

Approved April 8, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

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

1:00 a.m. on April 4, 1988 in room 313-S of the Capitol.

All members were present except:

Representatives Adam, Bideau, Crowell, Douville, Fuller, O'Neal, Peterson, Sebelius and Wagnon, who were excused.

Committee staff present:

Jill Wolters, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Representative Jack Shriver
Marjorie VanBuren, Office of Judicial Administrator
Jerry Goodell, Attorney
Joe Herold, Attorney, Osage City

The minutes of March 22, 13, 24, 28 and 29 were approved as of noon April 4, 1988.

Hearing on H.B. 3110 -- Concerning legal services for indigent defendants; relating to powers, duties, and functions of the Supreme Court

Representative Shriver reviewed the indigent statutes that would be repealed by this bill. He stated that a very few judges have refused to do what is required by statute. He said the State Board of Indigents' Defense Services still has the cooperation of the Administration and the House of Representatives, but not of the Senate. A few judges have lobbied to have the authority to continue to appoint whomever they want to. The Board is not able to implement their public defender concept. This bill would transfer the responsibility to the Supreme Court to provide for adequate legal counsel to indigent defendants according to constitutional standards.

Marjorie VanBuren testified the Office of Judicial Administration feels that the administration of defense services for indigents is properly an executive branch function. This decision was made by the Legislature in 1982. She said the Judicial Council and the interim committee stated that the hiring of public defenders should not be done by the Court. A statement prepared by Patricia Henshall, Staff Attorney, Office of Judicial Administration was distributed to the Committee, (see Attachment I).

Jerry Goodell stated he served on the Judicial Council Committee that studied for two years which was a better system, public defenders or assigned counsel. He said the old system run by the Supreme Court did not work well, and he was opposed to going back to that system. He still believes a statewide public defender system would be the best system. He was opposed to this bill.

Joe Herold stated he had problems with H.B. 3110. He said the Supreme Court would not have the time needed to implement the requirements of this bill. He was in support of a statewide public defender system as recommended by the State Board of Indigents' Defense Services.

The hearing was closed on H.B. 3110.

Representative Solbach moved to table H.B. 3100. Representative Roy seconded the motion. The motion failed.

A motion was made by Representative Shriver to report H.B. 3110 favorable for passage. The motion was seconded by Representative Buehler. The motion failed.

The Committee meeting was adjourned at 1:45 p.m.



State of Kansas

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Statement Presented to
House Judiciary Committee
by Patricia Henshall, Staff Attorney
April 4, 1988
House Bill 3110

The Office of Judicial Administration believes that the administration of defense services for indigents is properly an executive branch function. The state is constitutionally required to provide counsel to certain indigents facing possible imprisonment. The executive branch, responsible for carrying out and administering the law, is the correct governmental branch for an agency administering defense services for indigents. A number of state and national reports support this view, including a 1979 report on the Kansas system by the National Center for Defense Management, a 1980 Kansas Judicial Council report, the ABA Standards for Defense Services, and the report of the 1981 Interim Ways and Means Committee which recommended the present system of administration.

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Attachment I