

Approved 3-6-89 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./p.m. on February 23, 1989 in room 514-S of the Capitol.

All members ~~were~~ present ~~except~~: Senators Winter, Yost, Moran, Bond, Feleciano, 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:

- Senator Ross Doyen
- Dave Retter, Concordia City Attorney
- Gene Miller, Concordia
- Jim Clark, Kansas County and District Attorneys Association

Senate Bill 254 - Crimes; dealing in and possession of gambling devices.

Senator Ross Doyen appeared in in support of the bill. He introduced Dave Retter, Concordia City Attorney.

Mr. Retter testified the purpose of the bill is to create jobs. Beginning employment will be 50 and this will expand to approximately 200 in two years when the soft drink machines and hand dryers will be in full production. He explained the net change is to allow the manufacture of gambling devices for export. A committee member inquired if this will meet all the federal laws. Mr. Retter replied, they are involved in Arizona presently.

Gene Miller, Concordia, testified in support of the bill. He stated the project is contingent on the State of Kansas providing the legal means to manufacture gambling devices in the state for export. A copy of his handout is attached (See Attachment I). A committee member inquired if this will be a local obligation or will we be involved in some type of licensing? Mr. Retter replied, it depends on if you are going to allow it. It will go from a prohibited industry to a regulated industry. A committee member stated this enterprise would have to comply with other similar laws. Discussion was held concerning putting it in Rules and Regulations. A committee member suggested changing this around to exempt out affirmative defense for manufacturers for sale outside of the state. Mr. Retter responded the simplest way would be to license it. Jim Clark stated he thought that was a good point. Another committee member added the problem is the manner in which this bill is drafted puts an additional burden on the prosecution of people who manufacture gambling equipment.

Senate Bill 73 - Divorce and maintenance, child custody, counseling.

Senate bill 74 - Child support, Kansas guidelines.

The chairman pointed out a draft of a letter to Chief Justice Robert H. Miller concerning review of Kansas Child Support Guidelines. The purpose of the letter is to request the chief justice to appoint an advisory committee to review the guidelines as they are being applied and make suggested changes to the Supreme Court. A committee member suggested to include in the letter the court should appoint a financial mediator. She explained the total picture for consideration of the financial assessment would also include the new family

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 23, 1989

Senate Bills 73 and 74 - continued

units. The chairman asked for the consensus of the committee in terms of sending the letter. Considerable committee discussion was held. It was the consensus of the committee to draft a resolution that the chairman write a letter to the Chief Justice.

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

The chairman explained the bill and the proposed amendments. Senator Rock moved the adoption of the amendments suggested by Professor Chayken. Senator Petty seconded the motion. The motion carried. Senator Rock moved to report the bill favorably as amended. Senator Morris seconded the motion. The motion carried.

Senate Bill 254 - Crimes, gambling devices.

Following review of the bill, Senator Morris moved conceptually to amend the bill to provide specifically the manufacturer of gambling devices is for sale outside of the state and is not dealing in gambling devices or possession thereof. Senator Oleen seconded the motion. The motion carried. Senator Morris moved to report the bill favorably as amended. Senator Bond seconded the motion. The motion carried.

The meeting adjourned.

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

Copy of a letter from Luis A. Ochoa, Tucson, Arizona, is attached (See Attachment III).

Copy of a letter to Chief Justice Robert H. Miller is attached (See Attachment IV).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-23-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Terry Denker	Topeka	KDOC
Paul Denker	Concordia	Prision Decision
Gene Miller	Concordia	Eco. Devo.
David Potter	"	City Attorney
Kathryne Summer	St. Marys	Washburn Univ.
Lora Heckman	Topeka	W.U. School of Nsg
Anoke Obiorah	Topeka	WU. School "T"
Katrina Heibarger	Topeka	WU School of Nsg
Jody Lynch	Topeka	WU School of Nursing
Yong Cork	Topeka	W.U. School of Nursing
Amanda Nicholson	Topeka	W.U. School of Nursing
Theresa Lvecke	Topeka	W.U. School of Nursing
Nickie Stein, R.N., M.Ed.	Topeka	KSNA
ESTHER SMITH RN	Lawrence	WU School of Nsg
ANNEMEADOR	Overland Park	KUSN
KAMI HUXMAN	KANSAS CITY,	KUSN
Kate MENGHINI	KANSAS City	KUSN
Diane Knapp	Lenexa KS	KUSN
Anita Kay Roschitz	Kansas City	KU Student Nurse
Barbara Clancy	Kansas City	Professor KU
Ursula Witt	St. Paul, Kas.	PSU - Student Nurse
Carolyn Brooks	Pittsburg, Kas.	PSU Faculty
Deana Perle	Pittsburg	PSU Faculty - Nursing
Margaret Shuchall	PITTSBURG	PSU NURSING FACULTY
Ursula Anderson	Topeka	WU. Nsg School

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GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-23-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Jody D. Wood	<del>Route 2 Box</del> Oswego, KS	Pittsburg State Univ.
Deb Murphy	Pittsburg	PSU
Rosemary Watson	Blue Mound, Kansas	PSU - Nsg. Student
Donna Cagle	Fl. Scott, Kansas	Fl. Scott - Nsg. Student
Joan Shevorbush	Pittsburg, KS	PSU
Cindy Hewitt	Wwada MO	Fl. Scott Comm. College
Donna Lundberg	St. Scott, KS	St. Scott C.C.
Estu J. Webb	St. Scott, KS	F.S.C.C.
Kathleen Skitt	Fl. Scott, KS	Student nurse FSCE
Sherry Courts	Pittsburg, KS	PSU
Connie Olson	Wwada, Mo.	F.S.C.C.
Sue Smith	Mound City, KS	F.S.C.C.
Harriet Bogan	Prescott, KS	F.S.C.C.
Donna Downing	Prescott, KS	F.S.C.C.
Kass Dezen	Elcanta	Concordia
Pam DeTray	Bucyrus, KS	KU Nursing Student
Julia Hedell	KC MO	KU Nurs. School
Mary Brumbach	Columbus KS	INSTRUCTOR LCC Nursing
Michelle Major	Hallowell KS	LCC NSE
Mickey Hancock	Mankato, KS	CCCC
Virginia Tompkins	Athol KS	CCCC Nursing
Janet Adams	Concordia KS	CCCC - Nursing
Jon Brass	Topeka	Life of the West
Jim Clow	Topeka	KC DAA
501 PATRICIA HENSHALL	TOPEKA	SUPREME CT.



Senate Bill 254

Testimony by Gene Miller, Director of Economic Development, City Hall,  
Concordia, Kansas.

Games West, Inc. of Tucson, Arizona would like to establish a manufacturing facility in Concordia. Operations will commence with the production of gambling devices and expand to soft drink machines and hot air hand dryers. Beginning employment in the electronic assembly will be 50 and will expand to approximately 200 in two years when the soft drink machines and the hand dryers will be in full production. Production will begin in an existing 6000 sq. ft. facility. A new facility will be constructed in the Concordia Industrial Park in the near future.

The project is contingent on the State of Kansas providing the legal means to manufacture gambling devices in the State for export. The production will take place elsewhere if we can not accommodate the company by amending Section 1. K.S.A. 21-4306 and Section 2. K.S.A. 21-4307 and repealing the existing sections as set forth in Senate Bill 254.

Enclosed you will find:

A letter from Carlton Van Gorder, President, Games West, Inc.

A Dunn & Bradstreet report on Games West

Existing Statutes

*Attachment I*  
*Senate Judiciary*  
*2-23-89*

# GAMES WEST, INC.

2002 NORTH FORBES BLVD. #100  
TUCSON, ARIZONA 85745  
(602) 882-0883

TELEX RCA 284 250  
ANSWER BACK: ANCHOR  
DDD 622 7114

2/22/89

Mr. Gene R. Miller  
Director  
Economic Development  
City Hall  
Concordia, Kansas 66901

Dear Gene,

I wish to thank you for the courtesies you extended to me while I was in Concordia.

This letter will confirm Games West's intention to open a manufacturing plant in Concordia Kansas if the existing laws are changed so that Games West may legally manufacture coin operated gambling equipment in the State of Kansas.

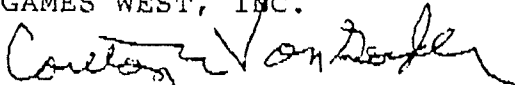
Immediately after the laws are changed, so that we may legally manufacture in Kansas, Games West intends to lease or purchase a temporary facility until such time as they can build a facility with needed space.

Games West intends to immediately hire approximately 50 people, 50% men 50% women and within 2 years will employ around 200 people.

I hope that you are able to get the proper legislation through in Kansas, so that our plans to build a facility in Concordia can become a reality.

Very truly yours

GAMES WEST, INC.

  
Carlton Van Gorder  
President

COPYRIGHT 1988 D&B INC. - PROVIDED UNDER CONTRACT  
FOR THE EXCLUSIVE USE OF SUBSCRIBER

ATTN: KJ

\*IN DATE\*

Statement Date: MAR 31 1987

DUNS: 15-366-4479  
GAMES WEST, INC  
POLAR BEAR CAN VENDERS &  
BEAR INDUSTRIES  
2002 N FORBES STE 100  
AND BRANCH(ES) OR DIVISION(S)  
(FORMERLY: 2102 N FORBES BLVD  
STE 102)  
TUCSON AZ 85745  
TEL: 602 623-2869

DATE PRINTED  
MAR 24 1988  
MFG COIN OPERATED  
GAMBLING MACHINES  
& COIN OPERATED  
SCALES  
SIC NO.  
39 99

SUMMARY  
RATING --  
STARTED 1986  
PAYMENTS SEE BELOW  
WORTH F \$3,608,324  
EMPLOYS 90(17 HERE)  
HISTORY INCOMPLETE  
FINANCING SECURED  
CONDITION FAIR

CHIEF EXECUTIVE: CARLTON VAN BORDER, PRES

SPECIAL  
EVENTS

12/18/87 Business relocated to above location Dec 1987 due to expansion.  
Cost of move estimated at \$150,000 financed 100% internally.

PAYMENTS (Amounts may be rounded to nearest figure in prescribed ranges)

REPORTED	PAYING RECORD	HIGH CREDIT	NOW OWES	PAST DUE	SELLING TERMS	LAST SALE WITHIN
02/88	Disc	1000	1000	-0-	2 10 N30	1 Mo
01/88	Ppt	25000	10000		N30	
	Ppt	500	500	-0-	1 15 N30	1 Mo
	Slow 30 (005)	50	-0-	-0-	N30	6-12 Mos
		500	-0-	-0-		2-3 Mos
07/87	Ppt	50	-0-	-0-	N7	2-3 Mos

\* Payment experiences reflect how bills are met in relation to the terms granted. In some instances payment beyond terms can be the result of disputes over merchandise, skipped invoices etc.

\* Each experience shown represents a separate account reported by a supplier. Updated trade experiences replace those previously reported.

FINANCE

\* A FINANCIAL SPREAD SHEET OF COMPARATIVES, RATIOS, AND INDUSTRY AVERAGES  
\* MAY BE AVAILABLE. ORDER A DUNS FINANCIAL PROFILE VIA YOUR DUNSPRINT  
\* TERMINAL OR BY CALLING DUNS DIAL AT 1-800-DNB-DIAL.

12/18/87 Interim statement dated MAR 31 1987:

Cash	\$	107,000	Accts Pay	\$	13,382
Accts Rec		241,000	Parts Ordered		21,354
Notes Rec		161,000			



Curr Assets	509,000	Curr Liabs	34,736
Fixed Assets	1,247,300		
Inventory	1,866,760	EQUITY	3,608,324
	-----		-----
Total Assets	3,643,060	Total	3,643,060

Statement received by mail JUL 27 1987. Extent of audit, if any, not indicated.

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On DEC 02 1987 Carlton Van Gorder, president, declined all information.

## PUBLIC FILINGS

## UCC FILINGS

12/18/87 Financing Statement #501272 filed 09-21-87 with Secretary, State of AZ. Debtor: Games West, Inc, Tucson, AZ. Secured Party: Coin Machine Accept Corp, Tucson, AZ. Collateral: specified equipment.

12/18/87 Financing Statement #478769 filed 03-24-87 with Secretary, State of AZ. Debtor: Games West, Inc, Tucson, AZ. Secured Party: Coin Machine Acceptance Corp, Tucson, AZ. Collateral: specified inventory.

12/18/87 Financing Statement #472424 filed 02-10-87 with Secretary, State of AZ. Debtor: Games West, Inc, Tucson, AZ. Secured Party: Coin Machine Accp Corp, Tucson, AZ. Collateral: specified inventory.

12/18/87 Financing Statement #472483 filed 02-10-87 with Secretary, State of AZ. Debtor: Games West, Inc, Tucson, AZ. Secured Party: Coin Machines Accp Corp, Tucson, AZ. Collateral: specified inventory.

The public record items reported above under "PUBLIC FILINGS" and "UCC FILINGS" may have been paid, terminated, vacated or released prior to the date this report was printed.

## HISTORY

12/18/87

CARLTON VAN GORDER, PRES  
DIRECTOR(S): THE OFFICER(S)

Incorporated Arizona Oct 22 1986. Authorized capital consists of 2,500,000 shares common stock, \$.01 par value.

Business started 1986 by Carlton Van Gorder. 100% of capital stock is owned by Carlton Van Gorder.

CARLTON VAN GORDER. 1986-present active here.

## OPERATION

12/18/87

Manufactures coin operated slot machines (50%) and coin operated scales (50%).

Terms are net 30 days. Sells to casinos and other commercial concerns  
Territory :Worldwide.

Nonseasonal.

EMPLOYEES: 90 including officers. 17 employed here.

FACILITIES: Leases 6,000 sq. ft. in one story concrete block building.

LOCATION: Suburban business section on well traveled street.

BRANCHES: Branch is located in Yuma, AZ.

03-24(154 /11)

00000

028

H

FULL DISPLAY COMPLETE

A=CREDIT ADVISORY SYSTEM  
MS=MONITORING SERVICES

P=PAYMENT ANALYSIS RPT  
D=FINANCIAL PRODUCTS  
C=CREDIT GUIDE  
T=FAMILY TREE  
G=GOVT ACTIVITY REPORT

I=BUSINESS INVESTIGATION  
M=MAIL  
CAN=MOVE TO NEXT INQUIRY

ENTER SELECTION:

3. Defendant charged hereunder: order suppressing evidence obtained by electronic search warrants upheld. *State v. Farha*, 218 K. 394, 395, 544 P. 2d 341.

**21-4305. Permitting premises to be used for commercial gambling.** Permitting premises to be used for commercial gambling is intentionally:

(a) Granting the use or allowing the continued use of a place as a gambling place; or

(b) Permitting another to set up a gambling device for use in a place under the offender's control.

Permitting premises to be used for commercial gambling is a class B misdemeanor.

**History:** L. 1969, ch. 180, § 21-4305; July 1, 1970.

**Judicial Council, 1968:** In the context of subsection (a) and (b) "intentionally" means that the offender must either (1) grant use or allow the continued use of a place knowing that it is being used as a gambling place, i.e., that one of its principal uses is for making and settling bets, for receiving, holding, recording or forwarding bets or offers to bet, for conducting lotteries, or for playing gambling machines or (2) permit another to set up for use in a place under the offender's control a machine which the offender knows is a contrivance that for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance.

**21-4306. Dealing in gambling devices; defense.** (1) Dealing in gambling devices is manufacturing, transferring or possessing with intent to transfer any gambling device or sub-assembly or essential part thereof.

(2) Proof of possession of any device designed exclusively for gambling purposes, which is not set up for use or which is not in a gambling place, creates a presumption of possession with intent to transfer.

(3) Dealing in gambling devices is a class E felony.

(4) It shall be a defense to a prosecution under this section that the gambling device is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or the defendant's possession. A slot machine shall be deemed an antique slot machine if it was manufactured prior to the year 1950.

**History:** L. 1969, ch. 180, § 21-4306; L. 1979, ch. 93, § 1; July 1.

**Judicial Council, 1968:** Under this section the offender must know that the thing or device he manufactures, transfers or possesses with intent to transfer either (1) evidences, purports to evidence or is designed to evidence participation in a lottery, i.e., an enterprise defined as a lottery in section 21-4302, or the making of

a bet (defined in section 21-4302), or (2) is designed exclusively for gambling purposes or as a sub-assembly or essential part of a device designed exclusively for gambling purposes.

Examples of things covered by this section are racing tickets, lottery tickets, gambling machines, numbers jars, punch boards and roulette wheels.

Subsection (2) creates a presumption of possession with intent to transfer upon proof of certain facts. The fact that the device is not set up for use or is not in a gambling place gives rise to an inference that it is possessed with intent to transfer it rather than with intent to use it. Therefore, the jury should consider the presumption along with all the other evidence in determining whether they are convinced beyond a reasonable doubt of the defendant's guilt.

#### Attorney General's Opinions:

Constitution of Kansas; lotteries; gambling. 85-15.

#### CASE ANNOTATIONS

1. Electronic video card game not a "gambling device." *Games Management, Inc. v. Owens*, 233 K. 444, 447, 662 P.2d 260 (1983).

**21-4307. Possession of a gambling device; defense.** (1) Possession of a gambling device is knowingly possessing or having custody or control, as owner, lessee, agent, employee, bailee, or otherwise, of any gambling device.

Possession of a gambling device is a class B misdemeanor.

(2) It shall be a defense to a prosecution under this section that the gambling device is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or the defendant's possession. A slot machine shall be deemed an antique slot machine if it was manufactured prior to the year 1950.

**History:** L. 1969, ch. 180, § 21-4307; L. 1979, ch. 93, § 2; July 1.

**Judicial Council, 1968:** Enforcement of the former Kansas statutes relating to gambling devices was difficult because evidence of the actual setting up and use of the machine was required to prove a crime. Because such devices are usually employed in places to which only a selected and sympathetic clientele has access, evidence of their use was not readily obtainable by officers. The section is intended to provide a remedy for this problem.

Several states make possession of such devices criminal, e.g., California (Cal. Pen. Code § 330, Deering) and Florida (Fla. Stat. Ann. § 849.15).

#### CASE ANNOTATIONS

1. Charged hereunder; interlocutory appeal of order suppressing evidence obtained in warrantless search sustained. *State v. Dailey*, 209 K. 707, 708, 498 P.2d 614.

2. Trial court ruling that 21-4302 required finding no violation hereunder reversed: 21-4302 (1) (d) and (3) held unconstitutional. *State v. Nelson*, 210 K. 439, 441, 448, 502 P.2d 841.

3. Referred to: instruction of 21-322 graph 2. *State v. 694*, 527 P.2d 1020.

4. Defendants charged, not brought. *State v. Cox*.

5. Section cited: *State v. Pinball Mac*.

6. State may not under 22-2512 with property interest. S. 1126 (1984).

**21-4308. I** facilities for gam

(a) Installing place which the

(b) Installi: knowing that th

(c) Knowing are being used transmitting inf

Provided, That ing telephone

enforcement ag tion, that any t used principally

or receiving gam continue or ref maintaining of

notice to the su alty or forfeiture found against a

act done in co ceived from a la ing in this sectio

the right of any cure an approp wise provided b jurisdiction, tha discontinued

restored. Installing com blers is a class E

**History:** L. 1, 1970.

Source or prior law: 21-915, 21-916, 21-21-1501, 21-1502, 21-1508, 21-1510.

DECONCINI McDONALD BRAMMER YETWIN & LACY  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

EVO DECONCINI (1901-1986)

JOHN R. McDONALD	J. WM. BRAMMER, JR.
RICHARD M. YETWIN	JOHN C. LACY
DINO DECONCINI	ROBERT M. STRUSE
WILLIAM B. HANSON	JOHN C. RICHARDSON
DAVID G. ANSON	JAMES A. JUTRY
SPENCER A. SMITH	MICHAEL R. URMAN
DENISE M. BAINTON	KAREN J. NYGAARD
LUIS A. OCHOA	SUSAN E. MILLER
GARY F. URMAN	

240 NORTH STONE AVENUE  
TUCSON, ARIZONA 85701-1295  
(602) 623-3411  
FAX: (602) 624-0972

3030 NORTH THIRD ST., SUITE 200  
PHOENIX, ARIZONA 85012-3002  
(602) 241-0100  
FAX: (602) 241-8533

July 14, 1988

PLEASE REPLY TO TUCSON

REGISTERED MAIL  
RETURN RECEIPT REQUESTED

Mr. Frederick D. Hess  
Director, Office of Enforcement Operations  
U. S. Department of Justice  
Washington, D.C. 20530

Re: Games West, Inc.

RENEWAL OF REGISTRATION  
LETTER-REQUIRED UNDER THE  
GAMBLING ACT OF 1962  
(15 U.S.C. 1171, et. seq.)

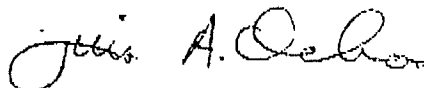
Dear Mr. Hess:

On behalf of Games West, Inc., this is a renewal of the registration letter filed with your office on July 2, 1986, by Carlton E. Van Gorder, President of Games West, Inc., as required by the Gambling Act of 1962 (15 U.S.C. 1171, et. seq.) This corporation is engaged in the business of manufacturing and distributing of gaming devices. It also will ship games across state lines to Nevada and other states where such shipments are legal and to foreign countries. The games that will be shipped have been ruled in some areas as coin-operated gambling devices.

The corporation's manufacturing plant is located at 2002 North Forbes Boulevard, No. 100, Tucson, Arizona 85745, the phone number is (602) 882-0883. All records on interstate shipments have been kept and will continue to be kept at the corporation's manufacturing plant in Tucson.

These devices will be shipped under the Gambling Device Act of 1962 (15 U.S.C. 1171, et. seq.) If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely yours,



Luis A. Ochoa

c: Carlton Van Gorder, President,  
Games West, Inc.  
0713880345.la01.880205

Attachment III  
Senate Judiciary  
2-23-89

Att: MR. Gene Miller

U.S. Department of Justice



Washington, D.C. 20530

WFW:FDH:GMCN:GTW:gtw  
159-12-109

Games West, Incorporated  
2002 N. Forbes Boulevard, #100  
Tucson, AZ 85745

Attention: Mr. Luis A. Ochoa

Dear Sir:

This is to confirm your registration for the  
Calendar Year 1989 under the Gambling Devices Act of 1962  
(15 U.S.C. 1171, et seq.).

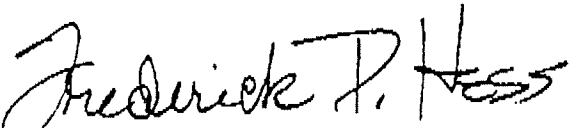
As you may know, this registration must be renewed  
by resupplying us with all of the information required by the  
Act in each Calendar Year.

Since registration is effective on the date the full  
and correct information is received by the Department we suggest  
that your letter be sent registered or certified mail to provide  
you with proof of the date the letter was received.

Sincerely,

Edward S.G. Dennis, Jr.  
Assistant Attorney General  
Criminal Division

BY:

  
Frederick D. Hess, Director  
Office of Enforcement Operations

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

February 22, 1989

WINT WINTER, JR.  
SENATOR, SECOND DISTRICT  
DOUGLAS COUNTY  
737 INDIANA  
BOX 1200  
LAWRENCE, KANSAS 66044

STATE CAPITOL, ROOM 120-S  
TOPEKA, KS 66612-1594  
(913) 296-7364

LEGISLATIVE HOTLINE  
1-800-432-3924

COMMITTEE ASSIGNMENTS

CHAIRMAN: JUDICIARY  
VICE-CHAIRMAN: WAYS AND MEANS  
MEMBER: JOINT COMMITTEE ON ECONOMIC  
DEVELOPMENT  
JOINT COMMITTEE ON SPECIAL CLAIMS  
AGAINST THE STATE  
ECONOMIC DEVELOPMENT  
KANSAS JUDICIAL COUNCIL

Chief Justice Robert H. Miller  
Kansas Supreme Court  
Kansas Judicial Center  
301 West Tenth  
Topeka, Kansas 66612

RE: SB-73 and SB-74 -- Review of Kansas Child Support Guidelines

Dear Justice Miller:

I am writing to you as the Chairman of the Senate Judiciary Committee and at the direction of that Committee concerning the Kansas Child Support Guidelines now in effect as Supreme Court Administrative Order 59.

As you know, the Child Support Guidelines were adopted in October, 1987, after a comprehensive effort by the Kansas Child Support Commission. The guidelines were the first set of uniform guidelines pertaining to child support to be adopted in Kansas. We have now experienced almost eighteen months with the guidelines as they are being applied by the courts in the different judicial districts.

In both the 1988 and 1989 sessions of the Legislature this Committee has been asked to consider bills which, if adopted, would create a completely different version of the guidelines and would be a legislative rather than a judicial approach to the child support problem.

After hearing the testimony of both the proponents and opponents of Senate Bills 73 and 74, it is clear to this Committee that there is a need to consider specific adjustments or changes in the existing guidelines, rather than attempt a wholesale substitution of a new system for the one that is currently in effect.

Several problems with the present guidelines have been brought to the attention of this Committee. Some of those problems are as follows:

- a. An apparent widespread reluctance on the part of the judges to exercise the discretion granted to them by Rule 59, particularly in the area of supplemental considerations.

cont.

*Attachment IV*

*SJC  
2-23-89*

Chief Justice Robert H. Miller  
February 22, 1989  
Page 2

- b. A concern that as applied, the child support amounts being ordered are too high and the base numbers may be too high.
- c. A concern that the actual expenditures of the non-custodial parent are not factored into the guidelines or are not being considered as supplemental considerations.
- d. No clear uniform procedure for calculating child support in situations where the parties have split custody with one or more children living with each parent.
- e. A failure of the guidelines to recognize the reality of subsequent children of the non-custodial parents and to provide a procedure for fairly counting support in such situations.

The foregoing list is not intended by this Committee to be the only problem areas that may exist with the present guidelines.

This Committee believes that the original purpose of the guidelines can best be served by a review and possible modification of the existing Rule 59, rather than a complete substitution of a new system. The original Child Support Guidelines Committee was appointed by the Governor and its authority has presumably expired. I request that you appoint an advisory committee to review the guidelines as they are being applied and make suggested changes to the Supreme Court. By this joint effort, I believe we can better serve the needs of the people of Kansas.

Very truly yours,

Wint Winter  
Chairperson  
Senate Judiciary Committee

WW:gc