

Approved March 18, 1986

Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

12:30 ~~xxx~~ a.m./p.m. on March 4, 1986 in room 519-S of the Capitol.

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

Committee staff present:

Mary Hack, Revisor or Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Robert Barnum, Social and Rehabilitation Services
Brenda Braden, Office of Attorney General
Richard Funk, Kansas Association of School Boards
Jim Clark, Kansas County and District Attorneys Association
Gene Olander, Shawnee County District Attorney
Clark Owens, Sedgwick County District Attorney

Senate Bill 704 - Interfering with reporting of child abuse.

Senate Bill 705 - Unlawful disclosure of a warrant.

Senate Bill 706 - Interference with parental custody.

Senate Bill 707 - Attorney general's authority to prosecute certain cases involving children.

Senate Bill 708 - Promoting prostitution; under age 16.

Robert Barnum, Social and Rehabilitation Services, testified from the standpoint of the agency, they support all of the bills that will be heard today. They particularly like Senate Bill 704 and Senate Bill 708.

Brenda Braden, Office of Attorney General, testified the Attorney General's office is in favor of all the bills. The office definitely likes Senate Bill 704. Teachers have called their office because they are concerned they will lose their job, and this bill will help them. Senate Bill 705 was requested by the National Center for Missing and Exploited Children. The network has to know there has been a warrant issued for arrest of that person. She explained Senate Bill 706; there was a Kansas Supreme Court case several years ago where the father took the children to the middle east, and there was no custody determination on file. This bill will help that situation. She said her office is very interested in Senate Bill 707; it gives the attorney general the authority to prosecute a case involving certain crimes that are listed in the bill. They feel it is very important the attorney general will be able to prosecute this type of case. She explained Senate Bill 708 provides the penalty for promoting prostitution if the person is under sixteen, it is a class E felon and if sixteen or over, it is a class A misdemeanor.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 519-S, Statehouse, at 12:30 ~~xxx~~p.m. on March 4, 1986.

Senate Bill 704, 705, 706, 707 and 708 continued

Richard Funk, Kansas Association of School Boards, testified he is appearing not as proponent or opponent on Senate Bill 704, but wanted to show their concerns. He explained child abuse is of concern among the teachers. He said he has had reports administrators have said to the teachers before you report child abuse, tell me about it. Principals want to know there is going to be a child abuse investigation in their building. They are concerned with the term "interfering with". He thinks the bill is a good one.

Jim Clark, Kansas County and District Attorneys Association, was recognized to introduce Gene Olander, Shawnee County District Attorney, to testify on Senate Bill 707.

Mr. Olander testified he feels Senate Bill 707 represents a major policy decision on the part of the legislature. It is his feeling that if the attorney general is the chief law enforcement official of this state, he should have that power, but it is unclear right now that he can move into those cases when the county attorney fails to act upon the case. He said he is opposed to the laundry list in the bill. If it is a major policy decision, either give the attorney general the ability to do it or not to do it.

Clark Owens, Sedgwick County District Attorney, testified in opposition to Senate Bill 707. He stated it is only in selected cases whether concept is admissible. Who is going to decide what just cause is? He wondered if the problem is in one particular area in K.S.A. 22-2301 that caused this bill to be introduced. There are a number of safeguards already in our system to address this problem. Another problem is not every county attorney has the expertise. At least county attorneys are required to be an attorney, and the attorney general is not required to be an attorney. Mr. Owens stated this bill will create a political football out of these particular type of cases. It will cause a turf battle between the attorney general and the county attorney. Considerable committee discussion followed the testimony. A committee member pointed out there is concern in small towns in a case when it is discovered a prominent person in the community is abusing a child, and they decide not to do anything because he is such a good old boy. In those cases they feel there needs to be a backup. Mr. Owens replied, the county attorney can easily ask the attorney general to handle the case. The committee member inquired, is it possible to intimidate the prosecutor not to act? Mr. Owens replied, not in his area but maybe in the smaller community it might happen. A committee member inquired if it would help to establish a mechanism to determine when to decline prosecution without just cause? Mr. Owens answered, don't know it would make too much difference.

Brenda Braden was recognized to respond to the testimony presented in opposition. She stated the attorney general's office is taking over the role of county attorney, and as long as the legislature determines the budget of the attorney general's office they won't be able to go in and take over. She said she feels there is some control. Authority should be clear in all cases.

The hearings on the bills were completed.

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Senate Bill 704

Following committee discussion of the bill, Senator Hoferer moved to amend the bill by inserting in subsection (g), following "with," "with the intent to prevent", and to report the bill favorably as amended. Senator Langworthy seconded the motion, and the motion carried.

Senate Bill 705

Chairman reviewed the bill. Senator Parrish moved to report the bill favorably. Senator Hoferer seconded the motion, and the motion carried.

Senate Bill 706

Following considerable committee discussion, Senator Talkington moved to amend the bill in line 25 by striking 16 and reinserting 14. Senator Gaines seconded the motion, and the motion carried. Senator Talkington moved to report the bill favorably as amended. Senator Parrish seconded the motion, and the motion carried.

Senate Bill 707

Senator Talkington moved to amend the bill in line 21 following "prosecute" and insert "any criminal offense which", and in line 22, strike everything in that section following "cause". Senator Burke seconded the motion, and the motion carried. Senator Talkington moved to report the bill favorably as amended. Senator Burke seconded the motion, and the motion carried.

Senate Bill 708

Following the chairman's review of the bill, Senator Gaines moved to report the bill favorably. Senator Hoferer seconded the motion, and the motion carried.

The meeting adjourned.

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

