

Approved 3-16-89  
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 March 1, 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  
Gordon Self, Revisor of Statutes  
Jane Tharp, Committee Secretary

Conferees appearing before the committee: None

Senate Bill 233 - Conditions of release prior to trial

Following committee discussion, Senator Gaines moved to amend the bill in line 40 by changing shall to may. Senator Feleciano seconded the motion. The motion carried. Senator Bond moved to amend the bill conceptually by adding until released by the court. Senator Feleciano seconded the motion. Following committee discussion, Senator Bond withdrew the motion. Senator Gaines moved to amend the bill by eliminating the last sentence, lines 45 through 48. Senator Parrish seconded the motion. The motion carried. Senator Feleciano moved to report the bill favorably as amended. Senator Petty seconded the motion. The motion carried.

Senate Bill 34 - Rebutting the presumption of paternity; court ordered tests.

Senator Yost, chairman of the subcommittee on civil matters, explained the bill and the recommendations of the subcommittee. Senator Bond moved to adopt the committee report to amend the bill as indicated on the balloon (See Attachment I). Senator Parrish seconded the motion. The motion carried. Senator Yost moved to report the bill favorably as amended. Senator Parrish seconded the motion. The motion carried. Copy of subcommittee report is attached (See Attachment II).

Senate Bill 51 - Facsimile considered original document in certain situations.

Senator Yost explained the bill and the recommendations of the committee. Senator Bond moved to amend the bill by adopting the recommendation of the subcommittee (See Attachment III). Senator Parrish seconded the motion. Following committee discussion, the motion carried. Senator Yost moved to report the bill favorably as amended. Senator Petty seconded the motion. The motion carried. Copy of subcommittee report is attached (See Attachment IV).

Senate Bill 58 - Appointment of nonjudicial personnel for district courts.

Senator Yost explained the bill. Senator Bond moved to amend the bill by adopting the subcommittee report (See Attachment V). Senator Feleciano seconded the motion. Following committee discussion, Senator Gaines made a substitute motion to amend the bill as in subcommittee report, but change the second proposed amendment to less than four district judges. Senator Rock seconded the substitute motion. The motion carried. Senator Yost moved to report the bill favorably as amended. Senator Martin seconded the motion. The motion carried. Copies of subcommittee report and letter from Judge Walton are attached (See Attachments VI).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,

room 514-S, Statehouse, at 10:00 a.m./~~PM~~ on March 1, 1989

Senate Bill 125 - Charitable organizations and solicitations act, exemption from registration, community foundations.

Senator Yost explained the bill and the amendments proposed by the subcommittee. Senator Bond moved to amend the bill by adopting the subcommittee report (See Attachment VII). Senator Martin seconded the motion. The motion carried. Senator Bond moved to report the bill favorably as amended. Senator Parrish seconded the motion. With a show of hands, the motion carried. Copies of subcommittee report and handouts are attached (See Attachments VIII).

Senate Bill 72 - Charitable organizations and solicitations act, exemption from registration, community mental retardation centers.

Senator Yost explained the amendments to Senate Bill 72 were amended into Senate Bill 125. Senator Yost moved to report the bill adversely. Senator Parrish seconded the motion. The motion carried.

Senate Bill 284 - Civil remedies for theft.

Senator Yost explained the bill and the recommendations of the committee. Senator Bond moved to amend the bill by adopting the subcommittee report (See Attachment IX). Senator Martin seconded the motion. Following committee discussion, Senator Moran made a substitute motion to amend the bill conceptually with reference to parents that this liability triggers upon the second conviction of a minor. Senator Rock seconded the motion. Following further committee discussion, the motion carried to adopt the subcommittee report. Following committee discussion, Senator Feleciano moved to report the bill adversely. Senator Parrish seconded the motion. With seven committee members voting in favor of the motion, the motion carried. Copies of subcommittee report and handouts are attached (See Attachments X).

Senate Bill 63 - Schools, duties with respect to children in shared or joint custody arrangements.

Senator Yost explained the bill and the proposed amendments of the subcommittee. Senator Yost moved to amend the bill by adopting the subcommittee report (See Attachment XI). Senator Bond seconded the motion. Following committee discussion, the motion carried. Senator Yost moved to report the bill favorably as amended. Senator Rock seconded the motion. The motion carried. Copies of committee report and handouts are attached (See Attachments XII).

Senate Bill 79 - Expungement of certain convictions or records not permitted.

Senator Moran explained the bill. Following committee discussion, Senator Feleciano moved to report the bill favorably. Senator Oleen seconded the motion. The motion carried. Subcommittee report attached (See Attachment XIII).

The meeting adjourned.

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

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-1-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Dave Claxton	Hutchinson	—
Dick Heitschmidt	Hutchinson	—
Mary Zwick	Topeka	—
Wanda Cox	Marion	
Cheryl Stoney	Marion	
Doc Jackson	Marion	
Gene D. Boldt	Marion	
Laura Hartman	Topeka	Ks. Bar Assoc.
Paul Shelby	Topeka	OJA
Mary Shaybaugh	Topeka	SRS
Jon Drax	Topeka	Life at its Best
Beth Weibin	Topeka	W. /
Chas. Simon	Topeka	DOC
Gene Johnson	Topeka	Ks. Comm. A SAP ASSN
Beverly Ahlstrom	Overland Park	League of Women Voters
Joan Olson	Wichita	" " "
Therese Scott	"	" " "
Vicki Sundell Stangl	Overland Park	League of Women Voters
Betty Schofield	Overland Park	League of Women Voters
Golden Peawler	Topeka	Penel Inst. Neighbo
Juni Clave	Town	KC DAZ
Jan Frecky	Manhattan	AAUW
Pat Baker	KS 50	Topeka
Kathryn Dyrus	USD 259	Wichita
Nancy A. derheime	Topeka	Attachment XIV



SENATE BILL No. 34

By Senator Yost

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AN ACT concerning minors; relating to the presumption of paternity; amending K.S.A. 38-1114 and 38-1118 and repealing the existing sections.

38-1115

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

Section 1. K.S.A. 38-1114 is hereby amended to read as follows:  
38-1114. (a) A man is presumed to be the father of a child if:

(1) He and the child's mother are, or have been, married to each other and the child is born during the marriage or within 300 days after the marriage is terminated by death or by the filing of a journal entry of a decree of annulment or divorce.

(2) Before the child's birth, he and the child's mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is void or voidable and:

(A) If the attempted marriage is voidable, the child is born during the attempted marriage or within 300 days after its termination by death or by the filing of a journal entry of a decree of annulment or divorce; or

(B) if the attempted marriage is void, the child is born within 300 days after the termination of cohabitation.

(3) After the child's birth, he and the child's mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is void or voidable and:

(A) He has acknowledged his paternity of the child in writing;  
(B) with his consent, he is named as the child's father on the child's birth certificate; or  
(C) he is obligated to support the child under a written voluntary

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promise or by a court order.

(4) He notoriously or in writing recognizes his paternity of the child.

(b) A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence. A presumption under this section may be rebutted if biological tests indicate that there is either more than a [50%] probability that the presumed father is not the actual father or more than a [50%] probability that another contestant is the actual father. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

90%

Sec. 2. K.S.A. 38-1118 is hereby amended to read as follows: 38-1118. Whenever the paternity of a child is in issue in any action or judicial proceeding in which the child, mother and alleged father are parties, the court, upon its own motion or upon motion of any party to the action or proceeding, shall order the mother, child and alleged father to submit to blood tests. If a paternity action is filed by the secretary of social and rehabilitation services under K.S.A. 39-755 or 39-756, and amendments thereto, the court shall order blood tests on the motion of the secretary of social and rehabilitation services or any party to the action. If any party refuses to submit to the tests, the court may resolve the question of paternity against the party or enforce its order if the rights of others and the interests of justice so require. The tests shall be made by experts qualified as examiners of blood types who shall be appointed by the court. The verified written report of the court-appointed experts shall be considered to be stipulated to by all parties unless written notice of intent to challenge the validity of the report is given to all parties not less than 20 days before trial. If such notice is given, the experts shall be called by the court as witnesses to testify as to their findings and shall be subject to cross-examination by the parties. Any party or person at whose suggestion the tests have been ordered may demand that other experts, qualified as examiners of blood types, perform independent tests under order of which shall be ordered by the court, the results of which may be offered in evidence. The

Sec. 2. K.S.A. 38-1115 is hereby amended to read as follows: 38-1115. (a) A child whose paternity has not been determined, or any person on behalf of such a child, may bring an action:

(1) At any time to determine the existence of a father and child relationship presumed under K.S.A. 38-1114 or and amendments thereto;

(2) at any time during the child's minority if the presumption of paternity can be rebutted under K.S.A. 38-1114 and amendments thereto and paternity has not previously been determined through biological testing;  
or

(3) at any time until three years after the child reaches the age of majority to determine the existence of a father and child relationship which is not presumed under K.S.A. 38-1114 and amendments thereto.

(b) When authorized under K.S.A. 39-755 or 39-756, and amendments thereto, the secretary of social and rehabilitation services may bring an action at any time during a child's minority to determine the existence of the father and child relationship.

(c) This section does not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to the probate of estates or determination of heirship.

(d) Any agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

82 number and qualification of the other experts shall be determined  
83 by the court.

, 38-1115

84 Sec. <sup>4</sup>~~3~~ K.S.A. 38-1114 and 38-1118 are hereby repealed.

85 Sec. <sup>5</sup>~~4~~ This act shall take effect and be in force from and after  
86 its publication in the statute book.

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The Sub-Committee on Civil Matters held a number of meetings, and the following is a record of those hearings, as well as the sub-committee's recommendations.

*Attachment II*

Senate Bill 34

The sub-committee heard testimony from Senator Yost, the sponsor of the bill. The sub-committee then recommended that SB 34 be amended, and that it be recommended favorably, as amended, to the whole committee. (Amendments are attached hereto)

*Attachment III*

Senate Bill 51

The sub-committee heard testimony from Senator Yost, the sponsor of the bill. The sub-committee then recommended that SB 51 be amended, and that it be recommended favorably, as amended, to the whole committee. (Amendments are attached hereto)

*Attachment V*

Senate Bill 58

The sub-committee heard testimony from Randy Hearrell of the Kansas Judicial Council. The sub-committee then recommended that SB 58 be amended, and that it be recommended favorably, as amended, to the whole committee. (Amendments are attached hereto)

*Attachment VII*

Senate Bill 63

The sub-committee received testimony in favor of SB 63 from Senator Jim Francisco the sponsor of the bill. The sub-committee also heard from the following:

In Favor:

Mary Simmons of Wichita  
Judge Robert Morrison of Wichita  
Judge James Beasley, of Wichita, by letter  
Kiel Rathbun  
Angela Rathbun

*Attachments II, IV, VI, XII*  
*Senate Judiciary*



SENATE BILL No. 51

By Senator Yost

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AN ACT concerning civil procedure; relating to original documents; amending K.S.A. 1988 Supp. 60-467 and repealing the existing section.

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

Section 1. K.S.A. 1988 Supp. 60-467 is hereby amended to read as follows: 60-467. (a) As tending to prove the content of a writing, no evidence other than the writing itself is admissible, except: (1) *If the writing is a facsimile and is used by the proponent or opponent as the writing itself, such facsimile shall be considered as the writing itself; or (2) as otherwise provided in these rules, unless the judge finds that (1)-(A) the writing is lost or has been destroyed without fraudulent intent on the part of the proponent, (2)-(B) the writing is outside the reach of the court's process and not procurable by the proponent, (3)-(C) the opponent, at a time when the writing was under the opponent's control has been notified, expressly or by implication from the pleadings, that it would be needed at the hearing, and on request at the hearing has failed to produce it, (4)-(D) the writing is not closely related to the controlling issues and it would be inexpedient to require its production, (5)-(E) the writing is an official record, or is a writing affecting property authorized to be recorded and actually recorded in the public records as described in exception (s) of K.S.A. 60-460 and amendments thereto or (6)-(F) calculations or summaries of content are called for as a result of an examination by a qualified witness of multiple or voluminous writings, which cannot be conveniently examined in court, but the adverse party shall have had a reasonable opportunity to examine such records before trial, and such writings are present in court for use*

telefacsimile communication as defined in subsection (d)

telefacsimile communication

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46 in cross-examination, or the adverse party has waived their produc-  
47 tion, or the judge finds that their production is unnecessary.

48 (b) If the judge makes one of the findings specified in subsection  
49 (a), secondary evidence of the content of the writing is admissible.  
50 If evidence is offered by the opponent tending to prove that (1) the  
51 asserted writing never existed, (2) a writing produced at the trial is  
52 the asserted writing or (3) the secondary evidence does not correctly  
53 reflect the content of the asserted writing, the evidence is irrelevant  
54 and inadmissible upon the question of admissibility of the secondary  
55 evidence but is relevant and admissible upon the issues of the ex-  
56 istence and content of the asserted writing to be determined by the  
57 trier of fact.

58 (c) If the procedure specified by subsection (b) of K.S.A. 1985  
59 -1988 Supp. 60-245a, and amendments thereto, for providing business  
60 records has been complied with and no party has required the per-  
61 sonal attendance of a custodian of the records or the production of  
62 the original records, the copy of the records produced shall not be  
63 excluded under subsection (a).

64 ^ Sec. 2. K.S.A. 1988 Supp. 60-467 is hereby repealed.

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

(d) As used in this section, telefacsimile communication means the use of electronic equipment to send or transfer a copy of an original document via telephone lines.

SENATE BILL No. 58

By Committee on Judiciary

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AN ACT concerning courts; relating to appointment of nonjudicial personnel for district courts; amending K.S.A. 20-345 and repealing the existing section.

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

Section 1. K.S.A. 20-345 is hereby amended to read as follows: 20-345. Within staffing limits prescribed by the supreme court and appropriations therefor, the administrative judge of each judicial district, with the approval of a majority of the other district judges of such judicial district, shall appoint such bailiffs, court reporters, secretaries, court services officers and other clerical and nonjudicial personnel as necessary to perform the judicial and administrative functions of the district court. Persons appointed pursuant to this section shall have qualifications prescribed by law or rule of the supreme court. Except as otherwise provided by law, such persons shall receive compensation prescribed by the judicial personnel classification system. Such persons shall perform the duties and functions prescribed by law, designated in the personnel classification system or assigned by the administrative judge, subject to rule of the supreme court. Personnel whose salary is payable by counties shall receive compensation in the amounts provided in the district court budget approved by the board of county commissioners. Whenever any person is employed or assigned to work under direct supervision of any judge or in a division of court in which a judge presides, the employment or assignment of the person shall be subject to the approval of that judge.

, with the approval of a majority of the other district judges of such judicial district,

, except that in judicial districts where there are less than three district judges, the administrative judge of such judicial district shall appoint such persons

Sec. 2. K.S.A. 20-345 is hereby repealed.  
Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

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STATE OF KANSAS  
TENTH JUDICIAL DISTRICT

HERBERT W. WALTON  
DISTRICT JUDGE, DIVISION NO. 1  
JOHNSON COUNTY COURTHOUSE  
OLATHE, KANSAS 66061

February 15, 1989

CYNTHIA S. NEWMAN  
ADMINISTRATIVE ASSISTANT

VICKI KUNKEL, C.S.R.  
OFFICIAL COURT REPORTER

(913) 782-5000 EXT. 5460

Mr. Randy M. Hearrell  
Research Director  
Kansas Judicial Council  
Kansas Judicial Center  
301 West 10th Street  
Topeka, Kansas 66612-1507

In re: Senate Bill No. 58

Dear Mr. Hearrell:

I regret that I will be unable to attend the scheduled hearing before the Senate Judiciary Committee on Senate Bill No. 58. I have a previous engagement for the same time that requires my personal attendance. However, I thought I should write and give you the benefit of my view of the bill.

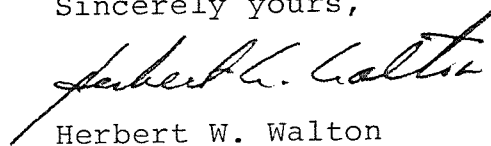
As you know, the statute in the bill was discussed fully by the Kansas Judicial Council. At the time, I indicated that the present law makes it difficult for an administrative judge in a large district to carry out a policy of employment of non-judicial staff. For example, the employment of a part time cook at the Detention Center requires the approval of nine judges before the offer can be effective. Not only does this require a lot of paper work, it can frustrate prompt consideration of filling a vacancy. Thus, my principal concern with the present statute is the burdens it places on efficiency in the administration of justice. In making this statement, I am mindful of other problems the deletion could present.

I do not favor an imperious administrative judge. On the contrary, I believe all judges in a judicial district should set the policy of the court and the administrative judge should have the responsibility of carrying out that policy. One policy could be the employment of non-judicial employees other than those working directly under the supervision of a judge. Perhaps, the statute could be amended to provide for the delegation of policy by local court rule. Yet, the present statute does not permit such procedure.

Randy M. Hearrell  
February 15, 1989  
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With kindest regards, I remain

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Herbert W. Walton". The signature is written in dark ink and is positioned above the printed name.

Herbert W. Walton

HWW/nb

cc: The Honorable Sam K. Bruner

# SENATE BILL No. 125

By Senators Salisbury, Parrish and Petty

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AN ACT concerning the charitable organizations and solicitations act; relating to exemptions from registration; amending K.S.A. 17-1762 and repealing the existing section.

registration of professional fundraisers and solicitors;  
, 17-1764 and 17-1765  
sections

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

Section 1. K.S.A. 17-1762 is hereby amended to read as follows: 17-1762. The following persons shall not be required to register with the secretary of state:

educational interlocals, educational cooperatives,

(a) State educational institutions under the control and supervision of the state board of regents, unified school districts, area vocational-technical schools, all educational institutions that are accredited by a regional accrediting association or by an organization affiliated with the national commission of accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to the student body, alumni, faculty and trustees of such institution, and their families, or a library established under the laws of this state, provided that the annual financial report of such institution or library shall be filed with the attorney general;

(b) fraternal, patriotic, social, educational, alumni organizations and historical societies when solicitation of contributions is confined to their membership. This exemption shall be extended to any subsidiary of a parent or superior organization exempted by this subsection where such solicitation is confined to the membership of the subsidiary, parent or superior organization;

(c) persons requesting any contributions for the relief or benefit of any individual, specified by name at the time of the solicitation, if the contributions collected are turned over to the named beneficiary, first deducting reasonable expenses for costs of banquets, or

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44 social gatherings, if any, provided all fund raising functions are car-  
45 ried on by persons who are unpaid, directly or indirectly, for such  
46 services;

47 (d) any charitable organization which does not intend to solicit  
48 and receive and does not actually receive contributions in excess of  
49 \$10,000 during such organization's tax period, as defined by K.S.A.  
50 17-7501 and amendments thereto, if all of such organization's fund-  
51 raising functions are carried on by persons who are unpaid for such  
52 services. However, if the gross contributions received by such char-  
53 itable organization during any such tax period is in excess of \$10,000,  
54 such organization, within 30 days after the end of such tax period,  
55 shall register with the secretary of state as provided in K.S.A. 17-  
56 1763 *and amendments thereto*;

57 (e) any incorporated community chest, united fund, united way  
58 or any charitable organization receiving an allocation from an incor-  
59 porated community chest, united fund or united way;

60 (f) a bona fide organization of volunteer firemen, or a bona fide  
61 auxiliary or affiliate of such organization, if all fund-raising activities  
62 are carried on by members of such organization or an affiliate thereof  
63 and such members receive no compensation, directly or indirectly,  
64 therefor;

65 (g) any charitable organization operating a nursery for infants  
66 awaiting adoption if all fund-raising activities are carried on by mem-  
67 bers of such an organization or an affiliate thereof and such members  
68 receive no compensation, directly or indirectly, therefor;

69 (h) any corporation established by the federal congress that is  
70 required by federal law to submit annual reports of such corporation's  
71 activities to congress containing itemized accounts of all receipts and  
72 expenditures after being duly audited by the department of defense  
73 or other federal department;

74 (i) any girls' club which is affiliated with the girls' club of America,  
75 a corporation chartered by congress, if such an affiliate properly files  
76 the reports required by the girls' club of America and that the girls'  
77 club of America files with the government of the United States the  
78 reports required by such federal charter;

79 (j) any boys' club which is affiliated with the boys' club of Amer-  
80 ica, a corporation chartered by congress, if such an affiliate properly

81 files the reports required by the boys' club of America and that the  
 82 boys' club of America files with the government of the United States  
 83 the reports required by such federal charter;

84 (k) any corporation, trust or organization incorporated or estab-  
 85 lished for religious purposes, or established for charitable, hospital  
 86 or educational purposes and engaged in effectuating one or more of  
 87 such purposes, that is affiliated with, operated by or supervised or  
 88 controlled by a corporation, trust or organization incorporated or  
 89 established for religious purposes, or to any other religious agency  
 90 or organization which serves religion by the preservation of religious  
 91 rights and freedom from persecution or prejudice or by fostering  
 92 religion, including the moral and ethical aspects of a particular re-  
 93 ligious faith;

94 (l) the boy scouts of America and the girl scouts of America,  
 95 including any regional or local organization affiliated therewith;

96 (m) the young men's christian association and the young women's  
 97 christian association, including any regional or local organization af-  
 98 filiated therewith;

99 (n) any licensed medical care facility which is organized as a  
 100 nonprofit corporation under the laws of this state;

101 (o) any licensed community mental health center or licensed  
 102 mental health clinic;

103 (p) [any charitable organization of employees of a corporation  
 104 whose principal gifts are made to an incorporated community chest,  
 105 united fund or united way, and whose solicitation is limited to such  
 106 employees; and

107 ~~[(q)]~~ any community foundation or community trust to which de-  
 108 ductible contributions can be made by individuals, corporations,  
 109 public charities and private foundations, as well as other charitable  
 110 organizations and governmental agencies for the overall purposes of  
 111 the foundation or to particular charitable and endowment funds  
 112 established under agreement with the foundation or trust for the  
 113 charitable benefit of the people of a specific geographic area and  
 114 which is a nonprofit organization exempt from federal income tax-  
 115 ation pursuant to section 501(a) of the internal revenue code of 1986,  
 116 as in effect on the effective date of this act, by reason of qualification  
 117 under section 501(c)(3) of the internal revenue code of 1986, as in

any licensed community mental retardation center and its affiliates as  
 determined by the department of social and rehabilitation services;

(q)

(r)



118 effect on the effective date of this act, and which is deemed a publicly  
119 supported organization and not a private foundation within the  
120 meaning of section 509(a)(1) of the internal revenue code of 1986,  
121 as in effect on the effective date of this act; and

(s) 122 ~~(q)~~(r) any charitable organization which does not intend to or  
123 does not actually solicit or receive contributions from more than 100  
124 persons; };

125 Sec. 2<sup>4</sup> K.S.A. 17-1762 is hereby repealed.

126 Sec. 3<sup>5</sup> This act shall take effect and be in force from and after  
127 its publication in the statute book.  
128

(t) any charitable organization the funds of which are used to  
support an activity of a municipality of this state; and  
(u) the junior league, including any local community organiza-  
tion affiliated therewith.

Sec. 2 and 3 (see attachment)

, 17-1764 and 17-1765 are

Sec. 2. K.S.A. 17-1764 is hereby amended to read as follows:  
17-1764. No person shall act as a professional fund raiser for a charitable organization ~~required to register pursuant to K.S.A. 17-1763~~, or for any religious organization as described in subsection ~~(j)~~ (k) of K.S.A. 17-1762 and amendments thereto before such person has registered with the secretary of state or after the expiration or cancellation of such registration or any renewal of such registration. Applications for registration and reregistration shall be in writing and under oath in the form prescribed by the secretary of state. The applicant, at the time of making application, shall file with, and have approval of the secretary of state, a bond in the sum of \$5,000, in which the applicant shall be the principal obligor, with one or more corporate sureties licensed to do business in this state whose liability in the aggregate will at least equal such sum. The bond shall run to the secretary of state for the use of the state and to any person who may have a cause of action against the obligor of the bond for any malfeasance or misfeasance in the conduct of such solicitation. The aggregate limit of liability of the surety to the state and to all such persons, in no event, shall exceed the sum of such bond. Registration or reregistration shall be in effect for a period of one year, or a part thereof, expiring on June 30, and may be renewed upon written application, under oath, in the form prescribed by the secretary of state and the filing of the bond for additional one year periods. Every professional fund raiser required to register pursuant to this act shall file an annual written report with the secretary of state containing such information as the secretary may require by rule and regulation pursuant to K.S.A. 17-1763 and amendments thereto.

Sec. 3. K.S.A. 17-1765 is hereby amended to read as follows:  
17-1765. No person shall act as a professional solicitor in the employ of a professional fund raiser ~~required to register pursuant to K.S.A. 17-1764~~ before such person has registered with the secretary of state or after the expiration or cancellation of

such registration or any renewal of such registration. Application for registration or reregistration shall be in writing, under oath and in the form prescribed by the secretary of state. Upon receipt of any such registration, the secretary of state shall issue a professional solicitor's license and identification number. Such registration or reregistration shall be in effect for a period of one year, or a part thereof, expiring on June 30, and may be renewed upon written application, under oath, in the form prescribed by the secretary of state for an additional one-year period.

Also testifying on the bill were Kathryn Dysart of the Wichita Public Schools and Pat Baker of the Kansas Association of School Boards. Neither supported or opposed the bill, but did express certain concerns.

The sub-committee recommended that SB 63 be amended, and that it be recommended favorably, as amended, to the whole committee. (Amendments are attached hereto)

*Attachment VIII*  
Senate Bills 72 and 125

These two bills were dealt with concurrently, since they both amend the same statute. It was decided that SB 125, rather than SB 72, should be the vehicle for amending the statute in question. The sub-committee received testimony from Senator Alicia Salisbury, the prime sponsor of SB 125. The sub-committee also heard from the following:

Betty Cleland of the Topeka Zoological Foundation

Charlotte Adair of the Junior League of Kansas

John Hellebust of Cottonwood, Inc.

Norm Wilks of the Kansas Association of School Boards

Mark Brown of the Attorney General's Office

The sub-committee then recommended that SB 125 be amended, that it be recommended favorably, as amended, to the whole committee. (Amendments are attached hereto)

The sub-committee also recommended that SB 72 be reported adversely, since it is identical to SB 125 and therefore unnecessary.

STATE PUBLIC AFFAIRS COMMITTEE  
Junior Leagues of Kansas  
Chairman Nicki Soice  
420 Clay Valley Center, Ks. 67147

316-755-1741

Senate Judiciary Committee  
State Capitol Building  
Topeka, Kansas 66612

Dear Senator Yost,

The State Public Affairs Committee for the Junior Leagues of Kansas has carefully examined SB 72 and SB 125 and has determined after consulting with legal and financial counsel that we are not as yet covered by the existing bills.

Therefore, we respectfully request consideration of inclusion by amendment to either of these two bills.

The Junior Leagues of Kansas City, Topeka, and Wichita are part of the National Association of Junior Leagues. We are an organization of women committed to promoting voluntarism and to improving the communities in which we live through the effective action and leadership of trained volunteers. We are exclusively educational and charitable.

The Junior Leagues reach out to all young women regardless of race, color, religion or national origin who have an interest in and a commitment to voluntarism.

We would be available to appear at hearings. Thank you very much for whatever assistance you can give us on this matter.

Nicki Soice  
*Nicki Soice*  
Chairman  
State Public Affairs Committee



# Kansas Association of Rehabilitation Facilities

Jayhawk Tower • 700 Jackson • Suite 802  
Topeka, Kansas 66603 • 913-235-5103

TO: Senate Judiciary Sub-Committee  
Senator Eric Yost, Chairman

FROM: Kansas Association of Rehabilitation Facilities

DATE: Feb. 20, 1989

RE: SB 72; Charitable organizations and solicitations act,  
exemption from registration, community mental  
retardation centers

Mr. Chairman, my name is Jon Hellebust and I am the Executive Director of Cottonwood, Incorporated of Lawrence, Kansas. Today I am speaking on behalf of the members of the Kansas Association of Rehabilitation Facilities. KARF represents not for profit community facilities serving over 5000 adults and children across Kansas. Our services provide residential living, vocational training, employment and children's programs for persons with mental retardation and developmental disabilities.

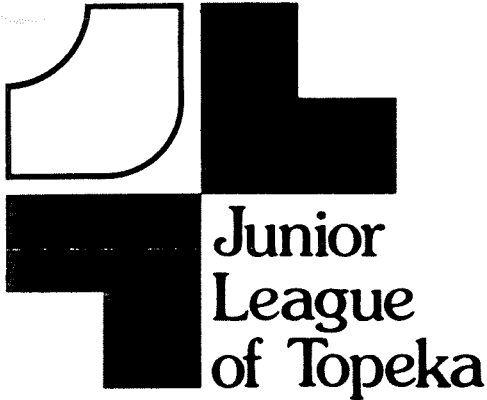
There are twenty eight community mental, retardation centers and their affiliates serving each county in Kansas. A center may comprise of a one county catchment area or a multi county area. These organizations are funded through county mill levy monies, state aid, federal block grant funds and local contributions.

Today I want to speak to the importance of the local support received by the facilities through contributions and fund raising activities. Approximately 42% of the funding for these programs is generated at the local level. Part of that is through the county mill levy, but a significant amount is through contributions. The importance of the private sector support is critical as the demand for community services has increased and facilities must supplement the traditional funding sources.

Our community programs have a long history of providing necessary services. Many of the programs have been in place for over twenty years. We have established our facilities as an important part of the communities we serve and have utilized the contributions made by the private sector to enhance the quality of those services. Senate Bill 72 would allow us to use our energies and valuable staff time in program development and not in additional paper flow.

We would ask your support of Senate Bill 72 which would include "any licensed community mental retardation center and its affiliates as determined by the department of social and rehabilitation services" as exempt from registering under the charitable organizations and solicitations act. I would note that licensed community mental health centers are currently exempt from registration and that our facilities fall under the same enabling statute.

Thank you for your attention to this issue.



February 20, 1989

I am Charlotte Adair, President of the Junior League of Topeka, Inc. I am speaking on behalf of the three Junior Leagues in Kansas: Topeka, Wichita, and Kansas City, Kansas.

We are members of the Association of Junior Leagues which represent 273 communities across the United States, Canada, and Mexico. Our purpose is exclusively educational and charitable. We are committed to promoting voluntarism in the communities we serve. We believe that training volunteers to be effective leaders can better the communities in which we live.

In Kansas, our membership includes over 2000 provisional, active, and sustaining members. We have contributed over \$2,700,000 and over 3,000,000 volunteer hours of service to our communities.

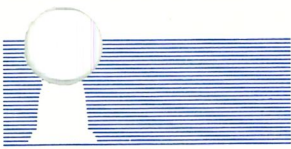
We are proud of the efforts we make for women, children, and families of Kansas. Many times we have served as the voice of those who otherwise might not be heard. We have been instrumental in bettering our educational system. We have worked to improve life for our senior citizens. Ronald McDonald houses, Hospice programs, art associations, museums, libraries, and schools have benefited from our programs. The money we raise insures that our projects can continue for years to come. We would very much appreciate inclusion on Senate bill 72 as a charitable organization exempt from fundraising taxation. Thank you!

Amend SB 72, in line 109, by striking the word "and"; in line 112, by striking the period and inserting in lieu thereof a semi-colon; following line 112, by adding the following:

(s) any charitable organization the funds of which are used to support an activity of a municipality of this state.

Betty S. Cleland  
President  
The Topeka Zoological  
Foundation





TOPEKA  
COMMUNITY  
FOUNDATION

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Charles Joss, M.D.  
Vice-Chairman

Robert Mehlinger  
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Lanny Kimbrough  
Jane Mackey  
Charles Marling  
Shelle McCoy  
Sherman Parks, Jr.  
H. Pat Powers  
Marsha J. Sheahan  
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Howard Ward, M.D.  
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Alicia Salisbury

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Velma Paris  
Nancy Perry  
Douglas Wright

**Executive Director**

Karen Welch

12

Though the first community foundation was established more than 80 years ago, Topeka's is just five years old and Wichita's is three years old. Hutchinson is in the process of forming a community foundation. I believe the reason they were not included in the original bill is simply the lack of awareness about community foundations.

The mission of community foundations is to enrich the quality of life by encouraging philanthropy, providing a vehicle for donors with varied interests, developing a permanent endowment and serving as a resource and catalyst for charitable activities.

Community foundations are thought of as a community's savings account and depository. Our purpose is the building of a long-term, permanent source of funds for improvement of the city's cultural, civic and humanitarian life .

Our growth in assets will primarily be through wills, bequests, or trust arrangements, rather than through direct solicitation, which often involves hired fund-raisers who solicit funds by telephone or large direct mailings. We are here to carry out donor's wishes in making charitable contributions either now or after their death.

A community foundation does not raise money for itself; contributors do not give to the foundation; they give through it for the enhancement of their community.

For all of these reasons, we ask that you please amend Senate Bill 72 to include community foundations.

SENATE BILL No. 284

By Committee on Judiciary

2-17

14 AN ACT concerning theft; providing certain civil remedies therefor.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. (a) Any person who commits theft shall be civilly liable  
18 to the owner of the property in an amount equal to:

- 19 (1) Actual damages equal to the full retail value of the property;
- 20 (2) a civil penalty of not less than \$100 or more than \$1,000, as
- 21 determined by the court; and
- 22 (3) attorney fees and court costs.

23 [(b)] A conviction, plea of guilty or *nolo contendere* or adjudication  
24 of the offense of theft shall not be a prerequisite to the bringing of  
25 an action pursuant to this section.

(d) 26 [(c)] As used in this section, "theft" means theft as defined by  
27 K.S.A. 21-3701 and amendments thereto.

28 Sec. 2. This act shall take effect and be in force from and after  
29 its publication in the statute book.  
30  
31  
32

and

(b) If a minor commits theft, the parent or guardian of the  
minor shall be civilly liable for:

- (1) The amount provided by subsection (a), if the theft is  
found to be the result of neglect by the parent or guardian; or
- (2) the amount provided by subsection (a) or the maximum  
amount recoverable in actions pursuant to K.S.A. 38-120 and  
amendments thereto, whichever is less, if the theft is not found  
to be the result of neglect by the parent or guardian.

(c)

Attachment IX  
Senate Judiciary  
3-1-89

JJC  
3-1-89

Senate Bill 252

The sub-committee received testimony from Mr. Dick Hummel of the Kansas Health Care Association. The sub-committee recommended that SB 252 be recommended favorably to the whole committee. There were no amendments.

Senate Bill 284

The sub-committee received testimony in favor of SB 284 from the following:

Ed Van Petten, of the Attorney General's Office

Bud Grant of KCCI

Frances Kastner of the Kansas Food Dealers Association

The sub-committee then recommended that SB 284 be amended, that it be recommended favorably, as amended, to the whole committee. (Amendments are attached hereto)

Senate Bill 301

The sub-committee received testimony in favor of SB 301 from Daric Smith, of the Topeka law firm of Skinner and Smith.

The sub-committee recommended that SB 301 be recommended favorably to the whole committee. There were no amendments.

ERIC R. YOST  
Sub-committee Chairman

*Attachment I*  
*Senate Judiciary*  
*3 - 1 - 89*



# Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

February 27, 1989

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## DIRECTOR OF GOVERNMENTAL AFFAIRS

FRANCES KASTNER

## SENATE JUDICIARY COMMITTEE

EXECUTIVE DIRECTOR  
JIM SHEEHAN  
Shawnee Mission

## SUPPORTING SB 284

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership includes manufacturers, wholesalers, distributors and retailers of food products.

Many of you have heard our pleas in previous years to help us reduce the shoplifting losses our members and all retailers encounter. The problem is constantly becoming more prevalent. The listing in local papers of reported shoplifting from the business community and theft from private residences is increasing daily.

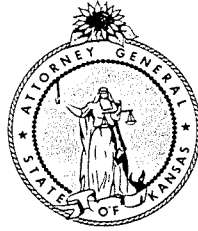
The dollar loss is staggering and has to be included in the cost of doing business which eventually is passed on to the customer. We believe it is unfair that the honest consumer has to pay for theft of property.

Passage of SB 284 would give us some hope of being able to recover the full retail value of the stolen articles. Awarding damages of not less than \$100, plus attorney and court costs, would probably not fully compensate the merchant or individual who has to take time away from their business to recover the monetary value of stolen property, but it is more than he or she can get at this time.

We urge your favorable consideration of SB 284, and I thank you for the opportunity of appearing before you today on this matter.

Frances Kastner, Director  
Governmental Affairs, KFPA

(913) 232-3310



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

STATEMENT OF  
DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN  
BEFORE THE SENATE COMMITTEE ON JUDICIARY  
RE: SENATE BILL 284  
FEBRUARY 27, 1989

I am here today on behalf of Attorney General Stephan to urge your support of Senate Bill 284, which will further enable the victims of theft to receive restitution for their loss and compensation for their time and trouble.

As a victim of theft in the past, I can promise you that receipt of restitution for the value taken does not return a victim to the same financial position as prior to the theft, due to expenses incurred by victims to assist in the investigation, and retention of legal services to attempt to collect what is owed.

In making the principle of this legislation work, I would further suggest the addition of K.S.A. 21-3703, theft of lost or mislaid property, and K.S.A. 21-3704, theft of services, to avoid possible injustice in this regard.

With increasing caseloads it is not practical to expect the criminal justice system to be a collection agency for all restitution, and this bill will give the victim the ability to recoup his expenses in collecting what is due.

# LEGISLATIVE TESTIMONY

## Kansas Chamber of Commerce and Industry

500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the  
Kansas State Chamber  
of Commerce,  
Associated Industries  
of Kansas,  
Kansas Retail Council

SB 284

February 27, 1989

### KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Judiciary Subcommittee on Civil Matters

by

Bud Grant  
Vice President

Mr. Chairman and members of the Subcommittee:

My name is Bud Grant, and I am the Executive Director of the Kansas Retail Council, a major division of Kansas Chamber of Commerce and Industry. I appreciate the opportunity of appearing before you today in support of SB 284.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

We are all familiar with shoplifting, the old five-finger discount. It's up there with speeding and tax cheating as a way to beat the system with little risk. It's

rica's fastest growing, most expensive crime. This year, shoplifters will make with more, far more, than the James gang, Bonnie and Clyde, and all the other bank robbers in the 200 years of American history. The FBI estimates that in Kansas shoplifters annual heist will exceed \$250 million and nationally, between \$24 and \$39 billion.

Who shoplifts? Anyone. There are professionals with hidden pockets and false bottom packages. But most of the shoplifters are run-of-the-aisle amateurs. Teenagers on a dare. Senior citizens on a fixed income. Poor people. Rich people. Celebrities. Politicians. Athletes. Diplomats. Nine in every ten have the money or credit card to pay for the item they steal.

When do they do it? All the time, but especially at Christmas. About 45 percent of all shoplifting losses occur during the holidays, and the impact of shoplifting can be devastating to retailers. If a store has a profit margin of five percent, then the theft of one item means that 20 of the same item must be sold to make up the loss. Shoplifting is a factor in many of the 500,000 bankruptcies that occur each year in the United States. "A merchant may or may not be able to survive financially from a five to seven percent loss to shoplifters," wrote Kathleen L. Farrell and John A. Ferrara in their 1985 book Shoplifting: The Anti-Shoplifting Guidebook. "He or she may find himself or herself going out of business, often without realizing the true cause of it."

In 1986, a confidential financial report on the problems of the loss-plagued Gimbel's chain sighted shoplifting as a major factor. In March, the Mars Stores, Inc. in New England announced huge losses, closed 13 stores and named shoplifting as a cause. But since the nation's most expensive crime is also a very impersonal crime the public does not seem alarmed.

In response, merchants are increasing their efforts to catch a thief. They are using more security guards and detectives. They are installing cables and chains on the selling floor to help keep the more expensive merchandise from disappearing. They are putting in hidden television cameras that scan the floors and hidden detectives inside decorative store columns with two-way mirrors. New technology to stop shoplifting are

being developed rapidly, and theft detection devices are one of the nation's fastest growing businesses.

One of the earliest surviving accounts of shoplifting was written in 1597; it described the different kinds of "lifts" operating in Elizabethan England. A 1698 Act of Parliament defines shoplifting as "the crime of stealing goods privately out of shops," and prescribes death for violators. Kansas retailers are not ready to make that suggestion as yet.

We are however, ready to suggest the provisions of SB 284. This is not a unique approach. In Iowa a person who commits the offense of retail theft is civilly liable to the merchant in an amount consisting of: 1) actual damages equal to the full retail value of the merchandise; 2) an amount not less than \$100 or more than \$1,000; plus 3) attorneys' fees and court costs.

As an additional point, the Iowa law also provides that if a minor commits the offense of retail theft, the parents or guardian of the minor will be civilly liable as provided in the law.

The California law allows a merchant to recover damages of not less than \$50 and not more than \$500 in addition to the retail value of the merchandise.

In the state of Washington, the law allows the merchant to recover the retail value of the stolen items, the maximum penalty of \$500, and provides that the law creates a civil cause of action which the merchant may bring directly against the apprehended shoplifter or the parents or guardian of shoplifting minors. It is not intended to supplant the criminal law but is a substitute for vigorous law enforcement action.

In Illinois, a person who commits the offense of retail theft is civilly liable to the owner or seller of the merchandise in an amount, in addition to the actual damages, equal to the full retail value of the merchandise not less than \$100 and not more than \$1,000, and attorneys' fees and court costs.

Again, if a minor commits the offense, the parents or guardian will be civilly liable.



Mr. Chairman and members of the Committee, these are just a few examples of what other states have done and are doing. Kansas retailers urge you to give them the same assistance as these states have provided their retailers. Shoplifting is stealing and stealing is a crime. Your assistance in helping to deter this crime and the associated staggering costs would be appreciated.

Thank you, Mr. Chairman. I would be pleased to attempt to answer questions.

# SENATE BILL No. 63

By Senator Francisco

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AN ACT relating to schools; imposing certain duties thereon with respect to children in shared or joint parental custody arrangements.

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

Section 1. (a) When the court places custody of a child with both parents on a shared or joint-custody basis pursuant to an action under article 16 of chapter 60 of Kansas Statutes Annotated, either or both parents may notify the child's school of the custodial arrangement ordered by the court. The notice shall be in writing and shall: (1) Be mailed or personally delivered to the chief administrative officer of the school; (2) identify the child by name and date of birth; (3) identify both parents by name, residence address, and telephone number; ~~and~~ (4) be accompanied by a certified copy of the order for custody. For the purposes of this subsection, the court may issue, upon request by motion of either or both parents of the child, an independent order relating exclusively to custody.

(b) When either or both parents have notified a child's school of a shared or joint custodial arrangement as provided in subsection (a), the school shall: (1) Make a reasonable effort to notify both parents of any medical emergency involving the child; (2) ~~invite and~~ permit participation by both parents in school activities of the child irrespective of the present domicile of the child or the parents; and (3) mail to either or both parents as requested report or grade cards, progress reports, notice of honors awards, failure or down-slips, school newsletters, parent-teacher conference notices and schedules, notices of any special needs of the child with respect to education or discipline, and such other information as may be necessary to the making of decisions in the best interests of the child.

; and (5) request that the school notify and permit participation by either or both parents as provided in subsection (b)

Any notice given by either or both parents to the child's school pursuant to this section shall be in effect for not to exceed one year. Such notice may be renewed by either or both parents by notifying the school on an annual basis as provided in this subsection and including a certified copy of the most recent order relating to custody.

and made the request for notification and participation

and

to be determined by the chief administrative officer of the school

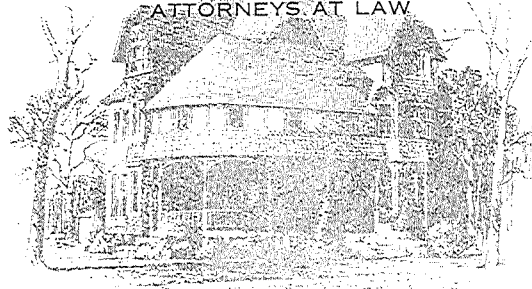
Attachment  
Senate Judiciary  
3-1-89

SJC  
3-1-89

44 (c) For the purposes of this section, the chief administrative of-  
45 ficer of a school is, in the case of a public school, the superintendent  
46 of schools and, in the case of a nonpublic school, the person des-  
47 ignated as chief administrative officer by the governing authority of  
48 the school.

49 Sec. 2. This act shall take effect and be in force from and after  
50 its publication in the statute book.

CROCKETT, KEELEY & GILHOUSEN  
ATTORNEYS AT LAW



A PARTNERSHIP INCLUDING  
A PROFESSIONAL ASSOCIATION:  
DAVID G. CROCKETT, P.A.  
EDWARD L. KEELEY  
JAMES R. GILHOUSEN

DAVID A. GRIPP  
OF COUNSEL

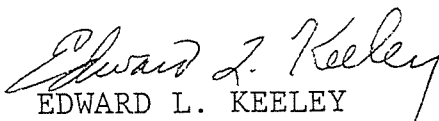
THE AMIDON HOUSE  
1005 N. MARKET  
WICHITA, KANSAS 67214  
(316) 263-9662

December 8, 1988

TO WHOM IT MAY CONCERN:

The legislation proposed by Mary Simmons regarding notification of and participation in school functions by both parents of a child placed in joint custody is in my view eminently reasonable and much needed. There can be little doubt that both parents, although divorced, have a vital interest in being informed upon request about the status and progress of their children in school. As an attorney interested in fairness and justice under the law, I would hope that the Legislature will seriously consider and adopt this legislation.

Sincerely,

  
EDWARD L. KEELEY

ELK/ef

JUVENILE DEPARTMENT of the DISTRICT COURT  
EIGHTEENTH JUDICIAL DISTRICT OF KANSAS  
1015 S. MINNESOTA STREET  
WICHITA, KANSAS 67211-2730

JUDGES' CHAMBERS (316) 268-7487  
DEPARTMENT ADMINISTRATOR (316) 268-7487  
CLERK (316) 268-7241



FAMILY SERVICES SECTION (316) 268-7782  
JUVENILE PROBATION SECTION (316) 268-7245

December 2, 1988

To Whom It May Concern:

I strongly believe that every child materially benefits from having both biological parents actively involved in all matters concerning the child's education and development. The fact that parents divorce should not exclude one of the parents from such active involvement in the child's life. Every child should have the right to grow up being acquainted with both biological parents and have the opportunity to form the child's own opinion of each.

When the court has placed a child in the joint custody of the child's parents, the child's school should not limit access to information regarding the child's development and progress to only the parent with whom the child resides. Both parents should be granted such access and encouraged to participate in the child's school related activities and progress. If legislation is necessary to accomplish this, I heartily support the passage of such legislation.

Sincerely,

A handwritten signature in cursive script that reads "Robert L. Morrison".

Robert L. Morrison, District Judge  
Departmental Presiding Judge

RLM:sn

DISTRICT COURT  
EIGHTEENTH JUDICIAL DISTRICT  
SEDGWICK COUNTY COURTHOUSE  
WICHITA, KANSAS  
67203

JAMES G. BEASLEY  
JUDGE

February 16, 1988

Re: Proposed Bill Concerning joint custody

To Whom It May Concern:

I wish to express my support for Senate Bill No. 63 which is presently under consideration by the Kansas Legislature.

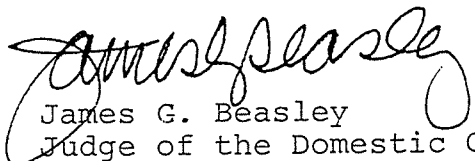
As a domestic judge for six (6) years I have had a large number of parents who have experienced difficulty obtaining information from their children's school due to lack of understanding of the rights of parents having joint custody.

I believe Senate Bill No. 63 would make more definite the legal relationship of both parents with the school and would lessen the controversy that can arise due to confusion of that legal relationship.

Many parents become discouraged over the endless battles they have with one another and with others such as the school system. Ultimately some non-custodial parents will give up and thus the relationship with the child ends with that parent. Statistics indicate that that child then becomes seven (7) times more likely to end up in juvenile court.

I am not naive enough to believe that Senate Bill No. 63 will cure all of these problems, but I do see that eliminating this road block to parental involvement is a positive step to keep a mother and father for the children of divorce.

Sincerely yours,



James G. Beasley  
Judge of the Domestic Court

JGB:ngp

**WICHITA PUBLIC SCHOOLS**  
*Unified School District No. 259*  
**ADMINISTRATION CENTER**  
**217 N. WATER**  
**WICHITA, KANSAS 67202**

Testimony of Kathryn Dysart

February 17, 1989

Mister Chairman and members of the committee,

I represent the Wichita Public schools. Current federal law guarantees both parents right of access to records and our district provides such access. In most cases, the district sends materials such as newsletters, teacher's notes, and invitations to school activities home with the child. Obviously, the provisions of Senate Bill 63 would require delivery by some other means for the duplicate materials. While we do not oppose this bill on its merits, we are concerned about the costs associated with it.

One of the most expensive aspects of this measure for a district such as ours will be going into our data base and rebuilding the information and computer triggering responses for children whose parents share custody. We are not sure just how many children in our system are in this situation. We do know that nearly half of our 47,107 pupils do not live with both original parents. How many of those are in joint custody is not information we currently compile. That number will ultimately drive the requirement for additional clerical and administrative employees. We assume that since joint custody implies the child may split time between the parents, we will have to come up with some system of tracking which parent the child may be with on any given day so we know which parent got the note sent home with the pupil and to which parent we have to mail a duplicate.

The second major expense, and one which will be ongoing, is the cost of handling the additional mail. The Wichita district currently handles some 10,000 pieces of mail a day. Annually, we spend \$149,000 on postage. Again, we cannot project for you how many additional employees or dollars spent on postage fees this measure would cost because we do not know the extent of the problem in our district, but we anticipate that the cost of compliance could be very high.

It is important to the Wichita Public Schools that we do not further erode the resources we have available for education with yet another program which seeks to have the schools address a social problem. Consequently we ask for two revisions in Senate Bill 63. We ask that you make it the parent's responsibility to provide written notification to the

district of their joint custody provision and provide the district with all applicable scheduling information so we know which parent the child is with at any given time. Secondly, we ask that the state provide specific categorical aid to districts on a participating per pupil basis. The costs of providing this program, which benefit only part of the pupil population, should not be at the expense of the larger body of students who must rely on the school's general fund for education. Without additional aid, we will have to cut service in another area to pay for this program.





STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

February 16, 1989

The Honorable of James Francisco  
State Senator, 26th District  
State Capitol, Room 136-N  
Topeka, Kansas 66612

Dear Senator Francisco:

I am supportive of Senate Bill 63 in regard to imposing certain duties in respect to children in shared or joint parental custody arrangements. I think it will assist in ameliorating the tragedy in a divided household.

Very truly yours,

Robert T. Stephan  
Attorney General

RTS:bls

cc: Mary T. Simmons

WOODARD, BLAYLOCK, HERNANDEZ, PILGREEN & ROTH

ATTORNEYS AT LAW  
RIVERFRONT PLACE  
833 NORTH WACO  
P.O. BOX 127  
WICHITA, KANSAS 67201-0127

(316) 263-4958  
FAX (316) 263-0125

STEPHEN J. BLAYLOCK  
STEVEN C. DAY  
JAMES Z. HERNANDEZ  
TERRY C. PILGREEN  
JAMES R. ROTH  
LEE H. WOODARD

JOHN L. CARMICHAEL  
CINDY L. CLEOUS - STANG

December 7, 1988

TO WHOM IT MAY CONCERN:

Please be advised that I have been contacted by Mary Simmons and have reviewed a proposed amendment to KSA 60-1610(a)(4)(A) which would provide, as a matter of law, that schools make direct reports to non-residential custodial parents, and provide other school related documents, when a joint custody order is entered into, pursuant to a divorce decree.

I have reviewed the first draft of the new proposed legislation and find that it would be in compliance with the legislative intent of joint custody. In addition, there are many post-domestic problems which arise on these issues. Such legislation would reduce the number of motions and problems that presently come before the Court because we do not have such legislation.

I therefore give my unconditional support to proposals presented by Mary Simmons and/or her legislative representative and would be willing to testify before a committee regarding the same.

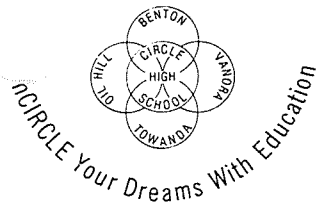
If there should be any questions regarding the above, please do not hesitate to contact me.

Sincerely,

WOODARD, BLAYLOCK, HERNANDEZ,  
PILGREEN & ROTH



Stephen J. Blaylock



# CIRCLE UNIFIED SCHOOL DISTRICT 375

East Highway 254, Towanda, Kansas 67144 (316) 536-2577

**Superintendent**  
Dr. John Gahagan

**Board Members**

Robert Johnson ..... President  
Curt Sommers ..... Vice President  
Suzie Albert ..... Member

Ann Graham ..... Member  
Joe Linot ..... Member  
Bob Sabolik ..... Member  
Dale Shaffer ..... Member

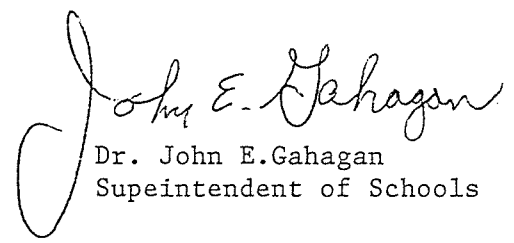
December 1, 1988

Mary Simmons  
748 R. H. Garvey Building  
300 West Douglas  
Wichita, Kansas 67202

Dear Ms. Simmons:

In behalf of Circle Unified School District #375; Butler County; Towanda, Kansas, we are supportive of your recommendation to the Legislature of the State of Kansas to provide for more definite guidelines when dealing with the joint custody of a child.

Sincerely,

  
Dr. John E. Gahagan  
Superintendent of Schools

JEG/cm

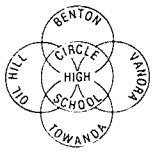
**CIRCLE HIGH SCHOOL**  
Towanda, Kansas 67144  
316-536-2277  
John Watkins, Principal

**BENTON GRADE SCHOOL**  
Benton Kansas 67017  
316-778-1151  
Leslie Plunk, Principal

**TOWANDA GRADE SCHOOL**  
Towanda, Kansas 67144  
316-536-2281  
Nita McEachern, Principal

**OIL HILL GRADE SCHOOL**  
2700 West Sixth  
El Dorado, Kansas 67042  
316-321-9515  
Elmer McDermeit, Principal

**VANORA GRADE SCHOOL**  
Route 1  
El Dorado, Kansas 67042  
316-321-3391  
Elmer McDermeit, Principal



CIRCLE Your Dreams With Education

# CIRCLE UNIFIED SCHOOL DISTRICT 375

East Highway 254, Towanda, Kansas 67144 (316) 536-2577

Superintendent  
Dr. John Gahagan

<b>Board Members</b>		Ann Graham..... Member
Robert Johnson .....	President	Joe Linot..... Member
Curt Sommers .....	Vice President	Bob Sabolik .....
Suzie Albert .....	Member	Dale Shaffer .....
		Member

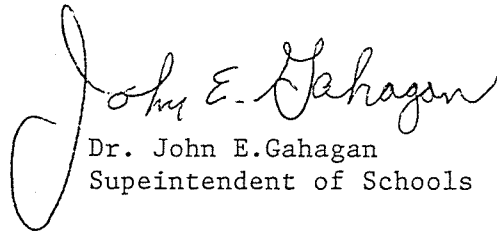
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Sincerely,

  
Dr. John E. Gahagan  
Superintendent of Schools

JEG/cm

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Route 1  
El Dorado, Kansas 67042  
316-321-3391  
Elmer McDermeit, Principal

November 30, 1988

To Whom it May Concern:

ADVANTAGES OF PROPOSED BILL:

A child benefits from consistent treatment by his/her adult caretakers. Consistent treatment is more likely to occur when both the biological parents receive identical information from the school with regard to the child's educational and social functioning.

The non-custodial parent would be better able to assist with homework assignments if knowledgeable of where their child is performing academically.

A child's sense of emotional security and self-esteem increases with each adult that appears at a school activity (including parent-teacher conferences, open houses, assemblies, etc.).

Teachers who detect a high level of interest and participation in a child's life on the part of the parents may put forth extra effort for the child.

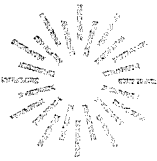
There would be increased opportunity for communication about the child between the divorced parents.

DISADVANTAGES OF PROPOSED BILL:

I could think of no disadvantages for the child.

*Diane Farnsworth*  
*School Psychologist*

Diane Farnsworth  
1015 Amidon  
Wichita, KS 67203  
(316) 263-9227



# **Pastoral Associates** of **Prairie View inc.**

A pastoral counseling and consultation service

335 North Waco • Wichita, Kansas 67202-1158 • (316) 265-0475

November 18, 1988

To Whom It May Concern:

This is to certify that I support the effort to ask school systems, their administrators and teachers, to be inclusive of non-custodial parents as well as custodial parents in the matter of notifying parents. This should include copies of report cards, and notices of the school events that are usually sent to custodial parents.

The effect of including non-custodial parents would be more positive involvement of both biological parents, reduction of tensions, and better potential support for children after parental divorce and remarriage.

Sincerely,

*Arthur L. Foster Ph.D.*

Arthur L. Foster, Ph.D.  
Marriage & Family Therapist  
Pastoral Counselor

ALF:ek

The Senate Judiciary Subcommittee on Criminal and Victims Rights met  
February 17 and 27, 1989, for hearings and action on the following bills.

SB 79 - Expungement of certain records.

Ed Van Petten, Office of the Attorney General, gave a statement supporting the bill (Attachment No.1).

A fiscal note regarding the bill is attached (Attachment No.2).

Because the bill attempts to address concerns of child care providers in determining the background of employees, the subcommittee recommended that the bill be passed.

Attachment XIII  
Senate Judiciary  
3-1-89



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

TESTIMONY OF  
DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN  
TO A SUBCOMMITTEE OF SENATE JUDICIARY  
RE: S.B.79  
FEBRUARY 17, 1989

I am here today on behalf of Attorney General Bob Stephan to request your approval of Senate Bill 79 which takes one more step toward the protection of our youth and hopefully will further assist society to recognize those among us who have committed sex crimes against our children.

As you are aware, this act will prohibit the expungement of convictions of the attempt to commit sex crimes against young people. We feel that this further action is necessary to prevent a good faith plea negotiation from ruining the life of another victim a few years subsequent or enable a sex offender to erase his record merely because he was apprehended at a time during the commission of one of these heinous crimes but before the crimes' completion.

I am not able to provide you with a statistical analysis of this problem, but I can tell you from experience that when a prosecution involves a sex offense, background

SENATE JUDICIARY SUBCOMMITTEE  
ON CRIMINAL + VICTIMS RIGHTS  
FEB. 17, 1989

SBC ATTACHMENT No. 1



investigations invariably reveal prior victims. The cases are sometimes prosecuted, sometimes not, but the victims are almost always shattered. By this action you are going to make it more difficult for these offenders to be repeat offenders.

Passage of this bill would be a great step forward in the prevention of child sexual abuse that will not tap the state budget or further crowd our prisons. It is merely a move to save some children from being victims.

The Honorable Wint Winter, Jr., Chairperson  
Senate Judiciary Committee  
Senate Chamber  
Third Floor, Statehouse

Dear Senator Winter:

SUBJECT: Fiscal Note for SB 79 by Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 79 is respectfully submitted to your committee.

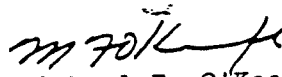
SB 79 amends the statutes relating to the expungement of certain convictions.

Under current law, specific reference is given to those convictions where records can be expunged after two years, and those in which five years must transpire before records can be expunged.

Current law also specifies that there shall be no expungement of convictions involving indecent liberties with a child, aggravated criminal sodomy, enticement of a child, indecent solicitation of a child, sexual exploitation of a child, aggravated incest, child abuse or enticement of a child.

SB 79 adds language which has the effect of also preventing expungement of records showing convictions of "attempt" to commit the aforementioned offenses.

The subject act has no fiscal effect.

  
Michael F. O'Keefe  
Director of the Budget

MFO:SW:sm

4982

SENATE JUDICIARY  
SUBCOMMITTEE ON CRIMINAL  
AND VICTIMS RIGHTS  
2-17-89

SubC. ATTACHMENT NO. 2