Approved 2-28-89
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

10:00 a.m./~~PM~~ on February 21, 1989 in room 514-S of the Capitol.

All members were present ~~except~~: Senators Winter, Yost, Moran, Bond, Feleciano, Gaines, D. Kerr, Martin, Morris, Oleen, Parrish, Petty and Rock.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Jane Tharp, Committee Secretary

Conferees appearing before the committee:

Bernard A. Bianchino, US Sprint Communications
Arthur A. Chaykin, Washburn University School of Law
Charles Simmons, Department of Corrections
Doug Wright, Mayor of Topeka
Mary Quiett, East Topeka Neighborhood Improvement Association
Dave Meneley, Topeka Police Department
Representative Anthony Hensley

The chairman reminded the committee and particularly the subcommittee of the community corrections meeting today on adjournment.

Senate Bill 145 - Civil procedure, service of process and venue.

The chairman explained the bill.

Bernard A. Bianchino, US Sprint Communications, testified these changes will recognize the special interest that the State of Kansas has in the telecommunication industry as well as clarify existing law regarding venue and jurisdiction of causes of action involving partnerships. Copy of his testimony is attached (See Attachment I).

The chairman recognized Arthur A Chaykin, Washburn University School of Law, to respond to questions concerning the attached memorandum (See Attachment II). Professor Chaykin spoke in support of the legislation. He stated this will give the idea this might be coming by the long arm itself. This statute makes it more clear and can be beneficial.

Senate Bill 211 - Credit for time spent in residential facility in imposing consecutive sentences.

Senate Bill 212 - Purpose of state reception and diagnostic center.

Senate Bill 213 - Evaluation of and program for female correctional inmates.

Senate Bill 214 - Assessment of costs of transporting correctional inmates to court proceedings.

Charles Simmons, Department of Corrections explained Senate Bill 214 provides a basis for assessing the cost and the jurisdiction for transporting inmates to court hearings that do not involve the Department of Corrections or confinement of that individual. He stated they don't have the manpower or the costs to transport inmates in from their system. A committee member inquired, what would be the cost to the department. Mr. Simmons replied if transporting for a long distance, many hours are involved. He said he would guess they probably get about twenty to twenty-five orders such as this a year. The average cost is a minimum of $200. He then explained Senate Bills 211, 213 and 213.

Doug Wright, Mayor of Topeka, appeared before the committee to express concerns

Senate Bills 211, 212, 213, 214 - continued

and the concerns of the citizens of Topeka regarding Senate Bill 212 and Senate Bill 213. He testified, I am afraid that the provisions of these bills, if enacted into law, could be used to destroy the property values of the homes owned by the citizens of Topeka who live in the Eastgate neighborhood, and if those values are lessened, then Topeka will have been lessened and the quality of life we enjoy will suffer. A copy of his testimony is attached (See Attachment III). In response to a question Mayor Wright responded neighbors are aware of what is out there now. They are concerned about the changes that have already occurred and concerned about what the state is planning.

Mary Holmgren, City Council Representative, did not appear to testify. A coy of her testimony is attached (See Attachment IV).

Mary Quiett, East Topeka Neighborhood Improvement Association, appeared to state the concern of the neighborhood because of the changes that have occurred in the past year at KCVTC. A copy of her testimony is attached (See Attachment V). She said she didn't have objection to women, it's the maximum security they are concerned about.

Dave Meneley, Topeka Police Department, representing the East End Neighborhood Association, appeared in opposition to Senate Bills 212 and Senate bill 213. He testified, I know the Department of Corrections will argue that SRDC already houses maximum security criminals, but there is a prodigious difference between a criminal who only remains 60 days and one who has 25 years to life to study the institution. A copy of his testimony is attached (See Attachment VI). A committee member inquired what is your concern with having those female prisoners brought down here? Mr. Meneley responded a woman who is a felon is every bit as dangerous as a male. In response to a question concerning movement of these people, Mr. Meneley responded I don't believe it increases risks. Normally they are chained when they are moved. A committee member inquired do you think SRDC is not a maximum security prison? Mr. Meneley replied I don't believe it is.

During committee discussion concerning Senate Bill 212 a committee member inquired whether to develop a proposal to contract the evaluation of that prisoner in Sedgwick County in a mental health department rather than transporting them to a central dianostic center. Mr. Doug Rakestraw, Association of Commmunity Health Centers, was recognized to respond to questions. He stated the centers are already doing a number of court referred evaluations. We have a number of questions what these evaluations entail. Sedgwick is the best example in the state because it has a holding unit where it does the evaluations. We have questions about whether to do these while people are held in jail. Discussion was held concerning standardizing the evaluations. In response to a questions Paul Klotz, Association of Community Mental Health Centers of Kansas, stated we have the capacity to begin to coordinate and regionalize. We have already bid on theses kinds of contracts. A committee member inquired why didn't you get the bid? Lawrence E. Meikel, Jr., Mental Health Consortium, Inc., Topeka, replied we were told we didn't have the administrative capabilities to do that, and also the capababilities of starting at the time the evaluations were needed. The committee member inquired who got the bid? Mr. Meikel responded a group from Arizona. The chairman requested copies of letters from the department indicating course of events discussed. The chairman asked for material from the Department of Corrections concerning this. In response to a question concerning the appropriate appeals process for the awarding of these contracts, Mr. Meikel explained their proposal was declined. We had to wait 30 to 45 days before the contract was signed. They were the lowest bidder.

Representative Anthony Hensley appeared to testify on Senate Bill 212 and Senate Bill 213. He said this is a big surprise to all of us. We were not informed

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,

room 514-S, Statehouse, at 10:00 a.m./p~~m~~. on February 21, 19 89.

Senate Bills 211, 212, 213, 214 -- continued

until the committee meeting when this issue was discussed. There is a long history along with this. He pointed out he introduced House Bill 2224 in the House to change the security status of the inmates at the state correctional training center. He suggested the committee seriously consider amending that language into one of the bills. He said that would establish the state's position with this area.

The meeting adjourned.

Copy of the guest list is attached (See Attachment VII).

Copy of statement from the League of Women Voters of Kansas is attached (See Attachment VIII)

Copy of a letter from John K. Usher is attached (See Attachment IX).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE DATE: 2-21-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Mary Quiett	Topeka	EAST END NIA
Jerome Droge	Topeka	Citizen
Merl Gurwell	Topeka	Highland Park NIA
Bonnie M Dish	Topeka	East Topeka North NIA
B.A. Brancheau	Seaman	U S Sprint
Mandie Kliewer	Ulysses	Close up
Vikki Norton	Ulysses	Close-up
Kim Neufeld	Ulysses	Close-Up
DeeDee Stewart	Ulysses	Close-Up
Candee Monson	Ulysses 67880	Close-Up
DEAN MEYERS	KANSAS CITY	
Holly Meyers	Kansas City	
Mark Dayworth	~~Close-Up~~ Meade	Close-up
Ron Ryckman	Meade	"
Aaron Hull	518 E. 4th Newton	Close-up
Jeremy Fort	—NEWTON—	Close-Up KS
Kathy Lehman	N. Newton	Closeup Kansas
Dawn Madsen	Newton	Closeup Kansas
Kim Stahly	Newton, Ks.	Close-up KS
Peter Doran	Ulysses Ks	Close-up Ks
Patrick Murphy	Manhattan	KTLA
Walt Luckert	Topeka	Assoc. Cred. Bureaus

Attachment VII
Senate Judiciary
2-21-89

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE DATE: 2-21-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
TERRY STEVENS	TOPEKA	CITY OF TOPEKA

TESTIMONY
OF
B. A. BIANCHINO
TO THE KANSAS COMMITTEE ON JUDICIARY
REGARDING SENATE BILL NO. 145

February 21, 1989

US Sprint is grateful to the Committee for requesting our views regarding proposed changes in K.S.A. 60-604, 60-605, and 60-308. These changes will recognize the special interest that the State of Kansas has in the telecommunication industry as well as clarify existing law regarding venue and jurisdiction of causes of action involving partnerships.

We live in an information age. Conversations travel over telecommunications networks with crystal clarity. We can hear a pin drop. Business is regularly transacted by telephone, both nationally and internationally. As technology advances, statutes regarding jurisdiction should be modified to clarify their application to modern technology and modern business transactions.

US Sprint is a Limited Partnership, 80.1% owned by United Telecommunications, which is a Kansas corporation with its principal place of business in Johnson County. While US Sprint is technically a Delaware limited partnership, we have thousands of employees in Kansas and our Network Operations Control Center (NOCC) is located in Johnson County. From this Center, we manage and otherwise operate our national telecommunications system. Computers located at this NOCC continually monitor switches around the country and react instantaneously to problems on our network. This Center is the life blood of US Sprint's network and without it our network could not function effectively.

The addition of K.S.A. 60-308(b)(11) recognizes that in entering into an arrangement under which US Sprint will provide service to business and commercial users throughout the country, those users are in effect purchasing services controlled from the State of Kansas. It recognizes that the services rendered by US Sprint can be used by the customer at his principal business location, branch office or from any telephone located anywhere in the United States and, soon, from many foreign countries. It recognizes that our service is indeed international in scope and that the users

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whose businesses are operated with our service should be subject to suit in this state if they refuse to pay for those services.

Since jurisdictional statutes are often attacked under the "minimum contacts" constitutional test, we have reviewed the wording of K.S.A. 60-308(b)(11) and have asked Mr. Arthur Chaykin, a visiting professor at Washburn Law School, to provide a memorandum addressing its constitutionality. Copies of this Memorandum have been distributed to the Committee.

In reviewing the statute as it is currently proposed, we have developed minor modifications which would, we believe, ensure its constitutionality by limiting its application to services provided using equipment or facilities managed, operated or monitored from the State of Kansas. This modification is intended to prevent the filing of suits by companies who may only have limited equipment or facilities in Kansas, such as a switch, a switch station or microwave tower. If adopted as the modification suggests, this statute would allow only suits where the plaintiff has significant operations in Kansas.

In addition to the general notice provided by the statute, US Sprint intends to place its business and commercial customers on actual notice of the existence of this statute and advise them of the fact that US Sprint's network is operated from Kansas.

K.S.A. 60-604 addresses the venue of actions filed pursuant to 60-308(b)(11). It would place venue in the county where equipment used in the rendering of services is located if suit is brought against a domestic corporation or a foreign corporation qualified to do business in this state. And the modification suggested to K.S.A. 60-605 would provide the same venue in actions involving non-residents defendants.

Additionally, the modification requested to K.S.A. 60-605(1) would clarify the law regarding the county where a plaintiff partnership is deemed to be located for purposes of venue. Last year Senate Bill 270 was enacted. It allows suits by and against partnerships. The modification suggested to K.S.A. 60-605(1) clarifies the counties in which a plaintiff partnership would be present for venue purposes. Under this modification the partnership would be present in the county where a partner resides or if the partner is a

corporation (such as the general partner of US Sprint) in the county where the corporate partner maintains a principal place of business or has its registered office. This modification will be helpful for all partnerships doing business here in Kansas.

We believe this Bill will help the State of Kansas lead the way in attracting high technology companies. The days of personal, face-to-face meetings, in business transactions are quickly drawing to a close. Significant business undertakings are many times consummated by teleconferences, both audio and visual, which are carried over telecommunication networks. We must recognize that these electronic meetings and the service providers who make them possible should have equal access to our courts with those who do business "the old fashioned way." We believe this statute is fair since it only extends jurisdiction to claims made by plaintiffs with significant operations in Kansas against commercial or business users. And, we ask that the State of Kansas recognize the realities of modern commerce by adopting this statute as pending with the minor modification suggested in Mr. Chaykin's memo.

If you have any questions, I would be pleased to answer them at this time.

B.A. Bianchino
Vice President and
Associate General Counsel
US SPRINT COMMUNICATIONS
COMPANY LIMITED PARTNERSHIP

FEBRUARY 21, 1989

M E M O R A N D U M

RE: Constitutional Analysis of Proposed KSA 60-308(b)(11) [Senate Bill No. 145].

FROM: Arthur A. Chaykin*

I. Introduction and Overview:

This memorandum undertakes a constitutional analysis[1] of proposed KSA 60-308(b)(11), or Senate Bill 145. Senate Bill 145 provides as follows:

> (b) Submitting to jurisdiction -- process. Any person, whether or not a citizen or resident of this state, who in person or through an agent or instrumentality does any of the acts hereinafter enumerated, thereby submits the person and, if an individual, the individual's personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of these acts:...
>
> (11) entering into an express or implied arrangement, whether by contract, tariff or otherwise, with a corporation or partnership (either general or limited) residing or doing business in this state under which

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*Visiting Associate Professor of Law, Washburn University School of Law. This memorandum was prepared under contract with US Sprint Communications Company. The opinions expressed herein are solely the author's and should not be attributed to Washburn University, the School of Law, or its faculty.

[1]The venue provisions require no constitutional analysis because venue is a matter of the allocation of business among state courts. It has no constitutional dimension.

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such corporation or partnership has supplied communication services or equipment (including, without limitation, telephonic communication services) for a business or commercial user where the services supplied to the user are managed, operated or monitored within the State of Kansas.[2]

Conceptually, S.B. 145 can be effective in expanding the jurisdictional grasp of the Kansas courts to reach business defendants[3] who arrange for phone service that is to be at least partially provided[4] within the State of Kansas. The constitutional ramifications of S.B. 145 can be understood in the following terms: (1) An assertion of "long arm" jurisdiction over an out of state defendant must coincide the due process clause of the Fourteenth Amendment of the United States Constitution. The touchstone for the Fourteenth Amendment analysis is the minimum contacts test.[5]

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[2]The underlined portion is a recent modification to Senate Bill 145, and may not be reflected in the original printed Bill.

[3]It is important to note that S.B. 145 has no impact on consumers who arrange for phone service. S.B. 145 is limited to those who arrange to use phone service for business purposes.

[4]Specifically, "managed, operated, or monitored" from within Kansas.

[5]See, International Shoe v. Washington, 326 U.S. 310 (1945) ["International Shoe"]; Shafer v. Heitner, 433 U.S. 186 (1977) ["Shaffer"] Kulko v. Superior Court, 436 U.S. 84 (1978) ["Kulko"] World Wide Volkswagen v. Woodson, 444 U.S.
(Footnote Continued)

(2) Long arm provision provides a platform upon which jurisdiction is based. (3) The Supreme Court of the United States has already approved assertions of jurisdiction where defendant enters into a contract with plaintiff that is to be wholly or partially performed within the forum state.[6] Several Kansas cases have recognized the same principle.[7] (4) In order to pass the minimum contacts test, there must be some act by which the defendant "purposely avails" itself to the assertion of jurisdiction.[8] (5) A narrowly drafted "special interest" long arm statute may be effective in

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(Footnote Continued)
286 (1980) ["V.W."]; Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985) ["Burger King"]. The minimum contacts test controls regardless of whether the long arm in question operates through property (quasi in rem) or directly on the person. Rush v. Savchuk, 444 U.S. 320 (1980).

[6]The best known example of this is the Burger King case in which the Court allowed Florida to assert a franchisee in Michigan on the basis that the Franchisor was a resident of Florida, performed some of its obligati8ons as a franchisor in Florida, and the defendant was on notice, through a Florida choice of law provision, that Florida had a strong interest in any litigation arising out of the contract.

[7]See, Pedi-Bares, Inc. v. P&C Food Markets, Inc., 567 F.2d 933, 977 (10th Cir. 1977), Continental American Corp. v. Camera Controls Corp., 692 F.2d 1309 (10th Cir. 1982).

[8]See, World Wide Volkswagen. For a Kansas case, see Schlatter v. Mo-Comm. Futures, Ltd., 233 Kan. 324, 662 P.2d 553 (1983) (act of state directors could not be sued in their personal capacities when they had no purposeful contacts with Kansas).

expanding the scope of constitutionally permissible jurisdiction by imbuing certain activities of the defendant with jurisdictional significance.[9]

Essentially S.B. 145 combines the concepts of "partial performance" which has already been approved in cases like Burger King, with the "special interest" long arm concepts, already accepted in cases like McGee. As a result, S.B. 145 should allow our courts to understand the special jurisdictional significance of the purchase of telecommunications by out of state defendants.

In the remainder of this memorandum, a more detailed review of S.B. 145 will be provided. Part II is a brief discussion of the need for S.B. 145. Part III describes the manner in which arranging or contracting for goods and services may subject a defendant to jurisdiction. Part IV discusses the mechanism by which a "special interest" long arm like S.B. 145 can augment the jurisdictional significance of defendant's activities. Part V confronts the problem of "purposeful availment" and reaches the conclusion that S.B. 145 will be most effective when

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[9]See, e.g., McGee, supra, where the Court noted that the articulation of a special interest in the state's long arm made it reasonable to assert jurisdiction over an out of state insurer.

defendant receives some actual notice of the jurisdictional significance of its activities. The question of whether a notice requirement should be included in the statute will be explored. The memorandum will conclude that S.B. 145 provides a constitutionally viable mechanism for encouraging and protecting Kansas' status as a major telecommunications center.

II. Current Problems and the Need for S.B. 145:

Assume a telecommunications company with its headquarters in Missouri, however, it is comprised of two partners, one of whom is a resident of Kansas. The vendor phone company begins to provide long distance phone service to a telemarketing firm in Georgia. The Georgia customer may now begin calling into and from a variety of states. The phone calls themselves will be carried by various switches and lines within the phone network. All of the switches are ultimately controlled by the National Operations Center [NOC] in Kansas. The Georgia customer runs up a bill of $48,000, at which point the vendor recognizes that the account is delinquent. It will also be assumed that the delinquent bill is comprised of some 20,000 individual phone calls, but that less than ten of them were made into Kansas.

To date, plaintiff phone companies in Kansas have had only mixed success asserting jurisdiction over such defendants. Certainly, in cases involving some direct illegal activity in Kansas, or some other kind of affiliating contact, the courts have been willing to assert jurisdiction[10]. However, at least in cases where the phone calls to Kansas were a small part of the total bill, and there were no other affiliating contacts, at least one court has suggested a lack of minimum contact[11]. Under current law, our courts are forced to focus on such contacts as the number of phone calls defendant completed into Kansas. Telecommunications services have no easily located place of "manufacture." As a result the courts have been understandably reluctant to employ KSA 60-308(b)(5) which already allows for long arm jurisdiction when defendant enters into a contract to be performed partially or wholly in this state. Therefore, the only resort is the general "transaction of business" long arm, KSA 60-308(b)(1).

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[10]See, e.g., US Sprint Communications Company v. Buscher, 1988 U.S. Dist. LEXIS 1536 (D. Kan. 1988); US Sprint Communications Company v. Boran, 1988 U.S. Dist. LEXIS 1762 (D. Kan. 1988).

[11]US Sprint Communications Company v. Central Air Freight, Inc. 1988 U.S. Dist. LEXIS 13643 (D. Kan. 1988)["CAF"].

Unfortunately, 308(b)(1), in the telecommunications field, encourages a court to do little more than count phone calls into Kansas. The truly significant contacts, however, are the extensive services provided in Kansas for purposes of delivering and performing the telecommunications service, the substantial economic impact that such service has on Kansas, and the knowledge or constructive knowledge of the customer who contracts for telecommunications services with a provider operating and partially residing in Kansas. Unfortunately, under our present long arm, the relevancy of such contacts are not easily perceived. Therefore, it makes sense to alter the long arm statute so that the contacts that truly relate to the underlying transaction can be properly analyzed in light of the realities of modern commerce, and the special state interests involved.

III. Relating the Contacts to the Litigation; Arrangement for Goods and Services:

The activity by which defendant "purposely avails" itself to Kansas jurisdiction is the arrangement for telecommunications services that will be "managed, operated or monitored" in Kansas. The term "arrangement" must be employed because of the nature of the telecommunications business. The service is supplied upon request, there is really no contract for it in the technical legal sense.

However, from a practical point of view, a business user negotiates and arranges for phone service in a manner quite similar to the way any other major good or service would be obtained. Therefore, arrangement for telecommunications service can be a jurisdictionally significant event. As noted earlier, the "manufacture" of phone service has no obvious location. S.B. 145 would ground the manufacture of the service in Kansas, provided that certain criteria are met. The "managing, operating, or monitoring" describes a meaningful activity which should be equivalent to manufacture of goods or performance of a contract wholly or partially within this state, as already provided in KSA 60-308(b)(5)[12] S.B. 145 encourages the court to focus on the jurisdictionally significant contacts. It also puts defendants on "constructive notice" that these contacts may have jurisdictional significance in Kansas.[13]

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[12]The use of KSA 60-308(b)(5) has had a checkered history, at its outer reaches, in Kansas. Compare, Misco-United Sup., Inc. v. Richards of Rockford, Inc., 215 Kan. 849, 528 P.2d 1248 (1974) (declining jurisdiction) with Pedi-Bares, 567 F.2d 933 and Continental American Corp., 692 F.2d 1309 (finding jurisdiction). However, there is no doubt that the concept behind KSA 308(b)(5) is constitutionally viable. See, e.g., Tom Togs, Inc. v. Ben Elias Industries Corp., 318 N.C. 361, 348 S.E.2d 782 (1986).

[13]S.B. 145 should contain some language that asures
(Footnote Continued)

IV. Special Interest Long Arms:

The concept of the special interest long arm as it relates to the assertion of jurisdiction over out of state defendants is poorly understood. As previously noted, the concept of a state having a "special interest" in asserting jurisdiction dates back at least to the old McGee case. Courts around the country have been casual in their approach to state interests in asserting long arm jurisdiction. Such interests have been discovered when there is a specific special interest long arm, as in McGee.[14] where there is some non-jurisdictional statute or doctrine that gives the state some "special" interest,[15] or where the state merely has an economic interest in protecting a given class of plaintiffs.[16] Much of this generalization and confusion is

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(Footnote Continued)
that the action or claim arises out of the telecommunications service. This insures a close nexus between the contact and the litigation.

[14]Also see Stuckey v. Stuckey, 434 So.2d 513 (La. Ct. Apls. 1983) (child support).

[15]See Texas Commerce Bank National Association v. Interpol 80 Ltd. Partnership, 703 SW2d 765 (Ct. Apls. TX 1985) (mineral rights).

[16]See Tom Togs, Inc. v. Ben Elias Industries Corp. 318 N.C. 361, 348 SE2d 782 (1986) (takes "judicial notice" that
(Footnote Continued)

unfortunate because the real usefulness of the concept of the special state interest is that it may, in some cases serve to give the defendant a "fair warning" that it may reasonably be expected to be called into court in the forum state. Obviously, a bald interest in protecting all resident plaintiffs, which is sometimes asserted as a special interest, adds little to the fair warning defendant receives. It would seem that the best warnings that defendant might be exposed to long arm jurisdiction would be presented by the long arm statute itself.

An interesting case on this point is Beco Corporation v. Roberts & Sons Construction Co., Inc., 114 Idaho 704, 760 P.2d 1120 (1988). In Beco, an out of state defendant contracted with an in-state contractor to perform some construction work at an out of state site. The court, employing a general "transacting business" long arm, allowed for jurisdiction over the defendant. The court relied heavily on the argument that Idaho had a special interest in asserting jurisdiction over this defendant because the plaintiff was an Idaho resident. The court also found that the quantity and quality of contacts were greater than those

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(Footnote Continued)
the state of North Carolina has a special interest in the textile industry).

found in McGee, in which the Supreme Court upheld jurisdiction. An interesting dissent pointed out that McGee was firmly grounded on "California's statutorily expressed 'maifest interest' in the subject matter of the suit (a narrowly drawn long arm statute dealing with insurance companies...[and California insureds])." The dissent pointed out that the Idaho long arm was not narrowly drawn, nor was it related to any particular industry or cause of action. Finally, the dissent complained that the defendant had no contacts with Idaho that demonstrated any kind of "purposeful intent" or consent to suit. However, in footnote 10 of the opinion the dissent noted:

> However, constructive consent may, under certain circumstances, be given through state jurisdictional statutes. This is particularly appropriate when the state has expressed its interest in the subject matter of the suit through a narrowly drawn special jurisdictional statute. When a defendant acts within a state which has such a special statute, such as a statute relating to a foreign insurance company's soliciting business in a state, it may establish constructive consent to jurisdiction.

Quite correctly, the dissent also noted that the Supreme Court has "re-emphasized" the importance of special jurisdictional statutes. For instance, in Shaffer, the Court was careful to note that Delaware had no "special interest long arm" that purported to assert jurisdiction over the directors of the Greyhound Corporation on the basis

of their directorship status. The Court therefore viewed any assertion of state interest in extending jurisdiction over out of state directors of local corporations as a post hoc rationalization. Similarly, in Kulko, the court refused to allow California to assert jurisdiction in an action for support over an out of state father on the basis that the state had a special interest in the welfare of resident children. The Court noted that the long arm articulated no such interest. In both cases, there is at least some implication that a special interest long arm might have altered the Court's qualitative analysis by magnifying the importance of whatever minimal contacts the defendant might have had with the forum and the litigation.[17]

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[17] Burger King, supra, can be viewed in a similar light. There, the interest was created by the franchise contract itself, which provided that Florida law would govern the transaction. Although the Court was unwilling to equate the interests that pertain to choice of law with the interests that pertain to jurisdiction, it was clear that the Court was glad to have some tangible and demonstrable interest available. But see, Keeton v. Hustler Magazine, Inc., 465 U.S. 770 (1984) where the Court allowed for the assertion of jurisdiction over an out of state defendant absent a "special interest long arm." The Court also downplayed the relationship between choice of law interests and jurisdictional interests. However, the activity in New Hampshire was practically systematic and continuous, and therefore the interest analysis was neither crucial nor prominent.

S.B. 145 substantially conforms to the requirements the court has erected for special interest long arms. By articulating the interest Kansas has where telecommunications services are to be provided by an entity at least partially residing here, and partially performing here, the long arm puts the defendant on notice that "arranging" for the service may be a jurisdictionally significant act. The "fair warning" provided by the statute can be improved if "actual notice" is provided to the defendant. This will be discussed below.

V. The Problem of "Purposeful Availment":

Under the minimum contacts test, the focus is on the purposeful activities of the defendant which assure that it is fair and reasonable to require defendant to submit to the court's jurisdiction. See V.W.. The concept is well stated in Misco-United Supply, Inc. v. Richards of Rockford, Inc. _Kan._, 528 P.2d 1248, 1252 (1974) (single phone call into Kansas regarding goods to be produced outside state insufficient to support jurisdiction):

> The [Supreme] court also stated that the unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum state, and that the application of the "minimum contacts" rule will vary with the quality and nature of defendant's activity; but it is essential in each case that there be "some act by which the defendant purposefully avails itself of the

> privilege of conducting activities within the forum State," thereby invoking the "benefits and protections of its laws." Id. discussing Hanson v. Denckla, 357 U.S. 235, 251 (1958).

Several recent attempts to extend jurisdiction have run aground due to the lack of any purposeful activity on the part of the defendant. For instance, in Asahi Metal Industry Co., Ltd. v. Superior Court _U.S._, 107 S. Ct. 1026 (1987), the Court held that it was improper to extend long arm jurisdiction over a foreign manufacturer who sold components to a foreign assembler, who then shipped some of those products to the United States. As a general statement, it cannot be denied that it is the defendant's activities which are the focal point of the due process analysis. See CAF, supra. It may be possible to convert activity which appears to be unilateral activity of the plaintiff into purposeful activity of the defendant. The key lies in the drafting of the statute.[18] Where a state

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[18]This problem is closely related to the idea of a state articulating a "special interest" in its long arm so as to put the defendant on notice that the state has a special interest in certain activities that are likely to subject the defendant to jurisdiction. For example, assume a state had a statute that said, "any insurer who deals with an insured who resides in this state is subject to jurisdiction of the courts of this state for any dispute arising out of the insurance, regardless of whether the

(Footnote Continued)

declares that certain narrow activities will result in the extension of jurisdiction, in a sense defendants are on notice that the state has a "special interest" that render it reasonable to subject them to suit in that state. As a result, the insurance company in McGee was subject to suit in California even though it did not sell the policy to the insured when he lived in California. Nevertheless, the Court upheld the extension of jurisdiction in McGee partly because California had a narrowly drafted long arm that put insurers on notice that they were subject to jurisdiction if any of their insureds resided in California. Given the practicalities of litigation, and the fact that life insurance has no set location, the unilateral move of the plaintiff was, in a sense, converted into purposeful availment by the defendant.[19] In all likelihood,

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(Footnote Continued)
insured resided in this state at the time the policy was sold." This statute is very similar to the one that was upheld in McGee. The idea is that a narrowly drafted long arm can sometimes put defendants on "constructive notice" that the state has a special interest in a given area that will subject them to jurisdiction automatically. To put it another way, the defendant is subject to jurisdiction unless he stays clear of the special activity.

[19]Although McGee is certainly still good law, it is true that the case represents a "high water mark" for the extension of personal jurisdiction. See, Note, Long Arm Jurisdiction in Commercial Litigation: When is a Contract a
(Footnote Continued)

however, the special quality of the defendant's activity with regard to the state long arm must be brought home to the defendant. Thereby, the defendant recognizes that it is truly foreseeable that jurisdiction in Kansas is a possibility. In such circumstances, a court may reasonably find that the defendant acquiesced to jurisdiction when it failed to act with notice of the consequences.[20]

The conversion of non-feasance into a purposeful event can be explored through a series of Kansas cases. In Misco-United Sup. Inc. v. Richards of Rockford, Inc. 215 Kan. 849, 528 P.2d 1248 (1974) the court held that a defendant who called Kansas to place an order was not subject to jurisdiction pursuant to KSA 60-380(b)(5). This was in spite of the fact that plaintiff sent a confirmatory invoice to defendant indicating that payment was due in

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(Footnote Continued)
Contract, 61 B.U. L. Rev. 375, 378 (1981). It is a bit difficult to predict how the Court would react to such a statute now that it has decided cases like Asahi Metals. Still, in several cases after McGee, the Court noted the absence of a "special interest long arm" as an important factor in its determination that jurisdiction was improper. See, Shaffer and Kulko, supra.

[20]In other words, the proposed statute might be changed so that the defendant receives notice entering into or remaining in an "arrangement" for phone services with the vendor may result in the assertion of jurisdiction in Kansas over any dispute regarding the arrangement.

Wichita, KS. The court relied on the argument that the defendant did nothing more than place the order and receive the unilateral invoice. All the other activities were performed outside of Kansas, and therefore it was not a contract to be "performed in whole or in part by either party in this state." KSA 60-308(b)(5).[21] The court also found that there was no purposeful activity by the defendant to support Kansas jurisdiction. Pedi-Bares, Inc. v. P&C Food Markets, Inc. 576 F.2d 933, 977 (10th Cir. 1977) distinguished Misco-United on the grounds that Pedi-Bares actually manufactured the product in Kansas and "accepted" the order in Kansas. This was sufficient in spite of the fact that Pedi-Bares was not registered to do business in Kansas and that defendant was on notice of Pedi-Bares' Kansas status by instructions as to where payment should be made. Under Misco-United, this would seem to be a unilateral act. In Continental American Corp. v. Camera Controls Corp. 692 F.2d 1309 (10th Cir. 1982), Pedi-Bares was extended to include a situation where payment was

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[21]The court did not rely on the statutory language of (b)(5). In Kansas, the long arm is interpreted to exert jurisdiction to the full extent allowed by due process. Misco-United, supra, at 1251. In Kansas, therefore, the "statutory analysis" and the minimum contacts test are normally intertwined.

contemplated in Kansas, but the manufacturing was to occur out of state. The court emphasized the strong interests of Kansas in asserting jurisdiction over an out of state defendant of this type[22], and the fact that defendant did make partial payments into Kansas. The court reasoned that when a defendant makes some payments on a contract in Kansas, and then stops making payments on that contract, it should expect to be hauled into a Kansas Court. Continental, supra, at 1314.

A final case in this line is Schlatter v. Mo-Comm Futures, Ltd. where the court refused to extend jurisdiction over three out of state directors of a limited partnership which was selling securities in Kansas. The court rejected assertions of jurisdiction under KSA 60-308(b)(1), (2) and (6). KSA 60-308(b)(6) purports to assert jurisdiction over any person "acting within this state as director, manager, trustee or other officer of any corporation organized under the laws of or having a place of business within this state..." In Schlatter the corporation had no place of business in state at the time the cause of action accrued, although it did have a Kansas office at the time suit was

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[22]See §V, infra.

filed. The court was unwilling to find that the directorship status at the time the suit was filed created general jurisdiction in Kansas and refused to assert specific jurisdiction on the grounds that there were no purposeful activities in Kansas.[23] The court also noted that the defendants had no knowledge of the Kansas activity.

Although these cases do not form a bright line, it can be garnered that the quality and the amount of purposeful activity required in order to assert jurisdiction may be partially affected by (1) the nature of the long arm itself and (2) the degree of knowledge that the defendant has or should have concerning the impact of a given act in Kansas. Arguably, where the long arm itself puts defendant on notice that action in Kansas may be contemplated if the defendant engages in activity that the state deems to be within its special interest, then the eventual assertion of jurisdiction may be more supportable, even where the

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[23]General jurisdiction refers to the idea that a defendant has such systematic or continuous contacts with the state that there is jurisdiction for all purposes. Specific jurisdiction involves contacts that may not be systematic, but have such a close relationship to the litigation that they allow for assertion of jurisdiction over the defendant for that cause of action. For a protracted discussion of the distinction, see, Helicopteros Nacionales de Colombia, SA v. Hall, 466 US. 408, 104 S. Ct. 1868, 80 L.Ed.2d 404 (1984).

activity is quite minimal. However, the assertion of jurisdiction becomes less controversial when defendant is put on some kind of notice, even if that notice is somewhat unilateral, that continued commercial activity with the defendant could result in Kansas litigation. This would seem to be consistent with the Burger King case in which the Court noted that the franchise contract between defendant and plaintiff provided, somewhat unilaterally, for the application of Florida law. Even though almost all of the actual activity regarding the contract transpired in Michigan, the Court did not find the assertion of Florida jurisdiction unreasonable given the selection of Florida law and the long, involving, and on-going relationship contemplated by the parties. See also, Beco Corporation v. Roberts & Sons Construction Co., Inc., 114 Idaho 704, 760 P.2d 1120 (1988) ["Beco"] (contracting to perform construction work outside Idaho with an Idaho resident may subject defendant to jurisdiction in the state).

A plaintiff attempting to assert jurisdiction under S.B. 145, KSA 60-308(b)(11) would be in a much stronger position if defendant was put on actual notice of the fact that arranging or continuing its phone service could subject it to Kansas jurisdiction. Furthermore, inclusion of such a notice requirement in S.B. 145 may be desirable.

VI. Conclusion:

For the reasons discussed above S.B. 145 should be an aid to resident telecommunications companies by removing the disability they face by their inability to define the place in which the service is manufactured. At the same time, S.B. 145 is fair to defendants by giving them fair notice of Kansas' special interest and notice of the significance of the act of arranging or continuing their telecommunications service. S.B. 145 could be improved by the addition of the following language at the end of the bill:

> Provided that, as soon as feasible, defendant is put on reasonable notice that arranging or continuing such telecommunication may result in the extension of jurisdiction pursuant to this statute.

This small proviso assures fairness to the defendant by allowing for an opportunity to discontinue phone service so as to avoid a purposeful availment to Kansas jurisdiction. Given the business context, and the nature of the telecommunications business, this procedure S.B. 145 protects Kansas' interests, assures fairness to the parties, and improves efficiency in the courts by giving meaning to the contacts that are relevant to the constitutional inquiry.

CITY OF TOPEKA

Douglas S. Wright, Mayor
215 E. 7th Street Room 352
Topeka, Kansas 66603
Phone 913-295-3895

I am Doug Wright, Mayor of Topeka. I appear before the committee to express my concerns and the concerns of the citizens of Topeka regarding SB 212 and SB 213.

At the outset, let me stress, on behalf of the citizens of Topeka, the pride we feel in being the capital city of the State of Kansas. We recognize that the State has a major investment in our community; more so than other cities in Kansas because we are the state capital. And, we tend to believe that it is important for us to work closely with the State of Kansas to help you do the business of government as efficiently and economically as possible. We are not opposed to the State of Kansas creating new jobs in Topeka.

We believe the State of Kansas, as the largest employer in Topeka, has a duty to the citizens of Topeka to work with us...all of us...to see that your impact on Topeka is positive and beneficial to us both and to see that we continue to enjoy our homes, our neighborhoods and our excellent quality of life.

I am afraid that the provisions of SB 212 and SB 213, if enacted into law as written, could be used to destroy the property values of the homes owned by the citizens of Topeka who live in the Eastgate neighborhood, and if those values are lessened, then Topeka will have been lessened and the quality of life we enjoy will suffer.

The location of a maximum security prison should not be made by the Secretary of the Department of Corrections alone, and the decision should not be sprung on the residents of the city and neighborhood after these people have made their largest lifetime personal investment and after the Legislature has adjourned. A decision made by the Secretary alone has the potential for being arbitrary, for being expedient, and for being in the best interests, not of the people, but of the Department the Secretary administers. A maximum security prison shouldn't be dropped into a residential neighborhood without the consent of the people affected. If a citizen wants to live next door to a prison, the decision should be theirs to make, not the State's.

I urge you, the members of this committee and the Legislature, to put the interests of the people first and to work with us in Topeka to help us find an appropriate location for a maximum security prison. SB 212 and SB 213 don't provide an answer.

Attachment III
SJC
2-21-89

CITY OF TOPEKA

City Council
215 E. 7th Street Room 255
Topeka, Kansas 66603
Phone 913-295-3710

February 21, 1989

Testimony Presented to the Senate Judiciary Committee

I am contacting you today to urge you not to support SB 213, which would have the effect of permitting the Secretary of Corrections to examine, study, and incarcerate female inmates at a Topeka corrections facility.

During the past several months, I have been present at numerous meetings with the Department of Corrections, where residents from the East Topeka community consistently have been assured and reassured that maximum security female inmates would not be housed at facilities in their neighborhood.

SB 212 and SB 213, which are under consideration, would give the Secretary of Corrections greater flexibility than he presently has regarding locations for examination and study of felony offenders. The specific institutions are not defined in the Statutes, but it is clear that under these proposed statutes, female inmates will not be required to go directly to KCIL.

The Department of Corrections has cooperated with the City and with the East End Neighbors in the past, and should be commended for so doing. However, the changes proposed in SB 212 and SB 213 have not been discussed with neighborhood residents, nor with city officials.

If maximum security female inmates are to be examined, and studied, and incarcerated at a Topeka facility, it is a major change in policy. This new policy breaks a promise which has been made to East Topeka residents. This promise was clearly stated: "there will be no maximum security female inmates in their neighborhood"

The residents of East Topeka would like to see and , I think deserve to see, specific statutory language that prohibits female maximum security inmates from their neighborhood facility. I urge you not to pass SB 213.

Mary Holmgren
City Council Representative
District 3

Attachment IV
SJC
2-21-89

Committee to Save K.C.V.T.C.

Senate Bill no. 213

I would like to thank you for giving me this time to speak against the changes being proposed for KSA 75-5220 and 75-5229.
I have been a life long resident of Topeka, I reside in Eastgate, which is the residentAL area across from KCVTC. I'm also the president of EastEnd Neighborhood Improvement Assocation,which was formed to help our neighborhood from deterionating down to a slum from the changes that occured last year at KCVTC.

This Statue,as it reads now is the onlything that kept KCVTC from becoming a maxium security prison last year. If the changes being proposed in section B is changed to read " A correctional institution designated by the secretary of corrections" This will give the secretary of correction the power to put any female felon at KCIVC, even the ones just entering the system. Regardless of the security status there.
That initself puts our State as well as my neighborhood at far greater risk than we already face. It will give the power to change the security status at KCVTC only to the secretary of corrections. It will tAKE AWAY what little input I might beable to make as a private citizen,as well as taking power and authority away from you, our lawmakers and giving it to one man ,or department. It gives the secretary of corrections far greater power or authority than any department or man should have.
Theres suppose to be a check and balance in our goverment. This change will absoulty take the check and balance out of our goverment!

Govern Hayden met with me and another neighbor for about 25 minutes this past august. He assured us that KCVTC would not become a maxium security prison as long as he was governor, Nor does think any prison should be in any residental area. Yet these changes being proposed would allow KCVTC to become maxium security.
I can't think of any good reason to deny any woman incarcerated a chance at rehabilation. Only a program that is planned and recommended in accordance with procedures prescribed by the secretary of corrections. The check and balance system is once again done away with and too much authority is given to one man.

Incarcerated women won't have a chance at rehabilation. According to Websters dictionery, rehabililation means to restore to a condition of constructive activity. While program means only a proposed project or entertainment. Rehabililation would be much more benafical to the woman incarcerrated, as well to society and to taxpayers. A vast majority of women rehabilated make it after prison.
What percentage would return to prison with only a program being

Mary Quiett, Chairperson
3516 SE 10th St.
Topeka, Kansas 66607
(913) 232-2409

Attachment V
Senate Judiciary
2-21-89

Committee to Save
K.C.V.T.C.

offered to them is any ones guess. A return to prison is an added expence to all of us.

How would droping rehbililation programs help these women return to society per say rehabililated?

Rehabilation can give self confidence, and self confidence makes a person succed in life.

I would hope you, as our lawmakers give these changes serious thought befor giving one man so much authority over human beings weather their incarcerated or living in a residential area across from a prison. and help keep checks and balance in our goverment.

Again, Thank you for this time to speak my thoughts on these changes.

Mary Quiett

Mary Quiett, Chairperson
3516 SE 10th St.
Topeka, Kansas 66607
(913) 232-2409

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To the Kansas Senate Committee on Judiciary:

Statement from Dave Meneley, Topeka Police Department
Representing East End Neighborhood Association of Topeka
February 21, 1989

Senators, Chairman Winter, thank you for allowing this time to present our statement.

We oppose Senate Bills 212 and 213 for the following reasons:

If the proposed amendments were to be adopted, these bills would then basically defeat the purpose of our having elected you, our lawmakers. That is, the voters of this state rely upon you to exercise your good judgment to adopt laws that specifically spell out the structure, limits and obligations that guide both government and populace.

Senate Bills 212 and 213, if adopted as proposed, would do no such thing. Rather than specifying procedure, they would further generalize very important parts of correctional penal law.

Our State correctional system is under regular scrutiny by the courts. We do not need and cannot afford to invite further such scrutiny.

Further, passage of Senate Bills 212 & 213 would allow the Secretary of Corrections the ability to designate at whim where to receive prisoners, without specifying a reception center such as S.R.D.C. or what qualifications another such institution must have to be so specified.

On Tuesday of last week, in these hearings, the counsel for the Department of Corrections stated that it was the intent of the department to utilize S.R.D.C. as the female felon intake, reception and diagnostic center and to further utilize S.R.D.C. as the sole women's maximum security prison in the State. **We are genuinely and exceedingly opposed to this plan.**

Use of S.R.D.C. as a full-time maximum security prison will create a constant and abiding threat within the corporate city limits of the City of Topeka and in a heavily populated neighborhood of middle income families. The vast majority of these families are composed of young, working mothers and fathers with children. We oppose the use of any facility so located for the housing of maximum security prisoners. Imagine the threat of **your** sons or daughters, or mothers and fathers living in close proximity to such an institution.

I know that the Department of Corrections will argue that S.R.D.C. already houses maximum security criminals, but Senators, there is a prodigious difference between a criminal who only remains 60 days in a given location, and one who has say, 25 years-to-life to study the institution.

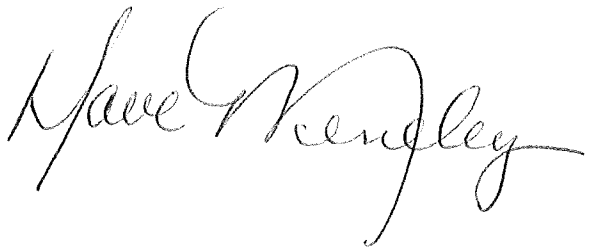
Allowing this change poses a very real threat to the residents of this area, young or old! In the event of a breakout, the escapee will need some basics to make good his/her escape; an automobile, street clothing and money. And the nearest source to S.R.D.C. **is right across the street, in a residential area.**

SJC
2-21-89
Attachment VI

In addition to the immediate threat, there is also the long-term impact on any city which should be so unfortunate as to have a maximum security prison within the city limits. I'm speaking of the released prisoner who has no family or friends to assist with re-assimilation into society. That prisoner who gravitates to the closest metropolitan area and takes up old habits, old ways.

It may be argued that such people are everywhere and Topeka, or any other city will receive it's share. However, locating a prime source for such "talent" right in the city limits will ensure that Topeka or any other such city will receive more than it's share. And the first time one of these individuals commits a capital offense against an innocent member of the public, **all of us in this room today will look back and remember.**

Senators, we are asking you to look back and remember with a clear conscious. We applaud the efforts of Secretary Endell and the Department of Corrections, and we believe that these efforts are a sincere attempt to provide the best possible correctional system for the least outlay of Kansas' funds. However, we also feel that if we cut too many corners in our effort to satisfy the immediate requirements of the courts, we will soon find ourselves in a deeper predicament further down the road.



Dave Meneley
(913) 288-1168

LEAGUE OF WOMEN VOTERS OF KANSAS

919½ South Kansas Avenue Topeka, KS 66612 (913) 234-5152

February 2, 1989

STATEMENT OF ANN HEBBERGER, LWVK PRESIDENT, TO THE SENATE COMMITTEE ON JUDICIARY IN SUPPORT OF SB 50: ESTABLISHING A SENTENCING COMMISSION TO RECOMMEND SENTENCING GUIDELINES AND OTHER MATTERS.

Mr. Chairman and Members of the Committee:

I am Ann Hebberger, President of the League of Women Voters of Kansas, speaking on behalf of the League in support of SB 50.

The LWVK adopted a study of Sentencing Alternatives in Kansas in 1981, and announced its position in December, 1982.

Although we support the present criminal code, a mix of indeterminate and mandatory-minimum sentencing, we believe that changes are needed to make the system more effective, consistent, and fair in dealing with both offenders and victims of crime. We therefore support the concept of Uniform Sentencing Guidelines for the judiciary. Such guidelines should provide better protection of society from violent behavior and repetition of criminal acts by requiring incarceration of repeat offenders.

Guidelines should have more structure and uniformity, yet some flexibility in individual cases. One problem with indeterminate sentencing is the function of parole boards. Parole is based on the theory that a relationship exists between a prisoner's response to prison and treatment programs, and his eventual behavior in the community. Training for freedom in a state of captivity is not an easy task. Far more difficult is predicting future behavior. For many prisoners, the uncertainty of their release is the most punitive of punishments, and, we think, the most frustrating to victims.

Such guidelines should provide less disparity in sentencing although disparity is not necessarily unjust. A first offender should not receive as long a sentence as a second-or third-time offender. Injustice occurs when the sentence length for similar defendants committing similar crimes varies by months, even years. Variations can occur within a state and even within a judicial district. The factors which predict a sentence depend upon the offender's age, sex, prior record, race, the judge's individual bias and state of mind, guilty pleas or plea bargaining versus a jury's finding of guilt and good or poor legal counsel.

Such guidelines should provide for fewer incarcerations by providing more sentencing alternatives to judges, such as programs provided by community corrections, house arrest, treatment for drug and alcohol abuse, intensive supervision, work release, job and other counseling, restitution, community service and others.

Attachment VIII
SJC
2-21-89

In order to establish sentencing guidelines, the League supports:

1. The establishment of a commission representative of the criminal justice system, the legislature and lay persons to draft the guidelines for legislative approval.
2. A requirement that judges provide written justification for appellate review when a sentence deviates from the guidelines.
3. The use of community-based alternatives to incarceration be included that would allow for more services such as restitution to victims and individual treatment of offenders.

Sentencing guidelines developed by a commission could be considered a drastic change in the criminal justice system in Kansas. However, the biggest plus is being able to control prison population overcrowding.

The Legislature defines what crime is, and what the punishment shall be. The Criminal Code as a whole has not been recodified since 1971. At this point it would most likely be astounding to find out what crimes and punishments have been added since that time. To make a point, I found a bill locator, dated March 16, 1988, and looked under Crimes, Criminal Procedure and Punishment, pages 16, 17 and 18. I counted at least 105 bills that had been in or out of the hopper since the Session started. The range was from eavesdropping and smoking in public to the buying and selling of human bodies. Many other bills in all sections of this particular book had punishments or some sort attached. Obviously, every time a new crime is added, it upsets the balance of the system. Since there is no way to enforce all of the laws on the books, we end up with selective law enforcement.

The League believes that money can be better spent by developing a good sentencing guideline model or grid using it, rather than building more and more facilities to house prisoners. Our tax dollars should be spent for more preventive services including education, drug and alcohol treatment, counseling, job training, and of course for victim compensation.

Sentencing guidelines are the answer. An alternative is to keep building prisons which are filled before opening. Soon there will be no tax dollars left for quality education for all, child care, highways, KanWork, the environment, the State Water Plan, health care for those in need, and services that the taxpayers expect their dollars to pay for.

Thank you for this opportunity to speak before you today, and we strongly urge your consideration of the passage of SB 50.

Feb 15, 1989

To. Senator Wendt Winter

I live at 9th And Rice Road. This is right across from the Prision System. I fell we have already been lied to by the Prision system. Im fact some residence fell we have been raped by the existing system, when they moved the Junk yard at 10th And Rice Road.

I am opposed to making the existing prision a maximum security system.

At present I am retired and on a fixed income. I have Parkinson. I can not move, I have problems Communication at times.

a home owner
John K Ushe

Attachment IX
SJC
2-21-89