

Approved 4-8-87
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at
Chairperson

10:00 a.m. ~~7:30~~ on March 30, 1987 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Bill Wolff, Legislative Research
Norman Furse, Revisor of Statutes Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Lyle Eckhart, Director, Bureau of Emergency Medical Services
David Rosenthal, Executive Director, Kansas Commission for Deaf and
Hearing Impaired, SRS
Ray Petty, Advisory Committee on Blind and Handicapped
Marjorie VanBuren, Judicial Administrator's Office

Others attending: see attached list

Lyle Eckhart presented the history preceding SB-397 and stated that the State Emergency Medical Service Council and the Kansas Highway Patrol recommend the implementation of a permanent program to issue permits to ambulance services to utilize personnel who have been certified by the state to perform defibrillation. (attachment 1) A balloon of SB-397 with amendments was also presented to the committee. (attachment 2)

David Rosenthal spoke in favor of HB-2137 stating this bill is needed due to lack of accessibility in the court system for those with hearing impairments. This bill would enable deaf and hearing impaired persons to participate effectively in matters directly affecting them in court proceedings. Court cases and the issues and results will be processed faster and more efficiently by all parties concerned. (attachment 3)

In an effort to ascertain the number of hours interpreters would be needed the committee questioned Marjorie Van Buren, Judicial Administrator who was attending the hearing. Ms. VanBuren stated she did not have any figures but felt that there would not be a large amount.

Ray Petty testified and presented written testimony in support of HB-2137. Mr. Petty stated that this bill takes a significant step in the direction of guaranteeing deaf and hearing impaired persons their due process and equal protection rights. It also recognizes the right of Kansas' deaf citizens to participate in the legislative arena and democratic process. (attachment 4)

The chairman asked the committee their wishes concerning HB-2415. Senator Bond moved to report HB-2415 favorable for passage. Senator Francisco seconded the motion. The motion carried.

House Bill 2019 was presented by the chairman for action. Senator Kerr moved to adopt the amendment suggested by staff and also the amendment proposed by SRS. Senator Mulich seconded the motion. The motion carried.

Senator Kerr moved to pass out HB-2019 as amended favorable for passage. Senator Reilly seconded the motion. The motion carried.

House Bill 2413 was presented for action by the committee chairman. Senator Hayden moved to pass out HB-2413 favorable for passage. Senator Kerr seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE _____ COMMITTEE ON PUBLIC HEALTH AND WELFARE _____,
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 30, _____, 1987.

House Bill 2416 was presented for action by the committee chairman.
Senator Mulich made the motion to pass HB-2416 out favorable for
passage. Senator Kerr seconded the motion. The motion carried.

The meeting adjourned at 11:00 a.m. and will meet March 31, 1987.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE March 30, 1987

(PLEASE PRINT)
NAME AND ADDRESS

Richard Morrissey
KETH R LANDIS
Marilyn Bradt
MARILYN PELAUM
Betty Grayson
Pat Tackett
Lela Laslay
Jo Bestgen
Al Nemece
Dw S Kibler
Ray Petty

ORGANIZATION

KDAE
CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATION FOR KANSAS
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KPNHAA
VISITOR
VISITOR
ARC/Kansas
KARF
MH&RS
KCOHI / RS / SRB
KACEH / DHR

SUMMARY OF TESTIMONY
BEFORE THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

SENATE BILL 397

PRESENTED BY THE KANSAS HIGHWAY PATROL

AND

THE STATE EMERGENCY MEDICAL SERVICES COUNCIL

MARCH 30, 1987

APPEARED IN SUPPORT

Senate Bill 397 was introduced as a result of a bill passed by the 1985 Legislature which authorized a demonstration program to determine the effectiveness of training select emergency medical technicians to defibrillate the heart of cardiac arrest victims. In 1986, due to an insufficient number of cardiac arrest events in the target area, the Legislature extended the study until July 1, 1987, at which time the authorization will end unless the study is extended or S.B. 397 is passed into law.

The bill also includes amendments to existing statutes and creates new sections to list authorized activities of all levels of EMS personnel. This has been done at the suggestion of the Office of the Attorney General which in the past has opined that an attendant could do anything that the University of Kansas School of Medicine declares to be within the certificate. These authorized activities are typical for these levels of training across the country and are consistent with the established curricula.

EMT-Defibrillation programs and studies have been conducted across the nation the past two or three years and the results of those studies have led the American Heart Association to conclude that:

"The use of defibrillation by Emergency Medical Technicians who have been trained in the recognition of ventricular fibrillation has been shown to improve survival significantly in areas without ALS paramedic service or where the response time for paramedics is relatively long. This concept has been proved and should be impemented in many areas. However, strong medical control must be maintained".

The demonstration program established by the council shares this conclusion based on the data presented in the report to the Governor and the Legislature on January 1, 1987. The council found the following:

1. There is an interest in numerous communities in Kansas to implement an EMT-D program. This interest includes support from the physician community, the elected officials, the ambulance personnel and the citizens.

-continued-

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attachment 1

2. The EMT-D program did save lives. In the target area where defibrillation was used, eight patients were successfully resuscitated and later discharged from the hospital to their homes. The monitor control group which gave identical treatment, except that they did not perform defibrillation, had no survivors who were discharged from the hospital.
3. The services utilizing defibrillation reported a long term save rate of 22% of the patients whose initial heart rhythms were either ventricular fibrillation or non-perfusing ventricular tachycardia which are the only rhythms the EMT-D technician is authorized to defibrillate. The other patients presented in asystole, electro-mechanical dissociation or other bradyrhythmias not responsive to defibrillation and who are rarely resuscitated from a pre-hospital event.
4. Attrition of Emergency Medical Technicians during the demonstration program was minimal suggesting an ongoing commitment of the technicians. Ongoing commitment of community physicians was also apparent as well as registered nurses who contributed significantly in the training process.
5. The program is not a panacea but will reduce and not eliminate cardiac arrest deaths. Communities should carefully assess their resources to assure the necessary commitment before implementing the program.
6. The program must be voluntary and not mandated for all EMS services since it is clear some communities do not have the number of cardiac arrests to justify its implementation. To accomplish voluntary compliance the council intends to establish a level of ambulance service for communities who intend to utilize technicians trained to defibrillate. The establishment of levels of service is currently authorized by K.S.A. 65-4320 by rules and regulation authority to the council.

The State Emergency Medical Service's Council and the Kansas Highway Patrol recommend the implementation of a permanent program to issue permits to ambulance services to utilize personnel who have been certified by the state to perform defibrillation. They recommend your favorable consideration of this bill to include the amendments offered with this testimony.

SENATE BILL No. 397

By Committee on Ways and Means

3-23

017 AN ACT relating to emergency medical services; concerning
018 emergency medical technician-defibrillator; amending K.S.A.
019 65-4301, 65-4306a, 65-4317, 65-4321, 65-4324 and 65-4325a
020 and repealing the existing sections.

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

022 New Section 1. Notwithstanding any other provision of law
023 to the contrary, an emergency medical technician may perform
024 any of the following:

- 025 (a) Patient assessment and vital signs;
- 026 (b) airway maintenance to include use of:
 - 027 (1) Oropharyngeal and nasopharyngeal airways;
 - 028 (2) esophageal obturator airways with or without gastric suc-
029 tion device; and
 - 030 (3) oxygen demand valves;
- 031 (c) oxygen therapy;
- 032 (d) oropharyngeal suctioning;
- 033 (e) cardiopulmonary resuscitation procedures;
- 034 (f) control accessible bleeding;
- 035 (g) application of pneumatic anti-shock garment;
- 036 (h) management of medical emergencies to include: Poison
037 victims, heart attack patients, victims of bites and stings, stroke
038 patients, patients suffering from dyspnea, diabetic patients to
039 include administration of sugar and glucose by mouth, patients
040 with acute abdominal problems, patients with communicable
041 diseases or patients with seizures;
- 042 (i) management of environmental emergencies to include:
043 Heat emergencies, cold emergencies, water-related emergencies
044 or hazardous materials emergencies;
- 045 (j) management of patients during psychological emergen-

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Attachment 2

0046 cics;

0047 (k) emergency obstetrical care as well as emergency care for
0048 neonatal and premature patients;

0049 (l) extrication of patients and lifting and moving techniques;

0050 (m) management of musculoskeletal and soft tissue injuries
0051 to include dressing and bandaging wounds or the splinting of
0052 fractures, dislocations, sprains or strains; or

0053 (n) use of backboards to immobilize the spine; or

0054 (o) monitor peripheral intravenous line delivering intra-
0055 venous fluids during interfacility transport with the following
0056 restrictions:

0057 (1) The patient is noncritical and deemed stable by the
0058 transferring physician and the physician approves the transfer by
0059 an emergency medical technician;

0060 (2) no medications or nutrients have been added to the in-
0061 travenous fluids;

0062 (3) the emergency medical technician may monitor and
0063 maintain the flow of intravenous fluid and shut off the flow
0064 except that by voice contact with a physician the intravenous line
0065 may be discontinued.

0066 New Sec. 2. Notwithstanding any other provision of law to
0067 the contrary, a crash injury management technician may perform
0068 any of the following:

0069 (a) Initial scene management;

0070 (b) patient assessment and vital signs;

0071 (c) airway maintenance to include:

0072 (1) Oropharyngeal airways;

0073 (2) oropharyngeal suctioning; or

0074 (3) use of bag valve mask;

0075 (d) oxygen therapy;

0076 (e) provide cardiopulmonary resuscitation procedures;

0077 (f) control accessible bleeding;

0078 (g) application of pneumatic anti-shock trousers;

0079 (h) management of medical emergencies to include: Poison
0080 victims, heart attack patients, victims of bites and stings, stroke
0081 patients, patients suffering from dyspnea, diabetic patients to
0082 include administration of sugar and glucose by mouth, patients

Person licensed to practice medicine
and surgery or a registered professional
nurse where authorized by a person
authorized to practice medicine and
surgery.

0083 with acute abdominal problems, patients with communicable
0084 diseases or patients with seizures;

0085 (i) management of environmental emergencies to include:
0086 Heat emergencies, cold emergencies, water-related emergencies
0087 and hazardous materials emergencies;

0088 (j) management of patients during psychological emergen-
0089 cies;

0090 (k) emergency obstetrical care as well as emergency care for
0091 neonatal and premature patients;

0092 (l) extrication of patients and lifting and moving techniques;

0093 (m) management of musculoskeletal and soft tissue injuries
0094 to include dressing and bandaging wounds and the splinting of
0095 fractures, dislocations, sprains or strains; or

0096 (n) use of backboards to immobilize the spine.

0097 New Sec. 3. Notwithstanding any other provision of law to
0098 the contrary, an emergency medical technician-defibrillator:

0099 (a) May perform any of the activities an emergency medical
0100 technician may perform in section 1;

0101 (b) when approved by the local component medical society
0102 and where voice contact by radio or telephone is monitored by a
0103 person licensed to practice medicine and surgery or a registered
0104 professional nurse, where authorized by a person licensed to
0105 practice medicine and surgery, and direct communication is
0106 maintained, upon order of such person or such nurse, may
0107 perform electrocardiographic monitoring and defibrillation; or

0108 (c) perform, during an emergency, those activities specified
0109 in subsection (b) before contacting the person licensed to prac-
0110 tice medicine and surgery or authorized registered professional
0111 nurse when specifically authorized to perform such activities by
0112 written protocols approved by the local component medical
0113 society.

0114 Sec. 4. K.S.A. 65-4301 is hereby amended to read as follows:
0115 65-4301. As used in this act: (a) "Emergency medical service"
0116 means a service which provides for the effective and coordinated
0117 delivery of such emergency care as may be required by an
0118 emergency, including transportation of individuals by ground or
0119 air ambulances and the performance of authorized emergency

0120 care by a person licensed to practice medicine and surgery, a
0121 licensed professional nurse, a registered physician's assistant, a
0122 crash injury management technician, an emergency medical
0123 technician, emergency medical technician-intermediate, *emer-*
0124 *gency medical technician-defibrillator* or a mobile intensive
0125 care technician.

0126 (b) "Ambulance" means any privately or publicly owned
0127 motor vehicle, airplane or helicopter designed, constructed,
0128 prepared and equipped for use in transporting and providing
0129 emergency care for individuals who are ill, injured or otherwise
0130 disabled, including any specially constructed and equipped
0131 motor vehicle, airplane or helicopter which is capable of pro-
0132 viding life support services for extended periods of time.

0133 (c) "Crash injury management technician technicians"
0134 means personnel who have been trained in preliminary emer-
0135 gency medical care in a 72-hour training program approved by
0136 the university of Kansas school of medicine.

0137 (d) "Emergency medical technicians" means personnel who
0138 have been trained in preliminary emergency medical care in an
0139 81-hour training program approved by the university of Kansas
0140 school of medicine.

0141 (e) "*Emergency medical technicians-defibrillator*" means
0142 *personnel, currently certified as emergency medical technicians*
0143 *or emergency medical technicians-intermediate, who have suc-*
0144 *cessfully completed a training program in cardiac defibrillation*
0145 *approved by the university of Kansas school of medicine and*
0146 *who have been approved by the director, after examination, as*
0147 *prescribed by the director, as being qualified to perform cardiac*
0148 *defibrillation.*

0149 (f) "Emergency medical technicians-intermediate"
0150 means personnel, currently certified as an emergency medical
0151 technician, who, after not less than one year's certification as an
0152 emergency medical technician, have completed a training pro-
0153 gram approved by the university of Kansas school of medicine
0154 which consists of a minimum of 40 clock hours and includes
0155 training in veni-puncture for blood sampling and administration
0156 of intravenous fluids and advanced patient assessment.

157 ~~(f)~~ (g) "Mobile intensive care technicians" means personnel
 158 who have been specially trained in emergency cardiac and
 159 noncardiac care in a training program certified by the university
 160 of Kansas school of medicine.

161 ~~(g)~~ (h) "Person" means an individual, a partnership, an asso-
 162 ciation, a joint-stock company or a corporation.

163 ~~(h)~~ (i) "Governmental entity" means the state, or any depart-
 164 ment, agency or authority of the state, any city, county, district or
 165 other political subdivision or public corporation and any instru-
 166 mentality thereof.

167 ~~(i)~~ (j) "Board" means board of county commissioners of any
 168 county.

169 ~~(j)~~ (k) "Governing body" means the governing body of any
 170 city of this state.

171 ~~(k)~~ (l) "Local component medical society" means a county
 172 medical society or a multicounty medical society.

173 Sec. 5. K.S.A. 65-4306a is hereby amended to read as fol-
 174 lows: 65-4306a. Notwithstanding any other provision of law to
 175 the contrary, an emergency medical technician-intermediate:

176 (a) *May perform any of the activities an emergency medical*
 177 *technician may perform in section 1;*

178 ~~(a)~~ (b) when approved by the local component medical soci-
 179 ety and where voice contact by radio or telephone is monitored
 180 by a person licensed to practice medicine and surgery or a
 181 registered professional nurse, where authorized by a person
 182 licensed to practice medicine and surgery, and direct communi-
 183 cation is maintained, may upon order of such person or such
 184 nurse perform veni-puncture for the purpose of blood sampling
 185 collection and initiation and maintenance of intravenous infu-
 186 sion of saline solutions, dextrose and water solutions or ringers
 187 lactate IV solutions; or

188 ~~(b)~~ (c) when under the direct supervision of an ~~emergency~~ ^a
 189 mobile intensive care technician who is functioning under the
 190 provisions of ~~paragraph~~ ^{subsection} (e) of K.S.A. 65-4306 and
 191 amendments thereto, may perform the functions authorized
 192 under *subsection (a) above of this section.*

193 Sec. 6. K.S.A. 65-4317 is hereby amended to read as follows:

94 65-4317. (a) It shall be unlawful for any person or municipality
95 to operate an ambulance service within this state without ob-
96 taining a permit pursuant to this act.

97 (b) ~~On and after November 1, 1983~~ *Except as provided in*
98 *subsection (c)*, each emergency medical service may have a
99 medical advisor appointed by the operator of the service to
100 review, approve and monitor the medical activities of the ser-
101 vice.

102 (c) *Each emergency medical service which employs an*
103 *emergency medical technician-defibrillator shall have a medical*
104 *advisor appointed by the operator of the service to review,*
105 *approve and monitor the activities of the emergency medical*
106 *technician-defibrillator.*

107 Sec. 7. K.S.A. 65-4321 is hereby amended to read as follows:

108 65-4321. (a) Application for an attendant's certificate shall be
109 made to the bureau of emergency medical services upon forms
110 provided by the director. The director may grant an attendant's
111 certificate in the appropriate classification of attendant's certifi-
112 cates to an applicant who: (1) Has made application within one
113 year after successfully completing the appropriate course of
114 instruction for the classification of attendant's certificate applied
115 for as specified in subsection (b); (2) has passed an examination
116 prescribed by the director; and (3) has paid a registration fee of
117 \$7.50.

118 (b) An attendant applying for a crash injury management
119 technician's certificate shall have at least 72 clock hours of
120 training in preliminary emergency medical care in a course of
121 instruction approved by the university of Kansas school of med-
122 icine. An attendant applying for an emergency medical techni-
123 cian's certificate shall have at least 81 clock hours of training in
124 preliminary emergency medical care in a course of instruction
125 approved by the university of Kansas school of medicine, or the
126 equivalent thereof of preliminary emergency medical care, or a
127 program of instruction in emergency medical care offered by the
128 armed forces of the United States which has been approved by
129 the council. An attendant applying for a mobile intensive care
130 technician's certificate shall have completed a training program,

31 in a course of instruction approved by the university of Kansas
 32 school of medicine, consisting of a minimum of 200 clock hours
 33 of training including, but not limited to, didactic and clinical
 34 experience in a cardiac care unit and in an emergency vehicle
 35 unit. An attendant applying for an emergency medical techni-
 36 cian-intermediate certificate shall have been certified as an
 37 emergency medical technician for not less than one year and,
 38 after certification as an emergency medical technician for at least
 39 one year, shall have completed a training program, approved by
 40 the university of Kansas school of medicine, consisting of a
 41 minimum of 40 clock hours and including training in veni-punc-
 42 ture for blood sampling and administration of intravenous fluids
 43 and advanced patient assessment. *An attendant applying for an*
 44 *emergency medical technician-defibrillator certificate shall*
 45 *have been certified as an emergency medical technician for not*
 46 *less than one year and, after certification as an emergency*
 47 *medical technician for at least one year, shall have completed a*
 48 *training program approved by the university of Kansas school of*
 49 *medicine.*

50 (c) An attendant's certificate shall be valid through De-
 51 cember 31 of the year following the date of its initial issuance
 52 and may be renewed thereafter for a period of one year for each
 53 renewal for a fee of \$2 upon presentation of satisfactory proof that
 54 the attendant has successfully completed supplemental instruc-
 55 tion in emergency medical care as provided in this subsection
 56 (c). Attendants shall complete not less than eight hours of sup-
 57 plemental instruction as prescribed and approved by the gover-
 58 nor's council on emergency medical services for each full calen-
 59 dar year that has elapsed since the certification or the last
 60 renewal thereof. If a certificate is not renewed within 30 days
 61 after its expiration such certificate shall be void.

(d) The director may issue a temporary certificate to any
 person who has not qualified for an attendant's certificate under
 subsection (a) when:

(1) The operator ~~for whom such person serves as an attendant~~
 cannot comply with the provisions of subsection (b) of K.S.A.
 65-4326 and amendments thereto without the issuance of a

Attendants who are qualified personnel
 as defined by K.S.A. 65-4332(d) on the
 effective date of this act may be
 issued an emergency medical technician-
 defibrillator certificate according to
 criteria established by the Council in
 the administrative rules and regulations.

1268 temporary certificate to such person, and there is no other person
 1269 or municipality providing an ambulance service within the ter-
 1270 ritory which is or will be served primarily by such operator
 1271 requests a temporary certificate for that person; and

1272 (2) such ~~attendant is enrolled or will be enrolled in the~~
 1273 ~~eighty-one-hour course of instruction required of regularly cer-~~
 1274 ~~tified attendants.~~

1275 A temporary certificate shall be effective for one year from the
 1276 date of its issuance ~~and or until the person has qualified as an~~
 1277 ~~attendant under subsection (a) of K.S.A. 65-4321, and amend-~~
 1278 ~~ments thereto, whichever comes first. A temporary certificate~~
 1279 shall not be renewed. ←

1280 (e) The director shall remit to the state treasurer at least
 1281 monthly all fees received pursuant to the provisions of this act.
 1282 Upon receipt of each such remittance, the state treasurer shall
 1283 deposit the entire amount thereof in the state treasury to the
 1284 credit of the state general fund.

1285 (f) If an applicant for an attendant's certificate has within two
 1286 years preceding the date of the application held an attendant's
 1287 certificate in the same classification as the certificate applied for,
 1288 the director may grant a certificate to such applicant without
 1289 such applicant completing a course of instruction specified in
 1290 subsection (b) if the applicant has passed an examination pre-
 1291 scribed by the director and has paid a registration fee of \$7.50.

1292 Sec. 8. K.S.A. 65-4324 is hereby amended to read as follows:
 1293 65-4324. (a) An operator's permit may be revoked or suspended
 1294 by the director upon proof that such operator or any agent or
 1295 employee thereof:

1296 (1) Has been guilty of misrepresentation in obtaining the
 1297 permit or in the operation of the ambulance service;

1298 (2) has engaged or attempted to engage in, or represented
 1299 themselves as entitled to perform, any ambulance service not
 1300 authorized in the permit;

1301 (3) has demonstrated incompetence or has shown themselves
 1302 otherwise unable to provide adequate ambulance service;

1303 (4) has failed to keep and maintain the records required by
 1304 the provisions of this act, or the rules and regulations promul-

person meets or exceeds minimum
training prescribed by the Council
in the administrative rules and
regulations.

and shall be valid only while function-
ing as an attendant for the operator
requesting the temporary certificate.

5 gated thereunder, or has failed to make reports when and as
6 required;

17 (5) has knowingly operated faulty or unsafe equipment; or

18 (6) has violated or aided and abetted in the violation of any
19 provision of this act or the rules and regulations promulgated
20 thereunder;

11 (b) An attendant's certificate may be revoked or suspended
12 by the director upon proof that such attendant:

13 (1) Has been guilty of misrepresentation in obtaining the
14 certificate;

15 (2) has engaged or attempted to engage in, or represented
16 themselves as entitled to perform, any service not authorized in
17 the certificate;

18 (3) has demonstrated incompetence or has shown themselves
19 otherwise unable to provide adequate service;

20 (4) has violated or aided and abetted in the violation of any
21 provision of this act or the rules and regulations promulgated
22 thereunder;

23 (5) has been convicted of any offense involving moral turpi-
24 tude;

25 (6) has been convicted of a felony and, after investigation by
26 the director, it is determined that such person has not been
27 sufficiently rehabilitated to warrant the public trust;

28 (7) has demonstrated habitual intemperance or is addicted to
29 the use of habit-forming drugs; or

30 (8) has engaged in unprofessional conduct, *as defined by*
31 *rules and regulations adopted under this act.*

32 Sec. 9. K.S.A. 65-4325a is hereby amended to read as fol-
33 lows: 65-4325a. An ambulance service may be placed on proba-
34 tion, pending a hearing, upon receipt of a complaint indicating
35 the public health, safety or welfare to be in imminent danger. If
36 an inspection proves this complaint to be invalid, or that the
37 cause therefor has been corrected, this probation shall be re-
38 moved without a hearing.

39 Proceedings under this section may be initiated by the ~~seere-~~
40 ~~tary~~ director upon the ~~secretary's~~ director's own motion or by
41 any person filing written charges with the ~~seere-~~ director.

42 Whenever written charges are filed by or with the ~~secretary~~
43 ~~director~~, the ~~secretary~~ *director* shall cause a copy thereof to be
44 mailed to the operator or attendant named in the charge within
45 five days thereafter, together with the notice of the time and
46 place of the hearing. Any person aggrieved by any order or
47 decision of the council shall be entitled to appellate review in
48 accordance with the provisions of the act for judicial review and
49 civil enforcement of agency actions.

50 Sec. 10. K.S.A. 65-4301, 65-4306a, 65-4317, 65-4321, 65-4324
51 and 65-4325a are hereby repealed.

52 Sec. 11. This act shall take effect and be in force from and
53 after its publication in the statute book.

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Rehabilitation Services

Kansas Commission for the Deaf and Hearing Impaired

Testimony in Support of House Bill 2137

Mr. Chairman, Committee Members, my name is David S. Rosenthal. I am the Executive Director of the Kansas Commission for the Deaf and Hearing Impaired (KCDHI), which is within Rehabilitation Services, under the Social and Rehabilitation Services umbrella.

The Kansas Commission for the Deaf and Hearing Impaired supports H.B. 2137. As a state agency focusing on the needs of the deaf and hearing impaired, our office has received complaints about the lack of accessibility in the court system for those with hearing impairments. Based on our experience in coordinating interpreter services and in complaint follow up, it is evident that compliance with the present law is not consistent across the state. I have a letter here from a western Kansas judge who refused to pay for interpreting services for a hearing impaired defendant in a DUI hearing. He mentioned in his letter that had he known that he would have to pay for the interpreting services, he would have gotten along without one. The cost for this certified interpreter was only \$20.00. This evidence underscores the need for strengthening this law. It is estimated that the total cost for interpreting services in court cases will not exceed \$5000.00 per fiscal year. This estimate is based on 250 interpreting hours at \$20.00 per hour.

SP/AVW
3-30-87
attachment 3

This bill proposes to change the term, mute, to speech impaired to more accurately reflect the federal terminology. Deaf people resent the old terminology because of the stigma associated with labeling.

Deaf people have expressed concern about the fact that, when an "interpreter" is appointed by the court, they were unable to follow the proceedings, i.e., content v.s. terminology. The current law is vague in defining the qualifications of sign language interpreters used in the court proceedings. For one unfamiliar with the field of deafness, it is very difficult to realize the impact of deafness on a developing child in terms of language acquisition. Deaf people vary greatly in their mastery of the English language. Most of the deaf adults have an average of a 6th grade reading level, and most of them use American Sign Language. American Sign Language, or ASL for short, is a language that is unlike English. ASL has its own grammar rules, syntax, etc. It is probably close to Chinese in that it is pictorial in context. For this reason it is difficult for an deaf person who communicates in ASL to understand an interpreter who uses strictly signed English. Another situation that has occurred is when an "interpreter" who has had one semester of basic sign language is used in the courts. Interpreting is not the same as just "signing" what you are saying. One has to be familiar with the legal terminology and be able to process this information correctly. After processing, your hands, face, and body must convey, in another language, an accurate interpretation of what was said, and meant. To bring this point home, this is akin to being arrested in Russia and tried in their courts. You do not understand the Russian language, so an interpreter who is unfamiliar with the legal terminology, and has had one semester of beginning English is provided for you. In terms of the

outcome of the case, would you want to use that interpreter, or one who is fluent in both languages?

To aid the judges and lawyers in this determination of "qualified" interpreters, the bill defines what a certified, or qualified, interpreter is. Standards for sign language interpreters are now available through the Kansas Commission for the Deaf and Hearing Impaired. The Quality Assurance Screening Test (QAST) for sign language interpreters establishes standards on a regional basis by which the interpreter's skills and knowledge are assessed, and graded by levels. Another standard used is the Registry of Interpreters for the Deaf (RID), a national organization that also evaluates and certifies interpreters. Both QAST and RID certification meets the certification requirements in K.S.A. 75-4351(B). The Kansas Commission for the Deaf and Hearing Impaired will disseminate information about these standards to the court clerks and the Bar Association.

Preparation for court cases is critical in terms of understanding the proceedings and outcome of the trial. For the same reasons I mentioned earlier, the changes proposed in this bill related to preparations for such proceedings will greatly aid the lawyer and the deaf person in a more effective preparation of the case.

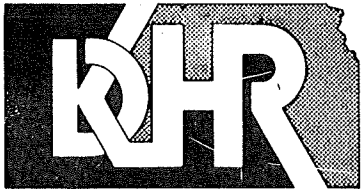
To protect the privileged communications between the lawyer and his/her deaf client, the bill extends this privilege to include the interpreter when such communications takes place.

We believe that the changes proposed in H.B. 2137 will enable deaf and hearing impaired persons to participate effectively in matters directly affecting them

in court proceedings. Court cases and the issues/results will be processed faster, more efficiently by all parties concerned.

Thank you for this opportunity to present this testimony.

David S. Rosenthal
Executive Director
Kansas Commission for the Deaf
and Hearing Impaired
296-2874
February 16, 1987

ADVISORY COMMITTEE ON EMPLOYMENT
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Testimony in support of House Bill No. 2137
regarding provision of interpreters

presented to

Senate Public Health and Welfare Committee

by Ray Petty, Legislative Liaison, KACEH *RP*

March 30, 1987

Thank you for this opportunity to testify in support of House Bill 2137. Although this is not a costly bill, and although it does not apply to a large number of citizens, it is a very important bill in terms of the civil rights of the citizens to whom it does apply. The bill takes a significant step in the direction of guaranteeing deaf and hearing impaired persons their due process and equal protection rights. Further, the bill recognizes the right of Kansas' deaf citizens to participate in the legislative arena as first-class citizens. This has been a top KACEH legislative issue since 1985 and we continue to believe that it is time to open the democratic process to voices which have been muted too long.

You may be aware of the interpreter bill (H.B. 2221) which was introduced during the 1985 session, considered in a 1985 interim study, and brought up for hearings again last session. That bill would have required governmental units including courts, at the state and local levels, to provide qualified sign language interpretation for deaf and hearing-impaired citizens. Although there was a complex issue contained in that bill - the right of deaf persons to serve on juries - the remainder of the bill dealt with due process and equal protection for Kansas' deaf and hearing-impaired citizens. Other than the jury issue, that bill did not break ground that had not already been broken in a substantial number of other states.

This year's bill is narrower. Local governments are not covered. Jury duty is not included. The issues are simple and the requested remedies are modest. There is ample flexibility granted to deal with local conditions (which has been improved with the House committee amendment contained in lines 58-62). But the major thrust is still there - that communication access is a right, not a governmental nicety which may or may not be provided. No deaf person in our state should be asked to provide their own interpreter in order to have access to our state government and certainly not to our courts.

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In order to make an educated decision about this issue, one must be aware of certain existing laws. First and foremost is Section 504 of the Rehabilitation Act of 1973, as amended. According to the implementing regulations pursuant to that law, any program which receives federal financial assistance may not discriminate against handicapped persons in the provision of its services or in the employment of such persons in its workforce. This mandate includes the removal of communication barriers and specifically includes the provision of interpreters for the deaf. The cost of insuring program accessibility is to be paid by the program in question.

This mandate obviously includes the state departments of Education, Human Resources, Social and Rehabilitation Services, Transportation, Health and Environment, state universities, as well as county and municipal governments which receive over \$25,000 in federal funds. Failure of any of these covered programs to provide access to disabled persons places that program in violation of federal law. One specific remedy for non-compliance is the discontinuation of those federal funds. Furthermore, the Rehab Act Amendments of 1986 make it clear that a state is not immune under the Eleventh Amendment for a violation of section 504 or any other Federal statute prohibiting discrimination by recipients of Federal financial assistance. The same remedies which are available for such a violation by any public or private entity are also available in a suit against the state, including remedies both at law and in equity. This then is no trivial issue.

Mr. Rosenthal of the Kansas Commission for the Deaf and Hearing Impaired (KCDHI) has or will bring to your attention the rejection of a statement for reimbursement of interpreter services provided by KCDHI to a court in Hays in the case of a deaf person charged with DUI. The judge indicated that he would have "made do" had he known a fee was involved. What "making do" means is taking out a pad of paper and a pencil and scribbling notes back and forth, perhaps mixed with some elementary gesticulation. Such treatment is totally unacceptable, particularly in a court of law. (So is bringing in Aunt Mabel, who has a deaf second-cousin she spent several summers with in her youth).

I believe that courts are MORALLY obligated to provide interpreter services. And, although I am not an attorney, there is no doubt in my mind that constitutional issues of due process and equal protection are germane. Can a deaf person obtain justice when needed communication is curtailed or denied due to the person's handicapping condition? The answer is clearly NO. We all know or should know that by now. Recent movies and television specials have poignantly portrayed the barriers to social participation faced by deaf people on a day-to-day, lifelong basis.

[I recommend that you see "Children of a Lesser God" for further enlightenment. Marlee Matlin, a deaf woman, is a strong candidate for best actress in tonight's Academy Awards for her role in that film.]

There may be no quick fix for this ostracism. But beginning steps are at hand. No deaf or speech-impaired person should ever be subjected to criminal or civil procedures without qualified interpretation assistance. And that includes police procedures.

There also is a provision in the bill to improve the legislature's own accommodation of deaf, hearing- and speech-impaired persons. Any person who gives reasonable notice to the state legislature should be provided an interpreter to facilitate their participation in the democratic process. That is every citizen's right.

This is a bill you should be proud to support. It is quite reasonable in its scope and in the services it requires. Mr. Bill Buntin, Chairman of the House Appropriations Committee appointed a subcommittee consisting of Bob Vancrum, David Heinemann, and John Solbach. Those three gentlemen all agreed this protection needs to be guaranteed. I strongly encourage you to recommend House Bill 2137 favorable for passage and to support it on the Senate floor. I would be pleased to answer any questions you may have.

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