who are non-threatening, who are only likely to cause harm in the future, then the methods of procedure when dealing with those cases should be changed, also.

The only acceptable reason for being taken into custody and detained without a hearing is if an emergency exists. (violent, suicidal). There is no justification for applying measures designed for an emergency to a situation where the person is not currently a threat, but only likely to become so in the future.

As a bare minimum, a person charged under the proposed, expanded definition should be entitled to a court hearing to determine whether or not he is mentally ill before being confined.

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Actually, there is no necessity for a change of definition in order to deal with the person who exhibits evidence of a destructive lifestyle.

Current law states: "mentally ill person" means any person who is mentally impaired: (lines 0070 and 0071) . . . to the extent that such person is in need of treatment and who is dangerous to self and others (lines 0072 to 0074) . . . who lacks sufficient understanding or capacity

s. Judicial 2/14/86 A-II

to make responsible decisions with respect to the person's need for treatment, (lines 0075 to 0077) . . . or who refuses to seek treatment. Proof of a person's failure to meet the person's basic physical needs, to the extent that the failure threatens such person's life, shall be deemed proof that the person is dangerous to self (lines 0078 to 0081).

The need is not for a change in the present law. The need is for explanation to families and to the public, as to what the current law provides.

Those who think that they can do nothing when a family member is "starving himself to death" are simply misinformed.

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Other Areas of Concern in Regard to Proposed Changes:

(I)-----The provision for ordering a person to an outpatient facility with the option of revoking outpatient status and mandating immediate, involuntary commitment to a mental institution if the person does not comply with the facility's instructions, changes the role of the mental health center.

(II)-----The center's role is also changed by the provision for involuntarily commitment to a mental institution and then later assignment of the person as an outpatient to an area center, where he must comply, or be sent back to the mental institution.

These provisions change the area center from a service organization to a punitive one.

The situation may very well be perceived by the patient as being sentenced to the institution and then being paroled to the area center.

Another change which will occur is that the patient will view the staff members differently. Their relationship will be altered as coercion becomes a part of the formula. This will prevent the establishment of an atmosphere conducive to successful therapy.

The patient would be justified in viewing the staff members differently, because the situation actually is different. The area center will no longer be a place where people go voluntarily for help. It will become a place where they have to go and have to comply--or be confined, involuntarily, in a mental institution.

In a worst case scenario, people of a different orientation from that of current staff members, will be attracted to work at area centers. Eventually, the whole concept and structure of the area center will change.

The loss of our area mental health centers as we know them today would be a very negative, very sad shift in the treatment of the mentally ill.

(III)-----The provision which authorizes the refusal to release a patient who had entered a mental institution voluntarily, is highly objectionable. Changing the patient from voluntary status to involuntary commitment and keeping him confined would be a breach of faith.

To enter voluntarily to get help and then find that you are held against your will--how could that person ever again trust anyone in the "helping" professions?

(IV)-----It is simply unbelievable that one of the changes which is proposed is to provide for an expansion of evidentiary rules to include hearsay.

It is frightening that "hearsay," defined by Webster as "rumor," is to be allowed, when the outcome of the hearing will have such a profound effect on the person's life. Hearsay should have no place in proceedings as serious as these.

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Additional Considerations:

(A)-----If we start jamming quantities of new patients (those who are not currently harming themselves or others) into institutions on involuntary commitments, we are going to lose the favorable patient/staff ratio which now exists.

Do we want to promote a policy which eventually could result in overcrowded, understaffed situations such as those which occurred last summer at Kansas' institutions for the mentally retarded?

Kansas citizens, state wide, were shocked by news stories when a federal review team made its inspection and revealed its findings.

Heroic efforts and a large infusion of money for additional staff brought the institutions to minimum standard and saved Kansas from losing its federal funding.

It would seem that we should be able to recognize the risk involved when there are too many residents and too little staff. One such embarrassing experience should be enough.

(B)-----According to the Brief for House Bill 2050, the fiscal report issued by the Office of Judicial Administrator estimates that over 2,000 new cases could be filed if the bill were passed. The Office also estimates that if the bill were passed, it would require five new judges and other support staff to handle these cases. The estimated increased cost for processing these cases would be a staggering one half million dollars per year.

The cost of care for those persons who were involuntarily committed (who were not currently harming themselves or others) is not even addressed.

(C)-----Institutions provide a way to "sweep the mentally ill under the rug," to put them "out of sight, out of mind."

Many of the people who are described as "falling through the cracks" because they're not getting treatment, have actually already been in institutions--some of them several times. When they came out, unless they had supportive family, there were little or no provisions to help them in returning to the community.

Putting them back in institutions is no proper solution. Unless they remain institutionalized the rest of their lives, they are going to come out again, and again will need help to make it in the outside world.

(D)-----What is really needed are provisions to enable impaired persons to live satisfactorily outside institutions.

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Three Positive Suggestions

Let's put our thoughts, plans, efforts, compassion, and money in three basic places:

(1)-----Develop PROGRAMS which will help individuals who have mental and/or emotional problems to cope with the difficulty of independent living.

(2)-----Provide FACILITIES-- half-way houses, sheltered living apartments, and neighborhood group-care homes--to the point where there is a place for everyone who needs it. (Sounds wonderful, doesn't it? At first glance, it would seem to be impossible, but just think what that half million dollars could do if it were spent on group care homes instead of on processing involuntary commitment cases!)

(3)-----Fund our AREA MENTAL HEALTH CENTERS so that they can better serve more clients, so that they can be retained and furthered in their present format--i.e., as places where persons can go, near their families, in their home communities, on a voluntary basis, where they can pay according to their means, and receive caring, professional help.

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A very, very good basis for deciding what provisions should be in a law which deals with the mentally ill, is to ask oneself: "How would I like to have things handled if I were mentally ill?"

Of course, I would want to have excellent professional care and enlightened treatment. In addition, I would expect that there would be safeguards to protect my rights as an individual, and programs and facilities for voluntary, out-patient care.

Naturally, we never think anything will ever happen to us, but none of us knows what the future holds. The treatments, safeguards, and positive programs that we help put in place today may be used by one of our loved ones or by ourselves tomorrow.