

Approved April 8, 1989  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Michael O'Neal at  
Chairperson

3:30 ~~xxx~~ /p.m. on March 22, 1989 in room 313-S of the Capitol.

All members were present except:

Representatives Peterson, Sebelius, Solbach and Vancrum, who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department  
Jill Wolters, Revisor of Statutes Office  
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Chuck Simmons, Attorney, Department of Corrections  
Commissioner Andrew O'Donovan, Alcohol & Drug Abuse Services, S.R.S.  
Galen Davis, Governor's Special Assistant on Drug Abuse  
Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association  
Elizabeth Taylor, Kansas Association of Alcohol and Drug Program Directors  
Phil Magathan, Kansas Association of Court Services Officers  
Ruth N. Meserve, Kansas Coalition for Drug Free Driving, Prairie Village

**HEARING ON S.B. 214 - Assessment of costs of transporting correctional inmates to court proceedings**

Chuck Simmons, Attorney, Department of Corrections testified the Department of Corrections does not have the staff or resources to undertake the additional responsibility of transporting inmates around the state to court hearings that in no way involve the Department of Corrections. Under S.B. 214, the Department of Corrections would remain responsible for transporting inmates to hearings or court appearances relating to their confinement and in which the department, institution, or an employee are named parties, see Attachment I.

The hearing was closed on S.B. 214.

**HEARING ON S.B. 301 - Discharge of voluntary patients under treatment act for mentally ill persons.**

Daric S. Smith, Attorney, testified S.B. 301 would allow minors who are 14 years of age and older to apply for discharge from a treatment facility in their own right, no matter what the circumstances were of their admission to a treatment facility, see Attachment II.

The hearing on S.B. 301 was closed.

**HEARING ON S.B. 233 - Conditions of release prior to trial**

Commissioner Andrew O'Donovan, Alcohol & Drug Abuse Services, S.R.S., testified S.B. 233 provides for the evaluation, intervention and treatment of alcohol and drug problems of those arrested or convicted of crimes, see Attachment III. This bill would add to the waiting list at state hospitals.

Elizabeth Taylor, Kansas Association of Alcohol and Drug Program Directors, expressed support for the intent of S.B. 233, but was concerned the waiting lists that already exist would be extended. She suggested additional funding that would provide treatment for more persons. Their youth programs and adult programs are segregated, and youth treatment is provided for youths and adult treatment is provided for adults.

Phil Magathan, Kansas Association of Court Services Officers, stated they were not opposed to S.B. 233, however, they were concerned how this bill would impact the work load of Court Services Officers. Future considerations would be additional court services officers and additional funds. He distributed a list of court services officers duties by Kansas statutes, see Attachment VIII.

The hearing was closed on S.B. 233.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY  
room 313-S Statehouse, at 3:30 ~~am~~/p.m. on March 22, 1989

HEARING ON S.B. 75 - Alcohol & drug evaluations required for certain offenders

Commissioner Andrew O'Donovan, Alcohol and Drug Abuse Services, S.R.S. testified S.B. 75 is an important step in identifying, assessing and intervening in a young person's alcohol and drug problem at an early age. The bill provides that evaluations be performed by a community-based alcohol and drug safety action program. In Kansas 36 percent of youth under 21 years of age enter treatment through referral from the criminal justice system. S.B. 75 is an important tool to turn around these young lives in the early stages of an alcohol or drug problem, see Attachment III.

Galen Davis, Governor's Special Assistant on Drug Abuse, testified S.B. 75 would require evaluations for persons under 21 that have been convicted of an alcohol or other drug offense, which would help them and their families to confront the reality of their drug abusing behaviors. Treatment professionals now know that intervention does work in getting abusers, alcoholics and addicts to treatment and subsequently into alcohol and drug-free lifestyles. He stated Governor Hayden encourages the Judiciary Committee support S.B. 75, see Attachment IV.

Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association, testified they provide approximately 9,000 evaluations annually for those individuals who have been arrested for driving while under the influence of alcohol and/or drugs for the courts in their respective judicial districts. They support S.B. 75 as an early intervention for those persons under the age of 21. He suggested amending S.B. 170 into S.B. 75. S.B. 170 extends the provisions of S.B. 75 to those persons over 21 years of age when violating the transportation of liquor, transportation of cereal malt beverage, or consumption of a cereal malt beverage while operating a vehicle. S.B. 170 also allows diversion agreements on first time offenders, see Attachment V.

Elizabeth Taylor, Kansas Association of Alcohol and Drug Program Directors, informed the Committee that early identification of the alcohol and drug abuser is easier to treat and is less expensive than treatment at a later stage in the development of the disease of alcoholism and addiction. She also supported extending the evaluation of juveniles to include enhanced alcohol and drug treatment when the evaluation shows that such treatment is needed, see Attachment VI and VII.

Ruth Meserve, Kansas Coalition for Drug Free Driving, testified that it be mandatory that the court order persons under 21 years of age that are in violation to submit and complete an alcohol and drug evaluation program at the time the offense occurred and pay the fee for such evaluation, see Attachment IX.

The hearing was closed on S.B. 75.

The Committee meeting was adjourned at 5:00 p.m. The next meeting will be Thursday, March 23, 1989 at 3:30 p.m. in room 313-S.



STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building  
900 S.W. Jackson—Suite 400-N  
Topeka, Kansas 66612-1284  
(913) 296-3317

Mike Hayden  
Governor

Roger V. Endell  
Secretary

March 22, 1989

TO: House Judiciary Committee

RE: SENATE BILL NO. 214

On October 5, 1987, the Attorney General released opinion number 87-147. In this opinion, the Attorney General concluded that in the absence of statutory provisions to the contrary the custodian of a prisoner is the proper entity to be charged with the transportation of the prisoner to court for proceedings on a civil action.

The Department of Corrections is the custodian of approximately 6100 inmates at this time. The impact of this opinion on the Department of Corrections would be significant. It would mean that potentially the Department of Corrections would have the responsibility of transporting inmates to all 105 counties for court hearings such as divorces, custody hearings, and personal injury actions. The Department of Corrections would not be a party to these actions nor would it have an interest in the outcome.

At the current time, due to high inmate population levels, the Department of Corrections is having a difficult time in meeting the transportation needs of the inmate population. There is a backlog of inmates who need to be transported for medical and other services outside the institutions. There are an increasing number of court hearings involving the institutions to which inmates must be transported.

Simply put, the Department of Corrections does not have the staff or resources to undertake the additional responsibility of transporting inmates around the state to court hearings that in no way involve the Department of Corrections. That responsibility should rest with someone else. Under S.B. 214, the Department of Corrections would remain responsible for transporting inmates to hearings or court appearances relating to their confinement and in which the department, institution, or an employee are named parties.

*House Judiciary*  
*3/22/89*  
*Attachment I*

SENATE BILL NO. 301: TESTIMONY OF DARIC S. SMITH  
BEFORE THE HOUSE JUDICIARY COMMITTEE  
AT 3:30 P.M. ON MARCH 22, 1989

Good afternoon, ladies and gentlemen. My name is Daric Smith. I am a practicing attorney here in Topeka, Kansas. I have come to solicit your support for the passage of Senate Bill No. 301, which concerns the amendment of K.S.A. 59-2907. K.S.A. 59-2907 is the statutory portion of the Treatment Act for Mentally Ill Persons in Kansas which deals with the right to discharge for voluntary patients <sup>and</sup> ~~in~~ the procedure, which is to be followed.

At certain points in my testimony, I will be referring to K.S.A. 59-2905, which deals with voluntary admission to treatment facilities. In addition, I would reference you to the letter I have sent to each of you containing materials and letters sent to the members of the Senate Judiciary Committee, and the Senate Public Health and Welfare Committee for further background information concerning this bill.

Before I get to the specifics of Senate Bill No. 301, I would like to address two areas of the law from which that bill springs; the constitutional rights of parents to determine the physical placement of their children and mental illness law.

Traditionally, parents have had the right to determine the physical placement of their children until those children reach the age of majority. This right springs not only from the constitutional rights of the parents, but also from the fact that the law presumes that those who are under the age of majority do not have the capacity to make rational and sound decisions concerning their physical placement and welfare. These rights and presumptions are still contained in our law today.

*House Judiciary  
3/22/89  
Attachment II*

The body of law which concerns the commitment of mentally ill persons to treatment facilities and is contained in our statutes for the care and treatment of the mentally ill springs from the state's parens patriae rights to protect not only mentally ill persons from endangering themselves, but also other persons from being endangered by the mentally ill. Our statutes make a distinction between those mentally ill persons whom we will allow to become voluntary patients at our treatment facilities and those who must be committed to the care of a treatment facility for their own protection and safety as well as that of others.

Our statutes have created a four element test by which a judge or jury is to determine whether or not a person may be committed to a treatment facility against his will. One of those elements, and perhaps the most important of them, is that a person must lack the capacity to make an informed decision concerning treatment.

These two areas of law converge in K.S.A. 59-2905. As I said before, K.S.A. 59-2905 deals with persons who may become voluntary patients at a treatment facility. In K.S.A. 59-2905, the legislature has seen fit to grant minors who are 14 years of age and older the capacity to make a voluntary decision concerning treatment at a mental facility. When a minor 14 years of age and older makes a decision to become a voluntary patient at a treatment facility, the law requires that the parents be notified. This notification is required by the constitution because any time parents' rights to the placement of their children are to be infringed upon, the parents must at least be given notice of the impending infringement. Parental rights concerning the physical placement of their children, however, end at the notice point. Our statutes, and the case law surrounding statutes such as this one, do not allow parents to interfere with the child's right to make a decision concerning voluntary placement at a treatment facility once the parents have been notified.

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This brings me to K.S.A. 59-2907, which is the subject of Senate Bill No. 301.

K.S.A. 59-2907 requires that the application for discharge of minors from a treatment facility be made by the parent or a person in loco parentis of the minor. With respect to minors 14 and more years of age, K.S.A. 59-2907 requires the parent or person in loco parentis of the minor to make application for discharge unless the minor 14 and more years of age had made voluntary application under K.S.A. 59-2905. To my mind, the combinant effect of K.S.A. 59-2905 and K.S.A. 59-2907 is to deny minors 14 years of age and older equal protection of the laws and also to deny them due process under our laws.

My arguments concerning equal protection for these minors are more fully set out in my letter to Senator Ehrlich and my arguments concerning the due process which I feel these minors are entitled to are more fully set out in my letter to the Senate Judiciary Committee, both of which you should have received in the letter I mentioned previously. At the core of both arguments, is the following:

The legislature has seen fit to endow minors who are 14 years of age and older with the capacity and the right to make a voluntary decision concerning treatment of their own mental illness. Once the legislature has endowed that capacity and right upon minors who are 14 years of age and older, those minors become equal in the eyes of the law to a person over the age of majority who is subject to our care and treatment act for the mentally ill. The legislature has, in effect, taken away the presumption of incapacity for minors 14 years of age and older. At the same time, however, our statutes allow the parents of this capacity enriched minor to commit him as "voluntary" patient against his will. If a minor 14 years of age and older

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is signed in as a "voluntary patient" by his parents, that minor may only leave the facility if he can obtain a request for discharge from his parents; the same persons who put him in the treatment facility in the first place. For the class of minors that I am speaking about that means up to four years of involuntary placement in a treatment facility without the opportunity for judicial review of their predicament.

It seems to me that the legislature cannot give a group of persons the capacity and right to make decisions concerning treatment in one breath (K.S.A. 59-2905) and then in the next (K.S.A. 59-2907), take that right away.

At the very least, it does not seem right for the legislature to allow a group of persons to be confined against their will for up to four years with no opportunity for judicial review of their situation.

Senate Bill No. 301 would amend K.S.A. 59-2907 to allow minors who are 14 years of age and older to apply for discharge from a treatment facility in their own right, no matter what the circumstances of their admission to a treatment facility. Will Senate Bill No. 301 allow minors who are in need of treatment to walk away from a facility at any time they choose? No. Our statutes for the care and treatment of mentally ill persons provide treatment facilities with a safety valve to prevent mentally ill persons who are dangerous to themselves and others from leaving a treatment facility before commitment procedures can be begun.

When any person makes application for discharge from a treatment facility, the treatment facility has three days, excluding weekends and holidays, in which to file an application for determination of mental illness (i.e. to file involuntary commitment proceedings). Once a commitment proceeding is started, the proposed patient must stay at a treatment facility until probable

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cause and merit hearings have been held to determine if he may be committed as an involuntary patient to the treatment facility. This safety valve prevents the proposed patient from injuring himself or others while away from the structure of a treatment facility. As a former assistant district attorney and current private practitioner with over 130 of these cases under my belt, I can assure you that three days is enough time to get an application for determination of mental illness on file with the district attorney. Will Senate Bill No. 301 deprive parents of the ability to obtain psychiatric help for minors who are 14 years of age and older when those minors are in need of such help? No.

Once again, our statutes provide a remedy. Kansas Law provides for an emergency observation period under which a person may be taken to a treatment facility and held there for up to 24 hours, during which time commitment procedures may be instituted if they are needed. Further, our statutes provide for the issuance of pick up and transportation orders on the same day that an application for determination of mental illness is filed. These orders allow the local law enforcement authorities to pick up and transport a proposed patient to a mental health facility on the same day an application for determination of mental illness is filed and for the treatment facility to detain the proposed patient for a period of 48 hours, after which time a probable cause hearing will be held to determine whether or not the proposed patient should be bound over at the treatment facility pending a hearing on the merits of his case.

In short, Senate Bill No. 301 simply represents a housekeeping measure which will insure that the Kansas provisions for care and treatment of mentally ill persons do not run afoul of the Constitution of the United States.

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Members of the House Judiciary Committee, I have now finished my prepared statement and I this concludes my remarks. At this point, I will be more than happy to answer any questions you may have concerning this bill. Thank you.

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Att II*

Department of Social and Rehabilitation Services  
Winston Barton, Secretary

Senate Bills 75 and 233

I am Andrew O'Donovan, Commissioner, SRS Alcohol and Drug Abuse Services.

We support Senate Bills 75 and 233. They are important steps in reducing the alcohol and drug abuse problems in Kansas.

Senate Bill 75 is an important step in identifying, assessing and intervening in a young persons alcohol and drug problem at an early stage. I support the bill and the provisions to have the evaluations performed by the community-based alcohol and drug safety action programs. They have the experience and expertise to perform the evaluations and make the proper assessment and referral. According to research, effectiveness of treatment is improved by matching clients to the most appropriate treatments.

Among adults, there is a temptation to sit back and evaluate a young person's use of alcohol and drugs for a longer period of time and hope the problems will go away. The odds are just too high if we take this approach. National research indicates that almost one-third of all school-aged youth are affected either by their own use of mood-altering chemicals or by that of their family members. Seventy-six percent of Kansas 11th and 12th graders have used alcohol in the past 30 days. Marijuana has been used by 18 percent. In high school binge drinking is too common. In a recent survey, more than 37 percent of high school seniors surveyed reported at least one occasion of heavy drinking (an occasion in which they had five or more drinks in a row) in the past two weeks. This use accounts for the majority of teenage accidents, drownings, suicides and violent injuries.

In Kansas, 36 percent of youth under 21 years of age enter treatment through referral from the criminal justice system. Senate Bill 75 is an important tool to turn around these young lives in the early stages of an alcohol or drug problem.

Senate Bill 233 provides for the evaluation, identification, intervention, and treatment for a population at a very high risk for alcohol and drug problems. In a great majority of cases, alcohol and/or drugs are contributing factors to the crime committed. We fully support this effort to address the alcohol and drug problems of those arrested or convicted of crimes.

Thank you for the opportunity to support this important legislation.

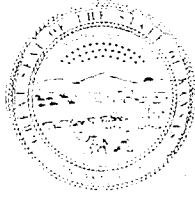
Submitted by

Andrew O'Donovan  
Commissioner  
Department of Social and  
Rehabilitation Services  
296 3925

*House Judiciary*  
*3/22/89*

*Attachment III*

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol  
Topeka 66612-1590  
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Mike Hayden Governor

**Testimony Concerning SB 75  
Presented To  
The House Judiciary Committee  
March 22, 1989  
By  
Galen E. Davis  
Governor's Special Assistant on Drug Abuse**

Mr. Chairman, members of the committee, I appreciate the opportunity to appear before you today representing Governor Hayden's support for SB 75. The Governor requested your support for this bill in the State of the State Message because of its potential for turning young lives around.

By requiring evaluations for those under 21 that have been convicted of an alcohol or other drug offense we can help them and their families to confront the reality of their drug abusing behaviors.

We know that the problems of alcohol and drug abuse, alcoholism, and drug addiction are almost always denied, minimized, justified and covered up by the individual suffering from this illness. Loved ones, co-workers, and friends also tend to overlook drug abusing behaviors. This enabling process in the early stages of alcoholism and addiction allows the disease and often times accompanying criminal behaviors to continue and escalate.

For years the prevailing wisdom for alcoholism and addiction treatment was that a person had to hit rock bottom, physically, mentally, and morally before treatment would work.

Currently, research and experience have shown that significant crises, such as arrest and prosecution, impending loss of a job or separation from loved ones can serve as an effective intervention when the persons drinking and drug use is properly confronted. Treatment professionals now know that interventions do work in getting abusers, alcoholics and addicts to treatment and subsequently into alcohol and drug-free lifestyles.

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Attachment IV*

By requiring an alcohol and drug evaluation for convicted young people under 21, the legislature and the criminal justice system have a tremendous opportunity to intervene early in the alcohol abuse, drug abuse, and criminal activity of young people. This court ordered evaluation may very well be the first time that the young person and their family have ever confronted their alcohol and drug related behavior.

Another important element of this bill is that the offender pays the cost of the assessment. Thus the offender is forced to confront the financial responsibility of their behavior.

Additionally, courts can have confidence in the quality of the assessments by appointing one of their own community based alcohol and drug programs as the court certified assessment agency.

In conclusion, early assessment, intervention and treatment do work. This confrontation by evaluation will increase the possibility that those needing counseling will get it. You have the unique opportunity with this bill to turn young lives around that are destined for the cycle of addiction, criminal activity and prison.

Governor Hayden appreciates your consideration of this bill and encourages your support for it. Thank you.

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Att IV*

TESTIMONY

Senate Bill No. 75

House Judicial Committee

March 22, 1989

Mr. Chairman and Members of the Committee:

I represent the Kansas Community Alcohol Safety Action Project Coordinators Association. We provide approximately 9,000 evaluations annually for those individuals who have been arrested for driving while under the influence of alcohol and/or drugs for the Courts in our respective Judicial Districts. Throughout the past ten years, our organization has been dedicated to the promotion of highway safety in the State as it relates to the responsible use of alcoholic beverages. In addition, we have supported tougher penalties for those individuals who choose to use other illegal mind altering drugs. We support Senate Bill No. 75 as a method of early intervention for those persons under the age of 21 who possess or consume alcohol or cereal malt beverages in a public place. We also support Senate Bill No. 75 as a method of intervening for those young adults under age 21 who violated drug laws.

Due to the change of the laws in the past several years in making alcoholic beverages more available in the public market places, these young adults have been quite resourceful in obtaining those beverages illegally and consequently are apprehended by law enforcement personnel. These offenders may be young adults who, because of their age group, are acting in defiance of the law or they may be yielding to peer pressure. However, a good number of these young offenders may have the characteristics of an alcoholic or drug addict.

Under present statutes and ordinances, these offenders will be offered Diversion for their offense or ordered to pay a small fine and placed on unsupervised probation. These measures stop short of offering any information, education or treatment to that offender. A lack of a drug and alcohol evaluation to these young offenders allows them to "experiment" more with alcohol and then possibly progress into more serious crimes. For those who have the characteristics of becoming alcoholic or drug addicted, their addiction progresses because they go unnoticed until more serious life problems become apparent. We feel that any young offender of our alcohol and drug laws should have an alcohol and drug evaluation at their first offense to determine the seriousness of their alcohol and drug problem. Chances are, the majority will be classified

*House Judiciary*  
*3/22/89*  
*Attachment V*

as a social or early problem drinker and an information/education school will be recommended to the Court. However, a good number of those offenders may possess the characteristics or drinking patterns that would place them in a category of a problem drinker or drug abuser and professional assistance may be recommended to the Court. We support mandatory alcohol and drug evaluations for alcohol and drug offenders under the age of 21. The mechanism to accomplish these evaluations is already established throughout the State of Kansas through the Alcohol Safety Action Projects. Each Judicial District has an Alcohol Safety Action Project at their disposal for providing evaluations for those alcohol and drug offenders. These Alcohol Safety Action Projects have demonstrated in the past, throughout the years, that they are quite capable of quality evaluations to the Court systems. We would suggest that the same procedure as provided under KSA 8-1008 be legislated for all young offenders of alcohol and drug laws. In addition, we suggest that the evaluation fee, which is not to exceed \$110, be firmly established by the Court and be paid by the offender rather than placing the cost at the feet of the taxpayer.

A majority of the young offenders of the alcohol and drug laws would eventually outgrow their problematic behavior. It is unfortunate that a certain percentage of them will not live long enough to do so. Alcohol and drug related accidents, including accidental overdose, are a leading cause of death for youth 13-21 years of age. Intervention in the form of a drug and alcohol evaluation and a structured education program could provide these young people with accurate information and hopefully help reduce the number of alcohol and drug related accidents in this age group. Alcohol and drug abusers are much easier to treat and at a considerably less expense if intercepted in the early stages, than those who continue to abuse their drug of choice over a period of years. Identification and subsequent education and/or treatment for these youthful offenders could be a positive factor in reducing our prison population problem in the future.

✓ The Honorable Dan Mitchell, Juvenile Judge of the Third Judicial District, testified that 40 to 60% of the cases that appeared in his Court involved alcohol and drugs in the Senate Hearings. Jean Schmidt, Assitant District Attorney for juveniles also supported the legislation. Both Judge Mitchell and Assistant District Attorney Jean Schmidt, made suggested amendments to the Bill and these were incorporated in Committee Report. The proposed Bill passed the full Senate on a vote of 40 to 0.

*W.J. 3/22/89*  
*Att V*

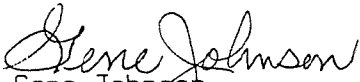
We would suggest to this Committee, the possibility of amending Senate Bill No. 170 into Senate Bill No. 75. Hearings were held in Senate Judicial Committee, but due to the limit of time, the Bill is still in the Committee.

Senate Bill No. 170 only extends the provisions of Senate Bill No. 75 on those persons over age 21 when violating K.S.A. 41-804, K.S.A. 41-2719 and 41-2720. These are the violators of transportation of liquor, transportation of cereal malt beverage or consumption of a cereal malt beverage while operating a vehicle.

Conditions of Senate Bill No. 170 would also allow diversion agreements on first time offenders.

We would also suggest that these three violations be removed from Chapter 41 and placed in Chapter 8 of the State Statutes. Thank you.

Respectfully,

  
Gene Johnson

Legislative Liaison

Kansas Community Alcohol Safety Action Project Coordinators Association

*Y.J. 3/22/89*  
*Att V*



## SENATE BILL No. 170

By Senators Doyen, Allen, Ehrlich, Frahm, Gaines, Montgomery,  
Oleen, Parrish, Sallee and Vidricksen

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16  
17 AN ACT concerning alcoholic beverages; relating to transportation  
18 in open containers and consumption while operating a motor ve-  
19 hicle; repealing K.S.A. 41-804, 41-2719 and 41-2720.

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

21 Section 1. (a) No person shall operate a motor vehicle upon a  
22 highway or street while there is in such vehicle any alcoholic bev-  
23 erage unless such beverage is:

24 (1) In the original unopened package or container, the seal of  
25 which has not been broken and from which the original cap, cork  
26 or other means of closure has not been removed;

27 (2) in the locked rear trunk or rear compartment, or any locked  
28 outside compartment which is not accessible to any person in the  
29 vehicle while it is in motion; or

30 (3) in the exclusive possession of a passenger in a recreational  
31 vehicle or bus who is not in the driving compartment of such vehicle  
32 or bus or who is in a portion of such vehicle or bus from which the  
33 driver is not directly accessible.

34 (b) Violation of this section is a misdemeanor punishable:

35 (1) Upon conviction of the first violation, by a sentence of pro-  
36 bation conditioned on enrollment in and successful completion of an  
37 alcohol and drug safety action program certified pursuant to K.S.A.  
38 8-1008 and amendments thereto and payment of an assessment not  
39 exceeding \$110, to be disposed of in the manner prescribed for  
40 assessments pursuant to K.S.A. 8-1008 and amendments thereto. If  
41 the conditions of probation are not met, the court shall revoke pro-  
42 bation and sentence the violator pursuant to subsection (b)(2).

43 (2) Upon conviction of a second or subsequent violation, or on  
44 revocation of probation for conviction of the first violation, by a fine

45 of not less than \$100 nor more than \$500 or by imprisonment for  
46 not more than six months, or by both.

47 (c) Except as provided in subsection (d), upon conviction of a  
48 violation of this section, the judge, in addition to any other penalty  
49 or disposition ordered pursuant to law, shall suspend the person's  
50 driver's license or privilege to operate a motor vehicle on the streets  
51 and highways of this state. Upon conviction of the first violation by  
52 such person, the suspension shall be for three months. Upon con-  
53 viction of a second or subsequent violation, the suspension shall be  
54 for not less than one year.

55 Upon suspension of a license pursuant to this section, the court  
56 shall require the person to surrender the license to the court, which  
57 shall transmit the license to the division of motor vehicles of the  
58 department of revenue, to be retained until the period of suspension  
59 expires. At that time, the licensee may apply to the division for  
60 return of the license. If the license has expired, the person may  
61 apply for a new license, which shall be issued promptly upon pay-  
62 ment of the proper fee and satisfaction of other conditions established  
63 by law for obtaining a license unless the person's driver's license or  
64 privilege to operate a motor vehicle has been revoked, suspended  
65 or canceled for another cause and the revocation, suspension or  
66 cancellation has not expired.

67 (d) In lieu of suspending the driver's license or privilege to op-  
68 erate a motor vehicle, as provided in subsection (c), the judge, upon  
69 conviction of a person for the first violation of this section, may place  
70 restrictions on the person's driver's license pursuant to K.S.A. 1988  
71 Supp. 8-292 and amendments thereto.

72 (e) The district, county or city attorney, as the case may be,  
73 shall report every conviction of a violation of this section or of an  
74 ordinance which prohibits the acts prohibited by this section and  
75 every diversion agreement entered into in lieu of further criminal  
76 proceedings or a complaint alleging a violation of this section or of  
77 an ordinance which prohibits the acts prohibited by this section to  
78 the division. Prior to sentencing under the provisions of this section,  
79 the district or municipal court shall request and shall receive from  
80 the division a record of all prior convictions obtained against such  
81 person for any violations of any of the motor vehicle laws of this

82 state.

83 (f) Nothing contained in this section shall be construed as pre-  
84 venting any city from enacting ordinances declaring acts prohibited  
85 or made unlawful by this act as unlawful or prohibited in such city  
86 and prescribing penalties for violation thereof, but the minimum  
87 penalty and license suspension and restriction in any such ordinance  
88 shall not be less than nor exceed the minimum penalty and license  
89 suspension and restriction prescribed by this act for the same vio-  
90 lation, nor shall the maximum penalty and license suspension and  
91 restriction in any such ordinance exceed the maximum penalty and  
92 license suspension and restriction prescribed for the same violation.

93 (g) If a person is convicted under this section or under a city  
94 ordinance declaring acts prohibited or made unlawful by this act as  
95 unlawful or prohibited in the city and already has a restricted, sus-  
96 pended or revoked driver's license, any period of license suspension  
97 or restriction under this section shall not begin until the prior period  
98 of restriction, suspension or revocation has elapsed.

99 (h) No plea bargaining agreement shall be entered into nor shall  
100 any judge approve a plea bargaining agreement entered into for the  
101 purpose of permitting a person charged with a violation of this sec-  
102 tion, or any ordinance of a city in this state which prohibits the acts  
103 prohibited by this section, to avoid the mandatory penalties estab-  
104 lished by this section or by the ordinance. For the purpose of this  
105 subsection, entering into a diversion agreement pursuant to K.S.A.  
106 12-4413 *et seq.* or 22-2906 *et seq.*, and amendments thereto, shall  
107 not constitute plea bargaining.

108 (i) As used in this section:

109 (1) "Alcoholic beverage" means any alcoholic liquor, as defined  
110 by K.S.A. 41-102 and amendments thereto, or any cereal malt bev-  
111 erage, as defined by K.S.A. 41-2701 and amendments thereto.

112 (2) "Bus" has the meaning provided by K.S.A. 8-1406 and amend-  
113 ments thereto.

114 (3) For the purpose of determining whether a conviction is a  
115 first, second or subsequent conviction in sentencing under this  
116 section:

117 (A) "Conviction" includes being convicted of a violation of this  
118 section or of K.S.A. 41-804, 41-2719 or 41-2720 as they existed before

119 their repeal by this act or entering into a diversion agreement in  
120 lieu of further criminal proceedings on a complaint alleging a violation  
121 of this section or of K.S.A. 41-804, 41-2719 or 41-2720 as they existed  
122 before their repeal by this act;

123 (B) "conviction" includes being convicted of a violation of a law  
124 of another state or an ordinance of any municipality which prohibits  
125 the acts that this section prohibits or entering into a diversion agree-  
126 ment in lieu of further criminal proceedings in a case alleging a  
127 violation of such a law or ordinance;

128 (C) only convictions of violations committed in the immediately  
129 preceding five years, including prior to the effective date of this act,  
130 shall be taken into account, but the court may consider other prior  
131 convictions in determining the sentence to be imposed within the  
132 limits provided for a first, second or subsequent offender, whichever  
133 is applicable; and

134 (D) it is irrelevant whether an offense occurred before or after  
135 conviction for a previous offense.

136 (4) "Highway" and "street" have the meanings provided by  
137 K.S.A. 8-1424 and 8-1473, and amendments thereto.

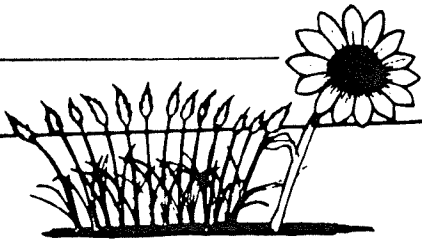
138 (5) "Recreational vehicle" has the meaning provided by K.S.A.  
139 75-1212 and amendments thereto.

140 (j) This section shall be part of and supplemental to the uniform  
141 act regulating traffic on highways.

142 Sec. 2. K.S.A. 41-804, 41-2719 and 41-2720 are hereby repealed.

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

145



# Kansas Association of Alcohol and Drug Program Directors

March 22, 1989

TO: House Judiciary Committee  
Honorable Representative Mike O'Neal, Chairman

FR: Elizabeth E. Taylor, Legislative Consultant  
Kansas Association of Alcohol and Drug Program Directors

RE: Juvenile Evaluations - Support of SB 75

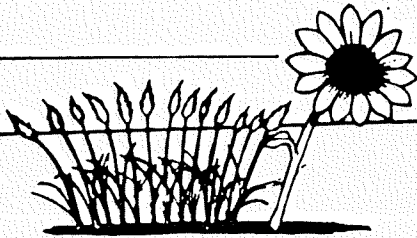
The Kansas Association of Alcohol and Drug Program Directors is comprised of approximately 50 of the alcohol and drug programs in Kansas including programs which provide alcohol and drug safety action projects.

As presented by the Legislative Position of the Kansas Coordinators of Alcohol and Drug Safety Action Projects, early identification of the alcohol and drug abuser is much easier to treat and is less expensive than treatment at a later stage in the development of the disease of alcoholism and addiction. The KAADPD also supports an extension of the evaluation of juveniles to include enhanced alcohol and drug treatment when the evaluation shows that such treatment is needed.

The burden to society of alcoholism and drug addiction is extremely expensive not only in dollars but also in lives. The alcoholic or drug addict today is much younger than those commonly thought of. To approach the problem early in its stages can not only save the money for the state and the families but also it can save the lives of our Kansas youth.

Thank you for the opportunity to submit the position of the KAADPD.

*House Judiciary  
3/22/89  
Attachment VI*



# Kansas Association of Alcohol and Drug Program Directors

1989

## KAAPD LEGISLATIVE POSITION PAPER

### BASIC PROGRAMMING NEEDS

KAAPD supports funding of the following projects:

- A. Increase the funding for existing alcohol and drug abuse services.
- B. Increase the number of indigent intermediate treatment beds for adults by 20 beds. Existing beds are fully utilized currently with waiting lists of one month not uncommon.
- C. Provide grants to existing community based treatment programs to hire 15 additional outpatient staff around the state to provide cost effective outpatient treatment services and reduce waiting lists.
- D. Fund 20 intermediate (residential) treatment beds for indigent youth between the ages of 13-17 years. These beds would serve an estimated 160 clients yearly. Currently there are only 27 state funded beds in community based programs serving indigent youth.
- E. Expansion of the Regional Prevention Centers to a total of nine regions. It is estimated that the two new Centers would provide alcohol and drug abuse prevention and education services to an additional 2,000-3,000 Kansas youth yearly once those programs were fully implemented. Funding would also provide an Intervention Specialist to each of the two new centers.
- F. Provide grants to community based treatment programs to hire additional outpatient counselors to provide intensive day and evening treatment services for youth who have not completed primary treatment, but who can remain in their home community.
- G. Increase the number of reintegration treatment beds by 60 for adult men and women. Emphasis should address the continuing need for beds for women and, in particular, women with children.
- H. Increase community alcohol and drug programming statewide for probationers and parolees. It is important that a continuum of services be available both in the institution and in the community.

*House Judiciary*  
*3/23/89*

*Attachment VIII*

KAADPD supports the need for a state approved credentialing system for alcoholism and drug addiction counselors. We encourage continued cooperation in this endeavor between ADAS, KADACA, ADSAP and KAADPD.

KAADPD supports the concept that private payors, insurance in specific, should continue to share the burden of cost of the disease of alcoholism. We appreciate the Legislature's efforts through mandating alcoholism and drug abuse insurance coverage and want to guarantee continuation of coverage in Kansas.

Approved by Board December, 1988  
Approved by Membership December, 1988

COURT SERVICES OFFICERS DUTIES BY KANSAS STATUTES

<u>KSA STATUTE</u>	<u>DUTY</u>
21-4604	Felony presentence investigations and reports
21-4604	Crime victim impact and attitude statement
21-4610	Supervision of felony probationers
21-4602	Supervision of parole from county jail
21-4610	Supervision of misdemeanor probation
21-4604	Misdemeanor presentence investigations and reports
8-1567	Supervision of DUI traffic offenders
22-2814 through 22-2817	Release on recognizance investigations and supervision of nonadjudicated offenders
22-2907 through 22-2911	Supervision of adults diverted to noncriminal outlets (diversion)
22-3428	Temporary Conditional release supervision of persons acquitted because of insanity
21-4619	Investigation and expungement reports
38-1661	Predisposition investigations and reports
38-1663	Juvenile offender probation supervision
38-1565	Child in need of care supervision
38-1632	Juvenile offender release programs
38-1673	Juvenile offender aftercare (conditional release)
38-1635	Supervision of juvenile offenders who have been diverted (diversion)
38-1544	Informal supervision of children in need of care
38-1562	Child in need of care predispositional investigations and reports
38-1610	Investigation and expungement of a juvenile offender's record
60-1615	Investigation and report of custodial arrangements for children involved in a divorce action
60-1616	Child visitation investigations and reports
60-1617	Counseling and mediation in a divorce action

*House Judiciary*  
*12/22/89*  
*Attachment VIII*



# Kansas Coalition for Drug-Free Driving

8212 BRIAR PRAIRIE VILLAGE, KANSAS, 66208 913 649-1177

To House Judiciary Committee  
RE: Senate Bill #75

Chairman and members of the committee

Kansas Coalition for Drug Free Driving is a state-wide coalition made up of members of Mothers Against Drunk Driving, Kansans for Highway Safety, Kansas PTA, Insurance Women of Wichita and ASAP Associations. Representing over 10,000 concerned citizens.

Drunk driving continues to be the leading cause of death for ones under 21 years of age.

The law is that no one under the age of 21 should be drinking and driving. If we can educate and treat the under 21 year olds who are in violation of this law by either possession, consumption or purchasing of alcohol or drugs. With this violation it should be made mandatory that the court order under age persons to submit and complete an alcohol and drug evaluation program at the time the offense occurs and to pay the fee for such evaluation. Maybe in this way we can prevent violation of this law.

As concerned citizens we ask for your support of this bill.

Thank you

Ruth Meserve

*House Judiciary*  
*3/22/89*  
*Attachment IX*