

Approved March 6, 1987  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Robert S. Wunsch at  
Chairperson

11:15 a.m./~~xxx~~ on February 27, 1987 in room 313-S of the Capitol.

All members were present except: Representative Buehler, Crowell, Duncan, Fuller, Peterson, Shriver, Vancrum and Whiteman, who were excused.

Committee staff present:

Mike Heim, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Mary Jane Holt, Secretary

Conferees appearing before the committee:

The Committee met to consider final action on bills that have previously been heard.

The Chairman recommended the Committee reconsider the action taken on H.B. 2269 on February 26, 1987. He suggested the bill should be put on the consent calendar.

Representative Wagon moved to reconsider the action taken on H.B. 2269 on February 26, 1987. Representative Sebelius seconded and the motion passed.

A motion was made by Representative Wagon to report H.B. 2269 favorably for passage and that it be placed on the consent calendar. The motion was seconded by Representative Sebelius. The motion passed.

Representative Roy moved to report H.B. 2008 favorably for passage. Representative Kennard seconded the motion. The motion passed.

A motion was made by Representative O'Neal and seconded by Representative Douville to report H.B. 2040 favorably for passage. The motion passed.

Representative Bideau explained the amendments recommended by the subcommittee on H.B. 2006, (see Attachment I).

Representative Bideau moved to adopt the subcommittee report on H.B. 2006. Representative O'Neal seconded and the motion passed.

A motion was made by Representative Bideau to report H.B. 2006, as amended, favorably for passage. The motion was seconded by Representative O'Neal. The motion passed.

Representative Solbach moved to amend H.B. 2134 as recommended by S.R.S. to remove the words "issued by a court" "issued by a court of another state" or "court" in lines 75, 87, 158 and in any other lines where applicable. The motion was seconded by Representative Snowbarger. The motion passed.

A motion was made by Representative O'Neal and seconded by Representative Jenkins to report H.B. 2134 favorably for passage, as amended. The motion passed. Representative Bideau requested to be recorded as voting no.

Representative Solbach moved to amend H.B. 2122 by adopting the proposed amendments (see Attachment II), except in line 25 the \$10,000 should not be changed to \$5,000. The motion was seconded by Representative Sebelius, and the motion passed.

Representative Sebelius moved to report H.B. 2122 favorably for passage, as amended. The motion was seconded by Representative O'Neal. The motion passed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,  
room 313-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 27, 1987

A motion was made by Representative Walker and seconded by Representative Douville to amend H.B. 2151 as recommended by the Kansas Bar Association and the Secretary of State. The motion passed.

Representative O'Neal moved to report H.B. 2151 favorably for passage, as amended. Representative Walker seconded the motion. The motion passed.

Representative Sebelius moved to report H.B. 2170 favorably for passage. The motion was seconded and the motion passed.

A motion was made by Representative O'Neal to report H.B. 2258 favorably for passage. Representative Sebelius seconded and the motion passed.

Representative O'Neal moved to amend H.B. 2260 by changing subsection (a) to subsection (1) in line 154. The motion was seconded by Representative Jenkins. The motion passed.

A motion was made by Representative O'Neal and seconded by Representative Douville to report H.B. 2260, as amended, favorably for passage. The motion passed.

Representative Wagon moved to adopt the subcommittee report on H.B. 2007, except as it concerns lines 33 and 34. Representative Kennard seconded and the motion passed.

A motion was made by Representative Wagon to amend H.B. 2007 by striking lines 25 and 26 and to renumber the bill accordingly. The motion was seconded by Representative Sebelius. The motion passed.

Representative Sebelius moved and Representative Wagon seconded to report H.B. 2007, as amended, favorably for passage. The motion passed.

The meeting was adjourned at 12:15 p.m.

## HOUSE BILL No. 2006

By Special Committee on Judiciary

Re Proposal No. 20

12-15

Subcommittee Report

Attachment I  
House Judiciary 3/27/87

0017 AN ACT amending and supplementing the Kansas code for care  
0018 of children; amending K.S.A. 38-1502, 38-1524, 38-1527, 38-  
0019 1528 and 38-1542 and repealing the existing sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 38-1502 is hereby amended to read as fol-  
0022 lows: 38-1502. As used in this code, unless the context otherwise  
0023 indicates:

0024 (a) "Child in need of care" means a person less than 18 years  
0025 of age who:

0026 (1) Is without adequate parental care, control or subsistence  
0027 and the condition is not due solely to the lack of financial means  
0028 of the child's parents or other custodian;

0029 (2) is without the care or control necessary for the child's  
0030 physical, mental or emotional health;

0031 (3) has been physically, mentally or emotionally abused or  
0032 neglected or sexually abused;

0033 (4) has been placed for care or adoption in violation of law;

0034 (5) has been abandoned or does not have a known living  
0035 parent;

0036 (6) is not attending school as required by K.S.A. 72-977 or  
0037 72-1111, and amendments thereto;

0038 (7) except in the case of a violation of K.S.A. 41-715 or  
0039 41-2721, and amendments thereto, does an act which, when  
0040 committed by a person under 18 years of age, is prohibited by  
0041 state law, city ordinance or county resolution but which is not  
0042 prohibited when done by an adult; or

0043 (8) while less than 10 years of age, commits any act which if  
0044 done by an adult would constitute the commission of a felony or

0015 misdemeanor as defined by K.S.A. 21-3105 and amendments  
0016 thereto; or

0017 (9) *is willfully and voluntarily absent from: (A) The child's*  
0018 *home without the consent of the child's parent or other custo-*  
0019 *dian; or (B) a court ordered or designated placement, or a*  
0020 *placement pursuant to court order, if the absence is without the*  
0021 *consent of the person with whom the child is placed or, if the*  
0022 *child is placed in a facility, without the consent of the person in*  
0023 *charge of such facility or such person's designee.*

0024 (b) "Physical, mental or emotional abuse or neglect" means  
0025 the infliction of physical, mental or emotional injury or the  
0026 causing of a deterioration of a child and may include, but shall  
0027 not be limited to, failing to maintain reasonable care and treat-  
0028 ment, negligent treatment or maltreatment or exploiting a child  
0029 to the extent that the child's health or emotional well-being is  
0030 endangered. A parent legitimately practicing religious beliefs  
0031 who does not provide specified medical treatment for a child  
0032 because of religious beliefs shall not for that reason be consid-  
0033 ered a negligent parent; however, this exception shall not pre-  
0034 clude a court from entering an order pursuant to subsection (a)(2)  
0035 of K.S.A. 38-1513 and amendments thereto.

0036 (c) "Sexual abuse" means any act committed with a child  
0037 which is described in article 35, chapter 21 of the Kansas Statutes  
0038 Annotated and those acts described in K.S.A. 21-3602 or 21-3603,  
0039 and amendments thereto, regardless of the age of the child.

0040 (d) "Parent," when used in relation to a child or children,  
0041 includes a guardian, conservator and every person who is by law  
0042 liable to maintain, care for or support the child.

0043 (e) "Interested party" means the state, the petitioner, the  
0044 child, any parent and any person found to be an interested party  
0045 pursuant to K.S.A. 38-1541 and amendments thereto.

0046 (f) "Law enforcement officer" means any person who by  
0047 virtue of office or public employment is vested by law with a  
0048 duty to maintain public order or to make arrests for crimes,  
0049 ~~whether that~~ duty extends to all crimes or is limited to specific  
0050 crimes.

0051 (g) "Youth residential facility" means any home, foster home

0082 or structure which provides 24-hour-a-day care for children and  
0083 which is licensed pursuant to article 5 of chapter 65 of the Kansas  
0084 Statutes Annotated.

0085 (h) "Shelter facility" means any public or private facility or  
0086 home other than a juvenile detention facility that may be used in  
0087 accordance with this code for the purpose of providing either  
0088 temporary placement for the care of children in need of care  
0089 prior to the issuance of a dispositional order or longer term care  
0090 under a dispositional order.

0091 (i) "Juvenile detention facility" means any secure public or  
0092 private facility used for the lawful custody of accused or adjudi-  
0093 cated juvenile offenders which, if in a city or county jail, must be  
0094 in quarters separate from adult prisoners.

0095 (j) "Adult correction facility" means any public or private  
0096 facility, secure or nonsecure, which is used for the lawful cus-  
0097 tody of accused or convicted adult criminal offenders.

0098 (k) "Secure facility" means a facility which is operated or  
0099 structured so as to ensure that all entrances and exits from the  
0100 facility are under the exclusive control of the staff of the facility,  
0101 whether or not the person being detained has freedom of move-  
0102 ment within the perimeters of the facility, or which relies on  
0103 locked rooms and buildings, fences or physical restraint in order  
0104 to control behavior of its residents.

0105 (l) "Ward of the court" means a child over whom the court  
0106 has acquired jurisdiction by the filing of a petition pursuant to  
0107 this code and who continues subject to that jurisdiction until the  
0108 petition is dismissed or the child is discharged as provided in  
0109 K.S.A. 38-1503 and amendments thereto.

0110 (m) "Custody," whether temporary, protective or legal,  
0111 means the status created by court order or statute which vests in  
0112 a custodian, whether an individual or an agency, the right to  
0113 physical possession of the child and the right to determine  
0114 placement of the child, subject to restrictions placed by the  
0115 court.

0116 (n) "Placement" means the designation by the individual or  
0117 agency having custody of where and with whom the child will  
0118 live.

0119 (o) "Secretary" means the secretary of social and rehabilita-  
0120 tion services.

0121 (p) "Relative" means a person related by blood, marriage or  
0122 adoption but, when referring to a relative of a child's parent, does  
0123 not include the child's other parent.

0124 (q) "Court-appointed special advocate" means a responsible  
0125 adult other than an attorney guardian *ad litem* who is appointed  
0126 by the court to represent the best interests of a child, as provided  
0127 in K.S.A. 38-1505a and amendments thereto, in a proceeding  
0128 pursuant to this code.

0129 Sec. 2. K.S.A. 38-1524 is hereby amended to read as follows:  
0130 38-1524. (a) When a report to a law enforcement agency indicates  
0131 that a child may be ~~in imminent danger~~ *harmed*, the law en-  
0132 forcement agency shall promptly initiate an investigation. If the  
0133 law enforcement officer reasonably believes the child ~~is in~~  
0134 ~~imminent danger~~ *will be harmed*, the officer shall remove the  
0135 child from the location where the child is found as authorized by  
0136 K.S.A. 38-1527 and amendments thereto.

0137 (b) Whenever any person furnishes information to the state  
0138 department of social and rehabilitation services that a child  
0139 appears to be a child in need of care, the department shall make a  
0140 preliminary inquiry to determine whether the interests of the  
0141 child require further action be taken. Whenever practicable, the  
0142 inquiry shall include a preliminary investigation of the circum-  
0143 stances which were the subject of the information, including the  
0144 home and environmental situation and the previous history of  
0145 the child. If reasonable grounds to believe abuse or neglect exist,  
0146 immediate steps shall be taken to protect the health and welfare  
0147 of the abused or neglected child as well as that of any other child  
0148 under the same care who may be ~~in danger of~~ *harmed by* abuse  
0149 or neglect. After the inquiry, if the department determines it is  
0150 not possible to provide otherwise those services necessary to  
0151 protect the interests of the child, the department shall recom-  
0152 mend to the county or district attorney that a petition be filed.

0153 Sec. 3. K.S.A. 38-1527 is hereby amended to read as follows:  
0154 38-1527. (a) A law enforcement officer ~~or~~ court services officer ~~or~~  
0155 *representative of any agency having custody of the child* ] may

or

0156 take a child under 18 years of age into custody when:

0157 (1) The law enforcement officer ~~or~~ court services officer ~~or~~ or  
0158 representative of such agency] has a court order commanding that  
0159 the child be taken into custody as a child in need of care; or or

0160 (2) the law enforcement officer ~~or~~ court services officer ~~or~~ or  
0161 representative of such agency] has probable cause to believe that  
0162 a court order commanding that the child be taken into custody as  
0163 a child in need of care has been issued in this state or in another  
0164 jurisdiction.

0165 (b) A law enforcement officer may take a child under 18 years  
0166 of age into custody when the officer has probable cause to  
0167 believe that the child is a child in need of care and that there are  
0168 reasonable grounds to believe that the circumstances or condi-  
0169 tion of the child is such that continuing in the place or residence  
0170 in which the child has been found or in the care and custody of  
0171 the person who has care or custody of the child would ~~present a~~  
0172 *danger be harmful* to the child.

0173 (c) A law enforcement officer shall take a child under 18  
0174 years of age into custody when the officer has probable cause to  
0175 believe that the child is a missing person from another state and a  
0176 verified missing person entry for such child can be found in the  
0177 national crime information center missing person system.

0178 Sec. 4. K.S.A. 38-1528 is hereby amended to read as follows:  
0179 38-1528. (a) ~~Except as provided in subsection (b)~~ *To the extent*  
0180 *possible*, when any law enforcement officer takes into custody a  
0181 child under the age of 18 years, without a court order, *the child*  
0182 *shall forthwith be delivered to the custody of the child's parent*  
0183 *or other custodian unless there are reasonable grounds to be-*  
0184 *lieve that such action would not be in the best interests of the*  
0185 *child. Except as provided in subsection (b), if the child is not*  
0186 *delivered to the custody of the child's parent or other custodian,*  
0187 the child shall forthwith be delivered to a facility or person  
0188 designated by the secretary or to a court designated shelter  
0189 facility, court services officer or other person. If, after delivery of  
0190 the child to a shelter facility, the person in charge of the shelter  
0191 facility at that time and the law enforcement officer determine  
0192 that the child will not remain in the shelter facility, the law

0193 enforcement officer shall deliver the child to a juvenile deten-  
0194 tion facility, designated by the court, where the child shall be  
0195 detained for not more than 24 hours, *excluding Saturdays, Sun-*  
0196 *days and legal holidays*. It shall be the duty of the law enforce-  
0197 ment officer to furnish to the county or district attorney, without  
0198 unnecessary delay, all the information in the possession of the  
0199 officer pertaining to the child, the child's parents or other per-  
0200 sons interested in or likely to be interested in the child and all  
0201 other facts and circumstances which caused the child to be taken  
0202 into custody.

0203 (b) When any law enforcement officer takes into custody any  
0204 child as provided in subsection (c) of K.S.A. 38-1527 and  
0205 amendments thereto, proceedings shall be initiated in accord-  
0206 ance with the provisions of the interstate compact on juveniles,  
0207 K.S.A. 38-1001 *et seq.* and amendments thereto. Any child taken  
0208 into custody pursuant to the interstate compact on juveniles may  
0209 be detained in a juvenile detention facility.

0210 (c) Whenever a child under the age of 18 years is taken into  
0211 custody by a law enforcement officer without a court order and is  
0212 thereafter placed in the custody of a shelter facility, court ser-  
0213 vices officer or other person as authorized by this code, the  
0214 facility or person shall have physical custody and provide care  
0215 and supervision for the child upon written application of the law  
0216 enforcement officer. The application shall state:

0217 (1) The name and address of the child, if known;

0218 (2) the names and addresses of the child's parents or nearest  
0219 relatives and persons with whom the child has been residing, if  
0220 known; and

0221 (3) the officer's belief that the child is a child in need of care  
0222 and that there are reasonable grounds to believe that the cir-  
0223 cumstances or condition of the child is such that, unless the child  
0224 is placed in the immediate custody of the shelter facility or other  
0225 person, ~~a danger to the child would exist~~ *it would be harmful to*  
0226 *the child*.

0227 (d) A copy of the application shall be furnished by the facility  
0228 or person receiving the child to the county or district attorney  
0229 without unnecessary delay.



0230 (e) The shelter facility or other person designated by the  
0231 court who has custody of the child pursuant to this section shall  
0232 discharge the child not later than 48 hours following admission,  
0233 excluding Saturdays, Sundays and legal holidays, unless a court  
0234 has entered an order pertaining to temporary custody or release.

0235 (f) In absence of a court order to the contrary, the county or  
0236 district attorney or the placing law enforcement agency shall  
0237 have the authority to direct at any time the release of the child.

0238 Sec. 5. K.S.A. 38-1542 is hereby amended to read as follows:

0239 38-1542. (a) The court upon verified application may issue ~~an ex~~  
0240 ~~parte order of ex parte~~ *an order directing that a child be held in*  
0241 *protective custody and, if the child has not been taken into*  
0242 *custody, an order directing that the child be taken into custody.*

0243 The application shall state:

0244 (1) The applicant's belief that the child is a child in need of  
0245 care and is likely to sustain harm if not immediately afforded  
0246 protective custody; and

0247 (2) the specific facts which are relied upon to support the  
0248 belief.

0249 (b) The order of protective custody may be issued only after  
0250 the court has determined there is probable cause to believe the  
0251 allegations in the application are true. The order shall remain in  
0252 effect until the temporary custody hearing provided for in K.S.A.  
0253 38-1543 and amendments thereto, unless earlier rescinded by  
0254 the court. No child shall be held in protective custody for more  
0255 than 48 hours, excluding Saturdays, Sundays and legal holidays,  
0256 unless within the 48-hour period a determination is made as to  
0257 the necessity for temporary custody in a temporary custody  
0258 hearing.

0259 (c) Whenever the court determines the necessity for an order  
0260 of protective custody, the court may place the child in the  
0261 protective custody of: (1) A parent or other person having cus-  
0262 tody of the child and may enter a restraining order pursuant to  
0263 subsection (d); (2) a person, other than the parent or other person  
0264 having custody, who shall not be required to be licensed under  
0265 article 5 of chapter 65 of the Kansas Statutes Annotated; (3) a  
0266 youth residential facility; or (4) the secretary. When circum-

0267 stances require, a child in protective custody may be placed in a  
 0268 juvenile detention facility pursuant to an order of protective  
 0269 custody for not to exceed 24 hours, excluding Saturdays, Sundays  
 0270 and legal holidays.

0271 (d) If the court issues an order of protective custody, the court  
 0272 may enter an order restraining any alleged perpetrator of physi-  
 0273 cal, sexual, mental or emotional abuse of the child from residing  
 0274 in the child's home; visiting, contacting, harassing or intimidat-  
 0275 ing the child; or attempting to visit, contact, harass or intimidate  
 0276 the child.

The order of protective custody shall be served on the child's parents and any other person having legal custody of the child. The order shall prohibit all parties from removing the child from the court's jurisdiction without the court's permission.

(e)

also

0277 (e) The order of protective custody shall be served on *the*  
 0278 *child's* parents and, any other persons having legal custody and  
 0279 of the child and any alleged perpetrator of abuse of the child.  
 0280 The order shall prohibit all parties from removing the child from  
 0281 the court's jurisdiction without the court's permission.]

Such restraining order shall be served on any alleged perpetrator to whom the order is directed.

0282 (f) The court shall not enter an order removing a child from  
 0283 the custody of a parent pursuant to this section unless the court  
 0284 first finds from evidence presented by the petitioner that rea-  
 0285 sonable efforts have been made to prevent or eliminate the need  
 0286 for removal of the child or that an emergency exists which  
 0287 threatens the safety of the child and requires the immediate  
 0288 removal of the child. Such findings shall be included in any  
 0289 order entered by the court.

0290 New Sec. 6. (a) *Valid court order.* During proceedings under  
 0291 this code, the court may enter an order directing a child who is  
 0292 the subject of the proceedings to remain in a present or future  
 0293 placement if:

0294 (1) The court makes a finding that the child has previously  
 0295 been willfully and voluntarily absent from: (A) The child's home  
 0296 without the consent of the child's parent or other custodian; or  
 0297 (B) a court ordered or designated placement, or a placement  
 0298 pursuant to court order, if the absence is without the consent of  
 0299 the person with whom the child is placed or, if the child is placed  
 0300 in a facility, without the consent of the person in charge of such  
 0301 facility or such person's designee;

been adjudicated to be a child in need of care pursuant to subsection (a)(9) of K.S.A. 38-1502 and amendments thereto

0302 (2) the child and the child's guardian *ad litem* are present  
 0303 before the court at the time the order is entered; and

0304 (3) the child and the child's guardian *ad litem* are given  
 0305 adequate and fair warning, both orally and in writing, of the  
 0306 consequences of violation of the order and a copy of such  
 0307 warning is recorded in the official file of the case.

0308 (b) *Application*. Any person may file with the court a verified  
 0309 application for a determination that a child has violated an order  
 0310 entered pursuant to subsection (a) and for an order authorizing  
 0311 the holding of such child in a secure facility as provided by this  
 0312 section. Such application shall state the applicant's belief that  
 0313 the child has violated a valid court order entered pursuant to  
 0314 subsection (a) and the specific facts which are relied upon to  
 0315 support the belief.

0316 (c) *Ex parte order*. Upon the filing of an application in  
 0317 accordance with subsection (b), the court may enter *ex parte* an  
 0318 order directing that the child be taken into custody and held in a  
 0319 secure facility designated by the court if the court determines  
 0320 that there is probable cause to believe the allegations in the  
 0321 application. The order shall remain in effect for not more than 24  
 0322 hours following the child's being taken into custody. The order  
 0323 shall be served on the child's parents, any legal custodian of the  
 0324 child and the child's guardian *ad litem*.

0325 (d) Probable cause hearing. If any party to the proceedings  
 0326 contests the allegations in an application filed pursuant to sub-  
 0327 section (b), the court shall hold a hearing to determine whether  
 0328 there is probable cause to believe the allegations in the applica-  
 0329 tion. Such hearing shall be held within 24 hours following the  
 0330 child's being taken into custody. Notice of the time and place of  
 0331 such hearing shall be given orally or in writing to the child's  
 0332 parents, any legal custodian of the child and the child's guardian  
 0333 *ad litem*. At the hearing, the child shall have the right to: (A) (1)  
 0334 Have in writing the alleged violation and the facts relied upon in (2)  
 0335 the application; (B) a guardian *ad litem* pursuant to K.S.A. (3)  
 0336 38-1505 and amendments thereto; and (C) the right to confront  
 0337 and present witnesses. If, upon the hearing, the court finds that  
 0338 there is probable cause to believe that the child has violated a  
 0339 valid court order entered pursuant to subsection (a), the court  
 0340 may enter an order directing that the child be held in a secure

Preliminary hearing. Within 24 hours following a child's being taken into  
 custody pursuant to an order issued under subsection (c), the court shall hold  
 a hearing to determine whether the child admits or denies the allegations  
 of the application and, if the child denies such allegations, whether there  
 is probable cause to hold the child in a secure facility pending a hearing  
 on the application pursuant to subsection (e). Notice of the time and place  
 of the preliminary

the child admits the allegations of the application, the court shall proceed  
 without delay to hold a hearing on the application pursuant to subsection (e).  
 If, upon the hearing, the court finds that the child denies the allegations  
 of the application

0341 facility pending a hearing pursuant to subsection (e) but the total  
 0342 amount of time that the child may be held in such a facility under  
 0343 subsection (c) and this subsection shall not exceed 72 hours.  
 0344 (c) *Hearing on violation of order; authorization.* The court  
 0345 shall hold a hearing on an application filed pursuant to subsec-  
 0346 tion (b) within 24 hours following the child's being taken into  
 0347 custody, if a hearing is not held pursuant to subsection (d), or  
 0348 within 72 hours following the child's being taken into custody, if  
 0349 a hearing is held pursuant to subsection (d). Notice of the time  
 0350 and place of such hearing shall be given orally or in writing to  
 0351 the child's parents, any legal custodian of the child and the  
 0352 child's guardian *ad litem*. Upon such hearing, the court may  
 0353 authorize the placement of the child in a secure facility if the  
 0354 court determines that: (1) The child is alleged or adjudicated  
 0355 to be a child in need of care pursuant to subsection (a) of K.S.A.  
 0356 38-1502 and amendments thereto; (9)  
 0357 (2) the child has violated a valid court order entered pursuant  
 0358 to subsection (a);  
 0359 (3) the child has been provided at the hearing with the right  
 0360 to: (A) Have the alleged violation in writing and served upon the  
 0361 child a reasonable time before the hearing; (B) a hearing before  
 0362 the court on the issue of placement in a secure facility; (C) an  
 0363 explanation of the nature and consequences of the proceeding;  
 0364 (D) a guardian *ad litem* pursuant to K.S.A. 38-1505 and amend-  
 0365 ments thereto; (E) confront and present witnesses; (F) have a  
 0366 transcript or record of the proceedings; and (G) appeal; and  
 0367 (4) there is no less restrictive alternative appropriate to the  
 0368 needs of the juvenile and the community.  
 0369 The authorization to place a child in a secure facility pursuant  
 0370 to this subsection shall expire 90 days after it is issued. The court  
 0371 may grant extensions of such authorization for additional periods  
 0372 not exceeding 90 days upon rehearing pursuant to K.S.A. 38-1564  
 0373 and amendments thereto.  
 0374 (f) *Limitations on facilities used.* Nothing in this section  
 0375 shall authorize placement of a child in a juvenile detention  
 0376 facility or adult jail, except that a child may be held in a juvenile  
 0377 detention facility

if the court finds that there is probable cause to believe that the child has violated a valid court order entered pursuant to subsection (a) and that secure detention of the child is necessary for the protection of the child or to assure the appearance of the child at the hearing on the application pursuant to subsection (e)

the child admits the allegations of the application

secure detention of the child is ordered pursuant to subsection (d)

enter an order awarding custody of the child to the secretary, if the secretary does not have legal custody of the child, and authorizing the secretary to place

has been

, except that a child may be held in any such facility which, if in an adult jail, is in quarters separated by sight and sound from adult prisoners

0378 (1) When ordered by a court pursuant to subsection (c) or (d),  
0379 for not longer than the times permitted by those subsections; or

0380 (2) when ordered by a court pursuant to subsection (e), for  
0381 not more than 24 hours following the hearing provided for by  
0382 that subsection.

0383 (g) *Time limits, computation.* Saturdays, Sundays and legal  
0384 holidays shall not be counted in computing any time limit  
0385 imposed by this section.

0386 (h) This section shall be part of and supplemental to the  
0387 Kansas code for care of children.

0388 Sec. 7. K.S.A. 38-1502, 38-1524, 38-1527, 38-1528 and 38-  
0389 1542 are hereby repealed.

0390 Sec. 8. This act shall take effect and be in force from and  
0391 after its publication in the statute book.

HOUSE BILL No. 2122

By Committee on Insurance

1-28

Attachment II  
House Judiciary 2/27/87

0017 AN ACT relating to the probate code; providing for payment to  
0018 successors of certain decedents by insurance companies  
0019 under certain circumstances; amending K.S.A. 1986 Supp.  
0020 59-1507b and repealing the existing section.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 1986 Supp. 59-1507b is hereby amended to  
0023 read as follows: 59-1507b. (a) When a resident of the state dies,  
0024 whether testate or intestate, if the total assets of the estate of the  
0025 decedent do not exceed \$10,000 in value, the surviving spouse of  
0026 the decedent, if entitled by will or by intestate succession to  
0027 moneys on deposit in the account of the decedent in any bank,  
0028 trust company, savings and loan association or credit union  
0029 located in this state, shall be paid, without having been granted  
0030 letters testamentary or letters of administration, the moneys on  
0031 deposit, not in excess of \$1,000, upon furnishing the bank, trust  
0032 company, savings and loan association or credit union with an  
0033 affidavit showing the entitlement of the spouse to receive the  
0034 moneys. Payment of the moneys to the spouse shall be deemed  
0035 to be a payment to the personal representative of the decedent,  
0036 and the receipt of the spouse shall constitute a full discharge and  
0037 release from any further claim for such payment to the same  
0038 extent as if the payment had been made to an executor or  
0039 administrator of the decedent's estate. The affidavit required to  
0040 be furnished under the provisions of this ~~section~~ subsection shall  
0041 be substantially as follows:

\$5,000

0042 State of Kansas )  
0043 ) ss.  
0045 County of \_\_\_\_\_ )  
0046 \_\_\_\_\_, being duly sworn, says:  
0047 (1) On \_\_\_\_\_, 19\_\_\_\_, \_\_\_\_\_  
0048 (decedent) died \_\_\_\_\_ (testate or intestate) at

\$5,000

0049 ..... (location), leaving an estate not exceeding \$10,000 in  
0050 value.

0051 (2) The undersigned is the surviving spouse of .....  
0052 (decedent) and is entitled by ..... (decedent's will or by  
0053 succession) to any money of ..... (decedent) deposited in  
0054 ..... (specify bank, trust company, savings and loan associ-  
0055 ation or credit union).

0056 (3) There is on deposit with ..... (specify bank, trust  
0057 company, savings and loan association or credit union and, if applicable, specify  
0058 branch) the sum of \$ ..... in Account No. .... in  
0059 the name of ..... (decedent).

0060 The undersigned requests that ..... (such sum or specify  
0061 amount not exceeding \$1,000) be paid to the undersigned, without procurement  
0062 of letters ..... (testamentary or of administration).

0063 (4) The undersigned has not, nor has anyone on behalf of the undersigned,  
0064 withdrawn or received any funds on deposit in this account, except the sum of  
0065 \$ ..... (if applicable).

0066 (Jurat) (Signature)

0068 (b) *When a resident of the state dies, whether testate or*  
0069 *intestate, if the total assets of the estate of the decedent do not*  
0070 *exceed \$10,000 in value, the successor or successors of the*  
0071 *decedent, if entitled by will or by intestate succession to moneys*  
0072 *payable to the decedent's estate by any insurance company,*  
0073 *shall be paid, without having been granted letters testamentary*  
0074 *or letters of administration, the moneys payable, not in excess of*  
0075 *\$5,000, upon furnishing the insurance company with an affida-*  
0076 *vit showing the entitlement of the successor or successors to*  
0077 *receive the moneys. Payment of the moneys to the successor or*

0078 *successors shall be deemed to be a payment to the personal*  
0079 *representative of the decedent, and the receipt of the successor*  
0080 *or successors shall constitute a full discharge and release from*

0081 *any further claim for such payment to the same extent as if the*  
0082 *payment had been made to an executor or administrator of the*  
0083 *decedent's estate. The affidavit required to be furnished under*  
0084 *the provisions of this subsection shall be substantially as fol-*  
0085 *lows:*

0086 State of Kansas )  
0087 ) ss.  
0089 County of )  
0090 ..... (name of affiant(s)) being duly sworn state:

0091 (1) On ....., 19.....,  
0092 (decedent) died ..... (testate or intestate) at  
0093 ..... (location), leaving an estate not exceeding \$10,000 in  
0094 value, and I have attached a certified copy of the death certificate hereto.

0095 (2) That no petition for the appointment of an executor or administrator of the  
0096 decedent's estate is pending or has been granted.

0097 (3) That all unpaid debts, claims or demands against the decedent or the

\$5,000 in value, any personal property in the form of moneys, stock, evidence of indebtedness, interest or right transferable to the decedent's estate by any corporation or person shall be transferred to the successor or successors of the decedent, if entitled thereto by will or by intestate succession, without having been granted letters of administration or letters testamentary, upon such successor's or successors' furnishing the corporation or person with an affidavit showing entitlement thereto. Transfer of such personal property

transfer

transfer

transfer

\$5,000

0098 decedent's estate and all estate and inheritance taxes due, if any, on the property  
0099 transfers involved, have been or will be paid.

0100 (4) That the following are the names, ages, relationships and addresses of the  
0101 surviving relatives and heirs of the decedent:

beneficiaries under the decedent's will or

0102	Name	Age	Relationship	Address
0106				
0107				
0108				
0109				
0110				

0111 (5) That the decedent's estate consists of the following property: (include the  
0112 proceeds from policy no. \_\_\_\_\_):

0114	Property	\$ Value
0115		
0116		
0117		
0118		
0119		

0120 (6) That affiant(s) has(have) the sole and exclusive right to succeed to the  
0121 property of the decedent and that affiant(s) is(are) over 18 years of age and  
0122 is(are) legally competent in all respects to make this affidavit and to receive the  
0123 above mentioned property.

personal

0124 Wherefore, affiant(s) hereby request(s) that the proceeds from the above  
0125 mentioned insurance policy be transferred to the affiant(s).

personal property, apportioned among the  
affiant(s) as follows: \_\_\_\_\_.

0126 (Jurat) \_\_\_\_\_  
0128 Signature(s)

above mentioned personal property

0129 Sec. 2. K.S.A. 1986 Supp. 59-1507b is hereby repealed.

0130 Sec. 3. This act shall take effect and be in force from and  
0131 after its publication in the statute book.