

Approved March 31, 1987
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

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

3:30 ~~xxx~~/p.m. on March 23, 1987 in room 313-S of the Capitol.

All members were present except: Representative Shriver, who was excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Senator Michael Johnston
Marjorie Van Buren, Office of Judicial Administration
Ron Smith, Kansas Bar Association
Commissioner Robert Barnum, Youth Services, Social and Rehabilitation Services

The minutes of March 16 and 17 were approved.

Hearing on S.B. 218 - Judge's consent for marriage license under the age of 16.

Senator Johnston testified this bill would change current law so persons 16 and 17 years of age would only have to have the consent of their parents to obtain a marriage license. The consent of the judge would not be required.

Marjoria Van Buren testified in support of S.B. 218. She stated the Kansas District Judge's Association endorses this bill.

The Chairman announced the public hearing on S.B. 218 was closed.

Hearing on S.B. 257 - Criminal procedure, taking of depositions

Ron Smith testified in support of S.B. 257. He explained this bill, under certain circumstances, authorized the taking of a deposition after the filing of a complaint.

There being no other conferees, the hearing on S.B. 257 was closed.

The Committee considered the following bills for final action.

S.B. 218 - Judge's consent for marriage license under the age of 16 years

Representative Crowell moved to report S.B. 218 favorable for passage.
Representative Kennard seconded the motion. The motion failed.

S.B. 257 - Criminal procedure, taking of depositions

A motion was made by Representative Whiteman to report S.B. 257 favorable for passage and that it be placed on the consent calendar. The motion was seconded by Representative Douville. The motion passed.

Hearing on H.B. 2554 - Amendments to code for care of children.

Commissioner Barnum explained the bill addresses children that have runaway from home or a court ordered placement; changes the language in several places in the bill from imminent danger or danger to harmed; and provides the child not be detained in a juvenile detention facility for more than 24 hours, excluding Saturdays, Sundays and legal holidays. He stated S.R.S. supports this bill.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 313-S, Statehouse, at 3L30 ~~xxxx~~p.m. on March 23, 1987

Commissioner Barnum informed the Committee that H.B. 2554, as currently structured, appears to limit the fiscal impact considerably over H.B. 2006. Securing portions of existing facilities would require more intensive staffing patterns than are currently available in most group and residential facilities. He stated it would be very difficult to estimate the number of youth that would be served under this bill. (see Attachment I). He said he would check the "sight and sound separation" statute and report the information to the Committee.

The Chairman announced the Attorney General supports H.B. 2554. The public hearing on H.B. 2554 was closed.

The Committee considered H.B. 2554 for final action.

Representative Wagon moved and Representative Bideau seconded to report H.B. 2554 favorable for passage.

A motion was made by Representative Duncan to amend H.B. 2554 to include sight and sound separation in (i), page 3. Representative Solbach seconded and the motion passed.

A motion was made by Representative Duncan to amend H.B. 2554 to include separating runaways from adjudicated juvenile offenders in detention facilities, in (i), page 3. Representative Solbach seconded and the motion passed.

Representative Duncan moved and Representative Douville seconded to amend Section 4, page 5, that if the person in charge of such facility or person to whom the child is delivered and the law enforcement officer determine that the child will not remain in the custody of such facility or person, the law enforcement officer shall deliver the child to a juvenile detention facility, (see Attachment II). The motion passed, 8 yeas, 7 nays.

The Chairman proposed having the amendments drafted and presented to the Committee before taking any action on H.B. 2554.

Hearing on S.B. 236 - Authorizing use of forfeited controlled substances to train dogs for controlled substance detection

The Chairman reported Senator Ehrlich was unavailable to testify on S.B. 236. The Chairman reviewed the bill for the Committee.

Hearing on S.B. 7 - Qualification of district judges

The Chairman announced there will be a conferee to testify on S.B. 7, Tuesday, March 31.

The Chairman appointed the following to a subcommittee on S.B. 258: Representative Roy, Representative Solbach, Representative O'Neal, Representative Bideau, Representative Snowbarger and Representative Wunsch, ex officio. The subcommittee will meet at 7:00 a.m., Wednesday, March 25, 1987 at the Kansas Bar Association building.

The meeting was adjourned at 5:00 p.m.

The next meeting will be Tuesday, March 24, 1987 at 3:30 p.m. in room 313-S.

March 17, 1987

Edwin H. Bideau, III
Representative, State of Kansas
State Capitol
Topeka, Kansas 66612

Dear Representative Bideau:

I am writing in response to your letter of March 10 concerning your concerns regarding the fiscal note with regard to HB 2006. The bill, as currently structured and modified, would significantly reduce the broad fiscal parameters that were voiced in the Interim Judiciary deliberations and initial hearing on the bill.

Our fiscal figures, as stated in hearing testimony, presented a wide variance because of discussion surrounding expectations which were voiced in the Attorney General's Missing and Exploited Task Force deliberations. Our lowest projection of \$750,000 was our best estimate of what it would cost to renovate an existing cottage on the Beloit campus. It was estimated that renovation costs would be approximately \$250,000 and staffing and administrative costs to operate a specialized thirty-day program serving approximately 140-150 youth annually would be about \$500,000 (see attached breakdown). The high cost figure of \$3 million dollars was our estimate of costs involved to develop and staff a free-standing facility to serve a relatively small number of youth through intensive psychotherapy, as was espoused as necessary for SRS to do by some Task Force members.

The fiscal note that was put forth was for a different approach than simply securing portions of existing group and residential facilities for a very limited number of individuals. This cost, of course, will be dictated by the numbers involved and the staffing and program components required to make it meaningful. It will, however, not be the same group that SRS is currently serving, and it will impact our foster care funds. As testimony indicated, this is a population law enforcement is reluctant to deal with and our agency and others underserve as compared to other priority groups. The locked facilities will require more intensive staffing patterns than are currently available in most group and residential facilities (i.e., frequent checks to insure against self-destructive behavior, more intensive program involvement, and personal escort of high-risk clients, etc.) HB 2554, as currently structured, would appear to limit the fiscal impact considerably. If detention were to occur in

Attachment I

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juvenile detention facilities or emergency shelters, their staffing arrangements would handle this without the addition of extra staff.

We have discussed modification of rules and regulations with responsible personnel at the Department of Health and Environment, and they indicate a willingness to work with our agency and non-profit providers to develop implementation concepts.

The discussions with your Subcommittee were carried out in good faith and were helpful in resolving those issues where federal concerns were expressed. The outcome was a bill that we were willing to accept in the spirit of compromise. If additional discussions are needed concerning HB 2554, I will be glad to make Commissioner Barnum and staff available.

We did not seek defeat of HB 2006, nor will we oppose HB 2554 as currently proposed.

Sincerely,

Robert C. Harder
Secretary

RCH:RCB:jh

Attachment

Sec.

FISCAL NOTE FOR "NEW SECTION 6" OF H.B. 2006

90 DAY SECURE CONFINEMENT/TREATMENT FOR RUNAWAYS

- (1) SRS estimates that it would cost \$750,000 to \$3,000,000 to establish an agency run program. The low figure includes renovation of a 14 bed cottage at the YCAB and first year operational costs. The high figure assumes a free-standing facility with an intensive treatment staff.

- (2) Private providers have estimated costs as follow, based on the need for rotational staffing and other elements necessary for a secure setting:
 - (a) United Methodist Youthville: Conversion of an existing cottage with about 13 beds which could serve 52 youth a year for 90 day stays. The agency estimates the facility would cost \$20 a day per child above the Level V rate.
$$-13 \text{ beds} \times 365 \text{ days} \times (54.85 + 20.00) = \$355,164 + \text{undetermined startup/conversion costs}$$

 - (b) Wichita Consortium (Booth Memorial/Wichita Children's Home): Conversion of existing facility section of 8 beds which could serve 32 youth a year for 90 day stays. Estimate of \$8 a day per child above the Level V rate.
$$-8 \text{ beds} \times 365 \text{ days} \times (54.85 + 16.50) = \$208,342 + \text{undetermined startup/conversion costs}$$

- (3) One of the difficulties in estimating costs is that there has been no attempt to estimate the number of youth to be served. From the 1986 KBI data, we know that at least 628 youth were incarcerated in the state's jails and detention centers and reported as CINC runaways. They were held for

periods ranging from less than one hour to over 80 days. One hundred thirty (130) were held for more than 48 hours. We do not know how many of these might be eligible for the 90 day secure provision, nor do we have any data on how many who were held less than 48 hours but kept in custody in non-secure placements would qualify. If the United Methodist Youthville or Wichita Consortium proposals were capable of only serving the Wichita region, and facilities had to be established in other parts of the state, the costs to meet the 90 day provision could rapidly escalate.

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-

which is

and in which alleged or adjudicated children in need
of care are in quarters separated by sight and sound
from adjudicated juvenile offenders and

0157 court order commanding that the child be taken into custody as a
0158 child in need of care; or

0159 (2) the law enforcement officer or court services officer has
0160 probable cause to believe that a court order commanding that the
0161 child be taken into custody as a child in need of care has been
0162 issued in this state or in another jurisdiction.

0163 (b) A law enforcement officer may take a child under 18 years
0164 of age into custody when the officer has probable cause to
0165 believe that the child is a child in need of care and that there are
0166 reasonable grounds to believe that the circumstances or condi-
0167 tion of the child is such that continuing in the place or residence
0168 in which the child has been found or in the care and custody of
0169 the person who has care or custody of the child would ~~present a~~
0170 ~~danger be harmful~~ to the child.

0171 (c) A law enforcement officer shall take a child under 18
0172 years of age into custody when the officer has probable cause to
0173 believe that the child is a missing person from another state and a
0174 verified missing person entry for such child can be found in the
0175 national crime information center missing person system.

0176 Sec. 4. K.S.A. 38-1528 is hereby amended to read as follows:
0177 38-1528. (a) ~~Except as provided in subsection (b)~~ *To the extent*
0178 *possible, when any law enforcement officer takes into custody a*
0179 *child under the age of 18 years, without a court order, the child*
0180 *shall forthwith be delivered to the custody of the child's parent*
0181 *or other custodian unless there are reasonable grounds to be-*
0182 *lieve that such action would not be in the best interests of the*
0183 *child. Except as provided in subsection (b), if the child is not*
0184 *delivered to the custody of the child's parent or other custodian,*
0185 *the child shall forthwith be delivered to a facility or person*
0186 *designated by the secretary or to a court designated shelter*
0187 *facility, court services officer or other person. If, after delivery of*
0188 *the child to a shelter facility, the person in charge of the shelter*
0189 *facility at that time and the law enforcement officer determine*
0190 *that the child will not remain in the shelter facility, the law*
0191 *enforcement officer shall deliver the child to a juvenile deten-*
0192 *tion facility, designated by the court, where the child shall be*
0193 *detained for not more than 24 hours, excluding Saturdays, Sun-*

such a facility or person, if the person in charge of such facility or person to whom the child is delivered and the law enforcement officer determine that the child will not remain in the custody of such facility or person