

Approved March 8, 1990
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

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

3:30 ~~8:30~~ p.m. on February 26, 1990 in room 313-S of the Capitol.

All members were present except:

Representatives Buehler, Peterson and Roy, who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Theresa Kiernan, Revisor of Statutes office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Galen Davis, Special Assistant for Drug Abuse Program, Governor's office
George Schureman, President, Kansas Police Officers Association
MaRK Wettig, Department of Revenue
Edwin VanPetten, Deputy Attorney General, Criminal Division
Matt Lynch, Judicial Council
Walt Scott, Attorney
Paul Shelby, Office of Judicial Administrator
Ron Smith, Kansas Bar Association.

CONTINUATION OF HEARING ON HB 2769 Mandatory revocation of drivers licenses if violating
the uniform controlled substances act; mandatory
fines

Galen Davis, Special Assistant for Drug Abuse Program, Governor's office, provided the Committee with revisions to HB 2769 that were recommended by the Kansas County and District Attorneys Association, see Attachment I.

George Schureman, President, Kansas Police Officers Association, testified in support of accountability, drug education and treatment, as well as restriction of driving privileges for the drug user. At the same time the KPOA urges that the problem created by the greed of the supplier and the manufacturer be addressed through stiff sentencing and penalties. He said the KPOA is opposed to reducing the penalties as they exist in 65-4127a and 65-4127b, see Attachment II.

Mark Wettig, Department of Revenue, informed the Committee of two technical problems. The statute that sets up a criminal violation does not require the court to report the conditions to the Division of Motor Vehicles, therefore, the Department of Revenue has no knowledge of the conviction and would not suspend the driver's license. Also a criminal violation does not require the operation, or the attempted operation, of a motor vehicle as an element of a crime.

The hearings on HB 2769 were closed.

HEARING ON HB 2770 Violations of the uniform controlled substances act including minors

Galen Davis, Special Assistant for Drug Abuse Program, Governor's office, testified HB 2770 establishes a class D felony crime in the event an adult involves, entices, or coerces juveniles to violate our state's narcotics laws, see Attachment III.

George Schureman, President, Kansas Police Officers Association, informed the Committee the KPOA supports HB 2770.

Edwin VanPetten, Deputy Attorney General, submitted testimony. It was recommended that the penalty section should be increased to a class C felony to coincide with the underlying felony. In this case, the distribution of illegal drugs is a class C felony, see Attachment IV.

There being no other conferees, the hearings on HB 2770 were closed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 313-S, Statehouse, at 3:30 ~~am~~ p.m. on February 26, 1990

HEARING ON HB 2439 Civil procedure for limited actions

Matt Lynch, Judicial Council reported on the study of the provisions of Chapter 61 of the Kansas Statutes in light of court unification conducted by the Civil Code Committee of the Judicial Council. The Civil Code Committee recommended the amendment of K.S.A 61-1603 to expand the scope of actions which may be brought under Chapter 61. The proposed amendment is a part of Attachment V.

Walt Scott, Attorney, testified he was a member of the Civil Code Committee that studied revisions to Chapter 61. He said there would be no change in court costs. The Committee studied Chapter 61 for 6 months and he recommended HB 2439 be reported favorably.

Paul Shelby, Office of Judicial Administrator, recommended amending Sec. 2, page 3. K.S.A. 20-362 should be 1989 Supp. On page 4 lines 128 to 131 (f) should be deleted because HB 2200 deleted the Crime Victims Reparations Fund.

Ron Smith, Kansas Bar Association, informed the Committee the Kansas Bar Association requested the Judicial Council study Chapter 61. He said they support HB 2439.

Representative Solbach moved to adopt the amendments proposed by the Office of Judicial Administrator. Representative Jenkins seconded the motion. The motion passed.

A conceptual motion was made by Representative Shriver and seconded by Representative Vancrum to amend HB 2439 to exempt the small claims procedure from New Sec. 7. The motion passed.

Representative Jenkins moved and Representative Solbach seconded to report HB 2439, as amended, favorably for passage. The motion passed.

CONSIDERATION OF BILLS:

HB 2692 Court ordered mediation for juvenile offenders

Representative Adam distributed amendments to HB 2692, see Attachment VI.

Representative Adam moved to adopt the amendments to HB 2692. Representative Everhart seconded the motion.

After Committee discussion of the language in line 8, page 2, the motion was withdrawn.

Representative Adam moved to change the language in line 8, page 2, to "participation in mediation may include but not be limited to the victim, the juvenile offender and the juvenile offender's parents" and to adopt the other proposed amendments. Representative Everhart seconded the motion. The motion passed.

Representative Adam moved to report HB 2692, as amended, favorably for passage. The motion was seconded by Representative Jenkins. The motion passed.

HB 2469 Income withholding for enforcement of support

Representative Solbach moved to amend HB 2469 to apply to Title IV-D cases only and to change the effective date to October 1, 1990. Representative Jenkins seconded the motion.

Committee members expressed concern about other language in the bill. The Chairman said consideration of this bill would be postponed until other amendments are prepared and submitted to the Committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 313-S, Statehouse, at 3:30 ~~xxx~~/p.m. on February 26, 1990.

HB 2734 Crime victims' compensation board; allowing victims of hit & run accidents be compensated; allowing victims over 65 to collect sums under \$100; deleting household exclusion

Representative Snowbarger moved to strike "hit and run" provisions from HB 2734. Representative Roy seconded the motion. The motion passed.

Representative Shriver moved and Representative Vancrum seconded to remove the \$100 economic loss exemption for individuals 60 years of age or over. The motion passed.

Representative Snowbarger moved to report, as amended, HB 2734 favorably for passage. Representative Douville seconded the motion. The motion passed.

Representative Jenkins explained an amendment proposed by Susie Parmer, Register of Deeds, Leavenworth County, see Attachment VII.

Representative Vancrum moved to report HB 2644 favorably for passage. Representative Solbach seconded the motion. The motion passed.

The Committee meeting adjourned at 5:10 p.m. The next meeting will be Tuesday, February 27, 1990, at 3:30 p.m. in room 313-S.

2/26/90
L. Gud Corns
Attachment I

HOUSE BILL No. 2769

By Committee on Judiciary

1-31

AN ACT concerning controlled substances; relating to mandatory fines and mandatory revocation of drivers' licenses; amending K.S.A. 21-4503 and K.S.A. 1989 Supp. 8-254, K.S.A. 1988 Supp. 8-254, as amended by section 30 of chapter 38 of the 1989 Session Laws of Kansas, K.S.A. 1989 Supp. 65-4127a and 65-4127b and repealing the existing sections; also repealing K.S.A. 1989 Supp. 8-254, as amended by section 2 of this act. [K.S.A. 1989 Supp. 21-4606a

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

New Section 1. (a) Any person convicted of violating K.S.A. 65-4127a or 65-4127b, and amendments thereto, shall:

(1) For a first conviction, be sentenced to not less than 48 consecutive hours' ~~nor more than six months'~~ imprisonment, or in the court's discretion 100 hours of public service. Such imprisonment may be served under house arrest or by electronic monitoring if the court so directs. The person convicted must serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.

(2) On a second conviction of ~~possession~~, a person shall be sentenced to not less than 90 days' ~~nor more than one year's~~ imprisonment and ~~fine not less than \$500 nor more than \$1,000~~. The person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. Such imprisonment may be served under house arrest or by electronic monitoring if the court so directs. As a condition of any grant of probation, suspension of sentence or parole or of any other release, person shall be required to enter into and complete a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments thereto.

The minimum terms of imprisonment set forth in this section shall not be construed as limiting or diminishing the imposition of the applicable terms of imprisonment or confinement set forth in K.S.A. 21-4501 or 21-4502, and amendments thereto. At minimum any

1 (3) On the third or a subsequent conviction of possession, a
2 person shall be sentenced to not less than 90 days' nor more than
3 one year's imprisonment and fined not less than \$1,000 nor more
4 than \$2,500. Such imprisonment may be served under house arrest
5 or by electronic monitoring if the court so directs. The person con-
6 victed shall not be eligible for release on probation, suspension or
7 reduction of sentence or parole until the person has served at least
8 90 days' imprisonment. The court may also require as a condition
9 of parole that such person enter into and complete a treatment
10 program for alcohol and drug abuse as provided by K.S.A. 8-1003
11 and amendments thereto.

12 (b) The court may establish the terms and time for payment of
13 any fines, fees, assessments and costs imposed pursuant to this sec-
14 tion including the cost of incarceration. Any assessment and costs
15 shall be required to be paid not later than 90 days after imposed,
16 and any remainder of the fine shall be paid prior to the final release
17 of the defendant by the court.

18 (c) In lieu of payment of a fine imposed pursuant to this section,
19 the court may order that the person perform community service
20 specified by the court. The person shall receive a credit on the fine
21 imposed in an amount equal to \$5 for each full hour spent by the
22 person in the specified community service. The community service
23 ordered by the court shall be required to be performed not later
24 than one year after the fine is imposed or by an earlier date specified
25 by the court. If by the required date the person performs an in-
26 sufficient amount of community service to reduce to zero the portion
27 of the fine required to be paid by the person, the remaining balance
28 of the fine shall become due on that date.

29 (d) Nothing in this subsection prohibits entering into a diversion
30 agreement pursuant to K.S.A. 12-4413 *et seq.*, and amendments
31 thereto, or K.S.A. 22-2906 *et seq.*, and amendments thereto.

32 (e) The provisions of K.S.A. 8-1008, and amendments thereto,
33 relating to evaluation of violators of K.S.A. 8-1567, and amendments
34 thereto, shall also be applicable to violators of this section.

35 (f) The provisions of K.S.A. 8-1009, and amendments thereto,
36 relating to determination by a prosecuting attorney of whether di-
37 version shall be allowed for a violator of K.S.A. 8-1567, and amend-
38 ments thereto, shall also be applicable to violators of this section.

39 Sec. 2. K.S.A. 1989 Supp. 8-254 is hereby amended to read as
40 follows: 8-254. (a) Subject to the provisions of subsection (b), the
41 diversion shall revoke a person's driving privileges upon receiving a
42 record of the person's conviction of any of the following offenses
43 when the conviction has become final, or upon receiving a record

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H. J. Com.
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1 of a person's adjudication as a juvenile offender for commission of
2 an act which, if committed by a person 18 or more years of age,
3 would constitute any of the following offenses when the adjudication
4 has become final:

5 (1) Aggravated vehicular homicide, if the crime is committed
6 while committing a violation of K.S.A. 8-1566 or 8-1568, and amend-
7 ments thereto, or the ordinance of a city or resolution of a county
8 which prohibits any acts prohibited by those statutes;

9 (2) vehicular homicide;

10 (3) vehicular battery, if the crime is committed while committing
11 a violation of K.S.A. 8-1566 or 8-1568, and amendments thereto, or
12 the ordinance of a city or resolution of a county which prohibits the
13 acts prohibited by those statutes;

14 (4) failure to stop and render aid as required under the laws of
15 this state in the event of a motor vehicle accident resulting in the
16 death or personal injury of another;

17 (5) conviction, or forfeiture of bail not vacated, upon three
18 charges of reckless driving committed within a period of 12 months
19 within the state of Kansas;

20 (6) conviction, or forfeiture of bail not vacated of any felony in
21 the commission of which a motor vehicle is used; or

22 (7) fleeing or attempting to elude a police officer as provided in
23 K.S.A. 8-1568 and amendments thereto, or conviction of violation
24 of an ordinance of any city or a law of another state which is in
25 substantial conformity with such statute; or

26 (8) possession of a controlled substance, as provided in K.S.A.
27 65-4127a or 65-4127b, and amendments thereto, while operating or
28 attempting to operate a motor vehicle.

29 (b) In lieu of revoking a person's driving privileges as provided
30 by subsection (a), the court in which the person is convicted or
31 adjudicated may place restrictions on the person's driving privileges
32 as provided by K.S.A. 1987 1989 Supp. 8-292, and amendments
33 thereto.

34 Sec. 3. On January 1, 1991, K.S.A. 1988 Supp. 8-254, as
35 amended by section 30 of chapter 38 of the 1989 Session Laws of
36 Kansas, is hereby amended to read as follows: 8-254. (a) Subject to
37 the provisions of subsection (b), the division shall revoke a person's
38 driving privileges upon receiving a record of the person's conviction
39 of any of the following offenses, including municipal violations, when
40 the conviction has become final, or upon receiving a record of a
41 person's adjudication as a juvenile offender for commission of an act
42 which, if committed by a person 18 or more years of age, would
43 constitute any of the following offenses when the adjudication has

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become final:

(1) Aggravated vehicular homicide, as defined by K.S.A. 21-3405a, and amendments thereto, if the crime is committed while committing a violation of K.S.A. 8-1566 or 8-1568, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits any acts prohibited by those statutes;

(2) vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto;

(3) vehicular battery, as defined by K.S.A. 21-3405b, and amendments thereto, if the crime is committed while committing a violation of K.S.A. 8-1566 or 8-1568, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits the acts prohibited by those statutes;

(4) failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(5) conviction, or forfeiture of bail not vacated, upon a charge of reckless driving;

(6) conviction, or forfeiture of bail not vacated of any felony in the commission of which a motor vehicle is used; or

(7) fleeing or attempting to elude a police officer as provided in K.S.A. 8-1568, and amendments thereto, or conviction of violation of an ordinance of any city or a law of another state which is in substantial conformity with such statute; or

(8) possession of a controlled substance, as provided in K.S.A. 65-4127a or 65-4127b, and amendments thereto, while operating or attempting to operate a motor vehicle.

(b) In lieu of revoking a person's driving privileges as provided by subsection (a), the court in which the person is convicted or adjudicated may place restrictions on the person's driving privileges as provided by K.S.A. 1988 1989 Supp. 8-292, and amendments thereto, unless the violation was committed while operating a commercial motor vehicle, as defined in section 4 of this act K.S.A. 8-2,128, and amendments thereto. Driving privileges are to be automatically revoked if the violation which leads to the subsequent conviction occurs in a commercial motor vehicle, as defined in section 4 of this act K.S.A. 1989 Supp. 8-2,128, and amendments thereto.

Sec. 4. K.S.A. 21-4503 is hereby amended to read as follows: 21-4503. Except as otherwise provided by law:

(1) A person who has been convicted of a felony may, in addition to or instead of the imprisonment authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:

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1 (a) For a class B or C felony, a sum not exceeding \$15,000.

2 (b) For a class D or E felony, a sum not exceeding \$10,000.

3 (2) A person who has been convicted of a misdemeanor may, in
4 addition to or instead of the confinement authorized by law, be
5 sentenced to pay a fine which shall be fixed by the court as follows:

6 (a) For a class A misdemeanor, a sum not exceeding \$2,500.

7 (b) For a class B misdemeanor, a sum not exceeding \$1,000.

8 (c) For a class C misdemeanor, a sum not exceeding \$500.

9 (d) For an unclassified misdemeanor, any sum authorized by the
10 statute that defines the crime; if no penalty is provided in such law,
11 the fine shall not exceed the fine provided herein for a class C
12 misdemeanor.

13 (3) As an alternative to any of the above fines, the fine imposed
14 may be fixed at any greater sum not exceeding double the pecuniary
15 gain derived from the crime by the offender.

16 (4) A person who has been convicted of a traffic infraction may
17 be sentenced to pay a fine which shall be fixed by the court not
18 exceeding \$500.

19 Sec. 5. K.S.A. 1989 Supp. 65-4127a is hereby amended to read
20 as follows: 65-4127a. (a) Except as authorized by the uniform con-
21 trolled substances act, it shall be unlawful for any person to man-
22 ufacture, possess, have under such person's control, possess with
23 intent to sell, offer for sale, sell, prescribe, administer, deliver,
24 distribute, dispense or compound any opiates, opium or narcotic
25 drugs. Any person who violates this section shall be guilty of a class
26 C felony, except that, upon conviction for the second offense, such
27 person shall be guilty of a class B felony, and upon conviction for
28 a third or subsequent offense, such person shall be guilty of a class
29 A felony, and the punishment shall be life imprisonment. ~~^~~

Sentencing for a violation of this section shall be
in accordance with section 1.

30 (b) Any person convicted of possession of a controlled substance
31 pursuant to this section shall be fined not less than \$500 but no
32 more than \$15,000 for the first offense; fined not less than \$1,000
33 but no more than \$20,000 for the second offense; and fined not less
34 than \$2,000 but no more than \$25,000 for the third or subsequent
35 offense.

36 (c) Except as provided in subsection (b), any person convicted
37 of violating this section shall be fined not less than \$2,500 but no
38 more than \$15,000 for the first offense; fined not more than \$5,000
39 but no more than \$30,000 for the second offense; and fined not less
40 than \$10,000 but no more than \$60,000 for the third or subsequent
41 offense.

42 (d) The cost of the alcohol and drug evaluation required under
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subsection (e) of section 1 may be deducted from the fine assessed against a violation of K.S.A. 65-4127a, and amendments thereto.

(e) The fines provided in subsections (b) and (c) may be waived by the court if the court finds that the defendant is an indigent person. In lieu of payment of a fine imposed pursuant to subsections (b) and (c), the court may order that the indigent person perform community service specified by the court or such other public service as the court deems best in the administration of justice.

(f) Upon conviction of any person pursuant to subsection (a) in which (1) the substances involved were equal to or greater than the amounts for such substances as specified in K.S.A. 1988 1989 Supp. 65-4127e, and amendments thereto, or (2) the substances involved, regardless of amounts, were possessed with intent to sell, sold or offered for sale to a child under 18 years of age, there shall be at sentencing a presumption that the defendant be sentenced to imprisonment and not granted probation, assignment to a community correctional services program or suspension of sentence.

Sec. 6. K.S.A. 1989 Supp. 65-4127b is hereby amended to read as follows: 65-4127b. (a) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to possess or have under such person's control:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d) or (f) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105 and amendments thereto or designated in subsection (g) of K.S.A. 65-4107 and amendments thereto;

(4) any substance designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111 and amendments thereto; or

(5) any anabolic steroids as defined in subsection (h) of K.S.A. 65-4111 and amendments thereto.

Any person who violates this subsection shall be guilty of a class A misdemeanor, except that such person shall be guilty of a class B felony upon conviction for a second or subsequent offense. Any person convicted under this subsection shall be fined not less than

Sentencing for a violation of this section shall be in accordance with section 1.

\$500 but no more than \$2,500 for the first offense; fined not less than	\$15,000
\$5,000 but no more than \$30,000 for the second offense; and	\$1,000
fined not less than \$10,000 but no more than \$60,000 for the third or subsequent offense.	\$20,000
	\$2,000
	\$25,000

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(b) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to sell, offer for sale or have in such person's possession with the intent to sell, manufacture, prescribe, administer, deliver, distribute, dispense or compound:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d) or (f) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, and amendments thereto or designated in subsection (g) of K.S.A. 65-4107 and amendments thereto;

(4) any substance designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto; or

(5) any anabolic steroids as defined in subsection (h) of K.S.A. 65-4111 and amendments thereto.

Any person who violates this subsection shall be guilty of a class C felony. *Any person convicted under this subsection shall be fined not less than \$2,500 but no more than \$15,000 for the first offense; fined not less than \$5,000 but no more than \$30,000 for the second offense; and fined not less than \$10,000 but no more than \$60,000 for the third or subsequent offense.*

(c) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to manufacture, possess, have under such person's control, prescribe, administer, deliver, distribute, dispense, compound, sell, offer for sale or have in such person's possession with intent to sell any controlled substance designated in K.S.A. 65-4113 and amendments thereto. Any person who violates this subsection shall be guilty of a class A misdemeanor, except that such person shall be guilty of a class D felony if the substance was prescribed for or administered, delivered, distributed, dispensed, sold, offered for sale or possessed with intent to sell to a child under 18 years of age.

Any person convicted under this subsection shall be fined not less than \$500 but no more than \$2,500 for the first offense; fined not less than \$5,000 but no more than \$30,000 for the second offense; and fined not less than \$10,000 but no more than \$60,000 for the third or subsequent offense.

Sentencing for a violation of this section shall be in accordance with section 1.

Any person convicted of possession of a controlled substance pursuant to this subsection

\$15,000
\$1,000
\$20,000
\$2,000
\$25,000

(d) Upon conviction of any person pursuant to subsection (a), (b) or (c) in which (1) the substances involved were equal to or greater than the amounts for such substance as specified in K.S.A. 1988 1989 Supp. 65-4127e and amendments thereto, or (2) the substances

Any person convicted of violating this subsection for other than possession shall be fined not less than \$2,500 but no more than \$15,000 for the first offense; fined not less than \$5,000 but no more than \$30,000 for the second offense; and fined not less than \$10,00 but no more than \$60,000 for the third or subsequent offense.

1 involved, regardless of amounts, were possessed with intent to sell,
2 sold or offered for sale to a child under 18 years of age, there shall
3 be at sentencing a presumption that the defendant be sentenced to
4 imprisonment and not granted probation, assignment to a community
5 correctional services program or suspension of sentence.

6 (e) The cost of the alcohol and drug evaluation required under
7 subsection (e) of section 1 may be deducted from the fine assessed
8 against a violation of K.S.A. 65-4127b, and amendments thereto.

9 (f) The fines provided in subsections (a), (b) and (c) may be
10 waived by the court if the court finds that the defendant is an
11 indigent person. In lieu of payment of a fine imposed pursuant to
12 subsections (a), (b) and (c), the court may order that the indigent
13 person perform community service specified by the court or such
14 other public service as the court deems best in the administration
15 of justice.

16 Sec. 7. On January 1, 1991, K.S.A. 1989 Supp. 8-254, as
17 amended by section 2 of this act, and K.S.A. 1988 Supp. 8-554, as
18 amended by section 30 of chapter 38 of the 1989 Session Laws of
19 Kansas, are hereby repealed.

20 Sec. 8. ~~K.S.A. 21-4503 and K.S.A. 1989 Supp. 8-254, 65-4127a~~ [, K.S.A. 1989 Supp. 21-4606a
21 and 65-4127b are hereby repealed.

22 Sec. 9. This act shall take effect and be in force from and after
23 its publication in the statute book.

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A. J. G. Com.
Att I 8

GEORGE SCHUREMAN, President
Kansas Bureau of Investigation
Topeka, Kansas 66604

BILL RICE, President-Elect
Chief of Police
Arkansas City, Kansas 67005

ED PAVEY, Vice-President
Ks. Law Enforcement Training Cen.
Hutchinson, Kansas 67504

ALVIN THIMMESCH, Secretary
Kansas Peace Officers' Assn.
Wichita, Kansas 67202

rer

Kansas Peace Officers' Association

INCORPORATED

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Topeka, KS 66603

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Dodge City, KS 67801

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Kansas Racing Commission
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Olathe, KS 66202

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Paola, KS 66071

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DICK BURCH
Ks. Law Enforcement Training Cen.
Hutchinson, KS 67504

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Dodge City, KS 67801

MARVIN CAIN
Santa Fe R.R. Police
Dodge City, KS 67801

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Kearny Co. Sheriff's Office
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DISTRICT 7
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Wichita, KS 67202

JOHN DAILY
Sedgwick Co. Sheriff's Office
Wichita, KS 67203

LARRY WELCH
Ks. Law Enforcement Training Cen.
Hutchinson, KS 67504

DISTRICT 8
LARRY D. ADAMS
Emporia Police Dept.
Emporia, KS 66801

RANDALL THOMAS
Lyon Co. Sheriff's Office
Emporia, KS 66801

DOUGLAS PECK
Kansas Highway Patrol
Emporia, KS 66801

SERGEANT-AT-ARMS
LARRY MAHAN
Kansas Highway Patrol
Wichita, KS 67212



HOUSE BILL 2769
BEFORE THE HOUSE JUDICIARY
FEBRUARY 20, 1990

MY NAME IS GEORGE SCHUREMAN, SPECIAL AGENT SUPERVISOR WITH THE KBI, CURRENT PRESIDENT OF THE KANSAS PEACE OFFICERS ASSOCIATION. I'M HERE REPRESENTING THE KANSAS PEACE OFFICERS ASSOCIATION.

THE KPOA SUPPORTS THE CONCEPT OF DRUG USER ACCOUNTABILITY THROUGH MANDATORY PENALTIES AND FINES. HOLDING AN INDIVIDUAL ACCOUNTABLE FOR HIS ACTIONS WHILE USING DRUGS HOPEFULLY WILL REDUCE THE USE OF DRUGS. THE KPOA SUPPORTS THE MANDATORY DRUG EDUCATION AND TREATMENT PROGRAM AS PROVIDED IN THIS BILL. THE EDUCATION AND TREATMENT IS NEEDED. THE MANDATORY SENTENCING AND FINES AS PROVIDED IN THIS BILL SHOULD PROVIDE A VEHICLE THROUGH WHICH THE EDUCATION AND TREATMENT PROGRAMS WILL BE ACCEPTED BY THE DRUG USER.

THIS BILL PROVIDES REVOCATION OF DRIVING PRIVILEGES WHEN THE DRIVER IS IN POSSESSION OF A CONTROLLED SUBSTANCE WHILE OPERATING A MOTOR VEHICLE. THE KPOA SUPPORTS THIS CONCEPT AND HOPEFULLY THIS CONCEPT WILL GET THE INTOXICATED DRIVER OFF THE STREET AND ASSIST IN THE PREVENTION OF TRAFFICKING OF NARCOTICS INTO AND

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H. Jud Com

In Unity There Is Strength

Attachment II

FEBRUARY 20, 1990
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WITHIN THE STATE. WHILE CONSIDERING THE SETTING OF SENTENCES AND FINES FOR SELLING AND TRAFFICKING OF NARCOTICS AND DANGEROUS DRUGS, I URGE YOU TO KEEP A COUPLE OF FACTORS IN MIND.

1. THE MAJOR SUPPLIER OF DRUGS IS DRIVEN BY GREED. THE SUPPLIER IS IN THE DRUG BUSINESS FOR ONE REASON. THE REASON IS TO MAKE EASY MONEY AND LOTS OF IT.
2. THE MAJOR MANUFACTURER OF ILLEGAL DRUGS IN THE STATE OF KANSAS IS DRIVEN BY GREED. THE MANUFACTURER IS IN THE DRUG BUSINESS FOR ONE REASON. THE REASON IS TO MAKE EASY MONEY AND LOTS OF IT.

THE SUPPLIER AND THE MANUFACTURER ARE TAKING LIVES OF MANY PEOPLE, BOTH YOUNG AND OLD. THE SUPPLIER AND THE MANUFACTURER ARE ADVERSELY AFFECTING THE LIVES OF MANY PEOPLE AND FAMILIES WITHIN THIS GREAT STATE. THE MANUFACTURER OF DRUGS IS PLACING A HEAVY BURDEN ON LAW ENFORCEMENT AND ON THE ENVIRONMENT OF KANSAS. THE SAFETY OF THE OFFICERS IN SECURING A DRUG LAB IS ALWAYS IN JEOPARDY BECAUSE OF THE THREAT OF PHYSICAL HARM FROM THE VIOLATORS, AS WELL AS A THREAT TO THE OFFICERS HEALTH CAUSED BY THE CHEMICALS INVOLVED. THE COST OF HANDLING AND SAFELY DISPOSING OF THE CHEMICALS OF A

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H. Jud Corn.
Att II

FEBRUARY 20, 1990
PAGE 3

CLANDESTINE LAB CAN BE OVERWHELMING TO THE COUNTY
OR THE STATE AGENCY INVOLVED.

THE KPOA IS NOT IN FAVOR OF REDUCING POSSESSION
OF COCAINE FROM A FELONY CRIME TO A MISDEMEANOR.
THE USE OF COCAINE IS A MAJOR PROBLEM IN THE
STATE OF KANSAS. THE PROBLEMS CAUSED BY COCAINE
IS AS GREAT AS HEROIN IS OR EVER WAS.

IN SUMMARY, THE KPOA SUPPORTS USER ACCOUNT-
ABILITY, DRUG EDUCATION AND TREATMENT, AS WELL AS
RESTRICTION OF DRIVING PRIVILEGES FOR THE DRUG
USER. AT THE SAME TIME, THE KPOA URGES THAT THE
PROBLEM CREATED BY THE GREED OF THE SUPPLIER AND
THE MANUFACTURER BE ADDRESSED THROUGH STIFF
SENTENCING AND PENALTIES. THE KPOA IS OPPOSED TO
REDUCING THE PENALTIES AS THEY EXIST IN 65-4127A
AND 65-4127B.

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L. J. Com
Att II

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590

(913) 296-3232
1-800-432-2487
TDD# 1-800-992-0152
FAX# (913) 296-7973

Mike Hayden Governor

Testimony Concerning HB 2770
Presented to
the House Judiciary Committee
February 14, 1990
by
Galen Davis
Governor's Special Assistant on Drug Abuse

Mr. Chairman, Members of the Committee:

I appreciate the opportunity to appear before you today representing Governor Hayden's support for HB 2770.

This bill requests the establishment of a felony crime in the event an adult involves, entices, or coerces juveniles to violate our states narcotics laws. As Governor Hayden and I discussed drug control strategies with criminal justice officials around the state, one of the most glaring omissions was the protection of our youth from unscrupulous adults who would involve them in drugs. At present, the most an adult could be charged for committing this type of crime would be the misdemeanor crime of children endangerment.

We believe that adults who would encourage young people to use drugs and drug traffickers who would seek to use youth as a means to avoid detection are among the lowest form of humanity on earth. Drug traffickers seem to be increasing their use of children and teenagers in drug dealing for several reasons: it distances the dealer from the crime; the juvenile faces a less harsh penalty if apprehended; and juveniles can be more easily intimidated.

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Attachment III

Conclusion:

We all recognize that each one of us must work to protect our impressionable youth from the perils of illicit drug use, addiction, violence and crime. Governor Hayden requests and supports this legislation to declare that our children, our most precious resource, must be protected from unconscionable adults who would involve them in using and trafficking illicit drugs.

We ask a great deal of our children these days. They are told to attend school, to be healthy, to be safe, to avoid negative peer pressure, to do the right thing, to not use legal drugs such as tobacco and alcohol and to avoid illicit drugs. Our children are facing serious pressures to get involved with drugs. This bill gives our youth additional legislative support as they resist the pressures to get involved in the drug scene.

As elected leaders, you have the opportunity with this bill to speak out with a clear unified voice in support of drug-free youth and against drug pushers.

Your support of HB 2770 will be appreciated. Thank you.

2/26/90
H. Jud Corn

Att III



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
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
BEFORE THE HOUSE JUDICIARY
FEBRUARY 14, 1990
RE: HOUSE BILL 2770

Attorney General Stephan appreciates this additional step suggested by Governor Hayden to stop the evergrowing problem of using juveniles to aid in the distribution of illegal drugs.

The stories of kids killing kids, and child drug dealers are becoming much too common in our urban areas, and as we are too well aware, Kansas is not immune to this phenomenon. Only by stopping those who continue the contact with our young people can we ever hope to control the problem.

We have mentioned to Governor Hayden that to make this proposal even stronger we should increase the penalty section to make this violation a class C felony, to more closely parallel the provisions in the Attorney General's drug package. This would upgrade conspiracy offenses to coincide with the underlying felony. In this case, the distribution of

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Attachment IV

these substances is a class C felony. Therefore the classification is justified.

We are not addressing a situation where one individual is merely soliciting another to commit a crime. Instead we are addressing the problem of an occurring crime or a crime that has been committed, in which the juvenile has participated in an active role either due to employment or coercion of an adult.

The seriousness of this matter cannot be over-emphasized. It is time to take a proactive position in fighting drug traffickers. We believe that House Bill 2770 does this by punishing those who insulate themselves from detection by the criminal justice system through the use of young people.

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REPORT OF THE CIVIL CODE COMMITTEE OF THE JUDICIAL COUNCIL
ON A STUDY OF THE PROVISIONS OF CHAPTER 61 OF THE KANSAS STATUTES
IN LIGHT OF COURT UNIFICATION

(As amended and approved by Judicial Council, 2/3/89)

In May of 1988, the Legislative Coordinating Council requested the Judicial Council study the provisions of chapter 61 of the Kansas Statutes Annotated in light of court unification. In December of 1987, the Legislative Coordinating Council had received a letter from the legislative chairman of the Kansas Bar Association requesting approval of such a study. The letter from the Bar Association was accompanied by a list of proposed issues for the study of chapter 61. (Copies of the letters from the Coordinating Council and the Bar Association are attached to this report.)

Pursuant to assignment of the Judicial Council, the Civil Code Advisory Committee undertook the requested study of chapter 61 commencing in June of 1988. Throughout its study the committee was privileged to have the services and consultation of Judge Thomas Regan and Walter Scott, both of Topeka, who served as special members of the Civil Code Committee for the purposes of this project. In addition, Ronald D. Garrison of Kansas City, Kansas, provided invaluable assistance to the committee in the course of its study.

Consolidation With Chapter 60

Consideration was given as to whether chapter 61 and chapter 60 should be combined for use in all cases. This idea was rejected on the basis that chapter 61 is designed basically as a fast, simple and easy system to use in debt-collection and other relatively, small-dollar cases. If chapter 61 was consolidated with chapter 60, it would be necessary to make distinctions in such a consolidated chapter to retain the advantages of a streamlined procedure for certain types of cases. The committee saw no advantage in such a consolidated chapter with internal distinctions over a separate chapter for limited actions.

Expanded Scope for Chapter 61

The Civil Code Committee recommends the amendment of K.S.A. 61-1603 to expand the scope of actions which may be brought under chapter 61. (All proposed amendments are attached to this report.) The recommended amendments would (1) allow actions for the collection of an unsecured debt to be brought under chapter 61 without regard to dollar amount involved and (2) raise the dollar limitation for other permitted civil actions from \$5000 to \$10,000. The committee does not recommend any change in subsection (b) of 61-1603 which prohibits the use of chapter 61 for the types of civil actions enumerated therein.

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Attachment V

It is the opinion of the committee that the dollar amount involved in the collection of an unsecured debt does not alter the basic nature, complexity or procedural requirements for such actions. As to the raising of the jurisdictional amount to \$10,000 in other permitted civil actions, the committee believes there are a number of cases within this dollar range which would be amenable to the streamlined procedures of chapter 61.

In light of the recommendation to increase the scope of chapter 61, the committee recommends amendment of K.S.A. 20-302b to make the jurisdiction of district magistrate judges coextensive with the scope of actions authorized under chapter 61.

The committee recommends the amendment of K.S.A. 61-2501 to require a \$55 docket fee in chapter 61 cases where the amount in controversy exceeds \$5000. This would be the same docket fee as would be required if the case was filed under chapter 60 and would avoid any fiscal impact to the state from raising the dollar amount in cases which can be brought under chapter 61. (A conforming amendment to K.S.A. 20-362, relating to remittance of docket fees, would also be needed.) The committee does not view a higher docket fee for cases exceeding \$5000 as presenting any hardship or disincentive to the use of chapter 61 in such cases.

Pretrial Conference

The committee recommends amending K.S.A. 61-1714 to state "Before setting a case for trial, the court may conduct a conference to clarify the issues for trial and explore possibilities for settlement." Pretrial conferences are provided for in chapter 60 cases by K.S.A. 60-216 and Supreme Court Rule 140. These provisions are more formal and elaborate than is necessary for chapter 61 proceedings. The conference recommended by the committee is intended to be a quick and efficient method to discover, formulate and narrow the issues prior to trial.

Transfer to Chapter 60; Consolidation of Actions

In light of the recommendation for an expanded jurisdictional amount in chapter 61, the committee considered whether a party should have some ability as a matter of right to transfer a case filed under chapter 61 for disposition under chapter 60 where greater discovery can be obtained. The committee rejected any transfer to chapter 60 as a matter of right on the basis that the chapter 61 procedure is designed to be fast, simple and easy and transfer to chapter 60 would necessarily impose greater delay in the proceedings.

Rather than a transfer to chapter 60 as a matter of right, the committee recommends the adoption of a new section (possibly designated as K.S.A. 61-1717a) under which a case could be transferred to chapter 60 upon order of the court for good cause shown. If a case is transferred, the moving party would be required to pay the additional docket fee required under chapter 60.

Presently, a chapter 61 action can be moved to chapter 60 under either K.S.A. 61-1717 or 61-1720. If a defendant in a chapter 61 action asserts a counterclaim or cross-claim beyond the scope of chapter 61, the case is reassigned for hearing pursuant to chapter 60 and the increased docket fee is assessed to the defendant. [K.S.A. 61-1720(b)] The committee recommends no change in this provision. Under 61-1717, if one of the parties to a chapter 61 action commences an action under chapter 60 involving a question of law or fact in common with the chapter 61 action, the judge in the chapter 60 action may direct that the 61 action be transferred and consolidated with the 60 action for further proceedings under chapter 60. This is true regardless of whether or not the action filed under chapter 60 is within the scope of actions authorized under chapter 61. The committee recommends the amendment of this section to provide that the chapter 60 judge, on the court's own motion or upon application of a party, may direct that the actions be consolidated and if the consolidated action falls within the jurisdiction of chapter 61, the judge shall direct whether the provisions of chapter 60 or 61 shall apply.

A somewhat related issue considered by the committee is whether or not a party should have some ability to secure the transfer of a chapter 61 case from a district magistrate to a district judge. For example, such a transfer might be desirable where a jury trial has been requested. The committee recommends that a new subsection (d) be added to K.S.A. 20-302b to the effect "Upon motion of a party, the administrative judge may reassign an action from a district magistrate judge to a district judge." The administrative judge undoubtedly has such authority under Supreme Court Rule 107. However, the addition of such a provision would indicate to parties that there is the possibility, and a procedure, for requesting such a transfer.

Appeals

In chapter 61 cases presently, the notice of appeal must be filed within 10 days after the entry of judgment, except that a defendant in a forcible detainer action who appeals a judgment granting restitution of the premises must file the notice of appeal within 5 days. [61-2102(a)] An appeal from a district magistrate judge is taken to a district judge and an appeal from a district judge is taken to the Court of Appeals. [61-2102(c)] Under chapter 60, an appeal from a district court to an appellate court must be taken within 30 days. [60-2103(a)] An appeal from a district magistrate judge must be taken within 10 days. [60-2103a(a)] It is the consensus of the committee that appeal times should be as consistent as possible. The committee recommends that in both chapters 60 and 61, appeals from district magistrates be filed within 10 days and appeals from the district court to the appellate courts be filed within 30 days. The committee would retain the 5-day appeal time in forcible detainer cases where restitution of the premises has been granted due to the nature of such cases.

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The committee considered whether the time for filing the notice of appeal should be suspended pending a ruling on one of the motions enumerated under K.S.A. 60-2103(a) (motion for judgment notwithstanding the verdict, motion to amend or make additional findings of fact, motion to alter or amend the judgment, motion for new trial). Although chapter 61 is silent on this issue, the Supreme Court has ruled that, in an appeal to an appellate court under chapter 61, the running of the time for filing a notice of appeal is suspended by the filing of a timely motion for a new trial. Nolan v. Auto Transporters, 226 Kan. 176 (1979). The committee recommends that chapter 61 be amended to be consistent with K.S.A. 60-2103(a).

Counterclaims

K.S.A. 61-1709 addresses counterclaims and cross-claims in chapter 61 actions. The last sentence of the section makes reference to subsections (a) and (j) of K.S.A. 60-213. Since the adoption of 61-1709, a new subsection (g) has been added to 60-213. Consequently, the last sentence of 61-1709 should be amended to make reference to subsections (a) and (k) of 60-213. Counterclaims are compulsory under chapter 61 in accordance with the first sentence of 61-1709 to the effect, "Upon timely application of the plaintiff and in the discretion of the court, a defendant may be required to plead any counterclaim which such party has against the plaintiff, if it arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim" However, the comparative negligence statute is applicable to actions pursuant to chapter 61. [K.S.A. 60-258a(e)] Accordingly, the committee recommends amendment of 61-1709 to reflect the compulsory nature of counterclaims where the plaintiff's claim is governed by 60-258a.

Unlike 61-1709 which makes the filing of some counterclaims discretionary, counterclaims which arise out of the transaction or occurrence that is the subject matter of the plaintiff's claim in a small claims action are deemed compulsory. (K.S.A. 61-2705) In Banister v. Carnes, 9 Kan.App.2d 133 (1983), a patient's malpractice action was held to be barred when it was not pleaded as a counterclaim to the small claims action brought by the dentist for the recovery of his fee. To relieve that harsh result, the committee recommends that K.S.A. 61-2705 be amended to provide that in small claims actions such counterclaims are mandatory only where they do not exceed the jurisdictional amount (\$1,000) in small claims cases. The forms contained in 61-2713 should be amended to be consistent with this recommendation.

Other Issues

The committee considered the list of issues for the chapter 61 study as itemized by the KBA committee and which was forwarded by the Legislative Coordinating Council in its request. Each of the issues was discussed and considered by the committee and is either incorporated in the amendments as recommended by the committee or is rejected by the committee. For instance the

committee, although it expanded the jurisdictional amount in chapter 61 cases, determined that discovery should not be extended as a matter of right to the scope and amount of discovery which is permitted under chapter 60 cases.

The committee also rejected the idea of the right of a party to convert any chapter 61 case to a chapter 60 case by merely paying the additional filing fee and further rejected the concept that no jury trials be had in chapter 61 cases.

The committee further considered that judgments in chapter 61 cases should become liens on real estate only by following the procedure for filing the judgment under chapter 60 and paying the filing fee. The committee rejected the concept that judgments in chapter 61 cases should become liens upon the automobile of the judgment debtor.

The committee considered, but did not change, the methods of service as are provided in chapter 61 cases. The committee, however, is continuing its study of service of process generally arising from its study of 1988 S.B. 608 and Substitute for S.B. 608. (The Civil Code Committee is considering the subject of service of process generally in considering some methods whereby the sheriffs' offices of Kansas might be relieved of the burdens of serving process.)

2/26/90
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State of Kansas



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ROBERT V. TALKINGTON,
PRESIDENT OF THE SENATE

OFFICE OF THE SECRETARY
ROOM 322-S, STATEHOUSE
TOPEKA, KANSAS 66612-1565
PHONE: (913) 296-2321

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MICHAEL JOHNSTON,
MINORITY LEADER

May 31, 1988

The Honorable Robert H. Miller
Chairperson, Kansas Judicial Council
Kansas Judicial Center

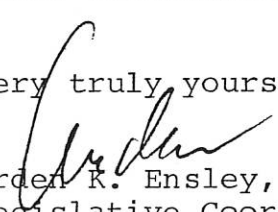
Dear Justice Miller:

At the last meeting of the Legislative Coordinating Council a letter was presented from Thomas E. Wright, Legislative Chairman of the Kansas Bar Association, asking that a request be made to the Judicial Council for a study of the provisions of Chapter 61 of the Kansas statutes in light of the 1977 court unification. The Legislative Coordinating Council approved the making of such request and asked that I inform you of their action.

I am attaching a copy of the letter from Mr. Wright setting forth the issues that he recommended which was the basis of the action of the LCC.

If I can be of further assistance, please let me know.

Very truly yours,


Arden K. Ensley, Secretary
Legislative Coordinating Council

Enc.



Christel Marquardt, President
Dale Pohl, President-elect
A.J. "Jack" Focht, Vice President
Alan Goering, Secretary-Treasurer
Jack Euler, Past President

Marcia Poell, Executive Director
Ginger Brinker, Director of Administration
Patti Slider, Public Information Director
Ronald Smith, Legislative Counsel
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Dru Toebben, Continuing Legal Education Director

December 7, 1987

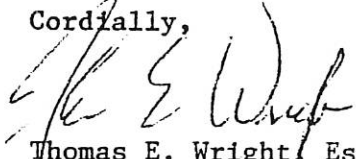
The Hon. Robert V. Talkington
President of the Senate
20 W. Buchanan
Iola, KS 66749

Dear Bob,

Walt Scott, Johnson County District Judge Phil Woodworth, Elwaine Pomeroy, Bob Alderson and Shawnee County District Judge Tom Regan are part of a KBA group working on a project designed to rethink and make major amendments to some Chapter 61 provisions in light of 1977 court unification and some ideas to make Chapter 61 practice less expensive for all those involved, including lower costs of litigation for Kansans using Chapter 61.

It is not anticipated that such legislation would be ready for introduction to the 1988 session. In recent discussions with Senator Bob Frey, rather than a 1988 interim committee, he suggested the approach of having the Legislative Coordinating Council request a study by the Judicial Council on this topic, that such study begin as soon as possible, and a report back to the L.C.C. be requested prior to the 1989 session. A list of proposed issues for the study are attached. On behalf of KBA, we would urge that request be made of the Judicial Council. Thank you.

Cordially,


Thomas E. Wright, Esq.
Legislative Chairman

cc: Members, Legislative Coordinating Council

Hon. Art Douville, Esq.
Hon. Bob Frey, Esq.
Hon. Nancy Parrish, Esq.
Hon. Jeanne Hoferer
Hon. Bob Wunsch, Esq.
Hon. Mike O'Neal, Esq.
Hon. John Solbach, Esq.
Christel Marquardt, Esq.
Dale Pohl, Esq.

Walt Scott, Esq.
Hon. Tom Regan
Hon. Phil Woodworth
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1200 Harrison • P.O. Box 1037 • Topeka, Kansas 66601 • (913) 234-5696

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2/26/90
Z. Jud Com

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Issues for Chapter 61 study

The focus of the study is that Chapter 61 should be a fast, simple, and easy system to use to basically collect debts. If discovery or jury trials are needed and the jurisdictional amount is \$5000 or less, then the system ought to kick the claim up to Chapter 60 and allow those rules of civil procedure to govern subsequent conduct, discovery and trial.

1. Whether a district judge, when hearing Chapter 61 matters for the first time, should sit as a magistrate judge.
2. A court reporter should not be required nor should findings of fact or conclusions of law. We may want to consider the old system of "bench notes" being the judgment, since either party may appeal denovo.
3. If there is an appeal of the Chapter 61 trial, it is denovo, but done pursuant to Chapter 60.
4. Discovery in Chapter 61 is eliminated or severely curtailed (by order or the court only).
5. A short pretrial is allowed in contested Chapter 61 matters to determine and narrow issues.
6. A general denial is retained, but it must be fully explained at pretrial.
7. Either party should have the right to convert the proceeding to a Chapter 60 merely by filing the \$55 filing fee.
8. No jury trial of Chapter 61. To get jury, must either appeal, or remove to Chapter 60.
9. Filing fees in '61 are kept modest.
10. The economy of time and expense should be maintained to facilitate commercial collections on pre-existing debts, and the J.C. should discuss feasibility of collection matters on bad checks as whether that creates pre-existing debt.
11. Judgments in '61 should be real estate liens if they pay the additional \$15 after judgment and the lien is filed in Chapter 60. Becomes lien on autos, too.
12. Methods of service should be limited.
13. Dollar jurisdictional amount should be limited, unless by agreement, parties exceed the jurisdictional amount.
14. Jurisdictional subject matter should be limited. (No real estate, domestic relations, etc.)

15. Third party practice is prohibited.
16. Affirmative defenses and counterclaims should be focused at pretrial in '61 case, otherwise kicked up to '60.
17. No mandatory counterclaim requirements in '61.
18. Possibly judgments should be entered by judgment form or docket entry rather than journal entry. Consideration of computerized docket streamlining for attorney modem tie-in for filing and case status or review.
19. Possibly there should be a trial de novo appeal within the district court system with a provision for the allowance of attorney fees in the event of an appeal, similar to that under small claims procedure. Alternative would simply be to remove attorney fee sanction, and impose current court sanctions under KSA 60-211 if a litigant is using '61 procedures to stall and ultimately get into '60.
20. Appeals of '61 judgments go to the appellate system, the time factors should mirror those in Chapter 60.
21. Consolidate pretrials for attorneys with multiple cases, and incorporate use of telephone pretrial conferences in '61 cases.
22. review and possibly consolidate local rules concerning whether out-of-judicial-district attorneys must physically attend first docket calls.

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20-302b. District magistrate judges; jurisdiction, powers and duties; appeals. (a) A district magistrate judge shall have the jurisdiction, power and duty, in any case in which a violation of the laws of the state is charged, to conduct the trial of traffic infractions or misdemeanor charges and the preliminary examination of felony charges. In civil cases, a district magistrate judge shall have concurrent jurisdiction, powers and duties with a district judge, except that, unless otherwise specifically provided in subsection (b), a district magistrate judge shall not have jurisdiction or cognizance over the following actions:

(1) Any action in which the amount in controversy, exclusive of interests and costs, exceeds \$5,000, except that in actions of replevin, the affidavit in replevin or the verified petition fixing the value of the property shall govern the jurisdiction; nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code or to issue support orders as provided by subsection (a)(6);

(2) actions against any officers of the state, or any subdivisions thereof, for misconduct in office;

(3) actions for specific performance of contracts for real estate;

(4) actions in which title to real estate is sought to be recovered or in which an interest in real estate, either legal or equitable, is sought to be established, except that nothing in this paragraph shall be construed as limiting the right to bring an action for forcible detainer as provided in the acts contained in article 23 of chapter 61 of the Kansas Statutes Annotated, and any acts amendatory thereof or supplemental thereto; and nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code;

(5) actions to foreclose real estate mortgages or to establish and foreclose liens on real estate as provided in the acts contained in article 11 of chapter 60 of the Kansas Statutes Annotated, and any acts amendatory thereof or supplemental thereto;

(6) actions for divorce, separate maintenance or custody of minor children, except that nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to (A) hear any action pursuant to the Kansas code for care of children or the Kansas juvenile offenders code; (B) establish, modify or enforce orders of support pursuant to the Kansas parentage act, K.S.A. 23-451 *et seq.*, 39-718a, 39-755 or 60-1610 or K.S.A. 1985 Supp. 23-4,105 through 23-4,118, 23-4,125 through 23-4,137, 38-1542, 38-1543 or 38-1563, and amendments thereto; or (C) enforce orders granting a parent visitation rights to the parent's child;

(7) habeas corpus;

(8) receiverships;

(9) change of name;

(10) declaratory judgments;

(11) mandamus and quo warranto;

(12) injunctions;

, other than an action seeking judgment for an unsecured debt not sounding in tort and arising out of a contract for the provision of goods, services or money,

\$10,000

class actions;

rights of majority; and

(15) actions pursuant to the protection from abuse act.

(b) Notwithstanding the provisions of subsection (a), in the absence, disability or disqualification of a district judge, a district magistrate judge may:

(1) Grant a restraining order, as provided in K.S.A. 60-902 and amendments thereto;

(2) appoint a receiver, as provided in K.S.A. 60-1301 and amendments thereto;

(3) make any order authorized by K.S.A. 60-1607 and amendments thereto; and

(4) grant any order authorized by the protection from abuse act.

(c) In accordance with the limitations and procedures prescribed by law, and subject to any rules of the supreme court relating thereto, any appeal permitted to be taken from an order or final decision of a district magistrate judge shall be tried and determined *de novo* by a district judge, except that in civil cases where a record was made of the action or proceeding before the district magistrate judge, the appeal shall be tried and determined on the record by a district judge.

(d) Upon motion of a party, the administrative judge may reassign an action from a district magistrate judge to a district judge.

History: L. 1976, ch. 146, § 13; L. 1977, ch. 112, § 2; L. 1979, ch. 92, § 12; L. 1979, ch. 80, § 2; L. 1983, ch. 140, § 3; L. 1984, ch. 39, § 31; L. 1985, ch. 115, § 30; L. 1986, ch. 115, § 32; L. 1986, ch. 137, § 1; L. 1986, ch. 137, § 2; Jan. 12, 1987.

20-362. Disposition of docket fees. The clerk of the district court shall remit at least monthly all revenues received from docket fees as follows:

(a) To the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and amendments thereto, during the preceding calendar month;

(2) a sum equal to \$10 for each \$30 docket fee paid pursuant to K.S.A. 61-2501 and amendments thereto; and

(3) a sum equal to \$5 for each \$10 docket fee paid pursuant to K.S.A. 61-2501 or 61-2704, and amendments thereto, during the preceding calendar month.

(b) To the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) To the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to \$1 for each docket fee paid pursuant to K.S.A. 28-172a and amendments thereto during the preceding calendar month for cases filed in the county and for each fee paid pursuant to subsection (c) of K.S.A. 28-170 and amendments thereto during the preceding calendar month for cases filed in the county.

or \$55

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the state treasurer, for deposit in the state treasury and credit to the indigents' defense services fund, a sum equal to \$.50 for each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of K.S.A. 28-170, and amendments thereto, during the preceding calendar month.

(e) To the state treasurer, for deposit in the state treasury and credit to the law enforcement training center fund, a sum equal to \$5 for each docket fee paid pursuant to K.S.A. 28-172a and amendments thereto during the preceding calendar month.

(f) To the state treasurer, for deposit in the state treasury and credit to the crime victims reparations fund, a sum equal to \$2 for each docket fee paid pursuant to K.S.A. 28-172a and amendments thereto during the preceding calendar month.

(g) To the state treasurer, for deposit in the state treasury and credit to the state general fund, a sum equal to the balance which remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified in subsections (a), (b), (c), (d), (e) and (f).

History: L. 1978, ch. 108, § 3; L. 1982, ch. 116, § 3; L. 1985, ch. 106, § 1; L. 1986, ch. 146, § 2; L. 1987, ch. 134, § 2; July 1.

61-1603. Application of code. (a) Except as provided by subsection (b), this act and the act of which this section is amendatory may be used to govern the procedure for civil actions in the district court where the amount in controversy or otherwise claimed as damages, excluding costs and interest, does not exceed ~~[\$5,000]~~ \$10,000. In actions of replevin, the affidavit in replevin or the verified petition, fixing the value of the property shall determine the amount in controversy.

(1) seeking judgment for an unsecured debt not sounding in tort and arising out of a contract for the provision of goods, services or money or (2)

\$10,000

(b) The code of civil procedure for limited actions shall not govern any of the following actions:

(1) Actions against any officers of the state, or any subdivisions thereof, for misconduct in office, except as authorized by the Kansas tort claims act;

(2) actions for specific performance of contracts for real estate;

(3) actions in which title to real estate is sought to be recovered or in which an interest in real estate, either legal or equitable, is sought to be established, except that nothing in this paragraph shall be construed as limiting the right to bring an action for forcible detainer as provided in article 23 of this chapter;

(4) actions to foreclose real estate mortgages or to establish and foreclose liens on real estate as provided in article 11 of chapter 60 of the Kansas Statutes Annotated, and any acts amendatory thereof or supplemental thereto;

(5) actions for divorce, separate maintenance or custody of minor children;

(6) habeas corpus;

- receiverships;
- change of name;
- (9) declaratory judgments;
- (10) mandamus and quo warranto;
- (11) injunctions;
- (12) class actions;
- (13) rights of majority; and
- (14) any appeal from an order or ruling of an administrative officer or body.

History: L. 1969, ch. 290, § 61-1603; L. 1973, ch. 134, § 50; L. 1976, ch. 258, § 2; L. 1979, ch. 80, § 1; L. 1981, ch. 238, § 1; July 1.

61-1709. Counterclaims and cross-claims. (a)

Upon timely application of the plaintiff and in the discretion of the court, a defendant may be required to plead any counterclaim which such party has against the plaintiff, if it arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction, except that the defendant shall not be required to plead any such claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the plaintiff brought suit upon his or her claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the defendant is not pleading any other counterclaim. A defendant shall not be estopped from asserting in a subsequent action any claim which he or she may have against the plaintiff, if said defendant is not required to plead such claim pursuant to this section. Except for subsections (a) and

(j) the provisions of K.S.A. 60-213, relating to counterclaims and cross-claims, shall apply to proceedings pursuant to this chapter, subject to the provisions of K.S.A. 61-1720. (k)

History: L. 1969, ch. 290, § 61-1709; L. 1975, ch. 306, § 3; L. 1976, ch. 258, § 10; Jan. 10, 1977.

(b) Notwithstanding the provisions of subsection (a), in an action involving a claim governed by K.S.A. 60-258a and amendments thereto, a party shall state as a counterclaim any claim that party has against any opposing party arising out of the transaction or occurrence that is the subject matter of the claim governed by K.S.A. 60-258a and amendments thereto.

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61-1717. Placement of actions on trial calendar. In those actions where trial is necessary, the court shall provide by rule for the placing of actions upon the trial calendar. The court may, on its own motion or for good cause shown by any party, adjourn or continue an action at any stage of the proceedings for such period of time and upon such terms as may be just.

History: L. 1969, ch. 290, § 61-1714; Jan. 1, 1970.

Before setting a case for trial, the court may conduct a conference to clarify the issues for trial and explore possibilities for settlement.

61-1717. Transfer and consolidation of certain actions. If one of the parties to an action commenced pursuant to this chapter commences, in a district court of this state, an action pursuant to chapter 60 of the Kansas Statutes Annotated involving a question of law or fact in common with the action pursuant to this chapter, the judge in the action pursuant to chapter 60 of the Kansas Statutes Annotated may, on his or her own motion, or upon application of any party to the action pursuant to this chapter, direct that such action be transferred to said judge. Any action so transferred may be consolidated with the action pending before said judge in accordance with the provisions of K.S.A. 60-242.

History: L. 1969, ch. 290, § 61-1717; L. 1976, ch. 258, § 13; Jan. 10, 1977.

actions be consolidated. If the consolidated action is within the scope of actions authorized by K.S.A. 61-1603, the judge shall direct whether the provisions of chapter 60 or 61 shall apply to the consolidated action.

New Section _____ (61-1717a).

Transfer to chapter 60 of claim within the scope of actions authorized by 61-1603. An action filed under this chapter may upon motion of a party and order of the court for good cause shown, be thereafter governed by the provisions of chapter 60 of the Kansas Statutes Annotated. The party obtaining an order under this section shall pay any additional docket fee required had the action been filed under chapter 60.

2102. Notice; docket fee; jurisdiction; security for costs; perfection of appeal. (a) All

appeals from actions pursuant to this chapter shall be by notice of appeal specifying the order, ruling, decision or judgment complained of, and shall be filed with the clerk of the court from which the appeal is taken within 10 days after the entry of such order, ruling, decision, or judgment, except that if judgment has been rendered in an action for forcible detainer and the defendant desires to appeal from that portion of the judgment granting restitution of the premises, notice of appeal shall be filed within five days after entry of judgment. The notice of appeal shall specify the party or parties taking the appeal; the order, ruling, decision or judgment appealed from; and the court to which the appeal is taken.

(b) The provisions of K.S.A. 60-2001 and amendments thereto shall apply to appeals pursuant to this section.

(c) An appeal from an action heard by a district magistrate judge shall be taken to a district judge of the county. An appeal from an action heard by a district judge shall be taken to the court of appeals.

(d) The appealing party shall cause notice of the appeal to be served upon all other parties to the action in accordance with the provisions of K.S.A. 60-205 and amendments thereto. Upon filing the notice of appeal and such security for costs as may be required, the appeal shall be deemed perfected.

History: L. 1969, ch. 290, § 61-2102; L. 1976, ch. 258, § 37; L. 1986, ch. 115, § 99; L. 1986, ch. 221, § 1; L. 1986, ch. 133, § 3; Jan. 12, 1987.

61-2501. Court fees; poverty affidavit.

(a) *Docket fee.* No case shall be filed or docketed pursuant to this chapter without the payment of a docket fee in the amount of \$10, if the amount in controversy or claimed does not exceed \$500, or \$30, if the amount in controversy or claimed exceeds \$500. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(b) *Poverty affidavit; additional court costs.* The provisions of subsections (b), (c) and (d) of K.S.A. 60-2001 and amendments thereto shall be applicable to actions pursuant to this chapter.

History: L. 1969, ch. 290, § 61-2501; L. 1976, ch. 258, § 53; L. 1982, ch. 116, § 10; July 1.

All appeals from orders, rulings, decisions or judgments of district magistrate judges under this chapter shall be taken in the manner provided in subsection (a) of K.S.A. 60-2103a and amendments thereto. All appeals from orders, rulings, decisions, or judgments of district judges under this chapter shall be taken in the manner provided in subsections (a) and (b) of K.S.A. 60-2103 and amendments thereto. Notwithstanding the foregoing provisions of this subsection,

but does not exceed \$5000, or \$55, if the amount in controversy or claimed exceeds \$5000.

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61-2705. Pleadings. It is the purpose of this act to provide and maintain simplicity of pleading, and the court shall supply the forms prescribed by this act to assist the parties in preparing their pleadings. The only pleading required in an action commenced under this act shall be the statement of plaintiff's claim, which shall be on the form prescribed by this act and be denominated a petition, except that a defendant who has a claim against the plaintiff, which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim, shall file a statement of his or her claim on the form prescribed by this act. The court shall not have any jurisdiction under this act to hear or determine any claim by a defendant which does not arise out of the transaction or occurrence which is the subject matter of plaintiff's claim.

if the claim does not exceed the amount specified in subsection (a) of K.S.A. 61-2703, and amendments thereto. If the defendant's claim exceeds the amount specified in subsection (a) of K.S.A. 61-2703, and amendments thereto, the defendant may file a statement of the defendant's claim on the form prescribed by this act.

No pleadings other than those provided for herein shall be allowed. It shall be sufficient that each pleading set forth a short and plain statement of the claim, showing that the pleader is entitled to relief, and contain a demand for judgment for the relief to which the pleader deems himself or herself entitled.

61-2713. Forms. (a) The petition shall be in substantially the following form:

In the District Court of _____ County, Kansas.

 Plaintiff
 vs. No. _____

 Defendant

PETITION PURSUANT TO CHAPTER 61 OF THE KANSAS STATUTES ANNOTATED

Statement of claim:

I, _____, having read the instruction below, hereby assert the following claim against _____, defendant:

Demand for judgment:

Based on the claim stated above, judgment is demanded against defendant as follows:

1. Payment of \$_____, plus interest, costs and any damages awarded under K.S.A. 1986 Supp. 60-2610.
2. Recovery of the following described personal property, plus costs: _____. This property has an estimated value of \$_____.

Instructions to plaintiff:

1. State the claim you have against the defendant in the space provided. Be clear and concise.
2. Your total claim against defendant may not exceed \$1,000, not including interest, costs and any damages awarded under K.S.A. 1986 Supp. 60-2610. If you are seeking the recovery of personal property, the value of that property shall be based on your estimate of its value under oath.
3. You must be present in person at the hearing in order to avoid default judgment against you on any claim defendant may have which arises out of the transaction or occurrence which is the subject to your claim against the defendant.

4. You must make demand for judgment in one or both of the spaces provided above.

5. Neither you nor the defendant is permitted to appear with an attorney at the hearing.

6. You may not file more than 10 small claims under the small claims procedure act in this court during any calendar year.

7. After completing this form, you must subscribe to the following oath:

I, _____, hereby swear that, to the best of my knowledge and belief, the foregoing claim asserted against the defendant (including the estimate of value of any property sought to be recovered) is a just and true statement, exclusive of any valid claim or defense which defendant may have.

[Signature] _____
Plaintiff

Subscribed and sworn to before me this _____ day of _____, 19____.

[Signature] _____
Judge (clerk or notary)

(b) The summons shall be in substantially the following form:

In the District Court of _____ County, Kansas.

Plaintiff

vs.

No. _____

Defendant

SUMMONS
(Small Claims Procedure)

To the above-named defendant:

You are hereby notified that the above-named plaintiff has filed a claim against you under the small claims procedure of this court. The statement of plaintiff's claim and demand for judgment against you are set forth in the petition which is served upon you with this summons.

A trial will be held on this matter at _____ o'clock _____ m., on the _____ day of _____, 19____, at

(Place of hearing and address)

You must be present in person at the trial or a judgment by default will be entered against you. Neither you nor the plaintiff is permitted to appear with an attorney.

If your defense is supported by witnesses, books, receipts or other papers, you should bring them with you at the time of the hearing. If you wish to have witnesses summoned, see the judge or clerk of the court at once for assistance.

If you admit the claim, but desire additional time to satisfy plaintiff's demands, you must be present at the trial and explain the circumstances to the court.

If you have a claim against the plaintiff, which arises out of the transaction or occurrence which is the subject of plaintiff's claim, you must complete the form for "Defendant's Claim," which accompanies this summons, and return it to the judge or clerk of the court on or before the time set for the trial:

_____ and your claim does not exceed \$1,000

_____ If your claim against plaintiff exceeds \$1,000, you may complete and return the form for "Defendant's Claim" on or before the time set for trial.

RETURN ON SERVICE OF SUMMONS

I hereby certify that I have served this summons:

(1) *Personal service.* By delivering a copy of the summons and a copy of the petition to each of the following defendants on the dates indicated:

_____, 19____, _____, 19____

(2) *Residence service.* By leaving a copy of the summons and a copy of the petition at the usual place of residence of each of the following defendants on the dates indicated:

_____, 19____, _____, 19____

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(3) No service. The following defendants were not found in this county:

Dated: _____

(Signature and Title of Officer)

(c) The defendant's claim shall be in substantially the following form:

In the District Court of _____ County, Kansas.

Plaintiff

vs.

No. _____

Defendant

DEFENDANT'S CLAIM

Instructions:

1. As stated in the summons, if you have a claim against the plaintiff which arises out of the transaction or occurrence which is the subject of plaintiff's claim, you must state your claim in the space provided below.

and your claim does not exceed \$1,000

2. Be clear and concise in stating your claim.

3. If the value of your claim exceeds \$1,000 (not including interest, costs and any damages awarded under K.S.A. 1986 Supp. 60-2610, but including the value of any personal property sought to be recovered, as determined by your estimate of its value under oath), the court must decide whether you may pursue your entire claim or only that portion not exceeding \$1,000.

If your claim against the plaintiff exceeds \$1,000, you may state your claim in the space provided below. In determining whether or not your claim against the plaintiff exceeds \$1,000, do not include interest, costs and any damages under K.S.A. 1988 Supp. 60-2610, but do include the value of any personal property sought to be recovered as determined by your estimate of its value under oath.

4. If your claim exceeds \$1,000 and the court determines that you may not pursue the entire claim at the hearing, you have three alternatives: (1) Make no demand for judgment and reserve the right to pursue your entire claim in a court of competent jurisdiction; (2) make demand for judgment of that portion of your claim which does not exceed \$1,000 and reserve the right to bring an action in a court of competent jurisdiction for any amount in excess thereof; or (3) make demand for judgment of that portion of your claim which does not exceed \$1,000 and waive your right to recover any excess.

5. When completed, this form must be filed with the judge or the clerk of the court on or before the time stated in the summons for the trial.

Statement of claim:

I, _____, having read the instructions above, assert the following claim against _____ plaintiff:

Demand for judgment:

Based on the claim stated above, judgment is demanded against plaintiff as follows:

1. Payment of \$_____, plus interest, costs and any damages awarded under K.S.A. 1986 Supp. 60-2610.

2. Recovery of the following described personal property, plus costs:

This property has an estimated value of \$_____.

I, _____, hereby swear that, to the best of my knowledge and belief, the above claim asserted against the plaintiff (including the estimate of value of any property sought to be recovered) is a just and true statement.

[Signature] _____

Plaintiff

Subscribed and sworn to before me this _____ day of _____, 19____.

[Signature] _____

Judge (clerk or notary)

History: L. 1973, ch. 239, § 13; L. 1979, ch. 187, § 4; L. 1986, ch. 223, § 4; L. 1986, ch. 222, § 4; L. 1986, ch. 224, § 3; July 1.

HOUSE BILL No. 2692

By Representatives Adam, Baker, Fuller, Harder,
Helgerson, Hensley, Jenkins, Lawrence, Lynch, Roy,
Solbach and Whiteman

1-23

11 AN ACT concerning juvenile offenders; relating to court-ordered
12 mediation; amending K.S.A. 1989 Supp. 38-1663 and repealing
13 the existing section; also repealing K.S.A. 1989 Supp. 38-1663a.
14

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

16 Section 1. K.S.A. 1989 Supp. 38-1663 is hereby amended to read
17 as follows: 38-1663. (a) When a respondent has been adjudged to
18 be a juvenile offender, the judge may select from the following
19 alternatives:

20 (1) Place the juvenile offender on probation for a fixed period,
21 subject to the terms and conditions the court deems appropriate,
22 including a requirement of making restitution as required by
23 subsection (c).

24 (2) Place the juvenile offender in the custody of a parent or other
25 suitable person, subject to the terms and conditions the court orders,
26 including a requirement of making restitution as required by
27 subsection (c).

28 (3) Place the juvenile offender in the custody of a youth
29 residential facility, subject to the terms and conditions the court
30 orders.

31 (4) Place the juvenile offender in the custody of the secretary.

32 (5) Impose any appropriate combination of subsections (a)(1) and
33 (2), subsection (a)(3) or subsection (a)(4) and make other orders
34 directed to the juvenile offender as the court deems appropriate.

35 (6) Commit the juvenile offender, if 13 years of age or older, to
36 a state youth center if the juvenile offender:

37 (A) Has had a previous adjudication as a juvenile offender under
38 this code or as a delinquent or miscreant under the Kansas juvenile
39 code; or

40 (B) has been adjudicated a juvenile offender as a result of having
41 committed an act which, if done by a person 18 years of age or
42 over, would constitute a class A, B or C felony as defined by the
43 Kansas criminal code.

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Attachment VI

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(7) Place the juvenile offender under a house arrest program administered by the court pursuant to K.S.A. 21-4603b, and amendments thereto.

(b) (1) In addition to any other order authorized by this section, the court may order the juvenile offender and the parents of the juvenile offender to:

(A) Attend counseling sessions as the court directs; or

(B) participate in mediation as the court directs.

(2) Upon entering an order requiring a juvenile offender's parent to attend counseling sessions or mediation, the court shall give the parent notice of the order. The notice shall inform the parent of the parent's right to request a hearing within 10 days after entry of the order and the parent's right to employ an attorney to represent the parent at the hearing or, if the parent is financially unable to employ an attorney, the parent's right to request the court to appoint an attorney to represent the parent. If the parent does not request a hearing within 10 days after entry of the order, the order shall take effect at that time. If the parent requests a hearing, the court shall set the matter for hearing and, if requested, shall appoint an attorney to represent the parent. The expense and fees of the appointed attorney may be allowed and assessed as provided by K.S.A. 38-1606 and amendments thereto.

(3) The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than that the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative.

(c) Whenever a juvenile offender is placed pursuant to subsection (a)(1) or (2), the court, unless it finds compelling circumstances which would render a plan of restitution unworkable, shall order the juvenile offender to make restitution to persons who sustained loss by reason of the offense. The restitution shall be made either by payment of an amount fixed by the court or by working for the persons in order to compensate for the loss. If the court finds compelling circumstances which would render a plan of restitution unworkable, the court may order the juvenile offender to perform charitable or social service for organizations performing services for the community.

Nothing in this subsection shall be construed to limit a court's authority to order a juvenile offender to make restitution or perform charitable or social service under circumstances other than those specified by this subsection or when placement is made pursuant to subsection (a)(3) or (4).

between the victim, the juvenile offender and the juvenile offender's parents

, but mediation shall not be mandatory for the victim

No mediator shall charge a fee for court-ordered mediation greater than that the mediator would have charged the person receiving the mediation if the person had requested mediation on the person's own initiative.

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Att. VI

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(d) In addition to or in lieu of any other order authorized by this section, the court may order a juvenile offender to pay a fine not exceeding \$250 for each offense. In determining whether to impose a fine and the amount to be imposed, the court shall consider the following:

(1) Imposition of a fine is most appropriate in cases where the juvenile offender has derived pecuniary gain from the offense.

(2) The amount of the fine should be directly related to the seriousness of the juvenile offender's offense and the juvenile offender's ability to pay.

(3) Payment of a fine may be required in a lump sum or installments.

(4) Imposition of a restitution order is preferable to imposition of a fine.

(5) The juvenile offender's duty of payment should be limited in duration and in no event should the time necessary for payment exceed the maximum term which would be authorized if the offense had been committed by an adult.

(e) In addition to or in lieu of any other order authorized by this section, if a juvenile is adjudged to be a juvenile offender by reason of a violation of the uniform controlled substances act (K.S.A. 65-4101 *et seq.* and amendments thereto) or K.S.A. 41-719, 41-727, 41-804, 41-2719, 41-2720, 65-4152, 65-4153, 65-4154 or 65-4155, and amendments thereto, the court shall order the juvenile offender to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to exceed the fee established by that statute for such evaluation, except that such evaluation may be waived by the court if the court finds that the juvenile offender has successfully completed an alcohol and drug evaluation, approved by the community-based alcohol and drug safety action program, subsequent to the offender's arrest on this offense. If the court finds that the juvenile offender and those legally liable for the offender's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary or the department of social and rehabilitation services.

(f) *The board of county commissioners of a county may provide by resolution that the parents or guardians of any juvenile offender placed under a house arrest program, pursuant to paragraph (7) of subsection (a), shall be required to pay to the county the cost of such house arrest program. The board of county commissioners shall further prepare a sliding financial scale based on the ability of the parents to pay for such a program.*

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Sec. 2. K.S.A. 1989 Supp. 38-1663 and 38-1663a are hereby repealed.

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

*2/26/90
H. Jud. Com.
Att. VI
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NOTICE OF ACTION

In the _____ court of
_____ County, Kansas.

~~Petitioner
vs.
Respondent~~ Delete

Case No. _____

In the matter of ie Est of: Doe vs Doe

This is to serve notice that action has been taken on the
following property to wit; _____

pursuant to the decree or judgement of the District Court
entered _____, 19__.

Officer of the District Court

Mr.
PO 42 State
66612-

2/26/90
H. J. Com.

Attachment VII

From the desk of . . .

Susie Parmer, Register of Deeds
Leavenworth County Courthouse
(913) 682-7611, Ext. 207

2-19-90

Martha -

In regards to HB 2644,
the Reg of Deeds request that
you present the enclosed
change as an amendment -
According to Math Reynolds'
testimony the J. Council had
problems with the Certification
form, so we submit this
for your introduction. I will
send Matt a copy also -

Please let me know as
to how this bill progresses.

Thanks!

Susie

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