

Approved March 31, 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. ~~xxx~~ on March 24, 1986 in room 514-S of the Capitol.

~~All~~ members ~~xxx~~ present ~~except~~: Senator Frey, Hoferer, Burke, Feleciano, Langworthy, Steineger, Talkington and Winter.

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

Conferees appearing before the committee:

Marjorie Van Buren, Office of Judicial Administration  
Elwaine Pomeroy, Kansas Parole Board  
Fred Weaver, Board of Tax Appeals  
Dr. Robert Harder, Social and Rehabilitation Services  
Joan Strickler, Kansas Advocacy and Protective Services

House Bill 3050 - Conversion of associate district judge positions to district judge positions.

Staff explained this is a cleanup bill which implements the changes enacted in 1983 that the associate district judges will become district judges on January 12, 1987. There is no change in the number of judgeships. There was a fiscal note showing some difference.

Marjorie Van Buren, Office of Judicial Administration, explained the bill was proposed by the revisor's office. It is entirely cleanup and the office is comfortable with it.

Elwaine Pomeroy, Kansas Parole Board, testified the bill has an effect upon the Board of Tax Appeals and the Kansas Parole Board because salaries of board members are tied to that of judges. The language affecting the Kansas Parole Board is on page 45, Section 67, and the language referring to Board of Tax Appeals is on page 72 of the bill. He stated if the committee wants this bill to be neutral, he strongly urges the chairperson's salary be tied to the associate district judge and providing the salary of the other member of the parole board be \$2,465 less than the chairperson. Chairman Pomeroy read his proposal to the committee. His strong plea was that there be some tie to that of judges.

Fred Weaver, Board of Tax Appeals, testified he was present to support Elwaine Pomeroy's presentation. He stated it is important the salaries be tied to the judicial salaries, and recognize it as part of the judicial system. He wants to leave it neutral. Chairman Weaver stated more and more of their caseload is nothing more than a tax court. They are not asking for anymore than what is in their budget.

House Bill 2906 - Secretary of SRS as surety on bonds of certain conservators.

Dr. Robert Harder, Social and Rehabilitation Services, testified the Kansas Advocacy and Protective Services recruits guardians and conservators for disabled persons who have no family members able or willing to act in that

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 24, 1986

House Bill 2906 continued

capacity. KAPS reimburses the conservators it recruits for bonding expenses. The purpose of the bill is to save most of that money by allowing the Secretary of SRS to act as surety in his official capacity. A copy of his testimony is attached (See Attachment I). A committee member inquired if they were self insured, and Dr. Harder replied yes. The chairman inquired, are you surety for anybody else? Dr. Harder replied, the homemakers who work for them. They stand in back of their actions in the matter of breakage in the home. The chairman inquired, how do you set this up? Dr. Harder replied, they take them as they come up. They have had only one forfeiture of \$1,700.

Joan Strickler, Kansas Advocacy and Protective Services for the Developmentally disabled, appeared in support of the bill and handed out a copy of her presentation (See Attachment II).

The hearings on the bills were completed.

Senator Feleciano moved to report House Bill 2906 favorably. Senator Talkington seconded the motion, and the motion carried.

House Bill 2157 - Continuation of child support until high school completed.

The chairman reviewed the bill. Considerable committee discussion was held on the bill. The chairman was concerned about land title problems the bill could cause. Following considerable committee discussion, Senator Hoferer made a conceptual motion to amend the bill to provide the obligation continues to age 19 with the allowance the person can come in and have it set aside, if circumstances show that it is warranted. Senator Langworthy seconded the motion. The motion failed. Senator Talkington moved to amend the bill conceptually to provide the child support won't terminate until term of school year, if the child is still attending. Senator Hoferer seconded the motion, and the motion carried. Senator Talkington moved to report the bill favorably as amended. Senator Langworthy seconded the motion, and the motion carried.

The meeting adjourned.

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

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-24-86

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Joan Stupley	Manhattan	KAPS
Clarence Homeny	Topeka	K.S. Herald Bd
John Hanna	Topeka	Associated Press
Mayorie Van Buren	Topeka	OJA
Nancy Spillman	Topeka	Sec. of State
Fred Weaver	Topeka	BOTA
Robt Hirden	Topeka	SRS

STATE DEPARTMENT OF SOCIAL & REHABILITATION SERVICES  
Statement Regarding House Bill No. 2906

1. Title - This Bill would authorize the Secretary of SRS to act as surety on the bond of any conservator recruited by the Kansas Advocacy and Protective Services, amending K.S.A. 78-101.
2. Purpose - The Kansas Advocacy and Protective Services (KAPS), recruits guardians and conservators for disabled persons who have no family members able or willing to act in that capacity. KAPS reimburses the conservators it recruits for bonding expenses. The purpose of this Bill is to save most of that money by allowing the Secretary of SRS to act as surety in his official capacity.
3. Background - KAPS has recruited 560 conservators since it began providing that service in 1978. It is anticipated that there will be 700 conservators by July 1, 1986, and 1,000 by July 1, 1987. KAPS reimburses conservators for bonding expenses, which have recently been raised from \$30.00 to \$50.00 per year by many private insurers. Currently, this is costing KAPS approximately \$28,000 (560 x \$50.00), but could be as high as \$50,000 by July 1, 1987.

All conservators recruited by KAPS are referred by SRS after exhausting family alternatives. Conservatees are usually indigent but may be receiving income from four basic sources:

- (1) Veterans' benefits in the amount of \$15.00 to \$40.00 per month,
- (2) Social Security benefits at approximately \$200.00 per month,
- (3) Earnings from sheltered workshops ranging from \$10.00 to \$35.00 per month, and
- (4) Various railroad pensions.

Conservators receive \$20.00 per month from KAPS and are expected to make their own annual accountings to the court. KAPS receives letters of guardianship/conservatorship and a copy of the court order finding that the ward is in need of a guardian.

Since 1978, there has been only one bond forfeiture in the approximately 560 cases that KAPS has opened. Even then, the amount of forfeiture was only \$1,700. Therefore, the savings to be expected from allowing the Secretary of SRS to act as surety for conservators recruited by KAPS could range from \$26,300 currently, to as high as \$48,300 by July 1, 1987.

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4. Effects of Passage - Passage of this Bill would have some fiscal impact on SRS since the Secretary must receive orders of appointment from district courts; and log, file, and maintain them. However, potential savings of \$28,000 to \$50,000 per year can be expected for KAPS.

It may also be helpful to establish a fund from which any bond forfeitures ordered by district courts may be paid, and to authorize the Secretary to make those payments which he finds legitimate and properly due. If the current experience of KAPS continues, bond forfeitures should be a very rare occurrence.

5. SRS Recommendation - The Department of Social and Rehabilitation Services supports this legislation as a reasonable attempt to save state funds which are now being paid to private insurers.

\_\_\_\_\_  
Robert C. Harder, Secretary  
Social & Rehabilitation Services  
296-3271  
March 17, 1986

# Kansas Advocacy & Protective Services for the Developmentally Disabled, Inc.



Suite 2, the Denholm Bldg.  
513 Leavenworth  
Manhattan, KS 66502  
(913) 776-1541

**Chairperson**

*R. C. (Pete) Loux  
Wichita*

TO: The Senate Committee on Judiciary  
Senator Robert Frey, Chairperson

**Vice Chairperson**

*Robert Anderson  
Ottawa*

FROM: Kansas Advocacy and Protective Services  
for the Developmentally Disabled, Inc.  
R.C. Loux, Chairperson

**Secretary**

*Neil Benson  
El Dorado*

RE: H.B. 2906

**Treasurer**

*Robert Epps  
Topeka*

DATE: March 18, 1986

*Rep. Rochelle Chronister  
Neodesha*

*Sen. Norma Daniels  
Valley Center*

*Sen. Ross O. Doyen  
Concordia*

*Harold James  
Hugoton*

*Rep. Ruth Luzzati  
Wichita*

*James Maag  
Topeka*

*W. Patrick Russell  
Topeka*

*W. H. Weber  
Topeka*

**Liaison to the Governor**

*Robert Epps*

**Executive Director**

*Joan Strickler*

KAPS assists developmentally disabled children and adults in gaining access to the rights and services to which they are entitled. As provided for by the Developmental Disabilities Act (P.L. 94-103 as amended), each state designates an independent agency with authority to pursue legal, administrative and other appropriate remedies to insure the rights of persons with developmental disabilities. There are 54 such Protection and Advocacy agencies in our states and territories. KAPS is a private, non-profit corporation created specifically to serve this role in Kansas. We have been serving the state since 1977.

In addition to providing services required by the Developmental Disabilities Act, KAPS operates a program which, to our knowledge, is unique in the country. It is designed to assist persons who have been determined unable to manage their personal needs or finances and found in need of guardians and conservators. These individuals do not have family capable of assuming, or willing to assume, such responsibilities and they are dependent upon public support.

The goal of the Kansas Guardianship Program is to provide that qualified, caring, willing and trained

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volunteers are available throughout the state to serve as court appointed guardians and/or conservators for such persons in need of this level of protection and advocacy.

We initiated the program knowing that it would not be an easy task to achieve guardianships/conservatorships of this kind. It is a lot to ask someone to accept both legal and moral responsibilities for the well-being of a person unrelated and previously unknown to him or her. Nevertheless, the program does ask for this considerable personal commitment from the individuals who have agreed to volunteer to serve as KAPS guardians/conservators.

This is a brief outline of the process.

- KAPS recruits and approves volunteers willing to accept appointments by the courts, and willing to be accountable to KAPS for training and reporting
- As the Department of Social and Rehabilitation Services identifies persons it will be proposing to the courts for adjudication as disabled persons, SRS makes formal request to KAPS for names of approved volunteers who may be nominated for appointments as guardians/conservators
- SRS attorneys petition the courts for a disability hearing and the court makes its determination
- If a KAPS volunteer recruit is appointed by the judge, then KAPS may contract with the person. The guardian/conservator must agree to maintain ongoing personal contact with the ward/conservatee and file monthly written reports with KAPS. KAPS provides backup support through training, information, and consultation, and money to cover at least partial reimbursement for expenses.

We can reimburse up to \$50.00 for the cost of the conservator's bond, and provide \$20.00 per month to assist with out-of-pocket expenses in maintaining

personal contacts and in providing needed assistance and help. This negates the need for guardianship/conservatorship "fees" to come from the disabled person's resources, which may be as little as \$25 a month in Supplemental Security Income.

As of March 6, 1986, we had recruited close to 500 volunteers who are serving, or who were willing to serve, as guardians/conservators. We had commitments to serve 575 persons (wards/conservatees presently served plus those for whom we have found volunteers and are awaiting notice of Court action). We also had another 187 requests from SRS social workers for which we agreed to seek volunteers who are willing to be appointed from the potential wards/conservatees.

We project that we will be serving 700 persons by the end of the fiscal year 1986 in June. We also anticipate that we will be asked to serve an additional 317 wards/conservatees through requests in fiscal year 1987, bringing the total number of wards/conservatees projected to be served in FY '87 to 1,017.

H.B. 2906 is intended to provide that the State act as surety on the bond of the conservators who are providing services to the conservatees under a contract with our agency. This could result in a significant savings in State dollars.

Current law provides that the court may require the conservator to purchase a minimum bond. The cost of such a bond currently runs approximately \$50.00 per conservatee per year. While some courts have allowed a signature bond, and a few have waived the need for a bond due to the limited funds of the conservatee, most courts do require purchase of a minimum bond.


Last year our volunteers provided services to 430 wards/conservatees. If bonds had been required on all conservatees at the \$50.00 rate, it could have



cost Kansas \$21,500.00. This year we estimate that we will serve 700 persons. If bonds are purchased for all conservatees served, it could result in an expenditure of \$35,000.00 in State funds. By the end of Fiscal Year 87, KAPS could be serving more than 1,000 wards/conservatees and bonding costs could run over \$50,000.00

Since the guardianship program began operating in 1978, only one forfeiture has occurred out of the more than 560 persons served. The forfeiture was in the amount of \$1,700.00. Since all persons served in the program are identified by Social and Rehabilitation Services as income eligible, conservators have very little money to manage at any given time. The likelihood of any substantial financial risk to Kansas in providing surety for a conservator is, therefore, unlikely.

Respectfully submitted:

  
Joan Strickler  
Executive Director